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Date Issued: July 19, 2010

SURFACE TRANSPORTATION BOARD
Section of Environmental Analysis

FINAL ENVIRONMENTAL ASSESSMENT

STB Docket No.AB-1043 (Sub-No. 1)

Montreal, Maine & Atlantic Railway, Ltd. –
Discontinuance of Service and Abandonment –
In Aroostook and Penobscot Counties,
ME.

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SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Economics, Environmental Analysis and Administration

July 19, 2010

Re: STB Docket No. AB 1043 (Sub-No. 1), Montreal, Maine & Atlantic Railway, Ltd. –
Discontinuance of Service and Abandonment – In Aroostook and Penobscot Counties,
ME.; Issuance of Final Environmental Assessment

Dear Reader:

The Surface Transportation Board’s Section of Environmental Analysis (SEA) is pleased to provide you with your copy of the Final Environmental Assessment (EA) for the proposed abandonment of approximately 233 miles of rail line owned by the Montreal, Maine and Atlantic Railway, Ltd (MMA). This Final EA, along with the Draft EA, analyzes the environmental impacts that might occur if the Applicant railroad – MMA – receives the Board’s authorization to discontinue rail service and abandon the rail line segments currently providing service to shippers in the northern Maine Counties of Aroostook and Penobscot.

This Final EA presents SEA’s findings regarding the environmental impacts that could occur from the proposed abandonment and from alternatives to abandonment. In preparing this Final EA, SEA conducted additional environmental analyses, consulted further with Federal, state, and local agencies, and fully considered the comments received from the public in response to the Draft EA. This Final EA presents these additional environmental analyses, SEA’s responses to the comments submitted on the Draft EA, and SEA’s final mitigation recommendations to the Board.

The alternatives considered in the Draft EA and in this Final EA include continued rail operations by another rail carrier, funding assistance for the current rail operator, discontinuance of rail service with no abandonment, use of the rail right-of-way for railbanking/interim trail use, and the “No-action” alternative, which would maintain the current situation.

As we have worked on this Final EA, we have remained mindful of the importance of the railroad to the citizens of Northern Maine and the hope for prosperity that the presence of the railroad represents to Northern Maine. As we said in the Draft EA, our responsibility throughout the environmental review process is to disclose to the public and to the decision-makers of the Surface Transportation Board – the Board members themselves – what environmental impacts could result to both the human and natural environment if the Board decides to grant this abandonment. We also, as explained above, set forth potential alternatives to the abandonment, and propose mitigation that could lessen any identified environmental effects of abandonment.

In the Draft EA, SEA preliminarily concluded that, based on the information available to date and with the addition of the recommended mitigation, the potential environmental impacts that could occur if the Board were to approve this abandonment would not be significant.

SEA stated in the Draft EA that after the close of the public comment period on the Draft EA, the Board would carefully consider whether to prepare an Environmental Impact Statement or whether a Final Environmental Assessment responding to the comments should be prepared. We further stated that if we were to prepare a Final Environmental Assessment, we would make that document publicly available. For the reasons discussed in this Final EA, we have concluded that the potential environmental effects from this proposed abandonment would not be significant if the Board imposes the recommended mitigation. Therefore, we are issuing this Final EA rather than an Environmental Impact Statement.

On July 7, 2010, the Board held a public hearing in Presque Isle to hear testimony on the proposed abandonment. Following this hearing and the issuance of this Final EA, the Board will make its final decision on this proposed abandonment. In the final decision, the Board will consider both the record on the transportation merits, including the written record and all oral testimony received at the Board's Maine hearing, and the full environmental record, which includes the Draft EA, all comments received, and the Final EA.

This Final EA is available for viewing (and downloading if you wish) on the Board's Web site at www.stb.dot.gov, under "E-Library," then under "Decisions & Notices," beneath the date "07/19/10." If you have questions or would like to speak with me or a member of my staff, please feel free to call or email either me or Ms. Diana Wood at the information below:

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We appreciate your interest in the environmental review for this proposal.

Sincerely,



Victoria Rutson
Chief,
Section of Environmental Analysis

SEA's Summary of Major Conclusions

The Section of Environmental Analysis (SEA) at the Surface Transportation Board (Board) has concluded its review of the potential environmental impacts that could result from the proposed discontinuance of service and abandonment of 233 miles of rail segments of the Montreal, Maine & Atlantic Railway, Ltd. (MMA) in Aroostook and Penobscot Counties, Maine. SEA has carefully reviewed and considered the comments submitted on the Draft Environmental Assessment in preparing its final conclusions and recommendations to the Board as contained in this Final Environmental Assessment (Final EA). Based on its analysis, SEA has determined that its preliminary finding of no significant environmental impact and its preliminary conclusions in the Draft EA were correct. This finding and those conclusions remain unchanged in this Final EA. If the mitigation measures recommended in this Final EA are imposed by the Board, any potential environmental impacts resulting from the discontinuance of service and rail line abandonment would have no significant impacts on the human or natural environment. SEA therefore concludes that preparation of an environmental impact statement (EIS) is not necessary.

This Final EA should be read in conjunction with the Draft EA. In addition to the environmental issue areas identified above, the Draft EA provides more detailed information on the role of the Board in the abandonment and environmental review process; the separate National Environmental Policy Act (NEPA) process; the public participation process; the salvage process; and mitigation measures. This Final EA responds to public comments on the Draft EA; identifies corrections and changes to information presented in the Draft EA; discusses SEA's conclusions regarding environmental effects; and includes SEA's final environmental mitigation recommendations to the Board. This Final EA reflects additional analyses done to respond to issues raised in comments on the Draft EA. Both the Draft EA and the Final EA are available on the Board's web site at www.stb.dot.gov, by going to "E-Library," selecting "Decisions and Notices," and then conducting a search under Docket No. AB 1043 (Sub-No.1).

Based on information gathered to date, comments received, and independent analysis conducted by SEA, this Final EA makes the following conclusions:

1. The proposed discontinuance of service over and abandonment of the MMA rail segments would not significantly affect the quality of the human or natural environment, if the Board imposes the mitigation measures recommended in this Final EA.
2. SEA has examined a number of alternatives to the proposed discontinuance of service and abandonment of the MMA rail segments that could potentially result in the continuation of rail service by MMA or another operator. SEA has also considered the No-Action alternative, which would maintain the status quo.

3. When considering the average size of the shipments of all shippers on the rail segments proposed for abandonment, the majority of freight (more than 90%) transported by these shippers already moves by truck. Although some shippers have questioned that conclusion, statewide data on modal splits supports the railroad's assessment of rail market share in the state of Maine (USDOT FHWA Freight Analysis Framework, 2007 shows freight rail in Maine carries approximately 10% of total freight tonnage in the state). SEA recognizes that this statistic does not necessarily reflect the situation of individual shippers who have reported modal market shares between truck and rail for both inbound and outbound shipments of less than 90%. But this does not mean that truck transportation is not – or could not be – available to transport the vast majority of shipments at issue in this case.
4. In response to comments on the Draft EA, SEA has performed additional evaluation of the potential impact of diverted truck traffic to maintenance of and added damage to the local roadway network. SEA's analysis shows that roadway damage is not a function of the percentage increase in trucks; it is a function of the volume of trucks on the local roads. Here, the total volume of trucks that would handle MMA's traffic under the proposed abandonment would, in relation to overall traffic volumes, still be very small. SR-11 is the roadway that would experience the greatest percentage increase in truck traffic. However, SR-11 has, within the past decade, undergone a complete reconstruction, which assumed the following facts when the roadway was designed: (a) a peak truck loading of approximately 300 heavy trucks in the opening year (2002) and 400 heavy trucks in the design year (2025), and (b) a growth rate of about 1.7% per year for the life of the project. In fact, Maine DOT statistics for Aroostook County indicate that vehicle-miles traveled (VMT) on SR-11 only grew by about 0.4% per year from 1998 through 2008. Therefore, the roadway design allows for more truck traffic volume than currently moving on SR-11. In summary, SR-11, and the other roadways involved here, could handle the increase in truck traffic that might occur due to the proposed abandonment because it was designed and built to handle more trucks than the volumes currently experienced on the roadway.
5. The increased truck traffic for the worst case scenario (with "bridge traffic" of 73,344 one-way trips per year) that would be diverted from the rail segments proposed to be abandoned would have minimal impact on overall highway safety in the region. Because trucks have generally not been involved in the majority of accidents on the potentially affected roads, truck traffic that would result from the proposed abandonment should have a negligible impact on safety. In addition, the Maine Department of Transportation (Maine DOT) has been working to improve traffic flow, mobility, and access in various sections of the I-95, SR-11, and US-1 corridors in Aroostook County.
6. Noise disturbance from the proposed salvage activities would be temporary and would not have a significant impact on the area surrounding the proposed abandonment. Noise from the increased truck traffic would be below the Board's thresholds on US-1 and I-95, but above in some areas along SR-11. SEA found that the additional trucks would not introduce a new noise source to this primarily rural

and undeveloped wooded area. Therefore, the increased truck traffic would not be a significantly adverse impact.

7. SEA has reviewed and relied upon the State's data with respect to roadway crashes with animals, including the Canada lynx, and found that during the five year period ending in 2008, there were a total of 19,463 such crashes throughout the State. The predominant animals involved in the crashes were deer and moose. The "all other" category (exclusive of bear) totaled 712 crashes, or 3.6%, statewide. Aroostook and Penobscot counties had only 125 incidents during the five year reporting period, less than 1% of the total crashes involving animals. Statewide, trucks were involved in 592 of the total incidents, just about 3% of the total. Based upon the State's own data, it appears the likelihood of an increase in road kill of the Canada lynx would be minimal.
8. The proposed abandonment could both benefit and disrupt the habitat of the Canada lynx. The Canada lynx would benefit from the proposed abandonment if the rail right-of-way were left in a natural state and allowed to develop to a young forest. This would benefit the Canada lynx's habitat by extending its territory. The Canada lynx would be disrupted by the proposed abandonment if the right-of-way were converted to a roadway or other transportation corridor. This would cause disruption to the lynx's habitat by severing its territory and forcing it to cross the transportation corridor.
9. The socioeconomic analysis conducted for the Draft EA and Final EA shows that the proposed abandonment and discontinuance of service would not result in potential impacts resulting from change or disruption to the physical environment. Social and economic impacts associated with the abandonment are issues considered by the Board as part of the transportation merits. Parallel to and concurrent with the environmental review process conducted by SEA, the Board reviews the Proposed Action through the merits process that examines the competitive, transportation, and economic implications of the Proposed Action on the statewide and national rail system. After the review processes are completed, the Board will issue a final decision on the proposed rail abandonment, addressing both environmental issues and transportation related concerns.

In this Final EA, SEA has recommended conditions to the Board designed to minimize potential impacts to threatened and endangered species, historic and cultural resources, water, air, biological resources, and geodetic station markers. SEA believes that, with the imposition of this mitigation, which contains minor modifications from the mitigation in the Draft EA, the potential impacts of the proposed abandonment on these environmental resource areas would not be significant.

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1.0 Introduction and Environmental Review Process

1.1 Introduction

On February 25, 2010, MMA filed an application with the Board, pursuant to 49 U.S.C. 10903 and 49 CFR 1152.50, seeking to discontinue service and abandon approximately 233 miles of main line and branch line tracks in Penobscot and Aroostook Counties. The rail segments proposed for abandonment are located in the northeastern edge of Penobscot County (comprising 20 miles in length) and in eastern Aroostook County (comprising 213 miles in length), in a heavily forested and rural section of northern Maine. Agriculture and forestry are the principal industries of this area. In particular, the area supports the potato, beef, dairy, broccoli, organic farming, and forest and lumber industries.

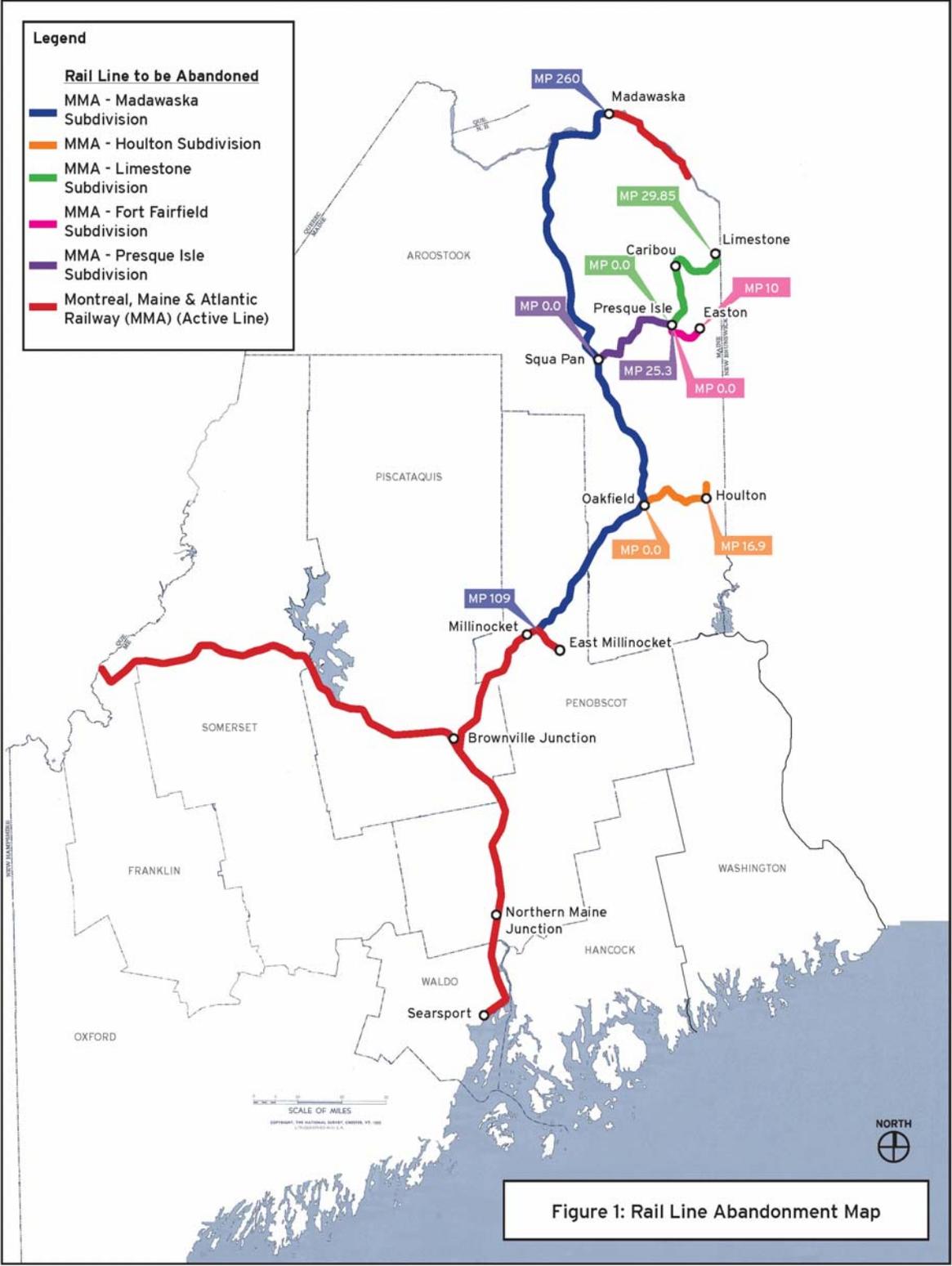
There are over 2000 lakes, rivers, streams, and ponds located within Aroostook County. Physically, Aroostook County, with a population of 73,938,¹ is Maine's largest county, consisting of 6,672 square miles.² The 233 miles of rail line proposed to be abandoned includes 98 public at-grade road crossings and 214 at-grade private crossings along with 41 bridges over the area's streams and waterways. The railroad right-of-way is generally 100 feet wide. Ownership of the railroad right-of-way for most of the rail line segments proposed to be abandoned is reportedly held by MMA in fee simple title. The right-of-way follows streams and valleys since the topography of the region is hilly and trends toward higher elevations from south to north.

MMA identifies the 233 miles of rail line in its application as "Abandonment Lines" (see Figure 1). Specifically, MMA seeks authority to abandon and discontinue service over: (1) the Madawaska Subdivision, consisting of approximately 151 miles of line between milepost 109 near Millinocket and milepost 260 near Madawaska in Penobscot and Aroostook Counties; (2) the Presque Isle Subdivision, consisting of approximately 25.3 miles of line between milepost 0.0 near Squa Pan and milepost 25.3 near Presque Isle in Aroostook County; (3) the Fort Fairfield Subdivision, consisting of approximately 10 miles of line between milepost 0.0 near Presque Isle and milepost 10.0 near Easton in Aroostook County; (4) the Limestone Subdivision, consisting of approximately 29.85 miles of line between milepost 0.0 near Presque Isle and milepost 29.85 near Limestone in Aroostook County; and (5) the Houlton Subdivision, consisting of approximately 16.9 miles of line between milepost 0.0 near Oakfield and milepost 16.9 near Houlton in Aroostook County (see Figure 1). Figure 1 also shows the MMA rail line that will remain active in Maine should the Board approve the proposed abandonment.

MMA states that trucking has become an increasingly competitive alternative to freight rail in northern Maine and that MMA's carloads and revenues have declined. MMA's application cites substantial operating losses on the segments proposed for abandonment as the reason for its application. The State of Maine (State), by and through its Department of Transportation (Maine DOT), and numerous shippers operating on the rail line have expressed opposition to the proposed abandonment and discontinuance of service. Among other things, the

¹ US Census 2000.

² Aroostook County Web site, www.arostook.me.us.



opponents assert that these line segments are vital to the economic well-being of Northern Maine and the shippers and communities in that area.

On April 22, 2010, MMA and the State entered into confidential mediation regarding the future of the line proposed for abandonment. As part of that process, MMA filed a motion requesting that the Board extend the procedural schedule for a period of 3 weeks. In a decision served on April 26, 2010, the Board granted this request and made formal comments on the Draft EA due on May 26, 2010. By order served on May 25, 2010, the Board noted that mediation was progressing, but that it might be difficult for the parties to reach an agreement without knowing the outcome of a June 8, 2010 bond referendum, which if approved, would give the State authority to finance the purchase of the rail line. The Board therefore ordered the State and MMA to submit a joint status report outlining their progress toward a settlement by June 17, 2010. On June 8, 2010, the citizens of Maine voted to approve the referendum; however, on June 18, 2010, the parties informed the Board that they were at an impasse concerning the sale of the line. The Board then held a hearing for July 7, 2010 in Presque Isle, Maine. The hearing allowed the Board members to gather testimony and ask questions before reaching a decision on MMA's application. The Board will issue a decision as soon as practicable.

1.2 Environmental Review Process

The Board's environmental staff, the Section of Environmental Analysis (SEA), conducted an environmental review to ensure that the proposed discontinuance of service and abandonment complies with the statutory requirements of NEPA, as amended (42 U.S.C. § 4321), the Board's environmental regulations (49 C.F.R. § 1105), and other applicable rules and regulations.

In performing its environmental analysis for proposed rail abandonment cases, SEA typically prepares an EA (49 C.F.R. 1105.6(b)(2)). The EA process typically begins by evaluating and verifying the Environmental and Historic Reports prepared by the railroad applicant containing the information required by the Board's environmental rules, which must be served on appropriate agencies and other entities at least 20 days prior to the railroad seeking abandonment authority from the Board (49 C.F.R. 1105.7 and 1105.8). But in this case, MMA sought SEA's permission to submit environmental information to SEA in the form of a more detailed Preliminary Draft Environmental Assessment (PDEA).³ SEA granted MMA's request. After reviewing and verifying the PDEA, on February 4, 2010, SEA served the PDEA on a wide range of Federal, State, and local agencies, and Federally-recognized Indian Tribes in Maine for their preliminary review and comment. Comments on the PDEA were to be submitted in time for MMA to consider them in its application, which was submitted on February 25 (21 days after service of the PDEA).

Four comments were received on the PDEA prior to the filing date of MMA's application (comments from Penobscot Court of County Commissioners, the Maine State Historic

³ The rules of the President's Council on Environmental Quality implementing NEPA specifically permit applicants to prepare their own EAs. The PDEA process gives the railroad applicant the opportunity to provide the Board and the agencies that receive copies of it with information specifically targeted to the facts at issue in the proceeding.

Preservation Office, the Maine Department of Conservation, and Maine DOT). Commenters expressed concerns that increased truck traffic that would result from the proposed abandonment could impact local roads; increase the likelihood of road kill, particularly with respect to the Canada lynx, a threatened species under the federal Endangered Species Act; and increase noise and air pollution. SEA prepared a Draft EA that responded to the comments received on the PDEA. Since issuing the Draft EA, SEA has conducted additional analyses of the local road network and Canada lynx populations with respect to the projected increase in truck traffic, should the Board authorize the discontinuance and abandonment. This additional analysis is provided in Section 2 of this Final EA.

In preparing the Draft EA, SEA, with the assistance of its third-party contractor, HNTB Corporation, carefully assessed the extent and potential significance of environmental effects related to the proposed abandonment and discontinuance. SEA's analysis focused on the potential environmental impacts that would be associated with the diversion of rail traffic to truck and salvage of the rail segments proposed for abandonment, in accordance with applicable Board precedent and case law. SEA evaluated the following alternatives and environmental issue areas. First, alternatives to abandonment and discontinuance discussed in the Draft EA included:

1. Offer of Financial Assistance (OFA) under 49 U.S.C. §10904 to preserve rail service by allowing for continued service by another operator;
2. continued operation under a "modified certificate" or a voluntary sale;
3. possible funding opportunities that Maine Senators and Representatives are currently pursuing;
4. preservation of the rail corridor as part of the national rail transportation system under the National Trails System Act, 16 U.S.C. §1247(d), which allows railbanking and interim trail use on lines authorized to be abandoned;
5. discontinuance of service without abandonment;
6. public use under 49 U.S.C. §10905; and
7. No-Action alternative, which would maintain the status quo but would not stem the financial losses MMA states it is experiencing.

As previously discussed, the State has expressed interest in acquiring the rail line proposed for abandonment, and could do so, in part, through the successful bond referendum when \$7 million was allocated toward funding of the possible State purchase of this rail line. Under this alternative, rail service would be preserved and operations would continue through another provider. At this time, all of the other alternatives listed above also remain potentially available.

In the Draft EA, SEA evaluated the following environmental issues:

1. Land Use;
2. Transportation, including Traffic Diversion Analysis;
3. Transportation Safety;
4. Energy;
5. Air Quality and Noise;

6. Safety on the rail right-of-way, including an analysis of hazardous materials that may be present or transported on the rail right-of-way;
7. Socioeconomic impacts that would result from changes to the physical environment;
8. Biological Resources;
9. Water Resources, including impacts to wetlands, streams, lakes, ponds, and rivers; and
10. Historic and Cultural Resources.

SEA issued the Draft EA for public review and comment on April 9, 2010 and served it on all parties to the proceeding, which included appropriate Federal, state, and local agencies, and any party requesting copies of the document. The Draft EA concluded that impacts to the environment, though generally adverse, would not be significant if the 9 mitigation measures recommended in the Draft EA were imposed and implemented. The 9 mitigation measures addressed the following resource areas: federal and state and rare, threatened or endangered species; geodetic station markers; water resources; air; noise; and historic and cultural resources.

SEA requested comments on all aspects of the Draft EA, including the scope and adequacy of the recommended mitigation measures. Comments were originally due May 12, 2010; however, as discussed in the previous section, the date for comments on the Draft EA was extended to May 26, 2010.

SEA received two comment letters on the Draft EA, one from Maine DOT and the other from Huber Engineered Woods, LLC. These comment letters are attached in Appendix A. In addition, the Board received pleadings from two interested parties that contained a number of environmental comments on the Draft EA. SEA has taken these comments – filed by Maine DOT, and filed collectively by Irving Woodlands, LLC; Irving Forest Products, Inc; Fraser Papers, Inc; Fraser Timber Limited; and Katahdin Paper Company – into consideration in this Final EA.

The Board also received a filing from MMA that, among other things, responds to the PDEA and Draft EA, as well as comments filed by other interested parties. First, with respect to safety, MMA takes issue with Maine DOT's characterization of the safety concerns regarding roadway travel as serious. MMA explains that "out of a total of 1,625 grade crossing incidents reported by the Federal Railroad Administration in 2009, only 4 were in Maine and none involved a truck," and that following the proposed abandonment, "there would only be 2 main road grade crossings left in Aroostook County, both on the Van Buren line." Second, MMA notes that "following abandonment, trucks would be able to travel to and from Aroostook County and avoid grade crossings by using public highways." Third, MMA argues that the 4:1 truck-to-rail carload ratio used in the Draft EA to calculate the number of trucks that would be diverted to roadways is inappropriate. MMA states that the commodities and equipment used on the lines proposed for abandonment are primarily from the forest products industry and support a smaller ratio of 2.3 trucks for every rail carload of commodity. MMA notes that the smaller ratio would generate less truck traffic than what was calculated in the Draft EA and result in "fewer environmental impacts that would be less than minimal." SEA initially used MMA's 2.3 ratio in the PDEA, but in response to comments received by Maine DOT, decided to rely in the Draft EA

on the more conservative 4:1 ratio that is typically used for varied commodities in other rail abandonment environmental reviews. Draft EA at 20. SEA sees no reason to depart from the 4:1 ratio at this point. Fourth, MMA commented that preparation of an EA, instead of an Environmental Impact Statement, is the appropriate level of environmental review for this proposed discontinuance of service and abandonment, and SEA agrees.

On July 7, 2010, the Board held a hearing in Presque Isle, Maine, to allow interested persons to comment on the abandonment application filed by MMA. During the hearing, some comments were offered regarding potential environmental affects that could result if the Board should approve this proposed discontinuance and abandonment. SEA has reviewed these comments and made note that the environmental issues raised at the Board's hearing have been raised earlier in this proceeding and are fully addressed in this Final EA.

SEA has carefully reviewed all of the comments submitted in preparing its final recommendations to the Board contained in this Final EA. Based on its analysis, SEA has made one minor change to its recommended Mitigation Measure 7 pertaining to best management practices. SEA has removed the words "into surrounding waterways" from the first paragraph. SEA initially wrote this mitigation measure with the intent that it would act to protect both air and water resources from sedimentation, spills, and fugitive emissions, such as dust. But by writing, "To control sedimentation and prevent spills and fugitive emissions, including dust and other applicable particulate matter, *into surrounding waterways* during salvage activities," we inadvertently wrote the condition in a manner that indicated that we were only interested in protecting water resources. Thus, the revision will appropriately reflect SEA's intent that both air and water resources need to be protected during salvage operations. Draft EA at 30.

Other than this minor change, SEA has determined that the preliminary finding of no significant impact, and the preliminary conclusions in the Draft EA remain unchanged. Therefore, if the mitigation measures recommended in this Final EA, which make minor changes to the mitigation in the Draft EA, are imposed by the Board, the proposed discontinuance of service and rail line abandonment would have no significant impacts on the transportation network, biological resources, water resources, air and noise, energy, safety, hazardous materials, and historic and cultural resources. SEA therefore concludes that preparation of an EIS is not necessary.

As previously noted, this Final EA should be read in conjunction with the Draft EA. In addition to the alternatives and environmental issue areas identified above, the Draft EA provides more detailed information on the role of the Board in the abandonment process; the NEPA process; the public participation process; and mitigation measures. This Final EA responds to public comments on the Draft EA; makes corrections; presents additional analyses; and sets forth other changes to information presented in the Draft EA; discusses SEA's conclusions regarding environmental effects; and includes its final environmental mitigation recommendations to the Board.

Following the issuance of this Final EA, the Board will decide whether to approve, approve with conditions, or deny MMA's request to discontinue rail service and abandon 233 miles of rail line. To reach its decision, the Board will consider the Draft and Final EAs,

including SEA's recommended mitigation measures, the public and agency comments received during the environmental review process, and any other relevant environmental information.

2.0 Supplemental Information and Revisions

Local Roads

In order to respond to issues regarding increased impacts to local roads as a result of the additional projected truck traffic that would result from the proposed discontinuance of service and abandonment, SEA prepared a map (see Figure 2) showing the shippers' locations (based on public versions of MMA's application and other filings submitted during this proceeding) on the local and regional road system. As shown in Figure 2, some of the shippers have more than one location, but most of the facilities are either along major roads, or within very close proximity to the major road network (SR-11, US-1, and I-95). Therefore, it appears that the additional trucks that would result from the proposed discontinuance of service and abandonment would predominantly travel on major roads.

As explained below, some shippers currently use trucks for less than 90% of their shipping movements. However, the majority of the commodities at issue here are now transported by truck, and the shippers are located in close proximity to the regional roadway network that has both the capacity and operational characteristics to accommodate the potential added traffic. As previously noted in the Draft EA, overall vehicle miles traveled (VMT) in Aroostook County has declined in recent years.

Specifically, as the Draft EA shows, the shippers that could be affected by the proposed abandonment, for the most part, already use trucking for most (90%) of their transportation needs and are located in close proximity to the major routes that the Draft EA analysis focused on — SR-11, US-1, and I-95 (see Figure 2). At present, SR-11 carries approximately 2,000 vehicles per day while US-1 and I-95 carry about 7,000 vehicles a day. Each of these roadways was designed to carry considerably higher volumes of traffic. Therefore, these roads would be minimally affected (in terms of wear and tear) by the projected increase of 150-200 vehicles per day (equating to an average of 6-8 vehicles per hour) that would result from the proposed abandonment.

Canada Lynx

This Final EA presents additional information on the Canada lynx in response to the comments of the Maine DOT. The Canada lynx is a Species of Special Concern, and the U.S. Fish and Wildlife Service designated the lynx as threatened in 2000 under the Endangered Species Act. The Canada lynx ranges throughout Northern Maine in young, dense stands of balsam fir and northern hardwoods.

These young dense stands of trees — the result of major forest disturbances such as cutting, logging or fire — provide suitable habitat for the lynx and its primary food source, the snowshoe hare. The reproductive success of the Canada lynx is dependent upon the population trends of the snowshoe hare, increasing during periods of hare abundance and decreasing during

periods of decline. Canada lynx are generally solitary animals, but may travel in groups during the breeding season.

The proposed rail line abandonment could both benefit and disrupt the habitat of the Canada lynx. The Canada lynx would benefit from the proposed rail line abandonment if the rail right-of-way were left in a natural state and allowed to develop to a young forest. This would benefit the Canada lynx's habitat by extending its territory. The Canada lynx could be disrupted by the proposed rail line abandonment if the right-of-way were converted to a roadway, recreational trail, or other frequently traveled area. These uses could disrupt its habitat by severing its roaming territory and forcing it to cross well-traversed corridors to reach the other side, and by generating additional noise and air pollution. Maine DOT has identified transportation corridors as a wildlife problem in an April 2001 interim report entitled "*Collisions Between Large Wildlife Species And Motor Vehicles In Maine.*"

The Maine DOT interim report identifies strategies that could be implemented by the State for high risk transportation corridors within the area of the proposed abandonment, should the abandonment be authorized. Specifically, the report identifies a number of options to prevent and minimize animal trespass of larger animals (deer, moose and bears); however, these measures could be applied for smaller animals, as well. The measures – controlling animal behavior, increasing driver awareness, and improving infrastructure – include the following strategies: fencing overpasses; using reflectors and lighting; using repellants; clearing roadside vegetation; changing feeding habits; improving signage and lighting; driver education; reducing speed limits; adding roadway markings and signs; using non-toxic road de-icing methods; modifying drainage structures; improving site distance; and using fences and other structures to redirect animals.

Each of these methods has had varying degrees of success. In particular, Maine DOT continues to collect data and evaluate the use of warning signs in locations related to animal crashes. Maine DOT also works with regional and district wildlife professionals to determine where mitigation is appropriate.

SEA has not recommended that the Board impose the options identified by Maine DOT as mitigation conditions. Maine DOT's options focus on deterring or minimizing animal trespass by installing fencing and wildlife underpasses on roadways. While these options might be effective in preventing or reducing animal strikes on these roads, it would be inappropriate to recommend these mitigation measures here. The Board may impose mitigation measures only upon the Applicant in this proceeding, and not on the State or roadworks contractors who are charged with installing fencing and building underpasses on Maine roads. Moreover, as discussed later in this section, SEA's analysis of the animal trespass and road kill issue demonstrates that, should the Board approve this proposed abandonment, there would be very minimal adverse effect to wildlife from the slight yearly increase of trucks on area roadways.

3.0 Comments and Responses

Copies of the Draft EA were sent to approximately 53 agencies and interested parties for review and comment. Comments were submitted by agencies and other interested parties expressing concerns about potential environmental impacts from the proposed discontinuance of service and abandonment. All environmental comments are summarized and addressed below. Comments that addressed similar or identical topics are grouped together. Where appropriate, SEA has also clarified information that was in the Draft EA. In addition, two environmental comments were received at the public hearing held on July 7, 2010 in Presque Isle, Maine. The comments are also summarized and addressed in this section of the Final EA.

3.1 Responses to Comments on the Draft EA

Transportation Issues

Comment

A number of commenters assert that the rail to truck traffic diversion analysis presented in the Draft EA was not realistic. Rather than using the worst and final year on record (2008-2009) as the “base year” figure to determine how many trucks would be diverted to area roadways, the commenters assert that base year traffic volumes should reflect pre-2008 figures, prior to the economic downturn. The commenters believe that if higher rail carload figures are used to project truck diversions, then the impact from the additional truck traffic would be significant enough to warrant the preparation of an EIS.

Response

In the Draft EA, SEA based its traffic diversion analysis on the freight traffic information in MMA’s application for the MMA base year (October 2008 to September 2009). During this period, a total of 9,168 rail cars traversed the rail segments proposed for abandonment. SEA determined that most of the traffic would be funneled from the local roads to US-1 and SR-11, two north-south roads that connect to I-95 further south. These roads have capacities of approximately 15,000 to 18,000 vehicles per day, while interstate roadways such as I-95 typically reach capacity at about 45,000 to 50,000 vehicles per day. SEA calculated that with the additional truck traffic, US-1 would be operating at less than 50% of its capacity, SR-11 would be operating at about 15% of its capacity, and I-95 would be operating at 16% of its capacity. If SEA were to base its truck diversion analysis on MMA’s best year of record (2005), as the commenters have suggested, then the proposed abandonment would generate 505 trucks per day instead of 305 trucks per day for the base year of 2005. This is an increase of 200 trucks per day (15,150 rail carloads times 4 trucks = 60,600 times 2 to include an empty return = 121,200 divided by 240 work days per year = 505 trucks per day).

For energy consumption, instead of the 3.3 million total gallons of diesel fuel being consumed for the base year, SEA calculated that based on 2005 traffic numbers, the proposed abandonment would generate an increase of 5.9 million gallons of diesel fuel being consumed by trucks annually, or about 3.3%, instead of 1.8% of the total 180 million gallons of diesel fuel consumed annually by motor carriers in the State of Maine.

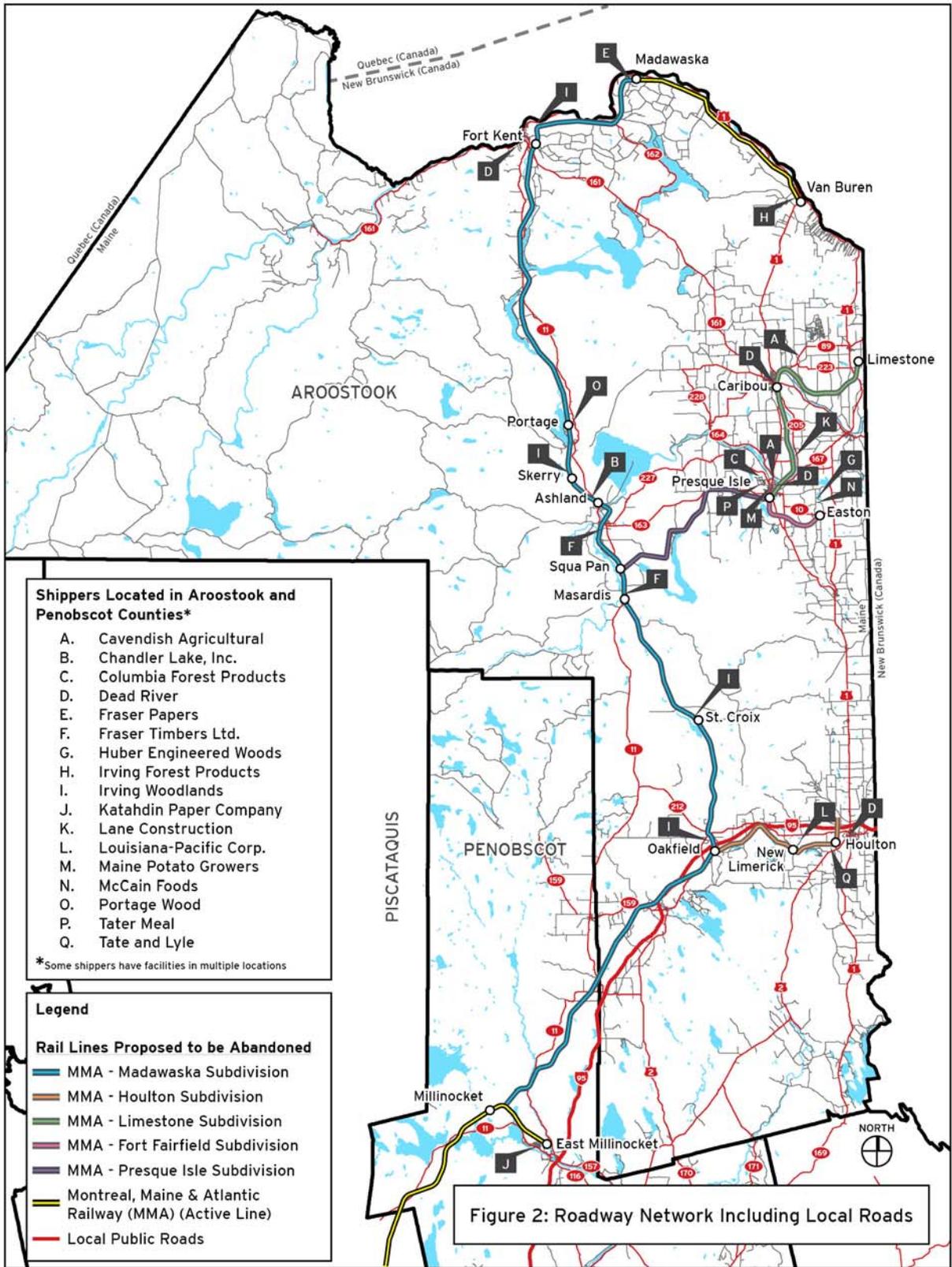
This additional analysis, like the analysis conducted in the Draft EA, shows that the roads would be operating well below capacity and the increase in fuel consumption would be minor. In these circumstances, the commenters have not supported their claim that the Draft EA data was not realistic, nor have they shown that there is enough potential for significant environmental impacts to warrant the preparation of an EIS.

Comment – The proposed abandonment would generate additional traffic on local roads, causing additional impacts on communities.

Response – SEA prepared a map (see Figure 2) showing the shippers' locations (based on public versions of MMA's application and a number of filings submitted during this proceeding) on the local and regional road system. SEA noted that some of the shippers have more than one location, but that most of these facilities are either along major roads, or within very close proximity to the major road network (SR-11, US-1, and I-95). Therefore, it appears that the trucks would predominantly travel on major roads.

The shippers that could be affected by the proposed abandonment, for the most part, already use trucking for much of their transportation and are located in close proximity to the major routes that the Draft EA analysis focused on — SR-11, US-1, and I-95. At present, SR-11 carries approximately 2,000 vehicles per day while US-1 and I-95 carry about 7,000 vehicles a day. Each of these roadways was designed to carry considerably higher volumes of traffic. These roads would be minimally affected (in terms of wear and tear) by the projected increase of 150-200 vehicles per day (equating to an average of 6-8 vehicles per hour) that would result from the proposed abandonment.

In short, the predominant mode of goods movement in the region is by truck, and shippers are located in close proximity to the regional roadway network that has both the capacity and operational characteristics to accommodate the potential added truck traffic.



Comment

The Draft EA understates the effect of the additional truck traffic in two additional ways. While the Draft EA looks at the number of additional trucks as a percentage of the overall traffic on various roadways, it does not examine by what percentage the truck traffic will increase. Because heavy trucks are more likely to cause roadway damage than automobile traffic, the increased percentage of truck traffic may be more significant than the percentage increase in overall traffic would indicate.

Response

In response to the comment, the table below summarizes SEA's estimate of the percentage growth in truck traffic that could result from the proposed abandonment of the MMA rail line. The estimates for "Existing Trucks" are drawn from Chapter 3 of the *Aroostook County Transportation Study*, completed in 2002. The "existing" numbers represent average values throughout the length of the corridor, while the "additional" numbers represent the high-end estimate of additional trucks that would result from the proposed abandonment.

Route	Existing Trucks	Additional Trucks	% Additional Trucks
SR-11	200	152	+76%
US-1	500	39	+8%
I-95	600	201	+33%

On SR-11 in particular, the percentage increase in truck traffic is potentially significant (in terms of the percentage increase). However, it is important to keep the following information in mind:

- Roadway damage is a function of the volume of trucks on a particular roadway and the capacity of that roadway. The total volume of trucks on these roadways, including SR-11, would still be very small – a maximum of 800 trucks per day.
- SR-11, within the past decade, has undergone a complete reconstruction. The pavement design for SR-11 was determined using the following assumptions: (a) a peak truck loading of approximately 300 heavy trucks in the opening year (2002) and 400 heavy trucks in the design year (2025), and (b) a growth rate of about 1.7% per year for the life of the project.⁴ Therefore, SR-11 is designed to accommodate, without significant effects, the increase in truck traffic that would result from the proposed abandonment.
- Maine DOT statistics for Aroostook County indicate that vehicle-miles traveled (VMT) only grew by about 0.4% per year from 1998 through 2008.
- Because SR-11 was designed for more growth than it has actually experienced, the increase in truck traffic that might occur due to the proposed abandonment has already been offset by the lack of previously projected growth on the roadway itself.

⁴ Heavy trucks are large semi-trailer vehicles that are capable of hauling 80,000 to 100,000 lbs of commodities or products.

Comment

The Draft EA projects that truck traffic would be spread out over the various roadways throughout the region. However, there are certain points – where US-1 meets I-95 in Houlton, and where the traffic off SR-11 reaches I-95 in Sherman – where roadways would merge, and cause more dangerous conditions, as both Houlton and Sherman are designated as "High Crash Locations."

Response

Maine DOT's *High Crash Location Listing* for 2006-2008 lists the following high-crash locations (HCL's) for Houlton and Sherman:

- Houlton: Intersection of I-95 NB⁵ off-ramp and US-1 (14 crashes in 3 years)
- Sherman: Intersection of I-95 NB off-ramp at SR-158 (8 crashes in 3 years)
- Sherman: Intersection of I-95 NB on-ramp at SR-158 (11 crashes in 3 years)

These intersections would likely experience an increase in truck traffic as a result of the proposed abandonment. However, it is unlikely that existing problems with crashes would be greatly exacerbated by the projected increase in truck traffic that would result from the proposed abandonment for the following reasons:

- There is no evidence that a disproportionate share of accidents in this area are caused by truck traffic. For example, while trucks comprise 20-50% of the traffic on SR-11, they comprise only 15% of the accidents. Therefore, an increase in the number of trucks would be no more likely to create a safety issue than a comparable increase in the number of cars.⁶
- At the Sherman intersections, the sight lines are very good. In other words, the current accident problem does not appear to be related to inadequate sight distance. The volumes of trucks are also relatively low at this location, indicating that the accident problem is not likely related to congestion or excessive delays. Indeed, it is possible that the accident rates are related to other factors completely unrelated to truck volumes—factors such as excessive speed, collisions with animals, poor weather conditions, or driver inattention.
- The Houlton intersection would experience a very minor increase in traffic—about 20 trucks per day, or roughly 1-2 vehicles per hour during the day as a result of the proposed abandonment. The safety impact of this small volume of traffic would be negligible.

⁵ Northbound.

⁶ While truck traffic comprises a smaller percentage of the accidents, a crash with a heavy truck would likely result in a more serious traffic accident.

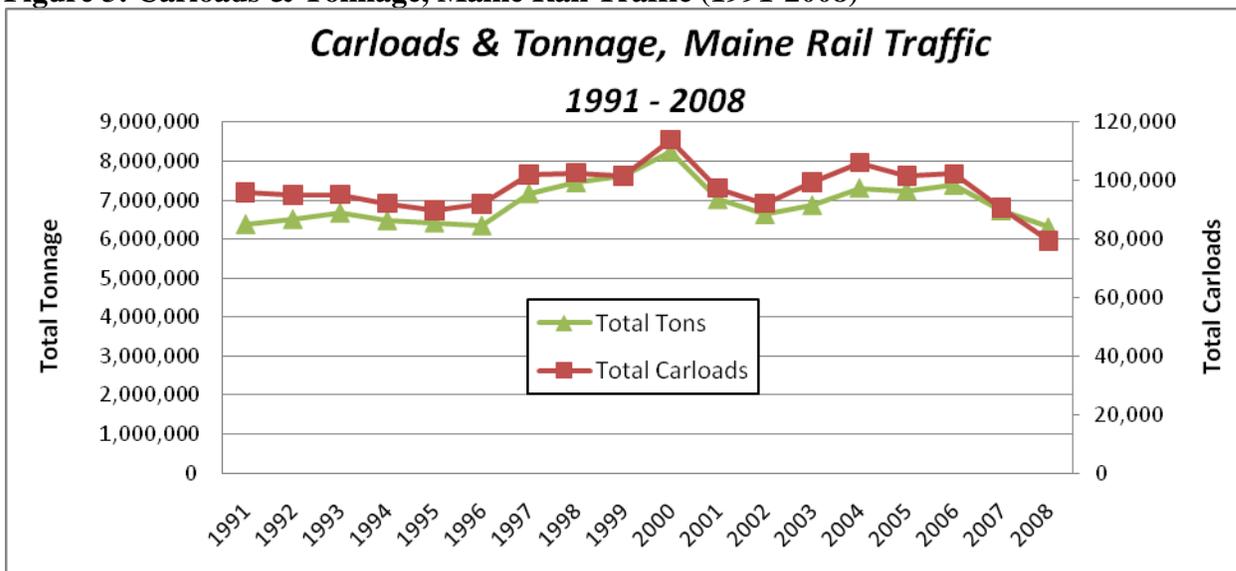
Comment

SEA has underrepresented impacts by using base year or current rail traffic numbers even though the economic condition in the housing market is in an overall decline. Recent trends show improvement in the economy and housing starts, suggesting a strong likelihood that commodity production in the region will increase rail shipments along the rail lines. SEA should base its truck traffic projections on an improving economy.

Response

As illustrated in the following Figure 3, rail freight trends in Maine have been relatively steady since the early 1990s, with the peak in rail freight traffic reached in 2000. Since that time the trend has been trending downward, with this trend underway well prior to the current national recession. The data indicate a growing reliance on alternatives to rail freight transportation for movement of goods to and from the State. Thus, even a strong national recovery would not necessarily translate to a major increase in rail freight traffic.

Figure 3: Carloads & Tonnage, Maine Rail Traffic (1991-2008)



Source: Association of American Railroads State Fact Sheets for Maine, 1991 – 2008.

Specifically, as illustrated in Figure 4, the lines proposed for abandonment show a downward trend in the number of carloads per year. From 2004 through 2008, tonnage on the Madawaska Subdivision and its associated branch lines has declined some 65%. Carloads for the 12 month period ending July 31, 2005 were 15,128. For the 12 months ending July 31, 2008 total carloads were 9,742 – a 46% decline.

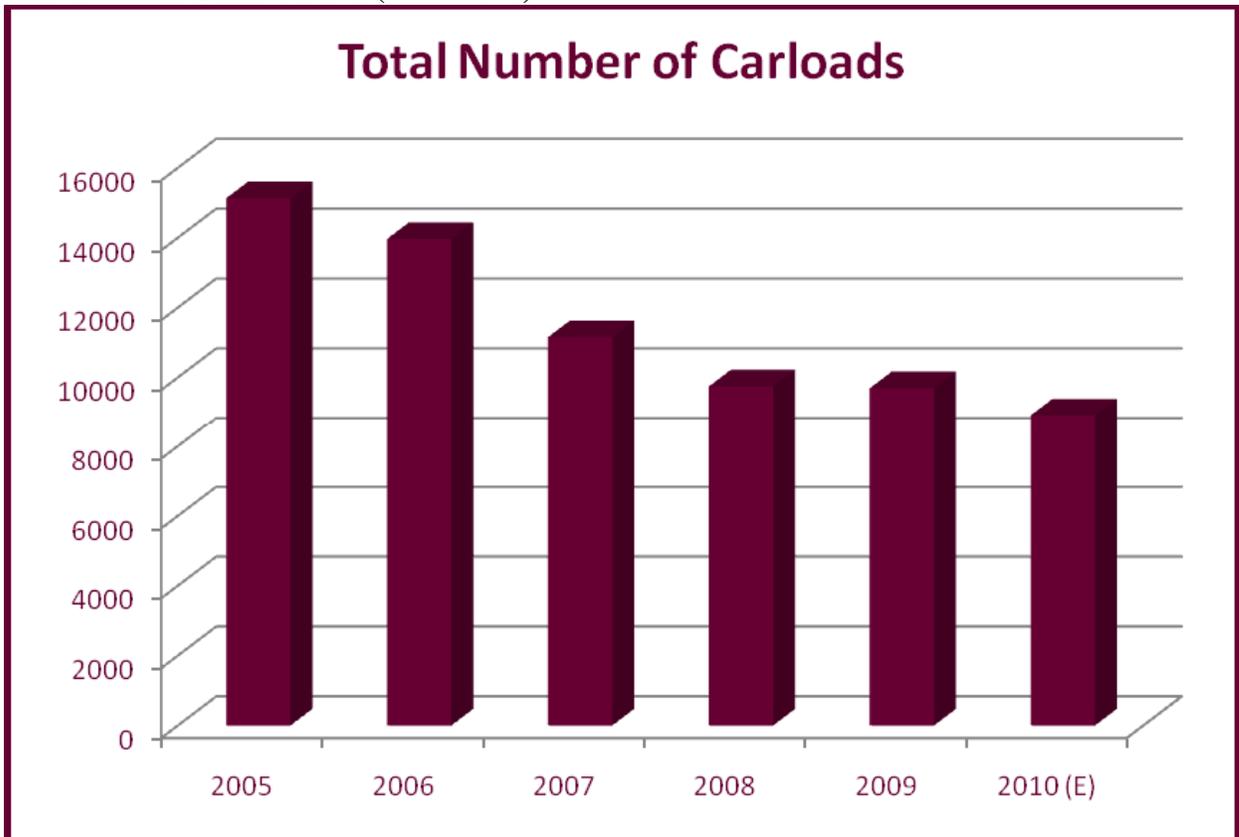
Since 2005, the traffic volume along the lines at issue has declined significantly, from over 15,000 cars to barely 9,000 cars in 2009 (see Figure 4). The distressed economic environment resulting from the global financial crisis in 2008 appears to have played a role in the decline in business activity. Even prior to 2008, the major users of rail in the state underwent systematic changes in operations and the market demand for these products. For example, from 1997 – 2002 total freight tonnage outbound from Maine increased 46% and rail tonnage increased by

47%. However, during that same period, rail’s actual market share declined from 13.7% to under 12.5%. This resulted from the need of shippers to meet new market demands including exports that relied on regional ports, and customer demands for “just-in-time” logistics.

Inbound shipments in the same 1997-2002 time period saw an overall reduction in tons handled of 3% for all modes, while rail suffered a decline of 45% and a loss of market share of nearly 50% (from 13.2% in 1997 to 7% in 2002). Again, this impact resulted from changes in both operations and materials sourcing of the key industries in Maine.

Figure 4 illustrates rail carload data on the MMA lines from 2005 to 2010. These data as well as the overall statewide data (Figure 3) indicate significant changes in how goods are moved to, from, and within the state of Maine.

Figure 4: Total Number of Carloads as Estimated for the Madawaska and Associated Branch Lines Subdivisions (2005-2010)



Source: Due Diligence Report - Montreal, Maine & Atlantic Railway, prepared for Maine DOT by Railroad Industries Incorporated (RII), February 11, 2010 (Public version), page 16.

These rail carload numbers from 2005-2009 were provided by the State of Maine DOT to RII. The yearly rail traffic number includes all the carloads from Aug.1 of previous calendar year to July 31 of the current calendar year. The 2010 traffic is an estimate based on RII’s interviews with shippers in November 2009.

Therefore, consistent with the statewide trends, it is clear that the subject lines proposed to be abandoned have undergone a continuing decline. The primary rail users in Northern Maine mirror the overall statewide trends. The forest products and paper industries have modified their operations and supply chain logistics to meet current market trends and customer demand for timely delivery.

Comment

The EA should evaluate the impacts of construction and operation of new transload facilities⁷ that are a foreseeable consequence of the abandonment. SEA evaluated the environmental effects of noise and vibration of various truck alternatives in the rail construction case affirmed by the Court in *Medina County Environmental Action Ass'n v. Surface Transportation Board*, 602 F.3d 687, 697-98 (5th Cir 2010).

Response

In its traffic diversion analysis, SEA proposed predictable route flows for freight in the region. The transloading (or intermodal) option noted by the railroad is not expected to result in the development of new transloading facilities, but rather, would simply make use of existing facilities for intermodal transfers. There is a vibrant intermodal service sector in Maine that takes full advantage of the opportunities for long haul freight rail service coupled with local motor carrier and warehousing services. The Auburn and Waterville intermodal yards, the Port of Auburn, the Ports of Portland and Searsport provide facilities to enable effective intermodal connections. Many shippers in Maine also utilize intermodal facilities in Massachusetts operated by Pan Am Railways and CSX Transportation. Because no new facilities are expected to be created as a result of the proposed abandonment, *Medina County* is inapplicable.

Comment

If MMA service is discontinued, many shippers (identified in the Hunter Verified Statement, Exhibit A) will be forced to truck their products to I-95. Houlton, Maine, is the nearest access to I-95 for many of these shippers. But to get to I-95, shippers must go over local roads in Presque Isle, Easton, Caribou, Houlton or other cities. While engineering traffic capacity estimates suggest local highways can absorb the added traffic, this added traffic can severely damage local roads, which the Draft EA fails to reflect.

Response

The proposed abandonment's impact to local roads would be minimal for the following reasons:

- The majority of the shippers that currently use the MMA rail line proposed for abandonment are located adjacent to one of the three major routes examined (that is, SR-11, US-1, and I-95). Of the 17 shippers that use the rail line, only three (Huber Engineered Woods, McCain Foods, and Cavendish Agricultural) are not located adjacent to these routes (see Figure 2).

⁷ Transloading is the process of transferring a shipment from one mode of transportation to another. It is most commonly employed when one mode cannot be used for the entire trip; for instance when commodities are shipped by rail or ocean carrier and then by truck to the final destination.

- About 75% of the rail cars that would likely divert to roadways as a result of the proposed abandonment involve traffic that is generated by shippers that are located immediately adjacent to SR-11. They would not use any local roads at all.

Comment

Downstream there could be significant congestion issues, in cities such as Portland and, especially, Boston.

Response

The entire length of I-95 in the state of Maine has no recurring traffic congestion issues. The only recurring interstate congestion in the state exists on I-295 in Portland, during peak commuting hours. This proposed abandonment would likely yield a maximum of 5-10 additional trucks at that location during the peak commuting hour. This would have a negligible effect on the level of service on I-95.

With respect to downstream impacts on I-95 and, especially Boston, the origins and destinations of most of the traffic to and from Maine is not Boston or New York City, so the heavily congested portions of I-95 would not be an impediment to the freight movement in and out of Maine that would result under the proposed abandonment. In fact, much of the truck traffic out of Maine would likely head to intermodal facilities in Massachusetts, including facilities located in Ayer (Pan Am Railways) and Worcester (CSX Transportation and/or P&W Railroad).

Comment – What happens after the year-long pilot project ends and the 80,000 pound weight limit restriction on I-95 is again put into place?

Response – On December 16, 2009, President Obama signed into law a provision to allow trucks weighing up to 100,000 pounds to use I-95 north of Augusta, Maine. Then on February 12, 2010, Governor John E. Baldacci signed into law legislation raising the weight limit on the non-toll portion of the Maine Interstate system (I-95 from Augusta to the US/Canadian border in Houlton) from 80,000 pounds to 100,000 pounds. This change now makes the weight limit on the non-toll portion of the Maine Interstate system equal to the maximum weight allowed on state highway system (100,000 pounds).

The anticipated result of raising the weight limit on the Interstate is expected to reduce the number of heavy trucks (truck between 80,000 and 100,000 pounds) that use the state highway system south of I-95 in Houlton. Current shippers that transport products to and from Aroostook County and were limited to using the state highway system can now use I-95 if this route would make their transport operations more efficient.

As the comment notes, the legislation establishes a one-year test for the increase in allowed weight and monitoring by Maine DOT and the Federal Highway Administration. It is beyond the scope of the EA to predict what might happen following the conclusion of the test period. Nevertheless, in order to estimate the potential impact of re-instituting the 80,000 pound weight limit restriction on I-95, it is helpful to think of two basic groups of shippers—(1) those who transport products within Aroostook County, and (2) those who transport products to and from Aroostook County. Based on the information available to date,

- The impact should be negligible among Group (1) shippers. Very few of these shippers use I-95 to move product within the County, so very few would be affected by any kind of weight restriction on I-95.
- With respect to Group (2) shippers, the impact would likely be to slightly increase the volume of trucks. This is because, theoretically speaking, it requires only 4 trucks at a 100k limit to carry the same load as 5 trucks at an 80,000 pound limit. Therefore, in an ideal circumstance, increasing the limit to 100,000 pounds could potentially reduce heavy truck traffic by 20%. And—following the same logic—reducing the weight limit back to 80,000 pounds could potentially increase heavy truck traffic by 25% (say, from 80,000 back up to 100,000 pounds). However, the real impact of reducing the weight limit would likely be considerably less. This is because:
 - a) Many trucks on the road (such as trucks carrying groceries or department store supplies) are governed by size restrictions, not by weight restrictions. They would be unaffected by any change in weight limits.
 - b) The only shippers that would be able to benefit from a temporary increase in the weight limit are those who already possess the trailers that are capable of handling 100,000 pound loads. It is unclear how many of the current shippers have this equipment in their inventory. However, it is not likely that many shippers would acquire 100,000 pound-capable trailers with the knowledge that the weight limit might revert back to 80,000 pounds.

In short, the potential reversion to an 80,000 pound limit would affect operations of those shippers that (a) travel outside the county and (b) currently have the equipment on hand to be able to take advantage of the year-long pilot project. This likely comprises a minority of shippers. And among that minority, the impact could be—at most—a 25% increase in truck traffic.

In terms of traffic operations, the 4-lane freeway section of I-95 in southern Aroostook County can accommodate approximately 7,000-8,000 vehicles per hour. Daily volume on I-95 south of Sherman (located 38 miles southwest of Houlton), as reported in 2007, is only approximately 400-600 vehicles per hour. Therefore, the impact of additional truck traffic on I-95 from the increase in allowable weight limits should have little to no affect on operations on this highway.

Hazardous Materials

Comment

The Draft EA acknowledges that the affected property has been used by MMA's predecessor for railroad operations since 1891. As such, there is some chance of environmental contamination of the soil within the project area. While MMA may attempt to minimize soil disturbance during salvage operations, it would not be possible to do so completely. The State recommends that a Phase I environmental study be conducted at each location along the lines proposed for abandonment where there is an increased risk of contamination. Locations which Maine DOT has historically found to be of concern include rail sidings and locations where fueling or maintenance was performed by MMA or its predecessor.

Notwithstanding the rail industry's historic experience of having environmental contamination on its properties, the Draft EA states "no hazardous spills have occurred on the lines to be abandoned under the present owner." The Draft EA does not indicate what SEA did to independently confirm these assertions, such as contacting state authorities or reviewing MMA's environmental due diligence documents relating to its acquisition of BAR assets. One commenter also recommends that the Board impose conditions to protect the public in these circumstances.

Response

SEA has relied on information provided by the railroad applicant that included MMA's review of materials provided to them at the time of their acquisition of the railroad. MMA has reports for spills dating back to 1985. MMA also has Environmental Site Assessments for various locations along some of the lines proposed for abandonment that were performed in the early 1990s prior to MMA's predecessor selling the property. For example, Oakfield was the site of a Maine Department of Environmental Protection supervised remediation activity after the old roundhouse was torn down in the early 1990s and petroleum contamination was found. Remediation, later backed by several rounds of sampling, cleared the site from contaminants according to the reports. MMA also states that the railroad is not currently under any remediation orders from any regulatory agency for any site along the lines proposed for abandonment.

In addition to the information provided by MMA, SEA has reviewed the appropriate state and federal hazardous materials contamination and spill occurrences lists maintained by the U.S. Environmental Protection Agency and the Federal Railroad Administration to confirm there are no contaminated sites and no active remediation along the subject lines. Consistent with the information that MMA has provided, this publically available information does identify a number of hazardous materials and petroleum product contaminations in areas adjacent to the subject lines to predecessor railroad owners. Based upon this information, it appears that while some of the incidents may be attributable to railroad operations, the majority of the occurrences resulted from spills on adjacent property that migrated to the railroad right-of-way prior to the time MMA acquired the lines. As stated by MMA, known cases of contamination were mitigated by excavation and removal of the contaminated soil either immediately following the contamination, or in some cases after the contamination was discovered.

SEA understands that the Maine DOT has conducted and may conduct further environmental Phase I site assessment studies in the course of its due diligence efforts related to potential acquisition of the railroad corridor. In light of SEA's review of available data, and the active review of this matter by the State, SEA does not see a need to recommend specific environmental mitigation or any further analysis with regard to this subject.

Noise and Air Comment

Although the Draft EA assumes approximately 50% of the truck trips that would result from the proposed abandonment would remain in state, it does not identify locations of intermodal transload or other facilities where the trucks might be destined. According to the commenter, these points would also represent locations where trucks diverted from various locations would

come together, and these locations should be separately evaluated on noise, vibration, emissions and safety.

Response

As discussed above, trucks would travel along US-1, I-95 and SR-11 in order to arrive at the existing transload facilities in Maine and Massachusetts. There are no new transload facilities planned. Noise levels that would be created by the additional abandonment-related truck traffic on US-1, I-95 and SR-11 are discussed on page 30 and 31 of the Draft EA. The existing roads serving the existing transload facilities presently experience a slightly higher truck percentage.⁸ However, adding trucks to these roads under the proposed abandonment would not result in an increase equal to or more than 3 dBA Ldn, the Board's noise threshold set forth in 49 C.F.R. 1105.7(e)(6)(i). The emissions, as stated on page 30 of Draft EA, also would not contribute to any violation of the Federal National Ambient Air Quality Standards (NAAQS). The commenters have not shown that the analysis in the Draft EA is incorrect or that more analysis is required.

Comment

The Draft EA does not calculate the added greenhouse gas emissions from the potential loss of rail service. Besides the downplaying of significant energy costs, and wholly ignoring global warming, the Draft EA ignores the obvious impacts of the increase that would result from added trucking. Diesel engines discharge fine particulate, and while diesel electric locomotives also do so, the Draft EA does not assess how the additional trucks would affect particulate emissions.

Response

As previously stated, the added trucking that would result from the proposed abandonment would only increase vehicle miles travelled (VMT) in Aroostook and Penobscot Counties approximately 0.6% and 0.4%, respectively. The slight increase in VMT would only slightly increase the combustion of diesel fuels and would have no significant effect on greenhouse gas emissions in the region.

The increase in truck traffic would also only slightly increase diesel particulate emissions. However, as stated on pages 29 and 30 of the Draft EA, the maintenance plans for Aroostook and Penobscot counties do not contain any restrictions on VMT since the pollutants addressed in the maintenance plans are not the result of diesel fuel combustion. Therefore, the increases of 0.6% and 0.4% for Aroostook and Penobscot Counties would not cause a violation of the NAAQS for particulate emissions.

⁸ Transload facilities typically are located to provide the best access to regional and interstate highways. The immediate access roads and nearby highways thus generally will have a higher than statewide average percentage of trucks in total traffic.

Biological Resources

Comment – Increased truck traffic as a result of the proposed abandonment would result in additional impacts on local species, with higher potential for road kill. In particular, Maine DOT is concerned about secondary and indirect impacts to the Canada lynx.

Response – SEA served the PDEA and Draft EA on the U.S. Fish and Wildlife Service, but to date, has not received any comments on the proposed abandonment. The U.S. Fish and Wildlife Service is the agency with regulatory authority over federally protected species and would have commented on the Draft EA if there had been concern that the proposed abandonment would cause significant impacts to the Canada lynx. However, given the concerns of Maine DOT, SEA continues to recommend a condition that would require MMA to prepare a salvage plan in consultation with SEA and the U.S. Fish and Wildlife Service prior to initiating salvage activities to minimize potential impacts from salvaging activities to Federally-listed threatened and endangered species that may occur in the vicinity of the rail segments proposed to be abandoned. No additional mitigation has been shown to be warranted.

Comment

There are a number of critical habitats that the proposed abandonment and salvage could impact, and SEA should ensure that U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Administration identify those areas and propose conditions to ensure that any possible harm is mitigated.

Response

SEA served the Draft EA on all the applicable Federal and State natural resource agencies but to date, has not received any comments from natural resources agencies on the proposed abandonment. In the absence of agency responses, SEA has independently researched public records for such information. As noted above and in the Draft EA, there are some areas along the railroad corridor that contain bald eagle, waterfowl wading bird, and Canada lynx habitat. In order to address the concerns that have been raised, SEA is recommending a consultation condition requiring MMA to prepare a salvage plan in consultation with SEA, U.S. Fish and Wildlife Service, Maine Department of Conservation, and the Maine Department of Inland Fisheries and Wildlife prior to commencement of any salvage activities on the rail segments proposed for abandonment. The salvage plan would consider the potential impacts from salvaging activities on listed threatened and endangered species that could occur in the vicinity of the rail segments proposed to be abandoned. MMA would also be required to report the results of these consultations in writing to SEA prior to initiating salvage activities. In addition, SEA is recommending consultation conditions with the Maine Department of Conservation's Natural Areas Program regarding potential impacts to rare plant species and/or significant natural plant communities; as well as with the U.S. Army Corps of Engineers to determine if a Section 404 permit under the Clean Water Act (33 U.S.C. 1344) would be required during salvage activities for any potential impacts to waters of the United States, including wetlands. SEA has also included a condition that requires MMA to consult with the U.S. Environmental Protection Agency, and to implement best management practices during salvage activities to prevent soil from being dispersed into air and water media. No additional information has been shown to be warranted.

Comment

The State raises the issue of foreseeable additional road kill as an indirect impact that should be considered in the EA, especially as it may relate to the Federally-protected Canada lynx.

Response

SEA has reviewed and relied upon the State's data⁹ with respect to roadway crashes with animals, which show that during the five-year period ending in 2008 there were a total of 19,463 such crashes. The predominant animals involved were deer and moose. The all other category (exclusive of bear) totaled 712 crashes, or 3.6% of the total. Aroostook and Penobscot counties; however, had only 125 incidents during the five-year period, less than 1% of the total crashes involving animals.

Furthermore, of the total 19,463 crashes during the study period trucks were involved in barely 3% of the incidents. The modest increase in truck traffic diverted from the proposed abandonment thus would very likely have a minimal impact on road kill.

The comprehensive EA report makes no mention of species of special concern such as the Canada lynx (or otherwise threatened or endangered species) being especially affected by roadway crashes. In these circumstances there is no need for further analysis on the issue of foreseeable additional road kill as an indirect impact.

Socio-Economics**Comment**

The Draft EA states that economic effects, though both critically important and potentially adverse, are not environmental issues to be addressed in detail in the Draft EA. Additionally, the document states the socioeconomic issues are only considered in the environmental review if those actions result from change or disruption to the physical environment. According to the comment, SEA needs to develop a more detailed economic analysis either as a supplement to the Draft EA, or if necessary, as part of an Environmental Impact Statement.

Response

Consistent with the Board's practice and applicable case law, the Draft EA properly concluded that the potential socioeconomic effects of the proposed rail abandonment to be considered are those that relate to any changes caused to the physical environment.¹⁰ At the same time as the environmental review under NEPA, 42 U.S.C. 4321, and the Board's environmental rules at 49 CFR Part 1105, takes place, however, the record on the transportation merits is being developed as a separate process. NEPA applies to all proposals to abandon or discontinue service on rail lines.

⁹ Maine Department of Transportation, Collisions Between Wildlife Species and Motor Vehicles in Maine 2004-2008 (report by the Bureau of Maintenance and Operations, 2009).

¹⁰ As noted in the Draft EA, an example of a change caused to the physical environment would be if an agency approved an action that caused wide-spread erosion into waterways and the water quality degraded to the point where fishermen could no longer make a living fishing those waters, that would be a socio-economic impact that must be assessed in the environmental review process.

As part of that process, the Board reviews the merits of the Proposed Action and considers the competitive, transportation, and economic implications of the Proposed Action on the statewide and national rail system. In reaching a final decision on the proposed rail abandonment after both review processes are completed, the Board will take into account both the transportation merits and the result of the environmental review (the Draft EA, the Final EA, and all the environmental comments received).

Comment

The Draft EA misstates the impact to the human environment. Currently Aroostook County has a higher unemployment rate than reported in the Draft EA. Aroostook County is largely dependent on the forest products industry and the loss of rail service imperils “hundreds of millions of dollars in investments in plants to process lumber and associated employment and payrolls.”

Response

SEA agrees that the April 2010 unemployment rate for Aroostook County is higher than the 2008 unemployment rate cited in the Draft EA, presumably due to the downturn in the forest products industry specifically and the state and national economies generally. For April 2010, unemployment for Aroostook County was 11.1% compared to 8.4% for Maine and 9.5% for the U.S. as a whole.

3.2 Responses to Environmental Comments at Public Hearing

Comment

The State of Maine, Department of Transportation, commented that heavy trucks are more likely to cause roadway damage than other vehicles. The State opined that the estimated 75,000 additional trucks per year on the roadways in upper Maine that would result from the proposed abandonment would certainly lead to increased highway and roadway maintenance costs for Aroostook County and the State, should the proposed abandonment be approved.

Response

Substantial roadway damage is not likely. Roadway damage is a function of the volume of trucks on a particular roadway and the capacity of that roadway. The total volume of trucks on the major routes that the trucks would take under the proposed abandonment (I-95, US-1, and SR-11) would be relatively small—a maximum of 800 trucks per day. Also, SR-11, which would experience the highest level of truck traffic if the proposed abandonment is approved, within the past decade, has undergone a complete reconstruction. As a result, SR-11 is designed to accommodate, without significant effects, the increase in truck traffic that would result from the proposed abandonment.

The estimate of 75,000 trucks includes 50% empty trucks, which would put only the weight of the trucks themselves on area roadways. Moreover, the 75,000 truck total is the worst case scenario that assumes that all the rail traffic involved here would be converted to truck. This scenario is highly unlikely as there would be opportunities for many shippers to switch to another rail carrier (CN is in the area). In addition, the majority of the rail shippers are located adjacent to one of the three major routes examined (I-95, US-1, or SR-11). About 75% of the

rail cars that could divert to roadways are associated with shippers that are located immediately adjacent to SR-11. SR-11 has both the capacity and the infrastructure to accommodate the anticipated increase in truck traffic that would result from the proposed abandonment.

Comment

The Brotherhood of Locomotive Engineers and Trainmen commented that the shifting of hazardous materials from rail to truck may be a safety concern.

Response

The key hazardous material in Maine that is shipped by rail is chlorine, which is used in the paper making process. However, most mills that are using chlorine are now converting from that hazardous product to a more benign liquid alternative. In addition, much of the chlorine that comes into Maine is used by the paper mills in central Maine. There are no paper mills on the subject rail lines, and the Madawaska paper mill near the Canadian border would continue to receive direct rail service, either via MMA or CN.

The only other hazardous material products moved by rail in the northern region of Maine are fuel oil and gasoline being shipped to transloading facilities for local distribution by trucks. The trucking industry nationwide and in Maine must comply with all USDOT safety regulations with regard to the transport of hazardous materials. Also, the State of Maine has a very high percentage of petroleum products (20% of the total tonnage according to FHWA freight analysis data) currently moving via pipeline. For example, pipelines move fuel from Portland and move natural gas from Canada. Therefore, SEA has no reason to believe that shifting hazardous material products from rail to truck would raise significant safety concerns.

4.0 Final Mitigation Recommendations

Section 4 presents SEA's final recommended mitigation measures to reduce, to the extent feasible, the potential impacts from the proposed rail line discontinuance of service and abandonment. These mitigation measures remain largely unchanged from the Draft EA. The mitigation measures were developed after consultation with agencies and interested parties and extensive environmental analyses of the Proposed Action. The mitigation measures address the following resource areas: biological resources, geodetic markers, water resources, endangered species, and historic preservation.

SEA concludes that impacts to other resource areas would not require mitigation. SEA recommends that if the Board approves the proposed discontinuance of service and rail line abandonment, such approval should be subject to the nine (9) mitigation measures presented below. SEA believes that if the recommended mitigation is imposed and implemented, the proposed abandonment would have only minimal environmental impacts. SEA therefore concludes that preparation of an EIS is not necessary.

At this time, all of the alternatives to the proposed abandonment discussed in the Draft EA, including Offer of Financial Assistance (OFA); continued operation under a "modified certificate" or a voluntary sale; possible funding opportunities that Maine Senators and Representatives are currently pursuing; preservation of the rail corridor under the National Trails

System Act; discontinuance of service without abandonment; public use; and the No-Action alternative) remain viable.

Should the Board authorize this proposed discontinuance of service and abandonment, SEA recommends that the following conditions be imposed and implemented:

1. Prior to commencement of any salvage activities on the rail segments authorized to be abandoned, the Montreal, Maine & Atlantic Railway, Ltd. (MMA) shall consult with the Maine Department of Conservation's Natural Areas Program regarding potential impacts to rare species and/or significant natural communities and shall comply with its reasonable requirements.
2. MMA shall consult with the National Geodetic Survey (NGS) prior to beginning salvage activities on the rail segments authorized for abandonment. If NGS identifies geodetic station markers that might be affected by the authorized abandonment, MMA shall notify NGS at least 90 days prior to beginning salvage activities that will disturb or destroy any geodetic station markers in order to plan for the possible relocation of the geodetic station markers by NGS. MMA shall report the results of these consultations in writing to the Board's Section of Environmental Analysis (SEA) prior to initiating salvage activities.
3. Prior to commencement of any salvage activities on the rail segments authorized for abandonment, MMA shall consult with the United States Army Corps of Engineers (Corps) to determine if a Section 404 permit under the Clean Water Act (33 U.S.C. 1344) would be required during salvage activities for any potential impacts to waters of the United States, including wetlands, and if applicable, shall comply with the reasonable requirements of the Corps. MMA shall report the results of its consultation back to SEA in writing.
4. Prior to commencement of any salvage activities on the rail segments authorized for abandonment, MMA shall prepare a salvage plan in consultation with SEA, U.S. Fish and Wildlife Service, Maine Department of Conservation, and the Maine Department of Inland Fisheries and Wildlife. MMA shall consider the potential impacts from salvaging activities to listed threatened and endangered species that may occur in the vicinity of the rail segments proposed to be abandoned. MMA shall report the results of these consultations in writing to SEA prior to initiating salvage activities.
5. Prior to commencement of any salvage activities on the rail segments authorized for abandonment, MMA shall prepare a salvage plan in consultation with SEA and the U.S. Fish and Wildlife Service to minimize potential impacts from salvaging activities to Federally listed threatened and endangered species that may occur in the vicinity of the rail segments proposed to be abandoned.
6. Prior to commencement of any salvage activities on the rail segments authorized for abandonment, MMA shall consult with the United States Environmental Protection Agency (EPA) or the appropriate state designee, to ensure that any concerns regarding

applicable stormwater management requirements are addressed. MMA shall report the results of these consultations in writing to SEA prior to initiating salvage activities.

7. To control sedimentation and prevent spills and fugitive emissions, including dust and other applicable particulate matter during salvage activities on the rail segments authorized for abandonment, MMA shall implement the following best management practices:
 - MMA shall utilize appropriate techniques, such as silt fences, to minimize soil erosion during salvage.
 - MMA shall disturb the smallest area possible around streams and wetlands, and shall immediately revegetate any areas it disturbs during salvage.
 - Prior to consummating the authorized abandonment, MMA shall regularly maintain and inspect culverts, bridge abutments and bridges left in place to avoid degradation to wetland and wildlife habitat areas.
 - During the performance of salvage activities on the rail segments authorized to be abandoned, MMA shall comply with all applicable Federal, state, and local regulations regarding fugitive dust. MMA shall minimize fugitive emissions created during salvage by using such control methods as water spraying and wind barriers.
 - MMA shall observe all applicable Federal, state and local regulations regarding handling and disposal of any waste materials, including hazardous waste, encountered during salvage.
8. To reduce noise generated while conducting salvage activities on the rail segments authorized for abandonment, MMA shall to the extent possible, employ best management practices, such as limiting salvage activities to appropriate daytime hours.
9. MMA shall retain its interest in and take no further steps to alter the historic integrity of the rail segments authorized for abandonment, as well as buildings and structures within the project right-of-way (area of potential effects) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470(f), has been completed. MMA shall report back to SEA regarding any consultations with the Maine State Historic Preservation Office. MMA may not file its consummation notice or initiate any salvage activities related to abandonment until the Section 106 process has been completed and the Board has removed this condition.

APPENDIX A: COMMENT LETTERS

Huber Engineered Woods, LLC, dated May 25, 2010

State of Maine, Department of Transportation, dated May 26, 2010

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. 1043 (Sub-No. 1)

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MONTREAL, MAINE & ATLANTIC RY., LTD.

**- DISCONTINUANCE OF SERVICE AND ABANDONMENT -
IN AROOSTOOK AND PENOBSCOT COUNTIES, MAINE**

**COMMENTS OF STATE OF MAINE, DEPARTMENT OF TRANSPORTATION
TO DRAFT ENVIRONMENTAL ASSESSMENT**

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Attorneys for State of Maine, Department of
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BEFORE THE
SURFACE TRANSPORTATION BOARD
STB Docket No. 1043 (Sub-No. 1)

MONTREAL, MAINE & ATLANTIC RY., LTD.
- DISCONTINUANCE OF SERVICE AND ABANDONMENT -
IN AROOSTOOK AND PENOBSCOT COUNTIES, MAINE

**COMMENTS OF STATE OF MAINE, DEPARTMENT OF TRANSPORTATION
TO DRAFT ENVIRONMENTAL ASSESSMENT**

The State of Maine ("State"), by and through its Department of Transportation ("Maine DOT"), hereby submits these comments to the Draft Environmental Assessment ("Draft EA") issued by the Board's Section of Environmental Analysis ("SEA") on April 9, 2010. The Draft EA was prepared by SEA to analyze the environmental impacts from the proposed abandonment by Montreal, Maine and Atlantic Railway, Ltd. ("MMA") of approximately 233 miles of rail lines (the "Abandonment Lines") located in Aroostook and Penobscot Counties in northern Maine. Comments were originally required to be postmarked by May 12, 2010 (or submitted electronically), but the due date was extended to May 26, 2010, by order of the Board served April 27, 2010. Although these comments are submitted on behalf of the State, they are intended to supplement and not to supersede any comments received from any other agencies or Departments of the State.

Upon review of the Draft EA, the State and Maine DOT believe that there are areas of inquiry that require additional study by SEA, and additional conditions that should be imposed on MMA if the abandonment were to be granted and any or all of the Abandonment Lines were to be salvaged.

I. Additional Areas of Inquiry

A. Additional Consultation with Federal Agencies and the Public

The introductory letter from SEA notes that the citizens of Maine have yet to be heard from. Draft EA, p. ii. The State agrees, and while these comments are submitted on behalf of the citizens of Maine, additional concerns raised by other public agencies and governmental representatives should be considered as reflective of the concerns of the citizens as well. Additionally, from the Draft EA it appears that a number of significant federal agencies, including U.S. Environmental Protection Agency (“USEPA”), U.S. Fish and Wildlife Service (“USFWS”), the Army Corps of Engineers (“ACOE”), and National Oceanic and Atmospheric Administration (“NOAA”)¹, have not commented or responded to the Preliminary Draft Environmental Assessment or provided input with respect to potential harms within the scope of their jurisdiction. This input is critical before SEA can make a determination of the significance of the harms that might result. As discussed more fully below, the State believes that there are a number of “Critical Habitats” that the proposed abandonment and salvage could impact, and SEA should ensure that USFWS/NOAA identify those areas and propose conditions to ensure that any possible harm is mitigated.

B. Underrepresentation of Impacts

As noted in the protests filed by the State and by several of the larger shippers on the Abandonment Lines (including Irving Woodlands and Irving Forest Products, Louisiana Pacific, and Huber Engineered Woods), current rail traffic on the Abandonment Lines is at a low point due to overall decline in the economy and the effects on the housing market in particular. However, they have presented evidence that given the recent trend showing improvement in the economy and in

¹ In Maine, USFWS and NOAA have collaborated on a joint program that maps of Critical Habitats for the Atlantic Salmon.

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housing starts, there is a strong likelihood that there will be increased production by these shippers and increased rail traffic if there were no abandonment. This would also suggest increased truck traffic if the abandonment were to be granted. By doing its truck diversion analysis based on historical car loadings instead of on reasonable predictions of future traffic, the Draft EA understates the effects on road wear and tear, diesel usage, emissions and safety.

The State believes that the Draft EA understates the effect of the additional truck traffic in two additional ways. While the Draft EA looks at the number of additional trucks as a percentage of the overall traffic on various roadways (Draft EA at 22), it does not examine by what percentage the truck traffic will increase. Because heavy trucks are more likely to cause roadway damage than automobile traffic, the increased percentage of truck traffic may be more significant than the percentage increase in overall traffic would indicate.

Further, the Draft EA treats the truck traffic as being spread out over the various road ways that may be affected. Draft EA at 25-28. However, there are certain points, for example where Route 1 meets Route 95 in Houlton, and where the traffic off Route 11 reaches Route 95 in Sherman where there would be a confluence of trucks from the region coming together. Both Holton and Sherman are already designated as "High Crash Locations." Draft EA at 25. Further, as discussed more fully in Section C below, the Draft EA, although it assumes approximately 50% of the trips would remain in state, does not identify transload locations where the trucks might be destined. These points would also represent locations where trucks diverted from various locations would come together, and these locations should be separately evaluated for impacts on noise, vibration, emissions and safety.

The Draft EA, while mentioning that there are numerous wetlands, streams and rivers, focuses on the named ones that it lists. Focusing only on named streams as a basis for analysis under represents the potential impacts and possibly the significances of the impacts. For example, Winterville may have no named streams, but the area has 6 unnamed streams that are associated with St Froid Lake. All of these streams need to be evaluated from a fisheries standpoint. Additionally, the proposed abandonment would affect Dyer Brook (not just the identified Battle Brook) in the town of Dyer Brook. This surface water feature is a Critical Habitat for Atlantic Salmon, and potential impacts need to be evaluated. Additional consultation with State and federal agencies should be done to identify all Critical Habitats and other potential impacts on wildlife and natural resources, whether or not they relate to named water resources.

While MMA has indicated that is not aware of any environmental contamination or spills since it took ownership of the Abandonment Lines in 2003, the State is not aware of any environmental testing of the property that has been done. The Draft EA acknowledges that the affected property has been used by MMA's predecessor for railroad operations since 1891. As such, there is some chance of environmental contamination of the soil within the project area. While MMA may attempt to minimize soil disturbance during salvage operations, it will not be possible to do so completely. The State recommends that a Phase I environmental study be conducted at each location along the Abandonment Lines where there is an increased risk of contamination. Locations which Maine DOT has historically found to be of concern include rail sidings and locations where fueling or maintenance was performed by MMA or its predecessor. *See Red River Valley & Western Railroad Company – Abandonment Exemption – In Foster and Wells Counties, ND*, STB Docket No.

AB-391 (Sub-No. 10X) (served December 1, 2004)(requiring reporting any past releases, known or discovered).

C. Consideration of Indirect, Secondary and Cumulative Effects

The Draft EA focuses only the direct environmental impacts from possible salvage and the diversion of rail traffic to trucks. However, NEPA requires that indirect or secondary effects, and cumulative impacts also be addressed. *See* 40 CFR 1508.7, 1508.8. In examining the effects of the abandonment, the Draft EA needs, therefore, to look at not just at what will result from abandonment of the lines, but what will foreseeably happen as a result of the abandonment off of the lines.

MMA has acknowledged that in order to operate the Van Buren Branch between Madawaska and St. Leonard after it is severed from the rest of its system by the abandonment, it will need to construct a locomotive and car maintenance facility. Further, MMA has asserted that much of the traffic from the abandonment lines will be diverted to truck and will move within Maine to transload facilities. Although the construction of these facilities are clearly foreseeable consequences of the proposed abandonment, the Draft EA does not examine the potential environmental impacts from the construction or operation of these facilities. SEA has found the noise and vibration from truck alternatives to be significant in other cases. *See, e.g.*, Environmental Impact Statement and Supplemental Environmental Impact Statement issued in *Southwest Gulf Railroad Company – Construction and Operation Exemption – Medina County, TX*, STB Finance Docket No. 34282 (petition for review of based on challenge on failure to comply with NEPA denied, *Medina County Environmental Action Association v. STB*, 2010 U.S. App. LEXIS 9326 (5th Cir 2010)).

Other secondary or indirect impacts that should be considered include impacts on groundwater and surface water from oils, greases and rubber that will be deposited on area roadways

and carried as runoff into the local stream network. Additionally, although it may be difficult to measure the impact of additional roadkill, or to develop a condition to reduce it, with respect to protected species such as the Canadian lynx (Draft EA at 47), it is still an indirect impact that is foreseeable from the diversion of rail traffic to trucks that must be considered.

D. Socioeconomic Impacts

The Draft EA, p. 48, states that economic effects, though both “critically important” and potentially “adverse,” are “not environmental issues to be addressed in detail in this draft EA.” Additionally, the document states that “socioeconomic issues” are only considered in the environmental review if those actions result from change or disruption to physical environment. While it is true that the Board should consider adverse impacts on rural and community development, including socio-economic impacts, that will result from the proposed abandonment (49 USC 10903(d)(2)), the State does not agree that this eliminates the need for SEA to consider such impacts under the requirements of NEPA. The definition of “effects” under the NEPA regulations, 40 CFR 1508.8, includes not only ecological effects (such as effects on natural resources), but also economic and social impacts – whether direct, indirect or cumulative. The Draft EA, p. 31, acknowledges the potential economic and social harms that the State and others have pointed out will result from the loss of over 1700 jobs in a portion of northern Maine already experiencing above-average unemployment: “The proposal itself, if approved and implemented, could have socioeconomic effects that are not related to the physical environment. For example, there may be substantial potential adverse effects on employment (both locally and statewide) if rail service in the area were to cease.” This statement suggests that the socioeconomic impacts of the abandonment are very likely to be significant, and that a more complete economic analysis should be developed and

included either as a supplement to the EA, or if necessary as part of an Environmental Impact Statement.

II. Additional Conditions

In Section 5.0 of the Draft EA, SEA proposes a number of conditions in order to mitigate potential environmental harms that might result from the abandonment and salvage of the Abandonment Lines. The State supports the conditions requested and urges the Board to adopt such conditions in any abandonment that might be granted. In addition, the State believes that there are additional conditions that should be imposed as follows:

(1) MMA should be required to consult with appropriate federal agencies including NOAA, USFWS and ACOE with respect to any salvage in the vicinity of streams or other wetlands that are Critical Habitats for Atlantic Salmon to determine if stream work and possible bridge removal is required to protect the identified Critical Habitats.

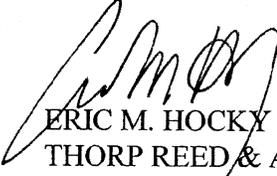
(2) MMA should be required to conduct Phase I testing of rail sidings and locations where fueling or maintenance was performed by MMA or its predecessor. MMA should further be required to report to Maine Department of Environmental Protection and USEPA if any contaminated soil, petroleum products, hazardous materials or chemicals, that may impact human health or the environment are discovered during abandonment and salvage operations. All salvage in the area of contaminated soil should be suspended until a remediation plan is implemented.

III. Conclusion

For the reasons set forth above, the State and the Maine DOT request that SEA conduct additional inquiries and evaluation of the abandonment, and request the imposition of additional conditions, as set forth herein.

Respectfully submitted,

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Dated: May 26, 2010

Attorneys for State of Maine, Department of
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ET-18202
AB 1043 /
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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1043 (Sub-No. 1)

MONTREAL, MAINE & ATLANTIC RAILWAY, LTD -
DISCONTINUANCE OF SERVICE AND ABANDONMENT -
IN AROOSTOOK AND PENOBSCOT COUNTIES, MAINE

**COMMENTS OF HUBER ENGINEERED WOODS, LLC
TO DRAFT ENVIRONMENTAL ASSESSMENT**

Dated: May 25, 2010

Respectfully submitted,

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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Docket No. AB 1043 (Sub-No. 1)

MONTREAL, MAINE & ATLANTIC RAILWAY, LTD –
DISCONTINUANCE OF SERVICE AND ABANDONMENT –
IN AROOSTOOK AND PENOBSCOT COUNTIES, MAINE

**COMMENTS OF HUBER ENGINEERED WOODS, LLC
TO DRAFT ENVIRONMENTAL ASSESSMENT**

INTRODUCTION

On April 19, 2010, Surface and Transportation Board's ("Board") Section of Environment Analysis ("SEA") released its Draft Environmental Assessment ("Draft EA") of the Application of the Montreal, Maine & Atlantic Railway, Ltd. ("MMA") to abandon service on 233 miles of rail line on which MMA provides service in Maine (the "Abandonment Lines").

On April 27, 2010, the Board extended the deadline for comments to May 26, 2010. With these comments, Huber Engineered Woods, LLC ("Huber") requests the Board direct its SEA to reopen the record to address the comments of Huber.

I. The Draft EA Fails To Adequately Assess The Impact On Local Roads

The Draft EA concludes that the added traffic, estimated at an additional 19 million vehicle-miles, will have "no discernable adverse effects to the regional or local

transportation systems or traffic patterns.” Draft EA at 25. This conclusion ignores the localized impacts of MMA’s proposed abandonment.

The rail lines MMA proposed to abandon seriously impact communities in Aroostook County. This impact is particularly focused on the lines of rail (or subdivisions) east of Squa Pan.

The Draft EA fails to reflect this fact, or its implications to local roads. If MMA service is discontinued, many shippers (identified in the Hunter Verified Statement, Ex. A) will be forced to truck their products to I-95. Houlton, Maine, is the nearest access to I-95 for many of these shippers. But to get to I-95, shippers will go over local roads in Presque Isle, Easton, Caribou, Houlton or other cities. While engineering traffic capacity estimates suggest local highways can absorb the added traffic, this added traffic can destroy local roads, which the Draft EA fails to reflect. Downstream there could be significant congestion issues, such as in Portland and, especially, Boston. *Cf. Medina County Environmental Action Ass’n v. Surface Transportation Board*, 602 F.3d 687, 697-98 (5th Cir. 2010) (STB considered impact of noise and vibration from alternatives to rail).¹

II. The Draft EA Disrespects The Impact Of Abandonment On The Physical Environment

The Draft EA calculates that abandonment will require an additional 3.3 million gallons of fuel to haul what MMA hauls now. Draft EA at 29. From this, the Draft EA

¹ Likewise, the Draft EA fails to assess the localized impact of construction and operation of any transload facility or MMA’s maintenance or other facilities on the stranded Madawaska segment it proposes to retain in service.

concludes that the additional trucking needed to replace MMA “would not have a significant adverse effect.” Draft EA at 29.

This conclusion is factually flawed because it is based on an assumption, per MMA, that traffic levels will not recover. Draft EA at 19, 20. Huber (and other forest product shippers) project a significant recovery in rail shipments based on a recovery in the housing market. The Draft EA conclusion also ignores – indeed, does not even calculate – the added greenhouse gas emissions from loss of rail service.

Besides the downplaying of significant energy costs, and wholly ignoring global warming, the Draft EA ignores the obvious environmental impacts of this increase in added trucking. Diesel engines discharge fine particulates, and while diesel electric locomotives also do so, the Draft EA does not assess how added trucking will exacerbate particulate emissions. Trucks also drop oil and grease on roadways, which will wash into surface waters or percolate into groundwater. The Draft EA makes no assessment of that impact.

III. The Draft EA Misstates The Impact To The Human Environment

The Draft EA determines that the socio-economic impact of MMA’s proposed abandonment is best left to consideration of the merits of the proposed abandonment. Draft EA at 33. Huber makes two points in response to what the Draft EA nevertheless says in this regard. The Draft EA seriously understates the impact to the human environment. Aroostook County has a much higher unemployment rate than reported in the EA. The Draft EA reports unemployment in Aroostook County at 7.3% in 2008. Draft EA at 32. As reported by Maine Department of Labor, the April 2010

unemployment for Aroostock County was 11.1%, compared to 8.7% for Maine as a whole. Penobscot County statistics are similarly understated in the Draft EA at 5.1% versus 8.6% for April.²

Aroostock County is largely dependent on basic industry, primarily of forest products. Loss of rail service imperils hundreds of millions of dollars in investments in plants to process lumber and associated employment and payrolls. If shipping costs rise, lumber processors will need to reduce other input costs to stay competitive. All of Huber's timber inputs are third party-sourced. This pressure will push back to timber harvesters. If harvested timber prices fall, there could be further pressure to harvest timber in a less environmentally-sensitive manner to reduce costs. The Draft EA makes no mention of this possibility.

IV. The Board Should Impose Environmental Reporting Conditions On MMA

MMA is the successor to the Bangor and Aroostook Railroad ("BAR"), acquiring BAR's assets out of bankruptcy. MMA began operating the Abandonment Lines in January 2003. *See* MMA Application at 4.

Railroads are among the oldest industries in the United States, and many operated manufacturing and repair facilities on their properties. BAR was no exception. With the advent of diesel electric locomotives in the 1930s, railroads began storing diesel fuel and operating fueling facilities. If underground storage facilities or piping was used, much was installed before anticorrosion measures were required. It is very likely that BAR

² These data are found at www.maine.gov/labor/lmis/laus.html.

spilled diesel fuel on its properties; it is probable other hazardous materials were released on property MMA acquired from the bankruptcy estate.

Notwithstanding the rail industry's historic experience of having environmental contamination on its properties, the Draft EA states "no hazardous spills have occurred on the lines to be abandoned under the present owner," Draft EA at 31, a claim that may be true if MMA adhered to its environmental reporting duties since beginning operations in 2003. The Draft EA also states MMA represents it "is not aware of any spills that occurred prior to ownership." Draft EA at 31. The Draft EA does not indicate what SEA did to independently confirm these assertions, such as contacting state authorities or reviewing MMA's environmental due diligence documents relating to its acquisition of BAR assets.

STB precedent exists to impose conditions to protect the public in these circumstances. In a series of abandonment applications in North Dakota, the Board imposed a reporting obligation on the carrier to report the discovery of chemical releases, including petroleum products, discovered during salvage operations. *See, e.g., Red River Valley & Western R. Co. – Abandonment Exemption – In Foster and Wells Counties, ND*, STB Dkt. No. AB-391 (Sub. No. 10X), 2004 WL 2734545 (STB). The Board should impose similar conditions here, and require a similar reporting obligation on MMA to report to Maine's Department of Environmental Protection.

CONCLUSION

Huber respectfully requests that the Board return the Draft EA to its SEA to address the oversights noted above, and incorporate the reporting condition in any order

approving abandonment, which Huber continues to believe is not supported by the public convenience and necessity.

Dated: May 25, 2010

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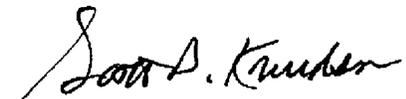
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