

December 22, 2010

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Cynthia Brown  
Chief, Section of Administration  
Office of Proceedings  
Surface Transportation Board  
395 E Street, SW  
Washington, D.C. 20423

RE: Docket No. AB-1043 (Sub-No. 1), *Montreal, Maine & Atlantic Railway, Ltd. - Discontinuance of Service and Abandonment - In Aroostook and Penobscot Counties, Maine*

Dear Ms. Brown:

In a Reply filed December 17, 2010 in the above-captioned docket, Twin Rivers Paper Company and the United Steelworkers Union (collectively, "Twin Rivers and USW") made a number of assertions and claims regarding Irving Forest Products, Inc. and Irving Woodlands LLC (collectively, "Irving"). Irving respectfully requests that the Board accept this brief letter in response.

As a general matter, the Reply filed by Twin Rivers and USW includes several speculative and unfounded concerns about alleged potential effects on Twin Rivers and USW from Irving's business operations. However, Irving's relationships with its customers are not within the scope of this proceeding or the Board's jurisdiction. Furthermore, Twin Rivers' concerns defy logic: why, for example, would Irving have an interest in disrupting the volume and delivery of the products it sells to Twin Rivers, as is implied on page 4 of the Twin Rivers and USW Reply? Irving's incentive is precisely the opposite—to increase sales to its customers.

More specifically, Twin Rivers and USW express their desire to review "any agreements Irving Forest Products or any of its affiliates have entered into with MM&A, the State, or other parties with respect to the proposed transaction as well as with respect to transportation of Irving Forest Products' goods over the Line or the lines connecting to it at either end." Twin Rivers and USW Reply at 5. Similarly, Twin Rivers and USW desire access to "any agreements" entered into by Irving Forest Products or the Eastern Maine Railway (an entity that has not participated in this proceeding) "that relate to or potentially affect the Line and any contiguous rail segments." *Id.* These unprecedented requests are unwarranted and improper. This docket consists of a proposed rail line abandonment under 49 USC § 10903, and the applicant is the Montreal, Maine & Atlantic Railway ("MMA"), not Irving. Twin Rivers and USW fail to cite any legal precedent that would justify their sweeping and intrusive requests, because there is none. Twin Rivers and

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USW essentially seek to engage in a fishing expedition relative to Irving's business relationships to which Irving strenuously objects.

Twin Rivers and USW express a particular desire to access an alleged agreement between Irving and MMA "the details of which remain unknown" but for which Twin Rivers and USW assert is needed to ensure the agreement is not anticompetitive. Twin Rivers and USW Reply at 4 and 7. However, there is no evidence to back-up these speculative and unfounded allegations. It is no secret that Irving is a rail customer of MMA; indeed, this status as a customer is the reason for Irving's participation in this proceeding. Irving, like many other customers of MMA perhaps including Twin Rivers, enters into confidential transportation agreements with MMA. Not only are these private transportation agreements outside the jurisdiction of the Board, pursuant to 49 USC § 10709, but they are confidential and contain sensitive commercial information. In fact, consent from both MMA and Irving would be required to disclose the terms of these confidential agreements, and Irving does not provide its consent. Twin Rivers and USW have provided no legal justification that would require the Board to order Irving to divulge the terms of its confidential agreements in the context of this abandonment proceeding. As such, the Board must reject the requests of Twin Rivers and USW.

Irving, like many shippers in Northern Maine, supports the State of Maine in its efforts to purchase the MMA lines proposed for abandonment and to develop competitive rail service by a new shortline operator. Maine's term sheet specifies that a new shortline will have rights to directly interchange traffic with Canadian National ("CN") in St. Leonard and with Eastern Maine Railway ("EMR") in Brownville Junction and those rights include a highly competitive trackage rights arrangement enabling the shortline to transit MMA-owned rail lines. Irving believes the State of Maine agreement will enable the shortline railroad eventually selected by the State of Maine to compete for Irving's traffic generated on the abandonment lines as well as the traffic of many other Northern Maine industries. That opportunity offers the very best chance for the preservation of essential rail freight services in Northern Maine.

Finally, it was not clear that the STB could or would have granted the type of competitive access that Maine was able to negotiate and thus relying on the outcome of a contested regulatory procedure is at best imprudent. Under the terms of Maine's agreement, shippers on the abandonment lines will have good competitive access to three carriers, CN, EMR and MMA, via the shortline. That access offers the best hope for success of the new operator. Historically, Twin Rivers has had the option of shipping traffic north via MMA to its interchange with CN in St. Leonard and south via MMA to interchanges with other carriers. The Maine agreement preserves all those rights and the STB should approve the Maine approach.

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Respectfully submitted,



Karyn A. Booth  
David E. Benz

*Counsel for Irving Forest Products, Inc. and Irving Woodlands LLC*

cc: Parties of record

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