

BEFORE THE  
SURFACE TRANSPORTATION BOARD

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

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

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**REPLY COMMENTS OF HUBER ENGINEERED  
WOODS, LLC**

Dated: August 10, 2010

Respectfully submitted,

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ATTORNEYS FOR HUBER ENGINEERED  
WOODS, LLC

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Huber Engineered Woods, LLC (“Huber”) submits this reply to the comments of MMA and those of the rail industry that elected to weigh in on the questions the Board raised in its July 20 order. These comments divide into three basic positions: (i) Section 10903 does not grant the Board the authority to impose trackage rights as a condition of approving abandonments; (ii) consideration of trackage rights conditions will unduly delay approval of abandonment, contrary to congressional policy; and (iii) the Board is simply without jurisdiction to impose trackage rights that could be exercised in Canada. Huber’s separate comments will be brief. The State of Maine and other shippers will ably reply in more detail to the rail industry comments.

- Congress’s failure to mention trackage rights expressly in § 10903 means nothing. Congress spoke clearly when it granted the Board unrestricted authority to impose conditions on abandonment.

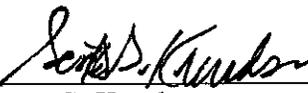
- Regarding the industry's undue delay argument, this abandonment proceeding is unusual. The Board has not seen a comparable abandonment in scope and regional impact. Yet Congress specifically provided that the Board should consider the magnitude of impact on rural communities when reviewing abandonment applications. Few applications will present the adverse impact the record here demonstrates that occasions and justifies a request for trackage rights.
- Regarding the Board's alleged lack of authority to require trackage rights to CN in New Brunswick, the Board's order would on its face apply to MMA's application to abandon trackage in the United States. Conditioning MMA's right to abandon United States trackage on MMA granting competitive access conditions for U.S.-based shippers does not, *ipso facto*, amount to an extraterritorial assertion of Board authority. MMA could simply ignore those conditions and thus forgo any rights to abandonment in the United States. Any new operator exercising those access rights will still have to comply with Canadian law crossing the border and be subject to Canadian regulatory authority over the service within Canada. Nor will granting trackage rights require CN to interchange with the new operator.

Otherwise, Huber joins in the reply brief of shipper Louisiana-Pacific Corporation.

Dated: August 10, 2010

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## CERTIFICATE OF SERVICE

I certify that on this 10th day of August, 2010, I caused a copy of the foregoing to be served by U.S. Mail upon the following parties:

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