

228633

BEFORE THE
SURFACE TRANSPORTATION BOARD

TOTAL PETROCHEMICALS USA, INC.

Complainant

v.

DOCKET NO. NOR 42121

CSX TRANSPORTATION, INC.;
CAROLINA PIEDMONT DIVISION;
MADISON RAILROAD; MOHAWK,
ADIRONDACK & NORTHERN
RAILROAD CORP.; NEW HOPE &
IVYLAND RAILROAD; R.J. CORMAN
RAILROAD COMPANY (MEMPHIS);
AND SEQUATCHIE VALLEY
RAILROAD COMPANY

Defendants

ENTERED
Office of Proceedings
JAN 14 2011,
Part of
Public Record

ANSWER OF

MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORPORATION

TO THIRD AMENDED COMPLAINT

JOHN S. HERBRAND
GENERAL COUNSEL
MOHAWK, ADIRONDACK & NORTHERN
RAILROAD CORPORATION
ONE MILL ST., SUITE 101
BATAVIA, NEW YORK 14020
585.295.1562
jsh@herbrandlaw.com

January 14, 2011

BEFORE THE
SURFACE TRANSPORTATION BOARD

TOTAL PETROCHEMICALS USA, INC.

Complainant

v.

DOCKET NO. NOR 42121

CSX TRANSPORTATION, INC.;
CAROLINA PIEDMONT DIVISION;
MADISON RAILROAD; MOHAWK,
ADIRONDACK & NORTHERN
RAILROAD CORP.; NEW HOPE &
IVYLAND RAILROAD; R.J. CORMAN
RAILROAD COMPANY (MEMPHIS);
AND SEQUATCHIE VALLEY
RAILROAD COMPANY

Defendants

ANSWER OF
MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORPORATION
TO THIRD AMENDED COMPLAINT

MOHAWK, ADIRONDACK & NORTHERN RAILROAD CORPORATION (MHWA) hereby files its answer to the Third Amended Complaint of Total Petrochemicals USA, Inc. (TPI) dated January 4, 2011.

1. MHWA lacks sufficient knowledge or information to admit or deny the allegations of Paragraph 1 of the Third Amended Complaint.
2. MHWA admits that it is a common carrier by rail that engages in the transportation of property in interstate commerce, and that it may be subject to the

jurisdiction of the Surface Transportation Board under 49 U.S.C. Section 10101, et. seq. MHWA lacks sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 2 of the Third Amended Complaint.

3. On information and belief, MHWA admits the allegation of Paragraph 3 of the Third Amended Complaint.

4. MHWA lacks sufficient knowledge or information to admit or deny the allegations of Paragraphs 4 and 5 of the Third Amended Complaint.

5. MHWA admits the allegations of Paragraph 6 of the Third Amended Complaint.

6. MHWA lacks sufficient knowledge or information to admit or deny the allegations of Paragraphs 7, 8 and 9 of the Third Amended Complaint.

7. Paragraph 10 of the Third Amended Complaint consists of a characterization of the Third Amended Complaint to which no response is required.

8. MHWA lacks sufficient knowledge or information to admit or deny the allegations of Paragraph 11 of the Third Amended Complaint.

9. With respect to Paragraph 12 of the Third Amended Complaint, MHWA admits that it has previously participated with CSXT in the interline movement of the traffic identified as Lanes 34 and 61 in Exhibit B to the Third Amended Complaint. MHWA lacks sufficient knowledge or information to admit or deny the remaining allegations of Paragraph 12.

10. MHWA lacks sufficient knowledge or information to admit or deny the allegations of Paragraphs 13, 14, 15, 16, 17 of the Third Amended Complaint.

11. Paragraphs 18, 19, 20, 21, 22 and 23 of the Third Amended Complaint state legal conclusions to which no responses are required. To the extent responses are required, MHWA denies the allegations of Paragraphs 18, 19, 20, 21, 22 and 23 with respect to the Lanes 34 and 61 traffic.

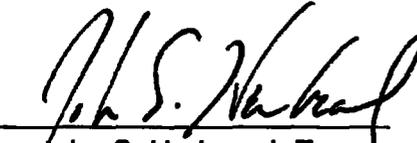
12. Paragraph 24 of the Third Amended Complaint consists of a characterization of the Third Amended Complaint to which no response is required.

13. The remaining unnumbered paragraph of the Third Amended Complaint states requests for relief and legal conclusions. MHWA denies that TPI is entitled to any of the relief it seeks in this proceeding with respect to MHWA and the Lanes 34 and 61 traffic.

WHEREFORE, MHLA respectfully requests that the Board deny TPI's complaint with respect to MHLA.

Respectfully submitted,

By:



John S. Herbrand, Esq.

General Counsel

MOHAWK, ADIRONDACK &

NORTHERN RAILROAD

CORPORATION

January 14, 2011

CERTIFICATE OF SERVICE

I hereby certify that this 14th day of January 2011, I served a copy of the foregoing upon Complainant and Defendants in the following manner and at the addresses below:

Via e-mail and first-class mail to:

<p>Jeffrey O. Moreno David E. Benz Thompson Hine LLP 1920 N Street, N.W., Suite 800 Washington, D.C. 20036</p> <p><u>Jeff.Moreno@thompsonhine.com</u> <u>David.Benz@thompsonhine.com</u></p> <p><i>Counsel for TOTAL Petrochemicals USA, Inc.</i></p>	<p>G. Paul Moates Paul Hemmersbaugh Sidley Austin LLP 1501 K Street, NW Washington, DC 20005</p> <p><u>pmoates@sidley.com</u> <u>phemmersbaugh@sidley.com</u></p> <p><i>Counsel for CSXT</i></p>
<p>Eric Hocky Thorp Reed & Armstrong LLP One Commerce Square 2005 Market Street, Suite 1000 Philadelphia, PA 19103</p> <p><u>ehocky@thorpreed.com</u></p> <p><i>Counsel for New Hope & Ivyland Railroad</i></p>	<p>David F. Rifkind Leonard, Street and Deinard 1350 I Street, NW, Suite 800 Washington, DC 20005</p> <p><u>david.rifkind@leonard.com</u></p> <p><i>Counsel for Madison Railroad</i></p>
<p>Louis E. Gitomer Law Offices of Louis E. Gitomer 600 Baltimore Avenue Suite 301 Towson, MD 21204</p> <p><u>Lou_Gitomer@verizon.net</u></p> <p><i>Counsel for Carolina Piedmont Division, South Carolina Central Railroad Company</i></p>	<p>R.J. Corman Railroad Group Attn. Bill Henderson P.O. Box 788 Nicholasville, KY 40340</p> <p><u>bill.henderson@rjcorman.com</u></p> <p><i>Designated representative of RJ Corman Railroad Company (Memphis)</i></p>

Via overnight carrier to:

<p>Sequatchie Valley Railroad Attn. Dick Abernathy (President) 595 Minkslide Road Shelbyville, TN 37160</p>	
---	--



John S. Herbrand, Esq.