

SURFACE TRANSPORTATION BOARD

Washington, DC 20423

Office of Economics, Environmental Analysis, and Administration

HEO-1406
DAW
AB 1043 IX

November 2, 2009

James E. Howard, Esq.
1 Thompson Square, Suite 201
Charlestown, MA 02129

RE: Montreal, Maine & Atlantic Railway, LTd – Future Rail Line
Abandonment in Penobscot and Aroostook Counties, Maine; Approval of
Request to Submit a Preliminary Draft Environmental Assessment and
Hire a Third-Party Contractor

Dear Mr. Howard:

I am responding to your letters of September 18, 2009 and October 22, 2009, in which you request approval of an alternative environmental review process for a proposed abandonment of the Montreal, Maine & Atlantic Railway, Ltd (MMA). Specifically, you request that the Section of Environmental Analysis (SEA) waive the requirement to submit environmental and historic reports under 49 CFR 1105.7 and 1105.8 when the abandonment application is filed. In lieu of the reports, you request that SEA permit MMA to hire HNTB as a third-party consultant to work solely under the direction of SEA to prepare a Preliminary Draft Environmental Assessment (PDEA).¹ Your letter also includes a revised schedule by which MMA will submit the PDEA to SEA for its independent review and verification. Thereafter, SEA will make the Environmental Assessment (EA) available for public review and comment.

Based on our discussions and the supporting documentation submitted with your proposal, SEA approves of your request to waive the requirement to submit environmental and historic reports and in lieu, submit a PDEA. SEA also approves of your request to hire HNTB as a third-party consultant, pursuant to 49 CFR 1105(10)(d), to prepare the PDEA, providing that HNTB completes the attached disclosure statement and promptly returns it to SEA. We have reviewed the revised schedule as outlined in your most recent letter and agree that the following sequence of events will occur:

- MMA, through HNTB, will submit the PDEA to SEA at least 30 days prior to filing the abandonment application.

¹ The Council on Environmental Quality regulations at 40 CFR 1506.5(b) allow for the preparation of Environmental Assessments. The PDEA must include the information required by the Board's regulations at 49 CFR 1105.7 and 1105.8.

- MMA, through HNTB, will file and serve copies of the PDEA on interested parties at least 20 days prior to filing the abandonment application, taking into account any review comments provided by SEA.
- SEA, in conjunction with HNTB, will review and verify the information in the PDEA, and make changes to the document as necessary.
- SEA will make the EA available to the public for review and comment.
- SEA will issue a Post EA three days after the comment period, taking into consideration any additional comments it receives during this time.

In consideration of your request to prepare an EA rather than an Environmental Impact Statement (EIS), we have determined, based on the information available to date, that an EA appears to be the appropriate level of environmental documentation for this proposal. This approach is consistent with the Board's rules, which contemplate that an EA and not a full EIS typically is adequate in rail line abandonment proceedings. Nevertheless, if it becomes clear that potentially significant adverse environmental effects would result from the project and could not be adequately mitigated, SEA could determine that an EIS is warranted.

Thank you for initiating early consultation for the proposed undertaking. If you have any questions or would like to discuss this matter further, please contact Diana Wood of my staff at (202) 245-0302 or email at woodd@stb.dot.gov.

Sincerely,



Victoria Rutson
Chief
Section of Environmental Analysis

Enclosure

SURFACE TRANSPORTATION BOARD

DISCLOSURE STATEMENT

On behalf of HNTB Corporation, I certify that HNTB Corporation has no financial or other interests in the outcome of the prospective petition in Montreal, Maine & Atlantic Railway, Ltd. – Abandonment and Discontinuance of Service – In Penobscot and Aroostook Counties, Maine.

Signature: Steven P. McElligott

Printed Name: Steven P. McElligott, P.E.,

Title: Vice President

Date: November 2, 2009