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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE &
ATLANTIC RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**REVISED FIRST AMENDED DISCLOSURE
STATEMENT FOR THE TRUSTEE'S PLAN
OF LIQUIDATION DATED JULY 15, 2015**

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Dated: July 15, 2015

* * *

VII.

THE PLAN

A. INTRODUCTION

This section of the Disclosure Statement summarizes the Plan, a copy of which has been filed separately on the Bankruptcy Court docket and is attached

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hereto as Exhibit A. This summary is qualified in its entirety by reference to the provisions of the Plan.

Statements as to the rationale underlying the treatment of Claims under the Plan are not intended to, and will not, waive, compromise or limit any rights, claims or causes of action in the event the Plan is not confirmed.

YOU SHOULD READ THE PLAN IN ITS ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

B. CLASSIFICATION AND TREATMENT OF CLAIMS UNDER THE PLAN

The Bankruptcy Code states that only claims that are “allowed” may receive distributions under a chapter 11 plan. The term “allowed” is used throughout the Plan and the descriptions below. In general, an “allowed” claim simply means that the debtor agrees, or in the event of a dispute, that the Bankruptcy Court determines, that the claim, and the amount thereof, is in fact a valid obligation of the debtor. Section 502(a) of the Bankruptcy Code provides that a timely filed claim is automatically “allowed” unless the debtor or other party in interest objects. However, section 502(b) of the Bankruptcy Code specifies certain claims that may not be “allowed” in bankruptcy even if a proof of claim is filed. These include, but are not limited to, claims that are unenforceable under the governing agreement between a debtor and the claimant or applicable non-bankruptcy law, claims for unmatured

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interest, property tax claims in excess of the debtor's equity in the property, claims for services that exceed their reasonable value, real property lease and employment contract rejection damage claims in excess of specified amounts, late-filed claims, and contingent claims for contribution and reimbursement. In addition, Bankruptcy Rule 3003(c)(2) prohibits the allowance of any claim that either is not listed on the debtor's schedules or is listed as disputed, contingent or unliquidated, if the holder has not filed a proof of claim or equity interest before the established deadline.

The Bankruptcy Code requires that, for purposes of treatment and voting, a chapter 11 plan divide the different claims against the debtor into separate classes based upon their legal nature. However, certain types of claims – administrative claims and certain tax claims – are not classified. Claims of a substantially similar legal nature are not necessarily classified together. Because an entity may hold multiple claims which give rise to different legal rights, the “claims” themselves, rather than their holders, are classified.

Under a chapter 11 plan, the separate classes of claims must be designated as either “impaired” (affected by the plan) or “unimpaired” (unaffected by the plan). If a class is unimpaired, the holders of claims in such class do not vote on the plan. If a class of claims is impaired, the Bankruptcy Code affords certain rights to the holders of such claims, such as the right to vote on the plan, and the right to receive, under the chapter 11 plan, no less value than the holder would

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receive if the debtor were liquidated in a case under chapter 7 of the Bankruptcy Code.

Under section 1124 of the Bankruptcy Code, a class of claims is “impaired” unless the plan (i) does not alter the legal, equitable and contractual rights of the holders or (ii) irrespective of the holders’ acceleration rights, cures all defaults (other than those arising from the debtor’s insolvency, the commencement of the case or nonperformance of a nonmonetary obligation), reinstates the maturity of the claims or interests in the class, compensates the holders for actual damages incurred as a result of their reasonable reliance upon any acceleration rights, and does not otherwise alter their legal, equitable, and contractual rights.

Under certain circumstances, a class of claims may be deemed to reject a plan. For example, a class is deemed to reject a plan under section 1126(g) of the Bankruptcy Code if the holders of claims in such class do not receive or retain property under the plan on account of their claims.

C. PROVISIONS FOR PAYMENT OF NON-CLASSIFIED CLAIMS

i. Administrative Expense Claims.

(a) Allowance of Administrative Expense Claims. An Administrative Expense Claim, with respect to which a request for payment has been properly and timely filed shall become an Allowed Administrative Expense Claim if no objection to such request is filed

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by the Trustee with the Bankruptcy Court on or before the one-hundred-and-twentieth (120th) day after the Effective Date, or on such later date as may be fixed by the Bankruptcy Court, whether fixed before or after the one-hundred-and twentieth (120th) day after the Effective Date. If an objection is timely filed, the Administrative Expense Claim shall become an Allowed Administrative Expense Claim only to the extent Allowed by Final Order or as such Claim is settled, compromised, or otherwise resolved by the Trustee or the Estate Representative pursuant to Section 7.20 of the Plan.

(b) Payment of Allowed Administrative Expense Claims. Except to the extent that a Holder of an Allowed Administrative Expense Claim (other than a Claim covered by Section 2.2 or 2.3 of the Plan) agrees to a less favorable treatment, each Allowed Administrative Expense Claim (including any Allowed Claim asserted under section 503(b)(9) of the Bankruptcy Code) shall be paid in full, in Cash, in an amount equal to the unpaid portion of such Allowed Administrative Expense Claim within thirty (30) days following the later to occur of (a) the Effective Date, or (b) the date on which such Administrative Expense Claim shall become an Allowed Claim; *provided, however*, that Allowed Administrative Expense Claims (other than a Claim covered by Section 2.2 or 2.3 of the Plan) against the Debtor representing liabilities incurred in the ordinary course of business by the Debtor shall be paid, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the

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terms and subject to the conditions of any agreements governing, instruments evidencing, or other documents relating to, such transactions.⁹

ii. Professional Compensation and Reimbursement Claims

All Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Effective Date under sections 326, 328, 330, and 331 of the Bankruptcy Code or filing applications for allowance of Administrative Expense Claims arising under section 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code shall (a) file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is sixty (60) days after the Effective Date, and (b) be paid in full, in Cash, by the Trustee or Disbursing Agent, as applicable, such amounts as are allowed by the Bankruptcy Court (i) within thirty (30) days after the date on which the order relating to any such Administrative Expense Claim is entered or (ii) upon such other terms as may be mutually agreed upon between the Holder of such

⁹ As set forth in the Liquidation Analysis attached as Exhibit C hereto, as of the date hereof, the Trustee estimates between approximately \$6.5 and \$7.9 million in Administrative Expense Claims. The Wheeling Superpriority Claim, to the extent not reduced or eliminated by subsequent litigation, is an Allowed Administrative Expense Claim with priority over other Allowed Administrative Expense Claims (to the extent paid from non-designated funds of the Estate).

Administrative Expense Claim and the Trustee or Disbursing Agent, as applicable.

iii. Priority Tax Claims.

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, each Holder of an Allowed Priority Tax Claim that has not already been paid in full shall receive, in full satisfaction, settlement, and release of and in exchange for such Allowed Priority Tax Claim, on the later of the Effective Date and the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon as practicable thereafter, Cash in an amount equal to such Allowed Priority Tax Claim.

iv. Sections 1171(a), 1171(b) and Derailment Government Claims Not Administrative Claims.

By agreement with Holders in the affected Class, all Derailment Wrongful Death Claims and Derailment Moral Damages and Personal Injury Claims, to the extent afforded administrative expense status under section 1171(a) of the Bankruptcy Code, shall be treated as Class 12 and Class 8 Claims respectively, as provided in the Plan, and shall not be Allowed Administrative Expense Claims.

Claims arising under section 1171(b) of the Bankruptcy Code, if any, shall not be treated as Allowed Administrative Expense Claims, but shall be treated as

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Priority (Class 7) Claims, junior in priority to all other Allowed Priority (Class 7) Claims, to the extent Allowed by a Final Order of the Bankruptcy Court as Claims arising under Bankruptcy Code section 1171(b).¹⁰

By agreement with Holders in the affected Class, to the extent that any Derailment Government Claim might be an Allowed Administrative Expense Claim under applicable law, such Derailment Government Claim will not be treated or paid as an Administrative Expense Claim but shall be treated solely as a Class 10 Claim.

¹⁰ Bankruptcy Code section 1171 preserves the priority of claims in pre-Code equity receiverships. *See 8 Collier on Bankruptcy* ¶ 1171.02, pp. 107-9, 107 (16th ed. 2010). The specific claims protected by section 1171(b) are referred to as “six-month claims,” which are claims incurred where: (i) the claim arose within six months of the filing of the petition; (ii) the obligation was incurred for a current and necessary operating expense in the ordinary course of business; and (iii) the creditor expected to be paid out of the current operating revenues of the railroad, rather than relying on the railroad’s general credit. *Id.* “In general, six-month claims should be below [in priority] all of the section 507 priorities.” *Id.* at 108. Moreover, “any treatment in [a] plan which is consistent with that policy and fair to the section 507 priority claims is proper.” *Id.* *Maine Northern Railway Company and New Brunswick Southern Railway Company Limited* (together, the “Irving Railroads”) assert that 1171(b) Claims are properly treated as Administrative Expense Claims. The Trustee disputes this interpretation of the law. Absent a settlement, the Bankruptcy Court will adjudicate this issue.

D CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The following table designates the classes of Claims against, and Equity Interests in, the Debtor and specifies which of those Classes are impaired or Unimpaired by the Plan and entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code or deemed to accept or reject the Plan under that Section.

Class	Designation	Impairment	Entitled to Vote
Class 1	Wheeling Secured Claims	Unimpaired	No
Class 2	FRA Secured Claims	Unimpaired	No
Class 3	MDOT Secured Claims	Unimpaired	No
Class 4	Bangor Savings Bank Secured Claim	Unimpaired	No
Class 5	State Income Tax Claims	Unimpaired	No
Class 6	Municipal Tax Claims	Unimpaired	No
Class 7	Priority Claims	Unimpaired	No
Class 8	Derailment Moral Damages and Personal Injury Claims	Impaired	Yes

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Class 9	Derailment Property Damage Claims	Impaired	Yes
Class 10	Derailment Government Claims	Impaired	Yes
Class 11	Derailment Property Subro- gated Insur- ance Claims	Impaired	Yes
Class 12	Derailment Wrongful Death Claims	Impaired	Yes
Class 13	General Unse- cured Claims	Impaired	Yes
Class 14	Subordinated Claims	Impaired	No (Deemed to Reject)
Class 15	Equity Interests	Impaired	No (Deemed to Reject)

Class 1 shall consist of all Allowed Secured Claims of any kind or nature held by Wheeling against the Debtor.

Class 2 shall consist of all Allowed Secured Claims of any kind or nature held by the United States of America, Department of Transportation, acting by and through the FRA against the Debtor.

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Class 3 shall consist of all Allowed Secured Claims of any kind or nature held by Maine Department of Transportation (“MDOT”) against the Debtor.

Class 4 shall consist of all Allowed Secured Claims of any kind or nature held by Bangor Savings Bank against the Debtor.

Class 5 shall consist of all Allowed Income Tax Claims of any kind or nature held by any state government, including Maine and Vermont, against the Debtor.

Class 6 shall consist of all Allowed Tax Claims of any kind or nature held by any municipality.

Class 7 shall consist of all non-Tax Priority Claims of any kind or nature against the Debtor, including Claims arising under section 1171(b) of the Bankruptcy Code.

Class 8 shall consist of all Allowed Derailment Moral Damage and Personal Injury Claims.

Class 9 shall consist of all Allowed Derailment Property Damage Claims.

Class 10 shall consist of all Allowed Derailment Government Claims.

Class 11 shall consist of all Derailment Property Subrogated Insurance Claims.

Class 12 shall consist of all Derailment Wrongful Death Claims.

Class 13 shall consist of all Allowed General Unsecured Claims of any kind or nature against the Debtor, including Allowed General Unsecured Claims arising from a deficiency of Collateral securing any Allowed Secured Claims.

Class 14 shall consist of all Subordinated Claims.

Class 15 shall consist of all Equity Interests in the Debtor.

E. TREATMENT OF CLAIMS AND EQUITY INTERESTS

i. Class 1: Wheeling Secured Claims.

Impairment and Voting. Class 1 is unimpaired by the Plan. The Holder of the Class 1 Claim is not entitled to vote to accept or reject the Plan.

Distributions. Except to the extent that a Holder of an Allowed Wheeling Secured Claim (i) has been paid by the Trustee, in whole or in part, prior to the Effective Date; (ii) has been or will be paid from the liquidation of its Collateral on and after the Petition Date, (iii) has been or will be paid pursuant to the CCAA Plan; or (iv) agrees to a less favorable treatment, the Holder of the Class 1 Claim shall (A) receive Cash from the sale or monetization of the Collateral securing such Claim, if any, subject to the Trustee's right to recover certain costs and expenses pursuant to section 506(c) of the Bankruptcy Code, and (B) retain all of its rights and obligations pursuant to the Wheeling Proceedings, as well as the right to assert that any future

recoveries by the Trustee, including any Residual Assets or proceeds thereof, are Collateral securing the Class 1 Claim (and the Trustee shall reserve the right to contest such claims).¹¹ To the extent of any deficiency in the value of Collateral securing the Class 1 Claim, the Holder shall hold a Class 13 Claim in the amount of such deficiency.

ii. Class 2: FRA Secured Claims.

Impairment and Voting. Class 2 is unimpaired by the Plan. The Holder of the Class 2 claim is not entitled to vote to accept or reject the Plan.

Distributions. The Class 2 Claim is an Allowed Claim. Except to the extent that the Holder of the Class 2 Claim (i) has been paid by the Trustee, in whole or in part, prior to the Effective Date; (ii) has been or will be paid pursuant to the CCAA Plan; or (iii) agrees to a less favorable treatment, the Holder of a Class 2

¹¹ Wheeling's rights preserved the Bankruptcy Court's *Order on Wheeling & Lake Erie Railway Company's Motion to Intervene as of Right Pursuant to Bankruptcy Rule 7024 and Rule 24(a) of the Federal Rules of Civil Procedure* [No. 14-01001, D.E. 54], dated November 4, 2014, are preserved under the Plan. Thus, to the extent that Wheeling can establish that any portion of the Settlement Funds constitute collateral of Wheeling, Wheeling will be paid from such collateral. The Trustee disputes that any portion of the Settlement Funds constitute collateral of Wheeling. Barring a settlement, payment of Wheeling from another source, or a ruling by the Bankruptcy Court reducing or disallowing Wheeling's Claims, surcharging its collateral, or determining that Wheeling's Claims are satisfied, the Bankruptcy Court will later adjudicate Wheeling's rights, if any, in the Settlement Funds.

Claim shall (A) receive Cash from the sale or monetization of the Collateral securing such Claim, pursuant to the Sale Order and the APA, or otherwise; (B) retain its liens, if any, in Residual Assets, and (C) retain its rights pursuant to the FRA Adequate Protection Order, including any rights to some or all of the 45G Proceeds and the Travelers' Proceeds. To the extent of any deficiency in the value of Collateral securing the Class 2 Claim, the Holder of the Class 2 Claim shall hold an Allowed Class 13 Claim in the amount of such deficiency.

iii. Class 3: MDOT Secured Claims.

Impairment and Voting. Class 3 is unimpaired by the Plan. The Holder of the Class 3 Claim is not entitled to vote to accept or reject the Plan.

Distributions. As a consequence of the Asset Sale, there is no value attributable to the Class 3 Claim. See 11 U.S.C. § 506(a). The Holder, of the Class 3 Claim shall receive a Class 13 Claim in the amount of such deficiency.

iv. Class 4: Bangor Savings Bank Secured Claims.

Impairment and Voting. Class 4 is unimpaired by the Plan. The Holder of the Class 4 Claim is not entitled to vote to accept or reject the Plan.

Distributions. The Holder of the Class 4 Claim was granted relief from the automatic stay and allowed to

liquidate its Collateral, to the extent such Collateral was property of the Estate. To the extent of any deficiency, see 11 U.S.C. § 506(a), the Holder of the Class 4 Claim shall have a Class 13 Claim in the amount of such deficiency.

v. Class 5: State Income Tax Claims.

Impairment and Voting. Class 5 is unimpaired by the Plan. The Holders of Allowed Class 5 Claims are not entitled to vote to accept or reject the Plan.

Distributions. The Trustee believes that any Class 5 Claims are the sole responsibility of non-Debtor Affiliates. To the extent the Estate is obligated with respect to any Class 5 Claims, such Class 5 Claims will be paid in full, including any interest and penalties, on the later of the Effective Date, or thirty (30) days after the date such claims become Allowed Claims.

vi. Class 6: Municipal Tax Claims.

Impairment and Voting. Class 6 claims are not impaired by the Plan. The Holders of Allowed Class 6 Claims are not entitled to vote to accept or reject the Plan.

Distributions. The Trustee believes that all Class 6 Claims were paid in full from the Asset Sale Consideration. To the extent unpaid, such Class 6 Claims will be paid in full, including any interest and penalties, on the later of the Effective Date, or thirty (30) days after the date such claims become Allowed Claims.

vii. Class 7: Priority Claims.

Impairment and Voting. Class 7 Claims are unimpaired by the Plan. Each Holder of an Allowed Priority Claim in Class 7 is not entitled to vote to accept or reject the Plan.

Distributions. The Trustee believes that all Class 7 Claims, other than any Claims arising under section 1171(b), were paid in full from the Asset Sale Consideration. To the extent unpaid, such Class 7 Claims, other than Claims, if any, arising under section 1171(b) of the Bankruptcy Code, shall be paid in full on the later of the Effective Date or thirty (30) days after the date such Claims become Allowed Claims. With respect to Claims, if any, arising under section 1171(b) of the Bankruptcy Code and which, as a matter of law, are junior in priority to other Class 7 Claims, such Claims shall be paid on the later of the Effective Date or thirty (30) days after the date such Claims become Allowed Claims in such amount and upon such terms as the Bankruptcy Court shall determine and as set forth in any Final Order allowing, in whole or in part, such Claims. The Trustee does not believe that there are any Claims arising under section 1171(b) of the Bankruptcy Code that will be Allowed, but certain railroad companies have asserted that they hold § 1171(b) Claims.¹²

¹² In particular, the Irving Railroads have asserted entitlement to 1171(b) Claims totaling, in the aggregate, \$2,139,063.56. The Trustee disputes these assertions and intends to object to such Claims, as the Trustee does not believe that such Claims meet the criteria for section 1171(b) Claims described above.

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***viii. Class 8: Derailment Moral Damages
and Personal Injury Claims.***

Impairment and Voting. Class 8 Claims are impaired by the Plan. Holders of Class 8 Claims are entitled to vote to accept or reject the Plan.

* * *

Absent a settlement, the Bankruptcy Court will adjudicate these issues.