

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL, MAINE & ATLANTIC
RAILWAY, LTD.,

Debtor.

Bk. No. 13-10670
Chapter 11

CONFIDENTIALITY/PROTECTIVE ORDER

Robert J. Keach, as Chapter 11 Trustee (the “Trustee”) for the estate of Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”), on the one hand, and Arrow Midstream Holdings, LLC, ConocoPhillips, Enserco Energy LLC, InCorr Energy Group LLC, Shell Trading US Company, Marathon Oil Company, Oasis Petroleum Inc., Oasis Petroleum LLC, and QEP Resources, Inc. (each an “Examinee” and collectively, the “Examinees”), on the other hand, have agreed to the terms of this Order; accordingly, it is ORDERED:

1. **Scope.** All documents produced by the Examinees (the “Documents”) and testimony provided by the Examinees (the “Testimony”) (the Documents and the Testimony, together, the “Confidential Material”) in response to the Order Granting Trustee’s Motions for Rule 2004 Examinations and the Production of Documents in Connection Therewith dated November 18, 2014 (“Rule 2004 Order”) shall be subject to this Order concerning the Confidential Material as set forth below and the Rule 2004 Order.

2. **Protection of Confidential Material.**

(a) The Confidential Material shall be used or disclosed by the Trustee or any other persons identified in paragraph 2(b) for the sole purpose of investigating and determining whether the Trustee, on behalf of the Debtor's estate, holds viable causes of action against any of the Examinees. Notwithstanding the foregoing, Confidential Material may be used in the adversary proceeding captioned *Robert J. Keach v. World Fuel Services Corp., et al.*, Adv. Pro. No. 14-1001 (Bankr. D. Me.) (the "Adversary Proceeding") subject to the provisions of paragraph 5 below.

(b) Limited Third-Party Disclosures. The Trustee shall not disclose or permit the disclosure of any Confidential Material to any third person or entity except the following:

(1) Counsel for the Trustee and employees of counsel who have responsibility for the matter described in paragraph 2(a) above and the Adversary Proceeding, all of whom shall be bound by the terms of this Order;

(2) Court reporters and recorders engaged for the Rule 2004 examinations of the Examinees, but only after such persons have completed and executed the certification contained in Attachment A, Acknowledgment of Understanding and Agreement to Be Bound (the "Acknowledgement");

(3) Consultants, investigators, or experts employed by the Trustee to assist in the above-referenced Chapter 11 case (the "Chapter 11 Case") and the Adversary Proceeding, but only after such persons have completed and executed the Acknowledgement;

(4) The Monitor appointed by the Quebec Superior Court for Montreal, Maine & Atlantic Canada Co. ("MMA Canada") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36, as amended, and its counsel, but only after such persons have completed and executed the Acknowledgement;

(5) MMA Canada and its counsel in its Canadian insolvency proceedings pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, C-36, as amended, but only after such persons have completed and executed the Acknowledgement; and

(6) The Defendants in the Adversary Proceeding and their counsel, but only the Confidential Material introduced at an examination attended by such persons and only after such persons have completed and executed the Acknowledgement.

(c) The Trustee and the Debtor agree that if: (1) they are served with a subpoena, other discovery request or any other demand or request (collectively "Request(s)") calling for disclosure of any Confidential Material subject to this Order; or (2) receive notice from any person or entity (collectively "Person") to whom the Trustee or the Debtor has disclosed Confidential Material pursuant to this Order that said Person has received such a Request, the Trustee and the Debtor shall provide Examinees with written notice of such Request as soon as reasonably possible in advance of any deadline for responding to said Request.

(d) The Trustee and the Debtor agree that at any Examination they conduct of an Examinee pursuant to section 1(c) of the Rule 2004 Order, all persons attending said examination under Section 1(d) of the Rule 2004 Order shall have previously

completed and executed the Acknowledgment and tendered a copy of the same to the Examinee.

(e) **Stamping or Marking of Confidential Material.** All Documents that any Examinee desires to be covered by the terms of this Order shall, prior to production to the Trustee, be stamped or marked with the designation “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER.” All Testimony that an Examinee provides shall automatically be covered by the terms of this Order, and any transcript of such testimony shall be stamped or marked with the designation “CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER.”

3. **Redaction of Confidential Business Information (“CBI”).** In addition to the provisions against disclosure described in paragraph 2, the parties may redact information, which they in good faith believe constitutes CBI, which includes sensitive technical, financial, competitive, and/or personnel information. Redactions made by the parties will be subject to challenge as described in paragraph 5.

4. **Filing of Confidential Material.** Before any Confidential Material is filed with the Clerk, the party filing the document shall first consult with the Examinee to determine whether, with the consent of that party, a redacted document may be filed with the Court not under seal. Where agreement is not possible or adequate, Confidential Material may be electronically filed under seal only in accordance with Local Rule 7A of the United States District Court for the District of Maine (“Local Rule 7A”). Other than motions to seal and memoranda governed by Local Rule 7A, if Confidential Material is incorporated into memoranda or other pleadings filed with the Court, counsel shall prepare two versions of the pleadings, a public and a confidential version. The public

version shall contain a redaction of the contents of Confidential Material and shall be filed with the Clerk. The confidential version shall be a full and complete version of the pleading, including any exhibits which the party maintains should be under seal and shall be filed with the Clerk attached to a motion to seal filed in accordance with Local Rule 7A. The public version shall plainly indicate the exhibits (both by number and description of the exhibit) that have been filed under seal with the confidential version.

5. **Challenges to Designation as Confidential Material; Use of Confidential Material in Adversary Proceeding.** All Confidential Material is subject to challenge by the Trustee. Additionally, no Confidential Material may be used in the Adversary Proceeding without compliance with this paragraph. The following procedures shall apply to any designation challenges or use of Confidential Material in the Adversary Proceeding.

(a) **Objection to Confidentiality.** The Trustee may serve upon the designating party an objection to the designation of any Document or Testimony as CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER. The objection shall specify the Documents and/or Testimony to which the objection is directed and shall set forth the reasons for the objection. Confidential Material to which an objection has been made shall remain CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER until designated otherwise by waiver, agreement or order of the Court.

(b) **Demand to Use Confidential Material in Adversary Proceeding.** The Trustee may serve upon the designating party a demand to use any Document or Testimony marked as CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER in the Adversary Proceeding. The demand shall specify the Documents and/or Testimony to

which the demand relates and shall set forth the reasons for the demand. Confidential Material about which a demand has been made shall not be used in the Adversary Proceeding until agreed to by the designating party or ordered by the Court after notice and a hearing.

(c) **Obligation to Meet and Confer.** The Trustee and the party that provided the Confidential Material shall have fifteen (15) days from service of the objection or demand to meet and confer in a good faith effort to resolve the objection or demand by agreement. If agreement is reached waiving the CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER designation of any of the Confidential Material subject to the objection, the Trustee shall serve on all parties to whom disclosure of such Confidential Material has been made a notice specifying the nature of the agreement.

(d) **Obligation to File Motion.** If the parties cannot reach agreement after discharging their obligation to meet and confer, the Trustee may file a motion under seal to remove the CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER designation or for authority to use the Confidential Material in the Adversary Proceeding. The designating party shall have the burden to show good cause for why the CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER designation should not be removed. The Trustee shall have the burden to show good cause for why he should be authorized to use the Confidential Material in the Adversary Proceeding.

6. **Use of Confidential Materials at Hearings or Trial.** A party that intends to present Confidential Materials at a hearing or at trial shall identify the issue, not the information, to the Court, which shall thereafter make such orders as are necessary to govern the use of such documents or information at the hearing or trial.

7. **Obligations Upon Disposition of Chapter 11 Case or Conclusion of Adversary Proceeding.**

(a) Order Remains in Effect. Unless otherwise agreed or ordered, this Order shall remain in force after dismissal of, conversion of, or entry of a final decree in this Chapter 11 Case and dismissal or entry of final judgment not subject to further appeal of the Adversary Proceeding.

(b) Return of Confidential Materials. Within thirty days after the later of dismissal of, conversion of, or entry of a final decree in this Chapter 11 Case or dismissal or entry of final judgment not subject to further appeal of the Adversary Proceeding, all Documents and transcripts of Testimony, including copies thereof, shall be returned to the producing party unless: (1) the Confidential Material has been offered into evidence or filed without restriction as to disclosure; or (2) the producing party and the Trustee agree to destruction in lieu of return.

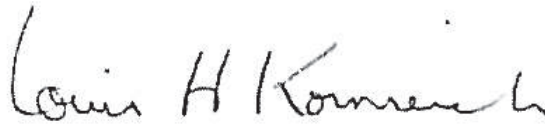
8. **No Prior Judicial Determination.** This Order is entered based on the representations and agreements of the parties and for the purpose of facilitating Bankruptcy Rule 2004 Examinations of the Examinees. Nothing herein shall be construed or presented as a judicial determination that any documents or information designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER by counsel or the parties is subject to protection from disclosure until such time as the Court may rule on a specific document or issue.

9. **Persons Bound.** This Order shall take effect when entered and shall be binding upon all counsel and their law firms, the parties, and persons made subject to this Order by its terms.

10. **Retention of Jurisdiction.** This Court shall retain exclusive jurisdiction over all matters relating to this Order between parties bound by this Order, regardless of whether the Confidential Materials are being used (or are proposed to be used) in a matter pending before another court or tribunal. Any violation of the Order may result in the imposition of penalties for contempt of the Court

11. This Order shall become final in fourteen (14) days unless a party in interest sooner objects, in which case the matter shall be set for hearing and considered by the court as if this Order had not been entered.

Dated: December 22, 2014



The Honorable Louis H. Kornreich
United States Bankruptcy Judge

**ATTACHMENT A
UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL, MAINE & ATLANTIC
RAILWAY, LTD.,

Debtor.

Bk. No. 13-10670
Chapter 11

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

The undersigned hereby acknowledges that he/she has read the Agreed Confidentiality/Protective Order dated _____ (the "Order") in the above-captioned action and attached hereto, understands the terms thereof, and agrees to be bound by its terms. The undersigned submits to the exclusive jurisdiction of the United States Bankruptcy Court for the District of Maine (the "Court") in matters relating to the Order, regardless of whether the Confidential Materials are being used (or are proposed to be used) in a matter pending before another court or tribunal, and understands that the terms of the Order obligate him/her to use documents designated CONFIDENTIAL - SUBJECT TO PROTECTIVE ORDER in accordance with the Order solely for the purposes of the above-captioned action, and not to disclose any such documents or information derived directly therefrom to any other person, firm or concern.

The undersigned acknowledges that violation of the Order may result in penalties for contempt of the Court.

Name: _____

Job Title: _____

Employer: _____

Business Address: _____

Date: _____

Signature