

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

N°: 500-11-045094-139

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:

MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)

Petitioner

and

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)

Monitor

and

CANADIAN TRANSPORTATION AGENCY,
15 Eddy Street, Gatineau, Quebec, J8X 4B3;

Mis-en-cause

**MOTION TO AMEND THE INITIAL ORDER AND SEEK A CHARGE
AND SECURITY ON THE PROPERTY OF THE PETITIONER TO
SECURE FUNDS FOR SELF-INSURED OBLIGATION
(Section 11 *Companies' Creditors Arrangement Act*)**

**TO THE HONOURABLE JUSTICE MARTIN CASTONGUAY, J.S.C., THE PETITIONER
RESPECTFULLY SUBMITS AS FOLLOWS:**

INTRODUCTION

1. Petitioner Montreal, Maine & Atlantic Canada Co. ("**MM&A**") provides services as a shortline freight railway carrier operating various rail lines in the province of Québec. It is a subsidiary of Montreal Maine & Atlantic Railway Ltd. ("**MM&AR**"), which operates lines *inter alia* in the States of Maine and Vermont;
2. MM&A operates railways in corridors in the province of Québec extending from Saint-Jean to Farnham, from Bedford to Sainte-Rosalie, as well as from Farnham through Lac-Mégantic to the U.S. border, where it joins the lines of MM&AR. The transportation of products via the States of Vermont and Maine is effected via MM&AR;

3. As more fully set out in paragraph 21 of MM&A's Petition for the issuance of a initial order filed into the Court record herein, MM&A and MM&AR are facing significant challenges as a result of the tragic train derailment that occurred on July 6, 2013 in the municipality of Lac-Mégantic, Québec (the "**Derailment**"), which led MM&A to request protection under the *Companies' Creditors Arrangement Act* ("**CCAA**");
4. The vast majority of stakeholders supported this request;
5. On August 8, 2013, this Honourable Court issued an order (the "**Initial Order**") granting the protection of the CCAA to MM&A, the Court stating that otherwise judicial anarchy would ensue to the detriment of all affected parties;
6. Pursuant to the Initial Order, Richter Advisory Group Inc. (Richter Groupe Conseil Inc.) was appointed to act as monitor to MM&A (the "**Monitor**"), and a stay of proceedings (the "**Stay**") with respect to MM&A, its property and certain third parties was granted until and including September 6, 2013, the whole subject to section 11.1 CCAA;
7. On August 13, 2013, the Canadian Transportation Agency (the "**Agency**") issued a press release reporting its decision (issued on that same day) to suspend, effective on August 20, 2013, the certificate of fitness no. 02004-3 issued in favour of MM&A and MM&AR under the *Canada Transportation Act* (the "**Certificate of Fitness**"), which permits both companies to operate railways in Canada. A copy of the August 13, 2013 order issued by the Agency (the "**Agency Order**"), the reasons in support thereof, the August 13, 2013 press release and the Certificate of Fitness, are filed in support hereof *en liasse* as **Exhibit R-1**;
8. Following the Agency Order, MM&A multiplied its efforts to identify solutions to satisfy the Agency and to obtain that the Certificate of Fitness be maintained for an interim period of time so as to permit MM&A to negotiate an agreement with an interim operator and, ultimately, to sell its business as a going concern for the benefit of its stakeholders;
9. On August 16, 2013, MM&A, through the undersigned counsel, filed a motion to seek an order pursuant to section 11.1(3) CCAA extending the Stay to the Agency Order so as to allow MM&A to proceed to an orderly transition of its Quebec operations to an interim operator pending the sale of its business;
10. Shortly thereafter, on the same day, the Agency advised the undersigned counsel of its decision to vary the Agency Order by amending the date of effect of the suspension of the Certificate of Fitness to October 1st, 2013, provided that this Honourable Court orders that the assets of MM&A (the "**Property**") be subject to a charge and security to secure funds for the self-insured retention portion set forth in the liability insurance policy (the "**Self-Insured Obligation**") subscribed by MM&A from XL Insurance Company Ltd. (the "**Policy**"). A copy of the August 16, 2013 decision of the Agency is filed in support hereof as **Exhibit R-2**;

RELIEF SOUGHT

11. By this motion, MM&A urgently seeks an order pursuant to section 11 CCAA granting said charge and security in the aggregate amount of \$250,000 over the Property to secure funds for the Self-Insured Obligation in favour of any person having a valid claim

under the Policy in connection with an Accident (as this term is defined under the Policy) occurring since the issuance of the Initial Order (the "**Charge**");

12. As it appears from the Agency's decision of August 16, 2013 (R-2), in the absence of the Charge, the Agency will suspend the Certificate of Fitness as of August 23, 2013 at 5:00pm and MM&A will then be forced to permanently cease all of its operations in Canada such that the value of its business and realization thereof for the benefit of its various stakeholders, including all claimants and potential claimants having sustained losses as a result of the Derailment (the "**Personal Claimants**"), and the governmental and environmental authorities (the "**Environmental Claimants**"), will be substantially impaired;
13. In addition, it is manifest that a sudden and permanent shutdown of MM&A's operations in Canada will have negative consequences on the economies of several towns and municipalities in the province of Quebec and elsewhere, which in some respect are highly dependent on railway services, and will impose incidental collateral damages to third parties (industries and businesses) who are relying on freight services in the coming weeks;

EVENTS LEADING TO THIS MOTION

14. Shortly after the Derailment, on or about July 10, 2013, the Agency sought to obtain additional information from MM&A and MM&AR in respect of their third-party liability insurance in order to satisfy the Agency that both railway companies continue to have adequate insurance coverage for the ongoing operations listed under their Certificate of Fitness. A copy of the Agency's letter to MM&A and MM&AR dated July 10, 2013 is filed in support hereof as **Exhibit R-3**;
15. As more fully set forth in paragraphs 12 to 37 of MM&A's *Motion to extend the stay of proceedings to a decision of the Canadian Transportation Agency*, the content of which is hereby referred to as if herein recited at length, since the receipt of the Agency's letter (R-3), MM&A has taken all possible steps in order to identify solutions to satisfy the Agency and prevent the shutdown of its Canadian operations;
16. These efforts resulted in the Agency's decision of August 16, 2013 (R-2) to vary the Agency Order and maintain the Certificate of Fitness until October 1st, 2013, provided that this Honourable Court orders that the Canadian assets of MM&A be subject to a charge and security to secure funds for the Self-Insured Obligation;
17. Indeed, although the Agency is now satisfied that MM&A and MM&AR continue to have adequate insurance coverage, the current financial situation of both companies is such that they are not in a position to secure the funds required to pay any potential Self-Insured Obligation on a going forward basis otherwise than by the creation of the Charge, the whole in accordance with the conclusions herein;

DETRIMENTAL CONSEQUENCES OF THE SUSPENSION OF THE CERTIFICATE OF FITNESS

18. As indicated above, in the event that MM&A and MM&AR are unable to satisfy the Agency with a Court order providing for the creation of the Charge, the Certificate of Fitness issued by the Agency in favour of both MM&A and MM&AR will be suspended effective as of August 23, 2013 at 5:00 pm;

19. As a result, MM&A and MM&AR will have no other alternative but to immediately thereafter and permanently cease all of their operations in Canada which will necessarily cause the immediate termination of the employment of virtually all remaining employees of MM&A as well as the cessation of all services to their numerous direct and indirect customers and to others such as the suppliers and clients of said MM&A's customers which all depend on MM&A's railway operations in Canada. A copy of a list of all serviced businesses and the number of cars shipped or delivered by MM&A and MM&AR from July 1st, 2012 to June 30, 2013 is filed under seal in support hereof as **Exhibit R-4**;
20. The shutdown of MM&A's operations will seriously jeopardize its capacity to maximize the value of its business and submit a viable arrangement or compromise for the benefit of its various stakeholders, including the Personal Claimants, the Environmental Claimants and other creditors;
21. The sudden shutdown of MM&A and MM&AR's operations in Canada will significantly and more generally impact the economies of the towns and municipalities situated in Quebec that have been serviced by MM&A, which in some respect are highly dependent on railway services (for yearly or seasonal requirements);
22. The shutdown of MM&A's operations, if not done in an orderly fashion with an adequate transition period (pending the sale of MM&A's business as a going concern), will result in economic and significant operational hardship to businesses and industries of the region which will be faced with the loss for an undetermined period of time of a vital transportation link;
23. In that respect, the Centre local de développement (CLD) Brome-Missisquoi and the Conseil Économique du Haut-Richelieu (namely, two (2) not-for-profit organizations whose mandate is to stimulate local economic growth) have informed MM&A of the detrimental consequences that would occur in the event of the sudden interruption of the rail service provided by MM&A and MM&AR on the operations of local businesses and industries;
24. As appears from the affidavits sworn by these organizations, the interruption of the rail service provided by MM&A and MM&AR would inevitably compromise the operations of well-established businesses in that (i) it would significantly increase their costs to obtain raw material and/or to ship their finished products, (ii) it would significantly reduce their profit margins, (iii) it would force them to lay off several employees, (iv) it would cause a sudden rupture of stock and prevent them to fulfill orders without delay, (v) it would make them less competitive in their respective market, and (vi) it would force certain of these businesses to shutdown in the near future, causing even more job losses. A copy of the affidavit of a representative of the Centre local de développement (CLD) Brome-Missisquoi is filed in support hereof as **Exhibit R-5**. A copy of the affidavit of a representative of the Conseil Économique du Haut-Richelieu is filed in support hereof as **Exhibit R-6**;
25. As a result, it is essential that the Charge be granted in order: (i) to prevent the suspension of the Certificate of Fitness, (ii) to prevent an interruption of rail service and the severe resulting impacts on a multitude of third parties, as well as (iii) to ensure the transition of MM&A's operations to an interim operator, pending the sale of MM&A's business as a going concern, so as to preserve and maximize the realization value of

the MM&A business for the benefit of its various stakeholders, through a viable compromise or arrangement;

26. In this respect, it is MM&A's intention, on the date of return of this matter before the Court for an extension of the Initial Order (September 6, 2013), to report on the various options available for the sale of MM&A business as a going concern through a fair and orderly divestiture process/call for tenders to be monitored by the Monitor and eventually approved by this Court ;
27. Consequently, MM&A respectfully submits to this Honourable Court that it is essential and in the best interest of the stakeholders and the public that an order pursuant to 11 CCAA be rendered to grant the Charge sought herein so as to allow MM&A to proceed with an orderly transition of its Quebec operations to an interim operator pending the sale of its business on a going concern basis;
28. Furthermore, the creation of the Charge is appropriate in light of the following :
- i. the limited period of time during which the maintenance of the Certificate of Fitness is required, i.e. until an interim operator is in place or MM&A's business is sold as a going concern;
 - ii. the Charge can only be called upon in the unlikely event of an Accident (as defined in the Policy) that would intervene during the limited period;
 - iii. the fact that MM&A and MM&AR have significantly reduced their operations in Canada (due to the severed lines in Lac-Mégantic) and have no intention during this limited period to reinstate any operations relating to the transportation of crude oil;
 - iv. no claims have been reported as of this date in relation to the operations since the Initial Order;
 - v. the amount of the Charge is nominal in light of the existing and foreseeable claims against MM&A; and
 - vi. none of MM&A's creditors will be materially prejudiced as a result of the Charge. To the contrary, as indicated above, the Charge is necessary to preserve the value of MM&A's assets and business for the benefit of its various stakeholders;
29. Given the urgency of the situation, MM&A respectfully submits that it is essential that the execution of the orders sought herein be granted notwithstanding appeal;
30. This petition is well founded both in fact and in law;

WHEREFORE, MAY IT PLEASE THE COURT TO:

GRANT the present Motion to amend the initial order and seek a charge and security to secure funds for the self-insured obligation;

DECLARE that sufficient notice of the presentation of this Motion has been given by Petitioner to all interested parties;

AMEND the Initial Order as follows:

" [41.1] **DECLARE** that the Property is hereby subject to a charge and security to secure the self-insured retention portion of the policy RCL0003808301 subscribed from XL Insurance Company Ltd. (the "**Policy**") in the aggregate amount of \$250,000 in favour of any person having a valid claim under the Policy in connection with an Accident (as this term is defined under the Policy) occurring since the issuance of the Initial Order (the "**Self-Insured Obligation Charge**"), said charge having the priority established by paragraphs [42] and [43] hereof;

[42] **DECLARES** that the priorities of the Administration Charge, the Self-Insured Obligation Charge and any possible charge in favor of the Directors that may be granted in their favor pursuant to a further order of this Court (collectively, the "CCAA Charges"), as between them with respect to any Property to which they apply, shall be as follows:

- a) first, the Administration Charge;
- b) second, the Self-Insured Obligation Charge;
- c) (...) third, (...) any charge in favour of the Directors that may be granted in their favour pursuant to a further order of this Court;"

ORDER the provisional execution of the order to be rendered herein notwithstanding appeal and without the necessity to furnish any security;

THE WHOLE WITHOUT COSTS, save and except in the event of a contestation.

MONTREAL, August 21, 2013


GOWLING LAFLEUR HENDERSON LLP
 Attorneys for Petitioner

CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL
N°: 500-11-045094-139

(Loi sur les arrangements avec les créanciers des compagnies, L.R.C. C-36, telle qu'amendée)

DANS L'AFFAIRE DU PLAN D'ARRANGEMENT
ET DE COMPROMIS DE:

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Requérante

et

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Contrôleur

et

OFFICE DES TRANSPORTS DU CANADA

Mis-en-cause

ATTESTATION D'AUTHENTICITÉ
Selon l'art. 82.1 du C.p.c.

J'atteste que la copie de l'affidavit est conforme au facsimilé de cet acte reçu par télécopieur:

Nature du document : Affidavit de Robert C. Grindrod
Numéro de Cour : 500-11-045094-139
Nom de l'expéditeur : Gaynor Ryan
Numéro du télécopieur émetteur : 207-848-4252
Lieu de la transmission : Hermon, Maine
Date de la transmission : Le 21 août 2013
Heure de transmission : 17h09

Montréal, ce 21 août 2013


Geneviève Cloutier
GOWLING LAFLEUR HENDERSON SENCRL, SRL

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
N°: 500-11-0450/14-139

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:
MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)

Petitioner

and

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)

Monitor

and

CANADIAN TRANSPORTATION AGENCY

Respondent

and

ATTORNEY GENERAL OF CANADA

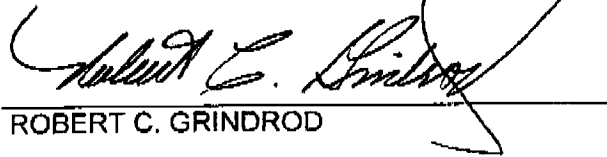
Mise-en-cause

AFFIDAVIT OF ROBERT C. GRINDROD

I, the undersigned Robert C. Grindrod, businessman, doing business at 15 Iron Road, Hermon, Maine, USA, 04401, solemnly declare as follows:

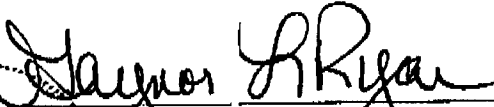
1. I am the President and Chief Executive Officer of Petitioner ;
2. All the facts alleged in the present *Motion to amend the initial order and seek a charge and security on the property of the Petitioner to secure funds for self-insured obligation* are true.

AND I HAVE SIGNED:

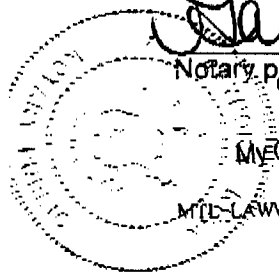


ROBERT C. GRINDROD

SWORN TO before me in Hermon, Maine
this 21th day of August 2013



Notary public **GAYNOR L. RYAN**
Notary Public, Maine
My Commission Expires May 4, 2015



CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
N°: 500-11-045094-139

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:

MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)

Petitioner

and

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)

Monitor

and

CANADIAN TRANSPORTATION AGENCY

Mis-en-cause

NOTICE OF PRESENTATION


TO: **SERVICE LIST**

CANADIAN TRANSPORTATION
AGENCY
15 Eddy Street
Gatineau, Quebec J8X 4B3

TAKE NOTICE that the present *Motion to amend the initial order and seek a charge and security on the property of the Petitioner* will be presented for adjudication before one of the honourable Judges of the Superior Court of Quebec, sitting in practice division, on **August 23, 2013**, in room (to be determined) of the Courthouse located at 1 Notre-Dame St. East, Montreal, at 9:30 a.m. or so soon as counsel may be heard.

DO GOVERN YOURSELVES ACCORDINGLY.

MONTREAL, August 21, 2013



GOWLING LAFLEUR HENDERSON LLP
Attorneys for Petitioner

CANADA

SUPERIOR COURT
(Commercial Division)

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL
N°: 500-11-045094-139

(Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:

MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)

Petitioner

and

RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)

Monitor

and

CANADIAN TRANSPORTATION AGENCY

Mis-en-cause

LIST OF EXHIBITS

Exhibit R-1:	Copies of the Order issued by the Canadian Transportation Agency on August 13, 2012, Press release and Certificate of fitness no. 02004-3;
Exhibit R-2:	Copy of the decision of August 16, 2013 of the the Canadian Transportation Agency;
Exhibit R-3:	Copy of the Canadian Transportation Agency's letter to Petitioner dated July 10, 2013; (Schedule 6 to 8 filed under seal);
Exhibit R-4:	Copy of list of businesses serviced by MM&A and MM&AR (under seal);
Exhibit R-5:	Affidavit of the Centre Local de Développement Brome-Missisquoi dated August 19, 2013;
Exhibit R-6:	Affidavit of the Conseil Économique du Haut-Richelieu dated August 20, 2013

MONTREAL, August 21, 2013


GOWLING LAFLEUR HENDERSON LLP
Attorneys for Petitioner

N° 500-11-045094-139

**SUPERIOR COURT
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL**

Sitting as a court designated pursuant to the
Companies' Creditors Arrangement Act, R.S.C.
C. C-36, as amended)

IN THE MATTER OF THE PLAN OF
COMPROMISE OR ARRANGEMENT OF:
**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

PETITIONER

and

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

MONITOR

and

**CANADIAN TRANSPORTATION AGENCY
MISE-EN-CAUSE**

BL0052

**MOTION TO AMEND THE INITIAL ORDER AND
SEEK A CHARGE AND SECURITY ON THE
PROPERTY OF THE PETITIONER TO SECURE
FUNDS FOR SELF-INSURED OBLIGATION
(Section 11 Companies' Creditors Arrangement Act)**

ORIGINAL

Me Patrice Benoit

Gowling Lafleur Henderson LLP

BL0052

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Patrice.benoit@gowlings.com

File No.: 02381115

INIT.: PB/cl

c/o 4743

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Canadian Transportation Agency

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Order No. 2013-R-266

August 13, 2013

IN THE MATTER OF Certificate of Fitness No. 02004-3 held by Montreal, Maine & Atlantic Railway, Ltd. and its wholly-owned subsidiary Montreal, Maine & Atlantic Canada Co.

File No.: R 8005/M5
R 8005/M6

Montreal, Maine & Atlantic Railway, Ltd. (MMA) and its wholly-owned subsidiary Montreal, Maine & Atlantic Canada Co. (MMAC) hold Certificate of Fitness No. 02004-3 issued by the Canadian Transportation Agency (Agency) pursuant to section 92 of the *Canada Transportation Act, S.C., 1996, c. 10, as amended* (CTA), which permits them to operate a railway in Canada as set out below.

MMA to operate a railway:

- between the Canada/United States border at mileage 32.63 of the Newport Subdivision and the Canada/United States border at mileage 43.32 of the Newport Subdivision;
- between the Canada/United States border near Saint-Léonard, New Brunswick and Saint-Léonard, New Brunswick;

MMAC to operate a railway:

- between Saint-Jean, Quebec and Lennoxville, Quebec; between Ste-Rosalie, Quebec and Farnham, Quebec; between Farnham, Quebec and Stanbridge, Quebec; between Brookport at mileage 0.0 of the Newport Subdivision and the Canada/United States border at mileage 26.25 of the Newport Subdivision;
- between Lennoxville, Quebec and the Canada/United States border near Boundary, Quebec; and

- by virtue of an interchange agreement with the Canadian Pacific Railway Company, on the Canadian Pacific Railway Company's Adirondack Subdivision between Saint-Jean, Quebec and Saint-Luc Junction, Quebec.

The Agency issued this certificate of fitness as it was satisfied that MMA and its wholly-owned subsidiary MMAC had adequate third party liability insurance coverage (including self-insurance) for the railway operations.

Subsection 94(2) of the CTA states that the Agency may suspend or cancel the certificate of fitness if it determines that the liability insurance coverage is no longer adequate.

Following the tragic derailment at Lac-Mégantic, Quebec on July 6, 2013, the Agency undertook an investigation to determine whether MMA and MMAC, as holders of the said Certificate of Fitness, can satisfy the Agency that they continue to have adequate third party liability insurance coverage for their ongoing operations.

To this end, by letter dated July 10, 2013, the Agency requested insurance and financial information from MMA and MMAC. Upon receipt of a response, the Agency, by letter dated July 26, 2013, directed further questions to MMA and MMAC.

According to MMA's and MMAC's insurance broker, the Lac-Mégantic accident has resulted in the impairment of the aggregate limit by one half. Despite being asked to provide evidence of additional insurance to restore their insurance level to what existed prior to the Lac-Mégantic derailment, MMA and MMAC have failed to do so.

As indicated in its letter of July 26, 2013, the Agency is of the opinion that, in these exceptional circumstances, MMA and MMAC must maintain as a minimum the original level of coverage and restore the aggregate limit to its level before the Lac-Mégantic derailment. To do otherwise would be untenable in the event that further occurrences materialize as one further occurrence may result in the full depletion of the coverage and the need for an instant cessation of service.

MMA and MMAC have filed a petition under the *Companies' Creditors Arrangement Act* with the Superior Court of Quebec. The petition, which was granted on August 8, 2013, states that "While the Petitioner holds insurance covering certain of the Train Derailment Claims..., as the amount of said Train Derailment Claims is ever increasing, it has become evident that in the event of a determination that the Petitioner ...[is] liable and that the Train Derailment Claims are valid, the amount of insurance coverage will not be sufficient to cover all of the Train Derailment Claims."

At the same time, MMA has filed with the United States of America Bankruptcy Court in the district of Maine for protection under Chapter 11 of the United States of America Bankruptcy Code and this, too, has been granted.

With respect to the self-insured retention amount, which is the amount for which an applicant takes financial responsibility outside of an insurance contract, the Agency performed an analysis of MMA's parent company, Montreal, Maine & Atlantic Corporation (MMA Corp.) consolidated financial statements provided for the years 2009 to 2012.

The Agency needs to be satisfied that MMA and MMAC are able to pay the self-insurance portion for the claims related to the Lac-Mégantic derailment, as well as an additional amount equivalent to two further portions in the event of two further claims under the aggregate. Upon reviewing the financial capacity of MMA Corp., the Agency has concluded

that MMA Corp. is not financially capable to absorb even the first self-insured retention amount.

In summary, having reviewed MMA's and MMAC's information on record with the Agency, as well as all the additional information supplied by MMA and MMAC, the Agency is not satisfied that MMA and MMAC currently have adequate third party liability insurance coverage at the same level as prior to the derailment at Lac-Mégantic or the financial capacity to pay the self-insured portion.

Based on the above findings, the Agency, pursuant to paragraph 28(1)(a) and subsection 94(2) of the CTA, suspends Certificate of Fitness No. 02004-3 effective August 20, 2013. This delay in coming into effect should permit MMA and MMAC time to arrange for the orderly cessation of their operations in Canada.

This Order shall be affixed to Certificate of Fitness No. 02004-3 and the suspension of the Certificate of Fitness shall remain in effect until further order of the Agency.

Due to the confidentiality of some of the information filed, a separate letter will be issued to Montreal, Maine & Atlantic Railway, Ltd. and its wholly-owned subsidiary Montreal, Maine & Atlantic Canada Co., in confidence, setting out the more detailed reasons for the determination that they no longer meet the liability insurance coverage requirements.

Date Modified :
2013-08-13

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Important Notices

August 13, 2013

File Nos: R 8005/M5
R 8005/M6

Montreal, Maine & Atlantic Canada Co.
Montreal, Maine & Atlantic Railway, Ltd.
15 Iron Road
Hermon, Maine, United States of America
04401

Attention: Edward Burkhardt, President of Montreal, Maine & Atlantic Canada Co.
Robert Grindrod, President and CEO of Montreal, Maine & Atlantic Railway, Ltd.

Montreal, Maine & Atlantic Railway, Ltd. (MMA) and its wholly-owned subsidiary, the Montreal, Maine & Atlantic Canada Co. (hereinafter MMAC) are holders of Certificate of Fitness No. 02004-3 issued on September 9, 2005 by the Canadian Transportation Agency (the Agency) pursuant to section 92 of the *Canada Transportation Act*, S.C., 1996, c. 10 (CTA) as per Decision No. 561-R-2005.

MMA's and MMAC's Certificate of Fitness permits both to operate a railway in Canada, as set out below:

a) MMA to operate a railway:

- between the Canada/United States border at mileage 32.63 of the Newport Subdivision and the Canada/United States border at mileage 43.32 of the Newport Subdivision;
- between the Canada/United States border near Saint-Léonard, New Brunswick and Saint-Léonard, New Brunswick;

b) MMAC to operate a railway:

- between Saint-Jean, Quebec and Lennoxville, Quebec; between Ste-Rosalie, Quebec and Farnham, Quebec; between Farnham, Quebec and Stanbridge, Quebec; between Brookport at mileage 0.0 of the Newport Subdivision and the Canada/United States border at mileage 26.25 of the Newport Subdivision;
- between Lennoxville, Quebec and the Canada/United States border near Boundary, Quebec; and
- by virtue of an interchange agreement with the Canadian Pacific Railway Company, on the Canadian Pacific Railway Company's Adirondack Subdivision between Saint-Jean, Quebec and Saint-Luc Junction, Quebec.

With respect to the issuance of the 2005 Certificate of Fitness, the Agency determined that MMA and MMAC had adequate third party liability insurance, with limits of \$25,000,000 per occurrence and \$50,000,000 aggregate coverage, as well as a self-insured retention amount of \$250,000.

Subsection 94(2) of the CTA states that the Agency may suspend or cancel the Certificate of Fitness if it determines that the third party liability insurance coverage is no longer adequate.

Following the tragic derailment at Lac-Mégantic, Quebec on July 6, 2013, the Agency undertook an investigation to determine whether MMA and MMAC, as holders of the said Certificate of Fitness, can satisfy the Agency that they continue to have adequate third party liability insurance coverage for their ongoing operations.

To this end, by letter dated July 10, 2013, the Agency requested insurance and supporting financial information from MMA and MMAC. Upon receipt of a reply, the Agency, by letter dated July 26, 2013, directed further questions to MMA and MMAC.

According to MMA's and MMAC's insurance broker, "the change in situation following the Lac Megantic accident is the impairment of the aggregate limit, which was \$50,000,000 and will be impaired up to the maximum of \$25,000,000 depending upon whether the entire per occurrence limit is exhausted on the Lac Megantic loss. Although final liability/damages on that loss will not be determined for some time, realistically and in view of the accident, it may now be viewed as \$25,000,000." Despite being asked to provide evidence of additional insurance to restore its insurance level to what existed prior to the Lac Megantic derailment, MMA and MMAC have failed to do so. As indicated in its letter of July 26, 2013, the Agency is of the view that, in these exceptional circumstances, MMA and MMAC must maintain as a minimum the original level of coverage and restore the aggregate limit to its level before the Lac Megantic derailment. To do otherwise would be untenable in the event that further occurrences materialize as one further occurrence may result in the full depletion of the coverage and the need for an instant cessation of service.

MMA and MMAC have filed a petition under the Companies' Creditors Arrangement Act with the Superior Court of Quebec. The petition, which was granted on August 8, 2013, states that "While the Petitioner holds insurance covering certain of the Train Derailment Claims..., as the amount of said Train Derailment Claims is ever increasing, it has become evident that in the event of a determination that the Petitioner ... liable and that the Train Derailment Claims are valid, the amount of insurance coverage will not be sufficient to cover all of the Train Derailment Claims."

At the same time, MMA has filed with the U.S. Bankruptcy Court in the district of Maine for protection under Chapter 11 of the United States Bankruptcy Code and this, too, has been granted.

In regards to the self-insured retention amount, which is the amount for which an applicant takes financial responsibility outside of an insurance contract, MMA and MMAC filed the audited financial statements for MMA's parent company, Montreal, Maine & Atlantic Corporation (MMA Corp.). The Agency performed an analysis of this company's consolidated financial statements provided for the years 2009 to 2012. The Agency needs to be satisfied that MMA and MMAC are able to pay the \$250,000 self-insurance portion for the claim related to the Lac Megantic derailment, as well as an additional \$500,000 in self-insured portion in the event of two further claims under the restored aggregate and ongoing liability coverage. Upon reviewing the financial capacity of MMA Corp., the Agency has concluded that, based on the evidence provided, MMA Corp. does not have the financial capacity to absorb even \$250,000 of self-insured retention amount. In any event, MMA and MMAC have not filed a valid indemnification agreement between MMA Corp. and MMA and MMAC. In response to the Agency's letter of July 26, 2013, MMA and MMAC have indicated that no individual financial statements are available for these companies. Accordingly, MMA and MMAC have failed to satisfy the Agency that they have the financial capability to pay the self insured retention.

In summary, having reviewed MMA's and MMAC's information on record with the Agency, as well as all the additional information supplied by MMA and MMAC, the Agency has concluded that it is not satisfied that MMA and MMAC currently have adequate third party liability insurance coverage at the same level as prior to the derailment at Lac-Mégantic or the financial capacity to pay the self-insured portion.

Based on the above findings, the Agency, pursuant to paragraph 28(1)(a) and subsection 94(2) of the CTA, will suspend Certificate of Fitness No. 02004-3, effective August 20, 2013. This delay in coming into effect should permit MMA and MMAC time to arrange for the orderly cessation of their operations in Canada.

A public order to this effect will be issued.

Sincerely,

(signed)
Cathy Murphy
Secretary

BY THE AGENCY:

(signed)

Geoffrey C. Hare
Member

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Canadian Transportation Agency Suspends MMA/MMAC's...

Canadian Transportation Agency Suspends MMA/MMAC's Certificate of Fitness

Ottawa – August 13, 2013 – In an order issued today, the Canadian Transportation Agency suspended the certificate of fitness for Montreal, Maine & Atlantic Railway Ltd (MMA) and its wholly-owned subsidiary Montreal, Maine & Atlantic Canada Co. (MMAC), finding that the railways have not demonstrated that their third party liability insurance is adequate for ongoing operations.

Given the exceptional circumstances of the derailment in Lac-Mégantic, the Agency contacted MMA and MMAC seeking confirmation that they continued to hold adequate third party liability insurance coverage with respect to any continuing operations as stated in their certificate of fitness.

The Agency reviewed the companies' insurance coverage and additional information they provided and it is not satisfied that MMA and MMAC have adequately restored their third party liability insurance coverage to the same level as prior to the derailment at Lac-Mégantic, nor do they have the financial capacity to pay the self-insured portion.

Order No. 2013-R-266 suspends Certificate of Fitness No. 02004-3 effective August 20, 2013, permitting MMA and MMAC time to arrange for the orderly cessation of their operations in Canada.

"MMA and MMAC were given full and fair opportunity to demonstrate that they have secured adequate third party liability insurance coverage for their ongoing operations, which is a legislative requirement to operate a railway in Canada," said Geoff Hare, Chair and CEO of the Canadian Transportation Agency.

"This was not a decision made lightly, as it affects the economies of communities along the railway, employees of MMA and MMAC, as well as the shippers who depend on rail services. It would not be prudent, given the risks associated with rail operations, to permit MMA and MMAC to continue to operate without adequate insurance coverage," noted Mr. Hare.

The tragic derailment in Lac-Mégantic has raised important questions regarding the adequacy of third party liability insurance coverage to deal with catastrophic events, especially for smaller railways. Increasing shipments of crude oil and other hazardous materials by rail highlight the need to determine how best to ensure that railways, small

and large, have appropriate levels of third party liability coverage, including for possible catastrophic events such as Lac-Mégantic.

Accordingly, this fall, the Agency will undertake a consultation and review of adequacy of insurance coverage requirements for the issuance of certificates of fitness required by federally-regulated railways.

About the Agency

The Agency is an independent administrative body of the Government of Canada. It performs two key functions within the federal transportation system:

- As a quasi-judicial tribunal, the Agency, informally and through formal adjudication, resolves a range of commercial and consumer transportation-related disputes, including accessibility issues for persons with disabilities. It operates like a court when adjudicating disputes.
- As an economic regulator, the Agency makes determinations and issues authorities, licences and permits to transportation carriers under federal jurisdiction.

-30-

For more information on the Agency's determination, please refer to [Order 2013-R-266](#).

For more information on the Agency's certificate of fitness process, please refer to the [Backgrounder: Certificate of Fitness for Federally-regulated Railways](#).

For more information on third party liability insurance please refer to: [Railway Third Party Liability Insurance Coverage Regulations](#)

News Media Enquiries: media@otc-cta.gc.ca or 819-934-3448

General Public Enquiries: info@otc-cta.gc.ca or 1-888-222-2592

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Date Modified :
2013-08-13

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[Home](#) [Rulings](#) [Decisions by Year](#) [2005](#) [September](#) Decision No. 561-R-2005



Decision No. 561-R-2005

September 9, 2005

APPLICATION by Montreal, Maine & Atlantic Canada Co., pursuant to paragraph 93(1)(c) of the *Canada Transportation Act, S.C., 1996, c. 10*, to vary Certificate of fitness No. 02004-2 to reflect a change in railway operations to permit passenger operations over its railway lines.

File Nos. R 8005/M5

R 8005/M6

Montreal, Maine & Atlantic Canada Co. (hereinafter MMAC) has applied to the Canadian Transportation Agency (hereinafter the Agency) for the variance set out in the title. The application was received on April 28, 2005.

Certificate of fitness No. 02004-2 dated August 7, 2003, permits Montreal, Maine & Atlantic Railway, Ltd. (hereinafter MMA) and its wholly-owned subsidiary MMAC to operate a railway in Canada, restricted to freight operations, as set out below:

- a. MMA to operate a railway:
 - between the Canada/United States border at mileage 32.63 of the Newport Subdivision and the Canada/United States border at mileage 43.32 of the Newport Subdivision;
 - between the Canada/United States border near Saint-Léonard, New Brunswick and Saint-Léonard, New Brunswick;

- b. MMAC to operate a railway:
 - between Saint-Jean, Quebec and Lennoxville, Quebec; between Ste-Rosalie, Quebec and Farnham, Quebec; between Farnham, Quebec and Stanbridge, Quebec; between Brookport at mileage 0.0 of the Newport Subdivision and the Canada/United States border at mileage 26.25 of the Newport Subdivision;
 - between Lennoxville, Quebec and the Canada/United States border near Boundary, Quebec; and

- by virtue of an interchange agreement with the Canadian Pacific Railway Company, on the Canadian Pacific Railway Company's Adirondack Subdivision between Saint-Jean, Quebec and Saint-Luc Junction, Quebec.

Pursuant to paragraph 93(1)(c) of the *Canada Transportation Act* (hereinafter the CTA), the Agency may, on application, vary a certificate of fitness to reflect a change in railway operations or circumstances relating to those operations.

The Agency has considered the application and the material filed in support thereof and is satisfied that there is adequate third party liability insurance coverage, including self-insurance, to permit passenger operations over the lines of railway of MMAC.

The Agency's review of MMA and MMAC's financial capability to self-insure for the amount of self-insured retention was based on the consolidated financial statements of Montreal, Maine & Atlantic Corporation, the parent company, the financial statements of MMA and the indemnity agreement between MMA and MMAC.

Accordingly, pursuant to paragraph 93(1)(c) of the CTA, the Agency hereby varies Certificate of fitness No. 02004-2 dated August 7, 2003, to also include passenger operations.

Certificate of fitness No. 02004-3 supersedes Certificate of fitness No. 02004-2 issued to MMA and MMAC on August 7, 2003.

As the holders of a certificate of fitness, MMA and MMAC must notify the Agency in writing without delay if

- a. the liability insurance coverage is cancelled or altered so that it may no longer be adequate; or
- b. the construction or operation has changed so that the liability insurance coverage may no longer be adequate.

Further, in light of the indemnity agreement, MMA shall provide to the Agency a copy of the audited financial statements on an annual basis. Furthermore, MMA and MMAC shall continue to provide the Agency with their annual loss history.

Date Modified :
2005-09-09

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Interlocutory Decision No. LET-R-98-2013...

Interlocutory Decision No. LET-R-98-2013

August 16, 2013

Canadian Transportation Agency Order No. 2013-R-266 dated August 13, 2013**File No.:** R 8005/M5
R 8005/M6

Reference is made to your letter dated August 16, 2013 requesting the Canadian Transportation Agency (Agency) to vary Order No. 2013-R-266, which suspended Montreal, Maine & Atlantic Canada Co. (MMAC) and Montreal, Maine & Atlantic Railway, Ltd. (MMA) Certificate of Fitness, effective August 20, 2013. Your request is to allow MMAC/MMA to maintain its Certificate of Fitness No. 02-004-3 until October 1, 2013.

The Agency suspended the said Certificate of Fitness because it was not satisfied that MMAC and MMA have adequate third party liability insurance coverage and the financial capacity to cover the self-insured portion for the continued operation.

The Agency has considered your submission and finds that you have demonstrated that there are new facts and circumstances warranting a review of the order. Your submission provides evidence that MMAC and MMA have insurance coverage, including per occurrence. Further, your submission indicates that "MMA undertakes to ask the CCAA judge on or before September 6, 2013, to order pursuant to the CCAA, that the Canadian assets of MMA be made subject to a charge and security for the payment of the self-insurance portion of the policy." The Agency is satisfied that this provides adequate insurance coverage for operation over a short period from August 20 to October 1, 2013.

Therefore, the Agency, pursuant to section 32 and paragraph 28(1)(b) of the *Canada Transportation Act, S.C., 1996*, as amended varies Order No. 2013-R-266 by amending the date of effect of the suspension of MMAC and MMA's Certificate of Fitness to October 1, 2013. This variance is conditional on MMAC/MMA filing with the Agency by 5:00 p.m. Eastern Time August 23, 2013 confirmation that it has secured funds for the self-insured retention portion of the policy. If MMAC and MMA do not fulfill this commitment, the suspension shall take effect as of 5:00 p.m. August 23, 2013.

Member(s)

Geoffrey C. Hare

Date Modified :
2013-08-19

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MONTREAL, MAINE & ATLANTIC RAILWAY

NORTHERN MAINE JUNCTION PARK

15 IRON ROAD HERMON, MAINE 04401-9621

July 22, 2013

CONFIDENTIAL

Ms. Nina Frid
Director General
Dispute Resolution Branch
Canadian Transportation Agency
Ottawa, Ontario K1A 0N9

Your Files: R8005/M5
R8005/M6

Dear Ms. Frid,

I am in receipt of your letter dated July 10, 2013 requesting additional information regarding third party liability insurance coverage for Montreal, Maine & Atlantic Railway, Ltd. (MMA) and Montreal, Maine & Atlantic Canada Co. (MMAC), collectively "MMA". Both companies are holders of Certificate of Fitness No. 02004-3 dated September 9, 2005.

I shall attempt to respond to the points raised by the Agency in much the same order as they were posed to us for ease of all in understanding our responses.

Under the heading of Recent Developments, Section A, MMA responds to the numbered questions posed:

1) MMA agrees that the Certificate of Fitness should be adjusted to reflect the sale of the line between the US border and St. Leonard, NB as the result of the sale of this line (approximately 0.8 miles of track) to the Eastern Maine Railway Company effective on June 12, 2013. We hereby request the Certificate of Fitness be amended to delete the underlined words as follows from (a) in the second paragraph: "between the Canada/United States border near Saint-Léonard, New Brunswick and Saint-Léonard, New Brunswick; "

2) With the exception of this change, the Certificate of Fitness accurately describes the routes operated and the services offered as of this writing, except that as a result of the derailment and explosions at Lac-M, traffic is not currently being carried through Lac-Mégantic as a result of the derailment and explosion of July 6, 2013. In addition, MMA is in the process of either a sale of a portion of the St. Guillaume subdivision or, failing a sale for continued operation to a third party, the discontinuance of that portion of the line under application.

3) A copy of the current Certificate of Insurance, signed by both MMA/MMAC and the insurer's representative is enclosed. Please see Exhibit 4 enclosed.

4) Attached is a letter of today's date from MMA's and MMAC's insurance broker stating that in its opinion the limit of liability purchased by MMA and MMAC is comparable to or exceeds the industry standard for peer railway organizations that are relatively similar in size and scope of operations. Please refer to Exhibit 5.

5a) A Certificate of Insurance for Trains Touristiques Des Cantons De L'Est (doing business as the "Orford Express" is enclosed for your review. This policy names both MMA/MMAC and Canadian Pacific Railway (CP) as insured parties. Please refer to Exhibit 6.

5b-c) The current Certificate of Insurance names Trains Touristiques Des Cantons De L'Est - Operator of the Orford Express as the insured party. I have enclosed a copy of a contract amendment between the operator and MMA/MMAC which, in its preamble, details the changes of name and assignments of rights and responsibilities under the contract. I have requested a more formal summary of events from the operator, and will forward it to you as soon as it is received. As you will see, the contract amendment is signed by both parties. Please refer to Exhibit 7.

6a) As is indicated on the Insurance Certificate enclosed, the policy provides for a \$250,000 self insured retention amount. In addition, as information, the Insurance Certificate provided by the Orford Express provides for a \$50,000,000 limit per occurrence with a \$25,000 deductible. MMA/MMAC is named as an additional insured on this policy.

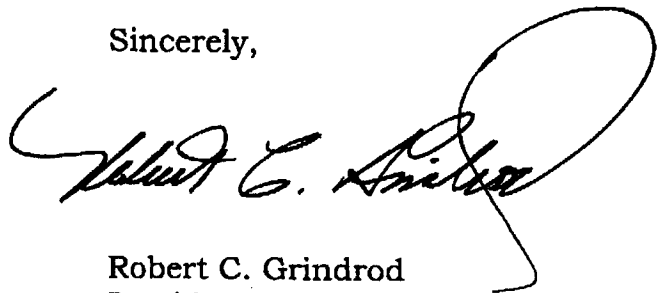
6b) Please find attached a copy of the Indemnity Agreement between MMA and MMAC by which MMA indemnifies MMAC, filed December, 2002. Please refer to Exhibit 8 enclosed.

6c) Audited financial statements for the years 2011 and 2012 have already been provided to the Agency's counsel by Henry Brown of Gowlings on our behalf within the last week.

All of us at MMA/MMAC deeply regret the personal tragedies, the loss of life and the damage done to homes and businesses as a result of the horrendous accident at Lac-Mégantic. The Transportation Safety Board of Canada is currently investigating the matter. Since that has not been completed and because we have not yet been allowed to conduct an investigation into the causes of the accident ourselves, it is impossible for us determine causal factors. We will, however, take strong action to correct any shortcomings or omissions found in procedures or protocols to insure that no similar event can ever take place again.

Finally, MMA asks that the Agency protect the commercial and business confidential information contained in this response and attachments. Disclosure of the insurance information will cause actual harm through compromising the ability of the insurers to manage and defend claims. Disclosure of commercial information will cause harm by exposing business information to competitors, suppliers and contractors, employee groups and others in adverse commercial interest to MMA. MMA maintains this information in confidentiality itself, and asks that the Agency protect this information against any disclosure not authorized by law.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert C. Grindrod", with a large, stylized flourish extending from the end of the signature.

Robert C. Grindrod
President & CEO



Certificate of Insurance – Insurance Covering Railway Third Party Liability for Freight and Passenger Operations

Certificate issued to the Canadian Transportation Agency
Ottawa, Ontario K1A 0N9

Name and address of insured:

Montreal, Maine and Atlantic Canada Co and or
Montreal, Maine and Atlantic Railway Ltd.
15 Iron Road
Hermon, ME 04401-9621

Sections 1-6 are to be completed by Agent/Broker

1. Name and address of Insurance agent/broker

The Plexus Groupe
21805 Field Parkway, Suite 300
Deer Park, IL 60010

2. Type of Insurance

- Claims made
 Per occurrence

3. General liability insurance including but not limited to the following extensions:

- Railroad operations
 Contractual liability
 Liquor law liability
 Passenger liability
 Evacuation expense
 Named perils pollution (Specify:)

For "Insured contracts" as per policy form

Pollution arising from a railroad accident as defined in policy form

Other (Specify: Foreign Rolling Stock, Liability, BOL "Acts of God")

4. Coverages

Insurers	Participation Percentages	Policy Numbers	Effective Date	Limits of Liability*	Self-Insured Retention	Deductible
			Expiry Date (DD/MM/YY)			
Indian Harbor Insurance Company	100%	RLC003808301	01/04/2013	\$25,000,000 Each Accident	\$250,000	N/A
			01/04/2014			
				\$50,000,000 Aggregate		

Specify: * Aggregate limit and/or each occurrence limit

Exclusions (in part or in whole):

Asbestos, Professional Liability, Terrorism/Tria. Others as per form

5. Notification

The insurer shall provide the Agency with no less than 30 days' prior written notification of cancellation, expiration or material alteration of the insurance coverages certified herein.

6. This is to certify that the policies of insurance listed above issued to the insured named above for the policy period indicated and that the operating risks, as listed in section 7, are known to the insurer.

Name (printed) and signature of insurer's authorized representative

Date

(If space provided is insufficient please reference)

(see over)

Sections 7-8 are to be completed by insured

7. The insured or authorized representative has fully disclosed to the insurer the operating risks arising from the insured's proposed construction or operation of the railway as identified below, in order to enable the insurer to issue the insurance coverage necessary for the proposed construction or operation. Information provided below must relate to annual forecast for the policy term and latest complete calendar year.

a) Proposed construction or operation being insured (location/termini and route/mileage/subdivision)

See attached listing of Subdivisions operated - Exhibit 1

b) Total Canadian and Foreign passenger ridership
37,000 Tourist Train passengers

c) Total freight train-miles
Approximately 6,108,488

d) Total passenger train-miles
8,350 Tourist Train miles

e) Volume of traffic (tons)
Approximately 5,618,469

f) Name, classification & volume (in tons) of dangerous commodities carried

See attached sheet - Exhibit 2

g) Types of areas served

Rural Urban Both

h) Number of level crossings
421

i) Maximum train speed (Operating timetables)
30

j) Number of claims for each of the last 10 years
See attached sheet - Exhibit 3

k) List the amount of each claim paid and outstanding (from lowest recorded dollar) for each of the last 10 years

See attached sheet - continued on Exhibit 3

l) What are the risks associated with a proposed construction?

N/A

m) Third party maintenance operations?

MMA provides its own maintenance with help on occasion by outside contractors

n) Training for enginemen provided by

Internal training program performed by persons who were qualified per Transport Canada

o) Crew size?

1 or 2 persons pursuant to authority of Transport Canada

p) Method of train control:

CTC Manual

q) Who provides dispatching services?

In house dispatching

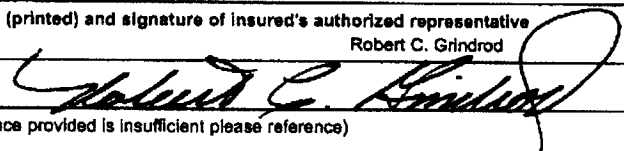
r) Operating under who's authority?

MMA

8. If the proposed operation is on or over any portion of the railway of any other railway company then the applicant proposes to operate from St. Jean, PQ to Montreal, PQ and over the following railway/route _____

Canadian Pacific Railway - CPRS

Name (printed) and signature of insured's authorized representative
 Robert C. Grindrod



Date

July 22, 2013

(If space provided is insufficient please reference)

Subdivisions Operated by MMA/MMAC

Moosehead Subdivision		
US Boundary MP 101.8	to -	Megantic MP 117.1
Sherbrooke Subdivision		
Megantic MP 0.0	to -	Brookport MP 125.6
Adirondack Subdivision		
Brookport MP 0.0	to -	St. Jean MP 20.0
St Guillaume Subdivision		
Farnham MP 0.0	to -	St Rosalie Jct MP 27.6
Stanbridge Subdivision		
Farnham MP 0.0	to -	Stanbridge MP 12.57
Newport Subdivision		
Brookport MP 0.0	to -	US Border at Richford, VT MP 26.25
US Border MP 32.63	to -	US Border MP 43.32

EXHIBIT 2

STCC	Commodity Name	Number of Cars	Net Tons
4905419	LIQUEFIED PETRO	35	1,932
4905421	LIQUEFIED PETRO	1826	101,823
4905752	PETROLEUM GASES	383	24,379
4908620	PROPYLENE OXIDE	5	337
4909152	DENATURED ALCOH	5	474
4910165	PETROLEUM CRUDE	4871	451,658
4910187	PETROLEUM CRUDE	87	5,188
4912210	FUEL OIL	171	15,501
4917403	SULPHUR, MOLTEN	6	576
4918723	SODIUM CHLORATE	1492	159,392
4920359	AMMONIA, ANHYDR	55	4,299
4920523	CHLORINE	8	539
4930040	SULPHURIC ACID	421	42,724
4935240	SODIUM HYDROXID	10	985
4968109	METHYLENE DIPHE	62	5,706

Exhibit 3

MMA LIABILITY CLAIMS HISTORY - 2003 - MAY 2013

Policy Year	Self Insured Retention	Date	Description	Paid Net Of SIR
2003 - 2004	\$100,000	7/29/2003	Crossing Accident	\$73,580
2004-2005	\$100,000	None	None	\$0
2005-2006	\$100,000	None	None	\$0
2006-2007	\$100,000	2/16/2006	Seaway Bridge Accident - CP	\$3,003,385
2007-2008	\$100,000	None	None	\$0
2008-2009	\$250,000	None	None	\$0
2009-2010	\$250,000	None	None	\$0
2010-2011	\$250,000	None	None	\$0
2011-2012	\$250,000	None	None	\$0
2012-2013	\$250,000	5/18/2012	MMA leased freight car involved in a fatal accident on another railroad during unloading process. No reserve currently established.	\$0
2013-2014	\$250,000		No claims through 6-1-2013	\$0
TOTAL				\$3,076,965

7/21/2013

EXHIBIT 3



Certificate of Insurance – Insurance Covering Railway Third Party Liability for Freight and Passenger Operations

Certificate issued to the Canadian Transportation Agency
Ottawa, Ontario K1A 0N9

Name and address of insured:

Montreal, Maine and Atlantic Canada Co and or
Montreal, Maine and Atlantic Railway Ltd.
15 Iron Road
Hermon, ME 04401-9621

Sections 1-6 are to be completed by Agent/Broker

1. Name and address of insurance agent/broker

The Plexus Groupe
21805 Field Parkway, Suite 300
Deer Park, IL 60010

2. Type of Insurance

- Claims made
- Per occurrence

3. General liability insurance including but not limited to the following extensions:

- Railroad operations
- Liquor law liability
- Evacuation expense
- Contractual liability
- Passenger liability
- Named perils pollution (Specify:)

For "insured contracts" as per policy form Pollution arising from a railroad accident as defined in policy form

Other (Specify: Foreign Rolling Stock, Liability, BOL "Acts of God")

4. Coverages

Insurers	Participation Percentages	Policy Numbers	Effective Date	Limits of Liability*	Self-Insured Retention	Deductible
			Expiry Date (DD/MM/YY)			
Indian Harbor Insurance Company	100%	RLC003808301	01/04/2013	\$25,000,000 Each Accident	\$250,000	N/A
			01/04/2014			
				\$50,000,000 Aggregate		

Specify: * Aggregate limit and/or each occurrence limit

Exclusions (in part or in whole):

Asbestos, Professional Liability, Terrorism/Tria. Others as per form

5. Notification

The insurer shall provide the Agency with no less than 30 days' prior written notification of cancellation, expiration or material alteration of the insurance coverages certified herein.

6. This is to certify that the policies of insurance listed above issued to the insured named above for the policy period indicated and that the operating risks, as listed in section 7, are known to the insurer.

Name (printed) and signature of insurer's authorized representative

Date

(If space provided is insufficient please reference)

(see over)

Sections 7-8 are to be completed by insured

7. The insured or authorized representative has fully disclosed to the insurer the operating risks arising from the insured's proposed construction or operation of the railway as identified below, in order to enable the insurer to issue the insurance coverage necessary for the proposed construction or operation. Information provided below must relate to annual forecast for the policy term and latest complete calendar year.

a) Proposed construction or operation being insured (location/termini and route/mileage/subdivision)

See attached listing of Subdivisions operated - Exhibit 1

b) Total Canadian and Foreign passenger ridership
37,000 Tourist Train passengers

c) Total freight train-miles
Approximately 6,108,488

d) Total passenger train-miles
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e) Volume of traffic (tons)
Approximately 5,618,469

f) Name, classification & volume (in tons) of dangerous commodities carried

See attached sheet - Exhibit 2

g) Types of areas served

Rural Urban Both

h) Number of level crossings
421

i) Maximum train speed (Operating timetables)
30

j) Number of claims for each of the last 10 years
See attached sheet - Exhibit 3

k) List the amount of each claim paid and outstanding (from lowest recorded dollar) for each of the last 10 years

See attached sheet - continued on Exhibit 3

l) What are the risks associated with a proposed construction?

N/A

m) Third party maintenance operations?

MMA provides its own maintenance with help on occasion by outside contractors

n) Training for enginemen provided by
Internal training program performed by persons who were qualified per Transport Canada

o) Crew size?
1 or 2 persons pursuant to authority of Transport Canada

p) Method of train control:
 CTC Manual

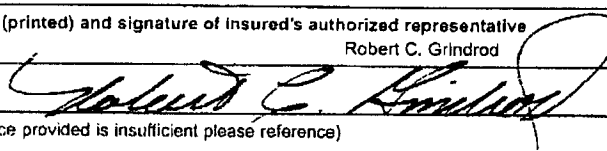
q) Who provides dispatching services?
In house dispatching

r) Operating under who's authority?
MMA

8. If the proposed operation is on or over any portion of the railway of any other railway company then the applicant proposes to operate from St. Jean, PQ to Montreal, PQ and over the following railway/route _____

Canadian Pacific Railway - CPRS

Name (printed) and signature of insured's authorized representative
 Robert C. Grindrod



Date

July 22, 2013

(If space provided is insufficient please reference)

*EXHIBIT 5***Grindrod, Robert C.**

From: Peter Bleach [pbleach@plexusgroupe.com]
Sent: Monday, July 22, 2013 11:36 AM
To: Grindrod, Robert C.; fwd_eaburkhardt; Gardner, M. Donald
Subject: RE: Self Insurance Backstop
Attachments: image004.jpg

Bob,

Apologies for the delay:

The current limit of liability \$25,000,000 any one occurrence is the same that was in effect prior to the Lac Megantic accident and so, for any single occurrence, provides the same adequacy of protection (if not more so given the limited scale of operations anticipated following the Lac Megantic accident) as that which was previously approved by the CTA. The change in situation following the Lac Megantic accident is the impairment of the aggregate limit, which was \$50,000,000 and will be impaired up to a maximum of \$25,000,000 depending upon whether the entire per occurrence limit is exhausted on the Lac Megantic loss. Although final liability/damages on that loss will not be determined for some time, realistically and in view of the accident, it may now be viewed as \$25,000,000. We have provided MMA with options for higher limits. With regard to the limits carried by other Class 2 freight railroads in the US, many generally would be carrying lower limits than MMA, but it would vary according to whether they would be considered a "rural railroad", the nature of the freight carried and contractual agreements.

Best regards,



Peter Bleach
Vice President
 21805 Field Parkway, Suite 300
 Deer Park, IL 60010
 Ph: 847.307.6110 | Fax: 847.307.6199
pbleach@plexusgroupe.com



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7/22/2013

**Schedules 6 to 8
are filed under seal**

CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL
N°: 500-11-045094-139

*(Loi sur les arrangements avec les créanciers des
compagnies, L.R.C. C-36, telle qu'amendée)*

DANS L'AFFAIRE DU PLAN D'ARRANGEMENT
ET DE COMPROMIS DE:

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Requérante

et

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Contrôleur

et

OFFICE DES TRANSPORTS DU CANADA

Mis-en-cause

ATTESTATION D'AUTHENTICITÉ
Selon l'art. 82.1 du C.p.c.

J'atteste que la copie de l'affidavit est conforme au facsimilé de cet acte reçu par
télécopieur:

Nature du document : Affidavit de Mario Thibeault
Numéro de Cour : 500-11-045094-139
Nom de l'expéditeur : Mme Suzanne Lefebvre
Numéro du télécopieur émetteur : 450-266-5402
Lieu de la transmission : Cowansville
Date de la transmission : Le 19 août 2013
Heure de transmission : 14h10

Montréal, ce 19 août 2013


Geneviève Cloutier
GOWLING LAFLEUR HENDERSON SENCRL, SRL

CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

PROVINCE DE QUÉBEC
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et

OFFICE DES TRANSPORTS DU CANADA

Intimée

-et-

PROCUREUR GÉNÉRAL DU CANADA

Mise-en-cause

AFFIDAVIT

Je, soussignée, MARIO THIBEAULT, Directeur général - Directeur service aux entreprises et organismes, auprès du Centre local de développement (CLD) de Brome-Missisquoi, exerçant ma profession au 749, rue Principale, Cowansville, Province de Québec, J2K 1J8, affirme solennellement ce qui suit :

1. Je suis un représentant dûment autorisée du Centre local de développement (CLD) de Brome-Missisquoi (le « Centre ») pour signer le présent affidavit;
2. Le Centre est un organisme à but non lucratif dont le mandat est de stimuler la croissance économique de Brome-Missisquoi, d'élaborer des stratégies en matière de développement de l'entrepreneuriat et de concerter les intervenants dans les secteurs de la ruralité, de la culture, du tourisme, et de l'industrie
3. Le Centre apporte son soutien aux entreprises et organismes œuvrant dans des secteurs variés de l'économie dont, notamment, les secteurs suivants : manufacturier et transformation, transformation agroalimentaire, touristique et culturelle, environnement et développement durable, économie sociale;

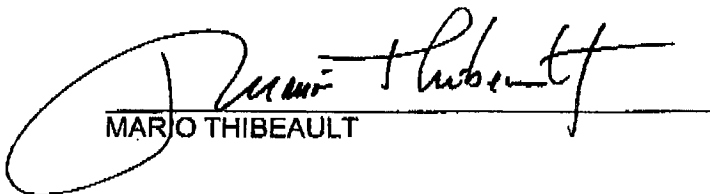
- 2 -

4. Le Centre a récemment été informé de l'émission d'une décision par l'Office des transports du Canada (« OTC »), le 13 août 2013, ayant pour effet de suspendre le certificat d'aptitude no 02004-3 de la Montréal, Maine & Atlantique Canada Cie (« MMAC ») et la Montréal Maine & Atlantic Railway Ltd. (« MMAR »), leur permettant d'exploiter une ligne de chemin de fer au Canada à compter du 20 août 2013;
5. Le Centre a été informé que l'OTC a accepté de maintenir le certificat d'aptitude de MMAC et MMAR jusqu'au 1^{er} octobre 2013, à la condition qu'une charge prioritaire au montant de 250 000\$ soit créée sur les actifs de MMAC afin de garantir le paiement de la portion auto-assurance de la police d'assurance de MMAC et MMAR, advenant un nouveau sinistre;
6. Le Centre a consulté treize (13) entrepreneurs de la région de Brome-Missisquoi, soit afin d'évaluer les impacts que pourraient avoir la suspension du certificat d'aptitude de MMAC et MMAR sur les affaires de leur entreprise respective;
7. Ces treize (13) entreprises sont localisées dans les régions du Canton de Bedford, la Ville de Bedford, la Ville de Cowansville, la Ville de Farnham et la Ville de Saint-Armand;
8. Le Centre a recueilli les informations suivantes auprès de ces treize (13) entreprises :
 - a) Ensemble, ces entreprises emploient actuellement plus de 566 employés et/ou sous-traitants;
 - b) Quatre (4) de ces entreprises travaillent présentement au développement et à l'implantation de nouveaux projets dans la région de Brome-Missisquoi qui, s'ils se concrétisent, pourraient créer environ 585 emplois additionnels dans la région;
 - c) Les activités de ces entreprises nécessitent le transport de marchandises par la ligne de chemin de fer exploitée par MMAC et MMAR;
 - d) En moyenne, chaque année, environ 2 500 wagons de marchandises destinés aux opérations commerciales de ces entreprises sont transportés par MMAC et MMAR;
 - e) Plusieurs entreprises ont des aménagements à l'usine dédiés spécifiquement à la réception et l'expédition par services ferroviaires et peuvent difficilement, à court terme, faire la transition vers un autre mode de transport.
 - f) Depuis l'annonce de la décision de l'OTC plusieurs entreprises les ont également informé d'une non-disponibilité de service par camions ou, à tout le moins en nombres suffisants, pour répondre à leurs besoins.
9. Le Centre a recueilli auprès de ces treize (13) entreprises les commentaires suivants quant aux impacts de l'arrêt du service de MMAC et MMAR dans la région de Brome-Missisquoi sur les activités de leur entreprise :
 - a) En l'absence d'approvisionnement par train, ces entreprises estiment qu'elles subiront des pertes de revenus significatives au point que les activités de certaines d'entre elles pourraient être compromises;

- 3 -


- b) Le transport par camion de la marchandise vers les gares de triage de Saint-Jean-sur-le Richelieu ou Côte-St-Luc entraînera des coûts supplémentaires significatifs pour l'approvisionnement et le transport des marchandises, évalués globalement à plusieurs millions de dollars;
 - c) Pertes potentielles de contrats d'approvisionnement;
 - d) Approvisionnement compromis et rupture de stocks dès l'arrêt des opérations de MMAC et MMAR (qui, dans certains cas, se produit pendant la haute saison de l'entreprise);
 - e) L'arrêt à long terme du train nuira à l'expansion des entreprises. Ceci empêchera certaines entreprises de développer les marchés de la côte Est américaine; et
 - f) Les projets d'implantation des entreprises en expansion seront compromis, nuisant ainsi à leur croissance;
10. Tous les faits allégués au présent affidavit sont vrais au meilleure de ma connaissance;

ET J'AI SIGNÉ :

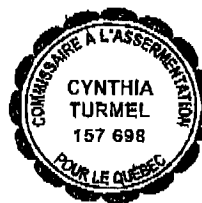


MARIO THIBEAULT

Affirmé solennellement devant moi,
à Cowansville, le 19 août 2013



Commissaire à l'assermentation pour le
Québec



CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

PROVINCE DE QUÉBEC
DISTRICT DE MONTRÉAL
N°: 500-11-045094-139

(Loi sur les arrangements avec les créanciers des compagnies, L.R.C. C-36, telle qu'amendée)

DANS L'AFFAIRE DU PLAN D'ARRANGEMENT
ET DE COMPROMIS DE:

**MONTREAL, MAINE & ATLANTIC CANADA CO.
(MONTREAL, MAINE & ATLANTIQUE CANADA
CIE)**

Requérante

et

**RICHTER ADVISORY GROUP INC. (RICHTER
GROUPE CONSEIL INC.)**

Contrôleur

et

OFFICE DES TRANSPORTS DU CANADA

Mis-en-cause

ATTESTATION D'AUTHENTICITÉ
Selon l'art. 82.1 du C.p.c.

J'atteste que la copie de l'affidavit est conforme au facsimilé de cet acte reçu par télécopieur:

Nature du document : Affidavit de Sylvie Lacroix
Numéro de Cour : 500-11-045094-139
Nom de l'expéditeur : Mme Louise Roy
Numéro du télécopieur émetteur : 450-359-0994
Lieu de la transmission : Saint-Jean-sur-Richelieu
Date de la transmission : Le 20 août 2013
Heure de transmission : 14h12

Montréal, ce 20 août 2013


Geneviève Cloutier
GOWLING LAFLEUR HENDERSON SENCRL, SRL

CANADA

COUR SUPÉRIEURE

(Chambre commerciale)

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Contrôleur

et

OFFICE DES TRANSPORTS DU CANADA

Intimée

-et-

PROCUREUR GÉNÉRAL DU CANADA

Mise-en-cause

AFFIDAVIT

Je, soussignée, Sylvie Lacroix, Directrice générale du Conseil Économique du Haut-Richelieu (CLD), exerçant ma profession au 315, rue MacDonald, bureau 301 Saint-Jean-sur-Richelieu, Province de Québec, J3B 8J3, affirme solennellement ce qui suit :

1. Je suis une représentante dûment autorisée du Conseil Économique du Haut-Richelieu (CLD) (le « Conseil ») pour signer le présent affidavit;
2. Le Conseil est un organisme à but non lucratif dont le mandat est de stimuler et soutenir le développement économique de Saint-Jean-sur-Richelieu, ville et région;
3. Le Conseil accompagne une multitude d'entreprises de secteurs variés dans leurs démarches de croissance, d'innovation, de relève et d'exportation en identifiant leurs

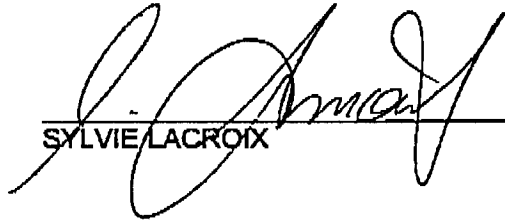
- 2 -

besoins, en ciblant les sources d'aides financières gouvernementales qu'elles soient fédérales, provinciales ou municipales et en y facilitant l'accès;

4. Le Conseil a été informé de l'émission d'une décision par l'Office des transports du Canada (« OTC »), le 13 août 2013, ayant pour effet de suspendre le certificat d'aptitude no 02004-3 de la Montréal, Maine & Atlantique Canada Cie (« MMAC ») et la Montréal Maine & Atlantic Railway Ltd. (« MMAR »), leur permettant d'exploiter une ligne de chemin de fer au Canada à compter du 20 août 2013;
5. Le Conseil a été informé vendredi dernier (16 août 2013) que l'OTC a accepté de maintenir le certificat d'aptitude de MMAC et MMAR jusqu'au 1^{er} octobre 2013, à la condition qu'une charge prioritaire au montant de 250 000\$ soit créée sur les actifs de MMAC afin de garantir le paiement de la portion auto-assurance de la police d'assurance de MMAC et MMAR advenant un nouveau sinistre;
6. Dans les circonstances, dès le 13 août, le Conseil a consulté les entreprises industrielles de son territoire afin d'évaluer les impacts que pourraient avoir l'arrêt du service de MMAC et MMAR dans la région du Haut-Richelieu sur les activités de leur entreprise;
7. Le Conseil a recueilli les informations préliminaires suivantes auprès de onze (11) entreprises clientes de MMAC et MMAR, mentionnant être ou pouvant potentiellement être affectées par un arrêt des opérations ferroviaires:
 - a) Ensemble, ces entreprises emploient actuellement plus de 700 employés;
 - b) Les activités de ces entreprises, de leurs clients ou de leurs fournisseurs nécessitent le transport de marchandises (intrants et extrants) par la ligne de chemin de fer exploitée par MMAC et MMAR;
 - c) Certaines de ces entreprises ont des aménagements à l'usine dédiés spécifiquement à la réception et l'expédition par services ferroviaires et peuvent difficilement, à court terme, faire la transition vers un autre mode de transport;
 - d) Lorsque possible, le transport par camions de la marchandise vers les gares de triage ou vers un autre site de transbordement entraînera des coûts supplémentaires significatifs pour l'approvisionnement et le transport des marchandises;
 - e) Dans certains cas, l'augmentation de coûts d'approvisionnement et de transport (et la baisse de revenus en résultant) auront pour effet de diminuer la rentabilité de l'entreprise et de forcer le licenciement de plusieurs employés. Il est difficile pour ces entreprises de chiffrer, à ce stade-ci, le nombre d'emplois qui seraient ainsi perdus;
 - f) En l'absence d'approvisionnement par train, ces entreprises seraient confrontées à des ruptures de stocks et estiment qu'elles pourraient subir à moyen terme d'importantes pertes de revenus, pouvant aller jusqu'à des millions de dollars; et
 - g) Une de ces entreprises a informé le Conseil que l'interruption du service du train pourrait même conduire à la fermeture de l'entreprise et forcer le congédiement de ses 50 employés.

8. Tous les faits allégués au présent affidavit sont vrais au meilleur de ma connaissance.

ET J'AI SIGNÉ :



SYLVIE LACROIX

Affirmé solennellement devant moi, ...
à Saint-Jean-sur-Richelieu, le ~~19~~ août 2013



Commissaire à l'assermentation
Québec


COMMISSAIRE À L'ASSEMBLEMENT
MARCHESSEAULT
194 663
POUR LE QUÉBEC