

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

**MOTION FOR EXPEDITED HEARING, SHORTENED OBJECTION PERIOD AND
LIMITED NOTICE WITH RESPECT TO MOTION FOR ORDER
(I) AUTHORIZING ASSIGNMENT OF TAX CREDITS AND
(II) GRANTING RELATED RELIEF**

Robert J. Keach, the chapter 11 trustee in the above-captioned case (the “Trustee”), hereby moves this Court for an expedited hearing, shortened objection period and approval of limited notice (the “Motion to Expedite”) with respect to the *Motion for Order (I) Authorizing Assignment of Tax Credits and (II) Granting Related Relief* (the “Motion”). In support of the Motion to Expedite, the Trustee states as follows:¹

JURISDICTION AND VENUE

1. The United States District Court for the District of Maine (the “District Court”) has original but not exclusive jurisdiction over this chapter 11 case pursuant to 28 U.S.C. § 1334(a) and over this Motion to Expedite pursuant to 28 U.S.C. § 1334(b). Pursuant to 28 U.S.C. § 157(a) and Rule 83.6 of the District Court’s local rules, the District Court has authority to refer and has referred this chapter 11 case and this Motion to Expedite to this Court.

2. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2) and the Court has constitutional authority to enter final judgment in this proceeding.

¹ Capitalized terms not otherwise defined herein have the meaning ascribed to them in the Motion.

3. Venue over this chapter 11 case is proper in this district pursuant to 28 U.S.C. § 1408, and venue over this proceeding is proper in this district pursuant to 28 U.S.C. § 1409.

4. The relief sought in this Motion to Expedite is predicated upon Rule 2002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and D. Me. LBR 9013-1(i).

BACKGROUND

5. On August 7, 2013 (the “Petition Date”), Montreal Maine & Atlantic Railway, Ltd. (the “Debtor”) filed a voluntary petition for relief under chapter 11 of 11 U.S.C. § 101 et seq. On August 21, 2013, the United States Trustee appointed the Trustee to serve in the Debtor’s chapter 11 case pursuant to 11 U.S.C. § 1163.

6. As described more fully in the Motion, the Debtor qualifies for railroad tax maintenance credits under section 45G of the Internal Revenue Code (the “45G Tax Credits”). However, because the Debtor has been able to fully offset any tax liability with net operating loss carry-forwards (and therefore could not obtain the value of the 45G Tax Credits in its own hands as a taxpayer), it has historically assigned the 45G Tax Credits to eligible taxpayers, as permitted by statute.

7. Prior to the Petition Date, the Debtor entered into the Agreement with KMSI, pursuant to which the Debtor agreed to assign certain 45G Tax Credits to KMSI. As described in the Motion, the Trustee anticipates receiving over \$380,000 in funds in relation to the assignment of 45G Tax Credits for a portion of 2013 (July, August, September, and October).

8. KMSI has required that the assignment of 45G Tax Credits be consummated before year-end. Due to the limited availability of KMSI personnel during the second half of December, the Trustee seeks a hearing on the Motion such that Court approval, if obtained, would be obtained before December 19, 2013. If such approval is obtained by December 19, the

Trustee expects KMSI to fund the assignment on December 19, 2013. The Trustee therefore requests expedited relief with respect to the Motion.

RELIEF REQUESTED

9. By this Motion to Expedite, the Trustee requests that the Court: (a) schedule a hearing on the Motion for December 11, 2013 at 10:00 a.m.; (b) set a shortened objection deadline for December 9, 2013; and (c) approve service of the Motion to Expedite and the Motion in the manner set forth herein.

BASIS FOR RELIEF

10. Absent a request for an expedited hearing, a movant seeking the type of relief set forth in the Motion must provide twenty-eight days' notice of, and a response date must be set more than seven calendar days prior to, a hearing date. *See* Bankruptcy Rule 2002(a)(2); Local Rule 9013-1(d)(5).

11. However, the Trustee requires the relief requested in the Motion on an expedited basis to ensure that the assignment of 45G Tax Credits to KMSI is approved in time to permit KMSI to deposit payment on or before December 19, 2013. Given the Debtor's inability to benefit directly from the 45G Tax Credits, and the fact that the Debtor will be able to obtain a significant source of cash on an immediate basis should the Motion be approved, the Trustee submits that expedited relief with respect to the Motion will not prejudice or harm any creditors or parties in interest.

12. The Court has indicated that it has availability on December 11, 2013 at 10:00 a.m., and there are currently other hearings scheduled in this case for that same date and time.

13. The Trustee requests that a hearing on the Motion be scheduled for the same date and time to allow expedited consideration of the relief sought by the Trustee.

NOTICE

14. Notice of this Motion to Expedite and Motion was served on the following parties on the date and in the manner set forth in the certificate of service: (1) the United States Trustee; (2) the Debtor's counsel; (3) the non-insider holders of the twenty (20) largest unsecured claims against the Debtor or, if applicable, the lawyers representing such holders; (4) applicable federal and state taxing authorities; (5) the holders of secured claims against the Debtor, or if applicable, the lawyers representing such holders; (6) KMSI or its counsel; (7) the Broker or its counsel; (8) the members of the official committee appointed in this case; and (9) others who have, as of the date of the Motion to Expedite and the Motion, entered an appearance and requested service of papers in this case.

CONCLUSION

WHEREFORE, the Trustee respectfully requests that this Court enter an Order: (a) finding that service of the Motion to Expedite and the Motion in the manner described herein was sufficient to all parties in interest under the circumstances of this case; (b) granting the Motion to Expedite; (c) setting a hearing on the Motion for December 11, 2013 at 10:00 a.m. and a shortened objection deadline for December 9, 2013; and (d) granting such other and further relief as the Court deems just and equitable under the circumstances.

Dated: December 2, 2013

ROBERT J. KEACH
CHAPTER 11 TRUSTEE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.

By his attorneys:

/s/ Michael Fagone

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

In re:

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Debtor.

Bk. No. 13-10670
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**ORDER GRANTING MOTION FOR EXPEDITED HEARING, SHORTENED
OBJECTION PERIOD AND LIMITED NOTICE WITH RESPECT TO MOTION FOR
ORDER (I) AUTHORIZING ASSIGNMENT OF TAX CREDITS AND
(II) GRANTING RELATED RELIEF**

This matter having come before the Court on the *Motion for Expedited Hearing, Shortened Objection Period and Limited Notice with Respect Motion for Order (I) Authorizing Assignment of Tax Credits and (II) Granting Related Relief* (the "Motion to Expedite") filed by Robert J. Keach, the chapter 11 trustee in the above-captioned case, and upon consideration of all responses to the Motion to Expedite (if any), it is hereby **ORDERED**, **ADJUDGED** and **DECREED** as follows:

1. The Motion to Expedite is granted.
2. Notice and service of the Motion to Expedite and the *Motion for Order (I) Authorizing Assignment of Tax Credits and (II) Granting Related Relief* (the "Motion") was sufficient in light of the nature of the relief requested.
3. An expedited hearing on the Motion is set for **December 11, 2013 at 10:00 a.m.** and the deadline to object to the same is **December 9, 2013**.

Dated:

The Honorable Louis H. Kornreich
United States Bankruptcy Judge

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC
RAILWAY, LTD.

Debtor.

Bk. No. 13-10670
Chapter 11

NOTICE OF EXPEDITED HEARING

Robert J. Keach, the chapter 11 trustee in the above-captioned case (the “Trustee”), has filed a *Motion for Expedited Hearing, Shortened Objection Period and Limited Notice with Respect to Motion for Order (I) Authorizing Assignment of Tax Credits and (II) Granting Related Relief* (the “Motion to Expedite”) and *Motion for Order (I) Authorizing Assignment of Tax Credits and (II) Granting Related Relief* (the “Motion”).

If you do not want the Court to approve the Motion to Expedite or the Motion, then on or before **December 9, 2013**, you or your attorney must file with the Court a response or objection explaining your position. If you are not able to access the CM/ECF Filing System, then your response should be served upon the Court at:

Alec Leddy, Clerk
United States Bankruptcy Court for the District of Maine
202 Harlow Street
Bangor, Maine 04401

If you do have to mail your response to the Court for filing, then you must mail it early enough so that the Court will receive it **on or before December 9, 2013**.

You may attend the hearing with respect to the Motion to Expedite scheduled to be held at the Bankruptcy Court, 202 Harlow Street, Bangor, Maine on **December 11, 2013 at 10:00 a.m.** If the Motion to Expedite is granted at that time, the Court may immediately thereafter conduct hearings to consider, and may grant some or all of the relief sought by the Motion.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one. If you do not have an attorney, you may wish to consult one.

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion to Expedite or the Motion and may enter an order granting the requested relief without further notice or hearing.

Dated: December 2, 2013

ROBERT J. KEACH
CHAPTER 11 TRUSTEE OF MONTREAL
MAINE & ATLANTIC RAILWAY, LTD.

By his attorneys:

/s/ Michael Fagone

Michael A. Fagone, Esq.

D. Sam Anderson, Esq.

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