

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MAINE**

In re:

MONTREAL MAINE & ATLANTIC  
RAILWAY, LTD.,

Debtor.

Chapter 11  
Case No. 13-10670

**DECLARATION OF SLAWSON EXPLORATION COMPANY, INC. IN SUPPORT OF  
CONFIRMATION OF TRUSTEE'S REVISED FIRST AMENDED  
PLAN OF LIQUIDATION DATED JULY 15, 2015**

I, Stuart M. Kowalski, state, pursuant to 28 U.S.C. section 1746, as follows:

**Introduction**

1. This Declaration is submitted in support of confirmation of the Trustee's Revised First Amended Plan of Liquidation Dated July 15, 2015 [Docket No. 1495] (the "Plan").<sup>1</sup>

2. I am General Counsel of Slawson Exploration Company, Inc. ("Slawson"), with a principal place of business at 727 North Waco, Suite 400, Wichita, Kansas 67203. I am authorized to make this declaration on Slawson's behalf.

3. All facts set forth herein are based on my personal knowledge without waiving any attorney-client privilege, on information supplied to me by others within the Slawson organization, upon my review of relevant documents, or on my opinion based upon my experience and knowledge of Slawson's operations. If I were called to testify, I could and would testify competently to the facts set forth herein.

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<sup>1</sup> Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Plan and/or the Revised First Amended Disclosure Statement for the Trustee's Plan of Liquidations Dated July 15, 2015 [D.E. 1497] (the "Disclosure Statement").

### **Relevant Background**

4. On July 6, 2013, an unmanned eastbound train operated by Montréal Maine & Atlantic Railway Ltd., the above-captioned debtor (“MMA” or the “Debtor”) and/or MMA Canada, comprised of five (5) locomotives and seventy-two (72) railcars carrying crude oil, derailed in Lac-Mégantic, Quebec, Canada (the “Derailment”). Based on information made available to Slawson by third parties, Slawson produced and sold some of the crude oil that was contained in some of the railcars involved in the Derailment.

5. Slawson is included in the definition of “Released Parties” under the Plan and, accordingly, will be the beneficiary of the Releases and Injunctions contained in the Plan if confirmed.

### **The Plan Releases and Injunctions**

#### **A. MMA and Slawson Share an Identity of Interest with Respect to the Claims Covered by the Releases and Injunctions**

6. Slawson is presently a defendant in at least three lawsuits in federal and state courts related to or arising from the Derailment.

7. Slawson may have claims against MMA for, *inter alia*, contribution. Absent confirmation of the Plan and the effectiveness of the Releases and Injunctions contained therein in favor of Slawson and its affiliates, Slawson intends to pursue its claims against the MMA estate.

8. In addition, Slawson may have claims against various other contributing parties for, *inter alia*, contribution and indemnity for any liability arising from the Derailment. In turn, such contributing parties have or may have claims against the MMA estate for, *inter alia*, contribution and indemnity for any liability arising from the Derailment. Thus, any claim asserted by Slawson against another contributing party would serve to increase the size of such contributing parties’ claims against the MMA estate.

**B. Slawson Has Contributed Substantial Assets to the MMA and MMA Canada Estates**

9. Slawson engaged in substantial settlement negotiations with Robert J. Keach, trustee for the Debtor's Chapter 11 Case (the "Trustee"). After several weeks of good faith, arm's-length negotiation, Slawson agreed to contribute to the settlement fund formulated by the Trustee for satisfaction of Claims against the Debtor, subject to the terms and conditions of the Plan Support and Settlement Agreement (the "Settlement Agreement"), which terms and conditions include the requirement that the Releases and Injunctions become effective.

10. The Settlement Agreement with the Trustee will enable the multiple parties to largely avoid the expense and delay of protracted litigation relating to alleged liability for the Derailment. That being said, Slawson believes it has strong legal and factual defenses to all claims relating to or arising from the Derailment.

11. It is thus by no means certain that MMA's Derailment creditors would be able to realize through litigation the significant value that will be contributed by and on behalf of Slawson to the MMA estate pursuant to the Settlement Agreement, and certainly would not be able to realize any recovery whatsoever from Slawson without incurring the substantial delay, expenses, and risks of litigation. Under these circumstances and by any measure, the total settlement contribution to the MMA estate by and on behalf of Slawson is "substantial."

**C. The Releases and Injunction are Essential to the Success of the Plan**

12. The Releases and Injunctions apply to Slawson. The Settlement Agreement requires Slawson to receive global releases and injunctions protecting it from any and all claims by anyone that was related in any way to MMA or the Derailment. The global releases and injunctions required under the Slawson Settlement Agreement are to be achieved through confirmation of a plan in MMA's bankruptcy case.

13. Slawson negotiated and entered into a settlement on the condition that any settlement was a final settlement of all MMA and Derailment-related liability—not only that of Slawson, but also any potential liability of related parties, Slawson’s direct and indirect affiliates and their present and former officers, directors, agents, and employees. Slawson thus agreed to make its significant contribution to the MMA estate.

14. Slawson expects that, as a result of the settlement, it will be protected from (a) further third party claims brought by the Derailment victims and (b) any and all contribution, indemnity, and other claims relating in any way to the Derailment. A settlement that did not include Slawson’s corporate affiliates, officers, directors, agents, and employees would leave Slawson-related entities and individuals at risk for future suits, because there is a subset of possible claims as to which the statute of limitations has not run. This could make Slawson vulnerable to future claims, and Slawson settled under such circumstances. Thus, the third party releases and injunction were critical to achieving the proposed settlement, which will not be effective if the Plan is not confirmed with the Releases and Injunctions.

15. In light of Slawson’s strong defenses to liability, it is by no means certain that MMA’s Derailment creditors would be able to recover any amounts whatsoever from Slawson if the Plan were not confirmed and the Releases and Injunctions contained therein were not made effective.

16. Finally, I, on behalf of Slawson, fully support confirmation of the Plan.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: September 21, 2015

/s/ Stuart M. Kowalski

**Stuart M. Kowalski**  
General Counsel  
Slawson Exploration Company, Inc.