



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I
5 Post Office Sq., Suite 100
BOSTON, MASSACHUSETTS 02109-3912

October 20, 2010

BY HAND

Wanda Santiago
Regional Hearing Clerk
U.S. EPA, Region I
5 Post Office Sq., Suite 1100
Mail Code: ORA18-1
Boston, MA 02109-3912



RE: **In the Matter of: Montreal Maine & Atlantic Railway, Ltd.**
Docket No. CWA-01-2010-0048

Dear Ms. Santiago,

Pursuant to 40 C.F.R. § 22.45, EPA is required to notify the public before assessing a civil penalty in any proceeding under Section 311(b)(6)(C) of the Clean Water Act. Accordingly, EPA has provided the public the opportunity to comment on this matter beginning on October 1, 2010. EPA will receive public comment on the proposed penalty in this action through November 1, 2010.

Enclosed with this letter is a copy of the public notice which is to be included with the record for this case. The public notice is available on the internet at:

<http://www.epa.gov/region01/enforcement/water/public-notices.html>

In addition, pursuant to 40 C.F.R. § 22.5(b)(1)(iii), enclosed for filing in the above-referenced action, please find a copy of the green cards showing completion of service of the complaint in this matter to Robert Grindrod and Thomas Tardif.

Sincerely,

A handwritten signature in black ink that reads "Maximilian Boal".

Maximilian Boal
Enforcement Counsel
EPA Region 1

Enclosures

Cc Phillip Buckley

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 1**

Date of Notice: September 30, 2010

Public Notice Number: PN2010-0007

Comment Period: October 1, 2010 - November 1, 2010

Action: Notice of Proposed Assessment of Class II Clean Water Act Sections 309(g) and 311(b)(6) Administrative Penalty and Opportunity to Comment



Under Sections 309(g)(2)(B) and 311(b)(6)(B)(ii) of the Clean Water Act (CWA), 33 U.S.C. §§ 1319(g)(2)(B) and 1321(b)(6)(B)(ii), EPA is authorized to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Pursuant to 40 C.F.R. Part 19 (Adjustment of Civil Monetary Penalties for Inflation) promulgated pursuant to the Debt Collection Improvement Act of 1996, 31 U.S.C. § 3701, in a Class II proceeding under 309(g)(2)(B) and 311(b)(6)(B)(ii), the maximum civil penalties that may be administratively assessed have been increased as follows: for violations occurring between March 15, 2004 and January 12, 2009, up to \$11,000 per violation per day for each day during which the violation continues, up to a maximum of \$157,500; and, for violations occurring on or after January 13, 2009, up to \$16,000 per violation per day for each day during which the violation continues, up to a maximum of \$177,500. Class II proceedings are conducted in accordance with the “Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits,” at 40 C.F.R. Part 22 (“Part 22”).

The procedures by which the public may submit written comments on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in Part 22. The deadline for submitting public comment on a proposed Class II penalty order is thirty (30) days after issuance of public notice.

Pursuant to Sections 309(g)(2)(B) and 311(b)(6)(B)(ii), EPA is providing public notice of the following proposed Class II administrative penalty assessment:

Name and Mailing Address of Respondents: Montreal Maine & Atlantic Railway, Ltd., 15 Iron Road, Bangor, Maine.

Name and Address of Facilities or Sites Addressed by Complaint: Montreal Maine & Atlantic Railway, Ltd., 18 B&A Avenue, Milo, Maine.

Description of Business or Activity Conducted by the Respondent: Railway facility used primarily as a repair facility for locomotives and rail cars.

Description of Violations alleged in Complaint subject to public comment: Illegal discharge of oil into waters of the United States in violation of Section 311(b) of the Clean Water Act and failure to comply with Oil Pollution Prevention regulations in violation of Section 311(j) of the Clean Water Act, 33 U.S.C. § 1321.

Proposed penalty: Up to the statutory maximum of \$11,000 per day of violation from March 15, 2004 through January 12, 2009, up to a maximum of \$157,500 and \$16,000 per day of violation on or after January 13, 2009, up to a maximum of \$177,500.

Name of case: In the matter of Montreal Maine & Atlantic Railway, Ltd.

Docket numbers: CWA-01-2010-0048

Date Filed with Regional Hearing Clerk: September 28, 2010

Name, Mailing Address, and Telephone Number of Regional Hearing Clerk: Wanda Santiago, EPA Region 1, 5 Post Office Square Suite 100, Mail Code: ORA18-1, Boston, MA 02109-3912

FOR FURTHER INFORMATION: Persons wishing to receive a copy of Part 22, review the complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the

Regional Hearing Clerk identified above. Unless otherwise noted, the public record for the proceeding is located in the EPA Regional Office at Five Post Office Square, Suite 100, Boston, Massachusetts, and the file will be open for public inspection during normal business hours.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty (30) days after issuance of this notice.

CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage)

OFFICIAL

Postage \$
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total

SEP 28 2010

Sent To
Robert Grindrod, CEO
Montreal Main & Atlantic Railway
15 Iron Road
Bangor, ME 04401

City, State, ZIP+4

PS Form 3800, January 2001

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Robert Grindrod, CEO
Montreal Main & Atlantic Railway
15 Iron Road
Bangor, ME 04401

2. Article Number (Transfer from serv) 7001 1140 0000 6592 3612

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Philip Mann Agent Addressee

B. Received by (Printed Name) Philip Manns C. Date of Delivery 10/1/08

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

BANGOR ME 04401
OCT 1 2008

U.S. Postal Service CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage)

OFFICIAL

Postage \$
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage

SEP 28 2010

Sent To
Thomas N. Tardif, Director
Real Estate & Environmental Affairs
Montreal Maine & Atlantic Railway
Derby Facility
18 B&A Avenue
Milo, ME 04463

City, State, ZIP+4

PS Form 3800, January 2001

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Thomas N. Tardif, Director
Real Estate & Environmental Affairs
Montreal Maine & Atlantic Railway,
Derby Facility
18 B&A Avenue
Milo, ME 04463

2. Article Number (Transfer from service label) 7001 1140 0000 6592 3445

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Thomas Tardif Agent Addressee

B. Received by (Printed Name) C. Date of Delivery 10/1/08

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

U.S. Postal Service CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage)

OFFICIAL

Postage \$
Certified Fee
Return Receipt Fee (Endorsement Required)
Restricted Delivery Fee (Endorsement Required)
Total Postage

SEP 28 2010

Sent To
Phillip Buckley, Esq.,
Rudman & Winchell
84 Harlow Street
PO Box 1401
Bangor, ME 04402

City, State, ZIP+4

PS Form 3800, January 2001

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:
Phillip Buckley, Esq.,
Rudman & Winchell
84 Harlow Street
PO Box 1401
Bangor, ME 04402

2. Article Number (Transfer from service label) 7001 1140 0000 6592 3537

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Carrie Young Agent Addressee

B. Received by (Printed Name) Carrie Young C. Date of Delivery 10-1-10

D. Is delivery address different from item 1? Yes No
If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes