

FreightCar America, Inc.  
Form 10-Q/A  
September 02, 2005  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-Q/A**

**(Amendment No. 1)**

**x QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Quarterly Period Ended June 30, 2005

or

**.. TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from \_\_\_\_\_ to \_\_\_\_\_

Commission file number: 000-51237

**FREIGHTCAR AMERICA, INC.**

**(Exact name of registrant as specified in its charter)**

**Delaware**  
**(State or other jurisdiction of incorporation or organization)**

**25-1837219**  
**(I.R.S. Employer Identification No.)**

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**Two North Riverside Plaza, Suite 1250**

**Chicago, Illinois**  
**(Address of principal executive offices)**

**60606**  
**(Zip Code)**

**(800) 458-2235**

**(Registrant's telephone number, including area code)**

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

YES  NO

Indicate by check mark whether the registrant is an accelerated filer (as defined in Rule 12b-2 of the Exchange Act).

YES  NO

As of July 29, 2005, there were 12,532,700 shares of the registrant's common stock outstanding.

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**FREIGHTCAR AMERICA, INC.**

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**EXPLANATORY NOTE**

On September 2, 2005, the management and Audit Committee of FreightCar America, Inc. (the "Company") determined that the Company's (i) audited consolidated financial statements included in the Company's Registration Statement on Form S-1 (Registration No. 333-123384) and the Company's Registration Statement on Form S-1 filed pursuant to Rule 462(b) under the Securities Act of 1933, as amended (Registration No. 333-123875) and (ii) unaudited condensed consolidated financial statements included in the Company's Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 2005 and June 30, 2005 should not be relied upon. This conclusion resulted from the Company's review of accounting literature and recent interpretations and a reevaluation of its accounting for changes in restricted cash balances under the Financial Accounting Standards Board's Statement of Financial Accounting Standards No. 95, "Statement of Cash Flows," as reported in the Company's Consolidated Statements of Cash Flows.

The restatements of the Consolidated Statements of Cash Flows for the periods described above have no effect on the overall net cash and cash equivalent position of the Company previously reported for the six months ended June 30, 2004. The restated information did not result in any change to any financial information included in the Company's Condensed Consolidated Statements of Operations, Balance Sheets and/or Statements of Stockholders' Equity (Deficit) for such periods.

Although the Company's Condensed Consolidated Statements of Cash Flows included in its Quarterly Report on Form 10-Q for the fiscal quarter ended June 30, 2005 (the "Original Report") properly reported the Company's changes in restricted cash deposits for the six months ended June 30, 2004 as cash flows from investing activities, the interim financial statements should have indicated that the Company's Condensed Consolidated Statements of Cash Flows for such period are restated and should have included an explanatory note regarding the reclassification of cash flows from restricted cash deposits and withdrawals as cash flows from investing activities. As a result, the Company is filing this Amendment No. 1 (the "Amended Report") to the Original Report to amend Part I, Item 1 "Financial Statements" of the Original Report to the extent necessary to reflect the adjustments discussed above. We have also made related revisions to Part I, Item 4 "Controls and Procedures." The remaining Items of the Company's Original Report are not amended hereby and are repeated herein only for the reader's convenience.

In order to preserve the nature and character of the disclosures set forth in the Original Report, except as expressly noted above, this Amended Report speaks as of the date of the filing of the Original Report on August 15, 2005, and the Company has not updated the disclosures in this report to speak as of a later date. All information contained in this Amended Report is subject to updating and supplementing as provided in the Company's reports filed with the SEC subsequent to the date of the Original Report.

**Table of Contents****PART I FINANCIAL INFORMATION****ITEM 1. FINANCIAL STATEMENTS****FreightCar America, Inc.****Condensed Consolidated Balance Sheets****(Unaudited)**

|   | <b>June 30,<br/>2005</b> | <b>December 31,<br/>2004</b> |
|---|--------------------------|------------------------------|
|   | <i>(In thousands)</i>    |                              |
| <b>Assets</b>   |                          |                              |
| Current assets  |                          |                              |
| Cash and cash equivalents   | \$ 20,467                | \$ 11,213                    |
| Restricted cash   |                          | 1,200                        |
| Accounts receivable, net  | 5,191                    | 4,136                        |
| Inventories   | 70,119                   | 73,218                       |
| Prepaid expenses and other current assets   | 3,785                    | 983                          |
| Deferred income taxes   | 9,420                    | 10,519                       |
| <b>Total current assets</b>   | <b>108,982</b>           | <b>101,269</b>               |
| Property, plant and equipment, net  | 26,136                   | 24,199                       |
| Restricted cash   |                          | 11,755                       |
| Deferred financing costs, net   | 841                      | 915                          |
| Deferred offering costs   |                          | 2,013                        |
| Intangible assets, net  | 13,342                   | 13,637                       |
| Goodwill  | 21,521                   | 21,521                       |
| Deferred income taxes   | 15,695                   | 15,834                       |
| <b>Total assets</b>   | <b>\$ 186,517</b>        | <b>\$ 191,143</b>            |
| <b>Liabilities and Stockholders Equity (Deficit)</b>  |                          |                              |
| Current liabilities   |                          |                              |
| Accounts payable  | \$ 58,625                | \$ 69,631                    |
| Current portion of long-term debt   | 8                        | 2,000                        |
| Accrued payroll and employee benefits   | 15,361                   | 9,904                        |
| Accrued warranty  | 6,462                    | 5,964                        |
| Other current liabilities   | 4,317                    | 5,274                        |
| Industrial revenue bonds  |                          | 5,200                        |
| <b>Total current liabilities</b>  | <b>84,773</b>            | <b>97,973</b>                |
| Long-term debt, less current portion  | 28                       | 48,858                       |
| Deferred revenue  | 5,058                    | 4,883                        |
| Accrued pension costs, less current portion   | 17,548                   | 16,767                       |
| Accrued postretirement benefits   | 20,580                   | 18,988                       |
| Rights to additional acquisition consideration, including accumulated accretion of \$0 and \$20,408, respectively |                          | 28,581                       |

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|                               |         |         |
|-------------------------------|---------|---------|
| Total liabilities             | 127,987 | 216,050 |
| Commitments and contingencies |         |         |

*See Notes to Condensed Consolidated Financial Statements.*

**Table of Contents****FreightCar America, Inc.****Condensed Consolidated Balance Sheets****(Unaudited)**

|  | <b>June 30,<br/>2005</b> | <b>December 31,<br/>2004</b> |
|--|--------------------------|------------------------------|
|  | <i>(In thousands)</i>    |                              |
| Redeemable preferred stock (see Note 12)             |                          |                              |
| Series A voting (pre-merger company)                 |                          | 8,486                        |
| Series B non-voting (pre-merger company)             |                          | 3,696                        |
|  |                          |                              |
| Total redeemable preferred stock                     |                          | 12,182                       |
| Stockholders' equity (deficit)                       |                          |                              |
| Preferred stock (see Note 12)                        |                          |                              |
| Series A voting                                      |                          |                              |
| Series B non-voting                                  |                          |                              |
|  |                          |                              |
| Total preferred stock                                |                          |                              |
| Common stock (see Note 12)                           |                          |                              |
| Common stock   | 125                      |                              |
| Class A voting (pre-merger company)                  |                          |                              |
| Class B non-voting (pre-merger company)              |                          |                              |
|  |                          |                              |
| Total common stock                                   | 125                      |                              |
| Additional paid in capital                           | 93,646                   | 8,900                        |
| Accumulated other comprehensive loss                 | (5,055)                  | (5,055)                      |
| Accumulated deficit                                  | (30,186)                 | (40,934)                     |
|  |                          |                              |
| Total stockholders' equity (deficit)                 | 58,530                   | (37,089)                     |
|  |                          |                              |
| Total liabilities and stockholders' equity (deficit) | \$ 186,517               | \$ 191,143                   |
|  |                          |                              |

See Notes to Condensed Consolidated Financial Statements.

**Table of Contents****FreightCar America, Inc.****Condensed Consolidated Statements of Operations****(Unaudited)**

|  | Three Months Ended                                     |            | Six Months Ended |            |
|--|--|------------|------------------|------------|
|  | June 30,   |            | June 30,         |            |
|  | 2005   | 2004       | 2005             | 2004       |
|  | <i>(In thousands, except share and per share data)</i> |            |                  |            |
| Sales  | \$ 230,714   | \$ 94,867  | \$ 396,519       | \$ 183,813 |
| Cost of sales  | 206,539  | 92,982     | 358,976          | 181,294    |
| Gross profit   | 24,175   | 1,885      | 37,543           | 2,519      |
| Selling, general and administrative expense  | 7,664  | 3,802      | 13,740           | 6,993      |
| Compensation expense under stock option agreements (selling, general and administrative expense) | 69   |            | 69               |            |
| Provision for settlement of labor disputes (selling, general and administrative expense)         |  |            | 370              |            |
| Operating income (loss)  | 16,442   | (1,917)    | 23,364           | (4,474)    |
| Interest income  | (239)  | (24)       | (342)            | (52)       |
| Related-party interest expense   | 1,346  | 1,726      | 3,253            | 3,397      |
| Third-party interest expense   | 690  | 396        | 964              | 531        |
| Interest expense and related accretion on rights to additional acquisition consideration         | 4,823  | 1,351      | 6,382            | 2,598      |
| Write-off of deferred financing costs  | 439  |            | 439              |            |
| Amortization of deferred financing costs   | 89   | 135        | 184              | 270        |
| Income (loss) before income taxes  | 9,294  | (5,501)    | 12,484           | (11,218)   |
| Income tax provision (benefit)   | 149  | (1,455)    | 1,425            | (3,197)    |
| Net income (loss)  | 9,145  | (4,046)    | 11,059           | (8,021)    |
| Redeemable preferred stock dividends accumulated   | 31   | 266        | 311              | 532        |
| Net income (loss) attributable to common stockholders  | \$ 9,114   | \$ (4,312) | \$ 10,748        | \$ (8,553) |
| Net income (loss) per common share attributable to common stockholders basic and diluted         | \$ 0.76  | \$ (0.63)  | \$ 1.11          | \$ (1.24)  |
| Weighted average common shares outstanding basic   | 11,972,260   | 6,875,000  | 9,715,020        | 6,875,000  |
| Weighted average common shares outstanding diluted   | 11,988,740   | 6,875,000  | 9,723,306        | 6,875,000  |

See Notes to Condensed Consolidated Financial Statements.





**Table of Contents****FreightCar America, Inc.****Condensed Consolidated Statements of Cash Flows****(Unaudited)**

|   | Six Months Ended      |                |
|---|-----------------------|----------------|
|   | June 30,              |                |
|   | 2005                  | 2004 (1)       |
|   | <i>(In thousands)</i> |                |
| <b>Cash flows from operating activities</b>   |                       |                |
| Net income (loss)   | \$ 11,059             | \$ (8,021)     |
| Adjustments to reconcile net income (loss) to net cash flows provided by operating activities |                       |                |
| Depreciation  | 3,432                 | 3,366          |
| Amortization of intangible assets   | 295                   | 295            |
| Amortization of deferred financing costs  | 184                   | 270            |
| Write-off of deferred financing costs   | 439                   |                |
| Accretion of Senior Notes   | 1,071                 | 357            |
| Accretion of deferred revenue   | 513                   | 190            |
| PIK Notes issued for interest   | 2,182                 | 3,041          |
| Interest expense and related accretion on rights to additional acquisition consideration      | 6,382                 | 2,598          |
| Deferred income taxes   | 1,238                 | (3,198)        |
| Compensation expense under stock option agreements  | 69                    |                |
| Changes in operating assets and liabilities:  |                       |                |
| Accounts receivable   | (1,055)               | (1,016)        |
| Inventories   | 3,099                 | (20,722)       |
| Prepaid expenses and other current assets   | (2,802)               | (1,647)        |
| Income taxes receivable   |                       | 815            |
| Accounts payable  | (11,906)              | 23,147         |
| Accrued payroll and employee benefits   | 5,457                 | 1,309          |
| Accrued warranty  | 498                   | 403            |
| Other current liabilities   | (957)                 | (622)          |
| Deferred revenue  | (337)                 | (114)          |
| Accrued pension costs and accrued postretirement benefits                                     | 2,373                 | (150)          |
| <b>Net cash flows provided by operating activities</b>  | <b>21,234</b>         | <b>301</b>     |
| <b>Cash flows from investing activities</b>   |                       |                |
| Restricted cash withdrawals (deposits), net   | 12,955                | (25)           |
| Purchases of property, plant and equipment  | (5,330)               | (728)          |
| <b>Net cash flows provided by (used in) investing activities</b>                              | <b>7,625</b>          | <b>(753)</b>   |
| <b>Cash flows from financing activities</b>   |                       |                |
| Issuance of common stock, net of issuance costs   | 87,322                |                |
| Payments on long-term debt  | (58,964)              | (1,750)        |
| Redemption of preferred stock and payment of accumulated dividends                            | (13,000)              |                |
| Payments of additional acquisition consideration  | (34,963)              |                |
| <b>Net cash flows used in financing activities</b>  | <b>(19,605)</b>       | <b>(1,750)</b> |

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|   |                   |                   |
|---|-------------------|-------------------|
| Net increase (decrease) in cash and cash equivalents  | 9,254             | (2,202)           |
| Cash and cash equivalents at beginning of period  | 11,213            | 20,008            |
|   | <u>          </u> | <u>          </u> |
| Cash and cash equivalents at end of period  | \$ 20,467         | \$ 17,806         |
|   | <u>          </u> | <u>          </u> |
| <b>Supplemental cash flow information</b>   |                   |                   |
| Cash paid for:  |                   |                   |
| Interest (includes \$26,790 relating to additional acquisition consideration and \$28,361 relating to Senior Notes and previously accrued but unpaid PIK Notes) | \$ 55,637         | \$ 366            |
|   | <u>          </u> | <u>          </u> |
| Capital lease obligations incurred for equipment  | \$ 39             | \$                |
|   | <u>          </u> | <u>          </u> |
| Non-Cash Transaction:   |                   |                   |
| Redeemable preferred stock dividends accumulated  | \$                | \$ 532            |
|   | <u>          </u> | <u>          </u> |

(1) As Restated - See Note 2.

*See Notes to Condensed Consolidated Financial Statements.*

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**Table of Contents**

**FreightCar America, Inc.**

**Notes to Condensed Consolidated Financial Statements**

**(Unaudited)**

*(In thousands except share and per share data)*

**Note 1 Description of the Business**

FreightCar America, Inc. ( America ), through its direct and indirect wholly owned subsidiaries, JAC Intermedco, Inc. ( Intermedco ), JAC Operations, Inc. ( Operations ), Johnstown America Corporation ( JAC ), Freight Car Services, Inc. ( FCS ), JAIX Leasing Company ( JAIX ), JAC Patent Company ( JAC Patent ) and FreightCar Roanoke, Inc. ( FCR ) (herein collectively referred to as the Company ), manufactures, rebuilds, repairs, sells and leases freight cars used for hauling coal, other bulk commodities, steel and other metals, forest products and automobiles. The Company has manufacturing facilities in Danville, Illinois, Roanoke, Virginia and Johnstown, Pennsylvania. The Company's operations comprise one operating segment. The Company and its direct and indirect wholly owned subsidiaries are all Delaware corporations.

**Note 2 Basis of Presentation and Restatement**

The accompanying condensed consolidated financial statements include the accounts of America, Intermedco, Operations, JAC, FCS, JAIX, JAC Patent and FCR. All significant intercompany accounts and transactions have been eliminated in consolidation. The foregoing financial information has been prepared in accordance with the accounting principles generally accepted in the United States of America ( GAAP ) and rules and regulations of the Securities and Exchange Commission (the SEC ) for interim financial reporting. The preparation of the financial statements in accordance with GAAP requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from these estimates. The results of operations for the three months and six months ended June 30, 2005 are not necessarily indicative of the results to be expected for the full year. The accompanying interim financial information is unaudited; however, the Company believes the financial information reflects all adjustments (consisting of items of a normal recurring nature) necessary for a fair presentation of financial position, results of operations and cash flows in conformity with GAAP. Certain information and note disclosures normally included in the Company's annual financial statements prepared in accordance with GAAP have been condensed or omitted. These interim financial statements should be read in conjunction with the audited financial statements contained in the Company's current report on Form 8-K filed with the SEC on September 2, 2005.

Subsequent to the issuance of the Company's June 30, 2005 Condensed Consolidated Financial Statements, the Company's management determined that the changes in restricted cash deposits previously reported in the Condensed Consolidated Financial Statement of Cash Flows as an operating activity should have been recorded as an investing activity. Accordingly, the Condensed Consolidated Statement of Cash Flows for the six months ended June 30, 2004 has been restated from amounts previously reported.

A summary of the effects of the restatement is as follows:

**Six Months Ended  
June 30, 2004**

|   | As Previously<br>Reported | As Restated |
|---|---------------------------|-------------|
| Net cash flows provided by operating activities | \$ 276                    | \$ 301      |
| Net cash flows used in investing activities     | \$ (728)                  | \$ (753)    |

**Note 3 Recent Accounting Pronouncements**

In November 2004, the Financial Accounting Standards Board ( FASB ) issued Statement of Financial Accounting Standards ( SFAS ) No. 151, *Inventory Costs An Amendment of Accounting Research Bulletin No. 43, Chapter 4*, which requires the recognition of costs of idle facilities, excessive spoilage, double freight and rehandling costs as a component of current-period expenses. The provisions of SFAS No. 151 are effective for inventory costs incurred during fiscal years beginning after June 15, 2005. Since the Company produces railcars based upon specific customer orders, management does not expect the provisions of SFAS No. 151 to have a material impact on the Company's financial statements.

In December 2004, the FASB issued SFAS No. 153, *Exchanges of Nonmonetary Assets An Amendment of Accounting Principles Board ( APB ) Opinion No. 29*. APB Opinion No. 29, *Accounting for Nonmonetary Transactions*, is based on the principle that exchanges of nonmonetary assets should be measured based on the fair value of the assets exchanged. The guidance in APB Opinion No. 29 included certain exceptions to that principle. SFAS No. 153 amends APB Opinion No. 29 to eliminate the exception for nonmonetary exchanges of similar productive assets and replaces it with a general exception for exchanges of nonmonetary assets that do not have commercial substance. A nonmonetary exchange has commercial substance if the future cash flows of the entity are expected to change significantly as a result of the exchange. The provisions of SFAS No. 153 are effective for nonmonetary asset exchanges occurring in fiscal periods beginning after June 15, 2005. Management has not yet evaluated the impact of the adoption of SFAS No. 153 on the Company's financial statements. The Company plans to adopt SFAS No. 153 effective January 1, 2006 as required.

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**FreightCar America, Inc.**

**Notes to Condensed Consolidated Financial Statements**

**(Unaudited)**

*(In thousands except share and per share data)*

In December 2004, the FASB issued SFAS No. 123 (Revised 2004), *Share-Based Payment*, which establishes the accounting for transactions in which an entity exchanges its equity instruments or certain liabilities based upon the entity's equity instruments for goods or services. The revision to SFAS No. 123 generally requires that publicly traded companies measure the cost of employee services received in exchange for an award of equity instruments based on the fair value of the award on the grant date. That cost will be recognized over the period during which an employee is required to provide service in exchange for the award, which is usually the vesting period. The revised provisions of SFAS No. 123 will be effective for the Company beginning January 1, 2006. Management has not yet evaluated the impact of the revisions to SFAS No. 123 on the Company's financial statements.

**Note 4 Initial Public Offering**

On April 5, 2005, our registration statement on Form S-1 (Registration No. 333-123384) was declared effective and, on that same date, we filed a registration statement on Form S-1 pursuant to Rule 462(b) under the Securities Act (Registration No. 333-123875) (collectively, the Registration Statement). Pursuant to the Registration Statement, as amended, the Company registered 9,775,000 shares of common stock (5,100,000 shares offered by the Company and 4,675,000 shares offered by selling stockholders, including 1,275,000 shares offered by selling stockholders pursuant to the exercise of the underwriters' over-allotment option), par value \$0.01 per share, with an aggregate offering price of \$185,725. On April 11, 2005, the Company and the selling stockholders completed the sale of 9,775,000 shares of common stock to the public at a price of \$19.00 per share and the offering was completed. The Company did not receive any proceeds from the sale of shares by the selling stockholders. UBS Securities LLC, Jefferies & Company, Inc., CIBC World Markets Corp. and LaSalle Debt Capital Markets acted as underwriters for the offering. The stock offering resulted in gross proceeds to the Company of \$96,900. Estimated expenses related to the offering are as follows: \$6,783 for underwriting discounts and commissions and \$4,808 for other expenses, for total estimated expenses of \$11,591. None of the expenses resulted in direct or indirect payments to any of our directors, officers or their associates, to persons owning 10% or more of our common stock or to any of our affiliates. We received net proceeds of approximately \$85,309 in the offering.

As of June 30, 2005, the proceeds of the offering and available cash were used as follows: \$48,361 was used for the repayment of the Senior Notes, \$34,963 was used for payment under the rights to additional acquisition consideration, \$13,000 was used for the redemption of the redeemable preferred stock, \$5,371 was used for the repayment of the term loan, \$5,232 was used for the repayment of the industrial revenue bonds and \$900 was used for payments related to the termination of management services and other agreements. In conjunction with these payments, early termination fees of \$110 and a write-off of deferred financing costs of \$439 were recorded in April 2005 related to the term loan repayment. In addition, in April 2005, we recorded charges of \$766 related to unamortized discount on the senior notes and \$4,617 related to the rights to additional acquisition consideration.

**Note 5 Inventories**

Inventories are stated at the lower of first-in, first-out cost or market and include material, labor and manufacturing overhead. Used railcars are stated at the estimated fair market value at date of receipt less a normal profit margin. The components of inventories are as follows:

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|  | <b>June 30,<br/>2005</b> | <b>December 31,<br/>2004</b> |
|--|--------------------------|------------------------------|
|  | <u>          </u>        | <u>          </u>            |
| Raw materials and purchased components | \$                       | \$ 146                       |
| Work in process                        | 51,124                   | 55,304                       |
| Finished new railcars                  | 17,802                   | 14,386                       |
| Used railcars held for sale            | 1,193                    | 3,382                        |
|  | <u>          </u>        | <u>          </u>            |
| <b>Total inventories</b>               | <b>\$ 70,119</b>         | <b>\$ 73,218</b>             |
|  | <u>          </u>        | <u>          </u>            |

**Table of Contents****FreightCar America, Inc.****Notes to Condensed Consolidated Financial Statements****(Unaudited)***(In thousands except share and per share data)***Note 6 Property, Plant and Equipment**

Property, plant and equipment consists of the following:

|   | <b>June 30,</b>   | <b>December 31,</b> |
|---|-------------------|---------------------|
|   | <b>2005</b>       | <b>2004</b>         |
|   | <u>          </u> | <u>          </u>   |
| Land  | \$ 909            | \$ 909              |
| Buildings and improvements  | 25,432            | 24,189              |
| Machinery and equipment   | 37,007            | 33,571              |
|   | <u>          </u> | <u>          </u>   |
| Cost of buildings, improvements, machinery and equipment  | 62,439            | 57,760              |
| Less: Accumulated depreciation and amortization   | (38,441)          | (35,009)            |
|   | <u>          </u> | <u>          </u>   |
| Buildings, improvements, machinery and equipment net of accumulated depreciation and amortization | 23,998            | 22,751              |
| Construction in process   | 1,229             | 539                 |
|   | <u>          </u> | <u>          </u>   |
| Total property, plant and equipment, net  | <u>\$ 26,136</u>  | <u>\$ 24,199</u>    |

**Note 7 Goodwill and Intangible Assets**

In June 2001, the Financial Accounting Standards Board ( FASB ) issued SFAS No. 142, *Goodwill and Other Intangible Assets*, which became effective for the Company on January 1, 2002. This standard requires that goodwill and intangible assets with indefinite useful lives shall not be amortized but shall be tested for impairment at least annually by comparing the fair value of the asset to its related carrying value.

The Company performs the goodwill impairment test required by SFAS No. 142 as of January 1 of each year. The valuation uses a combination of methods to determine the fair value of the Company (which consists of one reporting unit) including prices of comparable businesses, a present value technique and recent transactions involving businesses similar to the Company. There was no adjustment required based on the annual impairment tests for 2004 and 2005.



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Intangible assets consist of the following:

|  | <b>June 30,<br/>2005</b> | <b>December 31,<br/>2004</b> |
|--|--------------------------|------------------------------|
|  | <u>          </u>        | <u>          </u>            |
| Patents                                  | \$ 13,097                | \$ 13,097                    |
| Accumulated amortization                 | (6,539)                  | (6,244)                      |
|  | <u>          </u>        | <u>          </u>            |
| Patents, net of accumulated amortization | 6,558                    | 6,853                        |
| Pension intangible asset                 | 6,784                    | 6,784                        |
|  | <u>          </u>        | <u>          </u>            |
| <b>Total intangible assets</b>           | <b>\$ 13,342</b>         | <b>\$ 13,637</b>             |
|  | <u>          </u>        | <u>          </u>            |

Patents are being amortized over their remaining legal life from the date of acquisition on a straight-line method. The weighted average remaining life of the Company's patents is 12 years. Amortization expense related to patents, which is included in cost of sales, was \$148 and \$148 for the three months ended June 30, 2005 and 2004, respectively, and \$295 and \$295 for the six months ended June 30, 2005 and 2004, respectively. The Company estimates amortization expense for each of the five years in the period ending December 31, 2009 will be approximately \$590.

**Table of Contents****FreightCar America, Inc.****Notes to Condensed Consolidated Financial Statements****(Unaudited)***(In thousands except share and per share data)***Note 8 Product Warranties**

The Company establishes a warranty reserve for new railcar sales at the time of sale, estimates the amount of the warranty accrual for new railcars sold based on the history of warranty claims for the type of railcar and adjusts the reserve for significant known claims in excess of established reserves.

Warranty terms are based on the negotiated railcar sales contracts and typically are for periods of one to five years. Historically, the majority of warranty claims occur in the first three years of the warranty period. The changes in the warranty reserve for the three and six months ended June 30, 2005 and 2004 are as follows:

|  | <b>Three Months Ended</b> |                 | <b>Six Months Ended</b> |                 |
|--|---------------------------|-----------------|-------------------------|-----------------|
|  | <b>June 30,</b>           |                 | <b>June 30,</b>         |                 |
|  | <b>2005</b>               | <b>2004</b>     | <b>2005</b>             | <b>2004</b>     |
| <b>Balance at the beginning of the period</b>      | \$ 6,269                  | \$ 5,274        | \$ 5,964                | \$ 5,324        |
| Warranties issued during the period                | 1,269                     | 596             | 2,139                   | 1,165           |
| Reductions for payments, cost of repairs and other | (1,076)                   | (143)           | (1,641)                 | (762)           |
| <b>Balance at the end of the period</b>            | <b>\$ 6,462</b>           | <b>\$ 5,727</b> | <b>\$ 6,462</b>         | <b>\$ 5,727</b> |

**Note 9 Borrowing Arrangements**

Total debt consists of the following:

|   | <b>June 30,</b> | <b>December 31,</b> |
|---|-----------------|---------------------|
|   | <b>2005</b>     | <b>2004</b>         |
| Senior Notes (net of unamortized discount of \$0 and \$1,071) | \$              | \$ 23,929           |
| PIK Notes   |                 | 21,179              |

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|  |              |                  |
|--|--------------|------------------|
| Term Loan  |              | 5,750            |
| Short-term Industrial Revenue Bonds                      |              | 5,200            |
| Capital lease  | 36           |                  |
|  | <u>36</u>    | <u>56,058</u>    |
| Total debt   | 36           | 56,058           |
| Current portion and short-term debt                      | (8)          | (7,200)          |
|  | <u>(8)</u>   | <u>(7,200)</u>   |
| Long-term debt, less current portion and short-term debt | \$ 28        | \$ 48,858        |
|  | <u>\$ 28</u> | <u>\$ 48,858</u> |

Following the completion of the Company's initial public offering on April 11, 2005, all outstanding amounts due under the Company's 15% Senior Notes due June 30, 2008 (the "Senior Notes"), the additional Senior Notes issued in payment of interest on the Senior Notes (the "PIK Notes") and the Company's term loan having an original principal amount of \$9,000 (the "Term Loan") were repaid. All amounts due under the Company's variable demand industrial revenue bonds due 2010 (the "Industrial Revenue Bonds") were repaid on May 26, 2005. Early termination fees of \$110 and a write-off of deferred financing costs of \$439, each related to the Term Loan repayment, were recorded in operations in April 2005. In addition, a charge of \$766 related to unamortized discount on the Senior Notes was recorded in operations in April 2005.

### **New Revolving Credit Facility**

On April 11, 2005, the Company entered into an Amended and Restated Credit Agreement (the "new revolving credit agreement") with LaSalle Bank National Association providing for the terms of the Company's new revolving credit facility (the "new revolving credit facility"). The proceeds of the new revolving credit facility will be used to finance the working capital requirements of the Company through direct borrowings and the issuance of stand-by letters of credit. The new revolving credit facility has a total commitment of the lesser of (i) \$50 million or (ii) an amount equal to a percentage of eligible accounts receivable plus a percentage of eligible finished inventory plus a percentage of semi-finished inventory with a sub-facility for letters of credit totaling \$30 million. The new revolving credit facility has a three-year term ending on April 11, 2008 and bears interest at a rate of LIBOR plus an applicable margin of between 1.75% and 3.00% depending on the Company's ratio of consolidated senior debt to consolidated EBITDA (as defined in the new revolving credit agreement). Borrowings under the new revolving credit facility are collateralized by substantially all of the assets of the

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**FreightCar America, Inc.**

**Notes to Condensed Consolidated Financial Statements**

**(Unaudited)**

*(In thousands except share and per share data)*

Company. The new revolving credit facility has both affirmative and negative covenants, including, without limitation, a maximum senior debt leverage ratio, a maximum total debt leverage ratio, a minimum interest coverage ratio, a minimum tangible net worth and limitations on capital expenditures and dividends. As of June 30, 2005, the Company had the ability to borrow \$38.1 million under this facility.

**Note 10 Contingencies**

On November 15, 2004, our subsidiary, Johnstown America Corporation, or JAC, entered into a settlement agreement with The United Steelworkers of America, or the USWA, which represents our unionized employees in our Johnstown, Pennsylvania manufacturing facility. The settlement agreement sets forth the terms of a new 42-month collective bargaining agreement with our unionized employees at our Johnstown facility. The settlement agreement also provides for the resolution of charges made by the USWA against us with the National Labor Relations Board, or NLRB, certain related class action lawsuits, which we refer to as the Deemer and Britt lawsuits, and certain workplace grievance matters. Under the terms of the settlement agreement, the plaintiffs in the Deemer and Britt lawsuits were to withdraw their lawsuits with prejudice and the USWA agreed to request that the NLRB approve the withdrawal of all NLRB charges against us. In addition, the settlement agreement limits our future liabilities for health care coverage and pensions for retired unionized employees at our Johnstown facility. The settlement was conditioned on, among other things: (1) ratification of the settlement by the union members; (2) approval of the settlement by class members in the Deemer lawsuit and the Britt lawsuit; (3) approval by the NLRB of the settlement and the withdrawal of NLRB charges filed against us; and (4) approval by the United States District Court for the Western District of Pennsylvania of the settlement (except with respect to JAC's agreement to pay future health care and pension benefits following the effective date, which obligation is not contingent on court approval) and the withdrawal of the Britt lawsuit and the Deemer lawsuit. The settlement was ratified by the union members on November 15, 2004. In February 2005, the NLRB approved the settlement and withdrew the charges against us. On May 4, 2005, the United States District Court for the Western District of Pennsylvania approved the settlement. Accordingly, all of the conditions to the effectiveness of the settlement were met as of May 4, 2005.

The Company is involved in various warranty and repair claims and related threatened and pending legal proceedings with its customers in the normal course of business. In the opinion of management, the Company's potential losses in excess of the accrued warranty provisions, if any, are not expected to be material to the Company's financial position, results of operations or cash flows.

**Note 11 Employee Benefit Plans**

The Company has qualified, defined benefit pension plans covering substantially all of the employees of JAC, Operations, and JAIX. The Company uses a measurement date of December 31 for all of its employee benefit plans. Contributions to the plans are made based upon the minimum amounts required under the Employee Retirement Income Security Act. The plans' assets are held by independent trustees and consist primarily of equity and fixed income securities.

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The Company also provides certain postretirement health care benefits for certain of its salaried and hourly retired employees. Employees may become eligible for health care benefits if they retire after attaining specified age and service requirements. These benefits are subject to deductibles, co-payment provisions and other limitations.

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The components of net periodic benefit cost for the three months and six months ended June 30, 2005 and 2004 are as follows:

|                                       | Three Months Ended |               | Six Months Ended |                 |
|---------------------------------------|--------------------|---------------|------------------|-----------------|
|                                       | June 30,           |               | June 30,         |                 |
|                                       | 2005               | 2004          | 2005             | 2004            |
| <b>Pension Benefits</b>               |                    |               |                  |                 |
| Service cost                          | \$ 511             | \$ 364        | \$ 1,022         | \$ 728          |
| Interest cost                         | 600                | 422           | 1,200            | 844             |
| Expected return on plan assets        | (386)              | (300)         | (772)            | (600)           |
| Amortization of prior service cost    | 158                | 18            | 316              | 36              |
| Amortization of unrecognized net loss | 143                | 150           | 286              | 300             |
|                                       | <u>\$ 1,026</u>    | <u>\$ 654</u> | <u>\$ 2,052</u>  | <u>\$ 1,308</u> |
| <b>Postretirement Benefit Plan</b>    |                    |               |                  |                 |
| Service cost                          | \$ 201             | \$ 97         | \$ 402           | \$ 271          |
| Interest cost                         | 742                | 200           | 1,484            | 583             |
| Amortization of prior service cost    | 450                | (9)           | 900              | (23)            |
| Amortization of unrecognized net loss | 111                | 66            | 222              | 186             |
|                                       | <u>\$ 1,504</u>    | <u>\$ 354</u> | <u>\$ 3,008</u>  | <u>\$ 1,017</u> |

The Company made contributions to the Company's defined benefit pension plan of \$961 and \$1,405, respectively, for the three months ended June 30, 2005 and 2004 and \$1,660 and \$2,190, respectively, for the six months ended June 30, 2005 and 2004. Total contributions to the Company's defined benefit pension plan in 2005 are expected to be approximately \$4,049. The Company made payments to the Company's postretirement benefit plan of approximately \$708 and \$136, respectively, for the three months ended June 30, 2005 and 2004 and \$1,416 and \$272, respectively, for the six months ended June 30, 2005 and 2004. Total payments to the Company's postretirement benefit plan in 2005 are expected to be approximately \$2,832.

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The Company also maintains qualified defined contribution plans which provide benefits to employees based on employee contributions, years of service, employee earnings or certain subsidiary earnings, with discretionary contributions allowed. Expenses related to these plans were \$284 and \$191 for the three months ended June 30, 2005 and 2004, respectively, and \$537 and \$371 for the six months ended June 30, 2005 and 2004, respectively.

### **Note 12 Redeemable Preferred Stock, Preferred Stock and Common Stock**

On April 1, 2005, our former parent company, also named FreightCar America, Inc., merged with and into the Company, then a newly formed, wholly owned subsidiary of the former parent company and then named FCA Acquisition Corp. The Company is authorized to issue 50 million shares of common stock with a par value of \$0.01 per share, and 2.5 million shares of preferred stock with a par value of \$0.01 per share. As a result of the merger, all of the holders of the issued and outstanding shares of Class A voting common stock and Class B non-voting common stock of the former parent company received, in exchange for their shares, such number of shares of the common stock of the Company equal to the aggregate number of their shares multiplied by 550. The holders of the issued and outstanding shares of Series A voting preferred stock and Series B non-voting preferred stock of the former parent company received, in exchange for their shares and on a one-for-one basis, shares of the Company's Series A voting preferred stock and Series B non-voting preferred stock with identical terms (except that the par value of the Series A voting preferred stock and the Series B non-voting preferred stock was changed from \$500 per share to \$0.01 per share and the liquidation preference of the Series A voting preferred stock

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and the Series B non-voting preferred stock was changed to include the value of the accrued liquidation preference of the pre-merger shares of preferred stock). Immediately following the merger, the Company, which was the surviving corporation in the merger, changed its name to FreightCar America, Inc. All per common share amounts and common shares outstanding have been restated for all periods presented to reflect the merger described above. Authorized shares have not been restated.

The components of redeemable preferred stock, preferred stock and common stock are as follows:

|   | <b>June 30,<br/>2005</b> | <b>December 31,<br/>2004</b> |
|---|--------------------------|------------------------------|
|   | <u>          </u>        | <u>          </u>            |
| <b>Redeemable Preferred Stock</b>   |                          |                              |
| Preferred stock, Series A voting (pre-merger company), \$500 par value, 100,000 shares authorized, 8,660 shares issued and outstanding at December 31, 2004 (liquidation preference of \$8,486)     | \$                       | \$ 8,486                     |
| Preferred stock, Series B non-voting (pre-merger company), \$500 par value, 100,000 shares authorized, 3,840 shares issued and outstanding at December 31, 2004 (liquidation preference of \$3,696) |                          | 3,696                        |
|   | <u>          </u>        | <u>          </u>            |
| Total redeemable preferred stock  | <u>\$</u>                | <u>\$ 12,182</u>             |
| <b>Preferred Stock</b>  |                          |                              |
| Preferred stock, \$0.01 par value; 2,500,000 shares authorized (100,000 shares each designated as Series A voting and Series B non-voting); 0 shares issued and outstanding at June 30, 2005        | \$                       | \$                           |
|   | <u>          </u>        | <u>          </u>            |
| Total preferred stock   | <u>\$</u>                | <u>\$</u>                    |
| <b>Common Stock</b>   |                          |                              |
| Common stock, \$0.01 par value, 50,000,000 shares authorized, 12,532,700 shares issued and outstanding at June 30, 2005   | \$ 125                   | \$                           |
| Common stock, Class A voting (pre-merger company), \$0.01 par value, 100,000 shares authorized, 6,138,000 shares issued and outstanding at December 31, 2004  |                          |                              |
| Common stock, Class B non-voting (pre-merger company), \$0.01 par value, 100,000 shares authorized, 737,000 shares issued and outstanding at December 31, 2004                                      |                          |                              |
|   | <u>          </u>        | <u>          </u>            |
| Total common stock  | <u>\$ 125</u>            | <u>\$</u>                    |



**Note 13 Comprehensive Income**

Comprehensive income (loss) is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from non-owner sources. Comprehensive income (loss) consists of net income (loss) and the minimum pension liability adjustment, which is shown net of tax. Comprehensive income (loss) was \$9,145 and \$(4,046) for the three months ended June 30, 2005 and 2004, respectively, and \$11,059 and \$(8,021) for the six months ended June 30, 2005 and 2004, respectively.

**Note 14 Earnings Per Share**

Basic earnings (loss) per share are calculated as net income (loss) attributable to common stockholders divided by the weighted-average number of common shares outstanding during the respective period. Diluted earnings (loss) per share are

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calculated by dividing net income (loss) attributable to common stockholders by the weighted-average number of shares outstanding plus dilutive potential common shares outstanding during the year.

The board of directors of the Company's predecessor company approved the grant of options to purchase 1,014 units, each unit consisting of 550 shares of Class A voting common stock and one share of Series A voting preferred stock (a Unit). The grant of these options, which have an exercise price of \$0.01 per Unit, became effective on December 23, 2004 and all of these were exercised during the first quarter of 2005.

The weighted average common shares outstanding are computed as follows:

|  | Three Months Ended |           | Six Months Ended |           |
|--|--------------------|-----------|------------------|-----------|
|  | June 30,           |           | June 30,         |           |
|  | 2005               | 2004      | 2005             | 2004      |
| Weighted average common shares outstanding         | 11,972,260         | 6,875,000 | 9,715,020        | 6,875,000 |
| Dilutive effect of employee stock options          | 16,480             |           | 8,286            |           |
| Weighted average diluted common shares outstanding | 11,988,740         | 6,875,000 | 9,723,306        | 6,875,000 |

**Note 15 Stock-Based Compensation**

On April 11, 2005, the Company adopted a stock option plan titled "The 2005 Long-Term Incentive Plan" (the Plan) under which certain officers and key employees may be granted options to purchase shares of the Company's common stock. The Company accounts for the Plan under the recognition and measurement principles of APB Opinion No. 25, *Accounting for Stock Issued to Employees*, and its related interpretations. As a result, the Company recognizes compensation expense based on the intrinsic value or the difference between the exercise price and the fair market value at the date of grant. The following table illustrates the effect on net earnings (loss) attributable to common stockholders and earnings (loss) per share attributable to common stockholders if the Company had applied the fair value recognition provisions of FASB No. 123, *Accounting for Stock-Based Compensation*, to stock-based compensation.

Three Months Ended                      Six Months Ended

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|   | June 30,        |                   | June 30,         |                   |
|---|-----------------|-------------------|------------------|-------------------|
|   | 2005            | 2004              | 2005             | 2004              |
| Net earnings (loss) attributable to common stockholders, as reported  | \$ 9,114        | \$ (4,312)        | \$ 10,748        | \$ (8,553)        |
| Add: Stock-based employee compensation expense determined under the intrinsic value method, net of tax              | 44              |                   | 44               |                   |
| Deduct: Stock-based employee compensation expense determined under the fair value method, net of tax <sup>(1)</sup> | (143)           |                   | (143)            |                   |
| Net earnings (loss) attributable to common stockholders, pro forma  | <u>\$ 9,015</u> | <u>\$ (4,312)</u> | <u>\$ 10,649</u> | <u>\$ (8,553)</u> |
| Net income (loss) per common share attributable to common stockholders basic and diluted                            |                 |                   |                  |                   |
| As reported   | <u>\$ 0.76</u>  | <u>\$ (0.63)</u>  | <u>\$ 1.11</u>   | <u>\$ (1.24)</u>  |
| Pro forma   | <u>\$ 0.75</u>  | <u>\$ (0.63)</u>  | <u>\$ 1.10</u>   | <u>\$ (1.24)</u>  |

<sup>(1)</sup> Compensation expense was determined based on the Black-Scholes option pricing model using the following assumptions: dividend yield of 0.5%; risk-free interest rates ranging between 4.17% and 4.24%; expected volatility of 35%; and expected lives of the options ranging between 5.5 and 6.5 years.

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**FreightCar America, Inc.**

**Notes to Condensed Consolidated Financial Statements**

**(Unaudited)**

*(In thousands except share and per share data)*

**Note 16 Operating Segment and Concentration of Sales**

The Company's operations consist of a single reporting segment. The Company's sales include new railcars, used railcars, leasing and other. New railcar sales amounted to \$226,553 and \$92,751 during the three months ended June 30, 2005 and 2004, respectively, and \$389,078 and \$178,280 during the six months ended June 30, 2005 and 2004, respectively. Sales of used railcars were \$2,017 and \$0 during the three months ended June 30, 2005 and 2004, respectively, and \$2,017 and \$0 during the six months ended June 30, 2005 and 2004, respectively. Leasing revenues amounted to \$20 and \$638 during the three months ended June 30, 2005 and 2004, respectively, and \$41 and \$1,271 during the six months ended June 30, 2005 and 2004, respectively. Other sales amounted to \$2,124 and \$1,478 during the three months ended June 30, 2005 and 2004, respectively, and \$5,383 and \$4,262 during the six months ended June 30, 2005 and 2004, respectively. Foreign sales, which are included in railcar sales, totaled \$34,179 and \$4,748 for the three months ended June 30, 2005 and 2004, respectively, and \$54,470 and \$4,748 for the six months ended June 30, 2005 and 2004, respectively.

Due to the nature of its operations, the Company is subject to significant risks related to concentration of business with a few customers. Sales to three customers accounted for 19%, 18% and 14%, respectively, of revenues for the three months ended June 30, 2005, and 30%, 15% and 15%, respectively, of revenues for the same period in 2004. Sales to three customers accounted for 19%, 16% and 10%, respectively, of revenues for the six months ended June 30, 2005, and 21%, 16% and 12%, respectively, of revenues for the same period in 2004.

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### **ITEM 2. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

#### **OVERVIEW**

*You should read the following discussion in conjunction with our condensed consolidated financial statements and related notes included elsewhere in this quarterly report on Form 10-Q/A. This discussion contains forward-looking statements that are based on management's current expectations, estimates and projections about our business and operations. Our actual results may differ materially from those currently anticipated and expressed in such forward-looking statements. See Cautionary Statement Regarding Forward-Looking Statements.*

We are the leading manufacturer of aluminum-bodied railcars in North America, based on the number of railcars delivered, and we believe that we are the leading North American manufacturer of coal-carrying railcars. We also refurbish and rebuild railcars and sell forged, cast and fabricated parts for all of the railcars that we produce, as well as those manufactured by others. We have chosen not to offer significant railcar leasing services, as we have made a strategic decision not to compete with our customers that provide railcar leasing services, which represent a significant portion of our revenue. Our primary customers are financial institutions, railroads and shippers.

Our manufacturing facilities are located in Danville, Illinois, Johnstown, Pennsylvania and Roanoke, Virginia. Our new Roanoke facility has the capability to manufacture a variety of types of railcars, including aluminum-bodied and steel-bodied railcars.

In the three months ended June 30, 2005, we delivered 3,383 new railcars, compared to our delivery of 1,596 new railcars in the three months ended June 30, 2004. Our total backlog of firm orders for new railcars almost doubled, increasing from 8,419 railcars as of June 30, 2004 to 15,867 railcars as of June 30, 2005. The backlog as of June 30, 2004 represented estimated sales of \$540 million, while the backlog as of June 30, 2005 represents estimated sales of \$1,063 million. Approximately 98% of our backlog as of June 30, 2005 consisted of coal-carrying railcars.

Prices for steel and aluminum, the primary raw material components of our railcars, remain at historically high levels, while surcharges on steel and steel components have declined since the fourth quarter of 2004. Notwithstanding fluctuations in the cost of raw materials, substantially all of the contracts covering our current backlog include provisions that allow for variable pricing to protect us against future changes in the cost of raw materials. We were able to pass on increased material costs to our customers with respect to approximately 94% of our railcar deliveries in the second quarter. At June 30, 2005, there remains only one fixed price contract under which deliveries have not yet been completed, and we expect to deliver the remaining railcars under this contract by the end of the third quarter.

With respect to the supply of components, the railcar industry continues to be adversely impacted by shortages of castings and wheels as a result of reorganization and consolidation of domestic suppliers, increased demand for new railcars and railroad maintenance requirements. Currently, we believe that these shortages will not significantly impact our ability to meet our delivery requirements as supply of these components will be sourced worldwide.

The North American railcar market is highly cyclical and the trends in the railcar industry are closely related to the overall level of economic activity. In an improving economy, railroads and utilities should continue to upgrade their fleets of aging steel-bodied coal-carrying railcars to lighter and more durable aluminum-bodied coal-carrying railcars. We believe that the near-term outlook for railcar demand is positive due to the current U.S. economic recovery which we believe is resulting in increased rail traffic, the replacement of aging railcar fleets, an improved outlook for U.S. steel manufacturers and an increasing demand for electricity. We also believe that the near-term outlook for our business is positive, based on the increased demand for railcars, our current backlog, our product portfolio and our operational efficiency in manufacturing

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railcars. We believe that the demand for our coal-carrying railcars will remain strong, as an improving economy typically leads to increased demand for electricity. In response to the current demand for our railcars, we are exploring opportunities to increase our production capacity. However, U.S. economic conditions may not continue to improve in the future or result in a sustained economic recovery, and our business is subject to significant other risks that may cause our current positive outlook to change.

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### **RECENT DEVELOPMENTS**

In April 2005, we completed an initial public offering of shares of our common stock. In connection with the offering, we offered and sold 5,100,000 shares of our common stock and certain selling stockholders offered and sold 4,675,000 shares (including 1,275,000 shares following the exercise of the underwriters' over-allotment option) at a price of \$19.00 per share. Our net proceeds from the initial public offering, after deducting underwriting discounts, commissions and estimated offering-related expenses payable by us, were approximately \$85.3 million. We used the net proceeds from the offering and our available cash to repay our existing indebtedness, redeem all of our outstanding redeemable preferred stock, pay amounts due under the rights to additional acquisition consideration, pay amounts due in connection with the termination of certain management services and other agreements with certain of our stockholders and pay related fees and expenses. See Liquidity and Capital Resources.

On November 15, 2004, our subsidiary, Johnstown America Corporation, or JAC, entered into a settlement agreement, also referred to as the Johnstown labor settlement, with The United Steelworkers of America, or the USWA, which represents our unionized employees in our Johnstown, Pennsylvania manufacturing facility. The settlement agreement sets forth the terms of a new 42-month collective bargaining agreement with our unionized employees at our Johnstown facility. The settlement agreement also provides for the resolution of charges made by the USWA against us with the NLRB, certain related class action lawsuits, which we refer to as the Deemer and Britt lawsuits, and certain workplace grievance matters. Under the terms of the settlement agreement, the plaintiffs in the Deemer and Britt lawsuits were to withdraw their lawsuits with prejudice and the USWA agreed to request that the NLRB approve the withdrawal of all NLRB charges against us. In addition, the settlement agreement limits our future liabilities for health care coverage and pensions for retired unionized employees at our Johnstown facility. The settlement was conditioned on, among other things: (1) ratification of the settlement by the union members; (2) approval of the settlement by class members in the Deemer lawsuit and the Britt lawsuit; (3) approval by the NLRB of the settlement and the withdrawal of NLRB charges filed against us; and (4) approval by the United States District Court for the Western District of Pennsylvania of the settlement (except with respect to JAC's agreement to pay future health care and pension benefits following the effective date, which obligation is not contingent on court approval) and the withdrawal of the Britt lawsuit and the Deemer lawsuit. The settlement was ratified by the union members on November 15, 2004. In February 2005, the NLRB approved the settlement and withdrew the charges against us. On May 4, 2005, the United States District Court for the Western District of Pennsylvania approved the settlement. Accordingly, all of the conditions to the effectiveness of the settlement were met as of May 4, 2005.

### **RESULTS OF OPERATIONS**

#### **Three Months Ended June 30, 2005 compared to Three Months Ended June 30, 2004**

##### **Sales**

Our sales for the three months ended June 30, 2005 were \$230.7 million as compared to \$94.9 million for the three months ended June 30, 2004, representing an increase of \$135.8 million. This increase was primarily due to our delivery of an additional 1,787 railcars, a 112% increase, in the three months ended June 30, 2005, compared to the same period in 2004. The increased volume of railcar deliveries reflects increased demand for our coal-carrying railcars. Deliveries of our BethGon II and AutoFlood III coal-carrying railcars comprised 86% of our total railcar deliveries for the three months ended June 30, 2005.

##### **Gross Profit**

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Gross profit for the three months ended June 30, 2005 was \$24.2 million as compared to \$1.9 million for the three months ended June 30, 2004, representing an increase of \$22.3 million. The gross profit margin for the three months ended June 30, 2005 was 10.5%, as compared to 2.0% for the comparable period in 2004. This increase was primarily due to our increased sales volume, an improved market pricing environment, and the impact of the pass-through of increases in raw material costs to our customers with respect to a substantial majority of our railcar deliveries. During the three months ended June 30, 2004, our gross profit was adversely impacted by higher manufacturing costs of approximately \$3.8 million associated with increased material, labor and other costs related to a contract with TTX Company for box cars. For the three months ended June 30, 2005, we were able to pass on



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increases in raw material costs to our customers with respect to 94% of our railcar deliveries. Further, our gross profit margin benefited from higher operating leverage and productivity, including the successful launch of production at our Roanoke, Virginia facility, which delivered its first set of railcars in June 2005.

### **Selling, General and Administrative Expenses**

Selling, general and administrative expenses for the three months ended June 30, 2005 were \$7.7 million as compared to \$3.8 million for the three months ended June 30, 2004, representing an increase of \$3.9 million. Selling, general and administrative expenses were 3.3% of our sales for the three months ended June 30, 2005 and 4.0% of our sales for the three months ended June 30, 2004. The increase in selling, general and administrative expenses is primarily attributable to increased expenses of \$0.8 million relating to our employee incentive program, charges related to the termination of management services and other agreements of \$0.9 million, and \$0.4 million of expenses attributable to the implementation of controls and procedures applicable to public companies. In addition, selling, general and administrative expenses for the three months ended June 30, 2005 include \$0.3 million of costs relating to operations at our Roanoke, Virginia facility.

### **Interest Expense**

Net interest expense for the three months ended June 30, 2005 was \$7.1 million as compared to \$3.6 million for the three months ended June 30, 2004, representing an increase of \$3.5 million. The increase in interest expense is primarily attributable to the accretion of additional interest on the rights to additional acquisition consideration prior to the payment of the additional acquisition consideration with the proceeds of the initial public offering. Interest expense and related accretion on the rights to additional acquisition consideration, including the one-time final payment resulting from the initial public offering, totaled \$4.8 million for the three months ended June 30, 2005, while the interest expense on the rights to additional acquisition consideration for the three months ended June 30, 2004 was \$1.4 million. Related-party interest expense and third-party interest expense for the three months ended June 30, 2005 were \$1.3 million and \$0.7 million, respectively, compared with \$1.7 million and \$0.4 million for the same period in 2004.

### **Income Taxes**

The provision for income taxes was \$0.1 million for the three months ended June 30, 2005, as compared to an income tax benefit of \$1.5 million for the three months ended June 30, 2004. The effective tax rates for the three months ended June 30, 2005 and 2004 were 1.6% and 26.4%, respectively. The effective tax rate for the three months ended June 30, 2005 was lower than the statutory U.S. federal income tax rate of 35% due to the addition of a 1.7% blended state rate, less a 33.0% effect for previously non-deductible interest expense on the rights to additional acquisition consideration which became a deductible expense for income tax purposes upon payment of the additional acquisition consideration and a 2.1% effect for other permanent differences. The effective tax rate for the three months ended June 30, 2004 was lower than the statutory U.S. federal income tax rate of 35% due to the addition of a 2.5% blended state rate, less an 8.6% effect for then-nondeductible interest expense on the rights to additional acquisition consideration and a 2.5% effect for other permanent differences.

### **Net Income**

As a result of the foregoing, net income was \$9.1 million for the three months ended June 30, 2005, reflecting an increase of \$13.1 million from the net loss of \$4.0 million for the three months ended June 30, 2004. Net income attributable to common stockholders increased to \$9.1 million

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for the three months ended June 30, 2005 as compared to a net loss of \$4.3 million attributable to common stockholders for the same period in 2004. For the three months ended June 30, 2005 our basic and diluted net income per share was \$0.76 on basic and diluted shares outstanding of 11,972,260 and 11,988,740, respectively. For the same period of the prior year, our basic and diluted net loss per share was \$0.63 on basic and diluted shares outstanding of 6,875,000.

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### **Six Months Ended June 30, 2005 compared to Six Months Ended June 30, 2004**

#### **Sales**

Our sales for the six months ended June 30, 2005 were \$396.5 million as compared to \$183.8 million for the six months ended June 30, 2004, representing an increase of \$212.7 million. This increase was primarily due to our delivery of an additional 2,576 railcars, an 82% increase, in the six months ended June 30, 2005, compared to the same period in 2004. The increased volume of railcar deliveries reflects increased demand for our coal-carrying railcars. Deliveries of our BethGon II and AutoFlood III coal-carrying railcars comprised 81% of our total railcar deliveries for the six months ended June 30, 2005.

#### **Gross Profit**

Gross profit for the six months ended June 30, 2005 was \$37.5 million as compared to \$2.5 million for the six months ended June 30, 2004, representing an increase of \$35.0 million. This increase was primarily due to our increased sales volume, an improved market pricing environment, operating leverage attributed to higher volume and the impact of the pass-through of increases in raw material costs to our customers with respect to a majority of our railcar deliveries. During the six months ended June 30, 2005 and 2004, our gross profit was adversely impacted by higher manufacturing costs of approximately \$1.5 million and \$6.5 million, respectively, associated with increased material, labor and other costs related to a contract with TTX Company for box cars. For the six months ended June 30, 2005, we were able to pass on increases in raw material costs to our customers with respect to 92% of our railcar deliveries.

#### **Selling, General and Administrative Expenses**

Selling, general and administrative expenses for the six months ended June 30, 2005 were \$14.2 million as compared to \$7.0 million for the six months ended June 30, 2004, representing an increase of \$7.2 million. Selling, general and administrative expenses were 3.6% of our sales for the six months ended June 30, 2005 and 3.8% of our sales for the six months ended June 30, 2004. The increase in selling, general and administrative expenses is primarily attributable to increased expenses of \$1.6 million relating to our employee incentive program, charges related to the termination of management services and other agreements of \$0.9 million, an additional charge of \$0.4 million relating to a change in estimate of the charge resulting from the Johnstown labor settlement, and \$0.4 million of expenses attributable to the implementation of controls and procedures applicable to public companies. In addition, selling, general and administrative expenses for the six months ended June 30, 2005 include \$0.5 million of costs relating to operations at our Roanoke, Virginia facility.

#### **Interest Expense**

Net interest expense for the six months ended June 30, 2005 was \$10.9 million as compared to \$6.7 million for the six months ended June 30, 2004, representing an increase of \$4.2 million. The increase in interest expense is primarily attributable to the accretion of additional interest on the rights to additional acquisition consideration prior to the payment of the additional acquisition consideration with the proceeds of the initial public offering. Interest expense and related accretion on the rights to additional acquisition consideration, including the one-time final payment resulting from the initial public offering, totaled \$6.4 million for the six months ended June 30, 2005, while the interest expense on the rights to additional acquisition consideration for the six months ended June 30, 2004 was \$2.6 million. Related-party interest expense and third-party interest expense for the six months ended June 30, 2005 were \$3.3 million and \$1.0 million, respectively, compared with \$3.4 million and \$0.5

million for the same period in 2004.

### **Income Taxes**

The provision for income taxes was \$1.4 million for the six months ended June 30, 2005, as compared to an income tax benefit of \$3.2 million for the six months ended June 30, 2004. The effective tax rates for the six months ended June 30, 2005 and 2004 were 11.4% and 28.5%, respectively. The effective tax rate for the six months ended June 30, 2005 was lower than the statutory U.S. federal income tax rate of 35% due to the addition of a 2.0% blended state rate, less a 24.1% effect for previously non-deductible interest expense on the rights to additional acquisition

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consideration which became deductible for income tax purposes upon payment of the additional acquisition consideration and a 1.5% effect for other permanent differences. The effective tax rate for the six months ended June 30, 2004 was lower than the statutory U.S. federal income tax rate of 35% due to the addition of a 3.0% blended state rate, less an 8.1% effect for then-nondeductible interest expense on the rights to additional acquisition consideration and a 1.4% effect for other permanent differences.

### **Net Income**

As a result of the foregoing, net income was \$11.1 million for the six months ended June 30, 2005, reflecting an increase of \$19.1 million from the net loss of \$8.0 million for the six months ended June 30, 2004. Net income attributable to common stockholders increased to \$10.7 million for the six months ended June 30, 2005 as compared to a net loss of \$8.6 million attributable to common stockholders for the same period in 2004. For the six months ended June 30, 2005 our basic and diluted net income per share was \$1.11 on basic and diluted shares outstanding of 9,751,020 and 9,723,306, respectively. For the same period of the prior year, our basic and diluted net loss per share was \$1.24 on basic and diluted shares outstanding of 6,875,000.

### **LIQUIDITY AND CAPITAL RESOURCES**

Our primary sources of liquidity for the six months ended June 30, 2005 were proceeds from our initial public offering and cash generated from operations. For the six months ended June 30, 2004, our primary source of liquidity was provided by our cash reserves held at the beginning of the period. From the six months ended June 30, 2004 to the six months ended June 30, 2005, we had an increase in net cash provided by operating activities of \$20.9 million. See Cash Flows.

We completed an initial public offering on April 11, 2005 and issued 5.1 million shares at an offering price of \$19.00 per share. Net proceeds from the offering and available cash have been used to, among other things, repay all of our long-term debt with the exception of certain capital leases, redeem all of our outstanding redeemable preferred stock and pay the additional acquisition consideration related to the acquisition of our business in 1999. Our long-term debt in existence immediately prior to our initial public offering consisted of our 15% Senior Notes due June 30, 2008 in the original principal amount of \$25.0 million (the senior notes, which term includes the additional senior notes issued in payment of interest on the senior notes (the PIK notes)), our term loan having an original principal amount of \$9.0 million (the term loan) and our \$5.2 million variable demand industrial revenue bonds due 2010 (the industrial revenue bonds). Immediately upon the completion of the offering, we paid all amounts due under the rights to additional acquisition consideration and the term loan. The amounts due under the senior notes were placed in escrow and, upon expiration of the notice period, were paid on April 26, 2005. In addition, the payoff amount applicable to our industrial revenue bonds was placed in escrow and, upon expiration of the notice period, was paid on May 26, 2005.

As of June 30, 2005, the proceeds of the offering and available cash were used as follows: \$48.4 million was used for the repayment of the senior notes; \$35.0 million was used for payment under the rights to additional acquisition consideration; \$13.0 million was used for the redemption of the redeemable preferred stock; \$5.4 million was used for the repayment of the term loan; \$5.2 million was used for the repayment of the industrial revenue bonds; and \$0.9 million was used for payments related to the termination of management services and other agreements. In conjunction with these payments, early termination fees of \$0.1 million and a write-off of deferred financing costs of \$0.4 million, each related to the term loan repayment, were recorded in April 2005. In addition, in April 2005, we recorded charges of \$0.8 million related to unamortized discount on the senior notes and \$4.6 million related to the additional accretion under the rights to additional acquisition consideration. The effects of the offering and payments noted above resulted in an aggregate pre-tax charge to operations of \$6.8 million in the second quarter of 2005. Additionally, the estimated deferred offering costs of \$4.8 million were recorded as a reduction in additional paid in capital.

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On April 11, 2005, concurrent with the completion of the initial public offering, we entered into an Amended and Restated Credit Agreement (the revolving credit agreement ) providing for the terms of the Company s revolving credit facility (the revolving credit facility ) with LaSalle Bank National Association, as administrative agent, and the lenders party thereto. The revolving credit facility replaced our former \$20.0 million revolving credit facility with LaSalle Bank National Association. The revolving credit facility provides for a \$50.0 million revolving credit

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line, including a letter of credit sub-facility that may not exceed \$30.0 million. The revolving credit facility has a term of three years. Our assets and the assets of our subsidiaries serve as collateral for borrowings under the revolving credit facility. The Borrowing Base, as defined in the revolving credit agreement, is the lesser of the \$50.0 million revolving commitment or an amount equal to a percentage of eligible accounts receivable plus percentages of eligible finished inventory and eligible semi-finished inventory, respectively. Borrowings under the revolving credit facility bear interest at the LIBOR rate plus an applicable margin of between 1.75% and 3.00%, which is determined based on our leverage ratio. We pay a commitment fee of between 0.25% and 0.50% on the unused portion of the revolving credit facility. As of June 30, 2005, we had no outstanding borrowings under the revolving credit facility, we had \$9.0 million in letters of credit under the letter of credit sub-facility and we had the ability to borrow \$38.1 million under the revolving credit facility.

The revolving credit agreement has both affirmative and negative covenants, including, without limitation, a maximum senior debt leverage ratio, a maximum total debt leverage ratio, a minimum interest coverage ratio, a minimum tangible net worth and limitations on capital expenditures and dividends.

For the purpose of calculating interest coverage and leverage ratios under the revolving credit agreement, through September 30, 2005, EBITDA, as defined in such agreement, is adjusted to include up to \$9.2 million in connection with the settlement of labor disputes; non-cash expenses relating to our stock option plan; and losses on a customer contract for boxcars in 2004.

As of June 30, 2005, we no longer had any remaining restricted cash. Restricted cash in the amount of \$13.0 million was released during the three months ended June 30, 2005 as follows: \$7.5 million held as additional collateral under the former revolving credit facility was released when we entered into the new revolving credit agreement; \$1.2 million held in escrow as security for worker's compensation insurance was replaced by a letter of credit; and \$4.3 million held in escrow for a residual support guaranty relating to railcars we sold to a financial institution that are leased by a third-party customer was released by the financial institution.

**Contractual Obligations**

The following table summarizes our contractual obligations as of June 30, 2005 and the effect that these obligations and commitments would be expected to have on our liquidity and cash flow in future periods:

| <b>Contractual Obligations</b> | <b>Payments Due by Period</b> |                  |                      |                      |                          |
|--------------------------------|-------------------------------|------------------|----------------------|----------------------|--------------------------|
|                                | <b>Total</b>                  | <b>1 Year</b>    | <b>2-3<br/>Years</b> | <b>4-5<br/>Years</b> | <b>After<br/>5 Years</b> |
|                                | <i>(In thousands)</i>         |                  |                      |                      |                          |
| Long-term debt                 | \$ 36                         | \$ 8             | \$ 19                | \$ 9                 | \$                       |
| Operating leases               | 10,212                        | 1,232            | 2,175                | 2,028                | 4,777                    |
| Aluminum purchases             | 67,013                        | 67,013           |                      |                      |                          |
| <b>Total</b>                   | <b>\$ 77,261</b>              | <b>\$ 68,253</b> | <b>\$ 2,194</b>      | <b>\$ 2,037</b>      | <b>\$ 4,777</b>          |





**Table of Contents****Cash Flows**

The following table summarizes our net cash provided by or used in operating activities, investing activities and financing activities for the six months ended June 30, 2005 and 2004:

|                                 | Six Months Ended |                   |
|---------------------------------|------------------|-------------------|
|                                 | June 30,         |                   |
|                                 | 2005             | 2004              |
|                                 | (In thousands)   |                   |
| Net cash provided by (used in): |                  |                   |
| Operating activities            | \$ 21,234        | \$ 301            |
| Investing activities            | 7,625            | (753)             |
| Financing activities            | (19,605)         | (1,750)           |
| <b>Total</b>                    | <b>\$ 9,254</b>  | <b>\$ (2,202)</b> |

The cash flow discussion gives effect to the restatement discussed in note 2 to the condensed consolidated financial statements.

*Operating Activities.* Our net cash provided by or used in operating activities reflects net income or loss adjusted for non-cash charges and changes in net working capital (including non-current assets and liabilities). Cash flows from operating activities are affected by several factors, including fluctuations in business volume, contract terms for billings and collections, the timing of collections on our contract receivables, processing of bi-weekly payroll and associated taxes, and payment to our suppliers. Our working capital accounts also fluctuate from quarter to quarter due to the timing of certain events, such as the payment or non-payment for our railcars. We do not usually experience business credit issues, although a payment may be delayed pending completion of closing documentation, and a typical order of railcars may not yield cash proceeds until after the end of a reporting period.

Our net cash provided by operating activities for the six months ended June 30, 2005 was \$21.2 million as compared to net cash provided by operating activities of \$0.3 million for the six months ended June 30, 2004. The increase of \$20.9 million in net cash provided by operating activities was primarily due to a \$19.1 million increase in net income. The change in the primary elements of net working capital, which consist of accounts receivable, inventory and accounts payable, resulted in a \$9.9 million use of cash for the six months ended June 30, 2005, primarily due to cash used for accounts payable of \$11.9 million. The cash used for the primary working capital accounts was offset by timing differences in the operating assets and liabilities and non-cash expenses.

*Investing Activities.* Net cash provided by investing activities for the six months ended June 30, 2005 was \$7.6 million as compared to \$0.8 million of net cash used in investing activities for the six months ended June 30, 2004. Net cash used in investing activities for the six months ended June 30, 2004 consisted solely of capital expenditures, while net cash provided by investing activities for the six months ended June 30, 2005 consisted of the release of restricted cash and capital expenditures. The \$7.6 million of net cash provided by investing activities for the six months ended June 30, 2005 includes the release of \$13.0 million of restricted cash, offset by capital expenditures of \$5.3 million. For the six months ended June 30, 2005, \$4.7 million of the \$5.3 million of total capital expenditures during the period was used for the expansion of production capacity at our manufacturing facility in Roanoke, Virginia.

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*Financing Activities.* Net cash used in financing activities for the six months ended June 30, 2005 was \$19.6 million as compared to \$1.8 million for the six months ended June 30, 2004. Cash used in financing activities for the six months ended June 30, 2004 consisted of long-term debt repayments applicable to our term loan. During the six months ended June 30, 2004, in addition to the regular monthly payments of approximately \$0.2 million per month, we made a \$0.8 million balloon payment on our term loan in accordance with the agreement governing the term loan concerning the payment of proceeds from the sale of rebuilt aggregate railcars. Net cash used in financing activities for the six months ended June 30, 2005 included net proceeds from the issuance of common stock of \$87.3 million; payments on long-term debt of \$59.0 million; redemption of redeemable preferred stock of \$13.0 million; and payments of additional acquisition consideration of \$35.0 million. The payments on long-term debt included \$48.4 million for the repurchase of the senior notes; \$5.4 million for the repayment of the term loan; and \$5.2 million for the repayment of the industrial revenue bonds.

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**Capital Expenditures**

Our capital expenditures were \$5.3 million in the six months ended June 30, 2005 as compared to \$0.7 million in the six months ended June 30, 2004. For the six months ended June 30, 2005, \$4.7 million of the \$5.3 million total capital expenditures was used for the expansion of production capacity at our manufacturing facility in Roanoke, Virginia. The remaining \$0.6 million of capital expenditures for the six months ended June 30, 2005 was comprised of expenditures for machinery and equipment at our Johnstown and Danville production facilities. Capital spending for the six months ended June 30, 2004 consisted of machinery and equipment expenditures. Total capital expenditures for the year ended December 31, 2005 are expected to be approximately \$7.3 million.

**CAUTIONARY STATEMENT REGARDING FORWARD-LOOKING STATEMENTS**

This Form 10-Q/A contains or incorporates by reference forward-looking statements, in particular, statements about our plans, strategies and prospects. Forward-looking statements typically are identified by the use of terms, such as may, will, expect, anticipate, believe, estimate, intend and similar expressions, although some forward-looking statements are expressed differently. We have based our forward-looking statements on our current views with respect to future events and financial performance. Our actual results could differ materially from those projected in the forward-looking statements.

Our forward-looking statements are subject to risks and uncertainties, including, without limitation:

the cyclical nature of our business;

adverse economic and market conditions;

fluctuating costs of raw materials, including steel and aluminum, and delays in the delivery of raw materials;

our ability to maintain relationships with our suppliers of railcar components;

our reliance upon a small number of customers that represent a large percentage of our sales;

the variable purchase patterns of our customers and the timing of completion, delivery and acceptance of customer orders;

the highly competitive nature of our industry;

risks relating to our relationship with our unionized employees and their unions;

our ability to manage our health care and pension costs;

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our reliance on the sales of our aluminum-bodied coal-carrying railcars;

the risk of lack of acceptance of our new railcar offerings by our customers;

the cost of complying with environmental laws and regulations;

the cost associated with being a public company;

potential significant warranty claims; and

various covenants in the agreements governing our indebtedness that limit our management's discretion in the operation of our businesses.

See also other risks described under the heading "Risk Factors" in our prospectus filed with the Securities and Exchange Commission on April 7, 2005.

Our actual results could be different from the results described in or anticipated by our forward-looking statements due to the inherent uncertainty of estimates, forecasts and projections and may be better or worse than anticipated. Given these uncertainties, you should not rely on forward-looking statements. Forward-looking statements represent our estimates and assumptions only as of the date that they were made. We expressly disclaim any duty to provide updates to forward-looking statements, and the estimates and assumptions associated with them, in order to reflect changes in circumstances or expectations or the occurrence of unanticipated events except to the extent required by applicable securities laws.

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**ITEM 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

We have a \$50.0 million revolving credit facility which provides for financing of our working capital requirements and contains a \$30.0 million sub-facility for letters of credit. As of June 30, 2005, there were no borrowings under the revolving credit facility and we had issued approximately \$9.0 million in letters of credit under the sub-facility for letters of credit. We are exposed to interest rate risk on the borrowings under the revolving credit facility and do not plan to enter into swaps or other hedging arrangements to manage this risk, because we do not believe this interest rate risk to be significant. On an annual basis, a 1% change in the interest rate in our revolving credit facility will increase or decrease our interest expense by \$10,000 for every \$1.0 million of outstanding borrowings.

We are exposed to price risks associated with the purchase of raw materials, especially aluminum and steel. The cost of aluminum, steel and all other materials used in the production of our railcars represents a significant component of our direct manufacturing costs. Given the significant increases in the price of raw materials since November 2003, this exposure can affect our costs of production. We currently do not plan to enter into any hedging arrangements to manage the price risks associated with raw materials. Instead, we have either renegotiated existing contracts or entered into new contracts with a majority of our customers that allow for variable pricing to protect us against future changes in the cost of raw materials. As a result, all but one of our contracts for railcars in our backlog at June 30, 2005 permit us to pass through charges related to increases in the cost of raw materials to our customers. However, we may not always be able to pass on these increases in the future. In particular, when raw material prices increase rapidly or to levels significantly higher than normal, we may not be able to pass price increases through to our customers, which could adversely affect our operating margins and cash flows. In the event that we are able to increase the prices of our railcars, any such price increases may reduce demand for our railcars. The current high cost of the raw materials that we use to manufacture railcars, especially aluminum and steel, and delivery delays associated with these raw materials may adversely affect our financial condition and results of operations.

To the extent that we are unsuccessful in passing on increases in the cost of aluminum and steel to our customers, a 1% increase in the cost of aluminum and steel would increase our average cost of sales by approximately \$200 per railcar, which, for the six months ended June 30, 2005, would have reduced income before income taxes by approximately \$1.1 million.

We are not exposed to any significant foreign currency exchange risks as our policy is to denominate foreign sales in U.S. dollars.

**ITEM 4. CONTROLS AND PROCEDURES**

Under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, our management evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) and 15d-15(e) under the Exchange Act) as of the end of the period covered by this quarterly report on Form 10-Q (the Evaluation Date). Based upon that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that, as of the Evaluation Date, our disclosure controls and procedures are effective to ensure that information required to be disclosed in the reports that we file or submit under the Securities Exchange Act of 1934 is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms.

During the audit of our 2004 fiscal year, our independent registered public accounting firm issued a letter to our audit committee noting matters which could inhibit our ability to meet our reporting obligations when we become a public company and matters in our internal controls and operations that they deemed to constitute a reportable condition. The reportable condition generally related to the adequacy of our current financial accounting and reporting resources and related infrastructure to support our financial accounting needs. These include, but are not limited to, our SEC reporting skills and our plan and related resources for compliance with Section 404 of the Sarbanes-Oxley Act following the completion of our initial public offering. The letter from our independent



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registered public accounting firm concluded that the reportable condition described above is a material weakness.

Since November 2004, we have taken a number of steps that we believe have improved the effectiveness of our financial accounting and reporting processes and have added to and enhanced our resources and related infrastructure to support our financial accounting needs. We have engaged a consulting firm to assist us in analysis of, and planning for, improving our internal controls, as well as the implementation of such plans. In addition, we have added substantive accounting staff to enhance the control environment. Management has closely monitored the accounting processes of the Company and has noted significant improvements. We believe we have satisfactorily addressed the reportable condition described in the letter from our independent registered public accounting firm as a material weakness and plan to continue to closely monitor the accounting processes of the Company.

There has been no other change in our internal control over financial reporting during the most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## **PART II OTHER INFORMATION**

### **ITEM 1. LEGAL PROCEEDINGS**

On November 15, 2004, our subsidiary, Johnstown America Corporation, or JAC, entered into a settlement agreement with The United Steelworkers of America, or the USWA, which represents our unionized employees in our Johnstown, Pennsylvania manufacturing facility. The settlement agreement sets forth the terms of a new 42-month collective bargaining agreement with our unionized employees at our Johnstown facility. The settlement agreement also provides for the resolution of charges made by the USWA against us with the NLRB, certain related class action lawsuits, which we refer to as the Deemer and Britt lawsuits, and certain workplace grievance matters. Under the terms of the settlement agreement, the plaintiffs in the Deemer and Britt lawsuits were to withdraw their lawsuits with prejudice and the USWA agreed to request that the NLRB approve the withdrawal of all NLRB charges against us. In addition, the settlement agreement limits our future liabilities for health care coverage and pensions for retired unionized employees at our Johnstown facility. The settlement was conditioned on, among other things: (1) ratification of the settlement by the union members; (2) approval of the settlement by class members in the Deemer lawsuit and the Britt lawsuit; (3) approval by the NLRB of the settlement and the withdrawal of NLRB charges filed against us; and (4) approval by the United States District Court for the Western District of Pennsylvania of the settlement (except with respect to JAC's agreement to pay future health care and pension benefits following the effective date, which obligation is not contingent on court approval) and the withdrawal of the Britt lawsuit and the Deemer lawsuit. The settlement was ratified by the union members on November 15, 2004. In February 2005, the NLRB approved the settlement and withdrew the charges against us. On May 4, 2005, the United States District Court for the Western District of Pennsylvania approved the settlement. Accordingly, all of the conditions to the effectiveness of the settlement were met as of May 4, 2005.

### **Other**

We are also involved in certain other threatened and pending legal proceedings, including workers' compensation and employee matters arising out of the conduct of our business. Additionally, we are involved in various warranty and repair claims and related threatened and pending legal proceedings with our customers in the normal course of business. While the ultimate outcome of such legal proceedings cannot be determined at this time, it is the opinion of management that the resolution of these actions will not have a material adverse effect on our financial condition or results of operations.





**Table of Contents****ITEM 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS**

Following the completion of our initial public offering on April 11, 2005, we granted options to purchase shares of our common stock to the executive officers listed below in the respective amounts in accordance with our 2005 Long-Term Incentive Plan.

| <u>Executive Officer</u> | <u>Option Amounts</u> |
|--------------------------|-----------------------|
| John E. Carroll, Jr.     | 164,904               |
| Edward J. Whalen         | 98,942                |
| Kevin P. Bagby           | 65,962                |
| <b>Total</b>             | <b>329,808</b>        |

No consideration was paid for any of the options. The exercise price for these options was \$19.00 per option share. The grant of these stock options was deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act, or Regulation D promulgated thereunder, as a transaction by an issuer not involving a public offering. The grant of these stock options did not involve the use of any underwriter, and no commissions were paid in connection with the grant of any of the stock options.

On April 5, 2005, our registration statement on Form S-1 (Registration No. 333-123384) was declared effective and, on that same date, we filed a registration statement on Form S-1 pursuant to Rule 462(b) under the Securities Act (Registration No. 333-123875) (collectively, the Registration Statement ). Pursuant to the Registration Statement, as amended, the Company registered 9,775,000 shares of common stock (5,100,000 shares offered by the Company and 4,675,000 shares offered by selling stockholders, including 1,275,000 shares offered by selling stockholders pursuant to the exercise of the underwriters' over-allotment option), par value \$0.01 per share, with an aggregate offering price of \$185,725,000. On April 11, 2005, the Company and the selling stockholders completed the sale of 9,775,000 shares of common stock to the public at a price of \$19.00 per share and the offering was completed. The Company did not receive any proceeds from the sale of shares by the selling stockholders. UBS Securities LLC, Jefferies & Company, Inc., CIBC World Markets Corp. and LaSalle Debt Capital Markets acted as underwriters for the offering. The stock offering resulted in gross proceeds to the Company of \$96,900,000. Estimated expenses related to the offering are as follows: \$6,783,000 for underwriting discounts and commissions and \$4,808,000 for other expenses, for total estimated expenses of \$11,591,000. None of the expenses resulted in direct or indirect payments to any of our directors, officers or their associates, to persons owning 10% or more of our common stock or to any of our affiliates. We received net proceeds of approximately \$85,309,000 in the offering.

As of June 30, 2005, the proceeds of the offering and available cash were used as follows: \$48,361,000 was used for the repayment of the Senior Notes, \$34,963,000 was used for payment under the rights to additional acquisition consideration, \$13,000,000 was used for the redemption of the redeemable preferred stock, \$5,371,000 was used for the repayment of the term loan, \$5,232,000 was used for the repayment of the industrial revenue bonds and \$900,000 was used for payments related to the termination of management services and other agreements. In conjunction with these payments, early termination fees of \$110,000 and a write-off of deferred financing costs of \$439,000 were recorded in April 2005 related to the term loan repayment. In addition, in April 2005, we recorded charges of \$766,000 related to unamortized discount on the senior notes and \$4,617,000 related to the rights to additional acquisition consideration.

Certain uses of the net proceeds of the offering resulted in direct payments to certain of our directors, officers and persons who owned 10% or more of our common stock immediately prior to the completion of our initial public offering as follows:

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approximately \$24.2 million of the proceeds was used to repurchase the senior notes previously held by a former holder of 19.1% of our common stock;

an aggregate of approximately \$30.5 million of the proceeds was used to pay amounts due under the rights to additional acquisition consideration to one of our directors (who formerly owned 16.6% of our common stock) and a former holder of 14.3% of our common stock;

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an aggregate of approximately \$11.8 million of the proceeds was used to redeem the redeemable preferred stock previously held by two of our directors (one of whom formerly owned 16.6% of our common stock), all of our officers and former holders of 20.9%, 19.1% and 14.3% of our common stock, respectively; and

an aggregate of \$900,000 of the proceeds was used to make payments related to the termination of management services agreements and other agreements to one of our directors (who formerly owned 16.6% of our common stock) and former holders of 20.9% and 19.1% of our common stock, respectively.

**ITEM 6. EXHIBITS**

(a) Exhibits filed as part of this Form 10-Q/A:

- 31.1 Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2 Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 32 Certification of Chief Executive Officer and Chief Financial Officer pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

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**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized.

**FREIGHTCAR AMERICA, INC.**

Date: September 2, 2005

By: /s/ John E. Carroll, Jr.  
John E. Carroll, Jr., President and  
Chief Executive Officer

By: /s/ Kevin P. Bagby  
Kevin P. Bagby, Vice President, Finance and  
Chief Financial Officer

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**EXHIBIT INDEX**

| <b>Exhibit</b>       |   |
|----------------------|---|
| <b><u>Number</u></b> | <b><u>Description</u></b>   |
| <b>31.1</b>          | Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.                             |
| <b>31.2</b>          | Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.                             |
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