LABORATORY CORP OF AMERICA HOLDINGS
Form DEFR14A
November 12, 2002

SCHEDULE 14A INFORMATION
Proxy Statement Pursuant to Section 14(a) of the Securities Exchange Act of 1934

Filed by the Registrant [X]
Filed by a Party other than the Registrant [ ]
Check the appropriate box:
[ ] Preliminary Proxy Statement
[ ] Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))
[ ] Definitive Proxy Statement
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[X] Soliciting Material Pursuant to Section 240.14a-11(c) or Section 240.14a-12

Laboratory Corporation of America Holdings
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(Name of Registrant as Specified In Its Charter)

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(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

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[X] No fee required
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Notes:
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This information contains forward-looking statements which are subject to change based on various important factors, including without limitation, competitive actions in the marketplace and adverse actions of governmental and other third-party payors. Actual results could differ materially from those suggested by these forward-looking statements. Further information on potential factors that could affect the Company's financial results is included in the Company's Form 10-K for the year ended December 31, 2001 and subsequent filings.

DIANON Systems, Inc. will file a proxy statement and DIANON and Laboratory Corporation of America-Registered Trademark- Holdings (LabCorp-Registered Trademark-) will file other relevant documents with the SEC concerning the proposed merger of a wholly-owned subsidiary of LabCorp with and into DIANON. INVESTORS ARE URGED TO READ THE PROXY STATEMENT WHEN IT BECOMES AVAILABLE AND ANY OTHER RELEVANT DOCUMENTS FILED WITH THE SEC BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION. You will be able to obtain the documents free of charge at the website maintained by the SEC at www.sec.gov. In addition, you may obtain documents filed with the SEC by LabCorp free of charge by requesting them in writing from LabCorp at 430 South Spring Street, 1st Floor, Burlington, North Carolina 27215, Attention: Investor Relations, or by telephone at (336) 229-1127. You may obtain documents filed with the SEC by DIANON free of charge by requesting them in writing from DIANON, 200 Watson Boulevard, Statford, Connecticut 06615, Attention: Secretary, or by telephone at (203) 381-4055.

LabCorp and DIANON, and their respective directors and executive officers may be deemed to be participants in the solicitation of proxies from the stockholders of DIANON in connection with the merger. Information about the directors and executive officers of LabCorp and their ownership of LabCorp shares is set forth in the proxy statement for LabCorp's 2001 annual meeting of shareholders filed with the SEC on April 15, 2002. Information about the directors and executive officers of DIANON and their ownership of DIANON stock is set forth in the proxy statement for DIANON's 2002 annual meeting of stockholders filed with the SEC on July 1, 2002. Investors may obtain additional information regarding the interests of such participants by reading the proxy statement when it becomes available.

KEY TRANSACTION FACTS:

| | |
|---|---|
| Purchase Price | - $47.50 per share - 100% cash |
| Equity Value | - Approximately $598 million |
| Enterprise Value | - Approximately $544 million |
| EPS Accretive | - 2003 = $0.05 |
| EBITDA Multiple | - 11.5x 2003 EBITDA without synergies |
| (2003) | - 6.6x with peak synergies ($35 million in 2005) |
| Conditions | - Regulatory approval |
| | - DIANON shareholder approval |
| Closing | - Q1 2003 |

DIANON TRANSACTION SPECIFICS

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Financing structure and assumptions:

- Bridge loan - $350 million

- Borrowings under existing revolver - approximately $210 million

- Available Cash - $38 million

PROFILE OF DIANON:
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- A leading provider of anatomic pathology and oncology testing services in the U.S., with a focus on the outpatient market

1) Serves approximately 14,500 of the 50,000 oncology, urology, dermatology, gynecology and gastroenterology specialists in the U.S.
2) Directly employs 48 pathologists
3) Processes 8,000 tissue samples daily
4) Serves more than 650 managed care organizations, including Aetna, UnitedHealthcare and Oxford

- Offers clinical chemistry and gene-based testing services in support of cancer services

- Innovative, proprietary health information reporting system (CarePath-Trademark-)

MAP OF DIANON LAB LOCATIONS
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Main Testing Facility - Stratford, CT

Regional Labs - New City, NY, Woodbury, NY, Tampa, FL, Plano, TX, Oklahoma City, OK

Specimen Processing Center - Wilmington, OH

STRATEGIC RATIONALE
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- LabCorp has identified cancer testing as its most important growth opportunity over the next 3-5 years

- Diagnostic testing for cancer is expected to increase substantially - DIANON complements LabCorp's capabilities in anatomic and gene-based testing

- DIANON's broad testing menu (anatomic and esoteric) is supported by its strong scientific expertise, outstanding sales capabilities and innovative, proprietary reporting format, CarePath-Trademark-

- LabCorp's genomic and esoteric testing can be offered through DIANON, expanding access to these tests

- LabCorp's strategic cancer partnerships will be enhanced by DIANON's sales and marketing efforts to DIANON's more than 14,500 physician customers

1) Myriad Genetics (predisposition assays for breast, ovarian cancer)
2) EXACT Sciences (colorectal cancer)
3) Celera Diagnostics (prostate cancer)
4) Correlogic (ovarian cancer)

OPERATIONAL RATIONALE
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- DIANON has strong brand recognition

1) CarePath-Trademark- reporting format is highly regarded in the industry
2) CarePath-Trademark- will become LabCorp's primary pathology reporting format

- DIANON's solid EBITDA margins can be enhanced through supply savings and operational efficiencies

- Provides additional anatomic pathology and cytology capacity

- Sophisticated sales organization to offer LabCorp's existing cancer testing menu

FINANCIAL IMPACT OF TRANSACTION
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- Expected incremental revenue:
  - 2003 - $210 million

- Expected incremental EBITDA: (including synergies)
  - 2003 - $55 million

- Expected incremental diluted EPS
  - 2003 - $0.05

Notes:
Assumes transaction close date of 1/1/03

SYNERGY EXPECTATION:
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Synergy commitment - $35 million

Timing:
- 2003 - $7.5 million
- 2004 - $25 million
- 2005 - $35 million

Sources:
- Logistics
- Supply Savings
- Infrastructure Improvements

SYNERGY PLAN:
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- Reduce supply costs
- Reduce logistics expenses

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- Reduce overlapping personnel
- Eliminate redundant facilities and overhead
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m" width="1%">

Stock price ($)

$

52.73

$

52.73

$

52.73

N/A

N/A

N/A

$

52.73

N/A

Expected stock price volatility (4)

32%

36%

| | |
|---|---|
| | 36% |
| | N/A |
| | N/A |
| | N/A |
| | N/A |
| | N/A |
| Expected term (years) (5) | |
| | 2.25 |
| | 1.25 |
| | 0.25 |
| | N/A |
| | N/A |
| | N/A |
| | N/A |
| | N/A |
| Risk-free interest rate (6) | |
| | 1.42% |
| | 0.74% |
| | 0.22% |

| | | |
|---|---|---|
| | | N/A |
| | | N/A |
| | | N/A |
| | | N/A |
| | | N/A |
| Dividend rate ($) (7) | $ | 1.01 |
| | $ | 1.01 |
| | | $ 1.01 |
| | | N/A |
| | | N/A |
| | | N/A |
| | | N/A |
| | | N/A |

(1)
Compensation cost is based on the fair value of the awards at period-end using the lattice-based valuation model that uses the assumptions as presented herein.

(2)
Compensation cost is based on intrinsic value.

(3)
Assumptions used to determine fair value are at September 30, 2009.

(4)
Based on the historical volatility of the Company's stock over a period commensurate with the expected term of the award.

(5)
Represents the remaining period of time that awards are expected to be outstanding.

(6)
Based on the implied yield available on zero-coupon government issues with an equivalent term commensurate with the expected term of the awards.

(7)
Based on the annualized dividend rate.

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CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

Stock option awards

Following approval by the Board of Directors in January 2009, the Company granted 1.2 million conventional stock options to designated senior management employees. The stock option plan allows eligible employees to acquire common shares of the Company upon vesting at a price equal to the market value of the common shares at the date of grant. The options are exercisable during a period not exceeding 10 years. The right to exercise options generally accrues over a period of four years of continuous employment. Options are not generally exercisable during the first 12 months after the date of grant. At September 30, 2009, 12.3 million common shares remained authorized for future issuances under this plan. The total number of options outstanding at September 30, 2009, including conventional and performance-accelerated options, was 9.7 million and 2.8 million, respectively.

The following table provides the activity of stock option awards in 2009. The table also provides the aggregate intrinsic value for in-the-money stock options, which represents the amount that would have been received by option holders had they exercised their options on September 30, 2009 at the Company's closing stock price of $52.73.

| | Options outstanding | | | |
|---|---|---|---|---|
| | Number of options In millions | Weighted-average exercise price | Weighted-average years to expiration | Aggregate intrinsic value In millions |
| Outstanding at December 31, 2008 (1) | 13.2 | $ 29.05 | | |
| Granted | 1.2 | $ 42.13 | | |
| Exercised | (1.9) | $ 19.14 | | |
| Outstanding at September 30, 2009 (1) | 12.5 | $ 30.27 | 4.4 | $ 281 |
| Exercisable at September 30, 2009 (1) | 9.9 | $ 26.53 | 3.4 | $ 261 |

(1) Stock options with a U.S. dollar exercise price have been translated to Canadian dollars using the foreign exchange rate in effect at the balance sheet date.

CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

The following table provides valuation and expense information for all stock option awards:

| In millions, unless otherwise indicated<br>Year of grant | 2009 | 2008 | 2007 | 2006 | 2005 | Total |
|---|---|---|---|---|---|---|
| Stock-based compensation expense recognized over requisite service period (1) | | | | | | |
| Nine months ended September 30, 2009 | $ 8 | $ 1 | $ 1 | $ 1 | $ - | $ 11 |
| Nine months ended September 30, 2008 | N/A | $ 5 | $ 2 | $ 2 | $ 2 | $ 11 |
| Fair value per unit | | | | | | |
| At grant date ($) | $ 12.60 | $ 12.44 | $ 13.36 | $ 13.80 | $ 9.19 | N/A |
| Fair value of awards vested during period | | | | | | |
| Nine months ended September 30, 2009 | $ - | $ 3 | $ 3 | $ 3 | $ 3 | $ 12 |
| Nine months ended September 30, 2008 | N/A | $ - | $ 3 | $ 3 | $ 3 | $ 9 |
| Nonvested awards at September 30, 2009 | | | | | | |
| Unrecognized compensation cost | $ 7 | $ 3 | $ 2 | $ 1 | $ - | $ 13 |
| Remaining recognition period (years) | 3.3 | 2.3 | 1.3 | 0.3 | - | N/A |
| Assumptions | | | | | | |
| Grant price ($) | $ 42.13 | $ 48.51 | $ 52.79 | $ 51.51 | $ 36.33 | N/A |
| Expected stock price volatility (2) | 39% | 27% | 24% | 25% | 25% | N/A |
| Expected term (years) (3) | 5.3 | 5.3 | 5.2 | 5.2 | 5.2 | N/A |
| Risk-free interest rate (4) | 1.97% | 3.58% | 4.12% | 4.04% | 3.50% | N/A |
| Dividend rate ($) (5) | $ 1.01 | $ 0.92 | $ 0.84 | $ 0.65 | $ 0.50 | N/A |

(1) Compensation cost is based on the grant date fair value using the Black-Scholes option-pricing model that uses the assumptions at the grant date.

(2) Based on the average of the historical volatility of the Company's stock over a period commensurate with the expected term of the award and the implied volatility from traded options on the Company's stock.

(3)

Represents the period of time that awards are expected to be outstanding. The Company uses historical data to estimate option exercise and employee termination, and groups of employees that have similar historical exercise behavior are considered separately.

(4) Based on the implied yield available on zero-coupon government issues with an equivalent term commensurate with the expected term of the awards.

(5) Based on the annualized dividend rate.

CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

Note 6 - Pensions and other postretirement benefits

For the three and nine months ended September 30, 2009 and 2008, the components of net periodic benefit cost (income) for pensions and other postretirement benefits were as follows:

(a) Components of net periodic benefit income for pensions

| | Three months ended September 30 | | Nine months ended September 30 | |
|---|---|---|---|---|
| In millions | 2009 | 2008 | 2009 | 2008 |
| Service cost | $ 21 | $ 34 | $ 65 | $ 104 |
| Interest cost | 222 | 200 | 665 | 600 |
| Expected return on plan assets | (252) | (251) | (756) | (753) |
| Amortization of prior service cost | - | 5 | - | 15 |
| Recognized net actuarial loss | 1 | - | 4 | - |
| Net periodic benefit (income) | $ (8) | $ (12) | $ (22) | $ (34) |

(b) Components of net periodic benefit cost for other postretirement benefits

| | Three months ended September 30 | | Nine months ended September 30 | |
|---|---|---|---|---|
| In millions | 2009 | 2008 | 2009 | 2008 |
| Service cost | $ - | $ 1 | $ 2 | $ 3 |
| Interest cost | 4 | 4 | 12 | 12 |
| Curtailment gain | - | (4) | (3) | (7) |
| Amortization of prior service cost | 1 | 1 | 2 | 3 |
| Recognized net actuarial gain | (1) | - | (3) | (2) |
| Net periodic benefit cost | $ 4 | $ 2 | $ 10 | $ 9 |

In 2009, the Company expects to make total contributions of approximately $130 million for all its defined benefit plans, of which $85 million was disbursed as at September 30, 2009.

Note 7 – Income taxes

In 2009, the Company recorded a deferred income tax recovery of $58 million in the Consolidated Statement of Income. Of this amount, $15 million, recorded in the third quarter, resulted from the resolution of various income tax matters and adjustments related to tax filings of prior years; $12 million and $15 million, recorded in the second and first quarters, respectively, resulted from the enactment of lower provincial corporate income tax rates; and $16 million recorded in the second quarter resulted from the recapitalization of a foreign investment.

In 2008, the Company recorded a deferred income tax recovery of $75 million in the Consolidated Statement of Income. Of this amount, $41 million, recorded in the third quarter, resulted from the resolution of various income tax matters and adjustments related to tax filings of prior years; $23 million, recorded in the second quarter, was due to the enactment of lower provincial corporate income tax rates; and $11 million, recorded in the first quarter, resulted from net capital losses arising from the reorganization of a subsidiary.

CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

Note 8 - Major commitments and contingencies

A. Commitments
As at September 30, 2009, the Company had commitments to acquire railroad ties, rail, freight cars, locomotives, and other equipment and services, as well as outstanding information technology service contracts and licenses, at an aggregate cost of $755 million ($1,006 million at December 31, 2008). The Company also has agreements with fuel suppliers to purchase approximately 100% of the estimated remaining 2009 volume, 74% of its anticipated 2010 volume, 33% of its anticipated 2011 volume and 28% of its anticipated 2012 and 2013 volume, at market prices prevailing on the date of the purchase.

B. Contingencies
The Company becomes involved, from time to time, in various legal actions, including actions brought on behalf of various purported classes of claimants and claims relating to personal injuries, occupational disease, and property damage, arising out of harm to individuals or property allegedly caused by, but not limited to, derailments or other accidents.

Canada
Employee injuries are governed by the workers' compensation legislation in each province whereby employees may be awarded either a lump sum or future stream of payments depending on the nature and severity of the injury. Accordingly, the Company accounts for costs related to employee work-related injuries based on actuarially developed estimates of the ultimate cost associated with such injuries, including compensation, health care and third-party administration costs. For all other legal actions, the Company maintains, and regularly updates on a case-by-case basis, provisions for such items when the expected loss is both probable and can be reasonably estimated based on currently available information.

United States
Employee work-related injuries, including occupational disease claims, are compensated according to the provisions of the Federal Employers' Liability Act (FELA), which requires either the finding of fault through the U.S. jury system or individual settlements, and represent a major liability for the railroad industry. With limited exceptions where claims are evaluated on a case-by-case basis, the Company follows an actuarial-based approach and accrues the expected cost for personal injury and property damage claims and asserted and unasserted occupational disease claims, based on actuarial estimates of their ultimate cost. A comprehensive actuarial study is conducted on an annual basis, in the fourth quarter, by an independent actuarial firm for occupational disease claims and non-occupational disease claims. On an ongoing basis, management reviews and compares the assumptions inherent in the latest actuarial study with the current claim experience and, if required, adjustments to the liability are recorded. In the third quarter of 2009, the Company undertook a review of certain assumptions relating to occupational disease claims. As a result, the Company recorded a net reduction of $36 million to its provision for U.S. personal injury and other claims.

As at September 30, 2009, the Company had aggregate reserves for personal injury and other claims of $381 million, of which $108 million was recorded as a current liability ($454 million as at December 31, 2008, of which $118 million was recorded as a current liability).
Although the Company considers such provisions to be adequate for all its outstanding and pending claims, the final outcome with respect to actions outstanding or pending at September 30, 2009, or with respect to future claims, cannot be predicted with certainty, and therefore there can be no assurance that their resolution will not have a material adverse effect on the Company's results of operations, financial position or liquidity in a particular quarter or fiscal

year.

CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

C. Environmental matters

The Company's operations are subject to numerous federal, provincial, state, municipal and local environmental laws and regulations in Canada and the United States concerning, among other things, emissions into the air; discharges into waters; the generation, handling, storage, transportation, treatment and disposal of waste, hazardous substances, and other materials; decommissioning of underground and aboveground storage tanks; and soil and groundwater contamination. A risk of environmental liability is inherent in railroad and related transportation operations; real estate ownership, operation or control; and other commercial activities of the Company with respect to both current and past operations.

Known existing environmental concerns

The Company has identified approximately 310 sites at which it is or may be liable for remediation costs, in some cases along with other potentially responsible parties, associated with alleged contamination and is subject to environmental clean-up and enforcement actions, including those imposed by the United States Federal Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), also known as the Superfund law, or analogous state laws. CERCLA and similar state laws, in addition to other similar Canadian and U.S. laws generally impose joint and several liability for clean-up and enforcement costs on current and former owners and operators of a site, as well as those whose waste is disposed of at the site, without regard to fault or the legality of the original conduct. The Company has been notified that it is a potentially responsible party for study and clean-up costs at approximately 10 sites governed by the Superfund law (and analogous state laws) for which investigation and remediation payments are or will be made or are yet to be determined and, in many instances, is one of several potentially responsible parties.

The ultimate cost of addressing these known contaminated sites cannot be definitely established given that the estimated environmental liability for any given site may vary depending on the nature and extent of the contamination, the available clean-up techniques, the Company's share of the costs and evolving regulatory standards governing environmental liability. As a result, a liability is initially recorded when environmental assessments occur and/or remedial efforts are probable, and when the costs, based on a specific plan of action in terms of the technology to be used and the extent of the corrective action required, can be reasonably estimated. Adjustments to initial estimates are recorded as additional information becomes available.

The Company's provision for specific environmental sites is undiscounted, recorded net of insurance recoveries, and includes costs for remediation and restoration of sites, as well as significant monitoring costs. Environmental accruals, which are classified as Casualty and other in the Consolidated Statement of Income, include amounts for newly identified sites or contaminants as well as adjustments to initial estimates.

As at September 30, 2009, the Company had aggregate accruals for environmental costs of $109 million, of which $38 million was recorded as a current liability ($125 million as at December 31, 2008, of which $30 million was recorded as a current liability). The Company anticipates that the majority of the liability at September 30, 2009 will be paid out over the next five years. However, some costs may be paid out over a longer period. No individual site is considered to be material. Based on the information currently available, the Company considers its provisions to be adequate.

Unknown existing environmental concerns

While the Company believes that it has identified the costs likely to be incurred for environmental matters in the next several years based on known information, newly discovered facts, changes in law, the possibility of spills and releases of hazardous materials into the environment and the Company's ongoing efforts to identify potential environment liabilities that may be associated with its properties may lead to future environmental investigations, which may result in the identification of additional environmental liabilities and related costs. The magnitude of such additional liabilities and the costs of complying with future environmental laws and containing or remediating contamination cannot be reasonably estimated due to many factors, including:

(i) the lack of specific technical information available with respect to many sites;
(ii) the absence of any government authority, third-party orders, or claims with respect to particular sites;
(iii) the potential for new or changed laws and regulations and for development of new remediation technologies and uncertainty regarding the timing of the work with respect to particular sites;
(iv) the ability to recover costs from any third parties with respect to particular sites; and

therefore, the likelihood of any such costs being incurred or whether such costs would be material to the Company cannot be determined at this time. There can thus be no assurance that liabilities or costs related to environmental matters will not be incurred in the future, or will not have a material adverse effect on the Company's financial position or results of operations in a particular quarter or fiscal year, or that the Company's liquidity will not be adversely impacted by such liabilities or costs, although management believes, based on current information, that the costs to address environmental matters will not have a material adverse effect on the Company's financial condition or liquidity. Costs related to any unknown existing or future contamination will be accrued in the period in which they become probable and reasonably estimable.

D. Guarantees and indemnifications

In the normal course of business, the Company, including certain of its subsidiaries, enters into agreements that may involve providing certain guarantees or indemnifications to third parties and others, which may extend beyond the term of the agreement. These include, but are not limited to, residual value guarantees on operating leases, standby letters of credit and surety and other bonds, and indemnifications that are customary for the type of transaction or for the railway business.

The Company is required to recognize a liability for the fair value of the obligation undertaken in issuing certain guarantees on the date the guarantee is issued or modified. In addition, where the Company expects to make a payment in respect of a guarantee, a liability will be recognized to the extent that one has not yet been recognized.

(i) Guarantee of residual values of operating leases

The Company has guaranteed a portion of the residual values of certain of its assets under operating leases with expiry dates between 2009 and 2020, for the benefit of the lessor. If the fair value of the assets, at the end of their respective lease term, is less than the fair value, as estimated at the inception of the lease, then the Company must, under certain conditions, compensate the lessor for the shortfall. At September 30, 2009, the maximum exposure in respect of these guarantees was $219 million. There are no recourse provisions to recover any amounts from third parties.

(ii) Other guarantees

The Company, including certain of its subsidiaries, has granted irrevocable standby letters of credit and surety and other bonds, issued by highly rated financial institutions, to third parties to indemnify them in the event the Company does not perform its contractual obligations. As at September 30, 2009, the maximum potential liability under these guarantees was $464 million, of which $404 million was for workers' compensation and other employee benefits and $60 million was for equipment under leases and other. Of the $464 million of letters of credit and surety and other bonds, $406 million have been drawn on the Company's U.S.$1 billion revolving credit facility. During 2009, the Company has granted guarantees for which no liability has been recorded, as they relate to the Company's future performance.

As at September 30, 2009, the Company had not recorded any additional liability with respect to these guarantees, as the Company does not expect to make any additional payments associated with these guarantees. The majority of the guarantee instruments mature at various dates between 2009 and 2012.

(iii) General indemnifications

In the normal course of business, the Company has provided indemnifications, customary for the type of transaction or for the railway business, in various agreements with third parties, including indemnification provisions where the Company would be required to indemnify third parties and others. Indemnifications are found in various types of contracts with third parties which include, but are not limited to:

(a)

contracts granting the Company the right to use or enter upon property owned by third parties such as leases, easements, trackage rights and sidetrack agreements;

(b) contracts granting rights to others to use the Company's property, such as leases, licenses and easements;

(c) contracts for the sale of assets and securitization of accounts receivable;

(d) contracts for the acquisition of services;

(e) financing agreements;

(f) trust indentures, fiscal agency agreements, underwriting agreements or similar agreements relating to debt or equity securities of the Company and engagement agreements with financial advisors;

(g) transfer agent and registrar agreements in respect of the Company's securities;

(h) trust and other agreements relating to pension plans and other plans, including those establishing trust funds to secure payment to certain officers and senior employees of special retirement compensation arrangements;

(i) pension transfer agreements;

(j) master agreements with financial institutions governing derivative transactions; and

(k) settlement agreements with insurance companies or other third parties whereby such insurer or third party has been indemnified for any present or future claims relating to insurance policies, incidents or events covered by the settlement agreements.

CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

To the extent of any actual claims under these agreements, the Company maintains provisions for such items, which it considers to be adequate. Due to the nature of the indemnification clauses, the maximum exposure for future payments may be material. However, such exposure cannot be determined with certainty.
During the period, the Company has entered into various indemnification contracts with third parties for which the maximum exposure for future payments cannot be determined with certainty. As a result, the Company was unable to determine the fair value of these guarantees and accordingly, no liability was recorded. There are no recourse provisions to recover any amounts from third parties.

Note 9 – Fair value of financial instruments

Generally accepted accounting principles define the fair value of a financial instrument as the amount at which the instrument could be exchanged in a current transaction between willing parties. The Company uses the following methods and assumptions to estimate the fair value of each class of financial instruments for which the carrying amounts are included in the Consolidated Balance Sheet under the following captions:

(i) Cash and cash equivalents, Accounts receivable, Other current assets, Accounts payable and other:
The carrying amounts approximate fair value because of the short maturity of these instruments.

(ii) Other assets:
Investments: The Company has various equity investments for which the carrying value approximates the fair value, with the exception of certain cost investments for which the fair value was estimated based on the Company's proportionate share of the underlying net assets.

(iii) Long-term debt:
The fair value of the Company's long-term debt is estimated based on the quoted market prices for the same or similar debt instruments, as well as discounted cash flows using current interest rates for debt with similar terms, company rating, and remaining maturity.

The following table presents the carrying amounts and estimated fair values of the Company's financial instruments as at September 30, 2009 and December 31, 2008 for which the carrying values on the Consolidated Balance Sheet are different from their fair values:

| In millions | | September 30, 2009 | | December 31, 2008 | |
|---|---|---|---|---|---|
| | | Carrying amount | Fair value | Carrying amount | Fair value |
| Financial assets | | | | | |
| | Investments | $ 22 | $ 112 | $ 24 | $ 127 |
| Financial liabilities | | | | | |
| | Long-term debt (including current portion) | $ 6,600 | $ 7,519 | $ 7,911 | $ 8,301 |

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CANADIAN NATIONAL RAILWAY COMPANY
NOTES TO UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS (U.S. GAAP)

Note 10 – Earnings per share

The following table provides a reconciliation between basic and diluted earnings per share:

| | Three months ended September 30 | | Nine months ended September 30 | |
|---|---|---|---|---|
| In millions, except per share data | 2009 | 2008 | 2009 | 2008 |
| Net income | $ 461 | $ 552 | $ 1,272 | $ 1,322 |
| Weighted-average shares outstanding | 469.4 | 471.7 | 468.8 | 477.0 |
| Effect of stock options | 4.4 | 5.4 | 4.3 | 5.6 |
| Weighted-average diluted shares outstanding | 473.8 | 477.1 | 473.1 | 482.6 |
| Basic earnings per share | $ 0.98 | $ 1.17 | $ 2.71 | $ 2.77 |
| Diluted earnings per share | $ 0.97 | $ 1.16 | $ 2.69 | $ 2.74 |

The weighted-average number of stock options that were not included in the calculation of diluted earnings per share, as their inclusion would have had an anti-dilutive impact, was 0.1 million and 0.5 million for the three and nine months ended September 30, 2009, respectively, and 0.1 million for both corresponding periods in 2008.

Note 11 – Comparative figures

Certain figures, previously reported in 2008, have been reclassified to conform with the basis of presentation adopted in 2009.

CANADIAN NATIONAL RAILWAY COMPANY
SELECTED RAILROAD STATISTICS (1) (U.S. GAAP)

| | Three months ended September 30 | | | Nine months ended September 30 | |
|---|---|---|---|---|---|
| | 2009 | 2008 | | 2009 | 2008 |
| | | | (Unaudited) | | |
| Statistical operating data | | | | | |
| Rail freight revenues ($ millions) | 1,656 | 2,028 | | 4,953 | 5,664 |
| Gross ton miles (GTM) (millions) | 77,817 | 86,369 | | 225,930 | 257,983 |
| Revenue ton miles (RTM) (millions) | 40,487 | 45,346 | | 118,043 | 135,569 |
| Carloads (thousands) | 1,032 | 1,217 | | 2,914 | 3,537 |
| Route miles (includes Canada and the U.S.) | 21,104 | 20,421 | | 21,104 | 20,421 |
| Employees (end of period) | 21,579 | 22,569 | | 21,579 | 22,569 |
| Employees (average for the period) | 21,610 | 22,730 | | 21,899 | 22,773 |
| Productivity | | | | | |
| Operating ratio (%) | 62.7 | 62.6 | | 68.0 | 67.0 |
| Rail freight revenue per RTM (cents) | 4.09 | 4.47 | | 4.20 | 4.18 |
| Rail freight revenue per carload ($) | 1,605 | 1,666 | | 1,700 | 1,601 |
| Operating expenses per GTM (cents) | 1.49 | 1.64 | | 1.65 | 1.63 |
| Labor and fringe benefits expense per GTM (cents) | 0.53 | 0.49 | | 0.57 | 0.49 |
| GTMs per average number of employees (thousands) | 3,601 | 3,800 | | 10,317 | 11,328 |
| Diesel fuel consumed (U.S. gallons in millions) | 79 | 92 | | 244 | 287 |
| Average fuel price ($/U.S. gallon) | 2.19 | 3.84 | | 2.05 | 3.55 |
| GTMs per U.S. gallon of fuel consumed | 985 | 939 | | 926 | 899 |
| Safety indicators | | | | | |
| Injury frequency rate per 200,000 person hours (2) | 2.10 | 2.13 | | 1.68 | 1.80 |
| Accident rate per million train miles (2) | 1.98 | 2.16 | | 1.94 | 2.50 |
| Financial ratio | | | | | |
| Debt to total capitalization ratio (% at end of period) | 36.7 | 39.5 | | 36.7 | 39.5 |

(1) Includes data relating to companies acquired as of the date of acquisition.
(2) Based on Federal Railroad Administration (FRA) reporting criteria.

Certain statistical data and related productivity measures are based on estimated data available at such time and are subject to change as more complete information becomes available.

CANADIAN NATIONAL RAILWAY COMPANY
SUPPLEMENTARY INFORMATION (U.S. GAAP)

| | Three months ended September 30 | | | Nine months ended September 30 | | |
|---|---|---|---|---|---|---|
| | 2009 | 2008 | Variance Fav (Unfav) | 2009 | 2008 | Variance Fav (Unfav) |
| | | | (Unaudited) | | | |
| Revenues (millions of dollars) | | | | | | |
| Petroleum and chemicals | 309 | 346 | (11%) | 958 | 987 | (3%) |
| Metals and minerals | 183 | 269 | (32%) | 539 | 713 | (24%) |
| Forest products | 291 | 383 | (24%) | 876 | 1,070 | (18%) |
| Coal | 128 | 140 | (9%) | 342 | 346 | (1%) |
| Grain and fertilizers | 298 | 327 | (9%) | 985 | 1,001 | (2%) |
| Intermodal | 359 | 446 | (20%) | 996 | 1,190 | (16%) |
| Automotive | 88 | 117 | (25%) | 257 | 357 | (28%) |
| Total rail freight revenue | 1,656 | 2,028 | (18%) | 4,953 | 5,664 | (13%) |
| Other revenues | 189 | 229 | (17%) | 532 | 618 | (14%) |
| Total revenues | 1,845 | 2,257 | (18%) | 5,485 | 6,282 | (13%) |
| | | | | | | |
| Revenue ton miles (millions) | | | | | | |
| Petroleum and chemicals | 7,470 | 8,272 | (10%) | 22,111 | 24,668 | (10%) |
| Metals and minerals | 3,422 | 5,140 | (33%) | 9,487 | 13,971 | (32%) |
| Forest products | 7,288 | 8,715 | (16%) | 20,684 | 25,999 | (20%) |
| Coal | 4,343 | 4,159 | 4% | 10,629 | 11,189 | (5%) |
| Grain and fertilizers | 8,971 | 9,379 | (4%) | 29,578 | 31,915 | (7%) |
| Intermodal | 8,480 | 9,040 | (6%) | 24,064 | 25,795 | (7%) |
| Automotive | 513 | 641 | (20%) | 1,490 | 2,032 | (27%) |
| | 40,487 | 45,346 | (11%) | 118,043 | 135,569 | (13%) |
| Rail freight revenue / RTM (cents) | | | | | | |
| Total rail freight revenue per RTM | 4.09 | 4.47 | (9%) | 4.20 | 4.18 | - |
| Commodity groups: | | | | | | |
| Petroleum and chemicals | 4.14 | 4.18 | (1%) | 4.33 | 4.00 | 8% |
| Metals and minerals | 5.35 | 5.23 | 2% | 5.68 | 5.10 | 11% |
| Forest products | 3.99 | 4.39 | (9%) | 4.24 | 4.12 | 3% |
| Coal | 2.95 | 3.37 | (12%) | 3.22 | 3.09 | 4% |
| Grain and fertilizers | 3.32 | 3.49 | (5%) | 3.33 | 3.14 | 6% |
| Intermodal | 4.23 | 4.93 | (14%) | 4.14 | 4.61 | (10%) |
| Automotive | 17.15 | 18.25 | (6%) | 17.25 | 17.57 | (2%) |
| | | | | | | |
| Carloads (thousands) | | | | | | |
| Petroleum and chemicals | 132 | 139 | (5%) | 385 | 424 | (9%) |
| Metals and minerals | 189 | 287 | (34%) | 497 | 797 | (38%) |
| Forest products | 103 | 132 | (22%) | 303 | 395 | (23%) |
| Coal | 116 | 103 | 13% | 313 | 280 | 12% |
| Grain and fertilizers | 121 | 137 | (12%) | 383 | 436 | (12%) |
| Intermodal | 333 | 370 | (10%) | 925 | 1,045 | (11%) |
| Automotive | 38 | 49 | (22%) | 108 | 160 | (33%) |

| | | | | | | |
|---|---|---|---|---|---|---|
| | 1,032 | 1,217 | (15%) | 2,914 | 3,537 | (18%) |
| Rail freight revenue / carload (dollars) | | | | | | |
| Total rail freight revenue per carload | 1,605 | 1,666 | (4%) | 1,700 | 1,601 | 6% |
| Commodity groups: | | | | | | |
| Petroleum and chemicals | 2,341 | 2,489 | (6%) | 2,488 | 2,328 | 7% |
| Metals and minerals | 968 | 937 | 3% | 1,085 | 895 | 21% |
| Forest products | 2,825 | 2,902 | (3%) | 2,891 | 2,709 | 7% |
| Coal | 1,103 | 1,359 | (19%) | 1,093 | 1,236 | (12%) |
| Grain and fertilizers | 2,463 | 2,387 | 3% | 2,572 | 2,296 | 12% |
| Intermodal | 1,078 | 1,205 | (11%) | 1,077 | 1,139 | (5%) |
| Automotive | 2,316 | 2,388 | (3%) | 2,380 | 2,231 | 7% |

Such statistical data and related productivity measures are based on estimated data available at such time and are subject to change as more complete information becomes available.

CANADIAN NATIONAL RAILWAY COMPANY
NON-GAAP MEASURES - unaudited

Adjusted performance measures

For the three and nine months ended September 30, 2009, the Company reported adjusted net income of $446 million, or $0.94 per diluted share and $1,109 million or $2.34 per diluted share, respectively. The adjusted figures for the three months ended September 30, 2009 exclude a deferred income tax recovery of $15 million ($0.03 per diluted share), which resulted from the resolution of various income tax matters and adjustments related to tax filings of prior years. The adjusted figures for the nine months ended September 30, 2009 exclude the gain on sale of the Weston subdivision of $157 million or $135 million after-tax ($0.29 per diluted share); EJ&E acquisition-related costs of $49 million or $30 million after-tax ($0.06 per diluted share); and a deferred income tax recovery of $58 million ($0.12 per diluted share), of which $15 million ($0.03 per diluted share) resulted from the resolution of various income tax matters and adjustments related to tax filings of prior years, $27 million ($0.06 per diluted share) resulted from the enactment of lower provincial corporate income tax rates and $16 million ($0.03 per diluted share) resulted from the recapitalization of a foreign investment.

For the three and nine months ended September 30, 2008, the Company reported adjusted net income of $511 million, or $1.07 per diluted share and $1,247 million, or $2.58 per diluted share, respectively. These adjusted figures exclude a deferred income tax recovery of $41 million ($0.09 per diluted share) for both the three- and nine-month periods due to the resolution of various income tax matters and adjustments related to tax filings of prior years. Also excluded from adjusted net income for the nine-month period was a deferred income tax recovery of $23 million ($0.05 per diluted share) that resulted from the enactment of lower provincial corporate income tax rates and a deferred income tax recovery of $11 million ($0.02 per diluted share) due to net capital losses arising from the reorganization of a subsidiary.

Management believes that adjusted net income and adjusted earnings per share are useful measures of performance that can facilitate period-to-period comparisons, as they exclude items that do not necessarily arise as part of the normal day-to-day operations of the Company and could distort the analysis of trends in business performance. The exclusion of such items in adjusted net income and adjusted earnings per share does not, however, imply that such items are necessarily non-recurring. These adjusted measures do not have any standardized meaning prescribed by GAAP and may, therefore, not be comparable to similar measures presented by other companies. The reader is advised to read all information provided in the Company's 2009 unaudited Interim Consolidated Financial Statements and Notes thereto. The following tables provide a reconciliation of net income and earnings per share, as reported for the three and nine months ended September 30, 2009 and 2008, to the adjusted performance measures presented herein.

| | Three months ended September 30, 2009 | | | Nine months ended September 30, 2009 | | |
|---|---|---|---|---|---|---|
| In millions, except per share data | Reported | Adjustments | Adjusted | Reported | Adjustments | Adjusted |
| Revenues | $ 1,845 | $ - | $ 1,845 | $ 5,485 | $ - | $ 5,485 |
| Operating expenses | 1,156 | - | 1,156 | 3,732 | (49) | 3,683 |
| Operating income | 689 | - | 689 | 1,753 | 49 | 1,802 |
| Interest expense | (97) | - | (97) | (317) | - | (317) |
| Other income | 21 | - | 21 | 191 | (157) | 34 |
| Income before income taxes | 613 | - | 613 | 1,627 | (108) | 1,519 |
| Income tax expense | (152) | (15) | (167) | (355) | (55) | (410) |

| | | | | | | |
|---|---|---|---|---|---|---|
| Net income | $ 461 | $ (15) | $ 446 | $ 1,272 | $ (163) | $ 1,109 |
| Operating ratio | 62.7% | | 62.7% | 68.0% | | 67.1% |
| Basic earnings per share | $ 0.98 | $ (0.03) | $ 0.95 | $ 2.71 | $ (0.35) | $ 2.36 |
| Diluted earnings per share | $ 0.97 | $ (0.03) | $ 0.94 | $ 2.69 | $ (0.35) | $ 2.34 |

CANADIAN NATIONAL RAILWAY COMPANY
NON-GAAP MEASURES - unaudited

| In millions, except per share data | Three months ended September 30, 2008 Reported | Adjustments | Adjusted | Nine months ended September 30, 2008 Reported | Adjustments | Adjusted |
|---|---|---|---|---|---|---|
| Revenues | $ 2,257 | $ - | $ 2,257 | $ 6,282 | $ - | $ 6,282 |
| Operating expenses | 1,413 | - | 1,413 | 4,208 | - | 4,208 |
| Operating income | 844 | - | 844 | 2,074 | - | 2,074 |
| Interest expense | (92) | - | (92) | (265) | - | (265) |
| Other income | 4 | - | 4 | 7 | - | 7 |
| Income before income taxes | 756 | - | 756 | 1,816 | - | 1,816 |
| Income tax expense | (204) | (41) | (245) | (494) | (75) | (569) |
| Net income | $ 552 | $ (41) | $ 511 | $ 1,322 | $ (75) | $ 1,247 |
| Operating ratio | 62.6% | | 62.6% | 67.0% | | 67.0% |
| Basic earnings per share | $ 1.17 | $ (0.09) | $ 1.08 | $ 2.77 | $ (0.16) | $ 2.61 |
| Diluted earnings per share | $ 1.16 | $ (0.09) | $ 1.07 | $ 2.74 | $ (0.16) | $ 2.58 |

Free cash flow

The Company generated $194 million and $657 million of free cash flow for the three and nine months ended September 30, 2009, compared to $258 million and $483 million for the same periods in 2008. Free cash flow does not have any standardized meaning prescribed by GAAP and may, therefore, not be comparable to similar measures presented by other companies. The Company believes that free cash flow is a useful measure of performance as it demonstrates the Company’s ability to generate cash after the payment of capital expenditures and dividends. The Company defines free cash flow as cash provided from operating activities, adjusted for changes in the accounts receivable securitization program and in cash and cash equivalents resulting from foreign exchange fluctuations, less cash used by investing activities, adjusted for the impact of major acquisitions, and the payment of dividends, calculated as follows:

| In millions | Three months ended September 30 2009 | 2008 | Nine months ended September 30 2009 | 2008 |
|---|---|---|---|---|
| Cash provided from operating activities | $ 650 | $ 957 | $ 1,600 | $ 1,531 |
| Cash used by investing activities | (322) | (393) | (1,004) | (902) |
| Cash provided before financing activities | 328 | 564 | 596 | 629 |
| Adjustments: | | | | |
| Change in accounts receivable securitization | - | (202) | 68 | 170 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Dividends paid | | (119) | | (108) | | (355) | | (328) |
| Acquisition of EJ&E | | - | | - | | 373 | | - |
| Effect of foreign exchange fluctuations on U.S. dollar-denominated cash and cash equivalents | | (15) | | 4 | | (25) | | 12 |
| Free cash flow | $ | 194 | $ | 258 | $ | 657 | $ | 483 |

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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.

| | | | |
|---|---|---|---|
| | Canadian National Railway Company | | |
| Date: October 20, 2009 | By: | /s/ Cristina Circelli | |
| | | Name: | Cristina Circelli |
| | | Title: | Deputy Corporate Secretary and General Counsel |