

FreightCar America, Inc.  
Form 10-K  
March 15, 2013  
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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
**Washington, D.C. 20549**

**FORM 10-K**

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

**For the fiscal year ended December 31, 2012**

**or**

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

**Commission file number: 000-51237**

**FREIGHTCAR AMERICA, INC.**

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

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

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

**Two North Riverside Plaza,**  
**Suite 1300, Chicago, Illinois**  
 (Address of principal executive offices)

**60606**  
 (Zip Code)

**(800) 458-2235**  
 (Registrant's telephone number, including area code)

**Securities registered pursuant to Section 12(b) of the Act:**

Title of class	Name of Each Exchange on Which Registered
Common stock, par value \$0.01 per share	Nasdaq Global Market
Securities registered pursuant to Section 12(g) of the Act: None	

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. YES  NO

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES  NO

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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment of this Form 10-K.

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). YES  NO

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer", "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.:

Large accelerated filer  Accelerated filer

Non-accelerated filer  (Do not check if a smaller reporting company) Smaller reporting company

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Act). YES  NO

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The aggregate market value of the registrant's common stock held by non-affiliates of the registrant as of June 30, 2012 was \$266.5 million, based on the closing price of \$22.97 per share on the Nasdaq Global Market.

As of March 5, 2013, there were 12,024,823 shares of the registrant's common stock outstanding.

### **DOCUMENTS INCORPORATED BY REFERENCE**

#### **Documents**

Portions of the registrant's definitive Proxy Statement for the 2013 annual meeting of stockholders to be filed pursuant to Regulation 14A within 120 days of the end of the registrant's fiscal year ended December 31, 2012.

**Part of Form 10-K  
Part III**

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### **PART I**

#### **Item 1. Business.**

##### **OVERVIEW**

We and our predecessors have been manufacturing railcars since 1901. We are the leading manufacturer of aluminum-bodied railcars in North America, based on the number of railcars delivered. We specialize in the production of coal cars, which represented 91% of our deliveries of railcars in 2012 and 93% of our deliveries of railcars in 2011. Our BethGon® railcar has been the leading aluminum-bodied coal car sold in North America for over 20 years. Over the last 25 years, we believe we have built and introduced more types of coal cars than all other manufacturers in North America combined. The balance of our production consisted of a broad spectrum of railcar types. Our railcar manufacturing facilities are located in Danville, Illinois and Roanoke, Virginia. Both facilities have the capability to manufacture a variety of types of railcars, including aluminum-bodied and steel-bodied railcars.

In February 2013, we sub-leased to operate approximately 25% of a state-of-the-art production facility located in the Shoals region of Alabama that was designed to efficiently build a wide variety of railcar types. This transaction is an important part of our long-term growth strategy as we continue to expand our railcar product and service offerings outside of our traditional coal car market. While our existing facilities will continue to support our coal car products, the Shoals facility will allow us to produce a broader variety of railcars in a cost-effective and efficient manner. In addition, the facility layout, automated production equipment, proximity to key suppliers and new supply agreements will increase our flexibility and make us more competitive in the marketplace.

We also refurbish and rebuild railcars and sell forged, cast and fabricated parts for all of the railcars we produce, as well as those manufactured by others. FreightCar Rail Services, LLC ( FCRS ) provides railcar repair and maintenance, inspections and railcar fleet management services for all types of freight railcars. FCRS has repair and maintenance and inspection facilities in Clinton, Indiana, Grand Island, Nebraska and Hastings, Nebraska and services freight cars and unit coal trains utilizing key rail corridors in the Midwest and Western regions of the United States. We also lease freight cars through our JAIX Leasing Company subsidiary.

Our primary customers are railroads, financial institutions and shippers, which represented 61%, 12% and 9%, respectively, of our total sales attributable to each type of customer for the year ended December 31, 2012. In the year ended December 31, 2012, we delivered 8,325 railcars, including 7,538 coal cars. Our total backlog of firm orders for railcars decreased from 8,303 railcars as of December 31, 2011 to 2,881 railcars as of December 31, 2012. The estimated future sales value of the backlog is \$560 million and \$198 million, respectively as of December 31, 2011 and 2012. We offer railcar leasing and refurbishment alternatives to our customers, an approach designed to enhance our position as a full service provider to the railcar industry. Although we continually look for opportunities to package our leased assets for sale to our leasing company partners, these leased assets may not be converted to sales, and may remain revenue producing assets into the foreseeable future.

Our Internet website is [www.freightcaramerica.com](http://www.freightcaramerica.com). We make available, free of charge, on or through our website items related to corporate governance, including, among other things, our corporate governance guidelines, charters of various committees of the Board of Directors and our code of business conduct and ethics. Our annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, and amendments thereto, are available on our website and on the SEC's website at [www.sec.gov](http://www.sec.gov). Any stockholder of our company may also obtain copies of these documents, free of charge, by sending a request in writing to Investor Relations at FreightCar America, Inc., Two North Riverside Plaza, Suite 1300, Chicago, Illinois 60606.

##### **OUR PRODUCTS AND SERVICES**

We design and manufacture aluminum-bodied and steel-bodied railcars that transport a variety of different products. The types of railcars listed below include the major types of railcars that we are capable of manufacturing; however, some of the types of railcars listed below have not been ordered by any of our customers or manufactured by us in a number of years. We refurbish and rebuild railcars and sell forged, cast and fabricated parts for all of the railcars we produce, as well as those manufactured by others. We also provide general railcar repair and maintenance, inspections and railcar fleet management services for all types of freight-carrying railcars. Many of our railcars are produced using a patented one-piece center sill, the main longitudinal structural component of the railcar. The one-piece center sill provides a higher carrying capacity, but weighs significantly less than traditional multiple-piece center sills. Any of the railcar types listed below may be further developed to meet the characteristics of the materials being transported and customer specifications.

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*Stainless Steel and Hybrid Stainless Steel/Aluminum Coal Cars.* We manufacture a series of stainless steel and hybrid stainless steel and aluminum AutoFlood and BethGon coal cars designed to serve the Eastern railroads. These coal cars are designed to withstand the rigors of Eastern coal transportation service. They offer a unique balance of maximized payload, light weight, efficient unloading and long service life.

*BethGon Series.* The BethGon® is the leader in the aluminum-bodied coal gondola railcar segment. Since we introduced the steel BethGon railcar in the late 1970s and the aluminum BethGon railcar in 1986, the BethGon railcar has become the most widely used coal car in North America. Our current BethGon II features lighter weight, higher capacity and increased durability suitable for long-haul coal carrying railcar service. We have received several patents on the features of the BethGon II and continue to explore ways to increase the BethGon II's capacity and reliability.

*AutoFlood Series.* Our aluminum bodied open-top hopper railcar, the AutoFlood, is a five-pocket coal car equipped with a bottom discharge gate mechanism. We began manufacturing AutoFlood railcars in 1984, and introduced the AutoFlood II and AutoFlood III designs in 1996 and 2002, respectively. Both the AutoFlood II and AutoFlood III design incorporate the automatic rapid discharge system, the MegaFlo door system, a patented mechanism that uses an over-center locking design, enabling the cargo door to close with tension rather than by compression. Further, AutoFlood railcars can be equipped with rotary couplers to permit rotary unloading.

*Other Coal Cars.* We also manufacture a variety of other types of aluminum and steel-bodied coal cars, including triple hopper and flat bottom gondola railcars.

*Other Railcar Types.* Our portfolio of other railcar types includes the following: Intermodal Double Stack railcars, including a stand-alone, 40 foot well car and the DynaStack® articulated, 5-unit, 40 foot and 3-unit, 53 foot well cars for transportation of containers; a Small Cube Covered Hopper railcar used to transport high density products such as roofing granules, fly ash, sand and cement; a Mill Gondola Railcar used to transport steel products and scrap; Slab and Coil steel railcars designed specifically for transportation of steel slabs and coil steel products, respectively; Flat Railcars, Bulkhead Flat Railcars and Centerbeam Flat Railcars designed to transport a variety of products, including machinery and equipment, steel and structural steel components (including pipe), forest products and other bulky industrial products; a Woodchip Gondola Railcar designed to haul woodchips and municipal waste or other high-volume, low-density commodities; and a variety of non-coal carrying open top hopper railcars designed to carry aggregates, ballast, iron ore, taconite pellets, petroleum coke and other bulk commodities; the AVC Aluminum Vehicle Carrier design used to transport commercial and light vehicles (automobiles and trucks) from assembly plants and ports to rail distribution centers; and the Articulated Bulk Container railcar designed to carry dense bulk products such as waste products in 20 foot containers.

*International Railcar Designs.* We manufacture railcars for export to Latin America and the Middle East. Railroads outside of North America have a variety of track gauges that are sized differently than in North America, which requires us, in some cases, to alter manufacturing specifications for foreign sales.

We have added 12 new or redesigned products to our portfolio in the last five years, including mill gondolas, slab and coil steel railcar, triple hopper and hybrid aluminum/stainless steel railcars, ore cars, ballast cars, aggregate cars and the AVC. Focused product development activity continues in areas where we can leverage our technical knowledge base and capabilities to realize market opportunities.

With operations in Colorado, Indiana and Nebraska, we service freight cars and unit coal trains utilizing key rail corridors in the Midwest and Western regions of the United States. Separately, we also sell forged, cast and fabricated replacement parts for all of the railcars we produce, as well as those manufactured by others.

## **MANUFACTURING**

We operate railcar production facilities in Danville, Illinois and Roanoke, Virginia. Our Danville and Roanoke facilities are each certified or approved for certification by the Association of American Railroads (the AAR), which sets railcar manufacturing industry standards for quality control. At our Danville and Roanoke facilities, we



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will continue to adjust salaried and hourly labor personnel levels to coincide with production requirements. We are preparing the Shoals manufacturing facility that we sub-leased on February 19, 2013 for operation, with the first deliveries of new railcars expected in the second half of 2013. This facility will provide a solid platform from which to pursue a broad range of non-coal car business including intermodal well cars, non-intermodal flat cars and various open-top hopper and gondola cars.

Our manufacturing process involves four basic steps: fabrication, assembly, finishing and inspection. Each of our facilities has numerous checkpoints at which we inspect products to maintain quality control, a process that our operations management continuously monitors. In our fabrication processes, we employ standard metal working tools, many of which are computer controlled. Each assembly line typically involves 15 to 20 manufacturing positions, depending on the complexity of the particular railcar design. We use mechanical fastening in the fitting and assembly of our aluminum-bodied railcar parts, while we typically use welding for the assembly of our steel-bodied railcars. For aluminum-bodied railcars, we begin the finishing process by cleaning the railcar's surface and then applying the decals. In the case of steel-bodied railcars, we begin the finishing process by blasting the surface area of the railcar, painting it and then applying decals. We use water-based paints to reduce the emission of volatile organic compounds, and we meet state and U.S. federal regulations for control of emissions and disposal of hazardous materials. Once we have completed the finishing process, our employees, along with representatives of the customer purchasing the particular railcars, inspect all railcars for adherence to specifications.

## **CUSTOMERS**

We have strong long-term relationships with many large purchasers of railcars. Long-term customer relationships are particularly important in the railcar industry, given the limited number of buyers of railcars.

Our customer base consists mostly of North American railroads, financial institutions and shippers. We believe that our customers' preference for reliable, high-quality products, the relatively high cost for customers to switch manufacturers, our technological leadership in developing and enhancing innovative products and the competitive pricing of our railcars have helped us maintain our long-standing relationships with our customers.

In 2012, revenue from three customers, Norfolk Southern Railway Company, CSX Transportation Inc. and CitiCorp Railmark, Inc., accounted for approximately 28%, 22% and 14%, respectively, of total revenue. In 2012, sales to our top five customers accounted for approximately 77% of total revenue. Our railcar sales to customers outside the United States were \$48.3 million in 2012. While we maintain strong relationships with our customers and we serve over 70 active customers, many customers do not purchase railcars every year since railcar fleets are not necessarily replenished or augmented every year. The size and frequency of railcar orders often results in a small number of customers representing a significant portion of our sales in a given year.

## **SALES AND MARKETING**

Our direct sales group is organized geographically and consists of regional sales managers and contract administrators, a manager of customer service and support staff. The regional sales managers are responsible for managing customer relationships. Our contract administrators are responsible for preparing proposals and other inside sales activities. Our manager of customer service is responsible for after-sale follow-up and in-field product performance reviews.

## **RESEARCH AND DEVELOPMENT**

We utilize the latest engineering methods, tools and processes to ensure that new products and processes meet our customers' requirements and are delivered in a timely manner. We develop and introduce new railcar designs as a result of a combination of customer feedback and close observation of developing market trends. We work closely with our customers to better understand their expectations and design railcars that meet their needs. New product designs are tested and validated for compliance with AAR standards prior to introduction. This comprehensive approach provides the criteria and direction that ensure we are developing the products that our customers desire and perform as expected. Costs associated with research and development are expensed as incurred and totaled \$0.4 million, \$2.0 million and \$0.8 million for the years ended December 31, 2012, 2011 and 2010, respectively.



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We define backlog as the value of those products or services which our customers have committed in writing to purchase from us or lease from us when built, but which have not yet been recognized as sales. Our contracts may include cancellation clauses under which customers are required, upon cancellation of the contract, to reimburse us for costs incurred in reliance on an order and to compensate us for lost profits. However, customer orders may be subject to customer requests for delays in railcar deliveries, inspection rights and other customary industry terms and conditions, which could prevent or delay backlog from being converted into sales.

The following table depicts our reported railcar backlog in number of railcars and estimated future sales value attributable to such backlog, for the periods shown.

	Year Ended December 31,		
	2012	2011	2010
Railcar backlog at start of period	8,303	2,054	265
Railcars delivered	(8,325)	(6,188)	(2,229)
Railcar orders	2,903	12,437	4,018
Railcar backlog at end of period	2,881	8,303	2,054
Estimated revenue from backlog at end of period (in thousands) <sup>(1)</sup>	\$ 197,597	\$ 559,824	\$ 144,306

- (1) Estimated revenue from backlog reflects the total revenue attributable to the backlog reported at the end of the particular period as if such backlog were converted to actual sales. Estimated revenue from backlog does not reflect potential price increases and decreases under customer contracts that provide for variable pricing based on changes in the cost of raw materials. Although we continually look for opportunities to package our leased assets for sale to our leasing company partners, these leased assets may not be converted to sales. Although our reported backlog is typically converted to sales within one year, our reported backlog may not be converted to sales in any particular period, if at all, and the actual sales from these contracts may not equal our reported backlog estimates. See Item 1A. Risk Factors Risks Related to Our Business The level of our reported backlog may not necessarily indicate what our future sales will be and our actual sales may fall short of the estimated sales value attributed to our backlog. In addition, due to the large size of railcar orders and variations in the mix of railcars, the size of our reported backlog at the end of any given period may fluctuate significantly. See Item 1A. Risk Factors Risks Related to the Railcar Industry The variable purchase patterns of our customers and the timing of completion, delivery and customer acceptance of the railcar may cause our revenues and income from operations to vary substantially each quarter, which will result in significant fluctuations in our quarterly results.

**SUPPLIERS AND MATERIALS**

The cost of raw materials and components represents a substantial majority of the manufacturing costs of most of our railcar product lines. As a result, the management of raw materials and components purchasing is critical to our profitability. We enjoy generally strong relationships with our suppliers, which helps to ensure access to supplies when railcar demand is high.

Our primary aluminum suppliers are Sapa Extrusions and Constellium (formerly Alcan Inc.). Aluminum prices generally are fixed at the time a railcar order is accepted, mitigating the effect of future fluctuations in prices. We purchase steel primarily from U.S. sources, except for our roll-formed center sills, which we purchase from a single Canadian supplier with operations in Canada and Mississippi. A center sill is the primary structural component of a railcar.

Our primary component suppliers include Amsted Industries, Inc. which supplies us with castings and couplers through its ASF-Keystone subsidiary and bearings through its Brenco subsidiary and Standard Steel which supplies us with axles and wheels. Roll Form Group, a division of Samuel Manu-Tech, Inc., is the sole supplier of our roll-formed center sills, which were used in 98% and 100% of our new railcars produced in 2012 and 2011, respectively.



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Other suppliers provide brake systems, wheels, castings, axles and bearings. The railcar industry is subject to supply constraints for some of the key railcar components. See Item 1A. Risk Factors Risks Related to the Railcar Industry Limitations on the supply of railcar components could adversely affect our business because they may limit the number of railcars we can manufacture.

Except as described above, there are usually at least two suppliers for each of our raw materials and specialty components, and we actively purchase from over 133 suppliers. No single supplier accounted for more than 22% and 29% of our total purchases in 2012 and 2011, respectively. Our top ten suppliers accounted for 67% and 77% of our total purchases in 2012 and 2011, respectively.

## **COMPETITION**

We operate in a highly competitive marketplace. Competition is based on price, product design, reputation for product quality, reliability of delivery and customer service and support.

We have four principal competitors in the North American railcar market that primarily manufacture railcars for third-party customers, which are Trinity Industries, Inc., The Greenbrier Companies, Inc., American Railcar Industries, Inc. and National Steel Car Limited.

Competition in the North American market from railcar manufacturers located outside of North America is limited by, among other factors, high shipping costs and familiarity with the North American market.

## **INTELLECTUAL PROPERTY**

We have several U.S. and international patents and pending applications, registered trademarks, copyrights and trade names. Key patents include our one-piece center sill, our MegaFlo door system and our top chord and side stake for coal cars. The protection of our intellectual property is important to our business.

## **EMPLOYEES**

As of December 31, 2012, we had 918 employees, of whom 182 were salaried and 736 were hourly wage earners, and approximately 380, or 41%, of our employees were members of unions. As of December 31, 2011, we had 941 employees, of whom 164 were salaried and 777 were hourly wage earners, and approximately 430, or 46%, of our employees were members of unions. See Item 1A. Risk Factors Risks Related to Our Business Labor disputes could disrupt our operations and divert the attention of our management and may have a material adverse effect on our operations and profitability.

## **REGULATION**

The Federal Railroad Administration, or FRA, administers and enforces U.S. federal laws and regulations relating to railroad safety. These regulations govern equipment and safety compliance standards for freight railcars and other rail equipment used in interstate commerce. The AAR promulgates a wide variety of rules and regulations governing safety and design of equipment, relationships among railroads with respect to freight railcars in interchange and other matters. The AAR also certifies freight railcar manufacturers and component manufacturers that provide equipment for use on railroads in the United States as well as providers of railcar repair and maintenance services. New products must generally undergo AAR testing and approval processes. As a result of these regulations, we must maintain certifications with the AAR as a freight railcar manufacturer and provider of railcar repair and maintenance services, and products that we sell must meet AAR and FRA standards.

We are also subject to oversight in other jurisdictions by foreign regulatory agencies and to the extent that we expand our business internationally, we will increasingly be subject to the regulations of other non-U.S. jurisdictions.

## **ENVIRONMENTAL MATTERS**

We are subject to comprehensive federal, state, local and international environmental laws and regulations relating to the release or discharge of materials into the environment, the management, use, processing, handling, storage, transport or disposal of hazardous materials, or otherwise relating to the protection of human health and the environment. These laws and regulations not only expose us to liability for our own negligent acts, but also may



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expose us to liability for the conduct of others or for our actions that were in compliance with all applicable laws at the time these actions were taken. In addition, these laws may require significant expenditures to achieve compliance, and are frequently modified or revised to impose new obligations. Civil and criminal fines and penalties may be imposed for non-compliance with these environmental laws and regulations. Our operations that involve hazardous materials also raise potential risks of liability under the common law.

Environmental operating permits are, or may be, required for our operations under these laws and regulations. These operating permits are subject to modification, renewal and revocation. We regularly monitor and review our operations, procedures and policies for compliance with these laws and regulations. Despite these compliance efforts, risk of environmental liability is inherent in the operation of our businesses, as it is with other companies engaged in similar businesses. We believe that our operations and facilities are in substantial compliance with applicable laws and regulations and that any noncompliance is not likely to have a material adverse effect on our operations or financial condition.

Future events, such as changes in or modified interpretations of existing laws and regulations or enforcement policies, or further investigation or evaluation of the potential health hazards of products or business activities, may give rise to additional compliance and other costs that could have a material adverse effect on our financial condition and operations. In addition, we have in the past conducted investigation and remediation activities at properties that we own to address historic contamination. To date, such costs have not been material. Although we believe we have satisfactorily addressed all known material contamination through our remediation activities, there can be no assurance that these activities have addressed all historic contamination. The discovery of historic contamination or the release of hazardous substances into the environment could require us in the future to incur investigative or remedial costs or other liabilities that could be material or that could interfere with the operation of our business.

In addition to environmental laws, the transportation of commodities by railcar raises potential risks in the event of a derailment or other accident. Generally, liability under existing law in the United States for a derailment or other accident depends on the negligence of the party, such as the railroad, the shipper or the manufacturer of the railcar or its components. However, for the shipment of certain hazardous commodities, strict liability concepts may apply.

### **Item 1A. Risk Factors.**

The factors described below are the principal risks that could materially adversely affect our operating results and financial condition. Other factors may exist that we do not consider significant based on information that is currently available. In addition, new risks may emerge at any time, and we cannot predict those risks or estimate the extent to which they may affect us.

### **RISKS RELATED TO THE RAILCAR INDUSTRY**

**We operate in a highly cyclical industry, and our industry and markets are influenced by factors that are beyond our control, including U.S. and international economic conditions. Such factors could adversely affect demand for our railcar offerings.**

Historically, the North American railcar market has been highly cyclical and we expect it to continue to be highly cyclical. During the previous industry cycle, industry-wide railcar deliveries declined from a peak of 75,704 railcars in 1998 to a low of 17,736 railcars in 2002. During this period, our railcar production declined from approximately 9,000 railcars in 1998 to 4,067 railcars in 2002. Industry-wide railcar deliveries again peaked in 2006 with deliveries of 74,729 before declining to 16,535 in 2010. Our railcar deliveries trended downward from 18,764 in 2006 to 2,229 in 2010. Our industry and the markets for which we supply railcars are influenced by factors that are beyond our control, including U.S. and international economic conditions. Downturns in economic conditions could result in lower sales volumes, lower prices for railcars and a loss of profits. The cyclical nature of the markets in which we operate may adversely affect our operating results and cash flow. In addition, fluctuations in the demand for our railcars may cause comparisons of our sales and operating results between different fiscal years to be less meaningful as indicators of our future performance.

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### **We operate in a highly competitive industry and we may be unable to compete successfully against other railcar manufacturers.**

We operate in a competitive marketplace and face substantial competition from established competitors in the railcar industry in North America. We have four principal competitors that primarily manufacture railcars for third-party customers. Some of these manufacturers have greater financial and technological resources than us, and they may increase their participation in the railcar segments in which we compete. In addition to price, competition is based on product performance and technological innovation, quality, reliability of delivery, customer service and other factors. In particular, technological innovation by any of our existing competitors, or new competitors entering any of the markets in which we do business, could put us at a competitive disadvantage and impair our ability to compete successfully against other railcar manufacturers or retain our market share in our established markets. Increased competition for the sales of our railcar products could result in price reductions, reduced margins and loss of market share, which could negatively affect our prospects, business, financial condition and results of operations.

### **We depend upon a small number of customers that represent a large percentage of our sales. The loss of any single customer, or a reduction in sales to any such customer, could have a material adverse effect on our business, financial condition and results of operations.**

Since railcars are typically sold pursuant to large, periodic orders, a limited number of customers typically represent a significant percentage of our railcar sales in any given year. Over the last five years, our top five customers in each year based on sales accounted for, in the aggregate, approximately 66% of our total sales for the five-year period. In 2012, sales to our top three customers accounted for approximately 28%, 22% and 14%, respectively, of our total sales. In 2011, sales to our top three customers accounted for approximately 52%, 24% and 5%, respectively, of our total sales. Although we have long-standing relationships with many of our major customers, the loss of any significant portion of our sales to any major customer, the loss of a single major customer or a material adverse change in the financial condition of any one of our major customers could have a material adverse effect on our business, financial condition and results of operations.

### **The variable purchase patterns of our customers and the timing of completion, delivery and customer acceptance of orders may cause our revenues and income from operations to vary substantially each quarter, which will result in significant fluctuations in our quarterly results.**

Most of our individual customers do not make purchases every year, since they do not need to replace, replenish or increase their railcar fleets on a yearly basis. Many of our customers place orders for products on an as-needed basis, sometimes only once every few years. As a result, the order levels for railcars, the mix of railcar types ordered and the railcars ordered by any particular customer have varied significantly from quarterly period to quarterly period in the past and may continue to vary significantly in the future. Therefore, our results of operations in any particular quarterly period may be significantly affected by the number of railcars delivered and product mix of railcars delivered in any given quarterly period. Additionally, because we record the sale of a new and rebuilt railcar at the time (1) we complete production, (2) the railcar is accepted by the customer following inspection, (3) the risk for any damage or loss with respect to the railcar passes to the customer, and (4) title to the railcar transfers to the customer, and not when the order is taken, the timing of the completion, delivery and acceptance of significant customer orders will have a considerable effect on fluctuations in our quarterly results. As a result of these quarterly fluctuations, we believe that comparisons of our sales and operating results between quarterly periods may not be meaningful and, as such, these comparisons should not be relied upon as indicators of our future performance.

### **Our ability to sell new railcars may be limited by other factors, including the availability and price of used railcars offered for sale and new or used railcars offered for lease by leasing companies and others.**

Our customers may consider alternatives to the purchase of new railcars, including the purchase of used railcars or the lease of new or used railcars. Our competitors may also be able to offer railcar leases at favorable lease rates, negatively impacting our ability to sell new railcars, which may result in price reductions, reduced margins and loss of market share. These additional competitive factors could negatively affect our prospects, business, financial condition and results of operations.

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**The potential cost volatility 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.**

The production of railcars and our operations require substantial amounts of aluminum and steel. The cost of aluminum, steel and all other materials (including scrap metal) used in the production of our railcars represents a significant majority of our direct manufacturing costs. Our business is subject to the risk of price increases and periodic delays in the delivery of aluminum, steel and other materials, all of which are beyond our control. Any fluctuations in the price or availability of aluminum or steel, or any other material used in the production of our railcars, may have a material adverse effect on our business, results of operations or financial condition. In addition, if any of our suppliers were unable to continue its business or were to seek bankruptcy relief, the availability or price of the materials we use could be adversely affected. Deliveries of our materials may also fluctuate depending on supply and demand for the material or governmental regulation relating to the material, including regulation relating to the importation of the material.

**Limitations on the supply of railcar components could adversely affect our business because they may limit the number of railcars we can manufacture.**

We rely upon third-party suppliers for various components for our railcars. In the future, suppliers of railcar components may be unable to meet the short-term or longer-term demand of our industry for certain railcar components. In the event that any of our suppliers of railcar components were to stop or reduce their production, go out of business, refuse to continue their business relationships with us, become subject to work stoppages or ration their supply of components, our business could be disrupted. We have in the past experienced challenges sourcing certain railcar components to meet our production requirements. In addition, our ability to increase our railcar production to expand our business and/or meet any increase in demand, with new or additional manufacturing capabilities, depends on our ability to obtain an adequate supply of these railcar components. While we believe that we could secure alternative sources for these components, we may incur substantial delays and significant expense in doing so, the quality and reliability of these alternative sources may not be the same and our operating results may be significantly affected. In an effort to secure a supply of components, we have developed foreign sources that require deposits on some occasions. In the event of a material adverse business condition, such deposits may be forfeited. In addition, if one of our competitors entered into a preferred supply arrangement with, or was otherwise favored by, a particular supplier, we would be at a competitive disadvantage, which could negatively affect our operating results. Furthermore, alternative suppliers might charge significantly higher prices for railcar components than we currently pay. Such circumstances could have a material adverse impact on our customer relationships, financial condition and results of operations.

## **RISKS RELATED TO OUR BUSINESS**

**We rely significantly on the sales of our coal cars. Future demand for coal could decrease, which could adversely affect our business, financial condition and results of operations.**

Historically, coal cars have been our primary railcar type, representing 83% and 82% of our sales revenues in 2012 and 2011, respectively, and 91% and 93% of the total railcars that we delivered in 2012 and 2011, respectively. Fluctuations in the price of coal relative to other energy sources may cause utility companies, which are significant customers of our coal car lines, to select an alternative energy source to coal, thereby reducing the demand for coal cars. For example, if utility companies were to begin preferring natural gas instead of coal as an energy source, demand for our coal car lines could decrease and our operating results could be negatively affected.

The U.S. federal and state governments may adopt new legislation and/or regulations, or judicial or administrative interpretations of existing laws and regulations that materially adversely affect the coal industry and/or our customers' ability to use coal or to continue to use coal at present rates. Such legislation or proposed legislation and/or regulations may include proposals for more stringent protections of the environment that would further regulate and tax the coal industry. This legislation could significantly reduce demand for coal, adversely affect the demand for our coal cars and have a material adverse effect on our financial condition and results of operations.

**Lack of acceptance of our new railcar offerings by our customers could adversely affect our business.**

Our growth strategy depends in part on our continued development and sale of new railcar designs and design changes to existing railcars to penetrate railcar markets in which we currently do not compete and to expand or

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maintain our market share in the railcar markets in which we currently compete. We have dedicated significant resources to the development, manufacturing and marketing of new railcar designs. We typically make decisions to develop and market new railcars and railcars with modified designs without firm indications of customer acceptance. New or modified railcar designs may require customers to alter their existing business methods or threaten to displace existing equipment in which our customers may have a substantial capital investment. Many railcar purchasers prefer to maintain a standardized fleet of railcars and railcar purchasers with established railcar fleets are generally resistant to railcar design changes. Therefore, any new or modified railcar designs that we develop may not gain widespread acceptance in the marketplace and any such products may not be able to compete successfully with existing railcar designs or new railcar designs that may be introduced by our competitors.

**To the extent we expand our sales of products and services internationally, we will increase our exposure to international economic and political risks.**

Conducting business outside the United States, for example through our sales to other countries, subjects us to various risks, including changing economic, legal and political conditions, work stoppages, currency fluctuations, terrorist activities directed at U.S. companies, armed conflicts and unexpected changes in the United States and the laws of other countries relating to tariffs, trade restrictions, transportation regulations, foreign investments and taxation. If we fail to obtain and maintain certifications of our railcars and railcar parts in the various countries where we may operate, we may be unable to market and sell our railcars in those countries.

In addition, more stringent rules relating to labor or the environment, adverse tax consequences and price exchange controls could limit our operations and make the distribution of our products internationally more difficult. Furthermore, any material changes in the quotas, regulations or duties on imports imposed by the U.S. government and agencies or on exports by non-U.S. governments and their respective agencies could affect our ability to export the railcars that we manufacture in the United States. The uncertainty of the legal environment could limit our ability to enforce our rights effectively.

**The level of our reported backlog may not necessarily indicate what our future sales will be and our actual sales may fall short of the estimated sales value attributed to our backlog.**

We define backlog as the sales value of products or services to which our customers have committed in writing to purchase from us or lease from us when built, that have not yet been recognized as revenue. In this annual report on Form 10-K, we have disclosed our backlog, or the number of railcars for which we have purchase orders or firm operating leases for railcars to be built, in various periods and the estimated sales value (in dollars) that would be attributable to this backlog once the backlog is converted to actual sales. We consider backlog to be an indicator of future sales of railcars. However, our reported backlog may not be converted into sales in any particular period, if at all, and the actual sales (including any compensation for lost profits and reimbursement for costs) from such contracts may not equal our reported estimates of backlog value. For example, we rely on third-party suppliers for castings, wheels and components for our railcars and if these third parties were to stop or reduce their supply of heavy castings, wheels and other components, our actual sales could fall short of the estimated sales value attributed to our backlog. Also, customer orders may be subject to cancellation, inspection rights and other customary industry terms, and delivery dates may be subject to delay, thereby extending the date on which we will deliver the associated railcars and realize revenues attributable to such railcar backlog.

**Our warranties may expose us to potentially significant claims, which may damage our reputation and adversely affect our business, financial condition and results of operations.**

We warrant that new railcars produced by us will be free from defects in material and workmanship under normal use and service identified for a period of up to five years from the time of sale. Accordingly, we may be subject to a risk of product liability or warranty claims in the event that the failure of any of our products results in property damage, personal injury or death, or does not conform to our customers' specifications. Although we currently maintain product liability insurance coverage, product liability claims, if made, may exceed our insurance coverage limits or insurance may not continue to be available on commercially acceptable terms, if at all. These types of product liability and warranty claims may result in costly product recalls, significant repair costs and damage to our reputation, all of which could adversely affect our results of operations.



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**Our Shoals facility or any other business that we may acquire in the future may fail to perform to expectations or we may be unable to successfully integrate any such acquired business with our existing business.**

Our Shoals facility or any other business that we may acquire in the future may not strengthen our competitive position or achieve our desired goals. In addition, the integration of the Shoals-based business or any other acquired business may disrupt our ongoing operations, divert management from day-to-day responsibilities, increase our expenses and reduce our cash available for operations and other uses. There can be no assurance that we will be able to effectively manage the integration of our Shoals-based business or any other acquired business, or be able to attract, retain and motivate key personnel for the business.

**If we lose key personnel, our operations and ability to manage the day-to-day aspects of our business may be adversely affected.**

We believe our success depends to a significant degree upon the continued contributions of our executive officers and key employees, both individually and as a group. Our future performance will substantially depend on our ability to retain and motivate them. If we lose key personnel or are unable to recruit qualified personnel, our ability to manage the day-to-day aspects of our business may be adversely affected.

The loss of the services of one or more members of our senior management team could have a material adverse effect on our business, financial condition and results of operations. Because our senior management team has many years of experience in the railcar industry and other manufacturing and capital equipment industries, it could be difficult to replace any of them without adversely affecting our business operations. Our future success will also depend in part upon our continuing ability to attract and retain highly qualified personnel. We do not currently maintain key person life insurance.

**Shortages of skilled labor may adversely impact our operations.**

We depend on skilled labor in the manufacture and repair of railcars. Some of our facilities are located in areas where demand for skilled laborers often exceeds supply. Shortages of some types of skilled laborers may restrict our ability to maintain or increase production rates and could cause our labor costs to increase.

**An increase in health care costs could adversely affect our results of operations.**

We provide postretirement health care benefits for approximately 49 of our active employees and 712 of our retired employees. As of December 31, 2012, we have an unfunded \$69.3 million accrual for our projected retiree health care costs, a substantial portion of which relates to a settlement with the union representing employees at our and our predecessors' Johnstown manufacturing facilities. The terms of that settlement required us to pay until November 30, 2012 certain monthly amounts toward the cost of retiree health care coverage. We are currently engaged in negotiations related to the expired settlement agreement but no agreements have been reached. Therefore the outcome of those negotiations and the impact on our postretirement benefit plan obligation cannot be determined at this time. Our recorded postretirement benefit plan obligation assumes for accounting purposes a continuation of those monthly payments indefinitely after November 30, 2012 (as is permitted under the settlement). However, our postretirement benefit plan obligation could significantly increase or decrease if payments were to cease, if litigation should ensue or if the parties should agree on a modified settlement.

**Labor disputes could disrupt our operations and divert the attention of our management and may have a material adverse effect on our operations and profitability.**

As of December 31, 2012, we had collective bargaining agreements with unions representing approximately 41% of our total active labor force. A collective bargaining agreement at one of the Company's facilities that covers approximately 31% of our total active labor force at December 31, 2012 expires in October 2013. An additional collective bargaining agreement at a different facility that covers approximately 10% of our total active labor force at December 31, 2012 expires on March 31, 2013. Disputes with the unions representing our employees could result in strikes or other labor protests which could disrupt our operations and divert the attention of management from operating our business. If we were to experience a strike or work stoppage, it could be difficult for us to find a sufficient number of employees with the necessary skills to replace these employees. Any such labor disputes could have a material adverse effect on our financial condition, results of operations or cash flows.

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**We rely upon a single supplier to supply us with all of our roll-formed center sills for our railcars, and any disruption of our relationship with this supplier could adversely affect our business.**

We rely upon a single supplier to manufacture all of our roll-formed center sills for our railcars, which are based upon our proprietary and patented process. A center sill is the primary longitudinal structural component of a railcar, which helps the railcar withstand the weight of the cargo and the force of being pulled during transport. Our center sill is formed into its final shape without heating by passing steel plate through a series of rollers. Of the new railcars that we produced in 2012 and 2011, 98% and 100%, respectively, were manufactured using this roll-formed center sill. Although we have a good relationship with our supplier and have not experienced any significant delays, manufacturing shortages or failures to meet our quality requirements and production specifications in the past, our supplier could stop production of our roll-formed center sills, go out of business, refuse to continue its business relationship with us or become subject to work stoppages. While we believe that we could secure alternative manufacturing sources, our present supplier is currently the only manufacturer of our roll-formed center sills for our railcars. We may incur substantial delays and significant expense in finding an alternative source, our results of operations may be significantly affected and the quality and reliability of these alternative sources may not be the same. Moreover, alternative suppliers might charge significantly higher prices for our roll-formed center sills than we currently pay.

**Equipment failures, delays in deliveries or extensive damage to our facilities could lead to production or service curtailments or shutdowns.**

We have railcar production facilities in Danville, Illinois and Roanoke, Virginia and maintenance and repair facilities in Clinton, Indiana, Grand Island, Nebraska and Hastings, Nebraska. An interruption in railcar production capabilities or maintenance and repair capabilities at these facilities, as a result of equipment failure or other factors, could reduce or prevent our production, service or repair of railcars. A halt of production at any of our manufacturing facilities could severely affect delivery times to our customers. Any significant delay in deliveries to our customers could result in the termination of contracts, cause us to lose future sales and negatively affect our reputation among our customers and in the railcar industry and our results of operations. Our facilities are also subject to the risk of catastrophic loss due to unanticipated events, such as fires, explosions, floods or weather conditions. We may experience plant shutdowns or periods of reduced production as a result of equipment failures, delays in deliveries or extensive damage to any of our facilities, which could have a material adverse effect on our business, results of operations or financial condition.

**We might fail to adequately protect our intellectual property, which may result in our loss of market share, or third parties might assert that our intellectual property infringes on their intellectual property, which would be costly to defend and divert the attention of our management.**

The protection of our intellectual property is important to our business. We rely on a combination of trademarks, copyrights, patents and trade secrets to protect our intellectual property. However, these protections might be inadequate. For example, we have patents for portions of our railcar designs that are important to our market leadership in the coal car segment. Our pending or future trademark, copyright and patent applications might not be approved or, if allowed, might not be sufficiently broad. Conversely, third parties might assert that our technologies or other intellectual property infringe on their proprietary rights. In either case, litigation may result, which could result in substantial costs and diversion of our management team's efforts. Regardless of whether we are ultimately successful in any litigation, such litigation could adversely affect our business, results of operations and financial condition.

**We are subject to a variety of environmental laws and regulations and the cost of complying with environmental requirements or any failure by us to comply with such requirements may have a material adverse effect on our business, financial condition and results of operations.**

We are subject to a variety of federal, state and local environmental laws and regulations, including those governing air quality and the handling, disposal and remediation of waste products, fuel products and hazardous substances. Although we believe that we are in material compliance with all of the various regulations and permits applicable to our business, we may not at all times be in compliance with such requirements. The cost of complying with environmental requirements may also increase substantially in future years. If we violate or fail to comply with these regulations, we could be fined or otherwise sanctioned by regulators. In addition, these requirements are complex, change frequently and may become more stringent over time, which could have a material adverse effect on our business. We have in the past conducted investigation and remediation activities at properties that we own to address

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historic contamination. However, there can be no assurance that these remediation activities have addressed all historic contamination. Environmental liabilities that we incur, including those relating to the off-site disposal of our wastes, if not covered by adequate insurance or indemnification, will increase our costs and have a negative impact on our profitability.

### **The agreement governing our revolving credit facility contains various covenants that, among other things, limit our discretion in operating our business and provide for certain minimum financial requirements.**

The agreement governing our revolving credit facility contains various covenants that, among other things, limit our management's discretion by restricting our ability to incur additional debt, enter into certain transactions with affiliates, make investments and other restricted payments and create liens. Our failure to comply with these financial covenants and other covenants under our revolving credit facility could lead to an event of default under the agreement governing any other indebtedness that we may have outstanding at the time, permitting the lenders to accelerate all borrowings under such agreement and to foreclose on any collateral. In addition, any such events may make it more difficult or costly for us to borrow additional funds in the future. Our failure to raise capital if and when needed could have a material adverse effect on our results of operations and financial condition.

### **The market price of our securities may fluctuate significantly, which may make it difficult for stockholders to sell shares of our common stock when desired or at attractive prices.**

Since our initial public offering in April 2005 until December 31, 2012, the trading price of our common stock ranged from a low of \$12.82 per share to a high of \$78.34 per share. The price for our common stock may fluctuate in response to a number of events and factors, such as quarterly variations in operating results and our reported backlog, the cyclical nature of the railcar market, announcements of new products by us or our competitors, changes in financial estimates and recommendations by securities analysts, the operating and stock price performance of other companies that investors may deem comparable to us, and news reports relating to trends in our markets or general economic conditions. Additionally, volatility or a lack of positive performance in our stock price may adversely affect our ability to retain key employees, all of whom have been granted stock options or other stock awards.

### **Item 1B. Unresolved Staff Comments.**

None.

### **Item 2. Properties.**

The following table presents information on our leased and owned operating properties as of December 31, 2012:

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Use	Location	Size	Leased or	Lease
			Owned	Expiration Date
Corporate headquarters	Chicago, Illinois	15,540 square feet	Leased	March 31, 2022
Railcar assembly and component manufacturing	Danville, Illinois	308,665 square feet on 36.5 acres of land	Owned	
Railcar assembly and component manufacturing	Roanoke, Virginia	383,709 square feet on 15.5 acres of land	Leased	December 31, 2024
Railcar maintenance and repair	Grand Island, Nebraska	132,067 square feet on 448 acres of land	Owned	
Railcar maintenance and repair	Hastings, Nebraska	35,107 square feet on 13.4 acres of land with an additional 7.5 acres of land leased	Owned/ Leased	December 31, 2013
Railcar maintenance and repair	Clinton, Indiana	30,873 square feet on 56.3 acres of land	Owned	
Railcar logistics management services	Lakewood, Colorado	1,054 square feet	Leased	May 31, 2013
Short line railroad	Grand Island, Nebraska	5 miles of main line plus 2.77 miles of sidings for a total of 7.77 miles	Owned	
Administrative	Johnstown, Pennsylvania	29,500 square feet on 1.02 acres of land	Owned	
Parts warehouse	Johnstown, Pennsylvania	86,000 square feet	Leased	December 31, 2016

In addition to the properties listed above, we also have various leased or owned railroad easements or rights of way which we use in our railcar repair and maintenance business.

On February 19, 2013, we subleased space at a production facility located in Cherokee, Alabama. We will operate approximately 543,399 square feet of a 2,150,000-square foot facility located on approximately 700 acres of land. The subleased premises will include production lines, an assembly area, storage and fabrication areas and office space. The initial term of the sublease expires on December 31, 2021 and, at our option, is subject to extension for a period of an additional 120 months.

**Item 3. Legal Proceedings.**

On September 29, 2008, Bral Corporation, a supplier of certain railcar parts to us, filed a complaint against us in the U.S. District Court for the Western District of Pennsylvania (the Pennsylvania Lawsuit). The complaint alleges that we breached an exclusive supply agreement with Bral by purchasing parts from CMN Components, Inc. (CMN) and seeks damages in an unspecified amount, attorneys fees and other legal costs. On December 14, 2007, Bral sued CMN in the U.S. District Court for the Northern District of Illinois, alleging among other things that CMN interfered in the business relationship between Bral and us (the Illinois Lawsuit) and seeking damages in an unspecified amount, attorneys fees

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and other legal costs. On October 22, 2008, we entered into an Assignment of Claims Agreement with CMN under which CMN assigned to us its counterclaims against Bral in the Illinois Lawsuit and we agreed to defend and indemnify CMN against Bral's claims in that lawsuit. On March 4, 2013, Bral Corporation and the Company agreed to settle the Illinois Lawsuit and the Pennsylvania Lawsuit. Terms of the settlement are confidential but the settlement is expected to have a favorable impact of approximately \$4.0 million on the Company's 2013 results of operations.

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In addition to the foregoing, we are involved in certain other threatened and pending legal proceedings, including commercial disputes and workers' compensation and employee matters arising out of the conduct of our business. While the ultimate outcome of these other legal proceedings cannot be determined at this time, it is the opinion of management that the resolution of these other actions will not have a material adverse effect on our financial condition, results of operations or cash flows.

**Item 4. Mine Safety Disclosures.**

Not applicable

**PART II****Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.**

Our common stock has been quoted on the Nasdaq Global Market under the symbol RAIL since April 6, 2005. Prior to that time, there was no public market for our common stock. As of February 22, 2013, there were approximately 60 holders of record of our common stock, which does not include persons whose shares of common stock are held by a bank, brokerage house or clearing agency. The following table sets forth quarterly high and low closing prices of our common stock since January 1, 2011, as reported on the Nasdaq Global Market.

	Common stock price		Dividend Declared
	High	Low	
<b>2012</b>			
Fourth quarter	\$ 22.89	\$ 17.80	\$ 0.06
Third quarter	\$ 22.25	\$ 17.79	\$ 0.06
Second quarter	\$ 22.97	\$ 19.24	\$ 0.06
First quarter	\$ 29.25	\$ 20.25	\$ 0.06
<b>2011</b>			
Fourth quarter	\$ 24.04	\$ 13.47	\$ 0.00
Third quarter	\$ 28.71	\$ 14.41	\$ 0.00
Second quarter	\$ 33.35	\$ 23.66	\$ 0.00
First quarter	\$ 32.51	\$ 27.23	\$ 0.00

**Dividend Policy**

The declaration and payment of future dividends will be at the discretion of our board of directors and will depend on, among other things, general economic and business conditions, our strategic plans, our financial results, contractual and legal restrictions on the payment of dividends by us and our subsidiaries and such other factors as our board of directors considers to be relevant. The ability of our board of directors to declare a dividend on our common stock is limited by Delaware law. Additionally, our revolving credit agreement contains a covenant requiring us to maintain minimum tangible net worth of \$87.5 million, which effectively limits potential dividends to \$64.5 million as of December 31, 2012. On February 12, 2013, our board of directors declared a cash dividend of \$0.06 per share of our common stock, payable on March 1, 2013, to shareholders of record at the close of business on February 22, 2013.

**Table of Contents****Performance Graph**

*The following performance graph and related information shall not be deemed soliciting material or to be filed with the Securities and Exchange Commission, nor shall such information be incorporated by reference into any future filing under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, except to the extent that the Company specifically incorporates it by reference into such filing.*

The following graph illustrates the cumulative total stockholder return on our common stock during the period from January 1, 2008 through December 31, 2012 and compares it with the cumulative total return on the NASDAQ Composite Index and DJ Transportation Index. The comparison assumes \$100 was invested on January 1, 2008 in our common stock and in each of the foregoing indices and assumes reinvestment of dividends, if any. The performance shown is not necessarily indicative of future performance.

	Dec.31, 2007	Jun.30, 2008	Dec.31, 2008	Jun.30, 2009	Dec.31, 2009	Jun.30, 2010	Dec.31, 2010	Jun.30, 2011	Dec.31, 2011	Jun.30, 2012	Dec.31, 2012
FreightCar America, Inc.	\$ 100.00	\$ 101.72	\$ 52.58	\$ 48.73	\$ 57.85	\$ 66.18	\$ 84.67	\$ 74.14	\$ 61.30	\$ 67.56	\$ 66.35
Nasdaq Composite Index	\$ 100.00	\$ 86.82	\$ 60.02	\$ 70.22	\$ 87.25	\$ 81.48	\$ 103.09	\$ 108.25	\$ 102.27	\$ 115.87	\$ 120.40
DJ Transportation Index	\$ 100.00	\$ 108.96	\$ 78.59	\$ 72.82	\$ 93.22	\$ 91.96	\$ 118.20	\$ 126.55	\$ 118.18	\$ 123.64	\$ 127.10

**Table of Contents****Item 6. Selected Financial Data.**

The selected financial data presented for each of the years in the five-year period ended December 31, 2012 was derived from our audited consolidated financial statements and other operational information reported in Form 10-K. The selected financial data should be read in conjunction with Management's Discussion and Analysis of Financial Condition and Results of Operations and the Consolidated Financial Statements and Notes thereto included in Item 7 and Item 8, respectively, of this annual report on Form 10-K. (in thousands, except share and per share data and railcar amounts)

	Year Ended December 31,				
	2012	2011	2010	2009	2008
<b>Statements of operations data:</b>					
Revenues	\$ 677,449	\$ 486,986	\$ 142,889	\$ 248,462	\$ 746,390
Gross profit	64,986	31,946	2,722	36,522	66,793
Selling, general and administrative expense	32,736	28,660	24,618	31,316	31,717
Gain on sale of railcars available for lease	(989)	(2,227)			
Net income (loss) attributable to FreightCar America <sup>(1)</sup>	\$ 19,095	\$ 4,935	\$ (12,771)	\$ 4,940	\$ 11,420
Weighted average common shares outstanding basic	11,932,926	11,916,292	11,896,148	11,861,366	11,788,400
Weighted average common shares outstanding diluted	11,969,367	11,962,196	11,896,148	11,870,350	11,833,132
<b>Per share data:</b>					
Net income (loss) per common share attributable to FreightCar America basic	\$ 1.60	\$ 0.41	\$ (1.07)	\$ 0.42	\$ 0.97
Net income (loss) per common share attributable to FreightCar America diluted	\$ 1.60	\$ 0.41	\$ (1.07)	\$ 0.42	\$ 0.97
Dividends declared per common share	\$ 0.24	\$	\$ 0.06	\$ 0.24	\$ 0.24
<b>Other financial and operating data:</b>					
Investment in property, plant and equipment, railcars on operating leases and business acquisitions	\$ 9,088	\$ 1,996	\$ 24,750	\$ 19,920	\$ 42,192
Railcars delivered	8,325	6,188	2,229	3,377	10,276
Railcar orders	2,903	12,437	4,018	1,218	7,301
Railcar backlog	2,881	8,303	2,054	265	2,424
Estimated revenue from backlog	\$ 197,597	\$ 559,824	\$ 144,306	\$ 24,839	\$ 183,441
<b>Balance sheet data (at period end):</b>					
Cash and cash equivalents	\$ 98,509	\$ 101,870	\$ 61,780	\$ 98,015	\$ 129,192
Restricted cash	14,700	1,815	2,322	1,420	
Marketable securities	41,978			29,976	
Total assets	388,565	345,463	310,643	335,566	383,293
Total debt, including capital leases					28
Total stockholders' equity	211,331	197,334	192,580	206,253	204,826

- (1) For the year ended December 31, 2008, we recorded plant closure charges of \$20.0 million, which included special termination benefits for our pension and postretirement benefit plans of \$19.0 million, and other related costs of \$1.1 million. For the year ended December 31, 2009, we recorded plant closure income of \$495,000 which represented insurance recoveries and adjustments to employment termination benefits. For the year ended December 31, 2010, we recorded plant closure income of \$399,000 which represented the gain on sale of our Johnstown manufacturing facility.



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### **Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.**

#### **OVERVIEW**

*You should read the following discussion in conjunction with our consolidated financial statements and related notes included elsewhere in this annual report on Form 10-K. 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 Forward-Looking Statements.*

We believe we are the leading manufacturer of aluminum-bodied railcars and coal cars in North America, based on the number of railcars delivered. Our railcar manufacturing facilities are located in Danville, Illinois and Roanoke, Virginia. In February 2013, we sub leased approximately 25% of a state-of-the-art production facility located in the Shoals region of Alabama that was designed to efficiently build a wide variety of railcar types. This transaction is an important part of our long-term growth strategy as we continue to expand our railcar product and service offerings outside of our traditional coal car market. While our existing facilities will continue to support our coal car products, the Shoals facility will allow us to produce a broader variety of railcars in a cost-effective and efficient manner. In addition, the facility layout, automated production equipment, proximity to key suppliers and new supply agreements will increase our flexibility and make us more competitive in the marketplace.

We refurbish and rebuild railcars and sell forged, cast and fabricated parts for all of the railcars we produce, as well as those manufactured by others. We provide railcar repair and maintenance, inspections and railcar fleet management services for all types of freight railcars through our FCRS subsidiary. FCRS has repair and maintenance and inspection facilities in Clinton, Indiana, Grand Island, Nebraska and Hastings, Nebraska and services freight cars and unit coal trains utilizing key rail corridors in the Midwest and Western regions of the United States. We also lease freight cars through our JAIX Leasing Company subsidiary. Our primary customers are financial institutions, shippers and railroads.

Railcar deliveries totaled 8,325 units, consisting of 5,487 new railcars, 441 used railcars, 1,400 rebuilt railcars and 997 railcars leased, for the year ended December 31, 2012, compared to 6,188 units, consisting of 5,745 new railcars, 79 used railcars sold and 364 leased railcars delivered, in the same period of 2011. Our total backlog of firm orders for railcars decreased by 5,422 railcars, from 8,303 railcars as of December 31, 2011 to 2,881 railcars as of December 31, 2012.

We have two reportable segments, Manufacturing and Services. Our Manufacturing segment includes new railcar manufacturing, used railcar sales, railcar leasing and major railcar rebuilds. Our Services segment includes general railcar repair and maintenance, inspections, parts sales and railcar fleet management services. Corporate includes administrative activities and all other non-operating activity.

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. We expect railroads and utilities to continue to upgrade their fleets of aging steel-bodied coal cars to modern, higher-capacity aluminum, hybrid aluminum and stainless steel, and stainless steel bodied coal cars.

#### **FINANCIAL STATEMENT PRESENTATION**

##### **Revenues**

Our Manufacturing segment revenues are generated primarily from sales of the railcars that we manufacture. Our Manufacturing segment sales depend on industry demand for new railcars, which is driven by overall economic conditions and the demand for railcar transportation of various products, such as coal, steel products, minerals, cement, motor vehicles, forest products and agricultural commodities. Our Manufacturing segment sales are also affected by competitive market pressures that impact our market share, the prices for our railcars and by the types of railcars sold. Our Manufacturing segment revenues also include revenues from major railcar rebuilds and lease rental payments received with respect to railcars under operating leases. Our Services segment revenue sources include parts sales, revenues related to the general maintenance and repair and inspections of railcars and revenue for fleet management services.

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We generally manufacture railcars under firm orders from our customers. We recognize revenue, when (1) we complete the individual railcars, (2) the railcars are accepted by the customer following inspection, (3) the risk of any damage or other loss with respect to the railcars passes to the customer and (4) title to the railcars transfers to the customer. Deliveries include new and used cars sold, cars built and contracted under operating leases and rebuilt cars. We value used railcars received at their estimated fair market value. The variable purchase patterns of our customers and the timing of completion, delivery and customer acceptance of railcars may cause our revenues and income from operations to vary substantially each quarter, which will result in significant fluctuations in our quarterly results.

### **Cost of sales**

Our cost of sales includes the cost of raw materials such as aluminum and steel, as well as the cost of finished railcar components, such as castings, wheels, truck components and couplers, and other specialty components. Our cost of sales also includes labor, utilities, freight, manufacturing depreciation and other operating costs. Factors that have affected our cost of sales include the recent volatility in railcar deliveries, the cost of steel and aluminum, and our efforts to continually reduce manufacturing costs at our manufacturing facilities. A portion of the contracts covering our backlog at December 31, 2012 are fixed-rate contracts. Therefore, if material costs were to increase, we may not be able to pass on these increased costs to our customers.

### **Operating income (loss)**

Operating income (loss) represents revenues less cost of sales, gain on sale of railcars available for lease, selling, general and administrative expenses, and plant sale income.

## **RESULTS OF OPERATIONS**

### **Year Ended December 31, 2012 compared to Year Ended December 31, 2011**

#### **Revenues**

Our consolidated revenues for the year ended December 31, 2012 were \$677.4 million compared to \$487.0 million for the year ended December 31, 2011. Manufacturing segment revenues for the year ended December 31, 2012 were \$644.0 million compared to \$453.1 million for the year ended December 31, 2011. The increase in Manufacturing segment revenues for 2012 compared to 2011 reflects a higher number of railcars delivered and higher average revenue per railcar. Our Manufacturing segment delivered 8,325 units, consisting of 5,487 new railcars, 441 used railcars, 1,400 rebuilt railcars and 997 railcars leased, for the year ended December 31, 2012, compared to 6,188 units, consisting of 5,745 new railcars, 79 used railcars sold and 364 leased railcars for the year ended December 31, 2011. Services segment revenues for the year ended December 31, 2012 were \$33.4 million compared to \$33.9 million for the year ended December 31, 2011. The slight decrease in Services segment revenues for 2012 compared to 2011 reflects lower repair volumes and an unfavorable repair and parts sales mix.

#### **Gross Profit**

Our consolidated gross profit for the year ended December 31, 2012 was \$65.0 million compared to \$31.9 million for the year ended December 31, 2011, representing an increase of \$33.1 million. The increase in our consolidated gross profit for the year ended December 31, 2012 compared to the year ended December 31, 2011 reflects an increase in gross profit from our Manufacturing segment of \$34.0 million, which was partially offset by a decrease in gross profit from our Services segment of \$0.8 million. The increase in gross profit for our Manufacturing segment for the year ended December 31, 2012 compared to the year ended December 31, 2011 is due to a higher number of railcars delivered and higher revenue per railcar during 2012, which were partially offset by unfavorable production variances related to production line changeover costs. The decrease in gross profit for our Services segment for the year ended December 31, 2012 compared to the year ended December 31, 2011 reflects lower parts sales volume, an unfavorable parts sales mix, an unfavorable repair work mix and increased operating costs in our repair business. Our consolidated gross margin rate was 9.6% for the year ended December 31, 2012 compared to 6.6% for the year ended December 31, 2011.

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

Selling, general and administrative expenses for the year ended December 31, 2012 were \$32.7 million compared to \$28.7 million for the year ended December 31, 2011, representing an increase of \$4.0 million, or 14%. The increase reflects increases in compensation of \$2.6 million, external services costs of \$2.9 million and legal fees of \$0.5 million, which were partially offset by a decrease in product development costs of \$1.6 million. Manufacturing segment selling, general and administrative expenses were \$6.4 million for the year ended December 31, 2012 compared to \$6.0 million for the year ended December 31, 2011. Services segment selling, general and administrative expenses were \$3.9 million for the year ended December 31, 2012 compared to \$3.2 million for the year ended December 31, 2011. Corporate selling, general and administrative expenses for the year ended December 31, 2012 were \$22.4 million compared to \$19.5 million for the year ended December 31, 2011.

### **Gain on Sale of Railcars Available for Lease**

Gain on sale of railcars available for lease for the year ended December 31, 2012 was \$1.0 million and represented the gain on sale of 128 leased railcars with a net book value of \$10.4 million. Gain on sale of railcars available for lease for the year ended December 31, 2011 was \$2.2 million and represented the gain on sale of 264 leased railcars with a net book value of \$9.2 million.

### **Operating Income (Loss)**

Our consolidated operating income for the year ended December 31, 2012 was \$33.2 million, compared to \$5.5 million for the year ended December 31, 2011. Operating income for the Manufacturing segment was \$58.3 million for the year ended December 31, 2012 compared to \$25.9 million for the year ended December 31, 2011. The increase in operating income for our Manufacturing segment for the year ended December 31, 2012 compared to the year ended December 31, 2011 was due to a higher number of railcars delivered and higher revenue per railcar during 2012, which were partially offset by unfavorable production variances related to production line changeover costs and lower sales of railcars available for lease. Services segment operating income was \$2.1 million for the year ended December 31, 2012 compared to \$3.7 million for the year ended December 31, 2011. The decrease in operating income for our Services segment for the year ended December 31, 2012 compared to the year ended December 31, 2011 reflects lower parts sales volume, an unfavorable parts sales mix, an unfavorable repair work mix and increased operating costs in our repair business. Corporate costs were \$27.2 million for the year ended December 31, 2012 compared to \$24.1 million for the year ended December 31, 2011. The increase in Corporate costs was primarily due to increases in compensation and external services.

### **Interest Expense/Income**

Interest expense (consisting of commitment fees on our revolving credit facility and letter of credit fees) and amortization of deferred financing costs for the year ended December 31, 2012 were \$0.4 million compared to \$0.2 million for the year ended December 31, 2011. Increases in interest expense for 2012 resulted primarily from letter of credit fees.

### **Income Taxes**

The income tax provision was \$13.8 million for the year ended December 31, 2012, compared to \$0.4 million for the year ended December 31, 2011. The effective tax rates for the years ended December 31, 2012 and 2011, were 41.9% and 6.7%, respectively. The effective tax rate for the year ended December 31, 2012 was higher than the statutory U.S. federal income tax rate of 35% primarily due the state tax provision based on a 5.4% blended state tax rate and a provision of \$1.4 million resulting from applying changes in state tax rates on our deferred tax balances partially offset by a \$0.6 million benefit for tax deductible goodwill. The changes in state tax rates resulted from changes in our estimated state tax apportionment and the expected timing of our utilization of state net operating loss carryforwards. The effective tax rate for the year ended December 31, 2011 was lower than the statutory U.S. federal income tax rate of 35% primarily due to a \$0.6 million benefit for tax-deductible goodwill and a benefit of \$1.7 million resulting from applying a change in statutory state tax rates and a change in the estimated state tax apportionment on our deferred tax balances.

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### **Net Income (Loss) Attributable to FreightCar America**

As a result of the foregoing, net income attributable to FreightCar America was \$19.1 million for the year ended December 31, 2012, reflecting an increase of \$14.2 million from \$4.9 million for the year ended December 31, 2011. For 2012, our basic and diluted net income per share were both \$1.60, on basic and diluted shares outstanding of 11,932,926 and 11,969,367, respectively. For 2011, our basic and diluted net income per share were both \$0.41, on basic and diluted shares outstanding of 11,916,292 and 11,962,196, respectively.

### **Year Ended December 31, 2011 compared to Year Ended December 31, 2010**

#### **Revenues**

Our consolidated revenues for the year ended December 31, 2011 were \$487.0 million compared to \$142.9 million for the year ended December 31, 2010. Manufacturing segment revenues for the year ended December 31, 2011 were \$453.1 million compared to \$126.0 million for the year ended December 31, 2010. The increase in Manufacturing segment revenues for 2011 compared to 2010 reflects a higher number of railcars delivered and higher average revenue per railcar. Our Manufacturing segment delivered 6,188 units (5,824 sold and 364 leased) for the year ended December 31, 2011, compared to deliveries of 2,229 units (2,079 sold and 150 leased) for the year ended December 31, 2010. Services segment revenues for the year ended December 31, 2011 were \$33.9 million compared to \$16.9 million for the year ended December 31, 2010. The increase in Services segment revenues for 2011 compared to 2010 reflects the inclusion of FCRS revenues for the full year of 2011 compared to 2010, which included FCRS revenues for two months, partially offset by lower parts sales.

#### **Gross Profit**

Our consolidated gross profit for the year ended December 31, 2011 was \$31.9 million compared to \$2.7 million for the year ended December 31, 2010, representing an increase of \$29.2 million. The increase in our consolidated gross profit for 2011 compared to 2010 reflects an increase in gross profit from our Manufacturing segment of \$29.6 million and a decrease in Corporate costs of \$0.8 million, which were partially offset by a decrease in gross profit from our Services segment of \$1.2 million. The increase in gross profit for our Manufacturing segment for 2011 compared to 2010 levels is due to a higher number of railcars delivered, higher average revenue per railcar and improved utilization of our manufacturing capacity during 2011. The decrease in gross profit for our Services segment for 2011 compared to 2010 levels reflects lower parts sales and parts sales mix differences. Our consolidated gross margin rate was 6.6% for the year ended December 31, 2011 compared to 1.9% for the year ended December 31, 2010.

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

Selling, general and administrative expenses for the year ended December 31, 2011 were \$28.7 million compared to \$24.6 million for the year ended December 31, 2010, representing an increase of \$4.1 million, or 16%. This increase reflects increases in employee bonuses and stock compensation costs of \$3.2 million, salaries of \$1.6 million and product development costs of \$1.1 million. These increases were partially offset by decreases in severance and management contract costs of \$1.2 million and consulting costs of \$1.1 million. Manufacturing segment selling, general and administrative expenses for the year ended December 31, 2011 were \$6.0 million compared to \$5.9 million for the year ended December 31, 2010. Services segment selling, general and administrative expenses for the year ended December 31, 2011 were \$3.2 million compared to \$0.6 million for the year ended December 31, 2010. The increase in Services segment selling, general and administrative expenses was primarily due to the inclusion of FCRS selling, general and administrative expenses for the full year of 2011 compared to two months of 2010. Corporate selling, general and administrative expenses for the year ended December 31, 2011 were \$19.5 million compared to \$18.1 million for the year ended December 31, 2010.

#### **Gain on Sale of Railcars Available for Lease**

Gain on sale of railcars available for lease for the year ended December 31, 2011 was \$2.2 million and represented the gain on sale of 264 leased railcars (with a net book value of \$9.2 million) that the Company held in excess of twelve months from the date the railcars were initially leased. There was no gain on sale of railcars available for lease for the year ended December 31, 2010.

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### **Plant Closure and Sale**

Plant closure and sale income for the year ended December 31, 2010 represents the gain on the sale of our Johnstown manufacturing facility. There was no plant closure and sale income for the year ended December 31, 2011.

### **Operating Income (Loss)**

Our consolidated operating income for the year ended December 31, 2011 was \$5.5 million, compared to an operating loss of \$21.5 million for the year ended December 31, 2010. Operating income for the Manufacturing segment was \$25.9 million for the year ended December 31, 2011, compared to an operating loss of \$5.8 million for the year ended December 31, 2010. The improvement in operating income for the Manufacturing segment reflects increased deliveries, gain on sale of railcars available for lease and improved utilization of our manufacturing facilities. Services segment operating income was \$3.7 million for the year ended December 31, 2011 compared to \$7.4 million for the year ended December 31, 2010. The decrease in Services segment operating income was primarily due to lower parts sales volume and an unfavorable parts sales mix for the 2011 period compared to 2010. Corporate costs were \$24.1 million for the year ended December 31, 2011 compared to \$23.1 million for the year ended December 31, 2010. The increase in Corporate costs was primarily due to increases in employee bonuses and stock compensation costs which were partially offset by decreases in severance and management contract costs and consulting costs.

### **Interest Expense/Income**

Interest expense (consisting of commitment fees on our revolving credit facility and letter of credit fees) and deferred financing costs for the year ended December 31, 2011 were \$0.2 million compared to \$1.0 million for the year ended December 31, 2010. Amortization and write-off of deferred financing costs for the year ended December 31, 2010 included write-offs related to our prior credit facilities of \$0.5 million. Reductions in interest expense for the 2011 period also resulted from a lower fee structure in our current revolving credit facility compared to our prior revolving credit facilities and increased utilization of cash-backed letters of credit rather than letters of credit backed by our revolving credit facility.

### **Income Taxes**

The income tax provision was \$0.4 million for the year ended December 31, 2011, compared to an income tax benefit of \$9.5 million for the year ended December 31, 2010. The effective tax rates for the years ended December 31, 2011 and 2010, were 6.7% and 42.5%, respectively. The effective tax rate for the year ended December 31, 2011 was lower than the statutory U.S. federal income tax rate of 35% primarily due to a \$0.6 million benefit for tax-deductible goodwill and a benefit of \$1.7 million resulting from applying a change in statutory state tax rates and a change in the estimated state tax apportionment on our deferred tax balances. The effective tax rate for the year ended December 31, 2010 was higher than the statutory U.S. federal income tax rate of 35% due to a 6.3% blended state tax rate and an increase of 2.7% for tax deductible goodwill offset by 1.6% for the impact of the domestic manufacturing deduction and nondeductible expenses.

### **Net Income (Loss) Attributable to FreightCar America**

As a result of the foregoing, net income attributable to FreightCar America was \$4.9 million for the year ended December 31, 2011, reflecting an increase of \$17.7 million from net loss attributable to FreightCar America of \$12.8 million for the year ended December 31, 2010. For 2011, our basic and diluted net income per share were both \$0.41, on basic and diluted shares outstanding of 11,916,292 and 11,962,196, respectively. For 2010, our basic and diluted net loss per share was \$1.07, on basic and diluted shares outstanding of 11,896,148.

## **LIQUIDITY AND CAPITAL RESOURCES**

Our primary sources of liquidity for the years ended December 31, 2012 and 2011, were our cash provided by operations, cash and cash equivalent balances on hand, our securities held to maturity and our revolving credit facilities. On July 29, 2010, we entered into a \$30.0 million senior secured revolving credit facility pursuant to a Loan and Security Agreement dated as of July 29, 2010 (the "Revolving Loan Agreement") among the Company and certain of its subsidiaries, as borrowers (collectively, the "Borrowers"), and Fifth Third Bank, as lender. The proceeds of the revolving credit facility can be used for general corporate purposes, including working capital. The Revolving Loan Agreement also contains a sub-facility for letters of credit not to exceed \$20.0 million. As of December 31, 2012, we had no borrowings or outstanding letters of credit under the revolving credit facility or any expectations to draw upon the revolving credit facility.



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The Revolving Loan Agreement has a term ending on July 29, 2013 and revolving loans outstanding thereunder will bear interest at a rate of LIBOR plus an applicable margin of 2.50% or at prime, as selected by the Borrowers. We are required to pay a non-utilization fee of 0.35% on the unused portion of the revolving loan commitment. Borrowings under the Revolving Loan Agreement are secured by our accounts receivable, inventory and certain other assets, and borrowing availability is tied to a borrowing base of eligible accounts receivable and inventory. The Revolving Loan Agreement has both affirmative and negative covenants, including, without limitation, a minimum tangible net worth covenant and limitations on indebtedness, liens and investments. The minimum tangible net worth covenant effectively limits potential dividends to \$64.5 million as of December 31, 2012. The Revolving Loan Agreement also provides for customary events of default. As of December 31, 2012, we had borrowing capacity of \$30.0 million under the Revolving Loan Agreement and we were in compliance with all of the covenants contained in the agreement. During the first half of 2013, we will be evaluating renewal or refinancing alternatives for our current revolving loan agreement and expect to have a new agreement in place by July 29, 2013.

Our restricted cash balance was \$14.7 million as of December 31, 2012 and \$1.8 million as of December 31, 2011, and consisted of cash used to collateralize standby letters of credit with respect to performance guarantees and to support our workers compensation insurance claims. The standby letters of credit outstanding as of December 31, 2012 are scheduled to expire at various dates through March 31, 2013. We expect to establish restricted cash balances in future periods to minimize bank fees related to standby letters of credit while maximizing our ability to borrow under the revolving credit facility.

As of December 31, 2012, the value of railcars available for lease was \$43.4 million. We may continue to offer railcars for lease to certain customers and pursue opportunities to sell leased railcars in our portfolio. Additional railcars available for lease may be funded by cash flows from operations or we may pursue a new credit facility, or both, as we evaluate our liquidity and capital resources.

Based on our current level of operations and known changes in planned volume based on our backlog, we believe that our proceeds from operating cash flows, our marketable securities and our cash balances, together with amounts available under our revolving credit facility, will be sufficient to meet our expected liquidity needs. Our long-term liquidity is contingent upon future operating performance and our ability to continue to meet financial covenants under our revolving credit facility and any other indebtedness. We may also require additional capital in the future to fund working capital as demand for railcars increases, organic growth opportunities, including new plant and equipment and development of railcars, joint ventures, international expansion and acquisitions, and these capital requirements could be substantial. Management continuously evaluates manufacturing facility requirements based on market demand and may elect to make capital investments at higher levels in the future.

Our long-term liquidity needs also depend to a significant extent on our obligations related to our pension and welfare benefit plans. We provide pension and retiree welfare benefits to certain salaried and hourly employees upon their retirement. Benefits under our pension plans are now frozen and will not be impacted by increases due to future service. The most significant assumptions used in determining our net periodic benefit costs are the discount rate used on our pension and postretirement welfare obligations and expected return on pension plan assets. As of December 31, 2012, our benefit obligation under our defined benefit pension plans and our postretirement benefit plan was \$65.0 million and \$69.3 million, respectively, which exceeded the fair value of plan assets by \$12.2 million and \$69.3 million, respectively. We made contributions of \$2.6 million to our defined benefit pension plans during 2012. As disclosed in Note 11 to the consolidated financial statements, we expect to make contributions of \$759,000 to our defined benefit pension plans in 2013. The Pension Protection Act of 2006 provides for changes to the method of valuing pension plan assets and liabilities for funding purposes as well as minimum funding levels. Our defined benefit pension plans are in compliance with the minimum funding levels established in the Pension Protection Act. Funding levels will be affected by future contributions, investment returns on plan assets, growth in plan liabilities and interest rates. Assuming that the plans are fully funded as that term is defined in the Pension Protection Act, we will be required to fund the ongoing growth in plan liabilities on an annual basis.

We made payments to our postretirement benefit plan of \$4.9 million during 2012. A substantial portion of our postretirement benefit plan obligation relates to a settlement with the union representing employees at the Company's and its predecessors' Johnstown manufacturing facilities. The terms of that settlement required us to

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pay until November 30, 2012 certain monthly amounts toward the cost of retiree health care coverage. We are currently engaged in negotiations related to the expired settlement agreement but no agreements have been reached. Therefore, the outcome of those negotiations and the impact on our postretirement benefit plan obligation cannot be determined at this time. If we continued to fund our postretirement benefit plan based on the expired settlement agreement we would make approximately \$5.0 million in payments to the plan in 2013. However, the Company's postretirement benefit plan obligation could significantly increase or decrease if payments were to cease, if litigation should ensue or if the parties should agree on a modified settlement. We anticipate funding pension plan contributions and postretirement benefit plan payments with cash from operations and available cash.

Based upon our operating performance, capital requirements and obligations under our pension and welfare benefit plans, we may, from time to time, be required to raise additional funds through additional offerings of our common stock and through long-term borrowings. There can be no assurance that long-term debt, if needed, will be available on terms attractive to us, or at all. Furthermore, any additional equity financing may be dilutive to stockholders and debt financing, if available, may involve restrictive covenants. Our failure to raise capital if and when needed could have a material adverse effect on our results of operations and financial condition.

**Contractual Obligations**

The following table summarizes our contractual obligations as of December 31, 2012, and the effect that these obligations would be expected to have on our liquidity and cash flow in future periods:

	<b>Payments Due by Period</b>				
	<i>(In thousands)</i>				
<b>Contractual Obligations</b>	<b>Total</b>	<b>1 Year</b>	<b>2-3 Years</b>	<b>4-5 Years</b>	<b>After 5 Years</b>
Operating leases	\$ 41,511	\$ 3,413	\$ 7,562	\$ 7,204	\$ 23,332
Material and component purchases	48,910	30,809	18,101		
<b>Total</b>	<b>\$ 90,421</b>	<b>\$ 34,222</b>	<b>\$ 25,663</b>	<b>\$ 7,204</b>	<b>\$ 23,332</b>

Material and component purchases consist of non-cancelable agreements with suppliers to purchase materials used in the manufacturing process. Purchase commitments for aluminum are made at a fixed price and are typically entered into after a customer places an order for railcars. The estimated amounts above may vary based on the actual quantities and price.

The above table excludes \$3.5 million related to a reserve for uncertain tax positions at December 31, 2012 because the timing of the payout of these amounts cannot be determined.

We are a party to letter agreements regarding terms of employment with our President and Chief Executive Officer, Vice President, Finance, Chief Financial Officer and Treasurer and Senior Vice President, Operations and employment agreements with certain other members of our executive management team. See Item 11. Executive Compensation.

We are also required to make minimum contributions to our pension and postretirement welfare plans. See Note 11 to the consolidated financial statements regarding our expected contributions to our pension plans and our expected postretirement welfare benefit payments for 2013.

**Cash Flows**

The following table summarizes our net cash provided by or used in operating activities, investing activities and financing activities for the years ended December 31, 2012, 2011 and 2010:



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(Amounts in thousands)

	2012	2011	2010
Net cash provided by (used in):			
Operating activities	\$ 53,002	\$ 29,969	\$ (42,071)
Investing activities	(53,425)	10,193	6,908
Financing activities	(2,938)	(72)	(1,072)
<b>Total</b>	<b>\$ (3,361)</b>	<b>\$ 40,090</b>	<b>\$ (36,235)</b>

*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 operating 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 payments to our suppliers. As some of our customers accept delivery of new railcars in train-set quantities, consisting on average of 120 to 135 railcars, variations in our sales lead to significant fluctuations in our operating profits and cash from operating activities. We do not usually experience business credit issues, although a payment may be delayed pending completion of closing documentation.

Our net cash provided by operating activities for the year ended December 31, 2012 was \$53.0 million compared to \$30.0 million for the year ended December 31, 2011. Our net cash provided by operating activities for the year ended December 31, 2012 primarily included net income from operations and changes in working capital. Our net cash provided by operating activities for the year ended December 31, 2011 included increases in account and contractual payables and customer deposits of \$15.4 million and \$14.4 million, respectively, and other working capital changes. The increase in account and contractual payables for the year ended December 31, 2011 primarily represents purchases of materials to support increased production levels. Net cash used in operating activities for the year ended December 31, 2010 included our loss from operations and an increase in working capital balances to support the increase in orders and planned production levels, including increases in inventory of \$13.5 million, increases in prepaid expenses of \$3.6 million, decreases in accounts payable of \$5.1 million and decreases in accrued payroll and benefits of \$3.9 million.

*Investing Activities.* Net cash used in investing activities for the year ended December 31, 2012 was \$53.4 million compared to net cash provided by investing activities of \$10.2 million for the year ended December 31, 2011. Net cash used in investing activities for the year ended December 31, 2012 included the purchase of U.S. treasuries of \$42.0 million, restricted cash deposits for collateralization of letters of credit of \$12.9 million and purchases of property, plant and equipment of \$9.1 million, which were partially offset by proceeds from the sale of railcars available for lease of \$10.5 million. The most significant investing activities for the year ended December 31, 2011 were the sale of railcars available for lease for \$11.7 million which, were partially offset by purchases of property, plant and equipment of \$1.8 million.

*Financing Activities.* Net cash used in financing activities for the year ended December 31, 2012 was \$2.9 million compared to net cash used in financing activities of \$72,000 for the year ended December 31, 2011. Net cash used in financing activities for the year ended December 31, 2012 primarily included cash dividends paid to our stockholders.

**Capital Expenditures**

Our capital expenditures were \$9.1 million for the year ended December 31, 2012 compared to \$1.8 million for the year ended December 31, 2011. Capital expenditures for 2012 were primarily cash outlays to enhance our capability to more efficiently produce a more diverse railcar product line in our existing facilities. The first non-coal railcars manufactured using these enhanced capabilities were delivered in the fourth quarter of 2012. Capital expenditures for 2011 were primarily cash outlays to maintain our existing facilities.

Excluding unforeseen expenditures, management expects that capital expenditures will be approximately \$20.0 million in 2013 and will be used to maintain our existing railcar manufacturing and repair and maintenance facilities and provide for capacity expansion in certain facilities, including the recently sub leased Shoals railcar manufacturing facility. Management continuously evaluates facility requirements based upon market demand and may elect to make capital investments at higher levels in the future.

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**CRITICAL ACCOUNTING POLICIES**

We prepare our consolidated financial statements in accordance with accounting principles generally accepted in the United States. The preparation of our financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of sales and expenses during the reporting period. Significant estimates include long-lived assets, goodwill, pension and postretirement benefit assumptions, the valuation reserve on net deferred tax assets, warranty accrual and contingencies and litigation. Actual results could differ from those estimates.

Our critical accounting policies include the following:

**Long-lived assets**

We evaluate long-lived assets, including property, plant and equipment, under the provisions of ASC 360, *Property, Plant and Equipment*, which addresses financial accounting and reporting for the impairment of long-lived assets and for long-lived assets to be disposed of. For assets to be held or used, we group a long-lived asset or assets with other assets and liabilities at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. An impairment loss for an asset group reduces only the carrying amounts of a long-lived asset or assets of the group being evaluated. Our estimates of future cash flows used to test the recoverability of a long-lived asset group include only the future cash flows that are directly associated with and that are expected to arise as a direct result of the use and eventual disposition of the asset group. Our future cash flow estimates exclude interest charges.

We test long-lived assets for recoverability whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. These changes in circumstances may include a significant decrease in the market value of an asset or the extent or manner in which an asset is used. We routinely evaluate our manufacturing footprint to assess our manufacturing capacity and cost of production in an effort to optimize production at our low-cost manufacturing facilities. We did not perform an impairment analysis of long-lived assets during 2012, 2011 or 2010 because we did not identify any impairment indicators that we believe would have required long-lived assets at our facilities to be tested for recoverability during 2012, 2011 or 2010.

**Impairment of goodwill and intangible assets**

We have recorded on our balance sheet both goodwill and intangible assets, which consist of patents and customer related intangibles. The Company assesses the carrying value of goodwill for impairment as required by ASC 350, *Intangibles – Goodwill and Other*, annually or more frequently whenever events occur and circumstances change indicating potential impairment. During the quarter ended September 30, 2012, we changed our annual testing date from January 1 to August 1 for its reporting units. With respect to our annual goodwill testing date, we believe that this voluntary change in accounting method is preferable as it aligns the annual impairment testing date with our long-range planning cycle, which is a significant element in the testing process. In connection with this change, we performed the test as of January 1, 2012 and August 1, 2012. There were no impairment charges as of January 1, 2012 or August 1, 2012. This change in our annual testing date, which was applied prospectively, does not delay, accelerate or avoid an impairment charge. It was impracticable to apply this change retrospectively, as we are unable to objectively determine significant estimates and assumptions that would have been used in those earlier periods without the use of hindsight.

Management estimates the valuation of its reporting units using discounted future cash flows, as well as comparing the Company's calculated fair value to its market capitalization. The Company determined that there are three reporting units: Manufacturing, Repairs and Maintenance and Parts. For each reporting unit with goodwill (Manufacturing with \$21.5 million and Repairs and Maintenance with \$0.6 million as 12/31/2012), we concluded that the estimated fair value of each reporting unit's net assets exceeded the carrying value as of the dates of our impairment tests for 2012, 2011 and 2010. Additional steps, including an allocation of the estimated fair value to our assets and liabilities, would be necessary to determine the amount, if any, of goodwill impairment if the fair value of our net assets were less than their carrying value.

The discounted cash flow method involves management making estimates with respect to a variety of factors that will significantly impact the future performance of the business, including:

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Future railcar volume projections based on an industry-specific outlook for railcar demand;

estimated margins on railcar sales; and

weighted-average cost of capital (or WACC) used to discount future performance of our Company.

Because these estimates form a basis for the determination of whether or not an impairment charge should be recorded, these estimates are considered to be critical accounting estimates.

We use industry data to estimate volume projections in our discounted cash flow method. We believe that this independent industry data is the best indicator of expected future performance assuming that we maintain a consistent market share, which management believes is supportable based on historical performance. Our estimated margins used in the discounted cash flow method are based primarily on historical margins. Management estimated a WACC of 14.35% for our August 1, 2012 goodwill impairment valuation analyses for both our Manufacturing reporting unit and our Repair and Maintenance reporting unit.

In addition to estimating the fair value of the net assets of our Manufacturing reporting unit using the discounted cash flow method in the base case scenario, we also estimated the fair value of the net assets in our Manufacturing reporting unit using the discounted cash flow method for two alternate scenarios, including the impact of a negative 10% adjustment to our revenue projections and the impact of a 1% increase in the WACC used in the discounted cash flow method. We compared the estimated fair value of the net assets in our Manufacturing reporting unit using the discounted cash flow method in the base case scenario to the two alternate scenarios. Each of these two alternate scenarios reduced the estimated fair value of the net assets in our Manufacturing reporting unit using the discounted cash flow method by between 2% and 8% compared to the estimated fair value of the net assets in our Manufacturing reporting unit in the base case, however in all scenarios the estimated fair value of the net assets in our Manufacturing reporting unit exceeded the carrying value. Although future results may differ from those used in the base case scenario, management believes that the discounted cash flow method using the base case scenario is the best estimate of the lower range of fair value of our reporting units as of August 1, 2012.

In addition to estimating the fair value of the net assets of our Repair and Maintenance reporting unit using the discounted cash flow method in the base case scenario, we also estimated the fair value of the net assets in our Repair and Maintenance reporting unit using the discounted cash flow method for two alternate scenarios, including the impact of a negative 10% adjustment to our repair revenue projections and the impact of a 1% increase in the WACC used in the discounted cash flow method. Each of these two alternate scenarios reduced the estimated fair value of the net assets in our Repair and Maintenance reporting unit using the discounted cash flow method by between 7% and 13% compared to the estimated fair value of the net assets in our Repair and Maintenance reporting unit in the base case. However, in all scenarios, the estimated fair value of the net assets in our Repair and Maintenance reporting unit exceeded the carrying value. Although future results may differ from those used in the base case scenario, management believes that the discounted cash flow method using the base case scenario is the best estimate of the lower range of fair value of our net assets as of August 1, 2012.

**Pensions and postretirement benefits**

We provide pension and retiree welfare benefits to certain salaried and hourly employees upon their retirement. The most significant assumptions used in determining our net periodic benefit costs are the expected return on pension plan assets and the discount rate used to calculate the present value of our pension and postretirement welfare plan liabilities.

In 2012, we assumed that the expected long-term rate of return on pension plan assets on a plan by plan basis would range from 5.69 % to 7.29%. As permitted under ASC 715 the assumed long-term rate of return on assets is applied to a calculated value of plan assets, which recognizes changes in the fair value of plan assets in a systematic manner over five years. This produces the expected return on plan assets that is included in our net periodic benefit cost. The difference between this expected return and the actual return on plan assets is deferred. The net deferral of past asset gains (losses) affects the calculated value of plan assets and, ultimately, future net periodic benefit cost. We review the expected return on plan assets annually and would revise it if conditions should warrant. A change of one percentage point in the expected long-term rate of return on plan assets would have the following effect:

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	1% Increase	1% Decrease
	(in thousands)	
Effect on net periodic benefit cost	\$ (474)	\$ 474

At the end of each year, we determine the discount rate to be used to calculate the present value of our pension and postretirement welfare plan liabilities. The discount rate is an estimate of the current interest rate at which our pension liabilities could be effectively settled at the end of the year. In estimating this rate, we look to rates of return on high-quality, fixed-income investments that receive one of the two highest ratings given by a recognized ratings agency. At December 31, 2012, we determined this rate on our postretirement welfare plan to be 3.95%, a decrease of 0.85% from the 4.80% rate used at December 31, 2011. At December 31, 2012, we determined this rate on our pension plans on a plan by plan basis with results ranging from 3.91% to 4.17%. A change of one percentage point in the discount rate would have the following effect:

	1% Increase	1% Decrease
	(in thousands)	
Effect on net periodic benefit cost	\$ 56	\$ (100)

For the years ended December 31, 2012, 2011 and 2010, we recognized consolidated pre-tax pension cost of \$(44,000), \$(0.3) million and \$0.3 million, respectively. We currently expect to make contributions of \$0.8 million to our pension plans during 2013. However, we may elect to adjust the level of contributions based on a number of factors, including performance of pension investments and changes in interest rates. The Pension Protection Act of 2006 provided for changes to the method of valuing pension plan assets and liabilities for funding purposes as well as requiring minimum funding levels. Our defined benefit pension plans are in compliance with minimum funding levels established in the Pension Protection Act. Funding levels will be affected by future contributions, investment returns on plan assets, growth in plan liabilities and interest rates. Once the plan is fully funded as that term is defined within the Pension Protection Act, we will be required to fund the ongoing growth in plan liabilities on an annual basis. We anticipate funding pension contributions with cash from operations.

For the years ended December 31, 2012, 2011 and 2010, we recognized a consolidated pre-tax postretirement welfare benefit cost of \$3.7 million, \$3.8 million and \$4.0 million, respectively. A substantial portion of our postretirement benefit plan obligation relates to a settlement with the union representing employees at the Company's and its predecessors' Johnstown manufacturing facilities. The terms of that settlement required us to pay until November 30, 2012 certain monthly amounts toward the cost of retiree health care coverage. We are currently engaged in negotiations related to the expired settlement agreement but no agreements have been reached. Therefore, the outcome of those negotiations and the impact on our postretirement benefit plan obligation cannot be determined at this time. If we continued to fund our postretirement benefit plan based on the expired settlement agreement we would make approximately \$5.0 million in payments to the plan in 2013. However, the Company's postretirement benefit plan obligation could significantly increase or decrease if payments were to cease, if litigation should ensue or if the parties should agree on a modified settlement.

**Income taxes**

We account for income taxes under the asset and liability method prescribed by ASC 740, *Income Taxes*. We provide for deferred income taxes based on differences between the book and tax bases of our assets and liabilities and for items that are reported for financial statement purposes in periods different from those for income tax reporting purposes. The deferred tax liability or asset amounts are based upon the enacted tax rates expected to apply to taxable income in the periods in which the deferred tax liability or asset is expected to be settled or realized.

Our income tax expense, deferred tax assets and liabilities and reserves for unrecognized tax benefits reflect our best assessment of estimated future taxes to be paid. Management judgment is required in developing our provision for income taxes, including the determination of deferred tax assets, liabilities and any valuation allowances recorded against the deferred tax assets. We record net deferred tax assets to the extent we believe these assets will more likely than not be realized. In evaluating whether it is more likely than not that our net deferred tax assets will be realized, we consider both positive and negative evidence including the reversal of existing taxable temporary differences, taxable income in prior carryback years if carryback is permitted under the tax law and such taxable income has not previously been used for carryback, future taxable income exclusive of reversing temporary differences and carryforwards based on near-term and longer-term projections of operating results and the length of the carryforward period. We evaluate the realizability of our net deferred tax assets and assess the valuation

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allowance on a quarterly basis, adjusting the amount of such allowance, if necessary. Failure to achieve forecasted taxable income might affect the ultimate realization of the net deferred tax assets. Factors that may affect our ability to achieve sufficient forecasted taxable income include, but are not limited to, increased competition, a decline in sales or margins and loss of market share.

At December 31, 2012, we had total net deferred tax assets of \$31.0 million. The railcar market has an established history of cyclicity based on significant swings in customer demand. Industry projections forecast this trend to continue. Although realization of our net deferred assets is not certain, management has concluded that, based on the positive and negative evidence considered, we will more likely than not realize the full benefit of the deferred tax assets except for our deferred tax assets in certain states in which we operate. At December 31, 2012, we had a valuation allowance of \$4.6 million against the tax benefit of net operating loss carryforwards in certain states in which we operate.

### **Product warranties**

We warrant that new railcars produced by us will be free from defects in material and workmanship in normal use identified for a period of up to five years from the time of sale. With respect to parts and materials manufactured by others and incorporated by us in our products, such parts and materials are covered only by the warranty provided by the original manufacturer. We establish a warranty reserve at the time of sale to account for future warranty charges. The warranty reserve consists of two categories: assigned claims and unassigned claims. The unassigned warranty reserve is calculated based on historical warranty costs for the specific railcar types adjusted for estimated material price changes and other factors. Once a warranty claim is filed for railcars under warranty, the estimated cost to correct the defect is moved from the unassigned reserve to the assigned reserve and tracked separately.

### **Revenue recognition**

We recognize revenues on new and rebuilt railcars when (1) individual cars are completed, (2) the railcars are accepted by the customer following inspection, (3) the risk for any damage or other loss with respect to the railcars passes to the customer and (4) title to the railcars transfers to the customer. We do not record any returns or allowances against sales. We value used railcars received at their estimated fair market value at the date of receipt less a normal profit margin.

We recognize service-related revenue from maintenance and repairs and inspections when all significant maintenance or repair or inspections services have been completed and quality accepted. We recognize revenue from parts sales when the risk of any damage or loss and title passes to the customer and delivery has occurred.

We recognize operating lease revenue on Inventory on Lease on a contractual basis and recognize operating lease revenue on Railcars Available for Lease on a straight-line basis over the life of the lease. We recognize revenue from the sale of Inventory on Lease on a gross basis in manufacturing sales and cost of sales if the manufacture of the railcars and the sales process is completed within 12 months. We recognize revenue from the sale of Railcars Available for Lease on a net basis as Gain (Loss) on Sale of Railcars Available for Lease since the sale represents the disposal of a long-term operating asset.

We recognize a loss when we have a contractual commitment to manufacture railcars at an estimated cost in excess of the contractual selling price.

### **RECENT ACCOUNTING PRONOUNCEMENTS**

In July 2012, the FASB issued ASU 2012-02, Intangibles Goodwill and Other (Topic 350): Testing Indefinite-Lived Intangible Assets for Impairment (ASU 2012-02), which allows an entity to first assess qualitative factors to determine whether it is necessary to perform a quantitative impairment test of an indefinite-lived intangible asset. Under ASU 2012-02, an entity would not be required to calculate the fair value of an indefinite-lived intangible asset if the entity determines, based on qualitative assessment, that it is not more likely than not impaired. The revised standard is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012; however, early adoption is permitted. As of December 31, 2012, the Company did not elect to early adopt ASU 2012-02, however it is not expected to have a material impact on the consolidated financial position, results of operations or cash flows of the Company.

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In September 2011, the FASB issued changes to ASC 350, *Intangibles – Goodwill and Other*, related to the testing of goodwill for impairment. These changes provide an entity the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not (more than 50%) that the fair value of a reporting unit is less than its carrying amount. Such qualitative factors may include the following: macroeconomic conditions; industry and market considerations; cost factors; overall financial performance; and other relevant entity-specific events. If an entity elects to perform a qualitative assessment and determines that an impairment is more likely than not, the entity is then required to perform the existing two-step quantitative impairment test, otherwise no further analysis is required. An entity also may elect not to perform the qualitative assessment and, instead, go directly to the two-step quantitative impairment test. These changes became effective for our goodwill impairment test performed on January 1, 2012 and August 1, 2012 and did not have an impact on our consolidated financial statements as we did not elect to perform a qualitative assessment.

In June 2011, the Financial Accounting Standards Board ( FASB ) issued changes to Accounting Standards Codification ( ASC ) 220, *Presentation of Comprehensive Income*, to require companies to present the components of net income and other comprehensive income either in a single continuous statement of comprehensive income or two separate but consecutive statements. The changes eliminated the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. The items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income were not changed. The amended guidance was effective for interim and annual periods beginning after December 15, 2011, with earlier adoption permitted. We retrospectively adopted these changes on January 1, 2012 and management elected to use the two-statement option. Other than the change in presentation, the adoption of the changes to ASC 220 had no impact on our consolidated financial statements.

In May 2011, the FASB issued changes to ASC 820, *Fair Value Measurement*, to conform existing guidance regarding fair value measurement and disclosure between GAAP and International Financial Reporting Standards (IFRS). These changes clarify the application of existing fair value measurements and disclosures and change certain principles or requirements for fair value measurements and disclosures. The adoption of changes to ASC 820 was effective as of January 1, 2012 and did not have a material impact on our consolidated financial statements.

## **FORWARD-LOOKING STATEMENTS**

This annual report on Form 10-K contains certain forward-looking statements including, in particular, statements about our plans, strategies and prospects. We have used the words *may*, *will*, *expect*, *anticipate*, *believe*, *estimate*, *plan* and similar expressions in this prospectus to identify forward-looking statements. We have based these 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:

the cyclical nature of our business;

adverse economic and market conditions;

the highly competitive nature of our industry;

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 customer acceptance of orders;

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

our reliance on the sales of our coal cars;

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

our reported backlog may not indicate what our future sales will be;

potential significant warranty claims;

shortages of skilled labor;

our ability to manage our health care and pension costs;

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

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

the cost of complying with environmental laws and regulations; and

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

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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. All of the forward-looking statements are qualified in their entirety by reference to the factors discussed under Item 1A, Risk Factors.

**Item 7A. Quantitative and Qualitative Disclosures About Market Risk.**

We have a \$30.0 million senior secured revolving credit facility, the proceeds of which can be used for general corporate purposes, including working capital. 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. As of December 31, 2012, there were no borrowings or outstanding letters of credit under the revolving credit facility.

The production of railcars and our operations require substantial amounts of aluminum and steel. The cost of aluminum, steel and all other materials (including scrap metal) used in the production of our railcars represents a significant majority of our direct manufacturing costs. Our business is subject to the risk of price increases and periodic delays in the delivery of aluminum, steel and other materials, all of which are beyond our control. Any fluctuations in the price or availability of aluminum or steel, or any other material used in the production of our railcars, may have a material adverse effect on our business, results of operations or financial condition. In addition, if any of our suppliers were unable to continue its business or were to seek bankruptcy relief, the availability or price of the materials we use could be adversely affected. When market conditions permit us to do so, we negotiate contracts with our customers that allow for variable pricing to protect us against future changes in the cost of raw materials. 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.

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



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**Item 8. Financial Statements and Supplementary Data.**

**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders of

FreightCar America, Inc.

Chicago, Illinois

We have audited the accompanying consolidated balance sheets of FreightCar America, Inc. and subsidiaries (the Company) as of December 31, 2012 and 2011, and the related consolidated statements of operations, comprehensive income (loss), stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2012. Our audits also included the financial statement schedule listed in the Index at Item 15. These financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on the financial statements and financial statement schedules based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of FreightCar America, Inc. and subsidiaries as of December 31, 2012 and 2011, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2012, in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly, in all material respects, the information set forth therein.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated March 15, 2013 expressed an unqualified opinion on the Company's internal control over financial reporting.

/s/DELOITTE & TOUCHE LLP

Chicago, Illinois

March 15, 2013

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders of

FreightCar America, Inc.

Chicago, Illinois

We have audited the internal control over financial reporting of FreightCar America, Inc. and subsidiaries (the Company) as of December 31, 2012, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed by, or under the supervision of, the company's principal executive and principal financial officers, or persons performing similar functions, and effected by the company's board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of the inherent limitations of internal control over financial reporting, including the possibility of collusion or improper management override of controls, material misstatements due to error or fraud may not be prevented or detected on a timely basis. Also, projections of any evaluation of the effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2012, based on the criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We have also audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated financial statements and financial statement schedule as of and for the year ended December 31, 2012 of the Company and our report dated March 15, 2013 expressed an unqualified opinion on those financial statements and financial statement schedule.

/s/DELOITTE & TOUCHE LLP

Chicago, Illinois

March 15, 2013

**Table of Contents****FreightCar America, Inc. and Subsidiaries****CONSOLIDATED BALANCE SHEETS**

(in thousands except share and per share data)

	December 31, 2012	December 31, 2011
<b>Assets</b>		
Current assets		
Cash and cash equivalents	\$ 98,509	\$ 101,870
Restricted cash	14,700	1,815
Marketable securities	41,978	
Accounts receivable, net of allowance for doubtful accounts of \$299 and \$19, respectively	12,987	10,125
Inventories, net	73,842	72,877
Other current assets	7,130	2,618
Deferred income taxes, net	12,079	10,982
<b>Total current assets</b>	<b>261,225</b>	<b>200,287</b>
Property, plant and equipment, net	39,343	35,984
Railcars available for lease, net	43,435	54,746
Goodwill	22,128	22,128
Deferred income taxes, net	18,940	28,150
Other long-term assets	3,494	4,168
<b>Total assets</b>	<b>\$ 388,565</b>	<b>\$ 345,463</b>
<b>Liabilities and Stockholders Equity</b>		
Current liabilities		
Accounts and contractual payables	\$ 33,453	\$ 28,110
Accrued payroll and employee benefits	6,548	5,611
Accrued postretirement benefits	4,978	5,174
Accrued warranty	7,625	7,795
Customer deposits	36,087	17,964
Other current liabilities	7,885	5,044
<b>Total current liabilities</b>	<b>96,576</b>	<b>69,698</b>
Accrued pension costs	12,193	14,202
Accrued postretirement benefits, less current portion	64,322	59,887
Accrued taxes and other long-term liabilities	4,143	4,342
<b>Total liabilities</b>	<b>177,234</b>	<b>148,129</b>
Stockholders equity		
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 December 31, 2012 and 2011)		
Common stock, \$0.01 par value, 50,000,000 shares authorized, 12,731,678 shares issued at December 31, 2012 and 2011	127	127
Additional paid in capital	100,402	100,204
Treasury stock, at cost, 752,167 and 780,320 shares at December 31, 2012 and 2011, respectively	(34,488)	(35,904)
Accumulated other comprehensive loss	(26,139)	(22,302)
Retained earnings	171,429	155,209

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Total stockholders' equity	211,331	197,334
Total liabilities and stockholders' equity	\$ 388,565	\$ 345,463

**See notes to the consolidated financial statements.**

**Table of Contents****FreightCar America, Inc. and Subsidiaries****CONSOLIDATED STATEMENTS OF OPERATIONS**

(in thousands, except share and per share data)

	Year Ended December 31,		
	2012	2011	2010
Revenues	\$ 677,449	\$ 486,986	\$ 142,889
Cost of sales	612,463	455,040	140,167
Gross profit	64,986	31,946	2,722
Selling, general and administrative expenses	32,736	28,660	24,618
Gain on sale of railcars available for lease	(989)	(2,227)	
Plant closure and sale income			(399)
Operating income (loss)	33,239	5,513	(21,497)
Interest income	11	6	89
Interest expense and deferred financing costs	(384)	(226)	(965)
Income (loss) before income taxes	32,866	5,293	(22,373)
Income tax provision (benefit)	13,771	354	(9,511)
Net income (loss)	19,095	4,939	(12,862)
Less: Net income (loss) attributable to noncontrolling interest in JV		4	(91)
Net income (loss) attributable to FreightCar America	\$ 19,095	\$ 4,935	\$ (12,771)
Net income (loss) per common share attributable to FreightCar America basic	\$ 1.60	\$ 0.41	\$ (1.07)
Net income (loss) per common share attributable to FreightCar America diluted	\$ 1.60	\$ 0.41	\$ (1.07)
Weighted average common shares outstanding basic	11,932,926	11,916,292	11,896,148
Weighted average common shares outstanding diluted	11,969,367	11,962,196	11,896,148
Dividends declared per common share	\$ 0.24	\$	\$ 0.06

**See notes to the consolidated financial statements.**

**Table of Contents****FreightCar America, Inc. and Subsidiaries****CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)**

(in thousands)

	<b>Year Ended December 31,</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
Net income (loss)	\$ 19,095	\$ 4,939	\$ (12,862)
Other comprehensive income (loss), net of tax:			
Pension liability adjustments, net of tax	(461)	(1,978)	89
Postretirement liability adjustments, net of tax	(3,376)	(309)	(1,523)
Change in unrealized holding gain on available for sale securities, net of reclassification adjustment, net of tax			(2)
Change in foreign currency translation adjustments		(15)	14
Other comprehensive loss	(3,837)	(2,302)	(1,422)
Comprehensive income (loss)	15,258	2,637	(14,284)
Comprehensive income (loss) attributable to non-controlling interest		4	(91)
Comprehensive income (loss) attributable to FreightCar America	\$ 15,258	\$ 2,633	\$ (14,193)

**See notes to the consolidated financial statements.**

**Table of Contents****FreightCar America, Inc. and Subsidiaries****CONSOLIDATED STATEMENTS OF STOCKHOLDERS EQUITY**

(in thousands, except for share data)

	FreightCar America Shareholders								
	Common Stock			Treasury Stock		Accumulated Other Comprehensive	Retained Earnings	Noncontrolling Interest in JV	Total Stockholders Equity
	Shares	Amount	Additional Paid In Capital	Shares	Amount	Loss			
<b>Balance, January 1, 2010</b>	12,731,678	\$ 127	\$ 97,979	(790,865)	\$ (37,123)	\$ (18,578)	\$ 163,761	\$ 87	\$ 206,253
Net loss							(12,771)	(91)	(12,862)
Other comprehensive loss						(1,422)			(1,422)
Restricted stock awards			(1,202)	25,924	1,202				
Employee restricted stock settlement				(9,938)	(240)				(240)
Forfeiture of restricted stock awards			378	(15,607)	(378)				
Stock-based compensation recognized			1,675						1,675
Deficiency of tax benefit from stock-based compensation			(108)						(108)
Cash dividends							(716)		(716)
<b>Balance, December 31, 2010</b>	12,731,678	\$ 127	\$ 98,722	(790,486)	\$ (36,539)	\$ (20,000)	\$ 150,274	\$ (4)	\$ 192,580
Net income							4,935	4	4,939
Other comprehensive loss						(2,302)			(2,302)
Restricted stock awards			(792)	17,147	792				
Employee restricted stock settlement				(3,413)	(88)				(88)
Forfeiture of restricted stock awards			69	(3,568)	(69)				
Stock-based compensation recognized			2,189						2,189
Excess tax benefit from stock-based compensation			16						16
<b>Balance, December 31, 2011</b>	12,731,678	\$ 127	\$ 100,204	(780,320)	\$ (35,904)	\$ (22,302)	\$ 155,209	\$	\$ 197,334
Net income							19,095		19,095
Other comprehensive loss						(3,837)			(3,837)
Restricted stock awards			(1,516)	32,982	1,516				
Employee restricted stock settlement				(2,961)	(63)				(63)
Forfeiture of restricted stock awards			37	(1,868)	(37)				
Stock-based compensation recognized			1,703						1,703
Deficiency of tax benefit from stock-based compensation			(26)						(26)
Cash dividends							(2,875)		(2,875)
<b>Balance, December 31, 2012</b>	12,731,678	\$ 127	\$ 100,402	(752,167)	\$ (34,488)	\$ (26,139)	\$ 171,429	\$	\$ 211,331

See notes to the consolidated financial statements.





**Table of Contents****FreightCar America, Inc. and Subsidiaries****CONSOLIDATED STATEMENTS OF CASH FLOWS**

(in thousands)

	Year Ended December 31,		
	2012	2011	2010
<b>Cash flows from operating activities</b>			
Net income (loss)	\$ 19,095	\$ 4,939	\$ (12,862)
Adjustments to reconcile net income (loss) to net cash flows provided by (used in) operating activities:			
Depreciation and amortization	8,398	8,821	7,015
Gain on sale of railcars available for lease	(989)	(2,227)	
Other non-cash items, net	381	3	(1,809)
Deferred income taxes	10,420	(682)	(7,738)
Stock-based compensation recognized	1,703	2,189	1,675
Changes in operating assets and liabilities:			
Accounts receivable	(2,862)	(5,841)	3,320
Inventories	(700)	(7,945)	(13,482)
Inventory on lease			(6,686)
Other current assets	(4,531)	4,203	(3,612)
Accounts and contractual payables	5,147	15,395	(5,102)
Accrued payroll and employee benefits	937	1,482	(3,829)
Income taxes receivable/payable	(2,380)	(894)	3,260
Accrued warranty	(170)	(137)	(1,214)
Customer deposits and other current liabilities	20,277	14,414	(1,072)
Deferred revenue, non-current	(242)	222	(464)
Accrued pension costs and accrued postretirement benefits	(1,482)	(3,973)	529
<b>Net cash flows provided by (used in) operating activities</b>	<b>53,002</b>	<b>29,969</b>	<b>(42,071)</b>
<b>Cash flows from investing activities</b>			
Restricted cash deposits	(15,525)	(1,115)	(5,644)
Restricted cash withdrawals	2,640	1,622	4,742
Purchase of securities available for sale			(29,982)
Purchase of securities held to maturity	(41,978)		
Maturity of securities available for sale			59,996
Purchases of property, plant and equipment	(9,088)	(1,830)	(1,431)
Proceeds from sale of property, plant and equipment, railcars available for lease and assets held for sale	10,526	11,682	2,546
Acquisition of business		(166)	(23,319)
<b>Net cash flows (used in) provided by investing activities</b>	<b>(53,425)</b>	<b>10,193</b>	<b>6,908</b>
<b>Cash flows from financing activities</b>			
Deferred financing costs paid			(116)
Employee restricted stock settlement	(63)	(88)	(240)
Excess tax benefit from stock-based compensation		16	
Cash dividends paid to stockholders	(2,875)		(716)
<b>Net cash flows used in financing activities</b>	<b>(2,938)</b>	<b>(72)</b>	<b>(1,072)</b>
<b>Net (decrease) increase in cash and cash equivalents</b>	<b>(3,361)</b>	<b>40,090</b>	<b>(36,235)</b>

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Cash and cash equivalents at beginning of year	101,870	61,780	98,015
Cash and cash equivalents at end of year	\$ 98,509	\$ 101,870	\$ 61,780
<b>Supplemental cash flow information</b>			
Cash paid for:			
Interest	\$ 317	\$ 201	\$ 341
Income tax refunds received	\$ 752	\$ 128	\$ 5,763
Income taxes paid	\$ 4,161	\$	\$ 136

See notes to the consolidated financial statements.

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**FreightCar America, Inc. and Subsidiaries**

**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

**For the Years Ended December 31, 2012, 2011 and 2010**

(in thousands, except for share and per share data)

**Note 1 Description of the Business**

FreightCar America, Inc. ( FreightCar ), operates primarily in North America through its direct and indirect subsidiaries, JAC Operations, Inc. ( Operations ), Johnstown America, LLC ( JA LLC ), Freight Car Services, Inc. ( FCS ), JAIX Leasing Company ( JAIX ), FreightCar Roanoke, LLC ( FCR ), Titagarh FreightCar Private Limited, Inc. ( JV ), FreightCar Mauritius Ltd. ( Mauritius ), FreightCar Rail Services, LLC ( FCRS ), FreightCar Rail Management Services, LLC ( FCRMS ) and FreightCar Short Line, Inc. ( Short Line ) (herein collectively referred to as the Company ), manufactures railroad freight cars, supplies railcar parts, leases freight cars and provides railcar maintenance, repairs and management. The Company designs and builds coal cars, bulk commodity cars, flat cars, mill gondola cars, intermodal cars, coil steel cars and motor vehicle carriers. The Company is headquartered in Chicago, Illinois and has facilities in the following locations: Clinton, Indiana; Danville, Illinois; Lakewood, Colorado; Grand Island, Nebraska; Hastings, Nebraska; Johnstown, Pennsylvania; and Roanoke, Virginia.

The Company s operations comprise two reportable segments, Manufacturing and Services. The Company and its direct and indirect subsidiaries are all Delaware corporations or Delaware limited liability companies except JV, which is incorporated in India, and Mauritius, which is incorporated in Mauritius. The Company s direct and indirect subsidiaries are all wholly owned except JV, for which the Company (through Mauritius) has a 51% ownership interest.

On February 18, 2013, the Company transferred its interest in JV to Titagarh Wagons Limited ( Titagarh ). JV was incorporated in India pursuant to a 2008 Joint Venture Agreement (the JV Agreement ) between the parties with the objective of manufacturing and selling aluminum coal-carrying railcars in India. The Company had exercised its unilateral right under the JV Agreement to terminate the term of the JV Agreement, effective August 1, 2011, and as a result the net book value of JV on the Company s financial statements, which was not material, had been written down to zero during 2011.

**Note 2 Summary of Significant Accounting Policies**

**Principles of Consolidation**

The accompanying consolidated financial statements include the accounts of FreightCar, Operations, JA LLC, FCS, JAIX, FCR, JV (through August 1, 2011), Mauritius, FCRS, FCRMS and Short Line. All intercompany accounts and transactions have been eliminated in consolidation.

**Use of Estimates**

The preparation of financial statements in conformity with accounting principles generally accepted in the United States ( GAAP ) requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Significant estimates include the valuation of used railcars received in sale transactions, useful lives of long-lived assets, warranty, workers compensation accruals, pension and postretirement benefit assumptions, stock compensation, evaluation of goodwill and other intangibles for impairment and the valuation allowance on the net deferred tax asset. Actual results could differ from those estimates.

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### **NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

#### **For the Years Ended December 31, 2012, 2011 and 2010**

**(in thousands, except share and per share data)**

#### **Cash and Cash Equivalents**

On a daily basis, cash in excess of current operating requirements is invested in various highly liquid investments. The Company considers all unrestricted short-term investments with maturities of three months or less when acquired to be cash equivalents. The amortized cost of cash equivalents approximate fair value because of the short maturity of these instruments.

The Company's cash and cash equivalents are primarily deposited with two U.S. financial institutions. Such deposits are in excess of federally insured limits.

#### **Restricted Cash**

The Company establishes restricted cash balances to collateralize certain standby letters of credit with respect to purchase price payment guarantees and performance guarantees and to support the Company's worker's compensation insurance claims. The restrictions expire upon completing the Company's related obligation.

#### **Financial Instruments**

Management estimates that all financial instruments (including cash equivalents, restricted cash, marketable securities, accounts receivable and accounts payable) as of December 31, 2012 and 2011, have fair values that approximate their carrying values.

Upon purchase the Company categorizes debt securities as *securities held to maturity*, *securities available for sale* or *trading securities*. Debt securities that the Company has the positive intent and ability to hold to maturity are classified as *securities-held-to-maturity* and are reported at amortized cost adjusted for amortization of premium and accretion of discount on a level yield basis. Debt securities that are bought and held principally for the purpose of selling them in the near term are classified as *trading securities* and reported at fair value, with unrealized gains and losses included in earnings. Debt securities not classified as either held-to-maturity or trading securities are classified as *securities available for sale* and are reported at fair value, with unrealized gains and losses excluded from earnings and reported as a component of other comprehensive income, which is included in stockholders' equity, net of deferred taxes.

#### **Fair Value Measurements**

Financial assets and liabilities are classified in their entirety based on the lowest level of input that is significant to the fair value measurement. The Company's assessment of the significance of a particular input to the fair value measurement requires judgment, and may affect the valuation of assets and liabilities and the placement within the fair value hierarchy levels.

The Company classifies the inputs to valuation techniques used to measure fair value as follows:

*Level 1* Quoted prices (unadjusted) in active markets for identical assets and liabilities.

*Level 2* Inputs other than quoted prices for Level 1 inputs that are either directly or indirectly observable for the asset or liability including quoted prices for similar assets or liabilities in active markets, quoted prices for identical or similar assets or liabilities in inactive markets, inputs other than quoted prices that are observable for the asset or liability, and inputs that are derived from observable market data by correlation or other means.

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*Level 3* Unobservable inputs for the asset or liability, including situations where there is little, if any, market activity for the asset or liability.

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)****Inventories**

Inventories are stated at the lower of cost or market value. Cost is determined on a first-in, first-out basis and includes material, labor and manufacturing overhead. The Company's inventory consists of work in progress and finished goods for individual customer contracts, used railcars acquired upon trade-in and railcar parts retained for sale to external parties or use by FCRS when providing maintenance and repair services to customers.

**Leased Railcars**

The Company offers railcar leases to its customers at market rates with terms and conditions that have been negotiated with the customers. It is the Company's strategy to actively market these leased assets for sale to leasing companies and financial institutions rather than holding them to maturity. If, as of the date of the initial lease, management determines that the sale of the leased railcars is probable, and transfer of the leased railcars is expected to qualify for recognition as a completed sale within one year, then the leased railcars are classified as current assets on the balance sheet (Inventory on Lease). In determining whether it is probable that the leased railcars will be sold within one year, management considers general market conditions for similar railcars and considers whether market conditions are indicative of a potential sales price that will be acceptable to the Company to sell the cars within one year. Inventory on Lease is carried at the lower of cost or market value and is not depreciated. At the one-year anniversary of the initial lease or such earlier date when management no longer believes the leased railcars will be sold within one year of the initial lease, the leased railcars are reclassified from current assets (Inventory on Lease) to long-term assets (Railcars Available for Lease). Railcars Available for Lease are depreciated over 40 years from the date the railcars are placed in service under the initial lease.

**Property, Plant and Equipment**

Property, plant and equipment are stated at acquisition cost less accumulated depreciation. Depreciation is provided using the straight-line method over the estimated useful lives of the assets, which are as follows:

Description of Assets	Life
Buildings and improvements	15-40 years
Leasehold improvements	6-10 years
Machinery and equipment	3-7 years
Software	3-7 years

Maintenance and repairs are charged to expense as incurred, while major refurbishments and improvements are capitalized. The cost and accumulated depreciation of items sold or retired are removed from the property accounts and any gain or loss is recorded in the consolidated statement of operations upon disposal or retirement.

**Long-Lived Assets**

The Company tests long-lived assets for recoverability whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. These changes in circumstances may include a significant decrease in the market value of an asset or the extent or manner in which an asset is used. The Company routinely evaluates its manufacturing footprint to assess its manufacturing capacity and cost of production in an effort to optimize production at its low-cost manufacturing facilities.

For assets to be held and used, the Company groups a long-lived asset or assets with other assets and liabilities at the lowest level for which identifiable cash flows are largely independent of the cash flows of other assets and liabilities. An impairment loss for an asset group reduces only the carrying amounts of a long-lived asset or assets of the group being evaluated. Estimates of future cash flows used to test the

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recoverability of a long-lived asset group include only the future cash flows that are directly associated with and that are expected to arise as a direct result of the use and eventual disposition of the asset group.

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### **NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

#### **For the Years Ended December 31, 2012, 2011 and 2010**

**(in thousands, except share and per share data)**

#### **Research and Development**

Costs associated with research and development are expensed as incurred and totaled approximately \$393, \$1,957 and \$849 for the years ended December 31, 2012, 2011 and 2010, respectively. Such costs are reported within selling, general and administrative expenses in the consolidated statements of operations.

#### **Goodwill and Intangible Assets**

The Company assesses the carrying value of goodwill for impairment as required by ASC 350, Intangibles – Goodwill and Other, annually or more frequently whenever events occur and circumstances change indicating potential impairment. During the quarter ended September 30, 2012, the Company changed its annual testing date from January 1 to August 1 for its reporting units. With respect to the Company's annual goodwill testing date, the Company believes that this voluntary change in accounting method is preferable as it aligns the annual impairment testing date with the Company's long-range planning cycle, which is a significant element in the testing process. In connection with this change, the Company performed the test as of January 1, 2012 and August 1, 2012. There were no impairment charges as of January 1, 2012 or August 1, 2012. This change in the Company's annual testing date, which was applied prospectively, does not delay, accelerate or avoid an impairment charge. It was impracticable to apply this change retrospectively, as the Company is unable to objectively determine significant estimates and assumptions that would have been used in those earlier periods without the use of hindsight.

Management estimates the valuation of its reporting units using discounted future cash flows, as well as comparing the Company's calculated fair value to its market capitalization. Management concluded that the estimated fair value of the Company's reporting units exceeded the carrying value as of the dates of the Company's impairment tests for 2012, 2011 and 2010.

Patents are amortized on a straight-line method over their remaining legal lives from the date of acquisition. Customer related intangible assets are amortized from the date of acquisition based on the estimated cash flows to be generated from the intangibles.

#### **Income Taxes**

For federal income tax purposes, the Company files a consolidated federal tax return. The Company also files state tax returns in states where the Company has operations. In conformity with ASC 740, *Income Taxes*, the Company provides for deferred income taxes on differences between the book and tax bases of its assets and liabilities and for items that are reported for financial statement purposes in periods different from those for income tax reporting purposes.

Management evaluates net deferred tax assets and provides a valuation allowance when it believes that it is more likely than not that some portion of these assets will not be realized. In making this determination, management evaluates both positive evidence, such as cumulative pre-tax income for previous years, the projection of future taxable income, the reversals of existing taxable temporary differences and tax planning strategies, and negative evidence, such as any recent history of losses and any projected losses. Management also considers the expiration dates of net operating loss carryforwards in the evaluation of net deferred tax assets. Management evaluates the realizability of the Company's net deferred tax assets and assesses the valuation allowance on a quarterly basis, adjusting the amount of such allowance as necessary.

Tax benefits related to uncertain tax positions taken or expected to be taken on a tax return are recorded when such benefits meet a more likely than not threshold. Otherwise, these tax benefits are recorded when a tax position has been effectively settled, which means that the appropriate taxing authority has completed its examination even though the statute of limitations remains open, or the statute of limitation expires. Interest and penalties related to uncertain tax positions are recognized as part of the provision for income taxes and are accrued beginning in the period that such interest and penalties would be applicable under relevant tax law until such time that the related tax benefits are recognized.





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### **NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

**For the Years Ended December 31, 2012, 2011 and 2010**

**(in thousands, except share and per share data)**

#### **Product Warranties**

The Company warrants that new railcars produced by it will be free from defects in material and workmanship under normal use identified for a period of up to five years from the time of sale. With respect to parts and materials manufactured by others and incorporated by the Company in its products, such parts and materials are covered only by the warranty provided by the original manufacturer. The Company establishes a warranty reserve at the time of sale to account for future warranty charges. The warranty reserve consists of two categories: assigned claims and unassigned claims. The unassigned warranty reserve is calculated based on historical warranty costs adjusted for estimated material price changes and other factors. Once a warranty claim is filed for railcars under warranty, the estimated cost to correct the defect is moved from the unassigned reserve to the assigned reserve and tracked separately.

#### **Revenue Recognition**

Revenues on new and rebuilt railcars are recognized when (1) individual cars are completed, (2) the railcars are accepted by the customer following inspection, (3) the risk for any damage or other loss with respect to the railcars passes to the customer and (4) title to the railcars transfers to the customer. There are no sales returns or allowances.

The Company recognizes service-related revenue from maintenance and repairs and inspections when all significant maintenance or repair or inspections services have been completed and quality accepted. The Company recognizes revenue from parts sales when the risk of any damage or loss and title passes to the customer and delivery has occurred.

The Company recognizes operating lease revenue on Inventory on Lease on a contractual basis and recognizes operating lease revenue on Railcars Available for Lease on a straight-line basis over the life of the lease. The Company recognizes revenue from the sale of Inventory on Lease on a gross basis in manufacturing sales and cost of sales if the manufacture of the railcars and the sales process is completed within 12 months. The Company recognizes revenue from the sale of Railcars Available for Lease on a net basis as Gain (Loss) on Sale of Railcars Available for Lease since the sale represents the disposal of a long-term operating asset.

The Company recognizes a loss when it has a contractual commitment to manufacture railcars at an estimated cost in excess of the contractual selling price.

The Company reports amounts billed to customers for shipping and handling as part of sales in accordance with ASC 605-45, *Revenue Recognition - Principal Agent Consideration*, and reports related costs in cost of sales.

#### **Earnings Per Share**

Basic earnings (loss) per share attributable to common shareholders is computed by dividing net income (loss) attributable to common shareholders by the weighted average common shares outstanding. The calculation of diluted earnings per share includes the effect of any dilutive equity incentive instruments. The Company uses the treasury stock method to calculate the effect of outstanding dilutive equity incentive instruments, which requires the Company to compute total proceeds as the sum of (1) the amount the employee must pay upon exercise of the award, (2) the amount of unearned stock-based compensation costs attributed to future services and (3) the amount of tax benefits, if any, that would be credited to additional paid-in capital assuming exercise of the award. Equity incentive instruments for which the total employee proceeds from exercise exceed the average fair value of the same equity incentive instrument over the period have an anti-dilutive effect on earnings per share during periods with net income from continuing operations, and accordingly, the Company excludes them from the calculation.

#### **Recent Accounting Pronouncements**

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In July 2012, the FASB issued ASU 2012-02, Intangibles—Goodwill and Other (Topic 350): Testing Indefinite-Lived Intangible Assets for Impairment (ASU 2012-02), which allows an entity to first assess qualitative factors to determine whether it is necessary to perform a quantitative impairment test of an indefinite-lived intangible asset. Under ASU 2012-02, an entity would not be required to calculate the fair value of an indefinite-lived intangible

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)**

asset if the entity determines, based on qualitative assessment, that it is not more likely than not impaired. The revised standard is effective for annual and interim impairment tests performed for fiscal years beginning after September 15, 2012; however, early adoption is permitted. As of December 31, 2012, the Company did not elect to early adopt ASU 2012-02, however it is not expected to have a material impact on the consolidated financial position, results of operations or cash flows of the Company.

In September 2011, the Financial Accounting Standards Board (FASB) issued changes to Accounting Standards Codification (ASC) 350, *Intangibles - Goodwill and Other*, related to the testing of goodwill for impairment. These changes provide an entity the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not (more than 50%) that the fair value of a reporting unit is less than its carrying amount. Such qualitative factors may include the following: macroeconomic conditions; industry and market considerations; cost factors; overall financial performance; and other relevant entity-specific events. If an entity elects to perform a qualitative assessment and determines that an impairment is more likely than not, the entity is then required to perform the existing two-step quantitative impairment test, otherwise no further analysis is required. An entity also may elect not to perform the qualitative assessment and, instead, go directly to the two-step quantitative impairment test. These changes became effective for the Company's goodwill impairment test performed on January 1, 2012 and August 1, 2012 and did not have an impact on the Company's consolidated financial statements as the Company did not elect to perform a qualitative assessment.

In June 2011, the FASB issued changes to ASC 220, *Presentation of Comprehensive Income*, to require companies to present the components of net income and other comprehensive income either in a single continuous statement of comprehensive income or two separate but consecutive statements. The changes eliminated the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity. The items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income were not changed. The amended guidance was effective for interim and annual periods beginning after December 15, 2011, with earlier adoption permitted. The Company retrospectively adopted these changes on January 1, 2012 and management elected to use the two-statement option. Other than the change in presentation, the adoption of the changes to ASC 220 had no impact on the Company's consolidated financial statements.

In May 2011, the FASB issued changes to ASC 820, *Fair Value Measurement*, to conform existing guidance regarding fair value measurement and disclosure between GAAP and International Financial Reporting Standards (IFRS). These changes clarify the application of existing fair value measurements and disclosures and change certain principles or requirements for fair value measurements and disclosures. The adoption of changes to ASC 820 was effective as of January 1, 2012 and did not have a material impact on the Company's consolidated financial statements.

**Note 3 Fair Value Measurements**

The Company's current investment policy is to invest in cash, U.S. treasury securities, U.S. government agency obligations and money market funds invested in U.S. government securities. Investments as of December 31, 2012 have remaining maturities of up to ten months.

The following table sets forth by level within the ASC 820 fair value hierarchy the Company's financial assets that were recorded at fair value on a recurring basis.

Recurring Fair Value Measurements	As of December 31, 2012			Total
	Level 1	Level 2	Level 3	
<b>ASSETS:</b>				
Cash equivalents	\$ 11,933	\$	\$	\$ 11,933
U.S. treasury securities held to maturity	\$ 41,978	\$	\$	\$ 41,978

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

For the Years Ended December 31, 2012, 2011 and 2010

(in thousands, except share and per share data)

Recurring Fair Value Measurements	As of December 31, 2011			Total
	Level 1	Level 2	Level 3	
<b>ASSETS:</b>				
Cash equivalents	\$ 77,004	\$	\$	\$ 77,004

**Note 4 Inventories**

Inventories, net of reserve for excess and obsolete items, consist of the following:

	December 31,	
	2012	2011
Work in progress	\$ 68,171	\$ 66,713
Finished new railcars		1,061
Used railcars acquired upon trade-in	105	558
Parts and service inventory	5,566	4,545
<b>Total inventories</b>	<b>\$ 73,842</b>	<b>\$ 72,877</b>

Inventory on the Company's consolidated balance sheets includes reserves of \$1,565 and \$1,508 relating to excess or slow-moving inventory for parts and work in progress at December 31, 2012 and 2011, respectively.

**Note 5 Railcars Available for Lease**

Railcars Available for Lease at December 31, 2012 was \$43,435 (cost of \$48,234 and accumulated depreciation of \$4,799) and at December 31, 2011 was \$54,746 (cost of \$59,217 and accumulated depreciation of \$4,471). The Company's lease utilization rate for railcars in its lease fleet was 100% at each of December 31, 2012 and December 31, 2011. Depreciation expense on leased railcars was \$1,267, \$1,980 and \$1,798 for the years ended December 31, 2012, 2011 and 2010, respectively.

Leased railcars at December 31, 2012 are subject to lease agreements with external customers with terms of up to ten years and are accounted for as operating leases.

Future minimum rental revenues on leases at December 31, 2012 are as follows:

Year ending December 31, 2013	\$ 3,762
Year ending December 31, 2014	3,052
Year ending December 31, 2015	1,345
Year ending December 31, 2016	981
Year ending December 31, 2017	551
Thereafter	1,928
	<b>\$ 11,619</b>

**Note 6 Property, Plant and Equipment**

Property, plant and equipment consists of the following:

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)**

	<b>December 31,</b>	
	<b>2012</b>	<b>2011</b>
Land (including easements)	\$ 2,203	\$ 2,203
Buildings and improvements	25,192	23,957
Leasehold improvements	5,350	4,726
Machinery and equipment	36,672	29,169
Software	8,383	8,352
Cost of buildings and improvements, leasehold improvements, machinery and equipment	75,597	66,204
Less: Accumulated depreciation and amortization	(39,269)	(33,269)
Buildings and improvements, leasehold improvements, machinery and equipment, net of accumulated depreciation and amortization	36,328	32,935
Construction in process	812	846
Total property, plant and equipment	\$ 39,343	\$ 35,984

Depreciation expense for the years ended December 31, 2012, 2011 and 2010, was \$6,393, \$6,208 and \$4,603, respectively.

**Note 7 Intangible Assets and Goodwill**

Intangible assets consist of the following:

	<b>December 31,</b>	
	<b>2012</b>	<b>2011</b>
Patents	\$ 13,097	\$ 13,097
Accumulated amortization	(10,966)	(10,376)
Patents, net of accumulated amortization	2,131	2,721
Customer-related intangibles	1,300	1,300
Accumulated amortization	(213)	(64)
Customer-related intangibles, net of accumulated amortization	1,087	1,236
Total amortizing intangibles	\$ 3,218	\$ 3,957
Manufacturing segment goodwill	\$ 21,521	\$ 21,521
Services segment goodwill	607	607
Total goodwill	\$ 22,128	\$ 22,128

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The fair value of customer-related intangibles was estimated using a discounted cash flow model which included assumptions concerning projected growth rates as well as historical customer attrition. Customer-related intangible assets are being amortized from the date of acquisition and have a remaining life of 18 years. Amortization expense related to customer intangibles, which is included in selling, general and administrative expenses, was \$149, \$43 and \$22 for the years ended December 31, 2012, 2011 and 2010, respectively.

Patents are being amortized on a straight-line method over their remaining legal life from the date of acquisition and have a weighted average remaining life of 4 years. Amortization expense related to patents, which is included in cost of sales, was \$590 for each of the years ended December 31, 2012 and 2011, and \$591 for the year ended December 31, 2010.



**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010**

(in thousands, except share and per share data)

Estimated future intangible amortization at December 31, 2012 is as follows:

Year ending December 31, 2013	\$ 739
Year ending December 31, 2014	744
Year ending December 31, 2015	720
Year ending December 31, 2016	476
Year ending December 31, 2017	108
Thereafter	431
	<b>\$ 3,218</b>

**Note 8 Product Warranties**

Warranty terms are based on the negotiated railcar sales contracts. The Company typically warrants that new railcars produced by it will be free from defects in material and workmanship under normal use and service identified for a period of up to five years from the time of sale. The changes in the warranty reserve for the years ended December 31, 2012, 2011 and 2010, are as follows:

	2012	December 31, 2011	2010
Balance at the beginning of the year	\$ 7,795	\$ 7,932	\$ 9,146
Warranties issued during the year	2,502	1,696	408
Reductions for payments, costs of repairs and other	(543)	(717)	(1,604)
Adjustments to prior warranties	(2,129)	(1,116)	(18)
Balance at the end of the year	<b>\$ 7,625</b>	<b>\$ 7,795</b>	<b>\$ 7,932</b>

Adjustments to prior warranties includes changes in the warranty reserve for warranties issued in prior periods due to expiration of the warranty period, revised warranty cost estimates and other factors.

**Note 9 Revolving Credit Facility**

On July 29, 2010, the Company entered into a \$30,000 senior secured revolving credit facility pursuant to a Loan and Security Agreement dated as of July 29, 2010 (the Revolving Loan Agreement) among FreightCar, JA LLC, FCS, Operations and FCR, as borrowers (collectively, the Borrowers), and Fifth Third Bank, as lender. The proceeds of the revolving credit facility can be used for general corporate purposes, including working capital. As of December 31, 2012 and 2011, the Company had no borrowings and therefore had \$30,000 available under the revolving credit facility. The Revolving Loan Agreement also contains a sub-facility for letters of credit not to exceed \$20,000. The Company had no outstanding letters of credit under the revolving credit facility as of December 31, 2012 and 2011, respectively.

The Revolving Loan Agreement has a term ending on July 29, 2013 and revolving loans outstanding thereunder will bear interest at a rate of LIBOR plus an applicable margin of 2.50% or at prime, as selected by the Company. The Company is required to pay a non-utilization fee of 0.35% on the unused portion of the revolving loan commitment which is included in interest expense and deferred financing fees in the consolidated statement of operations. Borrowings under the Revolving Loan Agreement are secured by the Company's accounts receivable, inventory and certain other assets of the Company, and borrowing availability is tied to a borrowing base of eligible accounts receivable and

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inventory. The Revolving Loan Agreement has both affirmative and negative covenants, including, without limitation, a minimum tangible net worth covenant and limitations on indebtedness, liens and investments. The minimum tangible net worth covenant in the Revolving Loan Agreement effectively limits potential dividends to \$64.5 million as of December 31, 2012. The Revolving Loan Agreement also provides for customary events of default. As of December 31, 2012, the Company was in compliance with all of the financial covenants contained in the agreement.

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For the Years Ended December 31, 2012, 2011 and 2010

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**Note 10 Accumulated Other Comprehensive Income (Loss)**

The changes in accumulated other comprehensive income (loss) consist of the following:

	Pre-Tax	Tax	After-Tax
<b>Year ended December 31, 2010</b>			
Pension liability activity	\$ 264	\$ (175)	\$ 89
Postretirement liability activity	(2,344)	821	(1,523)
Change in foreign currency translation adjustments	14		14
Change in unrealized holding gains on securities available for sale, net of reclassification adjustment	(3)	1	(2)
	\$ (2,069)	\$ 647	\$ (1,422)
<b>Year ended December 31, 2011</b>			
Pension liability activity	\$ (3,210)	\$ 1,232	\$ (1,978)
Postretirement liability activity	(502)	193	(309)
Change in foreign currency translation adjustments	(15)		(15)
	\$ (3,727)	\$ 1,425	\$ (2,302)
<b>Year ended December 31, 2012</b>			
Pension liability activity	\$ (742)	\$ 281	\$ (461)
Postretirement liability activity	(5,439)	2,063	(3,376)
	\$ (6,181)	\$ 2,344	\$ (3,837)

The components of accumulated other comprehensive loss consist of the following:

	December 31,	
	2012	2011
Unrecognized pension cost, net of tax of \$8,020 and \$7,739	\$ (13,404)	\$ (12,943)
Unrecognized postretirement cost, net of tax of \$7,626 and \$5,563	(12,735)	(9,359)
	\$ (26,139)	\$ (22,302)

**Note 11 Employee Benefit Plans**

The Company has qualified, defined benefit pension plans that were established to provide benefits to certain employees. These plans are frozen and participants are no longer accruing benefits. The Company also provides certain postretirement health care benefits for certain of its salaried and hourly retired employees. Generally, 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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A substantial portion of the Company's postretirement benefit plan obligation relates to a settlement with the union representing employees at the Company's and its predecessors' Johnstown manufacturing facilities. The terms of that settlement agreement required the Company to pay until November 30, 2012 certain monthly amounts toward the cost of retiree health care coverage. The Company is currently engaged in negotiations related to the expired

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)**

settlement agreement but no agreements have been reached. Therefore, the outcome of those negotiations and the impact on the Company's postretirement benefit plan obligation cannot be determined at this time. The Company's recorded postretirement benefit plan obligation assumes for accounting purposes a continuation of those monthly payments after November 30, 2012 (as permitted under the settlement). However, the Company's postretirement benefit plan obligation could significantly increase or decrease if payments were to cease, if litigation should ensue or if the parties should agree on a modified settlement.

Generally, contributions to the plans are not less than the minimum amounts required under the Employee Retirement Income Security Act of 1974 (ERISA) and not more than the maximum amount that can be deducted for federal income tax purposes. The plans' assets are held by independent trustees and consist primarily of equity and fixed income securities.

The changes in benefit obligation, change in plan assets and funded status as of December 31, 2012 and 2011, are as follows:

	Pension Benefits		Postretirement Benefits	
	2012	2011	2012	2011
<b>Change in benefit obligation</b>				
Benefit obligation Beginning of year	\$ 62,403	\$ 62,296	\$ 65,061	\$ 65,256
Service cost			64	55
Interest cost	2,899	3,136	3,020	3,211
Actuarial loss	4,853	2,411	6,054	1,032
Benefits paid	(5,198)	(5,440)	(4,899)	(4,493)
Benefit obligation End of year	64,957	62,403	69,300	65,061
<b>Change in plan assets</b>				
Plan assets Beginning of year	48,350	46,752		
Return on plan assets	7,054	2,633		
Employer contributions	2,582	4,405	4,899	4,493
Benefits paid	(5,198)	(5,440)	(4,899)	(4,493)
Plan assets at fair value End of year	52,788	48,350		
Funded status of plans End of year	\$ (12,169)	\$ (14,053)	\$ (69,300)	\$ (65,061)

	Pension Benefits		Postretirement Benefits	
	2012	2011	2012	2011
<b>Amounts recognized in the Consolidated Balance Sheets</b>				
Noncurrent assets	\$ 24	\$ 149	\$	\$
Current liabilities			(4,978)	(5,174)
Noncurrent liabilities	(12,193)	(14,202)	(64,322)	(59,887)
Net amount recognized at December 31	\$ (12,169)	\$ (14,053)	\$ (69,300)	\$ (65,061)

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Amounts recognized in accumulated other comprehensive loss but not yet recognized in earnings at December 31, 2012 and 2011, are as follows:

	<b>Pension Benefits</b>		<b>Postretirement Benefits</b>	
	<b>2012</b>	<b>2011</b>	<b>2012</b>	<b>2011</b>
Net actuarial loss	\$ 21,424	\$ 20,682	\$ 19,595	\$ 13,915
Prior service cost			766	1,007
	\$ 21,424	\$ 20,682	\$ 20,361	\$ 14,922

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The estimated net loss for the defined benefit pension plan that will be amortized from accumulated other comprehensive loss into net periodic benefit cost in 2013 is \$546. The estimated net loss and prior service cost for the postretirement benefit plan that will be amortized from accumulated other comprehensive loss into net periodic benefit cost in 2013 are \$603 and \$241, respectively.

Components of net periodic benefit cost for the years ended December 31, 2012, 2011 and 2010, are as follows:

Components of net periodic benefit cost	Pension Benefits			Postretirement Benefits		
	2012	2011	2010	2012	2011	2010
Service cost	\$	\$	\$	\$ 64	\$ 55	\$ 57
Interest cost	2,899	3,136	3,422	3,020	3,211	3,481
Expected return on plan assets	(3,448)	(3,797)	(3,557)			
Amortization of unrecognized prior service cost				241	241	241
Amortization of unrecognized net loss	505	365	425	374	289	182
<b>Total net periodic benefit cost</b>	<b>\$ (44)</b>	<b>\$ (296)</b>	<b>\$ 290</b>	<b>\$ 3,699</b>	<b>\$ 3,796</b>	<b>\$ 3,961</b>

The increase (decrease) in accumulated other comprehensive loss (pre-tax) for the years ended December 31, 2012 and 2011, are as follows:

	2012		2011	
	Pension Benefits	Postretirement Benefits	Pension Benefits	Postretirement Benefits
Net actuarial loss	\$ 1,247	\$ 6,054	\$ 3,575	\$ 1,032
Amortization of net actuarial loss	(505)	(374)	(365)	(289)
Amortization of prior service cost		(241)		(241)
<b>Total recognized in accumulated other comprehensive loss (gain)</b>	<b>\$ 742</b>	<b>\$ 5,439</b>	<b>\$ 3,210</b>	<b>\$ 502</b>

The following benefit payments, which reflect expected future service, as appropriate, were expected to be paid as of December 31, 2012:

	Pension Benefits	Postretirement Benefits
2013	\$ 4,926	\$ 4,978
2014	4,576	4,895
2015	4,229	4,810
2016	3,931	4,658
2017	3,675	4,513
2018 through 2022	17,739	20,622

The Company expects to make \$759 in contributions to its pension plans in 2013 to meet its minimum funding requirements.





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The assumptions used to determine end of year benefit obligations are shown in the following table:

	Pension Benefits		Postretirement Benefits	
	2012	2011	2012	2011
Discount rates	4.11%	4.90%	3.95%	4.80%

The discount rate is determined using a yield curve model that uses yields on high quality corporate bonds (AA rated or better) to produce a single equivalent rate. The yield curve model excludes callable bonds except those with make-whole provisions, private placements and bonds with variable rates.

The assumptions used in the measurement of net periodic cost are shown in the following table:

	Pension Benefits			Postretirement Benefits		
	2012	2011	2010	2012	2011	2010
Discount rate	4.90%	5.36%	5.76%	4.80%	5.26%	5.76%
Expected return on plan assets	7.28%	7.99%	8.25%	N/A	N/A	N/A

As benefits under these postretirement healthcare plans have been capped, assumed health care cost trend rates have no effect on the amounts reported for the health care plans.

The Company's pension plans' weighted average asset allocations at December 31, 2012 and 2011, and target allocations for 2013, by asset category, are as follows:

Asset Category	Plan Assets at December 31,		Target Allocation
	2012	2011	2013
Cash and cash equivalents	1%		
Equity securities	56%	53%	55%
Fixed income securities	39%	42%	40%
Real estate	4%	5%	5%
	100%	100%	100%

The basic goal underlying the pension plan investment policy is to ensure that the assets of the plans, along with expected plan sponsor contributions, will be invested in a prudent manner to meet the obligations of the plans as those obligations come due under a broad range of potential economic and financial scenarios, maximize the long-term investment return with an acceptable level of risk based on such obligations, and broadly diversify investments across and within the capital markets to protect asset values against adverse movements in any one market. The Company's investment strategy balances the requirement to maximize returns using potentially higher return generating assets, such as equity securities, with the need to manage the risk of such investments with less volatile assets, such as fixed-income securities. Investment practices must comply with the requirements of ERISA and any other applicable laws and regulations. The Company, in consultation with its investment advisors, has determined a targeted allocation of invested assets by category and it works with its advisors to reasonably maintain the actual allocation of assets near the target.

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The long term return on assets was estimated based upon historical market performance, expectations of future market performance for debt and equity securities and the related risks of various allocations between debt and equity securities. Numerous asset classes with differing expected rates of return, return volatility and correlations are utilized to reduce risk through diversification.

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The Company's pension plan assets are invested in one mutual fund for each fund classification. The following table presents the fair value of pension plan assets classified under the appropriate level of the ASC 820 fair value hierarchy (see Note 2 for a description of the fair value hierarchy) as of December 31, 2012 and 2011:

Pension Plan Assets	As of December 31, 2012			Total
	Level 1	Level 2	Level 3	
Mutual funds:				
Fixed income fund	\$ 20,562	\$	\$	\$ 20,562
Large cap stock fund	16,163			16,163
Small cap stock fund	5,442			5,442
International fund	7,663			7,663
Real estate fund	2,274			2,274
Cash and cash equivalents	684			684
Total	\$ 52,788	\$	\$	\$ 52,788

Pension Plan Assets	As of December 31, 2011			Total
	Level 1	Level 2	Level 3	
Mutual funds:				
Fixed income fund	\$ 20,435	\$	\$	\$ 20,435
Large cap stock fund	14,429			14,429
Small cap stock fund	4,612			4,612
International fund	6,340			6,340
Real estate fund	1,962			1,962
Cash and cash equivalents	572			572
Total	\$ 48,350	\$	\$	\$ 48,350

The Company also maintains qualified defined contribution plans, which provide benefits to their employees based on employee contributions and employee earnings, with discretionary contributions allowed. Expenses related to these plans were \$1,776, \$1,409 and \$706 for the years ended December 31, 2012, 2011 and 2010, respectively.

**Note 12 - Income Taxes**

The provision (benefit) for income taxes for the periods indicated includes current and deferred components as follows:

Current taxes	Year Ended December 31,		
	2012	2011	2010
Federal	\$ 653	\$ 6	\$ (643)
State	2,371	754	(910)

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	3,024	760	(1,553)
<b>Deferred taxes</b>			
Federal	8,755	1,870	(6,705)
State	1,665	(2,552)	(1,033)
	10,420	(682)	(7,738)
<b>Interest expense, gross of related tax effects</b>	327	276	(220)
<b>Total</b>	<b>\$ 13,771</b>	<b>\$ 354</b>	<b>\$ (9,511)</b>

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010**

(in thousands, except share and per share data)

The provision (benefit) for income taxes for the periods indicated differs from the amounts computed by applying the federal statutory rate as follows:

	Year Ended December 31,		
	2012	2011	2010
Statutory U.S. federal income tax rate	35.0%	35.0%	35.0%
State income taxes, net of federal tax benefit	5.4%	3.4%	6.3%
Valuation allowance	(2.0)%	3.8%	10.0%
Goodwill amortization	(1.8)%	(11.5)%	2.7%
Manufacturing deduction			(1.4)%
Nondeductible expenses	0.6%	2.9%	(0.2)%
State rate and other changes on deferred taxes	4.9%	(31.1)%	(11.0)%
Uncertain tax positions	0.1%	2.8%	(1.8)%
Other	(0.3)%	1.4%	2.9%
Effective income tax rate	41.9%	6.7%	42.5%

Deferred income taxes result from temporary differences in the financial and tax basis of assets and liabilities. Components of deferred tax assets (liabilities) consisted of the following:

Description	December 31, 2012		December 31, 2011	
	Assets	Liabilities	Assets	Liabilities
Accrued postretirement and pension benefits-long-term	\$ 31,656	\$	\$ 31,966	\$
Intangible assets		(2,263)		(1,617)
Accrued workers' compensation costs	1,059		465	
Accrued warranty costs	3,515		3,501	
IRC Section 481(a)				(396)
Accrued bonuses	1,273		1,109	
Accrued vacation	657		667	
Accrued contingencies	2,981		3,033	
Accrued severance	294		285	
Inventory valuation	1,784		1,392	
Property, plant and equipment and railcars on operating leases		(17,810)		(19,317)
Net operating loss carryforwards	9,804		22,392	
Credit carryforward	722			
Stock-based compensation expense	2,084		1,731	
Other		(155)		(8)
	55,829	(20,228)	66,541	(21,338)
Valuation allowance	(4,582)		(6,071)	
Deferred tax assets (liabilities)	\$ 51,247	\$ (20,228)	\$ 60,470	\$ (21,338)

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Increase (decrease) in valuation allowance	\$ (1,489)	\$ 448
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In the consolidated balance sheets, these deferred tax assets and liabilities are classified as current or noncurrent, based on the classification of the related asset or liability for financial reporting. A deferred tax asset or liability that is not related to an asset or liability for financial reporting, including deferred tax assets related to carryforwards, is classified according to the expected reversal date of the temporary differences as of the end of the year. A valuation allowance is provided when it is more likely than not that some portion or all of the deferred tax assets will not be realized.

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The railcar market has an established history of cyclicity based on significant swings in customer demand. Industry projections forecast this trend to continue, with a decrease in demand in 2013, followed by a recovery in demand continuing for several years. Although realization of our net deferred assets is not certain, management has concluded that, based on the positive and negative evidence considered and the expected improvement in railcar demand and, therefore, operating results, we will more likely than not realize the full benefit of the deferred tax assets except for our deferred tax assets in certain states. The Company has certain pretax state net operating loss carryforwards of \$112,185, which will expire between 2015 and 2032, of which \$56,001 have a full valuation allowance recorded. In addition to the state valuation allowances, the Company has also provided a valuation allowance against net operating losses associated with the foreign jurisdictions in which it operates. The losses associated with these jurisdictions will begin to expire in 2014. The Company has federal net operating loss carryforwards of \$9,009 which will expire in 2030.

A reconciliation of the beginning and ending gross amounts of unrecognized tax benefits for the years ended December 31, 2012, 2011 and 2010, were as follows:

	2012	2011	2010
Beginning of year balance	\$ 2,225	\$ 2,144	\$ 4,008
Increases in prior period tax positions		92	27
Decreases in prior period tax positions		(11)	(1,117)
Decreases relating to expiring statutes of limitations	(53)		(774)
End of year balance	\$ 2,172	\$ 2,225	\$ 2,144

The total estimated unrecognized tax benefit that, if recognized, would affect the Company's effective tax rate was approximately \$1,924, \$1,978 and \$1,897 as of December 31, 2012, 2011 and 2010, respectively. It is expected that the amount of unrecognized tax benefits will change in the next twelve months. Due to the nature of the Company's unrecognized tax benefits, the Company does not expect changes in its unrecognized tax benefit reserve in the next twelve months to have a material impact on its financial statements. The Company's income tax provision included \$82 of expense (net of a federal tax benefit of \$69), \$95 of expense (net of a federal tax benefit of \$74) and \$168 of benefit (net of a federal tax expense of \$52) related to interest and penalties for the years ended December 31, 2012, 2011 and 2010, respectively. The Company records interest and penalties with tax expense. Such expenses brought the balance of accrued interest and penalties to \$1,575, \$1,424 and \$1,255 at December 31, 2012, 2011 and 2010, respectively.

The Company and/or its subsidiaries file income tax returns with the U.S. Federal government and in various state and foreign jurisdictions. A summary of tax years that remain subject to examination is as follows:

Jurisdiction	Earliest Year Open To Examination
U.S. Federal	2007
States:	
Pennsylvania	2000
Virginia	2007
Illinois	2009
Colorado	2010
Indiana	2010
Nebraska	2010

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Foreign:	
India	2008
Mauritius	2009



**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)****Note 13 - Stock-Based Compensation**

The Company's incentive compensation plan, titled "The 2005 Long Term Incentive Plan" (as restated to incorporate all amendments), the Incentive Plan, was approved by the Company's board of directors and ratified by the stockholders. The Incentive Plan is intended to provide incentives to attract, retain and motivate employees and directors, to provide for competitive compensation opportunities, to encourage long-term service, to recognize individual contributions and reward achievement of performance goals. The Company believes that the Incentive Plan promotes the creation of long-term value for its stockholders by better aligning the interests of its employees and directors with those of its stockholders. The Incentive Plan provides for the grant to eligible persons of stock options, share appreciation rights, or SARs, restricted shares, restricted share units, or RSUs, performance shares, performance units, dividend equivalents and other share-based awards, referred to collectively as the awards. Option awards generally vest based on one to three years of service and have 10 year contractual terms. Share awards generally vest over one to three years. Certain option and share awards provide for accelerated vesting if there is a change in control (as defined in the Incentive Plan). The Incentive Plan will terminate as to future awards on April 5, 2015. Under the Incentive Plan, 1,659,616 shares of common stock have been reserved for issuance (from either authorized but unissued shares or treasury shares), of which 531,366 were available for issuance at December 31, 2012.

The Company recognizes stock-based compensation expense for stock option awards based on the fair value of the award on the grant date using the Black-Scholes option valuation model. Expected life in years for all stock options awards was determined using the simplified method. The Company believes that it is appropriate to use the simplified method in determining the expected life for options because the Company does not have sufficient historical exercise data to provide a reasonable basis upon which to estimate the expected term for stock options and due to the limited number of stock option grants to date. Expected volatility was based on the historical volatility of the Company's stock. The risk-free interest rate was based on the U.S. Treasury bond rate for the expected life of the option. The expected dividend yield was based on the latest annualized dividend rate and the current market price of the underlying common stock on the date of the grant. The Company recognizes stock-based compensation for restricted stock awards over the vesting period based on the fair market value of the stock on the date of the award, calculated as the average of the high and low trading prices for the Company's common stock on the award date.

On January 12, 2012, the Company awarded 179,500 non-qualified stock options to certain employees of the Company pursuant to its 2005 Long Term Incentive Plan. The stock options will vest in three equal annual installments beginning on January 12, 2013 and have a contractual term of 10 years. The exercise price of each option is \$23.40, which was the fair market value of the Company's stock on the date of the grant. The estimated fair value of \$11.23 per option will be recognized over the period during which the employee is required to provide service in exchange for the award, which is the vesting period. The following assumptions were used to value the January 12, 2012 stock options: expected lives of the options of 6 years; expected volatility of 50.86%; risk-free interest rate of 0.84%; and expected dividend yield of 0%.

On October 3, 2011, the Company awarded 10,000 non-qualified stock options to an employee of the Company pursuant to its 2005 Long Term Incentive Plan. The stock options will vest in three equal annual installments beginning on October 3, 2012 and have a contractual term of 10 years. The exercise price of each option is \$14.01, which was the fair market value of the Company's stock on the date of the grant. The estimated fair value of \$6.61 per option will be recognized over the period during which the employee is required to provide service in exchange for the award, which is the vesting period. The following assumptions were used to value the October 3, 2011 stock options: expected lives of the options of 6 years; expected volatility of 49.83%; risk-free interest rate of 0.87%; and expected dividend yield of 0%.

On January 13, 2011, the Company awarded 116,950 non-qualified stock options to certain employees of the Company pursuant to its 2005 Long Term Incentive Plan. The stock options will vest in three equal annual installments beginning on January 13, 2012 and have a contractual term of 10 years. The exercise price of each option is \$29.88, which was the fair market value of the Company's stock on the date of the grant. The estimated fair value of \$14.61 per option 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 following assumptions were used to value the January 13, 2011 stock options: expected lives of the options of 6 years; expected volatility of 49.74%; risk-free interest rate of 1.93%; and expected dividend yield of 0%.



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On February 23, 2010, the Company awarded 74,310 non-qualified stock options to certain employees of the Company pursuant to its 2005 Long Term Incentive Plan. The stock options will vest in three equal annual installments beginning on February 23, 2011 and have a contractual term of 10 years. The exercise price of each option is \$20.69, which was the fair market value of the Company's stock on the date of the grant. The estimated fair value of \$9.52 per option 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 following assumptions were used to value the February 23, 2010 stock options: expected lives of the options of 6 years; expected volatility of 51.81%; risk-free interest rate of 2.37%; and expected dividend yield of 1.16%.

On January 26, 2010, the Company awarded 200,000 non-qualified stock options to the Chief Executive Officer of the Company pursuant to its 2005 Long Term Incentive Plan. The stock options vested in two equal annual installments beginning on December 18, 2010 and have a contractual term of 10 years. The exercise price of each option is \$19.96, which was the fair market value of the Company's stock on the date of the grant. The estimated fair value of \$9.02 per option was recognized over the vesting period. The following assumptions were used to value the January 26, 2010 stock options: expected lives of the options of 5.75 years; expected volatility of 51.96%; risk-free interest rate of 2.38%; and expected dividend yield of 1.21%.

Stock-based compensation expense of \$1,703, \$2,189 and \$1,675 is included within selling, general and administrative expense for the years ended December 31, 2012, 2011 and 2010, respectively. The total income tax benefit recognized on the consolidated statements of operations for share-based compensation arrangements was \$653, \$827 and \$629 for the years ended December 31, 2012, 2011 and 2010, respectively.

A summary of the Company's stock options activity and related information at December 31, 2012 and 2011, and changes during the years then ended, is presented below:

	December 31,		2011	
	2012	Weighted-Average Exercise Price	Options Outstanding	Weighted-Average Exercise Price
	Options Outstanding	(per share)	Options Outstanding	(per share)
Outstanding at the beginning of the year	440,780	\$ 24.20	321,000	\$ 22.51
Granted	179,500	23.40	126,950	28.63
Exercised				
Forfeited or expired	(67,032)	25.48	(7,170)	26.78
Outstanding at the end of the year	553,248	\$ 23.79	440,780	\$ 24.20
Exercisable at the end of the year	325,917	\$ 23.23	276,514	\$ 22.80

The weighted-average grant-date fair value per share of stock options granted during the years ended December 31, 2012, 2011 and 2010, was \$11.23, \$13.98 and \$9.16, respectively.

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**For the Years Ended December 31, 2012, 2011 and 2010**

**(in thousands, except share and per share data)**

A summary of the Company's stock options outstanding as of December 31, 2012 is presented below:

	Options Outstanding	Weighted-Average Remaining Contractual Term (in years)	Weighted-Average Exercise Price (per share)	Aggregate Intrinsic Value
Options outstanding	553,248	7.6	\$ 23.79	\$ 673
Vested or expected to vest	550,814	7.6	\$ 23.76	\$ 673
Options exercisable	325,917	6.8	\$ 23.23	\$ 589

There were no stock options exercised during each of the years ended December 31, 2012 and December 31, 2011. As of December 31, 2012, there was \$1,503 of total unrecognized compensation expense related to nonvested options, which will be recognized over the remaining requisite service period of 24 months.

A summary of the Company's nonvested restricted shares as of December 31, 2012 and 2011, and changes during the years then ended is presented below:

	December 31, 2012		December 31, 2011	
	Shares	Weighted-Average Grant Date Fair Value (per share)	Shares	Weighted-Average Grant Date Fair Value (per share)
Nonvested at the beginning of the year	28,526	\$ 27.06	34,827	\$ 25.75
Granted	32,982	21.37	17,147	29.30
Vested	(19,365)	26.55	(19,880)	26.58
Forfeited	(1,868)	25.72	(3,568)	27.74
<b>Nonvested at the end of the year</b>	<b>40,275</b>	<b>\$ 22.70</b>	<b>28,526</b>	<b>\$ 27.06</b>
Expected to vest	35,900	\$ 22.28	25,818	\$ 27.21

The weighted-average grant-date fair value per share of stock awards granted during the years ended December 31, 2012, 2011 and 2010, was \$21.37, \$29.30 and \$27.26, respectively. The fair value of stock awards vested during the years ended December 31, 2012, 2011 and 2010, was \$425, \$566 and \$1,264, respectively, based on the value at vesting date. The actual tax benefit realized for the tax deductions from vesting of stock awards was \$160, \$213 and \$476 for the years ended December 31, 2012, 2011 and 2010, respectively, of which \$(66), \$16 and \$(108), respectively, was recorded to additional paid in capital as (tax deficiency)/excess tax benefit from stock-based compensation. As of December 31, 2012, there was \$462 of total unrecognized compensation expense related to nonvested restricted stock awards, which will be recognized over the average remaining requisite service period of 9 months.

**Note 14 - Risks and Contingencies**

The Company is involved in various warranty and repair claims and in certain cases, 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 and legal provisions, if any, are not expected to be material to the Company's consolidated financial condition, results of operations or cash flows.

The Company relies upon third-party suppliers for railcar heavy castings, wheels and other components for its railcars. In particular, it purchases a substantial percentage of its railcar heavy castings and wheels from subsidiaries of one entity. The Company also relies upon a single supplier to manufacture all of its roll formed center sills for its railcars. Any inability by these suppliers to provide the Company with components for its railcars, any significant

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)**

decline in the quality of these components or any failure of these suppliers to meet the Company's planned requirements for such components may have a material adverse impact on the Company's financial condition and results of operations. While the Company believes that it could secure alternative manufacturing sources for these components, the Company may incur substantial delays and significant expense in doing so, the quality and reliability of these alternative sources may not be the same and the Company's operating results may be significantly affected.

On September 29, 2008, Bral Corporation, a supplier of certain railcar parts to the Company, filed a complaint against the Company in the U.S. District Court for the Western District of Pennsylvania (the Pennsylvania Lawsuit). The complaint alleges that the Company breached an exclusive supply agreement with Bral by purchasing parts from CMN Components, Inc. (CMN) and seeks damages in an unspecified amount, attorneys' fees and other legal costs. On December 14, 2007, Bral sued CMN in the U.S. District Court for the Northern District of Illinois, alleging among other things that CMN interfered in the business relationship between Bral and the Company (the Illinois Lawsuit) and seeking damages in an unspecified amount, attorneys' fees and other legal costs. On October 22, 2008, the Company entered into an Assignment of Claims Agreement with CMN under which CMN assigned to the Company its counterclaims against Bral in the Illinois Lawsuit and the Company agreed to defend and indemnify CMN against Bral's claims in that lawsuit. On March 4, 2013, Bral Corporation and the Company agreed to settle the Illinois Lawsuit and the Pennsylvania Lawsuit. Terms of the settlement are confidential but the settlement is expected to have a favorable impact of approximately \$4.0 million on the Company's 2013 results of operations.

On a quarterly basis, the Company evaluates the potential outcome of all significant contingencies and estimates the likelihood that a future event or events will confirm the loss of an asset or incurrence of a liability. When information available prior to issuance of the Company's financial statements indicates that in management's judgment, it is probable that an asset had been impaired or a liability had been incurred at the date of the financial statements and the amount of loss can be reasonably estimated, the contingency is accrued by a charge to income.

In addition to the foregoing, the Company is involved in certain other threatened and pending legal proceedings, including commercial disputes and workers' compensation and employee matters arising out of the conduct of its business. While the ultimate outcome of these other legal proceedings cannot be determined at this time, it is the opinion of management that the resolution of these other actions will not have a material adverse effect on the Company's financial condition, results of operations or cash flows.

**Note 15 - Other Commitments**

The Company leases certain property and equipment under long-term operating leases expiring at various dates through 2024. The leases generally contain specific renewal options at lease-end at the then fair market amounts.

Future minimum lease payments at December 31, 2012 are as follows:

2013	\$ 3,413
2014	3,570
2015	3,992
2016	3,751
2017	3,453
Thereafter	23,332
	<b>\$ 41,511</b>

The Company is liable for maintenance, insurance and similar costs under most of its leases and such costs are not included in the future minimum lease payments. Total rental expense for the years ended December 31, 2012, 2011 and 2010, was approximately \$3,306, \$2,812 and \$2,594, respectively.

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The Company is party to certain non-cancelable fixed price agreements to purchase fixed amounts of materials used in the manufacturing process. These purchase commitments are typically entered into after a customer places an order for railcars and at December 31, 2012, these purchase commitments totaled \$2,274. The Company expects to take delivery of such materials during 2013.

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)**

In addition, the Company has other non-cancelable agreements with its suppliers to purchase certain materials used in the manufacturing process. The commitments may vary based on the actual quantities ordered and be subject to the actual price when ordered. At December 31, 2012, the Company had purchase commitments under these agreements of \$28,535 and \$18,101 for 2013 and 2014, respectively. Purchases related to these agreements were approximately \$30,467, \$14,956 and \$27,061 for the years ended December 31, 2012, 2011 and 2010, respectively.

**Note 16 Earnings Per Share**

The weighted average common shares outstanding are as follows:

	<b>Year Ended December 31,</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
Weighted average common shares outstanding	11,932,926	11,916,292	11,896,148
Dilutive effect of employee stock options and restricted share awards	36,441	45,904	
<b>Weighted average diluted common shares outstanding</b>	<b>11,969,367</b>	<b>11,962,196</b>	<b>11,896,148</b>

Weighted average diluted common shares outstanding include the incremental shares that would be issued upon the assumed exercise of stock options and the assumed vesting of nonvested share awards. For the years ended December 31, 2012 and 2011, 413,469 and 442,656 shares, respectively, were not included in the weighted average common shares outstanding calculation as they were anti-dilutive. Because the Company had a net loss for the year ended December 31, 2010, all stock options and shares of nonvested share awards were anti-dilutive and not included in the above calculation for that period.

**Note 17 Revenue Sources and Concentration of Sales**

The following table sets forth the Company's sales resulting from various revenue sources for the periods indicated below:

	<b>Year Ended December 31,</b>		
	<b>2012</b>	<b>2011</b>	<b>2010</b>
New and rebuild railcar revenues	\$ 631,752	\$ 444,810	\$ 112,413
Used railcar sales	6,177	2,772	7,849
Parts sales	9,042	10,610	12,423
Leasing revenues	6,118	5,468	5,384
Maintenance and repair revenues	23,429	22,643	4,648
Other sales	931	683	172
	<b>\$ 677,449</b>	<b>\$ 486,986</b>	<b>\$ 142,889</b>

Due to the nature of its operations, the Company is subject to significant concentration of risks related to business with a few customers. Sales to the Company's top three customers accounted for 28%, 22% and 14%, respectively, of revenues for the year ended December 31, 2012. Sales to the Company's top three customers accounted for 52%, 24% and 5%, respectively, of revenues for the year ended December 31, 2011 and \$4.6 million of the Company's accounts receivable at December 31, 2011 was due from one customer. Sales to the Company's top three customers accounted for 63%, 10% and 5%, respectively, of revenues for the year ended December 31, 2010.





**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010**

(in thousands, except share and per share data)

The Company's sales to customers outside the United States were \$48,265, \$24,343 and \$19,641 in 2012, 2011 and 2010, respectively.

**Note 18 - Labor Agreements**

A collective bargaining agreement at one of the Company's facilities that covers approximately 31% and 42% of the Company's active labor force at December 31, 2012 and 2011, respectively, expires in October 2013. An additional collective bargaining agreement at a different facility that covers approximately 10% and 3% of the Company's active labor force at December 31, 2012 and 2011, respectively, expires on March 31, 2013.

**Note 19- Selected Quarterly Financial Data (Unaudited)**

(Dollar amounts in thousands except per share data)

Quarterly financial data is as follows:

	First Quarter	Second Quarter	Third Quarter	Fourth Quarter
<b>2012</b>				
Revenues	\$ 219,066	\$ 181,206	\$ 160,598	\$ 116,579
Gross profit	23,731	17,043	16,092	8,120
Net income (loss) attributable to FreightCar America	9,734	5,563	4,757	(959)
Net income (loss) per common share attributable to FreightCar America basic	\$ 0.82	\$ 0.47	\$ 0.40	\$ (0.08)
Net income (loss) per common share attributable to FreightCar America diluted	\$ 0.81	\$ 0.46	\$ 0.40	\$ (0.08)
<b>2011</b>				
Revenues	\$ 72,240	\$ 97,583	\$ 130,103	\$ 187,060
Gross profit	2,242	3,965	9,117	16,622
Net income (loss) attributable to FreightCar America	(1,290)	184	(2,441)	8,482
Net income (loss) per common share attributable to FreightCar America basic	\$ (0.11)	\$ 0.02	\$ (0.20)	\$ 0.71
Net income (loss) per common share attributable to FreightCar America diluted	\$ (0.11)	\$ 0.02	\$ (0.20)	\$ 0.71

**Note 20- Business Acquisition**

On November 1, 2010, the Company acquired (through FCRS) the business assets of DTE Rail Services Inc., a non-regulated subsidiary of DTE Energy Company, Inc., for cash of approximately \$23,319. FCRS provides repair and maintenance, inspections and fleet management services for all types of freight-carrying railcars.

The Company recorded a preliminary allocation of the purchase price to the tangible and identifiable intangible assets acquired and liabilities assumed based on their fair values as of November 1, 2010. Goodwill was recorded based on the amount by which the purchase price exceeds the fair value of the net assets acquired and is deductible for tax purposes. Acquisition costs of \$674 are included in Selling, general and administrative expenses on the Company's Consolidated Statement of Operations for the year ended December 31, 2010. During the first quarter of 2011, the Company finalized the working capital adjustment related to this acquisition and paid an additional \$166. As a result, the preliminary purchase price allocation was revised accordingly. The Company also finalized the purchase price allocation for property, plant and

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equipment, asset retirement obligations and environmental liabilities, which resulted in a \$76 increase to goodwill, bringing total goodwill related to the acquisition to \$607.

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)****For the Years Ended December 31, 2012, 2011 and 2010****(in thousands, except share and per share data)****Pro Forma Results (Unaudited)**

FCRS had revenues of \$4,442 since the acquisition date of November 1, 2010 through December 31, 2010, which are included in the Company's Consolidated Statements of Operations for 2010, and a minimal impact on 2010 net loss. Selected pro forma consolidated results of operations of the Company for the year ended December 31, 2010 assuming that the acquisition had occurred as of January 1, 2010 are presented for comparative purposes below (dollar amounts in thousands, except per share amounts):

	<b>Year Ended</b>
	<b>December 31,</b>
	<b>2010</b>
Revenues	\$ 164,273
Net (loss) income attributable to FreightCar America	\$ (12,337)
<b>Per share data:</b>	
Net (loss) income per common share attributable to FreightCar America basic	\$ (1.04)
Net (loss) income per share common attributable to FreightCar America diluted	\$ (1.04)

**Note 21 Segment Information**

The Company's operations comprise two reportable segments, Manufacturing and Services. The Company's Manufacturing segment includes new railcar manufacturing, used railcar sales, railcar leasing and major railcar rebuilds. The Company's Services segment includes general railcar repair and maintenance, inspections, parts sales and railcar fleet management services. Corporate includes selling, general and administrative expenses not related to production of goods and services, retiree pension and other postretirement benefit costs, and all other non-operating activity.

Segment operating income is an internal performance measure used by the Company's Chief Operating Decision Maker to assess the performance of each segment in a given period. Segment operating income includes all external revenues attributable to the segments as well as operating costs and income that management believes are directly attributable to the current production of goods and services. The Company's management reporting package does not include interest revenue, interest expense or income taxes allocated to individual segments and these items are not considered as a component of segment operating income. Segment assets represent operating assets and exclude intersegment accounts, deferred tax assets and income tax receivables. The Company does not allocate cash and cash equivalents to its operating segments as the Company's treasury function is managed at the corporate level. Intersegment revenues were not material in any period presented.

The accounting policies of the business segments are the same as those described in the summary of significant accounting policies in Note 2. Intersegment revenues are not material in any period presented.

**Table of Contents****NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

For the Years Ended December 31, 2012, 2011 and 2010

(in thousands, except share and per share data)

	Year Ended December 31,		
	2012	2011	2010
<b>Revenues:</b>			
Manufacturing	\$ 644,012	\$ 453,060	\$ 125,990
Services	33,437	33,926	16,899
<b>Consolidated Revenues</b>	<b>\$ 677,449</b>	<b>\$ 486,986</b>	<b>\$ 142,889</b>
<b>Operating Income (Loss):</b>			
Manufacturing	\$ 58,272	\$ 25,912	\$ (5,816)
Services	2,123	3,651	7,400
Corporate	(27,156)	(24,050)	(23,081)
<b>Consolidated Operating Income (Loss)</b>	<b>33,239</b>	<b>5,513</b>	<b>(21,497)</b>
Consolidated interest income	11	6	89
Consolidated interest expense and deferred financing costs	(384)	(226)	(965)
<b>Consolidated Income (Loss) Before Income Taxes</b>	<b>\$ 32,866</b>	<b>\$ 5,293</b>	<b>\$ (22,373)</b>
<b>Depreciation and Amortization:</b>			
Manufacturing	\$ 4,973	\$ 5,709	\$ 5,587
Services	2,088	1,939	385
Corporate	1,337	1,173	1,043
<b>Consolidated Depreciation and Amortization</b>	<b>\$ 8,398</b>	<b>\$ 8,821</b>	<b>\$ 7,015</b>
<b>Capital Expenditures:</b>			
Manufacturing	\$ 7,165	\$ 800	\$ 420
Services	1,436	561	
Corporate	487	469	1,011
<b>Consolidated Capital Expenditures</b>	<b>\$ 9,088</b>	<b>\$ 1,830</b>	<b>\$ 1,431</b>
	<b>December 31,</b>	<b>December 31,</b>	
	<b>2012</b>	<b>2011</b>	
<b>Assets:</b>			
Manufacturing	\$ 165,090	\$ 167,972	
Services	24,230	25,430	
Corporate	167,266	112,177	
<b>Total Operating Assets</b>	<b>356,586</b>	<b>305,579</b>	
Consolidated income taxes receivable	960	752	
Consolidated deferred income taxes, current	12,079	10,982	
Consolidated deferred income taxes, long-term	18,940	28,150	

<b>Consolidated Assets</b>	\$ 388,565	\$ 345,463
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**Note 22 Subsequent Event**

On February 19, 2013, the Company, through its wholly owned subsidiary, FreightCar Alabama, LLC ( FCAL ), entered into a sublease (the Sublease ) with Navistar, Inc. ( Navistar ), as sublandlord, for space at a production facility located in Cherokee, Alabama (the Subleased Premises ). The Subleased Premises are a portion of the approximately 700 acres of land and an approximately 2,150,000-square foot facility that Navistar leases from Teachers Retirement Systems of Alabama and Employees Retirement System of Alabama, acting together as landlord.

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**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)**

**For the Years Ended December 31, 2012, 2011 and 2010**

**(in thousands, except share and per share data)**

Pursuant to the Sublease, approximately 543,399 square feet of the Subleased Premises will be occupied by the Company and will include production lines, sub-assembly areas, storage and fabrication areas and office space. The remaining portion of the facility will be occupied by Navistar. The initial term of the Sublease expires on December 31, 2021 and, at the option of FCAL, is subject to extension for a period of an additional 120 months.

In connection with the Sublease, FCAL also has entered into an asset purchase agreement pursuant to which the Company will purchase from Navistar certain manufacturing equipment located on the premises, a supply agreement pursuant to which Navistar will provide fabrication and production support services to the Company and a services agreement pursuant to which Navistar will provide administrative and other agreed-upon services to the Company.

The Company expects to invest up to \$23 million to equip and open the Subleased Premises. The Company expects that the first new railcars manufactured at the Subleased Premises will be delivered in the second half of 2013.

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**Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.**

None.

**Item 9A. Controls and Procedures.**

**Evaluation of Disclosure Controls and Procedures**

Under the supervision and with the participation of our Chief Executive Officer and Chief Financial Officer, 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 Securities Exchange Act of 1934, as amended (the Exchange Act)), as of the end of the period covered by our annual report on Form 10-K for the fiscal year ended December 31, 2012 (the Evaluation Date). Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer have concluded that, as of the Evaluation Date, our disclosure controls and procedures were effective to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the Securities and Exchange Commission's rules and forms.

**MANAGEMENT'S REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING**

Management, under the supervision of the Chief Executive Officer and the Chief Financial Officer, is responsible for establishing and maintaining adequate internal control over financial reporting. Internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) promulgated under the Exchange Act, is a process designed by, or under the supervision of, the Chief Executive Officer and Chief Financial Officer and effected by the board of directors, management, and other personnel to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external reporting purposes in accordance with GAAP. Internal control over financial reporting includes those policies and procedures that:

Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Company;

Provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP;

Provide reasonable assurance that receipts and expenditures of the Company are being made only in accordance with appropriate authorization of management and the board of directors; and

Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the Company's assets that could have a material effect on the financial statements.

As of the end of the Company's 2012 fiscal year, management conducted an evaluation of the effectiveness of the Company's internal control over financial reporting based on the framework established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's system of internal control over financial reporting is designed to provide reasonable assurance to the Company's management and board of directors regarding the reliability of financial records used in preparation of the Company's published financial statements. As all internal control systems have inherent limitations, even systems determined to be effective can provide only reasonable assurance with respect to financial statement preparation and presentation. Based on its assessment, management has concluded that the Company's internal control over financial reporting was effective as of December 31, 2012.

The effectiveness of the Company's internal control over financial reporting as of December 31, 2012 has been audited by Deloitte & Touche LLP, an independent registered public accounting firm, as stated in their report appearing herein.

**CHANGES IN INTERNAL CONTROL OVER FINANCIAL REPORTING**



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There has been no change in our internal control over financial reporting during the last fiscal quarter of 2012 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

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**Item 9B. Other Information.**

None.

**PART III**

**Item 10. Directors, Executive Officers and Corporate Governance.**

Information required to be disclosed by this item is hereby incorporated by reference to the information under the captions Governance of the Company, Stock Ownership, Section 16(a) Beneficial Ownership Reporting Compliance and Executive Compensation in our definitive Proxy Statement to be filed pursuant to Regulation 14A, which Proxy Statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after the end of our fiscal year ended December 31, 2012.

**Item 11. Executive Compensation.**

Information required to be disclosed by this item is hereby incorporated by reference to the information under the captions Executive Compensation, Board of Directors, Compensation Discussion and Analysis and Director Compensation in our definitive Proxy Statement to be filed pursuant to Regulation 14A, which Proxy Statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after the end of our fiscal year ended December 31, 2012.

**Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.**

Information required to be disclosed by this item is hereby incorporated by reference to the information under the captions Stock Ownership and Equity Compensation Plan Information in our definitive Proxy Statement to be filed pursuant to Regulation 14A, which Proxy Statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after the end of our fiscal year ended December 31, 2012.

**Item 13. Certain Relationships and Related Transactions, and Director Independence.**

Information required to be disclosed by this item is hereby incorporated by reference to the information under the captions Certain Transactions and Board of Directors in our definitive Proxy Statement to be filed pursuant to Regulation 14A, which Proxy Statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after the end of our fiscal year ended December 31, 2012.

**Item 14. Principal Accounting Fees and Services.**

Information required to be disclosed by this item is hereby incorporated by reference to the information under the caption Fees of Independent Registered Public Accounting Firm and Audit Committee Report in our definitive Proxy Statement to be filed pursuant to Regulation 14A, which Proxy Statement is anticipated to be filed with the Securities and Exchange Commission within 120 days after the end of our fiscal year ended December 31, 2012.

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**PART IV**

**Item 15. Exhibits, Financial Statement Schedules.**

**Exhibits**

(a) Documents filed as part of this report:

The following financial statements are included in this Form 10-K:

1. Consolidated Financial Statements of FreightCar America, Inc. and Subsidiaries

Reports of Independent Registered Public Accounting Firm.

Consolidated Balance Sheets as of December 31, 2012 and 2011.

Consolidated Statements of Operations for the years ended December 31, 2012, 2011 and 2010.

Consolidated Statements of Comprehensive Income (Loss) for the years ended December 31, 2012, 2011 and 2010.

Consolidated Statements of Stockholders' Equity for the years ended December 31, 2012, 2011 and 2010.

Consolidated Statements of Cash Flows for the years ended December 31, 2012, 2011 and 2010.

Notes to Consolidated Financial Statements.

2. Financial Statement Schedule

The following financial statement schedule is a part of this Form 10-K and should be read in conjunction with our audited consolidated financial statements.

Schedule II Valuation and Qualifying Accounts

All other financial statement schedules are omitted because such schedules are not required or the information required has been presented in the aforementioned financial statements.

3. The exhibits listed on the Exhibit Index to this Form 10-K are filed with this Form 10-K or incorporated by reference as set forth below.

(b) The exhibits listed on the Exhibit Index to this Form 10-K are filed with this Form 10-K or incorporated by reference as set forth below.

(c) Additional Financial Statement Schedules

None.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) 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: March 15, 2013

By: */s/ EDWARD J. WHALEN*  
Edward J. Whalen, President and  
Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

<b>Signature</b>	<b>Title</b>	<b>Date</b>
<i>/s/ EDWARD J. WHALEN</i> <b>Edward J. Whalen</b>	President and Chief Executive Officer (principal executive officer) and Director	March 15, 2013
<i>/s/ JOSEPH E. MCNEELY</i> <b>Joseph E. McNeely</b>	Vice President, Finance, Chief Financial Officer and Treasurer (principal financial officer)	March 15, 2013
<i>/s/ JOSEPH J. MALIEKEL</i> <b>Joseph J. Maliekel</b>	Vice President, Corporate Controller and Principal Accounting Officer	March 15, 2013
<i>/s/ WILLIAM D. GEHL</i> <b>William D. Gehl</b>	Chairman of the Board and Director	March 15, 2013
<i>/s/ JAMES D. CIRAR</i> <b>James D. Cirar</b>	Director	March 15, 2013
<i>/s/ THOMAS A. MADDEN</i> <b>Thomas A. Madden</b>	Director	March 15, 2013
<i>/s/ ANDREW B. SCHMITT</i> <b>Andrew B. Schmitt</b>	Director	March 15, 2013
<i>/s/ S. CARL SODERSTROM, JR.</i> <b>S. Carl Soderstrom</b>	Director	March 15, 2013
<i>/s/ ROBERT N. TIDBALL</i> <b>Robert N. Tidball</b>	Director	March 15, 2013

**Table of Contents****FreightCar America, Inc. and Subsidiaries****Schedule II Valuation and Qualifying Accounts****For the Years Ended December 31, 2012, 2011 and 2010**

(in thousands)

	Balance at Beginning of Period	Additions Charged to Costs and Expenses	Deductions, Accounts Charged Off and Recoveries of Amounts Previously Written Off	Balance at End of Period
<b>Year Ended December 31, 2012</b>				
Allowance for doubtful accounts	\$ 19	\$ 280	\$	\$ 299
Deferred tax assets valuation allowance	6,071		(1,489)	4,582
Inventory reserve	1,508	954	(897)	1,565
<b>Year Ended December 31, 2011</b>				
Allowance for doubtful accounts	\$ 216	\$	\$ (197)	\$ 19
Deferred tax assets valuation allowance	5,623	448		6,071
Inventory reserve	913	776	(181)	1,508
<b>Year Ended December 31, 2010</b>				
Allowance for doubtful accounts	\$ 240	\$ 27	\$ (51)	\$ 216
Deferred tax assets valuation allowance	7,195		(1,572)	5,623
Inventory reserve	1,168	200	(455)	913

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**EXHIBIT INDEX**

- 2.1 Asset Purchase Agreement, dated September 7, 2010, by and among FreightCar Rail Services, LLC, FreightCar America, Inc., Cornhusker Railways, LLC, DTE Rail Services, Inc. and DTE Energy Resources, Inc. (incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed with the Commission on September 8, 2010).
- 3.1 Certificate of Ownership and Merger of FreightCar America, Inc. into FCA Acquisition Corp., as amended (incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Commission on September 7, 2006).
- 3.2 Third Amended and Restated By-laws of FreightCar America, Inc. (incorporated by reference to Exhibit 3.1 to the Company's Current Report filed on Form 8-K filed with the Commission on September 28, 2007).
- 4.1 Form of Registration Rights Agreement, by and among FreightCar America, Inc., Hancock Mezzanine Partners, L.P., John Hancock Life Insurance Company, Caravelle Investment Fund, L.L.C., Trimaran Investments II, L.L.C., Camillo M. Santomero, III, and the investors listed on Exhibit A attached thereto (incorporated by reference to Exhibit 4.3 to Registration Statement Nos. 333-123384 and 333-123875 filed with the Commission on April 4, 2005).
- 10.1 Letter agreement regarding Terms of Employment dated January 26, 2010 by and between FreightCar America, Inc. and Edward J. Whalen (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on January 29, 2010).
- 10.2 Letter agreement regarding Terms of Employment dated August 27, 2010 by and between FreightCar America, Inc. and Joseph E. McNeely (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on August 27, 2010).
- 10.3 FreightCar America, Inc. 2005 Long Term Incentive Plan (Restated to incorporate all Amendments) (incorporated by reference to Appendix I to the Company's Proxy Statement for the annual meeting of stockholders held on May 14, 2008 filed with the Commission on April 8, 2008).
- 10.4 Form of Restricted Share Award Agreement for the Company's employees (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on December 12, 2005).
- 10.5 Form of Restricted Share Award Agreement for the Company's independent directors (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on January 27, 2006).
- 10.6 Form of Restricted Share Award Agreement for the Company's employees (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on January 15, 2008).
- 10.7 Form of Stock Option Award Agreement for the Company's employees (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on January 15, 2008).
- 10.8 Lease Agreement, dated as of December 20, 2004, by and between Norfolk Southern Railway Company and Johnstown America Corporation (the Lease Agreement) (incorporated by reference to Exhibit 10.27 to Registration Statement Nos. 333-123384 and 333-123875 filed with the Commission on April 4, 2005).\*
- 10.9 Amendment to the Lease Agreement, dated as of December 1, 2005 (incorporated by reference to Exhibit 10.11 to the Company's Annual Report on Form 10-K for the year ended December 31, 2005).\*

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10.10	Second Amendment to the Lease Agreement, dated as of February 1, 2008, by and between Norfolk Southern Railway Company and Johnstown America Corporation (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2008 filed with the Commission on May 12, 2008).
10.11	Amendment to Lease, dated as of October 12, 2012, by and between Norfolk Southern Railway Company and Johnstown America Corporation (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Annual Report on Form 10-Q filed with the Commission on November 9, 2012.*
10.12	Loan and Security Agreement, dated as of July 29, 2010, by and among FreightCar America, Inc., Johnstown America Corporation, Freight Car Services, Inc., JAC Operations, Inc., FreightCar Roanoke, Inc. and Fifth Third Bank (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on July 30, 2010).
10.13	FreightCar America, Inc. Executive Severance Plan (and Summary Plan Description) (incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q filed with the Commission on September 30, 2009).
10.14	Amendment of the FreightCar America, Inc. Executive Severance Plan dated December 4, 2012.
10.15	Form of Letter of Resignation (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on December 19, 2006).
10.16	Form of Letter of Resignation (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on December 20, 2009).
10.17	Form of Indemnification Agreement between FreightCar America, Inc. and each of its current directors (incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on March 24, 2010).
21	Subsidiaries of FreightCar America, Inc.
23	Consent of Independent Registered Public Accounting Firm.
31.1	Certification of Chief Executive Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
31.2	Certification of Chief Financial Officer pursuant to Rule 13a-14(a), as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32	Certification of Chief Executive Officer and Chief Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
101.INS	XBRL Instance Document**
101.SCH	XBRL Taxonomy Extension Schema Document**
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document**
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document**
101.LAB	XBRL Taxonomy Extension Label Linkbase Document**

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101PRE XBRL Taxonomy Extension Presentation Linkbase Document\*\*

- \* Confidential treatment has been granted for the redacted portions of this exhibit. A complete copy of the exhibit, including the redacted portions, has been filed separately with the Securities and Exchange Commission.
- \*\* Pursuant to Rule 406T of Regulation S-T, these Interactive Data Files are deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, are not deemed filed for purposes of Section 18 of the Securities Exchange Act of 1934 and otherwise are not subject to liability under those sections.