

ATLANTIC NORTHEAST RAILS & PORTS

Helping to move rail and port traffic through New England, the Maritimes, & eastern Québec.
A weekly trade newsletter.

operating railroads + ports, intermodal facilities, and government environment

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Issue 06#09A 26 September 2006

*Article unchanged from e-bulletin.

REGIONAL ISSUES

SLC v ST: Judge declares car hire case moot.*

FURC v ST: First Union increases amount due.

ST car hire: Cases down from six to two.

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MAINE

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Casino car: To fund passenger rail between Portland and Montreal.*

MMA: Robbins Lumber may use rail.

Turner's Island: New work.

MASSACHUSETTS

BCLR/New Bedford: EQ Northeast is doing its own switching this year.*

NECR: First car for New England Wood Pellets.

Fall River: RFR for business plan for future new terminal.*

NEW HAMPSHIRE

[No report.]

RHODE ISLAND

PW: Legal status of the FRIP, freight access, and passenger access.

Provport: New stevedoring arrangement.

PW/QPD: The autorack trains will start in the next two weeks.

Seaview/Davisville: Contracts to Koppers and Tartaglia.

VERMONT

NECR: Work on Bellows Falls tunnel has started, but NECR will only get 19'6".

NECR-ST: Lawsuit stemming from 2004 derailment headed for trial.*

NECR: Biodiesel plant in Swanton will use rail.*

MARITIMES/QUÉBEC

CBNS: More reductions at TrentonWorks.

MMA/CN: Juniper and Plaster Rock now operating.*

Halifax: CN's Harrison sees growth. Others agree.

RAIL SHIPPERS/RECEIVERS

A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS

Peter Touesnard, Charlie Moore. Customs speech in November.

FROM THE PUBLISHER

Yes, the first September issue is coming at the end, but I will catch up. And you'll still get the weekly news by e-mail; the *e-bulletin* is free to all subscribers.

- Chop Hardenbergh

- next issue 10 October

CORRECTION ON VERMONT SALT DRAYAGE

Barrett Trucking handles the drayage for the salt pile in White River Junction. [Correcting table in 06#08B.]

Common abbreviations: **BCLR** - Bay Colony RR, **BML** - Belfast & Moosehead Lake RR, **CBNS** - Cape Breton and Central Nova Scotia Ry, **CCCR** - Cape Cod Central RR, **CCRR** - Claremont Concord RR, **CFQ** - *chemins de fer Québec* System, **CMAQ** - congestion-mitigation or air quality (money from the US federal government for these purposes), **CN** - Canadian National Ry, **ConnDOT** - Connecticut Department of Transportation, **CPR** - Canadian Pacific Ry, **CSO** - Connecticut Southern RR, **CSRX** - Conway Scenic RR, **EOT** - Mass. Exec. Office of Transportation, **GWI** - Genesee & Wyoming Inc, **FHWA** - Federal Highway Admin., **FRA** - Federal Rail Admin., **FRTC** - Fore River Transportation Co., **FTA** - Federal Transit Admin., **Guilford (GRS)** - Guilford Rail System, formerly name for Pan Am Railway, see ST, **HRRC** - Housatonic RR, **MERR** - Maine Eastern RR, **MBCR** - Mass. Bay Commuter RR, **MBRX** - Milford-Bennington RR, **MBTA** - Mass. Bay Transportation Authority, **MCER** - Mass. Central RR, **MDOT** - Maine Department of Transportation, **MERR** - Maine Eastern RR, **MMA** - Montréal, Maine and Atlantic Ry, **MPO** - Metropolitan Planning Organization, **MTQ** - Québec Ministry of Transport, **NAUG** - Naugatuck RR, **NBDOT** - New Brunswick Department of Transportation, **NBSR** - New Brunswick Southern Ry, **NECR** - New England Central RR, **NEGS** - New England Southern RR, **NHCR** - New Hampshire Central RR, **NHDOT** - NH Department of Transportation, **NHN** - New Hampshire Northcoast RR, **NNEPRA** - Northern New England Passenger Rail Authority, **NSDOT** - Nova Scotia Department of Transportation, **Pan Am** - new name for GRS, **PVRR** - Pioneer Valley RR, **PW** - Providence & Worcester RR, **QCR** - Quebec Central Ry, **RIDOT** - Rhode Island Department of Transportation, **Seaview** - Seaview Transportation Company, **SLQ** - St. Lawrence & Atlantic Ry (Québec), **SLR** - St. Lawrence & Atlantic RR, **ST** - Springfield Terminal Ry (leases three parts of Pan Am Systems (Maine Central RR, Portland Terminal RR, Boston & Maine), **TIRR** - Turner's Island LLC, **TEU** - twenty-foot equivalent unit (measure of container traffic, equal to a 20x8x8 foot box), **VAOT** - Vermont Agency of Transportation, **VRS** - Vermont Rail System (Green Mt. RR Company **GMRC** + Vermont Ry **VTR** + Clarendon & Pittsford RR **CLP** + Washington County RR **WACR**), **WHRC** - Windsor and Hantsport Ry.

REGIONAL ISSUES

SLC v. ST: CAR HIRE CASE MOOT

11 September, Boston. *THE EFFORT BY SLC TO GET COURT SUPERVISION OF ST'S CAR HIRE PAYMENTS FAILED*. In the hearing, Judge William Young noted that ST had paid the amount of car hire due, and had subsequently paid interest due. Therefore, since the US Constitution authorizes courts to hear only 'cases and controversies', and the controversy here had ended, he declared it moot.

The threat of immediate action

However, Judge Young did note that if the San Luis Central Railroad had to file again for unpaid car hire, he would be assigned the case immediately. 'It will come back to me, I've got all this history, and I'll try to get after them.'

Jim Howard, SLC attorney, argued that if Young granted SLC some injunctive relief, "and if there's a failure to pay, then we would have the ability quickly to seek sanctions or come back to the Court rather than filing a complaint."

Young responded: "[I]f this happens again, just as soon as they are in breach...your papers are all in order because all you have to do is change the numbers and the months, you bring it....If you ask for emergency or expedited handling, I always take that very seriously. And they will either pay up, faster than I can get to them, or I'll be declaring stuff lickety-split and they'll have to pay...." {transcript of hearing}

The effort

The decision left SLC unable to pursue discovery, in which it had wanted to know to what extent, if any, ST's payments to Pan Am had left ST unable to pay car hire. [See 06#08B.]

FIRST UNION v ST: AMOUNT UPPED

21 September, Charlotte, North Carolina. *FIRST UNION RAIL FILED AN AMENDED COMPLAINT* in its car hire action against ST. Because ST continued to use First Union Rail Car (FURC) cars, the amount due to FURC increased, decreased by two partial payments of \$60,000 each.

In addition, FURC added \$74,000 for 'car destroyed by defendants', which ST reported to FURC. The total due comes to \$270,000, up from the \$200,000 in the initial complaint.

Trial in 2007?

At a conference on 22 September, the court set completion of discovery in February 2007. {USDC Western District NC website, docket # 06-0015}

ACTIVE CAR HIRE CASES AGAINST SPRINGFIELD TERMINAL

ST deserves compliments for reducing its car hire cases from six in June [see box in 06#06B] to two in September.

Greenbrier v. Springfield Terminal (2006) (counsel Dan Bair)

Boston: 06-10207. \$360,000.

Awaiting decision on real estate attachment [see 06#08B].

First Union Rail v. Springfield Terminal (2006) (counsel Robert Bowers) Charlotte, Western District NC: 06-00151. \$200,000.

2006 September 21. First Union raised amount to \$320,000, adding \$74,000 for 'car destroyed by defendants'. [See this issue.]

RECENT COMPLETED CASES

San Luis Central v. Springfield Terminal (2006) (counsel Jim Howard) Boston: 06-10554. \$47,461 and declaratory relief. Moot—see this issue.

Union Tank Car v Springfield Terminal (2005) (counsel Joel Pierce) Boston: 05-12364. \$410,000.

2006 30 August. Default judgement against ST allowed, no answer by ST.

GATX v. Springfield Terminal. (2006) (counsel Paul Lannon)

Boston: 06-11042 \$230,000. [See 06#06B.]

2006 18 August. ST settled for \$247,085.26 and interest at 12%. Payment in three tranches: \$100,000 15 August, \$100,000 15 September, \$47,085.26 15 October.

American Railcar Leasing v. Springfield Terminal (2006) (counsel Robert Osol)

Boston: 06-10375. \$103,103. [See 06#06B.]

2006 31 July. Case settled.

CONNECTICUT

NECR: KOPPERS & LOUNSBURY MOVING

22 September, Willimantic. *TWO CUSTOMERS ARE MOVING FROM WILLIMANTIC TO SOUTH WINDHAM*: CC Lounsbury lumber transload [our *Directory* #708], and Koppers pole yard [our *Directory* #708-1].

Background

Tony Boucher said this day that he had bought CC Lounsbury in April from the previous owner, Jane Haney. She had sold the business because she wanted to sell the land for a Lowe's store [not a distribution center—nearest center, not rail-served, is located in Plainfield—see 03#10A]. To permit the business to continue operating, Haney bought a parcel of land at NECR's South Windham yard, which consists of two spurs south of Route 203, and east of Route 32 [formerly the location of Windham Lumber, which had its own spur—*NECR Timetable*, Joshua Moldover, Oxford Junction Press]. Koppers was using the Lounsbury facility to transload its poles.

The move to Willimantic

Boucher said that Koppers had already started using the South Windham location, and that he planned to move the lumber transload by the end of the year. He is leasing the South Willimantic parcel from Haney, but will eventually buy it. {*ANR&P* discussion}

MAINE

MMA/GRS: THE FUTURE OF THE OLD TOWN MILL

25 September, Old Town. *FOUR COMPANIES WILL TAKE OVER GREAT WORKS, BUT WILL NOT MAKE PAPER*. "It's really the promise of a whole new chapter in the history of the mill," Dan Bird, vice president of the Local 80 papermakers union, said on 22 September. "We're not going to be making any more pulp and paper in that bend in the river."

That chapter's closed." Closing is tentatively set for 25 October. Under this agreement, former G-P workers will be offered employment by the new companies before they advertise the jobs.

These four companies will occupy the former Georgia-Pacific mill:

Red Shield and the biomass boiler

'Red Shield Environmental', a group of private investors, will purchase the entire mill and lease out parts of it. Red Shield itself will operate the biomass boiler at the north end of the mill. The company's initial revenue stream is expected to come from selling electricity produced by the boiler, at below-market rates to the tenants, and any balance into the power grid. Long-range, the group plans to convert the biomass boiler from producing electricity to making ethanol by burning wood waste, which may come from the state-owned landfill, Juniper Ridge in Old Town.

The University of Maine also is part of Red Shield's endeavor. UM recently received a \$10.35-million grant to conduct research on using wood to make ethanol, plastics, industrial chemicals and other products now made with oil.

Edward Paslawski is chair and CEO of Red Shield Environmental and chair of Hallowell International LLC.

Tamarack Energy

Tamarack Energy, which will serve as the engineering developer for the boiler, will lease some of the mill space.

Hallowell International LLC

Hallowell President and Chief Executive Officer Duane Hallowell is turning a city-owned building at 110 Hildreth Street in Bangor into a manufacturing, assembly, and residential heat pump distribution facility. "The claim is that these will operate at two-thirds the cost of an oil appliance,"

Bird said. The pumps extract heat from air as cold as minus 30 degrees Fahrenheit.

In Old Town, the company is expected to produce commercial heat pumps at the Old Town site. Hallowell hopes to create 300 jobs in the next two years and have 1,000 employees at both its Old Town and Bangor locations by 2011. Hallowell will lease the old conversion area of the mill where large rolls of paper products were turned into smaller versions that consumers found on store shelves.

Lamtec Inc.

The Portland-based company makes peel-and-stick labels. Its goal is to hire 50 people the first year, and employ 400 workers by the second year. Lamtec will lease the mill's warehouse.

To get up and running, Lamtec is expected to invest \$20 million to \$30 million in new capital equipment in the warehouse facility in the next two years. {Aimee Dolloff in *Bangor Daily News* 25 & 26.Sep.06}

Effect on rail

In 2005, G-P was raiing out some pulp [see 05#10A], and bringing chemicals for the pulping [such as chlorate—see 02#02B].

One experienced rail observer estimated 1500 outbound boxcars of pulp per year, and inbound cover hoppers of chlorate about 100 a year. Thus ST permanently loses about 1600 carloads. {e-mail to ANR&P 25.Sep.06}

MMA had counted the woodchip move to South Lagrange as 20 cars a day, and about 4% of monthly revenue [see 06#05A]. The four chip mills associated with the boiler [Portage, our *Directory* #756, plus the locations which use trucks in Houlton, Milo, and Costigan—see 05#08B] are also part of the deal. By press time, MMA had not responded to an inquiry about resumption of raiing chips from Portage.

GRS: NEW OWNER OF MILLS

1 August, Bucksport. **VERSO PAPER TOOK OVER OWNERSHIP OF THE FORMER IP MILLS**; International Paper had announced on 5 June that CMP Holdings would buy the Bucksport [our *Directory* #857] and Jay mills [our *Directory* #877, see 06#06A]. Technically, IP sold the business to CMP Holdings LLC, a subsidiary of Verso Paper Holdings LLC, an affiliate of Apollo Management LP, a privately-held investment company. The sale price was \$1.4 billion, subject to certain post-closing adjustments. This includes approximately \$30 million in the form of a 10% limited partnership interest in CMP Investments LP, the parent company of CMP Holdings. {*Bangor Daily News* 3.Aug.06}

BIODIESEL BETTER THAN ETHANOL

Ethanol from corn grain produces 25% more energy than the energy invested in making it, but biodiesel from soybeans returns 93% more, according to a University of Minnesota study.

Dedicating all current US corn and soybean production to biofuels will meet only 12% of gasoline demand, and only 6% of diesel. Prairie grass may provide larger biofuel supplies with greater environmental benefits. {12 July online *Proceedings of the National Academy of*

CASINOS ON RAIL?

6 September, Rockland. ***STATE REPRESENTATIVE AND INDEPENDENT CANDIDATE FOR GOVERNOR BARBARA MERRILL CALLED FOR DAILY TRAIN SERVICE BETWEEN PORTLAND AND MONTREAL.***

The ‘High Roller’

‘Today I am calling for launching the *Maine to Montréal High Roller*: a passenger rail train providing daily service from Portland to Montréal. Instead of being at the end of the line, Maine will be the connection between New York and Boston in the Northeast and Montréal and Toronto in Canada. This project will also connect Portland to Brunswick, so the completed passenger rail system will put the coast of Maine and inland Maine within easy reach of rail travelers from all over Canada and the eastern United States.

‘I am not the first Maine leader to propose this, Congressman Mike Michaud called for a Canadian rail connection four years ago. It has not advanced because Maine has had no real plan and because it has not been clear how it would be financed....

‘I propose we get it done and finance it with state transportation funds, help from the federal government, and, just like *The CAT* high-speed ferry, the *High Roller* will get part of its revenue from an onboard casino. Specifically, I propose selling the right to operate casino cars on the train between Portland and Montréal as it passes through Maine. I would use the revenue to help [offset] the cost of upgrading the rails and paying the rail line owners. These casino cars would be in addition to traditional passenger dining cars, seating and sleeper cars.

‘This project is not the silver bullet for Maine’s economy. But, with this one bold step, we will be saying “you can get there from here” and here is on the way to where you want to go. Maine will have taken an important step to becoming the Atlantic doorway to the North American Free Trade Agreement zone.

No gambling threat to region, but a benefit

‘[T]he train will not threaten a neighborhood or even a region by depreciating residential property values or causing traffic congestion....

‘We have 611 miles of border with Canada compared to a 184-mile border with New Hampshire. Our land border with Canada is greater than any other state except Alaska....The *High Roller* will accommodate commuters, rail buffs, vacationers, skiers and gamblers, but most importantly it will accommodate the men and women doing business between Canada and the US.’

Possible routes

Merrill listed as possible routes first the SLR. Second, she noted ST to Northern Maine Junction to MMA to Montreal. The latter route ‘is longer’ but ‘would serve a very large part of the state.’ Finally, Merrill listed the Mountain Division route (admitting the problem of track condition), and a route through Van Buren to CN (admitting the problem of distance).

‘Whichever route is used, part of the project will be to connect Portland to Brunswick so that travelers from New York or Montréal would be able to access and enjoy the beauty of western and coastal Maine by rail.’

Freight operators

‘I appreciate that the freight operators have real concerns about coexisting with passenger trains. I hope the process will be smoothed as the rail owners understand that one of my goals in this process is to make their operations more viable and thereby assure fast, reliable freight service into the future.’

Michaud efforts in Washington

‘We have the muscle in Washington to reinforce and aid a well-planned, aggressive, innovative effort by Maine’s state government to expand passenger services in Maine. We must take better advantage of our excellent Congressional delegation to get resources from Washington. Congressman Michaud, who is on the House Transportation Committee, has recently been very involved in serious discussions with Canadian officials about transportation connections with Canada.’ {text of press release}

Casino train in New Jersey

While trains to Atlantic City would not contain a casino, New Jersey Transit did enter into a deal with three Atlantic City casinos which will spend \$15 million to buy three double-deck commuter cars and provide \$4 million in operating costs for a three-year trial in direct rail service from Penn Station on weekends. {*Headlight and Markers* cited in *The 470* 9.06}

MMA: LOG MOVE

26 September, Searsport. **ROBBINS LUMBER IS CONSIDERING USING RAIL AGAIN.** In 2004, it was railing logs from far northern Maine to Searsport and draying them to Searsport [see 04#02A]. However, said owner Jim Robbins, the company stopped sourcing logs from that location, and has acquired a concentration yard in Enfield, from which it is trucking logs. Robbins is considering building rail spur into the yard off the ST Freight Main. {ANR&P discussion 26.Sep.06}

PORTLAND: SHIP REPAIR, RAIL USE

14 September. **TURNER'S ISLAND IS HOSTING A SHIP-REBUILD PROJECT** on the harbor here. According to Melody Hale, an official with the company: 'We are leasing 1.64 acres of land (of our total of seven), three dolphins, a pier and adjoining berthing area on Turners Island. [The Cianbro Corporation] will retrofit and convert the...coastal sulfur carrier [which docked this day, into a carrier for] supplies and equipment for deepwater drilling rigs. This project will employ over 300 people (Cianbro, BIW, and various subcontractors). The ship, the 370-foot *W. K. McWilliams Jr*, is scheduled to be at Turners Island for approximately nine months, leaving for three months to BIW, and returning to Turners for three additional months.'

Use of rail

While the rebuild project will not use rail, Hale wrote that 'Turners Island is presently loading scrap steel generated at the yard to Boston via rail. In addition, Turners Island has inbound (new steel) for a first-time rail user in October, November and December.' {e-mail to ANR&P 19.Sep.2006}

MASSACHUSETTS

BCLR AT NEW BEDFORD: NO MORE SWITCHING

14 September, Braintree. **EQ NORTHEAST IS DOING ITS OWN SWITCHING THIS YEAR** in the New Bedford yard, moving the sludge-loaded cars out for CSXT to run west.

BCLR view

Bernie Reagan, senior vice-president, marketing for BCLR, explained this day that in 2005 [see 05#11A] the city had asked BCLR to step in on short notice. This year, he received no such request. {ANR&P discussion 14.Sep.2006}

FALL RIVER: THE NEW TERMINAL

15 September. **AN UPDATE ON THE STATUS OF THE NEW TERMINAL** came from Rick Armstrong, executive secretary/director of port development for the Massachusetts Seaport Advisory Council [see 06#08B].

Release of design report

'The Division of Capital Asset Management (the state agency that builds state buildings) is in the final review of the rather thick final design report which includes pictures, space allocations, etc. Until that review is finished, we can not release the document to the public. I suspect this... will be the end of October.'

The model for freight usage in the Massachusetts/Florida lane [see 06#08B] won't get done until the end of October either, said Armstrong. {e-mail to ANR&P 15.Sep.2006}

RFR for business plan for terminal

The request for responses, issued under the 'Department of Business and Technology' (the Council's fiscal agent) at the Massachusetts Comm-PASS website, stated: 'With the economic justification and preliminary architectural renderings complete, the state plans to undertake final engineering and design over the course of the next year. As a parallel track, the state recognizes the importance of ensuring the facility will be operational once constructed. The objective of this project is to develop the business and operation strategies and compile a formal business/operations plan for the facility....'

‘[The retained consultant will] [d]evelop a full scale analysis / business plan for the operations (cargo, cruise, exhibition, office, performing arts, restaurant) intended for the Fall River State Pier Multi-use Facility that will enable the state to allocate resources effectively, handle unforeseen complications, and make good business decisions.’ The consultant will have three months to do so. {text from Comm-PASS website}

NECR: NEW CUSTOMER

14 September, Palmer MA. *NECR DELIVERED THE FIRST CAR TO NEW ENGLAND WOOD PELLETS* this week, said Jack Dail, NECR marketing honcho. Company president Steve Walker estimated inbound loads at three cars a day [see 06#08A].{ANR&P discussion 14.Sep.2006}

Good rail service

Steve Fontaine of Eagle Leaf Transload on CCRR, which received bags for New England Wood Pellets before it set up its own facility in Palmer, praised the railroads involved. “I am totally impressed” with CN’s movement of the pellets from British Columbia. As soon as the car left the origin, Fontaine traced the cars for the customer; “they flew.” He could tell the customer exactly when CN, and the delivering carrier NECR, would get the cars to Claremont. “NECR has [also] done an excellent job.” {ANR&P discussion 19.Sep.06}

RHODE ISLAND

FRIP: WHO HAS WHICH RIGHTS?

19 September. *THE LEGAL STATUS OF FREIGHT AND PASSENGER RIGHTS ON AMTRAK’S NORTHEAST CORRIDOR AND THE NEW FRIP* is outlined in statute and contract.

Existing freight operating rights

Prior to 1969, the rail line now known as the ‘Northeast Corridor’ between Boston and New York was owned by the New Haven Railroad. That year, the bankrupt New Haven was merged into the Penn Central as a condition of the Interstate Commerce Commission order allowing the Pennsylvania Railroad and New York Central Railroad to merge. In 1970, Penn Central itself went bankrupt.

Out of the wreckage, Congress created Amtrak in 1970 to operate passenger rail service, including the line between Boston and Washington, and Conrail in 1973 to take over most Northeastern freight operations.

The 1973 ‘3R Act’ [Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.)] created the US Railway Association to develop a final system plan for the bankrupt railroads of the Northeast. The USRA’s Final System Plan gave freight rights on the entire Northeast Corridor to Conrail. In execution, under a 1976 deed, Conrail acquired the Northeast Corridor, and seconds later conveyed it to Amtrak, retaining a freight easement for Conrail in perpetuity.

In 1976 [according to the text of the Special Court Order referred to below], Conrail and Amtrak signed the Northeast Corridor Freight Operating Agreement granting Conrail exclusive rights to operate on the Northeast Corridor.

In 1982, under a Special Court Order, PW acquired Conrail’s freight rights from Old Saybrook to the Massachusetts/Rhode Island border along the Northeast Corridor. Rights west of Old Saybrook were acquired in 1991. The agreement implementing the order, dated April 1982, created an arbitration mechanism for resolving issues such as the amount PW is to pay Amtrak. PW and Amtrak did go to arbitration in 2002, and Amtrak won [see 03#04B].

Does RIDOT’s grant to Amtrak guarantee anything?¹

¹ Early in the Almond Administration, the Rhode Island Department of Transportation (RIDOT) along with the Economic Development Corporation (EDC) received with the help of Senator Jack Reed special Federal Railroad Administration (FRA) funds in the amount of \$55 million.

This \$55 million was to be matched at a 50/50 ratio. The \$55 million that matched the FRA’s \$55 million was approved by Rhode Island voters in 1996 (as part of a \$75 million bond issued by EDC), prior to FRA’s agreement to give us the other \$55 million.

RIDOT has spent \$55 million in state bonds toward the FRIP. However, the FRIP was built on property owned by Amtrak, and Amtrak required full ownership of the new and rebuilt track. [See 06#08B.] While Amtrak trains cannot use the FRIP as it is not electrified, Amtrak does obtain a slight benefit by moving PW freights off the NEC for most of the distance between Boston Switch and Davisville.

RIDOT received nothing in return for its money: no right for it or any other entity, including PW, to access the FRIP, no reversion in case Amtrak went bankrupt or decided to tear up the track. Initially, RIDOT proposed that it acquire an easement and own the FRIP itself; Amtrak was willing to accept that, but RIDOT then changed its position and does not own the FRIP.

For freight access, RIDOT could justify its investment because, under current law, access rests on the statutes recited above, plus PW's operating rights. That is, RIDOT could say that PW has the right to operate freight trains on Amtrak in Rhode Island, and therefore RIDOT needed no guarantee as far as freight is concerned. On passenger rights, RIDOT must apply to use the FRIP or any part of the NEC for commuter operations [see below]. Amtrak is willing to negotiate an agreement for RIDOT to operate its proposed commuter service.

What right does PW have? What does it pay?

PW has used some of the Northeast Corridor since it acquired Conrail's operating rights in 1982 [see above], under a contract in which it pays Amtrak about one dollar per car per mile [see 99#17, 03#04B]. PW and Amtrak are negotiating a new contract for access to the FRIP, on the amount of the fully-allocated costs PW must pay.² This contract, according to information from Amtrak, is not yet executed by both parties. It will contain a track class standard to which Amtrak must maintain the track, and an arbitration clause.

[A note from the PW Annual Meeting in 2003: PW Vice President Engineering Scott Conti (now president) said completion of the entire (FRIP) track is expected at the end of 2005. In response to a shareholder question, PW chair Robert Eder stated that although Amtrak will own the track when complete, it is his "gut feeling" that the \$.99/car mile will not apply. See 03#04B.] The FRIP agreement indeed will specify a lower fee, per information from Amtrak.

The State of Rhode Island agreed that all additional costs beyond \$110 million would be funded by the Federal Highway Administration (FHWA) in special categories.

This language was actually placed in the federal highway bill at that time.

An additional \$30 million for the replacement of the Cranston Street Railroad Bridges was used to complete the necessary work to provide double stack clearances for freight.

The final cost of the project at \$225 million meant that in order to complete the project, RIDOT had to use two funding sources: (1) FHWA funding at \$48 million, and (2) Grant Anticipation Revenue Vehicles (GARVEE) funding at \$37 million. { *e-mail* to ANR&P from RIDOT's Heidi Cote 12.Sep.2006 }

²How much a freight carrier has to pay. Compensation for freight use of Amtrak tracks is governed by 49 USC 24904(c)(2):

(c) Compensation for Transportation Over Certain Rights of Way and Facilities.—

(1) An agreement under subsection (a)(6) of this section shall provide for reasonable reimbursement of costs but may not cross-subsidize intercity rail passenger, commuter rail passenger, and rail freight transportation.

(2) If the parties do not agree, the Interstate Commerce Commission shall order that the transportation **continue** over facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.) and shall determine compensation (without allowing cross-subsidization between intercity rail passenger and rail freight transportation) for the transportation not later than 120 days after the dispute is submitted. The Commission shall assign to a rail freight carrier obtaining transportation under this subsection the costs Amtrak incurs only for the benefit of the carrier, plus a proportionate share of all other costs of providing transportation under this paragraph incurred for the common benefit of Amtrak and the carrier. The proportionate share shall be based on relative measures of volume of car operations, tonnage, or other factors that reasonably reflect the relative use of rail property covered by this subsection.'

This language, requiring the freight railroad to pay fully-allocated costs, was passed in 1984. Before that, ICC rulings required the freight railroad to pay only avoidable costs. [See 99#17, 99#18.]

FRIP different from NEC track

Most of the FRIP, 12 of the 17 miles, will currently be used only for freight [see 06#08B]. According to information from Amtrak, such track (labelled ‘solely-related’ as in solely related to freight) is treated differently from track which Amtrak uses to operate passenger trains. Amtrak has other such track, such as sidings, which are used only for freight purposes.

For solely-related track, Amtrak charges only its cost to maintain the track and to dispatch it.

Future passenger operations on the FRIP

RIDOT, according to spokesperson Heidi Cote, has ‘legislated operating rights which entitle us to run on any track. We will use FRIP approximately 75% of the time for commuter rail, and 25% on Amtrak's main line to ensure proper service. We have to pay Amtrak for allocated costs for the use of the track, which includes maintenance, insurance, etc. They are access fees, not access rights.’

Amtrak may permit commuter and freight service

Yet the applicable US statute does not grant RIDOT a right. Rather, it accords Amtrak the possibility of permitting RIDOT to run commuter service. Amtrak, under 49 USC 24904(a)(6), may ‘make agreements with other carriers and commuter authorities to grant, acquire, or make arrangements for rail freight or commuter rail passenger transportation over, rights of way and facilities acquired under the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 et seq.) [as the Northeast Corridor was] and the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 801 et seq.).’

Amtrak was required, under a statutory interpretation, to continue to permit existing commuter operations over its lines. The term ‘continue’ in the statute in footnote 2 indicates that. But new commuter operations must negotiate with Amtrak.³

How much the commuter operator has to pay

As noted, any new commuter operation must negotiate directly with Amtrak on the costs. No statutory definition of costs for commuter service exists, as it does for freight operations [see footnote 2]. Amtrak has recently stated in its ‘Strategic Reform Initiative’ all commuter should pay proportional costs plus capital.⁴ RIDOT is currently negotiating with the MBTA to extend commuter service south of Providence, and apparently to use the FRIP [see 06#08A]. {ANR&P discussion with Amtrak plus statutes and other documents as noted.}

PW/QUONSET: AUTO RACKS STARTING

25 September, Davisville. *A TRAIN WITH AUTORACKS SHOULD START “IN THE NEXT TWO WEEKS”* said Mike Miranda, head of the North American Distribution facility here [see 06#07B]. He has acquired a new Buck auto ramp from Ohio (arrived by truck) [see photo]. Initially, he anticipates Volkswagens, Audis, and Subarus moving by rail; he is talking to other manufacturers.

Rail route

Miranda was unsure which route the autoracks will take: “There are four different railroads involved.” [Because the Bellows Falls tunnel is not complete, NECR will not be part of the initial routing-see *Vermont*.]

³ The Interstate Commerce Commission addressed the question of new versus continuing service in a 1983 decision Costing Methodologies for the Northeast Corridor: Commuter Service, 367 I.C.C. 192, 199 (1983) [aka *Ex parte 417*], which set compensation terms for commuter use of the NEC and specified that those terms did not apply to potential new operations: ‘[P]otential users of Amtrak's NEC properties are not governed by this methodology and should negotiate directly with Amtrak.’

⁴ ‘NEC commuter railroads would pay at their currently negotiated rates for operating access and capital through FY06. By the end of a five-year transition period starting in FY07, the commuter railroads will be responsible for paying their full proportionate share of operating access and annual “life cycle replacement” capital costs necessary to maintain a reliable infrastructure on an ongoing basis.’ {*Amtrak Strategic Reform Initiatives* page 13}



Davisville, Rhode Island. NORAD's new auto ramp. {courtesy Bruce Hamilton}

with source close to the situation }

The ribbon-cutting

Miranda said to look for a grand opening celebration with high officials in the middle of October. {ANR&P discussion 25.Sep.2006}

FRIP complete

Mary Tanona, PW general counsel, wrote: 'Track connections to allow restricted operations are complete. Punch list work will continue into 2007.' {e-mail to ANR&P 26.Sep.06}

A test train

PW is planning a test train using three autoracks now stored in Worcester. It will not run the test train until the trackage rights agreement with Amtrak is finished [see above]; the FRIP is physically complete. The cars will be used for training. {ANR&P discussion

SEAVIEW/QUONSET/DAVISVILLE

19 September, West Davisville. **KOPPERS AND TARTAGLIA WON THE BIDDING** to supply crossies and switch timbers, and to do the first phase of the rail work, upgrading in West Davisville [see 06#07B]. Fred Luchka, who handled the bids for the Quonset Development Corporation, said the two firms made the low bid, with Tartaglia coming in under engineers' estimates. "The pre-construction meeting is happening today, and work will begin on 9 October." {ANR&P discussion 19.Sep.2006}

More on Tartaglia

Frank Tartaglia Inc, located in Syracuse, New York, was founded in 1910. It 'provides rail-related services in the eastern United States including Massachusetts, New Hampshire, New York, Pennsylvania, Vermont, and West Virginia. These services include construction and/or rehabilitation of track works, FRA track inspections, as well as emergency and routine rail maintenance.' {company website}

John Fields, general manager of field operations for Tartaglia, said that in New England, the company did work for MMA, NHN, MCER, and MERR. {ANR&P discussion 26.Sep.06}

PROVPORT: NEW BREAK BULK

19 September. **PROVPORT STEVEDORING IS NOW DIVIDED INTO BULK AND BREAK-BULK.** Bruce Waterson's company, Waterson Stevedoring, has had since November 2000 [see 01#12B] an exclusive stevedoring franchise, a contract running for ten years with automatic renewal options.

Earlier this year, Waterson decided to spin off the break-bulk work, as he prefers the bulk work both financially and physically. "I initiated" the effort to hire a stevedore to do the break-bulk work, he said, and around 1 August Waterson, P&O Ports North America, and Provport reached an agreement under which P&O will handle the break-bulk work for a two-year period.

"It's almost like a subcontract," Waterson said, in that he maintains the contact with customers, but P&O does the actual work. P&O also brings to the work its proprietary DOCKWORKS software, a computerized inventory system. Waterson needed such a system, but could hardly afford it himself.

DOCKWORKS helps customers manage inventories at the port, and schedule truck appointments. "It's a way for us to help customers out." {ANR&P discussion 19.Sep.2006}

Break-bulk and bulk cargoes

Jay Baird, Provport's director of marketing, listed the current breakbulk cargoes as copper, plywood, palletized goods, and calcium chloride. The bulk products consisted of aluminum oxide stone, coal, salt, and cobblestone.

More on the aluminum oxide

Inbound aluminum oxide stone is landed by Waterson, and shipped out by truck and by rail to Niagara Falls in PW gondolas. {ANR&P discussion 19.Sep.2006}

[The aluminum oxide is going to Washington Mills, a conclusion based on these facts: (1) PW gondolas with waybills to Washington Mills have been spotted in Rhode Island; (2) the Washington Mills facility in North Grafton, Massachusetts does not receive gondolas; and (3) Washington Mills does have a plant in Niagara Falls NY, and Niagara Falls, Ontario. Both handle fused aluminum oxide.

Washington Mills itself declined to comment when asked. *Editor*]

\$3.5 million in capital improvements at ProvPort

In a note on its website, ProvPort announced several capital improvement projects are close to fruition:

- paving over 20 acres in both the open lay-down storage area and on 3500 linear feet of pier space;
- reconditioning the 130,000 square feet of the Ace Warehouse; and
- replacing 1700 linear feet of rail line along its pier face. {website}

VERMONT

NECR: BELLOWS FALLS TUNNEL

19 September, Bellows Falls. ***WORK TO INCREASE THE TUNNEL TO 19'6" HAS STARTED***, said Paul Craven, NECR's project manager.

Funding and contract

The contract for increasing the clearance is signed by FHWA, NECR, and VAOT. The agency will pay out \$1,972, 696 (federal 80%, state 20%), said Doug Zorzi, an engineer with VAOT.

Normally federal funding requires bidding, but NECR did not need to bid the prime contractor per federal regulations as it already had ECI Rail Constructors of South Burlington as its contractor of choice. [Engineers Construction Incorporated (ECI), of which Rail Constructors is a part, did the ST derailment in Hartland which generated the as-yet unresolved NECR-ST lawsuit over who should pay for the damages-see below]. NECR was required to bid two subcontracts because of the size of the subcontract and the need for experience in working in a tunnel with valuable infrastructure above it.

Due to a labor situation, NECR had to rebid the subcontracts in late July and early August.

The contractors

Upon signature, VAOT's role in the project will become only a pass-through. NECR will become responsible via ECI, which in turn is using Acme Shotcrete to shore up the tunnel walls, and DL Thomas to work on the ledge.

No more full doublestack

Earlier this year, the stakeholders had decided to make the clearance full doublestack (20'6") [see 06#04A]. Unfortunately, said Zorzi, in the designing they realized that the railroad bridge over the canal just to the north of the tunnel needed a bridge girder modified, at an estimated cost of half to three-quarters of a million dollars. So they fell back to the original plan of 19'6", enough for the autoracks which will probably use the clearance first.

Zorzi said the project would remove enough rock from the tunnel floor to allow 20'6" clearance in the tunnel, and would change the ties on the bridge to thinner ties (also needed for 20'6"). NECR must also change clearances elsewhere on its line to provide for full doublestack. So the stage is set for full doublestack in the future.

Contract timing

Zorzi indicated that NECR would be able to run trains with 19'6" necessary clearance by the end of December, when the project would shut down for the winter. Some cleanup and paving will occur in spring 2007. {ANR&P discussion 13.Sep.2006}

Operations

Freights will operate only at night during the tunnel work. {e-mail to ANR&P from Richard Hosking of VAOT 25.Sep.06}

Other track work

Amtrak ceased operation north of Springfield, Massachusetts, between 24 and 28 September, because NECR installed 7.2 miles of continuous welded rail between Putney and White River Junction. Passengers were substituted. {Burlington Free Press 20.Sep.06}

BIODIESEL SWANTON

15 September, Montpelier. *A NEW BIODIESEL PLANT IN SWANTON IS PLANNING TO USE RAIL*, according to Fred Kenney, executive director of the Vermont Economic Progress Council. On 7 September the Council authorized \$534,522 in payroll and capital investment tax credits to Biocardel Vermont Inc. to add new jobs and invest in machinery and equipment in Vermont.

The tax credits follows a \$645,355 low-interest loan approved 28 July by the Vermont Economic Development Authority to the Quebec companies, Biocardel Inc. and Guilmax Inc, which are working together to start Biocardel Vermont, Inc.

[*Mini-editorial*: If I were the Vermont czar, I would require companies applying for tax credits and loans to show why they were not using rail. Vermont railroads have plenty of capacity, and moving the freight to the railroads will at minimum reduce the money Vermonters pay to maintain their roads. *Editor*]

Use of rail

The plant will use soybean oil to produce 4 million gallons of biodiesel per year to start [assuming 20,000 gallons of soybean oil in a tank car, that would translate to 200 carloads a year—*editor*]. Jack Dail, NECR marketing honcho, said he has initiated contact with the company. {ANR&P discussions 14 & 15.Sept.06; Dan McLean in *Burlington Free Press* 7.Sept.06}

NECR-ST: DERAILMENT DAMAGES

15 September, Boston. *THE CASE SHOULD COME TO TRIAL IN 2007*, according to the US District Court website. NECR has sued ST for \$750,000 in damages [see 04#11A, 05#07B] NECR incurred when an ST train derailed one car for 4.5 miles and seven cars after that [see 04#07B]. {US District Court website, Docket No. 04-cv-30235-MAP}

QUEBEC/MARITIMES

CBNS: TRENTONWORKS

19 September, Trenton. *TRENTONWORKS WILL STOP CENTRE-BEAM PRODUCTION IN EARLY OCTOBER AND START FLAT CARS IN JANUARY*, according to spokesperson Sandy Stephenson. The new production will mean 250 workers will come back. {ANR&P discussion 22.Sep.2006}

The plant had planned to work until November on the centre-beams [see 06#08B], said General Manager Bob Hickey on 19 September. The plant will build 180 fewer centre-beam lumber cars, due to slackening demand, and become idle at least until January 2000; it has built 2500 since 2005.

Softening lumber market

“There has been a significant slowdown in the U.S. housing market over the past two months. This slowdown has led to less than previously anticipated demand for this car type. As a result, the orders are not there to support continued production of these lumber-carrying cars.”

Effect on TrentonWorks workers

The plant will lay off 500 of its 600 workers; Hickey could not say when production for the next order, for flatcars, would begin, but it would require fewer workers in any case.

Exodus

TrentonWorks once employed one thousand people [see 05#11B]. Mayor Shannon MacInnis said the boom and bust cycles at TrentonWorks aren't new. But people aren't waiting around, as they once did, for new rail contracts, given the immediate job opportunities available out west for steelworkers and other tradespeople. "People are packing up and moving to Alberta." {Bruce Erskine in *Halifax Herald* 20.Sep.2006}

Think I'll go out to Alberta,
Hear there's jobs there to be had,
Got some friends I can go a-working for,
Still I wish you'd change your mind,
If I asked you one more time,
But we've been that way a hundred times or more.
- Ian and Sylvia, *Four Strong Winds*, 1963

MMA/CN: FRASER MILLS

15 September, Plaster Rock NB. **BOTH LUMBER MILLS ARE NOW RUNNING**, said Paul McKinley, general manager of lumber mill operations. They had closed due to market conditions [see 06#06A]. Plaster Rock reopened in July [see 06#07A]; the Juniper mill reopened on 1 August, and both have gone full out since then. {ANR&P discussion .Sep.2006}

HALIFAX: PORT TO BOOM?

15 September. **THE PORT WILL SHIFT FROM SPORADIC GROWTH TO A BOOM IN CONTAINERS**, said Hunter Harrison, CN CEO, to an audience at Halifax Port Days. "Halifax is clearly our gateway to Europe. We also believe Halifax will play a larger role in our drive in the future, in the drive to capture more business between Asia and North America, predominantly as a result of congestion in the West Coast ports in the U.S."

In an interview following his speech, Harrison predicted a "double-digit" increase in percentage terms.

CN to build a transload?

He also said the railway is seriously considering building a trans-loading facility, [although FastFrate is just starting to build one—see 06#06B], with an investment of "maybe a million (dollars) or two ... but I tell you we don't take a long time planning things." {Michael Hutton in Canadian Press 16.Sept.06}

Others agree

More generally, Anil Vitharana, president of United Arab Agencies, said in the 19 June keynote address to the *Journal of Commerce's* Asia/East Coast maritime conference that East coast ports must add capacity of 1.5 million TEUs per year to keep up with demand from Asia, including the Indian subcontinent. But unlike China, which is significantly increasing port capacity and supporting infrastructure, neither the subcontinent nor the East coast is doing so. {*Intermodal Insights* 8.06}

And Matt Rose, chief executive officer at BNSF Railway, wrote in *Railway Age* that while traditionally freight ton-miles have kept pace with industrial production, in recent years BNSF rates have doubled or tripled the IP growth rates. More than half of the railway's growth came from intermodal containers. {9.06}

RAIL SHIPPERS

Described in this issue.

Our *Directory of Rail Freight Facilities in New England* has more information on the companies denoted with their directory number.

Biocardel Vermont (NECR Vermont)
EQ Northeast (CSXT Massachusetts #294)
Fall River Pier (CSXT Massachusetts #289)
Fraser (CN, New Brunswick)

Georgia-Pacific (MMA, Maine #756)
 Koppers (NECR Connecticut, #708-1)
 Lounsbury (NECR Connecticut, #708-1)
 New England Wood Pellets (NECR, Massachusetts)
 NORAD (Seaview, Rhode Island)
 ProvPort (PW Rhode Island, #490)
 Red Shield Environmental (GRS, Maine)
 TrentonWorks (CBNS, Nova Scotia)
 Turner's Island (GRS Maine, #25)
 Verso Paper (GRS Maine, #857 & 877)

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 207-846-3549

PEOPLE, EVENT

Peter Touesnard is now the director of operations for **Rail America's** eastern region, which covers 13 roads including the three in the Atlantic Northeast: CBNS (where Touesnard once served as general manager), NECR, and CSO. Before the Rail America restructuring [see 06#06B], he had left CBNS to serve as regional vice-president of the Lone Star region [see 06#02A]. Touesnard will eventually work out of Hamilton, Ontario.

Charlie Moore has become vice-president of business development at **RailComm**. He most recently served as vice-president of RailAmerica's Atlantic Region as well as president of the American Rail Dispatching Center.

SPEECH ON CUSTOMS

On 15 November, **Commissioner W. Ralph Basham** of US Customs and Border Protection will present the keynote luncheon address at the Coalition of New England Companies for Trade (CONNECT) 5th Annual Northeast Cargo Symposium at the Harvard Club in Boston.

Janet Labuda, CBP director of Textile Enforcement & Ops will discuss CBP's view of Customs Compliance. Larry Rosenzweig, director of C-TPAT/Industry Partnerships will cover Best Practices and Supply Chain Security. Go to www.conect.org for details or call CONNECT at 508-481-0424.

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Coverage

The newsletter covers the operating freight railroads and ports in New England, the Maritimes, and eastern Québec, as well as the government environment they function within. Coverage includes passenger rail and ships when relevant to freight operations.

Frequency and the e-bulletin

ANR&P appears at least four times a month. We send a formal issue twice a month, via post or e-mail. Between the issues, we send out the *e-bulletin*, only by e-mail. All information in the *e-bulletin* is included, and often updated, in the issue.

Stories not updated for the issue are noted with an asterisk. I urge readers to look at the issue's updated stories (those without an asterisk).

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Purpose

Atlantic Northeast Rails & Ports, née *Maine RailWatch* (1994-1997) and later *Atlantic RailWatch* (1998-1999), is dedicated to the preservation and extension of the regional rail network. The editor believes that publishing news on railroads and ports spotlights needed action to preserve the rail network. The publication also imbues the region with a sense of an interdependent community, employing the network to move rail and port traffic. ‘No railroad is an island, entire unto itself.’