

# ATLANTIC NORTHEAST RAILS & PORTS

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Issue 06#01B 1 February 2006

\*Article unchanged from e-bulletin.

## REGIONAL ISSUES

**Pan Am:** Affirms that GRS funds have kept it afloat, to the tune of tens of millions.\*

**GRS:** More on layoffs.

**PW:** Second coal train moves faster.\*

**CSXT:** Selkirk dwell time.\*

**RMI:** Use by region's railroads.\*

**Fall River/Providence:** FERC okayed an LNG terminal in Fall River, but not Providence.\*

## CONNECTICUT

**CSO:** Stevenson Lumber may get service. Customer originates used glycol.

## MAINE

**Legislature:** Bills on whistle blowing, idling.

**Passenger rail:** Task Force on funding, STIP, service to Auburn.

**Calais Branch:** Partially leased to Downeast Scenic.

## MASSACHUSETTS

**BCLR/New Bedford:** Update on the rail situation here.\*

**GRS:** EPA stops WWTR; letters of support. Problems getting coal to Mt. Tom;\* Guilford embargoed plant.\* Communities not happy with the railroad. Fletcher Granite uses rail.\*

**MBTA:** MBTA paid the maximum on late penalties in 2004.

## NEW HAMPSHIRE

**Legislature:** Bill to tax crossing fees. Others on pruning the rail statutes, reimbursing towns for *Downeaster* costs, bond issue for rail, and supporting commuter rail.

## RHODE ISLAND

**PW-Coastal:** Notice of new railroad withdrawn.

## VERMONT

**VRS:** Companies interested in using Middlebury rail spur?\*

## MARITIMES/QUÉBEC

**MMA:** Eastern Townships excursion.

**Halifax:** Inland terminal study to emerge 15 February. OOCL has first ship call.

## RAIL SHIPPERS/RECEIVERS

A cross-reference to companies mentioned here.

## PEOPLE, POSITIONS, EVENTS

Russ Spinney, Mike Brown, Stephen Urban.

## **FROM THE PUBLISHER**

### **Why does Guilford behave so?**

Articles in this issue and the next report the frustration of town officials in trying to contact Guilford about local problems. I support Maine State Senator Diamond's contention: GRS needs someone to receive and acknowledge complaints.

- Chop Hardenbergh      Next issue Valentine's Day

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## *REGIONAL ISSUES*

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### **PAN AM: PROPPED UP BY GRS**

30 December, DC. *THE GUILFORD RAILROAD SYSTEM HAS 'FORWARDED SUBSTANTIAL SUMS' TO SUPPORT THE OPERATION OF PAN AM*, according to statements by Boston-Maine Airways Corporation (BMAC, which actually operates the Pan Am flights), in a 149-page filing with the US Department of Transportation. Moreover, the Springfield Terminal Railway Company (ST), the operating arm of GRS, is experiencing 'strong revenue and cash flow' and thus can 'continue' the substantial support in excess of \$7 million.

The filing states:

6. Springfield Terminal Railway Company ("ST") is able to extend a \$7.2 million line of credit to BMAC—and has in fact forwarded substantial sums in excess of that amount to BMAC—based on the strong revenue and cash flow that ST has historically experienced and fully expects to continue to experience. More particularly, as shown by the ST Cash Flow Statement contained in Attachment BMA-17, infra, through October 31, 2005, ST was able to advance in excess of [REDACTED] to BMAC to support operations and capital expenditures, [REDACTED]. Further, there is no reason that

this support cannot continue for the near future, as ST has historically realized significant revenue from its railroad operations, as evidenced by the ST Cash Flow Statement for the period January 1 through October 31, 2005, Balance Sheet as of October 31, 2005, and bank officer statements contained in Attachment BMA-17, infra, which consistently show monthly receipts in excess of [REDACTED]. Consequently, given ST's proven ability to provide substantial funding to support BMAC's operations historically, BMAC is confident that funding source will remain available for at least the one-year term reflected in the \$7.2 million standby line of credit commitment between ST and BMAC dated August 1, 2005 (see, Exhibit BMA-S/15-14 and 106, filed August 2, 2005 in Docket OST-00-7668). {Document OST-2003-14985-40}

### **ST Cash Flow Statement**

BMAC requested that this attachment, BMA-17, be kept confidential. Only the header, and not the contents, appear on the USDOT website docket management system.

*Note: The BMAC statement thus links the financial health of GRS to the continuing operation of Pan Am. The balance of this article discusses current and future Pan Am/BMAC operations, the financial health of BMAC, and the contributions of GRS and others to keep BMAC afloat.*

### **CURRENT AND FUTURE PAN AM/BMAC OPERATIONS**

As can be viewed on the Pan Am website, BMAC advertises itself to the public as doing business under the Pan Am name. {Pan Am website} The 30 December filing answered 18 questions posed by USDOT [see 05#12B]. BMAC answered question 4 thus:

4. Currently, BMAC is operating a total fleet of six small aircraft and three B-727-200 aircraft, as listed in Attachment BMA-4, infra. With its small aircraft fleet, BMAC is presently providing scheduled service to the Trenton, New Jersey-Bedford, Massachusetts-Portsmouth, New Hampshire market, while its large aircraft operate scheduled service in the Sanford, Florida-San Juan, Puerto Rico-Aguidilla, Puerto Rico market. BMAC also utilizes its large jets in providing on demand and track charter services in various interstate and foreign markets, resulting in a combined total of approximately 581 average revenue hours flown per month to date in 2005. In February of 2006, BMAC also expects to begin scheduled large jet service to the Atlanta, Georgia-Sanford, Florida market. During 2006 BMAC also expects to expand its small aircraft scheduled service in the Northeast United States, while continuing to provide charter flights on demand and in track charter programs.

BMAC's case before USDOT requests certification to use large jet aircraft; the Air Line Pilots Association has opposed this certification. BMAC comments about new service:

### **FINANCIAL HEALTH OF BMAC**

The financial statements filed on 30 December, requested by USDOT, paint a bleak picture of current BMAC finances, a picture which BMAC does not attempt to hide. Indeed, BMAC underscores the fact that ST will continue to provide funding.

### **Continuing operations**

In its answer to USDOT's question 9, BMAC states:

9. While it is true that BMAC is losing more than \$1 million in cash each month as a direct result of the limitations on its current authority to operate B-727 aircraft, BMAC does not believe that these losses will preclude funding of proposed expansion for two reasons. First, BMAC continues to receive funding from ST and will for the near future, as described in response to Request Number Six, which allows BMAC to continue to operate today and will also be a source of revenue for the expected pre-operating costs that BMAC will experience to bring all four large aircraft online. Second, each additional large aircraft put into service will contribute estimated revenue of \$6,706,000 annually, with a contribution to net income of approximately \$1,431,000 annually, funds which will substantially contribute to the financial health of BMAC going forward.

Therefore, BMAC is not only confident that it will continue to operate for the near future, but is also confident that it will be able to satisfy the Department's financial fitness requirements in the event that BMAC receives authorization for additional large aircraft in a timely fashion. A chart depicting the estimated effect of additional large aircraft revenue is contained in Attachment BMA-18, infra.

[Even if BMAC can operate four large aircraft, each netting annually \$1.43 million, that will not turn losses of \$1 million/month into an annual profit. *Editor*]

### Now in the red \$156 million?

The audited 2004 balance sheet shows that the company at the end of that year had an accumulated deficit of \$156 million:

	2004	2003
Current liabilities:		
Accounts payable	\$8,604,206	\$10,054,525
Accrued expenses	5,734,102	3,389,968
Unearned revenue	2,208,630	3,698,919
<u>Due to related party</u>	<u>69,879,740</u>	<u>52,865,038*</u>
Total current liabilities	86,426,678	70,008,450

\*(see note 4, reproduced below)

Commitments and contingencies (notes 5 ,6 and 9)

	2004	2003
Stockholders' deficit:		
<i>Common stock</i> ,		\$4,491,000
10,000 shares authorized, 1,497 shares issued		\$4,491,000
and outstanding, \$3,000 par value		
 <i>Preferred stock</i> ,	\$80,675,000	\$63,175,000
 (note 7-see below)		
72,000 shares authorized, 80,675 and 63,175 shares issued and outstanding in 2004 and 2003, respectively, \$1,000 par value		
 <u><i>Accumulated deficit</i></u>	 <u>(\$156,562,687)</u>	 <u>(\$122,539,170)</u>
Total stockholders' deficit	(\$71,396,687)	(\$54,873,170)

### Auditor's concern

Baker Newman & Noyes, a Portland-based accounting firm, did the audited financial statements for 2001-2004. BMAC has apparently hired a different firm to do the 2005 statement. But for 2004, the auditors made this statement:

#### 8. Going Concern

The Company has suffered significant operating losses and negative cash flow since it began operations and at December 31, 2004 had an accumulated deficit of approximately \$156,500,000. Operating losses have been funded by capital contributions from the Company's stockholders and payments made on the Company's behalf by GTI. In addition, GTI has allowed the Company to defer the payment of certain expenses, including aircraft lease payments. Management expects the Company to require the continued support of GTI while it restructures its operations to reduce operating costs.

### CONTRIBUTIONS TO KEEP BMAC AFLOAT

The company admits to losing \$1 million per month, and the auditors indicate an accumulated deficit of \$156.5 million at the end of 2004. Where did the cash come from to keep the company operating? Apparently three sources:

#### Stockholders

The owners of the company have purchased both common and preferred stock. The holders of preferred stock have not collected their accumulated dividends. For example, the auditors stated in Note 7 to the balance sheet of 2004 (above):

The preferred stock carries a dividend which increases by 1% each June 29 up to a maximum of 12% (8% at December 31, 2004). The dividend is cumulative with dividends in arrears of \$17,010,333 and \$12,639,667 at December 31, 2004 and 2003, respectively. No distribution shall be permitted with respect to common stock unless all current and accrued obligations pertaining to preferred stock have been satisfied.

In December 2004, the Company issued 17,500 shares of preferred stock to an existing common and preferred stockholder in exchange for \$17,500,000 in cash. This capital infusion was used in 2004 for capital acquisitions and working capital for operations.

### Cash infusions from GRS

As described above, GTI subsidiary ST has sent cash to BMAC. The following paragraph about uncollected lease payments appears to indicate that in 2004, GTI sent BMAC \$15.6 million, and that in total, GTI is owed about \$70 million (including unpaid leasing fees).

### Uncollected lease payments

Note 4 to the balance sheet of 2004 (above) reads thus:

Aircraft are leased from Guilford Transportation Industries, Inc. (GTI), an entity related through common ownership interests, as described below. At December 31, 2004 and 2003, the Company owed GTI \$69,879,740 and \$52,865,038, respectively, for operating advances and accrued lease costs. The Company leases such aircraft from GTI on a month to month basis. The leases call for monthly lease payments of \$57,000 as of December 31, 2004 and \$77,000 as of December 31, 2003. A summary of the leased aircraft at December 31, 2004 follows:

Description of Aircraft	Monthly Rent
2 Boeing 727s	\$40,000
6 Jetstreams	\$5,000
2 Casas	\$12,000

In 2004, GTI provided operating subsidies in the form of cash advances in the amount of \$15,561,396 and allowed for the deferral of lease payments due from the Company in the amount of \$1,453,306.

{USDOT website, Document OST-2003-14985-40, filed 30.Dec.05}

## GUILFORD: LAYOFFS

29 January, North Billerica MA. **GUILFORD DECLINED TO COMMENT ABOUT THE LAYOFFS OF RAILROAD POLICE** [already reported, see 13 December 2005 issue, 'From the Publisher'], or other layoffs, said to come to nearly 100 system-wide on 1 January.

GRS Railroad Police Chief John Holland referred comment on the layoffs to Guilford Executive Vice President David Fink. Asked about the cuts, Fink said, "I'm not going to discuss personnel issues or anything of that nature with you." {Matt Murphy in Lowell Sun 29.Jan.06}

## PW - SECOND COAL TRAIN

20 January, Providence-Johnson City. **THE COAL TRAIN MOVED MUCH FASTER THE SECOND TIME**, to the



**New London, Connecticut.** PW coal train #3 to Johnson City 25 January, moving east at Shaw's Cove, heading for the NECR yard. The train must back up this far to trigger the signal permitting it to run off the Amtrak line just east of the depot. Photo by Thomas J. Nanos [www.nanosphoto.com](http://www.nanosphoto.com)

power station in Johnson City, New York. On 18 January, carrying South African coal, 43 cars left Valley Falls 2120, in the regular train PRWO. 19 January: 43 cars left Worcester behind four locomotives 0016, New London 1202 (fifth locomotive, provided by NECR, added), Norwich 1245, Willington 1420, Palmer 1628 (5<sup>th</sup> locomotive left), Brattleboro 1920, Mount Holly 2350. 20 January: Whitehall 0320, arrived Binghamton 1300. Transit time about 39 hours, versus about 60 hours for the first trip [see 18 January issue].

Empties of the first train were pulled from the AES Westover station the morning of the 19<sup>th</sup>.

The shorter time was not needed by Westover, as NS did not spot the second train until the 24<sup>th</sup>.

### Return of the first coal train

The power which brought the second train to Johnson City hauled back the first, with 45 now-empty cars; it passed Dudley, Massachusetts, at 1618 on 22 January. {PW e-list}

## SELKIRK DWELL

20 January, Selkirk NY. ***THE DWELL TIME FOR THIS YARD HAS COME WELL DOWN FROM AN HORRENDOUS HIGH.*** According to statistics posted on the American Association of Railroads website:

Week of	Dec average	12/23/ 2005	12/30/ 2005	01/06/ 2006	01/13/ 2006
Hours dwell	41.8	37.3	53.3	39.7	31.8

While the 41.8 hours for December falls higher than the system average of 30.8 hours, Selkirk for the month of December ranked fourth, behind Toledo (50.2), Indianapolis (48.9), and Nashville (42.9 hours). {AAR website}

[Note: I have for several months sought an interview with the appropriate official to explain this. No luck thus far. *Editor*]

## RMI AWARDS

17 January, Atlanta GA. ***RMI ANNOUNCED USERS OF ITS INFORMATION SERVICES*** in the form of the ‘2006 Fast-Track Awards’. “We created the Fast-Track awards to honor those customers that are demonstrating unique and creative ways of improving their businesses through the use of RMI’s products and services,” said Paul Pascutti, vice president of RMI. “The winners are 12 exemplary models of how RMI’s services can be used to streamline processes and improve procedures.”

Four operate within the Atlantic Northeast:

-- Montreal, Maine and Atlantic Railway: The MMA’s reporting capabilities have been significantly enhanced with the use of SuperTrip for care management, revenues auditing, customer service and senior management reports.

-- St. Lawrence & Atlantic Railway Company: With the help of RMI’s Automated Manifest System (AMS), the SLR successfully crosses the US-Canada border daily with no fines and minimal difficulty.

-- Chemins de fer du Quebec/Quebec Railway Corporation: Through the use of RMI’s technology, the CFQ has received numerous special recognitions. At the 2004 and 2005 CN short line conference, CFQ was recognized for the best overall TRAIN II reporting with a 99.5 percent reporting average. In 2005, CFQ was awarded the Marketing Innovation award for its use of various SuperTrip and RailConnect reports.

-- New Brunswick Southern Railway: By adding ShipperConnect to the RailConnect suite of products it was already using, NBSR has improved a two-day cycle time, resulting in increased revenues plus the additional monies from off-line earnings. {RMI press release}

## FALL RIVER/PROVIDENCE LNG

19 January, DC. **FERC SUPPORTED AN LNG TERMINAL IN FALL RIVER BUT NOT PROVIDENCE**, in two decisions issued this day. Federal Energy Regulatory Commission Chair Joseph Kelliher said his commission's "primary role in reviewing LNG import facility authorizations is to ensure public safety. The region sorely needs additional gas supply. Both projects are needed, but we supported only one."

### Fall River

In June, FERC approved Hess LNG's proposal for a facility in Fall River's Weaver Cove, upriver of the I-195 crossing and about 4000 feet upriver of the Brightman Street Bridge, at the site of the former Shell Oil tank farm. In their petitions for rehearing, opponents asked FERC to dismiss Hess LNG's application because of a provision U.S. Rep. James McGovern (D, Massachusetts) slipped into the federal transportation bill this summer, preventing the demolition of the old Brightman Street Bridge.

McGovern said he doesn't know how the company plans to get around the bridge issue. "If that bridge stays up, which it will, (LNG) ships can't pass through. Even if Hess were able to buy somebody off and get them to remove the language, which we are all watching for, the state still has to want to draw down the money."

Kelliher said: "In the case of Weaver's Cove, the Commission imposed 44 conditions designed to improve the safety and security of the project. Because of these conditions, the project we approved was safer than the application that was submitted. With these conditions, the Weaver's Cove project meets our high safety standards, and for that reason we authorize it."

Commissioner Suedeen Kelly once again opposed the Hess LNG project in the 2-1 vote. "I continue to believe it would not be in the public interest," and expressed concern about the safety, security, environmental and socioeconomic impacts of the project. "There are reasonable alternatives," including planned LNG terminals in Nova Scotia, New Brunswick and offshore Massachusetts as alternatives for meeting the region's natural gas needs.

The developer awaits a decision by the Army Corps of Engineers on permits it seeks to dredge large portions of the Taunton River basin to create clearance for the huge tankers that would carry LNG supplies to the site.

### Providence

Keyspan has proposed an expansion of its existing LNG facility in Provport [see 04#04A with map]. "By contrast [with Weaver's Cove], we do not authorize the Keyspan project, because it does not meet our safety standards. The existing project facilities do not comply with current LNG safety standards. Specifically, the impoundment site is undersized, the thermal radiation and flammable vapor exclusion zones extend offsite, and the existing tank may not comply with current seismic standards.

"[W]e are denying the request for conditional authorization of the project, we do so without prejudice to KeySpan filing an amended application addressing these issues."

### Appeal

Christopher D'Ovidio, a staff attorney from the Rhode Island office of the Conservation Law Foundation, said his organization will appeal. "Energy supply and LNG terminal siting is a regional problem requiring a regional approach, and today's denial of our request for a rehearing is yet another example of FERC failing to serve the public's energy needs by refusing to fully evaluate regional alternatives." {FERC chair's statement; Daniel Fowler in Fall River *Herald News* 20.Jan.06}

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## CONNECTICUT

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### CSO/CN: MOVING DE-ICING FLUID

26 January, Truro NS. **USED DE-ICING GLYCOL MOVES BY RAILCAR** from Connecticut, and formerly from Nova Scotia, said Hassan Nabi, purchase manager for Inland Technologies Inc.

**Bradley International Airport**

According to Skip Thompson, the de-icing manager for this airport located in Windsor Locks, Connecticut, the state requires the airport to collect all de-icing fluid after spraying the aircraft. He explained that each air line is responsible for providing its own fluid. Many use contractors, some buy it direct.

The collected fluid flows into a million-gallon tank. After separation to remove the water, Inland takes away the used glycol and pumps it into a tank car. One is sitting there now, on Light Lane near Spring Street.

CSO will pick up the car, located on the Bradley spur of f the Suffield Industrial track, and forward it to CSX, which will deliver it to Troy, Indiana.

**Halifax and St.John's**

Nabi said that in St.John's, Inland processes the glycol and trucks it by ferry to Halifax. Trucks do the same for used de-icing fluid from the Halifax International Airport. The fluid from both sites moves by truck to Ottawa for further processing.

Until 2004, Inland used a siding at Mar-Wood in Brookfield NS to transload the fluid into tank cars, and railed it to Ottawa. At this point, said Nabi, trucking is cheaper 'for the amount of fluid we have.' {ANR&P discussions}

**INLAND & TANK CAR SHORTAGE**

According to its website, for over 25 years Inland has 'specialized in the design, development, and operation of petroleum waste treatment and airport glycol recycling services. Building on these core competencies, Inland is now offering our clients an expanded service program including airport ground support services and aircraft de-icing fluid proportioning. We offer services in site remediation, waste water treatment, as well as treatment of glycol effluent generated from gas production plants.'

Nabi said that Inland, located in Truro, Nova Scotia, recycles glycol from airports across North America, including two in DC and the TF Green Airport in Providence. He does not use rail at Providence and other sites, in large part because Inland cannot obtain tank cars. Indeed, he had to divert a car from Canada to Connecticut to handle the glycol there. [While the railroads have a shortage of all kinds of cars, tank cars especially cannot be found anywhere. See *Railway Age* 2.06.]

Under current regulations, the reprocessed glycol cannot yet be applied to de-ice aircraft, though testing is underway to get approval for re-use. Inland sells the reprocessed glycol to industrial customers.

**CSO: CUSTOMER RESTORATION**

23 January, Suffield. **A CONTRACTOR HAS RESTORED THE DAMAGED WING WALL** to the railroad bridge over Suffield Street [see story and map in 04#12B], according to Gerry Turbet, Suffield town engineer. The damage caused CSO to put the line out of service, pending repairs.

In a mediation session in 2005, a retired judge hammered out an agreement among all the parties who might have responsibility for the damage, per Turbet: the Town of Suffield, Turbet (who had his own attorney there), ConnDOT, CSO, the contractor whose work initially damaged the railroad, and the design engineer for the contractor's work.

The contractor and design engineer wound up paying for most of the damages, though the town's insurance carrier also paid a bit, Turbet said. He praised the judge: "She was very good." {ANR&P discussion 23.Jan.06}

**When will rail return?**

This part of the Suffield Industrial Track serves Stevenson Lumber in downtown Suffield. Charles Hunter, CSO general manager, said the railroad must still rehabilitate the track on the railroad bridge. He does not yet have a date for resumption of service. {e-mail to ANR&P 25.Jan.06}

**MAINE****LEGISLATIVE BILLS****LD1732: anti-whistle blowing**

Representative Ed Finch sponsored the bill which would deal with the effect of whistle-blowing at grade-crossings on nearby houses. LD 1732 would require any railroad to buy any property within 1000 feet of the grade crossing, if the owner could not sell it.

At the public hearing, GRS Executive Vice-president David Fink told the Joint Transportation Committee that this area of law was basically pre-empted by federal law.

MMA President Bob Grindrod, who acted as spokesperson for other railroads in Maine, followed Fink and underscored the GRS position.

Jonathan Shute, general manager of MERR, said Fink did an excellent job in his presentation. {ANR & P discussion 19.Jan.06}

On 20 January, the committee voted the bill ‘ought not to pass.’ {Legislature website}

### **LD 1793: Guilford must not idle locomotives outside yard**

‘This bill proposes to require Guilford Transportation Industries trains that run through the Town of Oakland to stop for a change of crew only at the rail yard, where train noise and diesel fumes are anticipated and where the noise, fumes and odor pollution will not harm the public, at times when stops will not disrupt residential neighbors' sleep.’ [The bill does not yet have definite language. *Editor*] [See newspaper article on public hearing 24 January, in *Central Maine Morning Sentinel*. More in a future issue.]

## **PASSENGER RAIL ADVANCES**

20 January, Augusta. ***THE FIRST MEETING OF THE TASK FORCE ON PASSENGER RAIL FUNDING*** occurred. It will aid the state in determining how to fund the *Downeaster* service over the long run, said Ron Roy, who heads MDOT’s Office of Passenger Transportation. Moreover, the creation of a stable source of funding is required by the FTA. Roy said as part of its scope the Task Force will also look at the funding of the extension to Brunswick.

According to the amended Executive Order creating the task force, it will meet in January 2006 and complete its work by December 2006. It will report to the Legislature in 2007.

### **Membership of Task Force**

Members of the Legislature. Representatives Ronald Collins and Boyd Marley; Senators William Diamond (Bangor) and Karl Turner (Falmouth).

State officials. Martin Eisenstein, head of the Board of NNEPRA. Conrad Welzel, chair of the Maine Turnpike Authority. Dann Lewis, head of the Office of Tourism. Greg Nadeau, deputy commissioner, MDOT.

Non-governmental organization officials. Maria Fuentes, executive director of the Maine Better Transportation Association. Craig N. Denekas of Libra Foundation, which has advocated commuter rail to Auburn [see 01#01A]. Dick Leeman, Kennebunk & Kennebunkport Chamber of Commerce. Lucien Gosselin Lewiston/Auburn Economic Growth Council and agent for the Lewiston Auburn Railroad.

Local and regional officials. Dale Olmstead, town manager of Freeport [see 01#01A]. Neal Allen, Greater Portland Council of Governments.

Others. Andrew Hyland, Port City Architecture of Portland. Kathryn Wear, The Cliff House Resort and Spa of Ogunquit. Gene Plourd, North Waterboro. {text from MDOT}

[Note the task force does not include anyone who operates a railroad. *Editor*]

27 January, Augusta. ***OTHER POINTS ON PASSENGER RAIL*** were described by Ron Roy. Some come from MDOT’s Surface Transportation Improvement Program (STIP), which emerges every two years and now covers FY06 and FY07 (1 July 2005 to 30 June 2007)

### **STIP: MERR**

Per a STIP line item, Rockland branch. This will cover a washout in Thomaston, plus the ongoing rehabilitation of the Carleton railroad bridge over the Kennebec.

**STIP: Yarmouth to Auburn**

The STIP contains \$984,179 of federal money under the item ‘Rail Upgrade Yarmouth to Auburn.’ This money will come from an earlier federal earmark. MDOT is now negotiating with FTA about the scope of the project, since the federal earmark used the language ‘Yarmouth to Auburn’

MDOT wants to study the route beginning in Portland (where it will physically begin), not in Yarmouth. Possibly the state will pay for the portion of the study covering from Portland to Yarmouth.

**Extension to Brunswick: buy track?**

Roy underscored the department’s decision to route any passenger trains to Brunswick over the SLR route to Yarmouth Junction and from there on Guilford [see 18 January issue, correcting mis-statement ‘using the Guilford route’]. For some time, the department has discussed with SLR officials possibly purchasing the line from Portland to Auburn. {text of STIP; ANR&P discussion 27.Jan.06}

**CALAIS BRANCH**

18 January. *MDOT AND THE DOWNEAST SCENIC RAILWAY SIGNED A LEASE* under which the Downeast Scenic Heritage Preservation Trust will have access to the Ellsworth to Brewer portion of the line to operate a 24-mile round excursion trip from Ellsworth to Green Lake. (The Brewer to Green Lake piece will be used minimally for moving equipment) The lease covers a 15-year period with two five-year renewals and acknowledges the State’s right to build a recreational trail within the corridor. Additionally, the Trust is responsible for all restoration work and must invest a minimum of \$10,000/year in materials for ongoing maintenance in lieu of rent. [See 05#04B.] {Trust press release 24.Jan.06}

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**MASSACHUSETTS**

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**BCLR/NEW BEDFORD**

23 January. *AN UPDATE ON SOME OF THE ISSUES FACING THE RAIL YARD* was provided by Bob Luongo, head of the city’s New Bedford Railroad LLC (NBRR) as well as the New Bedford Redevelopment Authority and the New Bedford Economic Development Council.

**Yard ownership**

Three entities own the railyard [see map in 04#05A]: CSXT, a city-controlled Housing 70 Corporation, and the New Bedford Redevelopment Authority. CSXT intends to transfer ownership of its part of the yard to the city, but has not yet done so. Luongo said that Matt Thomas, the former city solicitor, was handling these negotiations, but has now gone to private practice [see 05#12B]. Unfortunately, Luongo has no details of these negotiations, including the names of the people Thomas was dealing with at CSXT.

Luongo would like to consolidate ownership of the yard into one entity. The US Environmental Protection Agency and the Massachusetts Department of Environmental Protection would like to close out the environmental cleanup project, which includes a limit on the activities eligible for the yard. Having only one entity makes controlling the activity far easier.

**Spur ownership**

The yard has at least four spurs off it. The spur into the EPA dewatering building is owned by the EPA, but Luongo did not know the ownership of the other three: a spur to the north which crosses North Front Street, one which crosses Herman Melville Boulevard to reach Maritime International, and one which proceeds south to the Sprague terminal [see 06#01A].

**Yard operations and funding**

Luongo explained that two different operators moved railcars. Bernie Reagan, vice-president of marketing for BCLR, enumerated two trackmobile operations. EPA’s contractor for transportation and disposition of the sludge, EQ Northeast [see 05#08A], operates one trackmobile and switches the plant five times a day, as the plant has only one loading spot but five empties available.

NBRR leased the other trackmobile for three months, and subcontracted its operation to BCLR. That company, using the NBRR trackmobile, pulls the loads from the EPA trackage, and spots new empties. It spots the loads in the yard for lifting by CSXT.

Both operations will occur only three months next year, as EPA has only funds for three months of operation.

### **Possible north end customer**

MacLean's Seafood has put its property at 10 North Front Street up for sale. Luongo said the recent trackwork created a link between the New Bedford Yard and the old spur leading to MacLean's. A company already in the city which manufactures cat and dog food has expressed interest in the site, and in bringing in frozen food by rail, and railing out its product.

### **Sprague as customer?**

Per Luongo, the mayor met with Sprague officials who mentioned the possibility of reusing the former power plant building for bulk or break-bulk transloading at their new site [see 06#01A]. The mayor would prefer to see more value-added activity there, but the property is zoned for maritime use, and maritime uses consist mostly of transloading, Luongo pointed out.

### **Loading platforms in the yard**

Per Luongo, Thomas had asked STB Engineers to design and build temporary loading platforms for the yard. "We need to figure out where Matt was going to get that money from," said Luongo. {ANR&P discussions}

## **GRS: NEW ENGLAND TRANSRAIL**

26 January, DC. *THE EPA FORBADE DEVELOPMENT PENDING AN ENVIRONMENTAL INVESTIGATION*, of the New England Transrail's proposed transload operation. In a letter to the STB this day about on the site in Wilmington and Woburn, it noted that the site now fell under the Superfund law. It has begun an investigation and aims at cleanup.

EPA did note that under the 'Brownfields Amendment', federal law is designed to promote the redevelopment of Superfund sites.

'Given the documented presence of contamination at this Site, redevelopment cannot proceed before our investigation of the area to be developed has been completed.' If NET changed the site by breaking ground, it might invalidate much of the data already gathered about the site. {STB website, filings page, Finance Docket FD 3479}

26 January, DC. *SEVERAL LETTERS SUPPORTING NET AND THE WWTR WERE FILED* with the Board:

### **Frank Demasi**

Demasi chairs the Boston Regional Transportation Advisory Council (RTAC) Freight Committee and has advocated for rail for years [see photo of the Mystic Branch in 05#01B]. In supporting the proposal of New England Transrail to create the short line Wilmington Woburn Terminal Railroad to operate a transload in the two towns [see 18 January issue], he wrote:

Decline of rail in region. 'The rapid decline of freight rail capability, performance, and access in the Boston Metro Region became vividly apparent to me during my administration of production contracts with the Department of Defense contractors in our area of responsibility in Massachusetts and New England. Contractors under my unit's surveillance and support were engaged in receiving and shipping millions of dollars of goods and materials to and from Massachusetts and New England. Beginning in the 1990s until my retirement from the Defense Department in 2002, virtually all of the freight [which once] moved on Government Bills of Lading via rail and sea were shifted from and transported by truck because of the lack of adequate rail and port infrastructure and service in that region.

Sale of rail parcels. 'The subsidized advent of the interstate highway system over the last half-century contributed to the decline of railroad freight transportation, in general. In particular, railroads, which owned extensive parcels of land in Eastern Massachusetts used for transfer terminals and other support functions, with skyrocketing real estate values in the Boston metropolitan area saw greater profits in selling off these parcels for real estate development than in their transportation functions. These sales eventually hindered the railroads' ability to transfer freight between rails and trucks for local deliveries, which furthered the decline in rail freight. 'This trend continues with the current commercial/retail/residential development of a vital former Boston and Maine (now Guilford Industries) Rail Yard across from downtown Boston in

Somerville, Massachusetts, abandonment of the Mystic Wharf Branch Rail connections to the docks and terminals located on the Mystic River and Chelsea Creek and the sale of land occupied by the Beacon Park Rail Yard (CSX) at Allston (Boston) Massachusetts for institutional development by Harvard University, which will limit the transfer functions of that yard....

Transloads needed. ‘NET’s proposed development of a rail freight terminal in Wilmington, Massachusetts is the type of facility which will be required to revitalize rail freight transportation in the Boston metropolitan area. The Wilmington terminal will handle a wide range of in-bound and out-bound products and materials, from lumber, steel, paper and other bulk commodities inbound.

Especially waste transloads. ‘Since eastern Massachusetts’ major export is waste products, waste will be a major component of the terminal’s outbound freight. Vested interests in the solid waste industry, with businesses tied to long-haul trucking or local garbage burning incinerators has opposed the Wilmington project for fear that it will undercut their markets and pricing. Rail freight presents an overwhelming pricing advantage over trucking because of rail’s inherent transportation efficiencies, and will save Massachusetts and its municipalities tens of millions of dollars per year in waste disposal costs; and will save Massachusetts, its municipalities and residents even more money from reduced impacts from air pollution, congestion, highway accidents, excess user costs, pavement wear and tear, and noise.

STB should not exclude waste. ‘Provided that a rail facility follows the appropriate health and safety rules and regulations which are enforced in a non-discriminatory manner and which do not unduly impede rail transportation, there is no legitimate policy or legal reason to differentiate between transloading of solid waste and other commodities, and, based on this proviso, the STB must not make exclude transloading of solid waste from its exclusive jurisdiction.’

### **Chris Podgurski**

Podgurski, who heads the Podgurski Construction Corporation, has advocated for rail for years. He put in a bid to operate the MBTA’s Millis lines [see 03#05B]. He wrote to the Board:

‘I am a member of the Regional Transportation Advisory Council (RTAC) Freight Committee and follow and advocate for freight transportation issues through that venue. I am making these comments, however, my personal capacity as an informed freight transportation advocate and concerned citizen of the Commonwealth of Massachusetts for its declining industrial and rail freight transportation infrastructure....

‘In our committee we have reviewed the arguments for and against the facility being proposed by NET, and I have determined that it can play an important step in creating new rail infrastructure for our region without the negative impacts that some of its truck based competitors and local town interests have claimed.’

### **Other support**

The Most Worshipful Hiram Grand Lodge A.F. & A.M., Inc. supported the application for two reasons. First, NET is minority-owned, and ‘represents an excellent opportunity to further African-American interests in an industry in which we have been severely under-represented.’ Second, it will reduce pollution.

HELP for Black Males Health wrote a letter supporting NET because use of rail will reduce pollution and congestion.

The National Black Agenda Convention and retired State Senator Bill Owens echoed these arguments.

### **Opposition**

State Representative James Miceli asked that no action occur until the EPA has had a chance ‘to fully examine the environmental disaster that this site is.’

He also requested a local public hearing and site walk. {STB website, filings page, Finance Docket FD 3479}

## **GUILFORD: COMMUNITY SERVICE?**

27 January. *TOWNS IN WESTERN MASSACHUSETTS FIND GUILFORD DIFFICULT TO WORK WITH.*

### **Greenfield**

In the most recent example of difficulties, the state highway department had come to an agreement with the railroad in February of 2005 to move signals and conduits from the underside of bridges on Interstate 91 so that the bridges could be repaired. But no work was begun until this month, which slowed progress of the interstate construction near the rotary in Greenfield.

### **Greenfield Energy Park**

In one bright spot for relations between Guilford and the people of Franklin County, Sandra Thomas, director of the Greenfield Energy Park, said after initial frustration, she was able to come to an accord with the railroad over the building of the park, which is sandwiched between two Guilford tracks at the foot of Miles Street. According to Thomas, although it was often difficult dealing with Guilford executives and almost impossible to get them to respond to calls, in the end she was able to achieve a comfortable working relationship with local representatives of the company.

Another act that causes Thomas to sing the praises of Guilford is the work done by Jeffrey Rose of Shelburne, who cleared out the weeds and trash along the rail line at the eastern end of the park. “Locally, there is a feeling that they want to work with the community.”

### **Five-year delay in Whately**

Town Administrator Lynn Sibley said that her town had asked Guilford to move a crossing signal to permit a road widening. The widening was finished in 1998. Guilford took until 2003 to move the signal.

### **East Deerfield pollution**

Requirements for cleanup of pollution from the railyard in the Town of Deerfield include the corporation explaining the source and extent of a solvent plume released into the soil and ground water and a report on the status of immediate response to oil spills at the rail yard years ago. Most recently, people looking into the rail yard have found evidence of chlorinated solvents that have leached into the ground water and contaminated the aquifer.

Lynn Rose, of the Deerfield Sustainable Development Committee, who is overseeing the cleanup of the rail yard in East Deerfield, said that the railroad has a water treatment permit that is 20 years out of date and, rather than reviewing the permit, the federal government has just been giving them extensions on the old permit for the last two decades.

Recently, the Town of Deerfield and the Connecticut River Watershed Council have protested the continual renewal of the permit and have asked the federal Environmental Protection Agency to issue a new permit that would include the most recent requirements for pollution control.

“Of course, Guilford was not in compliance with the old permit.” According to Rose, the railroad had “consistently exceeded oil and grease and volume permit limits” even before their original permit expired.

Rose said that the town of Deerfield raised \$25,000 to hire people to monitor the pollution situation at the East Deerfield yard and to try to make sure that Guilford complies with DEP directives. “They just go through the motions. We don’t feel that we’re being taken seriously.”

### **Montague bridge**

In Montague, the railroad and town are locked in lawsuits over wetlands issues that have delayed for years replacement of a Greenfield Road bridge.

Work by the state on the bridge has been delayed for about six years as Guilford, the town and the state wrangle over who is responsible for silting in a nearby wetland.

### **Contact with local legislators**

Since the blowup over the Interstate 91 construction delays in the last year, some local legislators have been able to make contact with representatives of Guilford. Senator Stanley Rosenberg (D-Amherst) said that, although he has been frustrated by an inability to contact anyone at the railroad in the past, he recently received a call from a Guilford executive.

“Since I made the comments in your newspaper, and other local press, they called me. The company representative was very personable and told me to call him anytime there is a problem.”

Nicole Letourneau, communications director for Congressman John Olver’s office, said that Olver wrote a letter to the railroad at the end of last year asking it to speed up moving the signal devices at the I-91 site so that construction could continue. Although no one from Guilford contacted Olver’s office, work to move the signals and their accompanying wires began less than a week after Olver wrote his letter. {George Claxton in *Greenfield Recorder* 27.Jan.06}

## GRS - FLETCHER GRANITE

17 January, North Chelmsford MA. **THE COMPANY RECEIVED ITS FIRST CARS ON ITS SIDING**, more than two years after the installation of the switch [see 03#11A]. Dave Psaledas, the plant engineer who explained that rail rates were too expensive earlier [see 05#05B], said one car arrived three weeks ago, and three two weeks ago. [Our *Directory* #111.]

The stone is arriving from Fletcher’s Silver Cloud quarry in Conyers, Georgia. He expects a total of 50 blocks, with six more cars enroute. “It’s a lot cheaper by rail” than by truck.

### Larson Reload

Fletcher uses Larson Reload in North Billerica [our *Directory* #205] to receive curbing stone, because the slabs come in a bunch hard to lift off a railcar without the bunch shifting and disintegrating. {ANR&P discussion}

## GRS - COAL TO MT.TOM

5 January. **WHAT HAPPENED AT MT.TOM TO SLOW THE TRAIN UNLOADING?** [See 05#12B *Regional*.] The plant has its own switcher, a yellow former B&M SW-1. According to observers:

A coal train arrived from Colorado, via NS, in mid-December at East Deerfield. Unfortunately, Guilford had only one engine and had to piecemeal the train to Mt.Tom. Due to missed turns, attributable to lack of crews, the pieces of the train arrived at Mt.Tom at a much slower pace than the plant could unload it. To empty all the coal cars took about two weeks.

Meanwhile, coal which had arrived at Provport was moved to East Deerfield by PW. GRS could not move that 120 cars of coal down to Mt.Tom as scheduled, due to the need to move the NS train, and so the coal froze in the cars. As of 5 January, NU was still slowly unloading the frozen coal cars.

In particular, on 2 January, NU told GRS it had one string of 15 empties, and wanted from East Deerfield coal not yet frozen. Guilford brought down the loads, but had to clear the switches in its yard (not in the plant). So the crew ran out of time. {e-mail to ANR&P from various observers}

### Embargo

On 30 December 2005, Guilford issued an embargo of Mt.Tom traffic, citing ‘congestions/accumulation’ as the reason. {Association of American Railroads website, Consecutive Sheet:548, Embargo Number 2-05}

## MBTA LATE PENALTIES

January, Boston. **LATE TRAINS REQUIRED MBCR TO PAY \$750,000 IN PENALTIES**, the maximum allowed under the contract, in 2004 for late commuter trains on the Boston system. Through October 2005, MBCR had paid the T \$625,000. Those compare to the total of \$1 billion for the five-year contract.

Officials at MBTA and MBCR blame CSXT for the Worcester Line's poor on-time performance. But according to the chief of the MBTA's commuter rail, Bob Stoetzel, mechanical breakdowns cause more delays, and those are blamed on the neglect of maintenance in the 1990s, said Paul Regan, executive director of the MBTA's advisory board. {Brian Kladko in *Boston Globe* 22.Jan.06}

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## NEW HAMPSHIRE

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### TAX RR CROSSING FEES

6 January, Sanford ME. **A BILL IN THE NEW HAMPSHIRE HOUSE WOULD PERMIT TAXATION OF CROSSING REVENUE.** HB 1699 would permit the state to set the income tax rate on revenues received by a railroad from easements given by a railroad to cross its right of way. Section II of NHRSA 82:24-b would state:

‘II. Each corporation or company subject to the tax under RSA 82:2 shall also pay to the state an annual tax, as of April 1 of each year, on fees charged for transiting of cargo over, under, or across railroad right-of-ways. The cargo fee tax shall be 100 percent of the portion of the fee which exceeds the direct costs incurred by the corporation or company owning the right-of-way. Cargo fees for cargo carried on rail, load on to rail, or off load from rail shall not be subject to this tax.’

#### The reasoning behind the bill

Jim Danforth (R, Andover) proposed the bill as a means to introduce equity into the determination of crossing fees. “Right now, because of the federal regulation of railroads, states have no ability to influence railroads.” Neither local companies nor governments seeking permission to cross a rail line have any bargaining power: the railroad may quote a rate, and the requestor has to take it or leave it.

“Just as a hypothetical,” said Danforth, “suppose a company needs to move woodchips across a private right of way. The railroad wants to charge half a million dollars for the privilege.” [See 05#07A. Guilford was demanding a high fee to permit Public Service of New Hampshire to move woodchips across the GRS tracks.] At this time, the company must pay that rate. But if HB1699 becomes law, the state would levy a 100% tax on the net profit obtained by the railroad for the crossing fee. Knowing that, the railroad may well use a more reasonable crossing fee.

He anticipates that during the legislative process, after hearing from both the railroads and the industry wanting crossing easements, the 100% rate may be adjusted. “This gives the state a seat at the table.”

#### Economic development potential

Danforth averred that when a rail line lies alongside a river, crossing fees can block the development of the land along the river. At this point, fees charged by Guilford to cross its rail line in Portsmouth and Newington may slow the use of the land along the Piscataqua River, at Portsmouth’s Market Street Terminal and Granite State Minerals as well as elsewhere. If the fees are mitigated, “that will blow open the doors for access to the Piscataqua.”

#### Authority to tax?

While one wonders whether a state may levy what looks like a confiscatory tax (100% of profit), Danforth maintained that a 2005 US Supreme Court decision authored by Sandra Day O’Connor said states have the absolute authority to tax anything they want. And, he added, despite complaints about high taxes, neither tobacco companies nor liquor companies have convinced courts to nullify the high taxes set by states on those products. [Whatever happened to John Marshall’s 1819 dictum, ‘The power to tax involves the power to destroy.’? *Editor*]

#### Future of the bill

Danforth felt optimistic about the bill’s chances, as he has gotten State Senator Richard Green (R, Rochester) to co-sponsor the bill. Green serves as the Senate’s unofficial whip. He also has backing from the House Ways and Means committee, and the House majority office.

On 17 January, Ways and Means will hear testimony on the bill. Danforth listed as possible appearances from Peter Leishman (MBRX owner), a representative of Public Service of New Hampshire [which encountered just such a problem—see 05#07A—but could settle it because of its eminent domain power], a representative of Sprague [who also had a dispute—see 05#04B], and representatives of other terminals on the Piscataqua.

**One positive result already**

Per Danforth, the Market Street Terminal wants to construct some office space and had asked GRS for a easement so a sewer line could cross the property. GRS responded initially that its price would be so high that the Terminal should find another access. But soon after Danforth had introduced his bill, GRS sent a letter to the Terminal stating a willingness to work out a reasonable fee. {ANR&P discussion 6.Jan.06}

**Next step**

A subcommittee of Ways and Means will hold a work session on 7 February.

**OTHER RAIL-RELATED BILLS****HB1176**

In researching his bill, Danforth and others realized that the New Hampshire statutes governing railroads had not been updated for some time. This bill creates a committee composed of three house members and three senate members to review, revise, update, and purge all New Hampshire statutes covering railroad operation, rights of way, property rights, and such other railroad statutes as the committee may find relevant. They are asked to report by 1 November 2006.

**HB1743**

This bill requires the state to reimburse towns and the University of New Hampshire for the annual operating expenses for passenger rail facilities served by the Amtrak Downeaster service.

**HB1655**

This bill requires the department of transportation to make the development, construction and implementation of a viable rail system a complement to the expansion of Interstate Route 93. This bill authorizes issuance of \$109 million in bonds for the rail system project and makes an assessment on passenger tickets sold to use the rail system to repay the bonds. Representative George Katsakiores, lead sponsor.

**HJR24**

House Joint Resolution 24 supports efforts for commuter rail in the state of New Hampshire. It received favorable statements in a public hearing [see 18 January issue.]

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**RHODE ISLAND**

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**PW-COASTAL**

19 January, DC. **COASTAL RECYCLING WITHDREW ITS APPLICATION FOR A NEW RAILROAD** [see 18 January issue], and the STB accepted the withdrawal by decision 25 January. {STB website decisions page Finance Docket No. 34819} [Our *Directory* #489.]

**Reason**

John McHugh, the attorney handling Coastal's STB application, said Coastal is negotiating with PW "to see if they can work something out. If the problems can be solved without forming a railroad, they will do so."

Some insurance carriers, he said, will write insurance covering rail operations for a non-railroad like Coastal. {ANR&P discussion 26.Jan.06}

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## VERMONT

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### VRS: MIDDLEBURY RAIL SPUR

12 January, Middlebury. **OTHER COMPANIES WOULD USE THE MIDDLEBURY RAIL SPUR** if built, according to testimony at the VAOT hearing on the two proposed means to move calcium carbonate from its Middlebury quarry to its processing plant in Florence [see 18 January issue]. Therefore, the money is not spent only to help OMYA, pointed out state officials and consultants from McFarland-Johnson engineers.

Other local companies, including Vermont Natural Ag Products, J.P. Carrara concrete and Standard Register paper products, have shown interest in possibly using the railway's excess capacity. Moreover, the towns which will have decreased truck traffic will also benefit. {Ed Barna in Rutland *Herald* 18.Jan.06}

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## QUEBEC/MARITIMES

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### MMA: L'ESTRIE EXCURSION

January, Sherbrooke. **A NEW TOURIST TRAIN WILL OPERATE BETWEEN SHERBROOKE AND BROMONT** on the MMA rails, from 1 May to 31 December, called the *Orford Express*. It will consist of two Budd rail diesel cars, one serving as a dining cars. {company website}

During the TRAQ (Transport sur rail au Quebec) annual convention, held in Sherbrooke in 2006, attendees will ride the Express and enjoy a five-course meal. {TRAQ website}

#### MMA comment

Bob Grindrod, MMA president, wrote that the RDC cars still require inspection and certification as safe for the carriage of passengers by Transport Canada

The trains will run from the rehabilitated former CPR passenger depot in Sherbrooke, now owned by the city, to Bromont. They will run a maximum of five days per week. {e-mail to ANR&P 27.Jan.06}

#### Background

The owner, Father Donald Thompson, formerly operated the equipment as the Train Touristique du Haut Saint-Francois, on the QCR, out of East Angus. The *Orford Express* operation is a part of Thompson's chemin de fer Canton-de-l'Est (Eastern Townships Railway). He is a qualified engineer on the QCR.

### CN LOST CUSTOMER

[See *Connecticut*.]

### HALIFAX INLAND TERMINAL STUDY

24 January. **THE STUDY ON CREATING A CONTAINER TERMINAL INLAND** is complete but not yet public, said Dave McCusker, director of regional transportation for the Halifax Regional Municipality. The Regional Planning Committee will see the documents on 15 February, when he is prepared to make them public. {ANR&P discussion}

The study has taken some time [see 05#12A]. The Strait of Canso could serve as the terminal [see 05#12B].

### HALIFAX - OOCL

21 January. **THE OOCL CHICAGO BECAME THE LARGEST CONTAINER VESSEL TO USE THE CERES CONTAINER TERMINAL** in the Port of Halifax. At 5700 TEUs, the *Chicago* becomes the first of five post-Panamax vessels to regularly call the Fairview Cove terminal. The four other, slightly smaller, post-Panamax OOCL (Orient Overseas Container Line) vessels will begin service to Halifax shortly: the *OOCL New York* on 25 January; the *OOCL Korea* on 1

