ATLANTIC NORtheast
RAILS & PORTS
operating railroads + ports, intermodal facilities, and government environment

** Article unchanged from e-bulletin.
** Blue type shows changes from e-bulletin.

REGION
American Association Rail Superintendents: Fink, Ide, Morgan, Quinn, and Moulton presentations in Portland.


CONNECTICUT
[No report.]

MAINE
[No report.]

MASSACHUSETTS
PAS: US Representative Niki Tsongas to hold public hearing on San Vel auto facility plans.*
ST: Northpoint troubles impeding Green Line extension to Medford.*
ST: Devens C&D facility denied extra hours of operation.*

NEW HAMPSHIRE
ST v NEGS: NEGS and others have until 30 August to respond to adverse discontinuance.*
ST/NHDOT: The Department asks FRA for stimulus funds for commuter service to Concord (including buying the right of way), and for planning on the Northern line.*
ST/NHDOT: ST pullout jeopardizes commuter rail application.* NHRTA suggests Amtrak or eminent domain as alternatives.*

MBRX/ST: ST complains about NHDOT renewal of MBRX lease.** Map.
MBRX/ST: Executive Council renews lease for six months, asks Attorney General to investigate.**
MBRX/ST: Could ST generate more income from Granite State Concrete?

RHODE ISLAND
Provport: Auto carrier calls.

VERMONT
Road salt: Three of nine districts renewed.

MARITIMES/QUÉBEC
NBSR/EMRY: More details on track program, traffic.* Marwood to provide 40,000 ties, future rail customer.*

CN/Belledune: Service good, turbine parts arriving.*

A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS
Ide.

EDITORIAL
ST should stop its egregious behaviour.**

FROM THE PUBLISHER

The voluminous reporting on New Hampshire has crowded out the stimulus applications. I figure you can read those in the newspapers, but will summarize next issue, I hope.

- Chop Hardenbergh

Next issue: 14 August.

AMERICAN ASSOCIATION OF RAILROAD SUPERINTENDENTS

17 July, Portland. **THE GROUP HELD ITS ANNUAL MEETING HERE** at the Holiday Inn by the Bay.

**Fink presentation**

In his *Charge to Superintendents* presentation, David Fink, president Pan Am Railways, outlined positive changes in the railroad industry from the later stages of regulation before the Staggers Act in September 1980 to the present. He warned of current efforts to re-regulate the industry, which are generating uncertainties about the potential for downward pressure on freight rates and shrinking availability of capital from internal company and Wall Street sources that are essential for capital intensive industry.

A short film accompanying his talk illustrated some of the decaying track and equipment conditions of railroads in the 1970s, in contrast to examples of modern track, intermodal and coal trains operated by Class 1 railroads. Matt Bown, PAR employee and host for the History Channel series *Extreme Trains* was featured in the film and personally introduced by Fink during the presentation.

**Future Outlook of the Railway Industry in the Northeast**

This panel was moderated by Drew Galloway, Amtrak assistant vice-president State and Commuter Partnerships - East. [This is his actual title–all other approximations are wrong. Editor]

Speaking for Vermont, Robert Ide [who just resigned from the rail program--see People] noted there are 610 miles of railroad in that state with approximately 50% publicly owned. Their goals are to increase freight shippers and receivers, upgrade the West side corridor, extend the *Ethan Allen* to Burlington, and to reduce public ownership of railroads in the long run. More sidings are needed. Major freight shipments include forest products, Omya mineral products, petroleum, plus feeds, grains and foods. Vermont’s relationship with Amtrak is positive and on-time performance for the *Vermonter* and *Ethan Allen* has improved from 30 to 85%.

New Hampshire’s Kit Morgan quoted 459 miles of active rail corridor in that state, with 201 miles state-owned. There are 9 freight railroads, plus two Amtrak routes and tourist railroads. NH has a corridor preservation policy. The state rail budget for FY10 is $387,000, with 4.5 staff positions. It is supplemented with a special railroad fund, a revolving loan fund, and capital appropriations through bonding. There is no source of state operational funds, or direct access to a Class 1 railroad. Recent noteworthy events are closure of a paper mill (Berlin), the economic downturn, approval of environmental upgrades to the Bow power plant, which ensures delivery of coal by rail for the foreseeable future and creation of the Patriot Corridor by NS and PAR, which NH views favorably. NH’s Capital Corridor initiative to extend passenger service through Nashua and Manchester to Concord is a $300 million proposal with estimated ridership of 3,000 per day plus improvements to freight service [see New Hampshire].

Patricia Quinn said the Downeaster has a 52% cost recovery factor (revenue as a percentage of operating costs). For FY ridership increased 7% to a total of 471,291 passengers, with revenue totaling $6.2 million. Annual marketing cost for the service is $480,000. Quinn discussed two stimulus project proposals for the service. First, $35 million for infrastructure upgrades to extend service from Portland to Brunswick using existing rolling stock. Second, developed in coordination with PAR plus New Hampshire and Massachusetts, improvements throughout the route between Portland and Boston, aimed at reducing travel time between those cities to approximately two hours and providing capacity for two additional Downeaster daily round trips (5 to 7).

Maine’s Nate Moulton noted that MaineDOT’s Critical Rail Corridors program funding was reduced from the requested $16 million to $2 million which, with $2 million from other sources, gives the department $4 million for
rail projects in FY10. Several freight projects will be submitted under the stimulus discretionary funding program, recognizing the relatively small amount available for freight rail grants compared to passenger funding under the high speed intercity passenger rail program and the highly competitive nature of these grants. Moulton also discussed the updated State Rail Plan for Maine that is now in the data gathering stage. {thanks for this coverage to Jack Sutton of MRG}

**FEEDER SHIP PROPOSAL**

16 July, Melrose, MA. **TWO ENTREPRENEURS PROPOSE TO RESTART THE FEEDER SHIP BETWEEN HALIFAX AND BOSTON**, with a Portland call. John Hudson and Noreen Bartolo, principals of the shipping agent Atlantic Maritime Transit Agency, believe that after a startup period of nine to twelve months, the ship could make money.

### TEUs IN FEEDER SHIPS

<table>
<thead>
<tr>
<th>Operator</th>
<th>Year</th>
<th>First Qtr</th>
<th>Second Qtr</th>
<th>Third Qtr</th>
<th>Fourth Qtr</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>HALSHIP</td>
<td>2005</td>
<td>4768</td>
<td>5223</td>
<td>5571</td>
<td>5566</td>
<td>21128</td>
</tr>
<tr>
<td>HALSHIP</td>
<td>2006</td>
<td>5014</td>
<td>5450</td>
<td>1054</td>
<td>----</td>
<td>11508</td>
</tr>
<tr>
<td>NECA</td>
<td>2007</td>
<td>----</td>
<td>----</td>
<td>1309</td>
<td>1667</td>
<td>2976</td>
</tr>
</tbody>
</table>

The operation

AMTA proposes a weekly, fixed day voyage with a vessel capable of 15 to 17 knots carrying 350-500 TEUs. It would have a length overall of 500 feet, and plugs and generator capacity for 70-100 refrigerated containers.

### Income

The ship would have three income streams: the traditional ocean carriers such as Hapag-Lloyd and the Grand Alliance, local cargoes between New England and the Maritimes, and a new lane between New England, Canada, and the carriers serving the Caribbean and Central America.

The feeder line Halship in 2005 totalled 21,28 TEUs, and continued in excess of 5,000 TEUs per quarter until it stopped in July 2006 [see 06#07B]. The NECA (New England-Canada Express) service by Eimskip was growing toward 5000 TEUs when it halted in November 2007 [see 07#12B]. {page 8} NECA charged around $900 per TEU. {page 19} Using that figure,1 and conservatively estimating 9700 lifts for the first year {page 36}, AMTA estimates a revenue of $8.71 million.

### Next steps

In 2008, Hudson and Bartolo first put together this proposal in response to interest expressed by Oceanex in restarting the feeder ship. That did not come through, so AMTA is reaching out in two realms: working with port authorities and other industry stakeholders to interest ocean carriers in the project, and increasing awareness of the potential service among customers.

One idea AMTA is considering is “reaching out to all carriers in Halifax, to share the risk, by forming an operating entity everyone participates in.” The entity would then hire AMTA to find the ship and operate the service.

AMTA is also communicating with the board of CONECT, the Coalition of New England Companies for Trade,

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1 In estimating revenue we took the total of our first year volume projections (pp.30-36), 9681 lifts. Multiplying that by the 900.00 rate gives a total of $8,712,900. Obviously, a sizeable portion of that 9681 will be 40-footers, and therefore carry a slightly higher revenue. Further, reefer business (estimated at 1640 containers) would have a surcharge. However, empties could not support that kind of rate so a certain portion (estimated 10.8%) of the traffic would move at substantially less than 900.00/per container. {e-mail to ANR&P from Hudson}

[If AMTA carried the 5000 TEUs/week achieved by Halship at $900 each, that would produce a quarterly income of $4.5 million, or approximately $300,000 per week. However, AMTA notes that the 21,128 teus Halship carried in 2005 were at much lower rates than those that NECA charged, in part because volume guarantee arrangements were in existence for some ocean carriers. Editor]
and hopes to meet with its members to illustrate the advantage of the feeder ship.

Expenses
AMTA estimated per voyage expenses as $162,448:

<table>
<thead>
<tr>
<th></th>
<th>Boston</th>
<th>Portland</th>
<th>Halifax</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Port costs</strong></td>
<td>$7,651</td>
<td>$3,683</td>
<td>$6,138</td>
<td>17,472</td>
</tr>
<tr>
<td><strong>Cargo handling</strong></td>
<td>42,728</td>
<td>12,925</td>
<td>38,638</td>
<td>94,291</td>
</tr>
<tr>
<td><strong>Vessel costs</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>charter $3500/day</td>
<td></td>
<td></td>
<td></td>
<td>24,500</td>
</tr>
<tr>
<td>fuel 55.5MT @$410</td>
<td></td>
<td></td>
<td></td>
<td>22,755</td>
</tr>
<tr>
<td>owner’s expense</td>
<td></td>
<td></td>
<td></td>
<td>630</td>
</tr>
<tr>
<td>Total direct vessel</td>
<td></td>
<td></td>
<td></td>
<td>50,685</td>
</tr>
<tr>
<td><strong>Total per voyage</strong></td>
<td></td>
<td></td>
<td></td>
<td>$162,448</td>
</tr>
</tbody>
</table>

* Pilotage, line handling, tug cost (contingency only), dockage, government fees, agency fee. The principal difference among the ports lies in the agency fee and the pilotage. Exact figures available by request to the principals.

** Hudson explained that the cargo handling costs were much higher in Boston and Halifax, not only because the larger ports handled more boxes, but because labor costs were higher. "In Portland, the stevedores will work with you," as they are aware "they need to keep a lid on costs to keep the ships coming."

What about federal stimulus funds?
Here the international route encounters an obstacle. Neither federal government wants to provide funds which would be at least partially spent in another country. {ANR&P discussion}

One positive reaction
Jack Humeniuk, International Longshoremen's Association representative and chief of operations at the Portland container terminal, has talked with Hudson to help him produce the “updated, realistic cost analysis.”

Asked if the service could thrive, Humeniuk said, “In light of the last two or three years, with Iceland going bankrupt and the SPM [Halship] fiasco,” it won’t be easy. But “it will get reinstated, it’s just a matter of time. If the Port of Halifax pushes it, maybe it will.”

He estimated the New England contribution to the service at 20-30,000 TEUs per year. {ANR&P discussion 29 Jul. 09}

** REDUCE HMT FOR SHORT SEA? **
The US Harbor Maintenance Tax (HMT) consists of a 0.125% tax assessed on non-bulk cargo transported between U.S. ports and cargo imported to the U.S. Some argue that eliminating the tax will level the playing field between trucks, rail, and vessels carrying the same sort of cargo. That would in turn encourage the development and use of freight ferries to move cargo efficiently, reduce congestion at border crossings, and reduce air pollution.

General bill in Congress
In March 2009, Senator Frank Lautenberg (D, New Jersey) introduced S.551, which would amend the Internal Revenue Code to exempt from the harbor maintenance tax commercial cargo (other than bulk cargo) loaded at: (1) a port in the U.S. mainland and unloaded at another such port after transport solely by coastal route or river or...
unloaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or (2) such a port in Canada and unloaded at a port in the U.S. mainland. [This bill would appear to cover the Halifax-Portland-Boston feeder ship. Editor] {Library of Congress website} 

**Great Lakes only bill**

On 23 July, Democratic Senators Debbie Stabenow and Carl Levin of Michigan introduced the Great Lakes Short Sea Shipping Act (S. 1509), covering only the St. Lawrence Seaway System. {press release from senators}

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**MASSACHUSETTS**

**PAS: EYE ON SPECTACLE POND***

13 July, Ayer. **US REPRESENTATIVE NIKI TSONGAS WILL HOLD A PUBLIC HEARING ON THE IMPACT OF THE SAN VEL AUTO FACILITY** on 29 July at the Ayer Town Hall. Rob Hartz, president of the Littleton-Ayer Spectacle Pond Association, told Ayer selectmen that the EPA and the Massachusetts DEP are saying to PAS: “You need to show evidence you are heeding these regulations.”

Hartz said opponents of paving the Spectacle Pond aquifer are encountering the “19th-century world view” of the rail companies, where wielding power is the normal mode of operation. “We need to move them and us into the 21st century to use consensus-building instead... I'm hopeful now that the EPA and the DEP are involved. Putting toxins over a public water supply is a pretty dumb idea.”

“It's not too late to get all stakeholders to the table,” Hartz said. He noted that the rail companies are being encouraged to attend the 29 July hearing.

Site preparation is complete. Paving could begin as soon as electrical power becomes available on the property.

**State meeting**

State Senator Jamie Eldridge will hold a meeting on the auto site at the Water Department building on 20 July. {Prudence Brighton in Lowell Sun 14 Jul.09}

**ST: REAL ESTATE TROUBLES***

13 July, Somerville. **THE FAILURE OF PAN AM'S NORTHPOINT PROJECT IS HOLDING UP THE GREEN LINE EXTENSION**. While Pan Am Railways has tried to sell its interest [see 08#05A] in the commercial plus residential plus light industrial development in its former rail yard here, additional costs have come to light which any buyer might need to pay. A November 2008 memo from a ‘Berkeley consultant’ [not otherwise defined-editor] sketches out more than $257 million in infrastructure costs associated with the project; the new MBTA Green Line Lechmere station which Pan Am promised as part of Northpoint only accounts for $111 million of that sum. The rest consists of considerable work to Monsignor O’Brien Highway and First Street, new roads and utilities inside the project’s perimeter, parking, bonding fees and carrying costs. Some $20 million of this work has already been completed, but $237 million remains outstanding, and will become the responsibility of whichever developer eventually buys out Pan Am and NorthPoint Cambridge.

NorthPoint’s troubles have set the relocation of the Lechmere Station back several years. That, in turn, has threatened the entirety of the $600 million Green Line extension to Somerville and Medford, which the state is legally mandated to complete by the end of 2014. {Banker and Tradesman cited by Somerville Transportation Equity Partnership 13 Jul.09}

**ST: CUSTOMER TRIES TO EXPAND***

9 July, Ayer. **THE DEVENS ENTERPRISE COMMISSION DENIED EXTENDED OPERATING HOURS** to the Devens Recycling Center. The Commission did agree to a designated lay-off area where customers can leave
clean, empty containers in an enclosed outdoor space, fenced, landscaped and screened from view. The containers - from construction debris only - get trucked out again later. {Nathan Jones in Ayer Public Spirit 17.July.09}

The Center handles C&D, some of which moves out by rail [see 07#04A].

NEW HAMPSHIRE

ST v NEGS: STB RESPONSE DATES*
16 July, DC. THE BOARD PUBLISHED ST’S APPLICATION FOR ADVERSE ABANDONMENT, asking the Board to revoke NEG’s operating authority on the lines owned by ST [see 09#07A].

Any interested person may file written comments concerning the proposed adverse discontinuance or protests (including protestant’s entire opposition case) by August 30, 2009. Replies and rebuttal to written comments and protests shall be filed and served by applicants by September 14, 2009. {STB website, decisions page, Docket No. AB-32 (Sub-No. 100)}

ST/NHDOT: STIMULUS FUNDS*
10 July, DC. NHDOT SENT TWO PRE-APPLICATIONS FOR STIMULUS FUNDS TO THE FRA, as required by the terms for the $8 billion made available by the Obama administration [see 07#06A Vermont].

In his undated cover letter, Commissioner George Campbell said the state was seeking funds to ‘implementing the federally-designated Boston to Montreal High Speed Rail Corridor project....’

‘The first pre-application is our “shovel-ready” project to implement intercity rail passenger service connecting the two state capitals of Concord and Boston...this project will be primarily directed to improving the now freight-only portion between the state line and Concord to intercity passenger speeds.

‘The second pre-application is for planning and engineering funds to rebuild the railroad on sixty miles of right-of-way already owned by our state [the Northern line from Concord to West Lebanon – editor]. This is the only missing trackage on the designated High Speed Rail Corridor to Montreal, and the planning and engineering function is a necessity for that portion at this time.’

Private funds were raised to make the application
Pete Burling, chair of the New Hampshire Rail Transit Authority (NHRTA), said on 12 July that the authority had moved ahead to obtain private donations to hire consultant TranSystems to complete the Pre-Application and Application. The minutes of the Authority meetings in late spring make clear that its members worked hard to find the funds and to find a consultant to do the applications.

Details on Capital Corridor
The information filled in by NHDOT on the FRA pre-application form included these points:

- (9) Construction start date 1 October 2009, completion 30 October 2010, service 1 November 2010.

- ‘(11) Total anticipated project/program capital cost (in millions of dollars)(Note: preapplication estimates will not be binding): $300 million includes ROW purchase’ [Emphasis added. A source said this term was not further defined in the Pre-Application. {ANR&P discussion 15.Jul.09}]

- (12) Matching funds of 15% will be paid.

- (14A) ‘Farebox revenues estimated at approximately 50%’ of operating funding....[balance of funds] some CMAQ funds reserved, other initiatives underway for balance of funds needed.’

- (18) FRA question: Provide the status of agreements with railroad(s) that own the right-of-way. NHDOT answer:
Pan Am Railways, Massachusetts EOT. [No details about the status provided. Editor] {text of application and cover letter}

**ST/NHDOT: ENDS TALKS**

13 July, Concord. **ST ENDED THE NEGOTIATIONS TO START COMMUTER RAIL TO CONCORD.** A letter dated 13 July, also made available to the Manchester *Union Leader*, arrived on the same date for Commissioner Campbell. Its text:

> It is with the utmost disappointment that I am writing to inform you that Pan Am Railways (“PAR”) cannot in good conscience continue negotiations with the Department of Transportation (“DOT”) for the implementation of passenger rail service on PAR lines in New Hampshire. As you know, we are extremely concerned with the conduct of DOT in its relationship with Representative Leishman, including the steps that DOT is willing to take to appease Representative Leishman and his colleagues. Quite simply, your prior expressions of frustration regarding Mr. Leishman’s actions and control over DOT’s budget and your concern with challenging him, as well as your apparent willingness to ignore the failure of Mr. Leishman’s railroad company to properly renew its agreement lead us to conclude that it is no longer possible to continue negotiation of a complicated passenger rail relationship in which mutual trust is critical.

> Please return all materials provided by PAR in relation to the passenger rail negotiations to my attention immediately.

*Sincerely,*

/s/Rob Culliford PAR senior vice-president and general counsel

**ST/NHDOT: STIMULUS JEOPARDY**

15 July, Concord. **THE PULLOUT OF ST FROM THE COMMUTER RAIL NEGOTIATIONS** puts the department’s application into jeopardy [see other article]. The FRA has clearly stated that the freight operator on any proposed high-speed corridor project must be a willing partner. ST’s removal of itself from negotiations [see other article] means that New Hampshire plans are dead, unless ST changes its position before 24 August, the date final applications are due for Track 1 (the commuter service) and Track 3 (the Northern planning). {editor}
Impact of ST action: NHRTA press release

‘NHRTA Chairman Burling reacted [on 15 July] today to news that Pan American Railways has terminated negotiations relative to passenger train use on Pan Am trackage in New Hampshire. Said Burling:

“All of us at the New Hampshire Rail Transit Authority remain focused on the task of successfully delivering enhanced passenger rail service to the people of New Hampshire. In concert with our New England sister states, we have filed our pre-applications for Federal stimulus money, and we are confident that we will be successful in that application process. The grant filing effort was made possible by the people and business community of our state, whose pledges totaled a remarkable $121,000 to pay for the services of our writers [see other article]. Nothing could have demonstrated the support for the New Hampshire Capitol Corridor Project as clearly.

“We see three ways for us to move forward at this point. First, Pan American Railways may return to the bargaining table. The fact that the project we envision will invest one hundred and fifty million dollars into their infrastructure might renew their interest, particularly if their customers are supportive of the idea. Or, the State legislature may decide to exercise some of its power relative to the railroad, including the power of eminent domain. Finally, our efforts to persuade Amtrak to operate the passenger trains we desire between Concord and Boston may prove successful. Amtrak already operates the Downeaster and the Vermonter. Our Capitol Corridor train would be an obvious “neat fit” in their set of New England trains. We will not close the door to any of these approaches.”

Burling is chair of the N.H. Rail Transit Authority, whose 28 members are charged by the law to return and improve passenger rail service for the people of New Hampshire. {text of press release}

How to read the pre-application terms

In a telephone interview on 15 July, Burling said the inclusion of funds to purchase the right of way [see other article] was intentional, and the omission of any characterization of the state of negotiations with ST was “probably deliberate,” though he did not write the pre-application. “Up to this point we have been co-negotiators with Pan Am.”

“Ever since Pan Am approached the department in 2004 with a plan to resume passenger rail, we have threaded our way through a complex process.” When the stimulus package came along, it provided an opportunity to implement the plans. {ANR&P discussion}

ST v MBRX: FINK HITS NHDOT**

13 July, Concord.  **ST ACCUSATIONS OF MISCONDUCT BY NHDOT WERE REVEALED** when Pan Am Systems President David Andrew Fink [son, and Pan Am Railways (ST) President David Armstrong Fink] sent a copy of his letter to Governor John Lynch to the Manchester Union Leader.

**ST letter to Governor Lynch about agreement renewal**

On letterhead of Pan Am Systems:

As a longtime New Hampshire resident and business owner, I am writing for your assistance to address an alarming trend in the manner in which publicly elected and appointed representatives in New Hampshire conduct their business and the

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2 The NHRTA met formally on 14 July but lacked a quorum. It discussed the events of the past few days, and decided that Burling should issue this press release under his own name. {ANR&P discussion with Kit Morgan, who attended, 15.Jul.09}

3 After spending most of its existence avoiding press calls, with the accession of David Fink junior to the presidency ST has much more frequently made its position public.

4 Address 400 Amherst St., Suite 405, Nashua, NH 03063. [Pan Am Systems owns Pan Am Railways and Pan Am Airways and Boston-Maine Airways. Editor]
business of the state. As a result of a series of acts explained in more detail below, I am growing increasingly concerned that the Citizens’ Legislature is no longer acting solely in the best interests of the residents of New Hampshire, and is moving in a direction whereby power and interest garnered from public office is used for personal gain for office holders and their allies. This conduct is quickly eroding the transparency and integrity that is required of all public officials to maintain the respect and confidence of the public in its government.

Because of several concerns with the conduct of Representative Peter R. Leishman (D–Peterborough), my office submitted a request to review Government Records maintained by the Department of Transportation (“DOT”) on April 7, 2009 relating to Representative Leishman’s ownership of the Milford Bennington Railroad Company, Inc (“MBRR”) which operates over a state owned rail line between Wilton and Bennington, New Hampshire. While those documents produced to date in response to this request have been relatively innocuous, the disclosure of one document in particular has led to a series of events that have shaken my confidence in the government of New Hampshire.

More particularly, one of the documents produced by DOT was the agreement under which MBRR operates over the state owned line, which by its terms was to be have [sic] an initial ten year term with no renewal unless MBRR were to notify DOT of its intention to negotiate a renewal for an additional ten years by certified mail no later than one year before the July 31, 2009 Completion Date of the agreement. Further, the agreement also provides that even if such notice is sent, the State and MBRR still must negotiate a renewal to be in effect by February 1, 2009, or DOT would have the option to seek requests for proposals from other applicants to operate the state owned line.

When further review of the Government Records disclosed by DOT failed to produce a copy of the timely filed certified letter from MBRR expressing its intention to negotiate or [sic] the renewal agreement dated on or before February 1st, I orally inquired of DOT Commissioner Campbell to determine what, if anything, he knew about this matter, and his response was the first sign that something was amiss in the way that our state is governed. Specifically, at the time of my inquiry, Commissioner Campbell informed me that he was unaware of any renewal of the agreement, but that he was currently seeking approval of his budget and that Representative Leishman’s membership on the House Finance Committee could adversely affect that budget if the Commissioner were to cause any disturbances. Consequently, the Commissioner requested that any formal inquiry be delayed until the completion of the budgetary process. While the disclosure by an appointed Commissioner that he was concerned about retaliation by an elected official for an inquiry into that official’s business affairs was troubling, I was willing to withhold a written inquiry until such time as Commissioner Campbell felt the timing was right.

Unfortunately, there was no word from Commissioner Campbell for close to a month, and I was left with no choice but to inform the Commissioner that a written inquiry into the status of MBRR’s renewal would be forthcoming on June 17, 2009. This inquiry was ignored until July 1st, when the Commissioner informed me by telephone that he was contacted by House Finance Committee Chairperson Majory Smith (D–Strafford) and was told to execute a renewal of MBRR’s agreement that the Commissioner had not known existed prior to this contact, but which plainly was not executed prior to February 1, 2009. Notwithstanding the fact that there had been no contradiction of the fact that the agreement was due to expire and that the commissioner knew that Pan Am Railways would be submitting a proposal to operate the line if the agreement were not renewed that would provide more revenue to the state, on July 8, the commissioner informed me that he had executed a renewal of MBRR’s agreement.

As a result of this unfortunate series of incidents, it is becoming increasingly clear that certain elected representatives are subject to a different standard than the general public, and that their failure to abide by straightforward contract terms will be ignored with the assistance of their colleagues. To reiterate, since the discovery of the termination provisions of MBRR’s operating agreement, the following events have occurred:

1. Commissioner Campbell requested that any inquiry be kept confidential until the budgetary process was complete because of his fear of retaliation by Representative Leishman.
2. Commissioner Campbell essentially confirmed that the MBRR agreement had not been properly renewed.
3. Commissioner Campbell ignored the failure by MBRR to follow the renewal terms of its agreement because of a request by Representative Leishman’s colleague on the Finance Committee and executed a renewal of the agreement.

That this behavior is bad enough goes without saying, but it should also be noted that the Commissioner’s acquiescence to the authority of Representatives Leishman and Smith have also caused harm to the taxpayers of New Hampshire at a time

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**NHDOT-MBRX Agreement terms**

NHDOT and MBRX agreed on the initial five-year agreement in June 1989. In 1994, they extended the agreement for five years, and then in 1999, for ten years.

The current renewal clause, 1.15, states:

The Contractor shall notify the State by certified mail no later than one year prior to the Completion Date, that the Contractor wishes to enter into renegotiations for a new Agreement for an additional ten (10) year period beginning August 1, 2009. If the Contractor and the State cannot agree upon a new Operating Agreement by February 1, 2009, the State may at that time solicit new Request for Proposals to operate the Line and have no further obligations for renewal of this Agreement with the Contractor.
when revenue is desperately needed, because DOT ignored its contractual right to seek proposals from third parties to operate the line. Specifically, MBRR’s operating agreement mandated that a percentage of revenues be paid to the State as rent and also used to maintain the State’s property, meaning that the more revenue that MBRR earned, the better the return for the State on the use of its asset. However, MBRR currently serves only one customer on the state owned line, Granite State Concrete, a company with which Representative Leishman has had a long relationship, and a review of the rates being charged by MBRR to Granite State clearly shows that they are less than one half of what a reasonable rate would be in a traditional railroad/shipper relationship. As a result of this arrangement and DOT’s unwillingness to pursue more lucrative proposals in accordance with the original agreement, the State is losing thousands of dollars in potential revenue at a time when significant budget cuts and layoffs are occurring while Granite State continues to benefit from lower than market transportation costs.

Finally, this is not the only instance where Representative Leishman has utilized his role as an elected official to either benefit himself or his associates personally. Representative Leishman’s motives have also been questioned in relation to his introduction of legislation to assist the expansion of Granite State over the objections of many in Wilton, though for reasons that remain unclear no ethics complaints were pursued at that time. But perhaps more egregiously, Representative Leishman also introduced legislation to study the feasibility of the State acquiring all rail lines in the State without disclosing that he had been pursuing an acquisition of Pan Am Railways property for years and had been constantly rebuffed until a Pan Am Railways representative informed the Senate Transportation Committee of this fact. Also, when questioned as to why he was pursuing this bill by Commissioner Campbell, Mr. Leishman’s response was to say that if he could acquire this property from Pan Am Railways, the bill would go away.

This is indeed true tragedy that results when public officials are permitted to ignore the Principles of Public Service published by the Legislature.....

While I recognize that the Legislature has primary responsibility for maintaining the integrity of that institution, I am asking for your assistance to “Let the sun shine in” on government because “It’s the best disinfectant” as Justice Brandeis so aptly put it man years ago. I do hope that you will investigate these matters, and I am available to discuss them at your convenience.

Sincerely, /s/ David A Fink

Response by state representative
Smith on 13 July denied contacting Campbell or telling him to execute the contract. “I've never asked for anything special, nor would I,” said Smith, who also questioned Pan Am's record of providing service in Massachusetts and Maine.

As for Pan Am's threat to discontinue passenger rail talks, Smith said, “That is really quite amusing.” {John Distaso in Manchester Union Leader 14.Jul.09}

Leishman position
In a telephone interview on 12 July, before the letters were made public, Leishman outlined the steps he had taken to renew his agreement.

- Although the trackage rights agreement requires MBRX to send a certified-deliver letter to the department at least one year before expiration of the current agreement period, Leishman only telephoned the department in 2008 to renew the agreement for a fourth period, but well before one year prior to the end of the agreement period.

- The department accepted his telephoned request to renew, as it did when he renewed at earlier times. While the agreement’s section 1.8 states that ‘any notice...shall be deemed to have been delivered...at the time of mailing by certified mail...’ communications have occurred by telephone.

- The department sent him a draft agreement with some new terms required because of changes in the ensuing ten years.

- Leishman reviewed the changes with his attorney when he became aware of the brouhaha.

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5The bill failed. See 09#05B.
The ST effort looks peculiar, because ST sold the line to the state in 1989, because it had no traffic. Peter Leishman revived the operation in 1992, after a three-year battle with ST, by offering to Granite State Concrete [our Directory #80] moving its aggregate from a quarry in Wilton to its processing facility in Milford [#76].

He sent the signed agreement back to NHDOT, and in early July met with the commissioner to obtain NHDOT’s signature. {ANR&P discussion}

**ST v MBRX: LEASE RENEWAL**

15 July, Durham. **THE EXECUTIVE COUNCIL VOTED TO GIVE A SIX-MONTH EXTENSION OF THE MBRX AGREEMENT**, and to ask the NH Attorney General to investigate charges by ST.

Leishman supported the outcome, because of the serious allegations Fink had made against him and the commissioner. Councillor Ray Burton said: “Given all that was said, we took the appropriate action in extending the current lease and giving the Attorney General and the Department of Transportation the chance to look into concerns registered by anyone.” {ANR&P discussions}

What would normally have been a routine approval of a routine agreement by MBRX of the state-owned line was thrown into turmoil by ST’s desire to bid against MBRX. 7 Pan Am Systems President David Fink senior

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6 Technically a trackage rights agreement. *Editor*

7 The ST effort looks peculiar, because ST sold the line to the state in 1989, because it had no traffic. Peter Leishman revived the operation in 1992, after a three-year battle with ST, by offering to Granite State Concrete [our Directory #80] moving its aggregate from a quarry in Wilton to its processing facility in Milford [#76].
claimed to have discovered a flaw in MBRX renewing its agreement, and attacked NHDOT Commissioner George Campbell\(^8\) for renewing the agreement [see other article].

On 13 July, ST sent to at least one councillor of the Council a registered letter on its position about the agreement.

**The agenda item**
As the last item on its agenda, the Executive Council has this:

\(^{163}\) Authorize Bureau of Rail & Transit to renew a sole source Operating Agreement dated August 1, 2009 with the Milford-Bennington Railroad, Milford, NH, (previously approved by G&C on 7-21-99, late item \(^{#U}\)), to provide rail freight service on the State-owned portion of the Hillsboro Branch railroad line. Effective upon G&C approval through July 31, 2019.

**Leishman statement to Executive Council (not presented)**
Leishman attended the meeting of the Executive Council. While some members requested he be allowed to speak, the governor decided against that. Leishman’s statement:

In 1985 Pan Am Railways predecessor Guilford Transportation fought successfully to abandon the rail line between Wilton and Bennington. It was a bitter dispute between the railroad’s major customer in Bennington\(^9\) who fought to preserve rail service, and the railroad’s president, Mr. Fink, who sought to withdraw from the line. Mr. Fink won discontinued service and sold the rail line to the state of New Hampshire.

After Guilford abandoned the line, I formed the Milford-Bennington Railroad because I believed it would be possible to reactivate at least a portion of the abandoned line and run a successful freight service...

In 1989 I entered into a five-year lease with the New Hampshire DOT and began operating a service between a quarry in Wilton and a processing plant in Milford owned by Granite State Concrete. Milford-Bennington operated over about 3 miles of state-owned rail line subject to our lease and 3 miles of line owned by now Pan Am. I secured the right to run from the ICC/STB over the Pan Am line and continue to hold that right. The DOT contributed some funds and I invested private funds and began a long process of fixing up the state owned rail line which at the time was in deplorable shape and we began providing service.

When the 1989 lease expired in 1994 I renewed the lease under its renewal terms and continued operating for another 5 years. We made the railroad a success by providing quality service and by continually investing in the state owned asset. When the 1994 lease was nearing its end I renewed the lease again in 1999 this time for an additional 10 years. I was confident in our ability to invest in the property and run a good rail service and the DOT was confident that I was and would be a quality operator.

Over a year ago the New Hampshire DOT and Milford-Bennington initiated another improvement project on the line and I continued to invest private funds in the state-owned asset along with some DOT funds. We both knew that I was investing in the future. I made it clear that I was investing more money in the line to build for the future. I also made it clear that I intended to renew the lease and continue the service just as I had in the previous renewals in 1994 and 1999.

Over the course of this past year the staff at the Department and I discussed provisions of the lease and agreed on a renewal. There was a clear understanding that I planned to renew, to continue to invest and to continue to operate a quality service. The agreement provided a mechanism for the DOT to seek another operator and I made it clear I had no intention of withdrawing. The staff completed the renewal agreement, sent it to me for signature just as they have in past years and I signed and returned the document prior to its expiration. It is that agreement that is before you today.

I should also point out that Milford-Bennington has consistently maintained and invested in the line between the Granite State quarry and Wilton and it is in excellent shape. The line meets or exceeds FRA Class 2 conditions which is better than most rail lines in New Hampshire (the lease requires us to maintain to a lesser standard of FRA Class 1). Our operations are periodically inspected by the Federal Railroad Administration and by the NHDOT track inspector and it is very rare that

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\(^8\) Again, a peculiar effort, as Campbell once served as an ST official, and had taken a mild-mannered approach to the NS-ST deal at the STB [see 08#08A], despite the chance to weigh in on behalf of MBRX and NEGS, each already in a protracted battle with ST.

\(^9\) Monadnock Paper, still in existence, but no rail service.
they find even minor defects. In addition we also perform some maintenance on the line from Lyndeborough to Bennington even though we don’t operate over it. We do that to make sure it remains intact so it is available for the future. We have restored culverts, cut brush, and generally kept it open as an important transportation asset here in New Hampshire.

In the past few days several statements attributable to Pan Am President Fink suggest that continued operation by Milford-Bennington would jeopardize his plans to extend commuter rail operations to Wilton or interfere with Pan Am’s desire to operate beyond Wilton. In fact I have granted Pan Am the right to operate their trains to the Pike Quarry (Wilton/Lyndeborough) and in the past they have done that. I would have no problem giving Pan Am the right to operate all the way to Bennington. I would be delighted if they would improve their line between Milford and Wilton to passenger standards because today it is difficult for us to operate safely on Pan Am track at speeds as slow as 10 mph or slower. [See 08#08B.]

Milford-Bennington has a long standing relationship with Granite State Concrete and they have made it very clear to me and to the Transportation Department that they want us to continue to serve their two facilities. In fact, we have a common carrier obligation to do that and it is certainly something I want to continue. I want to make it clear though that Milford-Bennington has no interest in standing in the way of Pan Am’s goals of extending commuter rail service to Wilton or freight service to Bennington. I should also point out that in the past Milford-Bennington supported passenger rail operations and agreed to the operation of a scenic passenger service between Wilton and Greenfield. Passenger services operated over our line for three years until the owner of the scenic railway passed away unexpectedly. [text from Leishman]

**ST: MORE ON THE HILLSBORO?**

24 July, Concord.  *ST’S ROB CULLIFORD ARGUED THAT THE MBRX WAS UNDERCHARGING GRANITE STATE,* in a recent letter to NHDOT Commissioner George Campbell. The contract between the railroad and the concrete company results in a ‘subsidy’ to Granite State Concrete ‘at the expense of New Hampshire taxpayers.’

Under the agreement, MBRX charges the company $85 per rail car to move stone from Wilton to Milford [see map]. That price was confirmed by Leishman.

Under federal law, wrote Culliford, a railroad is allowed to charge a client up to 180% of its variable costs, which include fuel, labor and maintenance. MBRX could charge Granite State Concrete $300 per car and ‘still be reasonable’ under the law.

If MBRX charged only 110% of variable costs, it could be receiving $150 per car, per Culliford. Instead, MBRX is collecting slightly more than half ‘of what a very conservative reasonable charge would be.’

Under a 10-year agreement signed in 1999, MBRX pays the state 5% of its freight operating revenues as a users fee to the state. As a result, the state receives $4.25 per rail car. According to Culliford, the state could be receiving as much as $15 per car. Fink and Culliford believe the state could potentially double its take.

**Leishman response**

Leishman said that despite federal limits on how much a railroad operator can charge, common sense requires an inexpensive rate. If he charged Granite State Concrete much more, the company would shut down a rock processing plant it has on its Wilton site and resume trucking the rock out of the quarry, as it did many years ago.

Trucking would cost about $1 per ton, about 15 cents more per ton than he charges. “So, while (Pan Am) may be allowed by law to have a certain charge, it certainly doesn't force a customer to pay that price,” Leishman said. “If they're saying they could double or triple the revenue or charge $300, or even $175, that's not even a talking point. Granite State would just truck it.”

**Why is Fink upset?**

Leishman noted that Pan Am owns the passenger rail line from Nashua to Concord and “is very interested in getting $300 million in stimulus money available to bring service to the line.” In January, Leishman published an op-ed piece questioning the need for commuter service to Concord [see 09#01B].

Leishman also noted that Commissioner Campbell was formerly employed by Fink and “is now trying to get $300 million in stimulus money for his former boss. If nothing else, that makes for a good story.” [ST has pulled out of the negotiations for the commuter service. See other story.]
NHDOT position: keep the railroads operating
According to DOT spokesman William Boynton, the state received $9,887.50 in user fees from Milford-Bennington in 2008. [So by ‘doubling the state income’, ST would provide another $10,000. Enough for pencils for a year. Editor]

Another provision of the state-MBRX agreement requires the railroad to spend ‘no less than’ 20% of its annual gross operating revenue on maintenance as the exclusive user of the state-owned track. It is also obligated to spend up to $5,000 per year to help the state pay for repairs in the event of a ‘major maintenance expenditure,’ such as a bridge failure or major washout. Boynton said MBRX spent $39,550 on track maintenance in 2008.

Boynton said that while Pan Am is focusing on maximizing revenue to the state, that is not NHDOT's primary concern in the leasing of state-owned rails. “Our role as a state agency is not to maximize profit but to make sure that we do whatever we can to keep state-owned rail lines in operation. All the railroads operating on our lines are required to market the lines to shippers in an effort to make the lines economically viable and active with train traffic; and that has been done by this railroad as well as the others.

“This line was abandoned by the previous owner [ST] due to lack of business.”

State law empowers the commissioner to acquire railroads ‘for the purpose of the continued and future operation of a railroad or transportation corridor.’ Boynton noted, “A lot of rail lines have gone by the boards and have become rail trails. It's pretty much a case of, once they're gone, they're gone.” {John Distasò in Manchester Union Leader 27.Jul.09}

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**RHODE ISLAND**

**PROVPORT: AUTO CALLS**


**Abou Merhi**

This line has called Provport since at least late 2008. In November, the carrier announced the MEDX service calling Jacksonville, Wilmington Delaware, and Providence, carrying autos to Lebanon (Beirut and Tripoli) and Libya (Tripoli10). {company press release}

**Hoegh**

The line began calling Providence in July, according to a 5 June announcement.

*Middle East rotation.* Starting in Galveston, the rotation proceeds New York, Baltimore, Wilmington, Jacksonville, and Providence, before crossing the Atlantic to call Mediterranean ports (such as Beirut) as well as Middle East ports. The first call occurred on 22 July.

*West Africa rotation:* New York, Baltimore, Providence, Jacksonville, Galveston, then crossing to call West Africa and South Africa. First call 20 July. {Hoegh website}

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10 This is the Tripoli of the US Marines Hymn.
VERMONT

ROAD SALT

29 July, Montpelier. **THE STATE HAS RECEIVED BIDS FOR THE WINTER SALT SEASON**, according to Dona Bosely, senior purchasing agent [he succeeded Stuart Sellears–see08#07B], said the RFP went out 12 June for six districts: 2, 3, 5, 7, 8, and 9. He received bids back on 26 June, and expects to award the districts by mid-August.

**Unbid districts**

Three districts—1, 4, and 6—were renewed, not bid. Bosely said the contractor gave “very favorable terms as far as increases.” [American Rock Salt is the contractor–see 08#07B.] {ANR&P discussion}

QUEBEC/MARITIMES

NBSR/EMRY: MORE DETAILS*

13 July, Saint John. **NBSR HAD ADVOCATED “FOR A COUPLE OF YEARS” THE RAIL UPGRADE RECENTLY FUNDED**, said General Manager Ian Simpson. When the stimulus expenditures became available, the railway “saw the possibility of doing a program like this.” [NBSR, the province, and the federal government have designed a $36 million project to increase the line to carry 286,000-pound cars. See 09#07A.]

**Proposed work**

Cautioning that the exact work plan “will go through the managers” who will decide “where work needs to be done,” Simpson listed:

- Replacing 40,000 ties
- Changing out 17-20 miles of rail, inserting 78-foot bolted rail.
- Improving bridges, with outside bridge engineering firms.

The project’s work has “officially begun.”

**EMRY work**

For the sister railway in Maine, from Vanceboro to Brownville Junction, Simpson said “we will be working away simultaneously” to improve that line to 286 but with “no funding of Canada. It is in better shape.”

**St.Stephen branch**

The program will upgrade the branch from McAdam to St.Stephen, which also serves Domtar in Maine. Simpson said Domtar and ST were still discussing service.

The subsidy which Domtar once provided to NBSR to maintain the rail connection has “ended.”

**Traffic**

Simpson put NBSR’s traffic decline as about the same as other Canadian and US railroads, “not quite 30%.” {ANR&P discussion}

7 July, McAdam. **LOCAL COMPANY MARWOOD WILL SUPPLY THE 40,000 TIES** the railway will install. Supplying 40,000 ties over the next two years is exciting news given the slow U.S. market, Ross Creelman, managing director of Marwood, said at the railway’s official announcement. Pressure-treating the wood will take

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*Note: The asterisk (*) indicates that the details or aspects of the story are not fully elaborated or require further information for a complete understanding. The annotations (ANR&P discussion) provide additional context and insights into the story not explicitly detailed in the text.*
place at the company's Tracyville location and should help maintain eight positions over the next two years.

The company website describes pressure-treated products; ties are not among the products it lists.

**Marwood to become inbound and outbound customer**

“Once the railroad is up to the spec of other railroads, then we will be able to use it for shipping,” said Creelman. Weight-load restrictions don't make it viable for the company that ships up and down the East coast and as far away as Chicago.

“Right at the moment, with the upgrades coming, then we'll see ourselves as being a customer of the railway. Getting the cars up to the full weight, particularly for shipping a long distance, is important.” The company would also be able to use the rail line to bring wood to its plant in Tracyville. The company uses trucks, but Creelman said a switch to rail would take about 400 truckloads off the road every year.

**Other customers and rail**

Earlier this year, Soleno Maritimes of McAdam had to transload polyethylene pellets in Maine because of the weight limitations. “We had to send a truck off to Maine,” said Rob Burtt, general manager of the maker of corrugated culverts and flexible drainage pipe, which uses the rail line to bring in its raw material, polyethylene pellets. “It was very inconvenient,” he said.

Ganong Bros. Limited chair David Ganong also welcomed the improvements; his St.Stephen facility receives corn syrup and sugar rail-direct, though he did not say whether the added capacity would help. “It’s the most competitive way for us to receive those commodities.” {Shawn Berry in Fredericton *Daily Gleaner* 8.July.09}

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**CN: BELLEDUNE SERVICE**

14 July, Belledune. *THE PORT'S CUSTOMERS ARE ENJOYING “PRETTY GOOD SERVICE”* from CN, now that it has gotten through the transition period taking back operations in northern New Brunswick and northeast Quebec from New Brunswick East Coast Railway [see 09#01B]. Operations Manager Wynford Goodman said concerns expressed about rail service during the transition are now gone.

**Wind turbines**

The port continues to receive parts for the 33 turbines for the nearby Caribou wind farm [see 09#04A]. *{ANR&P discussion}*  

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**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.*

Devens Recycling Center (ST, Massachusetts) limited expansion  
Granite State Concrete (MBRX, New Hampshire #76,80)

Marwood (NBSR, New Brunswick) Supplying ties.

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**PEOPLE**

Rob Ide, who managed the rail program at Vermont *Agency of Transportation*, will become the state’s commissioner of Motor Vehicles at the end of July, according to an announcement.
Comment on Ide performance

‘He has done an excellent job, brought steady leadership, political finesse, competent management. Under his tenure, ridership on Vermont's Amtrak trains increased significantly, several important infrastructure projects were completed, the state renegotiated its contract with Amtrak so its cost varied with ridership and fuel prices, and the state has moved to apply for $125 million dollars of stimulus funds.’ {e-mail to ANR&P from Christopher Parker, Executive Director, Vermont Rail Action Network}

EDITORIAL

ST, CHANGE YOUR SPOTS!

ST (Springfield Terminal Railroad, the operating arm of Pan Am) behaviour in New Hampshire is an outrage. Clearly ST has no interest in serving anyone in the state but themselves. Let’s look at the recent record.

NEGS. (New England Southern Railroad, out of Concord) Although the customers at NEGS want the short line to stay, ST is continuing to push Peter Dearness’ operation out. ST claims NEGS has not maintained the track, yet has refused to pay the $500,000+ it owes Dearness.

MBRX. Peter Leishman has provided good service to his sole customer, Granite State Concrete, though he’s had to fight ST since 1987 to do so. Now we learn that ST would like to take over his operation. Granite State, reportedly, would never deal with ST, so New Hampshire highways would have to deal with more heavy trucks.

Pike Industries. Pike will not deal with ST since it had to go to court to get payment for ballast it supplied to ST. The Pike quarry in Wilton, which could ship by rail, now trucks out all its product.

Jones Chemical. ST has raised prices very high for in-bound ammonia, leading the Merrimack company to consider moving out of state.

Commuter rail. ST has now pulled out of negotiations with NHDOT on providing commuter service. As suggested by Pete Burling of NHRTA, the Department should proceed with Amtrak, which has the right to run on freight railroads anywhere in the country, rather than continue to deal with ST. Then the state can ignore David Fink senior’s childish insistence that the commuter service run to the metropolis of Wilton so he could get on the line near his house.

The Finks’ egregious act sticks a thumb in the eye of those private companies who generously donated to submit the Stimulus Funding application. As soon as the FRA sees that ST is not a willing participant, that application will go into the circular file. Thanks, Finks.

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Atlantic Northeast Rails & Ports 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 onto itself.’

E-SSUE