**Article unchanged from e-bulletin.**

**Blue type in article: changes from e-bulletin.**

Blue header & table of contents: new article

Regional

Logistics: 2Q11 results down slightly on US results.*

**NEW YORK**

CSXT: High-speed rail funds endangered by lack of agreement on permitted top speed.

NYA: Brookhaven Rail Terminal to open this month.

NYOG: Ogdensburg Port Authority claims theft of materials. NYOG will ignore contract termination.**

**QUÉBEC**

CP: Slowly moving ahead on Les Cedres intermodal terminal. Map.

**CONNECTICUT**

HRRC: Century, O+G quarries possible customers.

HRRC: Lenox Valley waste expanding, Automated Waste changes hands.

PW/Pan Am: Perma Treat in Durham, Connecticut will re-open its switch to PW’s line.*

PW: PW reopened the Willimantic Branch from Plainfield to Willimantic to all traffic.*

**MAINE**

Amtrak: Lawsuit for damages in truck-train collision.

**MASSACHUSETTS**

Pan Am: Loses appeal of its criminal conviction, fine, and probation for East Deerfield coverup.

**PAS-NS:** More on Global ethanol terminal.

PW: Settles with National Grid about Gardner branch.

Pan Am/NECR: Switching and idling at the Millers Falls interchange is irritating residents.*

**NEW HAMPshire**

MBRX/Pan Am: More court action - MBRX seeks mediation, Pan Am files for summary judgement.*

**RHODE ISLAND**

PW: Pond View to stay, move up to 1500 tons/day.**

**VERMONt**

[No report.]

**MarItimes**

Halifax: MOL and “K” Line suspend service.

Halifax: Increase in 2Q11 for containers.

Sydney: Dredging project moving ahead.*

**Rail Shippers/Receivers**

A cross-reference to companies mentioned here.

**People, Positions, Events**

Steve Fisk, Todd Dragland, Jeff Mullan, Richard Davey.

FROM THE PUBLISHER

My stay in the Hamptons permitted a visit to Brookhaven Rail Terminal, and next week a lunch with NYA chief Paul Victor.

- Chop Hardenbergh

Next formal issue 24 August

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REGIONAL ISSUES

LOGISTEC: 2Q11 REPORT*
3 August, Montreal. **LOGISTEC CORPORATION REPORTED THAT ‘A DECLINE IN ACTIVITY CAME PRIMARILY FROM U.S. TERMINALS,’** where ‘fruit and steel volumes were lower than last year,’ in the overall marine services segment. The US drop was offset by higher revenue in Canada so the segment’s revenue was fairly stable at $32.4 million in 2Q11, compared with $32.5 million in 2Q10, a decrease of $0.1 million.

‘Consolidated revenue totalled $50.2 million in the second quarter of 2011, down by $0.8 million or 1.5% from $51.0 million for the equivalent period in 2010.... The environmental services segment's revenue declined to $17.8 million in the second quarter of 2011, down by $0.7 million from revenue of $18.5 million for the second quarter of 2010.’ {Logistec press release}

Jean-Claude Dugas, Logistec vice-président, finances, said the fruit was handled at Port Manatee, Florida. {e-mail to ANR&P 4.Aug.11} [Steel is handled in New Haven–see 08#10A.]

NEW YORK

CSXT: SPEED AN ISSUE
4 August, DC. **NYSDOT AND CSXT SHOULD COMPLETE THE AGREEMENT ON HIGH-SPEED RAIL,** warned U.S. Senator Charles Schumer, Democrat of New York. The state and CSX have not agreed on passenger train speed for the CSXT line between Rensselaer and Buffalo [see 10#06B].

Republicans in the U.S. House of Representatives want to rescind any high speed rail funds they can find; a House proposal which failed in July would have revoked the $450 million high speed rail stimulus granted to New York.

The lack of consensus on the permitted speed–NYSDOT wants 110 miles per hour, whereas CSXT will accept only 90–has prevented final agreement and the subsequent obligating of the funds which would block rescission.

An FRA spokesperson said, “All partners are actively engaged and working in good faith to move the appropriate agreements forward as we continue to enhance and expand passenger rail service for the people of Albany.” {Albany Times Union}

NYA: BROOKHAVEN TO OPEN
5 August, Yaphank. **BROOKHAVEN RAIL TERMINAL PLANS TO RECEIVE UNIT STONE TRAINS** from upstate New York with its own power, turning the cars within a week, according to Andy Kaufman, who with Tommy Pratt is managing the operation.

D&H crews will lift 60 cars of gravel three times a week, and interchange the trains to CSXT in Albany. CSXT will run the unit train to Fresh Pond in haulage. NYA crews will split the train at Fresh Pond into two 30-car strings, and each day move one set as a unit train to Yaphank, still using BRT power.

BRT will have enough space for two thirty-car strings. Within the 12-hour service period, an NYA crew, using BRT locomotives, will spot the 30 loaded cars and pull the string of 30 empties, taking it back to Fresh Pond. Three times a week, the empties will move back to the Albany area.

The 30-car string size is dictated by the LIRR block signals, said Kaufman. “We can only run a 2600-foot block.”

His cars range from 43 to 46 feet. Adding 200 feet for three locomotives means his 30-car train is 1600 feet long. “The beauty of this using our own locomotives is that we will pay no fuel surcharge.”

Kaufman calculated that he would use at least eight locomotives: two for on-site switching, three to move the stone down, and three to move empties up.
Construction and opening
Since autumn 2010, machines have excavated much of the hill on which BRT is located, with the developers able to sell the sand to Long Island users. Over the next five years, BRT will reduce the hill by about 120 feet, to bring it to the level of the rail.

The ballast comes from his partners’ quarries. Several loaded JOGX (Jointa Galusha private cars) three-bay hopper cars are currently parked east of the terminal on the spur to another new NYA customer in the Calverton Air Park.

By the end of August, Kaufman expects to unload the first cars of gravel for customers.

The NYA work train
NYA President Paul Victor has agreed to run six dedicated trains a week to BRT, said Kaufman. [NYA now runs a daily train out the main line to Riverhead, said Victor earlier. {ANR&P discussion 3.Aug.11}]

The stone and sand operation
BRT’s partners, such as Jointa Galusha, will supply a major amount of stone to the terminal from the Albany-area quarries [up to 500,000 tons per year of which Sills will use 250,000 tons and will sell 250,000 tons into the market, according to the STB—see article and map in 10#08B].

Kaufman is not fazed by the current construction downturn. “The Town of Brookhaven alone uses 140,000 tons a year of product to pave its roads.” In the two counties of Nassau and Suffolk, users consume 10 million tons a year of asphalt and aggregate.

The layout: public terminal
Kaufman is installing two enormous undercar three-bay hoppers, from which a conveyor, through a tunnel ten feet in diameter, will move the product into the middle of a circle of product piles. A telescoping radial spout will spray the product into one of seven bins.

The setup will store 85,000 tons at one time. Kaufman said BRT is open to other stone suppliers, and to other products.

BRT is receiving a generator within days which will power the conveyor and supply electricity for the other uses on the site.

Construction, location, funding
In the past, Kaufman has operated or planned several rail-served terminals. He conceived of BRT as a competitor to the trucks serving Long Island, as they are paying the equivalent of ten dollars a ton in bridge tolls to bring stone onto the Island, which has no natural stone.

In the early 2000s he explored sites along the NYA, and found this in Yaphank. “It’s right in the middle of the Island,” he said. Moreover, the site was pronounced buildable, both environmentally and historically, by a previous planner who, intending to construct a gas-fired power plant there, spent seven million dollars investigating the site. [Another company, ???, has built a gas-fired plant less than a mile away; the sixteen-inch supply pipe passes along the eastern border of BRT.]
{ANR&P interview in Yaphank}

US Rail of New York
Initially, BRT sought to create its own tiny railroad, Suffolk and Southern, to operate the terminal. Eventually it decided [see 10#10A] to hire US Rail, a group headquartered in Ohio, and US Rail became the operator of record at the STB in September 2010.

In January 2011, the STB published notice that US Rail’s owner Gabriel Hall had created US Rail New York (USR-NY). ‘Applicant [Hall] controls U S Rail, a Class III carrier, which operates in Ohio, Indiana, and New York, and U S Rail New Jersey, also a Class III carrier, which operates in New Jersey.
As a result of this transaction, U S Rail will assign its construction and operation authority involving the Brookhaven Rail Terminal, together with the leasehold interest in the underlying property, to USR-NY. USR-NY will facilitate financing for the approved construction and subsequent carrier operations, while Applicant remains in control of both entities. 

{STB website, decisions page, Docket No. FD 35458, 7 Jan. 11}

NYOG: AUTHORITY PROBLEMS**

20 July, Watertown. THE RAILROAD AND THE PORT AUTHORITY REMAIN AT ODDS, after these developments:

Theft accusation unfounded

Ogdensburg Bridge and Port Authority Executive Director Wade Davis this week filed a criminal complaint in the St. Lawrence County Sheriff’s Department against NYOG and Mike Knowlton, the owner of the Norwood salt terminal Knowlton & Son. The complaint alleges that Knowlton and NYOG stole $45,000 of stick rail from the Norfolk freight yard in March 2008. That month, OBPA hired the railroad to clean out the scrap metal in the yard.

Davis said later that on 27 June 2011 the OBPA received information that in March 2008, 150 tons of stick rail were stolen from a yard in Norfolk, valued at about $300 a ton. “Based on the quantity and the total dollar value, the matter was referred to the St. Lawrence County Sheriff’s Office for investigation,” he said.

Davis claimed NYOG was to salvage only for general debris. On 12 July he was informed that $18,000 of metal was salvaged and used by the New York-Ogdensburg Railroad to purchase ties. “The $18,000 isn’t the issue,” he said. “It’s the $45,000 of missing rail sticks.”

Knowlton called the charge from OBPA absurd and noted he was competing with OBPA for salt terminalling, which he believes also generated Wade Davis’ attempted termination of the OBPA-NYOG contract [see 11#07A]. “It shouldn’t have come to this,” he said. “There is enough business to go around.”

Knowlton said OBPA knew about the specifics of the work in March 2008. “Now they say it was illegal.” “Everything is documented. There were invoices and emails.”

On 26 July, Detective Sargent Augustus Burns told Knowlton by e-mail that Burns advised the OBPA that Knowlton & Son Inc. is an innocent third party.

NYOG comment

“We were contacted by the sheriff’s department who is investigating this and we forwarded them all of the information that was in our file regarding this matter,” said David Wulfson, president of the Vermont Rail System.

Davis could be arrested

Undersheriff Scott Bonno said Mr. Knowlton was not a suspect. “If anyone is going to be arrested, it’s going to be Wade Davis.” The Davis claims were found to be without merit, Bonno said, but he declined to go into any specifics.

Davis can be charged with falsely reporting an incident if there is a motive behind why he is lying, Bonno said.

Davis called the complaint nothing personal against Knowlton. But Knowlton, who operates the terminal for American Rock Salt, noted that the charge comes the day after rock salt bids were released. All of his business struggles come from a bad relationship with OBPA.

OBPA has friends in government positions throughout the area that are causing strain on his company, Knowlton said. His father, Keith K. Knowlton, was St. Lawrence County sheriff for over 20 years. {Josh Gore in Watertown Times 27 July 11}

11 July. OBPA OFFERED TO DROP ITS CONTRACT TERMINATION IF NYOG:

- repaired the OBPA locomotive currently out of service;
- repaid the costs associated with the termination process OBPA initiated in May;

- renegotiated of the NYOG-OBPA lease agreement; and

- paid for the OBPA materials reported stolen in June. {Jimmy Lawton in Watertown Times 27.July.11}

12 July. **NYOG SAID OBPA WAS RETALIATING FOR THE SALT TERMINAL AND REJECTED THE OBPA OFFER.** In a letter sent this day to OBPA attorney Justin Miller, VRS President David Wulfson said the OBPA offer was made in ‘bad faith’ and the actions of the board regarding the entire dispute might be illegal. NYOG said the OBPA was acting because NYOG was serving the Knowlton salt terminal.

‘This so-called problem is one of the OBPA’s making. It is clear from the proceedings over the past year or so that this scenario commenced by the OBPA has been long in the making and has nothing to do with the “issues” that have been raised.

‘We have no doubt that we can prove that we have been threatened by the chair of the board and its executive director that if we service competitive customers on the railroad that the OBPA would do what it needed to do to terminate the lease. We were warned that a loss of salt business from the port to a NY&ORC location would be viewed by the OBPA board as the NY&ORC eating the OBPA’s lunch and would erase any good will between the OBPA and the NY&ORC, permanently damaging the cooperative working relationship between the two entities.’

The letter added: ‘The OBPA is trying to extort a locomotive from us that is worth $115,000. It is difficult to capture in words how repugnant this offer is.’

**Two NYOG counter-offers**

The Wulfson letter contained these offers:

- NYOG will repair the Authority-owned locomotive with a one-year warranty if the OBPA agrees to hold the rail company harmless for future repairs, and provide a written withdrawal of the termination notice.

Or

- OBPA and NYOG would exchange locomotives. OBPA would transfer title to the out-of-service locomotive to NYOG and pay $85,000. NYOG would transfer the NYOG-owned 801 locomotive, valued at $115,000, to OBPA, which would withdraw its termination notice.

**NYOG will continue to operate**

OBPA asked NYOG to cease operation by 7 September, but NYOG will not do so. Wulfson wrote:

‘It is our position that the notice of termination that we received from the OBPA through its counsel is ineffective and is of no legal effect. We intend to continue to our common carrier duties in full harmony with the law and our agreement with the OBPA, which we consider to be in full force and effect.’

Wade Davis said the termination letter was legal and labelled Wulfson’s stance as “theatrics....We plan to hold them accountable to the contract.”

If the two parties cannot agree, the STB may be asked to resolve the dispute. {Jimmy Lawton in Watertown Times 27.July.11 & 5.Aug.11}
QUEBEC

CP: NEW MONTREAL TERMINAL

Les Cèdres. MORE ON THE NOW-SLOWED CP INTERMODAL TERMINAL AND THE INLAND PORT HERE. [See CP comment in 11#07A re no current need for new terminal].

Past enthusiasm

In 2009, the region’s planning and development officials saw the future as a transportation, warehousing and distribution centre, assuming that Asian goods would continue to pour into eastern Canadian markets [see MOL story in Maritimes] and the region’s future lay in distributing them.

“Twenty, thirty, forty” was a favored buzz phrase at the 2010 regional planning summit, a reference to the three highways that will crisscross the region once Highway 30 is competed in December 2012.

The centrepieces of the inland port were CP’s 550,000-container-a-year intermodal terminal in Les Cèdres and Canadian Tire’s million-square-foot twin distribution centres in the Coteau du Lac industrial park.

Today, corn, hay, vegetable crops and landscaping plantings continue to thrive on the site of CP’s 313-hectare site, while a dozen kilometres to the west, the UPA, Quebec’s powerful agricultural union and the CPTAQ, the province’s agricultural land protection commission have gone to court to halt construction of the second Canadian Tire warehouse.

New date 2017

The completion date for the Les Cèdres intermodal project has moved to 2017 from the fall of 2013. CP is apparently focused on its new 300-acre inland port in Regina’s Global Transportation Hub, designed to handle up to 250,000 containers annually. Construction is scheduled to start this summer and conclude in late

{source CP}
2012.

For Les Cedres, CP plans a public information session in 2011, according to a project update posted on the CP website in spring 2011. ‘We anticipate that the complete environmental assessment process could take another 18 to 24 months.’ {Jim Duff in Hudson Gazette 10.Aug.11}

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**CONNECTICUT**

**HRRC: NEW CUSTOMERS**

5 August, Quogue NY. *THE RAILROAD HAS SOME EXCELLENT PROSPECTS FOR NEW MOVES*, said Rian Nemeroff, vice-president marketing and sales.

**Century Aggregates**

Century Aggregate has a quarry on HRRC in Falls River, Connecticut, a plant in Massachusetts, and headquarters in Troy, New York. It is considering how to sell its product on Long Island.

**O + G Industries**

This company is still planning a siding to its New Milford, Connecticut, quarry [see 10#08B]. It expects to enter, and compete it, the New York market.

**Possible customer in Dover, New York**

Nemeroff said that the builder of a power plant in Dover, New York, would like to bring in its oversize components by rail. HRRC’s main line lies closest, unless the plant could rebuild a spur off the Metro-North Wassaic line. Metro-North is asking $750,000 to install a switch.

HRRC has freight rights on the Wassaic, but since the spur would see only a few moves, the bean-counters were determining whether a HRRC and dray is cheaper than installing the switch.

The operator could also unload the equipment from a spur—if one exists—on the CSXT Hudson line, but that would roughly triple the distance for the dray. {ANR&P interview with Nemeroff}

Cricket Valley Energy, an affiliate of Advanced Power Services, a Boston-based energy development company, has proposed building the 1000MW gas-fired plant on a 131-acre property that includes the Great Swamp along Route 22 in Dover. {Andrew Austin in Northern Dutchess News 20.July.11}

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**HRRC: EXISTING CUSTOMERS**

5 August, Quogue NY. *TWO C&D CUSTOMERS CAN EXPAND*, said Rian Nemeroff, vice-president marketing and sales.

**Lenox Valley Waste Transfer**

This company opened in December 2010 [see 11#01A] moving construction and demolition debris (C&D) out by rail. It is currently sending out three cars a week, building to five per week during the heavy construction season.

**Automated Waste Disposal**

On 13 July, Joe Winters, president of Winters Brothers Waste Systems CT, LLC, spoke at a press conference about his company’s acquisition of the Automated Waste Disposal (AWD) facility in Danbury.

AWD, under James Galante, opened the transfer station in 2002 [see 02#03A]. In 2006, federal authorities arrested
Galante and 28 others on 93 racketeering charges, alleging use of threats, coercion and mob muscle to create a near-monopoly of the trash business in western Connecticut. U.S. marshals seized control of the 25 companies Galante owned, worth between $60 million and $100 million.

In June 2008, Galante pled guilty to three charges and was sentenced to 87 months in prison. In January 2009, the federal government took ownership of the Galante empire, including his racing car team and a horse farm in Southbury. Federal officials previously closed the Danbury Trashers, the professional hockey team Galante owned.

In March 2009, U.S. marshals hired the New York law firm of Dominick & Dominick to supervise sale of Galante's businesses. By August 2010, the marshals sold Galante trash routes in Putnam County to Sani-Pro Disposal Services Corp. of Briarcliff Manor, NY. In March 2011, the marshals sold the remaining trash routes and AWD's recycling business to Winter Brothers WasteSystems CT.

On 13 July the marshals sold the AWD facility on White Street to Winters, completing the sale of Galante's property.

A new day

“It's a good day, a new day,” Danbury Mayor Mark Boughton said at the news conference, praising Winters for his willingness to be a “community partner.” Winters has agreed to pay the city $1 per ton for some of the trash brought to the station, a payment Boughton said could add $150,000 to $200,000 a year to city coffers.

“It's been a long road,” said Ridgefield First Selectman Rudy Marconi, vice-chair of the Housatonic Resources Recovery Authority, which manages waste disposal and recycling for 11 area towns. “But this is truly a step forward.”

During the past five years, Winters said, the federal government has made no upgrades of the fleet of trucks Galante owned, the recycling operation or the software, all of which Winters promised to improve. He will install two new scales and work to increase the C&D throughput. “We're spending a lot of money and we plan to spend more,” Winters said.

{Robert Miller in Danbury News Times 13.July.11}

NECR: NEW QUARRY

5 August, Bozrah. “THE OPPOSITION IS STILL PRETTY STRONG,” Sarah Brush, who owns a farm near the proposed quarry site, said recently [see 11#04B]. ‘Crush the Quarry’ lawn signs have appeared throughout town.

Rawson Materials has submitted new applications to quarry 7.2 million cubic yards of Alaskite and Canterbury gneiss from 98 acres, increasing the previous numbers of 6.6 million cubic yards from 95 acres.

The town’s Planning and Zoning committing will conduct a hearing 11 August, and the Inland Wetlands Commission conduct its own hearing on 6 October.

Rawson said in May that it must revive the NECR spur to the site to make opening the quarry worthwhile. {Judy Benson in New London The Day Aug.11}

PW/PAN AM: PERMA TREAT*

2 August, Durham. ‘P&W PURCHASED TIES AND SWITCH TIMBERS FROM PERMA TREAT EARLIER THIS YEAR, AND PLANS TO RE-INSTALL THE SWITCH AT PERMA TREAT,’ according to PW spokesperson Marie Angelini, {e-mail to ANR&P}

In the 1980s, the two railroads’ chiefs had a feud which resulted in Pan Am deciding to stop using direct rail from the tie treatment plant here [see 11#04B]. However, with the death of Orville Harrold and the departure of David Fink [see 11#03A], the relations have apparently improved. {editor}

PW: WILLI RESTORED*

25 July, Willimantic. PW ‘REMOVED THE WILLIMANTIC BRANCH FROM EXCEPTED STATUS’ on this day, ‘and has handled hazmat in trains since that date [over the line],’ PW spokesperson Marie Angelini wrote. [See 11#05B.]

‘Prior to that date, the Willimantic Branch was in service on a restricted basis. With excepted status having been lifted,
it is currently being operated at 10 mph without other restriction.” {e-mail to ANR&P}

MAINE

AMTRAK: CROSSING ACCIDENT

4 August, Boston. AMTRAK SUED TRIUMVIRATE ENVIRONMENTAL FOR DAMAGES resulting when its truck driver drove in front of the Downeaster in North Berwick in July. Peter Barnum, the truck driver, was killed, the locomotive was burned, and the passenger car behind it was seared. Four passengers and two crew members were treated for minor injuries.

Though the suit does not specify total damages, it stated damage to the locomotive and passenger cars exceeds $3 million.

Patricia Quinn, executive director for the Northern New England Passenger Rail Authority, said her agency has nothing to do with the action, filed in US district court. The authority only contracts with Amtrak to operate the passenger service between Boston and Portland. {Dennis Hoey in Portland Press Herald 9.Aug.11}

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Location info on Shipcsx.com
CSX-served at Ray’s Transportation, 55 Windsor Highway (Rt.32), New Windsor, NY.
MASSACHUSETTS

PAN AM: ANOTHER LEGAL LOSS
9 August, Boston. PAN AM LOST ITS APPEAL OF ITS CRIMINAL CONVICTIONS AND PROBATION. In 2009, Pan Am and its subsidiaries Springfield Terminal, Boston and Maine, and Maine Central were convicted of failure to report a 2006 diesel fuel spill in the East Deerfield yard. Each company was fined $125,000 and all four companies were placed on criminal probation [see 10#07A].

Arguments on appeal
Appeals Court Justice David Mills wrote the ruling released this day.

Collectively one company: Pan Am. ‘The four corporations share all but one of the same officers and directors. The four corporations coordinate their operations; train cars bearing the railroads' insignias are frequently mixed, and employees of all four corporations do not meaningfully distinguish between them. Many official corporate documents and employee business cards bear the names and insignias of two or more of these entities. Accordingly, we will refer to them collectively as Pan Am hereafter.’

Mills wrote that Judge Fahey properly instructed the jury that it could reach each company if there was evidence of confused intermingling of corporate activity between the companies and a disregard for formal corporate separation.

No ‘willful’ act needed. Pan Am argued a willful or intentional mental state was required to be found guilty of the crime. Mills disagreed, stating that MGL Chapter 21E as written doesn’t include the word willful, but merely that a “responsible person” must report a spill as soon as the person “acquires knowledge of a release.”

A corporation can go on criminal probation. Pan Am contended criminal probation cannot attach to a corporation. Mills wrote that state criminal law permits a “person” to be defined as a corporation, society, association or partnership. As such, probationary sentences can attach to corporations.

Furthermore, Mills said it was “entirely appropriate” for Judge Fahey to order Pan Am officers to sign the conditions of probation. “There was no error.”

Pan Am had collective corporation knowledge. Pan Am argued it was inappropriate to hold that the companies had a collective corporate knowledge of the spill sufficient to hold them responsible for the criminal charges. The court disagreed, stating that proof of sufficient knowledge was provided that shows that employees involved knew environmental laws were being broken.

Mills wrote that view has existed for “decades” in both state and federal criminal cases as well as civil state cases. ‘Today's decision is anything but unexpected,’ wrote Mills. ‘text of decision’

Ayer response
Gary Luca, chair of the Ayer Board of Selectmen, noted on this day that Pan Am remains a corporate citizen of Ayer. “Going forward, my hope is that something was learned from the incident and proper procedures for reporting and containment are adhered to. Pan Am has a large investment in Ayer and hopefully they will be a good corporate neighbor for our community and respect the needs of its citizens.” {Mary Arata in nashobapublishing.com 9.Aug.11}
**PAS-REVERE: ETHANOL 2012?**

3 August, Revere. **REVERE CITIZENS WILL VOTE IN A NON-BINDING REFERENDUM ON ETHANOL TRANSPORT** on 8 November.

Alarmed by what he views as the public safety risks posed by planned rail shipments, former city councilor Edward O’Hara asked the Revere City Council in July to place the question on the ballot.

In an interview, O’Hara said he is aware that transporting ethanol by tanker trucks poses hazards. But he said, “If there is an explosion by a rail tank car, 40 cars can explode, and it’s catastrophic compared to one incident by a tanker trailer.”

Irrked by what he said has been the lack of public discussion of the plan, O’Hara said, “these trains are coming in from Albany through the...heart of Massachusetts all the way into Revere and not one single person knows about it.”

Mayor Thomas G. Ambrosino said that the city “doesn’t have a whole lot of regulatory authority over” the proposed rail shipments. “This is governed by federal rules.”

City Council President John Powers said the rail plan is “something we don’t have any control over,” but that he voted to place the question on the ballot because “I felt the people have the right to be heard....I would like to see no ethanol coming into the city....But it’s a reality, and the main thing we have to do is to make sure the city is protected as much as possible. That will be done by the fire chief.”

**The 2012 ethanol plan**

According to Fire Chief Gene Doherty, Waltham-based Global Partners will change its method of delivery of the product. Currently much of the ethanol arrives by barge from Global’s rail-served Albany terminal [see 11#01A]; most would arrive by rail under the new plan.

Doherty said the firm hopes to begin the rail shipments in 2012, after improving the spur and rebuilding the terminal and yard.

As a safety matter, Doherty believes shipping by rail is a better option than transporting by tanker truck. “It’s the lesser of two evils. If I had my druthers, I would rather have [fewer] tanker trucks traveling the roads of the community versus rail cars coming at night at a slow speed, off-loading and getting out....Tanker trucks on the road, that is a huge problem,” he said, pointing as an example to the 23 July tanker truck crash on Route 1 in Saugus, which killed the driver and caused an explosion.

**Plans**

He said, however, the city “will be looking to gather more information over the course of the ensuring year about their plans,” noting that Global Partners has indicated it would set up a meeting with the city and Pan Am Railways when more details are available.

**Markey**

In a statement, US Representative Edward J. Markey, a Malden Democrat, said, “Serious questions remain about Global Partners’ proposal to use commuter rail lines to transport ethanol along Chelsea Creek in Revere.”

He said those include “how much ethanol will be transported through the region; how will the safety of residents of Revere and the surrounding areas be ensured in the case of an accident; how will the introduction of trains carrying ethanol affect commuter rail travel in the area; and how are stakeholders at the local city and state level being integrated into discussions on Global Partners proposal.”

Markey said he planned to write to Global Partners “requesting answers to these questions, and how they plan to address the concerns of Revere residents.”

**FRA**

An FRA spokesperson said via e-mail that the agency is “closely monitoring Pan Am Southern’s plans for future ethanol
shipments’ to the Revere terminal. ‘Pan Am is registered with the United States Department of Transportation to carry hazardous materials, and is upgrading track for this purpose, including three new tracks in the unloading facility.’

The Massachusetts Department of Fire Services ‘is also aware of the future ethanol shipments and from what we understand, has participated in emergency response exercises [and prepared] a briefing paper on critical response issues. In addition, FRA will participate in a field exercise with responding agencies to test command, control, coordination, and communications.’ {John Laidler in Boston Globe 4.Aug.11}

PW: END OF DISAGREEMENT
2 August, DC. PETITIONER PW REACHED A VOLUNTARY SETTLEMENT NATIONAL GRID ‘of the matters at issue between them in [the STB] proceeding. Accordingly, P&W hereby withdraws its Petition for Declaratory Order, and requests that the Board discontinue this proceeding with prejudice.’ {STB website, filings page, FD 35393}

In July 2010 PW asked the Board to rule that PW could remove National Grid power poles from its Worcester-Gardner right of way. PW wants to doubletrack the line. [See 10#07B.]

PAN AM/NECR: INTERCHANGE*
20 July, Montague. THE PAS-NECR SWITCHING OPERATION IN MILLERS FALLS IS IRRITATING RESIDENTS, according to Montague Town Manager Frank Abbondanzio. In May, Montague asked the EPA for assistance in dealing with locomotive idling in Lake Pleasant, Montague Center, and Millers Falls [see 11#06A]. The EPA said it was in conversation with the railroads and with other federal and state agencies.

Millers Falls remains a problem
In July, Abbondanzio said the idling issue was largely resolved in Lake Pleasant. Pan Am Executive Vice-president Cynthia Scarano said its locomotives idled there as a result of the difficult winter, which prevented the East Deerfield rail yard from processing trains at the usual rate.

But in Millers Falls, the problem stems from the interchange with NECR, opened in 2010 [see 10#04A]. Millers Falls is particularly vulnerable to air pollution, according to the town letter, because the village is in a natural bowl and because the area is prone to ‘temperature inversions.’

“They have accelerated the implementation of the switching process they have there, so it's been pretty much every day for an hour or two,” Abbondanzio said.

Scarano said: “We have no problem meeting with them. Any time. But again, I don't know how that's going to help the switching operation.” {staff writer in Daily Hampshire Gazette 20.July.11}

2 August, Montague. PAN AM LOCOMOTIVES ARE IDLING AS WELL AS SWITCHING, said Abbondanzio. On 1 August, for example, the railroad started switching at Millers Falls at 3:30PM, and finished about 7:30PM. During much of that time, the locomotive was idling.

On another recent occasion, after the switching ended and a train pulled away from the interchange, another locomotive remained there, idling for hours. Abbondanzio, who lives nearby, said these are not isolated, but typical incidents.

This cannot continue
He emphasized that the railroad was playing with lives, “if you’ve got respiratory failure or asthma,” and live nearby. He has friends knowledgeable about railroad operations who suggest that the switching occur in the East Deerfield yard, or in Brattleboro. {ANR&P discussion}

[Editorial: If Pan Am operated a reasonably efficient railroad, and did not lose cars in the East Deerfield yard, this might be a solution. However, it would require Pan Am to grant NECR trackage rights, not something it will readily do. NECR would require several extra hours to run to East Deerfield and find the appropriate cars, because any such move
would require wyeing and backing the NECR train.

Given the difficulties, I fear that any solution for the Millers Falls residents is years if not a decade away.

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NEW HAMPSHIRE

MBRX: MORE COURT ACTION*

1 July, Concord. **THE JUDGE RULED AGAINST THE RAILROAD, AND SUGGESTED A SETTLEMENT.** Judge Barbadoro interpreted the rule requiring an employee at a railroad crossing to mean on the ground, not on the train. “It appears to be undisputed as a matter of fact that [MBRX] did not have employees stationed at a crossing. Therefore it appears to be undisputed as a fact that Mr. Leishman violated Rule 138e.”

He then said, “[I]n my mind the real issue here is whether the penalty that was imposed is a penalty that breaches the duty of good faith and fair dealing.” [referring to the ban for life Pan Am imposed on Leishman for violation of the rule].

Despite the fact that Granite State Concrete, the MBRX customer, has gone without service since March of 2010, the judge stated that since Leishman violated the rule but continues to deny he violated it, the judge saw no need to issue a preliminary injunction.

The proposed settlement

‘I've laid out what I think would be a difficult proposal for [Pan Am] to refuse, which is I'm willing to forget what's happened up till now. Both sides walk away, keep their own expenses, keep their own damages. Both sides walk away.

‘[Peter Leishman would say:] “I agree that I acknowledge that this is the correct interpretation of the rule. I agree that going forward I will abide by the rule under those circumstances. I agree that if you need me to take additional reasonable requirements with regard to continuing education and training to maintain my license in good standing, that I will abide by that, and if you agree to do that, you will say that I've served a sufficient penalty and allow me to have access to the trackage.”

‘And each party walk away from here on their own as things stand. That would be a reasonable settlement.

‘And it's not -- I want to be clear. I'm not in any way suggesting that anyone should settle. It's up to you to do that. I'm here to decide the legal disputes and, if necessary, give you a trial. But where I'm inclined to go from here, once I've construed these contract terms, I've already made clear that in my view your client violated a safety rule. I will next examine whether under the contract there are any procedural violations of any rights that your client has had.

‘Apparently Mr. Connolly [Pan Am attorney] agrees that the penalty provision is discretionary and therefore it seems to me you have a potential claim for good faith and fair dealing violation for an abuse of discretion.’

Procedure going forward

The parties agreed that Pan Am would file a motion for summary judgement by 30 July, MBRX would file a reply by 15 September, and then, if the judge denied the motion, trial would occur “in the November trial period.”

19 July, Concord. **MBRX FILED A MOTION FOR MEDIATION**, after another offer of settlement failed to elicit a response from Pan Am. The railroad noted:

‘4. At the most recent hearing, conducted on July 1, 2011, this Honorable Court focused the issues to be litigated in the instant matter, narrowing the scope of Plaintiff’s case to: 1) a claim for violation of the covenant of good faith and fair dealing
in Defendants’ discretionary conduct concerning the holding and operation of Mr. Leishman’s hearings under the Agreement, and 2) a claim for violation of the covenant of good faith and fair dealing concerning Defendants’ discretionary lifetime ban against Peter Leishman.’{US District Court New Hampshire website, case 10-cv-00264}

1 August, Concord. **PAN AM FILED A MOTION FOR SUMMARY JUDGEMENT.**

The motion for summary judgement
Pan Am asked Judge Barbadoro to rule in its favor as a matter of law, stating:

‘The United States District Court for the District of New Hampshire (Barbadoro, J.) conducted a hearing on July 1, 2011 for the purpose of interpreting the TRA [trackage rights agreement] and safety rules at issue in this case. Order dated June 23, 2011 [ECF Document 53].

‘During the hearing, the Court ruled as a matter of law that Leishman violated Pan Am’s safety rules. Transcript of Special Hearing dated July 1, 2011 (“Hearing Tr.”) at 63-65, 116.

‘The Court also ruled that the only claims remaining in the case involve whether Pan Am breached the implied covenant of the duty of good faith and fair dealing with respect to the agreement’s provisions relating to hearings and penalties. *Id.* at 115-119. Pan Am now seeks summary judgment on those remaining claims.’

Pan Am argued that while in New Hampshire an implied covenant of good faith and fair dealing exists, the implied covenant cannot contravene the terms of the contract, which permit Pan Am to bar any employee of MBRX from its property. Therefore it was within its rights to bar Leishman.

Furthermore, since the court ruled that Leishman did violate the rules, any procedural irregularities which might fall under the fair dealing covenant were inconsequential. {US District Court New Hampshire website, case 10-cv-00264}

4 August, Concord. **PAN AM OPPOSED THE MBRX MOTION FOR MEDIATION**, arguing as it did in the motion for summary judgement that Leishman was found to violate the applicable rule.

Furthermore, Pan Am filed an e-mail from Leishman dated 11 July, sent to CSXT in an effort to discover its attitude toward the rule as Judge Barbadoro construed it. Pan Am argued Leishman thereby indicated that he was refusing to accept Pan Am’s interpretation of the rule, and should continue to be barred from the property. {ANR&P discussion with Leishman}

5 August, Concord. **NHDOT COMMISSIONER GEORGE CAMPBELL LEAVES OFFICE THIS DAY.** Those who wish the department would take a more active role in the Pan Am/MBRX dispute see this as a positive sign, as Campbell’s successor may conceive that the commissioner can speak out. {editor}

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**RHODE ISLAND**

**PW: POND VIEW**

3 August, East Providence. **POND VIEW WILL CONTINUE TO OPERATE**, wrote Jack Walsh, regional vice-president of Transload America, which operates the construction and demolition debris facility. ‘As you know, Regulations change often. The current regulation changes that you indicate [the bill enacted in June which forbids treatment of more than 150 tons per day within a thousand feet of a residential area–see 11#07A] have little or no bearing on our operations. We continue to operate and have been approved recently to increase tonnage to 1500 tpd.’ {e-mail to ANR&P}
Current car loadings
Observers have noted PW pulls about 30 carloads a week from Pond View, which it switches almost daily. {e-mails to ANR&P July-Aug.11}

MARITIMES

HALIFAX: LOSS OF CALLS
3 August. MITSUI O.S.K. LINES (MOL) AND “K” LINE WILL SUSPEND the Pearl River – Southeast Asia - Suez Canal Express Service into the Halterm effective September.

“K” Line, Hanjin Shipping, Yang Ming Line and COSCO Container Line (the CKYH Alliance) began calling Halifax in May 2009 with an around the world service. Adding MOL in May 2010, the Alliance launched the Pearl River service, calling at ports in Southeast Asia and reaching Halifax through the Suez Canal giving Canadian customers direct access to Vietnam [see 10#04B].

An industry source said the service moved approximately 20,000 TEUs a year over Halterm, the port’s southend container terminal.

“K” Line provided seven vessels and MOL two of the nine 5,500 TEU vessels in the service.

‘In an effort to improve overall on-time performance on the South China/Vietnam/East Coast service a decision was made to suspend the Halifax port call indefinitely. The omission of Halifax will serve to dramatically improve SVE schedule integrity for the remaining ports of call,’ MOL said in a letter to its customers. {text of letter 3.Aug. 11; ANR&P’s Tom Peters discussion 10.Aug.11}

According a chart on the MOL website, the on-time performance Asia to U.S. East Coast service from April to June 2011 was 81%.

‘We anticipate significant improvement in the on-time performance of our SVE service and look forward to sharing the results in our next quarterly report,’ MOL’s Timothy Pajak wrote.

MOL had several local Halifax customers but the majority are actually located in Toronto and Montreal. ‘We are offering our customers alternative service via U.S. East Coast ports and via the U.S. West Coast by rail,’ Pajak wrote. He would not disclose the amount of cargo the MOL service was handling in Halifax. {e-mail to ANR&P’s Tom Peters 5.Aug.11}

Halterm comment
Halterm President Ashley Dinning said he was notified by “K” Line that this is a suspension of service and not a termination. Putting the service back into Halifax will be reviewed in the new year.

“What has happened is the service schedule is extremely difficult to maintain. This is not uncommon where at this time of year services generally get delayed in the Far East whether it be inclement weather or monsoon season, things like that. So to get some schedule reliability back into the service they invariably drop off one of the smaller ports in the rotation.”

Dinning will meet in Virginia with senior K-Line officials on 10 August to discuss bringing the service back to the port at some future point.

No numbers
While Dinning said the service brought considerable business to Halterm, he didn’t elaborate. {Discussions with Peters 9.Aug.11}
HPA comment
Halifax Port Authority’s Michele Peveril indicated it was disappointed to lose the business but the port has three other Asian services and some customers who had utilized the alliance carriers also had established relationships with other carriers and are using multiple carriers over Halifax. {Michele Peveril in discussion with ANR&P’s Peters 10.Aug.11}

Service used
In June Russ Langford, chief operating officer of Magnussen Home Furnishing Company of Ontario, said the Halifax service helped cut costs and time in moving cargo from Vietnam to North America. “Bringing the products via Halifax has proven to be cost-effective and an overall improvement in transit time,” Langford said. {Thai Hang in Saigon Times 13.June.11}

The Magnussen COO said the loss of the service won’t stop his company from using Halifax. ‘There are many other carriers servicing the Port of Halifax, in this case, MOL will be the loser. The Port of Halifax is a well-oiled machine that the US ports or the Port of BC (Vancouver) would do well to case study and try to duplicate their operations.’ {Langford in an email to Peters 8.Aug.11}

Ending dates
Halifax was the first inbound North American call on the service. The final inbound call from direct ports in Asia is expected to be 13 September. The final outbound voyage is expected to depart 14 September. The port rotation will be: Ho Chi Minh – Cai Mep, Shekou, Hong Kong, Yantian, Singapore, New York, Norfolk, Jacksonville, Savannah, Singapore, Ho Chi Minh – Cap Mep.

HALIFAX: 2Q10
9 August. CONTAINER CARGO CONTINUED A SLOW BUT STEADY GROWTH over the Port of Halifax with a 3.3% increase in 2Q10 over the same period in 2010, according to figures released by the Halifax Port Authority. The port handled 863,975, TEUs up from 835,972, the seventh consecutive quarterly increase.

Overall cargo tonnage through the Port of Halifax for 1H11 rose 5.6% over the same period in 2010: 4,850,881 tonnes versus 4,591,966 tonnes.

Quarterly numbers did also. ‘Cargo volumes grew in Q2 despite continuing signs in the global economy that sustained recovery has yet to take hold. A strong Canadian dollar compared to its U.S. counterpart coupled with continuing weak consumer demand has resulted in moderate cargo gains.”

Breakbulk cargo such as machinery, metals and forest products, had a significant 34.9% rise in 2Q10 to 46,413 tonnes. Bulk cargo (oil imports and grain exports) grew 17.1%; roll-on/roll-off cargo (e.g. vehicles) increased 7.1% in the quarter. {HPA cargo analysis 2.Aug.11}

SYDNEY: DREDGING*
19 July. THE PORT MUST CLEAR THE WRECK OF A PASSENGER FERRY in the harbor mouth to begin dredging. The clearing will begin within days.

In May, contractor Royal Boskalis Westminster N.V. began creating a laydown area in Edwardsville, adjacent to Sydport, to stage construction equipment.

“As with any major and complex construction project, the management team is focused on health and safety, project schedule, environmental compliance and budget,” said Jim Woorder, dredging project manager for Sydney Ports Corporation. “We’re all pleased with progress to date. We are particularly pleased to see how local resources are being employed to complement the Boskalis work program. This is in keeping with the collaborative approach to the project development adopted from the outset.” {Sydney Ports Corporation press release}
RAIL SHIPPERS

Brookhaven Rail Terminal (NYA, New York) Open.
Century Aggregates (HRRC, Connecticut) NY market?
Global (PAR, Massachusetts) New ethanol terminal.
Knowlton Terminal (NYOG, New York) Theft accusation.
Lenox Valley (HRRC, Massachusetts) C&D expanding.
O + G (HRRC, Connecticut) New quarry.
Transload America (PW, Rhode Island) Will continue.

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

PEOPLE

Steve Fisk, senior manager for corporate business development at CP Rail's Clifton Park office, retired. CP announced that Todd Dragland, with the title ‘project manager for network strategy’ will succeed him.

Company-wide, the Strategic Network Development group is headed by Dave Craig, and reporting to Jane O'Hagan, executive vice-president and chief marketing officer of CP. Strategic Network Development is the primary contact within CP for Interline Agreement management matters, industrial development, strategic projects involving CP and its short line connections, and the development of growth opportunities that fall outside of day to day marketing and sales contacts.

Effective 2 September, Richard Davey, currently MBTA chief, will succeed Jeff Mullan as Mass DOT secretary.

Letter to the editor:

You have an excellent publication, and I always look forward to reading it.

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

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

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

Readers building a personal archive of the newsletter should discard the e-bulletins. All subscribers have access to the newsletter archive on the web, via password, at www.atlanticnortheast.com. If you do not have a password, merely request one from me.

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

E-ISSUE