**RHODE ISLAND**

[No report.]

**VERMONT**

[No report.]

**MARITIMES**

Bayside: 2011 good year for Jones Act pollock.*

Sydney: ECBC denies seeking a joint effort for Canso and Sydney. New port structure.*

Halifax: see Regional.

**RAIL SHIPPERS/RECEIVERS**

Cross-reference to companies mentioned here.

**PEOPLE, POSITIONS, EVENTS**

Peter Hanson. Quebec rail symposium.

**EDITORIAL**

High-speed rail to Montreal won't work.*

**FROM THE PUBLISHER**

Update on Pan Am lawsuit

We still await a decision on our motion to dismiss. Contributions to legal defense fund still welcome! Please send to:

Atlantic Rails & Ports Legal Defense Fund
c/o Jean Charron, legal assistant

Preti Flaherty LLP

One City Center

P.O. Box 9546

Portland, ME 04112.

Chop Hardenbergh

Next formal issue 17 December

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REGIONAL

BOSTON/HALIFAX: NO PEARLS?*
20 December. CMA CGM AND MSC WILL RE-LAUNCH THE BLACK PEARL SERVICE BUT NOT CALL HALIFAX OR BOSTON. According to a press release this day: 'The CMA CGM Group launched its new Black Pearl service, a direct service between the East Coast of North America and the West Coast of South America (Panama, Peru and Chile). This new service is part of the operational agreement between CMA CGM and MSC. It comes as a response to a growing market demand for refrigerated cargoes from Chile and Peru to Philadelphia and New York and for fast and competitive transit times between these two continents. {CMA CGM press release}

CMA CGM discontinued the service, including the Halifax call, in August. [See 11#08B.]

Why no Black Pearl for Halifax or Boston?
Dirk Peters, CMA CGM’s general sales manager in Canada, said Halifax and Boston were not included in the re-launched of the Black Pearl Service because MSC is providing the vessels “so basically it is an MSC service and we are taking slots.”

Peters said since MSC is operating the service obviously “Halifax is not that important to MSC.” He said MSC does go into Boston “but not on this trade.” He would not comment on whether or not there was enough business at either of the two ports to include them in the Black Pearl service.{Discussion with ANR&P correspondent Tom Peters 21.Dec.11}

MSC no comment
MSC’s Norman Tam in Montreal said the company had “no comment” on whether or not Halifax and Boston were considered in the new Black Pearl rotation. “Whatever information is in release is sufficient from our perspective at the moment.” He also had “no comment” on whether Halifax would be considered a port for MSC in the future. {discussion with Peters 21.Dec. 11}

NEW YORK

D&H: SLOW ABOVE ALBANY*
23 December, the North End. CP HAS HAD DIFFICULTY KEEPING TRACK SPEED HERE. Rail observers, including one transportation writer out of Montreal, have reported delays for the Adirondack trains (68 to Albany, 69 to Montreal). One noted: 'the numerous slow orders certainly hurt them and everyone knows it.

'Howards siding [south of Westport depot, New York – editor] is the scheduled meeting point for 68 and 69; and if both are on time out of Rouses Point and Schenectady, it makes for a good meet. However if 68 is on time and 69 is 20 or 30 minutes late, 68 could take a 40-minute or longer delay waiting for 69.'

The ethanol and oil trains have definitely increased in traffic on the North end. 'Occasionally one may get in the way of Amtrak and Amtrak has to follow them until they reach a clear siding where Amtrak can get around them.'

CP has sent out equipment to tamp the road bed, trying to get the 25 miles per hour slow orders off, but 'it seems every time we get the slows off, the TEC train [the CP track evaluation car – editor] runs and puts more on.

'The North end always gets hit the hardest by the TEC train due to the curvature of the track as it runs along Lake Champlain. Always has and probably always will.' {e-mail to ANR&P from one rail observer}
NS/D&H/PAS: LESS CONGESTION?*

23 December. **THE RAILWAY WILL EXTEND ITS AUTORACK TRAIN TO MECHANICVILLE.** ‘We anticipate beginning limited intermodal operations in January, depending on the weather. We have not set a date for opening the automotive facility.’ {NS spokesperson Susan Terpay in e-mail to ANR&P 29.Dec.11}

The date is specifically 15 January, according to rail observer reports.

**Relief for Kenwood yard**

The observers wrote that the change will relieve pressure at Kenwood and all along the connecting lines. ‘The biggest problem is the yard was never meant to handle the traffic it is currently handling.

‘It was never meant to be a classification yard, but when the “brains” shut down the North end and discontinued switching at Saratoga, all the North end traffic off the VTR and out of Fort Edward, and out of the industries in Saratoga, goes to Kenwood to be switched and classified and then moves back to Saratoga.’ In addition, Kenwood handles the interchange traffic from the Port of Albany [see below] and CSXT out of Selkirk.

**Crude adds to Kenwood congestion**

Kenwood is controlled not locally, but by the Binghamton yard master. ‘The North yard at Kenwood used to be used exclusively for NS intermodal.’ With the formation of PAS, that traffic was supposed to move to Mechanicville.

‘Global approached CP about building a facility for ethanol and oil which meant big bucks to CP, so half the yard was turned over to Global to begin building their facility.’

That left NS only two tracks for its intermodal business. As a result, the daily inbound intermodal/automotive train CP #938 ‘comes into Kenwood and parks on the Kenwood runner or they leave half their train out there that won’t fit in their yard.’

The crew for CP #939, which originates at Kenwood and terminates in Chicago as an NS train, if they ‘go on duty on time at 0600 hours they have to pull their own train out of the North yard and run around it and get doubled together and do their own air test since there is no yard job on at that time.

‘Much of the time there are cars on one of the inbound running tracks leaving only one way in and out. If there is a southbound [whose crew is coming close to the 12-hour operating window] to come in, any northbound [such as 939] has to wait in the yard until the southbound gets in and yarded before they can leave.

‘This will all change in mid-January when PAS opens the intermodal part of the new Mechanicville yard. This will then turn the entire North yard over to Global so it can begin handling both ethanol and oil trains. There will be no more intermodal business at Kenwood at that point.’ {e-mail to ANR&P from two rail observers both closely linked to railroading in New York}

**PORT OF ALBANY OVERVIEW: I**

**Note:** Correspondent Laurel Rafferty has completed an encompassing overview of the Port of Albany. I am publishing it in three parts.

**Citations:** POA AR, Port of Albany Annual Report. POA MP, Port of Albany Master Plan.

**Contents of Part I**

1. Background
2. Existing conditions 10 years after master plan.

1 BACKGROUND

The Port of Albany, a year-round deep-water port, lies along the Hudson River 124 nautical miles north of New York Harbor. Its bulk, breakbulk, and project cargo operations take place at the junction of the NYS Barge Canal System with branches connecting to Great Lakes ports, and Lake Champlain. Its intermodal hub handles traffic from the continental heartland inbound by rail, most significantly grain, but also now ethanol and crude oil.

In September, the port completed its major infrastructure optimization effort: a decade-long reconstruction of the wharf and on-dock rail on the Albany side. (The port includes facilities on the east, Rensselaer side of the river as well.)

Green and energy activities have been an important part of the cargo mix for some time, with project cargo including steam turbines from a nearby General Electric plant exported to power plants worldwide, and more recently, ethanol from the Midwest.

Albany's share of regional port volumes is small overall, but as high as 100% in select commodities. Unlike many coastal ports, it is less threatened by spatial constraints and the pressures of competing recreational and tourist uses for port space.

1.1 The Port District.
The rough boundary of the 600-acre broad port area contains the public port, a 240-acre area falling largely within Albany, governed by the Albany-Rensselaer Port District Commission (ARPDC), a public benefit corporation. The ARPDC’s enabling legislation authorizes it to develop commercial, as well as port activities, and its current tenant operations include both. {New York State Unconsolidated Port of Albany Law Chapter 192} Two key tenants are Federal Marine Terminals, stevedoring the Port’s marine terminal, and the Albany Port Railroad servicing the Port.

1.2 The Port District Master Plan
In 2000 the ARPDC commissioned a master plan study to lay out the strategy objectives of the Port. In 2010 an update to the 2000 Master Plan was developed. In these two plans and in the years between, strategic objectives changed.

The substantial capital improvements completed per the 2000 Master Plan and subsequent adaptations of strategy objectives have strengthened the Port conditions, but the 2010 Master Plan finds that even with them, some weaknesses remain under current conditions.

2 EXISTING CONDITIONS
A DECADE AFTER THE 2000 MASTER PLAN

2.1 Wharf Load Rating.
The Albany side has 4200 feet of wharf, 4000 feet of which now have a load rating of 1200 pounds per square foot.

Berth length on the Rensselaer side is 1200 feet. {POA AR2010} However, with no upgrading of half of its length since it was built nearly eighty years ago, and rebuilding of the remaining half done nearly thirty years ago, the berth condition is inadequate. Its oldest section cannot support any cargo load, necessitating staging of export cargo on a concrete pad about 100 feet back from the wharf edge; the section reconstructed in the 1980s can only support cargo temporarily. {POA MP2010}

NYSDOT has announced funding of work on the Rensselaer wharf to upgrade the the second half to permit support of the new crane [see 11#12A with map] and project cargo.

2.2 Covered Storage and Open Space.
On the Albany side, within the 32-acre marine terminal area, demolition of a wharf shed has increased open
space to around 14 acres and reduced covered storage to around 6.2 acres. With changes in strategies, the demolition has benefitted the handling and storage of project cargo by increasing the depth of a section of the wharf area and providing direct access to the open area used for their storage. {POA MP2010}

2.3 Port Equipment.
Port equipment includes a heavy lift mobile harbor crane (added in 2001 – see 3.3.1), a 225-ton capacity crawler crane, as well as forklifts, loaders and other equipment owned by the PDC. {POA MP2010} While intended to improve container handling, it is used for heavy-lift project cargo handling.

2.4 Rail Access.
Two Class I Railroads, CSXT and Canadian Pacific (CP) serve the Port of Albany, interchanging with the Albany Port Railroad (APRR) which switches railroad within the Port.

APRR, co-owned by CP and CSXT, operates a total track length of 20 miles on the Albany side, including the on-dock rail. {POA AR2010} The APRR is served by CP from its Kenwood Yard, immediately adjacent to the Port to its north, and by CSXT via the Port Subdivision line from its Selkirk Yard.

CSXT provides direct connections west, south, and east from Selkirk, just under 10 miles away.

CPR and its Kenwood Yard connect the Port to points north to Montreal and beyond in Canada. CPR owns and operates Kenwood Yard, with a capacity of 280 railcars. Within the Yard NS leases and operates a container facility. It uses its haulage rights agreements to reach the facility, but only for containers.

When NS and Pan Am open their new facility in Mechanicville NY in 2012, NS will no longer be operating the Kenwood intermodal facility [see other article]. {discussion with Todd Dragland, CP senior manager, business development, by Rafferty 21.Oct.11; New York State Rail Plan 09}

2.5 Water Access.
The Hudson River has a navigation channel with a depth of 32 feet and width of 600 feet from New York City to Kingston, and a depth of 31 feet and width of 400 feet from Kingston to Albany. The recent dredging of some berthing areas on the Albany side of the Port to a depth of 34 feet, and creation of the 700-foot wide 1200-foot long turning basin on the Rensselaer side to design depths, serve to strengthen as well as maintain the Port’s navigation conditions. {New York District Fact Sheet 2/11; Capital District Regional Planning Commission Web site}

On the Upper Hudson, vessels with drafts of 28-31 feet ‘must be set up for the correct stage of a rising tide,’ said Paul Papel of the Hudson River Pilots. Coast Guard guidelines require, as a general rule, one meter of water under the keel. {e-mail to Rafferty 16.Dec.11}

Loadings. According to the 2010 POA Master Plan, 'bulk cargo carriers holding scrap metal exports, grain exports, or salt imports can be loaded with approximately 22,000 metric tons of cargo, and general cargo carriers loaded with wood pulp imports or project cargo can be loaded with up to 18,000 metric tons of cargo.'

Significant navigation issues. Hudson River transport from the seacoast to Albany is reported to take 12-15
hours, and require different pilots for its three segments (New York Harbor, Lower Hudson, Upper Hudson).

All vessels must wait for daylight, as pilots lack the training for Upper Hudson navigation at night. {POA AR2010; 2010 MP}

Also, there are no facilities for modal transfer of freight along the Canal System outside of the Ports on the Hudson and Great Lakes, limiting the Port’s full potential to expand its reach via waterborne transport. {Canal Corporation officials discussion with Rafferty 2 & 18.Aug.11}

2.6 Road access.
Major Port access road renovations enhance connections to north-south I-87 and east-west I-90 {POA MP2010} via five miles on I-787.

2.7 Grain elevator.
The Port District owns a 10.5-million bushel grain elevator, the largest at an East coast port terminal and the only port grain elevator between Hampton Roads, Virginia, and Halifax, albeit an aged one built in 1932. {POA AR2010; POA MP2010}

2.8 Stevedoring.
Federal Marine Terminals (FMT) handles most cargos; grain is one exception (see below). According to the 2007 Goods Movement Plan of the Capital Region, with FMT acquiring the ‘stevedoring …operation, the Port … has access to the FMT network, enhancing the port’s ability to make partnerships with other ports along the East Coast and the Great Lakes' and ‘[t]hese partnerships can be used to better serve Port customers.'

In its findings on its operational assessment, the 2010 POA Master Plan estimated the Port’s productivity in tons per hour in loading and unloading, by cargo type, based on tenant descriptions. [See box.]

2.9 Appropriate zoning and neighbors.
ARPDC’s jurisdiction covers 200 acres on the Albany side and 40 acres on the Rensselaer side, with appropriate zoning and no apparent conflicts in land use of surrounding areas.

Zoning on the Albany side permits manufacturing for the entire contiguous port area and light industrial for a few parcels that are non-contiguous, west of the main area fronting on the river. The surrounding area is also zoned industrial to the immediate north and west of the Port.

To the Port’s west beyond South Pearl Street – a key truck access route, running north-south the length of the Port – much of the area is zoned residential, but based on aerial photos, appears largely undeveloped. On the Rensselaer side, the entire Port area is zoned heavy industrial, zoning which extends well to its north and east and land surrounding the Port to its east appears undeveloped. {City of Albany and Rensselaer Zoning maps; Google aerial photos; Tom McGuinness, POA it manager, email to Rafferty 8.Sep.11}

2.10 Federal Trade Zone.
This now includes the entire Port District; previously it was limited to the Rensselaer side.

The Port now is a ‘magnet site.’ This designation, based on its ability to attract multiple FTZ users, gives to a firm which is (a) looking for trade zone approval for warehousing and (b) meets customs office requirements, fast-tracked approvals within 30 days.

Niche activities handling raw material, and products subject to duty/excise tax, would like this. No firms have sought warehousing approval as yet. {Rocco Ferraro, executive director, Capital District Regional Planning Commission, discussion with Rafferty 12.Sep.11}

2.11 Weaknesses in port use configuration. The Port of Albany Annual Report of 2009 quoted Port District Commission Chairman Robert Cross: ‘Over the years, tenants have just located at the port when there was available space, whether or not they use the water. Our goal is to situate our clients in the best possible spots within the Port proper in order to enhance local economic development opportunities.’ {Eric Anderson in Albany Times Union 27.Feb.09 reprinted in POA AR2009}
3 CAPITAL IMPROVEMENTS

The current situation as described in section 2 came about via a series of improvements to all parts of the Port.

3.3.1 Equipment Upgrade. In 2001, pursuant to its objective to develop its feeder container port potential, the Port invested in crane equipment that would improve its container-handling operations. It purchased a Liebherr LHM 400 Mobile Harbor Crane with a maximum capacity of 104 tons with a 34.45 feet outreach and 37.9 tons with 157.48 feet maximum outreach.

3.3.2 Wharf Upgrade. On the Albany side, reconstruction of 4000 of a total of 4200 feet started prior to the 2000 Plan has just been completed. With the upgrade, the load capacity rating is now 1200 per square foot; reconstruction of the remaining small 200-foot segment on its southern end is targeted for future work. {T. McGuinness, POA it manager, email to Rafferty 27 Oct. 11}

The upgrade involved ‘...replacing wooden pilings with [72] hollow steel columns driven into bedrock, filled with concrete, and then covered with a concrete platform topped with asphalt. {POA_AR 09}’ In addition to increasing load-bearing capacity, the project increased the number of vessels the wharf can accommodate. Along with the reconstruction, a new fender pile system was installed. The new structure supports 890,000 pounds, which means it can hold the new 400-tonne heavy lift crane and heavy-lift project cargo for loading onto ships. {POA AR2009}

With concrete and steel replacing wood, the wharf ‘is able to withstand the rigors of today’s heavier and bigger ships,' wrote...
Robert F. Cross, ARPDC chairman, in the POA AR2010.

Initial project work per the 2000 Plan upgraded berths 1-3, covering 1300 feet, {Amy Tujaque, US Army Corp of Engineers (USACOE) Waterborne Commerce Statistics Center, data emailed to Rafferty, 17.Oct.11; POA MP2010}. C.D. Perry & Sons of Troy carried out the latest improvement in two phases, for budget reasons. Phase one, replacement of 500 feet, began in April 2009. Phase two replaced an additional 310 feet of wharf. {POA AR2009} A ribbon-cutting for the completed project took place on 20 October 2011. {Port of Albany press release 14.Oct.11}

3.3.3 Transport Access Upgrade – Rail, water, road

Rail

**Rail for containers.** Improving the Port’s rail access was considered an important move towards the ‘inland port’ concept of barging shipping containers up from metropolitan New York City to Albany for warehousing and rail distribution. This Port Inland Distribution Network, started by the Port Authority of New York and New Jersey in 2003, was suspended in 2006 for lack of traffic [see 06#04A].

A state grant for $750,000 to the Port was 'used for the rehabilitation and upgrading of approximately 2,000 linear feet of existing rail' on the Albany side of the Port. 'Installation of new ties, ballasts, switches and drainage lines [was needed] to off-load containers from barge to rail and was completed around 2003-4. {POA website, archived press release, undated; Frank Keane, former POA general manager, in email to Rafferty 2.Nov.11}

**Rail for other cargoes.** The wharf reconstruction project was a precondition for a rail upgrade project linked to it: an expansion of on-dock rail, 475 feet of new rail in a first phase and another 500 feet in a second phase.

The additional railroad track is part of the rail line servicing the Port, operated by APRR, forming a loop around the Port complex. Previous to the construction, the APRR included on-dock rail that had a spur very close to the waterside edge of the marine terminal wharf, but it extended only halfway down the wharf and ended abruptly where the oldest section of the wharf began, leaving a gap at its southern end.

The on-dock rail itself now forms a loop, connecting at the south end of the Port with a main rail line. {POA AR2009}

Under the new configuration, locomotives no longer need 'to pull out each set of railcars and then pull in the next set of railcars', eliminating delays and inefficiencies this causes. {POA MP2010}

According to Richard Hendrick, the Port’s general manager, 'unit trains, which… can be 80 to 110 cars long, [will now be able to] loop through and be loaded dockside,' directly from ships to rail. With the extension 'trains can enter from either end of the Port' and the two rail lines are linked.

**A help for wind-turbine transportation.** This '… will be a great advantage for shipments like wind turbines...Because the two rails were not linked, the turbines [project cargo] had to be loaded onto trucks, with escort vehicles to guide them and take detours around highway bridges [without] the necessary height clearances to get back to the Port.' {POA AR2009}

The upgraded wharf can handle the weight of the freight cars and locomotives; previously, the load capacity of the wharf precluded such heavy cargoes, except in the area adjacent to the former shed 2 and shed 3. {Frank Keane, former POA general manager, in email to Rafferty 22.Nov.11}

Water

**2008 dredging for pipe.** To accommodate the draft needed for vessels transporting steel pipe for unloading at the Port for a major pipeline project, a berthing area between sheds 1 and 3 on the Albany side of the Port was dredged. The Port paid $750,000 for the project, which was completed in 2008. {Eric Anderson in Times Union 21.Sep.08}
Albany turning basis dredging. In a second project, the US Army Corps of Engineers (USACOE) awarded a contract for dredging of the Albany Turning Basin located on the east side of the Hudson adjacent to the southern-most area of the Rensselaer section of the Port District. The project removed 60,000 cubic yards of material for disposal at the federally-owned Houghtaling Island Placement Site. The work was done by Great Lakes Dredge and Dock Company and completed in early December 2010. The estimated cost was $3.3 million, including work required at the placement site. {US ACOE Fact Sheet February 2011; Eric Anderson in Albany Times Union 3.Sep.10}

Road
One of the Port’s major access roads, Church Street, was newly renovated about a decade ago, remedying the too-narrow width of the access road, the poor placement of utilities, too-tight turning radius for over-dimensional cargoes, inadequate pavement capacity for high truck volumes or heavy weights, and poor drainage. {Frank Keane, former POA general manager, in email to Rafferty 2 & 22.Nov.11}

The renovation benefited both the Port and Kenwood Yard. {2007 Capital District Transportation Committee’s* Draft Goods Movement Plan} *Designated MPO for Albany, Rensselaer, Saratoga, and Schenectady counties.

3.3.4 Port use configuration upgrade
On the Albany side, one (Shed 2, second from the wharf’s northern edge) of the five original sheds fronting the marine terminal wharf – an arrangement limiting the berthing areas’ utility to breakbulk handling alone – was razed to open berthing areas to the backland. The 750-foot opening created space for the rail track realignment and container handling. Another building, behind Shed 4, was also demolished, and opened up 21,000SF more of backland area. {POA 2010 MP}

3.3.5 May Port do non-port, non-commercial activity?
No, said a 2006 audit by the Office of the State Comptroller. It examined ARPDC’s constructing, and committing to pay for, work in 2002 at the Corning Preserve, located north of the Port’s operations and owned by the City. '[A] 650-foot long pedestrian bridge was built connecting downtown Albany to the Corning Preserve; park areas at the Preserve were landscaped; and sidewalks, an amphitheater, a visitors’ center and docks for pleasure boats were constructed at the …Preserve.' {Letter to the ARPDC from State Comptroller 22.Aug.06}

The Port’s enabling legislation authorized it to participate in port and commercial activities, but the Corning Preserve is not a commercial facility. {Internal Controls Over Financial Operations Report 2005-S-47; letter to the ARPDC from State Comptroller 22.Aug.06}

NEXT: PART II
Port operations and tenants with two maps, one of the district, and one of the entire port area.

LAST: PART III
Changing objectives, and updating the master plan.

CONNECTICUT

CSO: SHORT ABANDONMENT*
20 December, DC. **CSO FILED TO ABANDON 2.4 MILES OF THE SUFFIELD BRANCH**. The Notice of Exemption stated: 'There are no local shippers on the Line. There has been no traffic on the Line for over 2 years. The last traffic to move over the Line was in July 2009. Until July 2009, local service on the Line was provided on as needed basis. Since July 2009, there has been no local traffic on the Line.'
The line
CSO proposes to abandon from Milepost 2.0 (the point at which the track crosses Suffield Street [see map in 08#05A]) to Milepost 4.4 (end of track in downtown Suffield).

The customers
The last customer, Stevenson Lumber, closed in early 2008 [see 08#04A]. CSO has several customers on the branch south (railroad west) of the end of the abandonment [see map in 08#05A].

Town to buy?
A town official said First Selectman Ed McAnaney is currently negotiating with the railroad to buy the section to be abandoned. [More in a future issue.] {ANR&P discussion 22.Dec.11}
other restricted materials, failing to maintain fire protection equipment, and failing to post appropriate signs and monthly summaries. {Hoa Nguyen in Newtown patch 24 & 27 Dec. 11}

PORTS: MOFFATT + NICHOL WINS*
28 December, Hartford. THE GOVERNOR’S OFFICE ANNOUNCED THE AWARD OF THE PORT STUDY CONTRACT. According to the press release, ‘Moffat & Nichol’s final analysis will include: a full inventory of current port facilities [at Bridgeport, New Haven, and New London]; detailed profiles of transportation accessibility to the ports; a market analysis, including a list of markets or regions that can be serviced by Connecticut ports; a comprehensive strategy for economic development of the deep draft ports, including short- and long-term strategic initiatives and action plans; and, a plan for providing grants-in-aid for improvements to ports and marinas, including dredging and navigational direction....

'The State will pay Moffatt & Nichol a total sum not to exceed $477,179 for the study, which is to be completed before June 30, 2012.'

Headquartered in Long Beach, California, Moffatt & Nichol serves clients worldwide from 27 offices in North America, Europe, Latin America, the Middle East, and the Pacific Rim. It has hired local firm BETA as a subcontractor.

BETA Group, Inc. provides transportation, environmental, structural, landscape architecture, and asset management services to federal, state, municipal, and private clients in the New England area. {text of press release}

Worked on Searsport
Moffatt & Nichol was asked by the Maine Port Authority in 2009 to find a developer for Sears Island. It could not do so. [See 09#05B.]

PORTS: SEEK FEEDER?*
21 December, Newington. **THE CONNECTICUT MARITIME COMMISSION DISCUSSED HOW TO ATTRACT AMERICAN FEEDER LINES** service to its ports. Led by Commissioner Parker Wise, the following was discussed:

AFL’s plans to focus on a short sea shipping service that will meet all Jones Act requirements: vessel built at US boat yards, crewed by U.S. Merchant Marine sailors. AFL has been in touch with Gulf and East Coast port authorities including Portland, Boston, and the PANYNJ.

AFL is presently operating a service between Halifax, Portland, and Boston. The AFL service could be a good fit for Connecticut ports. The AFL and short sea service is more than a highway traffic mitigation tool. It is also a job creation tool at the ports of call.

Massport is actively marketing AFL services. The question asked is what steps if any should the State of Connecticut be taking to reach out to AFL? Massport and the State Of Maine are financially assisting AFL with costs.

Commissioners recognized that the key to bring AFL service into a Connecticut port would be competitive pricing. The hub and spoke concept would most likely be driven by the Panama Canal expansion project.

Commissioners Esty and Smith cautioned that any short sea shipping plans needed to look to the future not the past. Martha Klimas stated that the Bridgeport Port Authority representatives had spoken with AFL representatives and came away of the opinion that AFL was looking for Connecticut to make a deal.

The need to conduct a cost benefit analysis was raised. Commissioner (DECD head) Smith offered to meet with AFL representatives. She also restated the need to complete the Port Study [see 11#12A] previously discussed as it will assist in identifying the market and transportation needs. The discussion ended with a comment by Commissioner Griffin about the need for maintenance dredging of Connecticut’s ports to attract more shipping traffic. {draft minutes of Connecticut Maritime Commission Summary Report of Meeting (Mtg. #12-11) 21.Dec.11}

MAINE

**MAINE RAILROADS: A COMplaint***

10 November, Bangor. **LINCOLN PAPER AND TISSUE, LOCATED IN LINCOLN, USES NO RAIL OUTBOUND**, Keith van Scotter, the company president, detailed his concern at the Maine Transportation Logistics Forum.

**Which part of rail service is failing?**

In response to a question about the problems, Van Scotter said that “hard as it is to believe, it is cost in a lot of cases. Even for intermodal going out of state” truck is less expensive.

Second, “we factor in significant services differences as well.” [This is exactly the same situation as four years ago, when the mill’s transportation manager, Tony Steward, told NEARS that he only uses rail intermodally (at that time to Boston). See 07#11B.]

**A comparison**

Asked by Bob Grindrod, MMA president, which railroad serves him, Van Scotter declined to state. Instead he noted, “Hart is our trucker. We have excellent service.”

Grindrod followed up, asking when Van Scotter worked at a Mead mill in Michigan did he have similar problems with rail. Van Scotter acknowledged he did not.

**Transportation is the problem**

The president said his major advantage is his location in the middle of the wood basket. “If forest products facilities can't exist here, they can't exist anywhere….Transportation is the challenge...and energy....Rail would be a good option, but it's not efficient in this state.”

Lincoln sends its tissue by truck to Auburn, where it is cross-docked to container, and then drayed to Worcester, and railed as far as Las Vegas and the Los Angeles basin.
His principal market lies between Richmond, Virginia, and upstate New York.

**Trucking costs: tolls**

In 2000, Van Scotter told the group, “the cost per loaded mile in tolls was 12 cents. Now it's 40 cents per loaded mile, and in 2015 it will go to 56 cents/mile.

“And even with that, rail cannot compete. Increasing truck weights is a no-brainer. Guess who is resisting? The railroads.” {ANR&P coverage}

**PAN AM: CUSTOMER FOUND***

19 December, Fairfield. **CORRECTION: NEPW HAS A RAIL-SERVED CUSTOMER HERE.** The listing in 11#11A [see box there] said the company's Fairfield warehouse has no rail. In fact, as President Drew Gilman wrote, '[W]e get an occasional rail car in at Fairfield – this is market pulp purchased by Sappi – maybe 10-20 cars per year at most, not a lot.' {e-mail to ANR&P}

The warehouse is served by Pan Am trains on the Hinckley branch, which primarily serve Sappi's Somerset mill. {editor}

**PAN AM: MONEY PROBLEM?**

14 December, Bangor. **THE TWO SIDES AGREED TO ADDITIONAL TIME TO RESOLVE THE PAYMENTS DUE TO FRONTIER COMMUNICATIONS** [see 11#11B], according to an order granted by Magistrate Judge Margaret Kravchuk.

The motion

'[Pan Am and Frontier] have reached an agreement pursuant to which the Motion will become moot if Maine Central Railroad and Pan Am complete all remaining payments as scheduled. The last remaining payment will be due May 1, 2012. The parties believe that holding the Motion in abeyance for so long as Maine Central Railroad and Pan Am complete timely payments will secure the just, speedy and efficient conclusion of the pending matter.' {court website, 07-cv-0113}

**PAN AM: NORTHERN MAINE?***

10 November, Bangor. **NO ONE FROM PAN AM ATTENDED THE MAINE TRANSPORTATION LOGISTICS FORUM.** Jim Therriault of Sprague suggested that those involved in the process of re-visioning Maine “bring Pan Am to the process.” He spent a lot of time this summer with Pan Am officials. “They say they have turned over a new leaf.”

**Marine highways**

He also suggested that attendees look at “ocean highways” as a way to “move goods around bottlenecks, move city to city” in trucks, vans, and containers. It should be part of the solution. {ANR&P coverage}

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**MASSACHUSETTS**

**CSXT: N. BROOKFIELD UPDATE***

14 December, North Brookfield. **THE RAILROAD WILL BE OPERATIONAL BY SUMMER 2012,** according to Dan Bigda, who will lease the line from the Town. However, much remains to be determined, despite the enthusiasm of Selectman Richard Chabot. At a meeting of the Board of Selectmen earlier this month, Chabot said:

**Shippers**

Companies waiting in the wings will be a game-changer for the community, and have committed to developing
sites along the right-of-way. The companies have not been publicly identified.

**Infringers**
“The railroad board of directors is once again sending a letter, not just to abutters of the railroad property, but to all property owners with a sight line to the railroad, that this project is moving ahead on schedule and those who have encroached on railroad property with everything from swimming pools to tool sheds and gardens had best move them while they have the opportunity.” {Brad Miner in Worcester Telegram and Gazette 15.Dec.11}

**CSXT: MORE ON N BROOKFIELD***
21 December, North Brookfield. **PRINCIPAL DAN BIGDA CONFIRMED HE IS MOVING AHEAD** with reviving the rail line from East Brookfield into North Brookfield. 'I have met with more than 15 families locally at their residences to tell them what we are doing. I have met with some others about purchasing old mills for use in the project.'

'Have met with crossing manufacturers and getting in quotes. Have picked the tree cutting company. Etc.... Working with the Town of North Brookfield has been none other than excellent.' {e-mail to ANR&P}

**PAN AM: NIMBY'S DON'T LIKE RRs**
19 December, Winchester. **A FEW WINCHESTER RESIDENTS OPPOSED RAIL SERVICE TO TIGHE WAREHOUSE.** [Due to open on 1 November – see 11#10A – the residents indicated Pan Am has not yet served the property.]

At a Board of Selectmen meeting, Susan Busher and Lorraine Malloy questioned the resumption of rail service. Malloy said, “They don’t consider the residents in what they do....We're not going to allow neighborhoods to be taken over by commercial destruction anymore.'

But Acting Town Manager Mary Ellen Lannon noted the town has no authority to prevent the trains from stopping at the Holton Street business. The Building office said that the building is still conforming to a light industrial zone. The Conservation Commission stated the spur lies outside the flood plain. The Engineering office is trying to set up a meeting with the MBTA.

“Based upon the documentation available, it was determined that Mr. Tighe was within his rights as a property owner to request the improvements be done to have freight deliveries to the industrial location on Holton Street,’ Lannon said. {Daniel Marra in winchester patch .com 21.Dec.11}

**1980s noise complaints**
In the 1980s, the noise from the railroad switch was enough of a problem that Busher sought help from various government officials, including Sherman “Whip” Saltmarsh, who served for 14 years as a state representative. In responding to a Busher complaint on 30 October 1984, Saltmarsh acknowledged receiving complaints over the years about the railroad switch and the noise it created in the area.

This December, Saltmarsh said he recalls the effect the railroad switch had on the neighborhood, and he’s wary of the decision to bring it back. “They’d leave the engines running all the time at night,” he said. “I felt it was causing a problem in the neighborhood, and that the switching operations shouldn’t be there at all.”

On 19 December Malloy said the town needs to act quickly before residents are harmed. “The last time I checked, every taxpayer has the right to eight hours of sleep,” Malloy said. “We’re not going to get that if this thing goes through.” {Evan MacDonald of Winchester Star / GateHouse News Service e-posted 22.Dec.11}

[Mini-editorial: The fact that Winchester property values are high in part because of the railroad – the commuter part anyway – probably does not enter the protestors' mind. I wonder if they grow all their own food and compost all their waste? Editor]
MBRX violated the operating rules

Pan Am uses NORAC (Northeast Operating Rules Advisory Committee) rules to govern train operations on its line. Rule 138(e) states:

'Trains being operated from other than the leading end must not enter a highway crossing at grade until on-ground warning is provided by a crew member or other qualified employee.'

Barbadaro wrote: 'MBR conceded at a court hearing that its train was not being operated from the “leading end” when the accident occurred. Transcript of July 1, 2011 Hearing at 44-45, Doc. No. 54. It also agreed that no MBR employee had provided an “on-ground warning.” Instead, it argued that Leishman had complied with Rule 138(e) because Leishman, who was riding in the lead car of the train during the accident, was “stationed at the crossing” at the time of the accident.

'I rejected MBR’s reading of the TRA and instead concluded that an employee is not “stationed at the crossing” under Rule 138(e) if he is on a moving train. Id. at 64. Accordingly, I concluded that Pan Am was entitled to exclude Leishman from its tracks under the TRA because he had violated a Pan Am safety rule. Id. At the same time, I determined that Pan Am had provided MBR with the process it was due under the TRA. Id. at 97. Thus, the only claim that remains unresolved after the July 1, 2011 hearing is MBR’s good faith and fair dealing claim. Pan Am now challenges that claim in a motion for summary judgment.

Pan Am within its rights to bar Leishman for life

Barbadaro, like all federal judges, must look to state law to govern contract claims. He found that under New Hampshire law, contracts have a 'implied duty of good faith and fair dealing'....

'A survey of the New Hampshire Supreme Court’s decisions on the subject demonstrates that the court will not find a breach of the duty of good faith and fair dealing merely because a party has invoked a specific, limited right that is expressly granted by an enforceable contract....

'The express language of the TRA [Trackage Rights Agreement] granted Pan Am a limited right in a clearly defined circumstance: Pan Am “shall have the right to exclude . . . any employee of MBR determined . . . to have violated” an applicable rule or regulation.

'MBR could have negotiated for a different scheme, such as a progressive discipline regime or a neutral arbiter to make exclusion decisions.'

Pan Am's actions not condoned

Despite ruling in Pan Am's favor, Barbadaro concluded thus: 'I do not condone Pan Am’s conduct in this case. While there is a reason to doubt Pan Am’s claim that it invoked its right to exclude Leishman from its tracks solely because of public safety concerns, the contract plainly gives it the right to act as it did, regardless of its motive for doing so.' {US District Court of New Hampshire website, 10-cv-00264}

MBRX: NO DEAL SO APPEAL*

28 December, Milford. DESPITE HOPES TO WORK OUT A DEAL WITH PAN AM, MBRX WAS TURNED DOWN and will now appeal the court decision earlier this month.

Interlocking legal deals

Following Judge Barbadaro's decision to grant Pan Am's motion to dismiss the MBRX suit [see above], MBRX owner Peter Leishman met on 22 December with Pan Am Marketing Vice-president Mike Clement and Assistant General Counsel Robert Burns in Milford. Leishman said they had a “hospitable” discussion about future traffic from Monadnock, renewing the trackage rights agreement, removing the “lifetime ban,” and the appeal of the Barbadaro decision.
Pan Am adamant

On 27 December, Burns responded to Leishman's offer to renew the trackage rights agreement with this language:

Accordingly, I have been advised that the company cannot accept your proposal as proffered - specifically, but not limited to, your proposal that you be allowed to operate on Pan Am property.

As you are aware, Pan Am received a Federal Court Judgment that legally supported our decision to expel you from Pan Am property pursuant to the Trackage Agreement. You now assert that MBRR will not enter into a new Agreement unless you are allowed to operate on our property. It is our recommendation however, as in the past, that MBRR simply hire a full-time employee to run the MBRR trains over our property and likewise enter a new agreement.

Leishman said he was “taken aback by the company's standing firm, despite the fact that PAR's hearings officer said I didn't violate the shoving rule, NS and CSX continue to do what we did, and Judge Barbadaro didn't condone PAR conduct.”

Loss of traffic for Pan Am

Leishman reported that Monadnock Paper has 500 carloads of inbound product (clay, starch, and pulp) which it could move rail-direct to Bennington via Pan Am and MBRX if Monadnock were not concerned about Pan Am performance. [This concern was reported in 2008 – see Brian Early in Hippo press .com 15.May.08]

Leishman said that the mill “spent hundreds of thousands of dollars in the early 1980s” before Guilford bought the Boston and Maine railroad, improving the track and replacing a bridge in Lyndeborough. The next year Guilford filed to abandon the track, dismaying Monadock.

Currently Monadock has reconfigured its receiving dock for trucks. They deliver raw materials over CN and NECR to a transload in White River Junction. “A truck can go to White River Junction, load, and return in six hours,” said Leishman.

Appeal

The appeal was formally filed to the US First Circuit Court of Appeals in Boston. {ANR&P discussion and e-mails 28.Dec.11}

Leishman is hoping the appeal will result in either the ruling being overturned or remanded to Barbadaro for a trial.

"We had asked for a trial to put safety officials on the stand," Leishman said. "A trial to show what I had actually done, because Pan Am was alleging I broke all these safety rules. We wanted the opportunity to present our evidence.

"The bottom line is we want the opportunity to have a trial to put the facts out there and show that Pan Am has had an obsession with putting me out of business." {Jennifer Keefe in The Lobby 28.Dec.11}

Effort on ethics to resume?

Leishman said Pan Am has recently filed a Right to Know request with the state Attorney General's office about state actions surrounding the renewal of Leishman's lease in 2009 [see 10#11B]. Leishman said that the Pan Am appeal to the New Hampshire Supreme Court of an legislative ethics decision became moot when he lost the 2010 election, but as he recently won a special election, Pan Am may be thinking of restarting its appeal or the entire lawsuit.

Cancellation of lease

Leishman noted he sent a cheque to the state for his use of its tracks, but the state sent the cheque back. NHDOT cancelled the MBRX operating rights in early 2011 because MBRX was not operating [due to Pan Am's barring Leishman] in 2010. The contract requires that Leishman operate. {ANR&P discussion 28.Dec.11}
BAYSIDE: A GOOD YEAR*

20 December. “WE’VE HAD THE BEST YEAR IN THE POLLOCK TRADE SINCE 2008,” said Christy McManus, who operates the food terminal here, now called Kloosterboer Bayside. [On 6 January she predicted 2011 would do exactly that in the pollock Jones Act trade – see 11#01A.]

Other traffic
Seed potato to Cuba did move, but only 2500 tonnes compared to 25,000 tonnes in previous years. The Bayside quarry is still shipping produce; two ships of armour stone have moved.

Future
Kloosterboer is “an amazing company and I am proud to be a part of it.” By February, she anticipates, she will have some additional positive news to report. {ANR&P discussion}

SYDNEY: STRUCTURE SQUABBLIES*

22 December. DIRECTORS OF THE SYDNEY PORTS CORPORATION AND ITS MEMBERS HAVE ACCEPTED RECOMMENDATIONS FOR A NEW PORT GOVERNANCE STRUCTURE. Local squabbling over the port’s future, however, is overshadowing that.

New governance
The fundamental restructuring of the Sydney Ports Corporation’s membership, and appointment of a new board of directors, will occur by 31 March 2012 [see 11#12A].

The new structure is considered an integrated multi-modal transportation entity and includes a greater representation of port users and stakeholders. New port corporation membership will comprise seven classes: federal, provincial, and municipal governments, First Nations, community-at-large, commercial marine, and multi-modal transportation. The board will have 10 voting directors from within the membership classes, and three non-voting directors. {Sydney Marine Group press release 21.Dec. 11}

Linking Sydney and Canso?
Some are criticizing Enterprise Cape Breton Corporation (ECBC) for now moving unilaterally on port issues.
ECBC, a federal agency, helped fund the harbour dredging project [see 11#12A], contributed to the governance project, and contributed financially to a Sydney Harbour marketing program.

Rankin MacSween, president of New Dawn Enterprises Corporation, a private non-profit community development corporation, said ECBC has played an important role in Cape Breton. “A lot of organizations and agencies rely on ECBC for support.”

But, he said, several months ago it became clear that ECBC, after supporting the port’s new governance model, “moved off in another direction and was promoting a Canada Port Authority here that would link Sydney and the Strait (of Canso). Why would they do that?

“And the other thing that has been troubling is ECBC has indicated it has...an aversion to any interaction that has to do with exploring the possibility of developing a container terminal here.” [See 09#11A] {discussion with ANR&P’s correspondent Tom Peters 21.Dec. 11}

**ECBC response**

ECBC CEO John Lynn scoffed at suggestions that ECBC is trying to create a combined Sydney and Strait of Canso port authority.

“Throughout the course of conversations on other harbour-related issues with Transport Canada, they simply asked the question of us ... they said, 'Have you ever, has the Port of Sydney and has [the Strait Superports Corporation at Canso] ever considered making an integrated business case for an integrated Canada Port Authority model?’”

"The only thing that [ECBC] indicated,” Lynn said, “is that they would raise that matter with the boards of the Sydney Ports Corporation and with Superports. We are not an advocate for an integrated model, we are not an advocate for a Canada Port Authority model, we are not an advocate for a private-sector model.

“Because ECBC has an islandwide mandate, we have consistently said to any groups, any companies that are interested in such a development, 'OK, that, that will be decided on the basis of the business case. That is a private-sector investment.'"

Lynn said ECBC has suggested Sydney Ports Corporation select a model that creates a port that is sustainable and generates enough revenue to support a broad marketing strategy.

**Does a container terminal make sense now?**

Lynn denied ECBC “is trying to hijack development of Sydney’s port.” The Crown agency “is not advocating for any particular port governance model” and that ECBC is taking a “broader approach” to marketing the port rather than just discussing a possible container terminal.

“The Sydney harbour dredge enables a better business case for an ocean container terminal because we now have the draft in the Sydney harbour,” said Lynn. “But it also opens up a myriad of other opportunities for commercial development around the Sydney harbour. What people seem to be forgetting is we are currently in a worldwide recession. We are currently in the midst of an economic recovery that places, you know, great stress on a business case in respect of an ocean container terminal.”

**Halifax is woefully underutilized**

Marlene Usher, ECBC executive director, noted New Dawn Enterprises has a vested interest in seeing a container terminal developed. The proposed site is a greenfield site owned by Laurentian Energy and New Dawn is a shareholder in that company.

“We have an ocean container terminal, for example, in Halifax which currently is running at 35% per cent capacity and we haven’t been involved in discussions with any group in respect of an ocean container terminal in Sydney for a significant period of time. But I’ll tell you this, we were very active in marketing the greenfield site in concert with the Sydney Ports Corporation for that very purpose a couple of years ago,” Lynn said.

Usher said ECBC is currently working with private-sector companies on the development of Sydney Harbour and there is “some very good news” on the way. {Erin Pottie in Cape Breton Post 22.Dec.11}

**A call to take ECBC off the Sydney port structure**

Peter Gillis, past president of ILA Local 1259 in Sydney who is pushing for the construction of a container
terminal, is calling on the federal government to remove Lynn from the Sydney port file. In a letter to federal Minister of State Bernard Valcourt (Atlantic Canada Opportunities Agency) (La Francophonie) Bernard Valcourt*, Gillis said:

“The federal government has invested significantly in the port and for that this community is appreciative. However, what we are seeing at Enterprise Cape Breton Corporation is an effort to control and manipulate community-based efforts in port development for no other apparent reason than to establish individual dominance. {Letter dated 14.Dec. 11}

* Valcourt is a barrister and solicitor practicing law at the City of Edmundston, New Brunswick. {Conservative Party website}

**RAIL CUSTOMERS**

Lincoln Paper (ST, Maine) Not happy with railroads.
NEPW (ST, Maine) Fairfield warehouse.
Newtown Transload (HRRC, Connecticut) Closing.
NS (PAS, New York) Intermodal yard to open.
Tighe (ST, Massachusetts) NIMBYs don't like railroad.

**PEOPLE – EVENT**

Peter Hanson, president of Great Northern Paper Company, resigned. On 13 December, Hanson said at a Katahdin Area Chamber of Commerce event that Beth Quimby's proposal for a Maine Woods National Park would not affect wood supply or otherwise negatively impact his industry, except for concerns over the application of federal air-quality standards.

Two days later, GNP CEO Richard Cyr put out a statement saying the company did not support Quimby's proposal to donate 70,000 acres next to Baxter State Park to the federal government for a national park.

Company spokesperson Scott Tranchemontagne said GNP 'parted ways' with Peter Hanson because of 'philosophical differences on how best to move the mill forward.' Tranchemontagne said the decision was not connected to Hanson's remarks that Quimby's park plan would not threaten the paper industry.

GNP's vice president of operations and manufacturing Everett O'Neil will replace Hanson {Nick Sambides in Bangor Daily News 20.Dec.11}

On 30 December, Hanson wrote: 'All reports are wrong other than that I am no longer with the company, much to my regret. {e-mail to ANR&P}

**EVENT**

The 16th annual Quebec Railway Symposium and 11th annual RailShow will happen in the Plaza Hotel, Quebec City 28-29 March.

For more information, info@groupe-traq.com

**EDITORIAL**

**GUEST: MONTREAL MYTH***

*John Reading, who is retiring as editor of the Callboy, the comprehensive newsletter of the Massachusetts Bay Railroad Enthusiasts, wrote this in his last issue, as one of his parting shots:*

In 1950, Boston and Montreal were linked by six daily pairs of passenger trains – day and night runs via Wells
River, White River Junction, and Bellows Falls. In January 1965, the last trips ran. Not quite 50 years later, passenger-train advocates want to bring trains back. We think that’s a bad idea, for two reasons.

1 – Montreal is no longer the financial capital of Canada. The cultural upheaval of the 1970s-1980s that enforced use of the French language, and the related Québec-separatist movement, drove most English-speaking commerce west to Toronto … and it never returned. Then, Canada’s rise as an oil-producing nation made Calgary a Prairies boomtown. Today, Montreal is a grand city for tourists – but not a major business destination.

2 – Talk of “high-speed trains' between Boston and Montreal is mere talk. There is no rail link today between the Merrimack and Connecticut River valleys, north of Massachusetts. A reopened Northern Railroad from Concord to White River Junction would use 70 twisting miles to cover a distance you can drive in 50 miles – and faster. Same for hopes of making the circuitous New England Central from White River Junction to St. Albans into a “high-speed' railroad.

Unfortunately, we already have a “high-speed' corridor from the Merrimack Valley to Lake Champlain – it’s called I-89. We shouldn’t spend many millions trying to outdo it with a railroad.

Addendum
In a discussion on 22 December, Reading noted that once four links existed between the Merrimack and Connecticut River valleys: the Northern (Concord – White River Junction), plus other Boston and Maine (Nashua-North Walpole, Concord-Claremont, and Plymouth-Woodsville).

“The railroads were built along the north-south river valleys for a reason. Moving traffic such as a car of coal from west to east, over the mountains, is costly.’ {ANR&P discussion}