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Atlantic Northeast

Rails & Ports

Operating railroads + ports, intermodal facilities, and government environment

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**REGIONAL**

**CP-MMA-NBSR: FIRST UNIT TRAIN**

9 June, Saint John. *FIVE LOCOMOTIVE MOVED AN 80-CAR TRAIN OF CRUDE* to the Irving Oil refinery. It left Farnham at 0400 on 8 June. It originated in New Town, North Dakota.

[On 2 June the first post-CP strike MMA eastbound from Montreal had mostly – but not completely – oil tank cars. {MMA-Rail 2.June.12}]

On 11 June the empty crude train of 80 cars left Saint John with two MMA units for power. {RailsNB e-list; AtlanticRails 2.June.12}

**A LONG-TERM CONTRACT?**

World Fuel Services, a Fortune 500 company based in Florida, could begin shipping 10,000 to 15,000 barrels of oil per day from the Bakken oil fields to Saint John via rail in early August if a formal deal is reached.

Bob van der Valk, a petroleum industry analyst based in Terry, Montana, said on 6 June: “For the moment it's a good deal for Irving and the Canadian gasoline consumers. You should be able to see that translate into lower prices.”

Bakken producers are having trouble moving their product without access to pipelines, van der Valk said. Bakken crude is currently priced at about $7 to $10 a barrel less than the benchmark West Texas Intermediate oil, he wrote in the *Bakken Oil Business Journal*, an online industry publication.
Still, the volume of oil is a drop in the bucket for Irving, which operates the largest refinery in Canada, processing an estimated 300,000 barrels per day.

“We receive crudes from all over the world,” said Van der Veen, who would not confirm or deny the report of a pending deal with World Fuel Services. “Like any refinery in eastern Canada, we would encourage the availability of crude from other sources, including western crude.”

Eastern refineries currently import about 75% of their oil primarily from Venezuela, the Persian Gulf, and the North Sea at a substantially higher cost than product offered by Canadian sources, said Greg Stringham, a vice-president of the Canadian Association of Petroleum Producers. {Reid Southwick in Saint John Telegraph-Journal 7.June.12}

Pan Am comment
Cynthia Scarano, executive vice president at Pan Am, said changes in the energy market have sharply decreased the tonnage of coal carried by the railway [PW down 53% – see other article]. To achieve the traffic needed to remain profitable and maintain its work force, Pan Am “is currently trying to expand its shipping base and there are a lot of new products that we are looking at, crude being one of them,” Scarano said. {Kevin Miller in Bangor Daily News 10.June.12}

NBSR doing well
Even without oil, NBSR has good traffic. On 1 June an eastbound with traffic from Pan Am at Mattawamkeag set off in McAdam about 15 log cars for Woodland Pulp, and lifted two empties from Ganong and two from the fish food unloading siding in St Stephen. The train has 64 cars leaving McAdam Yard. {RailsNB 1.June.12}

MMA-PAN AM-NBSR: MORE CRUDE TRAINS
Pan Am ran the first train [see 12#05B] and MMA the second [above].

#3: Pan Am to NBSR
On 14 June Pan Am brought a second unit train to Waterville, where it was split into two. The first 50 or so tank cars passed through McAdam at 1530 on the 15th, and the second at 1810.

On 17 June NBSR departed Saint John with about 50 empties.

#4: MMA to NBSR
The next train, CP train #606-249, via MMA is due into St.Luc, Quebec at 1600 on 18 June.

CN not yet?
On 15 June CN train W406 from Moncton to Saint John had 100 cars, mostly tank cars, but not all of them crude. {RailsNB e-list, MMA e-list} [So this was not the long expected CN unit train – see 12#05B Regional.]

PAN AM-MMA: OIL SPILL WORRIES*
10 June, Augusta. STATE AUTHORITIES ARE EXAMINING THE NEW CRUDE MOVEMENTS. “It definitely got my attention with 104 rail cars of crude coming through the state,” Barbara Parker, head of the Maine Department of Environmental Protection (MDEP) hazardous materials response team, said in reference to Pan Am's shipment [see 12#05B].

“The transportation of crude oil across rail lines is a concern because many times, rail lines are very close to sensitive water bodies,” said Scott Whittier, director of MDEP's oil and hazardous waste facilities division. “So it does present a potential threat that we need to prepare for.”

Preparations include ensuring both DEP staff and other agencies can respond to large oil spills along rail lines. DEP staffers are already trained to handle spills from the sea-going tankers and pipelines that feed or leave Portland, the second-largest oil import terminal on the East Coast. The department also is reviewing the solvency of a state oil spill response fund paid for with a fee charged on every barrel of any type of oil imported
FOR SHIPPERS:
Current services include distribution, cross-dock, and side-track leasing

Storage: four roofed areas with a total of 32,000SF, plus 10,000SF enclosed.

Cross-dock: CSXT service for all car types, 286,000 pounds. Up to 20 car spots. Trackmobile switching.

Distribution: Flat-bed services within a 300-mile radius by affiliate Ray’s Transportation, Inc.

Side-track leasing: Up to 20 car spots.

Located 60 miles north of New York City.

mailing address: 42 Argenio Drive, New Windsor, NY 12553

FOR RAILROADS:
Current services include distribution, tying, & recycling

Removal, reuse, and disposal of track materials.

New track materials warehoused, repackaged, palletized, and delivered.

Pre-plating of ties, and lease of proprietary tie-plating machine.

Location info on Shipcsx.com
CSX-served at Ray’s Transportation, 55 Windsor Highway (Rt.32), New Windsor, NY.
last year. So if MMA only had one reportable accident it would show up as five under the per-million-miles measurement.

Instead, Grindrod pointed to the fact that MMA has not had any reportable accidents on its main line during the past three years. Both of MMA’s derailments last year happened in rail yards.

Cynthia Scarano, Pan Am executive vice president, said that in addition to the weekly inspections by crews on hi-rail vehicles, her company checks each stretch of track at least twice a year using a machine that essentially x-rays the rails for structural defects. “At Pan Am, safety is our No. 1 priority,” Scarano said.

Track conditions have been the primary cause of 13 of Pan Am’s 20 federally-reported derailments since 2006, according to data contained on the Federal Rail Administration safety website. The FRA listed track conditions as the primary cause of 10 of MMA's 19 derailments during that time.

Railroads also are required to submit detailed reports to the Maine Department of Environmental Protection on spills or other incidents that occur anywhere on the company’s property, whether on the tracks or in the railyard. Pan Am Railways is subjected to additional reporting scrutiny following an August 2007 incident at the company’s Rigby Yard in South Portland that also garnered the company a $475,000 fine [see 10#01B].

Since then, Pan Am has reported roughly 300 spills of lube oil, hydraulic oil, or other types of oil to the DEP, the overwhelming majority of which involve quantities of one gallon or less, and sometimes as little as one one-hundredth of a gallon. In 2010, a ruptured fuel tank on a derailed locomotive leaked 2,800 gallons of diesel in the railroad’s Waterville railyard.

Pan Am’s Scarano pointed out that most of what is reported are equipment leaks or spills rather than tanker spills. She declined to comment specifically on any changes in company practices since the Rigby Yard case or on a 2006 diesel spill at a Massachusetts railyard that resulted in a judge levying a $500,000 criminal fine against the company.

“We work closely with the agencies,” Scarano said. “We notify them … and we take it very seriously.”

{Kevin Miller in Bangor Daily News 10.June.12}

**NEW YORK**

**VRS: NEW CUSTOMER**

5 June, Wallomsac, New York. **BROWNELL’S AUTO WRECKING SERVICE WILL OPEN A SCRAP TRANSLOAD HERE.**

VRS has completed rebuilding the spur into the former Bennington Paper Mill here, though it is not yet in operation, said Bill Brownell, the owner. He expects that the spur will serve not only his yard, located in nearby North Bennington, Vermont, but other scrap recyclers. **{ANR&P discussion 5.June.12}**
QUEBÈC

CSXT: MONTREAL SERVICE

31 May. **CSXT INTERMODAL SERVICE BETWEEN NEW YORK AND MONTREAL WILL CUT UP TO THREE DAYS.** Effective June 18th, days of service for Elizabeth Marine Terminal (EMT) to/from Montreal, PQ, will be adjusted, resulting in faster transit time, as follows:

- EMT to Montreal: Service will increase to six days per week (all days except Thursday). Gate cut-off time is 1630 on all days of service (unchanged); however, freight will be available 1-2 days sooner, at 0800 of Day 3.

- Montreal to EMT: Service will increase to six days per week (all days except Sunday). Gate cut-off time is 1600, Monday - Friday (unchanged), and 1200 on Saturday; however, freight will be available as much as 3 days sooner, depending upon the day.' {CSXT announcement to customers; emphasis added}

*The routing remains the same*

CSXT was moving this traffic to its new Montreal terminal via the Massena line [see 11#04B]. CSXT spokesperson Bob Sullivan wrote, 'The faster transit time is a result of some modifications to the service itself, enabling the traffic to move even more efficiently. There are no changes to the routing.' {e-mail to ANR&P 1.June.12}

MAINE

MDOT IRAP*

4 June, Augusta. **THE DEPARTMENT WILL ANNOUNCE THE AWARDS FOR THE INDUSTRIAL RAIL ACCESS PROGRAM** “soon,” wrote Nate Moulton, rail administrator. {e-mail to ANR&P}

NBSR: WILL SERVE WOODLAND PULP

6 June, DC. **THE STB ISSUED THE NOTICE THAT NBSR SUBSIDIARY EMRY WILL SERVE THE MILL** in Baileyville, Maine [informally called 'Woodland' – editor]. The trackage rights granted to EMRY by Woodland Rail LLC, the entity created to operate the rail line purchased by Woodland Pulp from Pan Am [see 12#05B], are overhead only:

'EMR will be able to serve the mill with both inbound and outbound traffic, and EMR will also have all rights needed to interchange or provide run-through service with New Brunswick Southern Railway. Other than direct service to the mill, EMR's rights on the Line will be overhead only, and EMR will be prohibited from serving any other locations or shippers on the Line.'

The purchase transaction and the operating rights take effect on 20 June. {STB decisions page, Docket Nos. FD 35628 & 35629}

Transfer of bridges

The bridges must also be transferred from Pan Am to Woodland Rail which requires the approval of the Governor-in-Council [see MMA-NBSR article]. As of 15 June, no Order had appeared on the Privy Council web page.
MMA-NBSR: BRIDGE TRANSFER*

26 April, Ottawa. **THE GOVERNOR-IN-COUNCIL APPROVED THE TRANSFER OF THE RAIL BRIDGE AT VAN BUREN** from MMA to EMRY (an NBSR subsidiary). A 2007 act [see Woodland Rail story in 12#05B] requires the approval of this body. The order read:

His Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to subsection 25(1) of the International Bridges and Tunnels Act, hereby approves the application submitted to the Minister in respect of the purchase or acquisition and the operation of the Van Buren Bridge by the Eastern Maine Railway Company.

What is the Governor General in Council?

Raymond Rivet, director of Corporate and Media Affairs of the Privy Council office, explained:

Legally, the Order is an order of the Governor General made "in Council", meaning on the recommendation of the Queen's Privy Council for Canada, or more specifically, "the Treasury Board of Canada" which is the Cabinet Committee mandated to approve most OICs and regulations.

Input is usually provided to the Minister preparing the submission – in this instance, the minister of Transport – before the submission is sent for approval to the TB/GIC. The process leading to the making of an Order is protected as a Cabinet confidence. The Order becomes public only after it has been made. {e-mail to ANR&P 28.May.12}

PAN AM-MMA: AN ALTERNATIVE TO TRUCKS?

8 June, Dover-Foxcroft. **PETER VIGUE IS MAKING 'QUESTIONABLE' STATEMENTS ABOUT RAILROADS AS AN ALTERNATIVE TO THE EAST-WEST HIGHWAY** which he is propounding [see 11#11B], according to one opponent to the highway. After Vigue, the head of Cianbro contractors, made a presentation to the Piscataquis County Commissioners here on 5 June, Charles FitzGerald countered some Vigue assertions in his own statement to the commissioners on 8 June.

FitzGerald, a businessman and owner of a wood products mill in Dover, has fought for the environment in Maine all his life, including creating a 10,000-acre forest preserve in the area. He listed six Vigue statements followed by what FitzGerald called more accurate statements based on his discussions with knowledgeable railroad officials, including Jim FitzGibbons, a former director of the Bangor & Aroostook Railroad.

1. **The railroads are subsidized, therefore, we can’t consider them.** Response: 'In general, only passenger rail is subsidized (e.g. Amtrak). Railway freight shipping is increasingly competitive, especially in this era of high fuel costs.'

2. **The present railroad is too slow at only 20 mph.** Response: 'The Montreal, Maine and Atlantic Railway between Montreal and Brownville Junction presently runs on a class three track rated at 40 mph.'

3. **Railroads can’t ship fast enough!** Response: 'The present in-place rail system can ship from Montreal to Saint John or Searsport within a 24-hour period. How much freight is so time-sensitive, especially freight going overseas, that one day isn’t fast enough? Also, presently existing branch systems transport time-sensitive materials in 3- to 10-car trains as quickly as trailer trucks and for much less.'

4. **Eastport will become a premier East coast deepwater port with the East-West Highway.** Response: 'The route of the East-West corridor is projected to pass through Calais, a long way from Eastport (requiring additional highway construction?).

'Searsport is a high-quality deepwater port every bit as viable as Saint John and is already connected to
the above-described rail system.'

The last two anti-railroad statements, said FitzGerald, Vigue has made at other presentations:

5. Boxcars are leaky, paper gets wet. 'Truck trailers and containers are leaky, too. However, good companies who want the business maintain their truck trailers, containers, and box cars.'

6. Railroads set off hundreds of fires. 'Grass and brush fires from sparks have been a problem from time to time with some railways, but usually without serious consequences. With MMA, these incidents are few. However, fiery accidents involving trailer trucks do happen with serious consequences including human fatalities and spillage of hazardous cargo. With the much safer railroads, these kinds of accidents are extremely rare.

'Conclusion: Mr. Vigue’s remarks are extremely misleading and way off the mark.'

FitzGerald continued in his note to the Commissioners: 'The present railroads across the middle of Maine ship double-stack containers in a corridor which averages 66 to 100 feet wide as compared to 500 to 2,000 feet wide for the proposed East-West corridor.

'These railroads can increase their shipping volume by 600 to 700% without changing the width of the corridor except perhaps for some minor adjustments (e.g. more railroad sidings).

'Larger-scale improvements to increase speed limits and otherwise upgrade efficiency are totally feasible at a fraction of the cost of the proposed $2 billion East-West corridor.

'As fuel in the long run becomes more and more expensive, shipping by rail will become more and more competitive.

'MOST IMPORTANT OF ALL, THE RAILWAY SYSTEM ALREADY EXISTS. There is no need to despoil thousands of acres and hundreds of communities with a giant highway system where the only incentive to build it is the profit to be made by the construction industry that gets the contract.' {e-mail to ANR&P 8.June.12; ANR&P discussion 14.June.12}

**MASSACHUSETTS**

**CSXT: NEW TRANSFLO NEARS COMPLETION**

14 June, Westborough. *THE SITWORK OF THE TRANSLOAD FACILITY HERE* is nearly done [see 11#09A]. It consists of raising the level of the yard several feet above the flood plain and adding drainage systems and electrical conduits for related structures and lighting. A small amount of new track material has been dropped at the east end of the yard. {coverage by ANR&P correspondent Frank Demasi}

The site is located on Walkup Drive in Westborough adjacent to 30 Walkup Drive which is owned by CSXT and leased to Tate & Lyle.

The facility will meet applicable Massachusetts storm water standards associated with redevelopment projects.

**Containment**

A raised berm within each loading area, plus drip pans beneath the rail car unloading sites, will contain possible spills. Each of the four water quality treatment units will have emergency shut offs.

**Project Phasing**

Phase I contains approximately 16 acres and is located within the formerly-paved portion of the site. This phase comprises the actual area where transloading of the bulk Commodities will occur.
Phase 2 involves the 1,500-foot extension of the western lead track and is comprised of approximately two acres some of which is located within the existing right of way currently utilized for maintenance.

Phase 3 contains approximately six acres and will occur in the future, again within the formerly-paved portion of the facility. A total of approximately 24 acres is involved for the total phased redevelopment project. {Town of Westborough Conservation Commission report 11.10}
Michigan
On 24 May, the judge in the Circuit Court for the County of Oakland [see 12#04A] okayed the stipulated dismissal of the case, with prejudice. {court web page, docket number 11-121173-CK}

PAN AM: UPDATE ON AYER*

San Vel Auto Terminal “highly satisfactory”
The PAS facility, begun in 2009 [see 09#045B] after a lengthy court battle about federal pre-emption, and upgraded in 2011 [see 11#06B] unloads Ford autos into an 850-space parking lot on 25 acres. The Town monitors the runoff system to guard the Spectacle Pond Aquifer beneath.

One of the staunchest protestors of the development over the aquifer said, on viewing it from public property, that after all was said and done the new facility and its modern accommodation for runoff retention and recharge as well as mitigation for spills from locomotive fuel and lubricants was highly satisfactory and a vast improvement over the former CSXT facility.

CSXT auto terminal still out of service
During the court battle, opponents of the San Vel facility asked CSXT whether Pan Am could

PAN AM: UPDATE ON AYER*

6 June, Ayer. THE AUTO AND WASTE OPERATIONS HERE CONTINUE TO GENERATE TRAFFIC.

Ayer. San-Vel auto facility June 2012. {courtesy Frank Demasi}

Ayer. The CSXT auto yard, once leased by Pan Am and very busy, now overgrown in June 2012. {courtesy Frank Demasi}
use its facility, vacant since the creation of the East Brookfield facility on the CSXT main line. CSXT said no [see 09#08A].

That facility is now overgrown [see photo].

**Waste facility running**

Kurt Macnamara opened the Devens Recycling Center in 2007 [see 07#09A] to move construction and demolition debris, and expanded to move municipal solid waste in 2008 [see 08#09A] but was denied expanded hours the next year [see 09#07B]. On this day, the recycle facility looked bursting with trash, while a trio of filled hoppers awaited pick up and two empty cars were parked on the outdoor siding. {ANR&P coverage by correspondent Frank Demasi}

**Auto traffic**

As an example of the auto racks moved by Pan Am, consider 16 June. AYME, a second section for AYMO (Ayer-Mohawk) left Ayer with 23 empty autoracks and some general freight. The regular AYMO left with 136 intermodal units.

MOAY left eight loaded autoracks in Gardner for PW, and proceeded to Ayer with around 20 loaded autoracks and 98 intermodal units. {NERAIL e-list}

![Ayer. Devens Recycling Centre. Three loaded cars to the left, two empties outside the building. (courtesy Frank Demasi)](image)

**PW-PAN AM: MT.TOM LIKE BOW?**

12 June, Boston. **THE SIERRA CLUB WOULD LIKE THE STATE TO CLEAN UP THE AIR**, for the benefit of the citizens around the Mt.Tom plant in Holyoke. Drew Grande, point person for the Club's work on coal, said that FirstLight's plant has operated only twice this year: once in early January after a maintenance shutdown for a few days, and once for “a couple of days two weeks ago.”

When the plant does come on line, it produces only 10-12MW, and “does not operate its scrubbers.” Grande assumed the scrubbers did not operate because that draws an additional one to two MW, “probably
eliminating any profit” from the brief operation.

FirstLight is not required to operate the Mt.Tom scrubbers under its permit issued in 2002, which expired in 2007. It is now 'administratively continued.' Grande explained: 'They keep operating under the expired permit until a new permitting process begins. The water permit is even worse; that has been expired since 1997.

"When politicians work "to get government out of our lives,"' EPA and DEP have their resources and staffs removed so they cannot adequately protect public health, Grande wrote.

The entire EPA Region 1 has only two people to do water permits (the process takes about 2 years) and a long list of facilities waiting review for permits.

A facility like Mt Tom 'is allowed to operate under an expired permit until [it] either slowly moves to the top of the list or a group of citizens makes it a priority.'

If the scrubbers do not operate, the emissions exceed the newest air quality levels for sulfur dioxide. The Sierra Club is working with Governor Deval Patrick's office to get the Department of Environmental Protection “to move enforcement to the top of the list.”

Only five coal plants remain in New England
Grande ticked them off as Mt.Tom, Bow [not burning much this even with the new scrubbers – see 12#04A New Hampshire], Brayton Point [see lightering article in 10#03B], Bridgeport [also 10#03B], and the PSNH Schiller plant in Newington [see 09#12B]. {ANR&P discussion & e-mail}

Impact on rail
Offshore coal moving to Mt.Tom and to the Public Service of New Hampshire plant at Bow has provided significant traffic to PW in recent years, but fell off 53% in 2011 [see 12#04A].

Recently PW moved coal to Mt.Tom, but only to get it off the pier in Providence. On 11 June PW and Pan Am moved 29 loads to Mt.Tom, and 30 were scheduled for 12 June. {PW e-list}

NEW HAMPSHIRE

MBRX v PAN AM: THE ARGUMENTS*

4 June, Boston. MBRX FILED ITS REPLY BRIEF here at the US First Circuit Court of Appeals. Follows a review of the legal arguments on whether Pan Am could rightfully ban Leishman for life from operating his own trains over the three miles of trackage rights in New Hampshire. Pan Am did so because in 2009, Leishman failed to station a flagger at a crossing when he was operating a train from his control car, as apparently required by Pan Am rule 138(e), resulting in a collision with a truck which violated crossing signals. {briefs from First Circuit website case 12-1031}

Does a duty of good faith and fair dealing apply here?
Both sides agree that Pan Am barred Leishman under the Trackage Rights Agreement of 1992 (TRA), even though that agreement expired by its terms in 2004. The parties have as yet not agreed on the terms of a renewal, but continued until 2009 to conduct themselves according to its terms.

"The TRA contains a provision entitling Pan Am to "exclude from the Trackage any employee of MBRX determined by [Pan Am], as a result of [an] investigation or hearing...to have violated [Pan Am]'s rules, regulations, orders, practices or instructions.” {Pan Am brief, page 2}

MBRX argues that Pan Am does not have unfettered discretion under the contractual language, citing then-New Hampshire Supreme Court Justice David Souter (now a retired US Supreme Court justice):

[U]nder an agreement that appears by word or silence to invest one party with a degree of discretion in performance [of the agreement] sufficient to deprive another party of a substantial proportion of the agreement’s value, the parties’ intent
to be bound by an enforceable contract raises an implied obligation of good faith to observe reasonable limits in exercising that discretion, consistent with the parties’ purpose or purposes in contracting. {Centronics Corp. v. Genicom Corp., 132 N.H. 133, 562 A.2d 187 (N.H. 1989)}

Pan Am responds that ‘Centronics holds that a party is required to employ good faith and fair dealing in exercising discretion in a contract only if the contract affords the party with such a degree of discretion that its exercise could “deprive another party of a substantial proportion of the agreement’s value.”’

Pan Am did not deprive MBRX of any of the agreement's value; it only barred an employee. 'The plain fact is that MBR’s failure to maintain a sufficient staff has caused its predicament, not Pan Am’s ruling.' {Pan Am brief page 20-21, citing Centronics}

MBRX argues in turn that Centronics requires a court to 'consider the actual effects of a defendant’s discretionary decision on the value of an agreement' and that the actual effect was the MBRX shutdown. {MBRX reply brief page 4}

Did Pan Am violate the duty of good faith?
If New Hampshire law requires Pan Am to act in good faith in its disciplinary hearings, did Pan Am violate that requirement by barring Leishman for life? MBRX argues that Pan Am's barring of Leishman was done in bad faith, and that Pan Am had no legitimate safety justification.

MBRX cites Pan Am’s plow operation to illustrate this. Like Leishman's train in the accident, Pan Am's snow plow trains are operated not from the locomotive, but from the opposite end, in this case the snow plow. 'Yet Pan Am does not station flaggers for highway crossings during its plow operations, despite the facial applicability of rule 138(e) to this shoving operation.'

Pan Am argued that its 'use of a snow plow on a locomotive on the front end of a train is not “shoving” but, rather, “pulling” (i.e., operating a train from the leading end), which falls outside of the ambit of Rule 138(e).'} {Pan Am brief page 49} [But see photo.]

Did Pan Am waive its right to find a violation?
Leishman states that he has operated his trains for 17 years using the control cab forward in one direction. Pan
Am knew of this method, yet failed to find him in violation of the applicable rule.

MBRX argues that '[u]nder general contract law principles, where, as here, “a course of performance by one party [is] accepted or acquiesced in without objection by the other,” the first party may be found to have waived its contractual right to make objection in the future.'

Pan Am contended that MBRX did not raise this issue at the District Court and is barred from raising it here. Moreover, the only evidence Leishman provided for the 17-year statement was his own testimony at one of the disciplinary hearings. {Pan Am brief, page 55}

But MBRX replies that in affidavits to the District Court, Leishman did report the 17-year situation. {MBRX reply brief page 29} [However, MBRX did not cite any finding or reference to the issue which was contained in the District Court's several rulings. Editor]

Next step
Leishman expects arguments before a panel after Labor Day.

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**RHODE ISLAND**

**PW: REACHING SIMS**

4 June, Providence. *PW AND RIDOT WILL DISCUSS HOW TO OPERATE IN ALLENS AVENUE*. The City of Providence Office of Economic Development has ascertained that the artery, designated federal Route 1-A, is the responsibility of the state. PW has permanent operating rights [see 12#05A] and is discussing with Sims Metal Management re-starting rail service.

James Bennett, the director of the Office [see 11 #11B], is coordinating a meeting between RIDOT and PW to determine the next step, according to Office spokesperson Ann Gooding. {e-mail to ANR&P}

PW has the responsibility for any rail work, and presumably RIDOT will have responsibility for any street improvement necessary to permit trains, as well as traffic considerations. {editor}  

**DAVISVILLE: PORTS STUDY PROGRESS**

29 May, Providence. *THE GENERAL ASSEMBLY APPROVED $7.5 MILLION IN BONDS FOR DREDGING*, to return the Davisville access channel depth to 32 feet. Bill number 2012-S2873 endorsed plans of the Rhode Island Economic Development Corporation [see12#03A]. {RI General Assembly Press Release, 29.May.12}

Permit planned
The US Army Corps of Engineers announced on 15 May that the Quonset Development Corporation (QDC) had applied for a Corps permit for the proposed dredging work. The Corps and the U.S. Environmental Protection Agency made a preliminary determination that the dredged material from the project was acceptable for ocean disposal. {USACOE News Release No. RI 2012-044, 15.5.12}

Get on board the Marine Highway
The dredging was one of six recommendations made in February by the Rhode Island Port Commission [see box]. The Commission also proposed development of a Marine Highway System hub in the state.

The General Assembly is working another resolution, Bill number 2012-S2438 as amended, which requests that US DOT Maritime Administration (MARAD) designate Rhode Island ports as destination ports of its marine highway program. This passed the Senate on 1 March. The House Environment and Natural Resources Committee took it up on the same date but has not moved it out of Committee. {Ames Colt, discussion with Laurel Rafferty ANR&P correspondent 25.May.12}
**THE RHODE ISLAND PORT COMMISSION RECOMMENDATIONS**

The special legislative commission created in 2009 [see 09#03B] to study the state’s port economic development potential finally issued its report in February. {General Assembly Final Report (GA Report), Feb.12, page 2}

Its overarching recommendation noted 'the need for enhanced coordination and greater cooperation among governmental and non-governmental stakeholders.'

The Commission made four recommendations for more coordination, one of which was a marketing collaborative, and proposed the creation of a gubernatorial position charged with port economic policy implementation, in addition to recommending the Davisville dredging project and MARAD designation as a destination port in its Marine Highway system.

**Reliance on the Martin Study**

Also on coordination, the Commission said the Governor’s Office should work in concert with the Rhode Island Economic Development Corporation to actively pursue coordinated maritime economic development policy, focused on building on the Commission’s work and a 2011 study by Martin Associates. {GA Report, page 5-6}

**What is the Martin Study?**

In 2011, the Rhode Island Bays, Rivers, & Watersheds Coordination Team funded a six-month, $50,000 study by Martin Associates of Lancaster, Pennsylvania, to review the existing infrastructure of the State’s three major ports (Providence, Davisville, and Newport); assess the East coast maritime freight market; and make recommendation on investments that would achieve the State’s economic objectives for its port sector.

The leading port growth opportunities, as found by the Martin consultants:

**Base cargo**

Auto units could grow from 200,000 (import and domestic) units to 300,000 units (good possibility)

**Potential opportunities**

- Break bulk fruit operation (will require aggressive marketing)

- Possible container barge feeder of 24,000 TEUs (will require significant reduction in barge rate/stevedoring charges and a RO/RO operation) [Another 2011 study, commissioned by the Port of Providence, suggested short-sea service moving trailers would work. See 11#02B.]

- Wind energy 130 units (uncertain, and should include significant infrastructure investment by private sector; state should not invest until private sector commitment.) {Rhode Island’s Ports: Opportunities for Growth, Executive Summary, Martin Associates, http://www.dem.ri.gov/bayteam/documents/riports.pdf; Ames Colt, chair, Rhode Island Bays, Rivers, & Watersheds Coordination Team, discussion with Laurel Rafferty ANR&P correspondent 25.May.12}

**Stevedoring charges**

The study found that direct trucking from New York was about $175 to $200/container cheaper than a maritime move to a Rhode Island port and then drayage. {Martin Associates, slide 167 of its Final Report (ppt)}

But the Martin Associates study 'did not try to estimate how much of a reduction in stevedoring labor costs/o"other port operations costs would be required, beyond their analysis of differences between trucking and container feeder costs that still indicate that trucking costs are significantly lower, at least for the NY/NJ to RI routes.' {Colt e-mail to Rafferty 1Jun.12}
PROVIDENCE/SYDNEY: COAL QUESTION*

letter to the editor from
Bruce Waterson, Waterson Terminals, Providence

4 June 2012

Chop,
How can they [Xcoal – see 12#05B] move coal that far [from Ohio to Sydney] with all of the transshipment costs? It seems to make more sense to rail it to Providence and then let us load it onto a Cape-size vessel. We can load a Cape at the dock to 40-foot draft then finish it at the Jamestown anchorage with the floating cranes. The anchorage is 100 feet deep.

Very strange going up to Sydney

Bruce

MARITIMES

NBSR: IRVING OIL YARD*

4 June, Saint John.  NEW BRUNSWICK ISSUED AN 'APPROVAL TO CONSTRUCT' TO 'IRVING OIL REFINING GP' for the construction of the Rail Spur Project.' The Approval stated that Irving operated a 'petroleum product marine loading terminal' which transfers product from the refinery 'into marine vessels.'

'Gasoline and butane received at the terminal are piped directly to the Irving Oil refinery. A truck-loading facility dispenses marine diesel and caustic soda and a rail-car facility receives butane. Caustic soda received and stored at the terminal is redistributed via tank trucks or marine vessels.'

Description of terminal
The approved 'expansion of the current rail receiving facility located adjacent to the butane receiving rack at the East Saint John Terminal' will 'have 4 spurs of 9 rail cars expandable in the future to add 2 spurs of 6 rail cars. The 4 spurs will be either side of 2 racks' for unloading the cars. The work will add 'a weigh scale to the existing inbound rail line.' {text from New Brunswick Department of Environment}

No environmental impact statement
According to Ryan Donaghy of the New Brunswick Department of Environment, the project required “an industrial approval but no EIA. Basically what they are doing is adding a couple spurs to park cars off the rail line.” {Discussion with ANR&P correspondent Tom Peters 12.June.12}

Carolyn van der Veen, a spokesperson for Irving Oil, said construction has already started, and is expected to continue through the summer months. {Reid Southwick in Saint John Telegraph-Journal 7.June.12}

Environmental concern
Gordon Dalzell, a local clean air activist, said he was concerned that the rail terminal expansion did not trigger an environmental impact assessment. He said he wanted to know the volume of emissions that would result from the loading and off-loading of product and the degree of emergency response that would be available should a spill or some other incident arise.

Dalzell said he also had concerns about the transparency of the operation because he said local residents are left wondering about the potential impact on the area and environment. “Everybody is trying to guess what this thing is. Perhaps our concerns are not as bad as we think, I don't know, but we certainly aren't finding out an awful lot about it.” {Reid Southwick in Saint John Telegraph-Journal 7.June.12}
HALIFAX: HALTERM NEW CALL COMING?
13 June. IN ANTICIPATION OF ADDITIONAL CALLS, HALTERM HAS ORDERED TWO SUPER POST-PANAMAX CRANES FROM CHINA, said Halterm CEO Ashley Dinning, to come from ZPMC of Shanghai, the largest manufacturer of these types of cranes in the world. With a commissioning date of 2Q12, they will reach 22 containers wide and cost about $20 million.

'We have engaged APM Terminals’ crane engineering services division as our consulting engineers who are based in Shanghai and have offices located at the ZPMC facility to oversee the construction of these cranes,' wrote Dinning, who worked for APM Terminals immediately prior to coming to Halifax in 2011.

Asked about new business, he wrote: 'Nothing is ever certain with regards to new business but I remain very optimistic about some potential new services. I can’t comment about any new services at this point in time.' {e-mail to ANR&P correspondent Tom Peters 13.June.12}

Terminal expansion
Halifax Port Authority is finishing an 80-metre extension to the Halterm terminal. The $35 million project, which included deepening of the berth to 16.5 metres, will allow Halterm to work two post-Panamax ships simultaneously. {Michele Peveril of HPA in discussions with Tom Peters 18.April.2012}

Halterm already has two super post-Panamax cranes and four ship gantry cranes. {Halterm web site}
They will improve the efficiency when Halterm works two post-Panamax ships simultaneously. Ceres, which operates the other Halifax container terminal, frequently works two such ships at once. {Peters observation}

New call announcement soon: APL? ZIM?
Though business has fallen off at the Macquarie-owned terminal [see 12#023A] since the loss of CMA CGM and the Green Alliance last year [see 11#08B], Dinning believes the new cranes will get plenty of work. He expects to announce a new line within the next two weeks, using 4,500 TEU vessels. Some predict APL will make the new call. {Andrew Macdonald in Allnovascotia.com 14.June 2012}

However, sources guess ZIM may announce an additional call. [In June 2011, ZIM announced a reduction of its ZCS pendulum calls through Halifax from 104 to 52 but a doubling of Halifax cargo allocation to keep cargo moving.{Tom Peters in Canadian Sailings 4.July. 11}] Industry sources said Zim has been doing a very good business through Halifax and additional calls or even a new service are real possibilities. {discussions with Peters}

HALIFAX: FEEDER SAGA*
5 June. CREW MEMBERS BEGAN LEAVING THE AFL NEW ENGLAND. The remaining officers are expected to depart on 6 June. The beleaguered feeder ship [see 12#05B] will be shut down entirely and left under the care of the Halifax Port Authority pending a creditor’s sale through the courts, George Malec, the authority’s vice-president of business development and operations, said. “It will go through the legal process as an asset, leading to a sale and eventual court settlement for creditors,” he added. {Bill Power in Halifax Herald 5.June.12}

RAIL SHIPPERS DESCRIBED IN THIS ISSUE
Brownell's (VRS, New York) Will open scrap loading facility in Wallomsac.
CSXT Transflo (CSXT, Massachusetts) Completing sitework in Westborough.
Devens Recycling Center (Pan Am, Massachusetts) Operating view.
FirstLight (PAS, Massachusetts) Burning hardly any coal.
Irving Oil (MMA, Pan Am, NBSR in the region) Building oil receiving terminal for unit trains.
PAS auto terminal (PAS, Massachusetts) Environmentally satisfactory operation.
Sims (PW, Rhode Island) PW and state discussing how to serve.
Woodland Pulp (Pan Am – NBSR, Maine) Buying Pan Am line, hiring NBSR to operate.
PEOPLE, EVENTS

Paige Kane, age 46, a former regional vice president of government affairs for both Conrail and CSX passed away on 1 June 2012. Paige, the mother of two sons, left CSX in 2004 and subsequently worked in development for City Year and then in government affairs for the power company Mirant.

Madeleine Paquin, president of Logistec, ended her two-week term as chair of Canadian Pacific. On 4 June, CP announced that the new board elected Paul Haggis chair, succeeding Paquin. Haggis was one of the seven new directors, while Paquin was already serving. {CP press release} [See 12#$05B.]

Jim Howard, who has acted as STB counsel for railroads in the region for many years, is moving to a new office in Carmel Valley, California 93924. 'My wife and I will miss our friends in the Boston area, but the move to California will put us closer to our family. In addition, we will be able to leave our snow shovels behind.' He will continue to serve his clients here in the Atlantic Northeast.