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

Blue header & table of contents: new article

REGIONAL

Feeder: AFL New England sold in bankruptcy.

NEW YORK

[No report.]

QUÉBEC

[No report.]

CONNECTICUT

New Haven: Klempner to show short-sea proposal.

MAINE

MDOT: $15,000 to plan rail service to Auburn.*
BML: Reactivation of crossing protection.*
MERR: Details on top two customers.*
NBSR/MMA: OMB holds up closing Van Buren sub.
Portland: Sprague to build on Pan Am land.*
Portland-TIRR: Sprague a customer; biodiesel.*
MMA-Searsport: Crude oil outbound 'a longshot'.
Searsport: Propane tank gets final state permit.

MASSACHUSETTS

MassDOT: How IRAP got into the state bond bill.*
CSXT: Move intermodal to Worcester in late 2012.*
CSXT-GU: Romar moves to Hopedale.**
GU: Both sides argue the pre-emption question. Details on Upton yard.*
Ports Compact: Five ports agree to coordinate.

NEW HAMPSHIRE

MBRX: NHDOT notified finalist August 22nd.* Mini-

editorial on poor NHDOT behaviour.*

MBRX: No NHDOT decision.* FOIA access on 9 October.* First Circuit arguments 12 September.*

RHODE ISLAND

PW: Pond View closes.

VERMONT

VRS: Middlebury spur project "dormant for now."**

MARITIMES

CN: Announces possible discontinuance of much of the Newcastle subdivision. Reactions from ports.*
NBSR: Wins CP auto terminal. Logistec loses out.*
NBSR: Progress at crude unloading terminal.*
Sydney: Larger colliers need navigation lights.*

RAIL SHIPPERS/RECEIVERS

A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS

Stieb, Reiche, Moffett.

EDITORIAL

Taxpayer dollars wasted on Compact study.

FROM THE PUBLISHER

Various
Laurel Rafferty's detailed Compact article pushes this issue to 24 pages. Too much? If so, let me know.
I had to restrain myself from one more editorial: on egregious OMB behaviour. See Maine.
- Chop Hardenbergh Next formal issue 25 Sept

**REGIONAL**

**PORTLAND-YARMOUTH: FERRY?**

7 September. **NOVA SCOTIA PREMIER DARRELL DEXTER SAID THE PROVINCE IS READY TO COMMIT $21 MILLION TO RE-FLOAT A YARMOUTH TO PORTLAND FERRY SERVICE IF** the federal government and Yarmouth municipality participate, and a private sector operator can be found.

The last Yarmouth to Maine ferry service ended in 2009 when the province stopped subsidizing the service between Yarmouth, Portland, and Bar Harbor operated by Bay Ferries Limited of Charlottetown [see 09#12B]. A thought of starting in 2011 did not happen [see 10#10A].

**Why now?**

Government support was offered because an independent panel of experts appointed by government in April concluded a service could be viable in its seventh year. The panel suggested that the right model is a cruise ferry operation focusing on passengers’ onboard experiences including entertainment, dining, etc.

A new operation would need $30 million to $35 million to repair and upgrade the federally-owned Yarmouth terminal, help with early start-up costs and cover early losses until the ferry turned a profit at 130,000 to 135,000 passengers annually. In 2009 approximately 76,000 passengers used the service. {NS government release, 7. Sept.12}

**Reaction**

Federal cabinet minister Peter MacKay of Nova Scotia said Ottawa is open to discussions on fixing the terminal once an operator has been found and the project is moving forward. {Aaron Beswick in *Sunday Herald* 9.Sept.12}

Yarmouth Mayor Phil Mooney said, “There is a role the municipalities have to play but to make a big financial commitment we are not in the same ballpark financially as the province or the federal government when it comes to dollars. But it is something that has to be done and we see it as important and we will be coming to the plate but I can’t tell you in what amount.” Mooney foresees operators interested in the service. He would like to see the service in place by 2013 yet sees 2014 as more likely. {Discussion with ANR&P’s correspondent Tom Peters}

**CONNECTICUT**

**NECR: NEW CUSTOMER**

3 September, New London. **COPAR INDUSTRIES IS LOADING OUT SAND HERE. [More in a future issue on origin, destination, etc.]**

**Related news**

On 7 September, after two days of hearings, a Rhode Island Superior Court judge ordered the Copar Quarries operation in Westerly to cease, until it submits a plan outlining how it will comply with an existing agreement with its neighbors and the town, and then gets approval for the plan. The judge approved the agreement in June. In January, three neighbors began seeking an injunction against Copar, which is operating a quarry owned by Westerly Granite.

Additionally, a hearing on a cease and desist order issued by the town to Copar is scheduled for 3 October. {By Dale Faulkner in New London Sun 12.Sept.12}

*Whether the product loaded at New London originates in Westerly will be known in a future issue.*

**NEW HAVEN: SHORT SEA**

19 September, Newington. **RON KLEMPNER WILL DISCUSS THE JERSEY HARBORSIDE RAILROAD**
at this day's session of the Connecticut Maritime Commission. He proposed this in 2010 [see 10#10A]. Klempner also continues to advocate for the New England Transrail facility. [See Massachusetts: GU STB dispute, and 12#06B.]

**MAINE**

**MDOT: AUBURN PASSENGER SERVICE?**

21 August, Portland. A recent $15,000 grant from the National Association of Realtors will fund a study exploring the viability of passenger rail between Portland and Auburn. A press release from the grant recipient, the Maine Commercial Association of Realtors (MCAR), stated it will work with the Maine Rail Transit Coalition and regional town offices to determine how such a service might improve housing and business development while creating jobs and ensuring environmental sustainability.

MCAR seeks to make the most of this research and funding -- Maine is eligible for up to $75 million in transit infrastructure grants -- by ensuring that the transportation alternatives addressed in the 2011 Portland North Alternative Modes Project are implemented.

“Too often, national transportation policies direct state and local decision-making without fully considering the impacts on consumers or communities. The Portland North study identified significant benefits of investing in regional rail infrastructure, and MCAR is working to make certain we use those benefits to wholly support Maine's communities, stimulate local economies and minimize the costs of growth,” said Tony Donovan, MCAR Board member and founder of the Maine Rail Transit Coalition.

MCAR will initially use the funds to identify key stakeholders, do research and estimate cost, before drafting a comprehensive plan for land-use surrounding the state-owned [former SLR-owned] line to be presented to local, state and federal agencies. {MCAR press release}

**BML: TRAFFIC UP**

8 May, Belfast. The Excursion Railroad is re-activating the flashers at crossings at the request of the FRA, said Joe Feero, founder and executive director of the operator, Brooks Preservation Society. The state-owned track has no freight [see 10#01A]. The 'exempt' status is removed from all 22 crossings, so the train will no longer require flaggers.

The deal with the state

The group currently does not pay the state for use of the tracks; in exchange, it maintains them, according to Nate Moulton, MDOT rail administrator.

Moulton added that several people have contacted the state, concerned that the state is paying to upgrade the signals, but Brooks is paying for the upgrades.

Moulton also said that because the state has the specialized equipment to do maintenance, a two-man crew from the department spends some time each year doing larger projects, such as improving culverts. Each year, he has a $150,000 budget that comes directly from railroad excise taxes used to maintain all state-owned lines. “At the end of the day, it’s the state’s asset,” he said. “We want to make sure it’s in a state of good repair” that protects the state's investment in the asset. {Abigail Curtis in Bangor Daily News 8.May.12}

**MMA/NBSR: NO CLOSING**

29 August, St.John Valley. NBSR has not yet acquired the Van Buren subdivision. MMA and JD Irving agreed to the deal in December 2011 [see 11#12A] and Irving (as EMRY) filed a Notice of Exemption with the STB in February [see 12#02B].

In April the Canadian federal cabinet okayed the transfer of the Van Buren bridge [see 12#06A], seemingly leaving only an FRA okay of a mortgage release [see 12#03B].

But in late August, MDOT rail administrator Nate Moulton said the deal had not yet closed. {Don Eno
OMB inaction
Ed Burkhardt, MMA chair, explained on 11 September:

'We are still waiting on FRA. Our loan agreement with them requires their approval. We are told FRA has recommended approval, but everything must be vetted by OMB, and that’s where the proposal sits. Apparently OMB is requiring their review of everything relating to Federal loan programs (a fallout from Solyndra and other government mismanagement), and then they sit on proposals for months without moving the paperwork.

'I’m aware of one railroad group that sold a line at a big profit, but FRA won’t release the proceeds without OMB’s review, so the sale proceeds [are] in escrow and the company’s finances are tied in knots as a result. And I know of another railroad that become so frustrated with FRA’s management of the loan program they paid the loan off (and refinanced through a commercial bank at lower effective interest rates), but [that railroad] hasn’t been able to get a mortgage release after many months of trying.

'We also have the sale of a very profitable utility easement on MMA waiting approval, while cash is tight and we could well use these funds to back up investment on our lines where operations are profitable and volume is increasing.

'So we are tied up waiting, and that’s the way is....And there are some people who think the problem in this country is that government isn’t sufficiently involved! These people, put in charge of the Sahara Desert, would quickly run out of sand.' {e-mail to ANR&P}

MERR: SENATE HELP*
4 September, Rockland-Thomaston. US SENATOR SUSAN COLLINS SUPPORTED THE SHORT LINE RAILROAD TAX CREDIT during a tour of the Dragon Cement plant here. Wes Weis, president and chief executive officer of Morristown and Erie Railway, parent corporation of MERR, said the credit allows the company to reinvest money into construction and maintenance of rail lines. The credit returns 50 cents for every $1 invested.

MERR customers
Dragon Products generates by far the most traffic on the line, noted MERR Vice-president Gordon Page. The second-largest user of the railroad is Dicaperl Corporation in Thomaston, which processes raw perlite ore, mined from New Mexico. The perlite is used to produce filter aid for FMC in Rockland, which manufactures the food stabilizer carrageenan. {Stephen Betts in Bangor Daily News 5.Sept.12}

MMA-SEARSPORT: OUTBOUND CRUDE 'A LONG SHOT'
Dave Gelinas, president of the Penobscot Bay Pilots, writes in response to the editorial in 12#08A:

'I was disappointed to read from Mr. Burkhardt in the latest newsletter that with regard to crude oil coming out of Searsport, "it doesn't come together.” This is unfortunate; the marine-side infrastructure in Searsport and Penobscot Bay is well suited to the export of crude oil, as the long history of refined oil products moving through the port demonstrates.

Barge moves to the Philadelphia area
'Albany is limited to a draft of 31 feet, whereas the bulk dock in Searsport can accommodate ships with drafts of up to 39 feet, a big difference when you are dealing with the volumes of crude oil that they are trying to move to the refineries. However, the crude out of Albany moves to the refineries in the NY/NJ/Philly region, so they are limited (by draft and the Jones Act) to using US-flag tug-barge units for the most part, which of course draw less than most 40-80,000 ton tankers do. So that, coupled with the proximity of Albany to those refineries, makes logistical sense.
Major moves unlikely

'But anyone looking for a Bakken crude export outlet bound to a foreign refinery should look at Searsport. Of course Portland tops the list of attractive export locations, with its ability to handle VLCCs [very large crude carriers] at the Portland Pipeline terminal.

'Searsport would have to fit someone's niche for crude exports. I'm not sure the railroad has the capacity to turn a 100-car unit train in 24 hours, the benchmark figure terminals aim for. Global will have the capacity to unload two 120-car unit trains per day by the end of this summer! [See 12#08A New York.] If MMA or Sprague or Irving or some combination of the three were to commit the $$$ necessary to have this type of capacity in Searsport, that might make a difference. I think it's a long-shot at best.' {e-mail to ANR&P}

PORTLAND: NEW YARD FROM PAN AM LAND*

23 August. ANOTHER BOAT YARD MAY OCCUPY PAN AM LAND HERE. Phineas Sprague [no immediate relation to Sprague Energy] said this day he has a purchase-and-sale agreement with Pan Am Railways for about 14 acres and has come to terms on a lease agreement with Unitil [see 12#05A], the natural gas company, for an additional 2 acres that are now fenced in and used to store propane tanks [see map].

He currently owns the Portland Company property [see 05#01B Maine Narrow Gauge] where some boat repair occurs. He would like to repair bigger boats, including tugboats, barges and other commercial craft. {Dennis Hoey in Portland Press Herald 24.Aug.12}

PORTLAND - TURNER'S ISLAND*

28 August, Portland. THE SPRAGUE YARD WILL NOT COMPETE WITH HIS OPERATION, said Roger Hale, who runs the Fore River Dock and Dredge and the Turner's Island Railroad [see 11#10A] located opposite to the Sprague site on the Fore River, as Sprague intends to build a dry-dock for ship repair up to 1500 tons.

In fact, Hale is bidding on the construction work necessary to convert the waterfront for the shipyard
because Dock and Dredge does work for Sprague at his current location, and offers marine construction services.

Biofuel
His biofuel transload [see 11#10A] is doing well: he's moved 1.25 million gallons thus far, and is investigating other possibilities which could make it a 24/7 operation. {ANR&P discussion 27.Aug.12}

SEARSPORT: PROPANE PROGRESS
5 September, Augusta. **THE MAINE FUEL BOARD ISSUED A PERMIT TO DCP MIDSTREAM TO BUILD A 22.7 MILLION GALLON PROPANE STORAGE TANK HERE,** covering fire safety arrangements. This completes state and federal permitting [see 12#05B for Corps permit]. DCP will now submit the complete site application, including all state and federal permits, to the Searsport planning board for review.

The next opportunity occurs at the 24 September board meeting. {Christine Parrish in *Free Press Online* 7.Sept.12}

MASSACHUSETTS

MASSDOT: GENESIS OF IRAP FUND*
24 August, Boston. **THE MASSACHUSETTS IRAP PROGRAM BEGAN IN THE STATE RAIL PLAN** [see 12#08A footnote 2] because the 'railroads and other stakeholders in Massachusetts have long advocated for Massachusetts to have a freight assistance program similar to the ones in many other states. MassDOT recognized the importance of Industrial Rail Assistance Program (IRAP) to the development of the Commonwealth's Transportation System and it was included into the State Rail Plan,' wrote Mike Verseckes, MassDOT spokesperson, in response to a query about the origin.

'At the recommendation of Secretary Davey, the IRAP program was included in Governor Patrick's Bond Bill request last spring....Previously, Massachusetts did have a competitive rail freight program which was focused on publicly-owned freight infrastructure. The new competitive IRAP program will be open to railroads operating in Massachusetts, rail shippers, and Massachusetts municipalities.

Timing
'MassDOT expects to have the program requirements out well in advance of the 180 days provided for in the Bond Bill.' {e-mail to ANR&P}

CSXT: MOVE TO WORCESTER, WESTBOROUGH*
24 August. **THE MOVE OF THE INTERMODAL TERMINAL TO WORCESTER WILL HAPPEN LATE IN 2012,** wrote CSXT spokesperson Bob Sullivan. '[T]he Worcester intermodal terminal...is an important part of the transaction between CSX and the Commonwealth of Massachusetts to expand commuter and freight rail service in Massachusetts. CSX continues to work closely with the Commonwealth on all aspects of this plan. Construction is moving along well on the intermodal terminal expansion in Worcester and on the TRANSFLO bulk commodity terminal in Westborough.

Bulk to Westboro, intermodal to Worcester
'We expect to begin moving the bulk commodity operations from Beacon Park in Allston in early fall [see 12#06A] and to begin moving the intermodal operations from Beacon Park to Worcester late this year [once estimated as November – see 12#05B]. The phased relocation will ensure that the terminals are ready to function and that the transitions occur with little or no disruption to commuter or freight operations.

Dispatching, etc
'We expect the state to take complete ownership of the line between Worcester and Boston in early October, and
we are working with MBTA and MBCR officials to ensure that the transition of dispatching, maintenance, and other issues related to the line are handled in a phased, careful manner that ensures continuity of service, training of employees - some of which can't happen until the change in ownership, and – most importantly – the safety of passengers, employees and communities.' {e-mail to ANR&P}

CSXT TO GU: ROMAR MOVES*
21 August, Hopedale. ROMAR WILL MOVE OUT OF BEACON PARK TO THE HOPEDALE YARD, GU President Jon Delli Priscoli told the Board of Selectmen. Track improvements will be completed in September.

G&U Logistix, a new company formed by longtime Romar Transportation Services Vice President Shaun Keefe, will operate in here, and Romar will cease operations at Beacon Park [see 08#11A]. Keefe told the Board that 75% of incoming traffic arrives by rail. “We’re handling about 600 boxcars a year, and we’re trying to expand that.” GU will operate one train a day to Hopedale.

Outbound, Keefe expects about 30 trucks on a typical day. “You will have early morning and you will have some late evening. There’s no question about that,” but no double trailers or hazardous materials. “Safety is paramount. My family is out on the road just like everyone else’s is.”

Romar will receive, store, and truck out building materials, palletized fiber, rolled paper, and toys and games. It will initially operate from the Wickes Lumber building, and then construct buildings at the site and make the Wickes building available for another customer. Jon Delli said he expects to see additional customers in the rail yard.

State Senator Richard Moore, D-Uxbridge, and State Representative John Fernandes, D-Milford, also attended the meeting in support of the railroad and business it brings. "I think this is really positive. I was on this board in 1978 when [Draper Mill] was vacant," Moore said. "This is the best chance to ultimately find some appropriate use for the plant."{Jessica Trufant in Milford Daily News 21.Aug.12; Kim Ring in Worcester Telegram and Gazette 22.Aug.12}

Groundbreaking
Jon Delli drove a symbolic spike on 10 September for a project to restore nine railroad crossings in Hopedale and Milford at a cost of $1 million through the MassWorks Infrastructure Program. He was joined by representatives from the state Executive Office of Housing and Economic Development and MassDOT, along with state and local officials to celebrate how far the rail line has come in the past four years. Once this last portion is complete, the Grafton & Upton Railroad will be a 15-mile conduit between CSX rails in Grafton and Milford.

“It's a major boost to the area,” said Moore. Delli Priscoli “has already shown the railroad can bring in jobs to this area. I think it's going to be a very important catalyst to development in the Blackstone Valley and Milford areas.”

Fernandes and Hopedale Selectman Bob Burns see the completed rail line as a savior for the Draper Mill. Thwarted plans to develop the mill as residential space would not have had the economic boost as the possible return of industry to the area, they said.

“There are people out there in the railroad industry today who wouldn't have time to meet with a local official, never mind engage in a community the way that Jon has,” Fernandes said. “He is a good neighbor. This is what this area needs and this is exactly the type of job and business growth opportunity that this administration and this legislature want to target for our limited economic incentive tax dollars.” {Jennifer Lord Paluzzi in Grafton Daily Voice 11.Sept.12}

GU: RESISTANCE TO LOCAL CONTROL*
20 August, DC. THE TRANSLOAD OPERATOR SAID THE RESIDENTS' PETITION FOR DECLARATORY ORDER HAD NO JURISDICTION OVER IT. Eric Hocky, DC attorney for 'The Dana Companies' which was named in the petition to the STB by seven Upton residents asking the STB to declare the facility was not pre-empted from local control [see 12#08A], wrote that it 'is not is a separate legal entity. The
Dana Companies are a group of companies, including the named companies, involved primarily with the provision of motor carrier transportation, equipment leasing and logistics services. One of the Dana Companies, GU Railcare, was formed specifically and solely for the purposes of providing transloading services for G&U at the Upton railyard. For convenience, the named Dana Companies will be referred to herein as the "Dana Companies" except where individual identification of a company is relevant.

The named Dana Companies are Grafton Upton Railcare, LLC ("GU Railcare"), Dana Transport, Inc., Dana Rail Care, Liquid Transport Company, International Equipment Leasing, Inc., and Suttles Truck Leasing, LLC. See Petition. Vol. 1, 9 - 14. Dana Rail Care is not a separate legal entity; rather it is a trade name of Dana Container, Inc....

"While GU Railcare performs transload services for and on behalf of G&U at the Upton railyard, none of the Dana Companies, including GU Railcare, is a common carrier railroad. As such none of the Dana Companies is subject to the jurisdiction of the Board. See 49 U.S.C. §10501 (a). The Dana Companies do not voluntarily consent to subject themselves to the jurisdiction of the Board, nor do they consent to being considered parties in any proceeding that might be commenced by the Board....

"GU Railcare and the other Dana Companies agree with the arguments set forth in the reply being filed by G&U that there is no controversy for the Board to address, and further that all of the transload services provided by GU Railcare as a contractor and agent for G&U, are preempted from local regulation." {STB website, filings page, FD 35652}

21 August, DC. GU ASKED THE BOARD NOT TO INITIATE A DECLARATORY PROCEEDING on whether the GU facility in the West Upton yard falls under federal pre-emption. By its attorney Jim Howard, GU stated:

"Why would the Petitioners ask the Board to determine that preemption does not apply in this situation? The only conceivable inference is that they want to shut down rail operations at the yard. This is not an altruistic attempt to promote the public interest, to protect the health or safety of residents of the town, or even an academic exercise to define the scope of preemption. Rather, the Petitioners are trying to avoid preemption solely in the hope that the Planning Board or the Zoning Board of Upton will find some reason why G&U should not be able to provide transloading services at the yard. Congress enacted the preemption provisions, and the Board and the courts have enforced them, precisely in order to preclude such pretextual efforts of local regulation of rail operations." {page 2}

Interesting points in the reply and affidavits

GU responsive to town and residents. 'G&U has been particularly sensitive to the expressions of concern by certain residents of Upton who have homes close to the yard, including the Petitioners. Although not required to do so, G&U has constructed berms and planted trees that insulate and separate the rail yard from nearby homes. The berms and trees are well illustrated in several of the photographs submitted by the Petitioners.' {page 6}

Terminal transloading agreement. GU has a contract with Dana [see above article] to transload at the yard. For the agreement, 'Dana formed a new, special-purpose company named Grafton Upton Railcare LLC ("Grafton Upton Railcare") [which] states that Grafton Upton Railcare will provide transloading services "for and under the auspices and control" of G&U at the G&U railyard in Upton.' {page 7}

Careful about pre-emption. GU 'was highly sensitive to the principles of federal preemption, as articulated by the Board and the courts. ... In particular, the Agreement was modeled after an agreement between Norfolk Southern and its subcontractor at a propane transfer facility in the Alexandria, Virginia that was the subject of preemption litigation in The City of Alexandria, Virginia—Petition for Declaratory Order. STB Finance Docket No. 35157.
Wood pellet transloading. 'Several rail customers of G&U ship wood pellets to the yard for transloading. The pellets are manufactured or purchased by the rail customer and shipped in hopper cars to the G&U yard, where the hopper cars are emptied into silos [see photo in 12#05A]. The pellets are then loaded into bags weighing 40 pounds each, and the bags are placed on pallets, shrink-wrapped and placed on trucks for further movement. No processing or manufacturing is performed, or is necessary, as part of the transloading process.'

'As described below, this method of handling wood pellets has proven to be an efficient and lower cost means of transportation for pellet producers. The 40-pound bags tend to break during shipment in boxcars unless they are shrink-wrapped and palletized, which requires additional space for the the pallets and the materials required to block and brace the pallets to prevent movement.' {page 13}

'...Viridis, which manufacturers its pellets in British Columbia, has opted to use hopper cars moving to Upton "as a matter of transportation logistics, lowering transportation costs and minimizing damage expense" in order to remain competitive in the New England market.' {page 12}

'...Within the United States, the New England area is by far the largest consumer of wood pellets. Wood pellets are also shipped to Europe. Many of the manufacturing facilities for wood pellets are located in Canada or the Pacific Northwest, so transportation is a significant factor, in terms of the cost to deliver their products to their markets, for the wood pellet manufacturers.' {page 58}

Current operations at the yard. 'At the present time, the G&U transloading yard has 4 unloading tracks totaling approximately 2000 feet and the pellet transloading facility. G&U serves approximately 15 customers at the yard, transloading various types of bulk liquids, such as soybean oils, biofuels, solvents, nitric acid, phosphorous acid, styrene and alcohols, as well as wood pellets.

'In July, 2012, 84 railcars were transloaded at the yard, 6 of which were hopper cars with wood pellets. The other 78 cars contained the types of liquid bulk materials mentioned above.' {page 14}

New England Transrail applies. 'The Petitioners rely on language in the Board's decision in New England Transrail LLC...STB Finance Docket No. 34797 [see 07#07A]. In that case, the Board considered whether the proposed transloading of construction and demolition debris and municipal solid waste from trucks into railcars would be integrally related to transportation. The Board determined that baling and wrapping of municipal solid waste, including sorting out and returning to the shipper materials that could not be safely transported by rail, were part of the rail transportation services.

'On the other hand, "shredding" – cutting debris into 2-foot lengths in order to facilitate the extraction of metal, wood, and other valuable materials that could be resold – was not integrally related to rail transportation. The Petitioners argue that bagging and palletizing wood pellets are analogous to shredding and are "adding value" as part of the manufacturing process.

Eric Moffett president. '1. My name is Eric Moffett, and I am the President of Grafton & Upton Railroad Co. ("G&U"). A major part of my responsibilities includes marketing the transportation services of G&U.' {page 58} [See People.]

GU seeks protective order
GU filed a motion at the STB seeking confidentiality for its filings: 'The Reply and the accompanying verified statements and exhibits contain confidential, proprietary and commercially sensitive information.' {STB website, filings page, FD 35652}

GU: ABUTTERS REPLY
10 September, DC. THE ABUTTERS STATED THAT THE PELLET BUILDING VIOLATES UPTON'S ZONING ORDINANCE and that if federal pre-emption did not apply, the building would need changes. 'The height of the pellet facility does not comport with the character of the neighborhood. It dominates the nearby residences. It causes significant glare and light intrusion, which overspills onto Petitioners' properties.'
More than transloading occurs
In addition, GU falsely claimed that only rebagging the pellets occurs. 'In its Reply, the G&U claims that transloading the wood pellets at the G&U facility does not "change the nature" of the goods. The G&U claims that "the pellets are exactly the same before and after they are transloaded."

'Contrary to the G&U’s Reply, the pellets are not the "same" before and after they are transloaded. The wood pellets are in bulk prior to transloading; they are in bags ready for sale subsequent to transloading. Pellet dust fines are screened and then vacuumed at the Upton facility.

'This activity has been identified by Viridis as part of the wood pellet manufacturing process. Although the G&U claims that the pellets are not "cleaned" or "washed" in Upton, it is admitted that dust and small particles are removed and disposed of as waste. This process adds value to the final bagged pellets. It is inescapable that pellets bagged with dust and small particles would be worth less on the open market. Thus, the process constitutes manufacturing or processing and is not exempt.' [Mini-editorial: Petitioners thus make a mountain out of a fine dust.]{STB website, filings page, FD 35652}

MASSDOT: PORTS COMPACT
11 September, Boston. THE FIVE STATE DEEP-WATER PORTS WILL HAVE A STRATEGIC PLAN IN 2013, following up their agreement to form the Ports of Massachusetts Compact.

On 30 April a press release of Governor Deval Patrick’s office announced the Compact and published the Compact Memorandum of Understanding. The effort aims to improve coordination among Compact ports (Gloucester, Salem, Boston, New Bedford, and Fall River) and the other members: the heads of four state agencies (Massport, MassDOT, Energy and Environmental Affairs, and Housing and Economic Development), the Massachusetts Seaport Advisory Council, and the Senate and House chairs of the Massachusetts Joint Committee on Transportation.

The effort also seeks a collaborative approach to planning of marine transportation facilities through to their operation and maintenance, in a range of areas: cargo, ferry, pleasure craft, cruise, and industry marketing, terminal operations, and support of the fishing industry.

According to the Compact MOU, Section 3, the Plan will have an inventory of the facilities, both publicly and privately controlled, available at each port; a description of available funding; a summary of trends in commerce; and 'Recommendations that outline a comprehensive strategy to address the identified trends, including, but not limited to: 1) Required upgrades to port infrastructure (piers, navigation channels, other multi-modal connections, etc,) and 2) Desired upgrades to port infrastructure....'

The Compact members pledge to complete the Plan within 12 months of the Compact’s formation, with the assistance of MassDOT. {Memorandum of Understanding for the Creation of the Ports Of Massachusetts Compact, executed 30.Apr.12}

The Strategic Plan and the RFP
On 21 June at the Compact kickoff [see more below] David Mohler, head of MassDOT’s Transportation Planning Office, told the audience that his agency had $500,000 of its own funding for the Strategic Plan. The department will issue the RFP this autumn; the selected firm should complete the Plan within a year.

On 15 August, Mohler said Compact members will not only have input on the final RFP scope, but also the selection of the preferred consultant, and the development of the ultimate project, including the review of draft deliverables throughout the process. {e-mail to Rafferty 15.Aug.12}

As of 5 September, according to Matthew Ciborowski at MassDOT who is managing the Strategic Plan project, the draft of the scope has been circulated, responses returned, and MassDOT is working on edits to be incorporated into the Request for Responses to be posted soon. {e-mail to ANR&P correspondent Laurel Rafferty 5 Sept.12}

Previous planning effort 1978: designated port areas
As a result of state planning beginning in the late 1970s, Massachusetts protects eleven port areas from
Massachusetts Designated Port Areas (DPAs):
Promote and Protect Marine (Water-dependent) Industrial Activities.

State policy seeks to protect water-dependent industrial uses from irretrievable commitment to, or impairment by, non-industrial or non-water-dependent types of development.

While varying in scale and intensity, water-dependent industrial uses need three essential components:

- A waterway and associated waterfront that has been developed for some form of commercial navigation or other direct utilization of the water;
- Backland space that is conducive in both physical configuration and use character to the siting of industrial facilities and operations; and
- Land-based transportation and public utility services appropriate for general industrial purposes.

A DPA contains, and thus protects, water-dependent industrial uses.

Existing DPAs

In 1978 the Massachusetts Office of Coastal Zone Management (CZM) established the Designated Port Area (DPA) program. CZM launched the DPA program by identifying eleven DPA sites: Gloucester Inner Harbor, Beverly Harbor, Salem Harbor, Lynn, Boston (Mystic River, Chelsea Creek, East Boston, South Boston), Weymouth Fore River, New Bedford-Fairhaven, and Mount Hope Bay (Fall River). None have been added since then.

CZM works with the Massachusetts Department of Environmental Protection (MassDEP) to ensure the regulatory protection of DPAs. CZM also supports proactive planning to promote maritime development, prevent user conflicts, and accommodate supporting industrial and commercial uses. Finally CZM is responsible for mapping, interpreting, and periodically reviewing DPA boundaries.

Designated Port Area Planning and Implementation: DPA Master Plans

Under the Municipal Harbor Plan (MHP) regulations, CZM works with municipalities to take a comprehensive approach to planning for their Designated Port Areas through DPA Master Plans. A DPA Master Plan is the component of an MHP pertaining to lands and waters of a DPA.

DPA Policy Implementation

CZM implements DPA policy through its responsibility—on behalf of the Secretary of the Executive Office of Energy and Environmental Affairs—for DPA Master Plan review and DPA boundary administration, as well as its federal consistency review authority to ensure federal actions and permits are consistent with enforceable state coastal policies.

MassDEP also implements DPA policy at the project level through the Chapter 91 regulations, which govern the licensing of structures and uses in DPAs. These regulations strictly limit the placement of fill or structures in DPAs to water-dependent industrial, accessory uses and a limited amount of supporting uses on filled tidelands.

{Massachusetts Coastal Zone Management website http://www.mass.gov/czm/dpa/index.htm; 'Designated Port Areas, a Manual for Lawyers', prepared by the New England School of Law Environmental Advocacy Project, New England Law Center for Law & Social Responsibility 2009}

encroachment by non-marine uses [see box]. All five ports in the Compact have such areas (Boston has four). Also, Quincy, Lynn, and Beverly have DPAs.

Previous planning effort 1994: Seaport Advisory Council and bond bill

In October 1994, an initiative of the Governor’s Commission on Commonwealth Port Development, prepared by an executive director from Massport and staff from three state agencies, led to the creation of the Massachusetts Seaport Advisory Council (MSAC) and passage of a $280 million seaport bond bill to finance the MSAC and other strategy recommendations, especially double-stacking rail lines.

According to the MassDOT 2010 State Freight Plan (see below), the Seaport Bond Bill provided funding assistance to commercial ports for objectives similar to those listed in the Compact MOU. The Advisory Council approved various projects, including these:

New Bedford. $5.5 million for the construction of cellular aquatic disposal (CAD) cells and completion of
underway dredging project; $75,000 to upgrade a fireboat; $40,000 to remove a sunken vessel interfering with navigation; $2.5 million project for structural repairs and assessment of the State Pier.

**Fall River.** $1.1 million for the State Pier to repair its south berth and install a new floating dock.

**Gloucester.** $400,000 for an economic development plan for Gloucester Harbor.

**Salem.** $2.3 million for a port expansion project to purchase land, finalize the permitting process, and prepare engineering and preconstruction [see 12#07B for a tie-in to this effort]. {Source: 2010 MassDOT State Freight Plan, Chapter 5, pages 8-9}

**Previous planning effort: 2010 freight and rail plan**
The 2010 Freight and Rail Plan recommended freight investments with the highest return on investment. While many addressed rail [see map], three recommendations specifically concerned ports:

- **New Bedford** - the expansion of its north marine terminal;
- **Boston** - the deep draft dredging project for Boston Harbor;
- **Boston** - additional landside port access improvements to the South Boston roadway network.

**Compact kick-off meeting**
On 21 June in Salem, Compact city and state agency members sat at a head table, with associated staff and staff of the Massachusetts Seaport Advisory Council providing much of the audience. Lieutenant Governor Tim Murray opened the meeting and turned it over to the MassDOT Secretary Richard Davey.

Davey said the Compact would focus on the five Compact member deepwater ports, aiming to realize the economic potential of the five ports and to market them collectively. MassDOT planning would support this goal; the agency’s statewide freight plan would help. Davey noted MassDOT is preparing to finance the Plan’s implementation.

Salem Mayor Driscoll commented that a state Ports Strategic Plan was long overdue and that it should
be an action plan.

The mayors of Gloucester and New Bedford, officials from the City of Boston and Massport, and a Fall River economic development non-profit group also spoke about their city port areas. [See below for more detail.] {coverage by ANR&P correspondent Laurel Rafferty}

COMMENTS FROM INDIVIDUAL PORTS
Top officials from each of the five deepwater ports provided their views of the Compact process during discussions with Rafferty on date provided:

City of Gloucester Mayor Carol Kirk {24.July.12}
Don't limit the Plan to the transportation sector, said Kirk: “Ports are more than transportation [nodes]; start from this premise. The perspective needs to be broad, and encompass e.g., energy and recreational activities.”

Mayor Kirk sees a model [for the Compact] in the state Ocean Advisory Committee, on which she sits. A holistic view similar to the Ocean Advisory Committee's would forestall the pitfall of transportation issues overshadowing all else. “It’s going to take really smart people to make the Compact and the port Plan work. I have great confidence in MassDOT Secretary Davey; [on the Compact], Davey is flanked by other state secretaries, of the environment and economic development; among the three of them, they can pull this off.”

Plan focus. “The guts of the Plan is the inventory of assets; we need to see content here; we need to be strategic; and it is here [in this inventory] we will see the strengths of the different ports.” The Plan will come down to leveraging different assets.

Gloucester focus. “Gloucester has a seat at the table. Gloucester will participate in the inventory of assets. [It] has the opportunity to capitalize on ocean technology and research activities, and does not want a transport focus to overwhelm the [strategic] planning effort.

Hard choice. “The best way this will work is for ports to complement each other; but redundancy is an issue. The difficulty is in when there is redundancy and competing for resources.”

DPA application. Gloucester wants expanded DPA uses. Gloucester also wants to preserve its working waterfront. Another DPA issue of concern to Gloucester is the prohibition on public investment in private assets.\(^1\)

City of Salem Mayor Kimberly Driscoll {17.July.12}
The Plan is a good start for MassDOT, in leading the Ports Compact. Mayor Driscoll ‘wants Plan results whereby all the ports [of the Compact] will grow stronger together’; she also wants a review of whether there are port niches.

Driscoll wants “an understanding of what all of the port assets are, their economic benefits, direct and indirect, and importantly their quality of life benefits.”

Hard choice. The hard choices will be in the marketing part of the Plan; in its recommendations about where dredging is warranted; and on individual port management structures providing for a streamlined process via each port having its own, single controlling entity.

DPA regulations – what revisions. Driscoll wants more flexibility in the DPA regulations, in the ratios of allowable uses, via perhaps something like [zoning] overlays. She sees the need for analysis that takes seriously local conditions; and sees, as well, the lack of local resources to address such needs internally or through outsourcing.

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\(^1\) At least one such prohibition covers the use of the funds made available by the Seaport Bond bill. \textit{Editor}
Boston’s scale – an issue? Driscoll “sees nothing but good from including Boston; if Boston brings in business, it helps all.” She hopes Massport will be “fully engaged in the Compact.”

City of New Bedford Mayor Jonathan Mitchell {30.July.12}
“MassDOT is headed by a first-rate executive secretary with a clear long-term vision for the state” and recognizes opportunity exists in the state’s under-utilized ports; Secretary Davey will steer the Compact in the right direction.

Greater use of ports and what they have to offer is central to their host cities and region, and should be the focus of the Compact effort.

In the case of New Bedford, its goal is for the port to become more diversified. While it is already diversified with recreational boating and fishing industry uses, New Bedford wants it to become more so, e.g., in breakbulk and other cargo handled. New Bedford also wants to meet its existing goals.

The “state can make sure port infrastructure needs are addressed...Beyond that, MassDOT needs to expand the scope of its mission beyond transportation, beyond Boston. There are resource needs in the ports.” MassDOT can look to New York, which is in the port business, for guidance for ports on organizational structure and management issues.

Hard choice. “The hard choice centers around money – the want for more resources – but this is a time of diminished resources. Ports need to make the case that investment will yield a sustainable return, need to do more with less, need to be creative, need marketing.” The hard choice is “which project gets funding.”

Boston’s scale—an issue? [This is an] important question. “The Compact will fail if there are two categories: Boston and everyone else. New Bedford is as different from Boston as from each other port; it’s a deep-water port and will be the first offshore [wind] assembly port; it’s doing things different from Boston and at a scale
different from every other Massachusetts port. Each port is different and needs to play to its strengths.”

Local control. Overall, it’s important that “there be local control of port facilities, that the State approaches the ports in a supportive role,” rather than [trying to control them]. “Each port is different, and needs a customized solution.” This should be the emphasis.

Boston/Massport Mike Leone {25.May.12}
Leone, director of Massport’s maritime division, said all Compact members will work with MassDOT in the implementation of the Strategic Plan, “taking the steps necessary to optimize the economic impact of each of port.”

The five ports participating in the Compact have completed numerous individual port studies over the past five years, [Gloucester in March and Salem in January – see 12#07B.]

NEW HAMPSHIRE

MBRX: NHDOT AWARD?*
23 August, Concord. THE DEPARTMENT CONTINUES TO ACT COYLY ON THE OPERATOR AWARD.
On this day, it announced via e-mail to a limited list [ANR&P not among them] that:

The NH Department of Transportation has updated the information relative to the RFP for the operation on the State-owned Hillsboro Branch Railroad Line. Please see the following link for more information.

The link stated: Any applicant selected by the Department for final contract negotiations for the operation of the State-owned Hillsboro Branch Railroad line would have been notified on August 22, 2012.

Peter Leishman of MBRX, the only person who has publicly announced that he filed an application, was not notified. NHDOT has said [see 12#04A] that it did receive two applications. However, only MBRX has talked to the only customer on the line, Granite State Concrete, which provided MBRX a letter of support [see 12#03B]. Leishman said that no one at NHDOT would tell him anything further.

NHDOT's Lou Barker, who is handling Kit Morgan's duty as rail administrator, declined to state anything more either.

What is happening?
Two calls to NHDOT Commissioner Chris Clement were not returned by the evening of 28 August. {e-mails to ANR&P}

Most public entities in other states will notify other bidders about the name of the apparent bid winner, before the entity begins final negotiations. Indeed, NHDOT told Leishman on 9 July [see 12#07A]:

At this time, and until that evaluation process has been completed, I am not in a position to offer any information regarding the party or parties with whom the Department may negotiate for terms of any operating agreement on the Line.

Now the evaluation process is complete, and still NHDOT refuses to provide any information regarding the parties.

Apparently New Hampshire not only wants to remain mum, but clearly wishes to continue to treat Leishman, a long-time small business, short line operator, like dirt. The reasons for this are completely inexplicable. Editor
MBRX: UPDATES*

Operator selection process
The NHDOT website as of 12 September continues to say that any applicant selected by the department would have been notified by 22 August.

The state appears to be working out details on a contract with another company to use the line. Assistant Attorney General David Hilts said in late August that state law prevents his giving any information on the confidential bid process. Any deal will eventually go to the governor and Executive Council [and become public – editor]. “This process is still ongoing.”

Hilts would not identify the other bidder, but Leishman and Granite State Concrete speculate it is Pan Am Railways.

Whatever happens, Leishman said the federal Surface Transportation Board has given him rights to use the track to supply Granite State Concrete, and the state would have to expend considerable funds to petition to strip his rights [just as Pan Am had to do to remove NEGS from the Nashua-Concord line – see 10#05A]. Hilts declined to answer questions about Leishman’s federal rights to the line.

Leishman said he’s kept some executive councilors informed about the issue. Meanwhile, he just wants DOT to take his $6,000 check for use of the track. “It just doesn’t look good,” he said, “that you’ve got this state legislator running on this state corridor for free.” {Matt Hayward in Manchester Union Leader 31.Aug.12}

Cyndi Scarano, Pan Am executive vice-president, wrote on 31 August: 'The bid regarding the Hillsboro Branch is an ongoing governmental process therefore we will not be making any official comments at this time.' {e-mail to ANR&P}

Freedom of information
Given the refusal of the department to comment on its treatment of Leishman, your editor has asked to see all records the department cares to make public about the process. NHDOT will make the records available on 9 October. {editor}

First Circuit appeal
On 12 September, a three-judge panel of the federal First Circuit Court of Appeals, sitting in Boston, will hear arguments on whether Pan Am appropriately barred Leishman from operating on its tracks [see 12#06A]. The session is open to the public.

RHODE ISLAND

PW: CUSTOMER CLOSES
11 September, Providence. THE SUPERIOR COURT PERMITTED THE RECEIVER TO CLOSE THE POND VIEW FACILITY, according to the court-appointed receiver, Providence lawyer John Mancini [see 12#03B]. Mancini said the company did not have sufficient resources to deal with all of the construction and demolition debris it had accumulated, which the state Department of Environmental Management had ordered removed by 24 September.

DEM will work with the bond company to clean up the property. Mancini said the $800,000 security bond should be plenty to remove the materials. He will sell off the company's assets to pay creditors. {Richard Salit in Providence Journal 11.Sept.12}

VERMONT

VRS: NO NEW OMYA TRAFFIC**
28 August, Florence. TRUCKS WILL CONTINUE TO HAUL MARBLE FROM MIDDLEBURY TO THE OMYA PLANT HERE for the foreseeable future. Omya plant manager Jim Stewart, who assumed his position
this month, said recently that, “given the economic climate, sluggish economy and the cost,” the company and VRS are not pursuing the project. “We worked very closely with the railroad and the state of Vermont and it’s going to lie dormant for now.” A careful analysis concluded that building the rail spur would be far more costly than continuing to ship the raw material via truck.

The plan and history
Omya has trucked marble from Middlebury for decades. In 1998 Omya received a permit from the District Environmental Commission #1 to expand its plant in Florence by 10,000SF. The Conservation Law Foundation (CLF), as an intervenor, brokered a Memorandum of Understanding among CLF, Omya, and three state agencies (Natural Resources, Transportation, and Commerce) dated 8 October 1998. The MOU committed the parties to work together in 'good faith' to build the spur within five years unless it 'is not economically feasible'.

Based on Omya’s representations in the MOU, CLF dropped its opposition to the Omya plant expansion and the resulting truck traffic. The Commission, in issuing the permit, found that the rail spur would eliminate about 24% of truck traffic between Middlebury and Pittsford.

In 2001, CLF asked to revoke Omya’s Act 250 Permit amendment because Omya failed to fulfill one of the conditions of receiving the permit: building a rail spur to its quarry here. [See 01#01B.] CLF later worked with the other players to move the project forward [see 01#03B].

The 3.3-mile rail spur would connect Omya’s Middlebury quarry to the VRS main line, and get the company’s trucks off Route 7, which pass through Brandon’s historic downtown. Omya’s Act 250 permit limits the company to 115 round trips a day.

Current costs
The players moved ahead with environmental permitting and by January 2012 were seeking financing [see 12#01A] for the $32 million cost. VRS President David Wulfson said on 27 August that given the current economic climate, the cost to move forward with the project was prohibitive. “It’s taken so long to go through the environmental work on the project, and so many years have passed, it’s just gotten very expensive,” When the rail spur was first discussed 20 years ago, he said the cost was in the $7.5 million range.

[Erik Bohn, who is Omya's director of logistics for the Americas, noted the “herculean efforts” of all parties to make this work, especially the eight years to get the environmental permitting. {ANR&P discussion 12.Sept.12}]

VRS is exploring alternative financing through the federal EB-5 Immigrant Investor Regional Center program. In return for an investment that creates new jobs, the foreign investor is granted a green card to live in the United States. The EB-5 program has fueled foreign investment in Jay Peak Resort’s recent expansion.

Local opponents
Vermonters for a Clean Environment has long opposed the project. Annette Smith, VCE director, said: “This is the right decision for Omya, Vermont Railway and especially the neighborhood...[T]he only other good news I’d like to hear is that this is the final decision and that this is not going to come back again and create (an) uproar in the neighborhood all over again.”

What will happen to state and federal funds?

2The parties believe that construction of a rail spur appears to be the preferred alternative and will use good faith efforts actively to promote a rail spur so that construction is completed in less than five years, (a) subject to the availability and satisfaction of funding, planning, and environmental permitting requirements and other contingencies, and (b) barring studies that indicated that a rail spur is not economically feasible or is not the least environmentally damaging practicable alternative.

Within six months of its date, VAOT will develop ‘a Project action plan and schedule for completing necessary studies, information, and plans for the project that, provided the Vermont General Assembly concurs, will lead to completion of the project within five years.’

If the rail spur is constructed, OMYA will use it, except in the event of an emergency, service delay, or other events during which rail service may not be available.

CLF agreed not to oppose OMYA’s request for increased truck traffic during the term of the MOU (five years), as long as ‘there is substantial compliance with this MOU.’ {99#3 5.Feb.99}
Chris Cole, VAOT director of Policy, Planning and Intermodal Development, said the state remains ready to follow through with its part of the project: a $6 million to $7 million underpass of Route 7 between the quarry and the main rail line. [See 12#01B.] The state would pay for the underpass using federal highway dollars, rather than a portion of a $30 million federal earmark set aside for the western rail corridor upgrade between Rutland and Burlington. {Bruce Edwards in Rutland Herald 28.Aug.12}

**MARITIMES**

**NBSR: NEW AUTO FACILITY***

13 August, Saint John. *NBSR HAS OPENED A NEW AUTOMOBILE OFF-LOADING CENTRE AT ITS WEST SAINT JOHN TERMINAL.* {NBSR release}

Autos were formerly handled at Autoterm, the Port of Saint John facility at the harbor [see diagram in 11#03B], which is now inactive according to Paula Small of the Port Authority. {e-mail to Peters 27.Aug.12}

'We are hauling Kia and Chrysler. Cars come in by rail from Ontario and some U.S. points connecting to our [EMRY and NBSR] into Saint John. Vehicles are unloaded and staged at the new facility then reloaded to truck for delivery to all Chrysler and Kia dealers in Atlantic Canada,' wrote J.D.Irving’s Mary Keith.

**Major investment**

'The new auto reload centre involved investments in three new tracks, new asphalt, new fencing, new lighting and security and a new portable ramp. The new investment will facilitate the efficient, faster delivery of up to 20,000 vehicles per year and presents a future growth opportunity. Five new employees have been hired by NBSR as a result of this new service investment. Year-to-date our rail operations in N.B. and Maine have welcomed 80 new employees,' Keith noted.

She would not release a dollar value of the investment but did say the new centre would handle about 1,700 rail carloads a year. {e-mail to ANR&P correspondent Tom Peters 28.Aug.12}

**Logistec’s loss**

The contract for the off-load of these vehicles was held by Logistec Stevedoring in Saint John at Autoterm. Bruce Harding, Logistec general manager in Saint John, said Logistec had the contract for about 12 years. He didn’t want to discuss details but did say Logistec handled 16,000 to 18,000 vehicles a year.

“The contract was tendered by CP (Rail) and they (NBSR) were successful,” he said. Harding would not say if the loss of the contract meant employee layoffs.

Asked if Logistec had any other business in mind for Autoterm, Harding said: “Not really because it is all really controlled by CP Rail. It’s only what they were involved in. CN handles the bulk of the distribution in the Maritimes. This is the furthest east CP can get with their own lines and the short lines they are connected with.” {Harding in discussions with Peters 27.Aug. 2012}

**CN: ABANDONMENT IN NORTHEAST NEW BRUNSWICK***

30 August, Montreal. *CN RAIL HAS PLACED A 139 MILE-LONG SECTION OF THE NEWCASTLE SUBDIVISION BETWEEN CATAMOUNT AND IRVCO IN NEW BRUNSWICK* into the federally-regulated Canada Transportation Act (CTA) rail line discontinuance process. [Irvco, where CN retains the Irvco spur running to the Port of Belledune, lies 20 miles west of Bathurst. Catamount lies just west of Moncton – see map.]
“For many months we have been in discussions with customers and the government of New Brunswick on the challenges facing the Newcastle Subdivision,” said Sean Finn, CN executive vice-president Corporate Services. “Our joint goal has been to find ways to increase freight volumes on the rail network but these efforts have not succeeded. The CTA discontinuance process puts in play a process and a timeline to bring interested parties together to find ways to preserve rail service where possible.”

Finn said the subdivision volume has declined 40% in the last two years, and it needs up to $50 million in rail infrastructure improvements as noted earlier [see 11#09B]. {CN release 30.Aug. 2012}

CN will work with province
Federal regulations don’t allow CN to abandon the line before March 2014 [or April? see box] and over the next 14 to 18 months CN will work with the New Brunswick government and other interested parties to build business on the line or parts of the line. The province has identified potential business opportunities on northern and southern segments of the line which it believes warrant keeping the line in operation. It agreed to work

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**20THE FIVE STEPS OF FEDERAL DISCONTINUANCE**

1. Announce proposal to discontinue in three-year plan. Done 30 August 2012.
2. After 12 months, advertise the availability of the line. Permitted 30 August 2013. State a deadline for expressions of interest at least 60 days hence, or 30 October 2013.
3. Parties have six months to reach a deal. Permitted 30 April 2014.
4. If no deal, the railway must offer the line to the federal, provincial, or municipal governments, in that order.
5. If no government buys it, the railway may discontinue the line, and have no obligation to keep it. {summarized from Canadian Transportation Agency website}
Port of Dalhousie watching
Brian Hyslop, director of business development at the Port of Dalhousie, said the discontinuance of the Newcastle Subdivision “would impact us somewhat because any rail traffic would have to go down to the Newcastle line but our preference would be to move our cargo down the Quebec side. We could do that and I have spoken to CN about that and have a meeting with them in October on that subject because we have a better transit time into Central Canada as well as the midwest.”

Hyslop said the port is talking with two potential customers to the port [see 11#12A] and both would be “heavy rail users. One is anticipating making an announcement by the end of the year. Once they make that commitment we can arrange to sit down with CN and with the customer and go over the volumes which will be quite significant. As far as they are concerned they just need rail whether it comes on the Newcastle line or up the Quebec side.”

Dalhousie also hopes to become a niche container terminal for Arctic cargo but Hyslop said there are a number of hurdles to overcome before that happens. “But we do have our business plan ready to go. I have talked to several container lines in China and in

with CN to prepare a detailed funding proposal for consideration by partners that would ensure the necessary maintenance and upgrades are made to keep the line in service. {CN release 30.Aug. 2012}
Europe and they like the idea.

“The economy is still weak around the world so it is the ideal time to build up infrastructure and that’s what we are doing. We have a new ro/ro ramp going in, new loading docks at a warehouse, setting up a new client, etc.

“We also have a meeting with the Port of Belledune in early October and see if we can develop something on the Arctic shipping side of things, basically marketing the two northern New Brunswick ports,” he said. {Discussion with Peters 31.Aug.12}

Miramachi potential?
Jeff MacTavish, economic director for the City of Miramichi, sees definite potential for new business on the line. Arbec Forest Products of Quebec purchased a former Weyerhaeuser mill that produced sheets of pressed board for the housing market. Arbec is in the process of reopening the mill and expects to be in production later this year. MacTavish says the rail line will be an asset.

Two other buyers are interested in another closed plywood mill in the area, Adcon, but he expects it will be a few years before anything happens there.

Miramichi has a tank farm operated by Ultramar which supplies home fuel oil to northeastern New Brunswick. Most of that moves by rail, so if the rail line is lost, the region will see many more trucks on a two-lane highway system that is adequate now but not designed to handle a lot of extra heavy trucks, said MacTavish.

He anticipates new developments in the region’s mining industry that could eventually require rail.
{Discussion with Peters 4.Sept.12}

SYDNEY: NO COAL TRANSSHIP YET*
23 August.

BEFORE PROVINCIAL ENERGY VENTURES WILL BE ABLE TO USE DEEP DRAFT VESSELS, A NEW NAVIGATIONAL AIDS SYSTEM FOR SYDNEY HARBOR ENTRANCE CHANNEL will have to be designed and put in place at its planned coal transshipment facility, said PEV spokesperson Jim Wooder [see 12#05B]. [The present navigational aids system became obsolete for deeper draft ships after the channel was dredged in late 2011. See 11#12A.]

More details needed
“The process has been a little bit difficult to follow,” said Wooder. “There have been a couple of government departments involved, the Canadian Hydrographic Service and the Canadian Coast Guard and the [harbour] pilots. I’m told there is a meeting September 10 in Halifax to review what the preliminary conclusions are from the special level of service review. I should get a better understanding at that time what the time lines are and how we are going to be able to accommodate Panamax vessels loaded to the load lines and what the plan is for accommodating Capesize vessels down the road. [Panamax vessels are up to 65,000 DWT, Capesize from 80,000 DWT to 175,000 DWT.
{website: vessel size groups in deadweight tons]}

Phased approach?
Wooder said both PEV and Nova Scotia Power, which imports coal into Sydney for power generation, are “anxious to have the ability to load Panamax ships calling on the port to their load lines. That is a less onerous fix than moving the range lights at Point Edward to accommodate Capes. So I think it is going to be a phased approach to the nav aids.

“I think by the fall sometime we will be able to accommodate the Panamax situation and sometime, hopefully within 2013, we will be able to accommodate the Capes but it has been made very clear to me that Capes will not be able to call in this port until we have a clear way forward with nav aids that includes the changes to the Point Edward range lights and that just takes more time.”

Wooder said the channel dredging “changed the alignment of the channel a bit in the turn and it really only impacts vessels of a certain draft. So it’s kind of been business as usual (at the port) because for most of the vessels that call the port it hasn’t been an issue. We have a draft restriction right now related to the previous
draft [before dredging] and we haven’t been able to use the new draft because of this nuance.”

**Costs involved**
Sandra Inglis, superintendent of aids to navigation for Coast Guard, told delegates to Sydney Port Days on 24 May that dredging caused a number of changes to the navigation system. She said the Canadian Hydrographic Service would review the data before a new aids system could be designed. After the review it would take a year to design the new system. She estimated the cost of the new aids system would be $1.5 million to $2 million. {Peters coverage}

“I guess the cost will be one of the things that will come out of the September discussion,” said Wooder. “Once there is an agreement on what the plan is it will be a lot easier to cost it. Our view is this is a service the Government of Canada provides the port. That said, they have expressed a desire to try and accommodate us and if there is some incremental cost associated with fast tracking or whatever, I suspect they may look to us for some contribution but none of those details have been worked out.”

**Assessments done**
PEV has received federal and provincial environmental approval to dredge at its wharf to 16.5 metres prior to building a new coal transload facility [see 12#05B]. “There were federal and provincial assessments done and both concluded successfully,” said Wooder. “We are in the final stages of getting one or two of the last permits in place. The dredge tender closes [24 August]. We are still working toward the end of the year or early January for the completion of this phase of the work.”

**Temporary facility first**
The plan is to build a temporary loading facility so the coal being shipped from ports on the Great Lakes can be transloaded starting in 2013 [see 12#01A]. The construction of a permanent loading facility will be phase two.

“The issue of how many vessels will call here in 2013 is still up in the air. We have learned that the construction phase to put in the permanent loading system is actually quite challenging from an operational point of view so I guess the jury is out on what happens in 2013.

“We know that there is a very long lead time for some key pieces of equipment that we are going to have to procure and we want to get those ordered certainly before the end of the year. The conceptual design is being finalized now and that will be the trigger for us to make our procurement decisions. So our time line is to be up and running with the permanent system at some point in 2014.” {Discussion with ANR&P correspondent Tom Peters 23.Aug.12}

**HALIFAX: FEEDER SHIP SOLD**
7 September. **AFL NEW ENGLAND WAS SOLD TO A GERMAN COMPANY, ARA GROUP OF HAMBURG.** The 700-TEU container ship was arrested in Halifax in April and remained there [see 12#04B]. Selling price was $1.16 million. {Allnovascotia.com 6.Sept.2012} Ironically, the ship was build in Hamburg at the JJ Sietas shipyard [see 11#04A].

Gibson Canadian & Global Inc. of Montreal, was authorized by the Federal Court on 24 August to sell the vessel to recoup losses to creditors owed money by American Feeder Lines. {Court spokesperson in discussions with ANR&P correspondent Tom Peters 7.Sept. 12}

As of 12 September, the Port of Halifax still showed the ship at Pier 33. {Port daily status report}

**RAIL FREIGHT FACILITIES**

Described in this issue.
CSXT intermodal (CSXT, Massachusetts) Moving in late autumn.
Dicaperl (MERR, Maine) Some details.
Dragon Cement (MERR, Maine) Some details.
Granite State Concrete (MBRX, New Hampshire) Supports Leishman.
GU Railcare (GU, Massachusetts) Neighbors say not pre-empted.
NBSR autos (NBSR, New Brunswick) Wins CP contract.
Omya (VRS, Vermont) No Middlebury spur.
Pond View (PW, Rhode Island) Bankruptcy closes.
Romar (CSXT-GU, Massachusetts) Moving to Hopedale, becoming G&U Logistix.
TRANSFLO (CSXT, Massachusetts) Moving in early autumn.
Turner's Island (TIRR, Maine) Biodiesel doing well.

**PEOPLE, EVENTS**

The **New Bedford Harbor Development Commission** unanimously endorsed Mayor Jon Mitchell's recommendation of **Jeffrey Stieb** as the new executive director on 6 September. Stieb, 54, of Weymouth, is a former attorney for the Massachusetts Port Authority in Boston. He would fill the post that has been vacant since January, when former director Kristin Decas left. Edward Anthes-Washburn has served as temporary executive director since then. {Steve Dacosta in New Bedford Standard Times 7.Sept.12}

Last in the public eye when he sold Safe Handling Inc to Savage [see 09#11A], **Ford Reiche** has formed Dirigo Spirit to bid for the state's wholesale liquor contract. Reiche told Mainebiz he expects his background managing Maine's largest logistics company would serve the state well if he wins the contract and help the state “solve an enormous [fiscal] problem it's had since 2004.” {MaineBiz 7.Sept.12}

**Eric Moffett**, who bought into Seaview Transportation [see 12#03A] earlier this year, is still working with the **Grafton & Upton**, now as president [see Massachusetts].

**EDITORIAL**

**Ports Compact study: another waste of taxpayer dollars**

Ho hum. Another half a million dollars for yet another study, this time to produce ‘recommendations' for 'comprehensive strategy' to 'address the identified trends' for Massachusetts ports [see Massachusetts].

Look – in order for the 'Compact for Massachusetts Ports' to produce anything beyond a nice cup of coffee during its sessions, the participants must have control over some actual dollars, or the ability to legislate, or the willingness to knock heads.

According to its terms, Compact members have no control over dollars, nor the ability to legislate. That leaves only willingness to knock heads – over which port gets which money, and which cargoes. A consultant ain't gonna knock heads.

The ports know who is doing what in their designated port areas. They don't need a study to know what's happening, or what could happen. The Compact study process will end up with the five ports exchanging staff-generated talking points via e-mail with the consultants who in turn will grind anything definite into pablum for the final 'Plan'. The process never lets the ports argue out their needs in person.³

Let the port leaders, instead, gather in a room for a day of hard bargaining face to face – okay, use some of the half million for something stronger than coffee. They'll produce something faster, at much less cost, and best all, something much better than a set of “recommendations.” To give their deal some teeth, they can ask the guv and the chairs of the Transportation Committee to enshrine it into law.

³ This writer wonders whether the holdup on releasing the Connecticut ports study reflects some actual head-banging in the Nutmeg State. The draft was sent to state agencies before 16 May, and a final was due 30 June [see 12#05B]. According to Chuck Beck, secretary of the Connecticut Maritime Commission, as of 11 September the study was not released. {e-mail to ANR&P}
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Coverage
The newsletter covers the operating freight railroads and ports in New England, the Maritimes, and eastern Québec, as well as the government environment they function within. Coverage includes passenger rail and ships when relevant to freight operations.

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

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

Two asterisks indicate the story is updated with the blue font showing what is updated.

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

FORMAL E-ISSUE