Helping to move rail and port traffic through New York, New England, the Maritimes, & eastern Quebec. A weekly trade newsletter.

**REGIONAL**

**Article unchanged from e-bulletin.**

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

Blue header & table of contents: new article

**Risks at Lac Megantic.**

- NBSR, Pan Am, and CN observed moves.**
- Kahn looks at Keystone XL versus rail.*

**MMA BANKRUPTCY/SALE**

- More lawyers, more fees.**
- Travelers says not financially on the hook.
- Players don't agree two men needed.

**CRUDE BY RAIL**

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**MMA OPERATIONS**

- CP embargo lifted.* Photo.
- FRA chief shocked still using single-man crews.*
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**MMA BANKRUPTCY AND PURCHASE**

- Lac Megantic, Quebec own the railway.*
- Villagers fear rail, shippers need it.*
- US searches for unusual crude in N.Dakota
- Lac Megantic, Quebec have to restore rail line.
- Second MMA oil train had inadequate brakes.

**NEW YORK**

- PW: 2Q13 results improved over 2Q12.**

**Connecticut**

**Legislature:** Rail bond and others to voters.

**Petroleum products through Maine:** MDEP figures for all three Maine railroads.*

**Pan Am:** No crude report, not confidential.*

**Pan Am:** Protesters arrested on Auburn track.*

**MMA:** FRA says Maine tracks safe.*

**Pan Am-Portland:** Track deal before November.*

**Massachusetts**

**GU:** Grafton for full facts before STB decision.

**MC:** USAF transferring Otis spur to state. Map.*

**New Hampshire**

**MBRX:** Restarts service. No news on RFP.*

**Pan Am:** Talks crude safety with UNH, Durham.

**Rhode Island**

**[No report.]**

**Vermont**

**[No report.]**

**Maritimes**

**Saint John:** Crude by ship up after Lac Megantic.

**CN-Halifax:** Wheat inbound by rail or ship.*

Common abbreviation:

RAIL SHIPPERS/RECEIVERS
A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS
George Campbell,* Timothy Mellon.*
Pan Am Int'l Flight School.*

NEARS coming
Excellent chance to hobnob and network with rail professionals. I highly recommend it.

- Chop Hardenbergh Next formal issue 18 Sept.

REGIONAL

PW: 2Q13**
14 August, Worcester. A CARLOAD INCREASE AND OTHER REVENUE INCREASE, LESS A DROP IN CONTAINER CARLOADS, led to a net increase in operating revenues versus 2Q12, PW announced this day.

'Operating revenues increased $361 thousand, or 4.4%, to $8.6 million in the second quarter of 2013 from $8.2 million in the second quarter of 2012. This increase is the result of an $877 thousand (12.6%) increase in conventional carload revenue, and a $54 thousand (34.7%) increase in other freight related revenues, offset by a $16 thousand (5.2%) decrease in container freight revenues, and an $554 thousand (71.8%) decrease in other operating revenues.

Conventional freight up 9.0%
'The increase in conventional freight revenues is attributable to a 9.0% increase in traffic volume and a 3.7% increase in average revenue per carload. The Company’s conventional carloads increased by 755 to 9,380 in the second quarter of 2013 from 8,605 in 2012....

[From the 6-month result discussion:]'The number of shipments of most commodities handled by the Company was substantially level with increases in stone, metals, and ethanol shipments contributing the majority of the increase during the first six months of 2013 which were offset in part by decreases in coal and automobile shipments. The decrease in coal shipments during the first six months of 2013 was due to a power plant customer being offline during a substantial portion of the period. The decrease in automobiles is due to changes in the distribution patterns of certain of the shippers and changes in consumer demand for certain of the automobiles the Company handles.

'The increase in the average revenue received per conventional carloading is due mainly to shifts in the mix of commodities, as well as rate changes.'

Containers flat
'The decrease in container freight revenues is the result of flat traffic volume and a 2.3% decrease in the average revenue received per container. Container traffic volume decreased by 32 containers to 4,202 in the second quarter of 2013 from 4,234 in the second quarter of 2012.

'Other operating revenues decreased due to a decrease of State projects performed by the Company’s maintenance of way personnel.'

[Charlie Rennick, PW spokesperson, explained the change in revenue: '
'T]he per container fee may be adjusted during the year and will vary depending on where a container originates. The adjustments are driven by cost indices.' {e-mail to ANR&P 30.Aug.13}

Operating expenses down
Operating expenses for the three month period ended June 30, 2013 were $8.0 million. Operating expenses for the three-month period ended June 30, 2012 were $8.4 million before the Amtrak Agreement offsetting $3 million to Maintenance of Way costs. Additionally, the Amtrak Agreement offset $201 and $147 thousand of Track usage fees during the three month period ended June 30, 2013 and 2012, respectively. The Amtrak Agreement amounts are included as recovered costs in the above table of the Company’s operating expenses as a percentage of operating income. Exclusive of the Amtrak Agreement credits, operating expense decreased by
$400 thousand, or 4.8%, to $8.0 million from $8.4 million in 2012. The principal reason for this overall decrease was recovered costs of $452 thousand.

'The Company has $1.689 million of credit remaining to offset future mileage charges for use of Amtrak’s Northeast Corridor.'

**Operating ratio**
PW operations lost about $660,000 in the quarter. The company reported the operating ratio at 107.7%, versus 2Q12's 110.9%.

However, due to the Amtrak and 'other income' the company had an overall income of $602,000 before taxes. {10-Q report for 2Q13}

**PW: ANOTHER POSITIVE ANALYST**
26 August. 'THE DOW JONES U.S. RAILROAD INDEX IS SURGING WITH A 24% GAIN THIS YEAR AND HAS QUADRUPLED SINCE ITS 2009 LOW,' noted analyst Joseph Hogue. 'All signs pointed to another great year in 2013 and the sector again being a good investment. Then the unthinkable happened: Lac Megantic.

**Insurance premiums cause consolidation?**
Jeffrey Saut, chief investment strategist at Raymond James, points to an unbearable rise in insurance premiums for small short-line carriers: "(Recently,) I met the CEO of a short-line railroad located in the Dakotas. He told me his insurance broker had just told him that because of the disaster ... his insurance coverage is going to have to be increased by a factor of four with an attendant price increase -- and his railroad doesn't even transport crude oil! Such an increase in insurance cost will likely cause a massive consolidation for the industry."

'Lastly, possible regulatory changes by the U.S. Department of Transportation, which is said to be working on new policies for rail tank cars, could be the final catalyst for consolidation in the industry. These events have put the sector at risk -- but with risk there is always return.'

**GWI should buy PW**
GWI management has said that it is "comfortable continuing to actively look at investment opportunities ... in multiple geographies." GWI has very little exposure to the New England area with just one route from New London straight up to Canada. [Oops! Hogue – and your editor – forgot SLR.]

For prospective buyers, PW can offer important routes and connection points from Queens through New England and up to Canada. Comparing the company's route map with that of GWR shows a good fit, with PW providing a coastal transportation system to complement the Connecticut-to-Canada route, wrote Hogue.

PW’s revenue was down 7% in 2012 to $29.4 million [see 13#04B], with hauling of chemicals and plastics accounting for almost 40% of the total. Despite the drop in revenue, the company was able to turn an operating profit by decreasing its operating expenses 14%.

**Strong balance sheet**
The company has a fairly strong balance sheet, per Hogue, with no long-term debt and $98 million in property, equipment and land held for development. These assets are booked at cost, not replacement value, and could be a significant prize for a buyer. Best yet, the company paid off all its $4.9 million in long-term debt last year, possibly making itself a more attractive target. The shares trade just above book value at 1.2 times, a steep discount to the peer average of 3 times.

**New union contracts?**
PW still has room for growth if it isn't acquired. High operating costs, 92% of sales relative to an industry average of 75%, have held back profitability. These are mostly due to salary costs of union contracts [see union comment at 13#04B] and could become more favorable with the next round of negotiations. The massive
layoffs resulting from the Canadian Pacific strike have set a precedent in the industry, and the union may be more amenable to negotiate. If the company can lower its operating expenses down to 82% of sales, still well above the industry average, it can add another $2.9 million to the bottom line and boost earnings per share by 82%, to $1.33 per share. {Joseph Hogue in Street Authority} [Contrast with anonymous analyst in 13#05B.]

[Hogue fails to note that Bob Eder, PW chair, controls the company through preferred shares. Any sale, or change in worker compensation, probably awaits his relinquishing that control. Editor]

CRUDE OIL MOVES**

NBSR

19 August. Mixed eastbound approaching Saint John, four locos, 44 black tanks, 2 white tanks, about 20 high-sided gondolas, two empty centerbeams, and about five boxcars.

20 August. Mixed eastbound at Harvey with four locos, 65 cars.

20 August. Mixed westbound at Harvey with four locos, 87 cars, mostly empty crude oil cars and woodchip cars.

21 August. Mixed eastbound away from McAdam with five locos, 16 woodchip loads and 25 white tanks.

22 August. Mixed eastbound away from McAdam with four locos, 12 crude tanks, and 47 other cars. {RailsNB}
24 August. Eastbound away from McAdam with 55 cars, no oil tank cars.

25 August. Eastbound away from McAdam with four locos and 65 cars, including empty boxes, centerbeams, LP gas tanks, beer cars, covered hoppers, and 16 tank cars of crude oil.

29 August. Eastbound away from McAdam with four locos and 63 cars, including woodchips, empty boxes, centerbeams, LP gas tanks, scrap cars, clay slurry tanks, and 7 tank cars of crude oil.

1 September. Eastbound away from McAdam with three locos and 95 cars: clay slurry, empty boxes, empty centerbeams, 27 LP gas tanks, scrap cars, covered hoppers, and 7 tank cars of crude oil, plus eight maintenance-of-way cars.

CN
20 August. Inbound large cut of crude at Saint John from Moncton. \{ANR&P discussion with Connell Smith, CBC reporter\}

22 August. Mixed outbound to Moncton, three locos with about 80 empty crude tanks, 15 autoracks, and a few each of covered hoppers, gondolas, and boxcars.

2 September. Eastbound unit Bakken crude train U70001-02 destined for Ultramar in Levis, Quebec with three locos and 98 cars, interchanged from BNSF in Chicago. Reportedly the first of many. \{RailsNB\}

Pan Am

22 August. Westbound SJPO (Saint John-Portland) with 26 empty crude tanks plus wallboard, lumber, and beer cars. \{RailsNB\}

CRUDE OIL: MUNICIPAL LAWYER COMMENTS*

28 August, DC. *WINCHESTER, UPTON, AND GRAFTON ATTORNEY FRITZ KAHN HEI**GHED IN ON THE KEYSTONE PIPELINE*, in an article in the August issue of *Progressive Railroading*. Kahn [see footnote in GU article] notes Bakken illustrates that railroads can move crude oil: BNSF alone is doing 500,000 barrels a day.

That example 'renders questionable the need for the Keystone XL pipeline' which would handle tar sands oil. 'The proposed 1,179-mile, 36-inch diameter crude oil pipeline would extend from Hardisty, Alberta, Canada, to Steele City, Nebraska, where it will connect with an existing pipeline to Cushing, Oklahoma, a major crude oil marketing and refining hub, and with a pipeline under construction to reach Nederland, a Kansas City Southern station on the Gulf Coast. It is expected to cost $5.3 billion and will take several years to complete.'

If – as with Bakken – the price of the bitumen in Alberta is low enough, then like the Bakken it will move by rail before the pipeline is built, and if the price remains low enough, no Keystone would be needed.

'The pipeline transportation of crude oil is inherently more cost effective than its movement by rail. Shipping the bitumen to the Gulf Coast by pipeline, the State Department estimates, costs about $10 per barrel, while shipping by rail costs about $30 per barrel.

'The proponents of the Keystone XL pipeline are gambling that the differential in the price of the Alberta sands bitumen, on the one hand, and either domestic light oil or imported heavy oil on the other, will be insufficient to permit the bitumen's movement by rail. That was the case as recently as July 10, 2013, when Western Canada Select, the benchmark blend that includes bitumen, was selling for $90.11, or only $16.30 below the $106.41 price of West Texas Intermediate, which includes the Bakken shale oil; and only $12.13 below the $108.43 price of Brent — the latter being the benchmark blend and which includes the Venezuelan oil.
'In the beginning of May, the spot price of West Texas Intermediate was $93.70 per barrel; Brent Oil, $100.33; and Western Canadian Select priced below $60 per barrel; the differential was broad enough to encourage the movement of bitumen by rail.

'Crude oil prices, however, fluctuate, and it is the relationship between them that will determine whether — if it were approved by the president — the construction of the Keystone XL pipeline made any sense or whether the bitumen should have continued to move by rail.' {article distributed by e-mail 28.Aug.13}

**MMA BANKRUPTCY AND PURCHASE (1)**

20 August, Augusta. *MDOT HAS DISCUSSED THE MMA SITUATION WITH EVERY MAJOR OPERATOR IN THE REGION*, said Governor Paul LePage's spokesperson Adrienne Bennett. LePage's office would not offer an opinion about which operator it would prefer to take over the railroad. "There's a (legal) process, and we are in that process." {Craig Anderson in Portland Press Herald 20.Aug.13}

**Buy line?**

While discussing the importance of approving a transportation bond, MDOT David Bernhardt during an interview on a Portland radio talk show in mid-August said he needs money to buy the line west of Brownville Junction if the railroad gets broken up and some of its routes are abandoned. "We need that east-west connection."

**Cost of operating**

The region's heavy snowfall requires snow plows. Several old trestles must be maintained, including a 1,200-foot-long trestle that crosses a river gorge near Greenville.

“It's a hard place for railroads, said Don Marson, who retired in June from his job as vice president and general manager of the Maine Eastern Railroad. Profit on a railroad with far-flung customers is difficult because the per-mile maintenance costs are the same for all railroads, no matter how many customers are on the line.

To lower operating costs, Burhardt introduced one-man crews, now banned in Quebec [by Quebec order, and BLE argues the practice is unsafe – see 13#07B]. Because of work schedules, the ban effectively would require two-man crews in Maine from the Quebec border to Brownville Junction, making the odds of the line's survival "even bleaker," Marson said. {Tom Bell in Portland Press Herald 19.Aug.13}

**MMA BANKRUPTCY AND PURCHASE (2)***

21 August, Maine. *A WISH FOR ANOTHER RAILROAD WAS EXTENDED IN MAINE AND QUEBEC.* In Brownville, Maine, Town Manager Matt Pineo said he is trying to figure out how his tiny community will help the families of 44 laid-off MMA rail workers. No one has received a cheque since the Lac-Mégantic derailment. "They are all losing their health benefits, they cannot afford to pay it … at this time none of those workers receive any unemployment benefits.” [They should get Railroad unemployment benefits. *Editor*]

Pineo said the town is setting up a heating fund because a lot of people will have trouble heating their homes this winter. The biggest concern is that a new operator would not hire MMA's train crews, mechanical, and track workers, said Pineo. “I hope that whoever the party is that purchases this brings these talented rail workers back because they are talented."

Cowansville Quebec Mayor Arthur Fauteux said he is also paying attention to JDI's possible acquisition of the MM&A railway. “We have to trust them more than we can trust MM&A. I don't know [about] the tracks' condition in Saint John, but here it's terrible, the tracks are terrible."

Fauteux said almost 600 people in the Cowansville region work in industries such as plastics, which are not set up for shipping and receiving by truck. The industry needs good train service, said Fauteux. {Connell Smith in CBC 23.Aug.13}
MMA BANKRUPTCY AND PURCHASE (3)*
21 August, Halifax. **J.D.IRVING CHIEF JIM IRVING SAID HIS COMPANY WAS EXAMINING THE MMA RAILWAY**, but declined to state he would purchase it. {CBC 23.Aug.13}

**Spokesperson comment**
On 19 August, JD Irving spokesperson Mary Keith said in an interview from Maine, following the announcement about a new Irving sawmill: “Basically we're looking at all of our options. We're certainly keeping all of our options open as it relates to how we move forward in sustaining those rail links that are vital to, certainly the Maine economy, and also as it relates to New Brunswick and the manufacturing operations there. In terms of any offer to purchase or anything like that, that has not occurred.”

NB&M's connections to the MMA are 'vital to our operations and the customers we connect via our railroads,' Keith said later in an e-mail.

**Outstanding debt**
NBSR's claim of $2.35 million represents about half of the money owing to about 128 unsecured creditors excluding Montreal Maine & Atlantic Railway's $43.4-million claim [see 13#08A list]. {Ross Marowitz of Canadian Press in Daily Buzz Transportation News 20.Aug.13}

MMA BANKRUPTCY AND PURCHASE (4)*
21 August, Portland. **THE U.S. TRUSTEES OFFICE APPOINTED PORTLAND ATTORNEY ROBERT KEACH AS TRUSTEE FOR MMA** according to U.S. Bankruptcy Court filings. Following his appointment, Keach filed a request with the Court to hire his firm, Bernstein Shur, to serve as attorneys for him while he is trustee. {Craig Anderson in Portland Press Herald 22.Aug.13}

MMA: BANKRUPTCY UPDATE (5)*
23 August, Portland. **THE BANKRUPTCY JUDGE FEARED FEES WOULD DRAIN THE BANKRUPTCY ESTATE.** Judge Louis Kornreich said during a hearing this day attended by dozens of attorneys: “What's concerning me is a run-up of administrative expenses that would make operation of the railroad impossible. There's not a lot of extra revenue.”

Lawyers filled all the seats at the tables before the judge, including a back bench. Lawyers also filled about half the courtroom's gallery. Still more were dialed into a conference call from their offices during the hearing. Lawyers at Bernstein Shur charge as much as $375 an hour for their services, according to an affidavit filed in U.S. Bankruptcy Court for the District of Maine.

Trustee Robert Keach, from Bernstein Shur, acknowledged to the judge that legal and administrative costs could exhaust the estate.. “It's certainly conceivable that this case is administratively insolvent as we stand here,” he said. [Especially due to the wrongful death claims – see other article.]

The bankruptcy case is complex, Keach said. It spans two countries and is connected to a human tragedy with numerous victims. In addition, it involves a railroad, which by federal law cannot be shut down.

Keach said he has spoken with the company's creditors about letting it borrow money to pay for its bankruptcy case.

Cutting corners on the case to save money would do a disservice to participants in the bankruptcy, he said. "I don't think there's any substitute for administering this case properly."

Keach said the primary objectives of the bankruptcy should be to keep the railroad operating and compensate the victims.¹

**Enough money to operate break-even**
Keach said the railroad has enough money to operate on a break-even basis in the near future, and advised the other parties in the case to cooperate to complete the bankruptcy process as quickly as possible. "We need to come to a consensual approach to meeting these two goals.” {Craig Anderson in Portland Press Herald

¹ What? No priority for paying legal fees of $650/hour? Editor
23.Aug.13

Appearances
Brotherhood of Locomotive Engineers and Trainmen (James Molleur)
Unofficial Committee of Victims (Richard Olson)
Wrongful death claimants² (George Kurr)

Kugler Kandestin as Canadian counsel to Trustee (firm served as same for B&A Trustee Jim Howard)

(hourly rates to be charged, $650/hour and less, per Kandestin affidavit filed with Court)

MMA BANKRUPTCY (6): LOSS OF COVERAGE?
27 August, Montreal. THE TRAVELERS REQUESTED EXPEDITED ACTION IN QUEBEC AND MAINE, in a motion filed here and in Maine. The Travelers Property Casualty Company of America, located in Hartford, argued for a declaratory proceeding in Maine to determine 'the object and scope of a commercial property insurance policy' covering MMA. It wants to file in Maine because the policy is governed by US law and because many US parties are involved.

But the Quebec Superior Court handling the bankruptcy has issued a stay on all proceedings, including proceedings outside of Canada. Travelers argued that the Canadian court order 'is not binding in the United States and has no extra-territorial effect.' Nevertheless' Travelers did ask the Canadian court to lift the stay, and in Maine '[c]oncurrently with this Motion' [which does appear on the Maine court website – editor].

What Travelers wants
MMA and Travelers disagree on 'whether, and to what extent, the Policy as issued provides damages for some of the damages allegedly suffered and whether there was a mutual mistake in the issuance of the Policy. [If MMA and Travelers made a mutual mistake, the contract, or some of its provisions, would be void. Editor]

If the stay is lifted, Travelers will file in Maine asking for the Court to determine the applicability of the policy.

Travelers' interpretation
In the proposed request for a declaratory proceeding, Travelers stated that the Policy covered only 'certain Locomotives involved in' Lac Megantic but not 'the railcars, the railroad track, or the roadbed' and no 'third-party liability coverage', nor loss of business income.

While an endorsement covers track and roadbed up to $250,000, it also includes a deductible of $250,000. It does not include loss of Business Income, and a form attached to the policy providing that coverage was attached by mistake. {text of motion filed in Montreal; Anna Mehler Paperny in Global News 29.Aug.13}

MMA BANKRUPTCY (7): TOP OFFICIALS
30 August, Portland. TOP OFFICIALS OF MMA AND ITS ASSOCIATED COMPANIES FILED AT THE BANKRUPTCY COURT. Edward A. Burkhardt, Robert Grindrod, Gaynor Ryan, Joseph McGonigle, Donald M. Gardner, Jr., Cathy Aldana, Rail World, Inc, Rail World Holdings, LLC, Rail World Locomotive Leasing, LLC and Earlston As will be represented by Patrick Maxcy. {court website}

²On 22 August, Kurr filed a motion by which 18 victims' estates (to be joined by another 15) asked the Court to form a Creditors' Committee. He argued that wrongful death verdicts would run into the hundreds of millions of dollars. The Committee could best handle the huge administrative problems of 'bombarding a group of foreigners, who may or may not understand English, with American legal documents on a nearly daily basis.' {court website filing 22.Aug.13} A hearing on the motion is scheduled for 3 October.

11 USC 1171 of the US Bankruptcy Code, states: 'a) There shall be paid as an administrative expense any claim of an individual or of the personal representative of a deceased individual against the debtor or the estate, for personal injury to or death of such individual arising out of the operation of the debtor or the estate, whether such claim arose before or after the commencement of the case.' Administrative claims are given first priority in any payment scheme, and the holder is entitled to full immediate payment in cash. However, the holder may agree to accept less. {Michael Herbert, Understanding Bankruptcy, 17.12(C)]}
MMA BANKRUPTCY (8): IRVING OBJECTS

3 September, Portland. **J.D. IRVING OBJECTED TO A MOTION THAT IT SHOULD PAY THE ESTATE $885,000.** The Trustee has proposed 'a shortened objection period and expedited hearing date on its motion for turnover of $885,733 in accounts receivable allegedly owed to the Debtor by Irving. As set forth herein, the Motion is procedurally improper, deprives Irving of its basic due process rights and should be denied....

'Irving, its affiliates, the Debtor, MMA Canada and their affiliates have a multi-year relationship and are parties to multiple contracts with differing performance and payment obligations which may provide a basis for setoff against the amounts claimed by the Trustee. Irving is entitled to adequate time to gather the appropriate documents, data, witnesses and other evidence to support its position.' {court website}

MMA: OPERATION (1)*

21 August, DC. **FRA CHIEF JOE SZABO WAS 'SHOCKED' THAT MMA CONTINUED TO USE ONE-MAN CREWS,** in a letter to MMA this day:

'In the aftermath of the Montreal, Maine & Atlantic derailment at Lac-Megantic, Canada, I was shocked to see that you changed your operating procedures to use two-person crews on trains in Canada [as ordered by the CTA – see 13#07B], but not in the United States. Because the risk associated with this accident also exists in the United States, it is my expectation that the same safety procedures will apply to your operations here.'

Szabo’s letter requests confirmation from the railroad operator’s chairman, Ed Burkhardt, that the company will start using two-person crews. {Craig Anderson in Portland Press Herald 22.Aug.13}

MMA: OPERATION (2)*

22 August, Calgary. **CP ANNOUNCED IT WOULD RESUME INTERCHANGING WITH MMA.** On 13 August, the day the CTA announced it suspended MMA's certificate of fitness as of 20 August [see 13#08A], CP and CN each issued an embargo regulating the interchange of all traffic with MMA.

**Intense negotiations**

According to correspondence obtained by The Globe and Mail, days of confidential and high stakes discussions among CTA, MMA, and CP ensued, after CP refused to lift its embargo when CTA ruled that MMA could operate at least until 1 October [see 13#08A]. CP expressed its concerns regarding the fitness of MM&A to safely handle hazardous substances, including the crude oil currently under investigation in the Lac Megantic derailment.

On 21 August, the CTA dismissed CP’s arguments and ordered CP to lift the embargo. 'The Agency finds that, on balance, MMA will suffer irreparable harm as a result of CP’s Embargo.'

*Note:* During this time period CP was told by the Quebec government that it would be liable for the Lac Megantic disaster [see 13#08A].

“While we disagree with this order, we have taken immediate steps to comply,” said E. Hunter Harrison, Canadian Pacific Chief Executive Officer. “The CTA, as federal regulator, has satisfied itself that MM&A is fit to operate and has adequate insurance to do so. We will review our legal options.” {CP announcement; Jacquie McNish in Toronto Globe and Mail 22.Aug.13}

MMA OPERATION (3): DIVERSION **

28 August, Hermon. **MMA TRAFFIC HAS FOUND ROUTES AROUND LAC MEGANTIC,** wrote Joe McGonigle, MMA vice-president sales & marketing, 'to/from stations in Maine for other commodities' than crude oil.
'Rerouted traffic is a benefit for others.' The other railroads participate 'in the route - it would not entail
haulage in any way.

'As far as costs, the shipper would have their own rate structure via the route of movement, MMA would not see those agreements. I would expect circuitous routing to cost more.' {e-mails to ANR&P 29-29.Aug.13}

[Moose River definitely pays more. See 13#08A.]

### MMA OPERATION (4): TWO MEN NEEDED?

1 September, DC. **PLAYERS IN THE INDUSTRY DISAGREE ABOUT THE NEED FOR, AND HOW TO ACHIEVE, TWO-PERSON CREWS.** Maine U.S Representatives Mike Michaud and Chellie Pingree have introduced legislation to require two-man crews on all freight trains.

Federal officials have historically steered clear of the issue and, instead, allowed the two sides to hash it out at the collective bargaining table, except in 1963. That year, forced arbitration reduced the required crew size from five to two.

"The authority is there, but perhaps it is instructive that it hasn't been used," said Frank Wilner, author of *Understanding the Railway Labor Act* and a former official at both the Association of American Railroads industry group and United Transportation Union.

The Federal Railroad Administration has made clear, however, that the agency believes safety is "enhanced" by a minimum of two crew members on a train [see other article]. Agency Administrator Joseph Szabo said he prefers that any policy changes emerge through the advisory committee collaborative process, but the agency retains the right to develop crew-size rules if the committee fails to deliver.

Wilner, for one, does not believe the agency will forge the path itself despite the Lac-Megantic incident, which he described as a "freak accident that had nothing to do with whether there was a one-person or a two-person crew on the train. I don't think anybody can come down and say definitively that if you have a one-person crew then safety will suffer. So the bottom line will probably be economic, and that will be negotiated at the bargaining table."
Reportedly other short lines in North America also operate with one-man crews.

Opinions
James Stem, national legislative director with the Sheet Metal, Air, Rail and Transportation Workers union, said what happened in Lac-Megantic was the cumulative result of multiple “bad decisions” and safety shortcuts by managers determined to run a train with a one-man crew.

Stem said that one person could not properly test the brakes and was unlikely to take the time to walk the length of the train, in this case a mile in the dark, to set all of the necessary backup hand brakes. “The very nature of this business is you need two people to do what it takes to operate that train. Once the decision is made to try to operate with one person, you have to make other decisions.”

“Obviously there are issues that are appropriate for us to address,” Michael Rush with the Association of American Railroads told the Federal Railroad Administration's Railroad Safety Advisory Committee on 29 August in DC. “But really a key missing fact for all of us, a set of facts, is exactly what happened. And hopefully we will get that information eventually.” {Kevin Miller in Portland Press Herald 3.Sept.13}

PW-NECR-VRS-CN: MORE ON LOG MOVES**
28 August, Plainfield. **ANDY CLARK IS LOADING LOGS HERE ON PW.** He explained that this particular site is only 5.5 miles from the “raw material,” a shorter dray than to his first site in Franklin [see 13#07B Regional] of 26 miles. PW will exchange the cars to NECR in Willimantic, whence to East Alburgh for CN, and then to Drummondville.

Future transload
Clark's Limb-it-Less Logging will eventually have a transload in Quebec: “I am working with a friend in Montreal,” also in log logistics, “who is helping me set it up.”

Plainfield, Connecticut. Providence & Worcester Railroad yard. Limb-it-less Logging loading logs on the first of two log cars on 28 August. {courtesy Leighton Haeseler}
Some slow turnaround
Clark pronounced himself “very happy with NECR” and Doug Low. He has experienced some car turnaround problems getting logs to Whitehall [see 13#07B]; “apparently the cars sit for a few days in Bellows Falls” but Low is trying to get to the bottom of the problems. {ANR&P discussion}

Low wrote on 29 August: 'This is a work in progress that is in the developmental stages.' {e-mail to ANR&P}

**QUEBEC**

**MMA DISASTER (1)*
18 August, Lac Megantic. “IN A PRACTICAL SENSE, THE ECONOMIC OWNERS OF THE RAILWAY NOW ARE THE TOWN OF LAC-MÉGANTIC AND THE PROVINCE OF QUEBEC, they are the main creditors and they own the company. The shareholders have been zeroed out,” said Ed Burkhardt in an interview. The current MMA is unlikely to emerge from the restructuring.

**But the rail line must be restored**
The bankruptcy estate could sell its assets to “a new interest, free from huge obligations to the province of Quebec,” per Burkhardt. He expressed confidence that a new company with the same network as MM&A could be profitable.

But “[i]f the railway doesn’t have a link to connect the operation in Maine with the operation in Quebec, its profitability is a real question.”

**Restoration of rail service**
Since the disaster, Mayor Colette Roy-Laroche has maintained that restoring rail service to the town’s industrial park remains one of Lac-Mégantic’s “main priorities.” Nearly half of the local economic output emanates from the half dozen factories on the eastern edge of the town. “At a social and emotional level, it will be very difficult to convince people to let the train through town again, but for factories in the region, the train is indispensable,” said local business operator Gilles Pansera.

Local business leaders have so far spawned three plans to restore rail service. All three, however, have been delayed by environmental questions. The Quebec government has yet to certify that the ground where new tracks would be built is free of contamination from the thousands of litres of light crude oil spilled in the 6 July disaster.

Although all parties agree restoration must occur to move forward, so far no level of government has come forward with the funds required to rebuild the broken link in the company’s network.

The provincial and the federal governments have pledged $120 million to help the city recover from the deadly train derailment. While business leaders had expressed hope some of the money would go toward the construction of a new track, the town has said the aid will help build a new downtown.

The subject of building a new rail line remains emotional in Lac-Mégantic, with locals balking at the suggestion of allowing any train carrying the initials “MM&A” nearby. {Justin Gionnavetti in Toronto Globe and Mail 19.Aug.13}

**MMA DISASTER (2): CUSTOMERS WANT RAIL*  
19 August, Lac Megantic. FEAR CLASHES WITH A NEED FOR RAIL. Any attempt to bring oil tankers through downtown will be met with fierce opposition here. The public will simply never allow it, said Yannick Thibault, 44, head coach of the football team at Lac-Megantic's high school; four former players were killed. “You can't hurt our city twice.”

**Tafisa need**
The Tafisa factory, the largest producer of particleboard in North America, is the town's largest employer, with
about 350 workers and 2500 carloads a year [see 13#07A] to 35% of its customers. Tafisa is now trucking products to three reloading centers on other railroads, all within three hours' drive, said Louis Brassard, the company's CEO.

While Tafisa will be able to cope with the rail shutdown in Lac-Megantic for the next few months, it needs direct rail service to be competitive. Lac-Megantic residents will need to accept the idea of freight trains moving through town again. "We will need to restore the tracks," Brassard said. "Eventually, we will need to have rail."

Other rail users
Twelve nearby sawmills also use the spur for shipping products and receiving raw materials by rail [for example, the Whitehall yard sends white pine to Lac Megantic by rail in the winter, see 13#07B]. Those companies are now using trucks.

In nearby Frontenac, Francis Cliche, a scrap dealer, said many people don't understand how important the rail line is for the local economy. Before the accident, his business railed scrap to a buyer in Massachusetts. Now he is scrapping 3,000 tons of metal taken from the railroad's busted tank cars [see photo in 13#07A]. {Tom Bell in Portland Press Herald 19.Aug.13}

MMA DISASTER (3): WAS THAT NORMAL CRUDE?
24 August, North Dakota. US INSPECTORS FANNED OUT ACROSS THE STATE to examine whether the tank cars containing crude actually contain the type and grade of oil indicated on shipping papers.

'Bakken Blitz'
“We are doing what we call a 'Bakken Blitz,’” Pipeline and Hazardous Material Safety Administration (PHMSA) Administrator Cynthia Quarterman told reporters during a break at the Railroad Safety Advisory Committee in DC, which considered regulatory areas in the wake of Lac Megantic.

“FRA and PHMSA together are going out with our inspection teams as we speak looking at crude in these cars and measuring them and ensuring that the quality of the crude that is being carried is what the shipping papers say it is.”

“Operation Classification' primarily involves shipments from the Bakken and activities include unannounced spot inspections, data collection and sampling as well as verifying compliance with federal safety regulations,” PHMSA spokesperson Jeannie Layson said in a statement.

Previous inconsistencies
Planning for the inspections started in March following FRA audits and PHMSA field observations that found inconsistencies with crude oil classification, the agencies said. The content of rail cars carrying crude is an issue in the Lac-Megantic investigation. Bakken crudes tend to be lighter and thus more volatile than other grades.

"That explosion in Lac-Megantic was very unusual for crude"
FRA Administrator Joseph Szabo said. “Generally speaking, most grades of crude would not be that volatile. Our big concern at the moment is what is in the tank car is what people say is in the tank car because there are certain requirements they have to meet if the flash point is different from what the regulations say.

“For example, they should have a safety and security plan if they are shipping something that is extremely volatile, which means they should be taking into account already some of the issues we're talking about today, including securement ... .” {Gary Gentile in Platts Oilgram News 29.Aug.13}

MMA (4): TAFISA RAIL LINK?
rebuilt by December, and the line to the Lac-Mégantic industrial park by Christmas.

“The municipality, with the support of the transport department, will build this temporary link,” Marois said, adding the government is studying alternatives for a permanent new rail line.

**No new line yet**

Some residents called for a new rail line to bypass the town. “We have to continue to study this issue,” Marois said. “There is an important industrial park, and they have to send their merchandise to Montreal or the USA. We will continue to discuss the possibility of a permanent railway line… but it’s impossible to make this decision now.”

The new business district will be built on both sides of the Chaudière River, which has its source in Lac Mégantic and flows north through the Beauce region into the St. Lawrence River. Roy-Laroche explained: “The downtown will not be accessible for consumers or store owners or residents before June 2014.”

Roy-Laroche wants to rehabilitate business and residential sites in the old core to attract new businesses, as part of a town plan centred on the lake to promote Lac-Mégantic as a tourist destination.

Sylvain Gaudreault, Quebec’s municipal affairs and transport minister, who was also at the news conference, said he plans to present an “omnibus” bill for Lac-Mégantic when the National Assembly resumes sitting in September. The bill would extend the term of Roy-Laroche and her council by two years and would also include legislative changes, including compensation for the loss of business taxes for the town, and other relief efforts the province is committed to providing. (Kevin Dougherty in Montreal Gazette 27.Aug.13; Billy Shields in Global News 26.Aug.13)

**MMA DISASTER (5): A SECOND UNIT TRAIN**

30 August. **REASONS BEHIND THE SEARCH OF MMA CANADA OFFICES** were revealed in the text of the search warrant used on 25 July [see 13#07B]. The warrant, some language of which was blacked out, stated that on 8 July MMA had a second unit oil train at the Vachon siding five kilometers east of Lac Megantic [see map]. It had sat there since 5 July, one day before the disaster, awaiting a recrew.
Sûreté du Québec asked Transport Canada to inspect the train because they were concerned about it. Information in the warrant, obtained by Global News, indicated inspectors found that the second train was parked on a slope with only five handbrakes applied – and only on the locomotives, none on the rail cars.

[An unspecified rule] asks for a minimum of nine brakes for trains parked on a flat land. Experts said both the second and first (the “ghost train”) required 20 handbrakes but given 3 to 5 minutes per brake to apply, it would be unrealistic to have only one person do that job. “20 handbrakes is too much to ask one person to do,” said Dan Christie, a retired CN engineer. “Especially at the end of a shift.” {Elisia Bryan Banes in Global News 30.Aug.13}

Second unit train: still there?
M. Belkaloul, head of the National Safety Board in Quebec [see 13#07B], announced on 1 August as inspectors were departing Lac Megantic that they had finished the examination of the disaster site but would continue work on the locomotives on the Vachon siding and the tank cars at Nantes. [See map – the locomotives uncoupled from the derailing tank cars and continued east, so were parked on the Vachon siding. The tank cars were presumably those hauled away from the conflagration. Editor]. “Our work is far from done.” {Le Devoir 1.Aug.13, ANR&P translation}

MAINE

MAINE LEGISLATURE: $$ FOR RAILS, PORTS
29 August, Augusta. THE MAINE LEGISLATURE PASSED A BOND PACKAGE WHICH COULD FUND THE TRACK EXTENSION to the International Marine Terminal. A compromise agreed with Governor Paul LePage will send five bonds to voters in November for approval: $100 million for transportation, three separate bonds totalling $35.5 million for higher education, and $14 million for maintenance of armories and purchase of 6,000 acres of land for Maine National Guard training.
Transportation breakout

A spreadsheet provided by the Maine Better Transportation Association [origin unclear] stated about the transportation bond: 'Although this bond is not earmarked to specific projects, this spreadsheet indicates a tentative disbursement plan for bond proceeds. Actual use of proceeds will depend upon project readiness, scoping, permitting engineering, etc.'

The text of the bill, LD 1095, specifically allocates $44 million to highways, $5 million to municipalities, $27 million to bridges, and $24 million to multi-modal improvements.

And the bill has this specific language: 'Provides funds for facilities or equipment related to ports, harbors, marine transportation, aviation, freight and passenger railroads and transit that preserve public safety or otherwise have demonstrated high economic value for transportation, including property acquisition and capital improvements at the International Marine Terminal.' {legislative website; MBTA website}

PETROLEUM PRODUCTS THROUGH MAINE*

22 August, Augusta. MAINE RAILROADS REPORT PRODUCT MOVEMENTS IN ADDITION TO CRUDE OIL to the Maine Department of Environmental Protection, in order to notify MDEP and pay the fees required [see 13#07B].

Note: The statute does not require MDEP to collect a fee for propane or other natural gas liquids, presumably because any spill would evaporate and therefore not require cleanup.

Figures obtained via a Freedom of Access request:

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<th>Railroad</th>
<th>Product</th>
<th>Total Barrels 2012</th>
<th>Total cars 2012 (700bbls/car)</th>
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</table>

** Pan Am stopped reporting its crude moves at April 2013 [see e-bulletin(ff)].

*** Number 6 fuel oil is a high-viscosity residual oil requiring preheating to 220 – 260 °F (104 – 127 °C). Residual means the material remaining after the more valuable cuts of crude oil have boiled off. The residue may contain various undesirable impurities including 2% water and 0.5% mineral soil. This fuel may be known as residual fuel oil (RFO), by the Navy specification of Bunker C, or by the Pacific Specification of PS-400. {wikipedia}

****Number 2 fuel oil is a distillate home heating oil. Trucks and some cars use similar diesel fuel. {wikipedia}

# SLR moved the nine carloads in January and February 2012.

+ The reports of the Pan Am lube move began in May 2012, the same month as the crude oil; it has continued at roughly 6,000 barrels per month through May 2013.

++ The reports of the Pan Am asphalt move began in June 2012 and ramped up jaggedly to April 2013; in May 2013 Pan Am moved 64,176 barrels or roughly half of the entire preceding 12 months.

+++ For monthly reports on Pan Am and MMA crude, see 13#03B (January-December 2012) and 13#06A (January-April 2013); for MMA May 2013, see 13#07A.
Railroad comments

Pan Am. Cyndi Scarano, executive vice-president, wrote on 28 August: 'I have checked these numbers and your information is incorrect. Pan Am has no further comment on the issue.' [Hmmm. Editor]

SLR. Ed Foley, GWI vice-president sales & business development, Northeast Region Railroads, declined comment.

MMA. Joe McGonigle, MMA vice-president sales & marketing, wrote that Dead River was receiving the #2 fuel oil. All crude oil movement has stopped on MMA. {e-mails to ANR&P}

PAN AM: CRUDE PROTEST*
28 August, Auburn. PRO-ENVIRONMENT GROUPS STAGED A MOCK SPILL ON THE LINE HERE, laying a black tarp over the track. With about 40 attending from 350 Maine and Maine Earth First (which organized a similar protest on Pan Am tracks in Fairfield in late June), police moved in quickly. Three refused to move off the rail and were arrested.

Sass Linneken of Benton, who was arrested and charged with criminal trespassing during the protest in Fairfield, said in a statement that she hopes the protest will bring public attention the possibility of a train carrying crude oil derailing in Maine and harming people in a populated area.

Both environmental groups urged Maine’s U.S. Representatives Chellie Pingree and Mike Michaud to take 'bold action....(Governor) LePage's executive order to review rail safety has no teeth. We're calling for a moratorium on oil transport. We are asserting our rights to health and safety,' Linneken said in a news release. {Dennis Hooey in Portland Press Herald 29.Aug.13}

MMA: MAINE TRACKS SAFE*
23 August, DC. THE FRA FOUND 'NO SIGNIFICANT DEFECTS' IN MMA TRACK, according to a statement released this day. 'As part of our routine safety practice, the FRA has been conducting inspections using our Automated Track Inspection vehicle throughout Maine all summer and found no significant defects on MMA’s track. We will continue to monitor their track, equipment and operating practices.'

No state problem
Nate Moulton, MDOT rail director, said this day federal officials “have not brought anything to our attention that leads us to believe that MMA’s track here in Maine is unsafe to operate.” {Nick Sambides in Bangor Daily News 23.Aug.13}

PAN AM: CRUDE OIL REPORTING*
20 August, Augusta. PAN AM IS NOT REQUIRED TO PROVIDE CRUDE OIL INFORMATION UNTIL OCTOBER, said Jessie Logan, MDEP spokesperson. The railroad provided information to indicate that they were transporting crude. Since the statute requiring the reporting of crude does not go into effect until October [see 13#07B], Pan Am will begin to provide information on its crude movements with October transport. Logan did not expect to receive the information until the end of November.

Not protected by confidentiality
MDEP "worked with the Attorney General's Office to evaluate the request by Pan Am" to keep the information confidential. "We do not believe any of the exemptions in Maine's Freedom of Information statute apply."

"Of course, we cannot predict what they [Pan Am] are going to do." {ANR&P discussion 20.Aug.13}

PAN AM-PORTLAND: TRACK UPDATE*
27 August, Portland. PHIN SPRAGUE IS DELAYING HIS BOAT YARD UNTIL MDOT AND PAN AM
CAN AGREE ON TRACK ACCESS for the International Marine Terminal, he said this day. He announced in a written statement that he is purchasing Gowen Marine at 400 Commercial Street, which permits him to serve larger vessels and his current customers, pending completion of the new yard.

As winter approaches, boat owners want him to haul and store; he will service them at Gowen, and store them on West Commercial Street.

What of the track extension?
State officials said a $100 million transportation bond that will likely go to voters in November will have funds to build the track [see other article]. MDOT spokesperson Ted Talbot said Sprague will not have to wait that long until a final plan is drafted. “This is a top priority. We're addressing these issues as quickly as we can and with the most urgency we possibly can. We understand this was a really important piece of Eimskip coming.”

Once the terminal expansion is figured out, Sprague said he will have to change the layout of his new boatyard [see 13#08A]. {Randy Billings in Portland Press Herald 28.Aug.13}

MASSACHUSETTS

GU: TOWN SAYS NO PRE-EMPTION*
19 August, DC. THE TOWN OF GRAFTON ARGUED FOR A BROAD DECLARATORY PROCEEDING, instead of the expedited one requested by the railroad, to determine whether the Town may regulate the proposed propane facility in North Grafton [see 13#07B, 13#08A].

'Grafton objects to any expedited review and instead respectfully requests that the Board institute a declaratory order proceeding that is broad, comprehensive, and unrestricted and that requires G&U to divulge the details of its suddenly-arrived-at new plan. Grafton sought over eight months ago to bring this matter before the Board, and G&U chose strenuously to object and instead take this matter through a trial at Federal Court. And, most recently, G&U changed its transloading plan wholesale.'

Earlier ruling against GU on pre-emption

A 2006 brief for the City of Wilmington in its battle against New England Transload explained the Milford decision [GU appealed the 2006 STB decision in favor of Milford – see 13#08A]:

'[In Milford], the Court affirmed a decision of the Board which held that the Boston Railway Terminal Corporation, which operates a railroad over a short, fixed distance for such purposes as moving freight within an industrial complex, was not a rail carrier as defined by 49 U.S.C. §10102(5). The Court found that a plan by the Grafton and Upton Railroad Company to develop its Milford Rail Yard by establishing a jointly operated transloading facility with BRT did not "bring BRT's operations under the auspices of a rail carrier." Id. at 176. Thus, regardless of the fact that the Board found [GU] to be an established rail carrier, the Board could not pre-empt state and municipal law as it applied to BRT's activities at [GU]'s rail yard.' {STB website, filings page, Finance Docket 34797 12.July.2006}

Incredulous
The Town argued that 'the statement that "G&U intends to proceed with the completion of the construction and operation of the transloading facility with its own resources and employees" … strains credulity in light of the statements and testimony given just months ago by G&U's executives that it could notfinance the facility using any traditional method without several years of a proven track record. 

'At page 10 of his Verified Statement, Mr. Priscoli acknowledges that it would take approximately $3 million to acquire the four 80,000-gallon propane storage tanks and related equipment and to complete construction of the propane transloading facility, including completion of the track work in the yard.
'G&U states that it will be able to bear these expenses from a combination of (a) current cash flow from other operations ... (b) by placing new financing on the railroad, which currently does not have any third-party financing, or (c) by financing on reasonable terms and conditions from other business entities that I control.'

Priscoli v. S. at 20.

'G&U's Petition for Declaratory Order, however, includes no tax returns, balance sheets, or income statements from any company owned or controlled by G&U or Mr. Priscoli which would support Mr. Priscoli's optimistic projections that he can suddenly raise over $3 million to construct and operate this facility.

'In fact, G&U itself doesn't own all that much unencumbered property. G&U doesn't own the 33-acre transloading terminal in Upton; it merely leases it. Moreover, G&U is busily engaged in upgrading its line to Milford where it hopes to service a large warehouse.

New arrangement believable?

'G&U now attempts to replace the 26-page Transloading Agreement with its "belief" that it "can identify and retain qualified employees who will be knowledgeable and experienced with respect to the operation of such facilities."

'This is a rather stunning belief in light of Mr. Priscoli's testimony just a few months ago: in response to his counsel's question "why did the railroad elect to do the transloading through a subcontractor?" Mr. Priscoli stated, "Because we don't have that experience." Grafton v. GURR, U.S.D.C. proceedings, Priscoli Testimony 1/16/13, Transcript at 46. Motion Hearing, 12/21/12.

'This "belief" is also surprising [in the face of] the fact that, in another proceeding currently pending before the Board involving G&U's operations in the neighboring Town of Upton, Mr. Priscoli stated that G&U hired a transloading company because it lacked the experience and personnel to handle the transloading of chemicals classified as hazardous materials.' {STB website, filings page, Finance Docket No. 35752}

Additional materials

In its 135-page filing, the attorneys (Town Attorney Ginny Sinkel Kremer and DC attorney Fritz Kahn) appended to their 20-page argument the texts of the now-abrogated transloading agreements, proposed findings of fact submitted to federal district court, construction agreements, and GU tariffs. [Subscribers may request a free pdf of same.]

MC: OTIS SPUR*

14 August, North Falmouth. THE US AIR FORCE WILL DIVEST THE TRACK TO OTIS AIR FORCE BASE, trading it to the Commonwealth in exchange for land in Bedford/Lexington, according to an announcement in the Federal Register:

...the Air Force is publishing this Notice to identify Federal real property that it intends to exchange for property that is needed by the Air Force to limit encroachment and other constraints on military operations at Hanscom Air Force Base, Massachusetts.

Description of the Air Force Property: Approximately 36 acres of railway corridor of irregular width, located in the North Falmouth section of the Town of Falmouth, located on the southern portion of Cape Cod, Massachusetts. The rail corridor extends from an area just west of Route 28A and north of Route 151 on Cape Cod and extends to the southern portion of the Joint Base Cape Cod formally known as (Massachusetts Military Reservation), Otis Air National Guard Base, Massachusetts. The property consists of 23 tracts of land providing a rail corridor of about thirteen thousand linear feet in length....

The Air Force railway land described above was determined to be excess to military mission needs on April 29, 2013. The property proposed to be acquired by the Air Force in the property exchange is about 18 acres of land, owned by the Commonwealth of Massachusetts, located adjacent to the Hanscom Air Force Base current main entry gate (Vandenberg Gate). {Volume 78, Number 157 (Wednesday, August 14, 2013) [Notices] [Page
MassDOT to acquire
MassDOT will acquire the line to protect it for rail purposes, said one source. “Trucks aren’t the answer for the Cape bridges.” {e-mail from commuter rail source}

NEW HAMPSHIRE

MBRX: UPDATE*
12 August, Wilton-Milford. 'WE RESUMED OPERATING TO GRANITE STATE CONCRETE,' wrote the railroad's principal Peter Leishman. Pan Am has cooperated.

NHDOT RFP
The department has issued no word on the RFP for the state-owned track on which Leishman operates. In June [see 13#06A] NHDOT said it would issue one “later this summer.”

Track upgrade
On 2 August, Leishman told NHDOT: 'We have completed the track upgrade between MP 18.60 - MP 18.83 in Wilton. Yesterday we began to replacing ties in Hancock/Bennington in order to address a few "soft" spots.' {e-mail to ANR&P}

PAN AM: CRUDE THROUGH NEW HAMPSHIRE
29 August, North Billerica. UNH AND DURHAM WERE BRIEFED BY FINK AND OTHER PAN AM OFFICIALS about oil train safety here, in response to a request from the university and the town. the request,
Pan Am President David Fink hosted representatives from Durham and the University of New Hampshire at the Pan Am Railways corporate headquarters in North Billerica.

A post on the Town website stated: 'It was a productive meeting for all concerned, with Pan Am Railways officials being willing to frankly discuss the issue, answer questions, walk local officials through extensive safety protocols the company has in place, and offer enhanced training to local emergency responders.' Pan Am emphasized that fewer than 1% of railway accidents are derailments.

**Train and training details**

A total of twenty-four trains travel through the Exeter-Durham-Dover portion of the rail corridor daily: 12 Amtrak passenger and 12 freight.

- Pan Am train crews receive extensive training on standard operating procedures and emergency protocols; Pan Am does not operate single-man crews.
- The company has implemented random drug testing for safety sensitive positions with a zero tolerance for failure. Pan Am also prohibits the use of devices that could lead to driver distraction such as cell phones for texting.
- Tracks are inspected regularly by both Pan Am Railways which owns the tracks and by Amtrak. Annually tracks are x-rayed.
- General service freight cars, such as those used to transport oil and other goods, are equipped with enhanced coupling equipment as a critical safety feature in case of derailment.
- In additional to adhering to Federal Railroad Administration (FRA) regulations, Pan Am Railways was able to demonstrate to the delegation that the company has extensive safety and operational protocols in place.

**Daily federal presence; vital role of railroad**

A federal inspector is typically on the Pan Am Railways network daily reviewing safety protocols and conducting inspections.

On the network to and through New Hampshire, Pan Am transports foods, supplies, chemicals, equipment, materials used in the manufacturing of paper, building materials, coal, oil (Bakken crude en route from N. Dakota to N. Brunswick), natural gas, and more. In the course of around 24 hours, the state of Maine might very well shut down if Pan Am Railways had to suspend service, not to mention the impact to New Hampshire as coal transported on Pan Am lines fuels the PSNH power plant in Bow.

**Conclusion**

'It was clear that the officials at Pan Am Railways take their jobs very seriously....In an effort to be proactive, Pan Am Railways has offered to work with the Town of Durham and the University of New Hampshire in hosting additional training relative to train safety and emergency response. We appreciated the offer and intend to take them up on it.' {Durham Friday Updates 30.Aug.13}

A request to Pan Am for comment and verification of the daily federal presence was not returned by deadline.

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**MARITIMES**

**CN-HALIFAX: WHEAT MOVES**

26 August, Halifax. **PARRISH & HEIMBECKER USES BOTH RAIL AND SHIP TO TRANSPORT ITS MILLING WHEAT TO ITS MILL AT THE PORT OF HALIFAX**, said P&H’s Rob Bryson. “In the grand scheme of things a ship is cheaper but there is a whole bunch of things that come into play that cause us to move back and forth. We don’t have a mandate to say let’s do one or the other. Ideally, what we would like to do is to try and keep both modes.” [Lately, P&H was bringing wheat to the Halifax grain elevator by rail only. See 13#08A.]

Bryson said some of the factors that determine the method of transporting wheat are the location of the
wheat which may only be accessible by rail; how much business the mill is doing; and the frequency of laker (vessel) traffic in and out of Halifax “so sometimes it is timing.”

“We may want our wheat spread out a bit and when you look at markets right now, especially last year, they have been in a lot of turmoil because of crop problems in the U.S. and other parts of the world. So sometimes holding inventory puts you at risk of price drops so when you take a boat load it takes you a little longer to chew through it. When we use rail cars you are a little more nimble and a little more adaptable,” he said.

Did P&H shifted more to using rail after the Canadian Wheat Board lost its monopoly to market Canadian wheat? [See13#08A] Bryson said he couldn’t point to that. “We shifted in times before the Wheat Board monopoly was repealed. We would shift to rail and then back to vessel,” and it could have been because of crop quality in certain areas. {Rob Bryson in discussions with ANR&P correspondent Tom Peters 26.Aug.13}

SAINT JOHN: CRUDE BY SHIP*
21 August, Saint John. IRVING MOVED RAPIDLY TO REPLACE THE CRUDE LOST FROM MMA, according to applications to the Canadian Transportation Agency for Coasting Licences. These permit a shipper to use a foreign ship to move product between two Canadian ports [see table].

Before Lac Megantic
For the calendar year 2012, Irving only obtained Coasting Licenses to move hot asphalt to points in Nova Scotia and Newfoundland. During the first six months of 2013, until the disaster on 6 July, Irving only twice used a Coasting License to move crude oil, each time from Whiffen Head, Newfoundland, to Saint John, presumably. (The license lists possible destinations as Halifax, Portland, Canaport, or Point Tupper.)

After Lac Megantic
Irving quickly moved to obtain additional crude. Starting on 14 July, Irving according to the Coasting License data would receive ships with consecutively 250,000, 130,200, 750,000, and 550,000 barrels. {table using Licences from CTA website}

A malfunction at Canaport; shutdown threat
Unfortunately during this time the monobuoy, named 'Canaport', malfunctioned. Here Irving unloads crude from ships. Irving obtained at least three additional Coasting License to lighter the incoming ships beginning 5 August.

On 30 July its application to CTA for the Minerva Lydia stated: 'Without a supply of crude oil the refinery will shut down resulting in major financial hardship for the refinery and surrounding community and also the refinery the main supplier of fuel to service stations throughout Eastern Canada and the Eastern USA without this supply, fuel in these areas will be depleted and consumers would suffer great hardships.'

A second application, for the Afrodite, was submitted on 30 July, and a third, for the Afrodite on 16 August. {faxes from Paul B Collins, consultant, PF Collins International Trade Solutions, to CTA}

One source close to the problem wrote on 15 August: 'This was for a very short period, about two days earlier this week...[T]he monobuoy has been repaired, and one of our pilots did put a ship on it today.' {e-mail to ANR&P correspondent Tom Peters}
## COASTING LICENCE APPLICATIONS 2012-2013
### TO MOVE CRUDE OR PRODUCT TO OR FROM SAINT JOHN

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<td>multiple</td>
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</table>

**Source:** Canadian Transportation Agency website, Marine section, coasting licence applications.

*Halifax, Nova Scotia, and/or Portland, Maine, USA via pipeline to Montreal, Quebec, and/or Canaport, Saint John, New Brunswick, and/or Point Tupper, Nova Scotia.

1. The application further stated that ExxonMobil would supply the crude for full discharge Canaport.

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**MORE ABOUT WHIFFEN HEAD**
This terminal in Newfoundland receives crude oil from the offshore Hibernia and Terra Nova fields. Hibernia crude oil is produced by a joint venture among ExxonMobil (33.125%) and Chevron (26.875%), Petro-Canada (20%), the Canadian government (CHCC 8.5%), Murphy Oil (6.5%) and Norsk Hydro Grand Banks (5%). Production began in November 1997. Current production is ~160,000 barrels per day [about half of the Saint John refinery's need – editor].

Three purpose-built 850,000-barrel Canadian flag tankers shuttle the crude oil to Newfoundland Transhipment Terminal (NTL) at Whiffen Head. Terra Nova crude is also loaded from this same terminal. NTL loads up to 155 DWT tankers at a nominal rate of 50,000 barrels per hour. {ExxonMobil website}

**RAIL FREIGHT FACILITIES**

Described in this issue.
Cliché (MMA, Quebec) Scrap dealer in Frontenac.
Dead River (MMA, Maine) #2 fuel oil
Granite State (MBRX, New Hampshire) rail restarts
GU propane (GU, Massachusetts) pre-emption debate
Parrish & Heimbecker (CN, Nova Scotia) Grain by rail.

**PEOPLE, EVENTS**

**PEOPLE**

The Louis Berger Group announced George Campbell as vice president in the transportation engineering business unit. In this role, he will support design-build and public-private partnership project development nationally and transportation business development within the Northeastern United States.

Berger noted that Campbell served as DOT commissioner in both Maine and New Hampshire [see song
about him in 10#08A].

“George is a strong, forward-thinking and strategic transportation leader,” said Christopher Clement, current NHDOT commissioner. “It was my privilege to be part of his team and learn from his extensive knowledge of the transportation industry.”

In private industry, Campbell has represented clients such as L.L. Bean, Nestle and General Dynamics to develop significant expansion projects ranging from $100 million to $500 million in value. Campbell has been president of four companies, including an intermodal transportation business and a northern New England commercial real estate firm.

Campbell will be based in both the Needham and Portland offices. {Berger announcement}

Timothy Mellon, chair of Pan Am Systems, filed suit on 3 June 2013 against TIGHAR, The International Group for Historic Aircraft Recovery. In federal court in Wyoming, Mellon alleged that TIGHAR solicited and obtained a donation of one million dollars to aid in the search for Amelia Earhart's aircraft among the islands of the Pacific nation of Kiribati. However, the complaint states, a video made before the solicitation shows that TIGHAR had already found the plane. {court website, case # 13-cv-118-S}

On 1 June, Mellon wrote a note on an Earhart-centered on-line forum: 'If and when TIGHAR goes bankrupt, I am considering the formation of a for-profit company with the purpose of purchasing whatever rights and assets that estate might hold. I see a real opportunity to parlay Ric’s [presumably, Richard Gillespie, head of TIGHAR] incompetence into a profitable travel tour play.'

Mellon then requests investors among forum members and asks for a 'clever idea' for the name of his tourism company.

In an interview later, Mellon ceded that he did author the post, but only as a joke. “It has nothing to do with reality,” he said. “I have no such plans.” He said he wrote the post as a test to see if other members of the private forum were leaking information, and, as it turns out, someone was.

Mellon said that the post does not discredit the lawsuit. “It was a private statement.” {Megan Cassidy in Caspar (Wyoming) Star-Tribune 11.Aug.13}

On 27 August, Federal Court Judge Scott Skavdahl heard TIGHAR's motion to dismiss the case and will decide it later. {court website, case # 13-cv-118-S}

ANOTHER PAN AM ENTITY

Pan Am International Flight Academy and Pan Am Holdings, Inc. (collectively "Pan Am") announced 23 August it was purchased by ANA Holdings, the parent company of All Nippon Airways. Former owner American Capital sold Pan Am, held in its portfolio since 2006, in an agreement reached in August.

According to the announcement, Pan Am International Flight Academy, with training locations throughout the United States and the world, is a leading provider of training support for airlines and aviation professionals. As the only surviving division of Pan American World Airways, Pan Am International Flight Academy can trace its instruction heritage to the earliest days of airline flight training.
In 1980, Pan Am President Vito Cutrone opened Pan American Airline’s International Flight Academy in Miami Florida. After the closing of the airline, Mr. Cutrone remained with the flight academy to establish it as an independent training organization. {graphics from flight academy website}