Common abbreviation:

Formal issue 13#10A 25 October 2013

*Article unchanged from e-bulletin.
**Blue type in article: changes from e-bulletin.
Blue header & table of contents: new article

REGIONAL

MMA bankruptcy update
- September income from Tafisa
- $3 million loan.
- Two-man crews.
- 18 suitors.

Crude: NBSR,** CN reports. Derailment.* Tests.*

Pan Am: Track update drops operating speeds on main and branches.

Tank cars: a lining shop not likely in the Northeast.*

PW: Buying tri-level autoracks.

NEW YORK

[No report.]

QUÉBEC

MMA operations
(1) Lac Megantic main opened by 1 December?*
(2) Quebec certificate extended to 1 February.*
(3) Lennoxville-Lac Megantic closed.
(4) Abandoned train on Stanbridge sub.
(5) Track laying to Tafisa in Lac Megantic.

CONNECTICUT

New Haven: Dredging starts end of the year.

MAINE

MDOT: Safety report finds tracks in Maine safe. More from FRA.**

Portland: Anti-pipeline ordinance could shut down South Portland waterfront?* Pipeline gives up permit to reverse flow.

MASSACHUSETTS

MBTA: Passenger rail to South Coast a mirage?

CSXT: New intermodal lane to Louisville.*

NEW HAMPSHIRE

MBRX: NHDOT issues RFP, due 21 November.

RHODE ISLAND

[No report.]

VERMONT

[MARITIMES]

WHRC: CTA suggests sale price to CN and WHRC.

Halifax: Containers, bulk down in 3Q12.

RAIL SHIPPERS/RECEIVERS

A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS

Peter Vigue, John Schultz, J.J.Steiniger, Dennis Coffey, John Read, Dan Innis.

FROM THE PUBLISHER

MMA

The detritus of a dream lies across Quebec: two abandoned trains, out of service main line track, and the disaster site. Let us hope the next operator will – despite the three previous failures – bring the rail line back.

- Chop Hardenbergh

Next formal issue 7 Nov
REGIONAL

MMA BANKRUPTCY: UPDATE

September income
A report to the Court on the consolidated income shows that Maine income (the 'TDB' – TD Bank – in the table) is much more than the (presumably) Quebec income (the CIBC – Canadian Imperial Bank of Commerce). The report, which shows line by line income and expenses in each account, lists deposits from Procor, Irving Paper, and Tafisa *inter alia* in the TDB account.

Interestingly, the Tafisa payment of $289,982.28 dwarfs other TBD income, and Tafisa's payment to CIBC is the largest there, $143,080.86. The second-largest payment in CIBC came from Railinc for $124,462.74. {report from court website}

Loan from Camden National
The court approved the $3 million loan and it closed on 18 October. Trustee Robert Keach said the money would permit MMA to operate until sold in 2014, with two-man crews on all trains.

Potential operators
On 21 October, Keach said 12 of 18 parties which expressed interest in the property have signed non-disclosure agreements. {Nick Sambides in *Bangor Daily News* 21.Oct.13}

A note on two-man crews
On 14 October, American Short Line and Regional Railroad Association President Richard Timmons sent a letter to the U.S. House to voice the association's opposition to the Safe Freight Act (H.R. 3040), which would require at least two crew members on all U.S. freight trains.

U.S. Representative Michael Michaud (D-Maine) introduced the bill on 2 August in response to the MMA disaster in Lac Megantic on 6 July. 'This bill seeks to impose this mandate without reference to the positive improvements in rail safety since technology and safety improvements have reduced the need for large train crews over the past three decades,' Timmons wrote in the letter. 'A crew-size mandate in the United States based on an accident that happened in a foreign country for which a definitive cause has not yet been determined is premature at best.' {Progressive Railroading daily bulletin 25.Oct.13}

CRUDE**

Sightings
As always, this list, compiled from rail observer sightings, does not contain every oil train that moved, and may list one train more than once. Some counts come from videos; all counts may well contain errors:

CN
12 October. W406 away from Truro with three units and about 90 cars: about half oil tanks, some chip boxes,
intermodal cars, and auto racks.

14 October. W406 enroute to Saint John with four units (one DPU) and about 127 cars: 4 autoracks, 73 tank cars, 1 covered hopper, 23 low-sided and 12 high-sided gondolas, plus 14 boxcars.

23 October. W406 enroute to Saint John with three units and about 60 cars: perhaps 40 tank cars.

NBSR

29 September. Westbound in Grand Bay with seven units and 82 cars: 3 covered hoppers, 15 centerbeams, 14 boxcars, 16 white tank cars (at least one says calcium carbonate only), 1 black tank car, and 33 high-side gondolas.

13 October. Extra left McAdam with only 20 chip cars and picked up 24 cars at Harvey siding, including tank cars. Some tank cars remained at Harvey. By 15 October all tank cars were gone from the siding.

21 October. Eastbound away from McAdam with three units and 82 cars: empty paper boxcars, centerbeams, LP gas tank cars, insulated beer boxcars, and 28 tank cars of crude oil.

23 October. Westbound in Enniskillen with 4 units and 72 cars: 1 low-side gondola, 15 high-side gons, 23 boxcars, 15 centerbeams, 8 black tank cars, 10 white tank cars. {Rails NB}

ANOTHER DERAILMENT AND FIRE

On 19 October an Edmonton-Vancouver CN mixed train derailed 13 cars in the tiny town of Gainford, Saskatchewan: 4 crude tank cars and 9 LP gas tank cars. Two LP cars caught fire; at least one exploded.

Speaking at a briefing that night, Jim Vena, CN chief operating officer, apologized to the displaced residents of Gainford, and commended the efforts of emergency responders. “All of us at CN are very much aware of how this incident has disrupted your lives. I regret this very much and again apologize for the inconvenience you are experiencing.” {CBC news 19.Oct.13}

CRUDE MUST BE TESTED

On 18 October, Transport Canada issued a protective order requiring tests on any imported or transported crude oil to establish classification, Minister of Transport Lisa Raitt announced. The federal order was developed in response to the 6 July MMA derailment in Lac-Mégantic, Quebec. Effective immediately, classification testing must be performed for any crude classified as "UN 1267" or "UN 1993." In addition, tests results must be made available to Transport Canada upon request, and safety data sheets must be updated and immediately provided to Transport Canada's Canadian Transport Emergency Centre. {Progressive Railroading Daily News 18.Oct.13}

BRENT v WTI

The price differential between West Texas Intermediate crude per barrel and the world price measured by Brent has widened. Oil guru Sandy Fielden recalls that '[d]uring 2012 and early 2013 there was a boom in crude by rail movements to bypass Cushing – particularly from North Dakota to the Gulf, East and West Coasts. The spread averaged $18/Bbl in 2012. In 2013 the spread widened out again to $23/Bbl in February before narrowing rapidly to almost par in July 2013.'

In October, though, Brent moved out to a $9/barrel premium over WTI. Fielden attributes that to oversupply from US wells, meaning US domestic producers have had to drop their prices. [I'm sure the producers look longingly at export – see South Portland story. Editor] {RBN Energy 20.Oct.13}

PAN AM: TRACK CONDITIONS

7 October, North Billerica. **THE RAILROAD ISSUED A NEW BULLETIN ORDER SUMMARY** (BOS). Along with the 10 October daily Temporary Speed Restriction Summary (speedo), these details are seen. The speeds are compared to those in Timetable No. 2 of 1998 (or 2012):
Track speed changes in BOS
[In May 2010, Pan Am President David Fink fils saw no need to go faster on the main line than 10 or 25 miles per hour – see 10#05B.]

Bucksport Branch (serves Verso). The maximum authorized speed on single track between MPB 17 and South Brewer is now 10 MPH. Page 106 of Timetable No. 2 is changed. The speedo requires 5 miles per hour for the three miles between Calais Junction and South Brewer. In 1998 the first three miles were set at 10, and the balance at 30.

Portsmouth Branch [see customers in 13#09B]. The BOS set the speed between MPP 1 (one mile from the Freight Main at Newfields) to the end of the branch (EMERY) in Portsmouth at 10. The speedo did not list it. The 1998 Timetable does not list a speed, but the 2012 Timetable calls for 25 miles per hour.

The track from EMERY into Newington is called the Newington Industrial Track.

Rumford Branch (serves Newpage in Rumford and Verso in Jay). The BOS set the speed between MPR 44 and Leeds Junction [the entire branch] at 10 miles per hour. The speedo listed only one half-mile stretch at 5. In 1998 forty miles was listed at 35, and four miles at 10.

Waterbury Branch. The BOS set the speed between Mack (MP 0.5) and King (MP 23.70) [essentially the entire branch] at 10 miles per hour. The speedo listed only one mile at 5. In 1998 the 23 miles were set at 25 miles per hour.

Speedo limits on other track

Hinckley Branch (serves SAPPI). The first mile is limited to 5 miles per hour. In 1998 that was set at 10.

Hillsboro Branch (serves Hendrix in New Hampshire). The first 13 miles is limited to 5.

Madison Branch (serves Madison Paper). The entire 20 miles is limited to 5.

Freight Main: nearly entire line from Mattawamkeag to Yarmouth at 10 miles per hour.
The six miles leading into the point where Amtrak operates remain at 25, according to the speedo [see table].
Six-axles okay. Despite the slow orders:
Six axle locomotive restriction between Keag and Waterworks has been removed. Six axle locomotive restriction on other than main track is extended from Waterworks to Winn. Six axle locomotives may operate between Winn and Keag on former main line only.

Yard 8 in Portland
Whereas the 2012 timetable listed Yard 8 in Portland, the one serving the propane facility [see map 13#03B], as excepted track, the BOS stated it is 'removed from excepted status.' {text of various documents as listed}

TANK CAR SHOP IN NEW ENGLAND?*
At the September meeting of the North East Association of Rail Shippers, several speakers emphasized the coming need to upgrade the North American tank car fleet, specifically by applying a lining to prevent corrosion – which will happen with bitumen (crude from oil sands) but not fracked crude.¹

Most believed that a new federal regulation, referred to as HM216B, would require the lining soon, and that existing lining shops were not up to the task.

Your editor wondered whether this presented an economic development opportunity for New England, for a “pop-up” shop which could do a large portion of the fleet, and once done, end.

Speakers and other attendees mentioned several reasons such a pop-up would probably not work.

Need to move cars to the shop
One industry official who asked to remain anonymous said, in a private discussion between presentations, that no fleet owner wants to pay to move a car empty except back to origin, so car repair shops exist near the origin or destination of the fleet move. Fleet owners would not want to send their empty tank cars to a repair shop in, say, Maine for a new lining, and then have to return it empty to service.

Training
In a panel entitled 'Tank Car Compliance and Haz-Mat Shipping', Sam Bucholz of GATX said applying lining to a tank car interior requires a high degree of skill. He estimated that adequately training the workers would require 18 months to two years. Michael Barbato, rail manager for Hempel Coatings North America (headquartered in Denmark) agreed: he visits shops to qualify or requalify their ability to apply Hempel coatings. “A great many shops get disqualified for not meeting our qualifications.”

Your editor then drew these conclusions:

- 18-24 months in training would delay the beginning of work.
- Unless the workers were willing to move to another part of the country, they could not take advantage of their newly-acquired skills in other occupations at the location.

- The popup company would have wasted the funding and energy training a substantial workforce (not to mention the buildings and equipment to apply the linings).

¹The chemicals used in fracking end up present in the crude, but 'the concentrations are so low that they are not seen as problematic,' wrote Michael McGlamry, Americas protective product manager for Hempel USA.

¹Bitumen is extremely viscous at ambient temperatures, but crude can be just as viscous in extremely cold temperatures, such as those occurring in North Dakota winters. In an effort to make the bitumen or crude flow into the tank cars, it is heated. This heating causes the water, sometimes with high levels of chloride, to naturally separate from the oil and sink to the heel, or bottom, of the rail car. So, we’ve created an environment that contains sulfur, high chloride levels, and hot water, an environment ideal for supporting corrosion. To put this environment into perspective, even at ambient temperatures, wet elemental sulfur has been shown to corrode mild steel up to 1 mm/yr (0.04 in./yr), with localized pitting rates of up to 7 mm/yr (0.27 in./year). With the addition of chlorides, the corrosion rates have been shown to double and even triple...

Any lining must resist the thermal shock generated when warm crude at 160-degrees F hits the car which in winter can be at -40-degrees F.

The good news is that advanced technology phenolics and thick-film epoxy novolac linings on the market can withstand the environment. Coating manufacturers focused on the rail industry have long, successful track records for this type of service. The real question becomes, should you risk an unscheduled release and loss of an asset because the tank car wasn’t lined? {McGlamry in Journal of Protective Coatings and Linings 9.13}
Cost in the Northeast
Barbato noted that such a shop “would not work in the Northeast due to labor costs.”

Lining paint
Barbato saw two additional problems. “Facilities are now full” even before the HM216 requirement, because of the industry demand for tank cars [but at least one consultant argues the industry is building too many2].

Second, at this point people are requiring a two-coat lining to meet the requirements, which takes “a whole extra day. We need a one-coat lining, which is now in testing on trial cars.” {ANR&P coverage}

PW: MORE AUTORACKS
21 October, Worcester. THE RAILROAD IS NOW ACQUIRING TRI-LEVEL AUTORACKS. Charlie Rennick, PW spokesperson, reported: ’P&W’s original acquisition of bi-level auto racks fit with the Company’s initial account, which included vehicles with a higher profile. P&W’s current acquisition of tri-level auto racks,
however, better meets the Company’s current needs.' {e-mail to ANR&P}

**QUEBEC**

**MMA OPERATIONS(1): LAC MEGANTIC OPEN?**
14 October, Portland. *Transport Canada said the line through Lac Mégantic may reopen* by the end of November, in a note to Richter, the court monitor in Quebec. Robert Keach reported this development, apparently in an interview this day. [The article is not clear.] [Nick Sambides in Bangor Daily News 14.Oct.13]

Responses to requests for clarification to Keach and to Transport Canada were not received by time of publication.

**MMA OPERATIONS(2): NEW OPERATING EXTENSION**
16 October, Ottawa. *The Canadian Transportation Agency extended the Certificate of Fitness to 1 February 2014* [when, one assumes, a new owner will be in place – editor]. The decision [see 13#09B for earlier extension to 18 October] read in part:

[4] On October 10, 2013 the Agency received a request from MMAR to amend its original application to extend the effective date of suspension of the Certificate of Fitness to January 31, 2014.

[10] The Agency examined the existing information and the new information provided by MMAR to assess MMAR’s railway operating risks and risk exposure for the longer period. The Agency compared risks in the period preceding the derailment at Lac-Mégantic, Quebec and following the derailment, including the forecast operations (pre-accident and post-accident).

[11] Based on the information submitted by MMAR, the Agency found a significant decline in the overall volume of commodities transported by MMAR, including in the volume of dangerous goods. This equates to a forecasted decrease of over 70 percent in total traffic, with a reduction in the transport of dangerous goods of over 80 percent over the same period. The volume of dangerous goods is expected to decline as a percentage of overall volume in the post-accident period, projected to represent approximately 30 percent of MMAR’s total traffic, a decrease from the pre-accident level of 50 percent.

[12] The Agency has also taken into consideration the fact that, as a result of MMAR discontinuing the transportation of crude oil for the period of the extension date, the distance over which dangerous goods are carried has been reduced by 90 percent, which also reduces the overall risk exposure. The reduced volumes combined with shorter distances over which dangerous goods are carried results, in the Agency’s opinion, in a significant reduction in MMAR’s risk exposure.

[13] The Agency notes that operations also involve a tourist train over a part of MMAR’s railway network. In this regard, the Agency has reviewed the certificate of insurance for Orford Express inc. which indicates that MMAR is an additional insured under Orford Express inc.’s third party liability insurance policy.

[15] Based on the circumstances, which involve a significant reduction in MMAR’s risk exposure during the period of the extension, the Agency finds that MMAR has demonstrated that there is adequate third party liability insurance coverage, including self-insurance, for MMAR’s railway operations to February 1, 2014.

[16] Accordingly, the Agency, pursuant to section 32 of the Canada Transportation Act, varies the Order by amending the date of effect of the suspension of MMAR’s Certificate of Fitness to February 1, 2014. {Decision No. 393-R-2013}

**MMA OPERATIONS(3): MAIN LINE CLOSED**
18 October, Ottawa. *Transport Canada closed the line between Lennoxville and Lac Mégantic.*

Recently Transport Canada thoroughly inspected the track between Lennoxville and Lac Mégantic. Spokesperson for the Quebec region Marie-Anyk Côté wrote: 'Transport Canada detected deficiencies on that portion of the track. Therefore, in order to ensure public safety, no train can travel on that track until corrective
measures are taken by the company owner of the track (MMA).

'The deficiencies detected related mainly to the operation of the grade crossing signal system, vegetation encroaching on the track and creating visual obstructions, and the presence of debris along the flangeways. Some of the rails are also showing signs of wear and tear.' {e-mail to ANR&P}

The closure meant that the Orford Express could not conduct a rail excursion to Lac Megantic to express solidarity with the town. Some 5,000 tickets were sold. For at least some ticket holders, buses were substituted. {Sophie Cousineau in Toronto Globe and Mail 14.Oct.13}

**MMA OPERATIONS(4): ANOTHER ABANDONED TRAIN**

![Sainte-Sabine, Quebec. Near Rang Kempt, an abandoned train with a derailed car has stood for more than two months. (Photo 13.Oct.13, courtesy Marc Caya)](image)

13 October. **THE STANBRIDGE SUB HAS HOSTED A STATIONARY TRAIN FOR TWO MONTHS.** In July and August, Transport Canada issued orders to stop using the subdivision [see 13#09A] until repaired.

Around the beginning of August, the train [see photo] derailed a car at MP6.15 in Sainte-Sabine near Rang Kempt, leaving the locomotive pointed at Stanbridge, unable to return by itself to Farnham. Vandals attacked the locomotive, stripping its copper wiring, leaving it unable to operate. {Marc Caya posted in Railpictures.net}

A unit crude train stands in Farnham, wanted by no one [see 13#09B].

**MMA OPERATIONS(5): TRACK LAYING**

23 October, Lac Megantic. **WORKERS HAVE BEGUN LAYING TRACK TO TAFISA** along the same alignment as before. The line will cost $1 million, and should be completed in 10 days. “It will be an emotional moment the first time a locomotive goes through here,” CEO Louis Brassard said.

Instead of 50 railcars a week, the company is using trucks at a higher cost.

**Decontamination**

Cleanup continued, at a cost of $5 million per week. {TVAnouvelles 23.Oct.13; Genevieve Beauchemin in CTV 21.Oct.13}
CONNECTICUT

NEW HAVEN: DREDGING

16 October. CASHMAN DREDGING AND MARINE CONTRACTING of Quincy will begin, in December or January, dredging the 35-foot channel in the harbor here, and the 35-foot turning basin. According to an announcement from the US Coast Guard, the resulting 810,000 cubic yards of spoils will go to a site in Long Island Sound about six mile south of the New Haven Harbor. {Marine Safety Information Bulletin 11-13}

MAINE

MDOT: RAIL SAFETY REPORT**

9 October, Augusta. THE MDOT RAIL SAFETY REPORT REACHED THE GOVERNOR, who requested it by a 9 July 2013 executive order. 'An Order Requiring MaineDOT to Review the Safety of Freight Rail Transportation in Maine' required MDOT to review available Federal Railroad Administration (FRA) rail safety reports; to request reports on Montreal, Maine and Atlantic Railway (MMA) inspections; to use any available information on the cause of the Lac Megantic tragedy to mitigate any safety concerns; and to continue to cooperate with the FRA.

The report was completed 30 September 2013. It contains the results of a request by Commissioner Bernhardt to Maine’s five freight rail companies about best practices for securing freight trains and emergency orders that have been issued by federal rail safety regulators in Canada and the United States, along with findings and recommendations.

The report indicates, while no form of transportation is free from all risk, existing rail safety practices are adequate. A tragedy like Lac Megantic should not occur in Maine if the private railroad operators follow their own safety practices and those of the FRA, which is the agency responsible for rail safety in the United States.
Prior to the Lac Megantic tragedy, the FRA performed 1,021 observations in 2013 on railroads in Maine across the five disciplines from January through June. Since the tragedy took place, an additional 581 observations have been conducted by FRA and state inspectors. As standard practice dictates, all concerns and defects observed in inspections are documented and forwarded to the railroad being inspected and FRA staff for correction and follow up. During this process, defects were identified, requiring attention by the railroad operators. However, no defects were found that warranted the shutdown of any rail lines in Maine. {note accompanying report}

Maine cooperation with FRA

'The 1970 Railroad Safety Act authorizes states to work in partnership with the FRA to enforce federal railroad safety regulations. The Act allows state inspectors to be trained and certified by the FRA. The state inspectors are then able to conduct investigative and surveillance activities to ensure the application and interpretation of federal rail safety rules, regulations, orders and standards reflect national uniformity. These state inspectors work in concert with regional FRA inspectors who perform inspections in several states within a designated region. [See 13#03B for earlier reference to state inspections.]

Pursuant to 23 MRSA § 7312, MaineDOT has participated in the FRA track and equipment safety inspection program since the early 1980s. MaineDOT currently employs a full-time track inspector and our rail maintenance manager also acts as a part-time inspector, working closely with the FRA to perform safety inspections on rail track and equipment. The MaineDOT inspectors are delegated certain authority by the FRA as set forth in 49 Code of Federal Regulations, part 212. These certified inspectors file inspection reports with the FRA for necessary enforcement of observed deficiencies or rule violations. Through MaineDOT participation in this program, our inspectors have access to private rail track throughout the state as well as the FRA database containing inspection reports and results of Maine inspections. '

Focused Inspections [on Pan Am] Due to Increased Volume of Crude Oil Shipments

'In addition to routine random inspections, there have been recent focused inspections on routes that carry bulk crude oil and other hazardous material in Maine.

In July of 2012, the FRA conducted a focused inspection on Pan Am Railways reviewing track conditions within Maine, with particular focus on the Pan Am mainline track.

During the week of May 6, 2013, the FRA conducted another focused inspection on 200 miles of Pan Am track between Portland and Mattawamkeag, and the FRA reviewed over 600 of Pan Am's internal track inspection records.

In June of 2013, FRA inspectors completed additional concentrated inspections and completed a planned FRA Automated Track Inspection (ATIP) of the Pan Am Freight mainline between the New Hampshire border and Mattawamkeag, Maine. 3

Their focused inspection continued onto the Eastern Maine Railway from Mattawamkeag to Brownville, followed onto the Maine Montreal Atlantic track, from Brownville to Hermon. The ATIP car rides over rails, testing for a variety of track conditions simultaneously; highlighting areas of defects or locations where additional on the ground inspection might be needed.

In sum, prior to the Lac Megantic tragedy, there were 1,201 FRA observations performed in 2013 [both random and focused] on railroads in Maine across the five (5) disciplines from January through June. Many were focused specifically on the risk posed by increased transport of crude oil. During this process, defects were identified, requiring attention by the railroad operators, however, no defects were found that warranted the shutdown of any rail lines in Maine. Assuming the railroad companies follow established safety procedures,

3 See later paragraph supplementing MDOT account. FRA also conducts targeted inspections such as those cited in MDOT’s report, specifically to evaluate emerging conditions and trends, or in response to a complaint or allegation about the safety of rail infrastructure, equipment or operations. The focused inspections on Pan Am Railways were based upon such considerations, including previous inspection findings, the occurrence of track-caused derailments, and the increase in crude oil shipments. {FRA statement}
there was no indication from these inspections that a disaster like Lac Megantic could occur.'

[More detail from the FRA: MMA inspections]
Asked whether, as the MDOT report implied, the FRA inspected only Pan Am, Warren Flatau of FRA wrote:

'Safety is FRA’s highest priority. Office of Railroad Safety managers and supervisors in tandem with our field staff, are continuously engaged in inspection, planning and enforcement efforts.

'In point of fact, the FRA did conduct track inspections in Maine on the Montreal, Maine & Atlantic Railway both before the Lac-Megantic accident, and since then.

'Specifically, FRA conducted 21 track inspections on the MM&A in 2012, and 23 during the first six months of 2013. In addition to those 44 track inspections, one of our Automated Track Inspection Program (ATIP) vehicles also surveyed the MMA line between Brownville and Megantic (going into Canada).' {e-mail to ANR&P 24.Oct.13}

Safety Inspections Occurring After the Lac Megantic Tragedy
The July 6th Lac Megantic tragedy obviously required that FRA inspections be expedited and focused on the MMA.

'Accordingly, during the second and third weeks of July, 2013, the FRA conducted focused inspections on the Montreal, Maine and Atlantic Railway, across all five (5) FRA disciplines. The FRA expanded the ATIP inspection program to include additional portions of the MMA lines, Eastern Maine Railway (EMR) lines, and Pan Am Rail lines. Specifically, the inspection program targeted the crude oil and high volume rail routes. Specifically, the ATIP returned to Maine and inspected from Vanceboro on the EMR, to Brownville and then from Brownville on the MMA line to the Canadian border in Jackman. They tested from Brownville to
Searsport on the MMA line, and also tested the Bucksport Branch on the Pan Am line. The ATIP car also tested from Maine into Lac Megantic, Québec per a Transport Canada request.

'The ATIP also tested track as it departed the state back to the Maine/New Hampshire border. Since July, there have been an additional 581 observations conducted by FRA and state inspectors across the five (5) disciplines. All concerns and defects observed in inspections are documented and forwarded to the railroad being inspected and FRA staff for correction and follow up. During this process, defects were identified, requiring attention by the railroad operators. Again, however, no defects were found that warranted the shutdown of any rail lines in Maine.'

**Practices of the freight railroads**

'As requested, by July 31st MaineDOT received responses from all five of the freight carriers within the State. Most have recently updated or added additional requirements around parked trains due to the Lac Megantic derailment. Early reviews by MaineDOT demonstrated the following commonalities among most of the railroads [Pan Am, MERR, SLR, MNR, EMRY]:

- Additional and updated training for all engineers and conductors around securing trains, including operational rules as well as TSA training.

- Crew staffing, including two-person crews in most cases.

- Train crews are to notify dispatchers whenever a freight train is parked and left, with notification to include that the train is locked, the number of handbrakes that have been set, that the handbrakes have been tested, and if any wheel chocks or derails have been applied.

- Parked trains will be left on mainlines only when no other option is available to the crew, again crew will notify the dispatcher the train is on the mainline and how it is secured.

- All parked trains will have locomotive cabs locked to prevent any unauthorized entry and reverser controls removed. (the reverser is what the engineers use to control the movement of the train)

- Any cars left in a siding without a locomotive attached will have handbrakes set and derails at both ends of the cars or that switches are set so the cars cannot leave the siding.' {text of Safety Report}

The actual responses by each railroad were not provided in the report. They are not publicly available, said MDOT's Nate Moulton. {e-mail to ANR&P 16.Oct.13}

MDOT spokesperson Ted Talbot said the defects ranged from excess foliage blocking signage to cracks in rail lines. Ed Burkhardt, president of MMA parent company Rail World Inc., did not immediately return a telephone message 9 October. MMA President Robert Grindrod was in court in Canada on 8 October, a representative from his office said. {Nick Sambides in Bangor Daily News 9.Oct.13}

**PORTLAND: ANTI-PIPELINE ORDINANCE**

*THE CITY COUNCIL OF THE CITY OF SOUTH PORTLAND VOTED 1 TO 5 (SMITH) AGAINST ADOPTING THE CITIZEN-INITIATED WATERFRONT PROTECTION ORDINANCE.* A subsequent vote was passed 6 to 0 to send the Waterfront Protection Ordinance to be voted on by the electors of South Portland at the 5 November 2013 Election. {City website}

The ordinance reads in part:

**New prohibition**

Section 3: Amendment to Existing Section (new language is underlined):

Section 27-922(g) and (n) of Chapter 27 are hereby amended as follows:

Permitted Uses. The following uses are permitted in the Shipyard District S.

(g) Petroleum storage tank farms and accessory piers, pumping and distribution facilities for the unloading of petroleum products from ships docking in South Portland, as governed by all applicable sections of the Code ....

(n) Facilities for storing and handling of petroleum and/or petroleum products that have been unloaded from ships docking....
in South Portland, subject to the provisions of Ord. Section 27-1517, excluding automobile filling stations.

Section 4: Section Added to Code:
Section 27-922.5 is hereby added to the Municipal Code to read:
(a) Notwithstanding any other provision of this Code, there shall be no enlargement or expansion of existing petroleum storage tank farms and accessory piers, pumping and distribution facilities, or facilities for the storing and handling of petroleum and/or petroleum products in the Shipyard District or within the Shoreland Area of any Commercial District(C).
(b) No new or expanded facility shall be constructed on an existing pier located in or extending seaward of the Shipyard District.
(c) “Expansion” as used in this section includes, but is not limited to, construction, reconstruction or alteration of any existing facility to change the function or capacity of such facilities; construction of any new combustion units, stacks, vapor recovery systems, equipment, structure, or machinery for transportation or storage of petroleum, including any pumping, distribution or other facility for loading tankers or other ships instead of unloading ships.
(d) This prohibition is not subject to waiver or variance under any provision of this Code unless necessary to comply with the Americans for Disabilities Act (ADA), fire codes, or pollution control regulations imposed on existing facilities with respect to their existing use as provided in Section 27-302(e)(1).

Section 7: Retroactivity:
Notwithstanding 1 M.R.S.A.§302, this Ordinance shall apply to any proceeding pending at the time of its enactment, unless such proceeding was commenced before May 1, 2013. Any permit or approval issued or rendered by the City after May 1, 2013 purporting to authorize any use or structure prohibited or regulated hereby shall be rendered null and void upon enactment of this Ordinance.

Campaigning
Driving through South Portland in mid-October, one sees many, many pro- or anti-ordinance signs. Pro-ordinance signs on residents' lawns far outweigh anti-ordinance signs on lawns; the anti-ordinance signs show up with fair frequency on public sites. {ANR&P coverage} Both sides overstate their case.

The anti-ordinance side, Working Waterfront Coalition, has raised $275,000. A flyer to all homes argued that that 5,600 jobs ‘will be ELIMINATED’ throughout Maine if South Portland voters approve the ordinance on 5 November. Maine families will forfeit '$252 million in lost earnings' and state and local governments will suffer from 'slashed budgets' to the tune of another $30 million.

Alas, these statistics come from the Charles Lawton study [see 13#09B] which indicated that the South Portland industrial waterfront activities generate that much in jobs and revenue. To eliminate it all would require shutting down all seven petroleum-handling facilities [see map].

Dan Demeritt, campaign manager for the Working Waterfront Coalition, said: “We don’t believe it’s a leap to say that the waterfront will go away if the WPO is the law of the land.”

The pro-ordinance side, Protect South Portland, has raised $36,000. Addressing the concern of a shutdown, four Maine attorneys who specialize in environmental law wrote a letter in early October to Mayor Tom Blake and the City Council on behalf of the Natural Resources Council of Maine.

‘Suggesting that the ordinance would have broad negative impacts on existing waterfront businesses is an exaggeration and not credible,’ said Russell Pierce, Philip Bartlett, Jeffrey Pidot, and Orlando Delogu. ‘Petroleum businesses whose primary use relates to unloading petroleum from boats will continue to enjoy the existing uses that are permitted right now.’ {Bill Nemitz in Portland Press Herald 16.Oct.13}

17 October, South Portland. PORTLAND PIPE LINE COMPANY SURRENDERED ITS PERMIT TO REVERSE THE PIPELINE FLOW. The permit, granted in 2009 by the Maine Department of Environmental Protection and extended in 2012 through February 2014, would have allowed Portland Pipe Line to build two 70-foot-tall vapor control units on its pier in South Portland which would have burned off vapors released during the loading of crude oil onto ships for export.

Although giving up the permit does not preclude the company from applying for another one in the future, Portland Pipe Line CEO Larry Wilson issued a statement this day calling the step 'one more good-faith
commitment to this city that we do not have a pending or proposed, or let alone imminent, ‘tar sands’ project.’

Surrendering a permit is unusual, said Jessamine Logan, DEP spokesperson. She said that if Portland Pipe Line were to apply for a similar permit in the future, it would have to pay the fees again and start the approval process anew.

Edmond Bearor, who has practiced environmental law for more than two decades and is now a partner in the Bangor firm Rudman Winchell, said he has never seen such a surrender in his career. “I can’t think of a much rarer event. These people don’t take these decisions lightly. There were probably hours of meetings and strategizing with their lawyers and engineers.” {Matt Byrne in Portland Press Herald 18.Oct.13}

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**MASSACHUSETTS**

**MBTA: SOUTH COAST RAIL A MIRAGE?**

23 October, Boston. **GOVERNOR DEVAL PATRICK WILL NOT SEE PASSENGER SERVICE TO THE SOUTH COAST BY HIS GOAL OF 2016.** Patrick's desire to bring trains to the rail-deprived region is laudable. But his bold assertions about South Coast Rail remain problematic. In 2007, when the governor promised that trains would be running to New Bedford and Fall River by December 2016, he did not have a finance plan.

'There will be no trains running between Boston and the South Coast in three years. There is still no finance plan. The details that were supposed to be released several years ago have yet to see the light of day. Nevertheless, state transportation officials plow gamely ahead with regional open houses touting the line's virtues and the Corps of Engineers stamp of approval on the Stoughton route. [See 13#09A.]

'Despite $500 million in new revenues for transportation projects statewide, the state of facts and evidence have changed little for South Coast Rail. Massachusetts does not have the means to fully fund the project. If built, the MBTA does not have the financial capacity to operate the line. 

**No federal money**

'With the sequester in play, there are fewer federal dollars available for transit than ever before. Even if House Republicans were to conjure up a miraculous, new appreciation and dollars for mass transit, the head of the Federal Transit Administration is on record with his reluctance to send federal dollars to transit agencies for new projects if those agencies have difficulties running their existing systems.

'South Coast Rail, a nearly $2 billion project, hinges on South Station's expansion. That nearly $1 billion plan, which would also ease congestion on other commuter rail lines, is creeping along with its own issues just as slowly as the rail project.' {Gabrielle Gurley Commonwealth Magazine senior associate editor in 'The Download' of MassInc 23.Oct.13}

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**CSXT: INTERMODAL LANE**

15 October, Jacksonville. **CSXT ANNOUNCED NEW SERVICE TO LOUISVILLE FROM BUFFALO AND SPRINGFIELD** effective November – domestic rail assets only. Service from Springfield will be offered Monday through Friday, with gate cut-off at 1800 and availability in Louisville at 0800, Day 5. {CSXT customer bulletin}

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**NEW HAMPSHIRE**

**MBRX: RFP**

18 October, Concord. **NHDOT RE-ISSUED THE RFP FOR AN OPERATOR ON THE HILLSBOROUGH BRANCH**, the state-owned line over which MBRX operates. The department promised it would re-issue the RFP after the Executive Council voted down its award to Pan Am [see 13#06A].
Due dates
A site visit is scheduled for 1 November, all questions by 7 November, and responses by 21 November.

Differences with the previous RFP
In early 2012, NHDOT issued an RFP for the same line [see 12#03A].

Time for decision. In 2012, the department set a target decision date of early April 2012. In 2013, the RFP does not mention any decision date. It does say that the department will negotiate with the selected responder.

In 2012 the department did not make a selection until August 2012, and did not reach agreement on a contract until early 2013.

Mention of customer. While the 2012 version listed Granite State as the only customer, the 2013 did not name the customer.

STB filing. Both 2012 and 2013 note that upon expiration of the terms of the Agreement the operator must 'file documents for discontinuance of service with the' STB.

Track condition. In 2012 the department required the operator to maintain all track, including the long-out-of-service part at the end, to Class 2. The 2013 version requires maintenance as follows:

In accordance with Federal Railroad Administration (FRA) standards, NHDOT would classify the track conditions as follows:

- MP N-16.36 - MP N-18.60 FRA Class 2
- MP N-18.60 - MP N-20.00 FRA Class 1
- MP N-20.00 - MP N-29.76 FRA Class 1
- MP N-29.76 - MP N-32.36 FRA Class 1 Not recently certified
- MP N-32.36/W-59.39 - MP W-62.00 FRA Class 1 Not recently certified

Please note that the section of track referenced as MP N-32.36/W-59.39 - MP W-62.00 is not actually 30 miles long as there was a merging of two rail lines and the distance between these mileposts is approximately 3 miles.

The current mileage operated over Pan Am trackage is approximately 2.8 miles (MP 13.5 – MP 16.3).

Other notes

The current operator. The 2013 version mentions neither the history of the dispute between MBRX and NHDOT, nor the fact that MBRX is continuing to operate.

Requirement for agreement with Pan Am and Granite State. In 2012, the RFP stated 'The respondent must provide...indication of its ability to provide freight service to the existing shipper on the line...and proof of operating or trackage rights or ability to obtain rights on the portion of the Hillsboro Branch owned by Pan Am Railways in Milford to the Granite State Concrete facility.'

In 2013 that language differs:

'12. Operator will be responsible for contacting Pan Am and acquiring trackage rights information including any fee(s) paid....

The proposal must include:

'5 (4) B. Description of the status of operating rights or trackage or interchange agreements, if any, on connecting lines to be used for proposed operations.
I. Provide copies of current operating rights or trackage or interchange agreements as referenced above.
[The operating agreement between MBRX has expired, or was terminated by Pan Am. MBRX operates because both sides have agreed to abide by the terms of the former agreement. Pan Am has stated that it will negotiate with MBRX about a renewal of the agreement when the RFP process ends. Editor]

‘The Operator shall provide adequate service to satisfy the existing and future customers on the line. If the Operator does not provide adequate service, as determined by the customer and the State, and provides less than 60 days of operations per operating calendar year, then the Operating Agreement may be terminated by the State.’

Carloads. The 2013 version contains carloadings through 2009:

<table>
<thead>
<tr>
<th>Year</th>
<th>Carloads</th>
</tr>
</thead>
<tbody>
<tr>
<td>April - November 2005</td>
<td>2,925 carloads</td>
</tr>
<tr>
<td>April - November 2006</td>
<td>2,913 carloads</td>
</tr>
<tr>
<td>April - November 2007</td>
<td>2,880 carloads</td>
</tr>
<tr>
<td>April - November 2008</td>
<td>2,370 carloads</td>
</tr>
<tr>
<td><strong>April - November 2009</strong></td>
<td><strong>1,310 carloads</strong></td>
</tr>
</tbody>
</table>

**Partial year**

Additional carloads. Peter Leishman, owner of MBRX, supplied the totals to present, and reported that he had furnished each year the same figures to NHDOT.

2010: 0. Pan Am told Leishman in March 2010 he was “banned for life” [see 10#03B]; MBRX did not operate.
2011: 280. MBRX finally operated with a different crew member.
2012: 930.

In 2013, Leishman reported, he is operating two to three ten-car trains a day.

Weed spraying. The RFP noted the work done, but did not state that MBRX had done the work listed and paid for it:

The capital and capitalized maintenance work that has been performed to the Line over the last seven years includes:

2007: Weed Spray Line; Provide 250 cross ties, 22 50# kegs of spikes and 400 bolts, nuts and washers; Install 1,170 track ft of 115 lb rail owned by the NH DOT to replace the 75 lb rail in the curve west of Conrad’s Crossing; Install 250 new ties; Tamp the new track, new ties and 3 mi of track east to Howard Street in Wilton.

2008: Weed Spray Line, Provide 250 cross ties and 22 50# kegs of spikes to RR.
2009: Weed Spray Line, Replace collapsed 36” cmp with 36”rcp in Lyndeborough.
2010: Weed Spray Line, Provide 250 cross ties and 30 50# kegs of spikes to RR.
2011: Weed Spray Line
2012: Weed Spray Line
2013: Weed Spray Line.
{text of RFP; e-mails to ANR&P from Leishman 22.Oct.13}

The 'dark energy' operator: a mini-editorial
From the perspective of NHDOT, the Hillsborough branch is a 'black hole': no information is emerging, despite MBRX furnishing information to the department about its operation on a continuing basis.

The RFP does not acknowledge that MBRX continues to serve the [unnamed] customer Granite State; that MBRX operates on the state track; and that MBRX locomotives move railcars loaded with Granite State aggregate. To continue the astronomy metaphor, NHDOT appears to believe that some unseen and undetectable
'dark energy' is not only moving product, but spraying the weeds.

In my mind, an open acknowledgement of the situation would help the process of selecting an operator, as well as paint NHDOT as something less than deaf and blind. {editor}

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**MARITIMES**

**WHRC: DEAL CLOSE?**

13 September, Ottawa. **WHRC AND CN DID NOT AGREE ON A PURCHASE PRICE FOR THE WINDSOR BRANCH.** The Canadian Transportation Agency has suggested a price, according to a Decision 360-R-2013 issued this day. CN came into possession of the branch which runs about 30 miles from Windsor Junction to Windsor, when the WHRC lease expired in 2012 [see 13#02A]. On 5 February 2013, it proposed to abandon it.

WHRC, 'which currently owns the remaining approximately 30-mile portion of this Subdivision from Windsor, where it connects with the 30-mile portion of CN-owned track that is the subject of this determination to where it terminates (and does not connect to any other railway line), responded with an Expression of Interest to purchase the Line for continued operations, but indicates that the parties have not been able to reach an agreement on a purchase price....

'Windsor & Hantsport Railway Company Limited (W&H) applied on April 26, 2013 to the Canadian Transportation Agency (Agency) for a determination of the net salvage value of the portion of the railway line known as the Windsor Subdivision owned by the Canadian National Railway Company (CN), between Windsor Junction (near mileage 0.0) and Windsor (near mileage 31.58), in the province of Nova Scotia (the Line).'

**Time for agreement has passed?**

In response to the Application, the CTA noted in a letter to the parties on 9 May: 'In this particular case the Agency notes that the Line was advertised on February 5, 2013. Allowing for the mandatory minimum period of 60 days for receiving expressions of interest as set out in paragraph 143(2)(b) of the CTA, that would indicate that the negotiating period began on or about April 6, 2013 and will be over by October 7, 2013....

'[6] The CTA specifies a fixed six-month time period for parties involved in these negotiations. As has been affirmed by the Federal Court of Appeal (FCA) in Canadian National Railway Co. v. Canada Transportation Agency, 2008 FCA 199, this fixed six-month time period must be adhered to strictly....

'The FCA ruled that the Agency does not have the authority, even if the parties consent, to change the six-month negotiating period for transfer for continued operation.'

**Request to CTA to determine value**

'In accordance with subsection 144(3.1) of the CTA, the Agency may, on application by a party to a negotiation, determine the net salvage value of the railway line...

'[5] A net salvage value determined under subsection 144(3.1) of the CTA is a non-binding value....'[T]he Agency is of the opinion that net salvage value is meant to represent the market value achievable from the orderly liquidation of defunct assets, regardless of the purpose for which the assets are or must be offered for sale whether net salvage value is assessed pursuant to subsections 144 (3.1) or 145(5) of the CTA.

**CTA was faced with a new proposition**

'[9] This application raises a new issue, as it is the first time the Agency needs to determine the net salvage value of a railway line transfer for the purposes of continued railway operation. As indicated in Decision No. LET-R-73-2013, the Agency is of the opinion that the expressions "to be used for any purpose" in section 145 of the CTA and for "continued operation" in section 143 of the CTA are not meant to alter the concept of net salvage value....'
Site visit

After a site visit, during which representatives could see only 30% of the line due to vegetation growth, CTA provided a draft value on 20 June. CN agreed with it, but WHRC did not, arguing that the rail is all scrap, and 90% of the ties are scrap. The agency took its assessment of 30% of the line, and for the 70% of the line unseen, used a range between its assessment and the WHRC assessment.

Wireline & Hardware submits that it considers the net salvage value of the track assets to be $300,000 - $350,000. In support of its opinion, W&H also submitted internal calculations and two industry quotations for the purchase of the track materials and salvage works, one from Dartmouth Metals and the other from Nackawic Mechanical Ltd. In addition to these submissions' WHRC argued that that disposing of the ties would cost $500,000.

**WHRC versus CTA values**

Without considering the value of the bridges and the cost to remove them, WHRC came up with a value of the land and the track assets as total $820,000 to $850,000.

The Agency came up with a much higher value, from which it then subtracted disposal costs. Using a land value of $590,000, the Agency got $1.675 million to $2.902 million. \{CTA decision\}

**Update**

Bob Schmidt, asked to comment on the state of negotiations since the six-month period has expired, declined to do so on the record. Mark Hallman, CN spokesperson, did not return an e-mail seeking comment.

**HALIFAX: THIRD QUARTER RESULTS**

18 October. **BOTH CONTAINERS AND BULK DROPPED IN 3Q13**, according to statistics put out by the Halifax Port Authority [HPA]. Overall tonnage declined 21.4% versus 3Q12, to 2,109,491 metric tonnes.

**Explanation**

Lane Farguson, HPA spokesperson, wrote that the port attributes the drop in bulk to a noted decrease in agriculture shipments [see 13#08B]. “It is important to note that Q3 and Q4 of 2012 were big growth quarters for the Port of Halifax and as a result, the Q3 2013 numbers are lower by comparison. Our year-to-date numbers for 2013 are considerably stronger. In particular, containerized cargo (TEUs) for 2013 is up 9.8% when compared to the same period last year.’” \{Lane Farguson in an email to ANR&P correspondent Tom Peters 18.Oct. 2013\}

**Containers**

In 3Q13, TEUs were down 3.4% to 107,276 TEUs compared to 111,093 in 3Q12. However, year-to-date TEUs are up 9.8% to 331,658 in 2013 compared to 302,161 in 2012.
Bulk and general cargo
Bulk cargo decreased 32.6% in Q3 to 1,091,149 metric tonnes from 1,618,163 metric tonnes in 3Q12. Year-to-date bulk tonnage is down 14.9% from 4,068,900 in 2012 to 3,461,850 metric tonnes.
General cargo was down 10.9% in 3Q13 to 105,214 metric tonnes. {HPA website}

RAIL FREIGHT FACILITIES

Described in this issue.
Tafisa (MMA, Quebec) Rail returning.

PEOPLE, EVENTS

Peter Vigue, chair and CEO of Cianbro, is one of 40 members of the National Freight Advisory Committee. It held its first meeting on 25 June, and has a target of October 2015 to create a National Freight Strategic Plan.

John Schultz, vice-president of transportation, has left Pan Am Railways. J.J. Steiniger, the son of former Pan Am President Tom Steiniger, has become vice-president of transportation.

Dennis Coffey, at HNTB, is vacating his post as secretary of the New England Railroad Club. I thank him for his able leadership for the past 20 years as the Club has become, via the Expo, much more visible.
John Read of Transystems becomes secretary.

Dan Innis is running for the US House in the New Hampshire's First District. He has a strong logistics background, once served as treasurer for a small excursion railroad in Ohio, and co-authored a book Strategic Planning for Logistics in the 1990s. He is the dean of the Whittemore School of Business and Economics at the University of New Hampshire, but will step down on 1 November.
Atlantic Northeast Rails & Ports

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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.

Readers building a personal archive of the newsletter should discard the e-bulletins. The newsletter archive on the web at www.atlanticnortheast.com is open to all.

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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