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

**REGIONAL**

**Crude oil:**
- NBSR sightings++
- CN sightings++
- Oil on CN, not NBSR.*
- Crude to Irving plugs Saint John.
- North Dakota crude by rail to increase.*
- Casselton North Dakota Bakken crude explosion*
- Lac-Mégantic top Canadian news story 2013.

**Crude oil stats:** Pan Am reports 0 in Nov and Dec.

**MMA:** Lessons from Bangor & Aroostook days.

**MMA Bankruptcy**
(1): Finances okay to end of January.*
(2): Some background to bid procedures.*
(3): Revision to qualified bidder rules.*
(4): Public interest requires selling Lots as defined; Court rules against NB&M.*
(5): Price compared to other sales.++
(6): MDOT not offering $ to potential buyers.

**PAS:** NS Annual Report values at $310 million.*

**Short Sea (1):** Update Portland's Short Sea.*

**Short Sea (2):** New Bedford sees opportunity*

**NEW YORK**

**CSXT:** Global planning additional crude terminal on Hudson, south of Albany. Maps.

**CSXT & CP:** Massive crude through Albany.

**QUÉBEC**

**MMA disaster**
(2): Locomotives move east, but no revenue cars.*
(3): Transport Canada searches Irving Oil offices.
Questions about the agency's numbers.*
(4): Bakken crude known extra-volatile.*
(5): Burkhardt lost “a pile of money.”

**CONNECTICUT**

**Port Authority:** Still expected in 2014.*

**CSXT:** No Leominster abandonment yet.

**MC:** Signs new traffic deal with Covanta to continue to operate the 'Energy Train'.*

**NEW HAMPSHIRE**

[No report.]

**RHODE ISLAND**

[No report.]

**VERMONT**

**VRS:** Celebrates 50 years.

**MARITIMES**

**CN derailment:** only western crude, propane.

**Halifax:** Price increase, but US fees still low.

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**Common abbreviation:**
**Canso:** 2013 canal traffic data.

**RAIL SHIPPERS/RECEIVERS**

A cross-reference to companies mentioned here.

**PEOPLE, POSITIONS, EVENTS**

Tony Giobbie retiring.

**EDITORIAL**

FRA and STB should suspend Bakken rail moves.

**FROM THE PUBLISHER**

A voice from the past

See Regional for Bob Schmidt's view.

- Chop Hardenbergh  Next formal issue 22 Jan

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**REGIONAL**

**CRUDE OIL++**

**SIGHTINGS**

As always, based on rail observer reports or videos, and do not pretend complete coverage or accuracy.

**NBSR**

The railway as of mid-December 2013 operates its eastbound through McAdam just before daylight, the westbound usually late evening. It runs a unit wood fibre train about once a week. The south freight to St.Stephen/Woodland goes six days a week and has 20-30 cars most days, with quite a variety. {e-mail to ANR&P from rail observer Jody Robinson}

19 December. Very small eastbound left McAdam with four units and about 20 cars: 8 from St.Stephen (1 loaded boxcar from Flakeboard, 2 loads of woodpulp from Woodland, 2 empty methanol tank cars, an empty sugar car from Ganong, and two empty covered hoppers).

31 December. Eastbound out of McAdam with three units, one boxcar, about 15 white slurry tanks on the headend, and a fairly short train (night prevented a better count).

5 January. An NBSR eastbound wood chip unit train left McAdam Yard with five units and 40 loads, after setting off about 30 loads of logs.

7 January. An NBSR eastbound train departed McAdam Yard with four units and 78 cars: 10 LP gas tank cars, 35 empty 50-foot boxes, 20 empty centerbeams, 11 empty insulated boxes for Moosehead Beer, one gondola, and one covered hopper.

**CN**

16 December. Inbound to Saint John, 3 units pulling 86 cars: intermodal wells (all doublestack), 16 low-sided gondolas with gypsum, 1 high-sided gondola, 5 small tank cars, 54 black large tank cars (two cuts of 24 and 30), 3 boxcars.

18 December. Inbound to Saint John, 4 units pulling 95 cars: 6 autoracks, 65 large black tank cars (cuts of 32, 13, and 13), 4 large white tank cars, 1 covered hopper, 6 small black tank cars, 11 boxcars, 2 gondolas.

21 December. Inbound to Saint John, 3 units pulling 86 cars: 14 boxcars, 58 (30 crude oil cars) large black tank cars (cuts of 21 and 11), 1 large white tank car, 2 small black tank cars, 2 small white tank cars, 1 small black tank car with lateral white stripe, 1 small white tank car with lateral black stripe (what are these?), 1 loaded centerbeam, 2 covered hoppers, 4 low-sided gondolas. {crude oil count from Maine-based rail observer visiting Saint John}

22 December. Inbound to Saint John, 4 units (1 DPU) with 156 [!] cars: 5 autoracks, 19 wells (many empty), 96 large black cars (cuts of 20 Procor, 13, 20, 20), 5 small black tank cars, 7 white tank cars, 15 boxcars, 1 loaded centerbeam, and 4 high-sided gondolas.
23 December. Inbound to Saint John, 4 units leading about 90 cars of mostly gypsum gondolas, well cars, some boxcars and some tank cars.

24 December. Four 4 units running toward Saint John with 31 cars: 11 autoracks, 1 small black tank car, 13 large black tank cars, 4 boxcars, and 2 covered hoppers.

30 December. Unknown units pulled 99 cars west toward Saint John: 59 large black tank cars (largest cut 20), 19 small black tank cars, 1 small white tank car, 2 large white tank cars, 8 boxcars, 4 covered hoppers, 6 undetermined cars (night video). {RailsNB}

4 January. Three units pulling 66 cars: 13 boxcars, 5 intermodal wells single-stack, 44 large black tank cars (one cut of 30), 1 autorack, 2 covered hoppers, and 1 empty centerbeam. {RailsNB}

Oil on CN, not on NBSR*
As illustrated by these sightings, one observer commented “lots of oil moving on Sussex Sub.” [The subdivision between Moncton and Saint John.]

On 21 and 22 December, a Maine-based rail observer 'spent the weekend in Saint John. What a busy place! Oil everywhere.' He observed at least 40 empties come out of the loading terminal, 40 loads spotted, 30 loads arrive on CN W406, and many cars throughout the yards in Saint John, all verified 'with the 1267 placard, not to be confused with the large amount of LPG 1075 in the area.' {e-mail to ANR&P 22.Dec.13}

In contrast, no crude oil has arrived on NBSR [see below]. {editor}

IRVING OIL via CN PLUGS SAINT JOHN
Rail observers report that in 6 January both the CN yard in East Saint John, and the NBSR in West Saint John, are filled with crude oil cars.

One associated with Irving said: 'Most of the light crude we are offloading is actually below zero and still liquid but when it goes below the pour point we need to heat it with steam (if the car is equipped with coils). This takes extra time, up to an extra 12 hours per shunt.

'We're also strictly following Transport Canada regulations in every respect and one of those regs is we can't send a car back across the border if it has more than 7% product left in the car (this happens when crude gels at the bottom of the car).

'We have to send the car out to hold in yard until it's warm enough to re-attempt. This coupled with slow offload times is plugging both Island and Dever yard.' {RailsNB 6.Jan.14}

NORTH DAKOTA OIL BY RAIL TO INCREASE*
Two weeks before the Casselton incident, Lynn Helms, director of the North Dakota Department of Mineral Resources, told the Legislature’s Government Finance Committee on 12 December that he expects as much as 90% of the state’s crude will move by rail in 2014, up from about 60% at present.

North Dakota, the nation’s No. 2 oil producer behind Texas, is on pace to surpass 1 million barrels daily early in 2014, Helms has said. {James MacPherson in Associated Press 13.Dec.13}

He added that he would “like to dispel this myth that it is somehow a really dangerous thing to have travelling up and down your rail line.” {Mike Nowatzki in Forum News Service 12.Dec.13}

CASSELTON NORTH DAKOTA*
'About 2:10 p.m., December 30, 2013, a [BNSF] westbound [112-car] grain train derailed approximately one mile west of Casselton, North Dakota impacting an [108-car] eastbound crude train on an adjacent track causing it to derail. We believe approximately 21 cars involved in the derailment are on fire. There were no injuries to either of the train crews involved.' {BNSF media release} [See photo in Editorial.]
LAC-MEGANTIC TOP NEWS STORY OF 2013
The Canadian Press survey of newsrooms found the Lac-Mégantic tragedy received nearly 31% of the ballots cast. Voters were asked to either choose a story from a list of candidates or to nominate their own selection.

“The Lac-Mégantic disaster was one which caused everyone who lives in a small Canadian city, or town that has freight trains rumbling through it, (to) stop and ponder, ‘That could happen to me some day,’” said Murray Guy, assistant managing editor for the Moncton Times & Transcript. “From the sheer enormity of the death, destruction, and upheaval for a small community's way of life, to the shaken trust we all have in our rail safety laws, Lac-Mégantic will likely become a red-letter day in the world of railway safety.”

Adrienne Tanner, deputy editor for the Vancouver Sun, said, “Disasters don't get any bigger. A human tragedy with a lot of political and policy implications going forward.” {CP in CBC 25.Dec.13}

CRUDE THROUGH MAINE

Pan Am told Maine Department of Environmental Protection that they had zero for November and December, which is in keeping with rail observations. {supplied by MDEP 6.Jan.14}

MMA BANKRUPTCY: LESSONS FROM BANGOR & AROOSTOOK DAYS

The MMA bankruptcy is the third turnover of the trackage in the past twenty years. I asked Bob Schmidt, who headed the outfit which in the first turnover assembled the regional, and in the second turnover went bankrupt in 2001, to discuss what went wrong for Iron Road Railways (IRR), and any lessons for the new buyer of MMA trackage.

In January 1995 IRR, led by Bob Schmidt bought and began operating the Bangor and Aroostook Railroad (BAR) from Fieldcrest Cannon, and bought from CP the Canadian-Atlantic Railway (CAR) trackage which became the Canadian-American Railroad (CDAC), Quebec Southern Railway (QSR), and Northern Vermont Railway (NVR). The four railroads were operated as the Bangor and Aroostook System (BAS) and in 2003 became the Montreal, Maine and Atlantic Railway.

Here are Schmidt's comments:

Traffic, traffic, traffic
The three keys to success are traffic, traffic, and traffic, or more specifically appropriate traffic density for the mileage of track maintained and operated. While BAS had traffic, it did not have enough relative to its cost structure.

First, the old BAR was, technically, not making money from rail operations – only from car hire revenue. It had no debt as Fieldcrest Canon inherited it in a reverse merger from the Dumaine family trust. Cash flow was positive and adequate; and it sent a dividend to the parent company annually, but it was not earning at an appropriate rate of return and was not investing at the level it should within its infrastructure and equipment.

BAR enjoyed excellent car hire revenue and earnings, as a consequence of per diem rates and its location and an imbalance of outbound versus inbound loads. One senior executive joked during the transaction, “We don’t make money on transportation, we make it on car hire.”

We saw five areas of concern when looking at buying it: (1) declining outbound traffic, (2) the potential abandonment of the CAR which would have left BAR with only one interchange in the south (Pan Am at Northern Maine Junction) and one in the north (CN at St.Leonard), (3) BAR had 13 unions, (4) deprescription
and resultant changes in car hire rates, and (5) a light density railway with about $20 million in revenue.

Add the CP trackage, and other strategies
Many believed that the old BAR should be “short-lined” into two small feeder lines for CN in the north and Guilford/Pan Am and CP in the south. Given the opportunity to purchase CP's CAR lines, we developed a different strategy.

To address the five areas mentioned above, we would buy the CAR trackage (CDAC, QSR, and NVR) in an asset purchase to put together the regional, which would add approximately $60 million in revenue. Spread the $80 million of revenue over the BAR infrastructure, back office and shops to get economies of scale systemwide.

That $60 million would come in large part from estimated Saint John traffic which should get back to recent levels pre-abandonment announcement. Based on belief and representation, it would also come from the Irving consolidated companies, which controlled an estimated 50,000+ annual carloads of traffic and would be incented to put some or most of the traffic on their railway. (JD Irving was buying the rest of the CAR from Brownville Junction to Saint John to form NBSR.)

By using NBSR the traffic would use CDAC/QSR to interchange with CP.

Initial success, then headwinds
The traffic plan seemed to be working and getting traction in second half of 1996, then BAS ran into unforeseen problems: a severe downturn in shipments of pulp and paper by paper mills [see 99#23]; the effects of the Conrail merger and related service meltdown which further got customers reducing traffic because of transit times and lack of cars [see 99#23]; and the implementation of the Interline Settlement System, ISS, which sucked about $10 million out of our working capital.

ISS change. In 1995, the system for payments between railroads, the interline settlement system (ISS), permitted the originating carrier to collect all freight receipts and pay the forwarding carriers 30 to 45 days later. BAR as a mainly originating carrier, had $10 million of float, aka working capital, from this arrangement.

Unfortunately in the late 1990s the Class I railroads cut the float period to seven days, removing that $10 million from the BAS and requiring it to seek capital elsewhere.

Head-free rail. BAS also had extra trackwork expenses due to the head-free rail (a different head than usual) CP had cascaded from light-density tangent track in the prairie provinces. When freight trains, moving at slower speeds than the VIA trains, ran over head-free rail in curves, the weight of the cars fell much more on the lower rail, causing excessive wear, and the truck was pressed against the upper rail, also wearing that.

Also, the success of the B&A in reviving traffic meant it was running significantly more than CP had anticipated for the track condition [99#23].

Lack of Irving traffic. Despite our collective efforts, the Irving companies did not shift significant levels of traffic to NBSR/EMRY. Traffic continued to flow via the CN gateway, as well as internal trucking options.

Loss of car hire. At the end of the Interstate Commerce Commission era, it began a phase-out of regulated car hire rates, aka “deprescription”. Until then, BAR was in a perfect scenario to profit from high car hire rates, as it had outbound traffic from a very distant point. But deregulation, and the drop in paper loads, made that much

1”Deprescription” was the term used to describe the end of the era of ICC prescribed car hire rates. Under the ICC's deprescription order, railroads have the ability to negotiate car hire rates on railroad-marked freight cars. Negotiations are conducted between owning and using railroads.

Deprescription became effective on January 1, 1994 and replaced the prescribed formulaic approach that computed car hire rates. Under the deprescription order which mandated a 10-year phase-in, railroads could deprescribe up 10% of their existing fleets per year over 10 years. Full implementation of deprescription occurred on January 1, 2003.

When a car has been properly deprescribed through AAR requirements, owners or users may negotiate the loaded and empty hourly and mileage rates of deprescribed freight cars. Bilateral negotiations of car hire rates are confidential and maintained by the AAR's CHARM file. {Rail Consulting Network website, FAQs}
less lucrative.

Consequences - the perfect storm
Unfortunately, the loss of traffic, magnified during the service meltdown as a result of the Conrail acquisition, followed by the Interline Settlement System implementation and resultant cash flow squeeze, was a confluence of events which put tremendous financial demands on the company. BAS went through years of difficult times cash-flow-wise attempting to recover from these events. Various asset sales, financings, sale/leasebacks, and equity infusions took place. These efforts were very time-consuming for management and added a level of financing costs as a financial burden on the company.

In the end, the lengthy period of tight working capital made customers and creditors worried. The 2001 bankruptcy was unfortunate because it felt like we were headed in the right direction and seeing positive operating results. Sadly for our creditors, the sale to MMA did not occur pre-bankruptcy. I believe the added administrative costs and deterioration of the business during the post-bankruptcy period severely diminished proceeds to creditors. My recollection is that even the MMA offer was $10 million more pre-bankruptcy. However, that may not have been plausible since most buyers of assets in a troubled situation such as that would like the added value of the bankruptcy proceeding.

Regret: no asset purchase
Fieldcrest for its own reasons wanted to sell BAR as a company, as a stock sale, which meant we inherited 13 labor unions. We had over 600 employees in the consolidated regional system, principally employees of the original B&A, and were able to cut it eventually to 500. I understood that after the MMA acquisition, they had approximately 200 employees.

If the average cost of an employee including all fringes was approximately $50,000, if we had 300 fewer workers, that would save $15 million per year in annual operating costs. (I would not however make an exact apples-to-apples comparison for we do not know how much outside contracting was used etc. However it is safe to say that the asset sale structure allowed for a significant multi-million annual operating cost savings.)

Regret: Not rationalizing the B&A sooner or realizing pledges of assistance.
When we were looking to purchase the BAR, like two predecessor suitors we received a pledge in writing from then-MDOT Commissioner Dana Connors of $3 million in acquisition assistance at the beginning of our purchase. Both because of the change in administration [Angus King was elected in 1994 and appointed John Melrose commissioner] and because once the deal was complete and we appeared to be doing okay, we did not appear to need it and it was never given to us.

We went back during the cash crunch, but that was too late. My recollection is that we had a similar pledge of support from the Quebec government as well. Further, we had offers to purchase certain strategic assets we owned. Plus, we analyzed the merits of abandoning the north end of the line as MMA ultimately did.

In hindsight, perhaps we should have not completed the acquisitions without more binding commitments by these two governmental entities; however, we were constricted by the deadline of the abandonment of the CAR.

(One sidebar worth addressing is the constant criticism of the lack of willingness to bring in equity. As a company, we sought equity from the beginning. We met with countless prospects, retained several Wall Street and Chicago-based investment banks, in vain. There weren’t sufficient earnings to justify an investment. And we heard this answer first in 1994 and continually until 1999.)

We weathered the starved-for-capital storm for years, but raising money was always extremely distracting and time-consuming, pulling senior management away from efforts to grow revenue and manage expenses. Perhaps if we had either received necessary funds from the two government entities, and/or rationalized the northern end of the BAR and the NVR, proceeds would have eliminated all debt of the company and provided for surplus working capital.

CP, NBSR, Irving Oil, and the future owner should want the western gateway
CP wanted to preserve the through line to Saint John so we could deliver traffic to CP. BAR needed the western gateway for its survival because it and major customer Great Northern Paper in the Millinockets would otherwise be captive to one Class I.

What about Pan Am? Sadly, in the old David Fink *pere* days with the Hatfield-McCoy relationship, Pan Am was not interested in developing a rate to compete with CP which would also appropriately compensate the BAS.

For the same reasons, Maine customers and the Irvings should want a line which can offer rates to compete with CN and Pan Am. The western gateway is quite valuable and strategic for many stakeholders, customers/shippers, governments, connecting railways and consumers. It would be quite beneficial to preserve it and support it with traffic. Without the western gateway, rates will go up as will costs of delivered goods.

**Take the longer view**

Despite the current pessimistic view of MMA trackage, rail lines are worth preserving for we do not know what the future holds or brings. They are strategic and can rarely be economically built new today. Preserving them for a fraction of the cost to build new is a wise investment, for things change. Just as the Midwest is now enjoying a boom of grain and ethanol movements, and certain lines are seeing large amounts of crude, who knows what may be in store for the MMA lines?

**Conclusion**

Unfortunately, but as often is true, BAR and CAR needed to be rationalized/restructured. BAR supposedly was only one of two North American railroads which had not gone through a bankruptcy or related restructuring, which it needed to address those concerns outlined at the beginning of this piece. With these three transactions (1994, 2003, and 2014), most of these items will have been dealt with.

I am quite proud of the many things we were able to accomplish during our stewardship. We were able to prevent the abandonment of the western gateway, CAR. We assembled a 900-mile viable regional railway with four interchanges for the benefit of many stakeholders, especially customers and consumers in the region.

This was accomplished by tireless hard work by many smart and talented people involved in those formative years. Although many will not see that period as a success, if one thinks about the necessary steps in restructuring the company’s expenses, preventing abandonment of the gateway, transitioning into ISS, and assembling the regional, those were essential steps accomplished during our stewardship which were instrumental in preserving the B&A and CAR and we are very proud of those accomplishments.

The last piece needed for success in the future is traffic density. I have been away from the BAS for 12 plus years so I have no knowledge of traffic levels, but presumably there is a level of carloads available for the new entity to make a go of it as a streamlined, efficient, customer focused, short-line railway.

**MMA BANKRUPTCY (1): STATE OF FINANCES AND OPERATIONS**

16 December, Lac Megantic. *THE ESTATE HAS ENOUGH FUNDING THROUGH THE END OF JANUARY*, according to the report of the Quebec court monitor this day. The Richter Group serves as monitor of the Quebec court process. In its 4th report to the court (which covers both sides of the border) this day, it stated (paragraph numbers in original):

**Certificate of Fitness to be extended**

19. On October 16, 2013, the CTA issued an order/directive amending the effective date of the suspension of Petitioner’s Certificate of Fitness to February 1, 2014.

20. It is expected that a further extension of MM&A’s Certificate of Fitness will be requested in January 2014 to enable MM&A to continue operating while it completes the sale of its assets which, as noted below, may only occur in March 2014. It is expected that a further extension of MM&A’s Certificate of Fitness will be requested in January 2014 to enable MM&A to continue operating while it completes the sale of its assets which, as noted below, may only occur in March 2014.

...
Camden National Bank $3 million loan

35. The DIP [debtor in possession] financing is available through August 30, 2014 and is repayable on demand with a fixed interest rate of 5%. The term sheet indicates that the loan proceeds will be used for the working capital needs of the Companies until the assets of MM&AR are sold. MM&AR commenced borrowing under the DIP financing on October 21, 2013.

36. Based on the Companies’ projections, the US$3 million of DIP financing is sufficient to support the operations of the Companies, but is generally not sufficient to permit capital expenditures for necessary track repairs, nor for the payment of professional fees. However, as noted below, certain urgent and necessary track repairs are being funded from the DIP financing.

37. As of the date of this report, the Companies have US$1.3 million remaining to be drawn on the Camden line of credit. Based on projections provided by the Petitioner, there will be sufficient funds available through the stay period ending January 28, 2014. An extended cash flow is being prepared to determine financing requirements beyond this date and will be reviewed and commented upon by the Monitor in a subsequent report.

Wheeling & Lake Erie getting paid

39. Wheeling & Lake Erie Railway Company (“Wheeling”) provided the Companies with a US$6 million line of credit,
which had been utilized in full as of the commencement of restructuring proceedings. The accounts receivable and inventory of MM&AR secure the line of credit. Subsequent to the aforementioned DIP financing, MM&AR has set up an escrow account to deposit proceeds of all U.S. accounts receivable collected for sales through October 18, 2013. MM&AR has been remitting escrow funds to Wheeling on a regular basis. As at December 6, 2013 the total amount remitted to Wheeling was US$0.5 million. A further US$0.2 million is being in held in escrow, and may be remitted to Wheeling depending on the overall realization of assets subject to Wheeling’s security.

Cash flow better than expected; some track repair
40. As of December 6, 2013, the consolidated cash balances of the Companies amounted to US$0.4 million as compared to the projected consolidated balance of US$0.3 million. In addition, the Companies used only US$1.7 million of the line of credit as compared to a projected use of the line of credit of US$2.0 million. The overall positive variance of US$0.4 million is primarily attributable to the following:

- US$0.6 million positive cash receipts variance resulting from the better than forecasted collection of accounts receivable and ISS freight revenue (~$0.4 million) and other items (~$0.2 million) consisting of switching, car hire revenue and insurance proceeds from a 2012 claim;
- US$0.3 million favorable cash disbursements variance attributed primarily to lower than forecasted wages, materials and supplies, offset by;
- US$0.3 million of unbudgeted urgent track repairs (see below); and
- US$0.2 million transferred in escrow on behalf of Wheeling, which payment was not forecasted.

41. As a result of favorable cash flow during the Period, the Petitioner was able to perform certain important track repairs to ensure the continued operation of the railroad and the resumption of service to the City. The total capital expenditures approximate US$0.3 million.

MMA BANKRUPTCY (2): BACKGROUND ON ASSET SALE*
16 December, Lac Megantic. THE TRUSTEE’S AGENT CONDUCTED AN EXTENSIVE SEARCH FOR BUYERS, according to the report of the Quebec court monitor this day. The Richter Group serves as monitor of the Quebec court process. In its 4th report to the court (which covers both sides of the border) this day, it stated (paragraph numbers in original):

45. Gordian began the sale process by contacting interested parties and sending out teasers to more than 40 potential bidders in the second week of October, 2013. Of these, 18 parties executed confidentiality agreements and were provided with access to a virtual data room, which continues to be updated on a regular basis.

46. As part of the due diligence, various interested parties requested access to the Companies’ tracks and were able to inspect same in the first half of November 2013.

47. While the original timeline contemplated seeking confirmation of a stalking horse and the approval of bid procedures by mid-November 2013 with an auction in December 2013, this timeline was extended upon the recommendation of Gordian to enable interested parties to perform additional due diligence which Gordian believes will help maximize the sale value of the assets.

48. Following ongoing discussions with various interested parties, Gordian identified a potential stalking horse bidder, Railroad Acquisition Holdings LLC (“Stalking Horse”). Gordian, assisted by the Chapter 11 Trustee, MM&A and the Monitor, began negotiations of an Asset Purchase Agreement (“APA”) and bidding procedures. We understand that the Stalking Horse is affiliated with Fortress Investment Group LLC.

50. Gordian is continuing to work with other interested parties and expects that several of the other interested parties will...
be deemed to be Qualifying Bidders (as defined in the bid procedures) and will participate in the formal auction to be held on January 21, 2014.

**Breakup fee 'on the high side'**

...In the event that a higher or better bid is accepted, the APA [draft Asset Purchase Agreement] provides for the payment of a break-up fee (3.5%) and a reimbursement of expenses (up to US$500,000) (collectively the “Break Fee”) for a total potential of US$998,500 or approximately 6.4% of the purchase price (factoring in the value of the assumed liabilities). We note that a Break Fee of 6.4% is higher than what is normally encountered. A key criteria in examining the reasonableness of the Break Fee is whether it will in some fashion, impact or “chill” the bidding process. It is the opinion of the Chapter 11 Trustee and the Monitor that while on the high side, the Break Fee will not unduly deter other bidders.

**Hearing in Quebec on 20th**

- Hearings on December 18 and 20, 2013 by the US and Canadian Bankruptcy Courts respectively to approve the Stalking Horse and the Bid Procedures and entry of necessary orders by December 23, 2013;
- Submission of Qualifying Bids by January 17, 2014 and identification of Qualifying Bidders by January 20, 2014;
- Auction on January 21, 2014, assuming Qualifying Bids are received;
- Joint sale hearing on January 23, 2014 to approve the winning bidder or the Stalking Horse bid as the highest and best offer if no auction is held;
- Closing to take place by March 14, 2014, with a possible 60-day extension to allow for additional time in the event delays are encountered in obtaining regulatory approval in both Canada and the United States.

... **Request for more administration fees**

75. As of November 30, 2013, the total unpaid fees and disbursements of the various Professionals (net of pre-filing retainers and excluding sales taxes) approximates $2,160,000, summarized as follows:

- Gowling Lafleur Henderson LLP (counsel to MM&A) $1,164,000
- Richter Advisory Group Inc. (Monitor) $566,000
- Woods LLP (counsel to Monitor) $430,000

89. The Monitor is supporting the Sale Process and the establishment of Bid Procedures to enable the sale of the Petitioner on a going concern basis, both as a means to maximize value and to enable the continued operation of the railroad for the benefit of its employees, customers and regional economic development.

101. Absent an increase in the Administration Charge to $5 million, the Petitioner lacks the means to secure the payment of the fees of the Professionals who are essential to the CCAA\(^2\) process. A failure to continue the CCAA will have serious and negative consequences on the efforts to maximize value for all creditors and an orderly and efficient claims process to be implemented. \footnote{CCAA indicates the Companies' Creditors Arrangement Act. The Quebec Superior Court, District of Montreal, is sitting as a court designated under the Act. \{8 August order\}}

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**MMA BANKRUPTCY (3): REVISION OF QUALIFIED BIDDER**

17 December, Bangor. TRUSTEE KEACH FILED AN AMENDED VERSION OF THE PROPOSED BID PROCEDURES. NB&M, in its objection to the procedures filed this day, wrote:

**Public interest**

'The proposed bid procedures recognize that because this case involves the sale of a railroad, the “public interest,” as that term is used in section 1165 of the Bankruptcy Code, must be considered in approving the sale. Yet the proposed bid procedures do not provide any criteria for how the public interest will be addressed. The Trustee’s motion for authority to sell the railroad to Railroad Acquisition Holdings LLC, the proposed stalking horse, provides no information about this entity, its experience in operating a railroad, or its management plans post-closing.

'The bid procedures should require that such information be provided as part of each bid, including the stalking horse bid, so that parties in interest will have the opportunity to evaluate such information as part of the...
bidding process.' {document 185 from court website}

Amended version
A comparison between the initial version of the bid procedure [see 13#12A] and the version filed this day shows that, inter alia, trustee Keach added three paragraphs (those in red). He noted during the 18 December hearing that the changes were made in response to remarks by MDOT and FRA:

vi. that the Qualified Bidder consents to the jurisdiction of both the Bankruptcy Court and the Canadian Court as to all matters relating to the Auction or the Sale of the Assets; and

vii. that the Qualified Bidder is not entitled to any break-up fee, termination fee or similar type of payment or reimbursement and, by submitting its bid, the Qualified Bidder waives the right to pursue a substantial contribution claim under 11 U.S.C. § 503 related in any way to the submission of its bid or the Bidding Process.

viii. (a) that the Qualified Bidder commits to operate a railroad over the Assets upon which the Qualified Bidder is bidding as a going concern in the Public Interest; (b) the minimum period for which the Qualified Bidder makes such commitment to operate a railroad; and (c) any portions of the track to be acquired by the Qualified Bidder that such bidder intends to abandon, discontinue or limit operations with respect to such portion of track.

ix. that such Qualified Bidder has all requisite corporate or other authority to make the bid and, if the Successful Bidder, to close on the Proposed Agreement and the Sale; the Trustee and MMA Canada reserve the right, in their discretion and consistent with their fiduciary duties and the Public Interest to require additional evidence of authorization and approval from the Qualified Bidder’s shareholders, board of directors or any other necessary approval with respect to the submission, execution, delivery and closing of all transactions contemplated by the Proposed Agreement. {as filed on court website, case 13-10670 (emphasis added}

MMA BANKRUPTCY (4): REMARKS DURING US HEARING*
18 December, Bangor. THE JUDGE RULED AGAINST NB&M'S EFFORT TO “CHERRY PICK” THE MMA ASSETS, during the hearing this day to make official the trustee's proposed bid procedures [see 13#12A].

The set-up
At the US Bankruptcy court in Bangor, Judge Louis Kornreich had dozens of attorney before him or on the telephone. In addition, two representatives of Fortress attended: Kyle Johnston, CFA and associate with Fortress, and Ken Nicholson.


Opening remarks of trustee
Bob Keach reported “extensive discussions with the monitor in Canadian case, the Gordian group, MMA, Lac Megantic, governments of Quebec and the federal government.” The Stalking Horse bid is “critically important and a truly significant event.”

He reported “we are comfortable with our ability to operate through the sale process” given the existing financing, and noted work has “focussed on the two major aspects: (1) discussion on the sale process, which have touched every potential bidder,” and resulted in a “robust auction process” which has produced a bidder who will “operate all aspects in the public interest.”

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³ He is a partner at this national law firm, with his offices in Cleveland, and practice group leader for Business Restructuring, Creditors' Rights & Bankruptcy. {company website}
The dispute: buy only particular assets?
In its 17 December motion, NB&M suggested (in addition to its note on the public interest, above):

No explanation for minimum bids for the Lots. 'With the exception of the All Asset Lot, as to which the minimum initial bid price is based upon the stalking horse bid for all of the assets of MMA and MMA Canada plus overbid protection in the form of a break-up fee, expense reimbursement and a minimum overbid, no explanation is provided as to the basis for the minimum initial bid prices for the other Lots.

Procedures should permit bids lower than the minimum initial bid. 'Moreover, the restriction imposed by the Trustee on bids for Lots other than the All Asset Lot fails to take into account that a bid in an amount less than the minimum initial bid price for a particular Lot, when coupled with a bid for one or more of the other Lots that exceeds the minimum initial bid price for those Lots, could exceed the stalking horse bid for the All Asset Lot.
Lot.

'Restrictions that foreclose such opportunities are not in the best interest of the estate. Potential Bidders who submit meaningful bids for Lots other than the All Asset Lot should be permitted to participate in the bidding process, including any auction that may be conducted pursuant to the bid procedures.

What about bids for not all assets in a Lot? 'The requirement that bids for Lots other than the All Asset Lot be equal to or greater than the minimum initial bid price for such Lots is also flawed because it fails to provide the opportunity for Potential Bidders to bid on less than all of the assets in a specific Lot.

'Bids for less than all of the assets in a given Lot, in conjunction with the net liquidation value of assets excluded from the bid, could under certain circumstances provide greater value than the minimum initial bid price for all of the assets within the Lot.

'Moreover, the public interest may weigh in favor of acceptance of bids for Lots other than the All Asset Lot notwithstanding that the highest offer received by the Trustee is for the All Asset Lot. The bid procedures should not eliminate the opportunity to consider such bids.'

Keach response
“If we allow the kind of cherry-picking that Eastern Maine's proposal would allow, we would also have segments of the railroad that would have to be abandoned because they would be orphaned.” MDOT and FRA support the procedure because it is in the public interest. NB&M's purchase “would leave abandoned an important segment of Maine track.

“Railroad Acquisition has committed to operate the entire system and will do so as long as it is economically feasible. They have no intention of abandoning either the MMA Lines or the MMA Canada lines.”

“As I understand the objection, [NB&M parties] don't like the design of Lots, and don't know how the minimum bids for those lots are arrived at....

“The Lots were determined in consultation with monitor and company personnel, the MDOT, the FRA, and the CTA....Both MDOT and FRA have submitted filings supporting the procedures....These minimums reflect the allocation of the value of the Railroad Acquisition bid among those Lots....That's an exercise of the trustee's business judgement along with the monitor's....

“That design best maximizes...the value to the estate. It allows a comparison with a Lots sale to a full system bid. It allows us to conduct two auctions within one, not to get stuck with either option exclusively...it involves the most bidders...It tests whether the individual lots total more than a bid for the entire system.”

“The breakup fee and expenses are always paid by the bidder” as they are included in the minimum price increase.

Cross-examination of Keach by Lepene. The NB&M parties would be not only potential bidder, but “many are also customers of MMA.”

Keach said he would not accept a bid if it excluded certain track mileage. Asked about the liquidation value of certain assets, he said: “We considered all factors including NLV and consulting with parties, and existing management and employees....we did take into account” potential valuation of liquidation, but “my understanding of public interest is that the assets should be marketed as an operating railroad.

“Frankly, we did not conclude that the desire retain a full operating system conflicted with the duty to maximize the assets.”

Asked whether the public interest was served if it required service at a substantial loss on certain segments which could jeopardize service on other sections, Keach responded: “We don't think the system here requires anyone to operate at a loss....The best evidence of that is Railroad Acquisition's willingness to operate entire system. I doubt that Railroad Acquisition's goal is to lose money. It is also conformed by the active participation of several other bidders at this time.”

Asked whether he might accept bids on individual lots, at less than minimum stated, and what considerations entered into his acceptance, Keach noted “a number of considerations [come in, but he would not disclose them except]...the principal one is” whether the aggregate set of bids was greater than the all asset bid.
The 2010 effort to find a buyer. Asked whether he would agree that a prospective bidder had to expend time and money on due diligence, Keach responded in part: “As you know, these assets were shopped in 2010 to a number of [current] bidders. Those are at an advantage as to what they have to spend or not spend” on doing due diligence.

NB&M may offer a non-conforming bid. Keach continued: “I can accept bid under any minimum, if the bid enhanced the sale process. If Mr. Lepene wanted to make non-conforming bid he could do that. He would have to rely on my discretion in accepting the bid.”

As a “competing bidder” NB&M would “like to craft the process to enable them to acquire the assets they want, but” that is detrimental to the estate and the Public Interest.

In his conclusion, Lepene argued that the proposed bid procedure “will not achieve those objectives.” Keach has “discretion to accept a bid for less than minimum” but that is “something that bidders may not be willing to rely upon, in terms of spending time and expense to prepare and submit a bid.”

Judge’s decision. Kornreich accepted the procedures as offered by Keach. [audio recording of hearing made available on court website in docket 13-10670]

How much track does NB&M want? Speculation
At the hearing, neither Keach nor Lepene described what Eastern Maine would “cherry-pick.” If, however, it resulted in “orphaned” sections in the US Lot, one might surmise that NB&M would choose to buy only the section from Brownville Junction – indeed, probably only the section north of where the new cutoff meets the Millinocket to Brownville Junction line [see map 12#11A].

That would leave another bidder – if any – to buy the Moosehead subdivision and the line to Searsport. NB&M could still interchange with Pan Am in Mattawamkeag, and any other buyer on the buyer's line in Brownville Junction.

What role will MDOT play?
MDOT was granted observer status at the auction. Conceivably, a bidder could ask MDOT to buy from the bidder the track and right-of-way, leaving the bidder as the operator [MDOT did buy SLR track and leave SLR as the operator between Portland and Auburn – see 13#11B]. However, Nate Moulton, the department's railroad administrator, wrote on 18 December that no party has inquired about making such a deal.

MDOT has discussed the pending sale with many parties. Also, MDOT Commissioner David Bernhardt said in August that the state needs the east-west line, and will need money to buy it if no bidder buys the entire system and the railroad is broken up [see 13#08A].

MMA BANKRUPTCY(5): COMPARING PRICES++
25 December. SPEAKING OF CHRISTMAS PRESENTS, is the stalking horse bid a gift horse to Fortress? Compare it with other northern Maine prices and the DME sale:

<table>
<thead>
<tr>
<th>Sale</th>
<th>Date</th>
<th>Route miles</th>
<th>Price*</th>
<th>Price/mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fieldcrest Cannon to Iron Road Railways</td>
<td>05.Jan.95</td>
<td>364 (all of BAR)</td>
<td>$28 million</td>
<td>$76,000</td>
</tr>
<tr>
<td>CP to Iron Road Railways</td>
<td>17.Mar.95</td>
<td>320 (CAR west of Brownville Junction)</td>
<td>US$15 million</td>
<td>$46,875</td>
</tr>
</tbody>
</table>
**B&A System estate to MMA**

<table>
<thead>
<tr>
<th>Date</th>
<th>Route miles</th>
<th>Price*</th>
<th>Price/mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>08.Jan.03</td>
<td>745 (all of B&amp;A System)</td>
<td>$50 million</td>
<td>$67,100</td>
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</table>

**MMA to state {10#10A}**

<table>
<thead>
<tr>
<th>Date</th>
<th>Route miles</th>
<th>Price*</th>
<th>Price/mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>14.Jan.11</td>
<td>233 (Millinocket to Madawaska)</td>
<td>$21.1 million</td>
<td>$90,560</td>
</tr>
</tbody>
</table>

**MMA to J.D.Irving {13#06, and this issue}**

<table>
<thead>
<tr>
<th>Date</th>
<th>Route miles</th>
<th>Price*</th>
<th>Price/mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-Jun.13</td>
<td>30 (Madawaska to St.Leonard)</td>
<td>$5 million</td>
<td>$166,600</td>
</tr>
</tbody>
</table>

**MMA estate to Fortress**

<table>
<thead>
<tr>
<th>Date</th>
<th>Route miles</th>
<th>Price*</th>
<th>Price/mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>??-Jan.14</td>
<td>510 (former B&amp;A less above sales)</td>
<td>$14.25 million</td>
<td>$27,940</td>
</tr>
</tbody>
</table>

**CP to Genesee & Wyoming**

<table>
<thead>
<tr>
<th>Date</th>
<th>Route miles</th>
<th>Price*</th>
<th>Price/mile</th>
</tr>
</thead>
<tbody>
<tr>
<td>mid-2014</td>
<td>660 (west end DME)</td>
<td>$210 million</td>
<td>$318,000.00</td>
</tr>
</tbody>
</table>

*For Fieldcrest Cannon sale, MMA purchase, and Fortress purchase, the buyer acquired operating equipment and a going concern. In the other two cases, the buyer acquired active track, but no equipment.

**Burkhardt comments**

‘In both cases [the two MMA direct sales in the table above] MMA used the proceeds of the sales to retire debt. The Millinocket - Madawaska sale was for Net Liquidation Value (NLV). The Madawaska - Van Buren sale was about $5 million, and was a negotiated price. I can't comment on the Trustee's proposed sale as it's obvious it isn't related to NLV. At the end of the day, something is worth what someone will pay for it...' {e-mail to ANR&P from Ed Burkhardt, MMA chair, 25-Dec.13}

**MMA BANKRUPTCY(6): ROLE OF MDOT**

2 January, Augusta. **MDOT HAS NOT MADE ANY OFFERS OF FINANCIAL ASSISTANCE TO ANY PARTY INTERESTED IN THE MMA LINES**, wrote the rail administrator, Nate Moulton. ‘[A]ny incentives the State might provide would be negotiated and would depend on the buyer and their priorities and commitments to the operations of the system.' {e-mail to ANR&P}

**PAS: NS FINANCIAL REPORTS**


‘Since the joint venture was designed as 50-50, the valuation would appear to accord Pan Am's share also $155 million. Editor"

**2008 report excerpt**

‘NS expects to contribute cash and other property valued at $140 million, a significant portion of which will be used for capital improvements to the PAS Lines and the related construction of new intermodal and automotive terminals in the Albany, New York area. The joint venture is subject to regulatory approvals and other customary closing conditions.'

**2009 report excerpt**

‘[A]s of December 31, 2009, NS has contributed cash and other property with a combined value of

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*Canadian Pacific and Genesee & Wyoming Inc. (GWI) on 2 January 2014 announced they executed an agreement through which CP will sell the west end of its Dakota, Minnesota & Eastern Railroad (DM&E) line to GWI for $210 million. The west end encompasses about 660 miles of CP's operations between Tracy, Minn., and Rapid City, S.D.; Rapid City and Colony, Wyo.; and Rapid City and Dakota Junction, Neb. The route also includes connecting branch lines and other trackage between Dakota Junction and Crawford, Neb., that's leased to the Nebraska Northwestern Railroad. Customers on the line annually ship about 52,000 carloads of grain, bentonite clay, ethanol, fertilizer and other products. {Progressive Railroading daily bulletin 3-Jan.14}
approximately $69 million and committed to contribute an additional $71 million in cash over the next three
years as evidenced by the Pan Am Notes (see Note 8). A significant portion of NS’ contributions has and will
continue to be used for capital improvements to the PAS Lines and the related construction of new intermodal
and automotive terminals in Albany, New York and the Ayer, Massachusetts areas. PAS is jointly controlled by
NS and Pan Am; accordingly, NS accounts for its interest in PAS using the equity method of accounting.' {page
K31}

2010 report excerpt
'Pan Am Southern LLC (PAS) is a railroad company joint venture in which NS and Pan Am Railways, Inc. (Pan
Am) each has a 50% equity interest. As of December 31, 2010, NS has contributed cash and other property with
a combined value of approximately $116 million and committed to contribute an additional $24 million in cash
over the next two years. A significant portion of NS’ contributions has and will continue to be used for capital
improvements to the PAS Lines and the related construction of new intermodal and automotive terminals.'
{page K31} The report valued the equity investment at $140 million. {page K53}

2011 report excerpt
During 2011, the investment in PAS increased from $140 million to $151 million. {page K52} In 2012, NS
announced further capital investments in PAS. {page K28}

Pan Am and NS also agreed to an amendment, referenced as (www): 'Omnibus Amendment, dated as
of January 17, 2011, to Pan Am Transaction Agreement dated as of May 15, 2008, and Limited Liability
Company Agreement of Pan Am Southern LLC dated as of April 9, 2009, is incorporated herein by reference to
Exhibit 10.1 to Norfolk Southern Form 10-Q filed on April 27, 2012.' {page K97}

The amendment covered NS funding of the improvements to the Sanvel Auto facility [see 10#06B] as
well as a Boston and Maine property contribution, according to the 10-Q. {pages 51-53} {all annual reports
from NS website}
SHORT SEA(1): PORTLAND UPDATE*
5 December, Alexandria, Virginia. A PANEL AT THE NORTH ATLANTIC PORTS ASSOCIATION described progress on the Maine Port Authority pilot project for barge service between Portland and New York [see 13#05B].

At the Connecticut Maritime Commission annual meeting on 18 December, Martha Klimas of the Bridgeport Port Authority reported that NAPA attendees heard:

- McAllister Towing, working with another consultant, has designed an articulated notched barge and tug being built by McAllister. The tug and barge together will measure approximately 600 feet and have a 20-foot draft fully loaded. The barge is designed to handle 425 (+ or -) 40 foot containers, and/or up to 55 reefers. The barge will also have a space reserved for future LNG tanks.
- The tug will have three 3,000-horsepower engines.
- McAllister is waiting for a building slot for an expected 18-24 month construction period for the barge, believed to be at the Senesco Shipyard at Quonset.
- McAllister is negotiating stevedoring fees at both ends of the route and expects to have secured multiple ports by the time barge construction is complete.
- Maine Port Authority and others are securing users. Reportedly Nestle Waters (i.e. Poland Springs) are ready. {CTMC draft minutes}

SHORT SEA(2): SUPPORT IN NEW BEDFORD
24 December. PARSONS BRINCKERHOFF SUPPORTED SHORT SEA in an October study publicized this month by New Bedford officials. The $300,000 East Coast Marine Highway Initiative Study was developed by Parsons Brinckerhoff with funding from the Maritime Administration and is available online at www.portofnewbedford.org/hdc/studies.

Said Mayor Jon Mitchell: “The Port of New Bedford has tremendous potential, not only as a premier fishing port and off-shore wind, but as a freight corridor. We're trying to put ourselves in a position to capture business opportunities. It's about bringing new jobs to the city.”

Other comments
Peter Bernier from Maritime International said shifting some of the road transportation burden to water would be a huge benefit for transportation businesses; the cost of transporting goods between DC and Boston is among the highest in the country, he said.

“New Bedford has been at the forefront of the marine highways concept,” said Edward Anthes-Washburn, deputy port director at the Harbor Development Commission. “The idea is as old as commerce itself
but we don't transport a lot of finished goods over the water like the rest of the world.”

Both Bernier and Anthes-Washburn said the biggest challenge would be to build domestic ships that can carry freight across the sea [see other article]. Anthes-Washburn said it would also involve a culture change to “convince shippers to move freight by sea.” {Auditi Guha in New Bedford Standard-Times 24.Dec.13}

NEW YORK

29 November, New Windsor. **SEVERAL GLOBAL PARTNERS COMPANIES ARE PLANNING A RAIL-TO-MARINE TERMINAL HERE**, according to permit applications filed this day at the New York State Department of Environmental Conservation (NYCDEC). The town lies about 90 miles south of Albany on the west side of the Hudson, at a point served by CSXT.

[The terminal is located in the same town as East Coast Rail Services – see 11#05B.]

**Global terminals**

Global's website lists three terminals in New Windsor:

Global North Newburgh, 1254 River Road, New Windsor, NY 12553 (handles #2 heating oil, ultralow-sulfur diesel, and gasoline)

Global South Newburgh, 1184 River Road, New Windsor, NY 12553 (handles #2 heating oil)

Global Cargo Newburgh, 1096 River Road, New Windsor, NY 12553 (handles ultralow-sulfur diesel and gasoline)

[Judging from the tanks and dock at each location, the Global terminals are supplied by barge. **Editor**]
Permits applied for this day or earlier from the NYCDEC website:

– Global Companies LLC seeks permits for 'Excavation & Fill in Navigable Waters', 'Stream Disturbance', 'Dock, Platforms, and Moorings' for remediation of former industrial prop. into a railcar trans-loading facility. {NYS DEC website, no ID numbers assigned}

– filed on 14 August 2013: Global Companies LLC seeks a amended air pollution discharge permit for 'rail project'. {NYD045665262 - Facility Index Database System ID (USEPA) NY0093572 - State Pollutant Discharge Elimination System ID (USEPA); Application ID 3-3348-00111/00023}

– filed on 14 August 2013: Global Companies LLC’s facility Global Companies – South Terminal seeks air pollution discharge permit for 'rail project'. {3311000822 - Division of Air Resources ID (NYSDEC); OtherKnownIDs 00095-ComplianceDataSystemID(USEPA); NYD986912046-FacilityIndexDatabaseSystemID(USEPA); 0822 - National Emissions Data System ID (USEPA)}

James J Eldred, the NYCDEC regional environmental analyst assigned to these applications, described the proposal on 24 December, while noting that one may only see the actual application the Freedom of Access system. He also noted that the environmental impact of the use of the rail system itself was beyond the scope of his review.

Rail inbound

The proposed trackage will permit CSXT to spot one train a day of up to 85 railcars. [If each railcar has 700 barrels, each train would move 59,500 barrels, if say 200 days per year that would come to about 12,000,000 barrels a year. This compares with the 25+ million barrels arriving at Albany annually, which has two terminals receiving crude (Buckeye and Global). {editor}]

Location: former shipyard

Global will purchase two parcels (about 12 acres east of the tracks on the river, and about 4.5 acres between the tracks and River Road) of the former Newburgh Shipyards site adjacent to its Global North and Global South terminals for the rail terminal. Founded in 1918 as an emergency shipyard for vessel production during the First World War, Newburgh Shipyards eventually produced 17 cargo ships for the war effort before it shut in 1922.

Various industrial uses occupied the site through the next 20 years. Late in World War Two, Chicago Bridge & Iron retooled the yard to build large auxiliary floating drydocks for the US Navy.

After the war, the yard again closed. {wikimapia.com}

Brownfield site. NYSDEC lists the former shipyard in a brownfield site remediation program, owned by Eastern Harbour Associates.

Eldred said Global a few years ago had agreed to purchase the property and assist with capping as the site remediation.

Town has little input

George Green, New Windsor town supervisor, said on 31 December that the former shipyard does have a public road across it, “not used in 50 years.” The Town would not make that a barrier to development.

He did talk with Global officials more than a year ago, but “indications are that the Town has no permitting capability” for the new site, though “that remains to be seen. They are a world onto their own down there,” the facilities on the river across the tracks.

He listed the tank farms from north to south, remarking that the Global is “a good neighbor”, as Mobil which became Global, Global Cargo, Schlott (tanks now removed), and Affron (a small farm).

The Global plan

Eldred said Global may propose combining the three facilities, along with the new railyard, under a single set of permits. At this point, he saw no application for additional tanks, leading to the surmise that Global will use existing tanks to store the crude. {ANR&P discussion with Eldred 24.Dec.13, with Green 31.Dec.13}
The department has promised a response to your editor's Freedom of Information Law request to see the actual plans by 4 February. {e-mail to ANR&P 7 Jan. 13}

**CP & CSXT: CRUDE VIA ALBANY**

30 December, Albany. *MASSIVE AMOUNTS OF BAKKEN CRUDE CONTINUE TO MOVE THROUGH THIS PORT.* The product is going from train to tank to ship/barge at both terminals, wrote Rich Hendrick, Albany Port District honcho.

To Saint John

'Irving is still loading ships at Buckeye [served by CSXT]; the *Afrodite* is at the dock now. This ship has been making trips to Saint John every seven to eight days.' {e-mail to ANR&P correspondent Laurel Rafferty}

To New Jersey

About the same amount of crude – 230,000 barrels per box or the rough equivalent of three 100-car unit trains – is loaded into barges every two days for transport to New Jersey and Pennsylvania refineries at both Buckeye and the Global terminal just to the north, served by CP.

**Albany facility and comparison**

In Albany, Global is also seeking city permission to build a facility at its Port of Albany rail yard to heat crude oil to make it easier to pump. The company's application did not specify what kind of oil would need to be heated prior to being pumped, although the company has been taking Bakken crude for nearly two years without having to heat it.

**New Windsor competition**

Hendrick said that if the New Windsor rail facility is approved, it could cut into crude shipments into and out of the port. "It would probably reduce some of the work that comes in. It would be 90 miles that a barge would not have to travel on the river, so some shipments could bypass us," said Hendrick. "But that would be at least a
CSXT-CP: RETROFIT FLAWED TANK CARS

8 January, DC. **U.S. SENATOR CHARLES SCHUMER (D-N.Y.) CALLED ON THE FRA AND PHMSA** to require companies transporting crude oil and hazardous materials by rail to create a plan to retrofit or phase out older models of DOT-111 tank cars.

The cars have proven to be "flawed" and a factor in haz-mat spills during derailments, and were involved in the Casselton, North Dakota incident. In addition, the National Transportation Safety Board has cited the design of the DOT-111 tank car as a major factor in the 2009 Cherry Valley, Illinois, train accident and haz-mat release, and has recommended either a redesign or replacement of the cars.

'Currently, freight lines that run from parts of upstate New York south through New Jersey, just across the river from New York City, potentially have hundreds of DOT-111 cars carrying crude oil or ethanol each day along their tracks, and there are plans on the table to build new tracks and offloading facilities to accommodate even more cars due to the boom in shale oil production.'

The FRA and PHMSA need to complete rule-makings that will impose requirements on freight railroads to phase out or retrofit the tank cars to avoid potential explosions, oil spills or other dangerous occurrences, Schumer wrote. {*Progressive Railroading* bulletin 8.Jan.14}
MMA DISASTER(1): LAC MEGANTIC WILL RESUME*

16 December, Lac Megantic. PARTIES AGREED TO RESUME SERVICE TO THE INDUSTRIAL PARK, AND WILL DISCUSS THROUGH TRAFFIC, according to the report of the court monitor this day. The Richter Group serves as monitor of the Quebec court process. In its 4th report to the court on 16 December, it stated (paragraph numbers in original):

27. In respect of the reconnection of the east-west railway line in Lac-Mégantic, the Government of Quebec (“Province”) retained the services of Canarail Consultants Inc. (“Canarail”) to oversee the necessary work. MM&A is cooperating with Canarail and the Province’s reconnection efforts. The cost of the reconnection is being paid by the Province.

28. By the end of November 2013, the reconnection work was completed. As decontamination efforts continue, certain of the reconnection work, while temporary in nature, will allow for the resumption of service to the City’s industrial park and eventually for east-west traffic to resume.

29. On November 25, 2013, a meeting was held between the City, MM&A, the Province, the Monitor and the Chapter 11 Trustee to discuss various matters including the resumption of train service. Following this meeting and ongoing communications, MM&A provided the City with a proposed operating plan which would see the resumption of service commence in two phases:

   Phase 1: Resumption of service to the City’s industrial park which will allow clients such as Tafisa Canada Inc. and Logi-Bel Entrepasage Inc. to resume train service to their customers.

   Phase 2: Will consist of east-west traffic between Quebec and Maine being resumed. Further discussions between the City and MM&A will be held prior to the commencement of any east-west traffic. MM&A will continue to self-embargo the transport of any crude oil.

30. On December 13, 2013, MM&A and the City reached an agreement covering Phase 1 of MM&A’s operating plan allowing the resumption of service to the industrial park on or about December 18, 2013. MM&A has agreed that it will not transport any hazardous materials while it services the industrial park and that it will observe various maximum speed limits amongst other conditions.
31. The City and MM&A have agreed that this interim agreement does not bind any subsequent purchaser of MM&A's assets as they will likely seek a more permanent agreement.

32. The City and MM&A have agreed to continue discussions regarding Phase 2 of MM&A's operating plan which will involve the resumption of service between Quebec and Maine; again, any such agreement would not bind a purchaser.

{Richter group website}

**MMA DISASTER (2): LAC MEGANTIC TRAINS ROLL**

18 December, Lac Megantic. **MMA SERVED TWO CUSTOMERS, AND SENT FIVE LOCOMOTIVES EAST**, with the track restored and permission to operate.

**First train: power to Maine**
On 17 December, three leased CEFX/CITX locomotives attached to two MMA locomotives passed from west to east through Lac Megantic, and moved on to Maine.

**Second train: actual traffic**
On 18 December, a switcher pulled six cars off the spur to the industrial park [see still from video], hooked up to a previously-made up cut of cars (at least 17 visible in the video) east of the spur (the west leg of the wye; the east is also operational), and then headed west, with five MMA locomotives as power. {CBC French and English services 18 Dec.13; tvanouvelles 18 Dec.13}

**Revenue cars?**
Ed Burkhardt, MMA chair, wrote on 20 December: 'Service has resumed to the industries in the Megantic industrial park, and there have been several movements of light engines on the east/west main line. Through freight service won’t resume until the federal and provincial authorities can agree on [who has the authority to] “dictate what traffic can run”....Rules for federal railways in Canada are essentially the same as apply in the U.S.' {e-mail to ANR&P}

**MMA DISASTER (3): IRVING OIL RAID**


The agency filed a 17-page document to justify the warrant. Drafted by Marc Grignon, a senior inspector with Transport Canada for the transportation of dangerous goods, it contains the following points:

- The crude was shipped by a Minnesota company, Western Petroleum Corporation. But under Canadian federal regulation, Grignon wrote, 'When the shipper is based outside Canada, the importer becomes the shipper.' By law, he says, Irving Oil Commercial G.P. is the shipper in the Lac-Mégantic case.

- Irving began importing Bakken crude oil in November 2012 [oops! not exactly⁵] after buying a test load in June 2012 [8 June – see 12#06A].

- Between 2 November 2012 and 6 July 2013, the date of the explosion, MMA hauled 67 trains bound for the Irving refinery in Saint John.⁶ The shipments are brokered by World Fuel Services. Crude trains averaged 80 tank cars.

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⁵ Note photo in 12#07A of crude train in NBSR Saint John yard. The table of 2012 in 13#03A shows in June MMA moved 260,000 barrels, and in December 2012 618,000 barrels.

⁶ According to 13#08B, MMA moved about 3 million barrels during this period. At 80 cars per train, and 700 barrels per car, that's 56,000 barrels per train, so about 55 trains. **Editor**
- World Fuel Services helped Irving Oil import 3,830 tanker cars of crude oil between November 2012 and July 2013. [Since MMA moved 80 x 67 = 5,360 cars per the above, something is amiss. Editor]

**Irving Oil co-operating**

Irving Oil spokesperson Samantha Robinson could not comment on the contents of the court documents; she wrote on 13 December: ‘We have received requests from government investigators regarding our operations. We continue to fully co-operate with them, complying with all requests for information. Operations remain normal.’ {Jacques Poitras in CBC News 17.Dec.13}

**MMA DISASTER (4): MORE ON VOLATILE OIL*  
June, Seattle. **IRVING OIL GAVE A PRESENTATION ON QUALITY, AND PROBLEMS OF MIXING CRUDE OILS** to a conference of the Crude Oil Quality Association precisely one month before the Lac Megantic disaster.

Irving Oil’s Gary Weimer described the system's inability to classify crude oil (http://www.coqa-inc.org/20130606_Weimer.pdf). As common carriers, railroads are legally bound to accept crude oil certified by the shipper to be correctly classified and legally contained. The railroads have no control over loading practices or the interior condition of tank cars, which are owned and maintained by the shippers and receivers. Nonetheless, Irving’s Weimer told his industry colleagues that oilfield sampling of outbound crude “is almost non-existent.”

**The Irving Oil search**

As the search of Irving Oil’s refinery offices for the results of tests performed when crude is unloaded at Saint John shows [see above], enquirers want to know who in the chain of possession between oil rig and refinery was aware that crude oil was not classified, or incorrectly classified.

On 9 June 2014, a Canadian court will decide whether to authorize class action status to the lawsuits naming Irving Oil, JD Irving, and others as defendants in damage lawsuits.

**What liability for engineer?**

The lawyer for the engineer has said his client’s liability does not extend to the death and destruction caused by the explosion of the cargo, but simply to the immediate trackside impact of the derailment and the subsequent foreseeable fire. Under a long-standing legal principle of tort law, individuals are held responsible only for the foreseeable consequences of their actions. None of the investigating authorities has so far suggested that anyone died as a result of the derailment itself.

The shipping documents presented to MM&A and its engineer indicated that the cargo was of the lowest flammability classification for crude oil, Packing Group III [see Quebec 13#07B, 13#08B, 13#09A], not the explosive mix it tragically turned out to be.

The Irving presentation shows that the misclassification of the Lac-Mégantic cargo was not a procedural lapse but instead was consistent with a general lack of classification at the transloading terminals as well as commingling in holding tanks and again in the tank cars. {text of presentation from COQA website; David Thomas in Railway Age 23.Dec.13}

**The November meeting**

When COQA next met, in November in Dallas, it heard another presentation on testing. Derek Fraser of Maxxam Analytics reported that sampling of crude oils in rail cars is not well defined by ASTM or API practices. The need exists for consistent and detailed sampling procedures that are applicable to all types of crude oil transported by rail, including condensate, “conventional” crude oil, and bitumen. Consistent procedures are essential to obtaining a representative samples. In Canada, as in the United States, transportation of crude oil is regulated. Rail companies are being required to have more detailed analytical data than that
typically provided by an MSDS on the crude oil they load. {COQA website}

**MMA DISASTER (5): BURKHARDT PERSONAL LOSS**
27 December. *ED BURKHARDT LOST “A PILE.”* The MMA chair said in a recent interview that he sustained significant personal financial losses since the disaster. He added, however, that he wasn't complaining. The people of Lac-Mégantic “they went through hell.

“[Financial losses are] not in the same category as the personal losses, the deaths and all of that, that people suffered in Lac-Mégantic....They had every reason to be very upset with what had occurred.”

Burkhardt recognized the anger directed toward him by the people of Lac-Mégantic. “But what they didn't know was that I was equally upset and I was also a victim of this whole thing.” As the largest shareholder in the now-insolvent MMA, he lost his entire investment. “That's a big pile of money, I might say. It's reduced me from being a fairly well-off guy to one that's just getting by. But OK, that's what happens.” {Canadian Press 27.Dec.13 in CBC 27.Dec.13}

**CONNECTICUT**

**CSO: LINE SALE TO CONNDOT?**

8 January, DC. *CSO WAS GRANTED AN EXTENSION ON THE CONSUMMATION OF ITS ABANDONMENT* of the line to the Hartford airport. The letter to the STB on 20 December stated:

Connecticut Southern Railroad, Inc. (“CSOR”) respectfully requests that the consummation filing deadline in this proceeding be extended until December 31, 2014. CSOR filed a verified notice of exemption under 49 C.F.R. Part 1152 Subpart F- Exempt Abandonments to abandon 2.4 miles of rail line extending between milepost 2.0 and milepost 4.4 on its Suffield Subdivision in Hartford County, CT (the “Line”).


Because of cost constraints, CDOT's interest in the Line has been deferred. However, CSOR is still attempting to find a buyer for the Line and is interested in continuing discussions with CDOT, once funding becomes available or another offer for the Line is received. (1) Because of its continued efforts, CSOR asks that the Board for an extension of consummation authority until December 31, 2014.

(1) CDOT has a First Right of Refusal if another offer for the Line is received after the abandonment is consummated.

On 8 January the Board extended the date to 31 December 2014, merely by stamping the letter requesting the extension 'granted' with the date. {STB website, filings page, Docket No. AB-979 (Sub-No. 2X)}

**PW: FIRST LOGS TO MAINE**

6 January, Essex. *LIMB-IT-LESS SENT ITS FIRST CAR OUT OF PLAINFIELD* recently; “it's in Gardner for Pan Am to take to Maine,” explained Andy Clark, the principal [see 13#08B]. Pan Am will move it to Biddeford for a sawmill there which makes crane mats.

**The count at Yantic**

“We're moving a lot of wood out of Yantic/Fitchville on NECR, 16 loads so far,” said Clark. It goes into Quebec on CN, or to Hampton NY on VRS. {ANR&P discussion}
CONNECTICUT PORT AUTHORITY*

18 December, Newington. **THE STATE IS HIRING SOMEONE TO IMPLEMENT UNPASSED PORT AUTHORITY LEGISLATION.** At the Connecticut Maritime Commission annual meeting here, Commissioner Catherine Smith of the Department of Economic and Community Development stated legislation very similar to 2013’s will be introduced during the 2014 session.

She added that she hopes to hire a person soon to begin the coordination/implementation work that will be needed once the legislation passes. She and Commissioners Redeker (DOT) and Esty (Energy and Environmental Protection) are working with State Senator Maynard and other state legislators to move the process along. The state port authority would be administratively attached to DECD. {CTMC draft minutes}

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MAINE

MERR: CONTINUE?*

27 December, Augusta. **MDOT COULD WELL GRANT ANOTHER YEAR'S EXTENSION TO MERR,** said Nate Moulton, director of rail programs; the state, which granted a year's extension in 2013 [see 13#11A] is still discussing the matter.

State passenger service

Moulton reported the forming of a committee with representatives from current or future passenger service, as well as state government officials, to determine priorities for passenger rail growth in Maine. [These include Auburn-Portland (see 13#11A and graphic below), North Conway-Portland (see 12#02B), and MERR's Boston service (13#11A)].

MERR still enthusiastic

Rudy Garbely, an MERR marketing associate, said, “We are definitely interested in operating the line as long as possible. We see a lot of potential.”

Passenger service during the past 10 years has been limited largely to summer excursion trips. The amount of traffic peaked at nearly 19,000 people in 2008, according to prior MERR statements.

Freight traffic

The largest MERR revenue comes from Dragon Products. Ray DeGrass, the plant manager for Dragon, said MERR moves Dragon cement via rail to a terminal in Rockland's south end. A barge carries the cement to Boston.

During the construction boom of 2005-2006, Dragon needed two barges at its Rockland waterfront facility to handle the daily shipments to Boston. That traffic had fallen by half with the recession [see 11#01B]; 2012 saw some increase, and more in 2013, Moulton said in June.

That month, Degrass said the barge was making about 40 moves a year, totalling 160,000 tons [so each move 4000 tons or about 40 railcars – editor]. Moving that over the road requires 5000 truck trips annually.

Chemrock now Dica Perl Minerals


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PAN AM: PAPER MILL COMBO

6 January. **VERSO WILL ACQUIRE NEWSPAGE FOR $1.4 BILLION,** the two companies announced. Verso Paper Corporation has a mill in Jay and a mill in Bucksport with total employment in Maine of 1500; NewPage Holdings, which owns Rumford Paper, has 800. The boards of both companies have approved the deal, which is expected to close in the second half of 2014.
How paid
NewPage equity holders will get $250 million in special dividends and $650 million of new Verso first-lien notes, according to the news release, as well as at least 20% of the outstanding shares of Verso common stock.

[NewPage previously rejected a $1.4 billion proposed merger with Verso in July 2012 as NewPage worked with creditors to finalize its Chapter 11 restructuring process after determining it “posed significant downside risks to its stakeholders, employees and business.” {Nathaniel Shuda in Wisconsin Rapids Tribune 6.Jan.14}]

Verso will finance the transaction through $750 million in loans, which will be used to pay the cash portion of the deal and to refinance an existing $500 million NewPage loan. {Rachel Abrahms in New York Times 6.Jan.14}

Restructuring coming?
All three Maine mills produce coated paper used in magazines and catalogs. That sector of the paper industry has been challenged by the reduction in print advertising and adoption of digital e-readers. NewPage in November said it was “indefinitely” idling one of its paper machines in Rumford because of falling demand and competition from mills in Europe [see 13#11B].

John Williams, president of the Maine Pulp and Paper Association, declined to predict how the deal would affect the three mills the new company will operate in Maine. He did say, “I think by combining the two companies Verso should be stronger, so that’s good since they’re a big player in Maine’s paper industry. But they’ll own a lot of mills across the country [eleven], so I just don’t know what it means long term. I hope our mills will be fine, but longer term the new company will be looking at what they want to keep and what they might want to do something different with.”

Historically, though, Maine’s paper mills compete well against mills in other parts of the country, Williams said. “I can’t think of a situation where there were mergers and consolidations and we ended up losing Maine machines or mills because of that. Given that, it may end up being good news for our industry.” {Whit Richardson in Bangor Daily News 6.Jan.14}

Rail impact
Pan Am serves Verso's Jay mill and Rumford paper on the same rail line with the same train. Unlike other Maine paper companies, Verso was publicly outspoken about poor rail service [see 09#03B, 11#03B], which since March 2011 has improved significantly [see 12#05A].

Pan Am also serves Verso's Bucksport mill. {editor}

SLR: BAKED BEANS NOT HAPPY*
17 December, DC. “[SLR’S PETITION RESTS ON INFORMATION THAT IS INCOMPLETE, MISLEADING, AND/OR FALSE,” according to the owner of Burnham and Morrill of East Deering, the only rail-served facility on the SLR line south of Auburn. SLR filed to discontinue service and the STB opened a hearing on 27 November [see 13#11B]; B&M owner B&G Foods North America filed 'Comments and Protest' this day.

'As [SLR] noted in its petition, the plant does receive some beans by truck, but the truck-delivered beans are generally not the small pea beans used to make the traditional oven-baked beans. Instead, the trucked beans usually consist of other varieties such as pinto and red kidney that are used for other products. The plant does receive some pea beans by truck in emergency situations when rail cars are not available or there are disruptions in rail service due to the weather. The trucked beans comprise only about 7% of the total bean deliveries to the plant in 2012 and 2013 combined.'

A cherry-picked traffic level
'SLA apparently focused only on the { } railcars that B&M shipped from the Midwest in the 5 months from June to October of 2013, from which it inferred a rate of { } railcars a month. However, B&M shipped { }
railcars from Manitoba during this period, making for \{\} railcars in \{\} months, an average of \{\} railcars per year. Adding the \{\} railcars that B&M shipped in May of 2013 results in \{\} railcars in \{\} months, which is equivalent \{\} railcars per year. In addition, B&M’s shipments vary throughout the year. For example, in January and February of 2013, B&M received a total of \{\} railcars, which would average to \{\} a month or \{\} for the year. SLA appears to have gone out of its way to cherry-pick a low sample of shipments to make its forecast.

[This confidentiality is ludicrous. How can a traffic level of either 12 cars a year – the figure reported in 13#11B – or say triple that at 36 cars a year make any difference to a competitor? Editor]

No notice or discussion

'Moreover, SLA did not give B&G any advance notice or discussion of its discontinuance petition. Instead, B&G learned about the filing from a trade press inquiry and received a copy of the petition from SLA only later that day.'

SLR should have discussed a higher rate

'While SLA asserts that its revenues are sufficient to cover only its crew costs and none of its maintenance costs for the line, SLA has provided no information about its actual maintenance costs. Nor has SLA made any mention of the Short Line Tax Credit or the reported $6.8 million it received in compensation for transferring its right-of-way to the State of Maine [see 10#10B]. SLA also makes no reference to any efforts to address any
revenue shortage by other means. For example, there is no indication that SLA has sought to revise its revenue-sharing arrangements with its connecting carriers, whatever those arrangements might be. Nor has SLA approached B&M to seek supplemental compensation to help cover the alleged (but unsupported) maintenance shortfall.' {STB website, filings page, Docket No. AB-1117X}

**SLR: REPLIES TO BAKED BEANS**

27 December, DC. *ANY EFFORT TO RAISE RATES TO BREAKEVEN 'WOULD HAVE BEEN FUTILE',* SLR wrote in its Reply to B&M's comments [see above].

'Despite B&G's protestations, there is no obligation for SLR to seek additional revenues from increasing its rates (which B&G admittedly does not pay), or from requesting B&G to pay towards the service. As discussed in the Petition and in Section 2 below, since SLR's costs so greatly exceed its revenues, any such efforts to become even break-even would have been futile. Moreover, SLR has had discussions with B&G over the years about ways that revenues could be increased (through outbound moves of product, or additional inbound moves), or costs be decreased (through transload or through B&G purchasing equipment to spot its own cars). Jones V.S. 15. B&G was not interested in pursuing any of these options. Indeed, if B&G truly is willing to pay sufficient revenues to SLR for continued service, then B&G will have the opportunity to make an offer of financial assistance under 49 C.F.R. § 1152.27(b)(2) to subsidize continued rail service.'

**Only one carload per trip**

"Cars for B&G arrive either singly, or sometimes in pairs. When the cars arrive in pairs, SLR delivers them both to B&G in a single trip; however, because B&G only has a single car spot, SLR must make a second trip to pull the empty and to place the second.' {Blake Jones, SLR general manager, Verified Statement at ii 8, STB website, filings page, Docket No. AB-1117X}

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**MASSACHUSETTS**

**CSXT: NO LEOMINISTER ABANDONMENT YET**

8 January, DC. *THE BOARD GRANTED ANOTHER EXTENSION TO THE GEORGETOWN AND HIGH LINE RAILROAD COMPANY TO NEGOTIATE TRAIN USE* with CSXT, which was granted authority to abandon 4.2 miles of rail line from Fitchburg to Leominster [see 09#12A]. The parties now have until 27 December 2014. {STB website, decisions page, AB 55 Sub.No. 691X}

**MC: A FUTURE FOR THE ENERGY TRAIN**

27 December, Cape Cod. *RAIL OR COMPRESSED NATURAL GAS* are the choices facing the towns on Cape Cod as two recycling companies compete to remove trash. Both organizations will charge two separate fees: for tipping once the trash arrives in Rochester, and for transportation to move the trash to Rochester.

**Zero Waste Solutions**

Dan Balboni is sales and marketing manager for ABC Disposal Service Inc., which has teamed up with New Bedford Waste Services LLC and WERC-2 Inc. of Pocasset on the Zero Waste Solutions venture. Zero will construct a new facility in Rochester, with a photovoltaic array on its roof, a process to separate recycling from solid waste, and a technology to manufacture fuel briquettes out of much of the remaining trash. It has received its necessary permits and is expected to be in operation by the end of the summer 2014, Balboni said.

*Tipping fee.* Zero has announced a new tipping fee of $55/ton, better than the $60/ton Mashpee and Wellfleet have already agreed to. Zero will offer them the new, lower price.

That fee will apply for the first two years of the contract then rise 2.5% per year.
Transportation fee. Zero has offered Yarmouth a transportation rate of $13 per ton as well as a deal to take over operations of the transfer station for which Zero Waste would pay the town $3.50 per ton of trash transferred through the facility, Balboni said. [However, this day Covanta announced a deal with Yarmouth – see below.]

Under the transportation contracts, trash from the Cape would be hauled to Rochester by compressed natural gas trucks during off-peak hours to avoid creating more congestion, according to an 18 December letter to Yarmouth officials.

Covanta SEMASS
Covanta owns and operates the SEMASS waste-to-energy plant at 141 Cranberry Road in Rochester. In 1985, all Cape towns except Bourne signed a 30-year agreement (though the Wellfleet agreement expires in 2016) with SEMASS at a $14.99/ton tip fee; the waste is railed from two collection points (Yarmouth and Falmouth), at a fee which increased to roughly $37.50/ton as of 2007. {Cape Cod Commission Long-term Waste Study 2007 page 11}

Towns newly signed up. Sandwich and Brewster already have signed deals with Covanta. Brewster, which originally signed a deal for $70 per ton, is expected to receive the $60 per ton rate, and Sandwich, which signed for $65 per ton, will be "made whole" based on the new rate, Thomas Cipolla, business manager for SEMASS, said.

Tipping fee. Covanta has dropped its tip price from $65 to $60 per ton in response to the competition, but, said Cipolla, “We're not going to go below that.” It will increase 2.5% after the first year. He will compete on transportation charges, bundling, and proven track record. “Sometimes there's a price to pay for reliability and dependability.”

Transport fee. Cipolla said he couldn't say what the cost for transportation would be for each town, but currently, for example, the town of Dennis pays $15 per ton to rail its trash off-Cape. "We would anticipate offering it at a considerable discount below that rate," Cipolla said.

Yarmouth deal

Facility operation. Covanta had offered to operate the transfer station in Yarmouth and to pay Yarmouth $3 per ton of trash that moves through the transfer station. Zero offered Yarmouth a transportation rate of $13 per ton and $3.50 per ton through the transfer station which Zero would operate, Balboni said.

Old, onerous deal. Yarmouth’s present contract with MC cost cost $150,000 in penalties in 2012 because a minimum amount of trash was not met. {Patrick Cassidy in capecodonline.com 27.Dec.13}

New Yarmouth-MC-Covanta deal. According to a press release this day, Covanta SEMASS, L.P. will provide sustainable disposal of the Town's approximately 10,000 tons of municipal solid waste, in addition to handling recycling, e-waste recycling, organics and composting, secured destruction of prescription medication, and bulky waste disposal.

The new agreement begins 1 February 2014 and runs for 10 years with mutual extension options after the initial term. Covanta and MC also signed a new 10-year agreement, under which MC will continue to run its 'Energy Train' from Yarmouth to Rochester.

Covanta will also assume control of the Yarmouth Transfer Station which provides municipal and commercial customers on the Cape with continued access to rail transport of solid waste from the Cape directly to Rochester. Covanta will pay Yarmouth $3/ton for waste from other towns which transits the Station.

Yarmouth will pay $69.75/ton [which apparently includes the transport fee].{Christine Legere in capecodonline 28.Dec.13; Covanta press release from website}

**PVRR: NEW TRAFFIC TOTAL**
6 January, Westfield. *WE HAVE PASSED ANOTHER MILESTONE IN 2013 HANDLING OVER 6200 CARS,* wrote PVRR general manager Mike Rennicke. 'Long way from 2800 nine years ago.' {e-mail to ANR&P 6.Jan.14}

**VERMONT**

**VRS: 50!**
6 January, Burlington. DAVID WULFSON MARKED THE 50TH ANNIVERSARY OF THE RAIL COMPANY HIS FATHER FOUNDED with the crash of a champagne bottle over a freshly-painted red locomotive. His father, Jay Wulfson, signed a lease agreement with the state of Vermont to begin the first privately-operated rail system operating on a public right of way in the United States on 6 January 1964. Today it operates more than 350 miles of track.

“Vermont Rail System is a family-owned company,” David Wulfson said during a reception at Burlington’s Union Station. Later, he and his three siblings unveiled their mother’s name, “Joan Wulfson,” on the number 311 engine.

It surprised Joan Wulfson, who reminisced this day about the early days of the company. Jay Wulfson had always loved railroads, she said, and had gotten a steam engineer’s license when he was 16 years old. When the opportunity arose for him to begin business in Vermont, the family drove through the night to meet him there. David Wulfson, now the president of the company, was 5 years old at the time.

“We left East Brunswick, New Jersey with four kids and a collie dog in a station wagon,” Joan Wulfson said. {April Burbank in Burlington Free Press 7.Jan.13}

**MARITIMES**

**CN: ANOTHER CRUDE DERAILMENT**
7 January, Plaster Rock, New Brunswick. A CN EASTBOUND TRAIN DERAILED AND CAUGHT FIRE HERE, ABOUT 40 MILES EAST OF CARIBOU, MAINE. Plaster Rock Fire Chief Tim Corbin said early on 8 January, "We could see the fire from quite a distance, so we haven't went right into it yet because we had to determine what was in those cars first. We have determined that the cars that are affected in the derailment are crude oil and propane cars. We're waiting for daylight right now to get in and get a better look at it as how we're going to attack it."

On 8 January CN President Claude Mongeau told a news conference in Plaster Rock first, that he apologized to the residents who had to evacuate, and second that 17 cars derailed of a 148-car train: one near the head end, and the other 16 at the rear. Of the 16, five carried crude oil (not Bakken but from western Canada) and four propane.

Transportation Safety Board inspectors attributed the accident to a broken axle in the car at the head end, which put the brakes into emergency, which then caused the derailment and fire at the rear end.

The derailment happened in Wapske, in the area of the Longley Road where lumber cars are loaded. {CBC News}
HALIFAX: NEW FEES, EVEN FOR US CARGO

23 December. **HALIFAX PORT AUTHORITY WILL INCREASE A NUMBER OF FEES, THOUGH KEEPING US-CARGO FEES VERY LOW.** Effective 1 March 2014, harbour dues, berthing, and standard wharfage fees will increase by 1.2% which is equal to the Consumer Price Index.

HPA is also removing the 40,000 gross registered tonnage cap on berthing fees. {HPA notice 23.Dec.13} The new fee structure is expected to generate about $13.5 million in 2014. {Andrew Mcdonald in allNovaScotia.com 24.Dec.13}

Size and destination differentiation

The rate per container moved to other Canadian ports will increase from $31 to $35. Wharfage on U.S. cargo, which moves mainly for Chicago and the Midwest, will go from $2.00 to $3.50 per 20-foot container and to $6.50 per 40-foot container. ‘Previously, there was no size differentiation. This new rate is more in line with our standard wharfage charges,’ wrote HPA spokesperson Lane Farguson.

The wharfage is the only fee imposed on containers.

Why the increases?

‘We’ve already made changes to accommodate big vessels at the Port of Halifax currently but we need to continue to evolve as the industry does. These fees will help ensure we have the necessary capital to invest in the infrastructure,’ wrote Farguson. {e-mail to ANR&P correspondent Tom Peters 23.Dec. 13}

Comparison to New York

One source wrote on 2 January about the low rate for US boxes: 'It was set up a few years back, to encourage
Midwest US cargo to pass through Halifax rather than New York.  {e-mail to Peters}

Asked about the Port Authority of New York New Jersey comparable charge, Steve Coleman, spokesperson, wrote: 'The Port Authority’s tenants (Maher, APM, Global, etc.) are not subject to wharfage fees. The current Port Authority tariff does include a general wharfage fee of $1.10 per metric ton that would apply to containers which come across our public berths, but this is an extremely small percentage of the container volume that comes through the port.

'What’s likely more applicable here is the Cargo Facility Charge levied against all containers. That CFC is set at $4.95 per TEU, or $4.95 for a 20-foot container and $9.90 for all larger containers.'  {e-mail to Peters 6.Jan.13}

CANSO: 2013 TOTALS

20 December. **THE CANSO CANAL RECORDED 1,501 VESSELS AND 666,386 TONNES OF CARGO** in 2013. The canal, which passes through the Canso Causeway and links mainland Nova Scotia and Cape Breton Island, closed 24 December for the season due to ice build up in the Northumberland Strait. It will reopen in April.

Both statistics increased over 2012 when the canal saw slightly over 1,400 vessels using the canal and 373,000 tonnes on cargo.

What cargo?
The bulk of the cargo was quarried materials from Porcupine Mountain in Auld’s Cove and fish products. {Fisheries & Oceans Canada release 20.Dec.13}

Also included in the overall tonnage were 52,488 tonnes of salt and 58,803 tonnes of gypsum according to department spokesperson Steve Bornais. {e-mail to ANR&P correspondent Tom Peters 23.Dec.13}

In 2001, John McLeod Langley, operations manager of the Canso Superport Authority, reported that the Canadian Salt Company, a subsidiary of Morton International, used the Mulgrave Wharf pier to transload salt. Since its ships cannot load to the maximum draft at its two loading ports, Pugwash and Isles de la Madeleine, the ships drop the salt at Mulgrave, return to get more, and then sail south.

Also, said Langley, the Martin Marietta quarry in Auld’s Cove accounts for many of the barge movements because it ships product to Prince Edward Island and Isles de la Madeleine (and occasionally Bermuda) by barge. But most of the outbound product moves by bulk carrier to the United States. [See 01#12B.]

RAIL FREIGHT FACILITIES

Described in this issue.

Burnham and Morrill Baked Beans (SLR, Maine) Protests about loss of rail.
Covanta (MC, Massachusetts) Competing for Cape trash.
Global Partners (CSXT, New York) New facility in New Windsor.
Global Partners (CP, New York) Seeking heating for Albany terminal.
Logi-Bel (MMA, Quebec) First train since disaster.
NewPage (Pan Am, Maine) Selling to Verso.
Tafisa (MMA, Quebec) First train since disaster.
Verso (Pan Am, Maine) Buying NewPage.
PEOPLE, EVENTS

PEOPLE: TONY GIOBBIE

CSXT Short Line Development Manager Tony Giobbie will retire at year's end. A 39-year railroading veteran, Giobbie assumed his current position covering northeastern short lines in 2007. Dave Scott will succeed Giobbie; Scott most recently was a member of CSX's chemicals-east sales team.

EDITORIAL

TIME TO HALT THE BAKKEN FLEET

If you were Claude Mongeau, flying to the press conference in Plaster Rock [see Maritimes], you would be thankful that no Bakken crude was contained in the nine cars which derailed. Then you might wonder why you are even hauling Bakken? One Bakken derailment and fire in, say, Montreal, and CN goes belly-up.

After all, the world now knows that Bakken is very flammable, that it is piped into tank cars without appropriate labelling, and that it is carried in the current tank car fleet of mostly DOT-111 which provide inadequate protection. You're operating a Russian roulette game, praying that another Lac-Megantic does not happen on your line for the next six years, until the pipeline begins to carry the stuff.

Why don't you say, “Sorry. We are not moving Bakken crude?”

Canadian authorities slow

Perhaps the FRA and the Canadian agencies can act quickly to improve standards for Bakken transport. However, in Canada independent observers note that the Canadian Transportation Safety Board has still, six months after analyzing the Lac-Megantic crude, refused to reveal the findings.

Mark Winfield, Associate Professor of Environmental Studies at York University in Toronto, and a respected authority in public-safety regulation, does not trust government self-investigation. Transport Canada, Winfield wrote in The Gazette of Montreal, is in no position to expose its own responsibilities for the disaster:

'So far, the federal government has been carefully managing its responses to each incremental revelation of Transport Canada’s failings. This may be politically expedient in terms of underplaying the colossal scale of

Casselton, North Dakota. The mushroom cloud rises into the sky as Bakken crude oil again explodes. Imagine if this happened a few miles east of Fargo, beginning with an Empire Builder derailment: your editor on this route in October might have been toast. [youtube video]
the regulatory failure in the Lac-Mégantic case. It has also had the effect of limiting the scope of the government’s responses and the extent to which they interfere with railway operations, particularly the movement of oil by rail.'

The problem may lie within Canada’s petro-state politics, dominated by a governing party committed to maximum extraction and export of the country’s oil resources. {David Thomas in *Railway Age* bulletin 3 Jan.13}

**US authority speaks**

The USDOT's Pipeline and Hazardous Materials Safety Administration announced its preliminary conclusion on 2 January about the volatility of Bakken crude oil:

'Based upon preliminary inspections conducted after recent rail derailments in North Dakota, Alabama and Lac-Mégantic, Quebec involving Bakken crude oil, PHMSA is reinforcing the requirement to properly test, characterize, classify, and where appropriate sufficiently degasify hazardous materials prior to and during transportation....As stated in the November Safety Advisory, it is imperative that offerors properly classify and describe hazardous materials being offered for transportation. 49 CFR 173.22. As part of this process, offerors must ensure that all potential hazards of the materials are properly characterized.' {PHMSA press release}

The 'implications for cost and speed of crude out of the Bakken as a result of today’s safety alert are likely to depend on the rule-making' that follows, Kevin Book, managing director for research at ClearView Energy Partners LLC in Washington, wrote in an e-mail. 'We expect that the North Dakota accident will bring a proposal sooner rather than later.' {Tom Bell and wire services in Portland *Press Herald* 4 Jan.14}

**A change is needed**

Even before last night's Plaster Rock derailment and fire, I was asking how long before another derailment, explosion, and fire kills dozens of people? We know that Bakken crude is much more volatile than regular crude [see 13#12A Quebec]. Sure, derailments will occur, but they need not generate mushroom clouds and infernos.

Railroads should seek an emergency ruling from the FRA, and probably the STB, relieving them of their common carrier obligation to accept the Bakken crude until a safe railcar can be devised. They should not wait until another, even worse Lac-Mégantic occurs, regardless of the small fortune they are making transporting the crude.

**Footnote:** Headlines on a sidebar to the Plaster Rock story:

- TSB says CN Rail failed to report hundreds of derailments, collisions
- Rail safety: Train operators breaking more rules in recent years
- Runaway trains almost triple reported rate, CBC finds
- Find runaway trains near your community
- 44 train derailments on main tracks not reported by CN
- Whistleblower lawsuit says CN is cooking its books {CBC}
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Stories not updated for the issue are noted with an asterisk. I urge readers to look at the issue’s updated stories (those without an asterisk).

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

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