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

Blue header & table of contents: new article

REGIONAL

CMQ-MMA: CMQ acquires Canadian assets. Giles describes plans, including not running into St.Luc.*

NECR v PAS: NECR forces Pan Am to run at 25 miles per hour, and to provide waybills for all cars. Further discussion of public funding. ++

Petroleum movement - BNSF not keeping its crude movements secret.*
- No crude by rail through Maine in May.

NEW YORK

[No report.]

QUÉBEC

CMQ: Crude coming 2016? Map of bypass routes.*

MMA-CMQ: CTA issued the certificate of necessity, TC has okayed the SMS. ++

CONNECTICUT

[No report.]

MAINE

Pan Am: Crude oil trains not a 'competing harm.'*

Pan Am: $250,000 for firing whistleblower.*

NB&M: Railway delivering high number of logs to Baileyville chipper, restarted after fire.*

Pan Am-Portland: Approval of IMT rail terminal postponed to next month, awaiting final Phin deal.*

South Portland: Ban loading crude into tankers?*

Robbinston: May get an LNG export facility.*

 MASSACHUSETTS

Boston: Containers up 13% in 2Q14.*

NEW HAMPSHIRE

NEG'S: More on the DODX move to Michigan.*

RHODE ISLAND

[No report.]

VERMONT

[No report.]

MARITIMES

Yarmouth-Portland: Trucks need staging space.

CBNS: Officials and other stakeholders create working group to save Cape Breton section.*

Rail Shippers/Receivers

A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS

[No report.]

EDITORIAL

The province must pull the plug on Cape Breton

The NECR-Pan Am dustup presents issues of first impression, to me anyway. How much control may the host railroad exercise over the 'foreign' railroad? If public funds are invested in track, may the host railroad recoup that investment for itself, or must it repay the government the trackage fees it charges?

I look forward to the next filing.

- Chop Hardenbergh Next formal issue 22 July.

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CMQ: STARTUP*
30 June, Portland. **CMQ CLOSED ON THE PURCHASE OF THE CANADIAN ASSETS** at the offices of Bernstein, Shur where trustee Bob Keach works.

CMQ President John Giles discussed his plans during a phone discussion on 1 July:

1. CANADIAN AUTHORITIES; STARTUP
Giles appreciated the thoroughness of the Canadian Transportation Agency and Transport Canada in vetting the proposed operation. CTA approved an insurance level of $75 million.

[The MMA certificate of fitness from CTA expired on 30 June – see 14#05B. The certificate for CMQ, minus the running rights to Montreal (see #6), took effect upon the sale – see Quebec.]

2. CROSS-BORDER TRAFFIC
Beginning mid-June, CMQ has run six trains eastbound, and six trains westbound with general merchandise, interchanging with MMA which was operating the lines in Canada.

CMQ “moved no dangerous goods. No one tendered any for movement.” One train [see photo] moved some lumber toward Montreal. A sampling of lumber into Vermont:

23 June. One load Sartigan Lumber (in past transloaded at Logi-Bel in Megantic)


27 June. One load Moose River and one unidentified. (Also four loads of logs on MMA bulkhead flats. In the past, these have loaded at Brownville Junction, Maine.) {e-mail to ANR&P 1.July.14}

Searsport
Giles said of how to grow traffic here, especially cross-border: “We are eager to dig into Searsport and understand it. There's lots of energy around the port. They would like to work with someone who has a can-do attitude, who will say 'Let's consider this, and try that.’”

Overhead for Saint John
Giles does not envision autoracks returning in the near-term, as the traffic to Saint John was “won by a competing route.”

He is “working with the Irvings and Pan Am” to get cross-border traffic. “That's essential.”

Vermont
Giles planned to meet with the Vermont rail officials on 2 July.

3. CANADIAN MANAGEMENT, TRACK WORK
The Maine-based management team is “all going over there next week, Tuesday to Friday, to get together in the Farnham area, introduce ourselves with our new Canadian colleagues.”

CMQ has interviewed a number of people for the leadership position in Quebec. “We would like someone who has some gravitas over there. With not just one skill set.”

Depending on the leader's skills, CMQ can hire others with complementary skills.
Track work
Giles painted the Canadian maintenance of way crews as “in a race against winter. A CWR rail train arrives at the end of July. We have 24,000 ties on order for Canada. I want to [remove] the slow orders and the excepted track on the Newport sub, and get work done across the Sherbrooke sub.” The work would “permit us to handle propane and other stuff this winter.”

The Newport sub is “a very important gateway.” He will ask Transport Canada to “review progress as the work goes along.”

4. OPERATING THROUGH LAC MEGANTIC
On 12 May Giles met with Lac Megantic municipal officials, and also participated in a public forum, with 300 people in the audience. He used a simultaneous translator in both directions, with a “very very good” results – at the cost of $5000. “It allowed me to connect.”

The Lac Megantic agreement
Under the agreement he signed in May [see 14#05A], CMQ will operate through the town at no more than 10 miles per hour, use two-man crews (“which I intended to do anyway”), and not park trains outside the yard, in Nantes to the west and Vachon [see 13#08B, second train parked there] to the east, unless on a track with derails.

Briefing
Giles expects to brief the officials again on training and the “new CMQ way.” He will describe his plans to improve track and infrastructure, improve crossing signals, and remove temporary slow orders.

He will return in another month for another briefing, describing the measures he has taken to improve safety. “They have asked for briefings,” and Giles intends to provide them. “We will be civil, courteous, and collaborative.”
CMQ will not operate through Lac Megantic this weekend, the one-year anniversary of the disaster.

[See also Quebec.]

5. FATE OF SOME BRANCHES
In May [see 14#05A] Giles said his commercial officials would look at the small Quebec branches for their viability.

Stanbridge subdivision
The line suffered a derailment in summer 2013 [Transport Canada effectively closed this sub – see 13#09A], and the train sat on the line since then [see 13#10A]. Workers “cleaned up late last week,” rebuilt the track, and sent the 15 cars plus locomotive still there to Farnham. CMQ will look at the viability over the next 30 days.

Saint-Guillaume subdivision
MMA wanted to sell the line between Farnham and Sainte-Rosalie, and retain the isolated service to Bunge in Sainte-Rosalie [see 12#03B].

Giles said CMQ will “spend the money to re-open the interchange point” with CN. He sees the subdivision as viable.

6. RUNNING INTO MONTREAL

History part 1: B&A
When Iron Road Railways formed the B&A System by combining CP trackage with Bangor and Aroostook Railroad trackage, in several steps over two years, it acquired trackage rights over CP track from St.Jean-sur-Richelieu into St.Luc Yard in Montreal.

Formation of Quebec Southern Railway. In September 1996, B&A (which already owned from Farnham east) purchased the CP lines east of St.Jean-sur-Richelieu (St.Jean to Farnham and the branches out of Farnham) and began operating them as QSR, a provincial railway, and Northern Vermont Railway. [See 96#19, 96#20.] To avoid congestion in St.Luc, B&A was pre-blocking trains in Farnham.

As part of the deal, B&A obtained operating rights into CP’s St.Luc Yard in Montreal.

Intermodal service. In September 1997, B&A added to the overhead intermodal it was carrying between Saint John and Montreal, by opening its own intermodal ramp at Northern Maine Junction. It offered 3-day service to Chicago via its two regular trains [the second westbound started in 1996 – see 96#12]; at that time the system was moving 100,000 carloads a year. [See 97#18.

In 1998, B&A added a dedicated intermodal train into Sortin Yard [see 98#20]. In 1999, B&A closed the Bangor ramp, but reported the Sortin Yard (the space B&A was using in Montreal adjacent to St.Luc) was growing [see 99#11].

Fee paid. Bob Schmidt, president of Iron Road Railways, wrote that during the period of B&A operation into St.Luc, B&A was compensated for the move from St.Jean to St.Luc, as the paper interchange remained at St.Jean. {e-mail to ANR&P 3.July.14}

History part 2: MMA
In 2001, as the B&A went bankrupt, various companies made offers for parts of the system. As in 2014, prospective buyers recognized that the section from Megantic to Brownville Junction had very little on-line traffic and might be abandoned.

1 Interestingly, in 1999 the Pan Am intermodal yard in Waterville was doing 40-50 loads a day. [See 99#11.]
CP wanted to see the line preserved as a through routing and to serve as a competitive option for shippers in the Maritimes. Should B&A not be able to run, CP was prepared to run east of Montréal as far as Farnham to meet NBSR trains, and NBSR had an agreement with the B&A giving it trackage rights to Farnham in the event B&A could not operate the Brownville Junction–Montréal segment. [See 01#09A.]

In the event, MMA acquired all the trackage, and the rights into Montreal:

**MMA acquisition of running rights.** In 2003, when MMA took over from the B&A, its Certificate of Fitness covered this trackage:

b) the Montreal, Maine & Atlantic Canada Company to operate a railway:

- between Saint-Jean, Quebec and Lennoxville, Quebec;
- between Ste-Rosalie, Quebec and Farnham, Quebec; between Farnham, Quebec and Stanbridge, Quebec;
- between Brookport at mileage 0.0 of the Newport Subdivision and the Canada/United States border at mileage 26.25 of the Newport Subdivision;
- between Lennoxville, Quebec and the Canada/United States border near Boundary, Quebec, and

- by virtue of an interchange agreement with the Canadian Pacific Railway Company, on the Canadian Pacific Railway Company’s Adirondack Subdivision between Saint-Jean, Quebec and Saint-Luc Junction, Quebec. [See 03#01A.]

**Fee paid.** Ed Burkhardt, head of Rail World, majority owner of MMA, wrote on 2 July: 'The MMA/CP physical interchange was at St Luc, and prices quoted to customers assumed as such. Additionally, CP paid an incentive for 10 years, 2003–2013, to MMA based on the number of cars routed their way to/from MMA...I’m hoping CMQ and CP can make a fair and reasonable interchange agreement and do it soon so their joint line business won’t be adversely affected.’ {e-mail to ANR&P}

**CMQ eschewed the rights**

Giles reported that CMQ did not obtain, nor did it seek, the rights to reach CP's yard in St.Luc. He characterized the rights as MMA doing CP's work (creating seven blocks in Farnham and operating the trains between Farnham and St.Luc) while earning nothing for doing it. “That was a month-to-month deal MMA had with CP; the interchange point [on paper] was still St.Jean.”

That said, Giles is “open to different financial arrangements to restart the St.Luc” run and is talking to CP. For now, though, “CP will come out to pull and deliver at St. Jean.” {ANR&P discussion 1.July.14} [See CTA comment in Quebec.]

**NECR v PAS: INTERFERENCE?**

27 June, DC. **PAN AM SOUTHERN TOLD THE STB THAT NECR WAS IN TWO WAYS INTERFERING IN ITS CONNRIVER SERVICE**, contrary to NECR’s obligation under the ICC-imposed trackage-rights order (TO) of 1990 [see relevant text in 14#06A], and requested immediate action, before the STB embarked on the examination of the suitability of trackage fees [a dispute discussed in 14#06A].

1. **DISCRIMINATORY SPEED RESTRICTION**

'Effective May 21, 2014 NECR imposed a speed restriction on “[a]ll foreign freight trains operating on the [NECR] . . .” that limited operating speeds to 25 miles per hour. [See excerpt of speedo.]

In other words, NECR did not apply the speed restriction to its own trains — but it applied that restriction to trains operated by PAS. This restriction was imposed without any explanation as to why a rail line recently rehabilitated with public funds [see below] could not support speeds of up to 40 miles per hour by all freight railroads.

Prior to the announced bulletin, the speed limit on the Rail Lines was 40 m.p.h. PAS can think of no
other reason for the imposition of this speed restriction other than to disadvantage service provided on the line by foreign railroads.

Adverse effect
'And in fact, as a result, the unilateral imposition of this speed restriction has adversely affected the ability of PAS to serve its customers on the Former B&M Line and to provide competitive options to others, as it has added at least one hour to transport time over the length of the Rail Lines.

'This is wholly inconsistent with the idea embodied in the TRO that PAS and NECR trains be operated “without prejudice or partiality” and constitutes a violation of the Board’s order.

2. REQUIREMENT TO PRODUCE WAYBILL INFORMATION ++

Origin of requirement: ANR&P article
On 17 April, in e-bulletin(s) and again in formal issue 14#04A, this newsletter carried the following account:

17 April, Burlington. THE RESTART OF REGULAR PAN AM SERVICE TO WHITE RIVER JUNCTION provides the possibility that VRS could use Pan Am to move its White River Junction-Bellows Falls traffic, said VRS chief David Wulfson. NECR currently carries the traffic. [Rail observers report Pan Am is training crews on the run, but do not provide a start date. {NERAILS e-list}]

The VRS traffic north of White River Junction
Wulfson pointed out that before MMA “went into a tailspin” VRS moved substantial traffic south of the Junction. Traffic moved by WACR ConnRiver could go three ways:

- Pan Am south to East Deerfield and then either east or west. VRS has not used this route in the past.

- NECR south to CSXT in Palmer. Much MMA traffic moved in this lane.

- VRS (NECR haulage) to Bellows Falls. Much of this was salt traffic from CP at Whitehall delivered to salt depots on WACR.

When MMA operated full-tilt, Bellows Falls saw roughly 20 cars every other day interchanged with NECR, and more during salt season. Wulfson emphasized, “Customers are driving the bus” when choosing the lane.

CMQR startup
As promised during the bidding for the MMA assets [see 14#01A], Wulfson is working closely with CMQR to revive the traffic moving over the ConnRiver route. “I'm meeting with them tomorrow.” {ANR&P discussion}

NECR letter announcing waybill requirement
On 16 May, NECR President Ray Goss sent Pan Am President David Fink a letter [see full letter] referring to the ANR&P article.* In the letter, NECR told Pan Am to provide waybill information for each car it moved on NECR lines, to prove that Pan Am was not moving VRS cars in haulage between Bellows Falls and White River Junction.

Effect of waybill requirement
‘PAS uses its trackage rights pursuant to the TO to compete with NECR for the business of shippers on the Former B&M Line, which is exactly the type of competitive outcome that the ICC preserved in the TO. Since at least 2009 PAS solicited the business of a customer located in Claremont, New Hampshire, and successfully obtained that business in 2013 through competitive pricing and service proposals.

Pan Am is not now moving traffic in haulage
The waybill requirement 'remains in effect even though PAS has informed NECR: (a) that no such haulage service is presently being conducted for the railroad subject to the article; and (b) NECR has never previously objected to haulage services provided by PAS to other rail carriers over the Rail Lines. As a result, NECR

2 Though PAS did not name it, I believe this refers to the Plains LPG facility. Editor
originally would not permit any PAS trains to operate on the Rail Lines without producing revenue waybills for

Effect on service

Nevertheless, NECR continues to deny permission for PAS trains to operate to and from Bellows Falls, VT, and White River Junction, VT, without the production of waybills, which has adversely affected movement of cars between those two points while also causing PAS to expend resources attempting to provide rail service only to be denied entry to the Rail Lines by NECR dispatchers. Indeed, PAS crews have been denied access to the Rail Lines at both Bellows Falls, VT, and East Northfield, MA, on several occasions despite informing NECR that no haulage cars were present on these trains. Similarly, cars have remained in White River Junction for numerous days because PAS is not permitted to transport those cars to interchange at Bellows Falls.
May 16, 2014

via email: dfink@panamrailways.com

David Fink
President, Pan Am Railways
1700 Iron Horse Park
N. Billerica, MA 01862
United States of America

Re: Trackage Rights over NECR

Dear Mr. Fink:

We read recently in the Atlantic Northeast Rails and Ports e-bulletin that VRS and PAS have been discussing PAS haulage of VRS cars between Bellows Falls and Bank. Please be reminded that Section 1.1 of the Trackage Rights Order only provides PAS/ST with the right to operate “B&M’s trains, locomotives, cars and equipment with B&M’s own crews.” As such haulage of cars for other carriers is not permitted.

We will require that PAS provide advance copies of the waybills for each car in its trains entering the Line at either Bellows Falls or Bank, and will not provide clearance to enter the Line unless all cars and equipment are moving in PAS/ST’s account, and not in the account of VRS or any other carrier.

Complete waybills on the entire train must be sent either by fax to (802) 527-3486, or by email to ARDCDispatchers@gwr.com before authority will be granted to enter or occupy any New England Central Track.

Please let me know if you have any questions.

Sincerely,

Raymond A. Goss
President

cc: David Winnison, VRS (dwulfson@vrs.bz)
A violation of the TO?
'NECR’s revenue waybill mandate violates the TO’s requirement that “[t]he trains, locomotives, cars and equipment of B&M, CV, Amtrak and any other present or future user of the Line shall be operated without prejudice or partiality to any party to this Agreement or any other user and in such manner that will result in the most economical and efficient manner of movement of all traffic. Indeed, the arbitrary waybill requirement is the antithesis of efficient movement.'

Pan Am contests the “no haulage” interpretation
In a footnote, Pan Am wrote: 'PAS disputes the position of NECR regarding the right of PAS to provide haulage services pursuant to the TO, and PAS will raise this issue in response to the NECR request for modifications of the TO. However, since the waybill requirement is having an immediate adverse impact, PAS is raising the issue in this filing.'

*Note that the ANR&P article does not say “haulage,” only that VRS is talking with Pan Am about “moving” VRS cars. The 1990 TO permits Pan Am to interchange cars in Bellows Falls with VRS. It apparently neither forbids, nor permits, Pan Am to interchange cars in White River Junction. Thus, VRS and Pan Am could easily overcome the lack of permission to “haul” cars by formally interchanging them at both points. Editor

3. RESOLVE THIS DISPUTE BEFORE TRACKAGE FEE ADJUSTMENT
Pan Am emphasized that the interference by NECR in its ConnRiver service needed immediate action by the STB, while the trackage fees resolution could wait.

'PAS hereby requests that the Board issue an order as soon as possible that NECR show cause as to why its speed limit restriction on foreign railroads and its revenue waybill requirement are reasonable and do not violate the 1990 TO.

'Alternatively, PAS requests that the Board find NECR’s operating restrictions invalid and unenforceable and grant such other and further relief as the Board may deem under the circumstances. Due to the immediate impact of NECR’s arbitrary operating restrictions, PAS requests further that the Board hold NECR’s request to set terms of the relevant trackage right order in abeyance until these issues are resolved.'

INTERESTING NOTE
The pleading on behalf of Pan Am Southern, which owns the ConnRiver operating rights, was submitted by Rob Culliford for Pan Am and Maqui Parkerson for NS. The parties did not follow the usual practice of also engaging a DC STB attorney. {STB website, filings page, Finance Docket 35842}

GWI note
Asked about the Pan Am filing, Jerry Vest, GWI senior vice-president government and industry, wrote: 'With this under formal proceedings, I don't think it is appropriate for me to discuss. You can be assured that NECR actions are based on an appropriate and reasonable read of the agreements.' {e-mail to ANR&P 3.July.14}

4. PUBLIC FUNDS
While Pan Am noted [see above] that NECR track was 'recently rehabilitated with public funds', GWI spokesperson Mike Williams wrote on 1 July: 'NECR invested significant funds into the upgrade of the line and also paid to repair the line following the hurricane, contrary to the Pan Am filing.' {e-mail to ANR&P}

In NECR's 17 June filing [see 14#06A] NECR argued that 'NECR does not believe that the TO reflects current market rates for trackage rights over FRA Class 3 track.'

This raises the question of whether any railroad can recover, by levying trackage rights fees, funds invested by the public in the track.

NECR's Williams reported on 20 June [see 14#06A]: 'NECR costs, irrespective of any taxpayer dollars,
are not being covered by the existing agreement.' {e-mail to ANR&P}

**What has NECR invested?**

In the 2010 American Reinvestment and Recovery Act round of funding, Vermont received $50 million to upgrade the line as reported in 10#01B:

‘The purpose of the *Vermont*NECR Rail Improvements project is to improve the conditions of the track, roadbed and bridges along the current route of the Amtrak *Vermont* Service in Vermont and New Hampshire resulting in an increase track speed for a distance of 45 miles to 79 miles per hour and the remaining 145 miles from 55 miles per hour to 59 miles per hour. These improvements will reduce the operating schedule by up to 27 minutes and guarantees a more consistent, year-round on-time-performance by this train. The project was identified through the Vermont State Rail Policy Plan (2006), where the priority passenger rail recommendation is to preserve existing Amtrak service. Construction will take place over a two-year period.

‘The project is planned for both the Roxbury (northern) subdivision and the Palmer (southern) subdivision of the NECR that currently carries the Amtrak/Vermont Intercity Passenger Service. The northern project limit is milepost 132 (Roxbury Sub) and the Southern milepost is 110.5 (Palmer Sub). The 117- mile stretch of the NECR rail line from White River Junction north is a designated High Speed Rail Corridor. All construction activities will occur within the private right-of-way and assets owned by NECR.’ {VAOT Rail website, ARRA Stimulus Application}

**NECR 10% match.** Issue 10#02A reported:

NECR WILL HAVE SIGNIFICANT OPERATIONS GAINS FROM THE $50 MILLION TO IMPROVE ITS LINE for better passenger service. NECR recognizes these benefits [see 09#09B Vermont], and is paying the 10% match. One source familiar with the grant [see 10#01B Regional] noted:

Fuel consumption. In the last several years, the railroad has invested significant funds* in upgrading the track, and removing slow orders. Nevertheless, some slow orders remain. Considerable fuel is expended to decelerate and then accelerate through the slow-ordered sections, and the savings from removing all slow orders will be significant.

Crew costs. By operating consistently at 40 miles per hour (FRA Class 3), the railroad will use less crew time to move the train, and can operate more trains with the same number of crews.

Heavier cars. The improvement to the line required to move the *Vermont* at 79 miles per hour (115-pound rail, some bridgework, some ties) will perforce enable NECR to operate 286,000-pound cars, up from the existing weight limit of 263,000 pounds. {ANR&P discussion}

*The Vermont application stated in 2007 NECR spent $1.3 million on capital improvements, and in 2008 it 'more than doubled its investment in this corridor’. {VAOT website}

**CRUDE TRANSPARENCY**

24 June. **BNSF REVERSED POSITION ON LETTING STATES KNOW ABOUT CRUDE SHIPMENTS** [see 14#06A]. Courtney Wallace, a spokesperson for BNSF Railway, the largest hauler of crude oil by rail in North America, e-mailed that the railroad received USDOT guidance that the information wasn’t protected. 'Once it became clear from the federal government that crude oil was not considered sensitive, secure information, we continued on our path of simply complying' with the department’s emergency order.

This day, Washington state released the information, which had been requested by McClatchy and other news organizations earlier this month under open records laws.

Virginia, which originally sided with the railroads, reversed itself the previous week after seeking guidance from the state Attorney General. {Curtis Tate in McClatchy newspapers DC bureau 24.June.14}
FRA guidance
Kevin Thompson of the Federal Railroad Administration said this day that officials consulted with national security experts before determining the railroad disclosures do not contain security sensitive information. He declined to answer further questions on how the determination was made.

U.S. crude oil shipments by rail topped a record 110,000 carloads in the first quarter of 2014, according to the Association of American Railroads, the highest volume ever moved by rail.

Urban areas
The disclosures from railroads on the Bakken crude show many of those shipments pass through highly urbanized areas. BNSF Railway, for example, reported moving as many as 27 oil trains in a week through Cook County, Illinois. [AP 24.June.14]

CRUDE THROUGH MAINE: Zero by rail in May

CRUDE THROUGH MAINE: Zero by rail in May

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Source: Reports by railroads and pipelines paying per-barrel fee to Maine Department of Environmental Protection.

QUEBEC

CMQ: LAC-MEGANTIC BYPASS

4 July, Lac Megantic. TWO OPTIONS EXIST FOR A RAIL BYPASS AROUND THE DOWNTOWN, according to Logi-Bel official Beland Audet. Just days after the crash, which claimed his closest friend and 15 other friends and neighbors, he worked with a surveyor to lay out two alternative routes which he presented to provincial transportation officials.

Option #1 would loop around the town with a spur coming east into town along part of the Option #2 alignment, to serve the enormous Tafisa plant and Logi-Bel. Option #2 would run across the north side of the town with a spur dropping down into Tafisa and Logi-Bel [see map].

The train – and oil – must operate
Lac-Mégantic Mayor Collette Roy-Laroche acknowledged that her municipality has no voice. “We are powerless because the federal government regulates the transfer of dangerous goods. And if [CMQ] doesn't carry dangerous goods, they won't make any money.”

In the Eastern Townships, 50 businesses in the area use rail to ship 14,000 carloads a year. Those businesses support 4,200 jobs, 1,100 of which are around Lac-Mégantic.

John Giles, CMQ president, said he considered acquiring MMA when he was at RailAmerica, in large measure because of the Bakken crude traffic. Once CMQ has completed the track upgrades [see Regional] and a self-imposed Lac-Mégantic moratorium expires in January 2016 [see 14#05A], he will resume crude traffic,
with required notice and without stopping trains in town. “That's the campaign I've been selling, and I think it's a winning campaign,” he said.

Crude could resume without the bypass. “We are working very hard to move this track but we are not in control,” said Town Councillor André Desjardins. “If we don't have the train here, forget it, 1,000 employees will be without jobs.” {David George-Cosh in Wall Street Journal 4.July.14}

### MMA-CMQ: QUEBEC SALE ++

24 June, Ottawa. **THE CANADIAN TRANSPORTATION AGENCY FINALLY ISSUED A CERTIFICATE OF FITNESS** to CMQ, in its decision 238-R-2014:

**Application**

'Central Maine & Québec Railway Canada Inc. (CMQ) applied [on 24 March — see 14#03B] to the Canadian Transportation Agency (Agency) for a certificate of fitness for railway operations that will result from the acquisition of assets through the Asset Purchase Agreement between Railroad Acquisition Holdings LLC and Robert J. Keach, as Chapter 11 Trustee for the estate of Montreal, Maine & Atlantic Railway, Ltd. and Montreal, Maine and Atlantic Canada Co., dated December 12, 2013.

**Federal railway**

'The Agency finds that CMQ is a federal railway company by virtue of paragraph 88(2)(a) of the CTA, as it is a company that will be operating a railway from the United States of America into Canada.

---

^3 CMQ applied to the STB for operating permission more than a month earlier, on 14 February. See 14#02A.
Insurance

'With respect to the adequacy of the third-party liability insurance coverage, the Agency has undertaken a close examination of all information and documentation filed by CMQ. The Agency also examined CMQ’s capability to pay the self-insured retention amount based on the financial information on file. In this respect, CMQ also filed an undertaking with the Agency to file certain financial information. Any Certificate of Fitness to be issued to CMQ will be subject to the undertaking of CMQ.

'Based on this review, the Agency is satisfied that there is adequate third-party liability insurance coverage, including self-insurance, for CMQ’s railway operations in Canada.

Lines covered

'Accordingly, pursuant to subsection 92(1) of the CTA, the Agency will issue a certificate of fitness to CMQ permitting it to operate a railway in Canada as set out below between:

1. Newport subdivision plus loop.  1. Brookport at mileage 0.0 of the Newport Subdivision and the Canada/United States border at mileage 26.25 of the Newport Subdivision. The Canada/United States border at mileage 32.63 of the Newport Subdivision and the Canada/United States border at mileage 43.32 of the Newport Subdivision;

2. Brookport and St-Jean, Quebec of the Adirondack Subdivision;

3. Megantic and Brookport, Quebec of the Sherbrooke Subdivision;

4. Farnham and Ste-Rosalie, Quebec of the St-Guillaume Subdivision;

5. Farnham and Stanbridge, Quebec of the Stanbridge Subdivision; and,

6. Megantic and the Canada/United States border near Boundary, Quebec of the Moosehead Subdivision.

Further, as set out above, the Certificate of Fitness shall be subject to the condition that CMQ files the financial information as agreed upon in its undertaking dated June 20, 2014.

Effective at closing

'Paragraph 28(1)(b) of the CTA states that the Agency may in any order direct that the date order or a portion or provision of it shall come into force on the happening of any event or condition specified in the order.

The Agency, pursuant to paragraph 28(1)(b), directs that the Certificate of Fitness shall be effective on the date of the closing of the sale.' {text from CTA}

Transport Canada okay

While TC will not issue a formal decision, it must agree to CMQ's Safety Management System [CMQ applied to TC on 10 March – see 14#03B]. TC's Roxane Marchand wrote: 'Transport Canada has completed its review of CMQR's SMS and verified its compliance with the Railway Safety Management System Regulations.' {e-mail to ANR&P 25 June.14}

End of running rights into St.Luc

CTA spokesperson Chantal Lafllame wrote on 3 July: 'Based on the information the Agency has on file, your observation with respect to CMQ not requesting running rights on the subdivision below is correct. You are also correct when you state that MMA/MMAC’s Certificate of Fitness expired June 30, 2014.

As a result, as per the Canada Transportation Act, MMA/MMAC is no longer a federal railway company.' {e-mail to ANR&P}

And thus CP is the only railway with rights to operate between St.Luc and St.Jean [see Regional].
MAINE

PAN AM: CRUDE TRAINS NOT 'COMPETING HARM'*

28 June, Lewiston. **TWO TRESPASSERS CANNOT USE THE COMPETING HARM DEFENSE IN THEIR TRIAL**, ruled Maine Superior Court Justice Joyce Wheeler this week. Jessie Dowling of Unity (member of Earth First!) and Douglas Bowen of Bowen (member of 350 Maine) were arrested 28 August 2013 by local police when they refused to leave the Pan Am railroad tracks on which they sat.

The two argued at a May hearing in Androscoggin County Superior Court that they considered the act of criminal trespass (with the intent of stopping a Pan Am train, if one came) to be of lesser harm than allowing a train hauling Bakken crude oil to pass through an urban area.

In denying the defense, Wheeler wrote that although they believed the train would create a risk of harm to people there, the two defendants were required to show 'as fact that such physical harm is imminently threatened.' They could not show that because 'their action was weeks in planning and they had no idea whether the train was even in Maine at the time of their action.'

With the competing harms defense no longer an option, prosecutors must prove beyond a reasonable doubt that the defendants trespassed criminally. {Christopher Williams in Lewiston Sun-Journal 28 June.14}

PAN AM: WHISTLEBLOWER*

26 June, Portland. **A FEDERAL JURY AWARDED A PAN AM FOREMAN $150,000 IN BACK PAY AND $250,000 IN PUNITIVE DAMAGES**. Jason Worcester had made an effort to ensure one of his union members...
was working safely [see 14#04B], and was fired for doing so, the jury found after a four-day trial, with more than 12 witnesses.

**Punitive damages**
The jury was provided with a verdict sheet of several questions. Number four asked:

'4. Do you find that the plaintiff proved by a preponderance of the evidence that, in taking an adverse employment action against him, the defendant acted with malice or ill will, or knowledge that its actions violated federal law, or reckless disregard or callous indifference to the risk that its actions violated federal law?'

The jury answered “yes” and decided Pan Am's action should be punished by an award of $250,000. {text of verdict from court website Case 2:12-cv-00328-NT; Scott Dolan in Portland Press Herald 27.June.14}

**NO CRUDE EXPORT IN SOUTH PORTLAND?**

25 June. **A DRAFT ORDINANCE BANNING THE LOADING OF CRUDE INTO SHIPS** was presented to the South Portland City Council this day. A committee formed after voters defeated a broad waterfront limit in November 2013 [see 13#11A] drafted language which prohibits loading crude oil in bulk onto marine tank vessels and building or expanding facilities for that purpose.

The committee found that loading crude oil onto an empty ship creates more possibility for harmful air pollution than unloading it onto shore [tankers currently unload crude for piping to Montreal] because hazardous vapors get displaced in the process. Also, the vapor combustion tanks needed to mitigate that pollution would have a negative visual impact on the city’s waterfront, the committee said in its report.

Committee members said the proposal would not affect current uses or the handling of gasoline, diesel, biodiesel, ethanol, kerosene, No. 2 fuel oil, jet fuel, aviation gasoline, home heating oil, asphalt, distillate, waste oil, lubricants, or other refined petroleum products.

City Manager Jim Gailey said the council has scheduled an initial vote 7 July. A Planning Board review will follow 15 July, then a final Council vote 24 July. {Leslie Bridgers in Portland Press Herald 25.June.14}

**Working Waterfront Coalition opposition**

Prior to the hearing, the Working Waterfront Coalition issued a statement accusing committee members of going beyond their original charge to encompass all crude oil and 'clearly signaling their long term goal of constraining and dismantling all of South Portland’s marine terminal operations....[The proposal] ensures that South Portland’s marine terminals have no ability to successfully evolve alongside the nation’s energy marketplace, which is currently enjoying a boom in domestic production. By constraining future terminal operations, the (committee) is ensuring the terminals’ inevitable decline and the loss of the local jobs they support.'

Burt Russell, vice-president of operations at Sprague Energy, said “there’s no justification for such a ban, especially when this product has been safely transported, transloaded and stored on the waterfront for decades. This ordinance gives Sprague great concern for the sustainability of businesses on South Portland’s waterfront and the local people they employ.” {Kelly Bouchard in Portland Press Herald 26.June.14}

**MAINE: LNG EXPORT?**

24 June. **DOWNEAST LNG IS NOW PROPOSING TO BUILD A $1.3 BILLION BI-DIRECTIONAL FACILITY**, said CEO Dean Girdis: import, as originally planned, or export domestically-produced natural gas to global markets. One target: Eastern Europe, where countries are trying to loosen ties to Russia and its natural gas supply.

Downeast originally proposed an import terminal in 2005. [Production in the United States has increased more than 35% in that time, from 18.9 trillion cubic feet to 25.6 trillion cubic feet in 2013, according to the U.S. Energy Information Administration. The federal agency expects domestic production to grow to 33.1 trillion
cubic feet by 2040 because of the boom in shale gas production in places including Pennsylvania, West Virginia and eastern Ohio.] That kills the business case for importing natural gas into the region, but makes an export terminal attractive, Girdis said.

**Robbinston location**

In August 2013, Downeast bought nearly 80 acres on Passamaquoddy Bay in August for $2.5 million. The original project called for two storage tanks, a pier, regasification equipment and a pipeline to connect the terminal with the Maritimes and Northeast Pipeline. The change would replace one of the storage tanks with equipment to liquefy the natural gas before loading onto tankers for export.

To export, the terminal would liquefy the gas from the pipeline, at the rate of 2 million tons per year. To import, the facility would regasify 100 million cubic feet of liquefied natural gas delivered by tanker. [In 2012, only Downeast remained among several proposals to build import terminals in Maine – see 12#04A.]

**Possible new pipeline for New England**

Despite the growing supply of domestic natural gas, Maine residents and businesses still pay high prices at times of peak demand because of limited pipeline capacity into New England.

Federal law requires pipeline operators to have commitments from buyers before building new pipelines. Girdis said Downeast LNG would seek to contract for 300 million cubic feet of natural gas pipeline capacity, thereby supporting construction of new pipelines into the state. Thus the reconfigured project offers a “creative solution” to help reduce prices for Maine residents and businesses.

The new project’s cost of $1.3 billion is double the original estimate, but the potential payoff is larger. The new project could generate $300 million in revenue annually, while the import-only project had potential for $130 million, Girdis said.

The number of ships passing through Head Harbour Passage to reach the terminal in Robbinston would decrease from 60 to 30 a year, Girdis said. {Whit Richardson in Portland Press Herald 25.June.14}

**PORTLAND: NEARLY DONE**

25 June. THE PORTLAND PLANNING BOARD REVIEWED THE INTERNATIONAL MARINE TERMINAL PLANS BUT DELAYED A FINAL VOTE until July. Planning board members endorsed most aspects of the plan, and will wait until MDOT has completed negotiations with Phineas Sprague [see 14#05B].

**No eminent domain legal proceeding?**

Sprague is cooperating with the state and said he was satisfied with the terms of the nearly-complete deal. The planning board is slated to take up the proposal at its next meeting 8 July. {Kevin Miller in Portland Press Herald 25.June.14}

**NB&M: CHIPPER BACK**

1 July, Baileyville. THE LOG-CHIPPING HAS REVIVED AFTER THE FIRE, an official at Fulghum Fibre said. Fulghum [see box], a subsidiary of California-based Rentech as of May 2013, operated in a three-story metal building containing machinery and equipment for debarking and chipping adjacent to the Woodland Pulp mill, with a capacity of 1.4 million green metric tonnes [see photo of site in 10#09B].
A fire on 4 March destroyed the building and much of the machinery. Woodland said it would continue to operate, using alternate chip suppliers and whatever Fulghum could gin up. {Tim Cox in Bangor Daily News 5.Mar.14}

Woodland fiber procurement
Scott Beal, Woodland spokesperson, wrote this day: 'We do our own fiber procurement. Fulghum's is under contract with us to chip the tree-length wood that we bring in.' {e-mail to ANR&P}

A local rail observer reported: 'Baileyville is receiving logs again [by rail] – lots of them.' {e-mail to ANR&P 30.June.14}

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**MASSACHUSETTS**

**MASSPORT 2Q14 CONTAINERS**

1 July. *MASSPORT VOLUMES INCREASED 13% YEAR OVER YEAR*, the agency reported, with exports up nearly 17%. {e-mail from Lynn Vikesland, maritime research manager}

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**NEW HAMPSHIRE**

**NEGS: MORE ON DODX MOVE**

24 June, Canterbury. *NEGS NOW HAS FIFTY CARS OF TRAIN NO.1 ON LINE*, wrote Peter Dearness. 'With train No. 2 the week after next (which originates in Jacksonville on CSX), NEGS will have a total of 98 cars (DODX mostly, but with commercial 89- footer as well). [The New Hampshire National Guard is moving
all its equipment to Michigan by rail for a live-fire exercise – see 14#06A.]

'We will spot two five-car cuts on two sidings at Canterbury Yard. The Guard will drive the equipment onto the cars, secure them, and then we will pull each cut as they are ready. The process will continue until all cars are loaded; most cars will have two or more pieces of equipment on board.

When they arrive at Camp Grayling, Michigan, they will be driven off. The two unit-trains will return late in July or early August, when the exercises conclude.' {e-mail to ANR&P}

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**MARITIMES**

### YARMOUTH-PORTLAND FERRY

5 July. **NOVASTAR NEEDS A TRAILER STAGING AREA IN PORTLAND.** Dale Thibodeau, who is marketing the ferry to truckers, wrote: 'We are up to 10 on some sailings and have identified opportunities for many more. In order to reach the higher numbers we will need to incorporate a drop trailer operation which we had originally considered for year #2.' {e-mail to ANR&P}

Novastar sails from the Portland Ocean Gateway Terminal on the eastern end of the waterfront, which lacks space to stage both automobiles and trucks before loading them.

The company has applied to permit and lease a vacant 2.5-acre brownfield site on the opposite side of the Portland peninsula, off Marginal Way. The site plan submitted to the city shows spaces for 30 trailers.

Currently, most truck users are backhauling empty trailers to Nova Scotia after delivering seafood to Boston. On the nightly 21h00 departure, they sleep; after arrival in Yarmouth, they continue to Nova Scotia locations for more fish. {Tom Bell in Portland Press Herald 4.July.14}

### CBSN: SAVE CAPE BRETON?*

26 June, Sydney. **CAPE BRETON REGIONAL MUNICIPALITY AND THE PROVINCIAL GOVERNMENT WILL FORM A WORKING GROUP** to determine options to save the section CBNS proposes to abandon [see 14#6A].

**Group makeup**

Mayor Cecil Clarke told a gathering here, “Abandonment is not an option.” The working group, comprised of federal, provincial and municipal officials, business leaders, rail customers, and GWI officials will likely take a year.

**History.** When CBNS proposed to abandon east of St.Peter's Junction in 2002, the province pulled together a subsidy plan, led by none other than Cecil Clarke, then economic development minister. CBNS was moving about 1000 carloads a year, and needed 5,000. Clarke said in March 2003, in announcing the provincial subsidy, the 5,000 carloads “have been identified.” [See 03#03A.]

**The port the saviour?**

The meeting heard the line was vital to the development of the port. CBRM reported it has four confidential commercial port proposals, among them the container terminal.

GWI said the line handles about 500 carloads a year but needs approximately 10,000 a year to be sustainable. {Brian Flinn in allNovascotia.com 27.June. 2014}

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**RAIL FREIGHT FACILITIES**

Described in this issue:

Fulghum Fibres/Woodland Pulp (NB&M, Maine) Logs have returned.
EDITORIAL

CAPE BRETON REPEATS HISTORY
What are provincial and municipal leaders smoking while they dream of a financially-viable plan to keep the CBNS track east of St.Peters Junction in operation?

Ten years ago Mayor Cecil Clarke, then a provincial minister, steered a group into creating a provincial subsidy for the line at $2 million per year. The line needed 5,000 carloads to survive; it had 1,000. Now Clarke has put together a group to come up with a plan, though the line has only 500 carloads.

The federal and provincial governments have spent many millions trying to keep the mines, the steel mill, and now the rail line alive. Sadly for Cape Breton, each effort has failed.

The province should have bought the line for $20 million ten years ago. It didn't. Now the time has come to pull the plug – the patient is dead.