Formal issue 15#11A 20 November 2015

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

REGIONAL

CP-NS: CMQ could benefit, Pan Am suffer.
Hazmat: Federal ruling on extent of pre-emption.
CMQ: New locomotives, cars, offices.

NEW YORK

NYA Waste Management: 2nd rail site. Maps.
Albany&CSXT: Bridge report driven by ideology.*
CP-CSXT: Albany-NJ pipeline permitting underway.
QUEBEC & CONNECTICUT

[No report.]

MAINE

Paper industry: Still going. Box on mills.
Pan Am: Verso in Jay may be sold. Lincoln mill to be scrapped, probably.
Pan Am: CHS propane in Biddeford adds 2 tracks.
MDEP-CBR: New law forbids public CBR data?
Pan Am: South Portland will not enact moratorium on new propane tank.*
SLR & Pan Am: Eldredge Lumber talking to Pan Am about new facility.*
Eastport: Closing of Maine paper mills [box] generates more woodchip export interest. ++

MASSACHUSETTS

[No report.]

NEW HAMPSHIRE

Pan Am Portsmouth: Parties settle on Sea-3 propane terminal expansion; Portsmouth Yard still possible. ++
Pan Am v MBRX: MBRX provides documents to Court on trackage rights fee dispute.*
RHODE ISLAND & VERMONT

[No report.]

MARITIMES

CBNS-Sydney: MOU on use of rail line.
RAIL SHIPPERS/RECEIVERS

Customers covered in this issue.

PEOPLE, POSITIONS, EVENTS

[No report.]

FROM THE PUBLISHER

Apologies
A collapse of my hard disk cost me not only several days purchasing a new computer, configuring it, and restoring from the cloud my files, but apparently also I lost fonts and formatting for the newsletter. It no longer looks as slick.

Lessons learned
Do not rely on cloud backup. To my shock, I learned it does not back up applications, and to my sorrow that restoring all my 120GB of data, documents, and pictures will require literally weeks to do. I’m buying an external hard drive.

- Chop Hardenbergh Next issue 4 December.
REGIONAL

CP-NS: LOCAL IMPACT
17 November.  ‘IF IT HAPPENS, BIG WINNER IS CMQ, BIG LOSER IS PAR... A DIRECT CONNECT FOR CMQ TO NS’S NETWORK’ [via interchange in St.Jean – see 14£07A] makes them way more competitive for NBSR traffic, even with a longer routing,’ wrote a Maine-based logistics provider.

‘In this day and age, the focus is less on cost and more on service, especially in the paper market where there are more producers than consumers of paper. Also the lumber, auto, and intermodal traffic could see growth out of NBSR.’ {e-mail to ANR&P 17.Nov.15}

CP offer to NS
From Hunter Harrison letter to Jim Squires sent 17 November, disclosed 19 November:

‘We propose a 50% cash 50% stock transaction based on Friday's closing stock price for both CP and NSC in which NSC shareholders would receive $46.72 in cash and 0.348 shares of stock in a new company


Trainmaster will assist the development and implementation of the Company’s transportation plan, and support the coordination and management of transportation activities.

Designated Supervisor of Locomotive Engineers (DSLE) will train and coach prospective/current locomotive engineers and non-certified engineers, and monitor current engineers.

Summary of qualifications. NYA seeks applicants qualified as locomotive engineers or DSLEs or able to qualify as conductor. They must qualify or be able to qualify on GCR, CSX, and LIRR rules. Applicants must have a thorough understanding of railroad transportation, and be proficient in RMI, Word, Excel, PowerPoint, and Kronos.

Salary and benefits. Excellent benefits include paid vacation, personal days, 401k retirement plan, group term life insurance, and medical/dental care insurance. Salary will be commensurate with experience - applicants should have four years of relevant railroad experience.

Contact: www.anacostia.com/jobs/trainmaster-dsle
which would own CP and NSC. The new company would be listed on both the New York and Toronto Stock Exchanges, and maintain a strong investment grade credit rating. Our proposal represents a substantial initial 23.0% premium to NSC's 45-day VWAP of $79.14. In addition to providing NSC shareholders with a significant cash payment, the proposed transaction will provide NSC shareholders with an opportunity for meaningful upside appreciation in the future as synergies are realized as NSC shareholders will own 41% of the new company.’ {via CNW}

**FEDERAL RULING ON PRE-EMPTION OF UNLOADING OF HAZMAT**

NOTE: The Pipeline and Hazardous Materials Safety Administration (PHMSA) issued a ruling on the 16th which would appear to apply directly to railroad-operated propane transloads. However, further study is needed to determine whether states or municipalities could regulate these activities within a yard owned by a railroad. On its face the lack of pre-emption only applies to non-railroad sites.

16 November, DC. ‘FEDERAL HAZARDOUS MATERIAL TRANSPORTATION LAW DOES NOT PREEMPT THE UNLOADING OF HAZARDOUS MATERIALS FROM RAIL TANK CARS by a consignee and (2) the consigee's on-site storage of hazardous materials following delivery of the hazardous materials to their destination and departure of the carrier from the consignee's premises or private track adjacent to the consignee's premises’ - at least with respect to California and Los Angeles County requirements.

The ruling, which appeared in the Federal Register, stated inter alia:

**Pre-empted**

‘PHMSA found there was insufficient information to make a determination whether four specific requirements were preempted and that Federal hazardous material transportation law preempts only the following specific provisions challenged in the applications of SPCMA [Swimming Pool Chemical Manufacturers Association] :

- The prohibition in [Los Angeles County regulations] Title 32 LACoC 79.809(c) against allowing a tank car to remain on a siding at point of delivery for more than 24 hours while connected for transfer operations, because tank car unloading requirements in 49 CFR 174.67 did not limit the amount of time a tank car may remain on a siding at a point of delivery while connected for transfer operations. 60 FR at 8788.
- The requirement in Title 32 LACoC 79.809(f) for in-person attendance of a tank car during unloading, because Los Angeles County did not recognize the authority granted to [applicant] Hasa in former DOT exemption E 10552 for the use of electronic surveillance to monitor tank car unloading, under certain conditions and restrictions. 60 FR at 8789.
- The fees imposed on ‘handlers' of hazardous materials under Title 2 LACoC 2.20.140, 2.20.150, 2.20.160 and 2.20.170 to the extent that these fees applied to tank car unloading activities, because the fees collected were not being used for purposes related to hazardous materials transportation. 60 FR at 8784.

‘At the conclusion of its ten-year HM-223 rulemaking, after considering the many comments submitted in that rulemaking by the parties petitioning for reconsideration of PDs 8(R)-11(R), PHMSA amended the “applicability” provisions in the HMR to clarify that the following activities or functions are not subject to the requirements of the [federal hazardous materials rules] HMR:

**Regulations not pre-empted**

- Unloading of a hazardous material from a transport vehicle or bulk packaging performed by a person employed by or working under contract to the consignee following delivery of the hazardous material by the carrier to its destination and departure from the consignee's premises of the carrier's personnel or, in the case of a private carrier, departure of the driver from the unloading area. 49 CFR 171.1(d)(2).
Storage of a freight container, transport vehicle, or package containing a hazardous material after its delivery to the destination indicated on a shipping document, package marking, or other medium, or, in the case of a rail car, storage of a rail car on private track. 49 CFR 171.1(d)(3). \{Federal Register Volume 80, Number 220 (Monday, November 16, 2015) pages 70874-70879\}

CMQ: NEW, NEW, NEW

19 November. **PRESIDENT JOHN GILES CONFIRMED THE ACQUISITION OF NEW CARS, LOCOMOTIVES, AND OFFICES.** The railroad has 350 Plate Fs ‘now deployed to Tafisa, Twin Rivers, Irving etc.’

‘[W]e learned last year that a hardier and more sturdier loco fleet is essential up north here. It was a lesson learned.’ The railroad has purchased 10 SD40-2 locomotives [see 14£05A on initial fleet].

And a new address: ‘700 Main Street, Bangor.” The railroad, when it assumed the MMA property in 2014, was considering a new office location. It rented the B&A/IRR/MMA building in Northern Maine Junction until now. \{e-mail to ANR&P\}

NEW YORK

NYA: NEW WASTE MANAGEMENT BY RAIL FACILITIES

**INTRODUCTION**

In 2001, New York City closed the Fresh Kills landfill, located on Staten Island, the primary repository for the city’s residential waste since it opened in 1947. Until the closure of Fresh Kills, garbage had been transported to the landfill primarily by barge.

The NYC solid waste management plan of September 2006 [see map] closed the barge-served Greenpoint Marine Transfer Station [MTS] and replaced it with one rail transfer station in southern Queens and one in northern Brooklyn. Waste Management was designated to create and operate the facilities [see map].

For both facilities, the containers are loaded elsewhere, and drayed to the

1. REVIEW AVENUE, QUEENS

8 October, Queens. **NYC AND WASTE MANAGEMENT OFFICIALS DEDICATED THE REBUILT WASTE-TO-RAIL FACILITY** on Review Avenue in Queens. “We are thrilled with the partnership we’ve developed with Waste Management,” Department of Sanitation Commissioner Kathryn Garcia said. “This is
just a piece in the puzzle [that will eliminate the use of trucks to ship waste out of the city] and all of the pieces of the puzzle are coming on-line.”

Waste Management’s Greater Mid-Atlantic Region, led by Tara Hemmer, in mid-2014 began rebuilding the transfer station (then served only by truck) and completed the project summer 2015 without interrupting its operations.

The WM $22 million project elevated the station an additional three feet to meet new flood regulations, realigned the site’s driveway and scale facility, rebuilt the station around the original structure, and installed a rail siding.

Use of rail
Instead of 15,000 outbound trucks with the containers, railcars each hold four containers – so NYA will gain an additional 3,700 carloads a year. The containers move to Waste Management’s High Acres Landfill in Fairport, New York, just east of Rochester on the CSXT main line. {Waste Management press release}

Expansion, but no barge
The plant will process up to 2,100 tons of waste a day at peak production or 1,150 tons a day on average, up from its previous capacity of 958 tons a day.

In 2012, when the expansion was announced, some residents asked why barges were not planned. “The creek is narrow at that point and it is difficult to maneuver and store barges at the site,” said Waste Management spokesperson George McGrath, adding that the option had been extensively explored.

The station accepted trash from residents in Community Board districts 1, 2, 3, and 5, McGrath said. and will add Community Board districts 4 and 6 [see map]. {Vera Chinese in New York Daily News 2.July.12}

Rail management
While Waste Management operates the facility, the rail switching is done by Kinder Morgan subsidiary Watco, which also does the WM yard at the Harlem River, and Varick Avenue. {various web references; Dispatch (WM bulletin) 8.15}

2. VARICK AVENUE, BROOKLYN
For the Brooklyn watershed formerly served by the Greenpoint MTS (CD's 1, 3, 4 and 5), the 2006 plan called for a long-term contract with one or two private waste companies for truck-to-rail or truck-to-barge transport and disposal of waste. The two candidate facilities were Waste Management's transfer station at 485 Scott Avenue (which currently receives DSNY waste under interim export), and Allied/BFI's transfer station at 72 Scott Avenue/598 Scholes Street, Brooklyn.

Waste Management’s Varick Avenue was ultimately selected.
Rail use
According to the city, the Varick Avenue transfer station, opening in 2009, planned to receive 950 tons of trash from Brooklyn Community Boards 1, 3, 4, and 5 six days a week. Instead of 40 truck trips per day, the facility will load 13 railcars per day [about 4,300 each year – editor]. {Jen Chung in Gothamist News 11.Mar.09}

ALBANY & CSXT: BRIDGE PROBLEM?*

10 November. ‘NEGLECTED BRIDGES AND EXPLODING TRAINS’ LISTED A CSXT BRIDGE TO THE PORT as a problem: ‘On another tributary of the Hudson River a bridge spanning the Normans Kill in Albany shows extensive cracking and major deterioration of concrete, including large chunks of missing concrete on the bases of the bridge footings. Cracks and missing concrete [are] also observable on structures supporting the rail bed. A derailment on this bridge could threaten Port of Albany commerce.’ {page 23}

Produced by the Waterkeepers Alliance and the Forest Ethics organization, the report asserted: ‘Oil trains, crumbling infrastructure, and inadequate federal oversight of rail bridges threaten the safety of millions of Americans, our waterways, and the environment.’

“Do truckers get to inspect their own trucks? Do you get to inspect your own car? Of course not. So it’s insane, and completely unacceptable, that the rail industry gets to inspect its own infrastructure while moving cargo that is of such enormous risk to American citizens and the environment,” said Riverkeeper Boat Captain John Lipscomb. {text of report covering 250 bridges in 15 states}

AAR response
The Association of American Railroads responded: ‘Public safety is the freight rail industry's highest priority, which is why rail operators meticulously inspect all of the nation's rail bridges at least on an annual basis. These bridge inspections are audited by the Federal Railroad Administration.

‘Evaluating rail bridges is a complicated exercise that requires specialized training. By its own admission, the report relies solely on anecdotal visual observations by untrained Waterkeeper members rather than professional bridge safety experts to draw conclusions about rail bridges. This is a highly misguided and misleading method of judging the structural integrity of a rail bridge. As the FRA has noted, many bridges were built to handle loads that exceed what they carry today, regardless of their appearance or age.

‘The only real conclusion to draw from this report is that it is an ideological document to advance its authors' goal of eradicating fossil fuels.’ {AAR press release 10.Nov.15}

CP-CSXT: NEW YORK PIPELINE

18 November. PILGRIM PIPELINES HOLDING BEGAN PERMITTING FOR AN ALBANY-NEW JERSEY PIPELINE. Built in the New York Thruway right of way, the pipeline would carry refined products like gasoline, diesel, kerosene and home heating oil to the north and crude oil southbound [delivered to Albany by CSXT and CP – editor]. The pipeline would handle an estimated 200,000 barrels in each direction each day (a total of 73 million barrels annually), roughly the amount of fuels currently transported along the Hudson by other modes of transportation. {press release}
MAINE

THE PAPER INDUSTRY IN MAINE
17 November, Bangor. “DON’T CLOSE THE DOOR ON US. WE’RE STILL IN IT AND WE’RE STILL HIRING” and we want that message to get out,” said Donna Cassese, managing director of wood supply for Sappi’s mills in Maine and Minnesota and board chair of the Maine Pulp and Paper Association.

She spoke at a summit of pulp and paper officials here, where the Maine Pulp and Paper Association put out figures based on a survey of the nine remaining Maine mills through 2014.

Amanda Rector, Maine’s state economist, told the gathering that pulp and paper is still Maine’s top manufacturing sector, contributing 15.7% of Maine’s total manufacturing gross domestic product in 2013, which totaled about $5 billion, as well as Maine’s top export, valued at slightly less than $500 million in 2014. By comparison, Maine lobster exports were valued at $349 million.

Investment
Maine mills are expected to invest $173 million in their mills in 2015, according to the survey, an increase from $108 million in 2014 and the largest amount since 2003 when capital investment reached $180 million.

The majority of that investment consists of two new tissue machines at the Woodland mill in Baileyville. Other mills are investing, such as the Twin Rivers mill in Madawaska and Sappi’s Somerset mill in Skowhegan, said Cassese.

Paper, pulp down
As a result of the closures, the amount of paper being manufactured in Maine also has fallen. Maine’s mills reported producing 2.5 million tons of paper in 2014, down 35% from the 3.9 million tons reported to be produced in 1998, according to the survey. Pulp production also fell in the same period, from 3 million dry tons to roughly 2.1 million dry tons.

But local spending up: spending by Maine mills on logs and other supplies from Maine increased from $912 million in 2010 to $965 million in 2014. {Whit Richardson in Portland Press Herald 18.Nov.15}

A win for unfair subsidies
On 18 November the US International Trade Commission upheld the finding by the US Commerce Department [see 15#09A] that the Port Hawkesbury Paper mill in Nova Scotia received unfair subsidies. It makes supercalendered paper, in competition Madison Paper. Duties of 18 to 20% will be levied on paper from Port Hawkesbury, as well as the Irving mill in Saint John. {Rachel Ohm in Central Maine Morning Sentinel 19.Nov.15}

PAN AM: VERSO, LINCOLN DIFFICULTIES
16 November, Jay. ‘BASED ON VERSO’S CURRENT LIQUIDITY POSITION AND OUR PROJECTIONS OF OPERATING RESULTS AND CASH FLOWS FOR THE REMAINDER OF 2015 and 2016, we anticipate that we will not have sufficient resources to fund our most significant future cash obligations and, therefore, we believe that there is substantial doubt about our ability to continue as a going concern in the absence of a restructuring of our balance sheet,’ stated the Verso press release on 3Q15 results.

Verso is looking at selling mills, such as the Androscoggin mill, and other assets such as the Jay hydroelectric facility. [At Verso, one paper machine, one dryer were to close in December. 15#08B.

Restructuring could occur consensually, or via bankruptcy.

Sales increase 3Q15
The company announced net sales of $782 million in 3Q15 versus 3Q14’s $350 million; operating income before special items of $23 million in 3Q15 compared to $16 million in 3Q14; and adjusted EBITDA of $84 million in 3Q15 up from $41 million in 3Q14. “Despite these important achievements, and as we explain further
in this press release, we intend to pursue a restructuring of our balance sheet to address our continuing cash flow and liquidity concerns,” said President David Paterson.

[But spokesperson Bill Cohen cited figures from the Pulp and Paper Products Council that report North American demand for coated paper [made in Jay] had fallen 5.6% since 3Q14, and that net foreign imports had increased 16.8% in the same period. “The fact is we have more coming in and decreasing demand.” {Whit Richardson in Portland Press Herald 17.Nov.15}]

**Balance sheet problems**

‘Restructuring charges of $55 million during the third quarter of 2015 consisted primarily of $35 million of noncash charges related to our Androscoggin mill, and $15 million of severance and benefit costs related primarily to the production capacity reductions at our Androscoggin and Wickliffe mills.’ The company put net losses at $111 million for the quarter. {Verso 3Q15 press release 16.Nov.15}

### Liquidation group wins auction for bankrupt Lincoln paper mill

Four bidders participated in the 19 November auction [see filing for bankruptcy in September. 15#09B], none of them paper mill operators, and an attorney for the mill’s union workers expected it will be sold for scrap. The winning bid was submitted by a group led by Gordon Brothers Group, according to Sam Anderson, the attorney for Lincoln Paper and Tissue.

Keith Van Scotter, CEO of Lincoln Paper and Tissue, was disappointed by the auction’s outcome, including the fact the winning bid was less than he expected and that no paper operators participated. {Whit Richardson in Portland Press Herald 20.Nov.15}

### MAINE PAPER DOWN, REMAINING

<table>
<thead>
<tr>
<th>Paper Mill</th>
<th>Status</th>
</tr>
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<tbody>
<tr>
<td>Lincoln Tissue, Lincoln</td>
<td>Closed, sold for scrap [this issue].</td>
</tr>
<tr>
<td>Expera Old Town</td>
<td>Will close in December. 15#09B.</td>
</tr>
<tr>
<td><strong>REMAINING</strong></td>
<td></td>
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<tr>
<td>Cascades Auburn Fiber</td>
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<tr>
<td>Catalyst Rumford</td>
<td>Machine #12 shut indefinitely. 15#09A.</td>
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<tr>
<td>International Paper</td>
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<tr>
<td>Madison, Madison</td>
<td>[see this issue]</td>
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<tr>
<td>Sappi Hinckley</td>
<td></td>
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<tr>
<td>Sappi Westbrook</td>
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<tr>
<td>Twin Rivers, Madawaska</td>
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<tr>
<td>Verso Jay</td>
<td>Up for sale [this issue].</td>
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<tr>
<td>Woodland Pulp, Baileyville</td>
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<td><strong>TO COME</strong></td>
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<tr>
<td>St.Croix Tissue, Baileyville</td>
<td>[see article]</td>
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### PAN AM: EXPANDING PROPANE TERMINAL

17 November, Biddeford. *CHS Now Has Two Additional Tracks* for propane car storage, said Ron Batey, propane asset development manager at CHS, focused on propane wholesaling [see 12#07A].

Pan Am likes the addition, as it can now “bring in more cars per switch.”

### To increase propane access

CHS does not anticipate an increase in total throughput, said Batey. “We’re not changing the terminal at all, not increasing the number of tanks.”

Rather given “the winters last three years,” logistically it made sense to have more cars on-site … as rolling inventory. … It’s cheaper, safer, and more reasonable” than acquiring more tanks. When Pan Am could not deliver cars, truckers were “driving pretty far.” The storage tracks will “save a bunch of money.”

What about paying demurrage? As long as the terminal can keep the propane moving, emptying the tank cars and releasing them back to the railroad, CHS will not amass demurrage.

### The track work

CHS leases the site from Westfield Inc, located in Kennebunk, which also leases land to Boise Cascade.
Westfield principal David Gould said on 17 November, “rail work was completed by contractors Norman Ruck and Joe DeAngelis” [of Worcester]. {ANR&P discussions}

**MDOT: CRUDE BY RAIL INFO SECRET**

12 June, Augusta. THE MAINE LEGISLATURE OVERRODE A GUBERNATORIAL VETO AND BARED CRUDE-BY-RAIL DATA FROM THE PUBLIC, in Bill LD 484, ‘An Act Regarding the Confidentiality of Railroad Carrier Cargo.’ The new statute now states:

1 MRSA §402.
The term ‘Public Records’ means any written material … except: ...

sub-§3 (U)
‘Records provided by a railroad company describing hazardous materials transported by the railroad company in this State, the routes of hazardous materials shipments and the frequency of hazardous materials operations on those routes that are in the possession of a state or local emergency management entity or law enforcement agency, a fire department or other first responder. For the purposes of this paragraph, "hazardous material" has the same meaning as set forth in 49 Code of Federal Regulations, Section 105.5.’

Underlined language was added as an amendment to the original bill, as suggested by Shaw [see below].

**The rationale of the bill’s sponsor**
Representative Mike Shaw of House District 23, which includes part of Standish, sponsored the bill. In introducing it, he said:

‘This bill proposes a narrow and specific exemption to the current public records exemptions to the state’s Freedom of Access Act. Specifically, as drafted, the bill adds an additional public records exception to the Freedom of Access Act to cover records describing commodities transported by a railroad in this state when those records are in the possession of law enforcement, fire departments, or other first responders or emergency management entities. I would ask that this be expanded to a general exemption to ensure any state or local agency that wants the information can access it without need for disclosure.

‘While railroads want those officials to have that information, they are leery to provide it in a way that can be made public. The simple fact is there is a great deal of competition in the shipping business and disclosing publicly what, how much, and how often you are transporting a product can be a serious competitive disadvantage. This exemption seeks to allow our railroads to share this important information with first responders without the fear that information will be used to cut into their business.

‘This narrow exemption will ensure that information is available to those who need it without damaging the intent or spirit of the state’s “right to know” law.’

**Gubernatorial veto message**
Dear Honorable Members of the 127th Legislature:

Under the authority vested in me by Article IV, Part Third, Section 2 of the Constitution of the State of Maine, I am hereby vetoing LD 484, "An Act Regarding the Confidentiality of Railroad Carrier Cargo."

This bill adds an additional public records exception to the Freedom of Access Act to cover records describing hazardous materials transported by a railroad in this State when those records are in the possession of law enforcement, fire departments or other first responders or emergency management entities. In essence, railroad companies want these records shielded from public view when they are in the possession of first responders and emergency management entities.

One of the hallmarks of my administration has been transparency in government; another has been the protection of Maine citizens. I cannot support a bill that is inconsistent with these goals. When information about hazardous cargo traveling through this State is in the possession of first responders and/or emergency management entities, it is highly possible that one reason these entities have this information in the first place is that something has gone wrong. I am not
at all comfortable shielding this information from the Maine citizens that may be placed in harm's way by these transports. If trains are carrying hazardous materials through our State and this information is shared with our first responders and emergency management entities, then this information needs to be available to our citizens.

For these reasons, I return LD 484 unsigned and vetoed. I strongly urge the Legislature to sustain it.

Sincerely,

S/Paul R. LePage
Governor

The intent of the bill

Contacted in early November, Shaw (a conductor for the Downeaster), said he had discussed language for his bill with the American Association of Railroads. His intent, however, was not to eliminate the DECD monthly notification of amount of crude passing through the state [see Pan Am opposition to publication of this data in 13#07A].

“If there is interest, I would support an amendment to the law to make that clear,” he said. {ANR&P 9.Nov.15}

PAN AM: NGL STILL MOVING*

9 November, South Portland. **THE SOUTH PORTLAND CITY COUNCIL WILL NOT ENACT A 6-MONTH MORATORIUM ON NEW PROPANE TERMINALS.** The moratorium would need the support of five of the seven councillors, and at least three are definitely opposed to a moratorium. Councilors agreed to vote on the moratorium 9 December to formalize their position.

One such councillor, Linda Cohen, pointed out that many South Portland residents heat their homes with propane and propane storage tanks exist throughout the city. “If (propane) can’t come into South Portland, it has to come in somewhere.”

The city’s Planning Department staff is offering feedback on the project, but the proposal is considered incomplete and has not gone before the Planning Board for final review. {See map.}

“NGL is encouraged by the council’s discussion tonight,” said Kevin Fitzgerald, regional operations manager for NGL Energy, in a prepared statement. “We look forward to presenting our proposal to the Planning Board, providing detailed information about its safety features and answering any questions from staff and residents alike.” {Dennis Hoey in Portland Press Herald 10.Nov.15}

SLR: ENTER PAN AM?*

9 November, Portland. **ELDREDGE LUMBER HAS BEEN APPROACHED BY PAN AM**, after the direct rail service option on SLR did not work out [see 15#10A].

Norm Sirois of Eldredge Lumber said the meeting planned for October with the state about reviving SLR service to East Deering did not and will not happen. Prior decisions by B&M and SLR rule this out, and the State of Maine does not have the high level of funding required to make SLR service financially feasible.

Pan Am

Sirois said he will meet with Pan Am on 11 November. He acknowledged that using Pan Am will require using a satellite transload and the concomitant trucking [see map for current location and editor’s conjecture about satellite location]. {ANR&P discussion with Sirois 9&10.Nov.15}

EASTPORT: WOODCHIPS? ++

20 October. **THE CLOSING OF MORE MAINE PAPER MILLS GENERATED WOODCHIP INTEREST**, said Eastport Port Authority Director Chris Gardner at this month’s board meeting.

With both Lincoln Paper and Tissue and Expera closing [see other article], Gardner reported “a flurry of activity around our potential chip operations” [see 15#10A]. Wood harvesters have fewer markets [the shutdown of paper machines in Verso – see other article – adds to this], though Gardner stressed that only low-
quality wood will become the exported chips.

**Proposed bridge and road**
A study by the University of Maine of the economic impact has shown the economic benefit less than expected, Gardner reported. The Port Authority will maintain contact with the study’s author Ray Tillman. {Edward French in *Quoddy Tides* 23.Oct.15}

**Election results**
On 3 November, Eastport voters re-elected John Sullivan to the board. Challenger Floyd “Bub” Andrews got 42%. Andrews stated that, “The City of Eastport should not become financiers for outside groups who want to become part of the port’s business.” He was apparently referring to the short-term loan the Authority made earlier in 2015 to Phyto-Charter, which was repaid within weeks [see 15#09B]. {Bangor Daily News; Quoddy Tides 23.Oct.15}

**Ship calls**
On 18 October the *Thorco Copenhagen* loaded 9,400 tonnes of woodpulp for Turkey. On 20 October the *Star Kilimanjaro* loaded 20,000 tonnes for China. {Bangor Daily News; Quoddy Tides 23.Oct.15}

On 22-24 October, the *Star Luster* loaded 9,000 tonnes for Italy. In Bayside, the *Uruguay Reefer*. 

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*Map of the Portland area.* Showing where Eldredge and NGL are now located, and possible new locations. {ANR&P}
dropped a small load of aggregate 25-26 October. \{Quoddy Tides 13.Nov.15\}

NEW HAMPSHIRE

PAN AM - NHN: MORE PROPANE?

12 November, Rochester. **EASTERN PROPANE COULD DOUBLE ITS PROPANE BY RAIL**, said Bob Lefebvre, assistant vice-president for wholesale operations. Eastern is served directly by the short line NHN (“they are more than responsive”), which interchanges with Pan Am daily in Rollingsford.

Eastern now delivers to its customers 24 million gallons a year arriving through its rail terminal\(^1\), and the amount increases every year. Eastern has the capacity to bring in 1600 railcars a year. “To manage our risk, we choose not to.”

Propane storage and racks

Eastern has nine 60,000-gallon tanks and twelve 30,000-gallon tanks for a total of 900,000 gallons of storage. Depending on when cars arrive, Eastern actual volume changes. On this day, Lefebvre said, he has “under 200,000 gallons” of propane, with 25 cars enroute.

He has eight car spots; with two switches a day from NHN, he could unload 16 per day.\(^2\) But that makes little sense as he would need to push volume out by truck that much more quickly.

Use of other terminals

To supplement its own supply, particular during difficult winters when the railroad delivery slows, Eastern draws propane from terminals in Newington (Sea-3), Claremont (Plains), Biddeford (CHS), and others in Massachusetts, and Vermont, as well as the pipeline in Selkirk, New York \[see Regional map\]. \{ANR&P on-site

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1. Thus at Rochester, Eastern unloads 24M/30,000 or about 800 cars a year.
2. Assuming each car held 30,000 gallons, Eastern could unload 480,000 gallons in one day. *Editor*
visit}

MORE ON THE SITE
The location, in the northern part of Rochester off Route 125, lies at the end of Northcoast Drive, called ‘Tri-City.

The Ossipee Sand and Gravel terminal was added in 2004. At that point, NHN was spotting plastic pellet cars for auto-part manufacturer Collins + Aikman, which closed in 2007. [See 04#06B.]

PAN AM: TWO RINGS CLOSED, TWO STILL OPEN ++
6 November, Concord. ALL PARTIES TO THE SEA-3 TERMINAL EXPANSION PROPOSAL – BUT NOT PAN AM – REACHED A SETTLEMENT AGREEMENT. The document, signed by attorneys for the City of Portsmouth, the City of Dover, Sea-3, the Portsmouth Intervenors, Counsel for the Public, and Great Bay Stewards, allows Sea-3 to expand its rail terminal. Sea-3 plans five additional rail unloading spots, three 90,000-gallon above-ground storage tanks, a condenser, condenser cooling unit, a dryer and heater, a mechanical building, refrigeration equipment, and associated pipelines and accessory equipment.

Senior Assistant Attorney General Peter Roth, representing the public, asked for and received an order from the SEC earlier this year [see 15#09B] to force Sea-3 to pay for an independent study about its proposed expansion. The report prepared by Sebago Technics Inc. states ‘a site inspection of the Portsmouth and Newington industrial tracks did not reveal any conditions which would render them out of compliance with the requirement for Class 1 track.’

A hearing on the merits of Sea-3’s request for an exemption was scheduled to start 09h00 5 November. Instead, lawyers for all the parties, along with Newington Planning Board Chairman Denis Hebert, and fire chiefs from Portsmouth, Newington, and Dover hammered out the deal. All three chiefs stated during the afternoon hearing that the agreement addressed all concerns they had.
Comments
After the hearing hearing, Rich DiPentima, one of the Portsmouth intervenors who had opposed Sea-3’s expansion, called the deal “a victory in some part for everybody. We all got a little of what we wanted, not everything, but I think in the long run we’ve come away better off than we were when we started the process.”

Portsmouth Staff Attorney Jane Ferrini said after the hearing there was “considerable effort by all parties” to “address those first response concerns and overall safety of the project in the region.” She noted the agreement called for hands-on fire training for Portsmouth and Dover firefighters. “I think that was critical, particularly live training with a railcar.”

Alec McEachern, attorney for Sea-3, said after the hearing, the key to reaching the deal was getting “the three fire chiefs in the room together. It was a great day for Sea-3 and it’s a great day for everyone in New Hampshire who uses propane.” If the exemption is granted by the Site Evaluation Committee, Sea-3 will be able to move ahead with final engineering and design work on the project, McEachern said. {Jeff McMenemy in seacoastonline.com 5.Nov.15}

Agreement accepted
A spokesperson for the SEC expected the Committee to accept the Agreement in late November – she foresaw no problems. {ANR&P discussion 20.Nov.15}

Some terms
1. Sea-3, Inc. (“Sea-3”) shall arrange for a Comprehensive Fire Safety Analysis, pursuant to National Fire Protection Association (NFPA) 58, for the entire Newington facility (existing plus planned upgrades) for submittal to and approval by the Town of Newington (the "Town") and shall provide a copy to the New Hampshire Fire Marshal (“NHFMO”) for review and comment.

3. Sea-3 shall provide rail car training and tanker truck training in Portsmouth and Dover for all Portsmouth and Dover Fire Department shifts (and for Seacoast Technical Assistance Response Team "START") at Sea 3's expense in form and substance satisfactory to the Chiefs of the Portsmouth and Dover Fire Departments. Sea-3's expenses shall be limited to the cost of providing the training and shall not extend to reimbursement of wages to the participating Departments. Fire Departments from all communities along the rail line from Rockingham Junction to the Sea-3 facility in Newington shall be invited to attend the trainings in either P01ismouth or Dover. The rail car training and tanker truck training shall occur in 2016 and once every 5 years thereafter.

4. Sea-3 will participate in a ‘table-top’ exercise (e.g. a facilitator-led discussion centered on a simulated real world emergency) for the scenarios of: 1) a leak and/or fire on site, including but not limited to the dock area located on the property of Sprague, or another facility-related scenario requested by the Chief of the Newington, Portsmouth, or Dover Fire Departments; and 2) a rail car fire just outside of the facility and still in Newington.

5. Railcar limit. Sea-3 shall not receive more than 16 propane rail cars (no more than 33,000 gallons per car) to the facility per day consistent with the May 19, 2014 Newington Planning Board approval (letter of decision May 21, 2014). In the event Sea-3 wishes to increase the daily amount/volume of rail transported propane to the facility Sea-3 shall petition the Committee, with notice to the Cities of Portsmouth and Dover, the Town, and the Attorney General, and must obtain an order from the [Site Evaluation Committee] approving such increase.

No further legal action
All parties will withdraw objections to Sea-3’s request for an exemption from the Site Evaluation Committee extensive proceedings. The City of Portsmouth will dismiss its appeal to the Superior Court.

Other terms covered additional emergency training and emergency response plans. {text from Site Evaluation Committee website, SEC Docket No. 15-01}

THE REMAINING TWO RINGS
The settlement takes away two of the four rings in the circus the propane story had become: the appeal of the
Newington permit to Sea-3, and the SEC process [see 15#10B]. Two rings remain.

**Propane cars in proposed Pan Am propane terminal in Portsmouth Yard**

One rail observer reported four propane cars placarded 1075 in the yard on 8 November. Reporting marks PROX (2), TILX(1), CGTX(1). These were gone a week later, presumably to Sea-3. {NERAIL e-list}

**Pan Am v Portsmouth**

City attorney Jane Ferrini said she e-mailed Pan Am on 6 November to ask its intention on the federal lawsuit asking Portsmouth to cease blocking the Portsmouth Yard terminal [see 15#10B], given the settlement. “I have not heard anything back yet,” she said on 10 November.

As of 20 November, the city had not filed an answer to the Pan Am complaint. {court website; 1:15-cv-00403}

**PAN AM v MBRX: DATA EXCHANGE**

9 November, Nashua. *DETAILS ON TRACKAGE FEES WERE DISCLOSED* along with other information in MBRX’s Automatic Disclosure filing in Superior Court this day, as required by the Court’s Rule 22.

**Background**

Pan Am is suing MBRX for allegedly unpaid fees to use its three miles of track on the Hillsborough Branch [see 15#09B]. MBRX counters that the agreement covering the fees was terminated in 1992.

**Some of the documents disclosed by MBRX**

- 1992 letter from Pan Am to MBRX terminating the trackage rights agreement.
- 2009 letter from Pan Am asking MBRX to guarantee three round-trips a day.
- 2010 draft trackage rights agreement which would permit MBRX four round-trips per day; charge MBRX $2,042 per week (for 52 weeks, covering 210 cars per week, or 30/day or 10/trip) plus $10.21 per additional car whether loaded or empty.
- 2010 letter from MBRX accepting $10.21 per car but countering with a 2000-car annual minimum.
- 2013 e-mail from Pan Am saying the proposed 2010 terms had not changed and Pan Am had ‘no interest in further discussions.’
- 2014 e-mail from MBRX stating it paid $2.30/car-mile, the ‘rate from 2004’.
- December 2014 e-mail from MBRX noting Pan Am was billing at a rate of $3.40 per car mile or $9.73/car.
- Invoice from Pan Am for July 2015 billing at the rate of $12.03/car.
- An e-mail from MBRX insurance agent Walt Stapleton which included some personal observations on trackage rights repair:

‘Whether you are or not paying them, if you have permission to use their track, you also have a “user’s responsibility” that implies you "use" the track "safely", that is, for "public safety"- Pan Am may be technically responsible for maintaining their track, but if they fail or decline to do that, MBRX still has a user responsibility to operate over it safely- If you can do so at 3 mph and do it safely, then so be it. If you can't then you shouldn't use it.

‘If you have to use it, then you must at least perform a modicum of "safety repairs" to make those moves - which I understand you have allegedly done. Never mind about “permission” - the Trackage Rights give you "right of entry” on the property for your "operations". And per the CFRs, your operations require inspection for the safe operation of your trains, and the associated necessary safety repairs! (Like if you borrow somebody's
automobile and it has MV defects - you get the ticket, not the owner!)

‘If you can deduct a portion of the cost of those repairs from the "rent", fine, but if not, then you are merely a tenant at will and those expenses will be the "cost of doing business" that you'll handle.’ {text of documents}

Mediation?
Leishman reported that the parties had not yet agreed upon a mediator. He added that because the weather is good, he is still running.

Pan Am Executive Vice-president Cyndi Scarano, asked for a comment, wrote: ‘I am sorry but we do not comment on current litigation.’ {e-mail to ANR&P 9.Nov.15}

New Hampshire Superior Court Rule 22. Automatic Disclosures
(a) Materials that Must Be Disclosed. Except as may be otherwise ordered by the court for good cause shown, a party must without awaiting a discovery request, provide to the other parties:
   (1) the name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support his or her claims or defenses, unless the use would be solely for impeachment, and, unless such information is contained in a document provided pursuant to Rule 22 (a)(2), a summary of the information believed by the disclosing party to be possessed by each such person;
   (2) a copy of all documents, electronically stored information, and tangible things that the disclosing party has in his or her possession, custody or control and may use to support his or her claims or defenses, unless the use would be solely for impeachment ....

MARITIMES

CBNS-SYDNEY: PROGRESS?
19 November. CBNS AND HARBOR-PORT DEVELOPMENT PARTNERS HAVE SIGNED A MEMORANDUM OF UNDERSTANDING, according to a press release this day. Partner Albert Barbucsi [see 15#09A] said in an e-mail this day: ‘We have signed a non-disclosure agreement and a MOU with CBNS and plan to study all our options.’ {to ANR&P correspondent Tom Peters}

The press release stated in part: ‘We look forward to working with CBNS in building out our gateway and transshipment plans. This paves the way for HPDP and the Port of Sydney to move forward with additional feasibility studies and negotiations with other strategic partners.’ {Cape Breton Post}

Cape Breton Regional Municipality recently granted Harbor-Port Development Partners (HPDP) the exclusive right to market the port of Sydney for development, including building the financial and operating consortium to construct a state of the art container terminal and logistic park able to accommodate the latest generation of ultra large container vessels [see 15#09A].

Abandonment proceeding
CBNS spokesperson Claudine Bois said the company is going ahead with plans to abandon the rail line from St. Peter Junction to Sydney. “The decision to abandon the line was made several months ago. It hasn’t changed. It may change, provided that concrete steps towards Port of Sydney projects are taken.” {Tom Ayers in Halifax Herald 19.Nov.15}

Mini-editorial
Sydney’s rival in attracting carriers to new container terminals, Maher Melford, has similarly announced MOUs and partnerships, etc. Their hurdle continues to remain the existence of Halifax, which provides deep water, uncongested terminals, and an existing Class 3 rail line. Editor
RAIL FREIGHT FACILITIES

CHS (Pan Am, Maine) Adds two storage tracks.
Eastern Propane (Pan Am, Maine) Double throughput?
Eldredge Lumber (NHN, Maine) May use rail.
NGL (Pan Am, Maine) No propane moratorium.
Sea-3 (Pan Am, New Hampshire) Agreement to expand.
Verso (Pan Am, Maine) Up for sale.

Waste Management (NYA, New York) Rail service to rebuilt facility.