Formal issue 15#11B 7 December 2015

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

REGIONAL

Pan Am: Fink reports traffic down ‘for the first time in five years’. ++

NEW YORK

NYNJ-NYA: South Brooklyn Terminal open to bid. Map.

QUÉBEC

[No report.]

CONNECTICUT

CSO-Pan Am-Amtrak: Funding for commuter Hartford “guaranteed.”

PW: Propane terminal decision due “soon.”

MAINE

MDOT-CMQ: RFP for passenger operation of Rockland Branch to come in 2016.*

CMQ: Filed Notice to operate Rockland Branch.*

Maine crude: MDEP stopped reporting crude-by-rail figures – though none has moved since March. Nationally, CBR numbers dropped 25%.* Table.

South Portland: Portland Pipe Line use has dropped and may soon cease altogether. Map.

Pan Am: Rail traffic from Bucksport revived, also Orrington?

MASSACHUSETTS


PW & MC: Changes in salt pile operation. ++

NEW HAMPSHIRE

NHDOT-NHCR: Notice of Exemption has five deficiencies. Map.

NECR-CCRR: No STB decision after 5 months.

NHDOT: No decision on RFP for state lines.* Map.

RHODE ISLAND

Providence: Deepwater Wind landing turbine components this week.* Map.

VERMONT

[No report.]

MARITIMES

Halifax: Shipment of hazmat forces carrier to change terminals.*

RAIL SHIPPERS/RECEIVERS

A cross-reference to companies mentioned here.

PEOPLE, POSITIONS, EVENTS

[No report.]

FROM THE PUBLISHER

All quiet in the region

No line sales, no new propane deals, no major customers arriving or departing.

Have any news or tips I should look into? Send me an e-mail.

Chop Hardenbergh

Next issue circa the Solstice

REGIONAL

PAN AM: TRAFFIC DOWN ++
summer, North Billerica. ‘OUR FREIGHT BUSINESS IS DOWN FOR THE FIRST TIME IN FIVE YEARS,’ wrote President David Fink. ‘As we did during the recession, we are investing in the railroad despite the downturn, so that we are prepared when the economic climate improves. We continue the hiring of train and engine crews, while investing in our physical plant.

‘Improving technology throughout the system is a priority in order to improve both customer service and safety.

Paper and coal
‘The Marketing Department has been working on several prospects in the energy and consumer products front [see propane articles in 15#11A]. This is an exciting development because this can replace some of the lost paper and coal business that is the result of market shift.

‘There are challenges in getting this business on track due to opposition in construction of necessary infrastructure by local communities. We will work diligently to site these facilities and service our customers.’

Safety
‘Our injuries per 200,000 man-hours is 1.0. This ratio is down from a year ago but we need to continue to strive for zero reportable injuries.’ {The Pan Am Clipper issue one 2015

NEW YORK

NYA-NYNJ: NEW CUSTOMER SPACE

4 December, NYC. NYCEDC RELEASED AN RFP FOR MARITIME BUSINESSES AT THE SOUTH BROOKLYN MARINE TERMINAL (SBMT), served by NYNJ. The New York City Economic Development Corporation seeks one or more long-term, maritime-dependent commercial and industrial tenants, which will bring this important piece of the Sunset Park industrial ecosystem online by the end of 2016.

NYA interchange
At this point NYA’s regular interchange with NYNJ in Bay Ridge, Brooklyn consists only of traffic moving across the harbor [see 14#03B photo]. Chuck Samul, director of sales and marketing,
The City has spent over $50 million to make utility upgrades, improve and modernize infrastructure, increase rail connectivity and repair bulkheads at SBMT.

Sims scrap steel from the Brooklyn waterfront does move via rail across the harbor, Samul said [see 14#03B]. NYA has discussed with NYNJ moving some out via CSXT, without result thus far. {ANR&P discussion 7.Dec.15}

**SBMT Reactivation Plan**

The Maritime Master Lease requires that its use be restricted to maritime-dependent uses, such as waterborne cargo handling, marine services (e.g., tug boats, maritime construction, etc.)

- Non-maritime uses / Uses **not allowed** under the Maritime Master Lease include such uses as: recreational/park uses, movie studio, commercial development, housing, parking unrelated to maritime-dependent uses, passenger operations
- Additionally, NYCEDC will **not allow** uses such as hazardous or noxious materials including municipal solid waste (trash)

### Short-Term Activation

- Permit term: Up to 1 year (with limited renewal options)
- Rolling deadlines for permitting applications (July, October)
- Short-term uses must adhere to Maritime Master Lease use restrictions

### Long-Term Activation

- Lease term: Up to 39 years
- Release RFP for one or more long-term industrial maritime tenant(s)
- Targeting a release this Fall

*Note: Short-term and long-term activation processes are being procured separately* (all three graphics are NYCEDC materials prepared for public hearings October 2015)
CONNECTICUT

CSO-PAN AM-AMTRAK: CONN RIVER LINE DEAL

4 December. CONNDOT AND AMTRAK NOW HAVE GUARANTEED AGREEMENTS FOR COST CEILINGS AND A CLEAR TIMETABLE TO COMPLETE THE HARTFORD LINE, Governor Dannel P. Malloy announced.

The completed Hartford Line will triple the number of trains between New Haven and Hartford and double the service between Hartford and Springfield. The program is now in construction; every weekend, centuries-old and undersized culverts and drainage structures are replaced. The roadbed is currently being excavated to re-install the second track.

The State Bond Commission next week will vote to approve an allocation of $155 million to complete construction of the future Hartford Line, a final installment to upgrade the line and launch expanded rail service between New Haven and Hartford. As part of the agreement, Amtrak will deliver service with a clear ceiling for costs and a clear timetable for completion.

Current program estimates indicate that construction on the future Hartford Line will extend into late 2017 with a service launch no later than January 2018. {press release from Malloy’s office}

PW: PROPANE DECISION DUE “SOON”*

24 November, Hartford. A DECISION ON GLOBAL’S APPEAL OF THE TOWN OF CLINTON’S REFUSAL TO ISSUE A PERMIT for a propane terminal is due “soon”, reported the clerk of the Connecticut Land Use Court. She noted that the judge is required to decide within 120 days of the hearing, which occurred on 10 August [see 15#01B]. {ANR&P discussion}

MAINE

MDOT: PASSENGER RFP IN 2017*

30 November, Augusta. EXPANDED DOWNEASTER SERVICE TO BRUNSWICK MAY HELP FUTURE ROCKLAND BRANCH passenger service, noted Nate Moulton, MDOT’s rail administrator, recently.

Moulton said the state would wait until 2016 to solicit proposals for passenger service, which would start in 2017. By then, the Downeaster may have its expanded Brunswick service. “That may give us a better product and better connections that may lead to more interest in running a passenger operation on the Rockland branch.”

Maine Eastern, which lost in the bidding for freight in 2016 [see 15#09A], did propose year-round passenger service connecting with Amtrak’s Boston-to-Brunswick Downeaster line, with some subsidy from the state. Prior to that, said Moulton, MERR “to its credit” operated the passenger service without a subsidy. {Darren Fishell in Bangor Daily News 30.Nov.15}

CMQ: TO OPERATE ROCKLAND BRANCH*

19 November, DC. CMQ FILED THE VERIFIED NOTICE OF EXEMPTION TO OPERATE THE ROCKLAND BRANCH beginning 1 January, under a lease from MDOT [see 15#09A]. Attorney Louis Gitomer wrote that CMQ would operate:

‘59.42 miles located in Maine and owned by Maine, consisting of: (1) the Brunswick Yard between the east side of Church Road, milepost CPL 15 and Rock Jct., milepost CPL 17; (2) the Rockland Branch between milepost 29.40 at Brunswick Yard in Brunswick and milepost 85.85 in Rockland; and (3) the Atlantic Branch Line between milepost 85.36 and milepost 86.65 in Rockland (collectively the "Line").
There are no interchange commitments to Maine or any rail carrier as part of the transaction.

CMQ’s annual revenues exceed $5,000,000 but according to the filing it will remain a Class III carrier. {STB website, filings page, Docket No. FD 35975}

**MAINE CRUDE OIL**

2 December. **MAINE DEP STOPPED REPORTING CRUDE BY RAIL NUMBERS**, in its latest release of barrels of crude moving through Maine. All rail figures, which MDEP reported back in September 2015 for the period to August 2015, were omitted in the December report. {table from DEP} [See table.]

The omission of the rail numbers is the subject of conversations between MDEP and the Maine Attorney General’s Office, as they seek to interpret the Maine bill prohibiting the release of crude by rail information in certain instances [see 15#11A].

[Mini-editorial: My interpretation of the statute, especially after talking to the bill’s sponsor, is that it does not prohibit MDEP from publishing monthly numbers. Editor]

The figures showed the continued drop in pipeline volume.

[See other article.]

21 November. **NATIONALLY CRUDE BY RAIL SHOWED A SUBSTANTIAL DROP**. For the week ending 21 November, petroleum and petroleum products fell 25.8% to 11,894 carloads versus the same 2014 week.

### BARRELS OF CRUDE BY MONTH THROUGH MAINE

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Note: All entities transporting crude must pay a per-barrel fee and report the number of barrels by the end of the month following the report.

In December 2015 MDEP, following passage of a new Maine statute, declined to continue to report crude by rail—though other sources cognizant of rail moves have spotted no crude moves since March.

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2 For the most recent year of classification, 2013, a Class II railroad is defined as a carrier having revenues between $37.4 million and $467.0 million. A Class III railroad is one with yearly operating revenues below $37.4 million. A railroad is reclassified when its revenues are above or below the threshold for three consecutive years. While Class II and Class III railroads are not required to report yearly revenue data to the STB, it is, nonetheless, the responsibility of any of these railroads to report to the STB if there is a need for reclassification. https://www.fra.dot.gov/eLib/Details/L16020
Other declines
Metallic ores and metals: -22.7% to 19,782 carloads. Coal -16.8% to 92,998 carloads.

Increases
Four of the 10 carload commodity groups increased. Miscellaneous carloads: 12.3% to 9,597 carloads. Motor vehicles and parts: 5.9% to 19,105 carloads. Nonmetallic minerals: 2.1% to 35,420 carloads.

Totals down substantially
For the week, U.S. weekly rail traffic totalled 532,532 carloads and intermodal units, down 5.7% compared with the same week last year. U.S. Carloads: -10%; Canadian carloads -3%. Intermodal for some sectors saw modest gains. {Association of American Railroads cited by Railway Age 25.Nov.15}

A move to ethanol
Tank cars are moving to ethanol traffic, according to observers commenting in June 2015. A U.S. ethanol trader said he has seen more cars become available since the crude price rout started nine months ago and lease rates have fallen. Train velocity has also improved, meaning shippers do more hauling with fewer cars.

New FRA standards, requiring replacement or modification of the 28,000-tank-car fleet, is given eight years for ethanol cars, three years longer than oil cars. Tom Williamson, owner of Transportation Consultants, said he has helped broker several deals that included roughly 700 oil cars being pulled from oil and put into ethanol service in recent months. “It’s certainly a factor in the switch, as leasing companies may be taking advantage of the longer lead time,” Williamson said.

The sharp drop in monthly lease rates for tank cars also plays a role. Long-term lease rates for the most common tank cars have plunged to as low as $700 a month, down from about $2,500 about at the beginning of 2014. One physical trader who focuses on crude rail said he saw an 18-month lease for $850 a car.

The cost of taking cars off the rails - as much as $100 a month per car - also makes it more appealing to make the switch, industry sources said. {Jarrett Renshaw of Reuters in Business News Network 23.June.15}

SOUTH PORTLAND: CRUDE TO DISAPPEAR?
30 November. A CONFLUENCE OF EVENTS IS MAKING THE SOUTH PORTLAND TO MONTREAL CRUDE OIL PIPELINE REDUNDANT: closing of Montreal refineries, cheaper inland oil, and a new pipeline from the West.

Facts
Constructed 1941 to provide a safe route to Montreal refineries, away from Nazi U-boats.
Two pipes, a 24-inch line, and an 18-inch line out of service., each three feet underground.
Facilities in South Portland, including 45 storage tanks, assessed at $45 million.
The Portland Pipe Line Corporation is a subsidiary of Montreal Pipe Line Limited,which is owned by three oil companies: Suncor Energy (23.8%), Shell Oil, and Imperial Oil, the majority owner.

Peak flow
Oil flows surged 1998-2008, with 2004 the peak at 160 million barrels, making Portland the second busiest East coast port by volume, behind Philadelphia. At the peak 24 tankers a month called on Portland, said Brian Fournier, president of Portland Tugboat. By 2014 [see table], volume fell to 33 million barrels.

Closing of Montreal refineries
Competition and consolidation have closed five of the six Montreal refineries. Suncor Energy remains, and has recently switched to oil from western Canada and North Dakota by rail.
Pipeline from the west

Within months, Enbridge will reverse the flow of a section of its pipeline known as Line 9B between Sarnia and Montreal [see map], allowing Enbridge to bring 300,000 barrels a day from western Canada and North Dakota for Suncor Energy’s Montreal refinery, and Valero Energy Corporation’s Jean-Gaulin refinery in Lévis.

Suncor-Montreal comments. In October, Suncor Energy Inc. spokeswoman Sneh Seetal called Line 9 “critical infrastructure” for the 137,000 barrel-per-day Montreal refinery. {Kelly Cryderman in Toronto Globe and Mail 1.Oct.15}

Suncor is a major producer of tar sands oil in Alberta. In November 2015, Suncor spokeswoman Nicole Fisher declined to discuss in any detail with the Press Herald where the refinery plans to source its oil. ‘Line 9 will provide supply options as well as access to inland crudes. This in turn will enhance the long-term competitiveness of the refinery.’

Valero bought Ultramar Diamond Shamrock in 2002, including the Jean-Gaulin Refinery in Levis, across the St.Lawrence from Quebec City. {Valero website}
Valero-Levis comments. In 2014, Valero announced that it formed a joint venture with Quebec marine transport company Groupe Desgagnés to ship crude by tanker from Montreal to the 265,000-barrel-per-day refinery Jean-Gaulin. The new venture has purchased two Panamax-class ships for use on the St. Lawrence River. The crude will land at Valero’s terminal in east-end Montreal via Line 9. {Nicholas van Praet in Financial Post 20.Mar.14}

Julie Cusson, director of public and government affairs in Canada for Valero, said: “For us it’s a big change because with Line 9, half of our supply will now come from western Canada. Now, for the first time in our history, we have access to the Canadian product.”

Ms. Cusson said 1 October that Valero has invested $200-million in upgrades at its terminal and refinery in anticipation of approval. The refinery, which processes light and medium crude oil, and can also handle oil sands crude that has been upgraded to a transportable form, currently receives a small amount of Canadian oil by rail. {Kelly Cryderman in Toronto Globe and Mail 1.Oct.15}

Valero spokesman Bill Day said that once line 9B is in place, the Quebec refinery will be 100% supplied by North American crude oil, eliminating the need to import from overseas. {Sergio Chapa in San Antonio Business Journal 28.Apr.15}

Suncor may commit to minimum
John Auers, executive vice president at Turner, Mason & Company, a Dallas petroleum industry consulting firm, said Suncor may decide to continue to buy oil through the Portland Pipe Line, at a reduced volume to maintain the pipeline infrastructure and give the company options if the market changes and imported oil

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3 If half the crude comes from western Canada, then the other half will come from the Bakken, since the spokespeople are saying Valero will use no more imported crude. Editor
becomes cheaper than domestic oil.

“It would not be out of place or unprecedented for Suncor to commit to a certain amount of volume to keep supplies from the West honest. You always want to have more than one place to get your crude from.”

**Impact on exporting nations**

Algeria, Nigeria, Angola, and Norway collectively exported to Quebec either via the Portland pipeline or tanker up the St. Lawrence, about 62 million barrels. About 60% was delivered by ship, 40% by Portland pipeline, according to Statistics Canada (marine) and MDEP (pipeline). That works out to a total of 165,000 barrels a day for the two refineries.

The balance, or about 235,000 barrels a day, arrives by rail, currently; that amount will drop to 100,000 barrels by rail after 9B comes on line.\(^5\)

**Ship chandlery impact**

Charlie Poole, whose family owns Brown Ship Services, has supplied the tankers and other vessels calling Portland Harbor. His business has dropped 50%; Brown will now supply only trash removal.

**Alternative uses**

\(^5\) If Jean-Gaulin and Suncor total 400,000 barrels per day, and 165,000 is currently imported, the two refineries must now bring in by rail the balance of 235,000 barrels each day. If 9B will supply 300,000 barrels per day, then the two refineries will need only 100,000 barrels by rail in the future. *Editor*
Sandy Fielden of RBN Energy said the rejection of the Keystone XL pipeline by President Obama results in “a lot of crude in Canada looking for a way to reach the water right now.” {Tom Bell in Portland Press Herald 30.Nov.15}

Portland Pipe Line could reverse the flow and hook up to Bakken and western Canadian crude. But the South Portland City Council approved an ordinance in 2015 that effectively prevents the company from reversing the flow of the pipeline.

**Status of lawsuit against South Portland.** Portland Pipe Line filed against South Portland in federal district court in February [see 15#02A]. In April, the City moved to dismiss the case under Federal Rule of Civil Procedure 12(b)1, lack of subject matter jurisdiction: the company cannot claim damages because it has ‘no current plans’ to reverse the flow of the pipeline.

In May, Judge John Woodcock assented to oral argument on the City’s motion, ‘scheduled at a time convenient to the parties and the Court.’

The city set aside $450,000 in the coming fiscal year for legal costs related to the lawsuit. {Kelley Bouchard in Portland Press Herald 16.June.15}

As of 3 December, the argument had not been scheduled. {federal court website, case 2:15-cv-54}

**Other uses.** Eben Rose, who opposes any attempt to reverse the pipeline and won a seat on the City Council in November, envisions the city and Portland Pipe Line joining forces to transform the industrial facilities and tanks into offices and laboratories for a research institute that would focus on finding sustainable ways to create energy, such as using algae to refine petroleum.

The pipeline itself might serve as a conduit for underground transmission lines carrying electricity produced by hydropower plants in Canada. {Tom Bell in Portland Press Herald 30.Nov.15}

**PAN AM: RAIL TO BUCKSPORT REVIVED**

30 November, Bucksport. **PAN AM WILL REMOVE THE DEBRIS OF THE FORMER PAPER MILL HERE.** AIM Development, the U.S. subsidiary of a Canadian scrap metal recycler, bought the shuttered mill from Verso in January [see 15#01A]. In September, it received a demolition permit from the Maine Department of Environmental Protection (MDEP), and received its demolition permit from Bucksport in late November.

The application to MDEP prepared by engineering consulting firm CES Incorporated specifies plans to take down the mill in several phases over the next year. AIM put the cost at $4.5 million.

From the application:

**Use of truck**

The estimated 14,000 cubic yards of debris will move by Pan Am train to Bangor, then by truck to either the Crossroads Landfill in Norridgewock or the Juniper Ridge Landfill in Old Town.

The debris will include ‘but is not limited to building materials; discarded furniture; asphalt; wall board; pipes; and metal conduits. It excludes: partially filled containers of glues, tars, solvents, resins, paints or caulking compounds; friable asbestos; and other special wastes.’

**Use of rail for Orrington too**

Much of the 18,000 tons of metal will go to Montreal for recycling. By early November, Pan Am had left a string of 30 high-sided gondolas. Some were already moving out.

Pan Am Executive Vice President Cynthia Scarano wrote in an email in November that Pan Am inspected the Class 1 railway this past summer. Cars moving along it will also be stopping to pick up environmental waste removed from the HoltraChem site in Orrington. ‘Our current plan is to run to Bucksport once a week until the snow stops us. We will resume in the spring.’

‘Pan Am has moved cars this summer with success. The complete track from Bangor to Bucksport was inspected for integrity over the summer months,’ AIM project manager Jeffrey McGlin wrote in November in
response to questions about the corridor’s quality.
For the mill demolition, he added, ‘The volume of car movements will be very low for track standards.’

MASSACHUSETTS

MASSDOT-PAN AM: JUST IN TIME

4 December, DC. **THE STB COMPLETED A DECISION BY A REQUESTED DEADLINE**, in granting MassDOT’s request re the Adams Branch. A unanimous decision by the full Board granted MassDOT’s request to dismiss its Notice of Exemption: ‘We find that 49 U.S.C. §10902 does not apply to this sale of physical assets and associated rail right-of-way, because the selling carrier would retain an exclusive, perpetual freight rail easement over the rail line together with the common carrier obligation, and the purchaser could not unduly interfere with the provision of freight rail service on the line.’

**Background**

Board process requires that a state buying track file a notice of exemption and then a motion to dismiss, so that the state does not become a rail carrier. [See footnote in NHDOT-NHCR article.]

On 14 August 2015, MassDOT filed a verified notice of exemption under 49 C.F.R. §1150.41 to acquire from PAS the Adams Branch [see 15#08B], requesting a decision by 28 September in time for Berkshire Scenic to operate leaf peeping season excursions. This request failed, despite several letters of support and requests for expedited handling, including one from US Senator Elizabeth Warren.

On 16 November, MassDOT amended its motion to dismiss, ‘requesting that the Board issue a decision on the merits no later than December 4, 2015, rather than the original date of December 15, 2015.’

**State a common carrier**

‘The Board is granting the motion of the Massachusetts Department of Transportation (MassDOT), a Class III carrier.’ The decision

6 MassDOT became a common carrier by virtue of its 2015 acquisition of interstate passenger rights from Housatonic Railroad Company, Inc. See Mass. Dep’t of Transp.—Acquis. & Operation Exemption—Certain Assets of Housatonic R.R. , FD 35866, slip op. at 5 (STB served May 22, 2015). Specifically, MassDOT obtained interstate passenger rights over the “Berkshire Line,” from approximately milepost 50.0 at the Massachusetts-
permits MassDOT to close on the acquisition of the 4.6-mile line, which was negotiated in 2014 [see 14#11B] and 2015 [see 15#08B]. {STB website, decisions page, Docket No. FD 35943}

**PW & MC: SALT PILE CHANGES ++**

3 December, Sagamore. *AMERICAN ROCK SALT ASKED SAGAMORE TRUCK AND RAIL TO RETURN* to manage the Worcester salt pile.

**History**

On 1 January 2013, ARS purchased the salt distribution operations in both Taunton and Worcester from Sagamore Truck and Rail (51% owned by Carol DeBoer Gallo and 49% by her husband Louis Gallo).

In November 2013, Carol Gallo explained: 'ARS made us an offer and we accepted. There were financial reasons why this agreement was good for both parties. Managing the salt piles in a busy winter is unforgiving; managing the salt piles when there is no business is financially difficult. We were gambling on bad weather. We couldn't afford to take that chance every season, or to have another winter with no snow.'

ARS hired Wecare Organics to operate the piles [see 13#12A.].

**The Worcester return**

Carol Gallo said on 3 December that “ARS asked us to come back. We are operating the pile, and doing the trucking. The pile has 22,000 tons” [220 railcars’ worth].

ARS made the request because Louis Gallo, who operated the pile before 2013, “knows what he is doing.”

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Connecticut border at Sheffield, Mass., to a connection with CSX Transportation, Inc., at approximately milepost 86.3 at Pittsfield, Mass.’ {4 December Decision Footnote 2}

The Board offered MassDOT the chance to eliminate its status as a common carrier on 22 May, in its decision on MassDOT acquiring the HRRC line in Massachusetts and with it, passenger rights. MassDOT could excise the acquisition of passenger rights from that transaction. It chose not to do so in filing the Notice of Exemption and request for dismissal, which the Board granted in this 4 December decision. Editor
Taunton
ARS has hired Podgurski Corporation of Canton, Massachusetts to operate the pile in Taunton, while Sagamore continues to do the trucking. The pile serves only “a couple of towns” and some private users, and will only do 20,000 to 30,000 tons “if it snows.”

At this point, Carol Gallo said, due to the lack of winter, MC is paying someone to be present at the pile though “there are days when nothing happens.”

Sagamore
Sagamore Truck and Rail still operates a transload in Sagamore. That has seen no use for some time, as it only handles ash from NRG Energy’s Canal Generating Plant – when and if it burns oil. When it does burn, the resulting ash is trucked to Sagamore and loaded into the gondola kept there [see photo]. However, that happens only once a year “over a period of a couple of months.”

Carol Gallo said Sagamore had reduced the height of the sides of the gondola, owned by Canal Generating, so that the Sagamore truck can dump into it. {ANR&P discussion}

NEW HAMPSHIRE

NHDOT-NHCR: PROBLEMS WITH ABANDONMENT
3 December, DC. THE STB CITED FIVE DEFICIENCIES WHEN REJECTING NHDOT’S NOTICE OF EXEMPTION TO ABANDON FORMER NHVT TRACK. Rachel Campbell, director of the Office of Proceedings, issued the decision.

Background of decision
NHDOT began the abandonment process by filing a Notice of Exemption on 15 October. Normally, the STB publishes the Notice within weeks of the filing, giving parties a chance to

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7 Salt is available for sale by Podgurski-owned Mass Industrial Services, also of Canton to non-ARS Customers. {e-mail from Chris Podgurski to ANR&P 4 Dec. 15}
8 Or about 200 to 300 carloads. Compared to 2003, when ARS delivered about 1000 cars [see 03#03A].
9 In October 2014, the plant relied mainly on oil to fuel its two units totalling 1226MW. It operates only at peak times. NRG receives so-called capacity payments for being available to generate electricity when the grid calls on the plant. {George Brennan in Cape Cod Times 22 Oct. 14} On 15 July 2015 NRG spokesman David Gaier announced plans to install a 1.5MW solar field by autumn 2016 and a new 330MW oil- or natural gas-fired turbine. {Ryan Barber in capecodonline.com 16 July 15}
object. If no objections, the abandonment goes into effect 30 to 50 days after publication.

However, here the Board found defects in the filing, and rejected it, for five reasons:

**Not adequate notice to requisite agencies**

‘First, based on its verified notice, it appears that NHDOT may not have notified the requisite agencies of its verified notice of exemption in writing at least 10 days prior to filing with the Board, as required under 49 C.F.R. § 1152.50(d)(1).

‘The agencies to be served under this Board regulation include: (1) the Public Service Commission (or equivalent agency) in the state(s) where the line will be abandoned or the service or trackage rights discontinued; (2) the Department of Defense (Military Traffic Management Command, Transportation Engineering Agency, Railroads for National Defense Program); (3) the National Park Service, Recreation Resources Assistance Division; and (4) the U.S. Department of Agriculture, Chief of the Forest Service.

‘Although NHDOT states in its notice that “[s]tate agencies with interests in this proceeding (NHDOT, New Hampshire Department of Resources and Economic Development and others) are already aware of and involved in this proceeding,” NHDOT has not provided a list of the specific agencies notified pursuant to 49 C.F.R. § 1152.50(d)(1) or shown that it provided the necessary information to those agencies.

**No certification**

‘Additionally, NHDOT’s verified notice of exemption does not include the certification required under 49 C.F.R. § 1152.50(b), confirming that no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period.’

**Possibly a common carrier**


‘If NHDOT resubmits its verified notice of exemption to abandon, it should include the certification required under 49 C.F.R. § 1152.50(b) [text inserted by your editor: *Exempt abandonments and discontinuances of service and trackage rights.*]

(b) An abandonment or discontinuance of service or trackage rights is exempt if the carrier certifies that no local traffic has moved over the line for at least 2 years and any overhead traffic on the line can be rerouted over other lines and that no formal complaint filed by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the 2-year period."

and provide justification for why it believes it is not subject to 49 U.S.C. Subtitle IV, Chapter 105. [*49 U.S. Code Chapter 105 - JURISDICTION OF THE SURFACE TRANSPORTATION BOARD*]10

**Failure to certify**

‘With respect to NHDOT’s Environmental and Historic Report, NHDOT has failed to certify under 49 C.F.R. § 1105.11 that it sent copies of its Environmental and Historic Report to certain agencies and/or State Historic

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10 ‘The acquisition of an active rail line and the common carrier obligation that goes with it ordinarily requires Board approval under 49 U.S.C. § 10901, even if the acquiring entity is a noncarrier, including a state. See *Common Carrier Status of States, State Agencies*, 363 I.C.C. 132, 133 (1980), aff’d sub nom. *Simmons v. ICC*, 697 F.2d 326 (D.C. Cir. 1982).

‘However, Board authority is not required where no common carrier rights or obligations are transferred with the physical assets on the line. See *State of Maine*, 8 I.C.C.2d at 836-37 (1991). To determine whether common carrier rights or obligations have been transferred, the Board examines whether the rights acquired by a noncarrier are so extensive that the noncarrier has acquired control of the rail line. [Docket No. FD 35440 STATE OF MAINE—PETITION FOR DECLARATORY ORDER Decided: December 29, 2010 (MDOT acquisition of SLR line segment between Auburn and Lewiston)]
Preservation Officer(s) in accordance with 49 C.F.R. § 1105.7 and certify to the Board that it has done so.

‘The requisite agencies to be notified include: (1) the State Clearinghouse of each state involved (or other State equivalent agency if the State has no clearinghouse); (2) the State Environmental Protection Agency of each State involved; (3) the State Coastal Zone Management Agency for any state where the proposed activity would involve land or water uses within that State’s coastal zone; (4) the head of each county (or comparable political entity including any Indian reservation) through which the line goes; (5) the appropriate regional offices of the Environmental Protection Agency; (6) the U.S. Fish and Wildlife Service; (7) the U.S. Army Corps of Engineers; (8) the National Park Service; (9) the U.S. Soil Conservation Service; (10) the National Geodetic Survey; and (11) any other agencies that have been consulted in preparing the report.’

**Jack Dodd not okay to represent NHDOT?**

‘Finally, any person who represents persons before the Board must be either (1) an attorney, see 49 C.F.R. §1103.2 or (2) a registered non-attorney practitioner who has successfully completed the practitioner’s examination, see 49 C.F.R. § 1103.3.

‘Alternatively, because a corporation cannot represent itself per se, an officer or director, if properly authorized by the corporation, may represent a corporation in Board proceedings. See, e.g., Codorus Creek Ry. —Feeder Line Application—Stewartstown R.R., FD 35071 (STB served Apr. 13, 2010).

‘Here, Jack E. Dodd filed the verified notice of exemption on behalf of NHDOT and has not shown that he is either an attorney or a licensed practitioner, or that he is an officer or director of NHDOT. Accordingly, it is not clear whether Dodd can represent NHDOT in this proceeding.

‘For these reasons, NHDOT’s notice of exemption will be rejected. NHDOT may submit a new verified notice of exemption to reinitiate the abandonment process. {NHDOT – Abandonment exemption--between Littleton, N.H. and Bethlehem, N.H., STB website, decisions page, Docket No. AB-1237}

**Dodd has appeared before at STB**

A search of ANR&P reveals that Dodd represented NHCR, listing himself as ‘director of sales and marketing’, when he filed a Notice of Exemption to lease from NHDOT the line between Whitefield and Lunenburg. [See 07#05A.] {STB web site, filings page FD 35022} This fits the requirement stated above.

But when Dodd filed the Notice of Exemption to discontinue the NHCR service over the short stretch in May 2015, he characterized himself as a ‘rail business consultant’ [see 15#05A] and therefore under Board rules did not qualify as a representative. Yet the Board there published the Notice and it became effective [see above, ‘Background’].

**NECR-CCRR: NO BOARD ACTION***

7 December. THE BOARD HAS NOT ACTED ON A NOTICE OF EXEMPTION FOR CCRR AND NECR per the STB website. NECR submitted 6 August. [See 15#08A.]

**NHDOT: NO DECISION YET**

mid-November, Concord. THE DEPARTMENT HAS NOT YET DECIDED HOW IT WILL PROCEED on the RFP it issued in January [see 15#01A] for the operation of its Mountain Division and Ossipee branches. Rail and Transit Administrator Shelley Winters said the following sentence, issued 16 September, still applied [see 15#09B].

‘This is an ongoing process … until the State’s procurement process concludes …’ {e-mail to ANR&P} [The decision might include the line through Hazens to Lunenberg. See map.]
PROVIDENCE: INBOUND WIND TURBINE COMPONENTS*

16 November. DEEPWATER WIND ANNOUNCED THAT ALSTOM WOULD LAND COMPONENTS AT PROVPORT FOR THE MODEL WIND FARM OFF BLOCK ISLAND. In a press release, the company noted that offshore construction had already begun, of the steel frame for the towers.

“We are pleased to support Deepwater Wind’s historic efforts to establish the first offshore wind farm in the United States. In addition to assisting Deepwater Wind with this project, we believe ProvPort is perfectly
situated to continue to position Rhode Island as a leader in offshore wind development as we offer 3,500 feet of linear berthing space, 20 acres of open lay down area, and 40’ of deep draft,” said Paul Moura, chair of ProvPort’s board of directors.

**Components to land at ProvPort**

Alstom, the company General Electric purchased this month, is supplying all components, which will arrive by sea at Berth 6 and use lay-down space adjacent. The first ship, with five of the total 15 tower sections, will arrive from Spain this week. Those 95-foot tall sections will be off-loaded at the new temporary manufacturing facility that GE is building at the Providence port.

Over the next six months, GE will install the critical electrical, mechanical, and safety equipment within the bottom tower sections – the sections that are arriving this week. The remaining tower sections will arrive in Rhode Island next year.

**Turbines**

Alstom will supply its 6MW Haliade 150 offshore wind turbines, turned by blades 73.5 metres long, for the Block Island Wind Farm.

**Work at Quonset as well**

The assembly activities at ProvPort will complement construction and staging work completed at Quonset Point in North Kingstown. Fabrication of some of the foundation components was completed by local welders at Quonset’s Specialty Diving Services in early 2015, and the port continues to host construction and repair work, and vessel staging for the wind farm. Quonset will also host the project’s long-term operations and maintenance facility.

In 2009 the Quonset Development Corporation board leased three parcels to Deepwater. In 2014 the Quonset board awarded a lease option to Cape Wind Associates, an affiliate of Boston-based Energy
Management which planned 130 wind turbines in Long Island Sound but which has since foundered. {Deepwater Wind press release 16.Nov.15; Alex Kuffner in Providence Journal 15.July.14 and 16.Nov.15}

Management
ProvPort, the owner of the property, has leased Berth 6 and the adjacent land to Deep Wind for the period of its use for the five-turbine project, probably a bit over a year, said Chris Waterson, general manager of Waterson Terminal Services which manages the port for ProvPort. {e-mail to ANR&P}

MARITIMES

HALIFAX: HAZMAT FORCES TERMINAL CHANGE

26 November. AMENDMENTS TO FEDERAL HAZMAT REGULATIONS AT MARINE TERMINALS REQUIRED BAHRI TO CHANGE TERMINALS in Halifax. Bahri (The National Shipping Company of Saudi Arabia), which calls Ocean Terminals, will begin calling Fairview Cove Terminal, operated by Ceres, on about 16 December, said Bob Betts of Protos Shipping, Bahri’s Halifax agent.

Bahri vessels, calling every 23 days, handle some containers, though mainly ro/ro or project cargo. {discussion with ANR&P correspondent Tom Peters 26.Nov.2015}

Special cargo?
Various agencies spoke vaguely about the “special cargo” which Fairview is permitted to handle because it is regulated for short periods to handle cargo with “explosive content,” up to 24 tonnes, said one source.

The source said hazardous or explosive cargo regulations are put in place temporarily at Ceres only when vessels carrying these types of cargoes call the terminal. This cargo falls under Class 1 cargo in the regulations according to the source.

Betts said the regulations pertain to the special or hazardous cargo on a ship even if it is not unloaded. Steve Bone, Transport Canada, said, “Transport Canada regulations on the shipment of explosives, the Canada Shipping Act 2001, Cargo Fumigation and Tackle Regulations, are currently being amended based on Natural Resources Canada’s Explosives Regulations Act 2013. The regulatory amendments apply to all explosives and will result in adjustments at many marine facilities in Canada.”

Bone, like other sources, could not comment on the cargo content. [See box.] {e-mail to Peters 27.Nov. 2015}

In preparation for wind turbines, in particular Cape Wind, New Bedford built the Marine Commerce Terminal and planned for rail access, at a cost of $113 million. The city was prepared for the onshore demands of offshore wind, and former Governor Deval Patrick announced last fall that Cape Wind would be first to use the terminal. But the project needed so-called power purchase agreements to work. In exchange for a green light from Patrick on a pending merger, Eversource Energy, formerly NStar, agreed to buy a quarter of Cape Wind’s power. National Grid was in for another 50%. But in January 2015 both companies ended their purchase agreements, effectively sinking the project days before Patrick would leave office. They cited Cape Wind’s failure to meet financing and construction goals. Then in March 2015 Cape Wind ended a $4.5 million contract to lease the New Bedford terminal. {Simon Rios in WBUR 6.Apr.15}
Subject: **LOADING AND UNLOADING EXPLOSIVES**

The following should be applied for transportation.

This SSB explains paragraph 155(2)(b) of the *Cargo, Fumigation and Tackle Regulations* (CFTR), as it applies to packaged explosives of 25 kg or more (net explosive quantity), other than Class 1.4S, that are loaded onto or unloaded from a vessel.

Paragraph 155(2)(b) of the CFTR refers to the *Quantity Distance Principles User Manual* published by Natural Resources Canada’s Explosives Safety and Security Branch. This tool helps inspectors of explosives (as defined in the *Explosives Act*, section 2) determine the maximum amount of explosives to store in a facility, while minimizing the risks of damage and/or injury in case of explosion.

**IMPORTANT NOTES:**

- Natural Resources Canada is updating the *Explosives Regulations*. As a result, the Standards Council of Canada and the Bureau de normalisation du Québec have:
  - revised the *Quantity Distance Principles User Manual*; and

Natural Resources Canada’s Explosives Safety and Security Branch is incorporating the reference to the new standard into the updated *Explosives Regulations*.

- Due to these changes, the term “*Quantity Distance Principles User Manual*” in the CFTR now refers to the new National Standard of Canada (CAN/BNQ 2910-510/2015) *Explosives — Quantity Distances*.

- Paragraph 155(2)(b) of the CFTR does not apply to ports and does not require wharfs or port facilities to assess their sites against the *Explosives — Quantity Distances* standard. This means the port authorities must decide whether or not they need to carry out this assessment.

**BUT** with regards to loading packaged explosives onto a vessel or unloading them from a vessel, Transport Canada will allow handling only of the amount of cargo established using the *Explosives — Quantity Distances* standard for that wharf or port facility.

**Keywords:**

1. Explosives
2. *Quantity Distance Principles*
3. Notification

**Questions concerning this Bulletin should be addressed to:**

- AMSEA/B Port State Inspection and Cargoes  613-991-3143
- Transport Canada Marine Safety and Security Tower C, Place de Ville 330 Sparks Street, 10th Floor Ottawa, Ontario K1A 0N8

**Contact us at:** marinesafety-securitemaritime@tc.gc.ca or 1-855-859-3123 (Toll Free).

- Subsection 155(1) of the CFTR requires ship masters to give the nearest Transport Canada Marine Safety and Security office and respective port authorities **at least 24 hours’ notice** of their intention to load or unload packaged goods that are explosives (other than Class 1.4S), when their net explosive quantity is 25 kg or more.
**RAIL FREIGHT FACILITIES**

Described in this issue.

Global (PW, Connecticut) Court decision “soon.”

AIM (Pan Am, Maine) Metal from Bucksport.

American Rock Salt (PW, Massachusetts) New salt pile operator

American Rock Salt (MC, Massachusetts) New salt pile operator

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**Atlantic Northeast Rails & Ports**

PO Box 357, Freeport, Maine 04032

Vox 207-865-2922    Fax 866-484-4490

Chalmers (Chop) Hardenbergh, publisher and editor

editor@atlanticnortheast.com  

www.atlanticnortheast.com

**Coverage**

The newsletter covers the operating freight railroads and ports in New England, the Maritimes, and eastern Québec, as well as the government environment they function within. Coverage includes passenger rail and ships when relevant to freight operations.

**Frequency and the e-bulletin**

*ANR&P* appears at least four times a month. We send a formal issue twice a month, via post or e-mail. Between the issues, we send out the *e-bulletin*, only by e-mail. All information in the *e-bulletin* is included, and often updated, in the issue.

Stories not updated for the issue are noted with an asterisk. I urge readers to look at the issue’s updated stories (those without an asterisk).

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

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*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 unto itself.’

**FORMAL E-ISSUE**