Helping to move rail and port traffic through New York, New England, the Maritimes, & eastern Québec. A weekly trade newsletter.

**R A I L S  &  P O R T S**

operating railroads + ports, intermodal facilities, and government environment

Formal issue 16#05B 31 May 2016

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

Blue header & table of contents: new article

**REGIONAL**

Amtrak track access fees: Six public reports on what Amtrak is paid, what Amtrak pays, and what railroads pay each other.*

Pan Am v Hardenbergh: Case settled.*

**NEW YORK & QUEBEC & CONNECTICUT**

[No report.]

**MAINE**

MDOT IRAP: Six awards. Some proposals not funded; not enough money.*

Pan Am: New NEPW facility.

Pan Am: Madison mill closed.*

Pan Am: Verso lost $78 million in 1Q16; operating loss worse. ++

Eastport: Salt arrives. Ship calls.

Robbinston: Downeast LNG for sale.*

**MASSACHUSETTS**

MC: RFP on possible C&D 25 May.

MC: Canal generating plant to receive ammonia.

Pan Am intermodal on Patriot Corridor: ++

1. Correction. 22K derailed. Deraiment cleared.*

2. 33 slow orders affect nearly the entire stretch between Ayer and Mechanicville.*

3. By 31 May slow orders cut to 19.

Pan Am Boston: Revised Green Line Extension project leaves headaches for freight service?*

Pan Am: STB starts environmental review of New England Transrail’s proposed tiny railroad.

CSXT: Mysterious car is a ‘shoving platform’.

**NEW HAMPSHIRE**

Pan Am v MBRX: MBRX loses motion to dismiss. On to trial, or perhaps mediation? Startup. ++

Pan Am: Jones Chemical embargo results from chlorine leaks. A recollection of valve problems in the late 1980s. Valve problems in the late 1980s.*

Pan Am: Jones Chemical stops rail. Major revenue loss for Pan Am. JCI not bidding for contracts means millions of dollars of losses for JCI too.

**RHODE ISLAND**

Providence: 6 June welcome of new barge.*

**VERMONT**

NECR v Pan Am: Discovery set into 2017.

VRS: We await finding if entitled to federal pre-emption in the Shelburne salt shed case.*

**MARITIMES**

Canadian East coast ports: Interesting statistics.

**EDITORIAL**

T too optimistic re Pan Am access to Boston.*

**RAIL SHIPPERS/RECEIVERS**

A cross-reference to companies mentioned here.

FROM THE PUBLISHER

Lots of Pan Am news. I plan to move on to CSXT and others next month.

- Chop Hardenbergh  Next issue 15 June.

REGIONAL

AMTRAK AND TRACK ACCESS FEES*

Introduction
As readers know, the question of how much one railroad should pay to use the track of another railroad is disputed twice over in New England. NECR believes that Pan Am’s 45 cents a mile is too low, while Pan Am wants upwards of four dollars per mile from MBX to use its excepted track in Wilton.

What about Amtrak? It pays track access fees to NECR to get to St. Albans, and receives track access fees from, say, Pan Am to move between Springfield and Berlin, or for PW to move between Boston Switch and Davisville.

How much? Amtrak refused to respond to a Freedom of Information Request for the fees it pays to host railroads. {letter to ANR&P 18.May.16} Fortunately published reports can give us some insight.

VARIOUS DATA POINTS

Amtrak’s Track Usage Payments

Figure 1: Amtrak’s Track Usage Payments (System-wide Activity: FY 2003 through 2009)

- Amtrak’s track usage payments have ranged between $83.4 million and $115.4 million between FY 2003 and FY 2009, which equates to roughly $3.26 to $4.44 per train mile over the same period.
- The increase in FY 2009 track usage payments and payment per train mile stems from a significant improvement in Amtrak’s on-time-performance.
  - In FY 2009, track usage payments accounted for only 3.3% of Amtrak’s total operating costs.

Pursuant to the FY 2009 Omnibus Appropriations Act, the Department of Transportation’s Office of Inspector General (OIG) was mandated to report to the Committees on Appropriations on any and all user fees paid by Amtrak to freight railroads, irrespective of funding source, for access to the right of way and any incentive payments paid related to on-time performance. This is slide 8 of an 11-slide report to Congress 8 April 2010.
Below are six reports, from different sources, on track access fees.

1. **2015 rates for Pan Am, and what NECR wants**
   In its opening statement at the STB, NECR said Pan Am was paying 45 cents per car-mile in 1988, and by 2015 that rate had not changed.
   NECR is asking for $6.68 per car-mile. {15#06A}

2. **2010 rates from David Fink**
   During a MRG/Downeast Rail meeting in Rockland in May 2010, Pan Am President David Fink gave a presentation in which he reported, *inter alia*:
   - Amtrak paid Pan Am 35 cents per car-mile to operate between Portland and the Massachusetts border.
   - Pan Am paid Amtrak $1.35 per car-mile to operate over Amtrak [presumably the Springfield-Berlin stretch]. {10#05B}

3. **2010 & 2016 rates for MBRX**
   In 2010, MBRX was paying $8.49 to go three miles, or $2.83 per car-mile. {10#05B} Pan Am has asked MBRX to pay $4.01 a mile in recent negotiations. {Peter Leishman e-mail to ANR&P 26.May.16}

4. **2006 rates from Randolph Resor**
   Among other positions, Resor served as senior policy advisor in the USDOT Secretary’s Office. In 2006, he wrote in trainorders.com:
   ‘I’ve had the opportunity, during my consulting career, to examine ALL the joint-facility agreements for a Class I railroad, so I’ve got a pretty good idea of what's out there.
   Most commonly, trackage rights involve a per-car and per-loco fee per mile operated. Sometimes, there is a per-train-mile fee instead. Usually the fee is the same for loads and empties, but the BNSF rights on UP, granted by STB as a condition of the merger, involve a payment per gross ton, so empties pay about $0.09 per car mile and loads up to $0.50 or so.
   When STB requires rights as a merger condition, they leave it to the railroads to negotiate the fees, but STB does review the agreed charges for reasonableness.
   Amtrak pays per train-mile, and the amount is roughly $1 per train-mile for track use (there are other payments as well). On the Northeast Corridor, Amtrak charges freight railroads $1.04 per car-mile. Railroads generally charge each other $0.30 to $0.40 per car-mile.’ {Rresor in trainorders.com 23.Feb.06}

5. **What Amtrak pays per train-mile**
   According to the 2010 Inspector General report [see graphic], Amtrak pays freight railroads $3.36 to $4.44 per train mile. [I do not know how this reconciles with Resor’s figure. Editor]

6. **Amtrak private car rates**
   Persons wanting to run private varnish at the rear of an Amtrak train, for the first car will pay the ‘Base Mileage Rate (per car mile)’ of $2.75. The ‘Additional Car Rate (per car mile)’ will set you back $2.10. {Addendum No. 2 to Private Car Tariff 1 Oct.14}

7. **OTHER NOTES**

7.1 **Amtrak costs to operate trains per train mile**
According to one unofficial calculation, in 2012 Amtrak cost per train-mile for the Downeaster came to $27.70. This compares with the Vermonter at $17.76 (before the rerouting to the ConnRiver in Massachusetts) and the Northeast Regional at $92.56. {Reason & Rail 2.Apr.12}

So the cost of track access, using the figure in #2 above, is roughly 10% to 20% for the Downeaster or the Vermonter.

7.2 Study of how to allocate costs
An undated study by AECOM for the Transportation Research Board may assist those looking for an appropriate method to figure track access fees: Cost-Allocation Methods for Commuter, Intercity, and Freight Rail Operations on Shared-Use Rail Systems and Corridors. Alas, the study did not include a table of what various transit agencies are paying per car-mile or per train. {http://www.trb.org/Main/Blurbs/158668.aspx}

PAN AM v HARDENBERGH: CASE SETTLED*
2 May, Portland. AFTER HARDENBERGH WON ON THREE OF FOUR ISSUES AT THE US FIRST CIRCUIT COURT OF APPEALS, THE PARTIES SETTLED THE DEFAMATION CASE.

History of the case
Pan Am Systems and Springfield Terminal Railway, along with David Fink pere, who had left as head of Pan Am Systems in March 2011, filed a lawsuit for defamation in September 2011, citing six statements. In 2012, the suit was dismissed for failure to state facts enough for a cause of action.

Plaintiffs refilled a month later. The second time around, in response to Defendants’ motion for summary judgment, Plaintiffs conceded and withdrew two of the six statements; Judge Torresen granted summary judgment on the other four in 2013. Plaintiffs appealed to the First Circuit, which heard oral argument in March 2015 and decided in October 2015.

The First Circuit decision
The 33-page 2015 decision retold the ‘battle-scarred defamation case’ and the four statements at issue. Writing for a three-judge panel of the First Circuit, Judge O. Rogeriee Thompson noted that the railway has made ‘the big-picture argument that the troublesome passages in the offending articles ... are capable of defamatory readings and are provably false.

‘Wrong, and wrong again, defendants fire back. But, for reasons to appear shortly, we think plaintiffs are right about the lost-car comments. And so we reverse only on that issue.’

1. The statement about TIH cars. Thompson rejected the newsletter contention that its reporting about lost cars containing toxic inhalation hazard (TIH) cargo was (in the words of District Court Judge Nancy Torresen) "too cryptic" to have conveyed a defamatory thought.

‘Defendants do not deny that their readers readily know what a big deal it is for a rail carrier to act like a scofflaw when it comes to hazardous materials. So we do not doubt that having defendants accuse them of losing track of TIH cars (even temporally) - a readily verifiable charge, supposedly based on specific events - certainly lowers plaintiffs' standing in the community.'

Thompson quoted a Pan Am official's affidavit, which said that ‘no agency ... has ever accused [Pan Am] of losing TIH or other railcars, or of violating any federal laws in shipping cars to’ a chemical company.
But, the judge said, the lost-car comments are not yet ready for trial. ‘After all, our analysis here concerns only part of the defamation inquiry - whether the battled-over statements are capable of a defamatory meaning and whether they are provably false. There remains the question whether defendants were at fault. To show fault, plaintiffs will need to show at the very least that defendants were negligent - and they may need to show that defendants acted with actual malice.'

Fault was not yet established because the trial court bifurcated discovery, ceding to the newsletter's

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1. Ironically the subject of a Pan Am embargo this month. See New Hampshire.
worry ‘that a fight over the fault element might require them to divulge confidential sources and threaten their First-Amendment interests,’ Thompson wrote.

‘Because the judge bifurcated discovery, she left the fault issue for another day. And so we must do the same.’

2. Derailment of coal cars. Here, in trying to portray the derailment article as defamatory, the railway insisted that the article overemphasized the role its ageing tracks played in the derailment, while it saw another company's ageing train car as a major contributing factor. Thompson wrote, ‘Defendants cannot be on the hook because (as they argue) the speech deals with an issue of public concern and plaintiffs have not shown the speech (even if false) is materially false.’

3. The Fink pere departure from Pan Am. The First Circuit also rejected Fink’s contention that the article describing his departure from Pan Am defamed him. Per Thompson, ‘Defendants cannot be liable because (so far as the summary-judgment record shows) the disputed statements relate to public concerns and are not false in any material sense.’

4. Pan Am assurance of providing five-days-a-week service to Concord. As to the statement about the railway's ‘assurances’², Thompson wrote, ‘there is no falsity - let alone a material one - when it comes to this statement.’ {First Circuit docket no. 14-2118 9.Oct.15}

A move to mediation
In December 2015, the parties resumed work on resolving the final issue, on TIH cars. Plaintiffs began discovery. Hardenbergh then requested a conference with Judge Nancy Torresen to argue that the case was ripe for settlement, having shrunk from an initial six statements at issue down to one, and with statements about original plaintiff David Fink pere no longer at issue.

Judge Torresen persuaded Pan Am to attend a judicial settlement conference, after Pan Am admitted to Torresen that “it’s not about the money.”

On 18 March, Magistrate Judge John Nivison, shuttling between the parties, was able in the course of a few hours reach a settlement acceptable to all parties. The agreement enabled Hardenbergh to keep confidential – one of his principal goals in expending tens of thousands of dollars to defend the lawsuit – the source who initially sent the TIH statement in an e-mail to Hardenbergh who then reprinted it in March 2011. {ANR&P coverage}

Terms of the settlement
Each side released all claims ‘which were asserted or which could have been asserted’ against the other side in the case ... to the date of the release’ – 2 May. The parties also agreed that: ‘These releases, and the consideration for these releases, are intended to resolve disputed claims, and are not intended, nor shall they be interpreted, as an admission of liability by any party, all of whom deny liability and simply wish to buy their peace.’

Hardenbergh agreed to publish the statement on the first page of the 16 May issue (16#05A). {text of settlement agreement}

I stand by the veracity of that statement. Editor

A thank you note
Please accept, all of you who contributed to the legal defense fund, my deep appreciation for your support. The settlement is far preferable to paying at least another $15,000 for another Motion for Summary Judgement, and then the appeal to the First Circuit, no matter which side won. That would come on top of the $25,000 already

² Pan Am officials had indeed provided assurances that it would keep a crew in Concord and provide five-days-per-week service.
paid for the case, of which my supporters paid about a fifth.

My attorney Russ Pierce of Norman Hanson & Detroy deserves thanks for his legal insight and willingness to work at a reasonable fee. Editor

MAINE

MAINE IRAP: SIX AWARDS*
17 May, Augusta. MDOT ANNOUNCED AWARDS TO ONE CITY, ONE RAILROAD, AND FOUR SHIPPERS to totalling about $850,000 in IRAP funds matching $850,000 in private funds. {e-mail from Nate Moulton of MDOT} The department said it had $1.25 million available [see 16#01B], and was oversubscribed [see 16#04B].

Administrator Nate Moulton explained the discrepancy the next day: ‘We were looking to leverage some federal CMAQ funding in the program. After some further discussions with FHWA we found that while some IRAP projects would be eligible for CMAQ, FHWA’s PPP rules on private property are designed for very large projects ($100M+) and using that funding for IRAP projects that are much smaller would be difficult on the administrative side and onerous for recipients. With that in mind we awarded only what we had available in State funding.’

MDOT then had only about $850,000 which was oversubscribed, and some projects did not get funded. {e-mail to ANR&P 18.May.16}

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<th>2016 IRAP Projects</th>
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<td>Sappi Fine Paper, N.A. - Skowhegan</td>
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<tr>
<td>Pan Am service</td>
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<td>Project will include rehabilitation of ties and ballast of 1000 feet of track and a paved crossing in the Sappi mill yard. In addition a two-track railroad crossing at the mill will have the surface rehabilitated. This will allow Sappi to continue to use and likely increase its use of rail. This project supports 760 jobs at the mill as well as recent and ongoing investments by Sappi in the Skowhegan mill making it more efficient and cost competitive.</td>
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| Woodland Rail, LLC. – Baileyville | $427,954 | $427,955 |
| NB&M service |
| Project allows rail improvements including rail upgrades to 100-pound rail on 2.5 miles of track owned by the mill. This improves the reliability of rail to the mill and makes the mill more cost-competitive through increased use of rail. This supports 316 jobs at the mill and the addition of new tissue machines at the mill site and the related jobs. |

| Casco Bay Transportation, LLC – Saco | $43,705 | $43,802 |
| Pan Am service |
| Project will create a larger 30,000SF transload pad and staging area to allow unloading of all types of rail cars including centerbeam rail cars from both sides of the cars. This will attract additional transload business to the existing yard put in service in 2015 [see photo]. |

| Pan Am Railways – Waterville | $201,060 |
Rehabilitate intermodal tracks to include tie upgrades and surfacing to put the tracks in a long-term state of good repair. With intermodal traffic resuming in Waterville and expected to experience significant growth in the coming months this project will provide the reliability and resiliency in the track structure to carry out regular intermodal operations in the intermodal yard.

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<th>City of Saco – Saco</th>
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*Pan Am service*
Rehabilitation of 1.7 miles of industrial track to allow continued reliable access to rail for industrial park users.

**MPG Crop Services LLC.**
$ 7,382

*NB&M service*
Project will rehabilitate the P-track siding along MPG’s fertilizer warehouse in Presque Isle, including replacement ties and switch timbers. This will allow this siding that has been out of service to be put back in usable condition to resume taking rail deliveries. {e-mail from MDOT’s Nate Moulton}  

**PAN AM: NEW FACILITY**

31 May, Wells. **PAN AM HAS RECENTLY BEGUN SERVING A NEW NEPW LOGISTICS FACILITY HERE**, in the former Spencer Press building. Drew Gilman, head of NEPW, wrote:

‘Yes, we leased out about 45,000SF in the Spencer Press building, to store paper on a short-term basis (a year or so) for one of our larger paper customers. Pan Am has been providing good service to the building, which has been helpful.

‘We moved out of our 40,000SF space at Logistics Drive in Auburn last October [see 13#09B], so net-net we’re at the same floor space, we just have a little more in southern Maine and a little less in the Auburn region. We still operate at Rodman Road in Auburn, as well as Mechanic Falls and South Paris.

‘The Madison business through NEPW had been slowing for a year or so before their shutdown announcement, which was part of the rationale for exiting the one Auburn facility. They were doing very little rail business by the end, mostly truck-to-truck transloading.

‘In general at NEPW, we’ve been diversifying by necessity, as Bucksport and now Madison have closed down. Paper remains our largest industry segment. Fortunately we have been able to backfill our warehouses with new (non-paper) customers. None of the new customers use rail, so our rail business is down slightly, but the floors are still generally full.’ {e-mail to ANR&P}  

**Pan Am trains**
Rail observers report a Portland local or a Dover local serves Wells. {NERAIL e-list}

Pan Am once served not only Spencer Press and Shaw’s on the same spur, but also served across the tracks an Eastern Propane facility. Neither Shaw’s nor Eastern now uses rail there. **Editor**

**PAN AM: END OF ANOTHER MILL**
21 May, Madison. **MADISON PAPER SHUT DOWN AFTER 38 YEARS; NO BUYER HAS APPEARED.** Owned by UPM Kymmene and SC Paper Corporation, the mill produced its last roll of of supercalendered paper used for magazine publishing; it was producing about 195,000 tons of paper annually at the time the closure was announced. UPM is continuing to seek a buyer for the mill as well as its hydro power assets. {Rachel Ohm in Central Maine *Morning Sentinel* 24.May.16}

**PAN AM: VERSO STILL HERE ++**

23 May, Jay. **VERSO PAPER REPORTED ANOTHER LOSS ON LOWER REVENUE FOR 1Q16.** Verso Paper reported quarterly revenue of $690 million, down 14.4% from 1Q15’s $806 million. Costs decreased 15.1%, to $618 million from $728 million in the first quarter a year ago.

*But operating losses for all mills totalled $100 million.*

Verso Paper said it filed a reorganization plan in U.S. Bankruptcy Court on 26 March, which if approved by the court would wipe out nearly all of the company’s outstanding debt by exchanging stock for debt. Verso Paper plans to continue operating as usual during the remainder of the bankruptcy process.

**Catalyst a creditor**
The master list of creditors filed by Verso has 30,785 businesses and individuals. Two Maine companies are listed among its 30 largest creditors: Catalyst Paper Operations Inc. of Rumford is owed $2.2 million, and Hartt Transportation Systems Inc. of Bangor is owed $1.2 million. {Craig Anderson in Portland *Press Herald* 23.May.16; *Mainebiz* 25.May.16}

**EASTPORT: SALT ARRIVED**

31 May. **A SHIP IS UNLOADING SALT AT THE ESTES HEAD TERMINAL** “as we speak,” said an official at the Eastport Port Authority. {ANR&P discussion}

The 16 May port authority board meeting heard Director Chris Gardner say that the Star Zeta would unload 16,000 to 20,000 tonnes, moved by the port’s conveyor inaugural run. Morrison Manufacturing has built a receiving hopper purchased by Federal Marine Terminals. Fulghum Fibers of Baileyville is supplying stacking equipment.

**Cate Street Capital out**
The company which bailed out of its pellet plans in Millinocket, Cate Street Capital, has discontinued its lease payments for land at the former BASF property for a pellet facility [see 15#04A].

**Other traffic**
Cooke Aquaculture will receive barges at Estes Head which it will use in its fish farming operations along the Maine coast. {Edward French in *Quoddy Tides* 27.May.16}

**Ship calls Eastport**
The *Aal Dalian* loaded 18,000 tonnes of pulp for the Far East at the end of May.

**Bayside**
The *Ivory Dawn* unloaded frozen pollock on 15 May. {*Quoddy Tides* 27.May.16}

**ROBBINSTON: NATURAL GAS TERMINAL FOR SALE***

19 May. **DOWNEAST LNG WILL PUT ITS LNG IMPORT-EXPORT PROJECT UP FOR SALE ON 1 JULY.** The chair of the board, George Petrides, said in a statement that the company believed an infrastructure investor or similar industrial firm would be a better fit for the project. ‘We have reviewed our strategy and decided that an industrial player or a specialized investor such as an infrastructure fund is better suited to continue the permitting process and eventual build-out of the project.’
In addition to a storage tank and liquefaction facilities, Downeast LNG planned a 30-mile natural gas pipeline to connect to the existing Maritimes and Northeast Pipeline. {Darren Fishell in Bangor Daily News 19.May.16}

When the LNG export project in Saint John was put on hold, opponents of the Robbinston project opined that Downeast LNG should give up [see 16#04A].

MASSACHUSETTS

MC: POSSIBLE C&D SITE*
25 May, Falmouth. **THE RFP FOR THE UPPER CAPE REGIONAL TRANSFER STATION RE-USE SHOULD EMERGE THIS DAY** [see 16#03B]. It will be available in the Massachusetts Central Register and available on Accent Blueprints.

A pre-proposal meeting will occur on 2 June, and responses are due 13 June. {e-mail to ANR&P from Chris Podgurski of MC 23.May.16}

MC: YES, A CUSTOMER - correction*
Issue 16#05A reported that NRG, the owner of the Canal Generating plant in Somerset, Massachusetts, had ‘no plans to use rail for operations for the current plant or the new unit.’

However, Chris Podgurski, MC president, wrote on 18 May: ‘MC was contacted by NRG to move ammonia from Fall River to the Canal Electric. They are leasing a car directly from GATX for this purpose, although the move has yet to commence.’ {e-mail to ANR&P 18.May.16}

PAS-NS: INTERMODAL ON THE PATRIOT CORRIDOR ++

1. DERAILMENT UPDATE AND CORRECTION*
16 May, Charlemont Massachusetts. **PAN AM CREWS CLEARED THE DERAILMENT AND REBUILT THE TRACK**, so that by late this evening, trains were again running. The following was published by NS:

May 16, 2016
Pan Am Railway indicates the route to and from Ayer, MA will not open until later this evening. This is due to a derailment that occurred on Saturday, May 14th near Deerfield, MA. As a result, trains service between Chicago, IL and Ayer, MA continues to be impacted.
The following trains will incur transit and availability delays of 48 to 72 hours:

- 22K-13 and 22K-14 (Chicago to Ayer)
- 23K-14 (Ayer to Chicago)

The following train detoured around the impacted area and has an estimated time of arrival to Ayer, MA of 16:00 on Monday, May 16th:

- 22K-15 (Chicago to Ayer)

We will provide updates as additional information becomes available.

This apparently shows that two 22Ks were too far along toward Charlemonnt to be diverted, and one 23K was stuck between Ayer and Charlemont. NS was able to divert 22K-15 out of Chicago to CSXT. *Editor It appeared on the CSXT line in Charlton [yes, a different town from Charlemonnt, just east of Sturbridge – editor] on this day. {trainorders.com}

Correction on account of derailment
Issue 16#05A wrongly identified the train as 23K. It is 22K. *My apologies.*

Eight cars, plus at least two NS locomotives, went on the ground because of a rail which rolled. The train had five hazmat containers, but none were on cars which derailed. {Michael Masciadrelli in WWLP.com 16.May.16}
2. PAN AM: SLOW ORDERS AND SAFETY*
25 May, Ayer-Mechanicville. **PAN AM ADDED 14 SLOW ORDERS FOR THIS STRETCH, BRINGING THE TOTAL TO 33 SLOW ORDERS,** after the FRA track geometry vehicle passed over the west end on this day. The speedo for 25 May showed that four of the new slow orders knocked stretches down from 40 miles per hour to 10 [see graphic].

Of the 152 miles between Ayer and Mechanicville, Pan Am owns all but 13 miles; the MBTA owns and

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### Pan Am Railways Temporary Speed Restriction Summary #146
Effective 0001 Wednesday May 25, 2016 to 0001 Thursday May 26, 2016

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Pan Am speedo. The red dates show when the slow order was instituted. The ** show slow orders instituted 25 May. The red dots show stretches knocked down from 40 miles per hour to 10. {ANR&P annotations}
operates from Ayer to Fitchburg. Of Pan Am’s 139 miles, as of this day 50 are limited to 10 miles an hour. Some 31 miles are reduced from 40 miles an hour to 25. {speedo and Employee Timetable}

**Pan Am seeks safety**
Cyndi Scarano, Pan Am executive vice-president, wrote on 26 May:

‘First and foremost, the majority of the slow orders referenced are historical and have not impacted the service in any way. Second, the new slow orders are the result of increased track testing that Pan Am voluntarily undertakes to improve safety.

‘The latest such test was completed at the end of last week. As a result of testing over 300 miles of track, 19 slow orders were issued [14 on 25 May, and the other five on earlier dates in May - editor]. Instituting the slow orders provides our crews time to verify the test results on the ground and make necessary repairs. To date, nine of the recent slow orders have been released and the remaining ten should be released by the end of the week.

‘To put it succinctly, you and your concerned sources are using an important safety process to artificially create a service issue, when the opposite is true. By identifying and correcting track conditions through electronic testing, Pan Am is taking significant steps to prevent derailments and other service delays, thereby maintaining the heightened service standards that our customers have come to expect.’

**More on extensive Pan Am testing.** ‘The FRA testing is an annual event not requested but welcomed and we consider a great opportunity. We hire Sperry ultrasonic testing on all our track at least once a year, in some areas more. We have our own geometry car that keeps moving throughout our system. We request the NS Geo 33 to inspect on Pan Am Southern once a year. We request the Amtrak Geometry car to inspect our lines, where passenger trains run, annually.’ {e-mails to ANR&P}

**Update for 26 May**
The speedo for this day improved to 25 three of the four slow orders on 40 miles per hour track which were knocked down to 10 on 25 May. It added another slow order between CPF 423 and MPF 426, reducing to 10 miles per hour this stretch of 40 miles per hour.

**Note:** Since the engineer must begin reducing the speed of the locomotive before it enters the slow-order stretch, and cannot increase the speed until the last car has cleared the stretch, actual operation for mile-long trains (which some NS intermodal trains reach) over the total of 81 miles of slow orders may mean the entire Ayer-Mechanicville stretch must be operated at reduced speeds. *Editor*

**Further insight**
Acorn Construction is doing a tie job in the Leominster area – the MBTA ownership part. {ANR&P discussion 23.May.16}

In April 2010, Ed Motte, then Pan Am vice-president transportation, told the North East Association of Rail Shippers that while operating Pan Am was “a challenge every day,” NS crews had done well on the track between Ayer and Mechanicville. Because they did “two years work in one year, we are up to timetable speed on the west end.”

Motte credited Bernie McCall, then-general manager of PAS, as getting the west end “up and running slick.”

Furthermore, “We’re out of the hotels and taxi business.” A $22,000 monthly bill has gone to zero. {10#04B}

One manager of another railroad, asked to comment on the situation, wrote: ‘It suggests that the problem areas are broadly distributed (an average of one of some length every four miles), making it difficult for engineers to
adapt to frequent changes in speed limits. Conventional maintenance practice would be to focus remedial work on creating extended stretches of track where consistent speed could be maintained in order to reduce transit time and improve fuel efficiency.’ {e-mail to ANR&P 26.May.16}

Another said that in Pan Am’s defense, the ‘Patriot Corridor’ has an unusual number of curves, where track wears more quickly than tangent track. {ANR&P discussion 25.May.16}

### 3. PAN AM: SLOW ORDERS REMOVED ON PATRIOT CORRIDOR

31 May, Fitchburg-Mechanicville. **AFTER SIX DAYS OF WORK, PAN AM REDUCED THE COUNT OF SLOW ORDERS FROM 33 TO 19** on this 139-mile stretch [see table]. Comments:

**A combination**
In MP423 to MP442, the twenty-mile order reducing the timetable speed of 40 to 25, Pan Am created the longest slow order in the lane by far. Officials combined the seven slow orders shown in the Table for 25 May, and raised the three 10 miles per hour orders to 25.

**No 10s for most of the route**
By weaving back and forth between No.1 and No.2 track where the line is double-tracked, trains could maintain 25 for most of the route. [Unknown whether the trains actually do. *Editor*] Some 12 miles of single track still remains at 10.
Another count
On Memorial Day at 06h42, flying U.S. flags, 23K powered by two NS engines pulled 75 container-occupied wells and tables, one trailer-occupied table, and 45 empty wells west of Wachusett [compare sightings in 16#05A]. {GuilfordRailSightings 30.May.16}

PAN AM: FUTURE PROBLEMS WITH THE GREEN LINE EXTENSION*
23 May, Boston. ‘THERE ISN'T ANYTHING ABOUT THE GLX REDESIGN THAT CHANGES FREIGHT MOVEMENTS FROM WHAT WAS PREVIOUSLY DONE IN THE GLX PROJECT,’ wrote Joe Pesaturo, MBTA spokesperson.

Note: this newsletter will not report on the tribulations of the project, dubbed GLX. This article and other coverage concerns the effect on Pan Am freight service to its Boston customers.

The redesign
Faced with a massive cost overrun, in 2015 the MassDOT board and a new MBTA Fiscal & Management Control Board halted the project to extend the Green Line, one of four Boston rail transit lines, out to the suburb of Medford. On 9 May the MBTA board and the MassDOT board considered a scaled-down GLX.

GLX had selected an area in the former Boston and Maine rail yard in Somerville to build a maintenance facility and a layover yard [see 10#05B - the underlying design is shown in the map]. The redesign downsized the building itself [see graphic] but, as Pesaturo noted, the ‘redesign of the Maintenance Facility does not change any freight movements.’

Significant impact of GLX
In May 2015, Pesaturo responded to questions about the effect of GLX on Pan Am freight movements:

Somerville. GLX Option L, proposed layover and maintenance yard, before redesign. The redesign does not change the Option L except to shrink the maintenance facility [see graphic]. {ANR&P notations}
1. Pan Am freight easement
The GLX Final Environmental Statement notes: ‘Currently, Pan Am Railways has two tracks in the [Yard 8]: one through track and one storage track. Pan Am Railways’ freight trains coming down the MBTA Lowell Line pass through Yard 8, occasionally temporarily storing freight cars in the yard [see 16#04B]. If Yard 8 were dedicated to the Green Line, it would still be possible for Pan Am Railways to access the Boston area and to store freight cars in other nearby locations.

‘Alternative routes exist within the MBTA system to support Pan Am Railways’ operations.’

Pesaturo wrote on 15 May 2015: ‘Pan Am reserved a freight easement over all of the tracks during the sale of the tracks to MBTA. They do however tend to follow the same route and operate in the same time slots because they work best. Only when MBTA terminates the easement are they prevented from using very specific track segments like the lead into Yard 8. When MBTA terminates the freight easement they are then obligated to provide alternate access to freight customers.’

Pesaturo also wrote: ‘Only Pan Am can decide which route (from 3 choices) they want to use and for which purposes, and it could change at any time.’ Pan Am contacts the MBTA (Keolis) dispatcher for access to whichever track Pan Am chooses to operate on.

‘There are three routes into Boston today that Pan Am can use, and the same three will remain available after the Green Line. The only change will be Pan Am’s yard 8 which they sold to MBTA.’

2. Lowell line access
‘The route through Yard 8 can still operate between Lawrence and Somerville and can then continue into Tower A interlocking before reversing to get to Salem. There is a tighter limit on the number of cars that can be handled in a single movement as well as available time to make this move.’

In an e-mail on 24 May 2016, Pesaturo added that retaining Pan Am access to 3rd Avenue via the Willey Track would require that the Green Line trolleys getting to the maintenance facility would cross the Willey Track. ‘This does not appear to be feasible at a glance.’

3. Fitchburg line access
‘The Fitchburg route into Boston and then on to Salem is very direct and has no real limitation on train size.’

4. Haverhill line access
‘The third route available is via the Haverhill line which also needs to enter Tower A but allows for a greater train length. The Haverhill line does the added concern of five miles of single track [plus] narrow high-level platforms and some fairly significant grades.’ {e-mail to ANR&P 15.May.15 and 24.May.16}
PAN AM: STB MOVES NEW ENGLAND TRANSRAIL AHEAD*

17 May, DC. *THE STB LIFTED THE DEFERRAL OF ENVIRONMENTAL REVIEW, REQUIRED AN ENVIRONMENTAL IMPACT STATEMENT, AND REQUESTED AN UPDATE OF THE NET PLAN* for the site in Wilmington and Woburn.

History back to 2005

New England Transrail, LLC, d/b/a Wilmington & Woburn Terminal Railway (NET) filed a petition for exemption 5 December 2005 to acquire 1,300 feet of existing track, construct 6,200 feet of new track, and operate as a rail carrier over the combined 7,500 feet of track on and adjacent to a parcel of land owned by the Olin Corporation and located in Wilmington and Woburn, Massachusetts. Olin, operating a chemical facility, had contaminated the property; the cleanup began as a result of advocacy depicted in *A Civil Action*.

In 2007, the Board found that under the proposal, NET would, if authorized, become a rail carrier subject to the Board’s jurisdiction. It noted that, before it could address whether to authorize NET’s proposal, the parties would need to submit evidence on the transportation merits of the proposal, the Environmental Protection Agency (EPA) would need to complete its Remedial Investigation and Feasibility Study, and the Board would need to complete its own environmental review.

Then Congress enacted the Clean Railroads Act of 2008 (codified at 49 U.S.C. §§ 10501(c)(2), 10908-10910 (CRA), which largely removed from the Board’s jurisdiction the regulation of solid waste rail transfer facilities such as the one planned by NET.

In 2010, NET filed a status report stating that it planned to pursue its petition for exemption and that it would not transload solid waste at the facility unless it obtained all legally-required approvals to do so in the
future. NET continued to request that the Board complete its environmental review and approve its proposal.

In 2011, the Board concluded that, as the EPA had not completed its investigation and study, the Board would continue to defer its environmental analysis and decision on the petition until relevant reports had been issued by the EPA. It reiterated this in 2012.

On 18 August 2015, NET asked the Board to lift the deferral referenced in the June 2012 decision. NET explained that significant additional work had been undertaken by the Olin Corporation and the EPA since EPA’s original request for deferral and that, based on certain EPA actions, EPA no longer believes deferral of the Board’s environmental review is necessary.

‘In response to NET’s status report and request for clarification, the Town and the Wilmington Environmental Restoration Committee separately filed comments on 8 September 2015, and 7 October 2015, respectively, asking the Board to deny NET’s request to lift the deferral in this docket.’

The Board on 14 December requested comments on NET’s request [see 15#12A]. These parties submitted comments [see 16#01A]: the Massachusetts Department of Environmental Protection (requested more information), the Town of Wilmington (opposed), Olin Chemical (supported), and the Wilmington Environmental Restoration Committee (opposed).

**Decision**

The STB ruled: ‘Given that EPA states that the facts no longer support deferral and that it now has “no objection to the Board lifting its deferral, and re-opening, the NET proceeding,” we see no basis for continuing to further delay environmental review. Although commenters raise specific concerns related to development of the site, we find that these issues are not grounds for a further postponement and would be more appropriately addressed during the Board’s environmental review process. Therefore, we will lift the deferral of environmental review in this proceeding allowing the Board’s environmental review of NET’s proposal to commence upon issuance of this decision.

**The Board will perform an EIS, not an EA**

‘Additionally, as requested by EPA, the Town, the Wilmington Environmental Restoration Committee, and MassDEP, an EIS will be prepared for NET’s proposed project. We believe that an EIS [environmental impact statement] is more appropriate than an EA [environmental assessment – less strenuous. Editor] given the history of the site and the potential environmental concerns that have been raised throughout this proceeding.

**NET plan due in 90 days**

With respect to the transportation merits of NET’s proposal, NET is directed to file, within 90 days of issuance of this decision [about 17 August 2016], an updated petition for exemption in a sub-docket of this proceeding so that the Board may appropriately evaluate whether to authorize NET’s proposed activities. In addressing whether the transportation merits of this project meet the criteria for exemption, NET should fully describe its current proposal for the acquisition, construction and operation of track, terminal facilities, or any other activities that it anticipates will take place on the site. ... We believe a complete and updated petition, filed in a new sub-docket, as opposed to a supplemental petition, is warranted given the age of this case and issues that are now moot, as well as for administrative ease and to avoid confusion to consulting agencies and the public.

‘Although NET states in its 2015 status update that the scope of its proposed project has not materially changed, NET also states that it has abandoned its plans to build a solid waste transfer facility, and it concedes that it will have to update the Board on the current configuration of the project and the transportation merits of its proposal. In addition, more than 10 years have passed since NET filed its petition for exemption in this docket, and, as we have previously noted, this site has a “troubled history.” …

‘Once NET files its updated petition, the Board will issue a further procedural schedule.’

**‘Still many steps’**

‘The Board’s decision today is only a determination that deferral of environmental review is no longer
NEW HAMPSHIRE

PAN AM v MBRX: ON TO TRIAL ++

12 May, Nashua. THE NEW HAMPSHIRE SUPERIOR COURT REJECTED THE MBRX MOTION TO DISMISS OR DEFER TO THE STB the argument by Pan Am that MBRX owes back trackage rights fees [see 16#02B]. The opinion by Judge Charles Temple relied primarily on a US 4th Circuit decision PCS Phosphate Co., Inc. v. Norfolk Southern Corp., 559 F.3d 212, 219 (4th Cir. 2009), which observed that voluntary agreements ‘do not fall into the core of economic regulation that the ICCTA was intended to preempt.’

PCI Phosphate involved an agreement between a mine company and NS concerning relocation of tracks. NS had agreed to a covenant in an original deed of easement obligating it to pay for track relocation costs. The Court of Appeals characterized the dispute as a private dispute about a voluntary agreement that would not unreasonably interfere with rail transportation.

Here, Judge Temple noted that language in the Interstate Commerce Commission Terminal Act stated the remedies provided under this part with respect to regulation of rail transportation are exclusive and preempt the remedies provided under Federal or State law.’ But interpretation of a trackage rights matter does not involve ‘regulation of rail transportation.’

‘See Milford-Bennington R. Co. v. Pan Am Railways Inc., No. 10-CV-264-PB, 2011 WL2493757, at 1 (D.N.H. June 23, 2011).’ Judge Temple quoted from Judge John Barbadoro in that case: ‘The ICCTA, however, does not give the STB the power to resolve disputes between rail carriers concerning the meaning and operation

CSXT: IDENTIFICATION

Everett. George Casey of the Transportation Division of the SMART union (Sheet Metal, Air, Rail Transportation) clarified the purpose of the above car, a photo of which appeared in 16#05A. ‘The car of unknown description on your page 15 is a CSXT "Shoving Platform " car. Note the Conductor Valve on the end. It most certainly is not better than a caboose, primarily because it has no shelter whatsoever for protection from weather and thrown objects.’ {e-mail to ANR&P 17.May.16}

On the Boston Market Terminal spur, rusty rails indicate the car has not moved for awhile. A trace shows it present there since 13 October, with destination of the Toledo Ohio docks. {photo ANR&P; trace by colleague 11.May.16}
of trackage rights agreements.’ [See 11#06B. Barbadoro also pushed for a mediated solution.] {text of ruling in Boston & Maine Corp. et al. v, Milford-Bennington R.R. Co., Inc. 2015-CV-00348}

Next step
Asked about the matter, MBRX owner Peter Leishman recalled that both sides had agreed to mediation [see 15#09B] and that might begin now [see 16#02B], as the judge had suggested. “I am willing and able to work out something fair for both of us over the long term - particularly new language governing the trackage rights.” {ANR&P discussion 17.May.16}

PAN AM: CHLORINE DELIVERIES CUT OFF*
13 May, Merrimack. THE RAILROAD EMARGOED TIH DELIVERIES HERE. On the AAR embargo site operated by Railinc, the embargo appeared [see below]. As of 24 May, the site reported the embargo was still in force.

Pan Am explanation
In an e-mail, Jones Chemical, the company whose facility receives chlorine and is embargoed, was told:

From: Bostwick, Mike
Sent: Friday, May 13, 2016 3:00 PM
To: Kevin Ballantine
Subject: Jones Chemical

Kevin,

In light of the two most recent incidents involving releases of TIH materials from tank cars designated as empty by Jones Chemical, it is clear that these types of cars pose a serious safety risk that has not been mitigated by Jones Chemical. Consequently, given the heightened risk of moving residue cars that have not been properly purged, Pan Am is requiring that all such cars move as loads and has established rates for such movements. As discussed, this policy is in effect immediately and applies to all cars currently at or en route to Jones Chemical, and as a result all residue cars should be accompanied by a bill of lading designating those cars as loads.

As this policy is being implemented, Pan Am has established an embargo of TIH cars to and from Jones Chemical to ensure that all cars moving on these routes are properly designated. Please also note that Pan Am sees no alternative to this approach due to the increased costs of these movements as a result of the delays caused by releases, the costs of release response, and the potential liability that could arise from such releases.

Regards,
Michael P Bostwick
Pan Am
EVP & Chief Commercial Officer

Chlorine leaks in March 2015 and April 2016
Bostwick perhaps was referring to these two incidents:

March 2015 release in Auburn. On 16 March 2015, leaks from two chlorine tank cars in a Pan Am train at Danville Junction were detected. The valves were repaired and the leaks were contained. {Lewiston-Auburn Sun-Journal 16.Mar.16}

April 2016 release in South Portland. On 25 April 2016, workers at Rigby Yard detected chlorine gas and called the South Portland Fire Department. Robb Couture, department spokesperson, said the department’s hazmat team found the smell was caused by residual chlorine gas leaking from a valve on top of an empty tank car.

Members of the hazmat team were able to stop the leak by tightening the valve. The gas did not spread
ST-ST RAIL SYSTEM

Embargo Number: ST000116

Status: Effective

Effective Date: 05-13-2016
Expiration Date: 05-13-2017
Allow Permit: No
Tier 2 Effective Date: 05-16-2016
Original Effective Date:

Roads Invited to Participate: SLR,CN

Original Requester : Doug Steward - Ph: 1.9786631158 - Email: dsteward@panam.com

Bypass Local Waybills: No
Operating Station Notice: No
Effective Immediately: No
Include Empty Revenue Cars: No
Include All Empty Cars: No
Maximum Car Allowed:
Commodities:
4920523 (CHLORINE)

Geography:

Included Locations:

Origin: *
Destination:
ST-00425,MERRIMACK,NH
UNI-DIRECTIONAL

Umler Equip. Type : Target All Umler Equipment Types

No Weight Restrictions
Except These Cars: No Cars In Exception List

beyond the area immediately around the train car. {Gillian Graham in Portland Press Herald 27.Apr.16}

JCI response
Jeff Jones, president and chief executive officer of JCI, wrote on 20 May:
‘A few weeks ago Pan Am called into the chemical emergency network - Chemtrec - that they had a leaking chlorine car at their yard. Chemtrec notified us as the first responder. ...

‘A week or so later a representative from Pan Am showed up at our Merrimack office and informed our Manager that effective immediately they are imposing a $16,000.00 per switch charge for all outbound chlorine cars from JCI. As you may recall we already are paying $16,000 per switch for all inbound cars.

‘The Pan Am rep stated that to avoid the charge we must completely purge all outbound cars of chlorine. To completely purge a chlorine car at a JCI facility is all but impossible and very unsafe. Perhaps Pan Am knew this. Therefore, we went with the assumption the $16,000 charge will be ours and our producers' problem.

‘After over a week of asking Pan Am to put this new policy in writing, we received [the above e-mail]. As you can see/read it uses the word embargo. …

‘Today, a conversation was held between JCI, JCI counsel and representatives from the STB in Washington. It was the initial fact-finding conference. STB assured JCI there are now active on this matter.

‘Meanwhile due to Pan Am shutting down JCI's product supply, JCI was unable to submit dozens of contract tenders in the New England areas which were due on May 19. JCI will continue to supply chlorine to all of its current and future customers out of Merrimack with supply coming from neighboring JCI branches in containers over the road.’ {e-mail to ANR&P}

Pan Am comment
Cyndi Scarano, Pan Am executive vice-president, wrote on 23 May: ‘Presently, we are working with the shipper to address safety concerns we have as the carrier.’ {e-mail to ANR&P}

She did not respond to questions about why Pan Am had raised the rate and instituted the embargo.

Pan Am service to JCI
In April 2015, Pan Am operated DJJC, a special train from Danville Junction to Jones Chemical. For example, on 9 April 2015, DJJC was westbound through Andover, Massachusetts with one locomotive, an RBOX idler, and four chlorine tank cars. {GuilfordRailSightings e-list}

[This train may have continued until the embargo. I found on the e-list no sightings this year. Editor]

Possible reasons for the rate increase
Pan Am may have decided to operate a special train with the “empty” chlorine cars as well, to maximize safety in case the cars are not completely emptied, or the valve is not closed. Such a special train (JCDJ?) may justify the increased rate. Editor

STB consultation
Jones related that JCI’s vice-president of regulatory affairs, Tim Gaffney, is discussing the Pan Am action with the STB.

Gaffney noted that if Pan Am is using the 2015 incident as being one of two "recent" incidents then 'they are certainly reaching. I want to point out though that for [the 2015] incident, the cause was the result of a manufacturer's defect in the pressure relief device on the railcar and had nothing whatsoever to do with JCI.’ {email to ANR&P 23.May.16}

Failed valves in the 1980s
MBRX owner Peter Leishman recalled that when he worked for Guilford Transportation Industries in the late 1980s, he encountered a failed valve on an ammonia car for W.R.Grace, which once received 3,000 carloads a year at its Nashua plant [see 08#06B]. He also encountered a failed valve on an oil car in Fitchburg. “These were not uncommon.” {e-mail and discussion with ANR&P 25.May.16}
PAN AM: EMBARGO ENDS BUT TOO LATE

27 May, DC. PAN AM LIFTED THE EMBARGO OF CHLORINE CARS TO JONES CHEMICAL [see graphic]. However, according to Jeff Jones, the lifting came too late for JCI to bid on many contracts for 2016-2017.

‘For some reason the vast majority – hundreds of millions of gallons – of Municipal Bleach business goes out to bid in the upper Northeast at exactly the same date: May 19. The contracts begin July 1 for one year.

‘So, with the embargo put on us just days before the May 19 deadline, we had to submit “No bid” for all the contract tenders…many which we now supply and will have to supply until July 1. Being the incumbent we will lose tens of millions of dollars as well as additional revenue for new business. So, regardless of the embargo now being revoked…it is too late to be considered as a supplier…costing not only JCI but the taxpayers who will pay higher costs for water treatment chemicals.’

No further rail to Merrimack

JCI decided to end all rail to Merrimack for several reasons, wrote Jones. ‘We did not want our employees to be
held to JCI until the last day when the contracts expire July 1, and we did not know if our suppliers would accept another $16,000 surcharge especially since just today we learned that Pan Am lifted the embargo. If we ordered four cars today, they would not show into Merrimack for two weeks. [This was] a complete and very serious action taken against JCI…and will be reflected in the taxpayers’ costs for water treatment chemicals.’

Making bleach from chlorine
Jones explained that JCI receives chlorine as a compressed gas 95.95% pure. ‘Commonly bleach (sodium hypochlorite) is made with mixing caustic soda and chlorine … [to create] a liquid … between 5-19% chlorine.’

JCI Merrimack was receiving 75-100 cars of chlorine a year. JCI was also receiving caustic soda.

Pan Am revenue loss
While JCI stands to lose tens of millions, said Jones, Pan Am will also lose. ‘[W]e calculated just $1 million in the new “$16,000 per switch” for “empty” cars, due to the fact that we cannot release four cars at once. ... As for inbound at least $2-3 million, due to ALL products now being brought in from other facilities. I would suggest a $5 million minimum loss to Pan Am.’

Example
[See graphic] JCI prices over 25 tenders each day.

Possible lawsuit
‘We have lost millions of dollars due to the loss of accounts,’ wrote Jones. He is contemplating a lawsuit to recover his losses. {e-mails to ANR&P 31.May.16}

RHODE ISLAND

PROVIDENCE: PUBLIC EVENT
ProvPort will introduce its new barge, on which its harbor crane is now mounted, at an event on 6 June.
More information in a future issue.

VERMONT

NECR v PAN AM: THE WHEELS GRIND SLOWLY
26 May, DC. DISCOVERY IN THE TRACK ACCESS FEE DISPUTE WILL LAST INTO 2017. According to a filing this day from NECR, it and Pan Am [see 16#05A] have agreed to the following schedule:
PAS Reply Evidence and Argument  
NECR Service of Discovery  
PAS Discovery Responses  
NECR motions to compel, if necessary  
NECR Rebuttal Evidence and Argument

23 days from when any discovery disputes have been resolved, and both Parties have confirmed that discovery is complete.

*New England Central Railroad, Inc. - Trackage Rights Order - Pan Am Southern LLC, STB website, filings page, FD 35842*

**VRS: NO DECISION ON SHELBURNE PRE-EMPTION YET**

20 May, Burlington. *AFTER FIVE DAYS OF TESTIMONY, JUDGE WILLIAM SESSIONS GAVE BOTH SIDES 10 DAYS TO SUBMIT FURTHER BRIEFS.* Thereafter, he will decide whether Vermont Railway operated within federal pre-emption when it began constructing salt shed facilities in Shelburne. [See 16#04B.]

Claudine Safar, an attorney with Monaghan Safar Ducham in Burlington, represents the town; she anticipates a quick decision after the ten-day period. Throughout the trial, she said, “There were a lot of surprises…. I’ve never seen anything like it. Usually you have something you’re arguing about, and you have a sense of the project. We literally got changes in [VRS salt shed] plans before the last couple days of trial… it’s hard to mount a case against a target that keeps moving.” {Chea Evans in Shelburne News 25.May.16}

**MARITIMES**

**CANADIAN EAST COAST PORTS: NATIONAL RANKING**

5 May. *A NEW WORKSHOP REPORT RANKED PORTS ACROSS CANADA IN VARIOUS CRITERIA.* The report, *Commercial Marine Shipping Accidents: Understanding the Risks in Canada,* was recently released by the Council of Canadian Academies (CCA). It explored risk by focusing on the likelihood of commercial marine shipping accidents across Canada – and included interesting tables, some of which are below.


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![Figure 2.1 Commercial Cargo Vessel Movements by Canadian Region, 2004 to 2011](image)
Figure 2.2
Solid Cargo Vessel Traffic in Canada (2014)

Dense map were generated from accumulated AIS data on cargo ship positions in Canadian and some U.S. waters, during 2014. The location and intensity of the green markings indicates overall vessel movement patterns and concentrations. Cargo ships include bulk carriers, container ships, heavy load carriers, ro-ro cargo ships, cargo barges, and other (MarineTraffic, n.d.c). Blue circles mark top Canadian ports by tonnage (based on 2011 data).
Described in this issue.
Casco Bay (Pan Am, Maine) IRAP
City of Saco (Pan Am, Maine) IRAP
Jones Chemical (Pan Am, Maine) End of rail.
MPG Crop Services (NB&M, Maine) IRAP
NEPW Logistics (Pan Am, Maine) New in Wells.
NET (Pan Am, Massachusetts) STB to consider.
NRG (MC, Massachusetts) Ammonia.
SAPPI Hinckley (Pan Am, Maine) IRAP
Woodland Rail (NB&M, Maine) IRAP
Verso (Pan Am, Maine) Losses.
EDITORIAL ON PAN AM ACCESS TO BOSTON*

Despite Pesaturo’s reassurances about Pan Am freight operations, at least one observer (O) close to rail operations for the area writes this in response to the Pesaturo comments:

P: Only Pan Am can decide which route (from 3 choices) they want to use and for which purposes, and it could change at any time.

O: Not necessarily. The Keolis TD office has the ultimate say because there are track work, passenger train considerations, clearance issues to consider. I swear these people look at a system map and connecting lines and see no issues.

   The Tower A option would require a freight to run around their train to put the engines on leading end. He is right on car limit and time. Basically, you are talking third shift window of 1200AM-5AM. [Currently Pan Am operates to Everett in the afternoon. See 16#05A.]

P: The Fitchburg route into Boston and then on to Salem is very direct and has no real limitation on train size.

O: The Pan Am local freight base is Lawrence and/or Lowell. They don't run to Boston on the Fitch at all and I doubt they would due to capacity issues at Ayer, the hub for Pan Am Southern operations.

P: The third route available is via the Haverhill line which also needs to enter Tower A but allows for a greater train length. The Haverhill line does the added concern of 5 miles of single track narrow high level platforms and some fairly significant grades.

O: He's right there. The Haverhill line is not freight-user friendly due to the single track issues and the grades involving the Wellington Tunnel and Mystic River Bridge crossing. Again, like Tower A it's a third shift move. And I am waiting for the trackside communities who rarely see trains overnight to start complaining about regular freight train moves.

P: Only when MBTA terminates the easement are they prevented from using very specific track segments like the lead into yard 8. When MBTA terminates the freight easement they are then obligated to provide alternate access to freight customers.

O: And what a crappy alternate access they will provide from their "obligation". It's a good thing there's so little freight left. {e-mail to ANR&P 4.2015}
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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Purpose
Atlantic Northeast Rails & Ports, née Maine RailWatch (1994-1997) and later Atlantic RailWatch (1998-1999), is dedicated to the preservation and extension of the regional rail network. The editor believes that publishing news on railroads and ports spotlights needed action to preserve the rail network. The publication also imbues the region with a sense of an interdependent community, employing the network to move rail and port traffic. ‘No railroad is an island, entire onto itself.’

FORMAL E-ISSUE