Formal issue 16#07B 31 July 2016

RHODE ISLAND
Quonset: First post-Panamax ro-ro call.

VERMONT
NECR v Pan Am: Pan Am files a response calling for a trackage rights fee of 41 cents per car-mile.*

MARITIMES
Saint John: DP World will assume operation of intermodal terminal from Logistec.


Sydney: The port is promoting Victoria Rail Centre to receive railcars by barge for rebuilding.*

WHCR: Optimism from the owner.*

Halifax: Substantial throughput increase of 13%+.*

RAIL SHIPPERS/RECEIVERS
A cross-reference to companies mentioned here.

EDITORIAL
Crude and MMA: The positive legacy of Lac-Mégantic: zero.

- Guest editorial by David Thomas.
- Comment by Ed Burkhardt.
- Transport Canada phases out DOT-111 early.

Crude train accidents take up the New York Times today, with the focus still on track condition and tank cars – nothing on volatile gases.

- Chop Hardenbergh Next issue: 16 August.

CMQ: PROFITABLE*

3 May, DC. **THE RAILWAY SHOWED A 15.4% PROFIT IN 1Q16**, down from 25.2% profit in 4Q16, according to the 1Q16 report of Fortress Transportation and Infrastructure Investors, a publicly-held company, filed with the Securities and Exchange Commission. [See earlier carload numbers in 16#02A.]

‘Fortress Transportation and Infrastructure Investors LLC (“FTAI”) owns and acquires high quality infrastructure and equipment that is essential for the transportation of goods and people globally. FTAI currently invests across four market sectors: aviation, energy, intermodal transport and rail. FTAI targets assets that, on a combined basis, generate strong and stable cash flows with the potential for earnings growth and asset appreciation. The Company’s existing mix of assets provides significant cash flows as well as organic growth potential through identified projects.

FTAI is externally managed by an affiliate of Fortress Investment Group LLC, which has a dedicated team of professionals who collectively have acquired over $17 billion in transportation-related assets since 2002. As of March 31, 2016, FTAI had total consolidated assets of $1,606.4 million and total equity capital of $1,259.1 million.’ {FTAI website}

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*CMQ is the second publicly-reported railroad in the Atlantic Northeast, after PW – meaning that some of its metrics are directly reported. When Robert Grossman owned the SLR in a public company, he too reported its metrics. Having disappeared into Genesee & Wyoming, SLR results are no longer individually available. *Editor*
Rockland branch

Some of the additional traffic runs on the Rockland Branch, which CMQ began operating 1 January 2016 [see 15#12B].

CSXT-PAN AM-CSO-NECR: HIGHER SPEEDS?*

14 July, DC. **USDOT-FRA FOUND ‘NO SIGNIFICANT ENVIRONMENTAL IMPACT’ FOR HIGH-SPEED RAIL BOSTON-NEW HAVEN-MONTREAL.** [See map.]

In 2015, ‘FRA awarded $942,775 to the Massachusetts Department of Transportation (MassDOT) and the Vermont Agency of Transportation (VTrans) through FRA’s Next Generation High-Speed Rail Program to study potential service options and complete [the] Tier 1 Environmental Assessment, in accordance with the National Environmental Policy Act. [See 15#09A for a public meeting on the proposal.]

‘On 14 July 2016, FRA found in the Tier I Study that no significant environmental impacts would result from adding more frequent and higher speed intercity passenger rail service, in large part due to the use of existing operating rail lines within existing rights-of-way. The proposed infrastructure improvements also would be located within existing right-of-way along areas that were in the past double- or triple-tracked.’ {FRA press release}

Some New Hampshire reaction

Peter Griffin of the New Hampshire Rail Revitalization Association wrote on 23 July:

‘During the term of NHDOT Commissioner Carol Murray, New Hampshire collaborated with Massachusetts, Vermont, and the Province of Quebec on a study that would explore the feasibility of restoring Boston to Montreal passenger service through New Hampshire. Ridership estimates were about 500,000 persons. [See 04#09A.]"
‘When it came to phase two of the study New Hampshire declined to participate. The reasoning being, why move forward on a study for a project we will never do? ‘What would it have done for the economies of New Hampshire cities like Nashua, Manchester, Concord, Franklin and Lebanon to be connected to two major economic engines? Now it will go through Vermont.’ {e-mail to ANR&P}
NEW YORK

ALBANY: WINS TIGER GRANT*

26 July. THE OFFICE OF US SENATOR CHUCK SCHUMER WAS INFORMED BY THE FRA THAT ALBANY WOULD RECEIVE A TIGER GRANT. The Office relayed the news to Rich Hendrick, director of the Albany Port District Commission.

THREE-PART TERMINAL IMPROVEMENT PROJECT

Hendrick explained that the TIGER grant would pay for one part of a three-part improvement.

Heavy lift

In December 2015, the Empire State Development Corporation awarded the port $4 million for construction of a
heavy-lift cargo operations building that will allow for the movement of cargo from rail to building to ship, or barge to building to ship. {Larry Rulison in Albany Times-Union 10.Dec.15}

Ro-ro
In March 2016, State Controller DiNapoli announced an award of $15 million to the port. Hendricks described it as creating a ro-ro ramp, and “still in the engineering phase”.

Redo the interior part of the terminal – TIGER
The money announced this day was described in a Schumer press release as accomplishing four goals:

1. Demolish and rebuild the 58,000SF on-dock warehouse to better fit the big-lift system. This replacement would allow cargo to move from ship to warehouse to truck or rail for distribution and vice versa more easily.

2. Allow the port to reconstruct the entire outdoor maritime terminal on the Albany side of the port. Here the internal terminal siding of the Big Lift transportation pathway will be developed on approximately 20 acres.

3. Reconstruct the port roadway. The external portion of the Big Lift system, on approximately five acres will allow cargo storage as well as easier loading to vessels.

4. Complete critical terminal improvements for safety and security, like entrance hardening features. {text of Schumer press release}

Big Lift
The port is undertaking a $50 million expansion and upgrade project, called ExPort Upstate NY.

At a press conference on 18 July, Hendrick said that in 2015, 60% of the international cargo handled at the port consisted of heavy-lift cargo from GE, Siemens, Dresser-Rand, Bechtel, and Iberdrola. “This grant would ensure our region's ability to remain competitive in the production of the next generation of heavy equipment.”

Schumer said; “GE, Siemens and Cargill have all told us ... They want to use the port more and more,” at the press conference in the port.

The enormous transformers from Siemens that sat, one to a railcar, at the port were imported, destined for a power project in Pennsylvania, said Hendrick.

“Our newest products are 30% heavier, one and a quarter million pounds,” said Jeff Connelly, vice president of global supply for GE Power. GE exports 90% of the generating equipment it produces at its Schenectady factory, he added. {Eric Anderson in Albany Times-Union 18.July.16}

SHIP-BORNE CRUDE TO SAINT JOHN
Hendrick said the service to Saint John [see 14#07B] ended about a year ago, when the drop in crude price made offshore crude cheaper than Bakken. {ANR&P discussion

CP: 100-CAR TRAINS*
14 July, Montreal-Saratoga. ANY TRAIN WITH FEWER THAN 100 CARS MUST HAVE APPROVAL OF THE GENERAL MANAGER TO OPERATE on the CP’s D&H and Soo Lines in the United States, under a new directive. As a result trains 252 Montreal-Saratoga and 253 Saratoga-Montreal ‘usually operate only every other day. …

‘Example. We ran 252 Saturday night with only 87 cars but almost 11,000 ton, lots of cement in the train. The GM must have given approval to run it, since we didn't run a 252 the day before. Doesn't seem to affect the SOO too much because they usually exceed the car limit or they combine trains quite often. We see it more on the D&H since we only have the two trains between Montreal and Saratoga.’

NS and CP change crews at Saratoga. {dandh e-list}
Oil trains?
CP continues to run oil trains into the Port of Albany, but many fewer than in earlier years [no oil is going to Saint John – see above]. Editor

A request to CP for clarification was not returned by publication time.

CONNECTICUT

CSO: CUSTOMER CLOSING*

Wholly owned by farmers, the co-op employs 35 people, who will all lose their jobs when production and delivery operations end. “It's a sad day for Connecticut agriculture,” Connecticut Department of Agriculture Commissioner
Steven K. Reviczky said.  
A group of Jewish farmers founded the organization in 1938 as a way to save money by buying, mixing and milling their feed cooperatively, according to the organization's website, www.cccfeeds.com. The original members opened the organization to all farmers, regardless of race, beliefs or national origin. Initially located in East Haven, the co-op moved to Manchester in 1942.

**Rail**

Its silos sit next to a rail spur on Apel Place [see aerial]. Much of its grain arrives by rail, though Ray said most of the corn is Connecticut-grown. On 22 July he said the mill receives 50 to 60 carloads of grain a year.

**Could other feed mills serve the farmers?**

Co-op workers mix and pelletize grain for cows, horses, chickens, goats, hogs and other livestock. “On a good day,” Ray said, the organization has shipped about 300 tons of feed, or 10 tractor-trailer loads, to farms within a 125-mile radius of Manchester, including farms in eastern New York and southern Vermont. {Jesse Leavenworth in Hartford Courant 21.July.16} The 2006 Directory of Rail Freight Facilities shows five mills in Connecticut. Two could serve Central Connecticut’s customers:

Wauregan Grain, Danielson, 40 miles or 55 minutes away from Manchester. An official there said he could handle additional customers, but doubted all would go to a particular mill. “Everybody goes their own way,” he predicted.

Wauregan, served by PW, does a bit more than 100 carloads a year, of which about 14 are corn.

Agway Plainfield, Plainfield, 37 miles or 55 minutes away from Manchester. An official there said she would welcome additional customers. The facility has not used rail for more than 10 years, however. {ANR&P discussions 22.July.16}

Cargill, Franklin. This facility closed in 2009. At that time, company officials said Cargill's existing dairy and farm store customers in Connecticut and New England will receive service via Cargill's Salem and Albany, New York (in the Port of Albany) feed facilities with the same level of support and service to which they are accustomed. {Grainnet.com 6.May.09}

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**MAINE**

**NB&M-PAN AM: BETTER RAIL NEEDED**


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2 Kofkoff, correcting the listing in our Directory, serves only its own company egg farms from its distribution facility in North Franklin. {ANR&P discussion 22.July.16}
question about her remarks, Cassese said on the air:

“Think about where the wood is located. A lot of it is in northern Maine, and the mills are in more centralized Maine areas. We would like to get more wood by rail, but that’s not really an option in terms of being able to do that easily.\(^3\)

“You also think about the mills, they want to bring in a lot of raw materials from all over the country that comes in by rail, and we want to ship our products out by rail.

‘So rail is very, very important, and we have a lot of concerns around the rail infrastructure, and around the time it takes for us to receive and send out products.’

Also, she said, “we see trucks empty going places. … Can we figure out how to make a backhaul for trucks.” {mpbn.net ‘Maine Calling’ radio program}

**PORTLAND-PAN AM-SEARSPORT: KAOLIN STILL MOVING**

24 July. **A SHIP MOVING KAOLIN FROM BRAZIL TO MAINE WAS NAMED THE ‘MARGUERITA’** during a naming ceremony in Portland. MST Mineralien SchiffsFahrt Spedition und Transport GmbH, based in Schnittenbach, Germany, had the MV Marguerita built in China. Her maiden voyage occurred in February. She first called South Portland’s Sprague Terminal on 9 March.

She returns every 25 days, offloading kaolin (a clay used in making coated paper) at the Sprague terminals in South Portland and Searsport. Imerys, based in Savannah, Georgia, sources the kaolin in Brazil. {Dennis Hoey in Portland Press Herald 24.July.16}

**Rail and kaolin**

In 1999, kaolin began moving by rail out of Searsport [see 99#24]. In 2004, rail was laid into the Sprague terminal in South Portland [see 04#11B, 05#01B]. In 2005 and 2011 [see 05#08A and 11#04A], kaolin was still moving to Searsport.

Tank cars for kaolin have remained visible at Sprague in South Portland for years and years, up to the present. Editor

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**MASSACHUSETTS**

**MC: DELAYED ACCESS TO NEW BEDFORD HARBOR**

14 July, New Bedford. **THE RAIL BRIDGE INTO THE PORT WILL NOT BE COMPLETE UNTIL OCTOBER**, said Zeb Arruda, commissioner of the city’s Department of Public Infrastructure. “There’s still going to be some roadwork to do.”

The original completion was 1 May 2016 [see 15#05A]. {Mike Lawrence in New Bedford Standard-Times 14.July.16}

The lack of the bridge means MC cannot reach two customers: Maritime International and EPA [see map].

**PAN AM: TIGHE EXPANSION**

6 June, Winchester, Massachusetts. **TIGHE LOGISTICS GROUP WILL EXPAND RAIL OPERATIONS AT ITS HOLTON STREET FACILITY.** It will allow Tighe to significantly increase the number of railcars that it can handle. Expansion plans are slated to begin later this year with expanded services to begin by the winter of 2017.

“The facility is a fantastic location for rail operations and we have a great delivering carrier with Pan
Am” said John Tighe, Tighe’s president. “Our planned expansion will enhance our ability to provide rail shippers with an extremely economical choice to ship goods by boxcar into the New England market.” {Richard Mooney post on Tighe website}

**Town response**

Town residents in earlier years objected to the revitalization of rail, and lost a lawsuit due to federal pre-emption. The town later did a study about noise mitigation, but options were too expensive [see 16#04A]. A request for comment to the Town about this latest expansion received no response by publication time, except that the Town had not received a communication from Tighe about it.

**MASSPORT: ANOTHER 8500-TEU SHIP***

17 July. *CONLEY TERMINAL SUCCESSFULLY HANDLED A SECOND LARGE CONTAINER SHIP*, the COSCOCS’s Xin Mei Zhou which is rated at 8,530 TEUs.

In April [see 16#07A], Conley handled COSCOCS’s *Africa*, which various websites rate as in excess of 10,000 TEUs.⁷

**Handling speed**

Matt Brelis, Massport spokesperson, wrote that in about 12 hours, dockworkers discharged 1,054

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containers, approximately 1,845 TEUs. They loaded 777 containers, approximately 1,360 TEUs. ‘Our adjusted average gross productivity came out to just over 34 moves per crane per hour.’ {e-mail to ANR&P}

One drayman, Bill Remington, said when the pickup or dropoff is not complicated by ship handling, he can get in and out of the terminal “in 30 to 45 minutes.” {ANR&P discussion 16.July.16}

NEW HAMPSHIRE

PAN AM v MBRX: NO PROGRESS YET ++

29 July, Concord. PAN AM AND MBRX ARE HAVING DIFFICULTY ARRANGING THE MEDIATION TO WHICH THEY AGREED. The two sides have agreed to complete mediation by 25 September, according to a filing with the New Hampshire Superior Court [see 16#06A], and to use a former New Hampshire judge, but nothing is yet arranged.

Leishman estimated the mediator fee at about a thousand dollars. {e-mails from MBRX owner Peter Leishman and from Pan Am Executive Vice-president Cyndi Scarano}

NEW HAMPSHIRE SALT BIDS*

2 July, Concord. FOUR ROAD SALT SUPPLIERS WON BIDS TO SUPPLY THE STATE. [See table and map.]

<table>
<thead>
<tr>
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<th>District 1</th>
<th>District 2</th>
<th>District 3</th>
<th>District 4</th>
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</table>

American Rock Salt operates a salt mine in New York and presumably will delivery product to two of the three Barrett terminals shown on the map, by rail. ARS has used them in the past. Editor

Champion Salt operates a pile in Everett, Massachusetts [see 16#06B]. Tonya Christian said on 26 July that she would supply the three districts in New Hampshire by truck. She did investigate rail, but found dealing with two railroads too complicated. {ANR&P discussion}

Granite State Minerals operates a salt pile in Portsmouth, receiving overseas salt. Editor

Morton (acquired International Salt Company recently) operates a pile in Portsmouth [see 16#06A] but may use a terminal or source in Canada to supply northern New Hampshire. Editor
RHODE ISLAND

QUONSET/DAVISVILLE: POST-PANAMAX*
18 July. **THE FIRST CALL OF A POST-PANAMAX VESSEL OCCURRED WHEN THE RO-RO IRIS LEADER** docked at the port. The ship is NYK's first ro-ro vessel to transit the new Panama Canal locks, enabling it to call on East Coast ports in the United States, at 111.5 feet wide, almost two feet wider than the older Panama Canal locks *still in use.*

The ship docked at 07h00 and departed at 13h30 headed for Boston, Quonset Commerce Park chief Steve King reported. [e-mail to ANR&P] [Quonset newsletter (perhaps called Quonset Points but it lacks a header), undated]

VERMONT

NECR v PAN AM: 38 CENTS A MILE?
20 July, DC. **PAN AM FILED A RESPONSE TO NECR’S PETITION TO INCREASE THE TRACKAGE RIGHTS FEE ON THE CONNRIVER ‘LINE’ TO SIX DOLLARS PER CAR MILE,** following discovery by Pan Am. NECR filed its Petition 4 June 2015 [see 15#06A].

NECR will serve its requests for discovery by 16 August, Pan Am will respond by 13 September. NECR will provide Rebuttal Evidence and Argument 60 days after both parties affirm that discovery is complete [see 16#05B].

Bill Mullins, former chief of staff to the Interstate Commerce Commission, and Crystal Zorbaugh filed the response for Pan Am. Both work at the law firm Baker and Miller in DC.

The ‘Line’ [see map in Regional]
The “Line” consists of three contiguous segments owned by NECR over which PAS has trackage rights. The upper segment is a 13.4-mile line between White River Junction, Vermont and Windsor, Vermont (“Northern Segment”). It connects to the 48.8-mile line between Windsor, Vermont and Brattleboro, Vermont (“Connecticut River Line”, also referred to as the “Middle Segment” or the “Former B&M Line”). That connects to the 10.6-mile line between Brattleboro, Vermont and East Northfield, Massachusetts (“Southern Segment”). Collectively the three segments are the “Line.”

The northern and southern segments together are called the “CV Line”, after the former owner the Central Vermont Railway.

A. AGREED-UPON ACCESS
In the original Trackage Rights Order (TO) and in the proposed revision attached to the filing, both parties agree to this language:

**Overhead only on north and south segments**
‘1.2 PAS shall have only overhead running rights over the CV Lines.’

**Exclusive right to existing shippers and facilities**
‘1.3 PAS shall have the exclusive right to serve all existing shippers and shippers’ facilities that were located on the Former B&M Line as of the Conveyance Date [1990], including any and all new shippers that locate at such existing facilities after the Conveyance Date, provided that PAS makes available a minimum three day per week

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5 Because the popular and specialized press no longer believe very much in maps or thorough explanations [the *New York Times* printed a full two-sheet article on the new locks without a map] I had to go back to a seven-year old article [Brad Reagan in *Popular Mechanics* 30.Sept.09] to find out that the “third set of locks” make up a separate set of locks and that the existing locks will remain in existence.
service along the Line. PAS must consult with the shippers and ensure their needs are met up to three day per week service.’

**Compete for new shippers on the middle segment**

‘1.4 Except as provided in Section 1.3, NECR and PAS shall each have the right to compete for and serve the following shippers and shippers’ facilities on the Former B & M Line:
(a) shippers and shippers’ facilities located on the Former B & M Line which did not receive or tender rail shipments during the twelve months immediately prior to the Conveyance Date;
(b) any other new shippers;
(c) any existing shippers and shippers’ facilities to which PAS does not provide a minimum three day per week service, as specified in Section 1.3.’

**Compete for interchange traffic at Bellows Falls and Claremont Junction**

‘1.5 NECR and PAS shall each have the right to compete for and to interchange traffic at Bellows Falls, Vermont, with GMRC and at Claremont Junction, New Hampshire, with the CCR. PAS shall have the exclusive right to interchange traffic at Charlestown, New Hampshire, with the ST.’ {text of draft Trackage Rights Agreement}

**B. HOW MUCH FOR TRACKAGE RIGHTS?**

The heart of the case: how much should Pan Am pay for access to the Line? The draft TO contains this language which neither party has proposed to modify:

### 3. COMPENSATION

3.1 PAS shall be obligated to pay for and contribute towards (i) the cost of continued maintenance and operating costs, and variable costs attributable to PAS’ usage of the Line through payments set forth in Section 3.3 below; (ii) emergency repairs, capital upgrades and material alterations and additions not included in routine and program maintenance set forth in Section 3.7 below; and (iii) interest rental due to NECR set forth in Section 3.8 below.

3.1 PAS shall be obligated to pay the compensation set forth in Appendix A.
[The Appendix was omitted from the filing.]

**B.1 Four accepted methods of determining the fee**

The four methodologies for setting trackage rights compensation were set forth in two ICC cases involving St. Louis Southwestern Railway rights over the Missouri Pacific Railroad in 1984 and 1987: (1) the Capitalized Earnings Approach (CE); (2) Replacement Cost New Less Depreciation (RCNLD); (3) the comparable line segments approach; and (4) the stand alone cost method. VIP is an alleged variant of RCNLD. {page 3 footnote 8}

NECR argued for a ‘valuation in place’ (VIP) methodology, which has three components: a variable cost attributable to Pan Am operations; real estate, and other capital (which in turn depends on the value assigned to the capital). Pan Am did its own calculations for VIP and for CE.
B.2 Rate under VIP should be 41 cents per mile, lower than current fee

‘[I]t is clear that NECR’s VIP is not a valid substitute for RCNLD. Even if it were, NECR’s VIP must be substantially modified to reflect Board precedent in three key ways: (1) value the real property held in easement at zero [see section E]; (2) deduct the value of any infrastructure improvements funded by state and federal grants to accommodate passenger operations, which infrastructure NECR does not even own; and (3) account for the value of the NECR infrastructure based on the value placed on those assets in the G&W/RailAmerica Transaction.

‘When these changes to VIP are accounted for, Mr. Baranowski [see E below] calculates a Restated VIP trackage rights fee of $0.41 per car mile. This is actually lower than the existing fee of $0.45 per car mile and is substantially lower than the $6.70 per car mile (2014) that NECR seeks to have the Board impose. {31}

B.3 Rate under CE should be 61 cents per mile

The CE Approach produces an interest rental fee of $0.71 for the Northern Segment and $0.82 for the Southern Segment. Consistent with the Amtrak Decisions, [Baranowski] did not apply an interest rental component to the Middle Segment. These fees combined with the actual maintenance expenses for all three segments (which actual expenses were discussed infra in Part III.C) and the variable cost for each segment produces an overall per car mile trackage rights fee of $0.61. Clearly, this is higher than either the Restated VIP or the existing trackage rights fee. {32}

B.4 Federal and state funds

NECR argues that Pan Am should have to pay for the federal and state funds invested in the Line to bring it to Class III. Pan Am responded:

‘NECR ... argues that “the ICC made it clear that the owning railroad is entitled to earn a return on property donated by government that is used or useful in the railroad business provided by the owning railroad.” NECR misinterprets the precedent. In this case, the TO required NECR and its predecessor to maintain the property to an FRA Class II condition. The only reason the public funding was provided was because it would be useful in Amtrak’s business, not the railroad business provided by the owning railroad. {26}

C. SOME OTHER POINTS IN THE PAN AM FILING

‘NECR also seeks substantial changes to the terms and conditions of the TO, by preventing PAS from
performing haulage service and imposing onerous operating, insurance, and liability provisions.’

C.1. Pan Am should have the same rights as NECR on the line between Brattleboro and Windsor

‘The Amtrak Decisions recognized that a large portion of the Line used to be owned by B&M and, therefore, that B&M should have substantially the same rights as CV to compete for shipper’s traffic.

‘The Board should not disrupt this competitive arrangement: PAS should have substantially the same rights as NECR to compete on the Line.

‘For example, PAS’s rights should continue to encompass access to all existing shippers, the right to fully compete against NECR for any new shippers, and the right to provide haulage services, as PAS has previously done and NECR has previously allowed. PAS further believes that there should be one agreement governing all three segments of the Line.

‘PAS has attached, as Exhibit C hereto, a redline of its proposed trackage rights terms as compared to NECR’s proposal. The differences are not great in number, but are significant in effect insofar as PAS has removed the anticompetitive provisions proposed by NECR. PAS’s changes are fully explained herein. {page 6}

C.2. Additional 1990 compensation?

‘[T]he ICC only required B&M to pay for maintenance sufficient to maintain the Line at Federal Railroad Administration (“FRA”) Class 2 standards. Furthermore, the agreed-upon trackage rights fee was deemed to be in “full satisfaction of any and all obligations of B&M to pay for the trackage rights provided herein or contribute towards the costs of dispatching, maintenance and repair of the Line.” {9}

‘... Thus, if the changes recommended by NECR result in PAS paying more than what was assumed under the Amtrak Decisions, then B&M should be entitled to additional compensation for the taking.’ {10}

C.3. Retain right to compete

‘As such, for most of the traffic that PAS serves exclusively, rates are already set as low as possible because they are constrained by modal competition. Therefore, any increase in rates above existing levels risks losing this modal-competitive traffic to other modes. Such a result harms the public health and safety; given the general consensus that rail is safer, more efficient, and more environmentally friendly than truck. {15}

C.4. Support for Pan Am from other railroads

‘VRS’s comments illustrate how any disruptions to PAS’s ability to compete would upset the goals of the Amtrak Decisions with significant adverse impacts for customers. And, NECR’s prior efforts, involving demands for the production of confidential revenue waybills, speed limits for PAS but not itself, and a self-declared prohibition on PAS’s performance of haulage, pale in comparison to NECR’s current efforts to restrict PAS’s ability to compete.

‘Similarly, in FD 35482, Central Maine & Quebec Railway US Inc. (“CMQR”) submitted comments specifically urging the Board to ensure “that reasonable business terms and conditions continue as originally outlined in the [TO] issued by the [ICC]” in Amtrak II. CMQR specifically noted how important it was to maintain “the unrestrained and equal competitive access” between the two carriers.’ {17}

C.5. No haulage

‘NECR has inserted an entirely new provision into Section 10.7, specifically prohibiting the performance of haulage. ... “By way of clarification, the foregoing does not imply that PAS may handle trains, cars, or equipment in haulage service for another carrier, except where the cars or equipment in haulage service for another rail carrier, except where the cars or equipment are being transported under a haulage arrangement for Norfolk Southern Railway for interchange with NECR.”

Pan Am argues that the original TO did permit haulage. {48}

C.6. No retroactivity
NECR insists that a new fee, awarded by the Board, be retroactive to the date NECR filed its petition. Pan Am’s response:

‘Over the nearly eleven months that NECR obstructed discovery and unnecessarily dragged out the proceeding, PAS made business decisions, moved traffic, priced shipments, and collected revenues based upon the existing trackage rights fee. If the Board rejects PAS’s arguments and imposes a higher fee, it should not make its decision retroactive.

‘PAS cannot go back and collect this higher fee from its shippers. Likewise, PAS should not have to come up with the money to cover the difference between the old fee and the new fee due to the fact that it was NECR’s own actions that unnecessarily delayed this proceeding. If the Board ordered retroactive trackage rights compensation over PAS’s objection, it would be rewarding NECR for its delay and obstruction.

‘Similarly, as a result of NECR’s delay and obstruction in this proceeding, PAS is in a quandary with regard to pricing traffic on the Line. Just how much of the 1,389% increase demanded by NECR should PAS factor into proposed rates? This uncertainty certainly has an effect on the shipping public that is not consistent with the public interest.’ {54}

C.7. Other NECR-proposed provisions which Pan Am rejects

- Subsection 1.9(e) would prohibit Pan Am from fueling its locomotives on the line, or from loading and unloading hazardous substances. This is ‘not equally applicable to NECR or any other tenant railroad.’ {36}

- ‘NECR proposes to eliminate a provision that requires it to keep the Line in a minimal operational status. NECR does not justify this. For several reasons PAS opposes this deletion.’ {38}

- ‘NECR proposes that PAS be required to subsidize “any major capital project ... which may become ... desirable in NECR’s discretion in the ordinary course.” PAS opposes this addition.’ {39}

- ‘NECR proposes to add an entirely new subsection that would permit it to impose – in its sole discretion – any operating rule regardless of whether it was imposed for an anticompetitive purpose or not.’ {41}

- ‘NECR would have PAS defend and indemnify NECR for Amtrak passenger injuries (covered in NECR’s proposed “and third party injuries (including death).”’ {43}

- ‘Ignoring the comprehensive state and local regulation of the transportation of hazardous materials, NECR proposes to adopt an overly broad definition of Hazardous Substances and impose on PAS a set of procedures for addressing the transportation of Hazardous Substances over the Line. PAS objects to NECR’s proposals.’ {46}

D. MIKE BOSTWICK STATEMENT

Bostwick, vice-president of marketing and sales, supplied a verified statement attached to the Pan Am response. Some of his points:

D.1 Pan Am service to the middle segment

‘Today, PAS serves customers on the middle portion of the Line by transporting traffic from its staging yard in East Deerfield, Massachusetts over the lower portion of the Line. In addition, PAS also utilizes the upper portion of the Line to access White River Junction Yard for interchange of traffic with NECR and the Vermont Rail System as well as staging of traffic for delivery to PAS customers.’ {B2}

D.2 Propane shifts

‘The Agreement has resulted in a strong presence on the Line for both NECR and PAS, with each competing to
provide rail service to customers on the middle portion of the Line.

‘In particular, PAS competed with NECR for the right to serve a significant propane customer located at Claremont, New Hampshire, and in late 2013 that customer elected to end its longstanding relationship with NECR and utilize PAS for its rail service. To obtain this business, PAS offered a competitive rate and service package designed to provide more efficient service at lower cost to the customer than it previously had received from NECR.

‘Of course, this competitive environment was not created solely for the benefit of PAS and its predecessors. Rather, the competitive environment was also created for the benefit of the State, its business community, and their customers.

‘For example, in 2002 another propane customer obtained an order from the Board declaring that it had the right to utilize both NECR and the predecessor of PAS for rail service at its Claremont, New Hampshire location. Consequently, the customer elected to utilize NECR for rail service to and from its facility, though PAS continues to have the right to compete for this business.

‘The strong competition between PAS and NECR to serve this customer is a great example of how the competitive environment first set up by the ICC has directly benefited these shippers and short lines with, until recently, little conflict between PAS and NECR.’ {B2}

Note: The same propane customer. Bostwick did not note that the two different propane customers he discussed are actually the same facility. In 2002, Rymes Heating Oils – see 02#07B – fought Pan Am and won the right to be served by NECR. In 2005, Rymes sold the facility to Plains Marketing [see 05#06B]. In November 2013, Pan Am began serving Plains in Claremont [see 13#12A].

D.3 Haulage for NS to NECR

‘Currently, PAS provides haulage services to Norfolk Southern for certain commodities to Brattleboro, Vermont for interchange with NECR. [One rail observer writes of the interchange: 'I've seen regular movements of lumber, grain, NS and CN boxcars, Omya covered hoppers and what I think is shingles or wallboard -- something under a tarp on a center-beam that is seemingly too heavy for a fully load.' {e-mail to ANR&P 20.July.16}]

‘PAS has also been approached by Vermont Rail System (VRS) regarding haulage arrangements between Bellows Falls and White River Junction [see 13#12A, 14#04A], but this proposal has been on hold pending confirmation that PAS indeed has the right to perform haulage over the Line. {B3}

D.4 NECR did not seek changes when the Agreement concluded

‘As I have said, over the years, the Agreement has worked relatively well. In fact, the formation of PAS coincided with the conclusion of the initial 20-year term of the Agreement when either party was permitted to seek changes to the Agreement. Nevertheless, in discussions with NECR regarding the consent of NECR to an assignment of the Agreement to PAS, NECR never requested or sought wholesale changes to the Agreement. Rather, NECR simply requested the right to perform haulage of PAS traffic—at the discretion of PAS—and for the establishment of a new interchange location at Millers Falls, Massachusetts. [This happened, though reportedly the interchange is no longer used. See 12#03A.] At no time did NECR raise the issue of the adequacy of trackage rights fees or the imposition of operating restrictions. Nor did NECR challenge the haulage arrangements between PAS and NS to Brattleboro.’ {B4}

D.5 NECR attitude shift

‘In early 2014, however, soon after it became public knowledge that PAS would be serving the propane shipper in Claremont [see above], NECR’s tone began to change.’ {B4}

[NECR took umbrage at Wulfson’s remarks that he might seek Pan Am haulage between Bellows Falls and White River Junction – see 14#04A.

In June 2014, NECR opened its request to change the TO – see 14#06A.]
D.6 Small increase in fee okay
‘Based upon my review of PAS’s existing traffic, of the relevant competitive landscape, and of general market conditions, I have determined that PAS likely could bear a small increase in its trackage rights fee.’ {B6}

E. STATEMENT OF MICHAEL R. BARANOWSKI
‘PAS hired Michael Baranowski, senior managing director, Economic Consulting, FTI Consulting (“FTI”), to review the evidence, develop an appropriate VIP, and, if possible, calculate a going concern value for NECR and apply the CE method to determine the interest rental component.’ {Response, page 4}

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<th>Table 3</th>
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<tr>
<td><strong>Summary of Maintenance and Operating Expenses for the Trackage Rights Segments Developed by NECR on Opening</strong></td>
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<td>Category</td>
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<td>+ Program Maintenance</td>
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<td>+ Routine Maintenance</td>
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<td>= Maintenance Subtotal:</td>
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<tr>
<td>+ Property Taxes</td>
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<tr>
<td>= Total</td>
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{Tables here from Baranowski statement.}

Easement: no value
‘The Banks appraiser values all land as if it were fee simple because he argues “NECR owns a permanent, unencumbered easement and has rights to use the property for its highest and best use,” and because he believes “NECR has the right to acquire the property in fee simple for a nominal consideration of $1.” (RLBA VS Track Report, page 9). The only relevant document NECR produced in discovery related to the easement rights at issue explains that the easement is intended “for the purpose of conducting railroad freight operations, the Montreailer passenger service, local commuter or excursion operations, and for all purposes necessary or directly related thereto.’”

(NECR_002548 or 50 comparable documents produced in response to Discovery Request 27).

‘PAS’s legal counsel informs us that the ICC has held that real estate held under the easement instrument at issue here, absent any further demonstration of having a marketable title, must be excluded from the valuation because it is subject to reversionary interests.’ I have accepted counsel’s legal conclusions regarding the value of easements.

‘I further note that counsel’s conclusion is bolstered by the fact that in the Amtrak proceedings, the ICC already determined that the Former B&M Line was mainly easement and afforded value only to the small parcels that were held in fee: “We reject B&M’s appraisal and accept Amtrak’s appraisal for purposes of determining the FMV of the real estate here. B&M, by its own admission, has included land subject to reversionary interest. B&M has failed to demonstrate that it has marketable title to this land so it must be excluded from our valuation.” Amtrak I, 1988 ICC LEXIS 233 at *51-*63

‘NECR has characterized its easement as “permanent and unencumbered,” but it does not explain how this changed from the reversionary interest the B&M described for the same easement in the previous proceeding. Absent demonstration of what changed, the ICC’s former holding still stands. As such, accepting counsel’s legal conclusions and the previous findings in Amtrak I, I have excluded from my adjusted VIP any valuation for the right-of-way.’ {Bar22-23}

{STB website, filings page, Finance Docket No. FD 31250 (Sub-No. 1)}

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6 Your editor surmises that the Former B&M line, which runs between Brattleboro and Windsor, was created by easement takings or purchases from local landowners when the original railroads were built [see Robert Lindsell, The Rail Lines of Northern New England.] The Central Vermont and the B&M rationalized the route in 1900 so trains of both railroads ran. But when in 1988 the ICC insisted that the B&M sell the Brattleboro-Windsor line, the B&M could transfer only an easement to the CV.
SAINT JOHN: NEW OPERATOR

28 July. **THE PORT AUTHORITY HIRED DP WORLD TO OPERATE THE CONTAINER TERMINAL FOR 1 JANUARY 2017.** Peter Gaulton, board chair of the Authority, said: “When reviewing the proposal for terminal operations, we were impressed by the presence that DP (Dubai Ports) World already has at three major port authorities in British Columbia and the depth and breadth of their business in ports and terminals worldwide.”

In Canada, DP World has terminal operations in the ports of Prince Rupert, Vancouver and Nanaimo. Sultan Ahmed Bin Sulayem, Group Chairman and CEO, DP World, said: “We are delighted to further extend our presence in Canada to the Port of Saint John, New Brunswick. We believe that the future growth prospects for the port are strong and we are excited to be participating with Saint John Port Authority in their expansion plans.

**Thirty-year lease**

The long-term lease starts 1 January 2017 and will continue for about 30 years following completion of the Port’s expansion program [see below]. DP World will introduce new assets including the revamping of terminal cargo handling equipment to deliver exceptional customer service. {port press release}

**Logistec current operator**

According to the Port Authority, ‘Logistec Stevedoring Atlantic, Inc. has been a long-term provider of cargo-handling services to the marine and industrial sectors at the Port of Saint John. Logistec is the Terminal Operator and Stevedore for both Rodney Container Terminals and Navy Island Terminal and are available for

**Saint John, current facilities.** Showing proposed changes. **{ANR&P 15#01B}** For clarity, the intermodal terminal currently under the black type will move over to the red lines. DP World will take over Navy Island and Rodney.
contract as Stevedore at Long Wharf or Lower Cove.' {port authority website}

**RFP process: Logistec comment**

Craig Estabrooks, port spokesperson, wrote on 28 July that the Authority had requested proposals for the concession of both the current terminal stating 1 January 2017 and the future modernized terminal. The Authority received ‘competitive responses of which our current terminal operator was one.’ {e-mails to ANR&P}

Madeleine Paquin, president of Logistec, wrote on 28 July: ‘Earlier this year, the port authority went on bids for the Rodney container terminal and, at the end of that process, decided to negotiate exclusively with DP World. We will continue to take good care of our customers at Rodney Terminal until our lease is up at the end of December.’ {e-mail to ANR&P}

**SAINT JOHN: FINAL TRANCHE ASSURED**

12 July. *PORT SAINT JOHN ANNOUNCED THAT IT HAD LANDED THE LAST OF THREE TRANCHES OF FUNDS.* At a ceremony at the cruise terminal on the east side, Brian Gallant, premier of New Brunswick, and Dominic LeBlanc, minister of Fisheries, Oceans and the Canadian Coast Guard and Member of Parliament for Beauséjour, on behalf of Amarjeet Sohi, minister of Infrastructure and Communities. Ed Doherty, New Brunswick minister of Service, on behalf of Donald Arseneault, minister responsible for the Regional Development Corporation, also participated in the announcement along with Wayne Long, Member of Parliament for Saint John– Rothesay, and Peter Gaulton, chair of Port Saint John.

This project involves upgrading and consolidating the Rodney and Navy Island terminals to allow the Port to accommodate larger vessels. New operational systems and technology will also be installed to enhance cargo-handling capabilities. {press release}

**SYDNEY: HANDLING RAILCARS?**

19 July, Sydney. *THE PORT OF SYDNEY IS CONSIDERING THE POTENTIAL OF TWO RAIL FACILITIES HERE FOR RAILCAR REFITTING,* said Abraham Somavarapha, business development manager at the Port of Sydney Development Corporation. The port was approached by a third party with the concept of re-use, despite the fact that the rail line between Sydney and the Strait of Canso is out of service and scheduled for abandonment.

The port is looking at the possibility of landing the cars by ship, refitting them, and then re-shipping them. The work could occur at either the Sydney Shops, formerly used by CBNS, or at Victoria Junction, formerly served by the Sydney Coal Railway where coal washing occurred.

**VICTORIA JUNCTION RAIL CENTRE**

**Current ownership and operation**

The Rail Center, owned by Nova Scotia Power Inc. (NSPI), is operated by Logistec Stevedoring as part of the International Pier assets:

- International Pier, where offshore coal lands and is stored. Logistec handles trucking of coal to the Point Aconi NSPI power plant from here.

- Sydney Coal Railway, which operates the line from
the Pier to the Centre, and from the Centre to the Lingan power plant.

- Victoria Junction Rail Centre. The railroad shop facility remains in use to serve the SCR locomotives and cars [see photos]. The wash plant, used to treat coal mined in Cape Breton, was decommissioned in 2001. Coal is no longer stored at the Centre.

Logistec pays the costs of operating the centre, such as heat and electricity.

**Proposed transport chain**
The railcars would arrive by sea. At the PEV pier (Provincial Energy Ventures), they would be unloaded to tracks adjacent to the pier.

The cars would move over tracks owned by three entities [see map] to reach Victoria Junction, but only two to reach Sydney Shops.

From the PEV dock to the interchange with CBNS is owned by PEV, about 1.3 miles long. From that point to the SCR interchange, about a mile. SCR track then runs about five miles to the Rail Centre.

From the PEV pier to the Sydney Shops runs about 3 miles.

‘Some work, both maintenance and perhaps regulatory, is needed to get these tracks approved for use and to allow SCR to run over the CBNS and PEV tracks.’ {e-mail to ANR&P and discussion 20.July.16}

**Rail Centre the better choice**
Gareth Martin, who handles commercial development for Genesee & Wyoming Canada (GW), wrote:
‘Our old shop is essentially abandoned now and we’re relocating much of the equipment to our newly built locomotive shop in Stellarton, which should open soon. The shop on the SCR would be the bigger (and likely better) location…but I’m not sure about the economics or plausibility of either. I would think that any suitor would look more closely at the old TrentonWorks facility in Trenton if anywhere, which is of course, directly rail-served [see article below]. … I haven’t heard that any bidders have a rail focus other than a local guy who wants to start building cars there again.’ {e-mail to Victoria Junction, Nova Scotia. Locomotive rehab at the Rail Centre. [courtesy Port of Sydney]}

An SCR train leaving the Lingan power plant. Typical trains consist of a pair of ex-DEVCO GMD GP38-2 locomotives and 21 ex-DEVCO Ortner 5 bay rapid discharge hopper cars. [Wikipedia]
Somavarapha noted: ‘GW is willing to work with us if we have an opportunity in the [Sydney area], also we feel it would be good for the Sydney project if GW were to pursue an additional project in Trenton. It would create more opportunity and allow for access to more expertise. We are still in the early stages of studying the feasibility of this project, however, given the market there could be a very real opportunity to barge the tank cars for refit.’ {e-mail to ANR&P 22.July.16}

CBNS: RAILCAR FACILITY RESTART?*

Note: When the demand for rebuilt tank cars went through the roof two years ago, entrepreneurs came out of the woodwork to consider new locations for railcar plants. The drop in crude oil price has meant a drop in demand, and the dashing of the dreams of the entrepreneurs.

28 June, Trenton, Nova Scotia. COULD THE FORMER TRENTONWORKS RAILCAR PLANT RETURN TO BUILDING RAIL CARS? Pictou Centre Progressive Conservative MLA Pat Dunn says he has talked with a former Pictou County resident who has bid on the property, now in bankruptcy, with support from U.S. Interests.

History of the plant
After TrentonWorks ceased operation, in March 2010 Daewoo Shipbuilding and Marine Engineering (DSME) announced it would establish a wind tower and blade manufacturing facility. DSME completed its first two orders in its new facility while the sales team is actively seeking to grow its client base and build its reputation as a high quality wind tower and blade manufacturer. {Linkedin DSTN website} Daewoo received a provincial government equity investment, loans and grants totalling $56 million.7

In February 2016, DSME Trenton was placed in receivership when the province recalled a $32-million government loan. The company said it closed the operation because of a lack of orders for wind towers.

PricewaterhouseCoopers has been managing the property and assets since operations ceased. David Boyd of PricewaterhouseCoopers Inc. said the receiver will evaluate the offers and provide an analysis to the Supreme Court of Canada in late July.

The creditors package lists the 40 hectares of land and building valued at $11.7 million, and machinery and equipment worth $10.4 million.

Dunn believes that whatever business buys the property, they should be required to finance most if not all themselves. “We do not want the taxpayers to be footing the bill for bringing someone in like we have seen in the past.” {New Glasgow News 28.June.16}

HALIFAX: TEUs AGAIN UP*

21 July. THE PORT AUTHORITY’S TWO FACILITIES AGAIN SAW A HUGE INCREASE IN CONTAINER THROUGHPUT. Import tonnes increased 17.0%, and export 20.6%. {HPA website}
## Container Throughput at HPA Facilities (TEU)

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<td>Y-T-D</td>
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<td>11.8%</td>
<td>211,980</td>
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<td>196,872</td>
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## Container Throughput at HPA Facilities (Metric Tonnes)

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## Non-Containerized Cargo at HPA Facilities (Metric Tonnes)

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<td>Total Y-T-D</td>
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## Non-Containerized Cargo at Non-HPA Facilities (Metric Tonnes)

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## Port-Wide Cargo at HPA & Non-HPA Facilities (Metric Tonnes)

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WHRC: A FUTURE?

24 July, Alexandria, Virginia. ‘THE PRINCIPALS OF THE RAILWAY CONTINUE WORKING ON SEVERAL PROSPECTIVE RAIL MOVES, which could utilize the unique transportation options provided by the railway and the port at Hantsport. All locomotives, rail cars, and MOW equipment have been prepped and stored serviceable for future use,’ wrote Bob Schmidt, WHRC president.

The railroad has lain dormant since US Gypsum decided not to operate the gypsum quarry [see 11#09B].

CN’s Windsor branch
‘Two years ago, the W&H and CN signed definitive agreements for the W&H to purchase the Windsor Branch from CN. That transaction is going through the land migration phase which can be quite difficult for 100+ year old railways and the old land records etc. The W&H and CN are aware of various track situations and often grant temporary permission for crossings to be covered with asphalt. During this period, we have worked together to handle the many physical and administrative items needed to be done collaboratively. The W&H and CN have had a 23-year relationship of working together, and we are confident that we will resolve any of these minor issues before a transaction is completed.’

Use of the right of way for Highway 101?
‘Rumors persist that the Province wants the ROW for twinning Highway 101. Several years ago, we had discussions with the Province's Department of Transportation and Infrastructure Renewal, TIR, regarding twinning over the causeway.

‘We have stated that we are quite willing to work together to accommodate any needs they may have, even involving moving our line to one side of our land and provide some land for twinning so long as our railway line can proceed with appropriate clearances. We understand that they have alternative designs which do not require land from the railway.

Or aggregate traffic?
‘We are very interested though in working with the Province as part of the twinning process by being a low cost transportation option for the delivery of the millions of tons of construction materials which will be needed for a project of this size, at an economically advantageous price and as the most environmentally green option.

‘So no major changes, but just slow and steady focus on purchasing the Windsor Branch and working on new rail opportunities.’ {e-mail to ANR&P}

RAIL FREIGHT FACILITIES

Described in this issue.
Central Conn Coop (CSO, Connecticut) Closed.
Frost Bridge (Pan Am, Connecticut) Opens.
Imerys (Pan Am CMQ, Maine) Still shipping.
Tighe (Pan Am, Massachusetts) Expanding

GUEST EDITORIAL

THE POSITIVE LEGACY OF LAC-MÉGANTIC: ZERO ++
Guest editorial by David Thomas, Railway Age contributing editor

Three years ago, in the early hours of July 13, a runaway oil train exploded in the then-idyllic lakeside town of Lac-Mégantic, Quebec, killing 47 people.

The investigation and ensuing cascade of regulatory measures severely disrupted the nascent crude-by-
rail industry, caused federal authorities in Canada and the U.S. to condemn most of the continental tank car fleet, and turned the chattering classes against the railroads, amid a ruthless tarring by the petroleum lobby, for not “keeping the damn trains on the track.”

After all that, crude oil trains continue to derail and blow up; and the official blaming continues to target the railroads. The Federal Railroad Administration’s preliminary report on the July 3 explosion of four cars in Mosier, Ore., blames Union Pacific, citing sheared lag bolts and loose tieplates as the cause of the derailment.

As a trivial, background factoid, the FRA noted that the Mosier crude originated at Dakota Plains’ New Town terminal in North Dakota. The FRA did not mention that the doomed Lac-Mégantic train was loaded at that very same terminal, with crude oil fracked from the same Bakken oil formation.

Despite all of the regulatory agonizing, oil train explosions remain a clear and present danger, and not because of tieplates or tank cars. The FRA reported that the four breached and burned cars were modern CPC-1232s, upgraded with full-height head shields and insulated metal jackets. Such upgraded cars are approved for use by the FRA, which remarked in its report: “The tank cars involved in the derailment performed as expected in the incident based on tank car performance metrics.”

The “new” tank cars a monster red herring
In other words, the new tank cars are expected to breach in a 25 mph derailment. In more other words, the entire mandated fleet renewal was a monster red herring that distracted attention from fixing the root cause of exploding oil trains: contaminated crude oil containing dangerous and entirely unnecessary concentrations of explosive gases.

The solution, by now, is achingly obvious. Volatile crude should be heat-treated to remove explosive and corrosive gases (as is done routinely in Texas). Alberta bitumen should neither be diluted with naphtha to ease its flow into and out of tank cars, nor juiced with hydrogen to boost its otherwise dismal energy value.

None of those measures has been implemented by Canada or the U.S. Instead, the obvious factor of crude oil volatility in oil train explosions has been shunted off to the U.S. Department of Energy for years of study that will eventually prove the validity of high school chemistry. The unnecessary presence of propane, butane, naphtha and hydrogen converts barely flammable crude oil into a volatile explosive.

Losers:
- The honor of rail and hazmat regulators and elected politicians in Canada and the U.S., for their utter failure to address the known root cause of oil train explosions.
- The railroads, for allowing themselves to be painted as perpetrators of oil train explosions, instead of victims, forced by law, to haul demonstrably unsafe cargo in inadequate conveyances.
- Three lowly railroad operating employees facing criminal charges for the consequences of following company rules against setting automatic train brakes on a train, left unattended, with the engine running on a downhill grade.
- The sanctity of human life, for losing out to profit margin in the cost-benefit analysis of shipping incidentally (or in the case of bitumen, intentionally) contaminated crude.

Winners:
- The American Petroleum Institute, for convincing its well-paid legion of political hacks to blame tank cars and track bolts, instead of weaponized crude oil.
A COMMENT BY ED BURKHARDT ON THE EDITORIAL

I asked Ed for his thoughts on the Thomas editorial. Editor

I think the editorial is great on the issue of volatility of the crude being shipped. It is a fact that at least one pipeline refuses to handle the product for that reason, and that the destination refinery had warned its people about this. Everyone seemed to know about this other than the railroads who were expected to handle the product safely.

The editorial fails on its trying to be cute about that “decrepit” railroad and what crew manning requirements applied. Whether or not MMA was “decrepit” had nothing whatsoever to do with the accident, and neither did MMA’s manning policy. The TSB didn’t find either as one of the many factors contributing to the accident. These allegations are simply made-up fantasies.

The editorial also fails in its misdirected focus on whether or not the train brakes were applied. It’s a fact well-known in the rail industry that the train brake cannot be relied upon and is a poor substitute for applying sufficient hand brakes. The accident occurred because of insufficient application of hand brakes. The TSB was right in their consideration of this issue.

I do agree that the criminal prosecution of MMA employees is wrong unless one believes mistakes (however tragic) equal criminal intent.

Note: Ed Burkhardt was chair of the Montreal, Maine, and Atlantic Railway at the time of the Megantic disaster in July 2013. The MMA was dissolved in bankruptcy. CMQ purchased most of its assets. See 16#06B for the now-concluded fund for the victims and the town.
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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