REGIONAL ISSUES

Day One: CSX ok, NS? New GRS traffic.

CONNECTICUT

Updates: PW new line, wood ties, rail grants.

MAINE

Operation Lifesaver: GRS-backed bill increases fines for trespassing.
Transportation bond bill: Passes with extra funding for Portland and B&A.
B&A: Interim Presque Isle intermodal operation; Bangor ramp closed; $2 million from bond fund.
Calais Branch: Reluctance on short-term operation; wins and losses in Legislature.
GRS: Champion Paper mentioned at STB; traffic up at Waterville ramp; rail service improved to SAPPI mill via Clyde Forbes.
MC: Change of leadership and ownership.

MASSACHUSETTS

General Court: Transportation and MassRail bills due end of June.
Doublestack: still no bridge of funding gap.
GRS: New England Clipper traffic up to Ayer.
FTR: Dennis Coffey successor; FAC report still weeks away; no Berkshire Scenic resolution yet.

NEW HAMPSHIRE

Airport branch: More detail on CLF proceedings.
GRS: West Lebanon sale closer.
FTR: CSRX gets loan guarantee. NHDOT signs off on BMR sale. Rail Council no closer. Legislature acts on Portsmouth service, not on Northern Line.

RHODE ISLAND

[No report.]

VERMONT

A Maine concentration
Lots happened he the past two weeks. My favorite event: the re-emergence of Clyde Forbes from the failures in New Hampshire and Vermont to run a switching operation for SAPPI.

Please renew
Administrative problems caused us to send out tardy renewal notices to about 40 subscribers. If you get one of these, please pay as soon as possible, to keep our treasury funded.
As always, if you have any questions, please contact me via phone, e-mail, or post.

- Chop Hardenbergh

Next issue: 23 June.
REGIONAL ISSUES

DAY ONE

1 June forward. The Cutover from Conrail to CSX “IS GOING OK,” said CSX spokesperson Bob Sullivan. When issues arose, “we have managed through them.”

Sullivan’s assessment is echoed by many government and railroad officials in the Atlantic Northeast. No one reported a significant glitch. {ARW discussions 1-8.June.99}

However, local officials and observers reported some severe problems on NS west of New England. {NERAIL list}

Guilford traffic from New York

According to a Delaware and Hudson (D&H) dispatcher, ‘we're beginning to see a shift of traffic off the ST [Springfield Terminal, the railroad which operates the GRS system] that was moving via Conrail. ST ran a EDDH (East Deerfield to D&H) which arrived at 1030 hrs Tuesday morning [8 June] with 83 loads and 30 empties. This is the largest interchange of loads (mostly paper out of Maine) to the D&H since [Guilford owned the D&H]. After cars went by the Crescent EDI reader...probably half showed as NS haulage traffic....

‘Also, [ST] began yesterday running 2 trains out of Mohawk [Yard, the interchange between GRS and the D&H] daily. ST 268/269 will (or supposed to) operate with only the NS intermodal traffic for Ayer. This will be followed up by a train currently being called MEED which will handle the other freight traffic to East Deerfield for classification....The Hoosac Tunnel route returns to life as God intended it!’ {D&H e-mail list}

CONNECTICUT RAILROADS

UPDATES

On 7 June, Ray Godcher, ConnDOT rail planner, provided these notes:

- PW is still looking for political support for funding to lay the materials provided by ConnDOT into the line between Middletown and Hartford. Godcher estimated the railroad needed about $2 million, which ConnDOT itself could not supply.

- The cascading of 60,000 wooden ties out of track number two in the Northeast Corridor, to freight railroads in Connecticut, should begin in June. Amtrak wants to replace the relatively new ties with concrete ones.

- The department should select within two or three weeks the winning rail preservation projects. ConnDOT has $500,000 to spend [see 30 April issue]. {ARW discussion]

MAINE RAILROADS

OPERATION LIFESAVER

25 May, Augusta. A BILL TO SUBSTANTIALLY INCREASE FINES FOR TRESPASSING on railroad property was signed into law by Governor Angus King. Among those attending the ceremony were representatives of Operation Lifesaver, which initiated the legislation. GRS officials Tom Steiniger and David Fink, as well as GRS Police Captain Fred Fraini and Ken Strout and Gary Burke of BAR. Until now, fines ranged from five to 20 dollars. Under the new law, fines begin at $100 for a first offense and up to $1000 for a third offense. {ARW correspondent Fred Hirsch coverage}

Fink later said GRS strongly supported the legislation to put some teeth into its effort to keep people off the tracks, especially with the pending arrival of Amtrak service. Maine prosecutors had declined to pursue trespassers given the de minimus amount of the fine. {ARW discussion 4.June.99}

TRANSPORTATION BOND BILL

6 June. The Maine Legislature added some twists to the projects funded by the bill, passed in the wee hours of this morning as the Legislature adjourned. Originally written by MDOT for $56.616 million, the bill ended up at $56.042 million.

Rail funding

The Legislature authorized $19.7 million in funds for the state match covering the following projects [see 7 April issue]: $7.5 million for rehab of the Rockland branch, $6.0 million for the Lewiston-Auburn rail connection [all state funds], $2.8 million for Calais branch [no change, see below], $0.980 million for a rail connection between Bangor and Trenton, $170,000 for passenger facilities in Auburn, Trenton, and Rockland, and $250,000 for rails to trails.

In a new wrinkle, the Legislature agreed to provide $3.0 million to the Bangor and Aroostook Railroad to cover work at Mack Point and on CDAC [see below]. This money in effect constitutes a settlement of the $3 million MDOT promised the B&A back in 1994 [see 30 April issue].

Port funding

The Legislature authorized $11.676 million for the state match: $1.2 million for the Bangor waterfront; $0.500 million for marine highway facilities in Boothbay Harbor, Bath, and Rockland (the last two will also serve as rail passenger facilities); and $9.976 million for the Portland waterfront reconstruction [an increase of about $3 million from what MDOT proposed - see Ports]. {text of bill; ARW discussion with MDOT’s Alan Stearns}

B & A SYSTEM - MAINE

28 May, Presque Isle. Interim Operation began here, in a test mode, after LMS workers were trained on the packer. Ken Liepold, operations manager for B&A company Logistics
Management Services (LMS), said initial loads of Irving lumber were moved for Sunbury Trucking using flatracks. Other loads included moves for National Starch, arranged by the IMC Alliance Shippers, to the West coast.

**Official operational takeover**

According to Larry Clark, Presque Isle Industrial Council executive director, a locomotive in LMS livery is now operating in the Presque Isle Industrial Park. Liebold said that as of 21 June, LMS will officially assume responsibility not only for the intermodal operation, but for switching the entire park. The company will interchange with regular BAR trains at the park entrance.

Clark said that PIIC has a switching agreement with B&A [see 8 October 1998 issue]. The agreement permitted subcontracting to LMS, which is what will happen in late June.

**McCain Foods as a shipper**

Brent Cronkite, traffic manager for the Easton plant, said he is looking at using the intermodal ramp, but has not yet located reefer trailers which are built for lifting. “I still have a couple of companies to contact which are interested in this area.”

Cronkite said that B&A is marketing the facility as are the third party providers and LMS itself. Rushmore is looking to “the Hubs, the Alliance Shippers” to provide service for the ramp using railroad-owned equipment, though he anticipated getting it there would prove tough. {**ARW discussions 4&8.June.99**}

**The permanent facility**

According to Clark, PIIC received only two bids to construct the permanent facility as of the bid close [see 30 April issue], which came from local contractors Ed Pelletier and Sons of Madawaska and Presque Isle, and A.E. McQuade and Sons of Mars Hill. Both exceeded the bid estimate; PIIC is still reviewing them.

**So does Presque Isle make sense?**

Lipeold believed yes. Presque Isle would not suffer from competition with Auburn and Waterville, and offers better business. Coes noted another difference: Presque Isle is providing its own stacker.

Can the Presque Isle facility get empties, if Bangor could not? Dick Rushmore, B&A marketing director, said the region surrounding Presque Isle for whatever reason has shippers and transportation companies who own their own equipment.

B&A is marketing the facility as are the third party providers and LMS itself. Rushmore is looking to “the Hubs, the Alliance Shippers” to provide service for the ramp using railroad-owned equipment, though he anticipated getting it there would prove tough. {**ARW discussions 4&8.June.99**}

**WHAT’S A FLATRACK?**

Used in Presque Isle, these are in effect a container without walls, the flatrack has a strong floor and a headboard at each end. Cargo is secured to the flatrack. When not in use, the headboards fold down permitting stacking of the flatracks. {**Intermodal Freight Transportation, Gerhardt Muller, third edition 1995**}

**TEMPORARILY CLOSED ITS BANGOR INTERMODAL RAMP.** Ben Coes, director of intermodal, said on 7 June that the railroad had decided to redeploy its assets - the stacker - into Montréal. “Overall, intermodal is the fastest growing sector of the company, and a very profitable part of the company.” B&A’s Sortin Yard in Montréal “is exploding” with growth.

“We fully anticipate Bangor will re-open,” Coes emphasized. “The location makes very good sense as an intermodal point.”

**Lack of equipment**

A successful intermodal project requires (a) good service, (b) available equipment, and (c) good rates, stated Coes. “We had excellent service to the west, and great rates.” But the B&A did not have a constant, steady supply of equipment.

Yes, agreed Coes, at times observers could see up to 30 trailers at the ramp in Northern Maine Junction. But the railroad could not consistently supply them.

“If we could source trailers on demand, Bangor would be the busiest facility in the state,” said Coes.

According to Liepold, B&A was able to move containers for CAST, but very sporadically, only in ones and twos. The SAPP mill in Hinckley occasionally shipped paper overseas using these [see below].

**How about Waterville and Auburn?**

Coes noted that both NS and CSX reposition empties from elsewhere to Waterville. Furthermore, because otherwise the boxes and trailers would return empty to Chicago, the railroads can offer a heavily discounted rate going west. “Any revenue they get repositioning the boxes comes as gravy on the potatoes.”

**And Auburn?**

Robert Grossman, chair of SLR parent Emons Transportation, said now that Auburn has doublestack access [see 30 April issue], CN and SLR are jointly marketing the service. “We expect not only to halt the slide [see 26 May issue] in traffic, but to reverse it.”

Coes noted that Auburn operated as a CN ramp, where “CN wants to participate, wants to put equipment into the marketplace.”

**Need for a connecting carrier**

Equipment supply can be solved. This will happen when a connecting Class I carrier is sufficiently interested in participating in the intermodal marketing of the area to supply empties. [CP, B&A’s principal Class I, pulled out of the New York/New England intermodal marketing in 1996 - see **Atlantic Northeast Rail and Marine Transport** 199, page R-4.9]

Also, Coes saw significant potential in shipper-owned equipment [see above]. {**ARW discussion with Coes and Grossman 7.June.99, Fink, Liepold, and Hub official 4.June.99**}

**Reaction**

Chris Hall, who as a consultant with Stafford Business Advisers conducted the original study for the Bangor MPO on whether an intermodal facility made sense, said he had concluded that Maine could support two but not three intermodal facilities [see 11 April 1996 issue].

BACTS and the Town of Hermon both regretted the closing but expressed confidence that Bangor’s role as a hub for the region, plus the re-emergence of Searsport marine shipping, will
re-opening of the ramp. \(\text{ARW discussions 8.June.99}\)

PHOTOS OF THE PACKER AND A SAMPLE TRAIN AT PRESQUE ISLE’S INDUSTRIAL locomotive has the livery of Logistics Management Services. (courtesy Tom Bamford, last pr Aroostook Valley Railroad, on whose tracks the train sits)
6 June. **THE MAINE LEGISLATURE ALLOCATED $2 MILLION TO THE RAILROAD** as part of the $56 million transportation bond [see above]. The money will purchase track materials for the B&A’s planned track rehab on CDAC [see 30 April issue: NEARS].

Rob Elder emphasized that the funds help satisfy an obligation of MDOT. If the railroad ever sells the track material, it will repay the grant less depreciation. **{ARW discussion}**

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### CALAIS BRANCH

28 May, Augusta. **MDOT’S RELUCTANCE TO PERMIT SHORT-TERM OPERATION** on the branch was explained by Ron Roy, the director of the Office of Passenger Transportation. “We’re going to spend about $12 million on this line” and “we want to set the operation up for success at the right level.”

Allowing a one-summer effort by smaller operators over a short section of the branch could put the eventual success in jeopardy either fiscally or in the public mind. Roy listed three problems: unsafe operation (even if the operator carried appropriate insurance), a financial or operational failure, and hampering efforts to upgrade the line. Despite the advantage that interim operation offers in getting public attention, “[w]e have more to lose than to gain.”

“We’re not anxious to just start any operation….we want to do the whole enchilada, and we have an idea of the kind of operator we want.” **{ARW discussion}**

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### A mystery still

Skip Rogers, chair of the Eastern Railroad Development Commission, said the Commission supported the effort of Bill MacDonald to initiate doodlebug service on the line [see 7 April issue], particularly in the section from Washington Junction to Franklin. He has heard the justification presented by Roy before, and “still can’t understand why the department is thwarting a reasonable, responsible operation.” **{ARW discussion 8.June.99}**

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6 June. **BRANCH PROPONENTS WON AND LOST IN THE LEGISLATURE.** Those who wanted rail to serve the Port of Eastport were unsuccessful in adding $2 million to the transportation bond bill to begin work on the rail. However, the Legislature did appropriate $300,000 for maintenance on the line.

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### Disappointment

Skip Rogers, chair of the Eastern Railroad Development Commission, expressed “extreme disappointment” that the Legislature did not fund the rail work. Nevertheless, his Commission at its next meeting on 24 June will discuss where it wants the maintenance work to occur, and will advocate that much of it occur in Washington County.

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### Passenger intermodal facilities

The transportation bond, as discussed earlier [see 7 April issue], will fund intermodal passenger facilities in Bangor and Trenton, as well as a rail line between them. According to Allan Stearns, MDOT spokesperson, the maritime part of the bond will pay for rebuilding a bulkhead in Bangor. From here, water taxis could ply the Penobscot; similarly, the fast ferries planned for the Maritime Highway north of Portland could call Bangor. Passengers could make intermodal transfers to the train, or to the airport.

A smaller version of the intermodal facility is planned for Trenton, where ferries could connect with Bar Harbor. The maritime part of the bond will cover improvements at the Trenton waterfront.

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### Any freight work at all?

MDOT awaits bond funding which will match federal funds for stations and Bangor-Trenton track reconstruction to Class 3 standards. According to Roy, the state in all likelihood will use FTA funds. However, if it uses FHWA funds, that might permit track reconstruction as far as Cherryfield, the point recommended as a transload by Stafford Business Advisors, who consulted on the Calais branch [see 18 December 1998 issue]. **{ARW discussions 25.May & 8.June.99}**

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### GRS - MAINE

21 May. **GRS SHIPPER CHAMPION PAPER FIGURED IN THE CN-IC MERGER DECISION.** The STB stated in it: ‘Champion indicates that its paper mill at Bucksport, ME, shipped 2,185 carloads of paper to destinations in the United States in 1997. Champion states that, although its Bucksport facility is solely served by Springfield Terminal Railway, it has alternative rail routings via CN and Conrail and that both it and its customers have benefitted from the cooperative arrangement among these carriers. Champion asks that we impose a condition requiring applicants to maintain rail competition in areas where rail competition is available and to set reasonable rates for captive shippers. Champion, which did not submit a brief or appear at oral argument, has not shown that this transaction will result in any material change or have any negative impact on the rates or routings of the carriers serving Champion. We will review any specific complaints Champion may have under our general oversight condition.’ **{STB Docket No. FD 335560}**

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4 June, Waterville. **INTERMODAL TRAFFIC IS STILL GROWING AT WATERVILLE.** Dave Fink, GRS executive vice-president, rated the traffic as good there; despite the Hunt pullout, NS business saw no drop at all. A Hub official said “we’re doing well at Waterville.” NS traffic fluctuated, the train was moving 40-50 loads a day. He echoed the Hub official, saying “NS is diligently marketing its service to Maine businesses. CSX will be doing that too. We’re looking for CSX to offer a better rate than what Conrail gave.” **{ARW discussions 4,7,8.June.99}**

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27 May, Hinckley. **RAIL SERVICE IMPROVED TO THE SAPPIS MILL** here this week. GRS began running two trains a day from Waterville to Hinckley, one of which runs as a shuttle...
(SAPI), the other runs direct from Hinckley to Portland (WAPO, POWA). GRS crews no longer switch the mill; third party Florida Rail Services is retained to do that.

Joe Reese, transportation manager for the mill, explained that SAPI wanted better rail service. When GRS and the company discussed how to achieve that, the railroad explained either GRS could provide more switching, but that would cost more, or SAPI could do its own switching. [SAPPI’s Westbrook mill has for many years done its own switching using a trackmobile. {ARW discussion with Westbrook traffic manager 7.June.99}]

Florida Rail Services

SAPPI decided to outsource the switching to Florida Rail Services (FRS), a company owned by Clyde Forbes, the Florida-based operator of NHVT and TSRD [see 7 April issue] and former operator of WACR and LVRC. Reese said FRS is currently acquiring a locomotive, and in the interim leasing one from GRS. The re-arrangement of rail service is “giving us more flexibility,” he noted.

The switcher is on call around the clock. NHDOT’s Kit Morgan understood that Mike Gooden, formerly general manager of NHVT and TSRD, is now running the switch operation.

GRS trains

GRS’ Fink said SAPPI’s providing its own switching enabled the railroad to provide the four trains a day for the mill. “We’re providing lots more service getting the product out and the empties and chemicals up.” He noted the mill intended to use rail more, and had won an Industrial Rail Access Program award from MDOT for siding construction [see 30 April issue].

In Portland, SAPPI traffic connects with GRS train NESE, Press Runner; GRS plans to add a second paper train when traffic warrants [traffic already seems up - see Regional].

Reese estimated rail traffic at about 30 to 40 cars a day, with about half of that outbound pulp and paper. Overall, about half of outbound moves by railcar; some 15-20% by container arranged by Schneider or Hub City, and the balance over-the-road. {ARW discussions 4&7.June.99}
The other bill, H 2449, will create a subsidiary of the MBTA set up to own and operate the commuter rail system, as well as ‘build and operate the Central Artery rail link, and take all actions necessary to ensure that the potential economic benefits to be derived from the rail line are realized.’ MassRail will also develop a legislative funding source equal to the subsidy required to maintain its operations, including necessary capital development.’ {text of bill}

DOUBLESTACK MASTER AGREEMENT
7 June, Boston. NO ENTITY IS PUSHING HARD TOWARD RESOLUTION of the outstanding issues which will permit the Commonwealth to get full doublestack access on its rail lines. It has come down to money: the state does not have the funds it needs to fulfill its part of the bargain, due to cost increases.

CSX
Paige Kane, regional vice-president, said the railroad had not heard anything from EOTC. “The agreement’s in their court. If they want to make a deal, we’d love to do that.” The agreement is basically done, and CSX is satisfied with the amount of money it would need to pay under the Seaport Bond Bill, the legislation funding the doublestack clearance. “If EOTC wants to present a new funding formula, we would take a peek at it.”

EOTC
Astrid Glynn, deputy secretary for multi-modal, agreed with Kane that the master agreement “is virtually done.” The Office sent the most recent draft to Kane several months ago.

As for the money, “we’re trying to identify ways to get the project done. Mass Highway is doing bridge clearance incrementally, as bridge repair or replacement comes up. We hope to deal with the bulk of the program shortly.”

EOTC does meet with CSX and the MBTA quarterly to look at operational issues. There, “we can bring everything to the table which needs straightening out. We can forestall disagreements and misunderstandings.” The next meeting is coming up shortly, Glynn said, and that could provide an opportunity to address the doublestack issue.

General Court
Sean McDonnell, a staffer at the Transportation Committee, said, “We have stressed to the agencies involved that we want this done quickly.” He indicated that the Committee will seek another meeting among the entities soon. {ARW discussions}
Public Utilities Commission
Most observers believe that the railroad oversight obligation of the Public Utilities Commission was transferred to NHDOT. Not so, says CLF. It wants the PUC to ‘issue an order scheduling a public hearing pursuant to RSA 365:24-a(I) to determine whether the City of Manchester Airport, Department of Aviation’s removal of certain tracks and associated equipment is inconsistent with the public good....’

The cited statute tracks the language of RSA 367:46-a(I); indeed, the Legislature may have wanted 46-a to replace 24-a. However, the Legislature did not repeal 24-a, which prohibits any person from tearing up track ‘without notice to the commission and such notice to the public as the commission may direct. Upon receipt of such notice, the commission shall conduct a public hearing to determine whether the proposed action is consistent with the public good...’

On 8 June, Tom Goetz, PUC spokesperson, said his organization probably will seek the opinion of the Attorney General as to whether it still retains jurisdiction or whether the Legislature intended to remove jurisdiction to NHDOT and merely erred in not repealing 24-a.

Injunctive relief
CLF asks that the Hillsborough County Superior Court enjoin the airport from further track removal, pending the resolution of the PUC and NHDOT actions.

Presumably the New Hampshire Administrative Procedure Act permits a party to appeal to Superior Court the decision of the PUC on whether the track removal is consistent with the public good, and the decision of NHDOT that the track removal is reasonable. [text of complaints; ARW discussions with Sanderson and Goetz 8 June.99]

GRS - WEST LEBANON
7 June, Concord. AGREEMENT ON NHDOT PURCHASE OF THIS TRACKAGE GOT CLOSER when the department responded to the GRS draft language concerning contamination [see 26 May issue]. Furthermore, said Morgan, NHDOT agreed that GRS would sell two parcels in the rail yard to its current lessees.

Any retained rights?
None, believed Morgan [as opposed to Vermont’s purchase of the trackage in White River Junction, where GRS wants rights for interchange and possible customer service - see 26 May issue]. The railroad “has said it cannot offer economic rates to West Lebanon customers” and hence wants to sell the line and would not need any retained access rights.

Next step
If the two sides agree on the language of the sale agreement, the department will present it to the City of Lebanon and the state Department of Environmental Services (DES). “We want to answer any questions about the eventual use of the yard, the level of cleanup, and who will own the yard,” said Morgan, before the sale, to avoid a surprise. For example, the department wants to avoid the city saying after the fact it wants to build baseball fields there, DES requiring $10 million in environmental remediation, and no one knowing where the money will come from. {ARW discussion}

FOR THE RECORD:
NEW HAMPSHIRE
THE SBA GUARANTEED A $1 MILLION LOAN to the Conway Scenic Railroad for the mortgage and for improvements such as $200,000 in track rehabilitation, installation of a fire suppression system in the round house, bank stabilization along the Saco River, marketing enhancements, and renovations to a 1955 dome car. {Conway Daily Sun 19 May.99}

NHDOT SIGNED OFF ON THE SALE OF THE BMR (Berlin Mills Railway), which Crown Vantage is selling along with its mills in Gorham and Berlin. BMR is currently leased to SLR, which operates it on behalf of the Mills. The attorney for the buyer, American Tissue, who requested the relinquishment of the state’s right of first refusal whenever rail lines are sold, said the closing would happen in June.

THE NEW HAMPSHIRE RAIL COUNCIL looks no closer. Morgan said he had heard nothing lately about its formation [see 7 April 1999].

THE LEGISLATURE IS ACTING on HB444, setting up a committee to examine passenger service to Portsmouth: the Senate passed it on 27 May, amending it to require three Senate and three House members of the committee. The House must now decide to accept or reject the amendment.

As for HJR 6 encouraging revitalization of the Northern Line, it remains in the Senate Transportation Committee; the House passed it in March. {Webster; ARW discussion with Morgan 7 June.99}

VERMONT RAILROADS

VAOT: REORGANIZATION
3 June. AGENCY LEADERS DECIDED TO ELIMINATE THE RAIL AND AVIATION DIVISION effective 1 July. According to a memo from acting Secretary Mique Glitman, ‘the idea of re-integrating the rail and aviation functions into the broader Transportation Agency has been around for awhile. It was part of the 1995 Strategic Plan and the Program/Project Manager report of 1996.’

She also wrote: “In no way should this be interpreted as downgrading the importance of either program. Each section will continue to report to a Director and each program will retain its current priority.’ Aviation/airport management was transferred to the Maintenance Division.

‘The rail program will fall under Project Development because of the project orientation of the rail program. Sue Compton continues in her role as Rail Program Manager.

‘Some folks from the Division will naturally go to Planning, Tech Services, or Administration Divisions based on their individual specialty and the desire to functionally manage the
programs as we do with other programs. "I believe the Agency has evolved over the past decade to the point where Rail and Aviation are on a par with the other modes. I am confident that the leadership within the Agency is committed to enhancing all modes of transportation.'

The division director, Greg Maguire, resigned effective 1 August.(text of memo) He said later he would work to keep together as many of the rail people as possible under Sue Compton.

Why did this happen?
Observers agreed that the Agency had this idea for some time. It happened at this point for three reasons: (1) the director preceding Maguire, Bill Bruzzese, had by virtue of his long tenure as an administrator had success in resisting the idea; (2) the division, under both Bruzzese and Maguire, had difficulty "getting money spent and projects out the door"; (3) Maguire, who lacked an administrative and technical background, could not change the dynamic. The leadership decided to change at a natural point, the beginning of the state fiscal year.

Nevertheless, one observer regretted the decision was made without much input from the Legislature or from the Vermont Rail Council (VRC). The Council will hold its June meeting on 14 June. She also noted that unlike the highway mode, rail must coordinate operation and construction, and dividing up those functions may not work well.

Some legislators disliked the idea, and pledged to reverse it when the General Assembly convenes again in January. {ARW discussion 8 June.99}

AMTRAK - BURLINGTON CONNECTION
8 June, Burlington. VAOT WILL RUN A DEMONSTRATION SERVICE between Burlington and Rutland, connecting with Amtrak’s Ethan Allen. The state has obtained under a lease-purchase agreement four Virginia Railway Express passenger cars which arrived here today; VRS will make them into a train for operation within months, according to VAOT’s Greg Maguire.

The project, as related by VAOT’s John Dunleavy, aims to keep public interest in the corridor, as the commuter rail service won’t emerge until late 2000, and the ABRB service [see 26 May issue] for years after that. When the commuter service begins, the state will purchase the cars. {ARW discussion 8 June.99; NERAIL report by John Hinckley about car arrival}

GRS - WELLS RIVER
2 June, Fairlee. THIS TOWN IS INTERESTED IN A RAIL EXCURSION SERVICE once the track is restored, said Lucy Gibson, an official with the Two Rivers Regional Commission. The town is seeking a scenic byway grant for its old railroad station. {ARW discussion}

Bob Schmidt, president of B&A System, said on 7 June that his company is certainly open to excursion rail on the branch, as long as it did not interfere with freight operation. For ease of administration and liability, the B&A would provide the crews and power to run the trains. {ARW discussion}

CN - TERMS OF UNION
8 June, Montpelier. VAOT IS COORDINATING THE PURCHASE WITH IRON ROAD RAILWAYS, according to John Dunleavy, the assistant attorney general handling the negotiations. The agency is leaning toward awarding the operation of the branch to the B&A System, owned by IRR.

Unlike New Hampshire, which must conduct a bidding process to find an operator for a state-owned rail line, Vermont has no statutory obligation to do so. VAOT wants a strong operator already adjoining the line, because the state is acquiring the line to help make northeastern Vermont more viable. The B&A fits the bill, especially because it can provide direct connection to Montréal.

NECR, the other connecting carrier, “is marginally interested,” said Dunleavy, but seems already to have a full plate. "It’s sometimes hard for NECR to get power to operate the WACR.”

Furthermore, the Agency wants the carrier lined up to take over the common carrier obligation as soon as GRS sells. This eliminates the more cumbersome process of abandonment. And B&A has its particular desires with respect to the line. Dunleavy is “getting a lot of information from the IRR people” about those desires, and must mesh them with the GRS desire to retain some trackage rights in White River Junction [see 26 May issue].

He declined to pick a target completion date for the deal. {ARW discussion}

[Rumination: Shippers are champing at the bit to move through White River Junction to reach West Lebanon - see New Hampshire. The states should avoid a situation under which moves between the two states involve three carriers: NECR, B&A, and a third carrier which holds the operating rights in West Lebanon. To make economic sense, that must become a single line move, meaning at least one and possibly two carriers will need to award trackage rights to another carrier. Let us hope that the states are even now arranging that, as part of the deals struck.]

MARITIMES/QUÉBEC RRs

CN - TERMS OF UNION
2 June, Ottawa. THE RAILWAY MUST OFFER THROUGH-RAIL RATES TO NEWFOUNDLAND, according to a decision by the Canadian Transportation Agency (CTA) in the application by Gordon Moffatt for Final Offer Arbitration.

Background
In 1997, Moffatt decided to set up a freight forwarding business. He asked both Oceanex and CN for rates from central Canada to Newfoundland. CN gave him intermodal rates higher than truck rates. “If they had been anything close to what CN was giving to the major operators, I would have been satisfied. But it looked to me like a blatant attempt to keep me out of the market place.”

Searching for redress, he ended up filing for Final Offer Arbitration (FOA) under the Term 32(2) of the 1949 Terms of
Even though rail was lifted in Newfoundland in 1949, which states: ‘For the purposes of railway rate regulation, the Island of Newfoundland will be included in the Maritime region of Canada and through-traffic moving between Sydney and Port-aux-Basques will be treated as all rail traffic.’

CTA stated in its decision: ‘Historically, this section has been interpreted such that the movement over water between the mainland and Newfoundland has been considered to be an all-rail movement, and that Newfoundland shippers are entitled to railway freight rates equivalent to, on a proportional mileage basis, rates to points in three Maritime provinces.’

CN declined to provide these rates, and Moffatt filed for FOA (the arbitrator decides between the rate offered by CN and that offered by Moffatt). CN objected that Moffatt’s proposed traffic in part moved over water and thus was not eligible for FOA, and that his offer was not complete, and that the Terms of Union no longer applied.

In December 1997, CTA found Moffatt’s offer complete and eligible for FOA [see 18 June 1998 issue - the finding was not published until May]. CN appealed this decision to the Federal Court of Canada. CTA decided to make a separate conclusion on the Terms of Union issue, and held an oral hearing in Newfoundland in November 1998 [see 3 December 1998 issue].

Decision

CTA divided its decision into four parts:

1. Continued application of 32(2) the Terms of Union. CTA agreed with Moffatt and interveners (the Government of Newfoundland and Labrador and the Alliance of Shippers and Manufacturers Newfoundland) that this still applies. ‘The fundamental purpose of Term 32(2) is to provide Newfoundland shippers with some freight rate protection.’

2. Can appropriate rates still be developed, given the changes since 1949? Again, CTA found for Moffatt. Even though rail is regulated today to a far lesser extent than in 1949, such regulation still exists.

3. CN is still bound to provide through rail rates to Newfoundland. Even though rail was lifted in Newfoundland in 1988, and even though CN was privatized, CN still has the obligation to provide Terms of Union rates, because of the 1988 Privy Council Order requiring CN to continue to provide through rail rates on an intermodal basis. The 1995 privatization did not specifically address any CN obligation vis-a-vis Newfoundland [correcting erroneous statement in 18 June 1998 issue]. CTA found (a) the privatization legislation and adjoining agreements did not explicitly repeal CN’s specific obligation, and (b) CN is still offering through rates on one bill of lading to Moffatt.

4. The arbitrator can find a rate structure in the Maritimes. From this, she or he can decided whose offer to favor - Moffatt’s or CN’s.

Some interesting points

- When CN sold the Truro to Sydney line to CBCN, CTA’s predecessor the National Transportation Agency in 1993 found that ‘CN undertook to continue to meet its obligations under Term 32(2).’

- Moffatt argued that if CN failed to eliminate its obligation in the move to privatize, and hence suffers a financial shortfall, it must take that matter up with the Government of Canada.

- The Alliance noted that Newfoundland shippers have an inherent disadvantage, as their international shipments must be backhauled to Halifax, Saint John, or Montréal before going overseas. Accordingly, any advantage obtained under Term 32(2) is important.

- Though CN contended that application of Term 32(2) could create market distortions, CTA stated that ‘the Constitution, specifically Term 32(2), pre-empts unfettered competition.’ The decision contains wonderful legal arguments and constructs about jurisdiction and rate regulation.

- Moffatt argued that developing a rate structure is relatively easy, since during 1997 he was given numerous rate quotes by CN for points in Halifax, Moncton, and Truro. ‘According to Mr. Moffatt, customers can simply phone the railway company, and after describing the particulars of the anticipated traffic, receive a rate quote. Mr. Moffatt suggests there must be some sort of a structured set of guidelines available to CN staff on which they may base their rate quotes to customers.

- CN indicated that 75-80% of its domestic intermodal business to and from the Maritimes moves under confidential contract, and 100% of its Newfoundland traffic.

- Moffatt developed his rate by using the rates for 40 and 48-foot containers he got from CN to points in the Maritimes and developing a per-mile basis. ‘The per-mile rate was extended from Truro to North Sydney, across the Gulf to Port-aux-Basques, and then across the Island,’ the last using a railway timetable taken from the Newfoundland Railway Museum.

On a cost per cubic foot basis, the intermodal rate and the trucking rates to Newfoundland he received were very close.

What next?

CTA wrote in its final two sentences: ‘The Agency hereby submits this matter for arbitration pursuant to Part IV of the CTA [Canada Transportation Act]. In so doing, the arbitrator is reminded that the Terms of Union are a mandatory and paramount consideration in this matter.’ [CTA Decision 300-R-1999, issued 2 June 99; ARW discussion with Moffatt 9 June 99]

Response

CN spokesperson Mark Hallman said the railroad is reviewing the decision and would have a comment at a later date.

An official at the Newfoundland Department of Works,
Services, and Transportation said "the decision provided a framework for Newfoundland shippers to exercise their constitutional rights on the Island of Newfoundland [Term 32(2) did not extend to Labrador]." It confirmed the agreement made when the rails were lifted in 1988 that CN would continue to serve the island in intermodal fashion. "Our attorneys did a good job," he affirmed.

Moffatt said on 4 June he would start working with his attorney to select an arbitrator from a short list CTA provided earlier. "The Agency has found more Atlantic Canada people" to serve as arbitrators.

Ted Bartlett, spokesperson for Marine Atlantic which operates the North Sydney ferry service, said CN ranked about 12th as a customer. The company believed that most loads were drayed from Moncton to North Sydney. He also pointed out the that Terms of Union required the maintenance of the ferry service at subsidized rates, so CN benefits from that subsidized rate. \{ARW discussions 7,8,9.June.99\}

FOR THE RECORD:

CANADA

THREE STRAIGHT! On 4 June, the arbitrator announced that Eagle Forest Products won its final offer arbitration versus CN for the third year in a row, said Finance Director Robert MacDiarmid [see 12 May issue]. So the rate scheme offered by Eagle will govern CN traffic for the year beginning 25 February 1999 and ending 24 February 2000, at which point CN may again balk. The rate to the United States as set by the arbitrator significantly affects the company, because it ships 85% of its product to the United States.

Business is going very well, said MacDiarmid. Workers set another production record in May, by keeping the machines running and by working a little faster. \{ARW discussion 7.June.99\}

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RAIL AMERICA WILL ACQUIRE RAILINK and with it the 26% share in chemins de fer du Québec (CFQ) which RaiLink owns. According to the offering circular of Rail America, it plans to operate RaiLink as a wholly-owned subsidiary of Rail America.' The shares of RaiLink will be delisted from the Toronto Stock Exchange. Hence, RaiLink's reporting obligations will cease [and we may lose a good source of information on CFQ, depending on how Rail America reports it].

Rail America estimated the total purchase price, based on its offer of C$8.75/share, at about $75 million. Share owners have a deadline of 21 June to tender their shares. \{text of Rail America circular\}

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ATLANTIC NORTHEAST

PORTS

BOSTON

1 June. CONSTRUCTION OF THE INTERNATIONAL CARGO PORT BEGAN in the Massport Marine Terminal. Massport is demolishing one building of 200,000SF and rehabbing another, resulting in a total of 200,000SF of modernized office space. Georgeanne Tacelli, Massport spokesperson, said the facility operators anticipated completion by spring 2000, a later date than the autumn 1999 originally anticipated.

As reported earlier [see 30 April 1998 and 5 February 1999], the large transload warehouse will have rail access following completion of Boston’s Big Dig in 2004. \{ARW discussion 7.June.99\}

7 June. TRAFFIC AT THE AUTOPORT IS MUCH IMPROVED over 1998. The Autoport, a partnership jointly managed by Foreign Auto and Diversified Auto, moved 29,061 cars from January to May of 1999, compared with 23,342 in the same five months of 1998. This comports with past increases: in 1996 the port moved 44,557 autos; in 1997 69,310; and in 1998 73,391. \{ARW discussion with Tacelli 7.June.99\}

PORTSMOUTH

11 May. THE PORT AUTHORITY GAVE THE GREEN LIGHT TO BULKLOADER to complete its contract. Under the three-year contract with the stevedoring company which began in 1997, the Authority could terminate the contract a year early if Bulkloader failed to meet cargo requirements [see 7 April issue]. Though far less cargo went through the port than required under the contract, the Authority agreed that Bulkloader had met a contractual obligation to diversify cargo.

That clause states: ‘The Port Authority shall not have the right to terminate this agreement if Bulkloader is successful in significantly diversifying operations at the facilities during the first two years of the term, regardless of port tonnage.’

The contract measures diversification from a base of ‘two-thirds of the number of vessels, other than container barges, that transported cargo other than scrap metal to or from the port during the period August 1 1994 to July 31 1997. Port Authority records set that base level at seven vessels. Of the 45 vessels Bulkloader has handled since 1 August 1997, 18 meet the definition of non-scrap metal cargo. The board of the Authority decided this day that Bulkloader’s 18 ships met the definition of significant diversification.

What next

For the third year, Bulkloader must pay the Authority an annual fee of $400,000 plus a marketing fee of $50,000. If the stevedore does not meet the goal of 200,000 tons before 1 August 1999, the Authority has the right to seek competitive bids on the next contract. \{Christine Gillette in Portsmouth Herald 12.May.99\}

7 June. THE PORT LOST A SUBSTANTIAL CONTRACT, John Coady of the stevedore Bulkloader said he learned today. In March, Coady said his company had arranged to transfer concrete pilings to barges for a trip to Bath Iron Works (BIW) [see 7 April issue]. However, for reasons as yet not disclosed, Bulkloader’s parent Hugo Neu and the BIW contractor, Atkinson Construction, could not reach agreement on a contract and Atkinson found another site through which to move the pilings, which come from western Massachusetts. \{ARW discussion\}

Tom Orfe, the executive director of the New Hampshire Port
Authority, in late May expressed quizzicalness about the snafu. “It seems to be very standard contracts and operating agreements in the industry. What’s taking so long to sign the contract?” At that time, Orfe said the loss of this cargo would generate questions about other cargo that Bulkloader discussed in the past. “First of all, we’ll look into exactly why Bulkloader didn’t come to an agreement. If that’s not acceptable to us, we’ll certainly seek legal advice....There’s been a million and a half tons of cargo bid over the last year and half, and the contracts haven’t worked out. It certainly raises concerns....” {Christine Gillette and Larry Favinger in Portsmouth Herald 28.May.99}

PORTLAND

6 June. **THE MAINE LEGISLATURE ADDED ABOUT $3 MILLION TO THE BOND BILL** for the Portland waterfront renovation. MDOT had proposed spending $6.7 million over the next two years; the city wanted to do the entire project at once, with an estimated cost of $10 million. This would cover the cost of rebuilding the BIW pier to permit docking of large cruise ships, which currently must anchor in Casco Bay and send in passengers by small boat. The Legislature ended up authorizing $9.976 million.

**How did they do it?**

Observers believe that convincing the Legislature to change the bond package proposed by MDOT can be difficult. Nicholas Walsh, president of the Portland Propeller Club which led the charge to add the extra $3 million, ticked off reasons they succeeded:

- A substantive business plan which showed that immediate renovation would attract 10 more cruise ships a year, enabling the city to pay off the remaining years on the bond issue used to build the BIW facility.

- The hiring of a lobbyist for the first month of the legislative session, to ensure legislators recognized the issue.

- A letter-writing and telephone campaign to representatives and senators from outside the Portland area.

- Good attendance at the public hearing on the issue [see 30 April issue].

- Backing of large companies such as L.L.Bean and non-government organizations such as the Munjoy Hill Neighborhood Association and the International Longshoremen’s Association.

Finally, the deal was struck without the benefit of a working session in either the Appropriations or the Transportation Committee, meaning the city needed, and had, good representation in the leadership. For example, Representative Elizabeth Townsend of Portland co-chaired the Appropriation Committee. {ARW discussion 7.June.99; Propeller Club letter 7.Apr.99; Sara Kehaulani Goo in Wall Street Journal 7.Apr.99}

SEARSPORT

6 June. **THE MAINE LEGISLATURE ALLOCATED $1 MILLION TO PURCHASE LAND** belonging to the B&A, in the transportation bond bill. Rob Elder, head of MDOT’s Office of Freight Transportation, said the state would thus acquire some extra land for the port project. The payment to the railroad will satisfy an outstanding commitment made by MDOT [see Maine].
FOR THE RECORD:
PORTS

SCOTIA TERMINALS AND CN ARE TRYING TO MEET to
discuss a resolution to CN’s determination not to move
containers from Scotia’s Richmond site in Halifax. Meanwhile,
Scotia is still sending its ships around to Halterm to discharge
[see 30 April]. Bernard Prevost of Scotia said his company may
seek relief from the Canadian Transportation Agency [like
Moffatt and Eagle - see Canada], but would first “like to exhaust
the non-regulatory options first.” {ARWdiscussion 7.June.99}
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EASTPORT’S NEW FACILITY WILL HAVE TWO SHIPS
simultaneously on 16 June, the first occurrence. One will pick
up 1500 tons of Georgia Pacific product, the other 8500 tons.
Skip Rogers, the manager of stevedore Federal Marine,
expected 2000’s traffic to improve over 1999 because Asia
should revive economically. Also, “we keep plugging away at
expanding the customer base” but he needs a good rail
connection [see Calais Branch]. {ARWdiscussion 8.June.99}