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


REGIONAL ISSUES
B&A: MMA makes offer for entire property, contingent on financing. Description of process. Eric Lee facts. [No change from e-bulletin.]
Coal: Table of coal-fired plants in the Atlantic Northeast. Discussion of pressures on coal-fired plants.

CONNECTICUT
Legislature: Only progress on New Haven.
CSXT: Will not sell properties.
Connecticut Ports: TSB decision not until December.
New Haven: Update on port activities.

MAINE
BML: To start excursions on Lower Road.

 MASSACHUSETTS
CSXT: Files to abandon part of Fitchburg secondary. EOTC not interested.
GRS: Fletcher Granite update.
MCER: EOTC asks for new proposals.
NECR: Update on two Bondsville customers.

NEW HAMPSHIRE
Eastern: Legislative task force will compare rail routes to Portsmouth.
Portsmouth: A container feeder service from Halifax? PDA reconsiders dumping salt.

RHODE ISLAND
[No report.]

VERMONT
Legislature: House and Senate argue over funding of the Champlain Flyer.
VRS/GMRC: STB abstains on Riverside Reload, but offers legal guidance. Wulfson comments on VRS fight for federal pre-emption.

Next issue: 14 June

REGIONAL ISSUES
BANGOR & AROOSTOOK SYSTEM
23 May, Chicago. RAIL WORLD SIGNED AN ASSET PURCHASE AGREEMENT WITH THE BAR.

Rail World, Inc. announced today that its affiliate, Montréal, Maine
& Atlantic Railway LLC, (“MM&A”) had signed an asset purchase agreement with James E. Howard, Trustee of the Bangor & Aroostook Railroad Company (“B&A”). The agreement provides for MM&A to purchase approximately 745 miles of rail line in Maine, Québec and New Brunswick from B&A and its affiliates. Mr. Howard intends to file the agreement with the bankruptcy court as soon as the affiliate parties have signed, and to request the court’s approval to complete the sale.

B&A is currently operating under Chapter 11 of the US bankruptcy statutes, and its Canadian affiliate, Québec Southern Railway, is under court-supervised administrative proceedings. The other B&A affiliates involved in the sale are Canadian American Railroad, Northern Vermont Railroad, Newport & Richford Railroad and Van Buren Bridge Company, all of which have filed under Chapter 11 and are awaiting the appointment of a Trustee as is required under railroad provisions of the federal bankruptcy laws. Also involved is Logistics Management System, a warehousing and logistics subsidiary of B&A, which is operating under debtor-in-possession provisions of the bankruptcy laws.

Mr. Howard indicated that it would take several months for the bankruptcy court to review the sale agreement and to consider comments of the creditors and other parties of interest. The court will consider any “higher and better” proposals for purchase of the railway assets during this time. He said “I am particularly pleased that the sale agreement contemplates an intact sale of the Bangor & Aroostook rail system in Maine and Québec while maximizing return to the creditors. We are well aware that any alternative could involve a balkanization of the network, with potential line abandonments and loss of rail service to small communities.”

Mr. Burkhardt said, “We are very pleased to reach this milestone in the acquisition of the B&A. We believe this can be a highly successful railway, and are anxious to close the purchase as soon as possible. We are particularly impressed with the quality of the employees and the customer base.” He indicated that MM&A’s plans had been well received in the financial markets, and that negotiations over placement of the financing were well advanced.

Investing with Rail World are Larry R. Parsons, President of the Wheeling & Lake Erie Railroad (“W&LE”), a regional railroad located in Ohio, West Virginia and Pennsylvania, Jerry R. Davis, retired President of Union Pacific Railroad, and Frank Turner, retiring President of the American Short Line and Regional Railroad Association and a veteran rail manager. {press release from Rail World}

The procedure: appointment of a trustee
According to a source close to the Bankruptcy Court, US DOT has not yet put together its list of five candidates for trustee for the other railroads, but is within “days” of forwarding the list to the US Trustee for Region One. As required by law, US Trustee Chris Marshall will then select the trustee, which does not require court approval [see 16 January 2002]. The source said that lawyers for the BAR and its affiliates were lobbying US DOT to include Jim Howard’s name, so that Marshall would have the opportunity to select him as the best way to move the process along.

The procedure: signing of APA and closing
Jim Howard said once the trustee for the other affiliates is selected, the trustee for them can then sign the APA and it will be filed with the Court. He hoped that would happen “within a week.” Howard would also file a motion for the court to entertain other offers, and for a hearing to approve the sale. He anticipated that the Court would require any other bids by 3 July, and hold a hearing on 10 July.

Even after the judge approves the sale of the assets to MMA or another purchaser, “it’s still going to be some weeks before getting to closing, because of the massive amount of paper” involved. MMA will purchase the US assets, and MMA Company will purchase the Canadian assets.

Purchase contingent on financing
Asked about financing, Ed Burkhardt stated: ‘As for the "contingent on financing" question, our project has always been contingent on financing. This is totally normal in the business world. I think this is essentially a non-subject, barring a meltdown of the global markets or the equivalent. We expect to be there with the money when the time is right.’

That time will occur when the bankruptcy judge must decide whether or not to approve the sale. Howard noted the judge would most probably not approve the sale without firm financing.

Burkhardt wrote he was ‘not dealing with any of the creditors. The bankruptcy ended that, and provides a mechanism for settling their claims. We won't have anything to do with that.’ [Apparently none of the creditors is providing Burkhardt a refinancing. Editor]

Other potential purchasers
Howard noted that other parties who wish to buy have about five weeks from the Rail World announcement to put together an offer. No possible purchaser other than GWI [see 3 May issue] has actually inspected the property, but Eric Lee of Cayuga Railway has said he is putting together a group to bid [see box], and Rail America has made inquiries.

The breakup fee to Burkhardt
Asked about a rumor that Burkhardt would get a fixed fee if his company did not end up purchasing the system, Howard confirmed it. “It’s customary in these deals that if he is signing and not being able to buy, if the creditors are getting more than what Rail World is offering,
that [the bankruptcy estate] pays a breakup fee out of the extra amount.” In essence, Burkhardt is getting a fee to put together a target at which other people can shoot.

The bidding process will be structured such that the winning bid, if above Rail World’s, will realize more than enough for the breakup fee and for creditors.

At the hearing, Burkhardt and other bidders will have the chance to up their bids. Something akin to an auction will take place, according to Howard. \{ANR&P discussions 28 May 2002; e-mail to ANR&P from Burkhardt\}

**More quotes**

“We’re actually hopeful that anyone who knows the price will review it and decide whether to jump on it,” B&A President Fred Yocum said. Yocum views the sales agreement as the brakes that will halt the substantial losses being experienced by B&A System. He said that in the last few years, B&A System has lost up to $15 million each year. And the last year has been the worst of the financial hits, as businesses seeking long-term rail service contracts have looked elsewhere because they were uncertain whether B&A System would remain solvent. “We have been very vulnerable.” \{Bangor Daily News 29.May.02\}

**MORE ON ERIC LEE**

Lee, who lives in Syracuse NY, owns the Meridian Southern Railway. He formerly worked for Norfolk Southern and for Conrail. “I like railroads and I like trains” and he has looked for railroad where he can make a return on his investment. The Meridian Southern’s traffic has grown a lot, due in part to “excellent relations with the KCS” [Kansas City Southern Railroad] in operating and marketing.

Lee expressed interest in the BAR early on [see 18 September 2001 issue: box]. His partners, whom he declined to name without their permission, also operate other railroads elsewhere. “We’re all reasonable people putting together a bid. We’ve been working on this for a long time, possibly longer than Ed Burkhardt.” \{ANR&P discussion 28 May 2002\}

**THE REGION’S COAL PLANTS**

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<th>name</th>
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<th>owner</th>
<th>units:MW</th>
<th>coal via</th>
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<td>SELECT Energy</td>
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<td>GRS rail</td>
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<td>Bow NH</td>
<td>Northeast Utilities</td>
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<td>GRS rail, truck</td>
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<td>Northeast Utilities</td>
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<td>NRG Power Marketing</td>
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<td>ship</td>
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<td>ship</td>
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<tr>
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<td>Bridgeport CT</td>
<td>Wisvest Connecticut</td>
<td>1:370</td>
<td>ship</td>
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<tr>
<td>Point Aconi</td>
<td>Cape Breton NS</td>
<td>Emera</td>
<td>1:185</td>
<td>ship then truck</td>
</tr>
<tr>
<td>Trenton 5,6</td>
<td>Trenton NS</td>
<td>Emera</td>
<td>2: 150, 160</td>
<td>ship then CBNS rail</td>
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<tr>
<td>Point Tupper 2</td>
<td>Port Hawkesbury NS</td>
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<td>1: 150</td>
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<tr>
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<td>Cape Breton NS</td>
<td>Emera</td>
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<td>Belledune NB</td>
<td>NB Power</td>
<td>1: 458</td>
<td>ship*</td>
</tr>
</tbody>
</table>

*NB Power owns NB Coal Limited, which produces coal eight months a year at the company’s Marion 8200 and Bucyrus-Erie 1260W draglines mine, total approximately 150,000 tons annually burnt at the Grand Lake power plant. Belledune burns Venezuelan and Columbian coal; AMCI is one of its suppliers [see 7 November 2001 issue: Sydney]. \{ANR&P discussion with Jeffrey Carleton of NB Power 15.May.02\}
COAL VERSUS GAS

Keith Saunders, fuel principal for Northeast Utilities, presented information about the company’s use of coal at the Northeast Association of Rail Shippers spring meeting on 26 April [see 17 May issue for presentation on bringing imported coal to the Mt.Tom plant].

Northeast Utilities’ coal-fired plants
As shown in the table, NU has three. Schiller burns 415,000 tons per year, Mt.Tom 425,000 tons, and Merrimack 1,200,000 tons. The Schiller dock received an additional 175,000 tons which were trucked to the Merrimack station.

Sources of coal
Mt.Tom gets 90% of its coal from imported sources, and 10% from domestic. Schiller uses 95% imported coal (a ship unloads the coal directly to the plant), and 5% domestic coal. Bow uses 84% domestic coal (arriving by rail from Maryland/Pennsylvania coal fields), and 16% imported, all trucked (about 400,000 tons) from the Schiller plant.

Saunders said the low-sulfur coal from South America was much cheaper.

Offshore coal sources
Another bar chart presented by Saunders indicated that the United States imported only four million tons of coal in 1995, which grew to over 11 million tons in 2001. Most came from Colombia, some from Venezuela, and a tiny bit from elsewhere.

Saunders’s slide read: ‘Customers in Northeast U.S. market weigh a number of competitive issues in selecting between U.S. and off-shore coals:

– Availability of U.S. low sulfur coal at competitive prices in Appalachia region versus availability in South America.
– Comparison of vessel rates from U.S. East Coast ports and from South America, recognizing need for using U.S. flag vessels for U.S. coal.’

Comparative costs for coal versus gas
New England has 6,000MW of new natural gas units coming on line, putting downward pressure on electricity prices. They produce electricity costing about $30/megawatt hour. Saunders expected the average price for electricity in 2002 at the same level. Prices have trended downward from January 2001’s roughly $60/megawatt hour.

Gas. Suppose gas costs $3.42/MMBtu (million Btus). [Btu, or British thermal unit, belongs to the awful old non-metric system. Editor] The gas plant needs only 6,500 Btus to generate one kilowatt-hour, or 6.5MMBtus/MWh. The gas plant will pay $22.23 to dispatch one MWh; to that must be added the distribution price.

[The US Department of Energy’s Energy Information Administration has a wonderful website saying the New York delivered gas price was recently around $3.75 per MMBtu. Editor]

Coal. To reach the same dispatch price as gas, the utility must buy coal at under $36/ton. Coal can generate around 12,000Btu (8,000 to 14,000 Btus depending on the type of coal per pound), which translates to 24MMBtu/ton. Coal at $36/ton translates to $1.50/MMBtu. [The Energy Information Administration’s website says the New Hampshire delivered coal price was recently 150 cents per MMBtu. Editor]

To that price a coal plant must add variable costs of $0.35/MMBtu. These include fuel handling, ash disposal and NOX and SO2 emission allowances. So the coal plant produces Btus for $1.85/MMBtu, much less than a gas plant.

But the coal plant needs 10,000 Btus to generate one kilowatt-hour, or 10MMBtus to generate one MWh (megawatt-hour). So the coal plant will pay $18.50 to produce 1MWh, if it can buy high Btu coal at $36/ton.

If, however, the coal generates only 8,000 Btus/pound, the price would rise to 16MMBtu/ton or $2.25/MMBtu or $26/MWH dispatch price, well over the gas price. {ANR&P coverage and later discussion with Saunders during May}
CONNECTICUT LEGISLATURE

30 May. **THE GENERAL ASSEMBLY PASSED ONE BILL** on rails and ports: the New Haven Port Authority bill [see below], S.464. It has taken no action on PB-5113, to establish commuter rail between New Haven and Springfield, nor on HB-5597, to provide bonds for the New England Rail Museum [see 4 March 2002].

CSXT

29 May, Jacksonville FL. **THE RUMORS OF THE P&W BUYING CSXT’s CT OPERATIONS ARE UNTRUE.** Although PW believes CSXT is losing money on its haulage [see 3 May issue: *Regional*], Jim Howarth of CSXT marketing wrote: ‘Southern CT, really northeast metro NY, is an important market for CSXT.’

CONNECTICUT PORTS

30 May. **THE TRANSPORTATION STRATEGY BOARD WILL NOT DECIDE SOON** on which port should begin pilot barge container feeder surface [see 15 March issue]. Contrary to an earlier plan, “the feeder port project was not discussed,” said Bob Hammersly, the Board staffer. Operational plans from both Bridgeport and New Haven are the subject of two analyses:

**Consultant for TSB**
A consultant for the Movement of Goods Working Group, Parsons Transportation Group, is reviewing the operational plans. The Board has asked its working groups to report by September, as it must provide a final report to the General Assembly by 15 December.

**ConnDOT**
Carmen Trotta, manager of the department’s Office of Intermodal Planning, said his group is reviewing the plans. “We’re looking to give our information to the Board in September.”

Money available?
Trotta expected that the Board would not decide between the two ports until December, if then. He noted that the feeder itself was not yet funded [see 19 November 2001 issue]. “Part of the full strategy is deciding where to put the money.”

NEW HAVEN

29 May. **AN UPDATE ON ISSUES FACING THE PORT.**

Creation of port authority. The bill S.464, to permit a New Haven port authority, was signed by the governor on 6 May. Now, Karen Gilvarg of the city reports, the city’s economic development administration will put together a bill setting up the port authority, to be passed by the Board of Aldermen. {ANR&P discussion 30.May.02}

Feeder barge service. [See above.]

Port reconfiguration. Marty Tristine of Logistec said the effort to swap parcels for a more efficient arrangement “was moving forward, we’re hoping it will still happen.” [See 10 October 2001 issue.]

New track access/rail subsidy. The rail to reach the port awaits Q-bridge reconstruction, meaning the track won’t go down until 2004 [see 19 December 2001 issue]. Tristine deferred to Dubno on the rail subsidy [see 29 March and 3 May issue *Regional*].

New warehouse. Logistec will begin operating the new warehouse of Coastline Terminals in June [see 10 October 2001 issue]. It lies just across Waterfront Street from the Logistec offices, and will store imported steel. Logistec formerly used warehousing in the North Yard, but that was difficult to maintain at high quality. {ANR&P discussion 30.May.02}
MAINE

BELFAST & MOOSEHEAD LAKE

16 May, Gardiner. THE RAILROAD WILL START EXCURSION SERVICE on 22 June from this city to Hallowell and Richmond. Jeff Cobrock, city manager, said the Council had voted unanimously to support it.

The railroad had sought city support for practical reasons. It wanted to use the city’s property for a loading platform, water, power, and parking. It also realized cooperation with the city would help both sides. Cobrock said the city’s economic and community development department was brought in, as well as the Gardiner Main Street organization. {ANR&P discussion 29.May.02}

Bob Lamontagne, general manager of the Unity-based railroad company, told the Council: “We ought to be able to do very well in this area, bring in a lot of new people, and provide a service to the folks who are already here.” The train excursions will also be offered as a package deal with Kennebec Jet Boat for a train ride one way on tracks which follow the Kennebec River and a boat ride back on the river itself. “Packages have been very popular,” Lamontagne said. “Our passenger numbers have grown every single year. Even during economic downturns.” {Keith Edwards in MaineToday.com 17.May.02}

Freight service?
Safe Handling Rail currently holds operating rights for freight on the line between Brunswick and Augusta, but because of construction in Augusta cannot reach its only customer, Pine State Trading, which accepted beverages by rail. Calls to the company were not returned by press time to ascertain whether it would return to rail. {ANR&P comment}

BML has had one freight customer, Crowe Rope, which transloaded plastic pellets. But Crowe is bankrupt. Orion Ropeworks now occupies Crowe’s facility in Winslow, and is also using rail. {ANR&P discussion 31.May.2002}

MASSACHUSETTS

CSXT MASSACHUSETTS

10 May, DC. THE STB RECEIVED A NOTICE OF EXEMPTION ON THE ABANDONMENT of 4.2 miles of track from milepost 0.0 where the Fitchburg Secondary met Guilford’s Freight Main to milepost 4.2 in Leominster. [The Conrail Timetable of 1997 showed this section out of service. Editor] {STB Docket No. AB-55 (sub-no. 616X)}

EOTC not interested
Jon Carlisle, EOTC spokesperson, said the agency will not try to purchase the section. {ANR&P discussion 30.May.2002}

GUILFORD RAIL

30 May, Westford. FLETCHER GRANITE WILL BEGIN TRACK WORK to reconnect its quarry with the railroad’s Freight Main [See 19 December 2001 issue]. Dave Psaledas, plant engineer, said Fletcher had hired Acorn Construction of Worcester (Guy Jones, president) to do the track work. Psaledas hopes the work will be finished by November, but it may run into 2003. {ANR&P discussion 30.May.2002}

MASSACHUSETTS CENTRAL

20 May, Boston. ANOTHER STEP IN THE SAGA of the operation of the railroad came in the form of a notice posted this day on the Commonwealth’s contractor bidding website, Comm-PASS:

‘Title: Railroad Operations Ware River Secondary Track
This RFR is closed and under evaluation pending a comment.

Updates: EOTC unable to meet the May 15th deadline. Reissuance of this solicitation is on hold pending further information regarding lease. Further notice will be made as soon as possible.’ {website}

According to EOTC spokesperson Jon Carlisle, the agency will be “putting out an amended RFR in the next several weeks, probably in early June.” Asked about the request of MCER to meet with EOTC officials [see below], Carlisle said: “Some elements in the railroad’s submission did not live up to the RFR.” The amendments—soon to be sent to MCER and others—will provide further clarifications which
will make clear where the MCER submission did not meet the RFR requirements.” {ANR&P discussion 22.May.02}

**The attitude of the railroad**

On 21 May, Mike Smith of the Finger Lakes Railroad and now manager of MCER [see 3 May issue], said MCER is operating over the Ware River Secondary under an interim lease with termination date 1 August.

He has requested an opportunity to “sit down with EOTC and talk about our bid…where in their view they have some concerns. “In the end, we both have the same interest: we want to grow the business, participate in improvement of the local economy, and improve the overall condition of property. We have more in common than differences....

“The RFR had a very heavy emphasis on major rehabilitation, upgrading, and proper maintenance. We want the same thing but not in the same numbers.” {ANR&P discussion 21.May.02}

23 May, Boston. **EOTC POSTED A CLARIFICATION OF RFR REQUIREMENTS** which appeared to say that the term of the operating agreement could vary depending on the level of investment by the operator. It also underscored that proposers must provide all ‘minimum elements.’ Without them, the bid ‘may be deemed non-responsive’.

### New schedule

- Additional questions and comments: 5 June
- EOTC response to questions: 17 June
- Responses due: 1 July
- Notification of results: 12 July
- Oral presentation: 15-25 July
- Negotiations: 1-31 August
- Contract and operation commencement: to be determined.

{Comm-PASS website}

**MCER response**

Mike Smith of the railroad said his company would “resubmit and try to accommodate their requirements.” He doubted others would bid.

“Certainly we would not bid if we were on the outside. The property functions best as a single property,” to maintain it and to provide capital investment. [MCER owns some of the track, and EOTC some. See 15 March issue.] {ANR&P discussion 30.May.02}

**Response of others**

HRRC’s Ed Rodriguez said his company will “take another look. But we would not bid unless we had a deal with Mass Central.” {ANR&P discussion 30.May.2002}

### NEW ENGLAND CENTRAL

29 May, Bondsville. **AN UPDATE ON MAPLE LEAF DISTRIBUTION SERVICES** (MLD) came from David Barber, general manager. In 1998 [see 22 March 1998 issue], MLD moved the second-highest amount of traffic in the Palmer Industrial Park, sometimes topping Quaboag Transfer for the year. MLD can handle 19 cars on two tracks with double unloading, i.e. nine of the ten cars next to the building also serve as bridges to reach the second track. In 1998. MLD handled newsprint and woodpulp inbound, and scrap paper outbound, nearly all in 50-foot CP or CN boxcars.

For 2002, “3500 carloads is more like it for us,” Barber said. The facility is growing, but all growth is occurring in truck traffic.

### A member of an expanding group

According to its website, MLD belongs to the Baldwin Logistics Group, which has common ownership among all distribution centers. Barber explained that Baldwin Transportation was the original name of what is now Newhaven Distribution in the Bronx. As the owners expanded, they resurrected the Baldwin name for the common strategy, sales, and marketing.

The owners of Newhaven opened MLD 15 years ago, Stellar Distribution Services in Chicago seven years ago, Meadow Distribution Services in Kearny three or four years ago, and in 2001 Cottonwood Distribution Services in Memphis. Each operates independently, Barber said. He serves as MLD general manager, and also spends time as vice-president at the Memphis facility. {ANR&P discussion 30.May.02}

30 May, Bondsville. **AN UPDATE ON QUABOAG TRANSFER** (QT) came from principal Kirk Bryant. In 1998 [see 22 March 1998 issue]
and now, the facility handles forest products, the majority of which originated on CN in British Columbia or Québec, arriving on center-beam
bulkhead flatcars. Other forest products include panel board and plywood from the US Pacific Northwest and the South. QT also handles
coiled steel wire and steel rebar, most of which arrives on CN gondolas from Texas, Alabama, and Chicago. QT has added Douglas fir and
used railroad ties.

Now in its 25th year, QT has railcar traffic which “fluctuates year to year” but is centered around 4500, “about the same” as 1998. Bryant
sees some growth in truckload, and a lot of potential in next six to 12 months for both truck and railcar.

He now handles structural steel in by rail, out by truck. QT serves as a staging location, and trucks the product to the end destination,
with value-added work such as cutting, bevelling, and coating. One such customer: the Maine Turnpike expansion project.

**Outbound railcar growth**

Bryant is excited about offering a service to Canadian building material producers, based on rail backhaul. The customer can wait until QT
has a railcar worth of order of product—which can come in various grades and sizes—and then send the car to Texas, Florida, and the deep
South.

Initially, the railroads were not receptive to providing backhaul rates, “even when they were only hauling air,” Bryant noted. “Truckers
are very sensitive to the backhaul, and will provide a separate set of rates. Until recently, railroads were very reluctant to do that.” But
now QT has negotiated some rates for some shippers, both with NECR and with Class Is.

As well as using the inbound lumber cars, QT can use empty domestic flatcars which deliver to two wood treatment facilities in the
area: Northeast Treaters and Universal Forest Products, both in Belchertown (north of Bondsville on NECR).

**Negotiating rates with the railroads**

“We never get a good rate the first go-around,” noted Bryant. “So we always go back, we always get a significant reduction. In some cases
we go back four or five times, and each time we get something.”

Recently, QT has tried a different tack to cut down on the three weeks or so the negotiating has taken. “Now we do our homework with
the truck rate. We tell them in what neighborhood to be in.” This approach works better, “though there’s still some negotiation. And
sometimes we cannot give them the truck information.”

**Truck traffic growth**

QT is looking at growth bringing in Canadian product by truck for furtherance on US trucks. It has expanded into horticultural products
for home center stores, and de-icing materials. These account for about 2000 trucks a year. {ANR&P discussion}

**NEW HAMPSHIRE**

**PASSENGER RAIL TO PORTSMOUTH**

17 April, Exeter. **ALTERNATIVE RAIL ROUTING TO PORTSMOUTH** was discussed by the New Hampshire HB1378 Seacoast
Commuter Rail Task Force, at a meeting here in the Rockingham Regional Planning Commission office.

Chair Bill Mosher reported that the RPC will reassemble the project advisory committee of which the Task Force will be a member. The
committee will update the 1998 feasibility study of commuter rail, and also assess the extension beyond Portsmouth into Kittery. Some
points it will look at:

- The feasibility of rails with trails because of the existing trail through Newburyport on the former Eastern right-of-way.
- Identify a service option utilizing the Western route via Rockingham Junction. This would probably require either adding a second track
  from Plaistow to Rockingham Junction, or using a more frequent Downeaster.
- Explore bus schedules and routing in affected communities, and possible connection to the Newburyport commuter rail station. {e-mail
to ANR&P from Mosher 29.May.02}

**Argument for the Rockingham Junction route**

Some believe that passenger rail service should use the Western route from Boston to Rockingham Junction, turning east on Guilford’s
Portsmouth Industrial Track. They note: (1) the bridge over the Merrimack River requires rebuilding to use the Eastern route; (2) The City
of Newburyport recently leased the old railbed and is developing it into a new city park.

The Downeaster on the Western route now requires 75 minutes from Boston to Exeter. Running the five miles to Rockingham Junction
and the 10 miles into Portsmouth would require another 20 minutes, for a total of 95 minutes. The MBTA train between Boston and
Newburyport on the Eastern route takes 65 minutes; to travel the additional 20 miles to Portsmouth would take at least another 25 minutes, for a total of 90 minutes.

By adding 5 minutes running time, the service could start in a few years. Using the Eastern route will require many more millions of dollars and many more years. {Tom Horth’s letter to the editor, in Portsmouth Herald 30.Mar.02}

PORTSMOUTH

30 May. **THE INTERNATIONAL SALT CONTRACT WAS ON THE AGENDA** of a short-notice of the Pease Development Authority [see 17 May issue]. Before the meeting, Executive Director George Meyer said he could not really comment on any details of the discussions between the representatives of International Salt and the PDA. "That’s all being handled by legal staff." {Michael Goot in Foster’s Daily Democrat 30.May.02}

[Results of the meeting could not be obtained prior to press time. *Editor*]

New salt contracts

NHDOt accepted bids for winter salt up to 20 May. While the official results would not emerge until next week, one source close to the bidding believed that Granite State had won the bids. International Salt was handicapped because it could no longer use the Market Street Terminal. {*ANR&P* discussions 29.May.02}

Possible container traffic?

Captain Fiaz Arain, professor at the US Merchant Marine Academy and advisor to ConnDOT, is planning an independent container feeder service between Halifax and Portsmouth. He’d like to start by August, but cannot use the Market Street Terminal if salt is present on the pier.

Speaking on 30 May, Arain said he had letters of intent from several companies indicating they would each ship 30-35 containers per week on his service.

He has analyzed the market since 1999, and decided to start now because he views the conditions as propitious. Because of the weak global container traffic, charter rates are very low. And the steamship companies are looking to save every dollar they can, so if he can save $50-$75 per container for them, companies such as Maersk/Sea-Land and NYK will go for it. [More in a future issue.] {*ANR&P* discussion 30.May.02}

To get started, Arain said he would need the state to make an investment in cranes and heavy trucks used to move container cargo around the dock. The state would need to contribute between $1 million and $1.5 million. He said he would not have that kind of capital to invest up front in the business. The business would then lease the equipment from the state.

When contacted by telephone, PDA Chair William Bartlett said he had not been aware of any recent developments, but discussions with Arain have been ongoing. "We’ve been working with him for about five or six months. We’d like to put something together.” {Michael Goot in Foster’s Daily Democrat 30.May.02}

VERMONT

GENERAL ASSEMBLY

29 May. **THE HOUSE AND SENATE DISAGREE ON CONTINUED FUNDING** of the Champaign Flyer. The House wants to terminate the train now, but it's offered to keep it running until next April 30. This would allow next year's legislature to determine the fate of the train early next winter. Shelburne Representative George Schiavone says the train has failed to meet ridership projections and deserves to be shut down: "No matter what you say about rail – and there are some good rail projects, there are some very good rail projects – but you've got to look at the ones that aren't good and you've got to cut them out. And we've been extremely generous in allowing it to go on…. We've got to look carefully at what's going on and do the right thing for Vermont and part of it is getting control of a project that is out of control.”

Senate negotiators have rejected this option, arguing that the three-year demonstration project must be allowed to run its full schedule before a final decision is made about the Flyer. They want to appropriate another $400,000. The federal government has appropriated more over $20 million for this project. The bulk of the money has been used to upgrade the track between Charlotte and Burlington. Senate Transportation Chair Dick Mazza is very concerned that the federal government will ask for this money back if the timetable for the Flyer is curtailed:

"But I'm not about to gamble $16 million of track improvements on that line, which we have benefitted from in the freight business, and jeopardize that, thinking that, 'Well, commuter rail's been in effect for 15 months and let's pull the plug on it.' That's the issue” {Bob Kinzel
VERMONT RAIL SYSTEM: GMRC

24 May, DC. **THE STB DENIED GMRC’S PETITION TO DECLARE ITS RIVERSIDE RELOAD CENTER PRE-EMPTED** from state regulation [see 3 May issue]. The railroad wants to construct a cement transfer facility, and wanted the declaratory order in order to move ahead with its work.

Deferral to US district court in Vermont

The Board stated: ‘GMRC has also sought judicial relief, and the District Court, which has enforcement authority, has made clear its desire to resolve the issues raised without referring the matter to the Board. Given these circumstances, GMRC’s request that the agency issue a declaratory order will be denied.

But direction to the court

The Board went on:

‘Nevertheless, to provide guidance to the Court and to the parties, this decision will summarize relevant court and agency case law addressing similar situations. In 49 U.S.C. 10501(b)(2), as broadened by ICCTA, Congress gave the Board exclusive jurisdiction over “the construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or side tracks or facilities, even if the tracks are located, or intended to be located, entirely in one State.” (Emphasis added). Section 10501(b)(2) further specifically provides that both “the jurisdiction of the Board over transportation by rail carriers” and “the remedies provided under [49 U.S.C. 10101-11908] are exclusive and preempt the remedies provided under Federal or State law.” .... Courts have observed that “it is difficult to imagine a broader statement of Congress’ intent to preempt state regulatory authority over railroad operations.” ....

‘In addressing the scope of 49 U.S.C. 10501(b), the courts have found that, under this broad preemption provision, zoning ordinances and local land use permit requirements are preempted as to facilities that are an integral part of rail transportation. .... The argument that the statutory preemption in section 10501(b) is limited to state and local “economic” regulations has been rejected as contrary to the statutory text and unworkable in practice....State and local permitting or preclearance requirements (including environmental requirements) have been found to be preempted because, by their nature, they interfere with rail transportation by giving the state or local body the ability to deny the carrier the right to construct facilities or conduct operations....

‘State and local environmental regulation has been found to be preempted in those cases where the Board has licensing authority over railroad activities, as well as where it does not. The Board has regulatory authority over rail line constructions under 49 U.S.C. 10901, and it conducts an environmental review of such activities under the National Environmental Policy Act (NEPA), and can adopt appropriate environmental mitigation conditions in response to concerns of the parties, including local authorities.... Even in situations that do not require a Board license — for example, a carrier building or expanding facilities that assist the railroad in providing its existing operations but that do not give the carrier the ability to penetrate new markets, or constructing ancillary tracks and facilities excepted from licensing by 49 U.S.C. 10906 — in which the Board therefore does not conduct its own environmental review, the courts have held that the express statutory preemption of section 10501(b) applies....

It should be noted, however, that the Board’s view, as expressed in *Stampede Pass, Riverdale I, Ayer*, and *Friends of the Aquifer*, is that not all state and local regulations that affect railroads are preempted. Rather, the Board has stated that state and local regulation is appropriate where it does not interfere with rail operations. Furthermore, localities retain certain police powers to protect the public health and safety. For example, non-discriminatory enforcement of state and local requirements such as building and electrical codes generally are not preempted.... As previously mentioned, however, it is well settled that state and local permitting and preclearance requirements are preempted, because otherwise the state or local body could deny the carrier the right to conduct its operations. ....

Finally, the Board has concluded that “nothing in section 10501(b) is intended to interfere with the role of state and local agencies in implementing Federal environmental statutes such as the Clean Air Act, the Clean Water Act and the Safe Drinking Water Act, unless the regulation is being applied in such a manner as to unduly restrict the railroad from conducting its operations or unreasonably burden interstate commerce.” .... Thus, the lack of a specific environmental remedy at the Board or at the local level as to construction projects over which the Board lacks licensing power does not mean that there are no environmental remedies under other Federal laws. ...

Whether a particular Federal environmental statute, local land use restriction, or other local regulation is being applied so as to not unduly restrict the railroad from conducting its operations, or unreasonably burden interstate commerce, is a fact-bound question. {STB Finance Docket No. 34052 issued 28 May 02. Footnotes and citations omitted.}

VRS comment

With the STB ruling, that makes three pre-emption decisions in as many months. All involve the Vermont Rail System, but different proposed rail-related customers: WACR’s Graniteville extension [see 29 March issue], WACR’s MacIntyre facility [see below], and GMRC’s Riverside Reload.

Said VRS principal David Wulfson: ‘We believe that in order to run a functioning railway we cannot answer to hundreds of different
jurisdictions. Congress has spoken clearly and we would like to continue to provide Vermont business with an efficient, nimble railroad. We fully respect Vermont’s environment, in fact using railroads helps us grow without more truck traffic. But the web of state and local regulation cannot be permitted to strangle our growth.” {e-mail to ANR&P 30.May.02}

17 May, Montpelier. **FEDERAL LAW DOES NOT PRE-EMPT STATE REGULATION OF A FUEL DISTRIBUTION FACILITY** here, the Vermont Environmental Board ruled.

The facts
MacIntyre Fuels would like to construct a rail-served fuel distribution facility next to the WACR here [see map 20 October 2000 issue and in newsletter website]. It has a zoning permit from the City of Montpelier to construct its facility.

WACR leases the land under consideration from the state as part of its operating agreement, and subleases a parcel to MacIntyre for the proposed facility. The decision stated: ‘The Sublease calls for a token amount of stated rent ($1200 a year). The real consideration to the Railroad is reflected in paragraph 23, which states as follows:

It is understood that the property is to be used for a business that will contribute freight traffic to the railroad. If no railcars are received in any 90 day period, except for good reasons beyond the control of the Lessee, such as an Act of God, or through the fault of the Railroad’s inability to operate, then the Railroad may cancel this lease on thirty (30) days notice.

‘The Project’s connection with the railroad is also evident in the design of the Project. The new rail spur would parallel a pipeline for transfer of product from railroad car to storage tank. The storage tanks themselves would rest on land where a track spur is currently located. The entire facility, except for the canopy and turn around area, is located within the existing railroad right-of-way.’

Conclusion of law
Vermont’s Act 250 applies to development on parcels greater than 10 acres. ‘The Project calls for the construction of improvements for commercial or industrial purposes on two adjoining tracts of land. One tract, the Rail Parcel, is 14 miles long. The other tract, the Malone parcel, is 96 acres in size. Because MacIntyre Fuels is not a railroad, and because components of the Project which are not rail lines or rail sidings are to be constructed on each parcel, the amount of involved land is not limited to the amount of land to be physically altered.

‘To be clear, the proposed construction of improvements on either tract alone would require an Act 250 permit (or amendment, in the case of the Malone parcel).’

So the Board required MacIntyre to get an Act 250 permit, by a 5-2 vote. {Re: MacIntyre Fuels, Inc. and Vermont Agency of Transportation Declaratory Ruling Request #402 17.May.02 courtesy of John Dunleavy}

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**QUÉBEC / MARITIMES**

**CEMENT FROM MAINE TO QUÉBEC**

21 May, Québec City. **DRAGON CEMENT IS EXPLORING CREATING A CEMENT TERMINAL IN THE PROVINCE.** Terry Veysey, who handles cement operations, said for two years the company has shipped some of its product to Québec [moving against the perceived flow—see box]. Much of it has travelled by truck, but some by rail either direct from Dragon to Windsor, or truck to Auburn and transload at Safe Handling to SLR.

Truck works better, said Veysey, “unless we had a cement terminal and scales.” So the company is looking at three or four sites, among them Windsor and the Québec City vicinity.

Other cement moves
For 14 to 15 years, the company has owned a terminal in Newington NH, on Sprague land and operated by Sprague. Veysey explained it is served in part by barge, and in part by truck backhaul from the production plant in Thomaston, Maine.

For the past two years, Dragon has imported cement from Venezuela for delivery to its Boston terminal. “We need to supplement our production,” said Veysey. {ANR&P discussion 28.May.02}

The Québec visit
On 21 March, members of Dragon’s board, company officers and officials from the Québec Port Authority met in Québec City to discuss the possibility of shipping cement to Canada. “It was really an initial planning meeting to introduce ourselves and express our interest in
expanding into Canada,” said Joseph M. Koch III, president of Dragon Cement and Concrete, which is owned by a Spanish holding company. “We were welcomed with open arms and look forward to possibly building a terminal to bring product into Canada via barge, as we do in New Hampshire and the Boston area....There are numerous opportunities for our company and our product in Québec. We went to Canada to make that happen.” {Dragon press release 22.May.02}

COALS TO NEWCASTLE?

New England has long sourced cement from Québec. For example, Ciment Québec completed a large distribution facility in Bow, New Hampshire in 2001 [see 14 August 2001 issue]. Lafarge Canada just opened a facility in West Lebanon NH [see 3 May issue]. Lafarge also has a site on Boston Harbor, the former Blue Circle facility [see 31 August 2001 issue]. St.Lawrence Cement has a facility in Everett on Boston Harbor served by Guilford via SLR from Canada. And Glens Falls has a facility in ProvPort which it is expanding, formerly a Lehigh Cement facility.

Nevertheless, Dragon obviously can successfully compete in Canada, and plans to expand.

HALIFAX CONSTRUCTION DEBRIS

26 May, Halifax. NO RAIL IS USED TO TRANSPORT CONSTRUCTION AND DEMOLITION DEBRIS (c & d) in Nova Scotia, unlike New England [see 3 May issue: Rhode Island]. Kurt Pyle, a planner for the Halifax Regional Municipality, said all c&d now moves by truck out of the municipality. The destination sites have no zoning, while HRM has completely zoned out c&d landfills.

Under a current bylaw, all facilities must recycle 60% of their material, and may not dispose of any of certain materials, such as concrete and glass. By 2003, that figure will rise to 75%. The province has a fund to support recycling; HRM loses $15/ton for the material it buries.

HRM is looking at creating a disposal site within its boundaries. On 11 June, it will have the first look at three proposed sites: Goffs, near the international airport (attracting a lot of opposition); Harrietsfield to the west of the city, and Dartmouth. {ANR&P discussion 26.May.02; CBC reports 3, 7, 21.May.02}

CAPE BRETON & CENTRAL NS

18 May, Stellarton. THE RAILWAY REQUESTED A DELAY IN THE ABANDONMENT of the Cape Breton line for two months, from 10 June [see 3 May issue] to 12 August. In a letter to the provincial Utilities and Review Board this week, General Manager Peter Touesnard wrote: ‘The voluntary delay is conditional upon the...board postponing the public hearings into the matter for a period of not less than 30 days in order to allow our company sufficient time to prepare an offering for our potential new customer.’ {Tom Peters in Halifax Herald 18.May.02}

Who is this masked customer?

Allison Jillan, spokesperson for Nova Scotia Power [rumored to be the new customer - editor], said: “Nothing is changed. We are still having discussions [see 3 May issue: Sydney], but until there is a solid business case, there’s nothing to move forward on.”

How the Board handles a postponement

Paul Allen, administrator of the Board, said it will grant a postpone if the other parties to the matter are not prejudiced. The Board sent letters to the intervenors on or about 18 May; assuming that no party objects, the Board will postpone the planned hearing until the first or second week of July, date to be set by 24 May.

Nothing to prevent abandonment

The provincial legislation governing abandonment does not permit the Board to halt it. The Board may only review whether the arrangements for abandonment, including the notice period, are adequate. Nevertheless, the case has a large number of intervenors [see box].

No rate for coal traffic deal

At this time, the Utilities and Review Board is also holding hearings on the request by Nova Scotia Power for an 8.9% rate increase [see http://www.nspower.ca/ratecase2002/]. Some conjecture that the provincial government may want to give the rate increase in return for NSP’s agreeing to move coal from Sydney by rail to the power plants in Trenton and Point Tupper. Allen explained that such a deal was not legally possible, as the Board operates free of government interference. “Our board members are appointed like judges. The government appears like other parties before the board. Members would take an extremely negative view of interference by the government.” {ANR&P discussions 22.May.02}
No subsidy from the government
In early May Transportation Minister Ron Russell again said the province would not subsidize the railway. At Province House, he explained, “We are not in the railroad business. We don’t have the expertise to run railroads, any more than we would have the expertise, I suggest, to run the ferries across the harbor.”

But Touesnard continued to make the case, this time at a legislative committee hearing on economic development on 7 May. Assisting the railway would cut down on truck traffic and therefore highway maintenance. He noted that in 1999 the railway asked for $2-$3 million to build a spur line [to serve a new gypsum mine about 40 kilometers from Port Hawkesbury—editor].

New Democrat Frank Corbett said the federal and provincial governments should help the rail line since they retreated from the coal and steel industries. “Government has a role to play in the transportation of goods and the viability of the economy of industrial Cape Breton.” {Amy Smith in Halifax Herald 8.May.02}

INTERVENORS IN THE CBNS ABANDONMENT CASE
According to a list from the Utilities and Review Board on 22 May

- CB Miners’ Cooperative
- Cape Breton Railway Stakeholders Association (Copol heads this group)
- Cape Breton Regional Municipality
- Eyking Farms, Millville
- Russell MacKinnon, MLA Cape Breton West
- Magna International, Aurora Ontario*
- NDP Caucus c/o Frank Corbett
- Nova Scotia Power
- Polysteel Atlantic Limited, Sydney
- Province of Nova Scotia

*Magna manufactures automotive parts at a location in North Sydney. The scrap from the manufacturing process moves out by rail to the tune of about 10 carloads a month. The parts move by truck, at the request of the customers, according Jay Berman of the company. {ANR&P discussion 22.May.02}

23 May, Halifax. THE PROVINCIAL GOVERNMENT COULD OFFER SOME FINANCIAL ASSISTANCE to the effort to retain the Cape Breton line in the right circumstances, according to Gordon Balser, minister of economic development.

Province views rail line as critical
“The rail line is critical to the long-term future of industrial Cape Breton. In other parts of Atlantic Canada, where the rail was removed, it is difficult to restart because relaying the rail” costs too much to make economic sense. “The province has said it wants a rail line on an economic model that’s sustainable.”

Possible traffic
At this point, Balser said, local stakeholders generate 1,000 carloads. “Provincial Energy Ventures is a big part of the solution.” NSP has a role to play: “using the rail line makes sense...to convince them it’s a rational and reasonable way to route traffic.”

He noted that the independent consultant retained in autumn 2001, Bob Stevens, looked at possible rail traffic and is convinced the line can generate 7000-10,000 cars [see 19 November 2001 issue]. “If all users come to the table, they can [generate] more than 10,000 cars.”

Province still discussing with stakeholders
Balser noted that the stakeholder meetings begun in 2001 were continuing. The most recent meeting three weeks ago in Sydney assembled the current users, CN, CBNS, and NSP. “All the people around the table were focussed” on keeping the line. The CBNS request for an extension of time “is good news.”

Federal/provincial fund
Balser first noted that supporting the railroad “would be a useful application of economic renewal funds” from a federal/provincial pot for economic renewal of Cape Breton set up when DEVCO and Sysco were closed. “The application would be vetted through a board ultimately” but he knew of no application received from the railroad and “none in the works.”
Possible other money
Balser emphasized that the province “does not have a limitless amount of money.” Asked if ANY money were available, he said that “we recognize going from 1000 to 10,000 carloads takes time. If there is a scenario for the province participating in some manner, it would depend on what made sense. I’m not a proponent of subsidy, it’s not effective.” {ANR&P discussion 23.May.02}

27 May. **THE HEARING IS POSTPONED UNTIL 10 JULY,** Allen said, same place, same time. {ANR&P discussion 30.May.2002}

**QUÉBEC CENTRAL**

18 May. **A TRAIN ARRIVED IN LAC FRONTIÈRE QC** for the first time in 25 years. Québec Central Railway is gradually expanding its network and Lac Frontière QC is its extremity furthest to the east. {Trains Can 6.02}

**WINDSOR & HANTSPORT**

21 May, Windsor. **ALL RAILROADS TEST THEIR SCALES**, explained Jim Taylor of WHRC. His railroad this month had a visit from a CANAC scale test car. Only a couple of firms in Canada provide the testing, required by the government annually for all scales from grocery weight pans to the scales which can weigh railcars. CANAC makes the necessary adjustments and oils the machinery.

WHRC weighs every car of gypsum outbound by rail [see 17 May issue]. Inbound cars which may have suffered leakage, for example if the hopper doors on grain cars did not completely seal, are weighed to ascertain the loss.

Even for the gypsum cars in a train, the process only takes minutes, Taylor explained. The train shoves one car into the scale house, a brakeman uncouples the car, the train pulls back, the brakeman reads the weight, and then the train shoves the car through and spots the next. {ANR&P discussion 21.May.02}

**What’s the name of that station?**
To clear up the names used for the gypsum quarries, Taylor provided this information:

<table>
<thead>
<tr>
<th>Mine</th>
<th>Wentworth Bailey*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Station**</td>
<td>Wentworth</td>
</tr>
<tr>
<td>Municipality**</td>
<td>Windsor</td>
</tr>
</tbody>
</table>

*The Bailey quarry opened up adjacent to the now-closed Millers Creek quarry. Both access the same gypsum seam [see 3 May issue].

** When the WHRC took over, it changed Dimocks to Wentworth, and Mantua (locally pronounced “mant-a-way”) became Millers Creek.

Dimocks is the old name for the community, which was founded by the family of the same name, led by the Reverend Shubael Dimock. Coincidentally, the Dimocks settled on the banks of the Shubenacadie River near Admiral Rock/Urbania, where gypsum was also mined once upon a time. It was because of those operations that the Midland Railway had to make the bridge at South Maitland a swing bridge, to allow ships to pass through. {Jay Underwood of Elmsdale in AtlanticRails listserv 17.May.02}