REGIONAL ISSUES

**B&A**: Maine AG decides not to intervene at this time. MDOT offers any purchaser $13.5 million. Travis calls for government to defend the public interest. Howard explains that he has public interest foremost. UTU may examine financial adequacy at the STB. McCain looking at options on CP trackage. Brownville, Milo, BMWE comments. STB does not revoke trackage rights agreement.* Motions postponed to 4 September.*

**CSXT**: More on Phoenix Project.*

**PW**: loses arbitration with Amtrak.*

**Lowes**: Planning rail-served distribution centers.*

**CONNECTICUT**
[No report. See Lowes in Region.]

**MAINE**

**Maine Legislature**: Rail task force late in starting.*

**MASSACHUSETTS**

**GRS**: Intermodal traffic count. Strike stops Everett traffic.

**HRRC**: Agreement on Pittsfield stub startup, and on Berkshire Scenic.

**NEW HAMPSHIRE**

**Portsmouth**: Scrap will stay at port.* Marconi nominated as port director.*

**RHODE ISLAND**

**PW**: plans new connection in East Providence.*

**VERMONT**

**Passenger**: Legislature funds passenger rail study.

**Lamoille Valley**: Rail Link believes the Lamoille Valley could rise again. AOT exploring next step.

**MARITIMES/QUEBEC**

**CBNS**: NSP says no deal.* Stora may shut one unit.* URB hearing to begin 10 July on abandonment.*

**Sydney**: No PEV traffic yet, marine terminal to port corporation.*

**Halifax**: Seeking expressions of interest for Fairview Cove Container Terminal.

**PEOPLE, POSITIONS, EVENTS**

Dick Pembroke, John McLeod Langley, Tim Gilfoyl

*Not already in an e-bulletin, or modified.

FROM THE PUBLISHER

A little good news

HRRC will revive the Pittsfield branch, and has customers waiting. PW is reviving at least part of the Southbridge branch [story in a future issue].

That contrasts with the probability that CBNS will abandon the line to Sydney, the lack of a completed deal for the B&A, and Amtrak’s woes.

Not in the e-bulletin

Readers of the e-bulletins (p) and (q) will have seen many of these stories. Those marked with an asterisk are new, or modified.

Vacation

My first week off this summer happens next week. But you’ll get the next issue in the usual two weeks.

- Chop Hardenbergh

Next issue: 12 July
REGIONAL ISSUES

BANGOR & AROOSTOOK

17 June, Augusta. THE ATTORNEY GENERAL AND THE MDOT COMMISSIONER met to consider options on the B&A case. According to Chuck Dow, spokesperson for the attorney general, MDOT updated the AG’s office on the proceedings. Both departments share the goal of keeping the entire B&A system intact and operating.

“The Attorney General does not see a pressing need to run to court at this time, but all options remain open. He continues to monitor the case,” said Dow.

The AG’s office took considerable comfort from the conditions MDOT had attached to its offer of financial support to any future purchaser [see 21 June below]. {ANR&P discussion 25.Jun.02}

19 June, Grand Falls NB. McCain is reviewing and considering its options on the CP abandonment of the Edmundston branch [see 14 June issue]. Spokesperson Lucy Carswell said the company does use rail “for a small portion of our transportation” and it wants to “ensure that rail remains.” {ANR&P discussion}

19 June, Bangor. FORMER BAR PRESIDENT WALTER TRAVIS CALLED ON GOVERNOR KING, MDOT, and Maine legislators to ‘defend the public interest in accomplishing a sound transaction and competent management that will assure financially responsible operation of the B&A System for years to come’ in a Bangor Daily News editorial. “In Rail World We Trust” is not enough, given that firm’s six-month history of glib talk and non–performance....

‘The trustee’s responsibility vis–vis the public interest extends well beyond a sale of assets. What has been done to reduce the B&A’s losses during the bankruptcy? Will the pension fund be excluded from the sale and who will answer for its abuse at the hands of Iron Road? Where did all the money raised in sale-and-leaseback transactions go? What is the fate of present B&A employees? How will municipalities owed more than $2 million ever recover their funds? Does the Iron Road experience confirm that the highest bidder isn’t necessarily the most desirable owner? Could the trustee be inadvertently teeing up the next B&A bankruptcy?’ {Bangor Daily News 19.June.02}

20 June, Charlestown MA. THE TRUSTEE IS MAKING PROGRESS TOWARD FILING THE ASSET PURCHASE AGREEMENT IN COURT.

Note This article draws on a text of the APA and draft motions provided by an anonymous source. James Howard did not provide the text.

The agreement has not yet taken effect

Jim Howard, trustee for the BAR and four of the other five railroads in the B&A System (CDAC, VBB, NVR, and N&R), said Burkhardt had signed the APA and he had signed for BAR. However, Howard had not signed as trustee for the other four railroads nor had Boyadjian signed for QSR, and hence the agreement had not yet taken effect.

The delays

According to Howard, he and Boyadjian need to work out “arcane and complicated Canadian issues” such how to sell the assets of the QSR. “Some technical amendments to the APA may be needed.” In addition, assembling the Schedules to the APA which specifically list the assets to be sold has taken more time than anticipated. The APA requires the delivery of the schedules seven days after its effective date.

Because of the delays, many of the dates contained in the APA will require changing.

Burkhardt financing

The agreement calls for the purchasers (Montréal, Maine, and Atlantic Railway Limited Liability Company, and Montréal, Maine, and Atlantic Canada Company) to furnish $500,000 five business days after the effective date of the agreement, another $500,000 by 31 May, and a third $500,000 by 30 June (the Additional Deposit).

Howard said that Burkhardt is ready to pay these amounts when the agreement takes effect. The APA calls for a payment of about $50 million at closing plus $5 million if the CN trackage rights agreement is rejected, plus some of the profits in the years 2003 to 2007 (the ‘earn-out’). As a condition of sale, Purchasers had to have ‘received at least Fifty-Five Million Dollars ($55,000,000) in debt and/or equity
financing.’

The APA did not require Burkhardt to show he had the financing in place by the time the Court approved the sale. Instead, the APA does require the Purchasers to close on financing by 31 July. “In the ideal world, it would have been great to have a financing commitment,” said Howard. The commitment was subject to long discussions, resulting in the APA language. “We made a determination that he is a legitimate player, that he has the experience, and ability to raise the money. We could not negotiate a commitment” on financing, and since only Burkhardt was willing to buy the whole system at any price near what he is offering, the trustee had no one to provide a competing bid.

What do other bidders have to show?

Those wishing to make competing bids must file them by a date certain (5 July in the draft document, a date which will be changed), for an amount at least $2 million above the APA. The bidder must also deposit the same amount as the Purchasers have.

‘Any bidder submitting a competing bid must include in its bid sufficient information to demonstrate to the Trustee that it has the financial ability and is otherwise able to consummate all aspects of the transaction contemplated by the’ APA.

Howard explained that the bidder, like the Purchasers, did not need a commitment to financing. If he is familiar with them, such as GWI or Rail America, that is satisfactory. If not, he would like to see evidence from banks or other financial sources to give him a comfort level that the transaction can be consummated. “It’s not a bright-line test,” only a reasonable assurance that the bidder has or can obtain financing.

Taking the public interest into account

Responding to the comment of Walter Travis [see above], Howard said he has “the public interest at the forefront” in trying to “sell the system as a system. If I wanted to maximize money, we would try to abandon major portions to for scrap.” Parts of the system “are probably worth more dead than alive.”

Selling the assets is the best course. Howard noted that the system is “continuing to lose money on ongoing basis. I see no possibility it could be reorganized internally. The only way to save it is to sell the assets, and the only buyer committed to pay for the assets as a system is Burkhardt.”

Burkhardt has expended much effort to find financing. “He’s had to hire outside rail consultants, accountants, and bankers to put together an investment package. It took longer than he could anticipate.”

Do the purchasers have the ability to continue to operate the system?

Travis and others [see 14 June issue] are concerned that even if Burkhardt comes up with the right combination of financing to buy the system, he may not have the capital to operate it. Howard responded to this concern: “The best evidence of that will come when he gets financing. The emergence of financing shows that banks and equity providers believe it will work.”

Howard has not seen Burkhardt’s operating plan. “In the best of all worlds that might happen, but because of the possible bankruptcy contest, Burkhardt is probably reluctant to make that public.

“We have checked his reputation and financing. In the course of discussions, we have got an idea of what he thinks can do, and his plan to do it,” including working capital and reserves to make capital investments. “As far as I can see he will be a capable and successful operator.”

Howard is considering how best to convey his assessment of the Purchasers to the court. From his experience working on creating Conrail out of bankrupt Northeast railroads, “there’s no absolute assurance.” For two years, the nation’s best rail consultants worked on, and finally put together, Conrail. Despite all their planning, the railroad required more legislation and an additional infusion of federal capital before it could operate profitably. Then, despite the doubts of many, the new railroad worked very well. {ANR&P discussion 20.Jun.02}

21 June, Cleveland OH. THE UTU WILL NOT QUESTION BURKHARDT’S FINANCIAL ADEQUACY at this point, according to Frank Wilner, public affairs officer for the United Transportation Union. “Burkhardt’s group is the only one that has stepped forward so far to acquire this railroad.. Our first concern has to be continued employment of the members. Without Burkhardt’s group it looks as though the railroad will shut down.

“As far as Burkhardt’s ability to finance this, one we have to accept that he is an experienced railroader. That is certainly a plus over the amateurs that sometimes step forward.

“Secondly the Surface Transportation Board must approve this transaction. And one of the public interest elements the STB looks at before returning the matter to the bankruptcy court is the financial ability of the purchaser. So we expect the STB will be the appropriate forum to learn about or question the financial backing of the Burkhardt group.” {ANR&P discussion 23.Jun.02}

Note: The UTU represents the running trades (conductors and engineers) on the BAR.
21 June, Augusta. **MDOT IS PREPARED TO OFFER ANY PURCHASER UP TO $13.5 MILLION** in support, according to a letter from Commissioner John Melrose to Trustee Jim Howard. The funding is conditioned on the railroad continuing to operate.

Dear Mr. Howard:

The Maine Department of Transportation (MDOT) believes that the public interest will be best served in the Bangor and Aroostook Railroad Company (BAR) bankruptcy proceeding by a sale of the railroad operations to new ownership that would maintain all current active track on the BAR system. MDOT is willing to assist such a purchaser, as it makes clear in the attached letter, which was sent to the Montréal, Maine & Atlantic Railroad (“Offer Letter”). MDOT is willing to extend the financial assistance outlined in the Offer Letter to other bidders who demonstrate the financial capability to operate the BAR system and are willing to commit to operate all active track of the current BAR system. Therefore, we ask that you pass along this letter and the Offer Letter to all potentially interested bidders.

MDOT’s primary goal for BAR during the last several years of BAR financial difficulties, has been to preserve the entire system in an active status. That goal, and a desire to see a rapid and predictable conclusion to the transfer of ownership and operation of the BAR system, are central to the offer contained in the Offer Letter. The current uncertainty is potentially damaging to the State’s economy.

The BAR system provides critical transportation services to the northern half of the State. Loss of any portion of that system will cause economic hardship to industries large and small that provide important economic activity and jobs to northern Maine. The forest products industry and the agricultural industry, two key economic components in northern Maine, are best served by having multiple transportation options for the movement of inbound and outbound traffic. Loss of any portion of the BAR system will limit those transportation options and make industries served by BAR less competitive in the global marketplace.

The Offer Letter demonstrates MDOT’s intent to work with the future owner of the BAR system to preserve the entire system in active status. We hope this Offer Letter clarifies your understanding of the importance of the BAR system to the economy of Maine. We ask that you take every opportunity to share the Offer Letter with prospective purchasers. We look forward to a sale of the BAR system and to working with the future owner of that system.

Sincerely, John G. Melrose Commissioner

In the attached letter sent to Ed Burkhardt on 3 April, MDOT stated the following. [Note that MMA has not accepted the terms of this offer.]

Editor

The Department has a total of $5.5M potentially available to support MM&A during early years of operation of the BAR system. $1M general obligation bond funds are available from the funds reserved for use on the CDAC but unspent as of this date. $3.5M is available from the general obligation bonds passed by Maine voters in the November, 2002 transportation referendum. An additional $1M, out of the $1.8M set aside for the Loring Commerce Center, may also be available.

$800,000 of the $1.8M was targeted for track rehabilitation on the Limestone Branch between Caribou and Limestone, and $1M was targeted for siding construction at Loring Commerce Center. The Loring Development Authority has advised that they are seeking an EDA grant of $800,000, with an expected match of $800,000 from the Department’s bond funds, for rehabilitation of track between Caribou and Limestone. This $1.6M public investment will provide operational track for MM&A. The Loring Development Authority has advised that they are seeking an EDA grant of $800,000, with an expected match of $800,000 from the Department’s bond funds, for rehabilitation of track between Caribou and Limestone. This $1.6M public investment will provide operational track for MM&A. The Loring Development Authority has advised that they are seeking an EDA grant of $800,000, with an expected match of $800,000 from the Department’s bond funds, for rehabilitation of track between Caribou and Limestone. This $1.6M public investment will provide operational track for MM&A.

Subsequent to this rehabilitation the remaining $1M would be available to support MM&A’s capital funding request if MM&A guarantees funding for new track construction at Loring when new development by firms such as Irving or Lamb-Weston require such track.

The Department is prepared to recommend to the incoming administration that general fund bond requests be sought to support additional grants to MM&A of $2.7M for operational years three through five. Naturally, both the Legislature and the voters must approve those bonding requests. Additionally, the Department’s commitment to make such a recommendation, and to provide funding for a 5 year period, is conditioned upon MM&A’s guarantee to match all State funds dollar for dollar.

The Department’s primary goal throughout the decline and ultimate bankruptcy of BAR has been to preserve the entire BAR system in active status. An agreement to invest $13.5M of public funds in a private entity over five years must include language to protect that investment and to support our primary goal. Therefore, any agreement must contain language stating that MM&A guarantees a minimum ten year period of operation of the entire BAR system. If MM&A abrogates the ten year commitment, then two conditions would apply.

First, if MM&A files for abandonment of any portion of the BAR system within the first five years of operation, then the Department would not be obligated to provide any grant funds beyond those provided prior to the abandonment. If MM&A files for abandonment of any segment of the BAR system after payment by the Department of the $13.5M, or any portion thereof, and before 10 years of operation are complete, then MM&A will repay a percentage of grant funds equal to the number of years prior to ten that abandonment is sought divided by ten.

Second, MM&A would grant the Department a first priority security interest in all track materials installed using public funds. The Department acquired such an interest in the track materials installed on the CDAC during calendar year 2000. The Department would have a right to exercise its priority interest in any section of track that is abandoned before the useful life of the track materials has expired. (text of letters)

25 June, DC. **THE STB DECLINED TO REVOKE CN’S TRACKAGE RIGHTS AGREEMENT** [see 14 June issue]. The board made three points:
The record does not support revocation. Under statute, revocation requires substantially changed circumstances. ‘In reality, the Trustee and the Creditors want us to revoke the exemptions so that BAR may command a higher sale price due to the termination of CN's right to operate over the track at issue. That is not adequate justification for revocation under the relevant RTP [rail transportation policy] criteria....’

‘And the case against revocation is not weakened by the fact that CN is not currently exercising its trackage rights but is serving Fraser through the haulage agreement. Contrary to what the Creditors maintain, Fraser can benefit from the fall-back service availability and competitive option occasioned by the existence of CN's trackage rights, even if CN were never to commence operations under them.’

Revocation would not extinguish the trackage rights agreement. ‘Once the agency approves trackage rights (whether through an individual exemption, a class exemption, or the application process), those rights remain in effect until it is specifically determined that their discontinuance is consistent with the public interest. That determination can only be made in a discontinuance proceeding in which the public interest criteria are addressed directly. CN's rights under the trackage rights agreement, having been authorized by the agency, will remain in effect until discontinuance authority is granted.....’

‘[T]he fact that CN has not actually operated over the track at issue does not mean that the rights to do so do not exist.’

The record does not support adverse discontinuance. ‘We are concerned about the transportation system that will serve Maine shippers after the bankruptcy proceeding is concluded, and we could explore that matter upon an appropriate record. But the Trustee has not even attempted to show that the survival of BAR's successor is threatened by the agreements, or that the rail transportation system would be better served if CN's trackage rights were set aside. Without at least some substantive input from the Trustee and his supporters on these points, we simply do not have a record on which to weigh the public benefits and detriments of the continuation of the trackage rights. Thus, even if we were to treat the Trustee's petition as a request for adverse discontinuance, we find no basis on this record for granting such a request.’ {STB Finance Docket No. 34014, service date 25 June 02}

26 June. **FURTHER COMMENTS ON THE PUBLIC INTEREST** and the wish for long-term viability of the railroad.

**Brownville and Milo**

According to their counsel, Jonathan Huntington, the Towns of Brownville and Milo, both creditors in the bankruptcy, have through their legislative delegation made an effort to undertake more active role and look out for public interest. The towns do not have the financial resources for further legal action. MDOT does. {ANR&P discussion 21 June 02}

**Brotherhood of Maintenance of Way Employees**

Stuart Hurlburt, general chair who represents the BMWE workers on the B&A, GRS east of Rigby, and Amtrak, said Burkhardt “is not going to honor existing union contracts.” Nevertheless, the union will “reorganize to represent the employees; we plan to be organized.”

The BMWE supports Burkhardt: “We are glad that someone will buy it and keep it open and run it in its entirety.” The union is concerned about labor protection. It is doing everything possible, including making a viable railroad in the future. It will make the railroad viable by “working together with Ed Burkhardt, in certain amount of partnership.” {ANR&P discussion 26 Jun 02}

26 June, Portland. **THE COURT CONTINUED SEVERAL MOTIONS TO 4 SEPTEMBER.** These included the motion to effectively annul the trackage rights agreement, a motion which the court had held up [see 17 May issue] pending the STB decision [see above]. {court website}

**CSXT & THE PHOENIX PROJECT**

*After the announcement at the New England Railroad Club dinner in January [see 31 January issue], I kept asking when someone on the Phoenix Project would begin working in New England. That inquiry resulted in this article.*

According to the 28 February CSXT Midweek Report to Employees, Phoenix Project was created to link field engineering and transportation forces with property services, real estate and industrial development to regenerate business at abandoned locations still holding switches and sidetrack. "We're trying to bring back customers, large or small, that have left the railroad,” said Wayne Bolla, director- property services and sales liaison for the Phoenix Project.

The project has three activities:

- The real estate department is going through the more than 22,000 sidetrack maintenance agreements filed away at CSXT, some dating back to the 1930's, cross-checking them with current customers. This produces a list of unused spurs and sidetracks [see 31 January issue].
- The Industrial Development Team (CSXT) distributes postcards to field employees, who use them to report potential sales opportunities encountered in day-to-day operations. Postcards from track inspector Hollis Heuer provided the Phoenix Project group with its first leads. The information on agribusiness shipper Union City Co-Op has led CSXT to an annual 20-car contract with the company. The postcard effort is geared toward “where we don’t have activity,” said Kenwell.

- Jefferson Enterprises provides a team of ex-railroad people willing to go into the field to check the unused spurs for possible customers. The team also looks at customers who have gone away from rail for particular reasons.

The inception of Jefferson Enterprises
Jefferson once worked for CSXT and its predecessor the Chessie System [C&O and B&O merged in 1963; the name Chessie System was adopted in 1973; and the Chessie and the Seaboard Coast Lines merged to form CSX Transportation in 1980. CSXT website] He then became president of short line Meridian and Bigbee in Mississippi.

At both CSXT and the short line, Jefferson talked to users of transportation, and kept getting the same feedback from the smaller customers. “The railroads are not paying attention to us....We’re too small....No one’s paying attention to demurrage....There’s no continuity of organization...We don’t talk to experienced people....We don’t know direction they’re going in....The railroad doesn’t care about direction we are going in.”

In November 2000, Jefferson put together the idea of using deeply-experienced, now-retired sales and marketing men to help out the smaller customers. In early 2001, he met with Jim Howarth, then vice-president of merchandise, to pitch the idea. Howard responded to it enthusiastically because it meshed with the abandoned sidetrack concept coming from the CSX real estate department. CSXT combined the two efforts under the ‘Phoenix Project’ title.

The early months
Beginning on 1 May 2001, Jefferson and his team started looking at the side tracks no longer used, and developed several opportunities. However, he said, “the sales leads were not followed through.” He went back to CSXT, where officials asked Jefferson Enterprises to do actual sales functions.

Successes
In January, Jim Howarth, then CSXT’s vice-president for manufactured products, said the Project had brought in a million dollars worth of business by hiring four men for about $100,000. By May, said Jefferson, the four men covering the railroad from Michigan to Florida had gained new or additional revenue from over 50 accounts. In value over $1.4 million in sales has started to move and significant new revenue deals of over $3 million are pending.

“The good news is beginning to travel,” said Jefferson. “CSXT is starting to see the benefit of what we are creating: some shippers are calling my people” to deal with problems. The railroad has responded very well. “They know that when we come in it’s a legit problem, and they need to move quickly.”

The Phoenix team has gotten fixed tracks which were in bad shape. It has settled a freight loss and damage claim lingering three to four years, during which the customer would not ship by rail. Its request has gotten a spur extended to serve a potato customer. The team recently won a 60,000-ton phosphate move away from the river.

“My hat’s off to CSXT, they took a bold step” in supporting the program.

The benefit to the men
The retired railroaders have gone back to work willingly. As Jefferson said, “It’s amazing how the adrenalin turns up. The men enjoy being effective again.”

Phoenix Project in the Atlantic Northeast
Jefferson has hired one former Baltimore & Ohio official, Bob Frost, to work out of Delaware, handling the area west and south of New York. For New England, he has hired Dave Stevenson. Frost and Stevenson are now working on the shared assets area in New Jersey, and have “uncovered a number of things,” Jefferson said.

Later Stevenson will work on Erie County New York, and then Massachusetts. [If any reader wants to help revive customers, contact him at dstevenson14@aol.com.]

What about trackage to be abandoned?
Asked whether the effort to revive customers included trackage to be abandoned, Kenwell said no. A rail line such as the four-mile stub out of Fitchburg is focused on by a team doing a “full commercial review of the customers along the track” before the railroad decides to move to abandonment.
Penetrating the truck market

Jefferson emphasized, “These railroads have got to get the truck market.” By walking down that sidetrack, a Phoenix Project guy may find nothing there. Or, he may find a customer who has transmogrified into a major user of trucks, who never thought about rail. “We want to generate a re-established relationship with the customer. We want to establish CSXT in the transportation market place.”

Work with other railroads?

Recently, another railroad in the West called Jefferson to discuss a similar effort there. Under his contract with CSXT, Jefferson is restricted to work with only CSXT in the East, but not in the West.

How does Phoenix fit in with the other sales organizations?

Jefferson explained that CSXT has four sales groups. The core handles the large customers; the network the smaller customers; emerging markets waste and other parts; and the Florida Business Unit explains itself.

“Thousands of customers are relegated to network sales group” under Bill Kenwell. “As we develop leads, we send them to Jacksonville” [CSXT headquarters in Florida - editor]. Kenwell can assign the lead to one of his own sales people, or leave it with Phoenix Jefferson Enterprises. “If it comes back, we handle it as a sales person would. However, CSXT has the option to pick up the account at any time.”

Leads falling under the emerging markets unit or the core group are handled similarly.

Post-sales

After the traffic begins to move again, customers are encouraged to call customer service with their day-to-day questions.

The future

Asked how long Project Phoenix might continue, Jefferson said, “If we continue to provide CSXT new revenue, build market share, grow customer base and if CSXT finds our relationship to be effective within its organizational plans, strategies, and goals, then the future takes care of itself.” {ANR&P discussion with Jefferson 8.May.02, with Kenwell 12.June.02}

PROVIDENCE & WORCESTER

27 June, Worcester. AN ARBITRATOR RULED THAT PW OWED MONEY TO AMTRAK for its use of Amtrak lines [see 3 May issue]. PW announced today that it owed nearly $724,000 for the period from 9 July 1999 to 31 March 2001. PW estimated that through 31 March 2002 it will owe $1,250,000.

Impact on company earnings

The award will reduce the company’s pre-tax second quarter earnings by $1,250,000, and result in a loss for the quarter.

Impact on shipper rates

Because the award involves the rate paid to use Amtrak lines, the railroad ‘is reviewing its rates to determine to what extent they can be adjusted to reflect the increase in Amtrak’s rates. The company disagrees with the findings of the arbitrator and expects to contest the ruling.’ {PW press release}

LOWES HOME CENTERS


Lowes is proceeding with permitting for a 250-acre truck-served facility in Plainfield, adjacent to the PW Norwich line. Trucks will dray product from a nearby port to Plainfield, on I-395. McClure stated that the company does well in part because of its excellent logistics system. {ANR&P discussions with Plainfield development officer Mike Faad and with McClure 26.Jun.02}
MAINE

MAINE LEGISLATURE

25 June, Augusta. **THE RAIL TASK FORCE HAS 11 OF 13 APPOINTMENTS.** As designed by LD.2214, it has 13 members, six appointed by the Senate president and seven appointed by the House speaker.

**Speaker appointments**

As chair, Charles Fisher, House chair of the Joint Transportation Committee
Representative Sharon Libby Jones of Greenville
Representative Tom Murphy of Kennebunk
Representative Edgar Wheeler of Bridgwater
Steve Francouer of Georgia Pacific in Old Town, representing rail shippers.
Mike Murray, representing the Northern New England Passenger Rail Authority

**President appointments**

Senator John Martin of Eagle Lake
Senator Christine Savage of Union, Senate chair of the Joint Transportation Committee
Senator Paul Davis of Sangerville
David Cole of the Eastern Maine Development Corporation representing the Maine Port Authority.
vacant senator - Democratic, awaiting select by Senator Mike Michaud
vacant - representative of an airport integrated with a railroad. {ANR&P discussions with Bill Brown of Speaker’s office and Tarren Bragdon of President’s office 25.Jun.02}

**Next step**

The resolve creating the task force required a first meeting by 15 June. After meeting a maximum of four times it must report by 6 November 2002. {text of bill}

MASSACHUSETTS

GUILFORD RAIL SYSTEM

22 June, Ayer. **THE RAILROAD CONTINUES TO RUN INTERMODAL-ONLY TRAINS** across Massachusetts. One rail observer spotted AYMO (Ayer - Mohawk Yard) leaving Ayer at 2055 on 21 June with 17 TOFC, 32 single-level containers, 3 double stacks, and 4 empty spine cars. On 23 September another saw MOAY arriving in Ayer at 0555 with 34 COFCs (including 4 double stacks) and 14 TOFCs.

Observers report these trains running every day. {Ron DeFilippo and Ken Houghton in NERAIL 22.June.02}

GUILFORD RAIL SYSTEM

25 June, Everett. **RAIL TRAFFIC HAS STOPPED TO THE OSSIPEE AGGREGATES FACILITY HERE**, because of a strike.

**The ownership situation**

The Boylan family owns

- Ossipee Aggregates, which owns and operates the pit in Ossipee NH and the former Allied Concrete plant in Everett. The Everett facility is used for material distribution.

- Boston Sand and Gravel in Charlestown (right under the I-93/Route One interchange on the waterfront).
- The New Hampshire North Coast Railroad (NHN) which moves product from Ossipee to Rollinsford NH whence GRS locomotives run the train to Charlestown and over to Everett.

- Manchester Sand & Gravel, and other aggregate and ready-mix companies.

**The strike situation**
As explained by John Mahoney of Teamsters Local 379, the Everett facility has four union members who struck five months ago, seeking wages closer to that provided to workers at the Charlestown facility. Mahoney did not see any quick resolution in sight.

**The traffic situation**
Because of the strike, all distribution has moved to the Charlestown facility and no rail traffic is moving to the Everett facility. {ANR&P discussion 25-Jun-02; Atlantic Northeast Rail and Marine Transport Review 1999}

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**HOUSETONIC RAILROAD**

21 June, Lenox. **THE RAILROAD, EOTC, AND BERKSHIRE SCENIC REACHED AGREEMENT on track rehab so the Berkshire Scenic can run tourist trains.** Executive Vice-president Ed Rodriguez said trackwork had already begun [to upgrade the tracks - see 15 March issue]. He expected enough work to be completed by Memorial Day 2003 that the scenic railway could start operation. The whole project, done by HRRC crews, will take two years.

The project “has taken over ten years, but it will be good for passengers, and good for freight.” Rodriguez pointed to EOTC and Governor Jane Swift’s office as instrumental in getting the job done. {ANR&P discussion 25-Jun-02}

25 June, Pittsfield. **THE RAILROAD WILL CLOSE ON THE BRANCH LINE HERE the third week of July, said Executive Vice-president Ed Rodriguez.** “We have concluded negotiations [with CSXT] on an agreement of purchase” and the STB has not acted on CSXT’s request to re-open the valuation decision [see 17 May issue].

**Operating plans**
On 12 June, HRRC applied to the STB for permission to have a new sister company, the Coltsville Terminal Company, purchase the line from CSXT (a part of Pittsfield through which the branch runs is named Coltsville). Rodriguez explained that taking title of the 1.9 miles under that company addressed “potential tax and liability issues.” But the trackage will be operated by HRRC, and HRRC will have the common carrier obligation.

The railroad needs to do about two weeks’ worth of work on the line, and then will begin operations. Rodriguez said traffic is already lined up. {ANR&P discussion; STB website, filings}

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**NEW HAMPSHIRE**

**PORTSMOUTH**

26 June, Concord. **GOVERNOR JEAN SHAHEEN NOMINATED LONG-TIME OPERATIONS MANAGER Geno Marconi as the next port director.** The nomination requires the approval of the Executive Council.

27 June. **THE PORT WILL RESUME ACCEPTING SCRAP.** After the board of the governing body, the Pease Development Authority (PDA), decided to end the contract of Rensselaer Iron and Steel to ship out scrap [see 17 May issue], the Authority opened negotiations for a new contract [see 14 June issue].

When representatives from the company approached the PDA in January, they had promised that only clean, small scrap fragments would be coming into the port. However, what was piling up at the port terminal were large, unclean scrap items.

The scrap was supposed to be removed from the property by 15 June. However, officials gave the company a temporary extension until 30 June because the board would not be meeting again until this week to discuss this issue.

**A new agreement**
The board this day agreed to extend the company’s use of the pier under terms of a letter of intent of 13 June, for 90 days from this day.
The board also required the company and the executive director to complete a longer-term agreement within 60 days. The board did not specify a length for the new agreement, but the board must approve the new agreement, probably at a 22 August or September meeting. {ANR&P discussion with Sue MacDonald, manager of administration and public relations 27-Jun-02}

RHODE ISLAND

PROVIDENCE & WORCESTER
17 June, East Providence. THE RAILROAD WILL BUILD A NEW CONNECTION BETWEEN THE EAST PROVIDENCE AND THE EAST JUNCTION SECONDARY next to Tanner Industries. City Planning Director Jean Boyle said the railroad within the past year had purchased a parcel from Arpad Merva which would enable it to build the necessary track [see map in 14 June issue, also found in www.atlanticnortheast.com].

Railroad General Counsel Mary Tanona wrote: ‘The reason for it is that it makes sense to do so, given the location of the two lines and P&W’s rights on those lines. Because there has been other work going on in the area, it seemed to make sense to work on making the connection sooner rather than later. The design work has been completed, and the track work will follow when it fits in with P&W’s production schedule.’ {e-mail to ANR&P 17-June-02}

PW earlier rebuilt its connection between the two secondaries [see 15 June 2001 issue]; using that connection still requires a reversing or run-around move, while the new one will permit continuous running. The 2001 undercutting will permit the use of South Quay for auto unloading, a possibility PW is still examining despite long-term plans to develop South Quay for commercial use [see 3 May issue].

VERMONT

VERMONT PASSENGER RAIL
21 June, Montpelier. TWO MORE POINTS ABOUT PASSENGER RAIL. [left out of the previous issue - editor]. The transportation capital program signed by the governor this day contained these items:

Sec. 19. VERMONT TRANSPORTATION AUTHORITY
The following modifications are made to the Vermont transportation authority program: by deleting other and total funds of $3,096,297 and inserting in each instance $2,646,297, and by deleting state funds of $971,259 and inserting $521,259. These changes are to delete operating funds for the Essex-St. Albans commuter rail demonstration project.

Sec. 20. VERMONT TRANSPORTATION STUDY; PASSENGER RAIL SERVICE
The Vermont Transportation Authority shall investigate and review options for providing passenger rail service in Vermont, and report its findings and conclusions to the House and Senate committees on transportation by January 15, 2003. {General Assembly website}

LAMOILLE VALLEY
21 June. RAIL ON THE LAMOILLE VALLEY MAY RISE AGAIN. The transportation capital program, H.764 as signed by the governor this day [see 14 June issue], contained this language:

Sec. 16. LAMOILLE VALLEY RAILROAD
(a) The agency of transportation shall cooperate with the Lamoille Valley Railroad Company to obtain regulatory approval from the federal Surface Transportation Board for discontinuance of service over the segment of railroad between St. Johnsbury and Swanton.

(b) The agency of transportation shall retain for railbanking under 5 V.S.A. § 3408, all portions of the Lamoille Valley Railroad corridor that the federal Surface Transportation Board authorizes for discontinuance of service. Except as provided in subsection (g) of this section, the existing rail infrastructure shall be preserved in place for possible future rail use. Repairs and maintenance to stabilize and prevent further deterioration of the corridor is authorized.

(c) The agency is directed, subject to approval of discontinuance of service as referenced in subsection (a) of this section, to enter into
a long-term lease with the town of St. Johnsbury for use of the section of the corridor between milepost 0.0, through the tunnel underneath US Route 5, across the existing railroad bridge across the Sleepers River to milepost 1.6. As part of the lease, St. Johnsbury shall be responsible for all further restoration, maintenance, and insurance coverage of this designated section of the corridor.

(d) The agency is directed, subject to approval of discontinuance of service as referenced in subsection (a) of this section, to enter into a long-term lease with the Vermont association of snow travelers (VAST) for use of the section of the corridor between milepost 1.6 and Morrisville. As part of the lease, VAST shall be responsible for all required aspects regarding further restoration, maintenance, and insurance coverage of this designated section of the corridor.

(e) The agency is directed, subject to approval of discontinuance of service as referenced in subsection (a) of this section, to enter into a lease with the Vermont association of snow travelers (VAST) for use of the section of the corridor between Morrisville and milepost 94.81. The lease shall be revocable upon the removal of the specified section from railbank status, and shall provide that the existing rail infrastructure shall be preserved in place pursuant to subsection (b) of this section. As part of the lease, VAST shall be responsible for all required aspects regarding further restoration, maintenance, and insurance coverage of this designated section of the corridor.

(f) The agency is directed, subject to approval of discontinuance of service as referenced in subsection (a) of this section, to enter into a long-term lease with the town of Swanton for use of the section of the corridor between milepost 94.81 west to the corridor’s terminus. As part of the lease, Swanton shall be responsible for all required aspects regarding further restoration, maintenance, and insurance coverage of this designated section of the corridor.

(g) The agency is authorized to salvage materials from those sections of the rail corridor which are leased to St. Johnsbury, VAST and Swanton pursuant to subsections (c), (d) and (f) of this section. All salvaged materials suitable for rail use shall be preserved for other rail projects in the state.

(h) All references to mileposts in subsections (c), (d), (e) and (f) of this section are approximate. Final specifications shall accommodate the use for which the leasehold is intended. (General Assembly website)

Why discontinue?
Federal statutes require that a provider of rail service, if distinct from the owner of the tracks, file for discontinuance of service.

Rail Link finds some solace
Brad Worthen of Vermont Rail Link repeated his evaluation of 2 May: at least half the rail line will be preserved [see 3 May issue]. “We’ll wait and see...the direction of a new governor, AOT, rail division” before deciding which way to go. “We’re not going to petition anyone to prevent railbanking.” The state has “no money to do anything” anyway.

The two leading gubernatorial candidates, Democratic Lieutenant Governor Douglas Racine and Republican State Treasurer James Douglas, are “very aware of the Lamoille Valley,” said Worthen. “I doubt either will turn his back on language the legislature enacted this session.”

Both Peter Snyder and he, while working on other projects, will “keep one eye on the Lamoille Valley.” {ANR&P discussion 24-Jun.02}

How to discontinue and railbank
John Dunleavy, assistant attorney general attached to AOT, wrote on 25 June that ‘AOT has Kevin Sheys of the Washington office of Kirkpatrick & Lockhart under contract and we will be consulting with him’ on how to proceed before the Surface Transportation Board. {e-mail to ANR&P}

Québec/Maritimes

CAPE BRETON & CENTRAL NS

The timetable proposed by CBNS
July 10: Hearing in Sydney
July 11: Approval of Abandonment Plan and Discontinuance Plan  
July 15: Discontinuance Plan and Abandonment Plan as approved filed with the Board.  
July 17: Notice to all customers of discontinuance  
July 29: Publish Notice in Cape Breton Post and Halifax Herald and Daily News papers  
July 29: Reduced service implemented.  
Oct.16: Discontinue Service -  
Oct.17: Open line for sale, lease, or purchase.  

Begin removal and relocation of track materials: dependent on notice period stipulated by the Board.  

**Right to recover operating losses**  
In his letter providing the plans, General Manager Peter Touesnard wrote: ‘In addition, our company requests the Board rule on our company’s right to recover our operating losses on this section of our line through the implementation of a per car surcharge on loaded cars moving over this line segment until the line is abandoned or declared commercially viable. Given that our current operating losses are estimated to be in excess of $50,000 per month on average, we respectfully request this ruling by June 19, 2002.’ {text from URB}  

Paul Allen, executive director of the URB doubted the board had any jurisdiction over such a request.  

**VIA service**  
The 16 October date coincides with the last run of VIA Rail Canada’s Bras D’Or excursion operation to Sydney. According to John Pearce of Transport 2000, VIA has asked CBNS about doubling the number of trips next year. {ANR&P discussions 25 Jun.02}  

**Statutory framework**  
The Railways Act permits a railway to file concurrent abandonment and discontinuance of service applications.  

**Mandatory offer to sell to Crown**  
Section 44 (1) When the Board approves an abandonment plan pursuant to Section 42, the owner or lessee shall offer to sell, lease or otherwise transfer, upon expiry of the period of notice [before the abandonment is complete - editor] required by that Section, the railway to Her Majesty in right of the Province, through the Minister.  

(2) Where the railway company and the Minister cannot agree on a price for the transfer of a railway pursuant to subsection (1), the price is the net salvage value of the railway and the value shall be determined by an agreed-upon independent appraiser.  

(3) The cost of the appraiser shall be borne equally between the two parties.  

(4) If the parties are unable to agree on an independent appraiser to determine the net salvage value, net salvage value shall be determined by arbitration pursuant to the Arbitration Act. 1993, c. 11, s. 44; 2001, c. 12, s. 39.  

Touesnard said on 10 June that he expected to have the answer on the potential new customer [most probably Nova Scotia Power moving coal - editor] by the time the hearing convenes. {ANR&P discussion}  

**New economic development minister from Cape Breton**  
Nova Scotia Premier John Hamm just appointed Gordon Balser as the province's first Minister of Energy. Balser will no longer be the Minister of Economic Development. That portfolio is being taken over by a MLA from Cape Breton, Cecil Clark. {CBC webposted 17 June 02}  

25 June, Port Hawkesbury. **STORA ENSO MAY SHUT ITS NEWSPRINT MACHINE** due to rising costs of electricity. It has asked the woodsmen and the union paper workers to take cuts. The woodsmen agreed to do so; the union will begin three days of negotiations 26 June.  

The new supercalendered paper machine will remain in production regardless of the outcome of these talks. {CBC webposted 14 & 26 June.02}  

26 June, Halifax. **NSP IS DECLINING TO SHIP COAL ON THE CAPE BRETON LINE**. Margaret Murphy, spokesperson for Nova Scotia Power, says NSP would only need to ship about 1,000,000 tonnes of coal a year to service its power plants in Point Tupper and Trenton. “There were never any proposals which addressed our main concern, which was an additional cost of $8 million every year to supply coal
to those power plants," says Murphy. {CBC webposted 26 June.02}

SYDNEY

27 June. UPDATE ON TWO PORT ISSUES. Provincial Energy Ventures has no traffic yet at the Sysco pier. Ernie Thrasher predicted the first business would arrive in June or July [see 17 May issue].

Sydney Port Corporation
This entity was formally granted the Sydney Marine Terminal [see 12 April issue] by the Council of the Cape Breton Regional Municipality on 25 June. Opinion was divided on whether the Port Corporation could get control of the Sysco pier or the International pier. {ANR&P discussions with Don Rowe, harbor master, and John Whalley, economic development official 27 Jun.02}

HALIFAX

12 June. THE PORT AUTHORITY IS SEEKING EXPRESSIONS OF INTEREST TO LEASE FAIRVIEW COVE CONTAINER TERMINAL, to operate the 28-hectare terminal under a fixed-term lease of 10 years or more, according to a newspaper ad in the Toronto Globe and Mail this week. It said Ceres is eligible to respond to the notice. The Ceres lease expires at the end of the year.

Dawn Dalley, spokesperson for the Port Authority, said on 18 June the Authority’s board decided first to ask for an expression of interest and a request for proposals. "There was some discussion with Ceres," she said. "They were aware that was the process that was going to be followed" and have been invited to participate. A Ceres spokesperson in Halifax said the company is not prepared to talk about the issue in the media.

Expressions of interest are due 12 July.

The Halterm lease negotiation
When Halterm’s lease on the Halifax Ocean Terminal came up for renewal at the end of 2000, the Port Authority first negotiated with Halterm. A sometimes bitter battle ensued, and the Port Authority decided to seek other bids. But it ended settling with Halterm in September 2000. The new agreement phased in rent increases so that Halterm could keep its rates in line with Ceres. [See 15 September 2000 issue.]

Details of that agreement were not released. It is expected Halterm will see an increase in its rent when the Fairview Cove deal is settled. {Tom Peters in Halifax Herald 19 June.02}

Logistec interested
According to the Authority, it has received one expression of interest. {ANR&P discussion} Madeleine Paquin, president & CEO of Logistec Corporation, wrote on 20 June: ‘The Port has asked for Expressions of Interest. We have not yet answered but it obviously fits well with our strategic plan.’ {e-mail to ANR&P}

PEOPLE

Dick Pembroke, Vermont state representative, announced his retirement on 19 June. A Democrat, he chaired the House Transportation Committee. At Wednesday's ceremony, an "overwhelmed" Pembroke accepted the Vermont Railway Advocate of the Year award for his work in developing a statewide railway system. Pembroke said he will remain involved in state matters. His future plans include focusing on his landscaping company and vacationing in Florida. As the father of three boys and a girl, Pembroke wants to spend some much-needed time with his children and grandchildren. {Bennington Banner 20 June.02}

Brad Worthen of Vermont Rail Link had kind words for Pembroke: “Dick three years ago took our project [reviving the Lamoille Valley Railroad] under his wing....If not for him, most likely the rest of the corridor would be torn up as well.” {ANR&P discussion 24 Jun.02}

The Strait of Canso Superport Authority’s operations manager, John McLeod Langley, recently resigned his post. Tim Gilfoy has temporarily taken over.
P&W Coal Train on the NEC in Providence  Photographed by Don Irace, April 23, 2002.

Added to archive May 9, 2002 From NERAIL photo archive.

See story on PW paying Amtrak more money.

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Atlantic Northeast Rails & Ports, née Maine RailWatch (1994-1997) and later Atlantic RailWatch (1998-1999), is dedicated to the preservation and extension of the regional rail network. The editor believes that publishing news on railroads and ports spotlights needed action to preserve the rail network. The publication also imbues the region with a sense of an interdependent community, employing the network to move rail and port traffic. ‘No railroad is an island, entire onto itself.’

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