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Issue 04#03A 18 March 2004

*Article unchanged from e-bulletin.

REGIONAL ISSUES

MMA/WACR/NECR/MCER: New TOFC lane Presque Isle-Palmer.*
NS: Drayage TOFC to Southeast.
Amtrak: Cannot get Boston-NY time to 3 hours.
LNG terminals: Harpswell, Fall River, Somerset, Saint John, Providence, Point Tupper, Sears Island.

CONNECTICUT

New Haven: Port Authority first meeting.

MAINE

Cavendish: Five rail-served facilities.
SLR: Traffic up at intermodal terminal.

MASSACHUSETTS

CSXT: Gioioso may win New Bedford contract.
BCLR/CCCCR: License renewal.
GU: Judge bars Milford from stopping BRT.
MCER: Plastics doing well; more capital investment.*
WWTR: STB says can go ahead to environmental stage.

NEW HAMPSHIRE

MBRX/GRS: Granite State should use truck; GRS not an evil empire.
NHN: NHDOT says re-opening Conway branch possible. GRS has paper barrier.
TSRD: Gilman mill gets state money. GRS will get paid when it files adverse abandonment.

RHODE ISLAND

[No report.]

VERMONT

VAOT: Hiring RL Banks to do state rail plan.
VRS: Some say the Center Rutland Connector should not be build, in any alignment.

MARITIMES/QUÉBEC

MMA-NBSR: Trailer train traffic trending up.
Halifax: Halterm optimistic about future despite 2003 slide.* CN strike affecting terminals.*
Strait of Canos: Ultramar moves oil from here.
Sydney: Belledune starts rival ro-ro service.

RAIL SHIPPERS/RECEIVERS

A cross-reference to companies mentioned here.

EDITORIAL

Paper barriers
While I have long heard about restrictions, “paper barriers,” placed on a short line when a Class I sells the track, I had never seen the exact language. Now, the language placed by GRS on traffic on the Conway branch gave me my initial view.

- Chop Hardenbergh

Next issue: 31 March

FROM THE PUBLISHER

US courts should supplant the STB.

REGIONAL ISSUES

MONTREAL, MAINE & ATLANTIC
9 January, Northern Maine Junction. A LETTER TO THE ‘MMA FAMILY’ DESCRIBED THE PAST YEAR. President Bob Grindrod wrote:

‘It was one year ago today that the MMA purchased the railroad from the Trustee of the BAR System. A lot has happened in the last year, as I'm sure you'll all remember. The shutdown of Great Northern Paper, salary reductions, a horrible winter and reduced service are things that we hope we will never experience again. But some good things have happened as well. We survived all these adversities and are here, still in business and providing good service to our customers. We have put in 28,000 new ties and laid 13.6 miles of new rail. We have handled over 41,000 carloads of freight for our customers. We have called back all the people laid off as the result of the GNP problems, and have hired new employees, both at Derby and in train service. We are going to be here for the long term.

‘I am pleased to announce that, effective January 1, a general salary increase of 2% will be granted to everyone. You should see the change in your check on January 15. Before the end of 2004, we will also introduce a profit sharing program for employees, to be effective in 2005 and beyond. You are all part of the team, and it is our intention that you will all share in our progress in the future. All of us will have a stake in our future together.

‘I am pleased to be able to tell you that the Company has made a small profit each month since August. This has been accomplished as the result of increased levels of traffic, particularly in the lumber and OSB areas, and by watching our expenses carefully. We believe this trend will continue.

‘Finally, I would like to thank you for the expressions of gratitude we have received concerning the Christmas bonus. It was our way of letting you know that we appreciate how you have stuck with us through a tough year. We hope that the results in future years will allow us to send profit sharing checks that are much larger.’ {The 470 3.04}

MMA/WACR/NECR/MCER
1 March, Palmer. THE FIRST PIGGY-BACK CARS WILL ARRIVE HERE FROM PRESQUE ISLE, MAINE, because of a project put together by Eric Moffett, who heads the intermodal division of Vermont Railway.

The service
The product originates in the area around Presque Isle, and is loaded into VTRZ trailers [owned and deployed throughout North America by Vermont Railway’s trailer operation—see issue 02#02B]. VTR in combination with MMA subsidiary Logistics Management Services (LMS) arranges the dray to the Presque Isle intermodal facility, operated by LMS, where a packer puts the trailer on VTR TOFC (trailer on flatcar) flatcars.

The regular MMA train out of Presque Isle then hauls the cars to Brownville Junction, where the cars are interchanged to the regular Brownville Junction-Montreal train. Once left in Farnham by that train, the regular MMA Farnham-Newport train runs the cars to the interchange with WACR in Newport; WACR moves them in regular service to White River Junction, and NECR takes them to its Palmer Yard again in a regular train. An MCER locomotive then moves the cars across the CSX main line to the MCER intermodal yard. MCER’s packer grounds the trailers. A trucker engaged by VTR drays the trailer to Quaboag Transfer [our Directory #714] in Bondsville MA for product storage or product transfer for furtherance on over-the-road carriers looking for backhauls.

In the future, TOFC could be interchanged to CSXT, so that the trailers could move well beyond New England. The service can handle containers if they are moved on chassis; because of the tunnel in Bellows Falls, the service could not run doublestack containers.

Moffett said VTR had assumed the marketing of the MCER ramp for the Presque Isle lane; in the future, other lanes could be added. The service is not aimed at boxcar traffic, emphasized Moffett. “We see this as enhancing railroad traffic, not
Marketing itself
The service, said Moffett, is practically marketing itself because of the limits on truckers due to the new hours of service law and the price of diesel. “Customers are calling us because they have heard reports of this new service.” He does not want to garner huge traffic right away, because the five trains used in the service were not designated as large capacity. When the demand has grown, “the next step will be a dedicated train.”

Advantage of VTR management
The service accomplishes three functions for VTR, noted Moffett. First, it provides revenue traffic to WACR. Second, it utilizes VTRZ assets. Third, VTR management provides its customers with:

- 35 years experience in TOFC.
- provision of door-to-door rates, unlike most railroads.
- because it is generating revenue from equipment and rail services, no need for brokerage fees.
- contacts with major truck carriers.
- no need to rely on third parties to market the service and to coordinate drayage.

Mike Smith, general manager of MCER, welcomed the additional traffic to the MCER intermodal terminal. “Eric Moffett of VRS deserves a lot of credit,” Smith noted, because the move combines MMA, WACR (a VRS member), NECR, and MCER, using existing trains.

Compared to earlier attempts in the same lane
Why would this traffic succeed, though a similar attempt failed in late 2000? [See 5 March issue.] Smith noted that the B&A System had used refrigerated cars to garner McCain french fry moves. This effort seeks TOFC traffic from a variety of customers.

Boxcar traffic
According to Bill Schauer, vice-president marketing for MMA, the boxcar traffic in the Farnham-Palmer lane is growing beyond expectations. He recalled that MMA had chosen not to purchase the line south of Newport, thinking it would have low traffic. Originally the service by VTR was anticipated at only three days a week, but now both MMA and WACR are running service five days a week. {ANR&P discussion 11.Mar.04}

According to other reports, MMA is moving forest products from northern Maine and from New Brunswick in boxcars for interchange to CSXT in Palmer. One account may generate over a thousand carloads a year. {MMA list}

NORFOLK SOUTHERN

5 March. THE RAILROAD INTRODUCED PATRIOT TOFC SERVICE BETWEEN NEW ENGLAND AND THE SOUTHEAST featuring northbound trains+dray from Atlanta, Greensboro, and Memphis to New England, and southbound dray+trains from New England to Atlanta and Memphis.

The service uses 48-foot trailers that can be delivered within 75 miles of Atlanta, Greensboro and Memphis, and any Massachusetts city expect Cape Cod-area communities. Patriot service provides second-day, afternoon delivery between New England and Atlanta; third-day, morning delivery between Greensboro and New England; third-day, afternoon delivery between Atlanta or Memphis and New England; and fourth-day, afternoon delivery between New England and Memphis. {NS website}

Market extension of service to New York
Tom Reese, NS intermodal account manager for companies in New England, said on 15 March that the northbound trailers are grounded at the NS Croxton Terminal in North Bergen, New Jersey. “We cannot provide direct service from the Southeast” to New England; the trains which access Ayer (the NS/GRS terminal in Massachusetts) run west to Chicago. The Patriot Service will extend the TOFC offering north from New Jersey, to give customers in New England TOFC service to the southeast.
NS has excess drayage capacity at its Thoroughbred Direct subsidiary. The truckers will give customers door-to-door service. {ANR&P discussion 15 March 2004}

**AMTRAK**

9 March, DC. **AMTRAK CANNOT RUN BETWEEN BOSTON AND NEW YORK IN THREE HOURS.** The US Congress in 1992 ordered the USDOT to come up with a plan for reducing the train trip between the two cities from four hours to three hours or less. Amtrak did not meet this goal because neither the railroad nor the government managed or oversaw the project effectively, according to a report by the General Accounting Office released 8 March.

A total of $3.2 billion was spent by Amtrak, state governments, and other railroads for the project through March 2003, resulting in a trip of three hours, 24 minutes.

Amtrak had to do three things to cut the travel time between Boston and New York: electrify the railroad north of New Haven, buy high-speed trains, and make such infrastructure improvements as straightening curves and replacing movable bridges. Amtrak focused on buying the trains and electrifying the line between Boston and New Haven. It has yet to make all the infrastructure improvements.

David Gunn, current head of Amtrak, said the only way to cut the travel time between New York and Boston is to offer nonstop service. Amtrak is now aiming to offer regular three-hour, 10-minute train service with stops between the two cities. Gunn said it isn't clear that shaving another 10 minutes off the trip would attract enough new riders to justify the cost of making the improvements required. {Leslie Miller of AP}

**LNG TERMINALS**

9 March, Harpswell Maine. **TOWN VOTERS HERE REJECTED A LIQUIFIED NATURAL GAS TERMINAL** proposed for the site of a former US Navy fuel depot 55% to 45%. ConocoPhillips and TransCanada, the partners in the ‘Fairwinds’ project to build in Harpswell, plan to regroup during the next few weeks or months. The gas companies have looked at 36 other potential sites in Maine, including Sears Island, spokesperson Micciche said. “We've been so focussed on Harpswell that we've put everything else by the wayside. There are many options.” {Kevin Wack in Portland Press Herald 11.Mar.04}

11 March. **NEW LNG SHIP DESIGNS WILL PERMIT SERVICE TO UP-RIVER TERMINALS.** Some designs for larger LNG ships in the range of 200,000 cubic meters incorporate twin-screw propulsion which would significantly improve manoeuvrability. Since the vessels will be limited in draft to no more than 12 meters to maintain operational flexibility, the beam of the vessels will be increased to as much as 55 meters. These shallow-draft, wide vessels need to be able to navigate in narrow channels for service to up-river terminals.

“By increasing the size of the standard LNG carrier from about 145,000 cubic meters to 200,000 cubic meters and even larger, it is estimated that there could be a reduction in transportation costs by as much as 15%,” said James Gaughan, American Bureau of Shipping senior consultant with the Energy Project Development Group. Another distinct advantage with larger LNG ship designs is a reduction in the amount of cargo boiled off as a percentage of volume. The expected boil-off rate for the larger designs will be no more than 13% compared to the current range of 15% to 25%

But terminals must change too. “The size of new LNG carriers is limited by the physical capacities and berthing conditions at many loading and receiving terminals. Before a construction contract for a larger vessel is signed, many ship designs and terminal practices that have worked in the past will need to be modified,” said Gaughan. {David Hughes in Business Times 11.Mar.04 cited in MARINE-L e-list}

11 March, Rhode Island. **RESISTANCE IS INCREASING TO PROPOSED LNG TERMINALS IN SOUTHEAST MASSACHUSETTS.**

**Somerset MA**

Somerset LNG, a limited liability company, has put forward a plan to build a terminal on 15 acres at Brayton Point in Somerset.

**Fall River MA**

Weaver's Cove Energy LLC proposes a terminal at the former Shell site on the Taunton River, upriver of the I-195 bridge, near the Brightman Street Bridge. The mayor of Newport has spoken against the proposal, although it would pay $3 million
Rhode Island objections
State Representative Raymond E. Gallison (D-Bristol and Portsmouth) believes the tankers would pose a health and safety hazard for people who live around Narragansett and Mount Hope Bays. He has introduced legislation in the Rhode Island General Assembly that could potentially stop plans for the Massachusetts terminals.

In a bill endorsed by a host of other state legislators from the East Bay, Gallison calls for prohibiting the transport of LNG ‘by way of tanker or any other means on the Sakonnet River or under the Mount Hope Bridge.’ [Ships accessing the Fall River area not only must pass through Rhode Island waters, but underneath Rhode Island’s Sakonnet River bridge (carrying State Route 24) or Mount Hope Bay bridge (carrying State Route 114).] The legislator believes that concerns for public safety outweigh any economic benefit the terminals could generate. {Alex Kuffner in Providence Journal 11.Mar.04}

March. UPDATES ON OTHER PROPOSED LNG TERMINALS.

Sears Island
Two different energy companies are discussing the construction of an LNG terminal on state-owned Sears Island in Searsport on Maine’s Penobscot Bay. The Searsport comprehensive plan designates Sears Island as a marine district, permitting marinas, boat storage, restaurants, aquariums, wharves, and museums, but not heavy industry. {Dennis Hoey in Maine Sunday Telegram 14.Mar.04}

Providence
BG LNG Services, in conjunction with Keyspan, is also seeking to develop and upgrade an NG terminal at Providence, Rhode Island. If successful, this may be the first new import terminal to open in the USA for several years. London-based BG Group, parent of BG LNG Services, changed its name from British Gas in 1997. {BG website}

Saint John
In November, Irving filed a draft environmental impact study with the New Brunswick Department of Environment and with Environment Canada for its proposed LNG terminal in Saint John. [See 30 September 2003 issue.] {Oil and Gas Works Online}

Point Tupper
Permitting for the Bear Head Terminal in the Strait of Canso’s Point Tupper began in mid-November 2003, when Access Northeast Energy Inc. ‘commenced Front End Engineering Design (FEED). FEED is a key element in the project development process as it confirms the design and operating parameters for the proposed facility. FEED is expected to be completed in early July 2004. Commercial operations for the facility are scheduled to begin in November 2007.’ {ANE website}

GEORGIA-PACIFIC
12 March. THE FOUR G-P DISTRIBUTION FACILITIES WILL BECOME PART OF A NEW COMPANY, under an $810 million agreement between Georgia-Pacific Corporation, Cerberus Capital Management of New York, and members of the distribution business’ management team. The new, as-yet-unnamed company will agree to purchase G-P products for the next five years. ‘All current employees of the distribution business, including the current management team led by Charles McElrea, president - building products distribution, are expected to join the new company.’ The deal should close in the second quarter.

The G-P building products distribution business is the leading distributor of building products in the United States, with 2003...
net sales of $4.3 billion. It employs approximately 3,400 people and operates 63 U.S.-based warehouses, plus one location in Canada, from which it distributes more than 10,000 products across 14 categories, including structural panels, hardwood plywood, roofing, insulation, metal products, lumber, paneling, vinyl siding and particleboard. These products are shipped via a fleet of 900 trucks, one of the nation's largest such fleets.’ {G-P press release}

**Rail-served facilities**
The new company will have four facilities in New England:

* Bellingham MA. Served by CSXT [our Directory #241, estimated volume at least 300 cars a year.]

* Newtown CT. Served by HRRC [our Directory #684], estimated volume 25 cars a year.

* Portland ME. Served by GRS, estimated volume 100 cars a year.

* Shelburne VT. Served by VRS. No estimated volume. {locations from ANR&P discussion with G-P spokesperson Greg Guest 12 March 2004}

**NEXFOR FRASER PAPER**
11 March, Toronto. *NEXFOR WILL SPIN OFF THE PAPER AND WOODLANDS BUSINESS*. The new company, with the name Fraser Paper, will own 19 paper and pulp machines at mills in Maine, New Hampshire, Wisconsin, Quebec and New Brunswick. It will have $850 million US in sales, 780,000 tonnes in paper production capacity, over 350,000 tonnes of market pulp capacity, two million acres of timberland, and more than 3,800 employees.

**Effect on Atlantic Northeast**
Fraser Paper will own these mills in the region:

* Berlin NH. Fraser N. H. LLC c/o Fraser Paper Company. Served by SLR, which leases the rail line belonging to Fraser.

* Gorham NH. Served by SLR (Same as Gorham.).

* Edmundston NB. Nexfor Fraser Papers Inc. Served by CN.

* Madawaska ME. Nexfor Fraser Papers Inc. Served by MMA.

* Millinocket ME. Katahdin Paper (formerly Great Northern). Served by MMA.

* East Millinocket ME. Katahdin Paper (formerly Great Northern). Served by MMA.

**Nexfor becomes Norbord**
Shareholders will get one share of Fraser Papers for every five shares of Nexfor they own. Shareholders must still approve the spin-off at a vote in June. Brascan, which owns 43% of Nexfor, said it supports the direction of Fraser Papers and will hold its shares of the new firm.

Norbord is the future name for Nexfor, which will focus on wood panelboards. The company has 15 operations in Canada, the United States and the United Kingdom. {Nexfor press release}

By creating a pure play in panelboard, analysts say Nexfor stands to benefit from record-high prices caused by a combination of factors, including rail car shortages and the possibility of a strike by carpenters in Ontario. Meanwhile, paper prices are barely holding their own. {Peter Kennedy in Toronto Globe and Mail 12 March 2004}
NEW HAVEN

4 March. **AT THE FIRST MEETING OF THE PORT AUTHORITY**, following introduction of Commissioners [see 5 March issue] and City staff, Mike Piscitelli of the City Plan Department explained that the city’s port is the largest in Connecticut and among the most active in New England. Over the past few years, the cargoes handled in the port have grown more diverse. He stressed the need to resolve land use constraints there, and mentioned that the Port Authority is mandated to assist in this effort. He added that the Commissioners would be advocates for port initiatives, such as the development of a proposed railway for Waterfront Street.

Piscitelli described the need to plan land use for the port area, and to better organize uses in the port, improving efficiencies there. He explained that the port area consists primarily of privately-owned and -operated facilities unlike many other port areas in which a port authority owns the land and leases it to operators. The port area contains 366 acres, 330 acres of which are owned by ten property owners.

Henry Fernandez, city economic development administrator, explained that within the next six months the city would be transferring East Shore Parkway [see map in 13 February 2001 issue, or website] to the Port Authority, which would enter into leases for that land with port area operators. The transaction will occur at no cost to the Port Authority.

Tom Dubno of Gateway Terminal attended and introduced himself.

The Authority intends to meet monthly. {minutes of meeting}

CAVENGLISH AGRI SERVICES

Cavendish has five rail-served facilities in Maine. Some of these were acquired some time ago. Two fertilizer facilities came from Agway via Growmark after its bankruptcy [see 2 February issue].

SOUTHERN MAINE

On 27 February, the Cavendish manager for the three southern Maine facilities, Steve Lajoie, said the peak time for Cavendish happens from the autumn to now (February). The three facilities he manages accept together about 15,000 tons [150 cars a year], and using the mills, mix it as the customer wants. Asked about rail service by Guilford, Lajoie said it “has its moments” but does “OK”. {ANR&P discussion}

**Auburn**, 63 Hackett Road. Cavendish bought this from GROWMARK in 2003, which got it from Agway. In 2003, Cavendish official Church Randell said he planned to use rail here [see 8 April 2003 issue]. The facility has a spur just off Guilford’s Freight Main at a point called Rumford Junction [where the former Portland and Rumford Falls Railroad ran via Mechanic Falls to Rumford - editor]. Hoppers drop the grain into a space just beneath the tracks, from which a small conveyor moves the grain into the building. {ANR&P coverage 7.Mar.04}

**Detroit**, Route 100. Cavendish bought this from GROWMARK in 2003, which got it from Agway. In 2003, Cavendish official Church Randell said he was already using rail here [see 8 April 2003 issue]. A spur switch point facing east comes off to the north of Freight Main just west of Route 220, up to 11/100. The spur serves both the Cavendish fertilizer facility, and the Feed Commodities feed mill [see 2 February issue].

Randell said that Cavendish had no intent of operating a competing feed mill in Detroit.

**Leeds Junction**, 358 Leeds Junction Road. Cavendish has had this facility for at least five years [see 8 April 2003 issue], with a spur off Guilford’s Freight Main [also at this location, Guilford’s spur to Rumford begins - editor].
NORTHERN MAINE FACILITIES
Jonathan Stevens, branch supervisor of the Aroostook County facilities, said of the three fertilizer facilities, Caribou and Houlton have rail facilities, while Fort Fairfield gets material trucked from Caribou if it arrives by rail. A former facility in Fort Kent is now closed. Cavendish Agri has offices in Presque Isle.

If material arrives from overseas, some 90% of the time it arrives at the Port of Bayside and gets trucked to Maine facilities. If the fertilizer arrives from western Canada or the United States, it is railed. The choice, much of the time, depends upon the cost of transport.

Of MMA service, he said: “They’re doing a good job for us.”

Caribou. Limited Access Highway. Cavendish bought this facility from Nutrite in November 1998. In 2003, Cavendish reactivated the rail siding here, off the MMA line to Limestone. “It’s all about the cost of transport,” said MMA Assistant Vice-president Marketing Bob Thomas. “In both cases [also Houlton], this will greatly enhance the productivity and ease with which they unload fertilizer from rail cars.” [MMA Manifest winter.03]

Stevens said the use of rail depended on choice of source. This year, fertilizer arrived by rail; the year before, very little did; and the year before that, much did. If the facility does receive by rail, it gets about 60 to 70 cars a year.

Houlton. In November 2003, Cavendish installed a rail receiving facility on the existing siding. A local contractor put in a conveyor system to move the fertilizer from a space under the track filled by a bottom-dump hopper. MMA did the necessary rail work. [See Thomas quote, above.] The conveyor loads trucks, which then move the fertilizer to one of several storage spaces. Stevens believed the facility receives about 24-25 cars per year. {ANR&P discussion 15.Mar.04}

SAINT LAWRENCE & ATLANTIC
15 March, Greenwich CT. SLR’S INTERMODAL TRAFFIC INCREASED from 5,387 cars in 2002 to 5,518 in 2003. Intermodal revenue rose from $1.302 million to $1.574 million, and revenue per intermodal carload rose from $242 to $285. [Compare to half-year results in 21 August issue.] {Form 10-K filed with Securities and Exchange Commission}

MASSACHUSETTS
CSX TRANSPORTATION
16 March, New Bedford. P.GIOIOSO & SONS WILL PROBABLY RECEIVE THE CONTRACT TO DO THE RAIL YARD HERE. McCourt, the low bidder [see 5 March issue], was rejected because it did not list the subcontractor to do the rail work. {ANR&P discussion with Bob Luongo, general manager of the New Bedford Economic Development Commission 16.Mar.04}

A Gioioso official said he had prices from three different rail contractors, and if his company got the contract, it would then select one. {ANR&P discussion 17 March 2004}

BCLR/CAPE COD CENTRAL
6 March, Hyannis. THE CAPE COD CENTRAL WILL RUN THIS YEAR. Cape Cod Central Railroad President Scott Himstead, in a statement released this week, stated that operation will start in April, as scheduled. Despite fiscal belt tightening, 2003 was the company's best year since the current ownership took over in 1998. “We had a lot of cost containment here, which is one reason why we were able to show a better bottom line,” Himstead said in an interview. The railroad carried more than 30,000 passengers last year from its Hyannis ticket office to the Cape Cod Canal on lunchtime, dinner and scenic excursions.

License agreement renewed
EOTC Secretary Daniel A. Grabauskas recently approved a renewal of the tourist train's 1998 license agreement, allowing the company to operate on the state-owned tracks through 2008. Jon Carlisle, EOTC spokesperson, said the licensing negotiations went smoothly. “We always intended to, over the winter, work on the next contract, which will be starting in the
springtime,” Carlisle said. “It’s certainly not an 11th-hour contract.”

The company also has received state approval to cross the Railroad Bridge over the Cape Cod Canal on occasion and make chartered trips to Wareham, Himstead said. “We’d very much like to do that, and hope to proceed with that this year.”

Frederick Melo in Cape Cod Times 6.Mar.04}

Himstead said CCCR had renewed its agreement with BCLR to July of 2006, when the EOTC Agreement with BCLR expires. He noted that BCLR could not extend its agreement beyond that date until it wins renewal of its own agreement. {ANR&P discussion 17 March 2004}

GRAFTON & UPTON

27 February, Boston. **THE RAILROAD WAS GRANTED AN INJUNCTION** against the Town of Milford. In US District Court, Judge Nathaniel Gorton waited the four weeks he said he would [see 20 January issue] for the STB to act.

**Facts about GU**

The judge found that GU has roots dating back to 1873, and currently operates 15.5 miles of track, though it has been “relatively dormant.” It has yards in Hopedale, Grafton, Upton, and Milford.

The Milford Yard is ‘uniquely located and configured to serve’ the Boston Railway Terminal, the customer GU wants to land. The Yard is located in the geographic center of BRT’s sphere of operations, it has direct access to CSXT, and it has road access to I-495.

**Town of Milford legal argument**

Milford agreed that federal law pre-empted its regulation of railroad activity, but argued that the BRT operations were essentially that of a trucking company. However, the Court read legal precedents as stating that state and local regulation of even non-railroad activities ‘are expressly pre-empted under the ICCTA [federal Interstate Commerce Commission Termination Act of 1995] so long as those activities are related to the operation of railroads for use in interstate commerce.’

**Grounds for injunction**

The Court found that the four grounds for a preliminary injunction existed. First, legal analysis showed GU would succeed on the merits; second, GU would suffer irreparable harm because no other customer is likely to use the Milford Yard; third, the injury to GU outweighs the harm to the town. The town ‘will still be protected by federal environmental statutes and regulations.’

Fourth, the public interest will not be adversely affected by a preliminary injunction. The public interest is protected by the federal environmental statutes and regulations, and enhanced by ‘the potential for economic development.’

**STB jurisdiction**

However, the Court continued, the STB has primary jurisdiction here and should ‘determine the precise scope of that pre-emption.’ The Court will ‘permit the STB to consider the matter in full.’

So the Court preliminarily enjoined Milford from taking steps to prohibit GU from developing the Milford Yard with the BRT. But it stayed the litigation [which would argue over making the injunction permanent–editor] while the STB was deciding the case. {USDC District of Massachusetts, Grafton and Upton Railroad v. Town of Milford, Civil Action No.03-40291-NMG, decision 27.Feb.04, filed with STB in Finance Docket No.34444}

MASSACHUSETTS CENTRAL

9 March, Palmer. **THE RAILROAD’S PLASTICS TRANSLOADING IS “HEALTHY”**, according to General Manager Mike Smith. MCER is continuing its program to increase the capacity and quality of its terminals. At the Gibbs Crossing yard, it is double-ending all tracks, so that it can switch “from both ends.” This “minimizes interference with the trucking companies as they pump off cars.” This year MCER will pave 25 spots in Gibbs [see issue 03#10B]. {ANR&P discussion}

GRS-WILMINGTON & WOBURN

2 March, DC. **THE STB GRANTED THE WILMINGTON & WOBURN TERMINAL RAILROAD COMPANY (WWTR) an exemption from prior approval to construct 2700 feet of new line, acquire 1300 feet of existing track, and operate**
the whole. [See 11 February issue.] WWTR indicated it would handle about 20 cars daily over the line.

The Surface Transportation Board found that the exemption would promote rail policy ‘by providing a rail service option to shippers.’

Environmental questions
WWTR must now convince the Board that the track construction will meet environmental standards. ‘WWTR has consulted with the Board’s Section of Environmental Analysis (SEA) regarding the environmental review process. WWTR has requested and received a waiver of the 6-month pre-filing notice normally required by 49 CFR 1105.10(a) for a proposed line construction project. SEA is currently preparing an Environmental Assessment (EA) in this case. See 49 CFR 1105.6(b)(1). After comments on the EA are received, SEA will prepare final environmental documentation. The Board will then issue a further decision addressing the environmental aspects of the proposal and deciding whether to allow the exemption to become effective.’ {STB Finance Docket No. 34391}

NEW HAMPSHIRE

MBRX v GUILFORD

25 February, Milford. TRUCKING GRAVEL IS A POSSIBLE OPTION FOR GRANITE STATE CONCRETE, argued Guilford Rail System in its rebuttal to the MBRX-Granite State Concrete (GSC) reply. [MBRX and GSC have asked the STB to tell GRS to allow the resumption of MBRX round-the-clock operation on the portion of GRS track MBRX needs to use to get to the GSC plant. GSC argues town rules permit it to use only rail. See 18 July 2003 issue.]

Although MBRX and GSC state that the Town of Wilton regulations bar trucking, GRS cited evidence that the town would permit trucking if use of the rail was ‘unavailable or impracticable.’ But, said GRS, GSC does not use trucks because it wants to preserve MBRX as a railroad, as GSC is the only customer of MBRX.

And MBRX is charging GSC a low rate: ‘[A]pparently due to its reliance upon Granite State, MBR[X] charges an artificially low rate for the movement of stone--[figure blacked out for confidentiality reasons]--despite the fact that its expenses for providing the service are approximately [figure blacked out]...This low rate, established by a handshake between Granite State and MBR[X] in 1991 and apparently never increased, makes it impossible for trucks to be competitive with rail in this instance. Because of the dependence of MBR[X] upon Granite State for its financial survival and the market dominance that this leverage provides to Granite State, it is not likely that Granite State would use trucking even absent the purported limitations of the [town permits].’

Balance of rebuttal
The GRS rebuttal contains 86 pages; only two discuss the use of trucks. This newsletter will not cover the fine details of the legal arguments. {STB Finance Docket Nor 42083}

23 February, Milford. MBRX AND GSC REQUIRE COMPENSATION FOR THE DAMAGES suffered as a result of Guilford’s capricious actions, argued the two in their rebuttal to the GRS reply.

‘Even if it is assumed...that Guilford’s position on...issues were proven, and that, to use Guilford’s words, it was not an “evil empire intent on wrecking havoc” on, and engaged in a “nefarious plot” against, Granite State and Milford-Bennington, the fact is that Guilford’s actions were unreasonable....[R]estricting Milford-Bennington’s operations as a result of a disagreement about the use of a derail device was an arbitrary and capricious overreaction....’

Balance of rebuttal
The MBRX-GSC rebuttal contains 71 pages; only one contains the argument about overreaction. This newsletter will not cover the fine details of the legal arguments. {STB Finance Docket Nor 42083}

NEW HAMPSHIRE NORTHCOAST

4 March, Center Ossipee. NH DOT THOUGHT REVIVING THE CONWAY BRANCH WORTHWHILE, according to a presentation to a public meeting here by Kit Morgan, rail administrator, and Brian Lombard, railroad operations engineer.
The New Hampshire legislature passed a bill commissioning a feasibility study for restoration of the 22 miles of the state-owned branch that has not seen a freight train since 1972.

Preliminary findings (a final report is due to the General Court in June) indicate that restoration of the line is indeed feasible. Hi-rail inspections during autumn 2002 and autumn 2003 showed the line “intact and in fair condition” despite non-use for 32 years. Nearly all of the 75- and 85-pound rail is in good shape (although some missing in some areas or paved over in others). All slopes and the railbeds in most areas are in good shape.

The cost and feasibility was outlined in a three-phase plan.

Phases I, II, III
Phase I would permit FRA class 1 freight service for about 5 years.
Phase II would entail further reconstruction and improvements to maintain service along the line, and probably bring it up to FRA class 2. A Phase III would depend on volume and type of traffic on the line and would be used totally for rail upgrade and bringing the line up to FRA class 3.

Partial rehab
NHDOT also presented cost estimates for partial rehab of the line to Mt. Whittier, or to Silver Lake.

<table>
<thead>
<tr>
<th>Work/possible cost</th>
<th>Phase I</th>
<th>Phase II</th>
<th>Phase III</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>ballast</td>
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<td>285,000</td>
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<td>grade crossings</td>
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<tr>
<td>total</td>
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</tr>
</tbody>
</table>

Grand Total $13.752 million

Use of the line
NHDOT identified potential customers as a power plant in Tamworth, a lumber company at Silver Lake, and a propane distributor in Ossipee or farther north, possibly Conway. Regular passenger service is considered unlikely at this time; however tourist/excursion uses are possible.

When asked if NHN was interested in the rehabilitation of the line, both NHDOT and an NHN representative said yes.

NH State Senator Joseph D. Kenney (District 3), who sponsored the amendment to the bill which authorized the cost and feasibility study, encouraged all interested parties to contact their legislators about supporting the rehabilitation project.

Two issues must be considered: property issues (encroachment) and the current recreational use of the line (snowmobile trail). {Rich Roberg in NERAIL e-list 5.Mar.04}

Morgan later stated: ‘One of the main reasons to preserve the corridor was the fact that it is the only complete north-south corridor in New Hampshire.’ {e-mails to ANR&P 9 & 17.Mar.04}
Partial projects
As far as Mount Whittier: phase I $2.628M, II $675,000.
As far as Silver Lake: phase I $3.978 million, II $1.000 million.

Paper barrier
If NHDOT opens up the line to Conway, could NHN use that route as another interchange? Only if Guilford permitted it, according to the deed transferring ownership of the 22 miles to the state. [Such a paper barrier constructed by Conrail and inherited by CSXT prevents CSO from interchanging with PW.]

The deed from Guilford to NHDOT reads:

‘The Grantor [Guilford] excepts from this conveyance and reserves for itself a perpetual exclusive freight rail transportation easement in the Premise.’ Section C permits Guilford to transfer the easement to another carrier with the consent of NHDOT.

Section D states:

‘D. Notwithstanding the provisions of Section C, above, Grantor shall, upon request by Grantee, assign its rights to provide local freight service to those customers located in the State of New Hampshire to an operator selected by Grantee. Provided, however, that Grantor may require that any assignee consent to perform the interchange/exchange of freight traffic solely with the Grantor.’

TWIN STATE RAILROAD
10 March, Concord. APPROVAL OF $535,000 FOR THE GILMAN PAPER MILL [see 5 March issue] came when the Governor and Council met this day. The agenda item read: ‘#5 Authorize to enter into an agreement with the Town of Dalton, NH, under the Community Development Block Grant Program, for the purpose of assisting the start-up of a private company in the amount of $535,000. Effective upon G&C approval through June 30, 2006.’

Filing of adverse abandonment petition
GRS does have an incentive to file the adverse abandonment petition against TSRD [see 5 March issue]. According to Kit Morgan, GRS won’t ‘get the money held back for the value of the lease until the adverse abandonment is approved by STB.’

VERMONT

VAOT - RAIL PLAN
16 March. VAOT WILL HIRE R.L.BANKS TO DO A STATE RAIL PLAN. According to planner Scott Bascom, the RFP was issued 5 November 2003 ‘and we are in the process of contracting with R. L. Banks.’

Why a rail plan?
Per Bascom: ‘Two reasons: 1) it was recommended in the 2001 Rail Capital Investment Policy Plan that a State Rail Plan be updated every 5 years, and; 2) it is our understanding that new federal reauthorization funding programs will contain wording requiring that proposed rail projects be included in a current State Rail Plan Update, so we are trying to be proactive and have one ready.’

VERMONT RAIL - RUTLAND
10 March, Rutland. SHOULD THE CITY GIVE UP ON THE CENTER RUTLAND CONNECTOR?. During a meeting at City Hall, Rutland Town Selectman Steven Hawley asked: “If there's a lot of opposition [to the connector—see 5 March
issue] and we back off, will it impact the plans to relocate the railyard and how will it affect [Vermont Railroad's] operations?"

For years, the two municipalities have studied how to avoid trains running from Burlington to Whitehall and vice versa needing to run into the Rutland Yard. In addition to saving time and maximizing efficiency for the railroad, the move would lessen rail traffic and the congestion it often creates in the city. It would also reduce the risk of a train overturning in the city, spilling potentially hazardous materials.

Town officials rejected the option which would require an at-grade crossing. Town Select Board Chair Stanley Rhodes said he wanted to give his board more information about the trestle before deciding which option to pursue. {Brent Curtis in Rutland Herald 11.Mar.04}

### QUEBEC/MARITIMES

#### NBSR-MMA

14 March, Farnham PQ. **THE NBSR-MMA TRAILER TRAIN TRAFFIC IS BUILDING**, according to some recent sightings. On this day, the eastbound trailer train went through Welsford, NB at 6PM with two locomotives and 19 flatcars, all but the last one with trailers: eight Sunbury trailers, four plain white trailers, three Brossard trailers [Brossard Location, per its website, is a trucking company with three locations in Quebec-editor], one XTRA trailer [Xtra per its website leases trailers-editor], and two flatbeds with some kind of wrapped cargo on them. {Steve Boyko in Atlanticrails e-list}

The westbound had 20 flatcars with about 16 trailers on them. {Justin Franz in Atlanticrails e-list}

The eastbound on 16 March had 15 trailers, with a mix of Sunbury, Brossard, Xtra and two flatbeds. The flatbed trailers (spine types) had Sunbury lettering.

**Some Wal-Mart traffic?**

Unconfirmed reports indicate that the Sunbury trailers haul Wal-Mart products. Fredericton, Saint John, and Moncton have Wal-Marts. Sunbury trailers are spotted at the Fredericton store’s loading docks, where in years past CN Intermodal trailers were spotted. {e-mails to ANR&P from Brian Barchard}

#### HALIFAX

8 March. **HALTERM ANNOUNCED FOURTH-QUARTER AND YEAR VOLUMES.** For the quarter, volumes declined to 31,063 containers [34,667 in the third quarter–see 14 November 2003 issue] from 47,340 in 4Q 2002. For the year ended December 31, on volume of 149,450 containers, the Fund earned $7.6 million before depreciation, taxes and a one-time write-down of goodwill. This compares with EBDT (earnings before depreciation and taxes) of $10.3 million on volume of 174,136 containers in 2002.

**Containers from remaining customers**

In 2003, the terminal's three largest customers, Zim Israel Navigation Company (Canada) Limited (“Zim”), Maersk/Sealand, and Costa Container Lines S.P.A. (“Costa”) accounted for 71% of the total volume, compared to 76% in 2002.

In the first quarter of 2003, ACL [see 26 March 2003 issue] moved to Ceres, Maersk [see 12 March 2003 issue] ended one lane, and Halterm had a one-time call by Evergreen [see 4 June 2003 issue]. These now-ended services supplied 20,137 containers in 2003. Volume from the terminal's remaining, continuing vessel services increased by 14% over 2002.

With the signing of the three-year contract with Zim [see 5 March issue], all Halterm customers are under long-term contracts.

**Income decline**

The fund lost $48.9 million for the year, compared to earning $6.8 million in 2002. Nevertheless, the Fund on 9 March authorized the second cash distribution following the decision to halt regular dividends.

“With the disappointing events of 2003 behind us, the challenge now is to rebuild the business and improve profitability,”
said Doug Rose, president of Halterm Limited. He added, “The long-term fundamentals of our business remain strong, and we are confident that our volume and earnings will recover over time.”

**Reasons for confidence in a recovery**

The press release stated in the section on Outlook: ‘Container volume has stabilized following the major loss of business from ACL and Maersk/Sealand. The Fund remains profitable and is generating more than sufficient cash flow to cover its operating, capital replacement and debt service obligations.

‘The North American economy remains strong and worldwide growth in the container shipping business has resumed. Volume from continuing customer vessel services calling Halterm grew by 14% over the previous year. By comparison, for the year ended December 31, 2003, the Halifax Port Authority reported a port-wide increase of 3.3% in container volume, based on the number of TEU’s (twenty foot equivalent units) handled.

‘The Port of Halifax and Halterm have an opportunity for future growth in container handling as the trend towards larger-sized container vessels continues. The primary requirement of these vessels is deep water, and the Port of Halifax has the deepest natural harbour on the east coast of North America. Halifax is also positioned as the first port-of-call in and the last port-of-call out on the Great Circle Route, the shortest shipping distance between ports in Europe and the Mediterranean and those on the east coast of North America.

‘Halterm is a well-equipped terminal, with seventeen years remaining on a long-term lease with the Halifax Port Authority. The terminal is presently operating at less than 50% of its capacity with room to double its volume.

‘For these reasons, management remains confident in a viable future for the Fund and an eventual recovery of business.’

{text from Halterm website; names of discontinued services from discussion with Doug Rose 12.Mar.04}

11 March. **THE CN STRIKE IS AFFECTING THE INTERMODAL TERMINALS.** Calvin Whidden, spokesperson for Ceres, operator of the Fairview Cove container terminal, said a shortage of rail cars to move import cargo is developing. Carl Bannerman, general manager of Zim Container Line which uses Halterm, said “service hasn't been up to snuff but not as bad as expected. But if the strike is not settled quickly we are in for some deterioration of service. We have had several instances where (export) containers missed.”

**Inland effect**

With managers unloading import cargo more slowly than CN workers can at inland terminals such as Toronto and Montreal, the slower loading is causing longer turnaround times for rail cars returning to the port. Warren Hutt, Atlantic Canadian president of the union's Local 4005, said the strike's impact is obvious from the length of trains coming to Halifax. “The trains are less than 5,000 feet (1,520 metres) and before the strike they were over 9,000 (2,740 metres).”

**Autoport not yet affected**

Spokesperson Jerry Archer said the facility has not had any problem getting rail cars. “The strike has been fairly harmless.”

{Tom Peters in Halifax Herald 11.Mar.04}

**STRAIT OF CANSO**

11 March. **ULTRAMAR WAS PERMITTED TO USE A FOREIGN VESSEL** to move unrefined product from Statia Terminal at Point Tupper to its refinery at Point Levis, Quebec. The Canadian Transportation Authority granted the ‘application by Ultramar Ltd., pursuant to the Coasting Trade Act, S.C., 1992, c. 31, for a licence to use the Cap Diamant, a Liberian tanker, to carry approximately 130,000 metric tonnes of crude oil for one voyage from Point Tupper, Nova Scotia to Lévis, Quebec, during the period commencing on March 28, 2004 and ending on April 2, 2004.

CTA found no Canadian ship could perform the same function. {Decision No. 118-W-2004 March 11, 2004 , CTA website}
SYDNEY

5 March. THE PORT WILL LOSE SOME RO-RO TRUCK TRAFFIC TO BELLEDUNE. In 2001, the Belledune Port Authority selected Regal Shipping, after soliciting expressions of interest, to start commercial ferry service for trucks between Belledune and Corner Brook. Under the contract, made final recently, Port Authority President Georges Marcoux saw “a savings of about $1,100 for each [truck].”

Three boats a week will start in July, offering a considerable cut in driving time versus using North Sydney.

The Belledune area is counting on the increase in traffic to boost the local economy. “It means maybe 400 or 500 trucks coming here. It means that the service industry will have to grow because the drivers will need services and so will the trucks.”

A vast parking lot for the trailers will be built in Belledune for about $600,000. The port authority expects between 100 and 125 trailers each time the boat sails. {Belledune Cargoflex winter.01; CBC webposted 5.Mar.04}

North Sydney service

For over 100 years, a ferry service has existed between Port-au-Basques, Newfoundland, and North Sydney. It is currently operated by Marine Atlantic. {Marine Atlantic website}

RAIL SHIPPERS

Described in this issue.

Our Directory of Rail Shippers & Receivers in Southern New England has more information on the companies denoted with their directory number.

Boston Railway Terminal (MA #219 GU), Cavendish (Maine, five sites), Dirigo Paper (NH, TSRD), Georgia Pacific (Regional, #241 CSXT, #684 HRRC, Portland GRS, Shelburne VRS), Granite State Concrete (NH MBRX), MCER Palmer intermodal yard (Regional, MCER #358), MMA/LMS intermodal yard (Regional, MMA), MMA Farnham intermodal yard (Quebec MMA), Nexfor Fraser (Regional, six sites), SLR intermodal yard (Maine, SLR).

EDITORIAL

SHOULD US COURTS SUPPLANT THE STB?

Generally, the STB and US courts have concurrent jurisdiction over issues revolving around railroads. Unfortunately, the Surface Transportation Board, and the Interstate Commerce Commission before it, have acted very slowly in deciding most matters—especially ones of relatively minor importance, such as the GU-Milford dustup [see Massachusetts] or the MBRX-GRS dispute [see New Hampshire].

Normally, courts defer to an agency in situations in which the issue is one within the particular expertise of the agency, and where uniform interpretation of the law is desirable. Presumably, an agency will be more consistent in the interpretation of its governing statute than would multiple courts around the country. Following this doctrine, courts in New England have often deferred to the STB, resulting in agonizingly slow decisions.

We should therefore welcome US District Court Judge Nathaniel Gorton’s willingness to issue a preliminary injunction in the GU matter, permitting GU to accept BRT as a customer. Clearly, federal courts can move the rail dockets along more quickly than the cash-strapped STB.

I urge other federal judges to follow his lead.
Coverage
The newsletter covers the operating freight railroads and ports in New England, the Maritimes, and eastern Québec, as well as the government environment they function within. Coverage includes passenger rail and ships when relevant to freight operations.

Frequency and the e-bulletin
ANR&P appears at least four times a month. We send a formal issue twice a month, via post or e-mail. Between the issues, we send out the e-bulletin, only by e-mail. All information in the e-bulletin is included in the issue.

Advertising
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Pricing
Subscriptions cost $375 for professionals, $105 per year for students, young and old. Introductory prices available. The e-bulletin, sent by e-mail as needed between issues, is free of charge to all subscribers.

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

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