SEN. ROGER J. KATZ, SENATE CHAIR
REP. CHUCK KRUGER, HOUSE CHAIR

MEMBERS:

SEN. CHRISTOPHER K. JOHNSON
SEN. DAVID C. BURNS
SEN. PAUL T. DAVIS, SR.
SEN. BILL DIAMOND
SEN. STAN GERZOFSKY
REP. MICHAEL D. MCCLELLAN
REP. RICHARD H. CAMPBELL
REP. ROBERT S. DUCHESNE
REP. ANNE-MARIE MASTRACCIO
REP. DEBORAH J. SANDERSON

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
October 6, 2016

CALL TO ORDER

The Chair, Senator Katz, called the Government Oversight Committee to order at 9:34 a.m. in the Cross Office Building.

ATTENDANCE

Senators:	Sen. Katz, Sen. Johnson, Sen. Burns, Sen. Davis, Sen. Diamond and Sen. Gerzofsky
Representatives:	Rep. Kruger, Rep. McClellan and Rep. Mastraccio Joining the meeting in progress: Rep. Campbell Absent: Rep. Duchesne and Rep. Sanderson
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Matthew Kruk, Senior Analyst, OPEGA Kari Hojara, Senior Researcher, OPEGA Etta Connors, Adm. Secretary, OPEGA
Others Providing Information To the Committee:	Ryan Neale, Program Director, Maine Development Foundation

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE SEPTEMBER 15, 2016 GOC MEETING

The September 15, 2016 Meeting Summary was accepted as written.

82 State House Station, Room 107 Cross Building
Augusta, Maine 04333-0082
TELEPHONE 207-287-1901 FAX: 207-287-1906

NEW BUSINESS

- **OPEGA Information Brief on Northern New England Passenger Rail Authority**

  - **Public Comment Period**

Chair Katz said at the public comment period the GOC offers the agency involved in the review the opportunity to speak first and also the opportunity to address the Committee after other public comments have been heard.

Patricia Quinn, Executive Director, NNEPRA, presented her testimony and addressed questions from the members. (A copy of Ms. Quinn's testimony is attached to the Meeting Summary.)

Sen. Gerzofsky noted he was concerned about the accuracy in some of the testimony presented and had concerns about the decision-making process that NNEPRA went through in siting the location of the maintenance facility. He asked if questions were appropriate now or after everybody's testimony.

Chair Katz said if the Senator wanted to ask Ms. Quinn, or anyone else that comes forward, questions following their testimony that would be appropriate. The Chair was going to try to keep the discussion focused within the parameters he had initially discussed, but if Committee members had questions, feel free to ask them.

Sen. Gerzofsky referred to Ms. Quinn's testimony regarding public participation in making decisions on the site location for the maintenance facility in Brunswick. Sen. Gerzofsky described himself as having more of a role in setting up public meetings, which he referred to as senatorial hearings, than Ms. Quinn. He said the second meeting Ms. Quinn referred to was to hear from NNEPRA on their thoughts on different layover locations and the third meeting was very little about the public and was more about NNEPRA taking a vote. He asked Ms. Quinn if she recalled it the same way. He also asked when the decision was made on where to locate the maintenance facility, because he and some of his constituents did not know about it.

Chair Katz clarified Sen. Gerzofsky's questions. What is Ms. Quinn's perspective on the role and the ability of the public to be able to weigh in during the three public hearings she talked about and, secondly, when was the decision actually made by the Board that this is what NNEPRA wanted to do.

Ms. Quinn said when they realized that the funding was going to be available to allow them to expand service to Brunswick they knew that they wanted a layover facility at the end of the line so they started working with the town officials to identify a location that would make sense. She said there had been some other reports and studies done, that they reviewed and NNEPRA worked with the Maine Department of Transportation (MDOT). They identified the parcel that made sense because it had good physical characteristics. For example, it was close to the station, zoned as a railroad corridor, had been used as a rail yard, and the tracks that were there were currently used for switching. Ms. Quinn said NNEPRA actually put another storage track there as part of the project.

NNEPRA next met with town officials and they informed NNEPRA what they needed to do to construct a facility like the one they were thinking about. Ms. Quinn had a sketch but had not moved very far with it because there was no real budget or real design and it was more hypothetical at that point. The town officials said the parcel of property chosen for the layover facility would not support a building of that size and suggested NNEPRA go before the Zoning Board to get a dimensional variance. Ms. Quinn said NNEPRA completed the application process and showed up at the Zoning Board meeting. She said she recalled that members of the public were there because the town notified them as part of the Zoning Board process. She said from NNEPRA's perspective that was to be the introduction into the public process. Ms. Quinn said the Zoning Board granted a dimensional variance and that was a step in the process that opened the door for discussing it publicly. She said some of the town residents who were at the Zoning Board meeting wanted to

participate in the process and to understand more about how NNEPRA goes about the selection process so the Board decided to get a consultant and perform a formal review process. NNEPRA hired Parsons Brinckeroff (Parsons) and started the formal selection process.

Ms. Quinn noted that Sen. Gerzofsky did call her saying they had a problem and needed to have a public hearing. She agreed. She and Senator Gerzofsky held a public meeting with many people of the community attending to express their view points. NNEPRA then took any suggestions that people had for a site in Brunswick that even made remote sense. She said Parsons looked at any potential site in the area, whittled them down to three and came back again to explain the three sites to the public. People expressed their comments on those sites and then they refined that selection and came back with a report that evaluated all of the criteria and made a recommendation to the Board publicly. They recommended that the rail yard was the best location for the facility. The NNEPRA Board then met on August 22nd at the University of Southern Maine and voted at that time to accept the recommendations of Parsons on the site location. She said that began a process. NNEPRA had not yet selected a contractor. The Board also noted that there was a lot of passion about NNEPRA's project and told the staff to make sure, as they went through all the steps in the process, that they hear the public's concerns. NNEPRA formed the Brunswick Layover Advisory Group (Advisory Group) and they had a couple of meetings. NNEPRA was working with Parsons at that time to develop the building specifications so NNEPRA could put it out for bid. The public members of the Advisory Group and others provided comments, NNEPRA brought experts in on noise and vibration and Parsons talked about different aspects of the building. She said the input provided was incorporated into the design specifications, including sound, because noise emanating from the building was a major concern to the people who lived nearby. The specifications were upped a little to increase the soundproofing of the building. The main access to the facility was going to be from Church Road and required overhead pole lighting but NNEPRA said no overhead pole lighting and ultimately light only on the other side of the building. The building was designed so the fans are facing away from most of the residents. Ms. Quinn said there was also going to be a holding track to be located on the South side of the building where the Brunswick neighborhood is and that was eliminated from the project. She said several aspects of the public comments were taken into consideration and the folks on the Advisory Group saw the specifications before they went out for bid. NNEPRA went through the process of selecting a contractor and Consigli was awarded the building contract. When Consigli began their work they also had meetings with the Advisory Group that were held at the Brunswick Town Hall so they could explain to the public how they were addressing some of the aspects of the building that were of concern such as sound, lighting and track configuration - so members of Consigli interacted with the Advisory Group as well.

Ms. Quinn said when NNEPRA put together a funding package, including federal funding from the Federal Railroad Administration (FRA), that opened another public process. The FRA process requires a long public comment period, a lot of review and documentation that was conducted over the next several months, including a public hearing. She said members of the public were able to provide their comments, the meeting was transcribed and it is the FRA's requirement that all of the comments be reviewed. Ms. Quinn, NNEPRA's consultant and FRA read all the comments. She said there was no question that the people did not want the building to be built in that location. Ms. Quinn said NNEPRA could not satisfy that request, but that did not mean they didn't listen or try. It just meant that the location site chosen was the best place for the building. She said after starting the process in 2010 there was a lot of meetings, input and back and forth. Construction started on October 15, 2015.

Sen. Gerzofsky referred to the Advisory Group and thought it initially did not include appropriate representation from the neighborhood. The Advisory Group included a town developer, NNEPRA, one person from the neighborhood and the Chair of the Town Council, who was not the Councilor that represents the district the selected site was in. He said it took a second meeting, one between himself and the Chair of the NNEPRA Board and one of the Board members, to expand the Advisory Board so the neighborhood actually had representation. He recalled that at the Advisory Group's meeting they could talk about what was going on inside the building but not outside the building, the press was not there and there wasn't really any communication. All he remembered is three meetings of the Advisory Group that were held in NNEPRA's

Office and members could only talk about limited subjects. He thinks the GOC is discussing NNEPRA today because of the lack of transparency back then.

Sen. Gerzofsky asked Ms. Quinn if she recalled that when NNEPRA created the Advisory Group that there was one person from the neighborhood and one Town Councilor who did not represent that district. Ms. Quinn believes NNEPRA asked the Town Council who they wanted to participate from the Town. She recalled there were at least two, if not three, members on the original Advisory Group. It was her hope and expectation at the first meeting to develop a relationship with folks. Ms. Quinn knew that some people were upset and she wanted to sit down and informally talk about the concerns and it turned into lots of people and the press coming and NNEPRA was not prepared for that. They readjusted when asked to put different Council members on the Advisory Group and ultimately moved the meetings to the Town Hall so meetings could be recorded because it was clear that there was a lot of misunderstanding about what was going on. She did not recall anyone being stifled about talking about anything and NNEPRA made every effort to answer and address every question that was asked. Ms. Quinn said the fact of the matter is people don't always like the answers given to them, but sometimes the answers are the answers. She said it was a robust public involvement process.

Sen. Burns asked if the Advisory Group was formed after the meetings Ms. Quinn referred to previously. Ms. Quinn said correct. There were three meetings held to decide on the site and then the NNEPRA Board made its decision to accept the NNEPRA engineering consultant's recommendation that the Brunswick rail yard was the site. The Board also directed the staff to form a group to make sure there was coordination with the Town, State and community as the project was being developed. She said that is the Advisory Group.

Sen. Burns noted the three meetings held as stated by Ms. Quinn was to get to know people and understand what their concerns were. He asked if the three meetings were an exploratory thing for the community to see whether or not there should be a layover facility. Ms. Quinn said they were to discuss what the layover facility was going to do, what it was about, why it was there, but the primary focus was on determining a site. NNEPRA knew they needed a layover facility and were looking for a site that matched up to their requirements. Sen. Burns asked if they were general public meetings or was there already a committee formed. Ms. Quinn said they were general meetings open to the public and were very well attended.

George C. Betke, Jr., President, Transport Economics, Inc. (A copy of Mr. Betke's testimony is attached to the Meeting Summary.)

Sen. Diamond said he wanted to put on the record that he was intrigued by some of the questions Mr. Betke has brought forward as examples of areas of concerns. He would like to have the questions listed in Mr. Betke's testimony as part of the GOC's consideration at some point.

Chair Katz noted that the Committee can also discuss the extent to which Mr. Betke's questions might be more appropriate for different legislative committees, including the Transportation Committee Sen. Diamond sits on.

David Snyder, Manassas, Virginia. (A copy of Mr. Snyder's testimony is attached to the Meeting Summary.)

Pem Schaeffer, Brunswick, Maine. (A copy of Mr. Schaeffer's testimony is attached to the Meeting Summary.)

Sen. Burns asked if Mr. Schaeffer had offered his insights, expertise and knowledge about the projections to the NNEPRA staff and Board during the public meetings that were held and talked about earlier.

Mr. Schaeffer said he has talked about the information he provided in a number of public settings. He gave a briefing to the Passenger Rail Advisory Council that is jointly chaired by MDOT and NNEPRA. He said he does not have an economic background, but is a retired engineer who likes facts and logic and when things

start going on in Town he studies and looks into them. Looking at the quality of the study work done, he would suggest that he could do an exceptional job matching the quality of the output and would be happy to do that. Mr. Schaeffer said everything he talks knowingly about are things that he has learned through following the NNEPRA process over the last five years.

Sen. Burns asked if the GOC was the first body that Mr. Schaeffer provided his testimony to. Mr. Schaeffer said in terms of his statements, yes, but in terms of the charts, no. He has given the information at public meetings where NNEPRA staff were present and had access to the information.

Sen. Burns noted that the GOC is dealing with a narrow scope for the NNEPRA review, but it is also the Committee's responsibility to see if they need to go further. He asked Mr. Schaeffer what he hoped to be gained by the GOC charging OPEGA to go further in an investigation.

Mr. Schaeffer referred back to his testimony where he said he hoped the GOC would continue on and he had listed eight areas that, for him, all merit consideration. He noted the statement in the OPEGA report that says the study done was used as justification for further large capital spending and nobody challenged it.

Robert Morrison, Brunswick, Maine. (A copy of Mr. Morrison's testimony is attached to the Meeting Summary.)

Charles Wallace, Jr., Brunswick, Maine. (A copy of Mr. Wallace's testimony is attached to the Meeting Summary.)

Rep. Mastraccio asked Mr. Wallace if he was paid to prepare his testimony. Mr. Wallace said he is a consulting engineer who has provided six years of pro bono services to a neighborhood group who had no technical representative. He is a long-term resident of Brunswick and has a business and property that had adverse consequences based on decisions that NNEPRA made and he participated fully in the entire process including pro bono presentations.

Sen. Burns noted that Mr. Wallace stated he had been involved in the NNEPRA process throughout and asked if the contents of the material he provided to the GOC had been provided to NNEPRA staff and/or Board. Mr. Wallace said they have had it since the time when several of the senatorial information meetings were held, at the mitigation advisory group meeting, at the environmental site assessment, etc. He said he was considered to be a noise expert so on a pro bono basis he did simultaneous studies of sound levels at three of the sites under consideration. He participated directly in providing alternative discussions and met, conversed and provided NNEPRA's sound consultant with access to his property so he could take similar measurements. All of that information and all that is described is a matter of public record and NNEPRA has had full access to it.

Sen. Burns asked if Mr. Wallace has had feedback from any of their experts, either on the NNEPRA Board or staff or consultants they hired. Mr. Wallace said he got some negative feedback from a consultant during the storm water application process and that is in the chronology section of his testimony.

Rep. Campbell said the information Mr. Wallace presented to the GOC seemed very credible and raised a lot of major concerns. He asked whether, in Mr. Wallace's opinion, there was an option to expand rail service in the State. He also asked if there was an option for the GOC to do a good job with the review without making it either political or, in Mr. Wallace's words, an element of cronyism.

Mr. Wallace believes there is and in his opinion starts with the appointments of experienced individuals to the NNEPRA Board. He thinks it starts with a relook at the legislative level to provide more guidance, at the Board level by putting people on the Board who know what they are talking about, not just being cheerleaders and saying yes to everything a director says, and by doing real alternative analysis. With the right equipment Maine can provide a viable rail passenger service. The GOC should expand OPEGA's scope to look into allegations, fact checking the details of how this service has been provided, what has been said, how it has

been and is being sold, who is in charge and how they are doing their responsible tasks, He thinks you can put together a viable transportation service and that is not happening now.

Rep. Campbell asked if Mr. Wallace thought the public policy was defined enough. Mr. Wallace said yes and gave the example of a very important health bill, LD 439 that Sen. Gerzofsky had before the Transportation Committee. That LD was more about a health issue for those concerned in preventing excessive idling of the locomotives. Through testimony before the Transportation Committee, which is on record, Sen. Diamond perceived that the acrimonious atmosphere that was created around the bill could be resolved through negotiating a deal where Sen. Gerzofsky would withdraw his bill and NNEPRA would agree to do a whole bunch of things to address the concerns. He said legislators have a tough job in trying to provide a goal, implement a public policy without overburdening those who implement it with micro management. However, the presumption in that is that those who get hired will take stewardship and factually present their case without the need of spinning the details to sell a product. Mr. Wallace said there may be some room for legislative cleanup on details in the Transportation Committee, but he said this is about fact checking what has happened now.

Sen. Diamond referred to the chronology in Mr. Wallace's testimony and asked him to talk about what happened in terms of his involvement with either the Transportation Committee, Legislature as a whole or individual legislators in the past legislative session.

Mr. Wallace did not think he testified to anything during the last legislative session. His involvement has been that he is within160 feet of the locomotive that idles for five and a half hours every day and when the wind is northerly and westerly, which is the dominant wind direction, he is breathing in diesel fumes from the Amtrak train. NNEPRA had negotiated to shut those trains all the way down by installing outside power systems, referred to as the wayside power station, which was installed across from his office. In 2015, Mr. Wallace went to the Brunswick Town Council and provided an engineering sketch of how the wayside power system could be located at the Brunswick Station itself thereby preventing a train from having to leave the station and go to the layover area. He said NNEPRA's Executive Director told the Brunswick Town Council that couldn't be done because you can't cross tracks with cables. Mr. Wallace said they cross tracks all over the world with cable trenches that go beneath the tracks and yes they cross the tracks. The other excuse given was that freight could not pass safely on the secondary track. He does not have a problem with the wayside station being across from his office if there was no real economic alternative but the fact is that there was no real political alternative because the NNEPRA Executive Director had the bulk of the credibility with the Town Council. Mr. Wallace provided Sen. Gerzofsky a lot of video recordings of the wayside power system not being used as intended to shut down locomotives.

At Sen. Gerzofsky's request, Mr. Wallace explained that he owns property in Brunswick that is adjacent to the rail yard. He purchased it in 1987. He built his first office building there knowing he was building alongside a railroad track, but at that time the rail yard had been fully dismantled. He said he had plans for a residential subdivision on the property. But now that the layover facility is there the property will not be developed for that purpose. He does not feel the choice of this site was fully vetted during the environmental site selection process. He had asked both a Department and NNEPRA to do a socioeconomic impact study of the choice of each site and it was never done.

Sen. Gerzofsky noted the wayside power station was the result of a negotiation Sen. Diamond was involved in whereby Sen. Gerzofsky would pull a bill he had introduced that would have eliminated, to a certain decree, passenger trains idling in the State of Maine. NNEPRA was to install the wayside power station to reduce trains idling in Brunswick. NNEPRA had testified that trains cannot be shut down when its below 45 degrees as they won't start in cold weather and he did not challenge that but the wayside power station was not being used as agreed to.

Sen. Gerzofsky asked if Mr. Wallace has seen and recorded the trains idling at 60, 70, and 80 degrees not just in the winter. Mr. Wallace said 95 degrees, all of the above.

Chair Katz referred to tab 3 in Mr. Wallace's written testimony where he said he had 87 Main Folders and 188 Sub Folders regarding NNEPRA and asked if he could email that information to OPEGA. Mr. Wallace said the files are so massive that you cannot email them. If the GOC chooses to have OPEGA go further in the review, he can provide OPEGA the information on CDs.

Chair Katz asked if any member of the Committee could contact him directly if they wanted to review a certain file that Mr. Wallace has listed. Mr. Wallace said any member can write him directly and he will provide the information.

Chair Katz referred to the word cronyism used by Mr. Wallace and wanted to know what he meant by that. Mr. Wallace said what he meant in using cronyism is when lobbyists and cheerleaders of a train service are described as providing economic analysis for the service and who are also described as full partners in the development of train service in Maine.

Daniel Sullivan, Brunswick, Maine**.** (A copy of Mr. Sullivan's testimony is attached to the Meeting Summary.)

Sen. Diamond asked Mr. Sullivan if the train engines were still idling. Mr. Sullivan said his house is right next to the building and said the idling goes on up the track. He has gone up the track over the last year and seen and heard them idling. It has been year round idling.

Tony Donovan, Commercial Realtor, Portland, Maine. (A copy of Mr. Donovan's testimony is attached to the Meeting Summary.)

Chair Kruger asked for clarification on a term Mr. Donovan had used. Mr. Donovan said it was the service development plan which is a technical term for a plan to expand rail. For example the Downeaster's plan for everything they have done from Brunswick to Boston should be based on an adopted service development plan. The legislature passed and funded a service development plan for service between Portland and Lewiston during the past session. A service development plan is not a market analysis it is the actual plan for service.

Martin Eisenstein, Lewiston/Auburn area, (Mr. Eisenstein did not provide written copies of his testimony.)

Mr. Eisenstein said he has been on the NNEPRA Board since 2001 and is the current Chairman. He takes umbrage at the statement that there is an appearance of cronyism. He said no member of the Board has connections to transportation policy except the ex officio members and the recent appointment of John Melrose who was a former Commissioner of MDOT.

Mr. Eisenstein said the Board does not rubber stamp what Ms. Quinn does. If the Board agrees, it is because it is a good policy not because they are rubber stamping. He is very critical about financial affairs, asks critical questions of the NNEPRA staff and he gets good answers from them.

Mr. Eisenstein said they have tried as a Board, as an agency, to reach out to the neighborhood and after the Planning Board meeting there were three meetings held of which he chaired the third meeting. At that meeting they had a consultant present information on the three site alternatives. They would love to not be in the neighborhood, but the other two alternative sites would have created havoc for the Town of Brunswick. If the site selected would have been the Industrial Center Park the costs would have doubled or if at Cook's Corner it would have backed up traffic to Bath. The NNEPRA Board looked at the three site alternatives and on August 22nd at a public meeting, they picked the Brunswick west area. It was not a popular decision. Following a meeting he had with Sen. Gerzofsky, the Board reopened the site location decision and asked for a second opinion from MDOT. The MDOT said the Brunswick site location area the Board chose for the facility was the best location for the facility.

Mr. Eisenstein said NNEPRA had a blip in service last year, but it is coming back. As Ms. Quinn noted, there was a record quarter for ridership and they have learned from the lesson.

Mr. Eisenstein said the State, as a democracy, made a decision to have rail service. Once that decision was made NNEPRA wanted to implement it the best way possible and he thinks they have done that. Can NNEPRA be faulted from some of the things? Probably, but these are "judgment calls" and are political decisions.

Mr. Eisenstein said the State was fortunate to have the NNEPRA staff and organization and would hate to see them get dragged down in the mud because of some complaints and concerns that are not legitimate. NNEPRA staff have tried to deal with the public. Can they do it better? Yes. Should they make more presentations to the Transportation Committee? Yes. Does this warrant a full scale investigation by the GOC? No. He said the Committee had a great investigation and it is time to move forward on a solid foundation that past and current administrations have created.

Sen. Burns asked the number of members on the Board. Mr. Eisenstein thinks there is one vacancy at this time, but there are six or seven members.

Sen. Burns said Mr. Eisenstein mentioned a previous Board member who had experience in running a railroad and asked how many rail experts have been members of the Board. Mr. Eisenstein said just the one individual mentioned earlier. There have been other members who have had experience with rails. John Melrose, who not only has experience with rail, but also has experience with other forms of transportation. The Commissioner of MDOT is an ex officio member so that would include Commissioners Cole and Bernhardt and Dana Connors, Vice-Chair of the Board.

Sen. Burns asked how many engineers served on the Board. Mr. Eisenstein said Commissioner Bernhardt is an engineer, but did not know if any of the other members were.

Sen. Burns asked how long Ms. Quinn had been NNEPRA's Executive Director. Mr. Eisenstein said she joined NNEPRA in 2001 and he thinks she was made Executive Director about 2005, at which time he was on the Board.

Chair Katz said he was not familiar with the statute that created the NNEPRA Board and asked if Mr. Eisenstein thought it would be helpful if the statute for the Board had slots for someone with railroad, or engineering experience or for some other particular skill set that might be helpful for the Board's deliberation. Mr. Eisenstein thought that was a great suggestion. He said about five or six years ago there was a statutory amendment to create the two ex officio positions on the Board. He said Chair Katz's suggestion was a good one. Mr. Eisenstein thinks most governors try to follow that pattern, but there have been exceptions and political appointments were made. He said when there has been a political appointment to the Board they have not been long lived because it is beyond their interest and skill. There is a lot of technical data that gets exchanged and they did not have any interest in getting into the details of the technical data.

Rep. Campbell asked if the ex officio Board members are voting members. Mr. Eisenstein said they were, although they did not vote on certain issues. Rep. Campbell asked for an explanation of that statement and Mr. Eisenstein said the members chose not to vote on the layover facility because whenever there is a decision that might involve some political element they choose not to vote.

Sen. Burns said he has served on a number of boards and asked what talent or skill does the NNEPRA Board look for when someone is put on the Board. Mr. Eisenstein said the Governor appoints members. His role as Chairman of the Board and as a Board member is to respect every Board member and every Board member should be able to say that he has respected them. His perception was that those members that did not stay felt that the subject matter was not in their skill range.

Sen. Burns asked what were the interest or skills that Mr. Eisenstein thinks are expected of a NNEPRA Board member. Mr. Eisenstein thinks a good board member should have a sense of skepticism, the ability to read through information to ask questions and be skeptical, but a good board member should not get immersed in the details. It is up to the staff to decide that. The Board should not be hiring staff. The only person the Board should hire and review is the Executive Director and who Ms. Quinn decides to hire is up to her. Hiring should never be up to a Board member nor should the individual decisions be up to a Board member. It should be up to the full Board and however Ms. Quinn discharges her duties and makes recommendations, those are Board decisions, but they cannot and should not be involved in the details because that is a prescription for disaster in running any kind of organization.

Sen. Burns said it might be helpful to the Board to have somebody on the Board with technical expertise to listen to the NNEPRA staff's presentations and to discern what the Board is being told. Mr. Eisenstein said to ask the critical questions, absolutely.

Sen. Diamond asked Mr. Eisenstein if, as Chair of the NNEPRA Board, had he heard, prior to today, any of the accusations or allegations regarding the lack of transparency or the way people were treated, particularly the way Mr. Sullivan described. Mr. Eisenstein said it was not new to him. He heard it from Sen. Gerzofsky and, he had not heard it directly from Mr. Sullivan, he thinks he heard some of that at the third senatorial public meeting. He has heard bits and pieces, some of which he has read in the newspaper.

Sen. Diamond said he was more concerned about the particulars of the Executive Director and some of the comments about her maybe not being willing or encouraging people to attend and participate. He asked if Mr. Eisenstein heard any of those concerns. Mr. Eisenstein said he has heard that. Sen. Diamond asked what he had done about it. Mr. Eisenstein did not think it was appropriate to deal with personnel matters in public and has concerns doing that, but the Board has addressed, in a suitable way, anything that they think would stand for aloofness.

Rep. Campbell referred to the Mitigation Advisory Group and asked how the NNEPRA Board approaches concerns of neighbors. Mr. Eisenstein said he was also at the first public meeting. He was not sure it was called the Mitigation Advisory Group, that may have been the term Mr. Sullivan used, and it is fair enough because the Group was not charged with the mission of finding a new location for the facility, the Group's charge, as set by the Board, was to try to address concerns raised about locating the facility in that environment in a concrete, constructive fashion knowing that the facility would be located there. The reason why it could be referred to as a Mitigation Committee is because they knew that there would be some problems because of concerns raised at the public meeting and by Sen. Gerzofsky, but it was the best of all the alternatives. The Senator had concerns about the initial make-up of the Group and the Board took his point and reshaped the Committee to make sure Councilor Perreault, the Councilor for the neighborhood, was there, as well as three members of the Advisory Group, one of which was the Secretary.

Rep. Campbell asked specifically if Mr. Eisenstein thought NNEPRA was successful in their efforts to hear the neighbors. Mr. Eisenstein's impression was they had some success, but he heard Mr. Sullivan say that they were not successful. He understands that but, because they did not do everything he wanted, it does not mean he is unreasonable. That is his perspective.

Rep. McClellan referred to some deeper allegations made today that decisions were made that did not make sense from the beginning. He asked if Mr. Eisenstein was feeling confident that that was not true. Mr. Eisenstein said he was totally confident in that point. Mr. Eisenstein said for every decision the Board has made he feels they made it on good grounds and bases and as a Board member he does follow the rule that he reviews the items. He does not get into the nitty-gritty of whether the sound test should have been using one device or another, but he does get into the question of whether the appropriate device was used. Mr. Eisenstein said he does feel that some of the stuff that was raised by one of the witnesses today was new information, but he was not sure what the basis for the allegation is, whether what is being talked about is a judgment call or a complete bad decision informed by poor decision makers or poor information gatherers. His perspective on that is they have one of the best rail executives in the country, they hire consultants when

necessary because no one person has all the knowledge and he thinks they have hired good quality consultants. His perspective is that the Board does ferret out the issues that need to be ferreted out when a decision is made by them. Whether an individual decision was deemed crazy by somebody else, he does not know. He has not studied it in that detail, nor does he have the kind of expertise that the gentleman had for the number of years he has worked. Mr. Eisenstein said he can say there were pot shots taken at NNEPRA for using Amtrak and not policing Amtrak which is not true.

Rep. McClellan wondered why other members of the Board did not attend the meeting and asked if they had empowered Mr. Eisenstein to represent all of them and are supportive of the position Mr. Eisenstein is presenting at the meeting. Mr. Eisenstein said absolutely. Maybe the Board should have more of a presence in Augusta, but they have generally deferred to the NNEPRA staff to appear before the Legislature, but as Board members, maybe they should take a more expanded role. The Board has not done that because they believe they are in good hands.

Sen. Burns asked if the NNEPRA Board meetings were open to the public. Mr. Eisenstein said they were and the Board is governed by the Freedom of Access law and they do try to follow that. Sen. Burns said he always deferred to the discretion of a good Board because he feels especially the people Mr. Eisenstein has cited, were picked for a reason. He asked if the concerns that Mr. Eisenstein heard at the meeting had been brought before his Board, either on their own volition, or at his request. Mr. Eisenstein said absolutely. Sen. Burns asked how those have been resolved. Has the Board listened, have they been receptive and have they looked into the issues that have been put in front of them. Mr. Eisenstein said in terms of the location of the layover facility they had several public meetings about that and raised those questions both in a senatorial meeting and the August 22nd public meeting and then in the decision to ask MDOT to look at the location of the facility again. He said another category of items would be those items that relate to personnel, and for lack of a better word, criticism of the Executive Director. He said he will not raise those issues in a public setting. That is not to indicate that there is something wrong with what Ms. Quinn has done, but he does not think you talk about personnel issues in public session. Sen. Burns said he understood that but when he hears testimony from people who have been in the business, technical business for thirty-forty years, he pays attention to it and assumes they know what they are talking about. He assumed some of those people have been before the NNEPRA Board with just as much expertise as the experts that NNEPRA hires, so what he is asking is have those interests and concerns been brought forth and has the Board given them fair vetting. Mr. Eisenstein said he is sure he has never seen Mr. Betke before. He may have sent something in writing, he was not certain of that, but he did not know for sure. Mr. Wallace has appeared at the public meetings and the Board listened. Mr. Eisenstein said he did ask experts about what he had to say because he makes a good presentation. NNEPRA's experts did not agree with his point of view, but that does not mean that he is not an expert. Mr. Eisenstein thinks there can be differences of opinions. In response to Sen. Burns' questions, Mr. Eisenstein said the Board meets once a month and there is public notices in newspapers of meetings. He said whatever the State law requires they comply with.

Alison Harris, Brunswick, Maine. (A copy of Ms. Harris' testimony is attached to the Meeting Summary.)

Chair Katz asked if Ms. Harris was involved or had specific information regarding the Brunswick Taxi contract. Ms. Harris said the subject was raised so often in Brunswick, as well as at the GOC meeting, so that caused her to want to look into it. She made some inquires and it is her understanding that NNEPRA has nothing to do with the taxi contract. It is an Amtrak contract to ferry Amtrak employees from Portland to Brunswick.

Bruce Sleeper, Portland, Maine. (A copy of Mr. Sleeper's testimony is attached to the Meeting Summary.)

Sen. Burns asked how many members did the TrainRiders/Northeast have. Mr. Sleeper said there were about 1,200 on their mailing list and they have about 800 active members. Most of the members are from Maine, New Hampshire and Massachusetts, but they do have members from all over the world.

Sen. Burns asked if buses and planes had similar organizations. Mr. Sleeper did not know. TrainRiders/Northeast was formed because at a time when there was no passenger rail in Maine to both inform and, through their political action committee, obtain passenger rail service for Maine. Sen. Burns asked if it was typical of other areas that had rail services to have advocate groups. Mr. Sleeper said there are, but it depends what state you are talking about and what sort of service they previously had, noting that some states have had their service for a hundred years. There is a national organization, the National Association of Railroad Passengers that works on the national level to do very much the same things that TrainRiders/Northeast does. There are various state organizations.

Sen. Burns asked if Mr. Sleeper was the only Counsel for the group and how he was compensated. Mr. Sleeper said he was the only counsel and he was not compensated, with the exception of when they had the MDOT hearing. He did get paid for that due to the level of work he had to do for the MDOT hearings on the layover facility, but since 1989 that is the only thing he has gotten paid for. His work was paid for by TrainRiders/Northeast. In response to Sen. Burns' questions about fees for membership, Mr. Sleeper said there is a fee for members and they also accept donations, noting that they do not receive donations from any railroads or people like that, it is pure grassroots.

Rep. Campbell asked if Mr. Sleeper thought it was feasible for passenger rail to extend beyond Brunswick. Mr. Sleeper said TrainRiders/Northeast's goals and objective include seeing rail, to the extent it is determined to be reasonable, extend up to Bangor through Lewiston, Waterville. He said their current biggest project is to see about getting passenger rail service from Maine down through Worcester over to Hartford and down to New York City. They think it is reasonable, but had to make a caveat to that. He said today they think it is very reasonable. Each step along the road has to be justified on its own terms and needs to be studied. He would never say we should just plunk money down to go to Bangor tomorrow because it needs to be studied to determine whether or not there is a justification for doing that.

Sen. Burns asked if Mr. Sleeper had looked at any of the economic projections that were given to the GOC earlier in the meeting. Mr. Sleeper said he has not seen any of the testimony. Sen. Burns asked if he could look at the project testimony before the next GOC meeting. Mr. Sleeper said he could if they are made available and asked Sen. Burns which projections he was referring to. Sen. Burns said he would provide the information to Mr. Sleeper.

Nelia Dunbar, Brunswick, Maine. Ms. Dunbar provided written testimony but did not want to present it at the meeting. (A copy of Ms. Dunbar's testimony is attached to the Meeting Summary.)

RECESS

Chair Katz recessed the Government Oversight Committee at 1:40 p.m.

RECONVENED

Chair Katz reconvened the GOC meeting at 2:08 p.m.

Ms. Quinn was given the opportunity to address the public testimony given earlier in the meeting. She said it was an awkward position to sit at the meeting and have people get up and say you do all kinds of things, or do things in a way, or not a way, and have people ask more questions. She said it was uncomfortable to sit at the meeting and listen to it.

Ms. Quinn said there were a few things she would appreciate having the opportunity to put into context. First, there was a lot of discussion about the CNT Study and she wanted folks to recognize that the study was conducted in 2007 and published in 2008. She remembers when the Study came out actually saying even if half, or a third, is true or comes true, then it is still fairly significant. She wanted to remind folks that was a study done a long time ago and based on the best information they had at the time. The estimated impact, as she recalled, was based

on a full buildout of rail service. NNEPRA is only a corridor from Boston, Portland and then continuing on to Rockland and looked at the year 2030 impacts of a full built out and more robust corridor was the best case scenario. She wanted to put that into context and would be happy to answer any questions the GOC members might have.

Ms. Quinn agreed that decisions need to be made on prudent information and thinks they have been. It is difficult to document economic impacts associated with passenger rail and to understand what is an exact result and what is not. She said, anecdotally that NNEPRA staff went up and welcomed the Wayfair Call Center folks who just recently opened in Brunswick. They told NNEPRA staff that one of the reasons they selected the Brunswick Landing as a location for the Call Center was because their Corporate Office is in Boston and for travel back and forth they enjoy the use of the train and thought it was an asset.

Ms. Quinn wanted to speak to some of the questions about how prepared she is and how well she knows her territory. She referred to a Daily Report that she has on her desk everyday by 9:00 a.m. (A copy was provided to the members of the GOC.) The information on it comes from a variety of sources and it is pulled together by NNEPRA's data specialist. The Daily Report is for the previous day and shows what the day was, what the weather was, it talks about demand factors and what was going on that day. She summarized the Daily Report. She uses the Reports in her daily meetings with NNEPRA's Manager of Passenger Services.

Ms. Quinn said she could not sit in on labor negotiations, but can go into the Maintenance Facilities at South Station and talk shop with Amtrak's maintenance employees. She can sit down with Pan Am's engineering and track maintenance department, and in fact had an appointment with the Chief Engineer, his Mechanical Engineer and Signal Engineer that afternoon. NNEPRA has weekly conference calls with Pan Am and Amtrak. She can meet with the MBTA to negotiate train schedule slots.

Ms. Quinn referred to some of the characterizations that were made about Amtrak and what NNEPRA can do and can't do. She thinks it was Mr. Sleeper who said that NNEPRA is limited in terms of who can operate between Brunswick, Portland or Boston because the infrastructure is privately owned and that owner has the right to say who can or can't operate on their line. She said Amtrak is constitutionally congressionally allowed and a railroad owner has to accept Amtrak passenger service. If Pan Am says we do not want anybody else, then you have to take Amtrak so NNEPRA cannot just bid it out like you would in other arrangements. NNEPRA has a good working arrangement with Amtrak and she works a lot with Amtrak and on a variety of different levels. She works with them at the Superintendent level, and with the people who run the Downeaster Service at the regional level. The Downeaster is dispatched out of the Northeast Division and Ms. Quinn works with them out of the corporate level in Washington, D.C. She said Amtrak has a bad rap for being rigid. She was listening to Mr. Snyder explain some of the experiences that he had when he was working with VRE. Amtrak can be tough, but she wants people to know that NNEPRA has developed a great working relationship with Amtrak and has pushed the envelope with them so that they are creative, responsive, and do try new things. She gave the example of NNEPRA being the first in the Country to have Wi-Fi Service, they worked with Amtrak to pilot eticketing and up until a year ago, NNEPRA was the only Amtrak service to have their own food service and the first to introduce recycling on board. NNEPRA has events that nobody else does. They asked Amtrak to modify their policy because they wanted to offer pet access at all stations and Amtrak allowed them to do that.

Ms. Quinn said she and NNEPRA's Marketing Director just got back from Chicago for a three day meeting of railroad officials, including Amtrak officials, where they, with many others, worked together to push Amtrak to change some of the ways they do their marketing and to allow the State-supported routes to have more access so they can market better to passengers to be able to drive revenue and improve customer services.

Ms. Quinn has participated for a long time on the States Amtrak Inner City Passenger Rail Committee because she fights hard to make sure that the Downeaster is treated differently than other routes. They are not integrated with other Amtrak routes and she works diligently to make sure that NNEPRA is charged a fair price and gets good value for Amtrak's services. She works with other states to leverage that and had a meeting yesterday with the new Amtrak President to talk about some of the concerns NNEPRA has and how important it is for them to understand that it is not a one size fits all and that costs need to be fair.

Ms. Quinn said the layover facility in Brunswick is a long saga. She can assure the GOC that a lot of time and effort went into it and she feels badly that people feel that she did not treat them appropriately. She said it became a very passionate and emotional issue for a lot of people and, while she can respect that, at the end of the day she has a job to do and sometimes she gets very objective. If there were parameters put around the public meetings it was because if the site had already been selected it did not serve anybody's time to sit there and talk about changing the site. The objective of the Advisory Group was to talk about given the fact that the building is going to be located on this site, what can we do to make it better for you. She said NNEPRA did listen, but could not do everything and what they didn't do was make it go to another place. She knows that is unpopular for some folks, but parameters are put in place to keep order, and keep discussion productive and focused on the things they were able to impact and change at that time and not to talk about things that they were not in a position to do.

Ms. Quinn said NNEPRA has a limited staff. They have a big job doing a lot of different things, not as well as they should in all cases, but some of that is because you can only spread resources so thin. She said NNEPRA is very productive all the time, they maintain a high level of transparency and she would welcome any Committee member at any time to explore NNEPRA's website AmtrakDowneaster.com and NNEPRA.com. NNEPRA.com is where they post all their projects, Board meeting minutes, have information about projects, videos, all the environmental documentation and all the things they try to keep up as best they can.

Ms. Quinn said if it is the wish of the GOC for NNEPRA to provide more information, or work more with OPEGA to clarify some of the issues and questions so they can make sure they are presented in a truthful and credible way, NNEPRA would be more than happy to do that. She said it would take away from other things sometimes, but again, it is the Committee's decision. She said it has been an interesting process to date and NNEPRA will respectfully comply with however the Committee wants them to move forward. She is proud of what NNEPRA does and thinks they do a good job and they have nothing to hide.

Sen. Burns said Ms. Quinn had alluded to the CNT Study and asked if that was the one that Mr. Wallace was referring to that was not in the file because of the seven year purge. Ms. Quinn said it was the procurement for that Study that was not in the file. When NNEPRA gets to a fiscal year they typically go through files at the end of the year and the things that do not seem as critical are destroyed. NNEPRA still has the Study, they don't have the procurement files. She said NNEPRA keeps information for seven years and has a document retention policy that she can share with the Committee.

Sen. Burns referred to the projections of CNT, the ADRG, MDOT that were presented at meetings and asked if those were things NNEPRA looked at as they went through the progression of bringing the layover facility into Brunswick. Ms. Quinn said the layover facility was part two, with the first part being the expansion of service. She said some of what they looked at then was the CNT Study which had economic impacts and NNEPRA looks more at ridership and other facts. She said NNEPRA was directed to do this and referred to the OPEGA Report where it says it was a legislative decision to expand the service. NNEPRA was told to figure out how to do this, we want you to do this. NNEPRA put together a plan and secured the funding to go ahead and do that. NNEPRA does, and did, look at the information to estimate what reasonable ridership expectations could be for the service. With what NNEPRA put forth they have met and exceeded those particular projections in terms of ridership. She said she was not an economist so she cannot speak to that and she does not know how to track what the exact economic impacts were. Does NNEPRA look at data when they make decisions to go forward? Of course they do. They are emerged in data all the time so they try to combine that with the policy directive to try to determine what comes next. Ms. Quinn thought it was important to understand that the expansion of service to Brunswick was not like it was a new start. It was taking an existing service and stretching it out as far as the rail line went. Ms. Quinn said the rational for doing that also was the fact that trains rotate and go back and forth to Boston which is five and a half to six hours of crew time. You have to pay crew for eight hours anyway so the expansion enabled them to maximize the efficiency of the service and stretch it out. When people say NNEPRA started a new service and there is ten people on it, Ms. Quinn said NNEPRA just stretched it to another community. There was a lot of thought, research, detail and planning that went into that decision. She said once that decision was made, it was an inefficient operation to run trains back and forth for thirty miles from where they end their day to where are we going to dump the trash doesn't make sense. She said a layover facility is always located at the end

of the line. If service is extended to Lewiston/Auburn, is there going to be a layover facility there? Of course there will be, because they are always at the end of the line. If you look at MBTA they have layover facilities at the end of all their lines because that is where you have them. That is where you start your day and end your day. NNEPRA wanted to create a facility so they had a place to start and end the trains at the beginning and end of the day. Then they needed to figure out where they could possibly locate that facility. None of the projects happen overnight. NNEPRA was faced with maintaining and managing a service that existed between Portland and Boston while implementing the directive of going to Brunswick. Once NNEPRA knew they had funding for Brunswick, they knew that is where they had to take care of their trains because it is the end of the line.

Sen. Burns said it seemed that Ms. Quinn's answer was she looks at some of the things such as rider potential, she does not look at the economic successes or indicators of things like that because they are out of her purview. Ms. Quinn said in terms of service expansion, NNEPRA does look at all those other things and that is why that report is there. NNEPRA looks at the potential and if there is going to be a positive economic impact to the area as a result of a service. She said NNEPRA takes those things seriously and in fact has bi-monthly meetings with all of their station communities' representatives to talk about what is going on in their community. Have they seen new development or a business that comes and goes, or positive things that are happening as part of the rail service, Ms. Quinn said it is hard to quantify, but NNEPRA always looks at those things. She said NNEPRA is not in a mode of expansion right at this moment, but they do always monitor, appreciate, and try to report on the positive economic impact that passenger rail has in the communities that they serve.

Sen. Burns asked how many staff members NNEPRA has and how many were at the meeting? Ms. Quinn said there are seven staff and six were at the meeting.

Ms. Quinn said she wanted to go back to one of Sen. Diamond's comments about the APU (way station power unit) because that was also a complicated matter. She said the APU is a plug that was put in Brunswick because trains right now are outside and Sen. Gerzofsky had introduced his bill wanting NNEPRA to turn the trains off. She said Amtrak does not turn the locomotives off during the day, but if you plug them in they can idle at a lower frequency and it makes it better. There are lower emissions and when the train is plugged in a computer monitors all of the systems in the locomotive and if the temperature is above 45 degrees and all the temperatures are correct, all the fluid levels are right and the air level is right, it will go quiet for a while. Then as it sits for a while and temperatures and pressures change, it will start back up and will cycle through and then level out again. Ms. Quinn said that is why they are still running and she thought they were very clear that that was going to continue to happen even when they were plugged in - that they still would be running periodically because they are going to come on and off cycles to maintain themselves and the pressure. The only way that Amtrak would shut off their locomotives is if you have them plugged in, plus have a temperature controlled facility and she said NNEPRA was going to have one of those for them to come into on November 21st and that was the purpose of the layover facility. Ms. Quinn said NNEPRA never said that the trains were going to be turned off and were going be shut off once they were plugged in. She said, in fact, that was one of the concerns they had with the whole discussion that there was going to be a perception that somehow that was going to solve the whole problem and it wasn't. It only helped.

Ms. Quinn said the reason there is two locomotives on the train is because the Downeaster operates using a push-pull service. A locomotive on one end, a control unit on the other. When the control units go in for overhauls and routine maintenance, Amtrak replaces it with a locomotive until that unit comes back on. Ms. Quinn said NNEPRA runs three train sets and has four control units.

Sen. Johnson asked Ms. Quinn what she saw as her duty in relation to the waste of diesel fuel running two engines and the possibility of less costly alternatives for meeting that level of passenger service. Ms. Quinn said it is more the exception than the rule that there are two locomotives because a control unit is out. It has happened a little bit more frequently recently because Amtrak is overhauling the control units so they have been going away for longer periods of time.

She said in terms of options for different types of locomotives, their contract with Amtrak is for their equipment. NNEPRA does not have its own equipment. If the State wants to invest in equipment, NNEPRA is open to that and, in fact, are actively evaluating whether that makes sense to do or not. She said Mr. Beehler is the Chair of the State Amtrak Equipment Capital Committee that develops specifications for state-owned rail equipment. Ms. Quinn said what they would like to do going forward is to transition to a more modern energy efficient locomotive, but right now they operate by using Amtrak's equipment pool. In this part of the country they use P42 locomotives and everybody is looking at ways to make them more efficient. Some Amtrak equipment used on the Northeast corridor has dual mode stop-start technology. They switch from diesel when they are not on the electrified portion of the corridor to catenary when they are. This would not be suitable for the NNEPRA service. Ms. Quinn said NNEPRA was always looking at ways to reduce their costs to make the service better and to try to make investments that not only have a benefit to their service, but have a benefit to the public at large. She said fuel is a huge cost for NNEPRA and they would love to be able to find more efficient locomotives. They are actively looking at that as a serious option going forward.

Sen. Johnson asked about the situation encountered with the tie replacements in 2015 and what Ms. Quinn saw as a plan moving forward to prevent such a disruptive situation in the future. Ms. Quinn said NNEPRA did identify when there would be maintenance needs on the track and knew they were going to have to replace ties. She said the railroad is monitored regularly and Amtrak assesses the gage and tie conditions, and inspectors are also there. There are pieces of equipment that can give you information on when things are going to need to be repaired. NNEPRA knew they were going to replace ties and worked with Pan Am to put together a plan where NNEPRA would purchase the ties and Pan Am will install them at no additional charge. NNEPRA sent out an RFP for ties, but did not get any bids because other projects were coming on line, there was a huge demand for ties and a period of time when the timber being used to make ties was being used to make something else so the supply was limited. She said the tie replacement was deferred a year because of that. The ties were not delivered on time so NNEPRA could not have the work done in the fall.

NNEPRA also worked with Pan Am to put together an ongoing tie replacements program where 30,000 would be replaced this year and every other year they will go back and replace 15,000 smart ties so you continue keep the railroad refreshed and in the state of good repair and in good working order. She said NNEPRA did hit a little bit of bad luck with this in 2015 and the whole project was a perfect storm of misfortune. Ms. Quinn said the railroad infrastructure is good and she believes they have a program in place to ensure that it is.

Sen. Johnson asked how this program would prevent NNEPRA from being in the same bind if there was a shortage of supply, or failure of Pan Am's equipment. Ms. Quinn did not know if she could take responsibility for a shortage of equipment across the nation. Sen. Johnson said it must be in NNEPRA's contract with Pan Am as to what they will have available for resources. Ms. Quinn said NNEPRA did do that and strengthened the agreement this time. She said in the last tie replacement program Pan Am agreed to provide the labor at no additional cost for installation and surfacing. It was the surfacing equipment that failed the last time. Pan Am told NNEPRA that if they want to be assured the surfacing equipment is in good working order then NNEPRA is going to have to pay for that. So, NNEPRA invested the money and are paying for surfacing as part of the next round of tie replacement. She said the other part is working together to make sure they all understand what needs to be accomplished. Ms. Quinn said NNEPRA has learned from past experiences to check, double check, and hold people accountable and there is a financial penalty involved if they don't.

Sen. Diamond referred to the agreement Ms. Quinn made with him and the Transportation Committee regarding the idling locomotives and the way side power station. He said he and the Committee had the clear impression the idling would stop or it would be at such a low decimal rate that no one would hear. He said evidently that did not happen because the testimony the GOC has received is that the idling is very loud. Sen. Diamond said he is concerned that after all this time he is just hearing about this. The Transportation Committee was under the impression it was done and, the agreement was fulfilled, but it sounds like it never was. If that is the case, he thinks that is an important piece of how you communicate with the Legislature. If something is not going to go as expected then the Legislature should be informed about that. He said if something can't be done, it can't be done, but there was no follow-up to the Legislature that it would not be as NNEPRA represented it would be. Ms. Quinn said from her perspective what they said was going to happen did happen. They were clear that they were

going to install an APU unit which is a unit to plug in trains. She said she testified, and folks from Amtrak testified, and tried to explain that just because you plug the locomotives in, that does not mean that they are not going to idle anymore, and that they were not going to be shut down. She made a presentation to the Brunswick Town Council as well that said we will install the APU unit but it is not going to result in the shutdown of trains. She said she will go back to her notes and presentations as she is not sure where that misunderstanding occurred, but she felt they were pretty clear. It is one of the reasons NNEPRA did not install the APU unit sooner, because they understood that it was not going to one hundred per cent solve the problem. It was going to make it better, but it was not going to solve the problem. The only way that the trains could be shut down was if, in addition to the APU, compressed air was installed as well. She said they were very clear at that point in time that they had no money and the MDOT was not authorizing NNEPRA any money to install a compressed air system that would allow the trains to be shut down in the summer months. She said it would not work in the winter, but it would in the summer. Ms. Quinn said they never ever said that putting in the APU would result in the complete shutdown of trains. In fact, she thought Jim Russell, she, and Chris Purcell from Amtrak Mechanical tried to explain to the Committee that this was only going to be a part of the solution and to expect that. They did exactly what they said they were going to do. They installed the APU unit, it is doing exactly what it is supposed to do, which is in the right temperatures and the right conditions, the train will go quiet for a while then cycle back up. She said it does idle at a lower RPM when it is plugged in and all of those things are happening, but she never meant to leave the impression that the APU was going to result in trains powering down. Ms. Quinn said, from her perspective, she had nothing left to tell the Legislature. They did go back and said they installed the APU, sent pictures and demonstrated that was done and said they had no money for an air compressor.

Sen. Diamond said he thanked her for that, except when Ms. Quinn and he were standing in the corridor outside the Transportation Committee Room that was not the impression she gave him. He said that kind of miscommunication now becomes more of an issue than probably it should have been if the Legislature could have had a better understanding of what was happening. Ms. Quinn said it was a two phase agreement that it was a plug and an air compressor unit. She said the MDOT allowed NNEPRA to spend the money for the APU, but they didn't know where the extra money for the air compressed unit was going to come from. She said Sen. Gerzofsky said he was going to work on trying to find money for the air compressor and that was the agreement. They would put it in and they would shut down. Ms. Quinn believes she had sent a follow-up email related to that and she will see if she can find the email to clarify that point, but she said the APU is not going to result in trains shutting off. She said they spent a lot of time in front of the Transportation Committee trying to explain that to people. NNEPRA said they would do it, but it was not going to enable trains to be shut off.

Sen. Gerzofsky said he did not think the GOC was in the work session stage of the NNEPRA review yet and thought there were parts of Ms. Quinn's testimony from earlier in the day that he might have challenged and now has even more questions. He said part of his questions relate to the idling train because that door has now been opened wide, and said he was involved at the Transportation Committee because it was his bills before that Committee. He said they walked out in the hall and had a conversion and was told the APU unit was going to turn the trains down to a very low idle so that people could stand next to it and speak. He said during the summer he checked quite often on the idling and noted that even at 85 degrees the train is idling as fast it can go and there are others that could testify to that as well. He and others at the meeting would like to talk about the idling because it is not exactly the way it is being described. When Commissioner Bernhardt explained to him that he was coming up with $70,000 to install the APU, he said it should handle the problems if they plugged in trains they would idle much lower, use much less fuel and be less obnoxious to the daycare center that is right next door to where it is parked. Sen. Gerzofsky said he went to verify that and he is saying it was not done and there are videos and sound recordings to address that, but did not think it was the right time to deal with that issue. He does think there should be a time when the GOC can discuss idling because it goes along with part of the scope.

Chair Katz said the GOC talked earlier about the composition of NNEPRA's Board. Most members of the Committee know most of the people on it and have great confidence in them. However, he asked Ms. Quinn if she had any comments on the wisdom, or lack thereof, of making slots for people, for example, with prior railroad, engineering, or any other experience or is she comfortable with the fact that it is, except for the ex officio members, whoever the Governor wishes to appoint. Ms. Quinn thinks the NNEPRA Board is very supportive, they are smart people, they take their job on the Board very seriously and they spend a lot of time trying to

understand the things in the weeds. She said that it was not her decision who gets appointed and NNEPRA will work with whomever the Governor appoints. She has a lot of confidence in what they do, how things really work, decisions they make and thinks there is always room for different perspectives and to be challenged. She said the Board members they have now, because they come from outside the railroad, ask NNEPRA more often why can't you do this, why can't you do that so it forces staff to think about why we can't. She said in some ways it challenges NNEPRA more because they don't know as much, but they are very engaged, supportive, provide good direction, and demand a lot of staff in terms of financial accountability and transparency. However it works out, they are fine with it.

Chair Kruger thanked Ms. Quinn and NNEPRA staff for attending the meeting and people who testified at the meeting and provided an enormous amount of expertise.

Chair Kruger thinks the GOC has seen and heard too much at the meeting to hold their work session on the NNEPRA review today and made the following motion:

Motion: That the Government Oversight Committee defer the remaining Committee work on the NNEPRA Information Brief to the 128th GOC and that they take it up as a new review so that it has a new scope. (Motion by Chair Kruger, second by Sen. Davis.)

Chair Kruger said all of the information and testimony is available for the 128th GOC.

Sen. Burns objected to the motion and said this GOC should deliberate and decide whether they have heard enough or whether they think OPEGA should be charged with going further on the review. He had a lot of material he wanted the opportunity to review, but he did not want to see the NNEPRA review started over. He thinks it would be unfair to all parties and it will be unfair for the people who participated in the process.

Chair Kruger made a point of clarification. He was not saying the 128th should start fresh, he was saying they should have a new review based on what they have learned at the meeting, and a new review gets a new scope.

Sen. Gerzofsky asked if that meant it would take another Legislator to bring a NNEPRA review forward or is there a mechanism that is in place that can have the 128th GOC take up where this GOC ended because he did not want to see it start all over again.

Director Ashcroft reminded the GOC where they were in the process for the NNEPRA review. She said OPEGA started the review, has done their preliminary research phase which was an extensive preliminary research, and did not have any particular areas that OPEGA recommended they do further work in. OPEGA was more interested in getting the Committee's input to that after they had the benefit of knowing everything OPEGA had learned. She would ask the members of the Committee to re-read OPEGA's NNEPRA Information Brief because there is a lot covered in the Brief that has been discussed at this meeting. OPEGA agreed they would report what they knew in the Brief prior to the GOC making a decision about whether they wanted OPEGA to go further and if the Committee did want OPEGA to go further, exactly what they felt would be valuable to review. The Director said she thought Chair Kruger's suggestion might potentially be a valid idea if what the GOC thinks it would like OPEGA to explore further is something that is completely foreign to what is currently in front of the Committee. However, if the further work is a follow on in any way to what OPEGA has already started covering than she would rather have this GOC say what it is they think is important to dive further into having already had all the discussions. She thinks it would be difficult to bring a new Committee up to speed on that.

Chair Katz said he was going to vote against the pending motion because the GOC has not yet had a work session on the NNEPRA Information Brief and the Committee will be having one. One of the things to discuss at the work session is whether the Committee thinks it is appropriate for anyone to go forward with a more detailed review, or other directions the GOC may want to go. Chair Katz said the Committee can vote on what further action they want to take even though they will not deal with it because they won't be a Committee after November, but he thinks the GOC should have that work session and it should be at the November meeting.

Rep. McClellan agreed with Chair Katz because everything done on the NNEPRA review would have to be done again for the 128th GOC. Sen. Johnson also agreed and said the Committee needed to proceed with a work session at the next meeting.

Chair Kruger said he was not suggesting that the Committee forego a work session at all and he understands that it will have to be in November. He thought a lot of the information the GOC received at the meeting was not in the OPEGA Brief and taking a fresh approach to what does deserve review is a healthy step.

Chair Kruger withdrew his motion and Sen. Davis withdrew his second on the motion.

Chair Katz confirmed that the GOC would have the work session on OPEGA's NNEPRA Information Brief at their November 17, 2016 meeting.

- **Committee Work Session**

  The Government Oversight Committee will have a Work Session on OPEGA's NNEPRA Information Brief at their November 17, 2016 meeting.

- **Committee Vote**

  Not taken.

UNFINISHED BUSINESS

Chair Katz asked if there was objection to taking items out of order. Hearing none the Committee moved to **Unfinished Business, Tax Expenditure Reviews**.

- **Tax Expenditure Reviews**

  - **Annual Approval of the Classifications and Review Schedule for Tax Expenditures as Required by 3 MRSA § 998-3**

    Director Ashcroft said the statute governing the Tax Expenditure Reviews requires the GOC's final approval of the Classification and Schedule of those expenditures for a six year cycle of Reviews. The only change made to the schedule previously and reviewed with the GOC was to move the Research Expense Tax Credit and the New Machinery for Experimental Resources from 2017 to 2020 because OPEGA did not think they would have sufficient resources to do them all in 2017. She said the change was suggested by a member of the Taxation Committee and the Taxation Committee was also fine with what the GOC wanted to go forward with.

    Motion That the Government Oversight Committee approves the Classifications and Review Schedule for Tax Expenditures. (Motion by Sen. Diamond, second by Rep. McClellan, motion passed by unanimous vote, 8-0.)

  - **OPEGA Suggestions for Statutory Changes Relating to Evaluation Process and Confidential Data**

    Not discussed.

- **GOC Consideration of Recommendations on Records Retention and Management From Working Group Report**

- **Report Back From Secretary of State Dunlap on Records Retention and Management Efforts**

Chair Katz said that given the length of the Public Comment Period on the NNEPRA Information Brief that the GOC would wait for the Secretary's update at their November meeting. The Secretary had been notified of this change in the agenda. .

- **Evaluation of Economic Development Programs in Maine**

- **Review of Draft Legislation to Improve Effectiveness and Efficiency of Evaluation**
- **Continued Discussion of Potentially Tasking OPEGA With Reviews of Individual Economic Development Programs**

Director Ashcroft said at the previous meeting the GOC had asked her to draft legislation for their review at this meeting. She thinks the goal is to have something this Committee could vote on to submit to the Legislature. She referred to the current version of the draft in their notebooks that also included comments from the Maine Development Foundation. There are still a lot of areas that need to be filled in and specified. There is also a lot of cross referencing needed between various statutes that might need to be repealed or modified. Director Ashcroft said for Committee discussion today she was interested knowing if they thought the draft was so far headed in the direction the GOC intended.

Director Ashcroft said there had been a lot of discussion about what the appropriate objectives for a macro level evaluation of economic development investments would be, the legislation now includes the draft objectives. She said there is also a piece in the legislation now that helps to bolster the Economic Growth Council's effort or responsibility for developing a strategic plan. The evaluation objectives that are laid out are to include, but not be limited to, an assessment of the portfolio of investments that the State is making in research and development activities and economic development incentives. For example, whether that portfolio is well aligned with the economic development strategic plan that has been developed. Another piece is the extent that individual programs or group of programs within that portfolio are contributing to the achievement of those goals and objectives. Also, how the State's portfolio of economic development investments, particularly in terms of level and types of investments, compare to investments in other states and then to how competitive Maine's emerging and existing technology in industry sectors are in various markets. Director Ashcroft said there is also a section on what kinds of recommendations are expected to come out of that evaluation. Some of those recommendations being how to modify the current portfolio, and whether to shift investments from that economic development pool to other things that would better serve achievement of a strategic plan. There is still some discussion with MDF as to whether some of the things woven in as objectives and recommendations for this evaluation would actually be part of what they would be doing anyway as part of their progress reports on the strategic plan.

Director Ashcroft wanted to know if she was on the right page in terms of what the GOC thinks would be valuable to have in the legislation.

Sen. Johnson referred to Section D 2 in the draft. He said he understood the importance identifying and remedying something the State is not doing, such as road maintenance that is more of an inhibiting factor to the success of economic development investments and therefore is an obstacle. Otherwise, what you do for investment in certain areas may be ineffective. He thinks it would be good to rephrase it slightly by making the point that these are areas that need attention in order to avoid undermining the effectiveness of the economic development investments. Sen. Johnson said Maine cannot invest more in economic development activities effectively because there is an obstacle to success in another policy area.

Chair Katz noted that this goes along with the GOC's previous discussion of MDF developing a more broad based economic plan and asked why the criteria the Legislature is using to evaluate these economic programs would be any different than the criteria being used to evaluate tax expenditures. He said it is

money that is being spent or not received to try to move toward some goal that is seen as economically beneficial to the State. Why wouldn't you want those various things evaluated with exactly the same set of criteria.

Director Ashcroft said Chair Katz had expressed that idea in previous meetings and she thinks that is also a goal, or another piece of the pie, that goes in the middle of what the Committee is currently discussing. She said what Chair Katz referred to would be part of a more detailed evaluation of each particular program. The GOC's agenda today also includes the topic of what would it mean for OPEGA to review all economic development programs the same as is currently done for tax expenditures. She said the Committee was at this point talking about the macro level evaluation where somebody theoretically would be taking the results from all of the individual program reviews to be able to see what is happening with those programs and then look at that plus the strategic plan, plus what they know about what is going on in other states. They would be looking at the portfolio of everything Maine is making for an investment and making recommendations about how the portfolio itself looks and whether changes should be made to it. She said OPEGA is never going to get to that point by just looking at the individual programs. There are some pieces in their current objectives for tax expenditures that are about whether there are other cost effective programs the State should be resourcing instead of the program being reviewed. Also what do other states have that is comparable to this one. Some of that could be shifted over a little bit and have it captured in the macro evaluation. She said that is still on the table and whether they need all those pieces is a valid question.

Chair Katz gave an example of a tax credit for investment in research and development, which will be evaluated under the tax expenditure system and then you have a grant from the State to do research and development. They might be researching and developing exactly the same thing and his point is, as they go through the process, shouldn't the process treat them both the same in terms of evaluation. Director Ashcroft agreed, and thinks the members of the GOC agreed on that, so it is a matter of who is going to do that detailed evaluation and exploring whether OPEGA can or should and what it would look like. The other question is do you then want a process so every four or six years it will look at the whole mix in relation to the strategic plan or maybe that is something that will fall out of what the Maine Economic Growth Council (MEGC) does anyway if they design it the way they are currently envisioning it.

Director Ashcroft said the GOC also talked about cost and were interested in understanding what the resources needed might be for what is being proposed. She said there is a section now in the draft legislation that makes modifications to MEGC's statute and still have more work to do there with MDF to flesh that out.

Rep. Mastraccio thinks OPEGA is on the right path with the draft legislation as far as from where she was coming from. She asked how much input the Director received from DECD. Director Ashcroft said she reached out to DECD to meet and talk about the concepts and draft legislation. DECD got back to her saying that they were unable to meet with her to discuss it so she briefed Deputy Commissioner Garland on what was going to be in the legislation so she would understand what the GOC's approach was going to be. Rep. Mastraccio said her concern was that the GOC/OPEGA does all this work, puts it out there and then at an LCRED Committee meeting DECD speaks against it. She would have to explain they were invited to participate and declined. She was concerned about that because of not dealing with the people who are doing economic development in Maine and thinks not having DECD involved is a big problem. She feels that the GOC is working hard on something that is important for Maine.

Chair Katz agreed and said the GOC Chairs could work with Director Ashcroft to send a more formal request to the Commissioner that DECD weigh in on the draft legislation. He said the Committee is trying to come up with the best possible public policy and the people who know most about it should be playing a role in its development.

Director Ashcroft will continue working on the draft legislation. She was not sure whether the Committee wanted to include where OPEGA might fit in the same bill or would be talking about it in terms of changes to OPEGA's statute as a separate bill. Chair Katz asked if the Director could work on the substance of it and then the Committee can discuss the vehicle.

Director Ashcroft said she thinks that for OPEGA to evaluate all economic development programs it would double the workload OPEGA currently has on the tax expenditure reviews. Given that, and the fact that she is already concerned that OPEGA's two resources not being enough to cover the tax expenditure work, she would say OPEGA would need another one and a half to two people to take on the extra work. If the GOC's directive to her was to say we only still want the two people, tell us what would have to happen to be able to do as much as they could do with the two resources then she will come at it from that approach as opposed to saying we want to try and do it all, tell us what resources are needed.

Chair Katz asked if there would be some savings within DECD because they would be relieved from something they are currently doing. Director Ashcroft thought that depended on the decision the GOC would make about the macro level evaluation. Right now the funding mechanism for evaluation has not been sufficient to cover what is required in statute. If the Committee was talking about moving that evaluation to every four years instead of every two and are also slimming down and defining the scope of it more, she thinks the current funding mechanism probably would be sufficient to cover that evaluation, but she did not know if it would provide a lot more than that and it would not provide enough to cover two additional staff people in OPEGA.

Sen. Johnson agreed and thinks the Committee should be figuring out what it would take for OPEGA to be doing this and perhaps it needs to be on the four year cycle. They should be using the same lens and it is hard to get to that if you have different people providing that evaluation.

Rep. Mastraccio said she also looks at the cost of not doing it and there is a cost for that. You need to evaluate everything and need a good plan so you know what you are evaluating against and then you have to do a good evaluation and know what you are looking for. Rep. Mastraccio thinks OPEGA does a good job at that and it would be money well spent.

Chair Katz asked for Mr. Neale's perspective on the GOC's discussion because it involved MEGC.

Mr. Neale referred to Sen. Johnson's comment that reminded him of a conversation he had at a class at the Muskie School about the effectiveness of incentive programs. If you are not addressing the underlying issues, if your concern is workforce, infrastructure, location, etc. your incentive programs can only go so far so he thinks that is an important piece of the evaluation. Where is the State getting the best bang for its buck in looking to grow the economy? Is it General Fund dollars to address education or is it incentive programs and thinks that is a piece that has been missing. If you are just assessing incentive programs based on their narrow mission and their own perspective you may not be getting the bigger picture and that is really important.

Sen. Johnson said it would be a shame to evaluate a program and say it was ineffective and do away with it when the real problem was it would be wonderfully effective if the inhibiting factor were addressed through some other investment. He thinks legislators should be making decisions with good information. Mr. Neale said he believes MDF/MEGC should have a role in the plan the GOC is talking about developing. He thinks we put the cart before the horse and have a portfolio of economic development incentives, but we do not know if we really looked if they are the right mix of incentives, consistent with a plan because that plan has not existed. He thinks if you have that plan it will be another way to evaluate the programs and the effectiveness of programs.

Director Ashcroft said the strategic plan, as both she and Mr. Neale are envisioning it, is much broader than just economic development incentives and research and development investments so in some ways what they are talking about evaluating, whether it is DECD's macro level or OPEGA individual program review,

is only a portion of things. There may be two or three goals in the strategic plan that these things impact overall with another of other goals that these programs do not relate to. She said it would be evaluating only a piece of what is needed for achieving a strategic plan for economic growth.

Director Ashcroft planned to bring back to the GOC a couple of different alternatives for OPEGA doing the more detailed evaluations, maybe one that has more resources and one that doesn't so the Committee can see what the scope would need to be to accomplish both.

Sen. Diamond asked if DECD refused to meet and talk with the Director about the draft legislation that impacts that Department directly. Director Ashcroft said DECD did not refuse to meet. They were not allowed to meet. She did not know if it was from the Chief Executive himself or whether it was someone from the Governor's Office. Sen. Diamond said that was ridiculous and thinks it is blatantly irresponsible and they, as a Committee, should be outraged that that kind of nonsense is going on. He found it to be unconscionable that the Department would not be able or allowed to meet on something that is very important but not very threatening. To have them play hardball and say they are not going play to him is unconscionable and thinks the GOC should so state.

At the request of Committee members Director Ashcroft will draft a letter for the Chairs' signature to DECD requesting the Department's involvement in developing economic development legislation.

- **Office of Information Technology**

  - **Draft Letter From GOC to Legislative Council Regarding Legislative Oversight and Support of IT Matters**

    Director Ashcroft said the Committee had previously talked about sending a letter to the current Legislative Council and sending a follow-up to the 128th Legislative Council regarding oversight of IT matters. She asked if there were any changes to the draft letter in their notebooks. Members of the GOC had no changes to the draft letter to the Legislative Council.

REPORT FROM DIRECTOR

- **Status of Current Projects in Progress**

  Director Ashcroft noted that OPEGA will be doing an interim briefing on the **State Lottery** review at the November GOC meeting.

- **Staffing**

  Director Ashcroft reported that OPEGA was unfortunately losing an Analyst, Lucia Nixon, who has been with OPEGA for a couple of years. She was with OPLA for seven years and then worked with Efficiency Maine Trust before joining OPEGA. Ms. Nixon has accepted a position with OPLA. Director Ashcroft thanked her for her efforts in the Office. The Committee also thanked Ms. Nixon for her work in OPEGA.

NEXT GOC MEETING DATE

The next GOC meeting is scheduled for November 17, 2016 at 9:30 a.m.

ADJOURN

Chair Katz adjourned the GOC meeting at 3:32 p.m. on the motion by Sen. Diamond, second by Rep. Mastraccio, unanimous.

Hojara, Kari

From: Pem Schaeffer <pemster4062@yahoo.com>
Sent: Monday, September 26, 2016 11:33 AM
To: Ashcroft, Beth
Cc: Hojara, Kari
Subject: Brunswick Taxi info re NNEPRA Audit
Attachments: FOAA Bruns Taxi letter S. Bell 4-23-15 letter - NNEPRA.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Ashcroft:

While sorting through a stack of papers a few days ago, I came across the attached letter, addressed to GOC Co-chairs, from Brunswick Taxi's attorney. It's dated April last year, and states a willingness to provide whatever contract info is requested. Finding this anew is refreshing, since every avenue seeking this data via freedom of information requests yielded nothing useful.

It appears the attorney is not familiar with the term "no bid," which in common business parlance means an award made on a sole source basis, or more specifically, a procurement made without a competitive source selection process. The word "bid" normally means a cost proposal made in a competitive setting, with suppliers bidding against each other to win the business.

If in fact the taxi service was sought on a competitive basis, records supporting that assertion should be available somewhere in the procurement chain.

Absent such back-up, it seems logical to assume that 'someone' directed LJK Companies to specifically engage Brunswick Taxi for the necessary transport services, and LJK (or their d/b/a entity) followed up by providing a statement of work and asking for a price for the service. This service is now nearing four years of operation.

Hopefully you'll be able to get to the bottom of the details. Other questions of interest should include whether the payments are made on a blanket basis, rather than a per trip payment. This is pertinent because of the large number of Brunswick Downeaster runs cancelled in recent years, and the upcoming cancellations in October and November.

There are other interesting aspects of this situation. My rough order of magnitude estimate is that Brunswick Taxi is being paid in the range of $200,000 per year for the services they currently provide. This consists of two trips between Brunswick and Portland every day of the year. We believe they transport 4 crew members south on the first run of the day, and 4 crew members north on the second run of the day. The taxis are based in Brunswick, so while they only transport crews in one direction on each trip, the vehicle and driver are making a round trip twice a day.

Based on published ridership figures and fares, incremental annual revenue for NNEPRA attributable to the Portland North Service is estimated to be in the range of $120,000 per year. If both estimates are correct, NNEPRA is losing money on the Portland North Service, without even considering additional crew and fuel costs. NNEPRA will likely say they don't contract with Brunswick Taxi, so it isn't an expense to them. But Amtrak surely factors the cost of this service into what they charge NNEPRA in their annual/monthly billing. Including a fee to LJK on top of the Brunswick Taxi direct costs for "procurement services" that could be in the range of 25%.

A relevant change is in the offing that could substantially increase the scope and cost of Brunswick Taxi services. NNEPRA expects to increase revenue generating round trips to Brunswick later this year. Depending on how the crews are assigned to these runs, it's possible the number of crew transport trips between Brunswick and Portland could increase to five, or even more, compared to the present two daily crew transport trips. Clearly this would cause a significant increase in Brunswick Taxi service costs, changing the cost/revenue balance for this service segment.

Respectfully,

Pem Schaeffer

Brunswick

Kari: You have my approval to distribute this message to GOC members.

owner of "The Other Side of Town....", a Blog that can be found at: http://othersideofbrunswick.blogspot.com/

RECEIVED APR 27 2015

THE BELL FIRM, P.A.

FROM THE DESK OF:
SHAWN K. BELL, ESQ

PARALEGALS:
Maureen E. Catalano
Barbara T. Girardin

April 23, 2015

Senator Roger J. Katz
Government Oversight Committee
c/o Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, ME 04333

Representative Chuck Kruger
Government Oversight Committee
c/o Office of Program Evaluation and Government Accountability
82 State House Station
Augusta, ME 04333

Re: **A Call for OPEGA Evaluation of NNEPRA**

Dear Senator Katz and Representative Kruger:

Please be advised that this firm is corporate counsel to Brunswick Taxi Service, Inc., a Maine family owned business, located in Brunswick, Maine ("Brunswick Taxi"). We have recently been provided with Senator Gerzofsky's Call for OPEGA Evaluation of NNEPRA dated January, 2015 (the "Evaluation Call").

My client is quite disturbed by Senator Gerzofsky's passive aggressive attack on Brunswick Taxi without checking any facts prior to maligning a constituent. The purpose of this letter is to provide correct information to your Committee as you consider Senator Gerzofsky's Evaluation Call. In Item 17 of the Management Effectiveness provision of the Evaluation Call, Senator Gerzofsky asserts:

> "Details unavailable for Brunswick Taxi no bid contract to transport crews daily; suggests quid-pro-quo between Brunswick municipal officials and NNEPRA."

It is difficult to find one factually accurate item in Senator Gerzofsky's statement. More specifically:

1. **Details Unavailable.** Details regarding the Contract of Brunswick Taxi are unavailable only because Senator Gerzofsky never called Brunswick Taxi to ask any questions regarding the

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Tel. (207) 376-3330 FAX (207) 376-3326
bell@bellfirmmaine.com

Contract. Should the Committee have any questions regarding the Contract, please so advise and we would be happy to provide you with any details.

2. **No Bid Contract.** The Brunswick Taxi Contract was, in no event, a "no bid contract." Quite to the contrary, Brunswick Taxi was asked to bid on this Contract and did so. It was awarded the contract as a result of its bid. Again, this was easily verifiable if Senator Gerzofsky had taken the time to learn the truth.

3. **NNEPRA.** Senator Gerzofsky asserts that there is a no bid contract between Brunswick Taxi and NNEPRA. Brunswick Taxi has absolutely no idea to what Senator Gerzofsky is referring. Brunswick Taxi's Contract is between Brunswick Taxi and LJK Companies, Inc. d/b/a Travelliance, an entity designated by National Railroad Passenger Corporation (AMTRAK) as its lodging and transportation administrator. Brunswick Taxi has never had a contract with NNEPRA. Again, a simple inquiry into the facts would have clarified this issue.

4. **Quid-Pro-Quo.** Of greater concern is Senator Gerzofsky's off handed insinuation that there is somehow a nefarious quid-pro-quo between Brunswick Taxi, Brunswick municipal officials, and NNEPRA. Common decency among State Government and its representatives dictates that before making broad brush statements suggesting untoward activity by constituents there be at least some due diligence. It is no secret that the State of Maine struggles with business development. Many of Maine's businesses are small family businesses struggling to make ends meet. Unsubstantiated assertions such as those made in the Evaluation Call make it that much more difficult for Maine businesses to prosper. We assume that elected officials in Maine are held to some ethical standard. Brunswick Taxi has the right to demand that these standards be met.

Brunswick Taxi requests notice of any hearing where this matter is addressed so that it may defend its reputation with facts rather than unsubstantiated statements designed merely to inflame opponents of the NNEPRA project.

Sincerely,

Shawn K. Bell

SKB:mec:
cc: Joanne T. King

Hojara, Kari

From: Pem Schaeffer <pemster4062@yahoo.com>
Sent: Wednesday, September 28, 2016 1:53 PM
To: Ashcroft, Beth; Hojara, Kari
Subject: Further info re: Brunswick Taxi

Ms. Ashcroft:

Pursuant to OPEGA's Final Draft Report regarding the audit of NNEPRA, I recently sent you a copy of the letter from Brunswick Taxi's Attorney to GOC Chairpersons.

I understand the Committee has interest in the details of the Brunswick Taxi business relationship with NNEPRA as it relates to providing transport services for Downeaster personnel. The referenced letter will hopefully provide the key to unlocking the details sought, which have been obscured by a multi-tiered sub-contracting hierarchy set-up by Amtrak.

There are other questions that arise when considering this relationship. Brunswick Taxi was granted a totally forgivable loan by the Brunswick Development Corporation (BDC) for the sum of $247,000 in July 2013. The promissory note for that forgivable loan is attached.

The specifics of this arrangement may well provide further insight into the relationship between NNEPRA, the Municipality of Brunswick, and the principals of Brunswick Taxi. The BDC is an instrumentality of Brunswick Municipal Government.

Joanne King, spouse of Dale King, the owner of record of Brunswick Taxi at the time the agreement was put in place, was Chair of the Brunswick Town Council for a number of years, including those during which the various agreements and funding mechanisms associated with Downeaster service coming to Brunswick were put in place. Millions of town dollars were involved in various forms to stimulate and incentivize development of the Brunswick Station Property.

John Richardson, former Maine Speaker of the House, and one-time candidate for Governor, was a member of the Brunswick Town Council and a Director of the Brunswick Development Corporation at the time the BDC agreement with Brunswick Taxi was approved. Joanne King, the aforementioned former Chair of the Brunswick Town Council, was the Treasurer for Richardson's campaign, which went off the rails when election rules regarding collection of qualifying clean campaign checks were violated.

According to records provided by the Town Clerk, King served as a Council representative to the Board of the BDC (or its forerunner) for her entire nine years on the Council. Richardson succeeded her on the Board when he was elected to the Council, and was there for all of 2013 according to records. When a serious public outcry erupted over the news of the 'forgivable loan' to King's family, Richardson was in front of an effort to restructure the board and rewrite the by-laws.

This information is being forwarded so you are aware there might be more than meets the eye regarding the previously alleged quid pro quo situation related to Brunswick Taxi. Hopefully your professional staff can quickly determine whether there is enough to merit further investigation.

Kari: I approve the distribution of this message to GOC members.

Respectfully,

Pem Schaeffer
Brunswick

Relevant info sources:

http://www.theforecaster.net/departing-brunswick-councilor-hears-thanks-from-town/

- Above cites King's 9 years on Brunswick Town Council, the last 6 as Chair, and highlights her role in Brunswick Station Development and Amtrak Downeaster service in town.
- Also mentions John Richardson coming to Council to take her 'at large' slot; he served one three year term.

http://www.theforecaster.net/freeport-brunswick-welcome-new-passenger-rail-service/

http://www.theforecaster.net/brunswick-development-corp-changes-focus-rules-for-lending/

http://www.timesrecord.com/news/2013-09-17/Front_Page/Councilor_Richardson_says_BDC_bylaws_need_amending.html

http://bangordailynews.com/2013/08/30/business/unusual-loan-prompts-scrutiny-of-brunswick-development-corp/

http://www.theforecaster.net/town-council-chairwoman-deflects-questions-about-brunswick-development-corp-lending/

http://www.theforecaster.net/brunswick-development-corp-changes-focus-rules-for-lending/

PROMISSORY NOTE

$247,000

Brunswick, Maine
July 24, 2013

FOR VALUE RECEIVED, the undersigned BRUNSWICK TAXI, a Maine corporation with a place of business in Brunswick, Maine ("Maker"), promises to pay to the order of the BRUNSWICK DEVELOPMENT CORPORATION ("BDC"), a Maine nonprofit corporation with a place of business in Brunswick, Maine (together with its successors and assigns, "Lender"), the principal sum of Two Hundred, Forty Seven Thousand Dollars ($247,000), together with interest that shall begin accruing on August 1, 2013 on said principal amount at the rate of four and a quarter percent (4.25%) per annum as shown on Exhibit A attached, and as described as follows:

1. Commencing on September 1, 2013 and continuing on the 1st day of each month thereafter, interest shall accrue on said principal amount. On August 1, 2016, total accrued interest will be in the amount of Thirty Three Thousand, Five Hundred Twenty Five and 07/100 Dollars ($33,525.07). At the end of the three (3) year period, the accrued interest will be added to the original principal. The updated outstanding principal balance has been calculated to be Two Hundred Eighty Thousand, Five Hundred Twenty Five and 07/100 Dollars ($280,525.07).

2. Commencing September 1, 2016, and continuing on the 1st day of each month thereafter, for a period of two (2) years, principal and interest shall be paid in monthly payments in the amount of Three Thousand Eight Hundred Sixty Six and 81/100 Dollars ($3,866.81). The monthly payments have been calculated as sufficient to amortize the entire outstanding Two Hundred Eighty Thousand, Five Hundred Twenty Five and 07/100 Dollars ($280,525.07) principal balance hereunder, together with interest, over a term of eighty four (84) months, representing the balance of the remaining term of the ten (10) year amortization period. On August 1, 2018, an additional payment of principal and interest totaling Two Hundred Twelve Thousand, Five Hundred Fifty and 13/100 Dollars ($212,550.13) (the "Balloon Payment") is due and payable. The Balloon Payment has been calculated to retire the outstanding balance at the end of the five (5) year term of this Promissory Note, provided all monthly payments have been met.

3. On or before August 1st, 2016, one hundred percent (100%) of the original principal sum, equal to Two Hundred, Forty Seven Thousand Dollars ($247,000), and the accrued interest, in the amount of Thirty Three Thousand, Five Hundred Twenty Five and 07/100 Dollars ($33,525.07), for the loan term for months one through thirty six, and the accrued interest of Twenty Thousand, Nine Hundred Sixty One and 67/100 Dollars ($20,961.67) for the loan term for months thirty seven through sixty, will be forgiven, so long as the Maker is not in default of any of this Promissory Note's terms and the following requirements have been met:

_____
Initials

a. Brunswick Taxi will retain the business for a minimum of three (3) years, from the date of this Promissory Note, with the exception of selling the business as Brunswick Taxi to Sara King, daughter of business owner, Dale King.

b. At any point in time, when Brunswick Taxi is sold, it must be sold as Brunswick Taxi.

c. Provide proof of current staffing levels as of the date of this Promissory Note.

d. Maintain current staffing levels for a minimum of three (3) years from the date of this Promissory Note. Create two (2) new positions within three (3) years from date of this Promissory Note.

e. Work with Brunswick Downtown Association / Town of Brunswick for marketing and branding, not limited to painting the Brunswick logo on the back of the taxis; and purchasing an annual advertisement at the Visitors Center for three (3) years from the date of this Promissory Note.

f. Purchase of the following vehicles and equipment, and provide proof of purchase:

- $150,000 - Purchase 6 new energy efficient taxi-cab vehicles to drastically reduce maintenance and repair costs, save and increase business and significantly improve the company's and the town's images.
- $30,000 – Purchase one new energy efficient handicap accessible minivan to increase revenues by expanding the services to the handicapped, seniors and educational and medical institutions.
- $45,000 - Purchase a new 14 passenger van to retain business and to meet the projected increase in corporate and institutional demand from Bowdoin College, Mid Coast and Parkview hospitals, the Brunswick Transportation Center and Brunswick Landing.
- $10,000 – Add GPS systems to all taxi-cab and van vehicles to improve efficiency, safety and tracking capabilities.
- $12,000 - Purchase compressed natural gas conversion kits for all taxi-cab vehicles to reduce emissions and to reduce operating costs.

g. A full-time position works at least 30 hours per week. Maker and Lender agree there are currently 22 full-time equivalent positions, consisting of employees and independent contractors, at the Maker's Brunswick location(s). Maker shall prepare and deliver annual statements as to job creation/retention and deliver them to Lender. The Lender retains the right to audit Maker's financial records to ensure compliance with the job creation requirements of this Promissory Note.

The Maker may prepay this Promissory Note, in part or in full, at any time, without charge or penalty. However, the Maker will forfeit any credit for terms and requirements as listed in Section 3 herein.

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Initials

Any payments made by Maker may be applied as follows, at the option of Lender:

1. first, to all late charges and other costs and charges payable hereunder or in connection herewith, other than principal or interest;

2. second, to the interest on the unpaid balance of the debt evidenced hereby, with interest on all overdue interest at the same rate; and the remainder to the unpaid principal of the debt, until the same is paid in full.

In the event that any or all of the following shall occur (each, an "Event of Default"):

1. Maker shall fail to pay any amount when due hereunder;

2. There shall occur a default in the terms or conditions of the Promissory Note, and such default shall continue after the period set forth in such Promissory Note for the purpose of curing such default;

3. Maker is liquidated or dissolved for any reason or undergoes a change in ownership or structure; or shall become insolvent or be unable to pay its debts as they come due; or makes an assignment for the benefit of creditors, files a petition in bankruptcy or applies to any tribunal for the appointment of a custodian, receiver or trustee for it or him or with respect to any substantial part of its or his assets or commences any proceedings under any bankruptcy, reorganization, arrangements, receivership, composition, liquidation, readjustment of debt, dissolution or liquidation law or statute or any other law or statute of the same kind; or has any such petition or application filed against it or any such proceedings commenced against it which remain undismissed for a period of sixty (60) days or more; or by any act or omission, shall indicate its consent to approval of or acquiescence in the filing of any such petition, application or proceeding or the appointment of a custodian, receiver or any trustee for it or with respect to any substantial part of its properties or suffers any such custodianship, receivership or trusteeship to continue undischarged for a period of sixty (60) days or more; or shall enter into any agreement with one or more creditors for extension, arrangement or composition of a substantial portion of such party's indebtedness (excluding the incurrence of new obligations and the renewal of obligations in the ordinary course of such party's business); or become a party to any merger or consolidation then, in each and every such case, Lender shall have the option to declare due and payable at once the entire principal balance hereof together with accrued interest, and Lender shall have such additional rights and remedies as are set forth in the Promissory Note.

Maker shall pay to Lender a late charge in an amount equal to five percent (5%) of any amount due hereunder that is not paid within fifteen (15) days of the date when due. In addition, upon the occurrence of an Event of Default (defined above), interest on all unpaid balances hereunder shall accrue from the date of such Event of Default at a rate equal to the interest rate hereunder plus three percent (3%) per annum (the "Default Rate") until the earlier of the time that (i) Lender elects in its sole discretion to accept cure of such Event of Default in writing, or (ii) such balances are paid in full. All computations of interest due hereunder shall be based on the actual number of days elapsed over a 365-day year.

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Initials

This Note is subject to the condition that at no time shall Maker be obligated or required to pay interest at a rate which could subject Lender to either civil or criminal liability, forfeiture or loss of principal, interest, or other sums as a result of being in excess of the maximum interest rate which Maker is permitted by law to contract or agree to pay or which Lender is permitted to receive. If, by the terms of this Note, Maker is at any time required or obligated to pay interest at a rate in excess of such maximum rate, the rate of interest under this Note shall be deemed to be immediately reduced to such maximum rate for so long as such maximum rate shall be in effect and shall thereafter be payable at the rate herein provided.

If any payment of principal or interest hereunder shall be deemed by final order of a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance, the obligation of Maker and all other parties liable herefor shall, jointly and severally, to the extent thereof, survive as an obligation due hereunder and shall not be discharged by said payment, notwithstanding the return by Lender to Maker or any other party of the original of this Note.

Maker and all other parties liable herefor hereby severally (i) waive demand, presentment, protest and notice of every kind; (ii) waive all recourse to suretyship and guarantorship defenses generally, including, but not limited to, any extensions of time for payment or performance which may be granted to Maker or to any other liable party, any modifications or amendments to this Note or any documents securing payment and performance hereof, any act or omission to act by or on behalf of Lender, any invalidity or unenforceability of any security, guaranty or endorsement given herefor, any release of security, whether any such release is intentional, unintentional or by operation of law, and all other indulgences of any type which may be granted by Lender to Maker or to any other patty liable herefor; (iii) waive any right to indemnity, contribution, exoneration or reimbursement of any kind by any other party directly or indirectly liable herefor, whether maker, endorser, guarantor or otherwise, on account of any payment made hereunder; (iv) waive any right of subrogation to the rights, remedies or security of Lender on account of any payment made hereunder and (v) free to pay on demand all costs of collection and/or enforcement of the indebtedness and other obligations evidenced hereby, including reasonable attorneys' and paralegals' fees and costs.

All sums due hereunder shall be paid to the Brunswick Development Corporation at 28 Federal Street, Suite 2, Brunswick, Maine 04011-1583, or to such other parties or addresses as Lender may from time to time designate in writing to Maker or to other parties liable herefor. This Note evidences a loan for business and commercial purposes, and not for personal, family or household purposes.

Maker and any undersigned guarantors confirm and acknowledge their understanding that, pursuant to 10 M.R.S.A. § 1146, to the extent applicable, in order to maintain an action against Lender with respect to a promise, contract or agreement to lend money, extend credit, forbear from collection of a debt or make any other accommodation for the repayment of a debt, such promise, contract or agreement (or some memorandum or note thereof) must be both (a) in writing and (b) signed by the Lender.

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Initials

No delay or omission on the part of Lender in exercising any right hereunder shall operate as a waiver of such right or of any other right under this Note. No waiver of any right of Lender or any modification of the terms and conditions of this Note shall be effective unless set forth in writing and signed by Lender. Further, no forbearance or waiver by Lender on one occasion shall be construed as a waiver of any right of Lender on any future occasion.

No invalidity or unenforceability of any portion of this Note shall affect the validity or enforceability of the remaining portions hereof. This Note is intended to take effect as a sealed instrument, and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by those laws of the State of Maine that are applicable to agreements that are negotiated, executed, delivered and performed solely in the State of Maine.

ATTESTING WITNESS:

_____

BRUNSWICK TAXI

By: _____

Name: _____

Title: _____

_____
Initials

brightline

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RECEIVED OCT -4 2016

Eugene K. Skoropowski
Senior Vice President-Railroad Operations
All Aboard Florida/*Brightline* Passenger Service
2855 Le Jeune Road, 4th floor
Coral Gables, FL 33134
September 27, 2016

Government Oversight Committee
82 State House Station
Room 107, First Floor, Cross Office Building
Augusta, ME 04333-0082

Re: OPEGA Hearing on the Northern New England Passenger Rail Authority

Dear Senator Katz and Representative Kruger:

Please record my comments regarding the performance of the Northern New England Passenger Rail Authority (NNEPRA) staff and their management of The Downeaster intercity passenger rail service. The success of this service is recognized as a national model for other states and passenger rail organizations to follow.

My 40 year railroad career started in Boston in 1977, as Chief Railroad Services Officer for Boston's then-deteriorating commuter rail system, starting its rehabilitation program, extending services, and planning for future growth. Since that time I have directly managed passenger rail systems in Philadelphia and in Northern California (the Capitol Corridor, now the 3rd busiest intercity route in the country). For ten years while with Fluor Corporation, I was a major participant in the construction and implementation of new passenger rail services in Los Angeles, London, Paris and Amsterdam. My career is documented on "Google". Currently, I am the head of the Railroad Operations component of the first new, privately financed intercity passenger rail service in the country in nearly 100 years. This All Aboard Florida/*Brightline* service will connect Miami, Fort Lauderdale, West Palm Beach and Orlando with initial operation commencing in summer 2017. The Florida *Brightline* corridor is 240 miles long, and has some similarities to Maine's Downeaster service. Many rail industry publications have described me as 'an expert' in passenger rail services.

It is with this background that I offer my comments. The success of The Downeaster service did not 'just happen'. I have been close to the folks in Maine during its conception, its design and funding, and have followed its successful growth, which has proven many a naysayer "dead wrong". The initial plan embraced by Dana Conners when he was Maine DOT Commissioner, and implemented by his successor John Melrose can only be described as 'visionary'.

There were some ups and downs in performance during the early years, at least partially attributable to less than committed management and leadership. That all changed for the better when Patricia Quinn took the helm as Executive Director, forged a constructive partnership with Pan Am Railways, secured federal funding for capacity improvements, added additional services, and even managed to squeeze some capital funding out of the State of New Hampshire!

The growth of the The Downeaster is a credit to the NNEPRA staff, and The Downeaster's popularity, not only in Maine, but across New England and beyond, is recognized by organizations such as the American Public Transportation Association (APTA), and the American Association of State Transportation & Highway Officials (AASHTO), the most respected transportation organizations in the country. NNEPRA received national recognition from APTA for their Marketing efforts, and the NNEPRA staff are always in demand to help other states and agencies achieve what has been achieved in Maine.

The documented growth of The Downeaster, and its public popularity, is not common in the transportation industry, and making this all the more remarkable is the fact that the NNEPRA organization operates with only a handful of staff, and on one of the most modest budgets in the transportation industry. The people of Maine are getting exceptional value for the funds provided to support NNEPRA and The Downeaster, while they also enjoy the wonderful benefits of its top-notch service. The primary catalyst for the success of the Downeaster and of NNEPRA is the executive leadership provided by Patricia Quinn and the NNEPRA staff, delivering cost-effective management of The Downeaster service.

As an example of this, The Downeaster service recovers about $.79 of every dollar for food & beverages sold aboard the trains. This outstanding return is the highest is the country, largely due to NNEPRA's choice of Epicurean Feast, a local Maine company, to provide on-board services on The Downeaster trains. In my 10 year tenure as Managing Director of Northern California's Capitol Corridor, we never managed to recover more than $.55 for every dollar of on-board sales. Again, this is a tribute to smart and effective management decisions by the NNEPRA lean-and-mean staff.

Many skeptics voiced predictions of 'boondoggle' and 'doomed to failure' when The Downeaster service started, including editorials in newspapers like Foster's Daily Democrat in Dover, NH. In one of the most unusual actions ever taken by a respected newspaper, Foster's actually published an editorial, stating that "we were wrong" about The Downeaster service, and the editorial pointed to the number of train riders in Dover, and, in particular, the number of children taking the train to Dover and walking to the local museum from the station.

brightline

Brought to you by ALL ABOARD FLORIDA

It is my professional opinion that the people of Maine are most fortunate to have in place at NNEPRA a small but experienced, dedicated and cost-effective management team who are able to manage a modest budget, work in a realistic way with rail advocates, deal with the inevitable politics, build constructive relationships, and deliver a quality transportation service to the people of Maine, and to all those who ride The Downeaster. Few states and agencies are so fortunate. NNEPRA is an exceptionally well run organization.

Sincerely,

Eugene K. Skoropowski
Senior Vice President-Railroad Operations
All Aboard Florida/*Brightline*

Office: 407.274.9225
Mobile: 904.316.2548

TESTIMONY TO THE
GOVERNMENT OVERSIGHT COMMITTEE OF THE
MAINE STATE LEGISLATURE
Regarding the
OPEGA Review of the
Northern New England Passenger Rail Authority

Respectfully submitted by
Patricia Quinn, NNEPRA Executive Director

Good morning Senator Katz, Representative Kruger and members of the Government Oversight Committee. My name is Patricia Quinn. I joined the Northern New England Passenger Rail Authority in October 2000 and have been its Executive Director since 2005. In addition to my role as Executive Director of the Rail Authority, I serve in senior positions on three national organizations of rail officials, including Chair of the States for Passenger Rail Coalition, Executive Committee of the State Amtrak Intercity Passenger Rail Committee and a participant in the National Rail Cooperative Research Program. I also serve on the Board of the Maine Development Foundation. NNEPRA welcomes the opportunity to participate in public discussions regarding rail and any suggestions to improve the way we do business. My participation in national organizations as well as speaking with groups throughout the state and nation furthers that goal.

In summary, the review performed by OPEGA staff has been very thorough and professional, and their report is very well done and accurate. I also believe that further inquiry or review would not be a productive use of NNEPRA's or OPEGA's staff time and resources. I appreciate this opportunity to comment not only on the report, but to clarify misstatements made at previous meetings.

I am proud of NNEPRA and our exceptional team. The OPEGA report confirms that NNEPRA is the quality agency that we at NNEPRA know it to be.

I am also very proud of what we've accomplished managing the Amtrak Downeaster over the past 15 years, and specifically over the past year. The service hit a rough patch a year or so ago, and no one is denying that. I am very happy to report today, that our unofficial counts suggest that the Downeaster just finished its best first quarter ridership in its history, and our customer satisfaction ratings remain among the best in the nation.

I have looked carefully at the public comments submitted to OPEGA and the GOC which were released at the request of this committee last week. I agree with Director Ashcroft that the relevant concerns raised within these comments have been addressed by OPEGA throughout the review process, and that many comments relate to issues outside of NNEPRA's purview.

Some simply oppose passenger rail service in general or oppose the extension of the Downeaster to Brunswick in particular. As noted in OPEGA's report, the restoration of passenger rail service between Portland and Boston in 2001, and the extension of passenger rail service to Brunswick in 2012, reflected NNEPRA's execution of policy decisions made by previous administrations and by the legislature.

Others want to reduce passenger rail service in Maine or want to be sure that there is no further expansion of passenger rail service in Maine. The OPEGA report clearly describes NNEPRA's roles and responsibilities and finds that NNEPRA is not in a position to SET state policy, but to implement it.

Some expressed their opposition to the construction of the layover facility in Brunswick, and while that was not within the scope of this Committee's charge to OPEGA, it is a recurring theme and worth comment.

There is no question that some in Brunswick opposed the construction of the Brunswick layover facility, just as many others in Brunswick favored it. But the fact that the layover has been built, does not somehow mean that there was not significant nor sufficient public input throughout its development.

As information, the initiative to construct the Brunswick layover was explored by NNEPRA beginning around 2010, once funding for the expansion of service to Brunswick was likely to be secured. It is most efficient to locate such a facility at the beginning/end of the line. A parcel of property in an existing "railroad corridor", located close to the station, which had served as a rail yard for over a century seemed like a logical choice.

Following discussions with the Town officials about developing a layover on the rail yard property, NNEPRA did indeed first introduce this project to the public at a public meeting of the Brunswick Zoning Board in April 2011. But soon afterwards legal counsel for the Town of Brunswick concluded that, under federal law, no local permits or approvals were required for the Project. Several Brunswick residents attended NNEPRA's next public board meeting a few weeks later, requesting that the location of the layover be reconsidered. NNEPRA heard those concerns and agreed to take a step back and conduct a formal and public site selection process.

What followed was a multi-faceted and public review lasting more than four years.

- Three special public meetings in Brunswick – coordinated with the help and support of Senator Gerzofsky – and several NNEPRA public board meetings were held during the site review and selection process in the summer of 2011.

- And when the NNEPRA Board determined that the rail yard was the best location for the layover, it also formed the Brunswick Layover Advisory Group. This group was comprised of representatives of NNEPRA, the Town of Brunswick, MaineDOT, Amtrak, and representatives from the nearby neighborhood. This group met at least five times between September 2011 and July of 2014 and provided significant input which was incorporated into the building specifications before a design-build contractor was even selected, and throughout design development along with the contractor.

- The Environmental Assessment (EA) required by our federal funding partner, the Federal Railroad Administration (FRA), which had to be completed prior to commencement of

construction, began in 2012. The EA process included the development (by NNEPRA) of a detailed and comprehensive report to document that potential environmental impacts had been identified and addressed as well as a formal public comment period. The hundreds of pages of public comment received throughout the process, as well as the verbal comments received during a public hearing held in Brunswick in September 2013 hosted by FRA representatives from Washington DC., were reviewed, addressed, documented and responded to. After a careful review of the EA documentation, the FRA issued a Finding of No Significant Impact (FONSI) on the project in June 2014.

- As a result of public intervention, the Maine Department of Environmental Protection scrutinized many aspects of the Brunswick layover project over the course of the next several months, impeding our ability to proceed. And, as part of a Stormwater Management Law permit process, the DEP conducted a full day public hearing about the facility in March 2015. The stormwater permit was granted in early October 2015 and included a DEP requirement that construction be monitored by a 3rd party inspector who would report to DEP to assure compliance with all of the requirements of the permit.

- Construction on the Brunswick layover finally began on October 15, 2015.

I am proud to tell you today that this critically important facility is substantially complete, on time, on budget and in compliance with regulations and requirements. The layover will be ready to service Downeaster trains beginning on November 20, 2016. A third Downeaster round trip between Brunswick and Boston will, as promised, commence the next day and from that point on train sets will be serviced, stored, and shut down inside the building - as promised. This will mark a major improvement in Downeaster service by increasing mobility, reliability and efficiency. Documentation of this process is published on our website and further review of this project by OPEGA is not warranted.

Safety is, and will always be the biggest priority for the entire Downeaster team and NNEPRA works continually with its operating partners to make improvements to the Amtrak Downeaster service. Together with Pan Am Railways, NNEPRA financially supports capital maintenance projects to assure that Pan Am can maintain a safe railroad in a state of good repair. These projects include things like brushcutting, culvert repairs, grade crossing upgrades, signal system updates and, yes, tie replacement.

Regarding service interruptions related to track maintenance, as described at the last meeting, NNEPRA has developed a program in partnership with Pan Am to routinely replace a portion of ties every couple of years to support the operation of passenger trains. This is not because the track is in poor condition now, but because ties wear out and need to be periodically replaced to keep the railroad in good condition. Due to various factors out of our control, such as funding, product supply shortages and labor demand, last years' program was implemented more than a year later than we had hoped, ran longer than expected and, as a result, disrupted many passengers and negatively impacted our reputation and that of the Downeaster. No one disagrees that the tie project last year did not go well, and many lessons were learned as a result. Today, speed restrictions exist on less than two miles of

track, and another tie project begins next week between Portland and Wells to assure that the railroad remains in a state of good repair. Unfortunately, construction on a one-track railroad can't help but impact service and therefore Amtrak has arranged to provide a bus bridge for passengers travelling north of Wells so that passengers do not have to experience the delays incurred by operating through track under construction and can get to their destinations reliably. This is a standard alternative. Status updates on the tie replacement project will be chronicled on our website. This project does not require further review by OPEGA.

The OPEGA report reflects that railroad operations are strictly regulated and that Amtrak, as the nation's intercity passenger railroad operator, is fully aware, responsible for and compliant with those regulations. NNEPRA's major capital projects include federal funds and are therefore reviewed and audited by our federal funding partners regularly. Details of these projects are published on our website, and do not warrant further OPEGA review.

Lastly, I want to reiterate that the entire NNEPRA Team, our staff and Board, take our jobs and our responsibility for public transportation and public service very seriously. We are loyal, dedicated employees who are respected leaders in the communities we serve and in the passenger rail industry nationally. We are also parents, grandparents, homeowners, community members and taxpayers.

We look forward to working with Policy makers to achieve your vision for transportation and connectivity to and within our State. We accept the recommendations of OPEGA and invite the continued participation and input of the public. But mostly, we'd like to return our full focus to the business of developing and managing a quality passenger rail system that meets the transportation needs of our customers, delivers value, and enhances economic development within the region we serve.

Thank you, and I am happy to answer any questions at any time.

Maine Government Oversight Committee – OPEGA Hearing Comments, October 6, 2016

I am here as a railroad analyst, consultant and executive by experience who has submitted 21 pages of commentary to OPEGA on this subject, with no axe to grind other than that of a Maine taxpayer. I have nothing more to add for Ms. Ashcroft and only a brief statement to make before your committee concerning the NNEPRA report.

I am not here to contend that Maine should not be accessible by passenger train or argue the merits of the original "Downeaster" route, but to question subsequent Board and executive decisions concerning the Brunswick extension that make no sense to professional railroaders and clearly bear thorough investigation. North of Portland, my view is that NNEPRA has been "playing trains in full scale with other people's money."

OPEGA's investigation is commendably thorough and factual – as far as it goes. It speaks to structure and process, but not at all to responsible institutional judgment and stewardship of public funds.

Here's what I mean by that comment. There is a name in all the right boxes on the organization chart and all required meetings are held, forms filed, financial audits conducted, and annual reports issued. However, OPEGA has not yet peeled the onion to determine whether NNEPRA has proactively carried out its management oversight responsibilities with subcontractors on behalf of the state – or merely acted as a custodian of those agreements and routinely paid the bills presented to it.

The second level of "Downeaster" performance oversight rests with a NNEPRA Board appointed by the Governor. How are candidates for the Board nominated and selected, and what qualifications are deemed necessary? Published Board minutes reflect unanimity, never recognizing a dissenting viewpoint or referencing serious debate. The impression left is "rubber-stamp" oversight by compliant directors lacking pertinent knowledge of the business. Are these overseers independent, or do they occupy honorary positions for rail advocates?

OPEGA represents the third level of oversight and accountability, one presumed to be independent and apolitical. The remarkable number of unsolicited comments Ms. Ashcroft has received suggests that NNEPRA's record demands more than a superficial investigation. Mine alone present a host of questions concerning relationships and decision-making that are at odds with private-sector behavior and do not pass the test of reasonability incorporated in the enabling legislation. It is telling that OPEGA's report fails to acknowledge the voluntary contributions of interested parties other than NNEPRA staff and those of the DOT and DECD. You have been presented with one side of the story.

Examples of some of the judgmental issues that should be probed are listed below:

1. Engaging CNT (an urban-transit-oriented consultancy) for analysis of a long-distance market
2. Targeting of Brunswick for first route extension over more populous, less costly, dual-benefit L-A
3. Committing to Amtrak as operator and to use of its equipment for a light-density route segment
4. Deciding to construct an oversized 52,000-square-foot maintenance facility in the wrong location

5. Preserving the costly original Portland base for train crews despite service extension to Brunswick
6. Condoning repeated misrepresentations by supporters that ridership has "consistently exceeded projections"
7. Presuming that "limited track capacity" could allow five daily round trips to both Brunswick and L-A
8. Alleging that increased service frequency would significantly increase ridership at both terminals
9. Rejecting an airline-type hub-and-spoke service design that logically should apply beyond Portland
10. Admitting that extension of service to other Maine points would require duplication of layover facilities
11. Relying on specious justification for a new four-mile, high-speed passing siding in Yarmouth
12. Neglecting to anticipate track conditions that have led to service delays, interruptions and suspensions
13. Failure to consider expected costs and benefits as supported by objective research and analysis (see OPEGA recommendation)

The fourth level of oversight is this committee, assisted by OPEGA. Amtrak works for NNEPRA, not the other way around, but NNEPRA appears to have acted as a Santa Claus enabler for "wish lists" presented by all of its associated "partners," none of which has reason to be generous or frugal. The Brunswick extension reflects a "build-it-and-they-will-come" obsession with infrastructure for which there is no demonstrable market need – so long as someone else can be persuaded to pay for most of it.

No one in the private sector would initiate scheduled rail passenger service to Brunswick without first testing demand with a bus. If the service must use rails for political reasons, it certainly would not start out with a full-length conventional train. Boeing 747s do not fly into Owls Head.

I recommend that you authorize OPEGA to finish its assignment by determining how so many poor decisions could possibly have been made under management that was intended to exercise "reasonable" judgment. Its report lacks the essential element of skepticism, by portraying NNEPRA as an unwitting victim of the subcontractors it is responsible for overseeing. Investigators have an obligation to be skeptical.

It's up to OPEGA to reconcile misguided sentiment with the various contractual and operational realities properly noted in the report delivered to you. Accountability means more than a compliance and financial audit in which only the potential suspects are interviewed. As with the Maine Turnpike Authority, it means digging in the dirt that devious managements typically attempt to deny, dismiss, deflect and delay - questionable relationships, quid pro quos, sidebar agreements, internal communications, and the like. OPEGA needs to scratch the surface in this case, not polish it.

George C. Betke, Jr.
President, Transport Economics, Inc.
Newcastle, Maine 04553-0295

Maine Government Oversight Committee – OPEGA Hearing Comments

Good morning, my name is David Snyder. I am here because I share concerns expressed by others as to the guidance and oversight provided by NNEPRA to Maine's "Downeaster" rail passenger service. Armed with a degree in Economics from Cornell I spent some 44 years in the railroad industry that included 30 years in freight rail, and the last 14 in commuter passenger rail. Nine years of freight rail was here in Maine as Superintendent of the Maine Central Railroad. Retired now, I live in Manassas, VA, but frequently visit my daughter and family who live in Kennebunk. The Downeaster is my chosen form of transportation up from Boston.

In the private sector of freight rail, I learned how to **save** money; in the public sector of commuter rail I learned how to **spend** money. The concerns presented today are the result of extensive experience on both sides. There are many parallels between NNEPRA and the Virginia Railway Express (VRE) where I spent the last 14 years of my career. Both were "new starts" funded by public money, political influence, a field of dreams, and little experience. Both chose Amtrak to provide the service, and to facilitate acceptance by two host freight railroads. Both were successful.

I joined the VRE in 1994, as it entered its third year. There was no one with railroad experience on the staff. Immediately obvious was the cavalier attitude of Amtrak management towards VRE staff. That prompted me to study the contract and examine billing detail.

- Immediately found was approximately $30,000 in monthly overcharges for use of Amtrak facilities. Recovered was $830,000 in past payments, and the "savings" of $30,000 monthly going forward.
- In the next year I found Amtrak billing VRE for parts and labor for repairs to Amtrak equipment;, not VRE equipment..
- Capital expenditures by VRE for infrastructure improvements were "guided" by Amtrak and the host railroads (CSXT and Norfolk Southern). These were decidedly self serving, but not to VRE. I was able to join in these meetings from a position of strength, rather than mere acquiescence. Projects were redesigned to better serve all users.

With all this said, now comes the comparisons and concerns. NNEPRA, to their credit for their hard work, dispatched the train out of the station, albeit with Amtrak at the throttle. To see statements from NNEPRA continually saying "That's Amtrak's responsibility" makes me wince. You do not hire the fox to guard the hen house.

Does NNEPRA have experienced staff that:

- can sit in on labor negotiations;
- that can go to the facility in South Boston and "talk shop" with Amtrak's maintenance employees,
- that can sit down with Pan Am's engineering department and talk track maintenance;
- that can meet with the MBTA to negotiate train schedule "slots."?

Probably not. "Ya Gotta Know the Territory."

ITEMS OF DUBIOUS DISTINCTION:

- You must pay the fiddler: In Virginia, if you want a station stop on the VRE, you must share the costs. Expansion beyond Fredericksburg required Spotsylvania county funds. No money, no service. Apparently not so for NH and MA station stops on the Downeaster. As an aside, on October 4, 2016 I rode 685 up from Boston, and fully 50% of the riders disembarked in MA, and NH stations. When we left Portland for Brunswick there were only 10 riders left..
- Expansion to Brunswick and the Infamous Garage: I love Maine. It truly is "The Way Life Should Be." Beyond Portland the population spreads out to enjoy the ruggedness of a valued tranquility. The highways are not crowded; mass public transportation is simply not necessary. Why then did NNEPRA gather tens of millions in public money to create a 28 mile, 70mph driveway to a fancy garage in Brunswick? "Build it and they will come" will not work with the small census numbers in rural Maine
- Capital infrastructure projects of questionable value: Did NNEPRA staff actually support and negotiate for the Royal Jct. passing track and the Portland Wye? Where is the frugality of a reasonable Mainer. "If it ain't broke, don't fix it." Here is almost $20,000,000 in public funds earmarked for waste.

❖ **Royal Jct. Siding.** This project is allegedly required to facilitate five round trips to Brunswick because the "string lines" show the need to meet opposing Downeasters in that area.

- In fact, NNEPRA"s string line presentation shows only one conflict among the 10 trains. That conflict can be eliminated by a 20" change in the southbound train. **(See exhibit A)**
- The most recent support for the new siding comes from Augusta wherein it is said that Pan Am intends to run unit trains of Poland Spring water. If this is true it will be two mini trains per day. That would increase the number of trains to 10 Downeasters and six freights. The existing infrastructure can easily handle double that amount.
- Additionally, (from Pan Am) it is said the 10 Downeasters will interfere with the service to customers in the Deering Jct. area. I fail to see how a new siding will provide any mitigation. Pan Am has an existing 6050' siding at Royal Jct, and a 9500' 2nd main track seven miles south at Riverside St. (Deering Jct.).
- The proposed $9,000,000 project WILL NOT allow trains to pass "at speed" as stated Due to the shortness (four miles) of the new track, the required signal system design will slow one or both trains to a crawl.
- The four mile project is chopped into five pieces by four highway crossings. Only one of these segments will hold a mile long freight train without blocking adjacent crossings. **(See exhibits B & C)** Highway crossings WILL BE BLOCKED by stopped freight trains. **Is that acceptable?** The existing Pan Am sidings each will hold a freight train well in excess of one mile long, and they have NO intervening highway crossings to block.

- **The Portland Wye**: $10,000,000 to be spent on a connecting track that has NO saving in time in the existing schedules? The use of the wye will require the Amtrak crews to change controlling ends of the train. To do it enroute is not a wise decision. This is problematic due to the complexities of required tests and inspections. This is particularly challenging in the ice and snow of a Maine winter. **(See exhibit D)**

And finally a few "snapshots"

On train 682 (10/5/16) leaving Brunswick, there was an Amtrak locomotive on each end of the four car train, and each was running and supplying traction power. That's over 8400 horsepower for a mini train. When the cab control cars are in the shop, who pays for the extra locomotive and fuel. Does NNEPRA have a written policy that limits this absolute waste? Who enforces it with Amtrak?

As the "Downeasters" transition to the Brunswick terminal (Nov 22, 2016) with three round trips to Boston, and only two from Portland, has NNEPRA played a role in labor negotiations to change the crew terminal in order to minimize cost increases for taxi trips and crew deadheads or has this been passed off as "That's Amtrak's job.?"

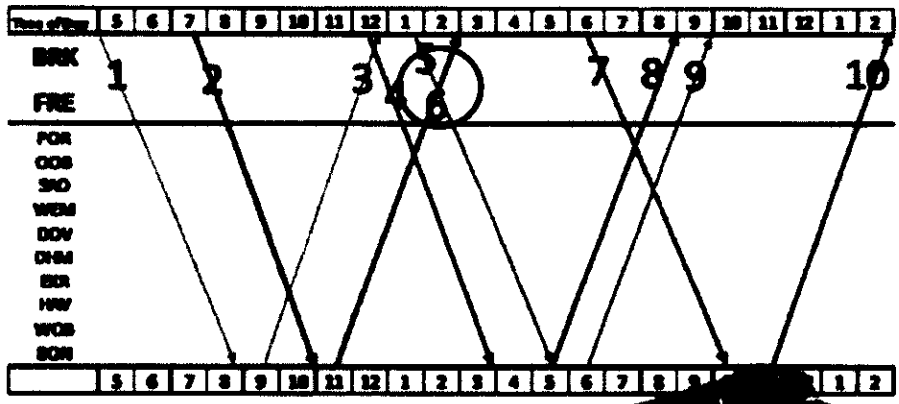
My experience with Amtrak over 14 years was disappointing and discouraging. Amtrak staff, for the most part, lack incentive, lack creativity, and are not proactive. They approach requested change with negativity. Their comfort level cannot be threatened, and that level is status quo.

The demand for greater stewardship by NNEPRA is NOW.

EXHIBIT A

What is the Long Term Plan for Downeaster Service To/From Brunswick?

Once Royal Siding is built, all **TEN** Downeaster trains (5 r/t) can operate to/from Brunswick and Boston, maximizing ridership and revenue opportunities, and improving efficiency. The schedule could potentially look like this:



Meeting point between trains 5 and 6 can be on the existing double track at Riverside St. on the north side of Portland

Exhibit B

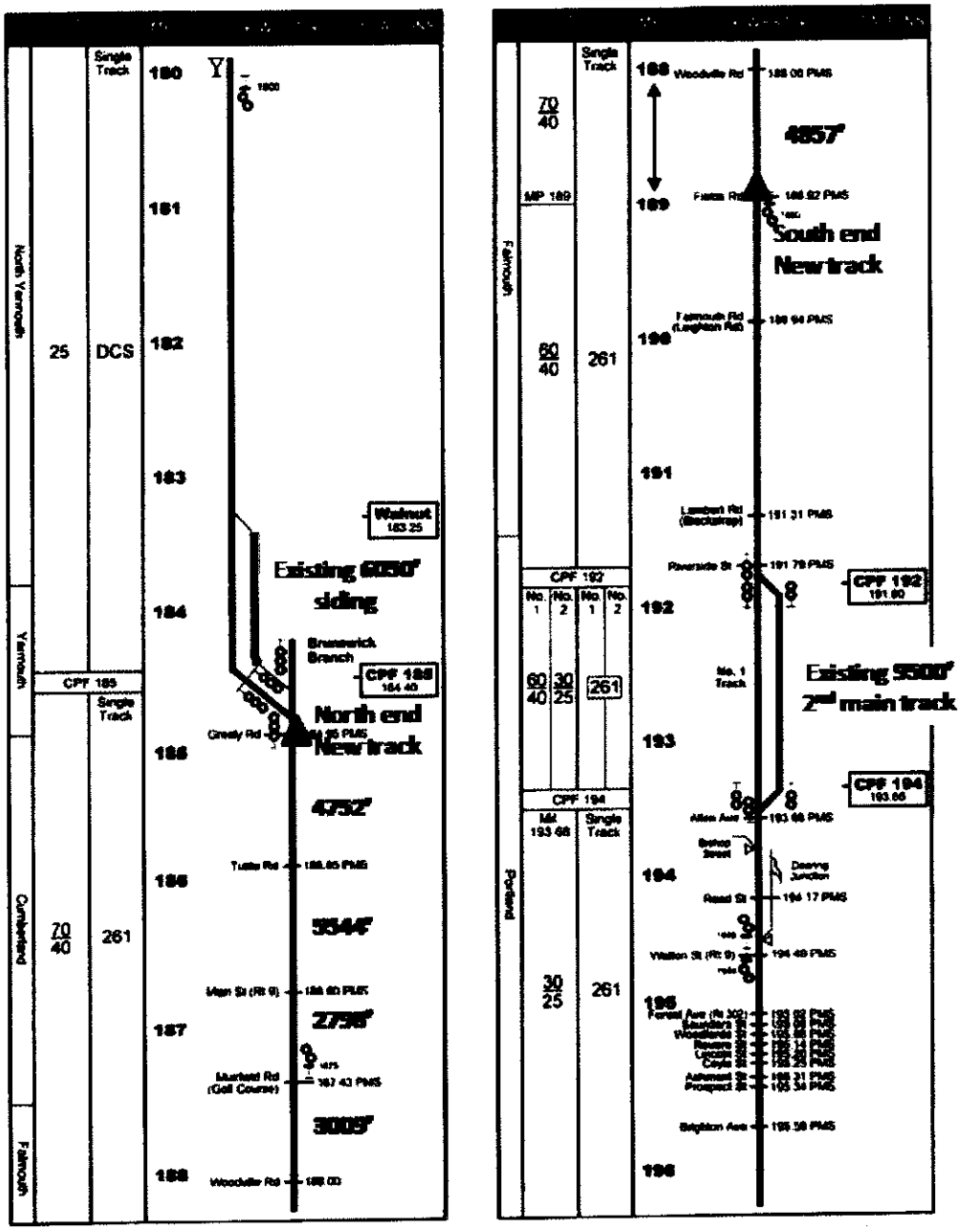

North Yarmouth
Yarmouth
Cumberland
Falmouth
25
DCS
Single Track
CPF 185
70
40
261
180
181
182
183
184
185
186
187
188
Y
Walnut
183.25
Existing 6000' siding
Brunswick Branch
CPF 186
184.40
North end New track
Greely Rd
4752'
Tuttle Rd
3544'
Main St (Rt 9)
2798'
Mustard Rd (Golf Course)
3005'
Woodville Rd
188.00
70
40
MP 189
60
40
CPF 192
No. 1
No. 2
30
25
CPF 194
Mt. 193.66
189
190
191
192
193
194
195
196
4857'
South end New track
Falmouth Rd (Longley Rd)
Lambert Rd (Blackstrap)
Riverside St
191.79 PMS
CPF 192
191.60
Existing 5500' 2nd main track
No. 1 Track
CPF 194
193.66
Allen Ave
193.66 PMS
Deering Junction
Read St
194.17 PMS
Walton St (Rt 9)
194.49 PMS
Brighton Ave
Portland

EXHIBIT C

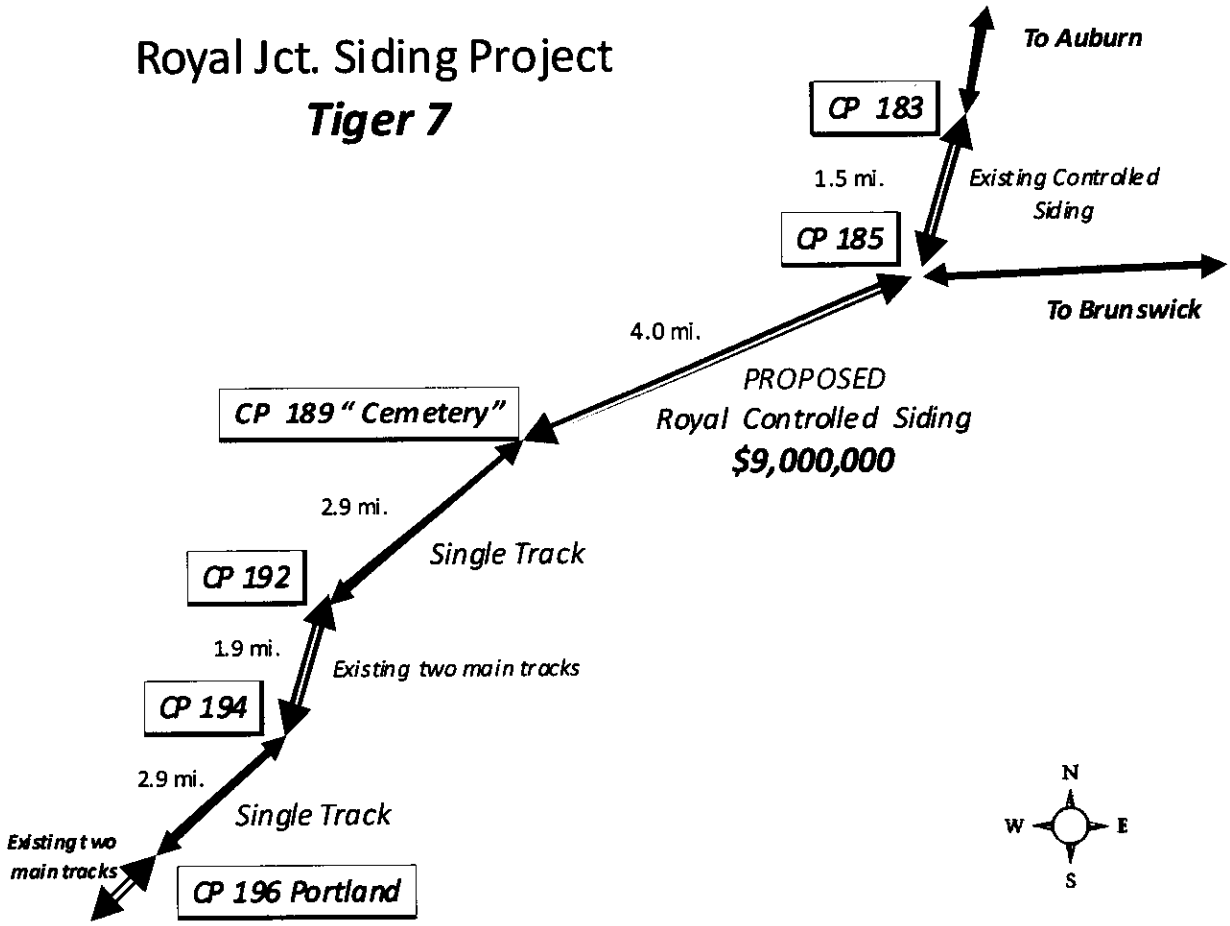

Royal Jct. Siding Project
Tiger 7
To Auburn
CP 183
1.5 mi.
Existing Controlled Siding
CP 185
To Brunswick
4.0 mi.
PROPOSED
Royal Controlled Siding
$9,000,000
CP 189 " Cemetery"
2.9 mi.
Single Track
CP 192
1.9 mi.
Existing two main tracks
CP 194
2.9 mi.
Single Track
Existing two main tracks
CP 196 Portland
N
W
E
S

EXHIBIT D

PORTLAND WYE
WHY?

Transit Times

New wye = 3 minutes
Old way = 5 minutes

BUT WAIT...THERE'S MORE

Changing control ends in station by engineer is is time consuming and onerous.

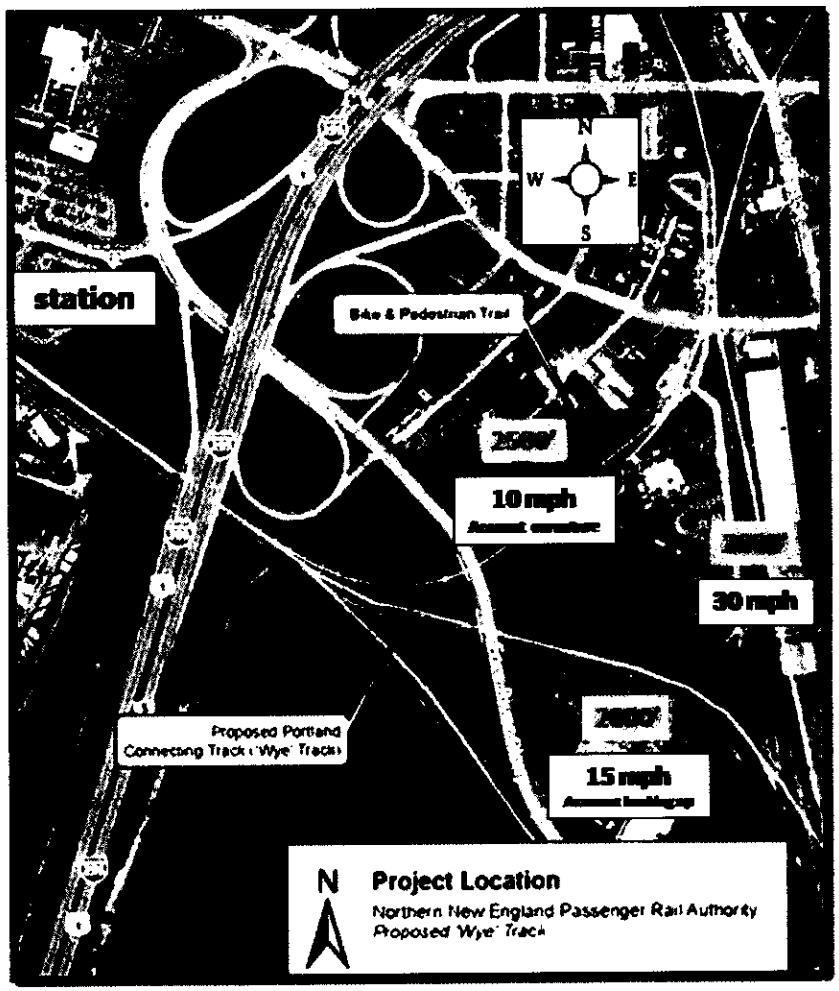
- Hand brakes must be applied; later released
- Air brakes must be cut out; later cut in.
- Control switches and handles repositioned
- Walk to other end of train
- Same repositioning on opposite end
- Horn and bell tested
- Sanders tested
- Engine spool up and loading tested.
- Air brakes tested.

TOTAL TIME 10 MINUTES

Adding 2+ minutes to dwell time

COST = $10,000,000

NET TIME SAVINGS = 0



Added Scope re: OPEGA Audit of NNEPRA; GOC Hearing 6 October 2016
Pem Schaeffer
(version: pcs/Saturday 1 October/6 pm)

I sincerely hope that the Committee will direct OPEGA to continue its audit, with specific guidance as to areas that demand further research, analysis, and reporting. Shown below are suggestions of other subject areas touched on in the initial report that merit serious further

Suggested Emphasis in Further Audit Effort:

- Ridership Reporting and Forecasting: Assessment of Downeaster success seems almost entirely based on ridership figures, and NNEPRA and their lobbyists, TRNE, regularly claim ridership 'consistently exceeds projections.' Reported ridership is imprecise on many levels, and the format for reporting has varied from year to year.

  Further, examine in detail how and why projections are derived in house. NNEPRA states as follows:

  > Mr. Schaeffer-
  >
  > This is in response to your question below.
  > NNEPRA has an internal process for establishing forecasts.
  > Thank you.
  > Marina Douglass
  > Manager Budget and Administration

- Board Governance Model: The Board's tacit approval and promulgation of flagrantly fabricated economic development projections from agenda driven TOD consultants reveals a serious lack of oversight in contracting/procurement efforts and assessment of results. This exemplifies the reality that for the most part, NNEPRA Staff oversees the Board, rather than the other way around.
- NNEPRA Lack of Professional Railroading Experience: This shortcoming is at the core of the track maintenance issues experienced by the Downeaster in recent years.
  - "I knew nothing about the rail business, or how trains worked or the engineering side of it," Quinn says about the day, 11 years ago, she applied for a job with the Northern New England Passenger Rail Authority, the Portland-based organization bringing back passenger rail to Maine. "When I started this job I had never ridden a train before."
  - "Now Quinn is a passenger-rail authority herself. As executive director of NNEPRA, Quinn is a widely recognized expert on developing passenger trains in rural markets. Despite coming into this business with zero industry experience, Quinn has made a profound, lasting impact on Maine's transportation infrastructure and economy." http://www.mainebiz.biz/article/20110808/CURRENTEDITION/308089992/track-star-|-patricia-quinn-northern-new-england-passenger-rail-authority
- Contract/Subcontract Management Discipline: Relationships with service providers lacks evidence of a prime-contractor, 'the buck stops here' view of providing the Downeaster service. Growth in service costs raises doubts in negotiating skills and stewardship of public dollars.
- Failure to Accept and Discharge Clear Responsibilities of Passenger Rail Service Operation: Among other things, Federal rail regulations require that track used for passenger rail be inspected at least twice a week. A major portion of the track on which the Downeaster operates is owned and operated by a freight rail company, and they have lesser inspection requirements. Hence, NNEPRA needs to provide for and ensure that the incremental inspection and

maintenance requirements attributable to Downeaster operation are contracted for, performed, reported on, and confirmed. This response to an inquiry to NNEPRA reveals a major shortcoming in this regard:

> This is in response to your August 31, 2016 questions:
>
> 2. NNEPRA has an agreement with Amtrak, which is the railroad that operates the Downeaster. Amtrak in turn has its own agreements with the host railroads over which the Downeaster operates (i.e. Pan Am Railways and the MBTA). Amtrak and the host railroads are responsible, under federal law, for compliance with applicable federal railroad safety requirements. Those requirements include track inspection requirements. If you would like to review a railroad's track inspection records, I suggest that you contact that railroad to see whether that railroad will make those records available.
>
> Thank you.
>
> Marina Douglass
> Manager Budget and Administration
> Northern New England Passenger Rail Authority (NNEPRA)

This failure to engage in and rigorously oversee compliance with all regulations applicable to Downeaster service could well be at the root of serious service curtailments caused by major track maintenance tasks, including one about to take place.

As a minimum, a detailed review of Slow Orders issued for the Downeaster route over the last five years should be conducted, and the specifics of corrective action taken matched to the removal of the individual orders. Only with this level of review can the diligence and effectiveness of NNEPRA management in discharging their duties be confirmed.

- Lack of Cost/Subsidy Sharing by New Hampshire and Massachusetts: According to NNEPRA, in FY 2015, the Downeaster took in $9.007 million in operating revenue and $9.051 million in subsidy, for a total revenue base of $18.058 million. In FY 2015, Amtrak spent $2.795 million in Maine, and $11.865 million in New Hampshire. So while most of the revenue comes from Maine, Amtrak only spent 15% of it in Maine, and the rest presumably in New Hampshire and Massachusetts.

  It is believed that neither of the two states on the southern portion of the Downeaster system contribute any of the annual subsidy requirements, thus saddling Maine taxpayers with the full brunt of the operating losses.

  - http://www.amtrakdowneaster.com/sites/default/files/2015AnnualReport_Web.pdf
  - https://www.amtrak.com/pdf/factsheets/MAINE15.pdf
  - https://www.amtrak.com/pdf/factsheets/NEWHAMPSHIRE15.pdf

- Lack of Engineering Bandwidth and Rigor: Absence of disciplined engineering trade-offs associated with plans for Royal Junction Siding and Portland Wye, each costing in the range of $10 million, reveals a systemic lack of engineering/technical substance necessary to effectively and economically discharge related responsibilities.
- Comparison to Maine Turnpike Authority Model: The MTA has a statutory basis and definition similar to NNEPRA. By all accounts, it is a smooth-running, effective, self-sustaining enterprise. Comparing its business model and business and economic practices to NNEPRA's could shed valuable insights for improving performance. Think bench-marking.

Statement by Pem Schaeffer
for GOC Hearing on 6 October 2016 re: OPEGA Audit of NNEPRA
(version: pcs/Saturday 1 Oct/6 pm)

Members of the Government Oversight Committee and OPEGA Staff:

I'm Pem Schaeffer from Brunswick, where I've lived for nearly 20 years. I'm retired from a complex systems engineering world, with broad engineering, program management, and business development experience. I have an active and curious mind, especially in matters affecting my community and this state. I've accumulated a substantial collection of passenger rail materials, and have written and presented substantially on the subject. My background predisposes me to look for facts, logic, and data pertinent to subjects of interest to me.

OPEGA staff has done an admirable job of digging into the background of NNEPRA and their management of the Downeaster for which they are responsible. As can happen in such cases, peeling the first layers of the onion often reveals inner layers that call for closer examination, and I'm hopeful this hearing and related discussions and work sessions will illuminate subject areas calling for deeper and more detailed analysis. I'd be surprised if anyone on OPEGA staff had any prior experience in railroading, so this first step is all the more impressive for its insights.

I've studied the report, and could express concerns on a number of the subject areas it discusses, not the least of which is NNEPRA's lack of professional railroad experience and resulting rail infrastructure problems, and a rather cavalier approach towards spending on unnecessary or ill-considered capital projects.

But for the moment, my focus is on a passage on Page 3 of the report that begins with the words "In September 2006, Governor Baldacci issued an Executive Order....."

> In September 2006, Governor Baldacci issued an Executive Order directing the State Planning Office to:
>
> ☐ form a working group to facilitate community and economic development near existing and planned train stations; and
>
> ☐ coordinate with MaineDOT, NNEPRA and the Department of Economic and Community Development to assess the economic significance of existing and planned passenger rail service to local, state, and regional economies, including the assessment of the role of passenger rail in supporting economic growth.
>
> The Executive Order also directed NNEPRA, in coordination with MaineDOT, to review matters related to development of passenger rail service north of Portland to Brunswick and Auburn.
>
> In early April 2008, the Legislature passed the Joint Resolution in Support of the Expansion of Downeaster Rail Service in Maine which resolved that, as long as NNEPRA and MaineDOT made best efforts to secure any additional funding needed from other sources:
>
> ☐ the State would provide its share of operating subsidy for Downeaster rail service of approximately $8 million per year beginning in 2010; and
>
> ☐ the State would provide its share of operating subsidy for a term of 25 years to amortize up to $31.5 million in capital investments to expand rail service from Portland to Brunswick.

And in particular, this easy to overlook comment:

> The resolution referenced a recent study by the Center for Neighborhood Technology completed in March

2008, and the specific economic benefits it projected, as justifications for this pledge of financial support.

But it should be anything but overlooked. Pardon my mixed metaphor, but the comment is both the tip of a very large iceberg, and the key structural underpinning of a very wobbly house of cards.

To begin with, the Center for Neighborhood Technology (CNT) is not an objective subject area expert from which you seek analysis and advice on a proposal. That's not the 'business' they're in. They are, in fact, an agenda driven non-profit that according to Charity Navigator, derives about three-quarters of its revenue from grants and donations. (https://www.charitynavigator.org/index.cfm?bay=search.summary&orgid=3452) It lists a variety of foundations among its major donors, all of which have missions that drive their agenda and consulting work.

You don't go to CNT for a yea or nay on a proposed project; you go to them to provide you with the imprimatur of "professional expertise" on a course you've already decided to take. Simply put, you pay them to tell you what you want to hear, lavishly documented with vast arrays of irresistible justification and lots of newsworthy numbers.

AMTRAK DOWNEASTER:

Overview of Projected Economic Impacts

A Report to Northern New England Passenger Rail Authority (NNEPRA)

By the Center for Neighborhood Technology

March 2008

I have no information as to how or why NNEPRA decided to use CNT for the subject study. When I sought documentation for related RFPs, specifications, contracts, and statement of work, I was told that NNEPRA's seven year record retention policy meant they no longer had any documents in their files pursuant to my request. Apparently they have someone with a regular task of tossing any materials more than seven years old, and 'wiping' their digital files of any such documents. In the current climate, I can't help but wonder what a forensic survey of their diligence in such matters would reveal.

Further, the contact person at CNT made it clear he isn't in the business of answering questions.

CNT is one of countless such organizations under-girding a bewildering variety of government proposals at all levels: federal, state, and municipal. They make their living by providing seemingly

irrefutable justification for whatever it is you would like to do, greasing the skids for obtaining the necessary sums of other peoples' money required to undertake the proposal.

They deal in 'widely accepted models' and formulaic, one size fits all 'build-out' projections. Build out projections are what lead to predictions that redeveloping Brunswick Naval Air Station would result in employment of 13,000 people. Why? Simply because there's space to accommodate that many. How's that for 'professional expertise?'

The term 'widely accepted models' should strike fear into the heart of any thinking person who believes that resources are inevitably limited, and that critical thinking and review should be a key component of any proposal process. Consider these examples of where 'widely accepted models' have taken us on the imaginary axis:

- In the 1970's, predictions of a 'coming ice age' caused great alarm. Apparently, they "mis-modeled" that, and now we have a coming age of unbearable warming, predicted this time by 'widely accepted models' from others.
- Predictions surfaced that the world population would die of starvation because we could no longer produce the food quantities necessary to keep us alive.
- Not that long ago, we were told we were about to run out of energy resources – oil, natural gas, and coal. Have you noticed what's happened to oil prices in recent years?

Along with their penchant for these models and formulas, consultants of this sort love to cite each others' work as supportive rationale for their carefully thought out conclusions and projections. It doesn't matter if the cited work is bizarrely incorrect and unfounded; it's in the 'body of knowledge' once published. So we find CNT citing the work EDRG did for MDOT.

CNT is a TOD based consultancy

If you're not familiar with the words "Transit Oriented Development," it's time you become so. This is the buzzword term du jour for promoting huge public capital spending. What this really amounts to is speculating with other peoples' money in hopes of spurring economic development within close proximity to public transit nodes. In CNT's work, this means within a one mile radius of a given transit stop or station. They also refer to "Transit Linked Development" (TLD) which expands that radius to three miles.

This wondrous phenomenon is what has communities around the state such as Lewiston, Auburn, Rockland, Waterville, Bangor, Bethel, Augusta, and various others organizing to promote spending of hundreds of millions in money we don't have in hopes some development benefit might come their way.

The absurdity of the 2008 CNT projections

The 2008 CNT Study referred to in the OPEGA report is remarkable for its unashamed and transparent conjuring up of economic projections that don't pass even the most rudimentary smell test. Study contents are an affront to rational thought, and often dabble in rooster driven sunrise science.

The Study was released more than six years after Downeaster service between Portland and Boston, with several stops in between, was initiated. So CNT had to be very measured about what it showed for the communities with several years of real experience that could be evaluated. No such limitation existed for those communities for which service was only proposed: namely the Portland North extension to Freeport and Brunswick. No reality could challenge whatever 'projections' they imagined.

Furthermore, as the OPEGA report makes clear, the extension to Brunswick had already been on the table for some time, and slam-dunk rationale was needed to bring it to fruition. Which CNT, unsurprisingly, could conjure up with a wave of their magic TOD wand.

CNT Projection Chart 2A: Population Growth

Table 2. Projected Transit Oriented Development in Downeaster and Rockland Branch Communities, 2000-2030
A. Projected Population Growth

TOD!

*#!

??

County & Stations	2000 Population	2000 HHs*	2020 Population	Population Change, 2000-2020	% Change	A Total New HHs, 2020	B New TOD HHs	C Boston HHs	D Total TOD HHs
Maine									
Cumberland	265,612	107,989	289,983	34,371	12.9%	14,688	4,027	4,413	8,440
Portland	64,249	29,714							5,817
Brunswick	21,172	8,150							1,917
Freeport	7,800	3,065							708
Knox	39,618	16,608	45,291	5,673	14.3%	2,424	665	728	1,393
Rockland									
Lincoln	33,616	14,156	40,706	7,090	21.1%	3,030	831	910	1,741
Damariscotta-New Castle									
Waldoboro									
Wiscasset									
York	186,742	74,583	241,286	54,544	29.2%	23,309	6,391	7,003	13,394
Old Orchard Beach	8,856	4,294							2,117
Saco-Biddeford	37,764	15,437							9,029
Wells	9,400	4,004							2,247
Totals Maine	525,688	213,318	627,266	101,678	19.3%	43,452	11,914	13,055	24,969
New Hampshire									
Strafford	112,233	42,581	134,273	22,040	19.6%	8,711	2,388	2,617	5,006
Dover									
Durham/UNH									
Rockingham	277,359	104,529	331,181	53,822	19.4%	21,274	5,833	6,392	12,224
Exeter									
Totals New Hampshire	389,592	147,110	465,454	75,862	19.5%	29,985	8,221	9,009	17,230
TOTAL	915,180	360,428	1,092,720	177,540	19.4%	73,437	20,135	22,064	42,199

*HH = Households

Takeaway: **101,000 population increase and 43,000 new households in Maine by 2020? This study effort was *accepted and paid for?***

PRAC/pcs; 13 October 15

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CNT Projection Chart 2B: Property & Job Development

Table 2. Projected Transit Oriented Development in Downeaster and Rockland Branch Communities, 2000-2030
B. Projected Property & Job Development & Household Savings

TOD!

Now it's 813 Jobs??

County & Stations	D Total TOD Hits	E New Housing Units	F New Housing Sq Ft	G New Office Sq Ft	H New Office Jobs	I New Retail Sq Ft	J New Retail Jobs	K Total New Sq Ft	L New Construction Investment	M Con-struction Jobs	N Total Jobs Created	O Annual Transportation Cost Savings
Maine												
Cumberland	8,440	8,440	10,128,412	340,315	1,134	1,020,944	1,458	11,489,670	$1,439,425,872	987	3,590	$31,356,913
Portland	5,817	5,817	6,980,619	234,549	782	703,646	1,005	7,918,815	$992,089,092	680	2,467	$21,612,928
Brunswick	1,917	1,917	2,300,326	77,291	258	231,873	331	2,609,490	$326,916,945	224	813	$7,122,117
Freeport	706	706	847,466	28,475	95	85,425	122	961,366	$120,439,834	83	300	$2,623,867
Knox	1,393	1,393	1,671,714	56,170	187	168,509	241	1,896,392	$237,580,023	163	591	$5,175,849
Rockland												
Lincoln	1,741	1,741	2,089,274	70,200	234	210,599	301	2,370,072	$296,922,680	204	739	$6,468,671
Damariscotta-Newcastle												
Waldaboro												
Wiscasset												
York	13,394	13,394	16,072,971	540,052	1,800	1,620,155	2,315	18,233,178	$2,284,252,561	1,567	5,681	$49,764,061
Old Orchard Beach	2,117	2,117	2,540,918	85,375	285	256,125	366	2,882,417	$361,109,259	248	898	$7,867,021
Saco-Biddeford	9,029	9,029	10,836,053	364,058	1,214	1,092,173	1,560	12,291,284	$1,539,852,083	1,056	3,830	$33,546,769
Wells	2,247	2,247	2,697,000	90,619	302	271,858	388	3,059,477	$383,291,219	263	953	$8,350,271
Totals Maine	24,969	24,969	29,982,370	1,006,736	3,356	3,020,207	4,315	33,989,313	$4,258,181,138	2,921	10,591	$92,787,494
New Hampshire												
Strafford	5,006	5,006	6,006,979	201,834	673	605,503	865	6,814,317	$853,697,605	586	2,123	$39,978,947
Dover												
Durham/UNH												
Rockingham	12,224	12,224	14,669,129	492,883	1,643	1,478,648	2,112	16,640,660	$2,084,741,946	1,430	5,145	$111,632,075
Exeter												
Totals New Hampshire	17,230	17,230	20,676,108	694,717	2,316	2,084,152	2,977	23,454,977	$2,938,439,551	2,015	7,308	$151,611,022
TOTAL	42,199	42,199	50,658,479	1,701,453	5,672	5,104,359	7,292	57,444,290	$7,196,620,687	4,936	17,899	$244,378,516

&#?

10,000+ Jobs in Maine?

Takeaway: **Numerous inconsistencies, along with estimates that defy credulity, beg critical questions.**

PRAC/pcs; 13 October 15

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CNT Projection Table 2C: Visitor Spending and Tax Revenue

Table 2. Projected Transit Oriented Development in Downeaster and Rockland Branch Communities, 2000-2030
C. Visitor Spending and Public Revenue Contribution

TOD!

Nearly $1 million per week!!

County & Stations	P Visitor Spending	Q Increased Purchasing Power	R Visitor Taxes	S Increased Resident Taxes*	T Retail Sales	U Retail Sales Tax	V Total Tax Contributions
Maine							
Cumberland	$11,187,681	$426,860,551	$712,893	$13,235,706	$206,006,058	$10,800,303	$24,248,902
Portland	$5,950,949	$294,059,426	$384,556	$9,122,203	$141,984,777	$7,099,089	$16,605,848
Brunswick	$2,541,514	$98,901,526	$165,788	$3,008,043	$46,787,315	$2,339,366	$5,511,197
Freeport	$2,695,217	$35,699,599	$162,550	$1,107,460	$17,236,966	$861,848	$2,131,858
Knox	$1,728,593	$70,421,149	$112,759	$2,184,579	$34,001,698	$1,700,085	$3,997,423
Rockland							
Lincoln	$1,466,716	$88,010,919	$95,677	$2,730,242	$42,494,631	$2,124,732	$4,950,650
Damariscotta-Newcastle							
Waldaboro							
Wiscasset							
York	$1,209,032	$677,075,823	$78,129	$21,003,996	$326,914,970	$16,345,748	$37,427,874
Old Orchard Beach	$194,440	$107,036,478	$12,565	$3,320,446	$51,680,810	$2,584,040	$5,917,052
Saco-Biddeford	$364,287	$456,427,908	$23,541	$14,159,138	$220,378,738	$11,018,937	$25,201,616
Wells	$650,304	$113,611,438	$42,023	$3,524,412	$54,855,422	$2,742,771	$6,309,206
Totals Maine	$15,592,022	$1,262,168,443	$999,458	$39,154,524	$609,417,356	$30,470,868	$70,624,849
New Hampshire							
Strafford	$482,333	$338,391,816		$1,374,306	$122,178,469		$1,374,306
Dover							
Durham/UNH							
Rockingham	$484,246	$826,357,728		$3,356,074	$298,361,644		$3,356,074
Exeter							
Totals New Hampshire	$966,579	$1,164,749,545	$0	$4,730,380	$420,540,133	$0	$4,730,380
TOTAL	$16,558,601	$2,426,917,987	$999,458	$43,884,904	$1,029,957,490	$30,470,868	$75,355,229

*State and Local taxes

$12 million per week??

Takeaway: **At what point does someone say stop!, and ask *who's zooming who?***

PRAC/pcs; 13 October 15

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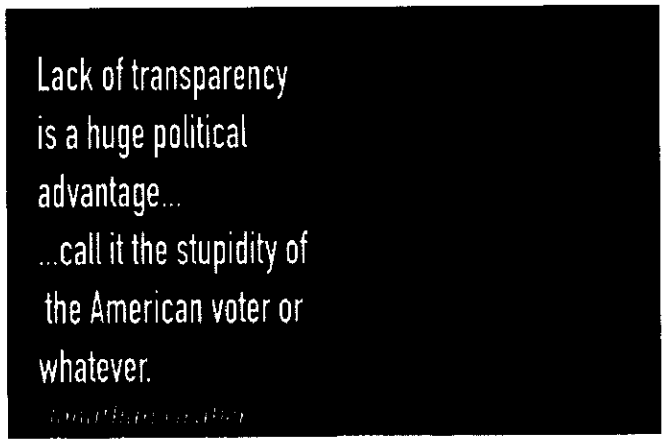
When I was a young lad, one of my older brothers used to tell me that the word "gullible" is not in the dictionary. I'm not that young any more, and wouldn't you just know it, a few years ago I found out that the word is actually in the dictionary.

That groaner aside, can anyone seriously engaged in this subject area look at me with a straight face and say that 813 new jobs, 1,917 new households, and a $900,000 a week increase in retail sales due to Downeaster arrival in town twice a day is anything but a steaming pile of cow manure? And that the smell test surely should have detected that when the study was first delivered?

Can anyone in authority at any level claim this passes any sort of reasonableness test? Can anyone in authority fail to recognize what this says about the oversight of the entire passenger rail management process?



Do we as a state take this seriously, or is it just a game played with the rules according to Gruber?

You should know that I went before the Brunswick Town Council well over a year ago to tell them of the contents of this study, and how far from reality it is. I had hoped to stimulate a collaborative study between town residents and Bowdoin College economics students that would survey the downtown business community to collect real, actual economic benefit data.

I needed TWO councilors to sponsor bringing the suggestion forward as an item on an upcoming agenda. I failed at that attempt, which told me all I needed to know about wanting to bury the truth from public view. The "exponential economic benefits" (MRTC) of the Downeaster for Brunswick are simply incontestable, and questioning them is taken as proof of being a train hater.

If you don't like tables, try to absorb this text passage from the CNT study:

Proposed investments in passenger rail service will sustain TOD in currently served communities and lay the ground work for TOD across mid-coastal Maine.

The current proposal of the Northern New England Passenger Rail Authority (NNEPRA) is to:

(1) Maintain the annual Downeaster operating subsidy, projected to be $8 to $10 million in 2010, so that TOD on the line between Boston and Portland will be sustained and continue to unfold.

(2) Make a capital investment of $31.5 million to extend Downeaster service from Portland to Brunswick and to establish a rail service connection between the Downeaster and the Rockland Branch. This investment is the key capital improvement that will make extensive TOD throughout southeast and mid-coastal Maine practicable.

By 2030 economic benefits from the proposed investments include:

- ***Cumulative construction investments of approximately $7.2 billion***
- ***Construction/rehabilitation of over 42,000 housing units and 6.8 million sq ft of commercial space,***
- ***Creation of over 17,800 jobs,***
- ***Generation of $244 million per year in transportation cost savings for resident households,***
- ***Generation of $2.4 billion per year of increased resident and visitor purchasing power,***
- ***Generation of $75 million per year in state and local tax revenue,***

How could any self-respecting public official deny these overwhelming benefits to the public they serve???? No matter how much it would cost to obtain them? Or how bizarrely exaggerated the projections are?

<u>The 2005 EDRG numbers that CNT draws upon</u>

EDRG/MDOT 2005 Study 2015 Projections

http://www.edrgroup.com/pdf/report-downeaster-final.pdf

Final Report

Economic Benefits of Amtrak Downeaster Service

Prepared for:

MaineDOT

Maine Department of Transportation
Office of Passenger Transportation
1 Child Street, Augusta, Maine 04333-0016

Prepared by:

Economic Development Research Group, Inc.
2 Oliver Street, 9th Floor, Boston, MA 02109

In association with:

KKO

KKO and Associates
Two Dundee Park, 3rd Floor, Andover, MA 01810

February 2005

February 2005 — *Community Impacts*

Table 6-1. Annual Visitor Spending and Economic Development Benefits by Community Projected for 2015

Community where Downeaster Stations are Operating or Planned	Total Business Sales	Total Employment	Total Wages
Lewiston-Auburn	$803,000	17	$240,000
Rockland	$625,000	14	$191,000
[illegible]	[illegible]	[illegible]	[illegible]
Freeport	$4,320,000	53	$964,000
Portland	$6,588,000	114	$1,937,000
OOB	$668,000	13	$226,000
Saco	$10,029,000	198	$3,885,000
Wells	$2,217,000	40	$729,000
Dover	$6,544,000	125	$2,305,000
Durham	$502,000	8	$138,000
Exeter	$1,162,000	16	$369,000

Note: Dollars are rounded to thousands.
Sources: 2004 Summer Passenger Survey, Interviews, IMPLAN modeling package

<u>Takeaway:</u> **993 jobs; $1.83 million in weekly business sales; and $84,000 in daily wages. *<u>Now</u>*. This doesn't pass *<u>any</u>* test of reasonableness.**

Note the cautious and disproportionate figures used for communities already being served by the Downeaster, as compared to Brunswick, where there was no present reality to deal with, only wildly euphoric future illusions.

EDRG/MDOT 2005 Projections for 2015 (cont'd)

Freeport
Hotel

Brunswick
160,000 square feet of retail/office space next to station.

40,000 sf built to date; looks like that's it.

Dover (current)
12 establishments in mill building

Table 6-5. Future Annual Economic Development Benefits Generated by the *Downeaster* in Maine and New Hampshire Station Communities

	Old Orchard Beach	Saco	Wells	[redacted]	Freeport	Dover
Direct Business Sales	$176,000	$6,213,000	$676,000	$56,049,000	$538,000	$3,742,000
[redacted]	$103,000	$3,590,000	$427,000	[redacted]	$441,000	$2,625,000
Total Business Sales	$279,000	$9,803,000	$1,103,000	$94,663,000	$979,000	$6,367,000
[redacted]	6	194	21	[redacted]	18	122
Total Wages	$109,000	$3,815,000	$406,000	$30,534,000	$351,000	$2,255,000

Sources: Interviews, IMPLAN modeling package, ITE ratios.

Takeaway: **984 jobs by 2015? Not sure you could find 10 solely *attributable* to Downeaster.**

The 2013 CNT Proposal to update the Downeaster Projections

Objectives

The Center for Neighborhood Technology (CNT) is pleased that its 2008 study, "AMTRAK DOWNEASTER: Overview of Projected Economic Impacts", has proven to be a useful predictor of Transit-Oriented Development (TOD) stimulated by expansions in Downeaster service. CNT proposes to help NNEPRA and its service communities plan actions that will generate further benefits from TOD through a study that will:

1. Document progress in TOD over the past five years in Downeaster service areas relative to:
   a. 2008 Development projections (with quantitative and qualitative comparisons of 2008 and current conditions for each of the impact factors considered in the 2008 study)
   b. General economic growth in New Hampshire and Maine
   c. TOD in comparable communities nationally
2. Assess current challenges and opportunities for TOD and other rail-linked economic growth in Downeaster service communities in light of:
   a. Major TOD projects planned and underway in these communities
   b. Potential extension of Downeaster service to Auburn, Maine
   c. Emerging demographic and economic trends in northern New England
   d. Information available through the application of analytical tools developed or improved by CNT during the last five years
   e. Policy and investment decisions facing NNEPRA and the state and local governments of its service communities
3. Project TOD growth through 2040
   a. Utilizing assumptions based on CNT's knowledge of TOD and decisions made by NEPRRA, along with state and local governments, regarding transit service levels and investments as well as policies and investments to incentivize TOD
   b. Tracking the same impact factors considered in CNT's initial Downeaster study and this study's 2008 to 2013 comparison and any new factors which may arise.

The 2014 CNT Study (DRAFT)

III. Sustainable Economic Growth in the Downeaster Corridor

The aggregate growth that Downeaster service communities are projected to achieve in their TOD and TLD areas by the Year 2030 is summarized in the chart on the following page. It is significant by any measure:

- Between 2010 and 2030:
  - Population increase of 46,000 households
  - Creation of 76,000 jobs
- On an annual basis by 2030:
  - $204 million in household savings from avoided transportation costs
  - $2.3 billion in new buying power circulating through Downeaster communities
  - $134 million in increased state and local government revenues

How could *anyone* possibly resist this fruit of the tree of truth in the Garden of Passenger Rail and Transit Oriented Development? So what if there's nowhere to put 16,134 new households in Portland; 3,276 new households in Brunswick, and 945 new households in Freeport? Not to mention 25,135; 5,103, and 1,472 new jobs in each of those towns?

Can you really look at this with a straight face, knowing that this material was sought and paid for by an agency of Maine State Government that supposedly has oversight from its Board, a Legislative Joint Standing Committee, and MDOT?

Summary of Downeaster Station Area Projected Economic Growth

	1	2	3	4	5
County & Stations (TOD/TLD)	2030 New Station Area HHs	Total Jobs Created	Transportation Cost Savings (Annual following 2030)	Increased Purchasing Power	Total Tax Contributions
Maine					
Cumberland	**26,365**	**31,719**	**$92,532,010**	**$962,874,799**	**$71,182,863**
Portland	16,134	25,135	$73,345,910	$760,780,134	$56,270,858
Brunswick	3,276	5,103	$14,891,945	$155,931,517	$11,521,521
Freeport	945	1,472	$4,294,155	$46,163,117	$3,390,483
Knox	**798**	**1,243**	**$3,626,431**	**$38,997,906**	**$2,872,609**
Rockland	798	1,243	$3,626,431	$38,997,906	$2,872,609
Androscoggin	**2,912**	**4,537**	**$13,239,069**	**$137,765,156**	**$10,186,678**
Auburn-Lewiston	2,912	4,537	$13,239,069	$137,765,156	$10,186,678
York	**13,434**	**20,928**	**$61,070,708**	**$631,128,807**	**$46,703,046**
Old Orchard Beach	1,684	2,623	$7,654,615	$79,008,077	$5,847,316
Saco-Biddeford	10,567	16,461	$48,035,576	$495,273,204	$36,660,527
Wells	1,184	1,844	$5,380,516	$56,850,526	$4,195,203
Totals Maine (County/Station areas)	**37,488**	**58,415**	**170,468,218**	**$1,770,767,636**	**$130,945,195**
New Hampshire					
Strafford	**6,487**	**10,106**	**$24,516,183**	**$412,339,742**	**$2,421,832**
Dover	5,099	7,944	$19,272,906	$323,680,323	$1,903,875
Durham/UNH	1,387	2,161	$5,243,278	$88,659,420	$517,957
Rockingham	**2,435**	**3,794**	**$9,204,338**	**$155,095,120**	**$909,251**
Exeter	2,435	3,794	$9,204,338	$155,095,120	$909,251
Totals New Hampshire (County/Station areas)					**$3,331,083**
TOTAL (County/Station areas)					**134,276,278**

A Glaring Flaw in the TOD Studies

In looking at the material just presented, there's something that may not have occurred to you. Obviously, Downeaster trains run in two directions, and people ride them in two directions. Almost always, the riders are taking a round trip, unless they're moving, which one doubts they would do by way of train.

This means that the 'economic power' in the wallets of train riders travels in both directions. Which leads to the concept of 'suction' of discretionary spending power, especially from Northern points like Brunswick, to points south, most likely to Boston. It seems reasonable to assume that residents of smaller communities will more often be traveling south to larger communities, where the attractions and diversions are far more extensive, than the other way around.

Claims by local businesses of meaningful patronage from train-riders must be balanced by the fact that no-one can measure the offsetting opportunities lost when area residents take their patronage out of town. There is, surely, a suction effect carrying dollars south, but identifying the specifics is uncomfortable, if not impolitic.

When I appeared before the Brunswick Town Council as described earlier, I suggested the creation of two parameters to quantify this effect:

1) *Net Effective Adult Daily Discretionary Passenger Flow* (volitional train riders).

What do we mean by this term? First, it means that children below a certain age riding with paying adults do not matter from a measuring ridership perspective; they are not traveling of their own free will. And it also means that 'volunteer train riders' like those from TrainRiders Northeast don't count.

Second, it means that if you were going to make your trip anyway, and simply chose to use the train *instead* of the bus or an auto, your ridership is irrelevant insofar as measuring economic benefit of net spending is concerned. You were making the trip regardless, and the train had nothing to do with causing it. For example, if you're a Bowdoin student or staff member, your travel on the train was a matter of choosing from the available options; you were coming here/returning here anyway.

Third, the term 'net' means the difference between those who consider Brunswick and environs as their 'home' station, and those who consider Portland (or points south) and environs as their 'home station.' If there are 75 of each in a given day, the 'net' is zero.

2) *Net Effective Daily Dollar Flow*

What do we mean by this? We simply mean that some passengers are visitors to the local area and are bringing/spending discretionary dollars here. Other passengers inhabit the local area, and are bringing/spending discretionary dollars elsewhere. To understand the marginal economic activity caused by the Downeaster, one must carefully examine both figures. If an incoming visitor on the train was going to come to the area regardless, the fact that he/she rode the train is irrelevant in terms of economic activity. On the other hand, if a Bowdoin student or staffer takes the train south, or any other area resident does, the dollars they spend elsewhere are lost as potential expenditures here in town.

The 'net' flow is the difference between economic activity by visitors here in town, and the same activity in points south by those departing from this region.

It seems abundantly clear to me that the studies done by the TOD "Expert Consultants," especially when sought by officials at the northern end of the rail service, will talk only about economic flow in one direction, as evidenced by the studies on the record. The consultants are not about to describe, nor are sponsoring officials going to pay for, analysis and reporting that shows a net economic activity flow from North to South. (They'll reserve that information for clients elsewhere.....like in the Boston area.)

Oh, and by the way, these studies also ignore capital investment costs, subsidies, local expenses, and any other offsetting cash flow. In a word, hype the positives, bury the negatives.

Reviewing study claims after the fact

Rarely, if ever, are studies like those mentioned above reviewed after the fact to see how well their learned projections held up when compared to on the ground reality. And for good reason, obviously. The only such case I am familiar with pertains to the Champlain Flyer in Vermont, and the review was called for by the Vermont Legislature. It does not paint a pretty picture.

http://www.leg.state.vt.us/jfo/reports/Flyer%20Report%2002-2003.pdf

What This Indicates About NNEPRA's Stewardship of the Public Trust

More than enough information has been presented to demonstrate that NNEPRA lacks what some would call a 'healthy skepticism' in conducting it's statutorily mandated mission. In their defense, 'healthy skepticism' was conspicuously and entirely absent, from the beginning, in the political process that created NNEPRA and its charge.

At some point, seeking out, paying for, and promulgating gross misrepresentations of reality should have serious consequences. As a minimum, consideration should be sought from the consulting firms who deliver such flawed products, and corrective action should be taken by the Board to see that more discerning management practices are in place, and that they are part of it. Promoting the expenditure of significant capital sums of public moneys under demonstrably false pretenses is wasteful and abusive of the public trust.

The NNEPRA Board includes ex officio the Commissioners of Transportation and Economic and Community Development who should bring expertise in their Department subject areas to the table. That they could preside over the creation and promulgation of such irredeemable and troubling 'professional' materials says so much about the flawed and inverted Board governance model.

Summary

I sincerely hope that the Committee will direct OPEGA to continue its audit, with specific guidance as to areas that demand further research, analysis, and reporting. The subject area examined here is just one worthy of far more extensive effort. A separate two pager lists this author's suggestions for emphasis in efforts you direct.

Addenda:

We shouldn't overlook the important contributions of TRNE, noted economic consultants of recognized objectivity in such matters; as shown in an MDOT Passenger Rail Plan of a few years back:

MDOT 2009 Rail Plan Excerpt

- In Brunswick, the first building of the Maine Street Station project has opened. It houses the waiting room for Amtrak and Maine Eastern Railroad passengers. **This $30 million project** will contain a hotel, retail, office **and residential complex that are projected to create 200 jobs and $500,000 in annual tax revenues.**

In addition to providing a transportation alternative for northern New England, the Downeaster has proven itself to be an economic engine for the entire region. Over the next 20 years, Downeaster-related projects in Maine are projected to generate $3.3 billion in new construction development, create more than 8,000 new jobs, and contribute $16.8 million in new tax revenues annually in Maine.

Looking to the future, a plan to expand Downeaster service to Brunswick, Maine, via Freeport is part of a 2009 stimulus application (the American Recovery and Reinvestment Act). The Northern New England Passenger Rail Authority has applied for $35 million in federal funds to complete the project. The expansion, if funded, would contribute an additional $1 billion in new construction, add 2,400 new jobs in the next 20 years and contribute $17 million annually in tax revenues to Maine.

(Economic projections contributed by Trainriders Northeast.)

(Emphasis ours)

This page last updated on 11/19/09

http://www.maine.gov/mdot/railplan/railfacts.htm (now down)

Takeaway: **Lobbyists used as source for economic projections.**

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Trainriders Northeast also believes they have the responsibility for coming up with NNEPRA Board nominees, and have said as much to the Governor's staff.

Then there's this from another recognized source of objectivity:

Selected LD 323 Testimony; March 2015

http://www.mainelegislature.org/legis/bills/display_ps.asp?LD=323&snum=127#

My name is Tony Donovan, Portland resident commercial realtor specializing in site location of development at train stations. I have been involved in passenger rail for over a decade. I was the first Realtor to market the Brunswick Maine Street Train Station site, the Realtor who attracted a $100 million dollar investor to the station site in Portland and I am working with municipalities and investors at similar sites around New England.

The Maine Rail Transit Coalition strongly urges this legislature to take the important step of investing in our critical transportation infrastructure. The towns and cities served by the Downeaster Amtrak passenger rail between Boston and Brunswick, like their counterparts across the nation, are realizing exponential economic prosperity at the sites served by passenger train stations. This plan of restoring the SLR to passenger rail standards will spread that wealth to Maine's interior.

We do not have to look far for the economic value of business activity around a railway station. It is clear in the hundreds of millions of development dollars in Brunswick, Freeport, Portland, Old Orchard Beach, Saco and Biddeford.

Brunswick sees ~ 2000 riders a month, or ~ 67 per day. That's 34 round trip riders, or 17 per scheduled round trip. How many originate at Brunswick, and how many at points south?

City Pair Ridership June 2014	# Riders	Revenue	Avg Fare	% Total Riders	% Total Revenue
Boston-North - Portland	11,834	$242,815	$ 20.52	28%	34%
Boston-North - Exeter	5,503	$68,691	$ 12.48	13%	10%
Boston-North - Durham	2,214	$33,495	$ 15.13	5%	5%
Boston-North - Dover	3,125	$49,462	$ 15.83	7%	7%
Boston-North - Saco	2,626	$52,049	$ 19.82	6%	7%
Boston-North - Wells	3,800	$64,003	$ 16.84	9%	9%
Boston-North - Brunswick	2,021	$44,905	$ 22.22	5%	6%
Boston-North - Haverhill	1,851	$19,582	$ 10.58	4%	3%
Boston-North - Freeport	576	$13,647	$ 23.69	1%	2%
Total	33,550	$588,649	$ 17.55	80%	83%

Takeaway: **"Exponential economic prosperity" is a flight of imagination re: Brunswick.**

PRAC/pcs; 13 October 15

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References:

PRAC briefing: https://www.scribd.com/doc/284589130/PRAC-PDF-Briefing-13-October-15

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CNT 2008 Study: http://www.nnepra.com/sites/default/files/AmtrakDowneasterOverviewofProjectedEconomicImpacts2.pdf

CNT 2013 Study Update Proposal: https://www.scribd.com/doc/284754897/CNT-April-2013-Proposal-to-NNEPRA

CNT 2014 Study: https://www.scribd.com/doc/298196374/Downeaster-Going-Forward-Draft-2014; https://www.scribd.com/doc/298879006/CNT-2014-Downeaster-Going-Forward-Brunswick-Related-Excerpts

Miscellaneous Comments on:
OPEGA's Final Draft Information Brief Released 15 September 2016

Submitted to GOC by Pem Schaeffer; 6 October 2016
(version: PCS/Tuesday 4 October/11 am)

(Note: In the following, the page and paragraph in which the passage of interest appears is listed, followed by the author's comment. Emphasis added is the author's.)

Page 1, Paragraph 1:

Responsibility for implementing this policy was first assigned to the Maine Department of Transportation (MaineDOT) but was subsequently transferred to a *newly created quasi-independent state entity to limit potential State liabilities connected to operating passenger rail service*.

> Comment: Limit potential state liability? I don't recall seeing this language in this setting before. Isn't the state usually indemnified against such things?

Page 1, Paragraph 5:

NNEPRA also manages the budget, contracts, promotions, and customer services associated with the Downeaster passenger rail service currently operating between Boston, MA and Brunswick, ME.

> Comment: There is much reason to question NNEPRA's management of contracts and budgets. Especially when it comes to arrangements to see that rail-beds are maintained in good working order to minimize service interruptions.

Page 2, Paragraph 3:

Nonetheless, *NNEPRA has described following sound budgeting, procurement and contract administration practices which are supported by detailed written policies and procedures with the expected controls built in.*

> Comment: Rather than OPEGA determining through examination that NNEPRA follows sound practices, this reads as if the former took the word of the latter: "has described following...." Simply taking NNEPRA's word for it leaves the question wide open.

Page 2, Paragraph 5:

Overall, *OPEGA observed that NNEPRA and the State face particular challenges in implementing passenger rail service in Maine that create inherent risk in achieving desired outcomes.* These challenges are important considerations in establishing realistic expectations for NNEPRA and Downeaster performance, as well as realistic expectations for the societal benefits that passenger rail will generate. The *constraints associated with the reliance on operating partners for equipment and infrastructure,* and the demographics and needs of riders and potential riders, are among the realities that should be well considered during the evaluation and vetting of proposed expansions and capital improvement projects requiring substantial funding.

Comment: Yes; this is a complex business operating model, calling for specialized technical capabilities and management discipline beyond the norm. Risks go well beyond simply financial, and oversight and Board governance must have the highest priority if desired outcomes are to be achieved without breaking the bank.

Page 2, Paragraph 7:

The citizen's organization TrainRiders/Northeast (TNE) *subsequently collected 90,000 voter signatures to initiate legislation enabling the development of passenger rail service.*

Comment: Not according to letters from the Secretary of State's office, where signatures were counted. Information on hand says the number of valid signatures found at the completion of their work was 54,118, and the invalid signatures were 5,731. The minimum number required to initiate the legislation was 52,308. Note that the initiative question on the petitions contained no fiscal information as to taxpayer cost.

It read as follows: **"Do you favor the changes in Maine law concerning the initiation and expansion of regularly scheduled passenger rail service to and from the State of Maine proposed by citizen petition?"**

Page 3, Paragraph 1:

As planning and negotiations with host railroads and Amtrak began, *issues and concerns arose related to the State's potential liability in establishing and operating passenger rail service and its ability to enter into necessary agreements. In 1995, Public Law 1995 Chapter 374 was enacted to insulate the State from such liability.* The new law created NNEPRA and transferred the responsibility for administering the Passenger Rail Service Act from MaineDOT to the Authority.

Comment: Once again the issue of limiting liability arises. I am aware of nothing in the history of the legislation, or the legislation itself, that talks to this point.

Page 3, Paragraphs re: Gov. Baldacci Executive Order:

The Executive Order also directed NNEPRA, in coordination with MaineDOT, to review matters related to development of passenger rail service north of Portland to Brunswick and Auburn.
In early April 2008, the Legislature passed the Joint Resolution in Support of the Expansion of Downeaster Rail Service in Maine which resolved that, as long as NNEPRA and MaineDOT made best efforts to secure any additional funding needed from other sources:
□ the State would provide its share of operating subsidy for Downeaster rail service of approximately $8 million per year beginning in 2010; and

□ *the State would provide its share of operating subsidy for a term of 25 years to amortize up to $31.5 million in capital investments to expand rail service from Portland to Brunswick.*

The resolution referenced a recent study by the Center for Neighborhood Technology completed in March 2008, and the specific economic benefits it projected, as justifications for this pledge of financial support.

Comment: The 2008 CNT study was instrumental in the Portland North expansion approval, and as depicted in the author's separate statement to the GOC on this subject on this date, the study consists of wildly exaggerated projections driven by unproven 'widely accepted models.' Hence, any decisions it justified were made wholly on false pretenses contained therein.

Page 4, Paragraph 6:

The *NNEPRA Board employs an Executive Director and six other staff: the Manager of Budget and Administration; Manager of Passenger Services; Marketing Director; Manager of Special Projects; Data Specialist; and Marketing and Sales Assistant.* NNEPRA's office is located in Portland.

Comment: Note the glaring absence of any manager of railroad operations, like track and other infrastructure, and oversight of related subcontracts. These tasks are at the heart of **operating** the Downeaster as a safe and reliable passenger rail service.

Page 5, Top Paragraph (carry over):

NNEPRA management explained that they are not involved in the process of nominating or appointing members of the Board of Directors.

Comment: Nor should they be. On the other hand, Trainriders Northeast has told staff in the Governor's Office that they have historically been the ones to choose nominees.

Page 5, Paragraph 1:

These actions may include, but are not limited to, the acquisition, holding, use, operation, repair, construction, reconstruction, rehabilitation, modernization, rebuilding, relocation, maintenance and disposition of railroad lines, railway facilities, rolling stock, machinery and equipment, trackage rights, and real and personal property of any kind.

Comment: This passage seems straightforward in assigning responsibility for maintenance and repair of railroad lines and related equipment to NNEPRA, whether through a direct role, or necessary sub-contracts and management there-of. It reads that the Authority is to serve as the Prime Contractor, or 'general contractor' if you wish, for the Downeaster passenger rail service.

Page 5, Paragraph 6 ("Partners"):

NNEPRA does not own the trains nor the tracks on which the trains run. NNEPRA does not hire or supervise the crews that run the trains or service the equipment. NNEPRA also contracts out for the food service on the trains. *Consequently, NNEPRA's success in maintaining an efficient and reliable service is heavily reliant on its ability to effectively coordinate and collaborate with multiple operating partners in planning and in daily operations.* NNEPRA is in large part a facilitator and administrator of the Downeaster service, responsible for coordination as well as troubleshooting and managing problems that arise. *In carrying out this role, NNEPRA establishes and actively manages contracts and agreements with key partners necessary to operate the Amtrak Downeaster.*

Comment: This language reinforces the prior comment that NNEPRA is the Prime Contractor, responsible for the successful operation of an efficient and reliable passenger rail service, through contracts and agreements with the necessary parties. Either NNEPRA is held responsible and accountable for this performance, or no-one is.

Page 5, Paragraph 6b:

Pan Am and MBTA - *Through Amtrak, the operator of the Downeaster, NNEPRA is indirectly a party to agreements with two host railroads—Pan Am Railways and the Massachusetts Bay Transportation Authority (MBTA). Pan Am is the Downeaster's primary host railroad with 106 miles of track from Brunswick, Maine to Plaistow, New Hampshire. Amtrak's operating agreement with Pan Am includes permission to operate the service and includes service frequency, maintenance, and performance expectations.*

Comment: The agreements with the two host railroads are key to understanding disposition of regulatory, inspection, and maintenance responsibilities, including payment for same. NNEPRA has taken the position that it is effectively insulated/isolated from culpability in "botched" operations and maintenance. Operation of the Downeaster imposes incremental maintenance obligations on Pan Am trackage, and these in particular call for direct, expert oversight of the subject agreements in place.

"You cannot run a railroad" if you don't have the organizational expertise and clear, delegated responsibilities for efficient and reliable maintenance to specifications. Deferred maintenance leading to serious service curtailments is unacceptable.

Page 6, Paragraph 3:

There are challenges associated with NNEPRA's reliance on partners to provide the Downeaster service particularly with regard to the rail infrastructure. As Pan Am Railways and MBTA own the track, NNEPRA must work in concert with them to come up with plans and undertake needed maintenance. Pan Am and MBTA do not allow repairs to be done on their track by personnel they have not specifically authorized and NNEPRA has limited oversight over track repairs. Additionally, running the Downeaster on the same lines that run freight and other commuter trains means there are limited time slots available for Downeaster runs. Freight trains and non-Downeaster commuter lines can also cause Downeaster delays if they are not on schedule or become otherwise obstructed.

Comment: NNEPRA must come up with more than plans; it must come up with the necessary contracts and chain of accountability for ensuring necessary outcomes. There must be consequences for non-performance to contract.

This citation relates directly to the prior comment, and talks directly to the Downeaster business and operating model. Yes, there are challenges, and it is up to those who oversee NNEPRA, and most specifically the Board, to see to it that the necessary organizational expertise, leadership, and rigorous procedures are in place to make it work. Passing the buck is not an acceptable working model.

Page 6, Paragraph 4:

NNEPRA does not have complete control over the track conditions, the management of the host lines, or even the availability of track/slots for the Downeaster operation. Efficient management of shared lines requires a delicate balance of effective communications and dispatching, adherence to curfews and delivery windows, and close coordination between passenger and freight railroads. When infrastructure constraints disrupt this balance, the performance of all system users is affected.

> Comment: OPEGA has done a useful service getting to the reality of passenger rail operation in general, and Downeaster operation specifically. The specifics and nuances cited above dramatically highlight why governance, oversight, and management here cannot follow standard government models. In bringing these details to the fore, OPEGA is tacitly affirming the need for overhaul of the responsibility-accountability model for the Downeaster.

Page 6, Paragraph 5, 6 & 7:

An example of this is the situation that developed during Pan Am's large tie replacement project in FY15 when a variety of complications resulted in numerous train interruptions and cancellations. According to NNEPRA, an initial complication caused by a market shortage of ties delayed the start of the project from Fall 2014 to April 2015 which resulted in construction occurring during peak ridership. Prior to the start of construction, the FRA imposed speed restrictions on large segments of the track, which adversely impacted train schedules. The installation of ties also necessarily causes speed restrictions.

NNEPRA explained that, during the installation, Pan Am's surfacing equipment malfunctioned. This left large parts of the track at restricted speed until replacement equipment could be found to complete the installation process. One 30 mile section of track was restricted to 30 miles an hour for approximately a month during this time frame. *NNEPRA was not directly involved in the installation process, as Pan Am owned the track, performed the work, and was responsible for the equipment used in the installation.* However, according to NNEPRA the Authority was instrumental in securing the replacement equipment from MBTA necessary to complete the installation.

During this period, 543 trains were cancelled or interrupted with 60,000 passengers displaced completely and 22,000 passengers delayed one hour or more. NNEPRA attributes the substantial decrease in ticket revenue in FY15 to this series of project delays, unplanned speed restrictions, and equipment malfunctions.

> Comment: It should be clear that this is not a workable arrangement. NNEPRA lacks the necessary expertise in railroad operations, and with it, the required operating and process rigor and discipline to effectively manage Downeaster service.
>
> Overall, the "Partners" section on Pages 5 and 6 of the subject briefing document provides the basis for more detailed and thorough analysis of NNEPRA's structure, governance, and operating methods. Hopefully, this would lead to a blueprint for a far more dependable and professionally operated passenger rail service, rather than one at the mercy of the elements and numerous supporting parties for which inadequate subcontracting is currently the norm.

Page 8, Pargraph 1:

Under 23 MRSA §8116(1) NNPERA is required to report its activities for the preceding fiscal year, as well as its receipts and expenditures from all sources. Copies of this report are to be sent to the Transportation Committee and the MaineDOT Commissioner, but no formal presentation or Committee approval is required by statute. Since 2013, 5 MRSA §12003 expands NNEPRA's required annual reporting to the Legislature to include the following, which is submitted to the Executive Director of the Legislative Council and forwarded to the Transportation Committee:

> Comment: With all due respect, it should be clear from learning of the challenges and vagaries just discussed that this requirement is at best perfunctory, and unlikely to result in any significant direction and or changes. Annual reviews are largely pro-forma "dog and pony shows," conducted in a manner to ensure minimal challenges instead of detailed problem identification, analysis, and solution-finding. To the best of the author's knowledge, the Transportation Committee does not possess any specific railroad expertise among its membership, and even if it did, annual engagement would not provide much benefit.
>
> More and more, circumstances seem to point to the Board Governance model of NNEPRA, and staff composition, as the areas where major improvement is called for.

Page 8, Paragraph 3:

While the Legislature may not have a direct role in the oversight and approval of NNEPRA's operating budget, they do exercise a level of oversight indirectly via the consideration and approval of MaineDOT's budget. This budget includes the use of the funds from the State's Multi-Modal Account to serve as the state match for NNEPRA's federal operating subsidies.

> Comment: Given the foregoing, this is anything but comforting, and should add to concerns.

Page 8, Paragraphs 5&7:

Maine Department of Transportation. MaineDOT plays a significant role in the oversight of NNEPRA. *The MaineDOT Commissioner is statutorily designated an ex-officio member of the NNEPRA Board, and, as a full member of the Board, has a say in all of the Authority's most significant long-term planning, financial management, and capital projects.* In addition to the seat on the Board, statute requires the MaineDOT Commissioner's approval of NNEPRA's annual operating budget and NNEPRA may only make expenditures in accordance with the allocations approved by the Commissioner. Additionally, any transfers or deviations from the approved allocations are subject to review and approval by the Commissioner.

The Department also plays an important role in the planning and funding of capital projects. MaineDOT is responsible for statewide transportation and rail planning and develops a number of plans outlining priorities. These plans can impact NNEPRA significantly. For NNEPRA's capital projects to be eligible for High Speed Intercity Passenger Rail funding, the capital projects must be identified in the Maine State Rail Plan—which MaineDOT drafts. Additionally, many federal grants require a local match and MaineDOT sometimes provides these funds. MaineDOT's provision of funds for capital projects, as well as the operating subsidy it provides NNEPRA, are reflected in MaineDOT's

Work Plan. This arrangement helps ensure that NNEPRA's operations and goals are aligned with those of the Department, and the State's larger, long-term transit and rail plans.

Comment: Here again, this may be one of the most consequential and actionable sections in the OPEGA review. Capital projects are by definition non-recurring items of substantial expense, and often demand lengthy and diverse efforts to secure funding. They also call for careful and rigorous engineering analysis to clearly establish need beyond a reasonable doubt, and to perform trade-offs that consider all alternatives, including not proceeding.

Major capital projects undertaken and planned in recent years are in most cases well beyond the capabilities of NNEPRA's professional staff, and do not appear to have received the scrutiny they deserve from the Board. MDOT is likely overwhelmed by their total scope of capital project planning.

These report passages provide clear indications of where the NNEPRA governance and operations model call for significant further review and analysis, which hopefully will result in major enhancements going forward.

Page 8, Paragraph 10:

The FRA's 2014 audit of the Downeaster MBTA Track Improvement Project covered 23 different areas and identified no significant findings. Two areas of potential concern were noted that were exclusively related to the changes within MBTA, the new working relationship for the project that NNEPRA and MBTA needed to establish and the resulting potential for the delay of completion of the project. NNEPRA was not required to take any further actions.

Comment: Given history in recent years, these findings leave one stunned. It's as if the problems encountered are considered 'business as usual' and unworthy of concern or follow-up. This certainly does nothing to build confidence in government operated passenger rail. Note as well that the MBTA had a major management crisis in the last few years, resulting in sweeping corrections.

Page 9, Paragraph 2:

The FTA noted deficiencies in Technical Capacity and Procurement related to a lack of documentation and written, adopted procedures. A deficiency in Public Comment was also noted as NNEPRA had not solicited public comment for a change the FTA considered to be a major service reduction though it impacted very few customers. NNEPRA has taken the required corrective action to address those deficiencies.

Comment: This seems to contradict earlier NNEPRA assurances of air-tight procedures; see page 2, Paragraph 3 of the OPEGA Brief. Required corrective action: like what? Can anyone cite substantive changes? Deficiency in 'technical capacity?' How was that corrected?

Here again the passage reads as if OPEGA staff accepted NNEPRA assurances at face value, rather than probe into the details. Given the seriousness of the findings, it seems as if far more was called for.

Page 10, Paragraph 3:

Regional Planning Organizations. The MSRP took stock of, and incorporated, planning documents and priorities of the State's four federally-mandated Metropolitan Planning Organizations, as well as the plans of Regional Planning Organizations and Regional Economic Development Agencies. These agencies were asked to contribute comments for the MSRP and reviewed the draft plan. The agencies were also present at public meetings.

> Comment: Anyone know what these are, or anything about them? In the author's experience, the entities cited have had little mention in recent years.

Page 11, Paragraph 1:

Among the specific projects noted are some that have since begun or are slated for commencement: a Brunswick Layover Facility *and the re-establishment of a wye track in Portland.*

> Comment: NNEPRA's apparent position regarding the Porltand Wye track's necessity has been all over the place. On the one hand, it's stated as a necessary component of the Portland North Optimization Project, and then it's not. And then it is again. Furthermore, at least one professional railroader has argued the project is not justifiable or necessary for railroad purposes. Given the likely $12 million bill, this vacillation is at the least troublesome, and the positions on both side of the fence taken by NNEPRA raise questions of integrity in grant applications, etc. The rigor of NNEPRA's engineering analysis, virtually non-existent, is also seriously troubling.

Page 11, Paragraph 4:

The most recent MaineDOT Work Plan covering 2016 - 2018 includes both passenger rail capital work and operations support. *The capital work includes the construction of four miles of railroad passing track extending from Royal Junction in Yarmouth, which is an $8.5 million FTA-funded project.*

> Comment: $9.4 Million seems to be the latest estimate made public. The final go-ahead has apparently not been given, and an inquiry as to who has the final authority to proceed resulted in a muddled answer from NNEPRA staff. A career railroad professional argues based on track configurations that the siding is wholly unnecessary, as other nearby passing locations already exist. One wonders whether Pan Am sees NNEPRA as a golden goose in such things.

Page 11, Paragraph 5:

NNEPRA's planning focus is on providing for maintenance of the existing track infrastructure needed to ensure reliable Downeaster service, as well as identifying and prioritizing capital improvement projects that will maximize its current operation and make service more efficient.

> Comment: Abundant evidence on the record makes it clear that the first part of this statement is patently false, or that NNEPRA is incompetent at achieving their 'planning focus.' It appears that OPEGA may have taken NNEPRA assurances at face value once again, rather than

corroborating the assertions from facts on the record. Further, statements elsewhere in the brief assert that NNEPRA is at the mercy of others in such matters, making the claim even more incredulous.

As one example, a recent inquiry to NNEPRA about track inspection records yielded this response from staff:

> NNEPRA has an agreement with Amtrak, which is the railroad that operates the Downeaster. Amtrak in turn has its own agreements with the host railroads over which the Downeaster operates (i.e. Pan Am Railways and the MBTA). Amtrak and the host railroads are responsible, under federal law, for compliance with applicable federal railroad safety requirements. Those requirements include track inspection requirements. If you would like to review a railroad's track inspection records, I suggest that you contact that railroad to see whether that railroad will make those records available.

This hardly speaks to the claimed planning focus. Had there been any truth to the claim, the serious service curtailments in the past and present would not happen. The need for OPEGA to challenge such glib pronouncements by NNEPRA staff is apparent.

Page 11, Paragraph 6:

Some of the projects laid out as part of this incremental approach towards optimizing Downeaster service are the Brunswick Layover facility, Royal Siding, Portland Wye Track, reconfigurations of the Portland Station,

Comment: Reference is made to earlier comments about the Royal Siding and the Portland Wye. Further, the multiple TIGER Grant applications in recent years for Downeaster Service Optimization have not mentioned reconfiguration of the Portland Station, at least as far as this author knows.

Page 11, Last Paragraph:

NNEPRA's planning efforts for improving existing passenger rail service levels have been largely formalized in a draft Corridor Service Development Plan (CSDP) that has been under development since 2012 and is currently under review by the FRA. FRA-approval of the CSDP is required for NNEPRA to be eligible for future federal funding opportunities.

Comment: This author has not encountered, nor is familiar with, any such documents. Nor do we recall seeing mention in monthly Board Meeting packets.

Page 12, Paragraph 1:

In developing the CSCP, NNEPRA conducted a series of presentations, public events, and meetings between 2011 and 2015 with municipalities, tourism organizations, business groups, legislators, and planning organizations to solicit public input and better understand the needs of the corridor.

Comment: Here again, the author suggests rather than simply accept NNEPRA's claims at face

value, that documentation corroborating such presentations, public events, and meetings with these groups be submitted. It is our experience that NNEPRA often miss-recollects such specifics.

Page 12, Paragraphs 3-5:

Passenger Rail Expansion Planning

Although the priority for passenger rail service in the MSRP is optimizing and maximizing the existing Downeaster service, the MSRP acknowledges the possibility of expanding passenger rail service in Maine. Expansion efforts, however, are lower, long-term priorities, and are mostly limited to planning and analyses of various possibilities. These potential expansion efforts include a study of commuter rail service to Portland from Lewiston/Auburn focusing on ridership demand, land use policies, and an alternatives analysis; and a study of a potential excursion rail service from Portland to Montreal, focusing on an examination of alternatives including tourist operations, standard intercity and high speed rail options. The State's short-term, high priority expansion effort is the preservation of rail corridors in which the State acquires and protects threatened rail routes for future transit needs.

NNEPRA's role in service expansion beyond its existing service is limited as it lacks the authority and funding to undertake such efforts unilaterally. As interest in expanding passenger rail service in Maine has increased, local groups have advocated for the development of service to their areas, which may or may not be in alignment with the State's or NNEPRA's established priorities. *Because there was originally no formal criteria for prioritizing such projects, the Passenger Rail Advisory Council was formed at the request of the Transportation Committee of the 126th Maine Legislature. The thirteen-member council is co-chaired by MaineDOT and NNEPRA and includes municipal leaders, business leaders, and current and former legislators.*

The Council's goals are to gain an understanding of the relationship between the operational, capital and financial structure of passenger and freight railroad operations in Maine; to develop criteria for evaluating rail projects; and to prioritize current and future investments in passenger rail service as appropriate between the major economic and population centers of the state. MaineDOT reports that some of these goals have been met, but the role of the Council will be reevaluated in the near future.

> Comment: The PRAC has not met since October 2015, and according to the MDOT co-chair, the commissioner will determine when the next meeting should be held.
>
> This author was the presenter at the meeting a year ago, providing the details of consultant studies and economic benefit projections as they relate to Brunswick, and the 'on the ground' realities since Downeaster service began four years ago. The facts presented did not comport well with the predictions of Transit Oriented Development advocates, including CNT, TRNE, and MRTC.

Page 14, multiple paragraphs:

CMAQ funds are for transportation improvements designed to improve air quality and mitigate congestion.

Historically, the primary source of operational subsidy used to support the Downeaster has been

Federal Congestion Mitigation Air Quality (CMAQ) funds. The Federal Highway Administration (FHWA) apportions these funds to each state annually according to the severity of its air quality problems. *Since 2001, MaineDOT has secured a waiver to use a portion of its CMAQ funds for the operation of the Downeaster.*

CMAQ funds were the only source of non-state funding support for the Downeaster until FY13 when Portland, ME gained federal status as an urbanized area. With this designation, Federal Formula Funds from the FTA also became available. There are two categories of formula funds that NNEPRA receives: State of Good Repair Grants – 5337 and Urbanized Area Formula Grants – 5307. NNEPRA's receipt of Formula Funds has reduced the amount of CMAQ funds needed to cover the operating deficit and MaineDOT is able to use those CMAQ funds for other projects. Table 3 illustrates the shift in NNEPRA's federal funding sources over the period which together cover 80% of the operating deficit.

The remaining 20% of the Downeaster's operating deficit is funded by the State of Maine, particularly through MaineDOT's Multi-Modal Account. The Multi-Modal Account is funded from a variety of sources, but primarily from car rental sales tax. The Account is used to provide funding for non-highway projects at the discretion of the MaineDOT Commissioner. NNEPRA and MaineDOT have a Memorandum of Understanding that these funds will be used to provide the 20% match of federal funds for the operation of the Downeaster service.

It should be noted that Maine is the only state contributing to the Downeaster's operating subsidy even though the service passes through and makes stops in New Hampshire and Massachusetts. According to NNEPRA, those states contribute in other ways.

> Comment: Use of CMAQ funds for Downeaster subsidy is a tenuous situation at best. No serious evidence of the service contributing to congestion relief or air quality improvement in Maine exists. In fact, strong arguments exist for just the opposite in air quality, since the Downeaster diesel locomotives are grandfathered to archaic EPA standards, and run their engines 24 hours a day, when their operating duty cycles average about 40%.
>
> Further, the fact that New Hampshire and Massachusetts arguably reap the majority of the economic benefit from the Downeaster, while contributing nothing to its operating subsidy, is a fundamental inequity in the business model used since inception. This can hardly be seen as good stewardship of the public treasury and the public trust.

Page 17, Paragraph 2:

Capital Maintenance. The annual capital maintenance program, developed collaboratively with Pan Am, is often comprised of several independent projects. Due to construction schedules, availability of materials, and project priorities, not all projects are completed in the year in which they were identified and budgeted. *The Capital Maintenance expense category captures these expenses as they occur. Capital Maintenance expenses comprised four percent of NNEPRA's total operating expenses for the five year period remaining at a relatively consistent level from FY11 ($214,788) through FY14 ($256,859), but increasing notably in FY15 to about $2.2 million. This increase was the expected result of years of planning by NNEPRA and Pan Am for the large tie replacement project that was estimated to cost in excess of $2 million.* NNEPRA and Pan Am agreed that a portion of the capital maintenance programs for FY11-FY14 would be set aside and allocated to the future tie replacement project. This

project began in 2015 and the increase in FY15 Capital Maintenance expenditures reflects the purchase of ties, materials and the majority of project expenses.

Comment: Once again, the inconsistency between reality and NNEPRA's claims of planning focus and solid processes for managing maintenance are put to the lie. Solid professional railroad experience on the staff, and on the Board, whould have anticipated such events from the inception of service and made budgetary and contractual provisions to deal with them as they occur, instead of ending up with deferred maintenance crises. Staff must be involved and cognizant at the most detailed levels, including regulations and related inspections.

The evidence mounts that further detailed investigation into Downeaster operation and NNEPRA's management of it is called for, including how the Board oversees and takes responsibility for performance and decision making.

Page 18, Paragraph 3:

NNEPRA explained the higher travel expenses in these years were due to the Executive Director's participation as Chair of the States for Passenger Rail Coalition

Comment: One might call this nit-picking, but the expense and time commitment for Ms. Quinn's extra-curricular role in these years is inconsistent with the NNEPRA charter. And it speaks to the Board's lenience in such matters, if they were even consulted before she took the post.

Page 19, Table 6:

BLF: $1.7 million in early years; what's the final bill?
What is the NNEPRA-MBTA project that cost $1.2 million?
Portland Wye: $700,000 plus has already been spent on an unnecessary project?
$670,000 has been spent on a plan?

Comment: The capital expenses shown in this table go beyond any information the author had, or has seen in Board Meeting information packets. The preliminary expenditures on plans and projects not yet under way are particularly troublesome.

It seems by now that a final cost for the BLF should be available, and that it should be compared to the serial estimates that were provided along the way.

Page 23, Paragraphs 2, 3, & 4:

The invoicing process is governed by a mix of vendor specific policies for NNEPRA's major vendors (Amtrak, Concord Coach Lines, Pan Am, and Epicurean Feast) and a central policy outlining the general process.

Contract Administration and Oversight
In conjunction with the procurement policy, NNEPRA's contract administration procedures provide the basic guidelines for the administration of contracts and encompass implementation, oversight, review,

and responsibilities of NNEPRA staff and contractors. Noted controls include the Executive Director's approval for contract requests prior to solicitation; ongoing contract monitoring and monthly progress reports reviewed by management; and the continued involvement of NNEPRA's general counsel throughout the process.

and *the employment of a project management firm* and NNEPRA's own Special Projects Manager who both ensure that contractors are meeting the terms, conditions, and specifications of capital project contracts.

> Comment: In the author's experience, "vendors" are those who supply office coffee, etc. Amtrak and Pan Am, at the very least are contractors, and there should be contracts in place with all the usual provisions, specifications, and protections.
>
> There is no evidence of any such contract administration discipline in prior study of NNEPRA operations, and it seems as if NNEPRA played the "trust us" card on the details. OPEGA should not settle for such glib assurances, and owes it to the GOC and the public to validate the claimed discipline with hard evidence.
>
> The problems in track maintenance and the tolerance of the bizarrely outrageous CNT study efforts beg the whole idea of oversight and review, and the engagement of NNEPRA's general counsel.
>
> Employing a "project management" firm is indicative of a staff not up to their challenges, and creates another layer of isolation from realities. Who is it that manages the project management firm, and does it with rigor, knowledge, and competence that can be depended on? Who on the Board is attentive to such considerations?

Page 23, Paragraph 7:

Additionally, the Legislature periodically considers bills and other initiatives affecting passenger rail, in particular legislator or citizen proposals for expansion of service to more localities.

One possible opportunity to ensure this communication occurs is for the Transportation Committee to schedule NNEPRA to present its required annual reports to the Legislature at a public meeting

> Comment: Transportation Committee members have no specialized knowledge of passenger rail operations. And as stated earlier, annual reports are arguably a perfunctory effort to entertain the members and allow them to check the right box in their job list. Presenting the reports at a public meeting is a suggestion with little distinction compared to current procedures.
>
> If one accepts the arguments that NNEPRA operations and governance are seriously deficient, and will continue to cause serious problems and unnecessary expenses, it should be clear that systemic improvements are required rather than an additional public meeting or two each year, for which long range preparations are made to ensure success.

Page 24, Paragraph 1:

OPEGA suggests that the Legislature, MaineDOT, and NNEPRA, in their respective roles, take steps to ensure the following occurs as part of the processes for establishing policy, planning, and implementing passenger rail expansion and capital improvement projects:
□ Expected costs and benefits are carefully considered and supported by objective research and analysis and that expected benefits take into full account the realities and challenges of providing passenger rail service in Maine.

□ Timely and appropriate forums for public input and vetting of significant projects are held throughout project selection, design, and implementation such that viewpoints from members of impacted communities, as well as both passenger rail proponents and opponents, are considered.

> Comment: The first bullet runs smack into the CNT studies discussed in the authors statement before the GOC. Acceptance and promulgation of such clearly incompetent and copious misrepresentations of economic benefit are a travesty perpetrated upon NNEPRA and the public that funds their efforts.
>
> The committee should expect that situations like the author's presentation made to the PRAC one year ago will not be countenanced in the future. Viewpoints from 'opponents' are not actively sought, objectively considered, and added into the discussion mix.

Page 24, Paragraph 2:

The existing Maine Passenger Rail Advisory Council was formed at the request of the Transportation Committee of the 126th Maine Legislature. The Council's goals are to gain an understanding of the relationship between the operational, capital and financial structure of passenger and freight railroad operations in Maine; to develop criteria for evaluating rail projects; and to prioritize current and future investments in passenger rail service. MaineDOT reports that the Council accomplished some of these goals, but has not met recently and the role of the Council will be reevaluated in the near future. OPEGA suggests that during the reevaluation of the council's role, the appropriate parties consider whether the Council can serve a role in implementing the previous two suggestions as a means to improve communication and collaboration between the Legislature, MaineDOT, and NNEPRA, and/or to serve as a forum for public input.

> Comment: In all truth, the PRAC has served as a forum for advocacy for public funding for ever-expansive TOD projects. Serving as a forum for public input has not been a priority; in fact just the opposite has been true. The author's presentation there may have been a first for 'public input,' and as it turns out, was the last such meeting.
>
> https://www.scribd.com/doc/284589130/PRAC-PDF-Briefing-13-October-15
>
> Even worse, one would expect that calling for review of projected benefits after service initiation would not be approved, because anything that brings reality into the discussion is unwelcome.
>
> The PRAC is constituted as a forum for those seeking public funds to expand rail service and

nothing else. It serves no purpose in creating checks and balances to proposals from various sources, all of which are cloaked in grandiose promises rather than real-life experience.

The resolution creating the PRAC can be found here:

http://www.mainelegislature.org/legis/bills/bills_126th/billtexts/HP085201.asp

Presentation to OPEGA Concerning Monitoring Guilford R.R.'s Rail Safety Maintenance Work For NNEPRA

My name is Robert N. Morrison. I live at 37 Bouchard Drive, Brunswick. I am chairperson of the Brunswick West Neighborhood Coalition.

First, OPEGA should carefully review NNEPRA'S cost sharing agreement with Guilford Railroad to see if it is equitable. NNEPRA should have documentation to prove it.

Before proceeding further, it is important to define incremental maintenance of railroad lines. Incremental maintenance is difference in cost between the host railroad's(Guilford Railroad's) maintenance work to maintain freight service and the cost for the maintenance of passenger service provided by NNEPRA.

This definition is important because FRA/NNEPRA construction agreements requires the host railroad (Guilford) to maintain the track system for a specific speed (45 miles per hour). The maintenance cost to provide freight service is Guilford's responsibility and the additional cost for the maintenance of passenger rail service is NNEPRA'S responsibility.

So, we now move on to the questions that OPEGA must investigate regarding NNEPRA'S performance in making sure that the federal track safety standards were carried out. This means focusing on four main areas: TRACK STRUCTURE: rails, crossties, track switches, tie plates, and fastening systems; TRACK GEOMETRY: track gauge, alignment, elevation, curvature, and track surface; ROAD BED: drainage and vegetation obstructing signs and signals; TRACK INSPECTION: frequency and quality of inspections, special inspections, and recordkeeping. See Appendix A entitled "Federal Railroad Administration Federal Track Safety Standards Fact Sheet", page 1.

Which NNEPRA employee is responsible for insuring that the required work is being carried out?

What are his/her qualifications to do this important task?

When were the inspections done to insure safety and the meeting of the speed requirements? How long did the inspections take on each occasion?

Where are the written records of these inspections? How often did they occur? What was the quality of these inspections?

Why were there so many 'slow orders" (reductions in speed of trains) or cancellation of service during, especially during last Spring, if Guilford was doing its job and NNEPRA was making sure that it was? See Appendices B, C, D for Portland Press Herald articles on this topic.

In addition to the above important questions, OPEGA should answer these additional questions that are equally important.

Where did the NNEPRA money go to support roadbed maintenance in adherence to federal track safety standards?

Were the monies used as intended?

Did Guilford Railroad maintain the minimum rail structure, track geometry, road bed, and track inspection as set forth in the agreement and set forth in the Federal Railroad Authority standards? See Federal Railroad Administration's "Federal Track Safety Standards Fact Sheet", pages 1-4 in Appendix A. In this federal fact sheet, you can deduct that Guilford's freight trains and the Northeaster operated by NNEPRA are rated Class 3. This allow Guilford to operate at 40 miles per hour and NNEPRA to operate up to 60 miles per hour.

Why did AMTRAK bring in a "geometry car" before FRA "geometry car" was sent to check on the rail bed?

So, OPEGA needs to address a lot of questions that demand answers concerning the subject of track safety maintenance and whether or not Guilford Rail and NNEPRA were doing the work necessary to meet federal track safety standards and thus permit the trains to run safely and to run on time.

APPENDIX A

MOVING THE AMERICAN ECONOMY

Federal Railroad Administration
Federal Track Safety Standards
Fact Sheet

Background on Federal Track Safety Standards

There are approximately 140,000 miles of track in America which require constant and vigilant inspection, maintenance, repair and replacement by railroads in order to keep freight and passenger trains moving safely. The wide range of conditions associated with, and inherent in, track infrastructure can lead to derailments if not properly and effectively managed.

Although the number of track-caused accidents has decreased over time, the Federal Railroad Administration (FRA) continues to encourage railroads to achieve further reductions. In 1978, there were 4,780 track-caused accidents compared to 908 in 2007—an 81 percent reduction.

Responsibility of Railroads

Each railroad has the primary responsibility to ensure its own track meets or exceeds the standards prescribed in the FRA track safety regulations and to perform regular and routine track inspections. This includes establishing a track inspection and maintenance program, training its inspectors to identify non-compliant track conditions, making any necessary repairs, and maintaining accurate records of these actions.

Role of the FRA

The FRA's federal track safety standards generally focus on four main areas:

- Track Structure: Rails, crossties, track switches, tie plates, and rail fastening systems
- Track Geometry: Track gage, alignment, elevation, curvature, and track surface
- Road Bed: Drainage and vegetation (vegetation cannot obstruct signs and signals)
- Track Inspection: Frequency and quality of inspection, special inspections, and recordkeeping

The primary duty of FRA's 90 Federal track safety inspectors, along with 30 certified State inspectors, is to strategically monitor track conditions to determine whether a railroad is complying with federal safety standards. Effective federal investigation requires identification, evaluation, and accurate reporting of a railroad's track conditions and practices.

A railroad is subject to FRA enforcement actions, or possibly liable for civil penalties, if it fails to construct and/or maintain track to the appropriate standard, or if it operates trains in excess of the designated track speed.

FRA is continually prompting railroads to perform more thorough track inspections both by traditional visual means and increasingly through the use of new technologies. And, the FRA continues to drive track safety innovation through its research and development activities enabling railroads to undertake better preventive maintenance efforts.

Class of Track

FRA's track safety standards establish nine specific classes of track (Class 1 to Class 9), plus a category known as Excepted Track. The difference between each Class of Track is based on progressively more exacting standards for track structure, geometry, and inspection frequency.

Furthermore, each Class of Track has a corresponding maximum allowable operating speed for both freight and passenger trains. The higher the Class of Track, the greater the allowable track speed and the more stringent track safety standards apply.

Railroads determine the Class of Track to which each stretch of track belongs based upon business and operational considerations. Once the designation is made, FRA holds railroads accountable for maintaining the track to the corresponding standards for that particular class.

If through regular maintenance and inspection efforts a railroad discovers that a section of its track fails to meet the specified federal standard, the railroad is required to make appropriate repairs to maintain that Class of Track designation, or downgrade the track segment to a lower Class of Track to which the federal standard can be met.

Track Inspection Requirements

Under FRA regulations, each railroad has primary responsibility to ensure its own track meets or exceeds the federal safety standards. This includes railroad inspectors performing track inspections at specified minimum frequencies based on the Class of Track, the type of track, the annual gross tonnage operated over the track, and whether it carries passenger trains. Railroads are required to maintain accurate records of regular and ad hoc track inspections subject to review and audit by FRA federal inspectors at any time.

Class of Track	**Minimum Track Inspection Frequency**
Excepted Track	Weekly
Class 1,2, and 3 Mainline and Sidings	Weekly, or twice weekly if the track carries passenger trains or more than 10 million gross tons of traffic during the preceding year.
Class 1, 2 and 3 Not mainline or sidings	Monthly
Class 4 and 5	Twice Weekly
Class 6,7, and 8	Twice Weekly
Class 9	Three Times a Week

Establishing Track Speed

Track speed is determined by the Class of Track. Railroads can change the Class of Track (and thus increase or decrease the track speed) whenever it deems appropriate and without prior notification to, or approval by, the FRA. FRA's interest is in ensuring the railroad maintains the track to the appropriate federal safety standards for that Class of Track.

In addition, local or state governments cannot establish their own train speed limits over highway-rail grade crossings or through urban settings unless they can meet an extremely high legal standard. That is, federal preemption exists unless it can be demonstrated that a more

stringent speed restriction is necessary to eliminate or reduce a local safety or security hazard; that such local or state provision is not incompatible with a Federal law, regulation, or order; and that it does not unreasonably burden interstate commerce.

Furthermore, the safest train is one that maintains a steady speed, and locally established speed limits would result in hundreds of individual speed restrictions along a train's route. This would not only cause train delays, but it could actually increase the chance of a derailment as every time a train must slow down and then increase speed, "buff" and "draft" forces (those generated when individual freight cars are compressed together or stretched out along a train's length) are introduced. This increases the chance of derailment along with the potential risk of injury to train crews, the traveling public, and those living and working in surrounding communities.

Class of Track	Maximum Allowable Speed for Freight Trains	Maximum Allowable Speed for Passenger Trains
Excepted Track	10 mph	N/A
Class 1	10 mph	15 mph
Class 2	25 mph	30 mph
Class 3	40 mph	60 mph
Class 4	60 mph	80 mph
Class 5	80 mph	90 mph
Class 6	N/A	110 mph
Class 7	N/A	125 mph
Class 8	N/A	150 mph
Class 9	N/A	200 mph

Track Inspection Technology

Prior to the mid-1970's, track inspection was primarily performed visually. Since then, the development of measurement technologies fitted on moving equipment has greatly increased the accuracy and speed of inspections, and has been a major contributing factor in the decline of track-caused derailments.

Railroads initially developed Gage Restraint Measuring Systems (GRMS) to assess the ability of their track to maintain proper gage (the distance between two rails). To advance the science of automated track inspections even further, FRA developed its own Automated Track Inspection Program (ATIP) outfitted with custom-made vehicles equipped with state-of-the-art technology to help identify track flaws that could lead to train derailments. FRA now has five such cars in service that will inspect approximately 100,000 miles of track each year. In January 2008, the ATIP reached the milestone of surpassing its one millionth mile of track inspected.

The ATIP cars are primarily used on high-volume traffic density rail lines that carry the majority of hazardous materials transported by rail, as well as passenger trains. They are also used to quickly respond and evaluate routes where the integrity of track is suspected or known to be substandard. The ATIP cars use a variety of technologies to measure track geometry characteristics. The measurements are recorded in real-time and at operating speed. The precise location of problem areas are noted using global positioning system (GPS) technology and shared immediately with the railroad so appropriate corrective actions can be taken. FRA's

newest ATIP car also video records every 50 feet of track bed, which are analyzed by track inspectors and the railroad.

The nation's Class I, or largest railroads all operate similar cars while regional and short line railroads sometimes arrange to have such cars inspect their track under contract. In addition, some railroads have installed Vehicle Track Interaction devices in locomotives to measure high impacts, which instantly alert track maintenance personnel of abnormalities and potential problems areas. Similarly, Visible Joint Bar Detection Systems use a high-speed camera placed on a service truck to scan for broken joint bars. In addition, FRA operates a high rail car with a Joint Bar Inspection System to spot cracks in continuous welded rail.

Technological advances currently being tested include a more refined high-speed photo inspection system that will take a high-resolution picture of the joint bars, and use pattern-recognition software to automatically detect cracks which are difficult to see. A laser vision system is being tested that will scan the track and track bed for anomalies, and ground penetrating radar shows promise to inspect track bed and soil conditions. Driven by FRA research, the industry will soon initiate ultrasound and laser testing of rails to detect internal flaws, fatigue and minute cracks.

Track Speed and Highway-Rail Grade Crossings

The potential danger of a train –vehicle collision present at a highway-rail grade crossing is a separate issue from train speeds. The physical properties of a train moving at almost any reasonable operating speed generally, if not inevitably, prevent it from stopping in time to avoid hitting an object on the tracks. In more than 37 percent of collisions between trains and motor vehicles at public grade crossings, the train was operating at less than 20 mph.

In addition, there is little evidence that wholesale reductions in train speeds will reduce the risk that such grade crossing collisions will occur. Decades of experience and research have shown that prevention of grade crossing incidents is more effectively achieved through the use of roadway warning signage, active warning devices such as flashing lights and gates, and strict observance by motorists of applicable traffic safety restrictions, precautions and laws.

For more information on Federal Track Safety Standards, see 49 CFR Part 213.
For more information on the FRA Automated Track Inspection Program, visit http://atip.fra.dot.gov/

FRA Office of Public Affairs
(202) 493-6024
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June 2008

APPENDIX B

Construction delays likely to dent Downeaster ticket sales

pressherald.com

By Tom Bell Staff Writer tbell@pressherald.com | @TomBellPortland | 207-791-6369

Fewer people are expected to ride Downeaster trains in the current fiscal year because of anticipated construction delays, according to the rail authority that operates the passenger service.

Work crews replaced 2,000 rail ties over the summer and will replace an additional 28,000 ties this fall and next spring, said Patricia Quinn, executive director of the Northern New England Passenger Rail Authority.

Passengers made a record 537,000 trips on the Downeaster during the fiscal year that ended June 30, even though the service posted its worst-ever on-time performance because of the construction delays.

Those delays will be even worse this fiscal year, which began July 1, prompting the rail authority to predict that ridership will fall to 519,000 passengers, a decline of 3 percent.

The ties will be replaced along the route between Portland and the Massachusetts/New Hampshire border, Quinn said. Crews with Pan Am Railways, which owns the railroad, will install the ties. The freight rail company is paying for the labor, and the Downeaster is paying an estimated $2.3 million for the ties and ballast.

Quinn said the work will continue this fall until the ground freezes up, and then crews will start again in the spring and work until June.

She said the project, which has been planned for years, has been delayed, first because of difficulty getting the ties and then because Pan Am crews were busy replacing ties elsewhere on its rail system.

She said tie replacement is similar to routine maintenance work performed on highways.

"It's like filling in the potholes," she said. "It's something that is ongoing."

Work began on Oct. 14 on the section of the line between Exeter, New Hampshire, and the Massachusetts border.

As a result of the work, all trains may experience delays of 30 to 50 minutes, and some trains that operate in the middle of the day are being canceled. Some of those trains are being replaced by a motor coach that operates between Portland and Boston, with a single stop in Wells.

Weekend train service will not be affected by the construction.

The service impacts will change as construction proceeds, Quinn said. Delays and cancellations will be posted on the service's website, amtrakdowneaster.com.

Read or Post Comments

Were you interviewed for this story? If so, please fill out our accuracy form.

Send questions/comments to the editors.

APPENDIX C

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BUSINESS Posted **August 2, 2015** Updated **August 2, 2015** INCREASE FONT SIZE

Downeaster in recovery mode after dismal year

The rail service, once a model within the Amtrak system, must woo back riders after construction projects and a harsh winter eat into its on-time performance.

BY TOM BELL STAFF WRITER
tbell@pressherald.com | @TomBellPortland | 207-791-6369

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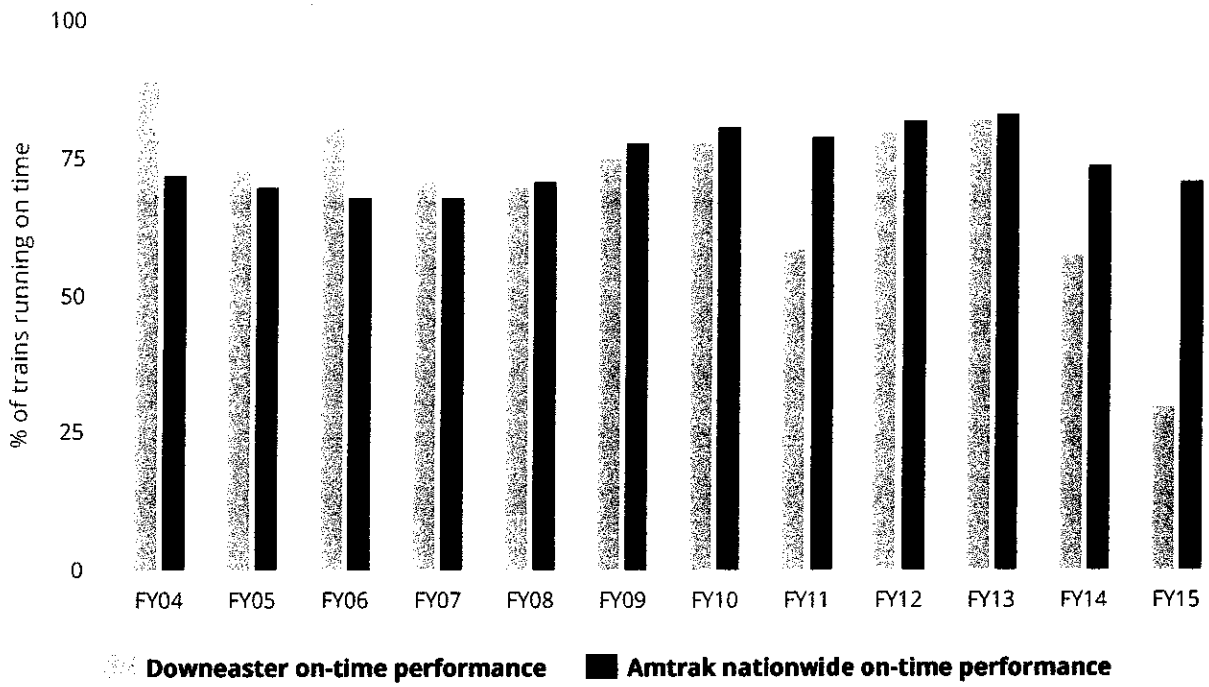
Amtrak Downeaster on-time performance



Source: Northern New England Passenger Rail Authority, Amtrak
Interactive: Christian MilNeil

For the first time in four months, Downeaster trains returned to normal schedules Saturday, signaling what supporters hope will be a new era following the service's dreadful performance over the past 15 months.

"The great New England passenger rail nightmare is over!" exclaimed TrainRiders/Northeast, a pro-rail citizen group, on its Facebook page.

An Amtrak employee lowers the ramp of the Downeaster to the platform of the Old Orchard Beach station last Tuesday. The Northern New England Passenger Rail Authority, which operates the Downeaster, has hopes of re-earning passengers' trust after 16 months of stunning unreliability. *Whitney Hayward/Staff Photographer*

DOWNEASTER SPECIALS

Here are some of the promotions currently available at amtrakdowneaster.com:

• Children ride free on Tuesday. Up to two children (ages 2-12) ride free on Tuesdays when accompanied by an adult paying full fare. Valid to Aug. 25. A three-day advance reservation required. Passengers must reference promo code v835 when making the reservation.

• Two tickets for the price of one for trains to Maine. The free companion and full-fare adult must travel together on the same itinerary and have tickets issued

A nightmare it was.

When the rail service's books closed June 30, it reported an annual on-time performance of only 30 percent – less than half the Amtrak national average of 71 percent. In May, the Downeaster's worst month, not a single train arrived on time. In June, fewer than 8 percent arrived on time. In addition, 13 percent of trains – 488 trains in all – never made it out of the station in fiscal year 2015 because their trips were canceled, mostly due to construction.

Two bridge repair projects in Massachusetts last spring and this year's harsh winter caused numerous delays and cancellations, but most of the woes were due to a massive tie-replacement project that took months longer to complete than anticipated.

Passengers responded by finding other ways to travel. In all, the service had nearly 100,000 fewer riders than the 536,524 in the previous fiscal year, an 18.2 percent drop.

One former fan is Kristina Egan, who lives in Freeport and travels two to three days a week to Massachusetts.

Before the construction began, Egan rode the Downeaster all the time because she enjoys its

Downeaster trains 681, 683, 686, 688, 691, 693, 696 and 698. Three-day advance reservation required. Passengers must reference promotion code v489 when making the reservation. Expires Dec. 31.

• Discount fares. Passengers who make reservations with promotion code v223 get 25 percent off the best available fare. Valid only on Downeaster trains 684, 686, 689, 694, 696, and 699. Three-day advance purchase required. Expires Dec. 31.

Search photos available for purchase: **Photo Store** →

smooth ride and roomy seats. But after missing several meetings in Massachusetts, she switched to the Concord Coach Lines bus.

"I can't afford to miss an important meeting because I like the train better than the bus," said Egan, who heads Transportation for Massachusetts, a group that advocates for transit funding.

Another is Anthony Zeli of Portland, a longtime fan of trains who now rides the Concord bus to Boston if he needs to get somewhere on time. The train, he said, is only suitable for a "lazy and enjoyable weekend trip."

A CREDIBILITY PROBLEM

Winning back disgruntled rail passengers is now the goal for the Northern New England Passenger Rail Authority, which operates the Downeaster. Once touted as a national model for how regional rail lines should be operated, the service is in recovery mode. The rail authority plans to lure back passengers by stepping up its advertising efforts, which had been put on the shelf during the construction project, and launching promotional fares, such as a 25 percent discount for travel on the midday trains, which were the most disrupted by the construction.

In the end though, marketing specialists say, what matters to the public is performance.

Amtrak and the rail authority have a credibility problem, said Karen DeMitto of Portland, who depends on public transportation because she does not own a car.

She said Amtrak employees who staffed its toll-free line didn't seem to know what was happening with the service whenever she called to ask if a train was running. She said rail authority officials, in communications with the public, consistently underestimated how long the construction project would last.

"It was always, 'Maybe next week it will be fixed,' " she said. "I was trying to get to Brunswick for the last seven weeks. Every week they said next week might be better, but it wasn't."

Any time a transit agency is experiencing major problems, it needs to tell the public what the problems are, why they are occurring and when they will be fixed, said Kenneth Hitchner, a former spokesman for New Jersey Transit who now manages public relations for Creative Marketing Alliance, a firm in New Jersey.

"When you are selling a service, it's always about managing expectations," he said.

But the delays and cancellations are symptoms of a deeper problem, said Dennis Bailey, who owns a public relations firm in Portland. The entire Amtrak system is plagued with decaying infrastructure because of inadequate funding, said Bailey, who last year worked for a Brunswick group that opposed the rail authority's plans to construct a layover facility in Brunswick.

"They are not going to spin their way out of it," he said. "There are some real issues they are going to have to resolve to match their PR."

SINGLE-TRACK BLUES

It wasn't always like this. For years, the Downeaster was seen as a model for expanding rail service elsewhere in the country. Its customer satisfaction rates, ridership growth and on-time performance were regularly among the highest in the Amtrak system.

The Downeaster's woes began in April 2014, when the Massachusetts Bay Transportation Authority began to rehabilitate three railroad bridges spanning the Merrimack River in Haverhill, including a bridge the Downeaster uses.

Then, in May of that year, rail inspectors determined that harsh winter weather and heavy snow melt had destabilized the ground under about 27 noncontiguous miles of track, mostly between Portland and the New Hampshire border. Because the Downeaster operates on a single track, trains were canceled or delayed to give the crews time to make repairs.

East Winter's harsh weather caused numerous delays and cancellations. In February, a southbound train was stranded in a remote area of North Berwick because of an engine problem. The train eventually arrived in Boston more than six hours late.

The weather delays were compounded by a project to replace 30,000 rail ties on the 78-mile line that Pan Am Railways owns between Portland and the New Hampshire-Massachusetts border. The rail authority bought the ties for $2.3 million, and Pan Am paid for the equipment and labor to install them.

Pan Am replaced 8,000 ties last year. This year, however, the "tie gang" – the Pan Am crew that removes the old ties and replaces them with new ones – didn't begin work until late May. The project was delayed by a number of factors. Some heavy equipment Pan Am needed for the project was delivered late by the manufacturer. Amtrak tried to send heavy equipment to Maine, but the shipment was delayed by an Amtrak derailment on May 12 in Philadelphia.

Now that the tie-replacement project is finished, the rail authority plans to increase its marketing effort. It has $520,000 to spend, including $40,000 carried over from last year's budget.

The authority plans to use television, print and search-engine advertising. The message will be the same as in recent years, which is to highlight the "high quality, high value" experience of the rider, said Natalie Bogart, marketing director of the rail authority.

She said the authority won't be talking about how it will overcome its recent poor on-time performance because a large segment of the target audience never rode the train before or encountered a problem.

"There are a lot of people who have been disrupted," she said, "but a lot of people didn't know anything happened."

Patricia Quinn, executive director of the rail authority, said she's confident she can get those who have abandoned the train to give it another chance.

"We are going to be more reliable than we have been in a long time," she said. "It will take some time, but we will have to earn that reputation back."

Promotions are a nice gesture, but passengers will return if they trust the service, said Wayne Davis, who heads TrainRiders/Northeast, which successfully lobbied the state in the early 1990s to establish the train service.

"I think just delivering people on time is the most important thing we can do," he said.

Egan, who now rides the bus to Massachusetts, said she will be looking at the service's performance carefully before deciding to take the train again.

"I need to see a couple of weeks of close-to-perfect performance and an explanation of why all the delays happened over this past year and how they are not going to happen over the next year," she said.

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APPENDIX D

Nesta Morrison

From: Sandy Buckles <sbuck98@aol.com>
Sent: Thursday, September 29, 2016 8:46 AM
To: Sandy Buckles
Subject: FW: Downeaster will bus passengers between Brunswick and Wells this fall

FYI.

Feed: The Portland Press Herald / Maine Sunday Telegram » News
Posted on: Thursday, September 29, 2016 4:00 AM
Author: Peter McGuire
Subject: Downeaster will bus passengers between Brunswick and Wells this fall

The Amtrak Downeaster will transport passengers on buses between Brunswick and Wells for about six weeks this fall as workers replace railroad ties on about 30 miles of track.

The use of buses is intended to avoid service interruptions and late trains that plagued the Downeaster during a tie replacement project last year, said Patricia Quinn, executive director of the Northern New England Passenger Rail Authority.

Also, one of the Downeaster's five daily round-trips will be suspended during the work and there will be no service on two weekends in October and November because of track construction and bridge work in Massachusetts.

The inconveniences will undoubtedly turn passengers away, Quinn admitted.

"It is definitely going to have an impact on ridership and revenue," she said. "We've planned and budgeted for that."

However, a relatively brief service disruption is preferable to a months-long nightmare of delays and cancellations the service experienced in the past two years, Quinn said. From July 2014 to June 2015, only 30 percent of Downeaster trains arrived on time, mainly because of a massive construction project to replace 30,000 railroad ties on a 78-mile section of track. The Downeaster tried to schedule trains to avoid construction, but ended up with hourslong delays and canceled trains instead. The problems were exacerbated by a long, cold winter and construction delays.

This year, the Downeaster recovered from that setback, with 81 percent of trains running on time in April, May and June, an August report from the rail authority said.

About 15,000 ties on 30 miles of track between Portland and Wells will be replaced this year. Instead of trying to schedule around the construction, rail authority staff opted to use buses to transport passengers. Busing is a common way to replace train service during interruptions such as construction, Quinn said.

"The fact that we are going around all the construction is much better," she said. "It is inconvenient, but it's not some horrible crazy thing that doesn't happen anywhere."

Starting Oct. 11, Downeaster passengers from Brunswick, Freeport and Portland will be bused to and from the Wells station, where they will board trains for Boston. Passengers between Saco and Wells will be taken in a van. The bus service will start five to 15 minutes earlier to make sure the train from Wells is on time, Quinn said. Busing is expected to last until Nov. 21, when the Downeaster will release a new service with three round-trips a day between Brunswick and Boston, Quinn said.

A midday service between Boston and Portland also is being suspended during the tie replacement. Trains 683 northbound, at 11:26 a.m. and 684 southbound, at 12:40 p.m., and equivalent weekend trains, 693 northbound and 694 southbound, will be taken off line. There isn't typically a lot of demand for those off-peak services, Quinn said.

To complicate matters, the Massachusetts Bay Transportation Authority is working on bridges over the Merrimack River over the next two months, and will be busing train passengers between Haverhill, Massachuestts, and Boston on Oct. 8-9 and Nov. 19-20. The Downeaster will not run any trains on two weekends, Oct. 22-23 and Nov. 5-6, to avoid busing passengers for most of the trip, Quinn said.

Downeaster passengers will be compensated with reduced fares during the construction period. One-way tickets between Boston and any of the stops north of Wells will cost $17, the cost of the Wells-Boston trip, Quinn said. A one-way ticket on the Downeaster from Boston to Portland now costs $25, or $34 for business class.

Because bus space is limited, passengers should make reservations well in advance, Quinn said.

"This is not a good time to show up without a reservation," she said.

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COMMENTS ON OPEGA'S SEPTEMBER 2016 NNEPRA INFORMATION BRIEF TO GOC

By: Charles F. Wallace, Jr., PE

October 6, 2016

Resource Systems Engineering
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Resource Systems Engineering

My name is Charles F. Wallace, Jr. I was born, raised and resided in Brunswick, Maine for most of my life. I am a career Professional Engineer spanning a half century and am licensed to practice in the states of Maine, Massachusetts, New Hampshire, and formerly North Carolina. I am a full member of the Institute of Noise Control Engineering and a Diplomate of the American College of Forensic Examiners. I earned a B.S. in Engineering Physics in 1965 and an M.B.A. in 1972, both from the University of Maine at Orono. I have been practicing since 1965. In 1970, I began to focus my career as an environmental professional. In 1977, I formed the company now known as Resource Systems Engineering (RSE) located in Brunswick. I am a 2003 recipient of the University of Maine Engineering Excellence award and a Member of the distinguished Francis Crowe Society in recognition of my "Outstanding Professional Service to the Field of Engineering". Since 1977, all RSE activities, computer systems development, computer modeling, program evaluations, budgeting, economic pro-forma preparation, project fatal flaw analyses, project feasibility analyses, project development peer reviews, performance investigations, designs, permits, studies and public testimonies have been completed directly and under my direct supervision of employees and sub-contractors. My full Resume is attached to these comments.

First and foremost, THANK YOU for the opportunity to present my opinion of <u>AN OPEGA INVESTIGATION ROADMAP GOING FORWARD.</u> Being respectful of your time and busy Agenda, I will be as brief as possible.

The Office of Program Evaluation and Government Accountability's (OPEGA'S) September 2016 *Information Brief* to the Government Oversight Committee (GOC) focused on the formal structural development of the Northern New England Passenger Rail Authority (NNEPRA). The September *Brief* relied primarily on a review of enabling legislation, subsequent rules and associated regulations. Basically the *Brief* is a status report on the history of NNEPRA and development of passenger rail service. Understanding this history is crucial to the understanding of the background in which passenger rail service has been re-introduced and expanded in Maine. OPEGA's preliminary evaluation and investigation has been guided by the Government Oversight Committee's approval of the scope of the work to date. OPEGA is to be commended for its disciplined adherence to their interpretation of GOC's authorized scope. The September 2016 *Information Brief* represents a commendable effort for an organization with no apparent prior familiarity with rail transportation issues – neither freight nor passenger. This status report to GOC outlines various chains of command and oversight structure and describes how passenger rail service is

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theoretically supposed to work. Heavy reliance appears to be placed on NNEPRA's responses to interviews and NNEPRA's Executive Director's personal statements. It is a good report as far as it goes. However, the September OPEGA interim status report fell short of a complete and balanced review, did not fully vet approximately 40 unsolicited comments and did not investigate accountability for details of implementation. *The devil is in the details of IMPLEMENTING the service.*

My intention is to provide a fact-based "bread crumb" trail of important issues for consideration in expanding OPEGA's Work Scope going forward. Given the authority, I am certain that OPEGA's disciplined approach applied to evaluation and investigation of NNEPRA's accountability in implementing the legislative mandate to reasonably develop and expand passenger rail service will reveal and fully vet the consequences of choices and management decisions. I look forward to providing OPEGA with full access to my extensive files as part of an expanded scope. Substantial unsolicited comments along with today's written comments and supporting documents are extensive. Please take the time to carefully review all comments before proceeding with your customary Workshop to determine the nature and extent of any expanded investigation. In the most recent decade, NNEPRA has the appearance of developing a culture of cronyism, lack of transparency and flawed stewardship of tax dollars while implementing passenger rail service in Maine, New Hampshire and Massachusetts.

What are the facts and relationships and how did they develop over time? Is passenger rail service to be developed with disregard for fiscal responsibility and consequences to human health and welfare? Do the means justify the ends?

The following presents specific instances of NNEPRA's ongoing management choices that should be fully investigated by OPEGA. In the interests of objectivity and full disclosure, I am appealing to the GOC to expand the scope of OPEGA's Work Plan to fully investigate all aspects of NNEPRA's operational performance.

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AN INVESTIGATION ROADMAP GOING FORWARD

Is there credible evidence waste? **Waste:** ***"To use, consume or expend carelessly or thoughtlessly." (Source: Webster' II pg. 1303) "To consume, spend, or employ uselessly or without adequate return; use to no avail or profit; squander. "Involves the taxpayers not receiving reasonable value for money in connection with any government funded activities due to an inappropriate act or omission by actors with control over or access to government resources (e.g. executive, judicial, or legislative branch employees, grantees, or other recipients). Importantly waste goes beyond fraud and abuse and most waste relates primarily to mismanagement, inappropriate actions, and inadequate oversight."" (Source: Office of Inspector General United States Department of Defense).***

Instances of choices resulting in probable waste:

1) Suspect auditing, management & oversight of all contracts, change orders, revisions and sub-contractors. The devil is in the details of implementation. Who is really in charge of verification and disclosure of multiple layers of contract terms and conditions?
   a) How thorough is NNEPRA's auditing, management & oversight of AMTRAK and Pan Am Contracts.
   b) How is the incremental cost of track maintenance (IM) shared between AMTRAK/Pan Am and NNEPRA?
   c) How does NNEPRA audit these costs and where is the IM cost audit reported?
2) Why have of costs to deliver passenger rail service escalated with no transparent justification based on **ACTUAL** ridership served – especially on Portland North expansion. Reporting the average cost over any period of time serves to mask the growth of those costs over time.
   a) Ridership as the sole measure of service success regardless of the mechanics of counts and how statistics are recorded and costs accrue. (SFE: Marina Douglas' response to Pem Schaeffer regarding passenger counting methodology.)
   b) What is the method of counting and projecting ridership and who developed the method? Example: Marina Douglas' August 31, 2016 reply to Mr. Pem Schaeffer on this subject that obtusely describes the method as an "internal" [to NNEPRA] process without any details as to methods.)
   c) Where are NNEPRA's ridership projections published and publicly available?

d) How does ridership projections used to sell the service compare to actual ridership?
e) How many times does a passenger get counted during a trip?

3) How do the NNEPRA Management and Board verify economic projections used to "sell" the service vs actual economic benefits. Example: CNT and AECOM/MDOT reports vs Schaeffer's report delivered to MDOT's PRAC meeting that was never refuted or rebutted with facts.
4) Why do monthly reports rely on variance without periodic NNEPRA Board review of actual total costs vs projections and budgets?
5) Why does NNEPRA not verify FRA required, bi-weekly track inspections required by FRA Passenger Equipment Safety Standards, 49CFR Parts 216, 223, 229, 231, 232, & 238? Did failure to verify implementation of a paid-for-service lead to excessive slow orders in 2014 and 2015, resulting in a major loss of revenue and loss of ridership?
   a) Did NNEPRA's failed verification of routine, annual tie replacement lead to the surprising 28,000 tie replacement and excessive Slow Orders and months of lost revenue. Per Patricia Quinn at GOC Meeting 9-15-16: Ties have a life cycle of two decades and were basically ignored for 10 years?
   b) Why is there another tie replacement SURPRISE in 2016 – 15,000 ties Portland to Wells with complete shutdown of the Portland to Wells main service line in the fall of 2016.
6) Idling Passenger Locomotives: Health Risks and Economic Travesty – roughly $16 million wasted on diesel fuel since inception of service and predominantly in Portland vs low cost alternative of technology to completely shut down locomotives during extensive layovers (e.g. greater than 30 unforced idling minutes). (SFE: Testimony on LD 439 to Transportation; AMTRAK at Rennselaer and Mohawk Valley Sierra Club's Report and subsequent involvement by USEPA Region 2; NYSERDA; etc vs testimony by Quinn and AMTRAK at Legislative Transportation Committee on Senator Gerzofsky's Passenger Rail Idling Bill (LD 439 was withdrawn by negotiations based on Quinn's and AMTRAK testimony to the Transportation Committee). Also see evidence and MBTA experience with completely shutting down four rail passenger train sets/locomotives at the outdoor MLF at Haverhill, MA.)
   a) Diesel fuel exhaust is designated as a known carcinogen by the World Health Organization and as a toxic air emission by USEPA.
   b) Who verifies that AMTRAK locomotives serving the Downeaster meet USEPA air emissions standards (albeit a T0 standard for current AMTRAK/DE locomotives)?
   c) Who verifies AMTRAK's compliance with FRA noise and vibration standards?
   d) Who decides when and for how long locomotives idle during routine layovers?
   e) Who breathes the toxic, carcinogenic air emissions at Portland and Brunswick layover facilities?
   f) Who was responsible for fully implementing temporary Wayside Power at Brunswick

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West Site vs at Brunswick Station with attendant higher operating costs at Brunswick West site to prevent excessive idling adjacent to a residential neighborhood. (SFE: Excess idling well documented by daily observations and regular video recording of layovers provided to Senator Gerzofsky who provided to Members of Legislature's Transportation Committee and possibly others.)

g) Who pays for the wasted fuel?

7) Use of Wrong Equipment Portland North. Excessive, unnecessary and expensive service capacity vs realistic alternatives such as Diesel Motive Units (DMU's).

8) Why is there periodic use of two locomotives with combined 8,500 hp with approximately 300 passenger capacity in five cars used rather than modern DMU's that can service the demonstrated demand for service on the Portland North expansion?
   a) Who chooses the delivery equipment and who pays for those choices?
   b) When NNEPRA-supplied cab cars are replaced by 4,250 hp diesel locomotives, how does this equipment change get charged and who pays for any difference in costs?

9) Crew Taxi Service to Brunswick "sole sourced" to Brunswick Taxi which is owned by former Brunswick Town Council Chair, Joanne King's family – what are the facts? (After multiple FOIA requests, RSE has a redacted copy of the AMTRAK contract with CTS but NOT the CTS Contract with Brunswick Taxi or the bid chain.)
   a) NNEPRA's lack of fundamental understanding of crew "headquarters/station designation" with no transparent evidence of the cost impacts associated with split crew locations or of crew transportation services; no transparent evidence of competitive bid selection process by AMTRAK/CTSI/Corporate Lodging Consultants, Inc and failure to anticipate long term commitment to transport crews between Portland and Brunswick – estimated to be approximately $200,000 per year at current service levels and likely to escalate with additional service from Brunswick. Details remain hidden from the public despite multiple FOAA and FOIA requests from the public as well as State and Federal legislative attempts to obtain details.

10) Yarmouth By-Pass Siding – No objective demonstrated need, or analysis of existing alternatives. (See Dave Snyder's analysis in separate testimony.)

11) Portland Wye – No Actual Time or Tax $$ Savings. (See Dave Snyder's analysis in separate testimony.)

12) Operations of the Café Car – annual losses requiring major subsidy despite one NNEPRA staff assigned oversight of this operation.

13) Brunswick Station Costs vs Freeport Station Costs – a clear disconnect in costs for the same level of service.

14) Failure to disclose **Total Costs** for all aspects of BMLF (e.g. MDOT & NNEPRA studies, preliminary designs, environmental permits, bid documents and contractor pre-

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qualifications, bid evaluation, construction contract, extras in construction contract; legal services; operations and maintenance costs) vs service benefits vs alternative equipment and alternative transportation modes.

15) Construction of a three bay MLF at Brunswick West vs Lower Costs of alternative Sites in Brunswick. An example of "hip shot" decision making without objective analysis by ED Quinn or the NNEPRA Board resulting in an increase of 5X+ in costs. (SFE: Testimony and responses by Quinn at Senator Gerzofsky's Senatorial Public Information Hearings in July and August, 2011; lack of objective analysis of need and resultant Bids/actual total costs compared to original projections by NNEPRA.)
16) Failure to objectively account for health, welfare, environmental, social and economic impacts of the main service and expansion of service facility siting in Portland North projects.
17) Failure to account for adverse health consequences from well-known toxic carcinogenic diesel locomotive air emissions in the near field and far field.
18) Failure to account for consequences of lost property values in facility siting decisions. (Why and how was the MLF prevented from being constructed at the service hub in Portland vs locating all assets at the current end of the service line in Brunswick or the middle of the expansion line in the event passenger service is extended to Rockland or Lewiston/Auburn?)
19) Use of CMAQ money to fund operations and capital to construct facilities that cause air, off-site noise, navigable waters and ground water pollution that adversely affects human health, welfare and quality of life in residential neighborhoods.
20) Failure to objectively compare actual net reduction of traffic related air pollution to air pollution from operations of AMTRAK locomotives – especially in the Portland North expansion project area – and associated costs.
21) Failure to objectively verify net congestion mitigation and air quality improvement projected by MDOT and NNEPRA to justify annual expenditures of CMAQ grant funds to the State of Maine allocations for use on passenger rail operations and capital projects. Has CMAQ cost effectiveness been justified using the California Air Resources Board Method that can be found at: https//www.arb.ca.gov/planning/tsaq/eval/eval.htm?
Where is this justification found in MDOT/NNEPRA documentation?
22) Is there an appropriate and reasonable cost sharing with New Hampshire for Downeaster Service through NH to Boston where a major portion of ridership is served? Who negotiates this cost sharing agreement?

<u>Are there credible instances of Fraud? Fraud</u>: *"A false representation of a material fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives another so that he/she acts or fails to act to his/her detriment." (Source: Paraphrased from Black's Law Dictionary; Office of Inspector General United States Department of Defense).*

<u>Instances of choices resulting in possible fraud:</u>

23) Where is the transparency in generating ridership statistics and why is there an appearance of manipulating counts to promote service expansion regardless of demonstrated need?
24) Has there been material misrepresentation of facts to promote NNEPRA's publicly stated development philosophy of "build it and they will come"?
25) Have there been deliberate factual misrepresentations sprinkled throughout a majority of public communications in order to promote various decisions related to services, expansions and applications for federal and state tax dollars?
    a) Fact Check all TIGER Grant Applications.
    b) Fact Check lack of transparency and splintering a federal contract to avoid public scrutiny and public participation in an environmental assessment of relocating the MLF from Portland (As stated in the 2009 EA the MLF was to remain in Portland but then it was relocated to Brunswick as part of the $38million Portland North Service Expansion).
    c) Fact Check the failed attempts by NNEPRA to construct an MLF at the Portland Transportation Center or anywhere else in Portland at the hub of passenger service and the subsequent misinformation surrounding this event contained in NNEPRA's Federal Grant Applications.
    d) Fact Check Chronology of commitments to develop the MLF in Brunswick at the end of the Portland North expansion vs NNEPRA's material misrepresentations of facts at public presentations to the Legislature's Transportation Committee; the Brunswick Town Council and Brunswick Zoning Board of Appeals.
    e) Fact check relationships developed between the former Town Manager and Town Council Chair to facilitate relocating the MLF to Brunswick and to promote the pre-selected Brunswick West Site.
    f) Fact Check Chronology of alternative siting and environmental impact assessment. When was Parsons- Brinkerhoff retained by NNEPRA to prepare preliminary design, alternative siting analyses and the environmental assessment compared to behind the scenes commitments to construct the MLF at Brunswick? [Hint: See Attorney Sarah McDaniel's brief (Docket No. AP-11-17) prepared to appeal the ZBA approval of the

dimensional variance requested and obtained by NNEPRA through a flawed local process that was facilitated by the former Town Manager, former Town Council Chair and Town Planner. The ZBA decision to grant the dimensional variance Superior Court Appeal was then withdrawn due to Brunswick's failure to timely record the ZBA approval in the Cumberland County Registry of Deeds. NNEPRA subsequently dropped the ZBA approach in the face of the public challenge that was supported by an inaccurate first citation of pre-emption by the former Town Attorney.

g) Fact Check presentations to and commitments made to the Legislature's Joint Standing Committee on Transportation
   i) Fact Check NNEPRA and AMTRAK misrepresentations to the Legislature's Transportation Committee designed to kill Sen. Gerzofsky's Passenger Rail Idling Bill (LD 439). LD 439 was intended to protect human health and stop waste from excessive idling that is needed to regulate air pollution from this mobile source during extended layovers. Result is continuation of excessively idling locomotives emitting toxic/cancer causing air pollution in residential and urban environments that are now uncontrolled at the Federal, State and local government levels.
   ii) Fact Check implementation of temporary wayside power at Portland and Brunswick vs commitments to Transportation Committee and basis for siting away from Brunswick Station. (See NNEPRA ED Quinn's May 4, 2015 presentation to Brunswick Town Council where she stated as reasons for not locating at the Brunswick Station that the wiring harnesses could not cross tracks; the Downeaster (DE) would interfere with freight by parking on the main line; and freight could not safely pass the DE on the secondary track. Fact: WPS at Brunswick West site crosses the tracks via a commonly used concrete trench beneath the main and secondary tracks; parks on the main line while idling for 51/2 hours daily without shutting down regardless of ambient temperature and freight regularly and primarily passes the idling DE on the secondary track.
   iii) Fact Check **all** ED Quinn's presentations to Brunswick Town Council regarding the MLF project – example Quinn presentation: **DOWNEASTER UPDATE AT BRUNSWICK TOWN COUNCIL, April 27, 2015**

26) Use of fatally flawed projections of economic benefits accruing to service areas to create unrealistic expectations in host communities
   a) Fact Check use of **Center for Neighborhood Technology Report: Downeaster Going Forward, April 25, 2014**
      i) See Also: **Ferreting Out Economic Benefits of Downeaster Passenger Rail Service by Pem Schaeffer, Oct 13, 2015**

27) Fact Check MDOT chronology and collusively siting the MLF at Brunswick West without

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public input or transparency. (See timing of MDOT Environmental Assessment Draft in 2004 and MDOT RFP for the EA of Brunswick West Site reflected in the EA by Haley and Aldrich File No. 37557-000 dated 9 August 2011. [MDOT RFP Winter of 2011; Haley and Aldrich proposal dated April 6, 2011 and MDOT authorization dated June 1, 2011.) These written documents present the intent to purchase and develop the Brunswick West Site for the MLF well in advance of any public knowledge or stakeholder outreach by MDOT or NNEPRA.

28) Fact Check: **Portland North Alternative Modes Transportation Project Alternative Analysis, by MDOT August 2011**(actually prepared by consulting firm, AECOM.
29) Fact Check NNEPRA's avoidance of local and State of Maine environmental regulations with misstatements and inaccurate citations of federal regulations of passenger rail service by NNEPRA and Town of Brunswick Council Chair, Town Manager, Town Attorney, Town Planner and Zoning Board of Appeals Chair. Also Maine DEP Bureau of Land Quality Director.[Hint: See Maine Attorney General, Janet Mills' opinion brief to Senator Gerzofsky.]
30) Fact Check NNEPRA's changing methodologies for ridership count as the "pied piper" for service and service expansions at all costs – both economic and environmental...Is this material misrepresentation or a simple lack of transparency?
31) Fact Check use of a Mitigation Advisory Group on the BMLF so severely constrained as to be ineffective and disbanded when the MAG disagreed with NNEPRA's ED. (See Comments by Mr. Dan Sullivan, former member of MAG.)
32) Fact Check NNEPRA's written claims of public outreach through public hearings actually initiated and conducted by Senator Gerzofsky in July and August of 2011.

<u>Are there credible instances of abuse?</u> Abuse: " *...involves behavior that is deficient or improper when compared with behavior that a prudent person would consider reasonable and necessary business practice given the facts and circumstances. Abuse also includes misuse of authority or position for personal financial interests or those of an immediate or close family member or business associate. Abuse does not necessarily involve fraud, violation of law, regulations, or provisions of a contract or grant agreement."* (Source: *Office of Inspector General United States Department of Defense).*

<u>Instances of choices resulting in possible abuse:</u>

33) Fact Check NNEPRA's written claims of public outreach through public hearings actually initiated and conducted by Senator Gerzofsky in July and August of 2011.
34) Fact Check establishment and use of a Mitigation Advisory Group on the BMLF so severely

constrained as to be ineffective and disbanded when the MAG disagreed with NNEPRA's ED – yet promoted as open, transparent outreach and voluntary public participation in Brunswick MLF siting and design decisions.

35) Fact Check chronology of all aspects of NNEPRA's siting decisions for locating the MLF away from the hub of operations in Portland to the final location in Brunswick.

36) Fact Check NNEPRA's after-the-fact hiring of environmental consultant, Parsons Brinkerhoff to complete preliminary designs; assist with preparation of relevant TIGER Grant Applications perform Alternative Sites analyses and environmental assessment of the Brunswick MLF project.

37) Fact Check NNEPRA's collusion with MDOT to fund construction of the BMLF with CMAQ money without any air pollution controls of multiple concentrated uncontrolled carcinogenic locomotives' air emissions and extremely high noise and vibrations directly adjacent (less than 200 feet) to an established residential neighborhood on a contaminated site, over a major, shallow, high- yield groundwater aquifer without regard to human health, human welfare and total environmental and socio- economic impacts.

38) Fact Check NNEPRA's behind the scenes involvement with MDEP during the multiple mis-steps of permitting the BMLF including the failure by MDEP to require compliance with all of MDEP's Stormwater Management rules and regulations during the extended Stormwater Permit process and NNEPRA's failure to notify all abutters to the project site. (See Cumberland County Superior Court Docket No. AP-13-77)

39) Fact Check NNEPRA's decisions regarding the failure to install wayside power systems and technology to completely shut down locomotives in Portland during extended layovers over a decade and a half of Downeaster Service originating in Portland despite the readily available successful installations in the northeast such as at the Haverhill, MA Layover Facility where four complete train sets layover overnight, outdoors and completely shut down within five minutes of arrival.

40) Fact Check Brunswick Taxi Crew Transportation sole source contract with AMTRAK's Crew Transportation Specialists contractor and possible "quid pro quo" involvement/collusion with a former Town Council Chair, who actively promoted the location of the BMLF and regularly thwarted attempts of citizens to have an open and transparent process – Brunswick Taxi is a family owned and service operated out of Topsham and Brunswick. A former Brunswick Town Council Chair allegedly participated with a former Town Manager, current Planning Director, and the former ZBA Chair who collectively facilitated the appearance of violating Town of Brunswick rules associated with a change of Zoning Dimensional Standards to facilitate construction of the massive BMLF that is big to meet then existing building maximum dimensional limitation of 20,000 square feet then manipulated the ZBA process to facilitate approval. ZBA approval was appealed but never

filed in the Registry of Deeds. These actions led to the flummoxed Town Attorney's original, written, mis-statements citing federal pre-emption from local regulations and subsequently used to claim federal pre-emption from State of Maine environmental laws, rules and regulations. (See Letter from Federal Attorney Gabe Meyer to Senator Stan Gerzofsky dated July 5, 2012. Claim of complete pre-emption was subsequently overturned by the Maine Attorney General thereby requiring NNEPRA to comply with Maine's Stormwater Management Law, Rules and Regulations administered by MDEP.)

41) Review and compare NNEPRA's interpretation and implementation of State Law **§8003** that enabled development of passenger rail in Maine. See language in the originating statute that implies initiation and establishment of passenger rail service in keeping with the principal of "reasonableness" in developing passenger rail service in Maine. Nowhere does it state that the service should be developed at all costs.

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CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
1960 to 1984	Termination of Passenger Rail Service, changes in Railroad equipment and reduction in Railroad traffic eliminated the need for a "Marshalling Yard" between Church Road and Stanwood Street.
03/31/1972	Times Record had a front and back page article indicating that a Planning Study conducted by William Dickson Associates recommended additional housing development between McKeen Street and the Railroad north of the Capehart Housing.
06/05/1984	Maine Central Railroad sold the Roundhouse and land to Lawrence S. Weed. The abutting property on Cedar Street and the Roundhouse had not been used for quite some time for railroad purposes and had been leased to Peterson Concrete for a concrete batch plant storage and parking of transit mix trucks.
07/24/1985	Times Record had a front page and page 12 article containing the following statement by Brandy L. Peters, Maine Central Railroad (MCRR) Vice President, pertaining to the Rockland Branch, Brunswick to Rockland. "Only 550 carloads were carried on the line in 1983 compared to 3,300 in 1982".
08/26/1985	MCRR filed an application to Interstate Commerce Commission (ICC) to abandon 52 miles of track between East Brunswick and Rockland known as the Rockland Branch.
10/01/1985	Interstate Commerce Commission issued Certificate of Abandonment to Maine Central Railroad for the Rockland Branch.
09 and 10/1988	All tracks except the Mainline, one relatively short freight rail siding and one very short spur were removed from the "Marshalling Yard". All Buildings were in removed in the same time frame. (Before & After Photographs)
1988	Brunswick Assessor historically placed all the value of the "Marshalling Yard" tracks on Parcel U26-15 while the "Marshalling Yard" included Parcel U26-15 and U23-93. As a "Marshalling Yard" The value of land on Parcel U26-15 was $17,200 and Buildings (tracks) was $234,600 in both 1986 and 1987. A re-evaluation took place in 1988 and land value was $76,200 and the Building value (tracks) was zero. The Building value on Parcel U26-15 changed from $8,600 in 1988 to zero in 1989. By this act, the Town of Brunswick agreed with MCRR and acknowledged that Parcels U23-93 and U26-15 were no longer a "Marshalling Yard".

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
02/26/1991	State of Maine purchased portions of Parcel U23-99 and U26-15 that contained the mainline, siding a spur track. The remainder of both these parcels are now vacant land previously associated with the discontinued "Marshalling Yard".
11/2004	Maine Department of Transportation prepared a Draft *Environmental Assessment (EA) for Portland North Passenger Rail Service Extension Project Portland to Brunswick* which evaluated Layover sites in Brunswick. This unpublished draft EA contained many misstatements, was never made a part of any public process and was never issued.
10/18/2008	Maine Central Railroad Co. Land Sale Plan Brunswick, ME. Submitted with NNEPRA's Brunswick Zoning Board of Appeals Application dated April 4, 2011. Documents were found in Attorney Sarah McDaniel's client file which was received on May 7, 2013.
06/30/2009	Northern New England Passenger Rail Authority (NNEPRA) issued an *Environmental Assessment and 4(f) Statement for the Downeaster Portland North Expansion Project Portland to Brunswick Cumberland County, Maine.* This EA assumed the Maintenance and Layover Facility (MLF) remained at the existing Portland site.
07/01/2009	Based on the NNEPRA EA for the Portland to Brunswick Rail upgrade project, USDOT/Federal Rail Authority issued a "Finding of No Significant Impact" (FONSI) for the expansion/upgrade project. There was no discussion or evaluation by FRA for relocating the existing Portland MLF 30 miles north to Brunswick into a predominantly residential neighborhood.
06/2010	ARRA Grant/Cooperative Agreement – Downeaster Portland North Project executed by FRA and NNEPRA for $35 million. No mention was made of relocating the Portland MLF to a residential neighborhood in Brunswick.
12/09/2010	Announcement: USDOT Redirects $1.195 billion in High-Speed Rail funds. Indicates Maine (NNEPRA) to receive up to $3.3 million of the redirected High Speed Rail funds. This ARRA Grant effectively expanded and splintered the original ARRA. NNEPRA did not prepare an EA for the relocation of the Portland MLF to a residential neighborhood in Brunswick. FRA did not require preparation of an EA for the expanded and splintered project.

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
04/2011 (Estimated date since Amendment No. 2 has never been provided by FRA or NNEPRA)	FRA approved Amendment Numbers 1 and 2 to the ARRA Grant/Cooperative Agreement between FRA and NNEPRA. Amendment Number 2 increased the funding and provided for construction of Maintenance and Layover work for the MLF at the Brunswick West site. The Brunswick West site is located on Tax Map Parcel U26-15 that was fully abandoned for any rail use since at least 1985. No EA or public notifications or public information was provided by either FRA or NNEPRA to fully disclose the environmental and socio-economic impact that results directly from splintering the upgrade project and moving the MLF 30 miles north to Brunswick.
04/04/2011	NNEPRA applied to the Town of Brunswick Zoning Board of Appeals (BZBA) for a dimensional variance to construct a building larger than allowed for the zone.
04/06/2011	Haley & Aldrich, Inc. submitted a proposal to MDOT to evaluate contaminated soil conditions on land subsequently purchased by NNEPRA.
04/11/2011	NNEPRA submitted application to Brunswick ZBA for dimensional variance.
04/12/2011	BZBA published NNEPRA's application for a dimensional variance and set a public hearing date for 4/21/11. All abutters were not notified.
04/21/2011	Brunswick Zoning Board of Appeals held a public hearing and approved NNEPRA's request for dimensional variance of 19,560 s.f to increase the maximum building footprint from 20,000 s.f. to 39,560 s.f.
05/16/2011	Town of Brunswick Attorney Patrick J. Scully provided Anna Breinich, Director of Planning and Development Town of Brunswick, an opinion that NNEPRA's development of a Train Maintenance Facility is Preempted from certain State and Local actions. No further action by Town of Brunswick based on Attorney Scully's opinion.
05/20/2011	Request for Qualifications Statements to construct the relocated MLF in Brunswick is due @11:00 a.m. local time
05/25/2011	NNEPRA's letter to Anna Breinich, AICP Director of Planning & Development Town of Brunswick. This was the first time NNEPRA claimed pre-emption over Local Authority in accordance with 49 U.S.C §24902(j). This document was found in Attorney Sarah McDaniel's client file which was received on May 7, 2013.
05/25/2011	Amendment No. 2, approved by the FRA , work product No. 7 provided track system for MLF with project limits.

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
06/01/2011	MDOT awarded contract to Haley & Aldrich to evaluate contaminated soil conditions on land subsequently purchased by NNEPRA.
06/01/2011	E-mail from Trevor Gibson, FRA, to Steve Fortier concerning the Categorical Exclusion (CE) granted by FRA for some holding tracks in Brunswick and other information on the "New Maintenance Facility in Brunswick" and the "Existing Maintenance Facility near the Portland Station". This document was found in Attorney Sarah McDaniel's client file which was received on May 7, 2013.
06/01/2011	Conference call between Attorney Sarah McDaniel, representing the Brunswick West Neighborhood Group; Attorney Patrick Scully, representing the Town of Brunswick; and Attorney Nathaniel Rosenblatt, representing NNEPRA. During this conference call Nat Rosenblatt stated that NNEPRA was in the process of hiring a Design Engineering firm. This information was found in Attorney Sarah McDaniel's client file which was received on May 7, 2013. The information was confirmed in an exchange of emails between Sarah McDaniel and Bob McEvoy on May 16, May 17 and May 30, 2013.
06/03/2011	Attorney Sarah A. McDaniel representing neighborhood residents notifies both Town of Brunswick and NNEPRA of a complaint filed in Cumberland County District Court. Court action was not pursued because NNEPRA did not file the BZBA decision within the prescribed time limit in the Cumberland County Registry of Deeds.
06/23/2011	Senatorial Information Meeting scheduled by State Senator Stan Gerzofsky. Patricia Quinn, Executive Director NNEPRA, announced at this meeting that the footprint of the MLF Building was expanded from 39,560 s.f to 60,000 s.f. to accommodate a third train set.
07/14/2011	Senatorial Information Meeting scheduled by State Senator Stan Gerzofsky.
07/21/2011	Three members of the Brunswick West Neighborhood Coalition (Bob McEvoy, Bob Morrison and Mo Bisson) met with MDOT Commissioner David Bernhardt to discuss their concerns about the proposed Brunswick West MLF. They presented a prediction of a cost estimate to build the proposed MLF. The prediction was much higher than NNEPRA's expectation.
08/04/2011	Anna Breinich, AICP Director of Planning & Development Town of Brunswick sent a letter to NNEPRA concerning the Brunswick West site and the Brunswick East (Crooker) site with the 2008 Comprehensive Plan.

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
08/09/2011	Haley & Aldrich submitted report to MDOT, Phase 1 & Limited Phase 2 evaluation of contaminated soil conditions on land subsequently purchased by NNEPRA
08/12 & 22/2011	NNEPRA and Maine Central Railroad (MCRR) signed the VRAP Application for Parcel 93 Map U-23 and Parcel 15 Map U-26.
08/15/2011	Anna Breinich, AICP Director of Planning & Development Town of Brunswick sent a letter to NNEPRA concerning the consistency of the "Industrial Park site" with the 2008 Comprehensive Plan.
08/18/2011	Special Meeting of the Northern New England Passenger Rail Authority Board, NNEPRA and Downeaster Layover Facility Project Siting report completed by Parsons Brinkerhoff was handed out.
08/22/2011	NNEPRA Board Meeting at Abromson Center, USM. Board voted to build the MLF at the Brunswick West site. Patricia Quinn, NNEPRA Executive Director, proposed creating an Advisory Group (AG) that would help guide the design of the facility and ensure impact on the neighborhood would be mitigated as much as possible. In light of FRA's $3.3M grant and CE in April 2011, this action perpetrated the **SHAM** of mitigation.
09/08/2011	Three Brunswick West Neighborhood residents met with Patricia Quinn NNEPRA Executive Director, Brian Beeler NNEPRA Passenger Services Manager and Steve Corcoran Amtrak Assistant Superintendent at the Portland Maintenance and Layover Facility and observed the arrival of a Downeaster Train.
09/12/2011	Maine DEP sent a No Action Assurance letter to NNEPRA and MCRR. The second paragraph of the Maine DEP 9/12/2011 letter discusses the site as follows "The approximately 8.15 acre site was used for railroad related activities from the 1850s to the 1980s; the site included railroad tracks and a maintenance facility. The site is currently unused. The property was reportedly swamp land prior to its current development." (VRAP approved by MDEP)
10/04/2012	Maine Central Railroad Company Right-of-Way and track map dated June 30, 1916 shows the land was acquired and dates of acquisition by MCRR for what is known as Parcels 93 Map U-23 and 15 Map U-26. The MCRR acquired the land during the period of August 29, 1913 to December 17, 1913. The land to the mainline and two siding tracks was acquired in the 1848 to 1850 era. The land for the two parcels involved in the VRAP was not acquired by the MCRR until 1913. The now correct dates of railroad usage in the Maine DEP letter of 9/12/2011 would be 1913 to 1988.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
10/2011	NNEPRA submitted a Tiger III Discretionary Grant Application for a project estimated to cost $25 million which included $9 million for Brunswick West MLF. This Tiger III Grant Application cited Parsons Brinkerhoff's EA and noted the building was eligible for a CE. Purportedly, eligibility is derived from the April 2011 FRA CE for the MLF tracks funded by the $3.3M Federal ARRA Grant. No proper NEPA process has been followed during the splintering that will cause severe noise, vibrations, air pollution and socio-economic impacts to established residential neighborhoods.
12/02/2011	NNEPRA Mitigation Advisory Group meeting
01/12/2012	NNEPRA Mitigation Advisory Group meeting
03/01/2012	NNEPRA Mitigation Advisory Group meeting
03/22/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA requesting copies of all completed CADNA/A Noise Model screens used in the NNEPRA noise analysis by Parsons Brinkerhoff.
03/29/2012	Brunswick Layover Facility. Design Basis Document, Volume 1.
04/19/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA pertaining to reproduction of CADNA/A Noise Model.
05/03/2012	E-mail: Patricia Quinn to Dan Sullivan and Anna Nelson pertaining to Downeaster to Brunswick.
05/04/2012	Conference call – Michael Longley, Colleen Vaughn and Trevor Gibson, FRA, Dan Sullivan and Bob McEvoy, Brunswick West Neighborhood Coalition (BWNC) and Advisory Group, & Charlie Wallace, Resource Systems Engineering (RSE). Colleen Vaughn assures BWNC of an open and transparent environmental assessment of all aspects of the MLF. This despite FRA's April 2011 $3.3M ARRA Grant that funded the MLF tracks and the CE for those tracks that subverted the NEPA/EA.
05/08/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA pertaining to Noise and Vibration Issues.
05/09/2012	E-mail: Patricia Quinn, NNEPRA to Dan Sullivan pertaining to Noise and Vibration Issues.
05/09/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA pertaining to Noise and Vibration Issues.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
05/09/2012	Email: Michael Longley to Dan Sullivan pertaining to FRA-NNEPRA conference call. Re-iterated importance of Public Involvement in EA process.
05/10/2012	E-mail: Patricia Quinn, NNEPRA to Dan Sullivan pertaining to Noise and Vibration Issues.
05/14/2012	Downeaster train set stopped near Dan Sullivan's house. Noise & Vibration measurements were recorded as the train set arrived, idled in place and departed. Noise measurements show non-compliance with State and Local Standards. Vibration measurements and Evaluation show additional testing needed.
05/14 to 07/14/2012	E-mails pertaining to Preemption of State and Local Laws and Regulations. Gabe Meyer, Surface Transportation Board (STB), cites Federal Legislation specific to Amtrak and shows Amtrak/NNEPRA facilities are not exempt from State and Local Standards.
05/15/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA pertaining to excessive Idling Downeaster 12 noon to 5 pm.
05/15/2012	E-mail: Patricia Quinn, NNEPRA to Dan Sullivan pertaining to excessive Idling Downeaster 12 noon to 5 pm.
05/15/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA pertaining to excessive Idling Downeaster 12 noon to 5 pm.
05/16/2012	E-mail: Patricia Quinn, NNEPRA to Dan Sullivan pertaining to excessive Idling Downeaster 12 noon to 5 pm.
05/16/2012	E-mail: Dan Sullivan to Patricia Quinn, NNEPRA pertaining to excessive Idling Downeaster 12 noon to 5 pm.
05/16/2012	E-mail: Dan Sullivan to Michael Longley (FRA) transmittal meeting minutes (phone call summary) of the teleconference on 5/4/12.
05/17/2012	E-mail: Chuck Wallace (RSE) to Dan Sullivan pertaining to excessive Idling Downeaster 12 noon to 5 pm.
06/02/2012	E-mail from Dan Sullivan to MDOT Commissioner Bernhardt pertaining to an alternate site for the Brunswick MLF.

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
06/08/2012	NNEPRA opened the Price Proposals for the Brunswick West MLF. The three price proposals were significantly greater that available funds.
06/18 & 19/2012	E-mails between John MacKillop, Michael Longley & Dan Sullivan attempting to acquire information on Amendment No's. 1, 2 & 3 and the EA for the MLF from both FRA and NNEPRA.
07/01/2012	E-mail from Dan Sullivan to Michael Longley, FRA, edited meetings minutes and follow up request for a copy of Amendment No. 2 and a request for a copy of Amendment No. 3.
07/05 to 07/24/2012	E-mails between Dan Sullivan, Patricia Quinn, Michael Longley and Marina Douglas pertaining to FRA/NNEPRA Agreement Number FR-HSR-0005-10-01-00 and Amendments, etc. Obtaining copies of Amendments has not been successful.
08/06/2012	NNEPRA mailed a copy of FRA/NNEPRA Agreement Number FR-HSR-0005-10-01-00 (without Amendments) and Capital Portion of the 2011 Budget to Dan Sullivan.
09/06/2012	Letter via e-mail from Dan Sullivan to Patricia Quinn requesting information which included Amendments to the FRA/NNEPRA Grant Agreement.
09/17/2012	E-mail from Marina Douglas to Dan Sullivan pertaining to Dan Sullivan FOIA request for information on 9/6/12. NNEPRA expects the response will take about seven weeks.
09/25/2012	E-mail from Trevor Gibson, FRA, to John MacKillop pertaining to the installation of a layover track at the Brunswick West MLF and a second Categorical Exclusion recently approved by FRA.
09/30/2012	E-mail from Dan Sullivan to Patricia Quinn pertaining to Downeaster Layover in Brunswick and the Categorical Exclusion recently approved by FRA.
10/01/2012	E-mail from John MacKillop to Charlie Wallace and Bob McEvoy with Trevor Gibson contact information.
10/02/2012	E-mail from Patricia Quinn to Dan Sullivan pertaining to Downeaster Layover in Brunswick and Layover track Designation. Train will be on idle during the entire layover time and a maintenance person may be present to do interior cleaning, inspections, etc. between runs.
10/9 and 10/11/2012	E-mails between Dan Sullivan and Trevor Gibson pertaining to the Downeaster Layover track and the Categorical Exclusion recently approved by FRA.

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
10/18/2012	E-mail from Darek Grant, Maine Legislature, to Bob McEvoy pertaining to Senator Stan Gerzofsky's frustration with NNEPRA's response to his request for a copy of Amendment No. 2.
11/02/2012	Complaint to USDOT and EPA OIG pertaining to FRA approval of a Categorical Exclusion pertaining to a yard track in Brunswick, ME.
11/05/2012	NNEPRA forwarded Application & FRA approval for Categorical Exclusion (CE) for a yard track in Brunswick, ME in response to our 9/30/12 FOIA Request. (Document in 12/5/2012 Complaint to OIG's)
11/09/2012	E-mail John MacKillop to Dan Sullivan pertaining to P. Scully's letter on preemption.
11/15/2012	E-mail Dan Sullivan to NNEPRA requesting information originally requested in our 9/6/12 FOIA request.
11/16/2012	E-mail Bob McEvoy to John MacKillop pertaining to construction of Track S-3 and storage of Continuous Welded Rail (CWR) for tracks M-1, M-2 and M-3.
11/16/2012	E-Mail Charles Wallace to John MacKillop pertaining to local storage of CWR.
11/17/2012	E-mail John MacKillop to Bob McEvoy pertaining to on-line compliant filed with STB pertaining to preemption.
11/18/2012	E-mail Dan Sullivan to Patricia Quinn pertaining to documents requested in FOIA request of 9/30/12.
11/22/2012	E-mail Dan Sullivan to Patricia Quinn and Marina Douglas' 11/21/12 response to Dan Sullivan's request for documents.
11/26/2012	E-mail Bob McEvoy to Dan Sullivan pertaining to Marina Douglas' 11/21/12 response.
11/28/2012	Conference call Charles Wallace, Bob McEvoy, John MacKillop and Gabriel Meyer. Three e-mails sent to Gabriel Meyer, STB, during conference call.
12/01/2012	Portland Press Herald article by Matt Byrne. Patricia Quinn, Executive Director of NNEPRA continues to claim the Brunswick West site has historically been a Railroad Yard. She fails to acknowledge that the land NNEPRA purchased has been vacant land since October 1988. Railroad cars have been stored on the siding constructed in 1988 as well as the Mainline Tracks. Idling locomotives have not been stored daily until the Downeaster service started.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
12/03/2012	Patrick Scully letter to Anna Breinich, AICP Town of Brunswick, ME.
12/05/2012	Update to Complaint to USDOT and EPA OIG pertaining to FRA approval of a Categorical Exclusion pertaining to a yard track in Brunswick, ME.
12/07/2012	Bob McEvoy picked up Patrick Scully's letter dated 12/3/12 at Town of Brunswick Planning Office.
12/08/2012	E-mail Dan Sullivan to Charles Wallace pertaining to Trevor Gibson's E-mail of 12/7/12.
12/10/2012	E-mail Bob McEvoy to Gabriel Meyer, STB, transmitting Patrick Scully's letter of 12/3/12.
12/12/2012	E-mail Gabriel Meyer, STB, to Bob McEvoy pertaining to a link to the Congressional Record for 49 USC §24902(j).
12/19/2012	E-mail transmitting Patrick Scully letter of 12/3/12 to John MacKillop.
01/03/2013	E-mail Dan Sullivan to Charlie Wallace pertaining to Holding Track Categorical Exclusion.
01/18/2013	E-mail Dan Sullivan to Patricia Quinn FOIA request pertaining to Taxi Service.
01/22/2013	E-mail Dan Sullivan to Trevor Gibson, FRA, pertaining to CE for Brunswick West Holding Track.
01/23/2013	E-mail Marina Douglas, NNEPRA to Dan Sullivan. NNEPRA's response to Dan Sullivan's FOIA request 1/18/13.
02/01/2013	E-mail John MacKillop to Dan Sullivan forwarding e-mails from Daniel Walls pertaining to preemption.
02/15/2013	E-mail John MacKillop to Charlie Wallace and Dan Sullivan forwarding e-mails from Daniel Walls pertaining to preemption.
03/05/2013	Nicole Vinal Harvie, Brunswick West Neighborhood Coalition, attended NNEPRA's March Executive Board Meeting. Nicole's email describes the highlights of the meeting.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
03/05/2013	E-mail John MacKillop to Charlie Wallace and Dan Sullivan forwarding e-mails from Daniel Walls pertaining to preemption.
03/07/2013	Bob McEvoy, Brunswick West Neighborhood Coalition, met with MDOT Commissioner David Bernhardt and Jeff Tweedie to discuss MDOT's opinion of cost differential for NNEPRA's Layover Facility between Brunswick West site and Industrial Park site. Consigli's bid data was not available so comparisons were difficult at best. Bob McEvoy asked for additional data.
03/11/2013	Bob McEvoy e-mail to Commissioner Bernhardt requesting MLF funding information.
03/11/2013	Bob McEvoy and Commissioner Bernhardt had a brief discussion about the 3/07/13 meeting. Commissioner Bernhardt indicated that terracing to obtain fill material was estimated to cost more than hauling in fill. Bob McEvoy informed Commissioner Bernhardt that he had asked the Brunswick Codes Officer to check the plans for the L.L. Bean building adjacent to the Industrial Park site for soil borings and foundation design.
03/12/2013	Lewiston Sun Journal article by Scott Taylor. Tony Donavan of the Maine Rail Transit Coalition is proposing passenger rail service from Portland to Auburn with stops in Falmouth, Yarmouth Village and Pineland Center with possible expansion to Bethel, Maine's Western Ski Resorts and Quebec.
03/12/2013	Michelle Edwards, American Lung Association of the Northeast, provided links to support materials including "Smokestacks on Rails" by the Environmental Defense.
03/12 to 03/18/2013	Lynne Cayting, Maine Department of Environmental Protection Air Bureau, provided information on "Locomotive Line Haul Emission Standards (g/bbhp-hr) and EPA brochure "Diesel Exhaust in New England" #EPA 901-F-07-002 April 2007.
03/18/2013	Chris Casey and Bob McEvoy, Brunswick Neighborhood Coalition, made statements on Amtrak at the Brunswick Planning Board meeting. Statements targeted Diesel Exhaust Emissions from "Downeaster" Amtrak Locomotives.
03/20/2013	Bob McEvoy met with Commissioner Bernhardt in Augusta to discuss funding of MLF and continued evaluation of the Industrial Park Site. Commissioner Bernhardt stated that the Industrial Park Site was no longer under consideration and the NNEPRA Board would be voting on 3/25/13 to proceed with the Brunswick West Site.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
03/22/2013	Bob McEvoy and Commissioner Bernhardt had a brief discussion. Bob McEvoy told Commissioner Bernhardt that the Brunswick Codes Officer had not yet responded about the L.L. Bean building Soils & Foundation information. Commissioner Bernhardt responded that the Industrial Park site was no longer under consideration by the NNEPRA Executive Board.
03/25/2013	Amtrak responded to John MacKillop's 3/12/2013 Request for Information about Crew Transportation between Portland, Maine and Brunswick, Maine by Taxi Service
03/25/2013	NNEPRA's March Executive Board Meeting. NNEPRA's Executive Board authorized their Executive Director to execute the Design-Build contract with Consigli Construction Company Inc. Charles Wallace and Bob Morrison, Brunswick West Neighborhood Coalition, attended the Executive Board Meeting and presented Senator Gerzofsky's March 25, 2013 letter. Charles Wallace requested a copy of the Draft EA that was submitted to FRA for review. Dana Connors, Vice Chairman of the NNEPRA Executive Board, assured Mr. Wallace that a copy of the Draft EA would be provided to him.
03/27/2013	Dan Sullivan and John MacKillop, Brunswick West Neighborhood Coalition sent a letter to Governor Paul LePage requesting a meeting concerning the proposed construction of the MLF at the Brunswick West site.
03/28/2013	Charlie Wallace request for meeting with Governor Lepage through Governor's website.
03/29/2013	Dylan Martin's article in "The Forecaster".
04/03/2013	Letter sent to Governor Lepage requesting an opportunity to discuss NNEPRA site selection for the MLF. (from Bob and Charlie through Pem Schaeffer)
04/03/2013	Letters sent to Environmental Defense Fund requesting their participation in the Brunswick West Neighborhood cause.
04/04/2013	Tom Bell's article in the Portland Press Herald
04/06/2013	Orlando Delogu memo to Nicole Vinal, Charles Wallace and Robert McEvoy pertaining to MLF in Brunswick, Maine.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
04/14/2013	Lewiston Sun Journal Articles by Kathryn Skelton concerning possible Rail Passenger service to Lewiston-Auburn and Downeaster plans train to Twin Cities.....Eventually.
04/18/2013	Louis Fontaine, Maine Department of Environmental Protection (MDEP), Air Bureau responds to Complaint filed with MDEP.
04/23/2013	Chris Casey, Brunswick West Neighborhood Coalition (BWNC), article in the Brunswick Times Record in Response to a recent Times Record Editorial.
04/29/2013	John MacKillop's email forwarding the Connecticut Attorney Generals 10/30/1995 opinion on Federal Preemption.
04/30/2013	John MacKillop's email forwarding Gabriel S. Meyers Email of 4/30/2013. Colin's legal research pertained to 49 U.SC. §24902(j).
05/01/2013	Dennis Bailey dba Savvy, Inc. retained by Brunswick West Neighborhood Coalition.
05/02/2013	Forecaster Article by Dylan Martin discussing diesel exhaust emissions from Downeaster Locomotives.
05/03/2013	FOIA request to NNEPRA for a copy of Operations Plan for Brunswick West Maintenance and Layover Facility.
05/03/2013	FOIA request to NNEPRA and MDOT for copy of Cooperative Agreement for Funding of Brunswick West Maintenance and Layover Facility.
05/03/2013	FOIA request to NNEPRA, MDOT and FRA for copy of March 2013 Draft Environmental Assessment.
05/07/2013	Bob McEvoy, BWNC, obtained a copy of the "Brunswick Neighborhood" client file from Attorney Sarah A. McDaniel.
05/07/2013	John MacKillop, BWNC, received an email from Trevor Gibson, FRA, in response to John's email of 4/22/2013 requesting a copy of NNEPRA's Draft EA.
05/10/2013	FRA acknowledged receipt of FOIA request (5/3/2013) for Draft EA for Brunswick West MLF.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
05/10/2013	Charles Wallace, BWNC, met with Governor Paul LePage, Jonathan Nass, Chief Policy Advisor, and MDOT Commissioner David Bernhardt. Charles Wallace requested a copy of NNEPRA's March 2013 Draft EA and Governor LePage directed Commissioner Bernhardt to provide a copy of the EA to Mr. Wallace.
05/13/2013	Marina Douglass, NNEPRA, acknowledges receipt of 5/3/2013 FOIA requests.
05/14/2013	John MacKillop's email contains the comments from the Congressional Research Service, Legal Office, on Colin Morrow's legal research on 49 U.S.C. § 24902(j).
05/21/2013	FOIA request to Amtrak for information relating to exhaust emissions from General Electric Genesis P42DC Locomotives.
05/21/2013	FOIA request to NNEPRA for copies of documents pertaining to purchase of land, meeting minutes and Portland MLF.
05/22/2013	Letter from Senator Angus S. King, Jr. to Joseph C. Szabo, Administrator, FRA.
06/03/2013	FOIA request to NNEPRA for documents pertaining to the retaining of Parson Brinkerhoff for professional services on the proposed MLF in Brunswick, Maine.
06/04/2013	NNEPRA's response to the 5/21/25013 FOIA request.
06/10/2013	RSE's, Charlie Wallace, email to Jonathan Nass asking about the Draft EA that was promised at the meeting with Governor LePage on 5/10/2013.
06/11/2013	NNEPRA's response to the 6/3/2013 FOIA request.
06/11/2013	Dennis Bailey, Savvy, Inc., announced the launching of a new Brunswick West website.
06/12/2013	FOIA request to NNEPRA pertaining to a leased metal building on Thompson's Point, Portland, Maine.
06/12/2013	FOIA request to Crew Transportation Specialists, Inc. (CTS) of Wichita, KS pertaining to Amtrak Crew transportation between Portland, Maine and Brunswick, Maine by Taxi Service.
06/14/2013	David Bernhardt's email to RSE, Charlie Wallace, on status of the Draft EA.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
06/19/2013	NNEPRA acknowledges FOIA request of 6/12/2013.
06/21/2013	RSE, Charlie Wallace, email to David Bernhardt asking about the status of the Draft EA.
06/24/2013	David Bernhardt's email to RSE, Charlie Wallace, stating that NNEPRA had mailed a copy of Draft EA to Bob McEvoy, BWNC.
06/24/2013	NNEPRA letter responding to the 5/3/2013 FOIA request. NNEPRA provided a copy of the March 2013 Draft EA and a copy of the Cooperative Agreement between MDOT and NNEPRA for funding to construct the Brunswick West MLF. NNEPRA also stated that the Operations Plan for the proposed Brunswick West MLF has not been developed.
06/25/2013	Bob Morrison and Bob McEvoy, BWNC, met with representatives of the Maine Green Party to discuss the Brunswick West MLF.
06/26/2013	Mary Heath's, Maine Green Party, email to Bob McEvoy pertaining to the 6/25/13 meeting.
07/07/2013	Portland Press Herald Train Riders Northeast Wayne Davis comments on continued Downeaster Layover Facility Controversy (also published in Brunswick Times Record 7/11/2013).
07/08/2013	NNEPRA second response to FOIA requests of 5/21/2013, 6/3/2013, and 6/13/2013.
07/09/2013	Amtrak's response to 5/21/2013 FOIA request pertaining to exhaust emissions and P42DC Locomotives.
07/09/2013	NNEPRA's Brunswick Layover Building Advisory Group Meeting Agenda and Draft Meeting Notes.
07/10/2013	Bob McEvoy's email to Patricia Quinn.
07/11/2013	Forecaster Article by Dylan Martin.
07/12/2013	Mailed via USPS FOIA request to Federal Railroad Administration requesting copies of review comments etc. on NNEPRA's Draft EAs submitted in March and June 2013.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
07/14/2013	John MacKillop's email to Bob McEvoy and Charlie Wallace (RSE) pertaining to Connecticut's AG opinion on Amtrak's preemption
07/15/2013	Mary Heath's email to RSE for Bob McEvoy.
07/17/2013	NNEPRA's Draft Repsonse-2nd Draft to FOIA request of 7/8/2013.
07/17/2013	NNEPRA's response to Information requested on 7/10/2013.
07/18/2013	John MacKillop's email to Bob McEvoy and Charlie Wallace (RSE) pertaining to Connecticut's Attorney General's opinion 1995-029 Amtrak's preemption.
07/19/2013	FRA sent letter to Bob McEvoy closing out the FOIA request of 5/3/2013 pertaining to the Draft EA of March 2013.
07/19/2013	FRA sent acknowledgement letter to Bob McEvoy pertaining to FOIA request for FRA comments on NNEPRA's Draft EA.
07/22/2013	Bob Morrison and Nicole Vinal Harvie, BWNC, attended NNEPARA's July Executive Board Meeting,
07/23/2013	Nicole Vinal Harvie distributed her NNEPRA Board Meeting (7/22/13) Notes.
08/13/2013	Dan Sullivan, BWNC, meeting with Governor LePage, Jon Nass and MDOT Commissioner Dave Bernhardt.
09/04/2013	Bob McEvoy sent e-mail to Dennis Bailey pertaining to Crew Transportation Specialists' failure to respond to Bob McEvoy's FOIA request to CTS on 6/12/13.
09/04/2013	Dennis Bailey sent e-mail to Kay Rand, Chief of Staff Senator Angus S. King, Jr., pertaining to CTS Taxi Contract.
09/04/2013	Kay Rand, Chief of Staff Senator Angus S. King, Jr., sent e-mail to Dennis Bailey pertaining to CTS Taxi Contract.
09/12/2013	NNEPRA Advisory Group Meeting at the Brunswick Town Council Chambers. The Stormwater Permit was discussed. Bob McEvoy requested copies of the Engineering drawing of the site plan as well as a copy of the Lighting Impact Analysis and off-site light pollution resulting from the Lighting Plan. Bob McEvoy also requested NNEPRA's schedule for obtaining a Clean Air Act Air Emission License for the MLF to meet NAAQS.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
09/14/2013	NNEPRA Environmental Assessment (EA) open for public comment
09/16/2013	E-mail: Bob McEvoy to Patricia Quinn, NNEPRA, reminding Patricia Quinn that an electronic copy of the Site Plan requested at the 9/12/2013 AG meeting has not been received.
09/18/2013	Dennis Bailey sent email to Bob McEvoy forwarding Alex Porter's email to Dennis Bailey pertaining to CTS Taxi Contract. Mr. Porter requested communications between Amtrak and BWNC.
09/25/2013	E-mail: Bob McEvoy to Patricia Quinn, NNEPRA, reiterating the request made at the 9/12/2013 AG meeting for an electronic copy of the Engineering Drawing of the Site Plan and a copy of the Lighting Impact Analysis and off-site lighting pollution resulting from the lighting plan.
09/26/2013	NNEPRA holds a Public Hearing in Brunswick re September EA
09/27/2013	FOIA request to NNEPRA requesting copies, paper or electronic, of all Amendments subsequent to Amendment No. 2 pertaining to the Grant/Cooperative Agreement for the Downeaster- Portland North project.
10/03/2013	E-mail: Marina Douglass, NNEPRA, to Bob McEvoy in response to Bob McEvoy's e-mail of 9/25/2013. Marina Douglass responded that only one version of an electronic site plan is available and NNEPRA does not have a report on Lighting Impact Analysis and off-site light pollution resulting from the Lighting Plan. The version of an electronic site plan is not an Engineering Drawing and does not fulfill Bob McEvoy's request from 9/12/2013 and 9/25/2013.
10/04/2013	Marina Douglass of NNEPRA responded to the 9/27/2013 FOIA request and provided a copy of Amendment No. 3 between NNEPRA and FRA for the Downeaster-Portland North project.
10/08/2013	E-mails between Charles Wallace and Nicole Vinal pertaining to obtaining a copy of a current, scaled, Engineering Site Plan from NNEPRA. Nicole went to NNEPRA's office and spoke with Marina Douglass. Marina Douglass states that the only site plan they have is the one on the NNEPRA website. This is NOT an Engineering Scale Site Plan.
10/11/2013	E-mail from Moe Bisson stating that the BWNC EA comments package was delivered to NNEPRA's office at 3:52 p.m. today. The BWNC EA comments package included John B. Shumadine's transmittal letter dated 10/11/2013.
10/13/2013	Public Comment period ends on NNEPRA's EA.

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
10/16/2013	John B. Shumadine forwarded the BWNC comments and supporting documents on NNEPRA's EA directly to the Federal Rail Administration to ensure that all BWNC material reached the FRA.
10/22/2013	Dennis Bailey sent e-mail to Bob McEvoy et al forwarding Alex Porter's e-mail to Dennis Bailey pertaining to CTS Taxi Contract. Mr. Porter stated this contract is not subject to a FOIA request because is between two private parties and is unavailable to Senator King's office.
10/29/2013	Attorney John B. Shumadine sent a letter to Maine Department of Environmental Protection (MDEP) concerning the Applicability of Site Location of Development Statute, 38 M.R.S.A. §481 et seq.
10/30/2013	Received Letter from MDEP to NNEPRA letter dated May 14, 2012 to NNEPRA claiming NNEPRA pre-emption from Maine Site Law.
11/15/2013	E-mail from Dennis Bailey to Eric Russell at Portland Press Herald pertaining to recently released ridership numbers released by NNEPRA.
12/02/2013	Times Record article about MDEP issuing NNEPRA a Stormwater Permit for the proposed Brunswick West MLF.
12/06/2013	Bob McEvoy took the Town of Brunswick Codes Enforcement copy of the NNEPRA Site Development Permit Plan set to Xpress Copy in Portland, ME for scanning. Permit plan set was returned to Brunswick Codes Enforcement office before the close of business on 12/6/2013. Site Development Permit Plan set are Engineering Scale Drawings completed on or before 8/14/2013. James Russell, NNEPRA Engineer, signed SWM Application for NNEPRA on 8/14/2013.
12/06/2013	Bob McEvoy sent e-mail & letters to Senator Collins, Representative Michaud and Representative Pingree asking for help in getting a copy of the Crew Transportation Specialists Contract with Brunswick Taxi for transportation of Amtrak crews to and from Brunswick and Portland.
12/13/2013	Southern Abutters to NNEPRA's Project Filed 80C Appeal with the Cumberland County Superior Court requesting court to vacate SWMA.
12/17/2013	E-mail from Dan Sullivan transmitting 9/12/2013 NNEPRA Advisory Group Agenda Documents.
03/20/2014	Governor Paul LePage sends a letter to FRA supporting an EIS

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
03/24/2014	Brief of Respondent NNEPRA sent to Cumberland County Court
03/25/2014	Respondent State of Maine and DEP's Rule 80C brief sent to Cumberland County Court
04/06/2014	NNEPRA Applies for a USDOT Tiger6 grant
04/07/2014	Petitioners Rule 80C Reply Brief sent to Cumberland County Court
06/05/2014	FRA issued a FONSI to NNEPRA (BWNC found out on 6/17/14)
06/18/2014	6 Legislatures send a letter to NNEPRA regarding track upgrade
07/02/2014	The Court vacated NNEPRA's DEP Stormwater Permit on the basis that they failed to notify all the abutters
07/24/2014	Last Advisory Group meeting
08/05/2014	NNEPRA resubmits Stormwater Management Application to Maine DEP
08/27/2014	Maine DEP sent deficiency letter to NNEPRA stating the Stormwater Management Application had been found unacceptable for processing, also Commissioner Aho sent a letter to NNEPRA with several questions and clarifications
09/12/2014	NNEPRA refiled Stormwater Management Permit Application dated 9/10/2014
09/12/2014	USDOT announced the award of Tiger6 grants (NNEPRA DID **NOT** RECEIVE AWARD)
09/19/2014	CFW letter to Heather Parent re initial review of SWPA ; not complete for processing
09/19/2014	NNEPRA furnished to Maine DEP additional substantive technical information
09/30/2014	Charlie Wallace initiated a call to Heather Parent, DEP, for a status on SWMP, and was told about the 9/19/14 submittals. An email was sent to RSE providing all the new information
10/03/2014	CFW letter to Heather Parent ree Comments on SWPA and Supplemental fo
10/03/2014	Maine DEP accepted NNEPRA's SWMP Application as complete and provided a website with all submittals regarding the SWMP application

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
10/06/2014	NNEPRA provided responses to Commissioner Aho's 8/27/14 letter of questions and clarifications
10/21/2014	CFW letter to Heather Parent; Major Technical Discrepancies in Permit
10/22/2014	Letter sent to Maine DEP from BWNC Attorney requesting a Public Hearing on NNEPRA's SWAP Application acceptance
10/23/2014	Interested Persons received email from MDEP about the Notice of Public Meeting to be held in Brunswick on November 13, 2014 regarding NNEPRA's Stormwater Management Application.
11/06/2014	Received Public Hearing determination from Maine DEP. Public meeting is postponed until a hearing is scheduled.
12/03/2014	Received from MDEP Notice of Opportunity to Intervene: re Public Hearing
12/22/2014	BWNC's Petition for Leave to Intervene filed with the Maine DEP.
01/02/2015	Received from MDEP First Procedural Order and Related Documents from Maine DEP. Pre-Hearing conference scheduled for Jan. 9, 2015.
01/09/2015	Pre-hearing conference held at DEP office in Portland, Maine.
01/13/2015	Received from MDEP Second Procedural Order with notes from Jan 9 pre-hearing conference and adding a dates for second pre-hearing conference (Mar 20) and Public Hearing for March 25, 2015. Also extended pre-filed testimony due date by one week.
01/23/2015	Received from MDEP schedule for site visit: January 30, 2015 at 11 am with attendance limited to the attorney and one other representative from each party.
01/29/2015	Received from MDEP notice that the site visit is rescheduled due to a snowstorm: new date February 13, 2015 at 11 am.
02/02/2015	Letter from BWNC rep to MDEP requesting one additional person from each party to attend the site visit
02/09/2015	Received letter from MDEP allowing each party to bring one additional person to the site visit.
02/13/2015	Site visit completed

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
02/18/2015	Pre-filed testimonies submitted to MDEP
02/20/2015	Received from MDEP Notice of Public Hearing; to be held March 25, 2015 at the Brunswick Golf Club at 9 am; Public Comment period starting at 6 pm
02/20/2015	Received from MDEP Layover Site Visit Memorandum
02/23/2015	Downeaster collides with car in Yarmouth – North Road Crossing
03/04/2015	Objections to pre-filed testimonies due
03/09/2015	Reply letter to MDEP from BWNC Rep re: NNEPRA's objections to Pre-filed testimonies
03/09/2015	Received from MDEP Thrid Procedural Order which sets forth the presiding officers ruling on NNEPRA's abjections to BWNC's pre-filed testimonies
03/10/2015	MDEP requests additional information from NNEPRA pertaining to their SWPA
03/12/2015	Letter to MDEP from BWNC rep requesting to postpone the hearing one week so BWNC can review the new request for information dated 3/10/15
03/12/2015	Robert McEvoy delivers his resignation letter from NNEPRA Board of Director to Governor Office
03/12/2015	Receive NNEPRA's response to BWNC request to postpone Hearing
03/13/2015	Government Oversight Committee meeting; requesting OPEGA conducts a formal investigation/audit of NNEPRA. Unanimous vote from GOC to review NNEPRA operations.
03/13/2015	Letter from MDEP denying BWNC request to extend the Public Hearing; remains March 25
03/13/2015	Press Release "State's Watchdog Committee Agrees to Audit Passenger Rail Authority"
03/16/2015	NNEPRA emails the requested information by the MDEP 3/10/15
03/18/2015	Pre-filed Rebuttal Testimony due to MDEP
03/20/2015	2ND Pre-Hearing Conference at MDEP, Portland, Maine

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
03/23/2015	Received from MDEP Fourth Procedural Order which set the schedule for the Public Hearing
03/25/2015	Public Hearing held at Brunswick Golf Course
03/26/2015	Downeaster and SUV crash 1:30 am Union Avenue Crossing Old Orchard Beach
03/26/2015	Hearing with the Maine Transportation Committee regarding LD439 "An Act to Prevent Excessive Idling of Passenger Trains"
04/09/2015	First Work Session for LD 439 "An Act to Prevent Excessive Idling of Passenger Trains" - The bill was tabled because NNEPRA has now decided to install a ground power station. The committee has asked NNEPRA to submit a letter stating when and where the station will be installed as coordinated with the Town of Brunswick
04/10/2015	Received notice from MDEP that the hearing record is closed with the exception of closing arguments. The closing briefs will be due two weeks after the hearing transcript is provided to the parties.
04/14/2015	Downeaster derails in South Portland
04/22/2015	Received from MDEP Transcript of March 25 Public Hearing. Closing briefs are due May 6, 2015.
04/27/2015	Brunswick Town Council meeting. P. Quinn attended to give the Council an update on MLF and wayside power.
05/01/2015	Amtrak Downeaster strikes and kills a pedestrian in Plaistow, N.H.
05/04/2015	Town Council meeting with Wayside power topic on the agenda. Mess of a meeting,
05/05/2015	Second Workshop Session for LD 439 "An Act to Prevent Excessive Idling of Passenger Trains". "motion ought not to pass" with a letter from Transportation Committee telling NNEPRA to install full WAYSIDE POWER (APU + Compressor + Battery Charger)

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Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
05/05/2015	***FOR IMMEDIATE RELEASE*** May 5, 2015 Contact: Ericka Dodge [Gerzofsky], 232-5892 **NNEPRA AGREES TO INSTALL IDLING-CONTROL DEVICE TO REDUCE NOISE AND EMISSIONS IN BRUNSWICK** *Senator Gerzofsky: "This is a win for the people – and for their quality of life"*
05/06/2015	BWNC Rep filed the Closing Briefs / received NNEPRA's closing briefs and TrainRiders closing briefs
05/12/2015	Amtrak derailment in Philadelphia
05/31/2015	Patricia Quinn stated in an article re Philadelphia that there were safety measures taken to alert Engineers. This is not in place on the Boston-Portland runs. (lies)
06/01/2015	Update in PPH re track work and "severe winter conditions" predicting 57,000 less riders and $1m less revenue this year. 276 trains cancelled to date
06/01/2015	Town Council meeting: Patricia Quinn presented an update on WPS (Quinn not present) Eldridge read a note (received from Senator Stan 5/29/15 a quote he received from NNEPRA for APU $83K)
06/03/2015	NNEPRA submits another Tiger Grant 2015 Application – Tiger 7
06/03/2015	CFW meeting with Jonathan Nass
06/03/2015	Received Draft Order from MDEP; June 10 deadline for comments, final license decision by June 17
06/09/2015	BWNC receives letter to NNEPRA from State of Maine Transportation Committee to take the steps necessary to install an APU, dated 6/4/2015
06/10/2015	BWNC Rep submitted comments on Draft Order. Received NNEPRAs comments on Draft Order
06/16/2015	BWNC received Final Approved Order with 13 Special Conditions
06/16/2015	Start construction for APU/WPS
07/10/2015	BWNC Rep submitted Application to Stay
07/13/2015	Received Letter from NNEPRA re Application to Stay

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
07/16/2015	Emailed and hand delivered BWNC's Appeal to NNEPRAs SWPA
07/17/2015	Received Commissioner Aho's decision for NNEPRA to comment on Application to Stay – 10 days from Appeal submittal
07/17/2015	NNEPRA submitted Special Condition Application #8 to DEP *"Prior to the start of construction, the applicant shall submit to the Department, for review and approval, a revised plan to include an impermeable liner between the roof drip edge collection system and the foundation drain system."*
07/21/2015	Received Notice from BEP, they received timely Appeal. Included a BEP Service list; they are reviewing attachments to confirm what is in the administrative record.
07/24/2015	Received TrainRiders objection to Application for Stay
07/24/2015	Received TrainRiders Motion to Dismiss Appeal to BEP
07/27/2015	Received NNEPRA's objection to Application for Stay
07/27/2015	Received BEP letter acknowledging receipt of TrainRiders 7/24/15 Motion to Dismiss. Responses due August 4, 2013
07/27/2015	Received BEP letter acknowledging receipt of Appeal and Identifying Supplemental Evidence not approved as part of the record; comments due 8/26/15
07/27/2015	BWNC Rep sent letter to MDEP asking if BWNC will be able to comment on NNEPRA's response to Application for stay. Asking for 7 days (8/3/15)
07/28/2015	BWNC received letter from R. Green, MDEP that allows BWNC to respond to NNEPRA's comments on the Application for Stay; deadline 8/3/15
08/01/2015	Downeaster back on schedule from track work being done
08/03/2015	BWNC Rep submits letter to MDEP re Reply to NNEPRA and TrainRiders opposition to Application for Stay
08/04/2015	TrainRiders submits Motion to Strike and Dismiss BWNC and R. Morrison to respond to comments on Application for Stay
08/04/2015	NNEPRA submits Special Condition #10 and completed Condition Compliance Application for #8 and #10

CHRONOLOGY

Portland to Brunswick Track Upgrade and Brunswick West Maintenance and Layover Facility (supporting documents available upon request)

DATE	EVENT
08/04/2015	BWNC submit response to TrainRiders Motion to Dismiss Appeal
08/04/2015	BWNC Rep submitted opposition to Trainriders' Motion to Strike and Dismiss
08/10/2015	BWNC submitted to BEP a request to comment on comments received from respondents on Supplemental Evidence (due 8/26/15) with a deadline of 10 days (9/10/15)
08/10/2015	BWNC submitted letter to BEP requesting a status update on the Appeal process.
08/10/2015	BWNC submitted letter to DEP request to comment on Special Conditions #8 and #10 10 days after DEP approval.
08/11/2015	Received DEP Commissioner's decision on the Application for Stay; **DENIED**
08/12/2015	Received from BEP status update on the Appeal and next steps in Appeal process
08/12/2015	Received NNEPRA's response to BWNC's request to comment on Special Conditions 8 & 10; they approved but only allowed until 8/18/15 (10 working days from submittal to DEP) and does not approve comments on all the other Special Conditions
08/12/2015	Received NNEPRA's response to BWNC request to respond to comments on Supplemental Evidence
08/13/2015	BWNC submitted letter to DEP re NNEPRA's 8/12/2015 Supp. Evidence letter asking for 10 days from that letter to respond (8/26/15)
08/13/2015	Email to R Green from RSE asking if he has a copy of building/foundation plan for proposed BMLF
08/14/2015	RSE received email reply from R. Green; did not find any building/foundation pl an in their files
08/17/2015	Received from BEP response to request to comment on supplemental evidence; **DENIED**
08/18/2015	Received from BEP reply to TrainRiders Motion to Dismiss appeal; **DENIED**
08/18/2015	Received from R. Green, DEP that BWNC or any interested persons can comment on Special Conditions 8 and 10 not the other Special Conditions. The DEP has until 8/25/2015 to provide notice to NNEPRA whether the Special Conditions 8 &10 are

complete for processing.

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Name	Date modified	Type	Size
2013, 2004 and 2009 Env. Assessment	1/21/2015 11:29 AM	File folder	
Abutters List	2/4/2014 10:16 AM	File folder	
Agreements, Budgets, Contracts	2/25/2016 12:39 PM	File folder	
Air Quality	7/20/2015 3:48 PM	File folder	
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Anti-Idling Laws	4/23/2015 4:31 PM	File folder	
Aquifer	7/6/2015 4:58 PM	File folder	
Attorney Brief	8/31/2015 10:53 AM	File folder	
Attorney General	6/23/2015 12:55 PM	File folder	
Bradford,Haverhill MA MLF	4/30/2015 10:21 AM	File folder	
Brunswick Sewer Dept	12/1/2014 12:18 PM	File folder	
Brunswick Taxi	4/23/2015 4:32 PM	File folder	
BWNC	9/1/2015 3:59 PM	File folder	
BWNC Petition List	8/26/2014 9:01 AM	File folder	
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Chamberlain Woods	4/23/2015 4:33 PM	File folder	
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COMPLAINT OIG-USDOT-USEPA	12/1/2015 3:07 PM	File folder	
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EPA	7/15/2015 1:29 PM	File folder	
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Field Work	3/16/2015 2:56 PM	File folder	
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from thumbdrive 1-2014	4/23/2015 4:32 PM	File folder	
Governor LePage	6/17/2015 7:47 AM	File folder	
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Index date lidar	7/14/2015 2:26 PM	File folder	
Jane Millet Package	11/13/2014 4:23 PM	File folder	
Jerry Cook photos	11/18/2014 10:34 ...	File folder	
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MBTA	4/29/2015 5:32 PM	File folder	
McEvoy App for NNEPRA Board	3/12/2015 2:45 PM	File folder	
MDEP	2/3/2016 2:25 PM	File folder	

87 Main Folders

188 Sub Folders

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Murray,Plumb,Murray	9/22/2016 10:49 AM	File folder	
NEPA	4/23/2015 4:32 PM	File folder	
News Articles-Editorials	9/16/2016 6:31 PM	File folder	
NNEPRA-Downeaster Safety	6/2/2015 4:00 PM	File folder	
NNEPRA-Parsons Brinkerhoff	9/1/2015 3:54 PM	File folder	
OPEGA	9/19/2016 4:38 PM	File folder	
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PRL	8/31/2015 2:07 PM	File folder	
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Resolution	11/27/2012 2:26 PM	File folder	
Royal Junction	12/14/2012 10:20 ...	File folder	
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RSE Seminars	2/23/2016 12:02 PM	File folder	
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Senator Stan G	7/29/2015 10:06 AM	File folder	
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STB	4/23/2015 4:32 PM	File folder	
SW Cole - Vibration	7/2/2012 9:56 AM	File folder	
Tax Map	9/23/2011 11:06 AM	File folder	
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Timeline	9/14/2016 3:59 PM	File folder	
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Transportation Committee	2/23/2016 12:36 PM	File folder	
USDOT	7/15/2015 1:52 PM	File folder	
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Westminster	4/23/2015 4:31 PM	File folder	
Yarmouth, ME -Quiet Zones	12/1/2014 10:26 AM	File folder	

PROFESSIONAL RESUME

CHARLES F. WALLACE, JR., P.E.
PRESIDENT & OWNER
of
Resource Systems Engineering

Mr. Wallace is a Professional Engineer registered in the states of Maine, Massachusetts, New Hampshire, and formerly North Carolina. He is a full member of the Institute of Noise Control Engineering and a Diplomate of the American College of Forensic Examiners. He earned a B.S. in Engineering Physics in 1965 and an M.B.A. in 1972, both from the University of Maine at Orono. He has been practicing since 1965. In 1970, he began to focus his career as an environmental professional. In 1977, Mr. Wallace formed the company now known as Resource Systems Engineering (RSE). He is a 2003 recipient of the University of Maine Engineering Excellence award and Member of the distinguished Francis Crowe Society in recognition of his "Outstanding Professional Service to the Field of Engineering. Since 1977, all RSE activities, computer systems development, computer modeling, program evaluations, budgeting, economic pro-forma preparation, project fatal flaw analyses, project feasibility analyses, project development peer reviews, performance investigations, designs, permits, studies and public testimonies have been completed directly and under his direct supervision of employees and sub-contractors.

Mr. Wallace has been responsible for project management, detailed designs, and preparation of comprehensive environmental impact studies on major projects in Maine, Michigan, Minnesota, Wisconsin, New Hampshire, Massachusetts, North Carolina, and Nova Scotia, Canada. In Maine alone, he has provided environmental engineering and full permit services for more than 50 projects, including seven biomass energy projects, three major waste-to-energy projects, three bulky waste recycling facilities and Maine's largest and smallest wind energy projects. Since 1974, Mr. Wallace has worked on a variety of projects in the pulp and paper industry and has experience with lumber and composition board mills. In each project, he has been responsible for process and project designs/reviews and the preparation or coordination of environmental studies including noise and visual impact analyses, air and water quality studies, water quantity evaluations, environmental site assessments, solid waste management, and associated analysis. Mr. Wallace has been the project manager and senior engineer on bulk oil storage facilities. He also was the Project Manager and Service Engineer investigating the feasibility of a wood waste composite manufacturing plant and a starch from potato waste project. In several projects, Mr. Wallace's computer models and feasibility studies were used in support of multimillion-dollar financings. In other cases, his fatal flaw analyses led to successful project sitings and project redesigns to minimize environmental impacts.

Since 1973, Mr. Wallace has been responsible for the preparation of Oil Spill Prevention, Control, and Countermeasures (SPCC) Plans; Stormwater Pollution Prevention Plans; Integrated Spill Contingency Plans; and Facility Emergency Response Plans designed to protect human health and the environment from accidental releases of oil or chemicals. Mr. Wallace has completed hazard analyses and capability assessments for electric power generating facilities, waste management and disposal facilities, and hazardous waste treatment and storage facilities. Clients have included both private industry and government agencies. He has developed comprehensive environmental compliance programs and conducted compliance audits of major and minor facilities. These programs are designed to protect clients from untoward litigation and demonstrate good engineering practices applied to oil and chemical management. Mr. Wallace has also conducted several environmental site assessments for industrial and commercial properties including many underground storage tank removals. In some cases, these assessments lead to subsurface investigations of soil and groundwater contamination, site remediation,

and recovery of eligible costs from Maine's Groundwater Protection Fund. He prepared Site Safety and Health Plans for this work. Mr. Wallace presented a seminar on SPCC planning at a workshop co-hosted by the Maine Department of Environmental Protection. He has conducted professional seminars on environmental noise control regulations and instructed training classes in hazardous waste operations and emergency response and pollution prevention in accordance with Occupational Safety and Health Administration and U.S. Environmental Protection Agency standards (40-hour and 8-hour HAZWOPER).

Mr. Wallace was responsible for site location, permits, and detailed design of a wood waste-to-fuel facility in Lewiston, Maine; three phases of a comprehensive, regional-scale, solid waste recycling facility targeted for Mexico, Maine; the Regional Waste Systems bulky waste recycling facility to serve at least 27 communities in the Greater Portland, Maine, area; and a 1,500 ton-per-day construction and demolition material recycling facility in Brockton, Massachusetts. The Regional Waste Systems facility was the first of its kind in Maine to integrate bulky waste and urban wood processing, composting, and landfilling all on one site. Although not constructed, it was also the first to be licensed under Maine's complex solid waste laws. He has also prepared visual impact assessments and alternative design and routing evaluations for a 5.5-mile, 115-kva transmission line in Stratton, Maine and a 5-mile, 115-kva transmission line in West Rockport, Maine. He was directly responsible for development of the Aroostook Valley Electric Company (formerly Fairfield Energy Venture) Ash Utilization Program, touted at the time by the Maine Department of Environmental Protection as the best in Maine.

Mr. Wallace has assisted private individuals with the complex permit process of rebuilding residential structures in shore land zones, within 100-year floodplains, and on coastal sand dunes on substandard lots.

Mr. Wallace was retained as an expert witness in the field of environmental licenses on a major case involving development of a wind energy project in northwestern Maine. The case was settled out of court. Mr. Wallace has testified before the Maine legislature on environmental laws and worked with the Maine Department of Environmental Protection on a wide variety of environmental rules and regulations, including air quality, noise, solid waste, and licensing procedures. Mr. Wallace has also been retained by clients as an expert witness during arbitration proceedings and litigation involving project permits and after-the-fact impacts of substandard erosion and sediment controls associated with large scale subdivisions.

Mr. Wallace has attended courses, seminars, and workshops on stormwater and erosion control design, DEP Best Management Practices for Stormwater Management, water rights/allocation/and resource management, ethics for environmental professionals, above ground and underground storage tank technology, remediation of petroleum-contaminated sites, implementing the 1990 Clean Air Act, environmental liability, atmospheric dispersion modeling, and asbestos management.

Mr. Wallace is a lifetime member of Sigma Pi Sigma, a national physics honor society and served on the executive and legislative review committees of the Maine Association of Planners. He is a former member of the Maine Resource Recovery Association; Air & Waste Management Association; American Consulting Engineers Council; American College of Forensic Examiners and Consulting Engineers of Maine. He served on the Maine Air Quality Advisory Committee as the Consulting Engineers of Maine representative to the Maine Department of Environmental Protection. He also served on the Maine Chamber & Business Alliance Environmental Committee. Other memberships have included the Maine Chamber and Business Alliance, Natural Resources Council of Maine, and Friends of Casco Bay. Civic activities include commissioner of the Brunswick Parks and Recreation Department (two terms), Board of Directors of the Brunswick Golf Club (two terms, Chair of the Physical Plant Committee, Member of the Finance Committee), and coach and Boards of Directors of Brunswick's Youth Soccer and Youth Hockey Leagues where he was instrumental in finding and developing new soccer fields and construction of an

outside ice arena. He served on the Executive Board of the Coastal Conservation Commission. He is also served on the Brunswick Town Council's Citizens Advisory Board for an all-tide Public boat launch located in an economically sensitive coastal area. He was instrumental in focusing attention on good engineering practices applied to this premier coastal access project and prepared/presented testimony at several public workshops and regulatory hearings.

Since 2011, Mr. Wallace served as the "pro-bono" Technical and Environmental advisor for all aspects of the Brunswick West Neighborhood Coalition's five year history of involvement with Northern New England Passenger Rail Authority's project to locate a massive train maintenance and layover facility on a 'brownfield" contaminated site over a high yield groundwater aquifer directly abutting an established residential neighborhood.

DANIEL J. SULLIVAN
24 BOUCHARD DR.
BRUNSWICK, ME 04011

Ms. Beth Ashcroft
Director
Office of Program Evaluation and Government
Accountability
State of Maine
82 State House Station
Augusta, Maine 04333-0082

Dear Ms. Ashcroft:

PRESENTATION OUTLINE
OCTOBER 6, 2016

INTRODUCTION: My name is Daniel Sullivan. My home is at 24 Bouchard Dr. in Brunswick. I've been a Brunswick resident for 29 years and I'm an abutter to the maintenance and layover facility. Patricia Quinn and NNEPRA officials pledged a cooperative, transparent, and good neighbor process developing this Brunswick Maintenance and Layover project. She and NNEPRA did not live up to that pledge.

2009

- Agreement between Brunswick town officials and NNEPRA was made to build a maintenance and layover facility. There was trace mention in the papers. No announcements in public media. No one asked me what I thought of this idea.

2011

- One neighbor of mine happened to hear of a Brunswick town planning committee meeting to grant a zoning variance to NNEPRA to build a 40,000 sq ft facility behind our houses. He was the only person that was able to attend the meeting because no one else knew about it.

2011 – 2016

- The word was out. The Downeaster was coming to town and it's going to be right behind my neighborhood. My neighbors and I decide to hunker down and fight it. Who wouldn't? It was threatening to my family and home and friends.
- Many meetings with neighbors, town officials, NNEPRA officials, legislators ensued. We were being bullied and told to "sit down and shut up". Many times we heard building the MLF was a "done deal". Our State Senator told us otherwise. He said he'll get us a place at the table. That was Sen. Stan Gerzofsky.
- 1st big public meeting was put together by Sen. Stan in 2011. Patricia Quinn has told many people she set up that meeting. Sen. Stan originated it in response to our complaints about not having a say. My neighbors and I had no interactions with Patricia Quinn before that meeting.
- Ms. Quinn and NNEPRA hired an engineering firm from Boston to come to that first meeting to describe that of 3 viable sites in Brunswick the only site that could work for the MLF was the one behind my neighborhood. The other two sites were in industrial zones, not near any residences. That first meeting occurred before any sites were fully vetted or permits even submitted.

- A Mitigation Advisory Group was formed by NNEPRA. Its function was to discuss mitigation of the impacts of the maintenance facility and to serve as NNEPRA's "outreach" to abutting property owners. NNEPRA initiated forming the group of 12 members made up of one abutter, town representatives, NNEPRA officials, and ME DOT officials, and an AMTRK representative. The original group had exactly 1 person from our neighborhood. Our own district town councilor wasn't even invited. What happened to the outreach? We complained to Sen. Stan about it and he got Ms. Quinn to expand the number of abutters in the group to 4, which included me. In addition, our town councilor (John Perrault) was invited too.
- We had a total of 3 meetings over 4 months in 2011-2012
- 1st meeting of the Neighborhood Advisory Group: Patricia Quinn set the rules- no conversation allowed about another site, only discussion about what happens inside the facility was allowed, there would be no recorded minutes, and no media personnel were allowed. We asked Sen. Stan to attend the first meeting and she refused to let him in. We pushed back. Sen. Stan attended the first meeting.
- Each meeting was set for 2 hours. 1st meeting: Patricia invited her engineers in to give us a presentation which lasted the remainder of the meeting after introductions and ground rules. The second meeting was the same-more engineers talking about the building. At the third meeting we realized these meetings were a sham. They were designed to LOOK like a discussion rather than actual outreach. Regardless, we had to do what was right for our neighbors and our families- we asked for specific safety, noise and air pollution mitigation strategies (fence, sound barrier wall, wayside station, air filters, operation plan) all of which were responded to with "No, we can't do that due to costs" or "No, we don't have that information yet".
- Sound Tests: We asked for a train engine to be brought to the site during a time when we could perform some sound tests. This was done for us and sound data was recorded. Thank you, Patricia.
- Safety Fence: we asked that a safety fence be put up to limit access to the maintenance facility by our young children. 4 years later Sen. Stan was able to find state funds for the ME DOT to put one up. And again, the cooperative, transparent, and good neighbor attitude pledged by Patricia Quinn and NNEPRA did not show itself.
- Paint color: Patricia Quinn and NNEPRA asked us what kind of paint we preferred on the building. This question came to us 2 years before NNEPRA got final approval to build. We asked for "Invisible paint". We never got an answer.

I spent countless hours with my friends and neighbors over the past 4 years negotiating with Patricia Quinn and NNEPRA to mitigate the effect of the Downeaster's arrival to Brunswick. Although I accept the decision to bring the train to Brunswick, HOW it was brought here was uncooperative, deceptive, and not in good will. I'm resentful of my town and state of Maine leaders that condoned such practices used by Patricia Quinn doing her job.

Thank you for your time and this opportunity to speak.

24 BOUCHARD DR • BRUNSWICK, MAINE 04011 • 207.449.2761 • SULLIVANDANO24@GMAIL.COM

TO: **Maine State Legislature Government Oversight Committee**
Senator Roger J. Katz, Chair
Representative Chuck Kruger, House Chair
Members of the Committee

From: Maine Rail Transit Coalition
Anthony J. Donovan, Managing Director

Date: October 6, 2016

Re: **Office Of Program Evaluation and Government Accountability Information Brief on the Northern New England Passenger Rail Authority**

Senator Roger Katz, Representative Chuck Kruger, Members of the Committee

My name is Tony Donovan; I am a Portland resident. My profession is Commercial real estate development and brokerage with a specialty in site location of development at passenger train station sites. I was the leasing agent for Brunswick station, the realtor representing the owner of the Thompsons Point development at the Portland Transportation Center and currently represent owners of railway sites in Lewiston, and Bethel, with interests in New Hampshire and Florida. My experience is that Transit Oriented Development (TOD) is a productive use of land for both private sector and public interests.

I am also an environmentalist. I serve in Leadership of the Maine Chapter of the Sierra Club, the largest and oldest environmental advocacy organization in North America with a stated interest in the expansion of passenger rail and alternative transportation nationwide. I am also the managing director of the Maine Rail Transit Coalition (MRTC), a statewide rail advocacy organization whose mission is to expand the use of the region's rail infrastructure for the purpose of passenger train services.

As per my presentation, I would like to note that there are hundreds of miles of railroad tracks throughout the state of Maine. Decisions by homeowners to buy or build next to railroad tracks under the impression that the tracks are no longer being used is based on an incorrect assumption. Our organization, along with rail personnel working for the Maine Department of Transportation (MDOT) make it very clear that unless the railway corridor has been officially "Abandoned" as per Federal Rail Administration (FRA) rules and processes, that corridor can still be used for train service.

My interest in the evaluation and report of the OPEGA Information Brief of the Northern New England Passenger Rail Authority (NNEPRA) is more concerned with the mission of the ***state's rail authority***, its role in policy implementation and decision-making, more than that of the management of the Downeaster rail operations. In my opinion the state of Maine could not be prouder of the staff and management of this service led by Patricia Quinn. We have set the standard for efficiency and effectiveness in delivering passenger rail service nationwide.

My interest lies in that of the role of the State rail authority as stated in its enabling legislation and how this rail authority plans and allows for public and legislative involvement in *"... actions to initiate, establish or reinitiate regularly scheduled passenger rail services between points within and outside the state"*[1]. I note that this is somewhat different from the mission statement on the NNEPRA website that states; *"... public transportation authority created in 1995 by the Maine State Legislature to develop and provide passenger rail service between Maine and Boston and points within Maine"*[2].

The problem I suggest the Legislature take into careful consideration is the culture of the Maine DOT as a whole is one of lack of transparency and public involvement. Whether it is clearcutting the Interstate highway, or public involvement in the state rail plan, decisions are made without adequate public notice or involvement.

Investment decisions by the rail authority are made based on DOT policy-making processes. Yet, as evidenced by the 127th legislative directive to develop a Service Development Plan (SDP) for passenger rail to Lewiston-Auburn, MDOT changed the scope of the work as passed by the legislature and passed the work over to a local economic development agency with no experience in rail operations or engineering, rather than have the state rail authority do the work, as per their enabling legislation. MDOT also change the amount of money allocated by the legislature from $500,000 to $250,000, again, with not public involvement in this decision.

Another example is the Passenger Rail Advisory Council (PRAC), a Resolve drafted by our organization, sponsored by a Transportation Committee member which was taken over by the DOT with a promise to meet the intent of the Resolve without it going to a vote. The PRAC, met sporadically at first, then less and now, not at all. The meetings were not advisory in nature but rather presentation by the DOT on the hardships of investing in rail, and many references to the advantages of buses. Decisions made by the rail authority over the life of this committee did not come to the advisors. From a TIGER grant application, or the $8 million dollar passing siding in Yarmouth and right now the authority is engaged in a passing siding investment in Wells – none of this was put before the PRAC, or any public decision-making process.

In 2011 the rail authority was granted $750,000 in state and federal funds for a Service Development Plan (SDP) for the Downeaster. The RFP specifically stated that a number of public meetings must take place. One public meeting was held in Maine in March 2014, another in Dover New Hampshire in June 2014. The meets were more of a Charrette with attendees asked to approve of the decisions being made than a chance for public input into the plan. I would note that a strong consensus was for rail to Lewiston. FRA regulations for federal funding requires the SDP, and although 6 years later it is still not completed or available to the public for comments, the rail authority has applied for and received significant federal dollars.

[1] 23 MRSA Ch. 615 Sub C III An Act to Enact the Passenger Rail Service Act
[2] http://www.nnepra.com/

In 2008 and 2009 the state began a process of developing a statewide rail plan. During that time period a Technical Advisory Committee was formed (TAC) and although I was not invited to be on the TAC, I attended the 3 meetings held. After the 3rd meeting in 2009 no further public meetings were announced. In 2014 the state rail plan was adopted by the DOT. There was no public comment taken on its adoption, yet the Dot and rail authority are using this as a basis for funding rail in Maine. As an individual involved in state rail planning for decades, I find a clear problem with public involvement and transparency in state transportation investments.

Although what I offer may not be the solution to the problem, it is my recommendation to this committee, and one that I intend to bring to the 128th legislative session, that the management component of the Downeaster operations be separated from the policy-making role of the state rail authority. The manager of operations, a successfully as they are in operating the Downeaster, may have conflicts in allocation of resources that might best be identified by an executive director of the authority in a manner that addresses a larger and more comprehensive statewide passenger rail plan.

At this time the potential for expansion of passenger rail service beyond the Downeaster Boston to Brunswick is under the purview of the State DOT. I suggest that a better process for public and legislative involvement is to separate the position of manager of operations from that of authority executive director.

As per the OPEGA Brief, *"... timely and appropriate forums for public input and vetting of projects should be held throughout project selection, design and implementation such that viewpoints from members of impacted communities, as well as both passenger rail proponents and opponents are considered".*

Thank you for the time and energy put into this report. It is critical that transportation, the largest expenditure of public dollars at all levels of government, (aside from defense), be evaluated on a regular basis. This should apply to road investments as well. But it is very good to have this understanding of the service passenger rail provides to communities, the economy and the environment out in the open for discussion.

Thank you for your kind attention.

Anthony J. Donovan

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Government Oversight Committee Meeting
October 6, 2016
Public Comment on
OPEGA Information Brief on Northern New England Passenger Rail Authority

Thank you for providing this opportunity to comment on the information brief prepared by the OPEGA staff, which to me seemed to be a quite thorough investigation within its specific scope.

I do have a few comments that probably fall under "oversight and governance" and the "achievement of statutory objectives" to provide passenger rail service between Boston and Brunswick.

From the public's standpoint, the NNEPRA organization is very transparent. Monthly board meetings are open to the public. Minutes and board packets that include performance data and budget updates are distributed at board meetings and are posted on NNEPRA's website. The public is always invited to comment and ask questions at those meetings. NNEPRA staff members attend board meetings along with the executive director and they all readily respond to questions, both from the board and the public.

As a consumer, I find the Downeaster website user-friendly – it is easy to find schedules and special promotions, purchase tickets, and check on the status of specific trains. NNEPRA also provides a lot of information on its Downeaster Facebook page for those who use social media.

Also, since before the Downeaster began its run to Brunswick in 2012, I have been a volunteer at the Brunswick Visitor Center, which in housed in Brunswick Station. I have found the NNEPRA staff to be extremely proactive about providing the Visitor Center with information about potential delays and service interruptions from track work, weather, or any other reason, and the NNEPRA staff is always responsive to inquiries from the Visitor Center staff.

In the area of "procurement and contracting," I have heard the NNEPRA board and staff discuss many contracts in considerable detail before voting on them at board meetings. I have also from time to time heard allusions in this Government Oversight Committee to a contract with a local taxi company, although it is not mentioned specifically in this report. It is my understanding that the Brunswick Taxi company has a contract with Amtrak to transport Amtrak employees between the Portland Layover Facility and the Amtrak Downeaster train when the train is parked in Brunswick. I assume that NNEPRA must reimburse Amtrak for the taxi runs, just as it is charged by Amtrak for providing train equipment and crews, for fuel, and for payments to host railroads. However, it is my understanding NNEPRA did not participate in Amtrak's bidding process or its negotiations with the taxi company and NNEPRA has had no control over the terms of the contract.

As an aside, at more than one public event, I have been told by Amtrak executives that the Downeaster is viewed as a success, and is considered a model for Amtrak passenger rail service throughout the country. Kudos to Maine!

Again, thank you for providing the opportunity for public comment.

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Oct. 5, 2016

Senator Roger Katz
Chairman
Government Oversight Committee
Maine Senate
Augusta, Maine

Dear Senator Katz:

I am writing to recommend approval of the September, 2016 "OPEGA Information Brief: Northern New England Passenger Rail Authority". My husband and I rely on the Downeaster for frequent (2 trips to Boston at the end of September and a round trip to Washington, DC this coming weekend) because we find it the best way to travel south from the State of Maine. We have supported the expansion of the train to Brunswick and hope that someday we will be able to travel further north and east. We have attended occasional NNEPRA Board Meetings and the DEP hearings on the Brunswick Layover Facility.

I have read the Information Brief and learned a great deal about the statutory basis for the Downeaster, the multiple entities with oversight approval authority, and the complexity of managing a passenger train with so many transportation partners. I support OPEGA's recommendations at the end of the report though I have reservations about the Maine Passenger Rail Authority since it is not clear exactly what its role will be.

I recommend that, barring any substantive reliable new information coming to light during the hearing tomorrow, the Government Oversight Committee approve the OPEGA Information Brief: Northern New England Passenger Rail Authority.

Thank you for your work on the Government Oversight Committee.

Sincerely,

Nelia G. Dunbar

Nelia G. Dunbar

TRAINRIDERS/ NORTHEAST

CHANGING THE WAY THE NORTHEAST TRAVELS

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BEFORE THE JOINT STANDING COMMITTEE
ON GOVERNMENT OVERSIGHT

REGARDING
OPEGA INFORMATION BRIEF ON NORTHERN NEW ENGLAND
PASSENGER RAIL AUTHORITY

October 6, 2016

Senator Katz, Representative Kruger, and Members of the Joint Standing Committee on Government Oversight, thank you for the opportunity to testify this morning. My name is Bruce Sleeper, and I am volunteer legal counsel for TrainRiders/Northeast. As many of you may know, TrainRiders is a grass roots citizens' organization with hundreds of members from Maine, New England, and elsewhere. Since 1989, TrainRiders has been educating public officials and the public at large about the benefits of passenger rail service in Maine and throughout the Northeast. TrainRiders has worked, and continues to work, closely with the Northern New England Passenger Rail Authority Rail Authority (NNEPRA), Amtrak, the Maine Department of Transportation (MDOT) and others to ensure that these benefits are communicated to all. TrainRiders also operates a host program both on board the Downeaster service between Portland and Boston, as well as at several of the station stops along the way. TrainRiders was the driving force behind the initiation of the Downeaster service and continues to strongly support it to this day.

In March 2015, this Committee requested the Office of Program Evaluation & Government Accountability (OPEGA) to review the operations of NNEPRA. Last July, OPEGA made recommendations (the "Recommendations") to this Committee for the scope of that review. Just last month, OPEGA presented its Information Brief (the "Brief") concerning that review to this Committee. Although discussing some minor concerns,

neither the Recommendations nor the Brief in any way criticized the underlying management or operational practices or actions of NNEPRA. To the contrary, in the Recommendations, OPEGA stated that

- It had not "identified any potential concerns or high risk conditions that lead us to definitely recommend further review" of any NNEPRA functions which are "key to providing the most effective and efficient passenger rail service possible."; and

- It did not find that mismanagement or lack of transparency are "areas of high risk at this time that lead us to recommend further review of any of these functions."

As noted in the Brief, and as should otherwise be obvious, NNEPRA is constrained to operate within the bounds set by the statutes which regulate its activities. Maine's Passenger Rail Service Act (the "Act"), 23 M.R.S.A. §§ 8001-8120, establishes NNEPRA and enunciates the policy provisions by which it is governed. In 1991, the Maine Legislature originally adopted that Act, which became the first citizen initiated bill to be enacted by that body without referral to the voters. This enactment occurred after TrainRiders, through its political action committee, RailVision, presented the Legislature with petitions, which were ultimately signed by approximately 90,000 registered Maine voters, asking for passage of the Act. Originally, the Act did not include any provision for the formation of NNEPRA, but, in 1995, the Legislature, at the strong urging of then Governor Angus King, added provisions to the Act to create that body, in large part to minimize concerns that the State might otherwise become liable for passenger rail activities.

I, personally, am in a rather unique position with respect to the Act. As counsel for TrainRiders, I authored the original citizen initiated version of the Act which was adopted by the Legislature in 1991. I then worked with counsel for the Maine Department of Transportation in authoring the 1995 revisions to the Act, and served on NNEPRA's inaugural board of directors. Accordingly, I am intimately familiar with the purposes of that Act.

First, and foremost, the Act was meant to support, and continues to support, the initiation and maintenance of passenger rail service between points inside Maine, as well as to and from points both inside and outside of this State. See 23 M.R.S.A. § 8003(1). In adopting the Act, the Legislature made the policy decision that such passenger rail service should exist and be supported. Any questions concerning this proposition must be directed to the Legislature and cannot be the subject of discussions here.

The Act, however, is not fanatical in either its wording or intent. NNEPRA is not directed to initiate or support passenger rail service except to the extent that those actions are "reasonable". See §§ 8003(1) (NNEPRA directed to take all actions that are "reasonably necessary" to initiate, establish, or reinitiate service). This means that NNEPRA is required to determine whether proposed actions are "reasonable", something which it had repeatedly done by studying and considering whether those actions are justified

within the statutorily required context of supporting passenger rail service in Maine. That, in turn, means that the cost of these actions is considered in comparison with their anticipated public benefit. This does not mean that passenger rail service is required to pay for itself, something which no major transportation system does, and, in fact, the Act itself contemplates that public monetary support will be required for this service in order to provide the public benefit for that service. See § 8006. What it does mean is that NNEPRA must determine whether the anticipated public benefit matches or exceeds the cost of its actions, as well as whether funds necessary for that action are available either from internal revenues or other funding sources. It also means that NNEPRA must determine the most reasonable and cost effective method of taking that action and that NNEPRA must manage that action to ensure that it is carried out as cost effectively as reasonably possible and otherwise in a reasonable manner.

As a public agency, NNEPRA is accountable to MDOT, the Legislature, and, ultimately, the people of the state of Maine, as well as to other agencies, such as the Federal Transit Administration and the Federal Railroad Administration (the "FRA"), from which it receives funding. This means that not only do these agencies oversee NNEPRA's activities, it also means that NNEPRA must act within the standards of disclosure and transparency required of all public entities.

NNEPRA, with a staff of less than 10 people, has met these requirements in an admirable manner, while at the same time remaining bound by these and other constraints. In fact, NNEPRA, and its executive director, Patricia Quinn, have repeatedly been held up as models for similar agencies in other states and have won many awards for their activities. In recognition of her ability and achievements, Ms. Quinn's colleagues have elected her to leadership positions in the national passenger rail arena.

The complaints leveled against NNEPRA which resulted in the OPEGA evaluation, as well as that evaluation itself, must be viewed against this background. In that context, and as shown by the Recommendations and the Brief, NNEPRA has performed splendidly. One example of this is the construction of the layover facility in Brunswick. Without that facility, Downeaster trains were forced to move between Portland and Brunswick each day in order to allow for overnight maintenance. Because these moves occurred late at night and early in the morning, the cost of providing passenger service on these moves exceeded offsetting revenues, so these trains were empty of passengers when they were moved. Even so, these moves added expenses to the operation of the Downeaster service for, among other things, fuel and crew costs. Additionally, the lack of a maintenance facility in Brunswick limited service north of Portland to two round trips a day, resulting in lower revenues than would otherwise be the case. This also resulted in a schedule which required at last one train set to stay in Brunswick for several hours, which, in turn, required the locomotive in that set to run during that time, creating additional expense, noise, and emissions. Last, but certainly not least, maintenance in Portland was outdoors, resulting in additional cost, hardship to workers, and inability to maintain the equipment as well as would be the case with an indoor facility.

In previous studies, NNEPRA had determined that the expansion of the Downeaster service north of Portland to Brunswick would not add any significant additional operational costs to that service if an indoor layover facility were to be constructed in Brunswick and trip frequency were increased to five round trips per day. Continuing use of the outdoor maintenance facility in Portland added several hundred thousand dollars to the cost of the expanded service. It also lowered anticipated revenues since the lack of a Brunswick facility limited service to two round trips per day. After additional study, NNEPRA proposed the construction of an indoor layover facility at what was termed the "Brunswick West" site, a proposal which met with strong opposition from a small group consisting primarily of some who lived near the proposed site.

NNEPRA's choice for the location of a layover facility was made only after it had received an August 2011 report from an engineering firm evaluating six potential sites. Based upon criteria such as environmental considerations, availability of land, site topography, utility connections, proximity to residences, land use compatibility, comparative operating and construction costs, road connections, and traffic impacts, that report determined that the Brunswick West site was the most appropriate for construction of the facility and this was, ultimately, the site chosen for construction. This was later supported by independent reports issued by MDOT in early 2013 which concluded that a facility at the Brunswick West site would cost far less, take much less time to construct, be more environmentally sound, and otherwise be more preferable, than a facility located at another site supported by those who opposed use of the Brunswick West location. NNEPRA's conclusion was also supported by the September 2013 Environmental Assessment prepared jointly by NNEPRA and the FRA for construction of the facility, as well as by the June 2014 Finding of No Significant Impact issued by the FRA. Thus, three separate agencies in four different studies concluded that the Brunswick West site was the one most suited for the facility.

Not only was the location of the facility, at the instigation of NNEPRA, well studied, the process for determining that location was also subject to numerous opportunities for public participation. During the period from April 21, 2011 through July 23, 2013, NNEPRA discussed facility construction at no less than 16 public meetings. This does not include the public hearings which were later held before the Maine Department of Environmental Protection and the Board of Environmental Protection as part of the storm water permitting process. Additionally, NNEPRA formed an advisory group (which included members who supported use of another site) to facilitate community comment on the design of the layover building. Members of the public, including opponents, were invited to, and did, attend many of these meetings and hearings, including meetings of the advisory group.

None of the above was sufficient to alleviate the concerns of at least some of those who opposed the Brunswick West site. Complete unanimity of public opinion cannot, however, be the standard to which a governmental agency is held. Instead, NNEPRA did what was mandated: after due study of the matter, it made a carefully reasoned decision to construct a facility that was necessary for the continued success of

passenger rail service in Maine, and also made major efforts to engage the public in the decision making process. Construction of the facility is now at or near completion.

A second example demonstrates additional constraints under which NNEPRA operates and shows that there are limits to its abilities for which it cannot be blamed. NNEPRA does not operate the Downeaster rail service, nor does it own any of the track over which that service runs. Instead, NNEPRA has contracted with Amtrak to operate the service, and Amtrak has entered into contracts with PanAm Railways and the Massachusetts Bay Transportation Authority to run that service over the rail lines owned by those entities. As a result, NNEPRA does not have any responsibility for, or ability to, maintain those rail lines or the trains which run over those lines. Regular track maintenance requires the replacement of rail ties and associated materials on a regular basis. A significant tie replacement program was scheduled to begin in the fall of 2014 on the PanAm portion of the line, but could not be started at that time because of a nation-wide shortage of ties. This deferred maintenance then combined with severe weather conditions during the winter and early spring of 2015-2015 to increase the scope of the required work, which, because of the earlier delay, had to commence in April 2015, the start of the service's busiest season. Furthermore, when the track conditions became known, the FRA imposed a restriction on the maximum speed at which trains could be operated, resulting in ongoing delays. Additionally, although ties had become available, PanAm, which controlled and performed the work, had trouble with some of its equipment, as well as with replacement equipment. This caused delays in the performance of the work, resulting in an extended and somewhat erratic construction period. During this delay, the FRA imposed speed limits remained in place. The upshot of this was that 543 trains were cancelled or interrupted during construction, and many others were delayed when they did run the full route. The delay and somewhat erratic construction schedule also made it difficult for NNEPRA and Amtrak to predict when work associated service delays and shutdowns would occur, which in turn affected their ability to provide passengers with advance notice of the same.

This work was entirely under the control of PanAm which itself suffered from unforeseen, unforeseeable, and, in many instances, unavoidable problems. Ridership plummeted because of actual delays and cancellations, as well as the uncertainty concerning the same. NNEPRA encouraged PanAm to take whatever steps it could to speed up the process, and apparently helped PanAm obtain some replacement equipment. It also worked with TrainRiders and TrainRiders' rail hosts to provide passengers with whatever information might be available about these problems.

The problems with the tie replacement program resulted in criticism of NNEPRA. This criticism is certainly understandable, but, given NNEPRA's inability to control the situation, is also unwarranted. NNEPRA itself did all that it could do, but was limited in its ability to directly ameliorate these problems. NNEPRA has continued to work closely with PanAm to ensure that a current tie replacement program does not face the same issues.

Finally, critics have also attempted to unjustifiably demonize the relationship between TrainRiders and NNEPRA. This relationship is completely above-aboard and understandable considering that: (a) TrainRiders was the driving force behind re-initiation of passenger rail service in Maine; (b) TrainRiders aided in the creation of NNEPRA; (c) TrainRiders' goals and objectives, to a large extent, mirror those of NNEPRA, and both it and NNEPRA are working towards the success of passenger rail service to, from, and within the State of Maine; and (d) TrainRiders operates an on-board host program by agreement with NNEPRA and Amtrak, and also provides hosts at several of the station stops for the Downeaster service. This does not mean that TrainRiders and NNEPRA agree on all things rail, but it does mean that the activities of TrainRiders and NNEPRA proceed from a common set of beliefs and result in activities which often overlap, necessitating both communication and coordination. NNEPRA's role in the same shows that it is working towards its statutorily mandated objectives, not that it is acting in any nefarious or untoward manner.

NNEPRA has been tasked with initiating, expanding, and maintaining passenger rail service to, from, and within the State of Maine. This is not a minor chore, but, instead, is a major undertaking, requiring coordination between multiple parties over several states at the local, regional, and even national level, as well as the administration of large sums of money, all while overseeing the continued operation of the Downeaster in a safe and prudent manner with a minimum of staffing. NNEPRA should be applauded for its successful efforts to bring an alternative mode of transportation to Maine and the region, and hopes that this Committee will not proceed further with investigations that have no significant benefit to the State and serve only to redirect scarce resources into unproductive avenues of inquiry.

TrainRiders appreciates this opportunity to express our views, and, as always, we are available to assist this Committee with passenger rail issues.

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