

**BRUNSWICK TOWN COUNCIL**  
**Agenda**  
**May 4, 2015**  
**7:00 P.M. – Regular Meeting**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Roll Call of Members**

**Acknowledgement of Meeting Notice**

**Pledge of Allegiance**

**Adjustments to Agenda**

**CONSENT AGENDA**

- (a) Approval of the minutes of April 16, 2015
- (b) Approval of the minutes of April 27, 2015
- (c) Appointment of Fran Smith as Warden and Elin Gould, Sara King, and Joe Zrioka as Deputy Wardens for the June 9, 2015 Election
- (d) Proclamation recognizing Town Commons Day

**Public Comments**

**Correspondence**

**Committee Reports**

**MANAGER’S REPORT:**

- (a) Report from the Memorial Day Committee
- (b) Report from the Brunswick Development Corporation

**NEW BUSINESS**

- 48. The Town Council will consider the issue of trains idling in Brunswick, and take any appropriate action. (Councilor Perreault and Councilor Millett)

**ACTION**
  
- 49. The Town Council will consider setting a public hearing for May 18, 2015, on ordinance amendments to Chapter 13 “Solid Waste” of the Brunswick Municipal Code regarding disposal fees for Town contracted residential curbside collection, and will take any appropriate action. (Manager)

**ACTION**

50. The Town Council will consider giving the Town permission to apply for a Coastal Communities grant from the Maine Coastal Program (a program of the Department of Agriculture, Conservation, and Forestry), and will take any appropriate action. (Councilor Walker)

**ACTION**

51. The Town Council will consider appointments to the Town's Boards and Committees, and will take any appropriate action. (Appointments Committee)

**ACTION**

**INDIVIDUALS NEEDING AUXILIARY AIDS FOR EFFECTIVE  
COMMUNICATION SHOULD CONTACT  
THE TOWN MANAGER'S OFFICE AT 725-6659 (TDD 725-5521)**

**Brunswick Town Council  
Agenda  
May 4, 2015  
Council Notes and Suggested Motions**

**CONSENT AGENDA**

- (a) Approval of the minutes of April 16, 2015: A copy of the minutes will be included in your packet.
- (b) Approval of the minutes of April 27, 2015: A copy of the minutes will be included in your packet.
- (c) Appointment of Fran Smith as Warden and Elin Gould, Sara King, and Joe Zrioka as Deputy Wardens for the June 9, 2015 Election: As required under M.R.S.A. Title 21-A, Section 501(2), the municipal officers shall appoint a warden and may appoint one or more deputy wardens to assist in the duties on Election Day. The Clerk recommends the Council appoint those listed above for the upcoming election.
- (d) Proclamation recognizing Town Commons Day: On an annual basis, the Town Council proclaims Town Commons Day. This year the May 8th date will represent the 296<sup>th</sup> anniversary of the date the Pejepscot Proprietors granted land to the Town of Brunswick. A copy of the Proclamation is included in your packet.

*The Council has the option to remove any item from the Consent Agenda to be considered separately.*

*Suggested Motion:*

Motion to approve the Consent Agenda.

**COUNCIL COMMITTEE UPDATES:**

Councilors with information on the Committees they are involved with will share information with the Council and public.

**MANAGER'S REPORT:**

- (a) Report from the Memorial Day Committee: This item is a report from this Committee on the upcoming parade.
- (b) Report from the Brunswick Development Corporation: This report, provided by Manager Eldridge and Linda Smith, reports on the activities of the BDC. Councilor Kathy Wilson and Dan Harris serve on the BDC Board of Directors and may wish to add to the discussion.

**NEW BUSINESS**

- 48. Councilors Perreault and Millett have sponsored this item. At your June 16, 2014 meeting, the Town Council voted, "to authorize the Town Manager and Councilor Perreault to attend the June 23, 2014 NNEPRA meeting and also write a letter requesting NNEPRA install a commercial power supply plug at Cedar Street." The Town Manager attended the meeting and delivered the attached letter.

At the Council's April 27, 2015 meeting, Patricia Quinn, Executive Director of NNEPRA announced that the NNEPRA Board was supportive of head-end (480v station) power and that NNEPRA's preferred location for the unit was the Brunswick West site. Ms. Quinn indicated that NNEPRA would consider the Town's input on the location.

Copies of the sponsoring Councilors' memo, along with supporting photos and materials, NNEPRA provided information on both a yard power cost estimate dated July 2014 and a previously drafted Brunswick Training Idling Committee, as well as Manager Eldridge's letter to NNEPRA dated June 23, 2014, are included in your packet.

Suggested motions:

Motion 1:

Motion that the Town of Brunswick encourages NNEPRA to investigate, purchase, and install a wayside power station, to include power, battery charging, air compressor, and other components required to allow to a shut-down of the locomotives when the air temperature exceeds 45 degrees.

Motion 2:

Motion that the Town of Brunswick's preferred location for a wayside power station, as described in the previous motion, is Maine Street Station.

49. This item is to consider setting a public hearing for May 18, 2015, on ordinance amendments to Chapter 13 "Solid Waste" of the Brunswick Municipal Code regarding disposal fees for residential curbside collection. Solid waste disposal fees at the Graham Road Landfill are governed by this ordinance and the proposed amendment would allow the Town to contractually reduce the solid waste fees as part of its contract to provide residential curbside rubbish collection as funded by the budget. The purpose of the amendment is to allow a discounted disposal fee in return for a reduction in the contract charge for curbside residential rubbish collection. Copies of a memo from Manager Eldridge and the proposed language are included in your packet.

Suggested motion:

Motion to set public hearing for May 18, 2015, on ordinance amendments to Chapter 13 "Solid Waste" of the Brunswick Municipal Code regarding disposal fees for Town contracted residential curbside collection.

50. This item, sponsored by Councilor Walker, is for the Council to consider giving the Town permission to apply for a Coastal Communities grant from the Maine Coastal Program (a program of the Department of Agriculture, Conservation, and Forestry.) The purpose of the grant request would be to fund work necessary to complete a Mare Brook Watershed Based Management Plan. The goal of the plan will be to:
- 1) To develop, facilitate and engage an action-oriented stakeholder group and technical advisory team to advise and oversee watershed assessments and the development a 10 year implementation plan.

- 2) To conduct detailed watershed assessments including a stream corridor assessment and a green infrastructure reconnaissance inventory.
- 3) To produce a detailed and user-friendly watershed based management plan that will outline a course of action to bring the stream into class B attainment levels.

At the February 23, 2015 meeting of the Brunswick Town Council, action was taken to approve the submission of a letter to the Maine Department of Environmental Protection expressing the Town of Brunswick's interest in identifying funding for a watershed plan for Mare Brook. Since that time, the town has been encouraged to apply for Maine Coastal Program funds given direct benefits to the coastal waters of Harpswell Cove from addressing intown stormwater issues along the Mare Brook drainage. The Maine Coastal Program funds have a lower match requirement (25%) than the MDEP grant source. If approved, the town will apply for a \$50,000 grant with the \$15,000 match requirement being met as in-kind contribution (volunteer hours) from town committees, citizens, Friends of Casco Bay, Maine Coast Heritage Trust, and other entities participating on the technical advisory committee. Town staff time commitments will be held to a minimum.

Suggested motion:

Motion to give the Town permission to apply for a Coastal Communities grant from the Maine Coastal Program (a program of the Department of Agriculture, Conservation, and Forestry.)

51. At this time the Appointments Committee will make nominations to fill vacancies on Town Boards and Committees. Copies of the Appointment Committee's report and the applications are included in your packet.

Suggested Motion:

Nominations will be made, with no seconds required, and the Council will then vote on the nominations.

Suggested Motion:

Motion to adjourn the meeting.

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# CONSENT AGENDA - A BACK UP MATERIALS

**Draft**  
**BRUNSWICK TOWN COUNCIL**  
**Special Meeting Minutes**  
**and Budget Workshop**  
**April 16, 2015**  
**7:00 P.M.**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Councilors Present:** W. David Watson, Stephen S. Walker, John M. Perreault, Daniel E. Harris, Sarah E. Brayman, Katherine E. Wilson, and John Richardson, Jr.

**Councilors Absent:** Councilors Suzan Wilson and Jane F. Millett

**Town Staff Present:** John S. Eldridge, III, Town Manager; Fran Smith, Town Clerk/Assistant to the Town Manager; Julie Henze, Finance Director; Linda Smith, Business Development Manager; and TV video crew

Chair Brayman called the meeting to order, asked the Clerk for roll call, acknowledged that the meeting was properly noticed, and led the Pledge of Allegiance.

**Adjustments to Agenda:** None

**PUBLIC HEARING**

**37. The Town Council will hear public comments on a CDBG application for Gelato Fiasco, and to adopt “A Resolution Authorizing the Acceptance and Expenditure of Community Development Block Grant Funds for Projects Undertaken by Gelato Fiasco, Inc,”and will take any appropriate action. (Manager)**

Chair Brayman opened the public hearing.

Linda Smith, Business Development Manager, introduced this item.

**Richard Fisco**, 2 Lincoln Street, spoke regarding this item, and, more generally, on CDBC grants.

Chair Brayman closed the public hearing.

**MOTION:**

**Councilor Richardson moved, Councilor K. Wilson seconded, to adopt “A Resolution Authorizing the Acceptance and Expenditure of Community Development Block Grant Funds for Projects Undertaken by Gelato Fiasco, Inc.”**

Councilor Richardson spoke regarding this item.

**VOTE ON MOTION:**

**Councilor Richardson moved, Councilor K. Wilson seconded, to adopt “A Resolution Authorizing the Acceptance and Expenditure of Community Development Block Grant Funds for Projects Undertaken by Gelato Fiasco, Inc.” The motion carried with six (6) yeas.**

*(A copy of the adopted resolution and a memo from Ms. Smith are attached to the official minutes.)*

**NEW BUSINESS**

- 38. The Town Council will consider adopting “A Resolution Authorizing the Acceptance and Expenditure of Community Development Block Grant Funds for Projects to be Undertaken by Frosty’s Donuts, LLC,” and will take any appropriate action.  
(Manager)**

Linda Smith, Business Development Manager, introduced this item.

Councilor Perreault asked questions, to which Ms. Smith and Stacey Durrell, Operations Manager for Frosty’s, responded.

Councilor Watson arrived at the meeting at this point.

Chair Brayman spoke regarding this item.

Councilor Harris spoke regarding this item and asked questions, to which Ms. Smith and Ms. Durrell responded.

Public comments

**Richard Fisco**, 2 Lincoln Street, spoke regarding this item.

**Chair Brayman moved, Councilor Harris seconded, to adopt “A Resolution Authorizing the Acceptance and Expenditure of Community Development Block Grant Funds for Projects to be Undertaken by Frosty’s Donuts, LLC.”**

Councilor Richardson and Councilor Perreault spoke regarding this item.

**Chair Brayman moved, Councilor Harris seconded, to adopt “A Resolution Authorizing the Acceptance and Expenditure of Community Development Block Grant Funds for Projects to be Undertaken by Frosty’s Donuts, LLC.” The motion carried with seven (7) yeas.**

*(A copy of the adopted resolution and a memo from Ms. Smith are attached to the official minutes.)*

**Town Council minutes**

**April 16, 2015**

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**Additional items:**

- 1) Chair Brayman appointed Councilor Harris to be the Council representative to union negotiations for Parks and Recreation maintenance workers.
- 2) Manager Eldridge spoke regarding TIGER grants and the pre-application process for a parking garage and extension of the Bicycle Path. This will come back at the April 27<sup>th</sup> Council meeting.

**Recess the meeting to go into a workshop on the proposed municipal budget.**

**Councilor Walker moved, Councilor Watson seconded, to recess the meeting to go into a budget workshop. The motion carried with seven (7) yeas.**

**The meeting was resumed after the workshop.**

**Executive Sessions:**

- a) Consultations with legal counsel regarding pending or contemplated litigation [1 M.R.S.A. §405(6)(E)] and
- b) Labor Negotiations [1 M.R.S.A. §405(6)(D)]

**Chair Brayman moved, Councilor Walker seconded, to go into executive session for a consultation with legal counsel regarding pending or contemplated litigation [1 M.R.S.A. §405(6)(E)] and to discuss Labor Negotiations [1 M.R.S.A. §405(6)(D)] The motion carried with seven (7) yeas.**

**Councilor Watson moved, Councilor K. Wilson seconded, to adjourn the meeting. The motion carried with seven (7) yeas.**

The meeting adjourned at 10:38 p.m.

**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT WWW.BRUNSWICKME.ORG.**

*Frances M. Smith  
Town Clerk  
April 24, 2015*

May 4, 2015  
*Date of Approval*

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*Council Chair*

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# CONSENT AGENDA - B BACK UP MATERIALS

**Draft**  
**BRUNSWICK TOWN COUNCIL**  
**Minutes**  
**April 27, 2015**  
**7:00 P.M. – Regular Meeting**  
**Council Chambers**  
**Town Hall**  
**85 Union Street**

**Councilors Present:** W. David Watson, Stephen S. Walker, Suzan Wilson, John M. Perreault, Daniel E. Harris, Jane F. Millett, Sarah E. Brayman, Katherine E. Wilson, and John Richardson, Jr.

**Councilors Absent:** None

**Town Staff Present:** John S. Eldridge, III, Town Manager; Fran Smith, Town Clerk/Assistant to the Town Manager; Steve Langsdorf, Town Attorney; Richard Rizzo, Police Chief; Anna Breinich, Director of Planning and Development; Tom Farrell, Director of Parks and Recreation; John Foster, Public Works Director; Julie Henze, Finance Director; Linda Smith, Business Development Manager; Terry Goan, Police Officer; and TV video crew

Chair Brayman called the meeting to order, asked the Clerk for roll call, acknowledged that the meeting was properly noticed, and led the Pledge of Allegiance.

**Adjustments to Agenda - None**

**CONSENT AGENDA** *(This item was discussed at 7:03 p.m.)*

- a) **Approval of the minutes of April 6, 2015**
- b) **Appointment of Jeff Hutchinson as Codes Officer and Local Plumbing Inspector with a term to expire on 05/03/2016**
- c) **Appointment of Carl Adams as alternate Codes Officer and alternate Local Plumbing Inspector with a term to expire on 05/03/2016**
- d) **Approval of a Quitclaim Deed for the mobile home on land depicted as Map 051 Lot 001 Sub 000 Typ 181**
- e) **Approval of a Quitclaim Deed for the mobile home on land depicted as Map 045 Lot 003 Sub 000 Typ 034**
- f) **Approval of a Quitclaim Deed for a certain parcel of land with any buildings depicted as Map U16 Lot 033 Sub 000 Typ 000**
- g) **Permission to accept and expend a grant from the Department of Homeland Security, for \$2,350 to purchase a “Forensic Photographic Table”**  
Items below require public input, so it is suggested they be removed from the Consent Agenda to allow for comments from those requesting Council action.
- h) **Approval Poem in Your Pocket Proclamation**
- i) **Approval of a Welcome to Brunswick Gateway Sign**

Councilor Perreault requested that item CA(g) be considered separately.

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**Councilor Perreault moved, Councilor Millett seconded, to approve the Consent Agenda items (a) through (f). The motion carried with nine (9) yeas.**

Item CA(g)

Chief Rizzo spoke regarding this item and responded to questions from Councilor Perreault and Councilor Harris.

**Councilor Perreault moved, Councilor Watson seconded, to approve item CA(g), a grant from the Department of Homeland Security, for \$2,350 to purchase a “Forensic Photographic Table.” The motion carried with nine (9) yeas.**

Item CA(h)

**Kathy Koerber**, organizer of Poem in your Pocket Day, spoke regarding this item.

**Councilor Millett moved, Councilor K. Wilson seconded, to approved item CA(h), for the Poem In Your Pocket Proclamation. The motion carried with nine (9) yeas.**

Item CA(i)

Manager Eldridge and **Debora King** from BDA spoke regarding this item.

Councilor Watson spoke regarding this item.

**Councilor Millett moved, Councilor Harris seconded, to approve item CA(i), for the Welcome to Brunswick Sign. The motion carried with nine (9) yeas.**

*(A copy of supporting materials for Items CA(d), CA e), CA(f), CA (g), CA(h) and CA(i) will be attached to the official minutes.)*

**Public Comments** *(This item was discussed at 7:15 p.m.)*

None

**Correspondence** *(This item was discussed at 7:15 p.m.)*

None

**Committee Reports** *(This item was discussed at 7:15 p.m.)*

Councilor S. Wilson spoke regarding the Teen Center’s fund raiser at Gelato Fiasco on April 29th.

**MANAGER’S REPORT:**

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- (a) Report from Northern New England Passenger Railway Authority (NNEPRA)** *(This item was discussed at 7:18 p.m.)*

**Patricia Quinn**, Executive Director of NNEPRA, provided a presentation on this item.

Councilor Walker, Councilor Perreault, Councilor Harris, Councilor Millett, and Councilor Richardson asked questions, to which Ms. Quinn responded.

Councilor Perreault announced that he will be bringing an agenda item for the next Council meeting, regarding a request for a wayside station to be installed by NNEPRA.

*(A copy of the presentation will be attached to the official minutes.)*

- (b) Report from the Brunswick Downtown Association** *(This item was discussed at 8:17 p.m.)*

**Debora King**, Executive Director, provided this report. She responded to questions from Councilor Richardson.

Councilor Perreault spoke regarding this item.

- (c) Report from the Downtown and Outer Pleasant Street Master Plan Implementation Committee** *(This item was discussed at 8:31 p.m.)*

**Margo Knight**, Committee Chair, provided this report.

- (d) Financial Update** *(This item was discussed at 8:41 p.m.)*

Manager Eldridge provided this update.

- (e) Update of budget workshop and meeting schedule** *(This item was discussed at 8:42 p.m.)*

Manager Eldridge provided this update.

- (f) Recognition of Government Finance Officers Association's Certificate of Achievement** *(This item was discussed at 8:44 p.m.)*

Manager Eldridge spoke regarding this award.

- (g) Report on nominations for the MMA Executive Committee and Vice President** *(This item was discussed at 8:45 p.m.)*

Manager Eldridge provided this update.

- (h) Report on Growstown School** *(This item was discussed at 8:46 p.m.)*

Manager Eldridge provided this update.

*(A copy of a memo from Manager Eldridge will be attached to the official minutes.)*

**(i) Report on spring cleanup services** *(This item was discussed at 8:47 p.m.)*

Manager Eldridge provided this update.

**PUBLIC HEARINGS**

**39. The Town Council will hear public comments on special amusement license applications, and will take any appropriate action. (Manager)** *(This item was discussed at 8:47 p.m.)*

**Special Amusement**

**BATS LLC  
D/B/A: McAvoy's On The Green  
165 River Road**

**Timothy Troy Kavanaugh**

**Hung Alan Hoang  
D/B/A: Lemongrass LLC  
212E Maine Street**

**Hung Alan Hoang**

Chair Brayman opened the public hearing.

Fran Smith, Town Clerk, introduced this item.

Chair Brayman closed the public hearing.

**Councilor S. Wilson moved, Councilor Millett seconded, to approve special amusement license applications for McAvoy's On The Green, located at 165 River Road, and Lemongrass, located at 212E Maine Street. The motion carried with nine (9) yeas.**

**40. The Town Council will hear public comments regarding amendments to the Municipal Code of Ordinance, Chapter 15 "Traffic and Vehicles" Article VI "Stopping, Standing, Parking" Section 15-76, regarding proposed changes to on-street parking regulations for the west side of Federal Street, which would allow a sharrow and bike lane, and will take any appropriate action. (Councilor K. Wilson)** *(This item was discussed at 8:49 p.m.)*

Chair Brayman opened the public hearing.

Councilor K. Wilson introduced this item.

**Richard Cromwell**, Co-Chair of BBPAC, spoke regarding this item. He responded to questions from Councilor Millett and Councilor Perreault.

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Councilor Millett spoke regarding this item.

The following citizens spoke during the public hearing:

**John Blood**, Woodside Road and member of BBPAC

Merrymeeting Wheelers representative

**Charles Cary**, Harpswell Resident and member of biking groups

**Jeannette MacNeille**, Topsham resident

Chair Brayman closed the public hearing.

**Councilor K. Wilson moved, Councilor Watson seconded, to adopt amendments to the Municipal Code of Ordinance, Chapter 15 “Traffic and Vehicles” Article VI “Stopping, Standing, Parking” Section 15-76, regarding proposed changes to on-street parking regulations for the west side of Federal Street, which would allow a sharrow and a bike lane. The motion carried with nine (9) yeas.**

*(A copy of the adopted amendments will be attached to the official minutes.)*

**NEW BUSINESS**

- 41. The Town Council will consider setting the Charter required public hearing for May 14, 2015, on the proposed Municipal Budget for 2015-2016 and Capital Improvement Plan for 2016-2020, and will take any appropriate action. (Manager) (This item was discussed at 9:06 p.m.)**

Manager Eldridge introduced this item.

There were no public comments.

**Councilor Millett moved, Councilor S. Wilson seconded, to set the Charter required public hearing for May 14, 2015, on the proposed Municipal Budget for 2015-2016 and Capital Improvement Plan for 2016-2020. The motion carried with nine (9) yeas.**

- 42. The Town Council will consider adopting “A Resolution Authorizing an Appropriation from Recreation Impact Fees for the Purpose of Funding Costs of the Development and Construction of a Bike/Pedestrian Path Beginning at the Terminus of Pine Street and Connecting to the Perimeter Road at Brunswick Landing,” and will take any appropriate action. (Manager) (This item was discussed at 9:09 p.m.)**

Manager Eldridge introduced this item.

Councilor Walker and Councilor Perreault asked questions, to which John Foster, Public Works Director, responded.

**Catherine Ferdinard**, Bowdoin College, spoke regarding this item.

Councilor S. Wilson spoke regarding this item.

Jeannette MacNeille, Topsham resident, spoke regarding this item.

**MOTION:**

**Councilor K. Wilson moved, Councilor Watson seconded, to adopt “A Resolution Authorizing an Appropriation from Recreation Impact Fees for the Purpose of Funding Costs of the Development and Construction of a Bike/Pedestrian Path Beginning at the Terminus of Pine Street and Connecting to the Perimeter Road at Brunswick Landing.”**

Councilor Harris, Councilor K. Wilson, Councilor Millett, Councilor Watson, and Councilor Walker spoke regarding this item.

Manager Eldridge spoke again on this item.

**Councilor K. Wilson moved, Councilor Watson seconded, to adopt “A Resolution Authorizing an Appropriation from Recreation Impact Fees for the Purpose of Funding Costs of the Development and Construction of a Bike/Pedestrian Path Beginning at the Terminus of Pine Street and Connecting to the Perimeter Road at Brunswick Landing.” The motion carried with eight (8) yeas. Councilor Harris was opposed.**

*(A copy of the adopted resolution will be attached to the official minutes.)*

43. **The Town Council will consider setting a public hearing for May 18, 2015, regarding ordinance amendments relative to increasing permit fees for Street Openings, Street Entrances, and Street Obstruction, and will take any appropriate action. (Manager) (This item was discussed at 9:36 p.m.)**

Manager Eldridge introduced this item.

Councilor Perreault abstained due to the fact that his business would be affected by any fee changes.

Councilor Walker asked a question, to which Manager Eldridge responded.

**Councilor S. Wilson moved, Councilor Watson seconded, to set a public hearing for May 18, 2015, on ordinance amendments relative to increasing permit fees for Street Openings, Street Entrances, and Street Obstruction. The motion carried with eight (8) yeas. Councilor Perreault abstained.**

44. **The Town Council will consider giving the Town permission to apply for a Shore and Harbor Planning grant through the Maine Coastal Program, and will take any appropriate action. (Manager) (This item was discussed at 9:42 p.m.)**

Dan Devereaux introduced this item.

Manager Eldridge spoke regarding this item.

**Councilor Millett moved, Councilor Walker seconded, to grant permission to the Town to apply for a Shore and Harbor Planning grant through the Maine Coastal Program in the amount of \$30,000. The motion carried with nine (9) yeas.**

*(A copy of a memo from the Rivers and Coastal Waters Commission will be attached to the official minutes.)*

45. **The Town Council will consider amending the by-laws of the Brunswick Cable TV Advisory Committee, and take any appropriate action. (Councilor Watson)**  
*(This item was discussed at 9:45 p.m.)*

Councilor Watson introduced this item.

Councilor Walker and Councilor Millett spoke regarding this item.

**MOTION:**

**Councilor Watson moved, Councilor Millett seconded, to approve amendments to the by-laws of the Brunswick Cable TV Advisory Committee to change the Library representative to a School Department member and to name the IT Cable Manager as the staff person, along with adjustments to the records section.**

Councilor Harris and Councilor Richardson spoke regarding this item.

Chair Brayman asked a question, to which Councilor Watson responded.

**VOTE ON MOTION:**

**Councilor Watson moved, Councilor Millett seconded, to approve amendments to the by-laws of the Brunswick Cable TV Advisory Committee to change the Library representative to a School Department representative, to name the IT Cable Manager as the committee staff person, and to change and clarify the Access and Records section from maintaining minutes to maintaining a record of each meeting. The motion carried with nine (9) yeas.**

*(A copy of adopted changes will be attached to the official minutes.)*

46. **The Town Council will consider authorizing the Town to participate in the pre-application process for TIGER grants for the completion of the Androscoggin River Bike and Pedestrian Path and the creation of a parking facility near Town Hall, and will take any appropriate action. (Manager)** *(This item was discussed at 9:51 p.m.)*

Manager Eldridge introduced this item.

Councilor Perreault requested to add another parking facility at the municipal lot on Bank Street.

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Councilor Harris requested to include a quiet zone for the railroad.

Manager Eldridge spoke again regarding this item.

Councilor Richardson requested a traffic circle at Pleasant Street and Stanwood Street be considered.

Councilor Millett suggested sidewalk resurfacing to be considered.

**Councilor S. Wilson moved, Councilor Watson seconded, to authorize the Town to participate in the pre-application process for TIGER grants relative to the completion of the Androscoggin River Bike and Pedestrian Path (in the amount of \$2.2 million) and creating a parking facility near Town Hall (in the amount of \$5 million.)**

**Councilor Harris moved, Councilor Millett seconded, to table this item. The motion failed with three (3) yeas. Councilor Watson, Councilor Walker, Councilor S. Wilson, Councilor Perreault, Chair Brayman, and Councilor K. Wilson were opposed.**

**MOTION WITHDRAWN:**

**Councilor S. Wilson moved, Councilor Watson seconded, to authorize the Town to participate in the pre-application process for TIGER grants relative to the completion of the Androscoggin River Bike and Pedestrian Path (in the amount of \$2.2 million) and creating a parking facility near Town Hall (in the amount of \$5 million.)**

**MOTION:**

**Councilor Watson moved, Councilor Millett seconded, to hold special meeting on April 30, 2015, to finalize the Councilor's choices for the TIGER Grant projects to allow time for staff to research and evaluate newly suggested projects. The motion carried with nine (9) yeas.**

**Councilor Watson moved, Councilor Walker seconded, to adjourn the meeting. The motion carried with nine (9) yeas,**

The meeting adjourned at 10:07 p.m.

**PLEASE NOTE: THESE MINUTES ARE ACTION MINUTES. THE ENTIRE MEETING CAN BE VIEWED AT [WWW.BRUNSWICKME.ORG](http://WWW.BRUNSWICKME.ORG).**

*Frances M. Smith  
Town Clerk  
April 28, 2015*

May 4, 2015  
*Date of Approval*

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*Council Chair*

**CONSENT AGENDA - C**  
**NO BACK UP MATERIALS**

# CONSENT AGENDA - D BACK UP MATERIALS



## TOWN OF BRUNSWICK

### PROCLAMATION

**WHEREAS,** *the Pejepscot Proprietors by their vote of May 8, 1719, granted land to “Ly in General and perpetual Comonage” to the Town of Brunswick; and*

**WHEREAS,** *May 8, 2015 is the 296th anniversary of that vote,*

**THEREFORE,** *We the TOWN COUNCIL OF BRUNSWICK, the successors in office of the Selectmen, being mindful of the history and heritage of our Town, respectful of the inspiring wisdom of the first Planners of our community, and proud of the part they have played in preserving to our use a portion of the lands with which they were so richly endowed, knowing full well our later needs in that respect,*

**DO HEREBY PROCLAIM** *May, 4, 2015, as TOWN COMMONS DAY*

*Signed this 4th day of May, 2015*

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*Sarah E. Brayman  
Brunswick Town Council Chair*

# **PUBLIC COMMENT**

## **Statement to Town Council on Test of Reasonableness**

**4 May 2015**

- Good evening; I'm Mr. Schaeffer from Crestview Lane. I'm a local blogger; some on the council call me Mr. Grumpy.
- I'm an engineer by training, and early in my education, I was taught what was then called the "test of reasonableness." We were using slide-rules back then, and if you know anything about them, you know you can get the right answer, or wildly wrong ones. So you learned to look at the problem you were solving and do a rough mental estimate of what the answer should be. You compared it to your calculated answer to see if it was reasonable by being in the same range. Most know if oranges are 79 cents each, and you're buying six, the total price shouldn't be under three dollars, and it shouldn't be over six dollars, even if you can't do the math in your head.
- The same general concept applies in less precision oriented pursuits like discussions of public projects and proposals. In this domain, the 'test of reasonableness' is most often called the smell test, or the straight-faced test.
- Such testing needs to be applied to what we hear from NNEPRA, their experts, and their advocates.
- Let me give you some examples:
  - We're told there is strong demand for rail service to towns beyond Brunswick, yet bus service to those towns is only lightly used, but could be easily expanded if necessary.
  - Many times we've been told Amtrak diesels can't be completely shut down, and even if they could, they wouldn't, for fear of not starting, and excess wear and tear on the engines. Other times we're told sure, we can completely shut them down, but only inside a Layover facility. With the right equipment.

- We're told the MLF will reduce train movements and grade crossings, yet the Environmental Assessment says there will be 20 train movements a day between the MLF and the station with expanded Brunswick service, not allowing for expansions beyond that.
- We're told that NNEPRA has no interest in anything beyond the core Brunswick-Portland-Boston service, yet if you look at the Strategic Initiatives posted on their web page, they talk of expanding to other communities in Maine, other states, and Montreal.
- As a matter of fact, chart number 34 used last week says there are NO PLANS to expand Amtrak Downeaster service beyond it's Brunswick-Boston route. Chart number 6, on the other hand, mentions constraints on 'future growth of the Downeaster or any feeder services.' Specific names for trains may be a common convention, but should not matter when counting trains.
- They say their projects and initiatives must be based on a sustainable economic model, yet they operate at a 50% loss, and revenue from the Brunswick extension probably doesn't even cover fuel expenses, or other costs like taxi service back and forth to Portland.
- They also say their projects and initiatives should feature demonstrably positive economic return and public benefit, yet whenever I've suggested testing that premise, all we get are grandiose projections done by consultants years ago, with a steadfast refusal to collect real data in the current local economy.
- Meanwhile, Brunswick has a retail space vacancy factor five times greater than Portland, and Ms. Quinn and others rave that adding more service in Brunswick will allow one day trips south to see Red Sox games and enjoy other big city delights.
- In other words, if you haven't figured out what I mean when I use the term “sucking sound,” it's time you do.
- It's well known that the highest ridership depots on the Downeaster

are in New Hampshire and Massachusetts, but from what I know, those states don't provide any subsidy for the service, like Maine does.

- It's been claimed over and over that unless the Brunswick MLF is built, service to Brunswick will have to be shut down, yet it continues to run without the facility. A former Chair of the Town Council took strong exception to this claim some years back when he spoke publicly on the subject. He suggested the Layover Facility is, instead, part of a 'too big to let die' strategy to ensure that Brunswick stays on the Downeaster route, whether it makes any sense or not, from any perspective.
- We've been told for some time the Layover Facility belongs in Brunswick, because it's 'the end of the line.' Suddenly, it's become the 'head of the line.' Even though talk of service extension to Rockland, and perhaps other destinations, would obviously be via Brunswick.
- Last week, Ms. Quinn stated NNEPRA may have to build another Layover facility in Lewiston to accommodate expanded service in that direction.
- Duplicity and speculation often seem the order of the day. Idle stop technology, they said, would need to be added to the entire Amtrak fleet recently, though a quick check proved that's not true.
- I enjoy the writing of economist Thomas Sowell. One of his books is called a Conflict of Visions. In other works he talks about the Vision of the Anointed.
- It occurs to me those terms might well apply in our current circumstances. We hear of 'visions' from those in positions of power, even when they conflict with themselves, and even worse, conflict with reality.
- All in all, it seems to me the 'test of reasonableness' does not apply favorably to what we've been told in recent years. Changing answers

and pronouncements to meet circumstances of the moment doesn't pass the straight-faced test. Reshaping words to match current situations and atmospherics doesn't invite confidence, or inspire trust.

- In closing, I recently posted a humorous item where I imagined what I would do if I was Grand High Poohbah of Brunswick. No doubt it caused a run on smelling salts in local pharmacies. I said in the post that I would direct the council and key staff to take a tour of the Bouchard Drive neighborhood and residences, and to stand track-side as a Downeaster idled nearby, before arranging any visit with Ms. Quinn to the Portland Station.
- My call on this was no joke; I staunchly believe you have an obligation to do so before submitting yourselves to a professionally orchestrated show at the transportation center. You need to know exactly what's at stake for town residents, who've been taking it on the chin for years, so a relatively few area residents can yield to the suction drawing them and their dollars to points south.



# NNEPRA Strategic Initiatives

Adopted January 24, 2014

The NNEPRA Board of Directors is committed to the continued growth and development of passenger rail service to and within Maine. The Board has determined that any initiatives or projects undertaken by the organization must:

- Support and/or enhance the existing core service
- Provide a transportation benefit to the public
- Remain consistent with State and/or regional Rail Plans
- Demonstrate positive economic return and public benefit
- Include a sustainable financial model

The Board has established the following Strategic Objectives and associated Initiatives to be pursued as appropriate to support and develop passenger rail:

- Strengthen and maximize the efficiency of the existing core (Brunswick to Boston) Downeaster service.
  - Complete Downeaster Priority Projects
    - Brunswick Layover
    - Royal Siding
    - Portland Wye
  - Explore feasibility of a seasonal station stop in Kennebunk
  - Reduce Downeaster travel time
  - Increase frequency of Downeaster to 6 or 7 daily round trips between Portland and Boston
- Facilitate the development and operation of feeder services which enhance Downeaster efficiency.
  - Lewiston/Auburn
  - Mid-coast Maine (Wiscasset / Rockland)
  - Augusta
  - Gorham/Standish
- Work with stakeholders to support the development of a new multi-modal transportation center on Thompson's Point in Portland.
- Explore the feasibility of developing new passenger rail service to additional communities as appropriate.
  - Montreal
  - Worcester/New York City



NNEPRA Board of Directors, Chairman,  
Martin Eisenstein.

NNEPRA welcomes input regarding the development of passenger rail services and suggests that proposals submitted to NNEPRA:

- Demonstrate how the project will enhance core or existing service(s) and/or will not be a detriment to core or existing service(s).
- Outline transportation and public or other economic benefits expected to be created as a result.
- Include a detailed operating plan and explanation of the service proposed including frequency, rolling stock, schedule, stations, management plan and equipment maintenance plan.
- Include detailed capital plan and operating plans supported by host railroads and operating partners.
- Include a detailed financial pro-forma which includes the required investments in infrastructure, rolling stock and facilities, stations and other assets and identifies all private and public funding sources.
- Include a detailed financial pro-forma which includes revenue projections, operating costs and a plan for the sustained funding of operating costs, including private and public funding sources.

# MANAGER'S REPORT - A NO BACK UP MATERIALS

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# MANAGER'S REPORT - B BACK UP MATERIALS



# Town of Brunswick, Maine

INCORPORATED 1739

ECONOMIC AND COMMUNITY

DEVELOPMENT

28 FEDERAL STREET

BRUNSWICK, MAINE 04011-2418

TELEPHONE 207-721-0292

FAX 207-725-6663

## MEMORANDUM

**TO:** Brunswick Town Council  
**FROM:** Linda Smith, Business Development Manager  
**SUBJECT:** Brunswick Development Corporation Update  
**DATE:** May 4, 2015

As requested, this memo and the accompanying chart serve as the basis for an update to the Town Council on the Brunswick Development Corporation's lending activities. The Brunswick Development Corporation was established on February 9, 1995, by the Brunswick Town Council as a local economic development corporation. It was formed to encourage and promote the development of business enterprises within the Town for purposes of stimulating economic development in the Town by, among other things, providing incentives for businesses to locate and expand in Brunswick and to construct and expand facilities incorporating new techniques, and for purposes of maintaining and improving the economic health of the Town, lessening the burdens of government, and providing for additional employment opportunities and increased tax base within the Town.

A major effort by the BDC in recent years has been to support economic opportunities through its lending and grant efforts. The investments in Brunswick Landing's TechPlace and the Brunswick Downtown Association's Façade Improvements program have been described in other venues. The loan program efforts are the focus for tonight's update.

The attached chart summarizes the loan activities of the Brunswick Development Corporation (BDC) for 2012 to present. The BDC has made eight (8) loans totaling \$1,041,400 to six (6) Brunswick businesses in that time period. As a result of this lending activity, the following job creation activity has been generated: thirty-six (36) full time equivalent (FTE) positions, twelve (12) contractual positions, and twenty-one (21) part-time positions. All of the businesses are current on their loan payments and performance requirements. Four of the businesses' loans have a forgiveness clause, which means they must meet and sustain their performance requirements throughout the loan period in order to repay a portion of the loan when the loan term is complete. At Last... Spa & Salon, Frosty's Donuts, Gelato Fiasco and Brunswick Taxi would repay at a 50%, 50%, 50% and 100% level respectively.

The BDC lending program focuses on small businesses in need of a development corporation's investment in order to make a project viable and create employment opportunities. As the contractual staff for the BDC, any Brunswick business interested in learning more and/or obtaining the BDC loan instructions and application can contact me at 207-721-0292 or at [lsmith@brunswickme.org](mailto:lsmith@brunswickme.org). I look forward to answering any questions that you may have.

Attachment/

Cc: John Eldridge, Town Manager

**Brunswick Development Corporation (BDC) Annual Active Loans Status Report  
Spring 2015**

<b>Company Name</b>	<b>Date of Loan</b>	<b>Amount Issued</b>	<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Amount Outstanding</b>	<b>Current on Payments</b>	<b>Starting Employment</b>	<b>Required Employment</b>	<b>Current Employment</b>	<b>Additional Performance Measures</b>
128 Maine Street, LLC (aka Artforms)	2012 2013	\$200,000 \$150,000	5.25% 4.25%	6-1-2017 4-22-2018	\$155,640 \$140,823	Yes Yes	21 FTEs "	N/A "	28 FTEs "	Remain in Brunswick for duration of loan(s)
At Last... Spa & Salon	2013	\$ 34,500	4.25%	11-1-2018	\$ 30,944	Yes	4 contract positions	8 (4 new)	13	Remain in Brunswick for duration of loan
Brunswick Taxi	2013	\$247,000	4.25%	8-1-2018	\$255,889	N/A	22 contract positions	24 (2 new)	25	Completed: purchase & submit proof of purchase for 6 new taxi-cabs; 1 new passenger van; and 1 handicap accessible minivan; GPS & compressed natural gas conversion kits for all cabs and vans; 5 cabs painted w Brunswick logo; add 2 new positions; purchase ad at the Visitor Center – year 1 & 2  Outstanding: Remain in Brunswick for duration of loan; paint the one remaining black cab and the new handicap accessible minivan w Brunswick logo; purchase ad at the Visitor Center – year 3; retain at least 24 positions in the company through 8-1-2016; and, retain the business for at least 2 more years (either under Dale King's or Sara King's ownership)

**Brunswick Development Corporation (BDC) Annual Active Loans Status Report  
Spring 2015**

<b>Company Name</b>	<b>Date of Loan</b>	<b>Amount Issued</b>	<b>Interest Rate</b>	<b>Maturity Date</b>	<b>Amount Outstanding</b>	<b>Current on Payments</b>	<b>Starting Employment</b>	<b>Required Employment</b>	<b>Current Employment</b>	<b>Additional Performance Measures</b>
Camm, Inc.	2014	\$ 25,000	4.25%	7-1-2021	\$ 25,000	Yes	2 FTEs	N/A	4 FTEs 1 part time	Remain in Brunswick for duration of loan
Frosty's Donuts	2013	\$137,500	4.25%	11-1-2018	\$124,294	Yes	9 FTEs	14 FTEs (5 new)	23 FTEs + 10 part time	Remain in Brunswick for duration of loan
Gelato Fiasco	2013 2013	\$ 91,300 \$156,100	4.25% 4.25%	3-15-2018 8-1-2022	\$ 77,976 \$146,544	Yes Yes	12 FTEs	21 FTEs (5 new) (4 new)	25 FTEs + 10 part-time / seasonal	Remain in Brunswick for duration of loan(s)

# ITEM 48

## BACK UP MATERIALS

Materials as provided in original packet are first and then those provided at meeting are labeled as to whom provided

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## MEMORANDUM

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**TO:** Town Council  
Town of Brunswick, Maine

**FROM:** John Perreault  
Jane Millett

**DATE:** April 29, 2015

**SUBJECT:** Idling trains

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This agenda item is in response to the State Transportation Committee's attempt to come to a compromise with NNEPRA.

The first summer the train was here NNEPRA told us the train would be shut off above 45 degrees. Last year the Council agreed to have the Town Manager send a letter and talk to NNEPRA about reducing the idling. Then NNEPRA said they couldn't shut the train down, due to the need for air compression for the brakes, and also the batteries may not stay charged. Now there is a bill in the State Legislature to stop idling in Maine. That bill has been tabled with advice from the Transportation Committee for NNEPRA to work with the Town.

Our understanding is that NNEPRA has always been right. We have been advised that they can shut off the engines above 45 degrees with a complete wayside power system that has an APU compressor, dryer, and charger for the batteries. This does not stop idling below 45 degrees, but it allows the train to idle on low idle, not full. The diesel savings on this would be around \$40,000/year, just from the idling. Reducing the idling will also lower the release of carcinogenic particles into the air.

NNEPRA has always said they want to be good neighbors, and we believe this would go a long ways in showing that. This is not an attempt to undermine the layover building. This is an attempt to reduce idling in Brunswick, which has been an issue for a while.



# 30 Sec of Train idling at 30 Parkers Way



**AMTRAK idling then heading to Brunswick Station**



# Locomotive Idling Facts

- Trains idle in Brunswick 2-3 hours per day on week days and 5 ½ hours per day on weekends
- This wastes approximately \$110 to \$300 per day in fuel costs at \$55/hour
- Periodic use of 2 locomotives exacerbates the adverse consequences of idling
- 2- 3 Locomotives idle in Portland for approximately a combined 40 hours per day
- Excessive idling causes unnecessary wear and tear on locomotives and increased maintenance costs
- Electrical plug-in + compressed air with dryer + battery charger = **WAYSIDE POWER SYSTEM (WPS)**
- WPS = eliminates burning 22-28 GPH and major air pollution in Brunswick and Portland by completely shutting down the locomotive in temperatures above 45 degrees F
- WPS minimizes toxic air pollution by burning 3-4 GPH at low idle when temperatures are below 45 degrees F (**86% Fuel and Air Pollution Reduction**)
- Addition of compressed air and battery chargers at Portland will allow locomotives to take full advantage of a complete WPS
- Installation of the **WAYSIDE POWER SYSTEM** will be a major benefit to the environment and save hundreds of thousands of taxpayers' dollars (Portland Transportation layover facility video)

# Portland Transportation layover facility video



# Locomotive Shutdown Facts

- Equipment required for locomotives to be able to shut down includes an Auxiliary Electrical Power Unit (APU), a compressor with dryer and a battery charger (**Complete Wayside Power System-WPS**)
- WPS allows complete locomotive shut down above 45 degrees F (**Most of the time Spring, Summer and Fall**)
- WPS allows locomotives to operate at low idle in ambient temperatures below 45 degrees F (**Low idle is 300 RPM**)
- Noise at the lowest level of idling is **perceived as 60% quieter** vs current (13 dBA less at low idle)
- Complete Wayside Power Station costs about **\$65,000** (\$40K APU + \$20K Air Compressor with Dryer + \$5K 72 Volt Battery Charger)
- Photo Measured Downeaster Layover Noise at 100 feet
- Portland and Photos

# Portland Photos (pg. 2 of 4)



# Portland Photos (pg. 3 of 4)



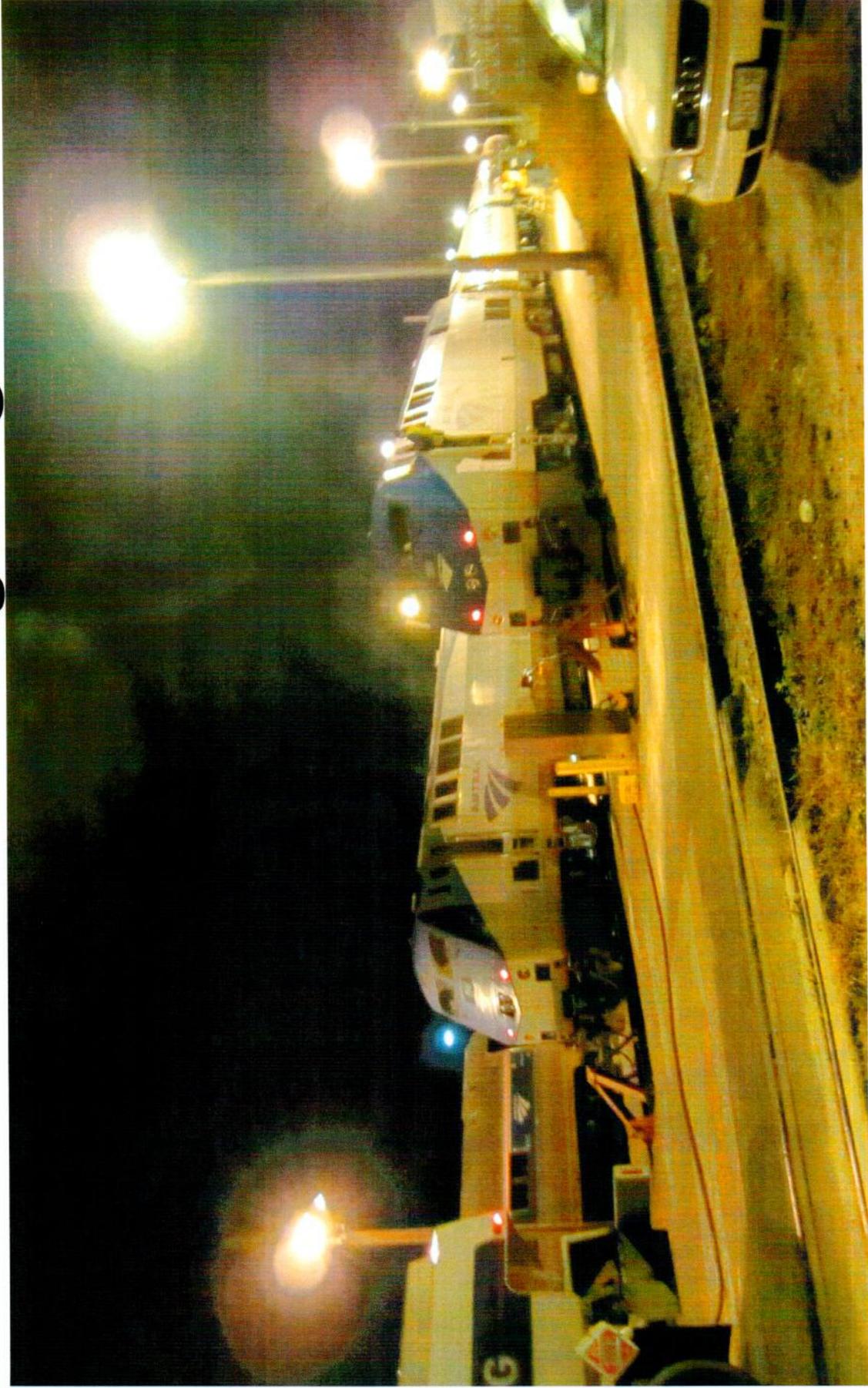
# Portland Photos (pg. 4 of 4)



# Brunswick Station Advantages

- Per NNEPRA's Commercial Power Committee WPS would save \$40,000 per year
- WPS enables trains to be shut down in under 10 minutes based on observations at Haverhill, Mass Bradford Station
- Haverhill MA Bradford Station wayside system video [Photos\4My Movie.wmv](#)
- Brunswick Station has inherent Lighting & Security ( Portland Lighting slide)
- Brunswick Station has better Sanitary & Re-fueling Access (Portable Spill Boxes are readily located at the station)
- Shutting down at the Maine Street Station facilitates train minor service, cleaning and restocking using the station platform maintained by the Town of Brunswick
- Shutting down trains at the Brunswick station also reduces the number of road crossings per day by eliminating the mid-day train crossing 2 roads each way, and eliminating the dead head back to Portland at night and dead head back to Brunswick in the morning  
**(4 eliminated crossings with 2 @ critical sleep times)**
- Two non-revenue runs will be eliminated and replaced with revenue runs
- Shutting down the last train in the evening at the Brunswick Maine Street Station eliminates the dead head costs of between \$500K to \$750K, per NNEPRA Executive Director P. Quinn on Channel 13 news November 3, 2014
- Overall savings per year could add up to hundreds of thousands of dollars
- Fewer train crossings at Union Street, Stanwood Street, Church Road and Highland Road might support efforts to get Quiet Zones for Brunswick

# Portland Lighting



# Summary

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- **Town of Brunswick is required to maintain the station under contract with NNEPRA**
- **Brunswick's costs have ranged between \$70K & \$100K per year**
- **Downeaster should use the well maintained station platform versus moving the train elsewhere**
- **A well lighted facility will be a more secure location**
- **Locating the Wayside Power System at the Brunswick Maine Street Station is the ideal location**

# Takeaways

**Requirements to Completely  
Shut locomotive off above 45F**

- Wayside power system
  - APU + Compressor & Dryer
  - + Battery Charger

**Requirements to Shut locomotive  
off between 45F and 0F**

- Wayside power system
- IST oil/water heater system

**Brunswick Station is best:**

- Platform to safely access/clean/restock train
- Superior Lighting & Security
- Platform acts as noise & vibration suppressor
- Eliminates road crossing at prime sleeping time
- Complete Train shut down within 10 minutes

# INFORMATION PROVIDED BY NNEPRA

## Yard Power - COST ESTIMATE July 2014

Objective: To Purchase & Install a NEW 480 V, 400amp Yard Power Unit complying to Amtrak Standards

Location: Cedar Street Wye, Brunswick

### Work Breakdown:

Contract w/ Central Maine Power	Install 3 Phase Power to existing pole (quoted 7/10/13 good 90 days)	\$ 9,987
Purchase from Manufacturer	480 V, 400 amp Yard Power Unit (quoted NW Rail Elec., verified 7/14) (Manufacture & Deliver, approx 8-10 wks)	\$ 24,009
Contract Local Electrician	Install U.G. 400 amp Service w/ Main Breaker U.G. Hook-Up of Unit, Incl. Conc. Pad (Martell Electric – estimate verified 7/14)	\$ 8,000
Estimated TOTAL to Construct		<hr/> \$ 41,996

\*\*\* For consideration, but not estimated at this time is the CMP Monthly Cost for providing electrical service.

## **Brunswick Train Idling Committee**

The purpose of this group was to investigate and evaluate potential mitigation solutions to mid-day train idling in Brunswick. Currently, Train 681/691 remains in Brunswick each day following its 12:25pm arrival from Boston, until it departs on its 5:55pm departure to Boston. In the absence of a layover facility, the equipment must remain in either the Rail Yard or Cedar Street location, and idles during this holdover period.

The need for idling trains will be eliminated when the Brunswick layover is completed, as Train 681/691 will enter the enclosed facility where it will be powered down completely for servicing.

The committee included Jim Russell and Patricia Quinn representing NNEPRA Staff, Bob McEvoy representing the NNEPRA Board, Steve Corcoran and Chris Purcell representing Amtrak, and John Eldridge representing the Town of Brunswick.

All mitigation strategies proposed were discussed. A summary is listed on the following pages:

DRAFT

	<b>Suggested Mitigation Strategies</b>	<b>Effect on the Idling of Trains in Brunswick</b>	<b>Limitations/Challengers</b>
1	Run an extension cord from an existing residential power supply to maintain café refrigeration and lighting.	None. Power and mechanical requirements cannot be satisfied by this approach.	N/A
2	Install a portable 480 V generator to satisfy power requirements.	Reduces idle time and engine RPM during idle time by providing the electrical head end power (HEP) to the coaches & Café Car for all servicing activities, interior lighting, heating and cooling.	Does not eliminate idling of trains. Creates an additional source of noise, vibration and emissions.  A generated can be rented for approximately \$5,000 per month.
3	Construct an outside support station, complete with 3 Phase 400 amp Electrical Service, 480 Volt Stand-by Power plug-in station and at the Brunswick Wye at Cedar Street.  Note: Options considered including installing a new power source, borrowing a source from Amtrak (not available), or reusing the unit owned by Maine Eastern (non-compatible).	Provides the electrical head end power (HEP) to the coaches & Café car for all servicing activities, interior lighting, heating and cooling and permits engine to idle at a lower RPM (lower noise level).  <b>When ambient temperature is above 38 degrees:</b> Reduces amount of idling time each day by relying on the locomotive back-up system to monitor engine operating systems, which will allow the engine to periodically turn on and off.  <b>When ambient temperature is below 38 degrees:</b> Reduces engine RPM's during idle time. However, the train must still idle continually to maintain temperature of engine fluids.	Does not completely eliminate the idling of trains because engine still needs to run periodically to monitor and maintain engine operating systems in warmer weather, and needs to run continually in cooler weather to maintain engine fluid temperatures.  Establishes Cedar Street as the primary location for idling trains, although train holdover location is dependent upon other train movements.  Costs approximately \$42,000 to construct.  Increases cost of monthly electrical usage, but reduces fuel consumption. Net savings in operating costs estimated to be approximately \$40,000 annually.
4	Construct an outside support station, complete with 3 Phase	Same as above, but may allow engine to shut down	Same as above except air compression system may add

	400 amp Electrical Service, 480 Volt Stand-by Power plug-in station <i>and compressed air hook-up</i> at the Brunswick Wye at Cedar Street.	more often in warmer weather because air pressure will be maintained.	additional noise.  Costs approximately \$65,000 to construct.
5	Modify Amtrak standard operating procedures to include a complete shutdown of locomotive diesel engine following required servicing and inspecting during holdover.	Potentially reduces the amount of midday Idling by 1 to 3 hours per day, based on servicing time.	Shuts down electronic locomotive monitoring system which maintains critical operating conditions.  Puts operations of trains 688/698 & 689/699 at risk by eliminating engine protection systems.  Jeopardizes service reliability and increases cost potential.  Contradicts Amtrak standard operating procedures and therefore Amtrak will not accept risk. All financial consequences associated with equipment failure are the responsibility of NNEPRA.
6	Rotate Brunswick hold-over location between all suitable locations in Brunswick, establishing a parking location schedule through weekly coordination with Pan Am and Maine Eastern railroads.	Reduces the occasions for trains to idle in a particular location each day.	Does not affect the amount of train idling or idling time in Brunswick.  Potentially impacts more areas of town.
7	Reduce train idling time in Brunswick by resuming "Freeport shuttle" daily between Brunswick and Freeport.	Reduces idling time by moving train to Freeport and back.	Increases operating costs and could impact crew scheduling.
8	Return Train 681/691 to Portland upon arrival in Brunswick.	Eliminates holdover and therefore idling time in Brunswick by returning train to Portland.	Eliminates Train 688/698 service from Brunswick and Freeport. Reduces ridership and revenue on both Train 681/691 and Train 688/698 (more than \$300,000 annually). Eliminates evening summer connection with Maine Eastern Railroad.



# Town of Brunswick, Maine

INCORPORATED 1739

OFFICE OF THE TOWN MANAGER

85 UNION STREET

BRUNSWICK, MAINE 04011-1583

TELEPHONE 207-725-6659

FAX 207-725-6663

June 23, 2014

Board of Directors  
Northern New England Passenger Rail Authority (NNEPRA)  
75 West Commercial Street, Suite 104  
Portland, Maine 04101

Re: Downeaster Idling in Brunswick

Dear Board Members:

At its June 16<sup>th</sup> meeting, the Brunswick Town Council voted unanimously to authorize a letter requesting that NNEPRA take action to mitigate the fumes, noise, and vibration that result from idling the Downeaster in the vicinity of Brunswick residences and businesses. While the Council encourages you to look at all available options, it requests that you reconsider the installation of a head-end power supply so that trains will not be required to idle in order to generate electric power for the on-board units that require it.

This November will mark the two-year anniversary of the extension of Downeaster service to Brunswick. The Town Council acknowledges the efforts of many, especially NNEPRA, in returning passenger service to the community. It also wishes to remind NNEPRA of the investment that the Town of Brunswick has contributed to this effort, and of the future expenditures that will be required to support continued service.

Since beginning service to Brunswick, the Downeaster has been left idling in Brunswick as it awaited its scheduled return to Portland. With few exceptions, it has idled every day for five continuous hours at Brunswick West or in downtown Brunswick. The Town Council understands NNEPRA has long believed that the layover facility is the ultimate solution to this issue, but the Town Council believes that construction and completion of the layover facility, and therefore NNEPRA's preferred solution, is still months away. In the interim, residents and businesses will continue to endure hours of idling with the accompanying noise and noxious fumes. While the Town Council recognizes there have been delays in financing and permitting the layover facility, those delays have also resulted in delays in solving the idling issue. For nearly two years, residents have endured the inconvenience and potentially negative health effects resulting from excessive train idling.

Over the past two years much has been said and debated about idling trains, layover facilities, and related issues. By immediately addressing the idling issues, NNEPRA can demonstrate that it understands and respects the concerns of its neighbors, and that it can be counted on to be a good corporate citizen as it looks to the future and to expanded service to Brunswick.

Sincerely,

/s/

John S. Eldridge  
Interim Town Manager  
On-Behalf of the Brunswick Town Council

cc: Town Council  
Patricia Quinn, Executive Director, NNEPRA

# INFORMATION PROVIDED AT THE MEETING

**Fran Smith**

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**Subject:** FW: WPS at Brunswick Station

EMAIL

Dear Council,

I have been in touch with John Eldridge about my concerns about an agenda item for this Monday night. You may or may not see that e-mail. He has encouraged me to contact you with my concerns as well.

I have heard it called different things - Head End Power System, Wayside Power System – whatever the specifications, it sounds like we are asking NNEPRA to install equipment to reduce the emissions from trains idling here in Brunswick. That sounds like a good idea to me.

I understand the NNEPRA Board has approved the request and is now hearing from the Town on where you feel it should be located. Their preferred location is at the site of the future Maintenance Layover Facility. That also sounds like a good idea to me.

There is a motion to locate the equipment at Brunswick Station from Councilors Perrault and Millet. That does not sound like a good idea to me.

As you know, long before the squirmish between Brunswick West and NNEPRA over locating the Maintenance Layover Facility, JHR Development spent many hours working cooperatively with Town Staff and NNEPRA to work through the details of locating first the Visitor Center and then the train platform on or within inches of private property. Our station is a public/private hybrid, unlike any other station on the line. Needless to say, it was not always a smooth process, but in the end we ALL worked through our concerns and the operational issues to arrive at a solution that while not perfect, adequately serves the needs of the stakeholders...Town, Rail Authority, Owner, Tenants, neighbors. We worked on a solution that we felt worked best for the most. We arrived at a successful solution and welcomed the arrival of the expanded Downeaster service through a process of collaboration and respectful communication.

My issues with Motion 2 on pg. 4 of the agenda is that no one has been in touch with the property owner who will be most affected by this decision to locate the WPS at Brunswick Station. Although I know for a fact that Brunswick Station was never designed for the uses proposed (charging, cleaning, restocking etc), we do not need to get into those details. The fact is, no one has been in touch with the property owner to discuss the possibilities. While the dialogue has taken such an unpleasant turn between Brunswick West and NNEPRA over the MLF, at least there has been a dialogue. We would expect the same courtesy of those who are representing the interests of local residents and businesses.

The accompanying materials in your packet refer to Brunswick Station as the “ideal” location for the WPS. I personally feel at this time that it is not; 1) because the infrastructure never designed for this use 2.) We will have residents within inches of the WPS/CPU and maintenance operations which is probably why NNEPRA discounted this use at this location in the first place, and 3.) NO ONE FROM THE TOWN EXTENDED THE COURTESY OF COMMUNICATING EFFECTIVELY WITH THE STAKEHOLDERS.

Please don't continue down that road.

Respectfully,

Mike Lyne

# *Introduction*

- **Charles F. Wallace, Jr. PE, INCE, Diplomate of ACFE**
- **Long term resident of Brunswick Maine**
- **My office is located at 30 Parker's Way less than 200' from the idling train**
- **I am speaking today in favor of locating Wayside Power at Brunswick's Maine Street Station and want to emphasize the advantages**
- **Excessive idling during layovers is not a necessary part of routine passenger service operations**
- **I want to share current experiences with excessive idling of Downeaster Locomotives for the past 29 months of passenger service adjacent to my office**
- **You have all heard plenty about problems. I am here tonight to discuss solutions**
- **Video clips self explanatory**
  - **30 Sec of Train idling at 30 Parkers Way**
  - **AMTRAK idling then heading to Brunswick Station**

# 30 Sec of Train idling at 30 Parkers Way



# AMTRAK idling then heading to Brunswick Station

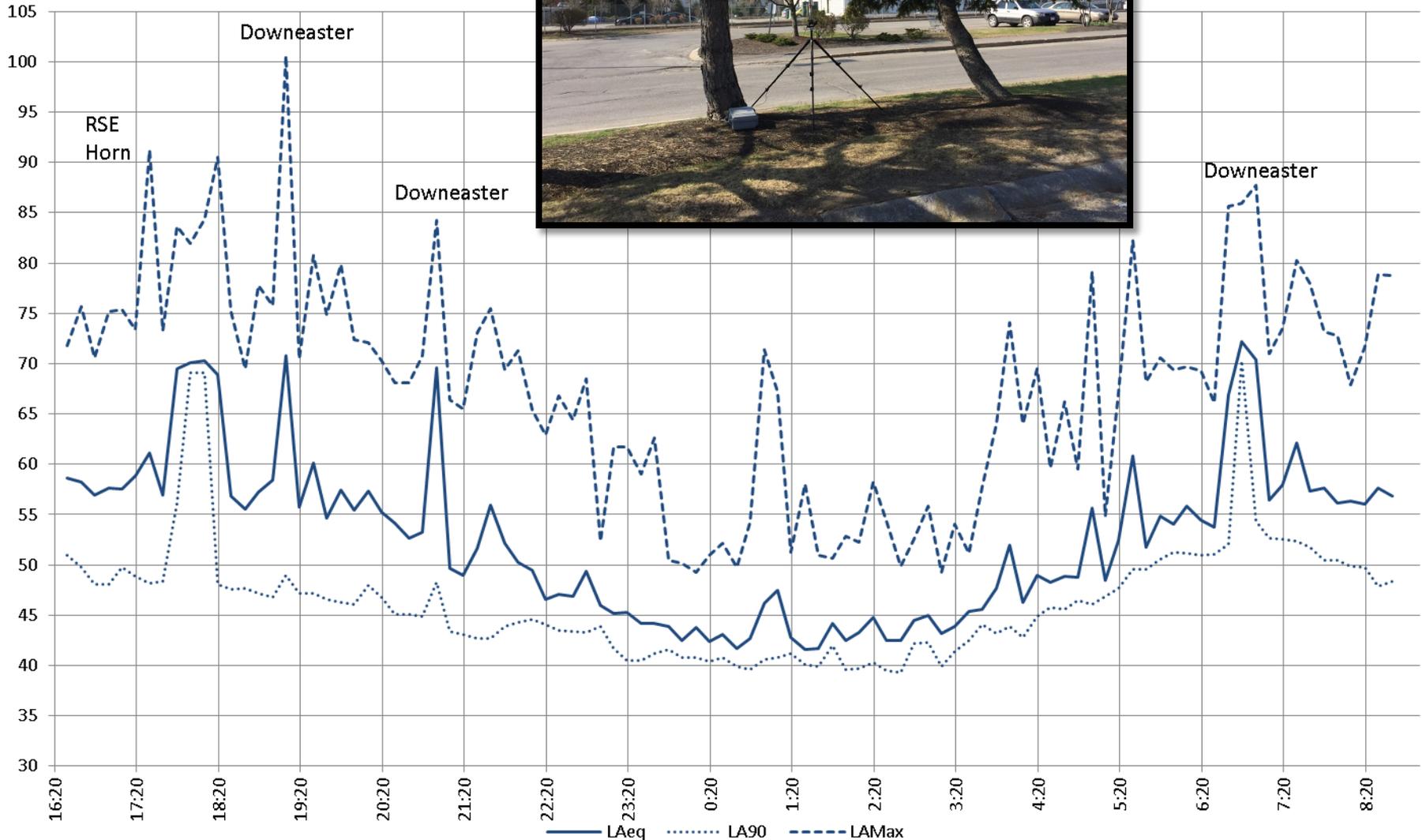


# Maine Street Station Meter Positions



**MSS-1  
(Hannaford Side)  
Maine Street Station, Brunswick  
May 3 to 4, 2015**

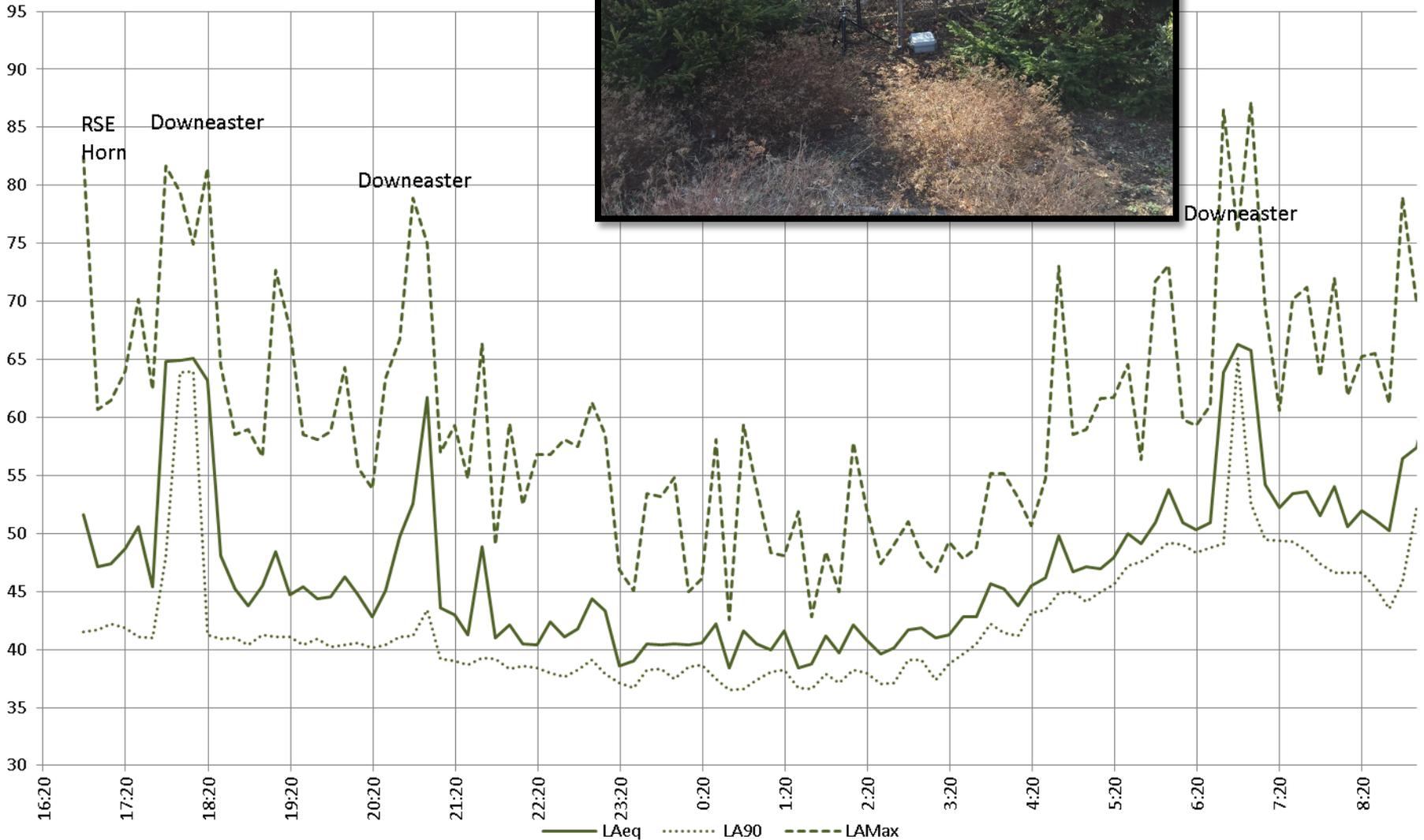
Approximately  
145 ft. to  
Locomotive



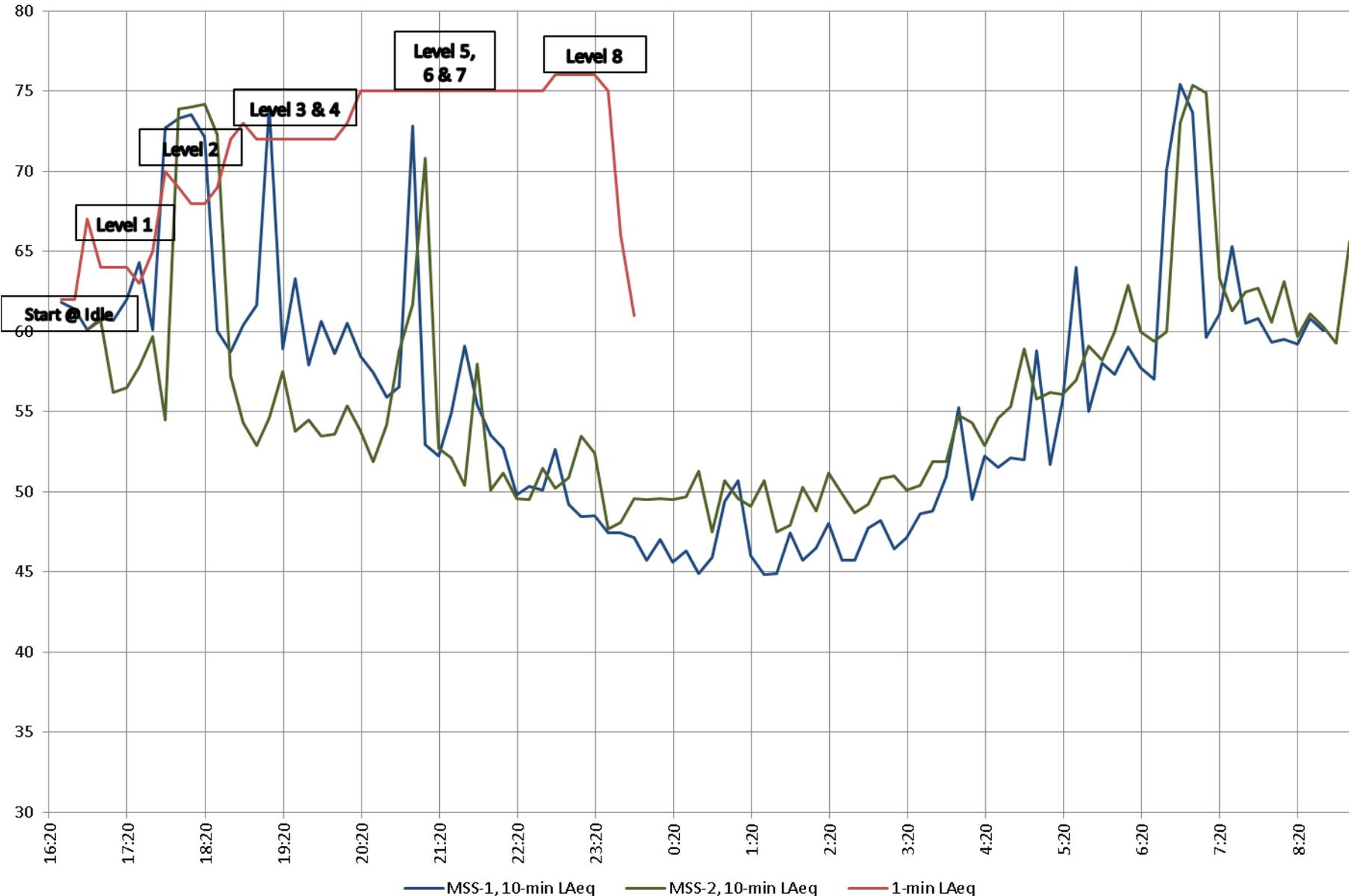
**MSS-2  
 (Maine Street Station Park - Nearest Residence)  
 Maine Street Station, Brunswick  
 May 3 to 4, 2015**



Approximately  
 285 ft. to  
 Locomotive

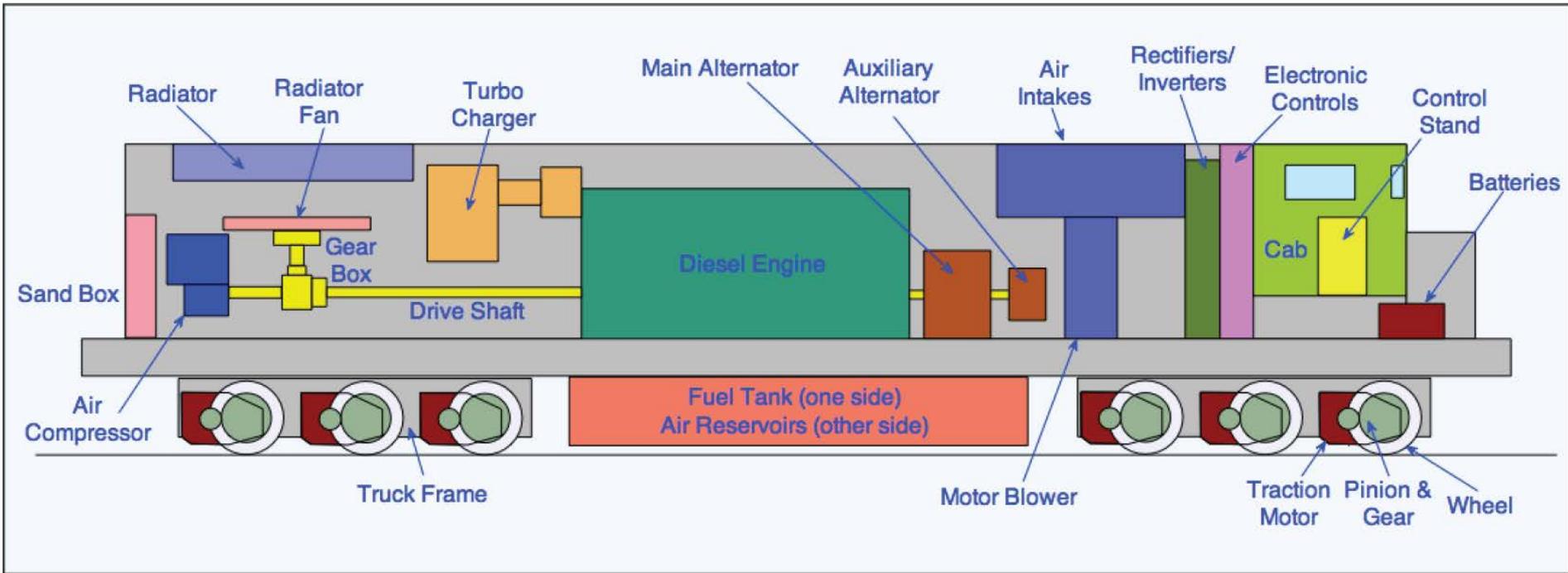


# Maine Street Station, Brunswick vs. Downeaster Throttle Levels



# KEY TO UNDERSTANDING DIESEL ELECTRIC LOCOMOTIVES

## Diesel Locomotive Schematic



Brunswick Station Video  
5/3/2015 Approximately 8:30 p.m.



# Portland Photos (pg. 1 of 4)



# Portland Photos (pg. 2 of 4)



# Portland Photos (pg. 3 of 4)



# Portland Photos (pg. 4 of 4)



17 CFM psi  
Portable Air Compressors  
Rental Price:  
Per day \$69.30  
Per Week \$311.85



Orange are diesel  
Yellow is gasoline



Haverhill, MA – Bradford Station

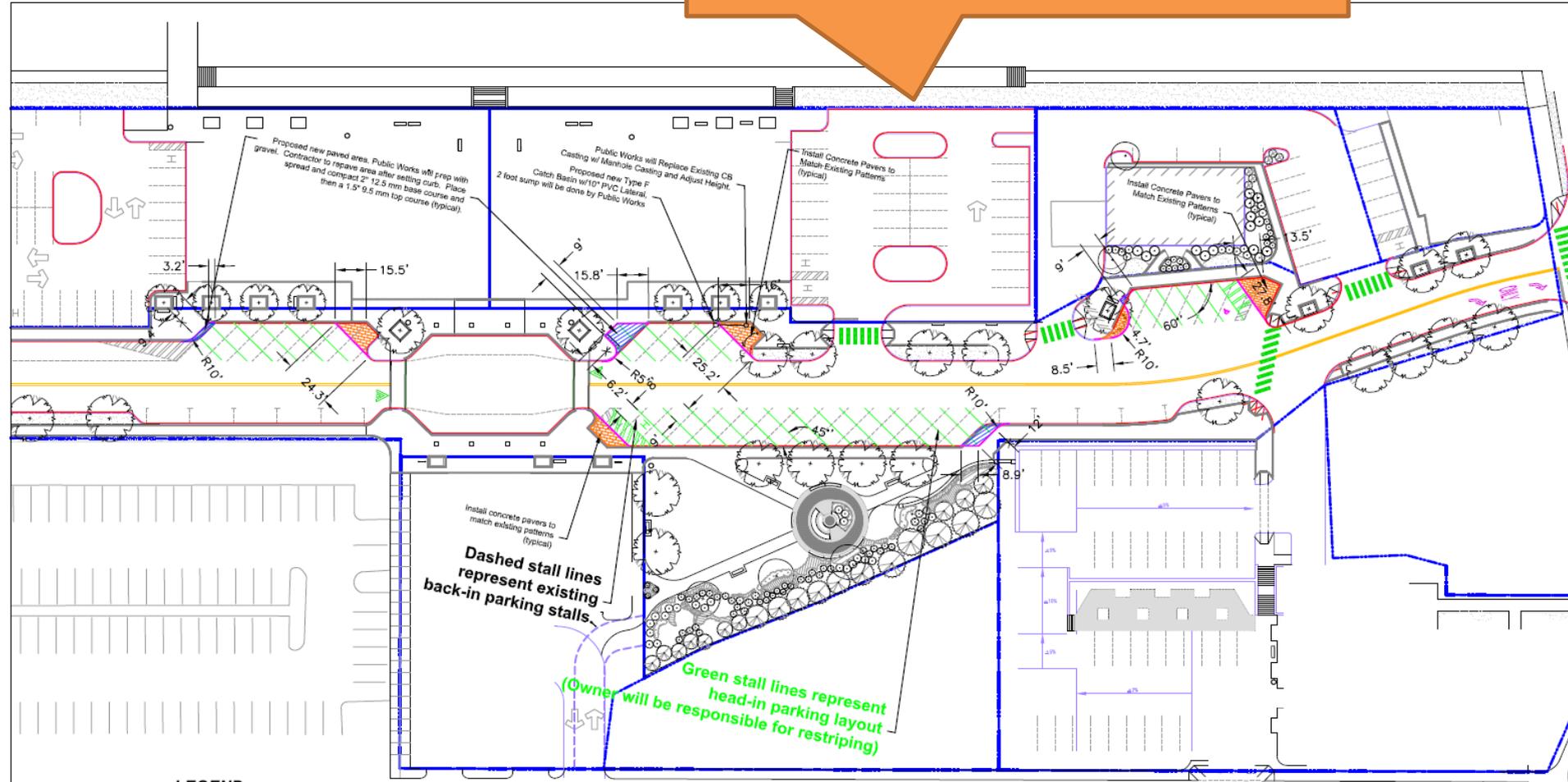


Portland Lighting



Brunswick Lighting

Wayside Power System can go here  
 From curb to 1<sup>st</sup> tie is 14 feet



Dashed stall lines represent existing back-in parking stalls.

Green stall lines represent head-in parking layout (Owner will be responsible for restriping)

**LEGEND:**

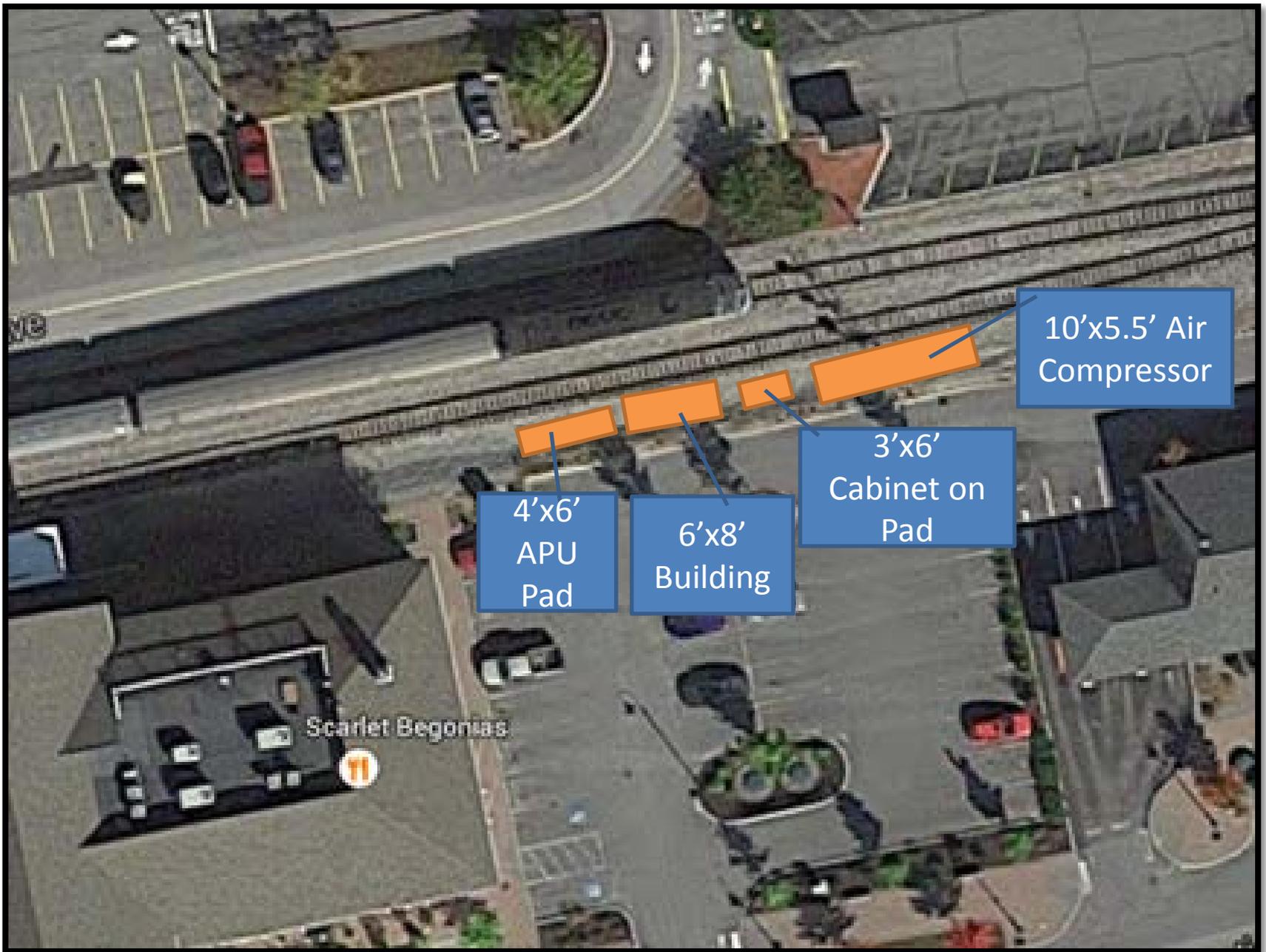
-  Existing paved road area to be infilled with concrete pavers under this contract.
-  Existing sidewalk area to be converted to paved roadway under this contract.
-  Proposed New Curb Alignment - curb to be installed under this contract. Owner will provide all curbing from salvage and new stock as needed.

**Main Street Station  
 Sketch of Curb, Sidewalk Changes to Switch to  
 Head-In Parking Option**

**Parking Summary:**

Existing Back-In Stalls:	33 spaces
Head-In Stalls w/UpdatedCurb Change:	30 spaces

JAF/BPWD  
 March 31, 2011  
 Revised 4/3/2011



4'x6'  
APU  
Pad

6'x8'  
Building

3'x6'  
Cabinet on  
Pad

10'x5.5' Air  
Compressor

Scarlet Begonias

# Summary

- **Town of Brunswick is required to maintain the station under contract with NNEPRA**
- **Brunswick's costs have ranged between \$70K & \$100K per year**
- **Downeaster should use the well maintained station platform versus moving the train elsewhere**
- **A well lighted facility will be a more secure location**
- **Locating the Wayside Power System at the Brunswick Maine Street Station is the ideal location**

# Takeaways

## **SUMMERTIME SHUTDOWN (locomotive off above 45F)**

- Wayside power system
  - APU + Compressor & Dryer + Battery Charger
  - **WPS** approximately \$65k

## **WINTERTIME LOW IDLE (Temperature below 45F)**

- Wayside power system
  - APU + Compressor & Dryer + Battery Charger
  - **WPS** approximately \$65k

### **Brunswick Station is best:**

- **Platform to safely access/clean/restock train**
- **Superior Lighting & Security**
- **Re-Fuel and Sanitary Services available**
- **Platform acts as noise & vibration suppressor**
- **Eliminates road crossing at prime sleeping time**
- **Complete Train shut down within 10 minutes**
- **Summertime shutdown / Wintertime low idle**

INFORMATION PROVIDED AT THE  
MEETING

BY PAT QUINN FROM NNEPRA

May 4, 2015



TO: Brunswick Town Council Members  
FROM: Patricia Quinn, NNEPRA Executive Director  
RE: Train idling in Brunswick

The Northern New England Passenger Rail Authority (NNEPRA), provides the following responses to questions raised regarding train idling in Brunswick.

**How can NNEPRA eliminate the outdoor idling of trains in Brunswick during the day?**

- NNEPRA has proposed the development of an indoor layover facility which will, among other important functions, eliminate the outdoor idling of trains in Brunswick. The facility was anticipated to have been built within a year of initiating passenger service to Brunswick in November 2012, but has faced several hurdles due to public resistance.
- As an interim step until the facility is constructed, NNEPRA has committed to install an Auxiliary Power Unit (APU) in Brunswick. A unit is on order, and is scheduled to arrive in 8-10 weeks. NNEPRA is making arrangements to have it installed as quickly as possible upon its arrival.

**Will the APU eliminate the need for locomotive engines to run while parked outdoors between trips in Brunswick?**

- No. Locomotives used in Downeaster service (P42) are not shut down between trips if they are outdoors, regardless of ambient temperature. Amtrak P42 locomotives are controlled by an electronic monitoring device called AESS which will turn the engine on and off as needed to maintain all system operating parameters. (Please refer to information provided by Amtrak for details).
- When the ambient temperature is above 45 degrees, an APU will enable a P42 locomotive to run intermittently, instead of continually, and at a lower RPM, than it would if not “plugged in”.
- When the ambient temperature is below 45 degrees, P42 locomotives must remain running, however at a lower idle RPM, regardless of an APU connection.

**Will the installation of an air compression system in addition to an APU eliminate the need for locomotive engines to run while parked outdoors between trips in Brunswick?**

- No, but it could reduce the amount of time the engine runs during warmer temperatures. However, in response to concerns expressed by citizens of Brunswick, NNEPRA is exploring the installation of an air compression system and NNEPRA will provide the Council with updates as they are available.

**If a locomotive connected to an APU and an air compression system cannot be shut down completely outdoors when the ambient temperature is above 45 degrees, then how can they be shut down completely inside a layover facility?**

- The layover facility will be equipped with resources such as mechanical staff, tools, and additional equipment which will be readily available to troubleshoot in the event a locomotive does not re-start. In addition, the facility will be climate controlled, allowing locomotives to be shut down year round.
- The train which currently parks in Brunswick mid-day has no back-up resources to depend upon in the event of a mechanical failure, therefore, the engine remains on the AESS system to assure the train is ready for passenger service.

**Can heaters be installed in locomotives used in Downeaster service to enable them to be shut down in cooler temperatures?**

- No. P42 Locomotives from Amtrak's national equipment pool are used to provide Downeaster service. Amtrak operates more than 200 of these locomotives nationally, and more than 50 different locomotives typically support Downeaster service on an annual basis. Amtrak has considered, but is not pursuing the installation of such "heaters" in the P42 locomotives and it is not possible for NNEPRA to fund the installation of such equipment on a portion of Amtrak's fleet.

**What is the recommended location to install the APU and potentially an air compression system in Brunswick to reduce outdoor train idling until the layover facility is built?**

- After consulting with all railroad partners, NNEPRA recommends that the APU be installed adjacent to the railroad tracks approximately 600 feet east of Church Road. This location is preferred because it is adjacent to NNEPRA's property and the planned layover facility. It is also the location which will have the least interference with freight train operations and therefore the most likelihood of being the location where the Downeaster is dispatched to "park" during the afternoon. MaineDOT, the owner of the track, Pan Am Railways and the Maine Eastern Railroad all support that recommendation.

**Can the APU and air compression system be installed at Maine Street Station so the train can remain in the station for turnaround servicing between trips during the day?**

- NNEPRA does not support Maine Street Station as a potential site for a mid-day turnaround location. Amtrak could not reliably “park” a train at Maine Street Station for several hours each day, as noted above. That location interferes with freight and passenger railroad operations.

**Would locating an APU and air compression system at Maine Street Station make it possible for trains to remain there overnight for layover servicing, thereby eliminating deadhead trips to Portland.**

- No. Layover servicing cannot be performed at Maine Street Station or on any existing mainline track in Brunswick. Mechanical personnel must be able to safely access the entire undercarriage of the train for layover servicing as well as the ability to empty lavatories from each side of each coach, replenish materials such as lube oil, sand and water, and many other functions which cannot be supported safely at Maine Street Station or on any mainline track.
- The Brunswick layover facility includes the construction of 3 new layover tracks to provide required servicing off the mainline.



PAN AM RAILWAYS  
1700 IRON HORSE PARK  
NO. BILLERICA, MA 01862

---

5/4/2015

Patricia Quinn  
Executive Director  
Northern New England Passenger Rail Authority  
75 W Commercial Street, Suite 104  
Portland, Maine 04104

Dear Ms. Quinn:

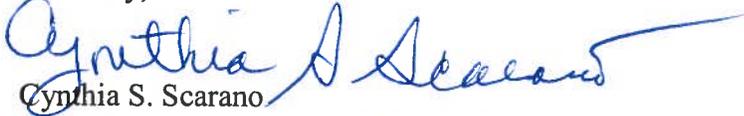
In response to NEPRA's request regarding installing a Head End Power unit, as well as an air compressor in the Brunswick area, I spoke to Ted Krug, our Chief Engineer of Design and Construction. Based on that discussion, we believe that Amtrak's operations would be enhanced through the placement of a head end power unit and air compressor near Church Road for the reasons discussed below.

Currently, the Amtrak train that arrives in Brunswick in the early afternoon lays over there for 5-6 hours until it departs again in the evening. During this layover, Amtrak currently idles its locomotives to preserve the airbrakes and provide power to the train. If the planned appurtenances were installed, our understanding is that Amtrak could instead connect the train to the air compressor instead of idling to preserve the air test, and the power unit would also provide the necessary power to the train consist. The Brunswick Station would not work operationally, because it would be in the way when the Maine Eastern excursion train is scheduled to enter the station.

Church Road, where they currently pull the train to while it lays over, would be a better location operationally to locate the air compressor and power unit, and would be an opportunity to decrease idling in Brunswick. The location is east of the crossing on State property, outside of the interlocking, and the air plant could be designed to accommodate a train laying over either on the main line or the controlled siding.

Pan Am believes if an air plant and power unit for use by Amtrak is going to be built in Brunswick, Church road would be the best location for it and we support this proposal.

Sincerely,



Cynthia S. Scarano  
Executive Vice President Pan Am Railways  
(978)663-1028



Charles D. Baker, Governor  
Karyn E. Polito, Lieutenant Governor  
Stephanie Pollack, MassDOT Secretary & CEO



April 30, 2015

Ms. Patricia Quinn  
Executive Director  
Northern New England Passenger Rail Authority  
75 W Commercial Street, Suite 104  
Portland, Maine 04104

Dear Ms. Quinn:

It has come to the attention of MassDOT and the MBTA that there has been public speculation that the MBTA would somehow use the proposed Brunswick Layover Facility for the servicing of MBTA equipment. The MBTA can unequivocally state that this would never happen, as there is no conceivable reason why the MBTA would ever need to use this facility. It is our understanding that your Brunswick Facility is sized to provide overnight layover of the Downeaster train equipment as well as their routine cleaning and turnaround servicing. The MBTA maintain 12 of its own layover facilities efficiently located within the MBTA service area and in very close proximity to the outer end of its commuter rail lines. Further, the MBTA has several repair facilities centrally located in Boston where heavier repairs are undertaken.

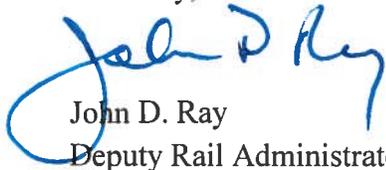
The location of a layover, just as is proposed for Brunswick should be ideally located immediately adjacent to its initial station stop thus minimizing the fuel and labor needed to move deadhead trains. MBTA has sufficient facilities to address the maintenance needs of its fleet and it is completely incomprehensible that the MBTA would ever send commuter rail equipment more than 110 miles past a MBTA facility to perform routine cleaning and turnaround serving.

Additionally, I understand that there has been some confusion arising from an erroneous comment in an early South Station Expansion Project document that incorrectly suggested that Amtrak activities currently performed at Southhampton Street in South Boston would be performed in Brunswick. After careful review, we are unable to envision any situation that could ever support such a statement, leading us to believe that it was the result of incorrect assumptions by the drafter of that section of the report. Furthermore, the repair activities performed by Amtrak at Southhampton Street could not be performed in any layover facility such as is proposed for Brunswick. We are also well

Ms. Quinn  
Page Two

aware that the Amtrak trainsets are cycled out of the Downeaster service to undergo the repair work at Amtrak's large Southampton Street heavy repair facilities in Boston. The Southampton Street facility supports all of Amtrak's operations into Boston. We apologize for any confusion that may have resulted from that earlier comment.

Sincerely,



John D. Ray  
Deputy Rail Administrator

cc: F. DePaola  
T. Doherty  
B. Kelsner

# Memo



Date May 4, 2015  
To Patricia Quinn

From Fred Fournier  
Department Operations- Northeast Corridor  
Subject Support of Brunswick Facility  
cc

Message Amtrak supports NNEPRA's initiative to enclose the layover facility intended for Brunswick, Maine and wishes to clarify the issue around "engine idling".

## **Engine Idling:**

The engines sitting in Brunswick are not idling. They are actually operating at about 900 RPMs to supply electricity and air pressure to the train. The electricity is needed to keep the refrigerators operating in the café car and to keep the cars HVAC operating. The air is needed to keep the brakes charged in accordance with the standards detailed in the Code of Federal Regulations.

The installation of an APU (Auxiliary Power Unit) would supply the necessary power to keep the HVAC and refrigerators operating as well as allow the engine to utilize the AESS (Automated Engine Start Stop) system. This system monitors several parameters that maintain the engine in operable condition. I have enclosed pertinent slides from General Electric's Power Point presentation relative to the parameters associated with this system.

It is important to note that one of the parameters of the AESS system is that there is a timer that restarts the engine every 90 to 210 minutes. Amtrak standards set this timer at 90 minutes. When the engine restarts it will run at approximately 300 RPM's for 10 minutes and shut down again. Adding an air compressor to the APU would also allow for the proper brake pressure to be maintained.

**Amtrak possesses multiple types of resources to use in Maine:**

It has been reported that Amtrak possesses another fleet of locomotives that could be used in Maine that would alleviate the issue of engine idling. The locomotives used for the Downeaster Service are from Amtrak's P-42 fleet. There have been roughly 50 locomotives from that fleet cycled through this service over the past year.

The locomotives referred to as the GE-P32 diesel electric locomotives do possess the IST (Idle Stop Technology). Those engines are referred to as Dual Mode because they are capable of drawing power off of an electric third rail just as subway cars do. These locomotives are specifically utilized for the service that operates from Albany, NY into Penn Station, NY. The IST on these engines allow for the diesel engine to be shut down while the train is operating with third rail power while maintaining the parameters relative to keeping the diesel engine ready for operation. Amtrak does not possess enough GE-P32 locomotives to support the service into Penn Station and the Downeaster.

**Conclusions:**

Installation of an APU as well as an air compressor will do a great deal to mitigate the noise and exhaust, but it is not going to totally eliminate it. The question that remains is whether there is either a contained layover facility inside of a building or an exposed layover facility as exists in Portland. A building which maintains an ambient temperature above 40 degrees, and with trained mechanical personnel, would allow for a complete engine shutdown.

***When will the AESS system automatically shutdown the diesel engine?***

## **AESS SYSTEM SETUP CONDITIONS ( Stop Triggers)**

***ALL of the setup conditions below must exist for 10 minutes***

- **ASDS switch is “ON” (up)**
- **Reverser handle is in CENTER position**
- **Throttle is in IDLE position**
- **EC Switch is not in JOG position**
- **Independent brakes are applied (IBS closed)**
- **Locomotive speed is zero**
- **Aux Cab door interlock closed**
- **Battery knife switch is closed (otherwise, Battery Monitor test will fail and engine will not be auto stopped)**
- **Not in Self Test**

## ***When will the AESS system automatically shutdown the diesel engine? -continued-***

**ALL values below must be in the given ranges**

***(Stop Permissions).***

- **Lube Oil temperature is between 160°F (71°C) and 230°F (110°C)**
- **Ambient temperature is between 45°F (Sensor on D9 is 6-7°F above ambient making the effective outside temp 38 °F) (7°C) and 110°F (43°C)**
- **Battery charge panel current is between 3 and 150 amps**
- **Battery voltage is between 69 and 85 volts**
- **Main reservoir pressure is above 146 psi**
- **No more that 8 auto stops in the past 24 hours.**
- **Compressor speed is zero.**

***Can I force the AESS system to check the conditions for shutdown sooner than the normally programmed time? If so, how do I do it?***

- **Yes.**
- **Press the Auto Stop Override (SASS) pushbutton on the EC Panel twice within 30 seconds (in L2 or L3 permission).**
  - **This forces AESS system to check for shutdown conditions in 60 seconds.**
  - **If conditions allow, the AESS will go through a normal automatic shutdown sequence .**

**TYPICAL APPLICATION:** An operator finishes a run and has a locomotive in a yard. The operator wants an AESS shutdown to take place before 10 minutes pass. Pressing the SASS pushbutton twice within 30 seconds will tell the AESS system to start shutdown in 60 seconds if all conditions are met.

***When will the AESS system automatically start the diesel engine?***

## **AESS SYSTEM SETUP CONDITIONS**

***ALL of the setup conditions below must exist.***

- **ASDS switch is “ON” (up)**
- **Engine has shutdown due to automatic AESS stop**
- **EC Switch is not in JOG position**
- **Aux Cab door interlock closed**
- **Battery Knife switch is closed (If opened or cycled, will require manual engine start)**
- **Not in Self Test**

***When will the AESS system automatically start the diesel engine? -continued-***

## **AUTO START TRIGGERS**

***ANY trigger below will cause the engine to start (only if it was auto stopped by AESS).***

- **Reverser handle is moved out of CENTER position and GFB closed**
- **Ambient temperature is not between 40°F (4°C) and 120°F (49°C)**
- **Battery voltage is less than 62 volts**
- **Independent brakes and automatic brakes released (IBS open)**
- **Main reservoir pressure is less than 125 psi.**
- **The Maximum auto stop time expires (90 to 210 minutes).**
- **The locomotive is moving**



Paul R. LePage  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF TRANSPORTATION  
16 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0016

David Bernhardt  
COMMISSIONER

May 4, 2015

Brunswick Town Council  
Town Hall  
85 Union Street  
Brunswick, Maine 04011

Dear Brunswick Council Members:

As the owner of the mainline and siding track in Brunswick, MaineDOT supports the installation of ground power to reduce train idling. It is very important that the ground power be at a location that makes sense for all current and future freight and passenger railroad operations in Brunswick. For that reason, MaineDOT supports the installation of 480 volt ground power as proposed by the NNEPRA board.

Locating ground power and/or attempting to perform turnaround or layover servicing of Downeaster trains at Main Street Station either at the station track or the controlled siding is unworkable for not only the Downeaster trains but also for the other two rail operators who have rights to operate in Brunswick. Downeaster trains parked at Main Street Station for maintenance would restrict the ability of Maine Eastern Railroad to operate passenger trains in and out of Brunswick Station from Rockland as well as negatively impact freight interchange operations in Brunswick between Maine Eastern Railroad and Pan Am Railways. I have attached a letter from Maine Eastern Railroad outlining their concerns to MaineDOT in regard to ground power being installed at Main Street Station. We agree with these concerns.

We appreciate the Council's consideration of this letter regarding this topic.

Sincerely,

Nathan E. Moulton  
Director, Rail Program  
Office of Freight and Business Services

Enclosure



PRINTED ON RECYCLED PAPER



**Maine Eastern**  
RAILROAD

4 Union Street  
Rockland, ME 04841

Phone: 207-596-6705  
Fax: 207-596-6115

Web: [www.MaineEasternRailroad.com](http://www.MaineEasternRailroad.com)

May 4, 2015

Nathan Moulton  
Director, Rail Program  
Maine DOT, Office of Freight Transportation  
16 State House Station  
Augusta, Maine 04333

Dear Nate,

With the tabling of the proposed state legislation regarding idling of passenger locomotives, I understand that a decision has been made to install ground power in Brunswick. This is a good solution for all parties involved.

However, I am concerned that someone is contemplating installing that ground power at the station either on the main track or on the controlled siding. This will not work.

If the ground power is installed on the main station track, this would effectively deny our excursion train access to the platform. If the power is installed on the controlled siding at the station, it would prevent us from holding our excursion train on that siding during the week. It would also create severe problems for the interchange of our freight to Pan Am, as this track is required to be used for that interchange. Neither of these locations are acceptable to us. **In an attempt to be proactive and to protect the Maine Eastern's excursion and freight operations, we want to suggest the following location for the ground power installation.**

When we first started our excursion train 11 years ago, we had ground power installed west of Union Street near the overhead bridge. That was then the main track, but it is now a part of the controlled siding and sits on one leg of the wye track. The former location is approximately 10 car lengths west of the Union Street wye switch, and is also west of the hand throw crossover from the main track to the controlled siding. The power box and control equipment were removed with the completion of the station complex.

We feel that ground power should be reinstalled west of Union Street with power outlets for both the main track and on the controlled siding. With this arrangement, the *Downeaster* can back west out of the station (just as it does now) to a location west of Union Street and plug into a power outlet on the main track. Also, an additional power outlet should be provided on the controlled siding at the same location, giving the Maine Eastern access this power if necessary and adding an alternate location for the

*Downeaster* trainset to lay over. This preemptively solves any problems or concerns from local residences about idling of passenger trains and provides flexible options for all train operations.

The additional cost of another outlet on the controlled siding west of Union Street would be negligible. While we plan on holding our excursion trainset during the week in the controlled siding at the station east of Union Street (as we did last year), it makes sense to install the additional outlet west of Union Street, as it provides operational flexibility for all parties and eliminates any future idling issues. From a train operation and costing standpoint, this seems to make the most sense for Brunswick. If for some reason the Amtrak maintenance facility is not built, this solution still provides a viable long-term alternative for all rail operations in Brunswick.

I would appreciate being kept up to date on the developments on this installation and made a part of the discussions, as this affects all of our operations. If I can offer any further help or suggestions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles C. Jensen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Charles C. Jensen  
Vice President & Chief Operating Officer  
Maine Eastern Railroad  
973-267-4300 | cjensen@merail.com

cc: Harmony Llanto, MERR  
Patricia Quinn, NNEPRA

INFORMATION PROVIDED AT THE  
MEETING

BY BRUCE SLEEPER FROM LEGAL  
COUNSEL TO TRAINRIDERS NORTHEAST



*Attorneys at Law*

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F. Bruce Sleeper  
e-mail: bsleeper@jbgh.com

(207) 775-7271 (Phone)  
(207) 775-7935 (Fax)

May 4, 2015

VIA E-MAIL

Sarah Brayman, Chair  
Brunswick Town Council  
Brunswick Town Hall  
85 Union Street  
Brunswick, Maine 04011

Re: Brunswick Layover Facility; Locomotive Idling

Dear Ms. Brayman:

Since 1989, I have been legal counsel to TrainRiders Northeast, almost solely on a volunteer basis (my representation of TrainRiders at the current DEP proceedings over the layover facility being the only exception). In the early 1990's, I also served as volunteer legal counsel to RailVision, a political action committee formed by TrainRiders to obtain the return of passenger rail service to Maine. In that latter capacity, I wrote the original version of what is now Maine's Passenger Rail Service Act. RailVision obtained the signatures of approximately 90,000 registered Maine voters in support of that Act's passage and, in 1991, it became the first citizen-initiated bill ever to be adopted by the Maine legislature without the necessity of a vote of the citizenry at large. It was this Act which provided the legal impetus for what became the Downeaster service, requiring the State of Maine to spend at least \$40 million to reinitiate passenger rail service to, from and within Maine. These funds were to be spent first to provide service between Portland and Boston, with any excess or additional funds to be spent to extend service to other points inside and outside of Maine which connect to the service between Portland and Boston. See 1991 P.L. ch. 587. In 1995, I worked with representatives of the Maine Department of Transportation to amend that Act to provide for the creation of the Northern New England Passenger Rail Authority ("NNEPRA") to oversee and develop that service. See 23 M.R.S.A. ch. 621. I then served on NNEPRA's inaugural board of

Jensen Baird  
Gardner Henry

May 4, 2015  
Page 2

directors from 1995-2000 and have continued to be involved with the Downeaster and passenger rail service in Maine on a daily basis.

TrainRiders itself is a grass roots citizens' organization formed in 1989 to educate the public and public officials as to the benefits of passenger rail service. It has approximately 1200 members, most of whom live in Maine, and many of whom reside in Brunswick. TrainRiders has worked, and continues to work, hard to ensure that the passenger experience on the Downeaster is as good as it can be, not only through advocacy, but also through its programs of providing hosts both onboard that service, as well as in many of the stations along the Downeaster route, including Brunswick. TrainRiders is not a lobbyist for NNEPRA, although, in many, but far from all, instances, its goals are similar to what that agency desires.

I am a resident of Portland, not Brunswick, and, aside from representing TrainRiders in the DEP proceedings and at legislative hearings, I have tried to stay out of the public debate on the layover facility. From that position, I have watched with increasing distress the misleading statements which have been propounded by opponents of the facility. Now, with this Council getting ready to consider a motion concerning engine idling, there are a potpourri of issues which need clarification to ensure that whatever decisions this Council makes are based upon facts, not fantasies.

First, no one wants locomotives to idle. Idling produces noise, vibration, and fumes and costs money. Building of the layover facility presents the best opportunity to minimize idling time. Some opponents have suggested that the facility will actually increase idling without explaining how or why that will occur. At this Council's April 27, 2015 meeting, Patricia Quinn, executive director of NNEPRA, explained that the operation of the facility will require trains to, at most, idle only momentarily before entering the facility, allow them to shut down shortly after entering that building, and then start up again only shortly before they leave. All of this has long been part of the public record. By letter dated October 6, 2014, Ms. Quinn responded to inquiries made of NNEPRA by the DEP. Attached to that letter (which is available online at <http://www.nnepra.com/sites/default/files/100614%20Reply%20to%20MaineDEP.pdf> and <http://www.maine.gov/dep/ftp/BLF/10-06-14%20Reply%20to%20MaineDEP.pdf>) is a document titled Overview of Brunswick Layover Facility – Typical Activities and Functions (the "Operations Plan") (copy attached) which sets forth NNEPRA's plan for the operation of the facility and includes a detailed description of what will happen as trains approach the facility, while they are in the facility, and as they leave the facility. Perhaps opponents should review that description before making unsupported statements as to what will happen there.

Second, the construction and operation of the layover facility is the ultimate answer to the current idling issues. Any power equipment or way station would only be a transitional and partial solution to those concerns. Savings which might be achieved using that equipment would only be short term until the facility is operational. A portion of this equipment must be custom made, which adds to the time required for its acquisition and further shortens the period during which it will be used before completion of the layover facility. As a result, like any responsible public agency, NNEPRA must weigh the benefits of what it acquires and installs against the costs of the same. NNEPRA has made it very clear that it is more than willing to provide equipment to ameliorate idling concerns, but that agency must still make its own decision as to the type of equipment which should be purchased and installed. Thus far, in consultation with Amtrak and other experts, it has determined that an auxiliary power unit (an "APU"), rather than what has been termed a wayside station, which would also include a compressor and battery chargers, makes the most sense to install here. Suggestions to the contrary would certainly be worthy of consideration if it could be shown that the wayside station would result in a net gain over the transitional period in which it would be used, but, thus far, it does not appear that such would be the case when additional cost, noise of a compressor, and other relevant factors are taken into account.

Third, opponents have suggested that NNEPRA explore the use of Amtrak's P32 locomotives which are based in Rensselaer, New York and apparently are equipped with Idle Stop Technology. Such an exploration is easily done, because there is little of substance to explore. Amtrak has about 18 P32AC-DM locomotives based in Rensselaer. These units are fairly specialized, since they have the ability to run not only on diesel fuel, but also by electricity obtained through a third rail. As a result, Amtrak uses them solely for routes into New York City where, because of ventilation issues, diesel engines are prohibited from running through the fully enclosed Penn and Grand Central Stations in that City, necessitating the use of third rail power. As a result, Amtrak does not use them elsewhere in its system and they are not part of the pool of locomotives available for Downeaster service. It is unfortunate that opponents did not check on these simple facts before making this suggestion.

Fourth, opponents of the facility have referenced a 2010 agreement by the MBTA to spend \$2 million to correct excessive idling practices. In that document the MBTA agreed to: (a) install or upgrade electric plug-in stations; (b) switch to cleaner burning, ultra-low sulfur diesel fuel for all trains on the MBTA's commuter rail lines; and (c) install new, less polluting auxiliary engines on fourteen commuter locomotives. The grade of fuel and the equipment on locomotives NNEPRA uses are determined by

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Amtrak, not NNEPRA, and NNEPRA has already agreed to install a plug-in station, so NNEPRA is already in the process of doing what it can to match what the MBTA agreed to in 2010. Furthermore, the construction of the layover facility will actually exceed the MBTA actions since it will result in the creation of a setting where, by and large, idling will simply not take place.

Fifth, at the recent Council meeting, Ms. Quinn pledged that the facility would not be used to service MBTA equipment. Since then, at least one opponent of the facility has suggested that she should not be taken at her word, pointing to a March 2013 report issued by the Massachusetts Department of Transportation (“MassDOT”) (available online at <http://www.massdot.state.ma.us/Portals/25/Docs/efs/C-LayoverFacilityAlternativesAnalysisReport.pdf>). Section 3.2 of that report states that “As part of the new Downeaster Route to Brunswick, Maine that started in November 2012, Amtrak is planning for potential construction of a new layover yard in Brunswick, which would be anticipated to handle some of the maintenance functions currently being performed at the Southampton Street Yard.” As set forth in § 2.1.1 of that report, this Yard is one run by Amtrak for maintenance of its own equipment, and MBTA equipment is only stored there during daylight hours without the provision of maintenance services, so there is no MBTA maintenance from that yard which could be moved to Brunswick. Therefore, this comment must relate to Amtrak equipment, not that of the MBTA.

Currently, Amtrak uses the Southampton Street Yard to service equipment used in its Northeast Corridor (“NEC”), Downeaster and Lake Shore Limited services runs. The NEC equipment (which includes Acela and Northeast Regional trains) cannot travel over the Downeaster line, since that equipment is designed to run only on electricity supplied by overhead catenary. While the equipment used on the Lake Shore service (which service includes only one run east and west each day) is diesel powered, having that equipment travel more than 100 miles to be serviced simply makes no economic sense. Therefore, this comment relates only to the Downeaster equipment, which all parties already know will receive limited servicing at the Brunswick layover facility.

Additionally, the Brunswick facility will not have the equipment which would be necessary to perform more than the light day-to-day maintenance activities described in the Operations Plan. Plans for that building were part of the DEP Stormwater Application and do not include the cranes, undercar trenches and other items necessary for more intense maintenance activities. Furthermore, it makes no sense for NNEPRA to provide a facility for heavy maintenance, since the equipment it receives from Amtrak changes on a weekly basis, meaning that NNEPRA would not receive the benefit of performing such maintenance on that equipment. Thus, the MassDOT report is not a

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revelation concerning additional equipment that will be serviced at the Brunswick facility or additional service activities beyond what is set forth in the Operations Plan, but only confirms what NNEPRA has already said will occur there, namely, limited day-to-day servicing.

Finally, a layover opponent has also said that Ms. Quinn should not be taken at her word because of the “the muddled accountability/responsibility matrix” for the operation of the facility. This opponent has asked, “Who will own the facility? Who will have operational control? Who is the ultimate decision maker on such questions? Does federal authority (IE, Amtrak, etc) have pre-emptive rank here?” Answers to these questions are readily available:

1. The site is owned by NNEPRA as shown in the Release Deed (copy attached) dated September 13, 2011 from the Maine Central Railroad Company to NNEPRA which is attached as Appendix B to the September 10, 2014 letter by which NNEPRA transmitted its Stormwater Management Law Permit Application to the DEP. This Deed was recorded in the Cumberland County Registry of Deeds on September 15, 2011 and has been a public record since at least that date. As set forth on the very first page of the Finding of No Significant Impact issued by the FRA, it is NNEPRA which is having the facility constructed on this land. Thus, NNEPRA is the owner of the land and will be the owner of the facility once it is constructed.
2. Amtrak, and not NNEPRA, owns most of the equipment which is used in the Downeaster service. Furthermore, NNEPRA does not employ staff who can perform the maintenance required for that equipment. Therefore, as stated in the Operations Plan, Amtrak’s light maintenance contractor will actually perform the maintenance activities at the facility. That contractor will be the initial party responsible for those activities, subject to the oversight and direction of Amtrak. Amtrak itself has a contract with NNEPRA to ensure the provision of these services, and, as a result, NNEPRA itself has the ultimate oversight role here, just like any party who contracts with someone to perform services for them.

Contrary to what this opponent has stated, the “chain of command” is clear. Just as the Town’s ability to enact ordinances to control activities on property located in Brunswick does not make it responsible for those activities, the power of other agencies, such as the FRA and the EPA, to

issue regulations and opinions concerning operations at the facility does not make them responsible for those operations. Furthermore, this is a “chain of command” which is already in place and has been working since 2001 at the Portland layover facility.

3. Opponents have brandished a July 5, 2012 e-mail from an attorney at the Surface Transportation Board (copy attached) to claim that the status of preemption at the facility is unclear. As stated in that e-mail, the STB’s governing statute, 49 U.S.C. § 10501, does not apply to Amtrak. As also noted in that e-mail, however, other statutes can and, in this instance, do, apply to preempt the construction of and activities at the facility. Thus, federal law provides that State and local land use laws do not apply to “the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak”. 49 U.S.C. § 24902(j) (copy attached). In 2014, two Maine Assistant Attorneys General advised the DEP that this law preempted the application of Maine’s Site Location of Development Law to the layover facility (copy of letter attached).

Opponents have stated that § 24902(j) relates only to siting location specifics, ignoring the portion of this statute which relates to the “use” of any such facility. Their statement also ignores an additional federal statute which provides that “A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.” 49 U.S.C. § 24301(g) (copy attached). As a result, federal preemption does apply to almost all aspects of the construction and operation of the facility.

Given the easy availability of this information to anyone who has attempted to become familiar with the facility, it would seem that this opponent’s comments are meant to obfuscate rather than clarify.

Time and energy do not permit the discussion of all of the fallacious statements made by opponents of the layover facility, but merely to comment on some of the items most recently raised. Suffice it to say that statements made in the debate over the facility should be closely examined to ensure that they are both logical and based upon a sound set of facts.

I appreciate the Council’s attention to this matter and hope that I have been and can continue to be of some help here.

Jensen Baird  
Gardner Henry

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Sincerely,

A handwritten signature in blue ink, appearing to read "F. Bruce Sleeper". The signature is cursive and stylized, with a large initial "F" and a long, sweeping tail.

F. Bruce Sleeper

cc: Brunswick Town Council  
Brunswick Town Manager



# Overview of Brunswick Layover Facility Typical Activities and Functions

Draft October 2014

## Facility Overview

The Brunswick layover facility will support Servicing and Inspection activities for train equipment used to operate the Amtrak Downeaster passenger rail service.

All train sets will be housed inside the layover building before and after scheduled service. While inside the building, the locomotive will be turned off, plugged into 480V ground power and connected to compressed air.

No running or heavy maintenance activities will be conducted at the Brunswick facility, as locomotives and coaches are sent to other Amtrak facilities for those activities. No hazardous waste will be generated by or as a result of the facility. The wastes associated with train servicing include solid waste (trash and spent brake shoes), spent fluorescent lamps, and sanitary waste.

Upon completion of the facility, three round trips of scheduled service will operate daily between Brunswick and Boston. Although Service Development Plans include the expansion of the present Downeaster schedule to accommodate five daily round trips between Brunswick and Boston, the ability to operate the fourth and fifth round-trips that will extend to Brunswick is dependent upon the completion of additional track improvements between Brunswick and Portland. Schedules for those additional trips have not been confirmed.

Once the facility is built, the Downeaster schedule to/from Brunswick will likely to be similar to:

Weekday		Weekend	
Southbound (departures)	Northbound (arrivals)	Southbound (departures)	Northbound (arrivals)
7:05am	12:25pm	7:05am	12:25pm
12:40pm	8:20pm	12:00pm	8:20pm
5:55pm	2:15am	5:55pm	2:15am

This document is intended to provide an overview of the functions and operations of the Brunswick layover facility and the activities which will typically take place in and around the facility.

## Typical Pre-Trip Train Preparations at the Brunswick Layover:

Approximately an hour prior to the scheduled departure of each trip from Brunswick Station. The typical pre-trip routine is as follows:

- Approximately 60 minutes prior to departure from Brunswick Station, the four-member train crew will arrive. The Amtrak Conductor, Assistant Conductor and Engineer will meet in the crew room, located in the administrative area of the layover building, for a briefing meeting. The Café attendant will perform a pre-shift inventory, set up displays and prepare the Café for the trip.
- Approximately 50 minutes prior to scheduled departure from Brunswick Station, the mechanical crew will activate exhaust hood fans, remove the 480V ground power and compressed air connection from the train and start the diesel locomotive to allow approximately 10 minutes at idle to bring all engine fluids up to operating temperature. All exhaust fans will continue to operate while the locomotive is running inside the building.
- Approximately 40 minutes prior to scheduled departure from Brunswick Station, the Amtrak Train Crew will board the train to perform their pre-trip inspections and function checks. The Amtrak Engineer will switch the locomotive operating setting to Normal, to produce Head End Power (HEP) necessary to complete the operational checks required before exiting the building and returning to service. Approximately 30 minutes prior to scheduled departure from Brunswick Station, the roll-up door for the appropriate train bay will open and the train will leave the layover building to get in position to board passengers at Brunswick Station. The train bell will ring as the train exits the building.

### Typical Post-Trip Train Preparations:

Initially, it is expected that Downeaster trains will be arriving at Brunswick Station at approximately 12:25pm, 8:20pm and 2:15am. After a train has returned from Boston and passengers have disembarked at Brunswick Station, the train will return to the layover facility.

Prior to the trains inbound approach to the layover yard, mechanical personnel will have securely lined the interior yard switches as appropriate to receive the train into its designated servicing bay within the building. As the train proceeds inbound towards the Facility, the Amtrak crew will relay the train's progress to the Mechanical Foreman in charge of the facility yard and servicing building and request permission to enter the layover yard limits. The train's bell will ring as the train approaches the facility, providing additional audible warning to all ground personnel of the inbound equipment. As the train nears the servicing building, the Mechanical Foreman will open the appropriate overhead door, activate the audible and visual personnel warning devices, and activate all interior exhaust fans. The train will proceed continuously through the Layover yard's ladder tracks before coming to a required complete stop at the building's entrance to assure train control before entering. The train will pause momentarily at the entrance to ensure that the track ahead is clear of all personnel and equipment, and will then proceed at no greater than 3 miles per hour while in the building before the Engineer brings it to a complete stop at the designated limit to allow servicing. With all brakes securely engaged, the Amtrak Engineer will then set the locomotive to idle before relinquishing controls to the authorized mechanical personnel

The exhaust fans will remain in operation at all times while the train's diesel locomotive is running within the building. The overhead train bay door will be closed once the train is completely inside. Upon taking control of the train and with the locomotive continuing to idle, the mechanical crew will perform required 24-hour inspections before the locomotive will be completely shut down and plugged into to 480V ground power and connected to the compressed air supply to maintain consist brake pressure requirements. Train servicing will then begin.

## Train Servicing:

Train servicing includes inspections and light maintenance activities performed primarily by Amtrak's mechanical contractor between scheduled service and/or during overnight hours when all trains are in the layover building and shut down. Approximately 4 maintenance employees will be on site during the day for what is referred to as "turnaround servicing" and approximately 6 maintenance employees will be on site from approximately 7:00pm – 5:00am for what is referred to as "layover servicing". Train servicing includes, but is not limited to these major activities:

- *Cleaning and Inspection*  
See below for a comprehensive listing of cleaning activities.
- *Testing Audible Warning Systems*  
Train Servicing includes the testing of the horn and bells. These tests will be conducted while the train is inside the building and consists of a very short activation of each system to be sure it works.
- *Servicing Onboard Lavatories*  
A typical Downeaster train consisting of four passenger cars, a café car, a locomotive and a control car will generally retain a total volume of approximately 82-gallons of effluent. The individual sanitary retention tanks on each coach, café car, control car and locomotive will be emptied and serviced on a daily basis within the layover building. The layover train bays have been designed with multiple sanitary servicing stations positioned to allow efficient servicing of all lavatories located onboard within coaches, locomotives and control cars. These sanitary servicing stations will have both potable and non-potable water hoses for lavatory recharge, as well as a direct outflow connection to the municipal sanitary system.  
  
To empty each lavatory retention tank, mechanical personnel will connect a sanitary discharge hose to the tank outlet and floor mounted outlet pipe of the sanitary servicing station using fittings that will ensure a tight seal. An outlet valve will then be opened to allow gravity to drain the sanitary waste from the train and into the facility's sanitary piping system. Once the transfer is completed, the sanitary hose will be disconnected from the train and capped securely before being hung on a hose stand as part of the sanitary service station to prevent any drips or escape of sanitary gases.
- *Topping off of Locomotive Lubrication Fluids*  
It is anticipated that 10-14 drums of lubricating oil will be stored at the layover facility. Drums of virgin product will be delivered to the facility by vendor truck. Mechanical personnel will off-load the drums from the truck using a forklift or tractor and place them on spill containment pallets inside the Lube Oil Storage Room. All oil drums will remain in this area until needed.

Oil transfers will only be conducted as needed inside the Layover Building. When a locomotive requires oil, which is determined by a dip stick measurement, a drum of oil will be transported on a pallet to the locomotive along with a transfer pump and dispensing hose using a forklift or tractor. After the pallet has been placed on the floor next to the locomotive, a mechanic will carry the oil hose inside the engine compartment, insert the hose nozzle into the oil fill port, and activate the pump. The mechanic will remain inside the locomotive to monitor and control the entire oil transfer process. When the transfer has been completed, the mechanic will remove the nozzle, point it up to prevent any drips, exit the locomotive, and carefully coil the hose around the pump. The drum, pump, and hose will then be returned to the Lube Oil Storage Room.

To prevent oil spills, all drums of oil will be stored on spill containment pallets inside the Lube Oil Storage Room. While in storage, all drum lids and bungs will be kept closed. Spill kits will be maintained at various locations inside the Lube Oil Storage Room and Layover Building.

All mechanical personnel will receive annual training regarding spill prevention and response. This will include a discussion about the potential for spills to occur, ways to prevent spills, and spill notification and response procedures.

In the event of a spill, mechanical personnel will notify their supervisor and take immediate steps to contain the spilled fluid with absorbents from one of the spill kits at the facility. The supervisor will notify the Amtrak Chief Train Dispatcher in Boston, who in turn will contact the Amtrak Environmental Coordinator. After reviewing information regarding the spill, the Coordinator will notify the Maine DEP, other regulatory agencies as required, and a spill response contractor to handle the cleanup.

- *Locomotive Fueling*

Amtrak Downeaster locomotives require daily fueling, which is performed by a vendor using a tank truck. At the layover facility, locomotive fueling will be conducted inside the layover building. Upon arrival at the facility, the fuel vendor will check in with the mechanical supervisor who will assign a mechanic to provide oversight. Prior to fueling each locomotive, the vendor will position the fuel truck as close as possible to the end of the building where the locomotive is located, check the fluid level in the fuel tank, and place a spill bucket beneath the fill port. Fueling will begin after the fuel delivery hose has been connected to the fill port with the proper fitting to ensure a tight seal. The vendor and mechanic will stay with the locomotive for the entire fueling process. When the fueling is finished, the vendor will disconnect the fuel hose, place the fitting in the spill bucket to collect any drips of fuel, and carefully retract the fuel hose. The vendor will be responsible for properly disposing of any fuel collected in the spill bucket offsite. If a spill occurs during fueling, the vendor will immediately cease fueling, take steps to contain the spilled fuel with absorbents from a spill kit, notify the Maine DEP, and make arrangements with a spill response contractor to handle the cleanup (if necessary). As

information, the mechanic will notify his supervisor about the spill who in turn will notify the Amtrak Chief Train Dispatcher in Boston. The Chief Train Dispatcher will contact the Amtrak Environmental Coordinator for the facility.

- *Maintenance of Oil Water Separator*

Amtrak's mechanical contractor will inspect the oil/water separator on a quarterly basis to determine the presence and thickness of any floating oil or sediment inside the separator tank. This information will be recorded on a site-specific checklist and provided to the Amtrak Environmental Coordinator for the facility. If the findings warrant removal of oil or sediment, the Coordinator will contact Amtrak's environmental contractor to arrange for a cleanout. Upon arrival at the facility, Clean Harbors will check in with the mechanical supervisor who will provide oversight during the cleanout. After positioning the pump truck as close as possible to the separator, the Clean Harbors driver will place a spill bucket next the access port, lower a hose into the tank, and begin skimming oil from the surface or sediment from the bottom. The driver and supervisor will stay with the truck for the entire cleanout process. When the work has been completed, the driver will retract the hose. When the end of the hose is removed from the tank, it will be placed in the spill bucket to collect any drips of oily water which will be added to the tank. After securing the cover to the separator, the driver will dispose of the oily water in the tank truck at a licensed facility.

- *Spare Equipment Storage and Switching*

A limited number of spare train cars will be kept at the Brunswick layover to support the ongoing service so that they can be switched in when needed to replace a car which has a mechanical issue, or which needs to go to another facility for more comprehensive routine and preventative maintenance. Spare coaches may be stored inside the layover building if track space is available, but may also be stored on the ladder tracks located at the west end of the layover building. Spare locomotives will be stored inside the layover building completely shutdown. They will remain plugged into 480V ground power and connected with compressed air eliminating the need to idle locomotives outside.

As train cars need to be changed out within the consist, a crew will switch out whichever car(s) need to be replaced with the appropriate spare(s). Switching will occur on the outside ladder tracks on the west end of the layover building. Switching is not a regularly scheduled activity, and will happen randomly at any time of day or night as needed.

### Café Preparation:

Considered an essential amenity to the overall passenger experience, every Downeaster train consist utilizes a Café Car to have food and beverage available for purchase while aboard. The Café manager will have an office and commissary storage at the west end of the administrative area of the layover building. The commissary will consist of refrigerators, freezers, and dry storage areas. No food is prepared on site.

Before and after trips, trains will be stocked within the facility, using carts to transport food between the commissary and the train. Food and supplies are delivered to the commissary by various local vendors. Deliveries occur 4-5 times per week and are usually made during regular business hours via truck or van.

### Administration:

In addition to housing the Café manager, commissary, and crew area, the administrative area of the layover building will include small offices for the Amtrak Road Foreman, who supervises crews and train operations, an Amtrak clerk and the Mechanical Foreman. There will also be a storage area for supplies and tools used by the mechanical contractor.

### Building Maintenance:

The mechanical contractor is responsible for keeping the building interior and exterior safe and clean. This includes grass mowing and trimming as necessary and snow removal in the winter. All Facility mechanical equipment will be serviced and maintained annually or as directed by the manufacturer.

## Typical Train Layover Functions

(Performed by approximately 6 contracted employees between 7pm-5am)

- General
  - Perform Brake Test(s)
  - Connect 480V electrical and compressed air connections
  - Shut down train Inspect head end power train line
  - Perform interior and exterior calendar day inspection
  - Review crew reports of failures or unusual occurrences
  - Service bathrooms
  - Perform Initial Terminal and Daily Inspection and document
  - Inspect interior and exterior components and safety appliances
  - Check fluid levels and fill (when necessary) diesel locomotive lubricants
  - Inspect all wheels on the train
  
- Cleaning (Checklist attached)
  
- Fueling
  - Locomotives are fueled by truck daily.
  
- Passenger Car Interior Servicing:
  - Inspect and verify operation of PA system throughout train
  - Inspect door open and close operation of every side door and trap
  - Inspect door operation of end doors
  - Inspect diagnostic codes on MGS Wheel Slip system
  - Inspect all lighting and replace defective bulbs (when necessary)
  - Verify interior coach temperature
  - Verify refrigerators temperature in café car
  
- Passenger Car Exterior Servicing:
  - Perform daily draining, rinsing & inspection of toilet system holding tank
  - Inspect truck dampers/shocks absorbers
  - Verify operation of each hand brake
  - Inspect passenger car journal roller bearing seals
    - Check brake shoes, disc brake pads and brake discs

- Locomotive Interior Servicing:
  - Inspect cab doors, latches, key locks, windshields, windows, window latches, wind deflectors, weather-stripping and sun visors.
  - Inspect restroom facilities, modesty locks and toilet for proper operation
  - Inspect cab seats, seat mounts, and attachments for security
  - Verify all fire extinguishers are in place and sealed, pressure gauge is within proper limits and inspection tag is applied
  - Test horn and bell
  - Test windshield wiper operation and replace wiper blades (as necessary)
  - Test headlights, ditch lights, strobe light, marker lights, instrument panel illumination, gauge lights and external lights. Replace bulbs as necessary
  - Test all indicating lights. Replace bulbs as necessary
  - Check operation of all alarms and safety devices
  - Perform radio test and test of the Public Address system
  - Test operation of cab heaters
  - Test all safety control devices- alerter, cab signal, and speed control equipment
  - Verify locomotive is equipped with supplies and tools
  
- Locomotive Exterior Servicing:
  - Inspect trucks, running gear, gear cases and traction motor couplings
  - Inspect suspension bearings
  - Check brake shoes, disc brake pads and brake discs
  - Verify brake cylinder stroke travel is within correct limits
  - Drain condensate from all air reservoirs, compressors, intercoolers and dirt collector
  - Inspect couplers and draft gear
  - Inspect all safety appliances
  - Inspect all sand boxes and related seals and delivery pipes. Fill sand when necessary.
  - Visually inspect all Head End Power, MU Control and Communication Cables, jumpers and receptacles
  - Drain and rinse toilet
  - Inspect all truck dampers/shock absorbers
  - Inspect locomotive journal roller bearing seals

## Typical Train Turnaround Routine

(Performed by approximately 3 contracted employees between trips)

- General Duties
  - Shut down train
  - Connect 480V electrical and compressed air
  - Review all crew reports of failures or unusual occurrences
  - Inspect and verify operation of PA system throughout train
  - Perform required test of braking system from operating cab of locomotive or cab car used for next trip
  - Inspect train for any head end power train line being short looped and document
  - Clean Train (checklist attached)

## Typical Train Cleaning Duties:

***Train Exterior***

Wipe clean Car body  
 Wipe clean Information Display  
 Wipe clean Door Panel  
 Wipe clean Windows

Re-fill Water Tank  
 Wipe clean Hand Holds  
 Sweep Steps  
 Empty and recharge Toilet Tank

***Train Interior***

Wipe clean Vestibule Area  
 Wipe clean Windows  
 Empty and Wipe clean Trash Container  
 Wipe clean Trash Compartment  
 Empty and Wipe clean Recycling Container  
 Wipe clean Carbody End Door  
 Wipe clean Light Lenses  
 Wipe clean Information Display  
 Wipe clean Walls  
 Wipe clean Telephone Area  
 Wipe clean Telephone Handset

Wipe clean Crew Office  
 Wipe clean Locker/ Storage Area  
 Wipe clean Ceiling  
 Wipe clean Ventilation Grids  
 Wipe clean Glass Doors  
 Wipe clean Luggage Compartment Interior  
 Wipe clean Luggage Compartment Door  
 Wipe clean Ventilation Ducts  
 Wipe clean Non –Carpeted Floor  
 Wipe clean Water Cooler  
 Replenish Drinking Cups

***Passenger Seating Area***

Vacuum Seat Cushions  
 Wipe clean Seat Frames  
 Replenish Head Rest  
 Wipe clean Folding Trays  
 Wipe clean Arm Rest  
 Wipe clean Reading Light Lenses

Wipe clean Window Shade  
 Wipe clean Foot Rest  
 Organize and dust Magazine Holder  
 Wipe clean Heater Guard  
 Wipe clean Tables

***Toilet Area***

Wipe clean Hand Holds  
 Wipe clean Toilet Shroud  
 Wipe clean Toilet Bowl  
 Wipe clean Light Lenses  
 Wipe clean Toilet Seat& Lids  
 Wipe clean Dispensers  
 Replenish Toilet Supplies  
 Wipe clean Sink/Counter  
 Wipe clean Trash Compartment  
 Empty and Wipe clean Trash Container

***Toilet Area (cont'd)***

Wipe clean Floor  
 Wipe clean Walls  
 Wipe clean Mirror  
 Wipe clean Ceiling  
 Wipe clean Door  
 Wipe clean Changing Table  
 Wipe clean Ventilation Grids

***Food Service Area***

Wipe clean Trolley Insert Area  
 Wipe clean Sinks  
 Wipe clean Counters/Tables  
 Wipe clean Food Storage Area  
 Wipe clean Walls

***Engineer's Compartment***

Wipe clean Windshield

Wipe clean Console

Wipe clean Seat

Wipe clean Windows

Wipe clean Doors

Wipe clean Walls

Wipe clean Floor

Wipe clean Steps

Wipe clean Hand Holds

Wipe clean Windshield Blinds

Wipe clean Ceiling

Wipe clean Telephone Handset

Wipe clean Cab Accessories

Wipe clean Toilet Area

Wipe clean Ice Box

Empty and Wipe clean Trash Container

RELEASE DEED

**MAINE CENTRAL RAILROAD COMPANY**, a corporation duly organized and existing under the laws of the State of Maine with an office in South Portland, Cumberland County, Maine (the "Grantor"), for consideration paid to it by **NORTHERN NEW ENGLAND PASSENGER RAIL AUTHORITY**, a body corporate and politic established under the laws of the State of Maine with an office in Portland, Cumberland County, Maine (the "Grantee"), hereby grants to the Grantee all the Grantor's right, title and interest, without any warranties or covenants of title whatsoever, in a certain parcel of land, together with all improvements thereon (if any), situated in **Brunswick, Cumberland County, Maine**, and described in Exhibit A hereto (the "Premises"). The Premises are depicted on the plan referenced in Exhibit A hereto, which plan is to be recorded in the Cumberland County Registry of Deeds. Further reference is made to a deed from Maine Central Railroad Company to the State of Maine, dated February 26, 1991, and recorded in the Cumberland County Registry of Deeds in Book 9572, Page 306, in which a portion of the Premises is described and depicted as "Reserved Parcel LRB-1."

This conveyance is made without granting any right of way, either by necessity or otherwise, over any remaining land or location of the Grantor.

IN WITNESS WHEREOF, the said Maine Central Railroad Company has caused this Release Deed to be executed in its name and its corporate seal to be hereto affixed by David A. Fink, its President, thereunto duly authorized. this 13<sup>th</sup> day of September, 2011

MAINE REAL ESTATE TAX PAID

MAINE CENTRAL  
RAILROAD COMPANY

SEAL

Robert Samuel  
Witness

By: David A. Fink  
David A. Fink  
President

Commonwealth of Massachusetts  
Middlesex. ss.

September 13, 2011

Personally appeared the above-named David A. Fink, President of Maine Central Railroad Company, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of Maine Central Railroad Company.

Before me,

Roland Theriault

Notary Public

Print Name:

My Commission Expires



**ROLAND L. THERIAULT**

**Notary Public**

**Commonwealth of Massachusetts**

**My Commission Expires**

**August 5, 2016**

## EXHIBIT A

**A CERTAIN PARCEL OF LAND** located northerly of a railroad right of way now or formerly of the State of Maine, Department of Transportation and easterly of Church Road in the town of Brunswick, County of Cumberland and State of Maine, bounded and described as follows:

**BEGINNING** at a point on the easterly sideline of Church Road (f.k.a. Bunganuc Road or Growstown Road), the southwesterly corner of Albert E. Bragdon & Elizabeth M. Bragdon (Life Estate) as described in a deed recorded in the Cumberland County Registry of Deeds in Book 9384, Page 124, and the northwesterly corner of a railroad right of way now or formerly of the State of Maine, Department of Transportation as described in said registry in Book 9572, Page 306 as Parcel Three: "Lower Road," Brunswick. Said point of beginning being located at Maine Central Railroad Baseline Valuation Station 1133+96.21 an offset distance of Thirty-Eight and 00/100 feet (38.00') to the left.

**THENCE** N 81°17'01" E by the southerly sideline of land now or formerly of the following seven parcels: Albert E. Bragdon & Elizabeth M. Bragdon (Life Estate) as described in said registry in Book 9384, Page 124; Maine Woolens, LLC as described in said registry in Book 26412, Page 246; Clifford Kilfoil & Doris Kilfoil as described in said registry in Book 11990, Page 343; Paulo D. Nascimento & Regina D. Nascimento as described in said registry in Book 23992, Page 98; Judy A. Reid & Patrick S. Reid as described in said registry in Book 10307, Page 200; Ashley B. Richards, Jr. as described in said registry in Book 15622, Page 303; and MSTR, LLC as described in said registry in Book 25177, Page 98 a distance of One Thousand One Hundred Seventy-Five and 46/100 feet (1,175.46') to a 6" x 6" granite monument.

**THENCE** N 89°06'24" E by the southerly sideline of land now or formerly of the following nine parcels: Downeast Energy Corp. as described in four deeds in said registry in Book 2600, Page 457, Book 2645, Page 388, Book 2751, Page 453, & Book 2787, Page 27; Mainline Motel, LLC as described in said registry in Book 15496, Page 36; 127 Pleasant Street as described in said registry in Book 21500, Page 304; Martha L. Jacobs & Paul Jacobs, Jr. as described in said registry in Book 4365, Page 166; Jody L. Jacobs as described in said registry in Book 20967, Page 151; Carole A. Thibeault as described in said registry in Book 10465, Page 349; Fort George Lodge Corp. as described in said registry in Book 24898, Page 213; Freeway Investments as described in said registry in Book 25125, Page 168; and William F. Randall & Heather E. Randall as described in said registry in Book 8480, Page 168 a distance of One Thousand Four Hundred Eighty-Five and 22/100 feet (1,485.22') to a point.

**THENCE** N 13°28'54" W by the easterly sideline of land now or formerly of said William F. Randall & Heather E. Randall a distance of One Hundred Thirty-Five and 25/100 feet (135.25') to a point on the southerly sideline of Turner Street.

**THENCE** N 89°06'24" E by the southerly sideline of Turner Street a distance of Fifty-Eight and 52/100 feet (58.52') to a point at the easterly sideline of Lombard Road and the westerly sideline of land now or formerly of Spenser Wilson as described in said registry in Book 25590, Page 55.

**THENCE** S 13°28'54" E by the westerly sideline of land now or formerly of said Spenser Wilson a distance of One Hundred Thirty-Five and 25/100 feet (135.25') to a point.

**THENCE** N 89°06'24" E by a southerly sideline of land now or formerly of said Spenser Wilson a distance of Seventeen and 73/100 feet (17.73') to a 4" X 4" granite monument.

**THENCE** S 40°04'19" E by the westerly sideline of land now or formerly of said Spenser Wilson a distance of Two Hundred Six and 47/100 feet (206.47') to a point at the northerly sideline of a railroad right of way now or formerly of the State of Maine, Department of Transportation as described in said registry in Book 9572, Page 306. Said point being located at Maine Central Railroad Baseline Valuation Station 1162+55.11 an offset distance of Forty and 00/100 feet (40.00') to the left.

**THENCE** S 78°38'09" W by the northerly sideline of the railroad right of way now or formerly of said State of Maine, Department of Transportation a distance of Eleven and 12/100 feet (11.12') to a point.

**THENCE** S 89°06'24" W by the northerly sideline of the railroad right of way now or formerly of said State of Maine, Department of Transportation a distance of Two Thousand One Hundred Sixty-One and 07/100 feet (2,161.07') to a point.

**THENCE** N 00°53'36" W by an easterly sideline of the railroad right of way now or formerly of said State of Maine, Department of Transportation a distance of Twenty-Two and 00/100 feet (22.00') to a point.

**THENCE** S 89°06'24" W by the northerly sideline of the railroad right of way now or formerly of said State of Maine, Department of Transportation a distance of Three Hundred and 00/100 feet (300.00') to a point.

**THENCE** S 00°53'36" E by a westerly sideline of the railroad right of way now or formerly of said State of Maine, Department of Transportation a distance of Twenty-Two and 00/100 feet (22.00') to a point.

**THENCE** S 89°06'24" W by the northerly sideline of the railroad right of way now or formerly of said State of Maine, Department of Transportation a distance of Three Hundred Eighty-Six and 49/100 feet (386.49') to the point of beginning.

The above described parcel contains 354,876± square feet (8.15± acres).  
Bearings are based on grid north, Maine 2000 West Zone. Reference is herein  
made to a plan entitled: "Proposed Layover Facility Parcel From Maine Central  
Railroad Company to NNEPRA," Brunswick, Cumberland County, State Project  
No. 16647.00, by State of Maine, Department of Transportation, dated June  
2011, D.O.T. File No. 3-577.

Received  
Recorded Register of Deeds  
Sep 15, 2011 12:09:07P  
Cumberland County  
Pamela E. Lovley

## **APPENDIX C**

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**From:** [Gabriel.Meyer@stb.dot.gov](mailto:Gabriel.Meyer@stb.dot.gov) [<mailto:Gabriel.Meyer@stb.dot.gov>]  
**Sent:** Thursday, July 05, 2012 1:02 PM  
**To:** Gerzofsky, SenStan  
**Cc:** [Jamie.Rennert@stb.dot.gov](mailto:Jamie.Rennert@stb.dot.gov)  
**Subject:** Amtrak layover facility

Dear Senator Gerzofsky:

Per our conversation, this email will provide an overview of the effect of federal preemption, under the Surface Transportation Board's (STB) governing statute, upon state and local regulation of railroad activities as related to the construction and operation of the planned passenger train layover facility in Brunswick, Maine.

The rule of thumb is that a state or local law is preempted if: (1) it regulates or unreasonably interferes with activities that are integrally related to transportation; and (2) such activities are conducted by an STB-licensed rail carrier or its agent. Transportation activities generally include the movement of equipment and goods by rail, and activities with a direct connection to such operations (i.e., construction of rail lines, facilities, and other activities directly related to rail operations). Based on my understanding of the facts related to the Brunswick layover facility, it does not appear that the construction and operation of the facility, is subject to preemption under the STB's governing statute—the Interstate Commerce Commission Termination Act of 1995 (ICCTA).

As I understand, there are two entities involved in the construction and planned operation of the facility: Northern New England Passenger Rail Authority (NNEPRA) and Amtrak. It does not appear that the STB, or its predecessor, the Interstate Commerce Commission, has ever recognized NNEPRA as a rail carrier. As a result, NNEPRA's activities appear not to be subject to preemption under ICCTA. With respect to Amtrak, although it is a rail carrier, unlike rail-freight carriers and certain other rail-passenger operators it is not subject to 49 U.S.C. § 10501, which provides the basis for preemption of rail activities subject to STB jurisdiction.

Additionally, I understand that the facility will be built on land not owned by a railroad, nor will it be used by a railroad subject to ICCTA preemption. These factors also suggest that state and local regulation of the facility is not preempted under ICCTA.

While it appears that construction and operation of the layover facility is not subject to preemption under ICCTA, it could be subject to preemption under other federal statutes not administered by the STB. Since we spoke, I have learned that NNEPRA has received approximately \$38 million in grants administered by the Federal Railroad Administration (FRA) in 2010 to pay for the extension of Amtrak service from Portland to Brunswick. The funds for these grants were originally made available through the American Recovery and Investment Act of 2009. Some of the FRA-administered grant money is being used to pay for the railroad tracks that will serve the layover facility, and the FRA is the lead agency in the ongoing environmental assessment associated with the facility. Hence it is possible that some state and local laws could be preempted due to the FRA's involvement. However, proper determination of any FRA-related preemption requires consultation with the FRA. I would be happy to direct you to an appropriate contact at the FRA if you would like.

Please understand that the analysis in this email is based upon my understanding of the facts and circumstances related to the Brunswick layover facility. There could be additional information that I am unaware of that could change the analysis.

The STB can only issue a formal opinion on the basis of a fully developed factual record. To obtain a formal opinion, a party with an interest in the construction of the layover facility would need to file a pleading with the STB called a Petition for Declaratory Order. This is basically a request that the STB rule on a legal question. Once the petition is filed, the opposing side (and any other interested parties) would have 20 days to file a reply (although the STB can grant extensions). All evidence is submitted through paper filings and there are typically no oral arguments or hearings. Once the STB has received all of the

evidence, it would issue a decision. There are no statutory deadlines governing the issuance of decisions in declaratory order matters, and it can take the STB several months, or longer, to issue a decision. Alternatively, a party could seek a formal STB ruling by seeking injunctive relief, which is a request that the STB order a party to stop doing something—i.e., order NNEPRA to cease construction of the layover facility until it complies with state and local laws and procedures. However, injunctions are generally granted only when there are extenuating circumstances. Similar relief may also be available by filing an appropriate action in court.

If you have any further questions, or would like additional information on how to obtain a formal opinion on the issues of STB preemption, please let me know.

Sincerely,  
Gabriel S. Meyer  
Surface Transportation Board | Attorney-Advisor  
Office of Public Assistance, Governmental Affairs & Compliance  
Rail Customer & Public Assistance program  
1-866-254-1792  
(202) 245-0245 (Board Mainline)  
(202) 245-0150 (direct)

Opinions expressed by employees of the Rail Customer & Public Assistance Program (RCPA) of the Surface Transportation Board (Board) are theirs alone, and do not represent opinions of, or by, the Board or its Commissioners or Directors. Formal opinions of the Board may only be obtained via a formal proceeding. Positions taken by RCPA employees might not be followed by the Board should a formal proceeding be initiated; and spoken or written comments may be withdrawn by the Board at its discretion. All matters discussed with RCPA employees are confidential and subject to the same confidentiality provisions as administrative dispute resolutions pursuant to 49 C.F.R. 1109.3 and 5 U.S.C. 574. Except as specifically set forth in 5 U.S.C. 574, neither RCPA employees nor the parties to an informal matter before the RCPA shall disclose any informal dispute resolution communication.

## [49 USCS § 24902](#)

Current through PL 114-9, approved 4/7/15

[United States Code Service - Titles 1 through 54](#) > [TITLE 49. TRANSPORTATION](#) > [SUBTITLE V. RAIL PROGRAMS](#) > [PART C. PASSENGER TRANSPORTATION](#) > [CHAPTER 249. NORTHEAST CORRIDOR IMPROVEMENT PROGRAM](#)

### **§ 24902. Goals and requirements**

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- (a) Managing costs and revenues. Amtrak shall manage its operating costs, pricing policies, and other factors with the goal of having revenues derived each fiscal year from providing intercity rail passenger transportation over the Northeast Corridor route between the District of Columbia and Boston, Massachusetts, equal at least the operating costs of providing that transportation in that fiscal year.
- (b) Priorities in selecting and scheduling projects. When selecting and scheduling specific projects, Amtrak shall apply the following considerations, in the following order of priority:
  - (1) Safety-related items should be completed before other items because the safety of the passengers and users of the Northeast Corridor is paramount.
  - (2) Activities that benefit the greatest number of passengers should be completed before activities involving fewer passengers.
  - (3) Reliability of intercity rail passenger transportation must be emphasized.
  - (4) Trip-time requirements of this section must be achieved to the extent compatible with the priorities referred to in paragraphs (1)-(3) of this subsection.
  - (5) Improvements that will pay for the investment by achieving lower operating or maintenance costs should be carried out before other improvements.
  - (6) Construction operations should be scheduled so that the fewest possible passengers are inconvenienced, transportation is maintained, and the on-time performance of Northeast Corridor commuter rail passenger and rail freight transportation is optimized.
  - (7) Planning should focus on completing activities that will provide immediate benefits to users of the Northeast Corridor.
- (c) Compatibility with future improvements and production of maximum labor benefits. Improvements under this section shall be compatible with future improvements in transportation and shall produce the maximum labor benefit from hiring individuals presently unemployed.
- (d) Automatic train control systems. A train operating on the Northeast Corridor main line or between the main line and Atlantic City shall be equipped with an automatic train control system designed to slow or stop the train in response to an external signal.
- (e) High-speed transportation. If practicable, Amtrak shall establish intercity rail passenger transportation in the Northeast Corridor that carries out section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 ([Public Law 94-210](#), [90 Stat. 121](#)).
- (f) Equipment development. Amtrak shall develop economical and reliable equipment compatible with track, operating, and marketing characteristics of the Northeast Corridor, including the capability to meet reliable trip times under section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976 ([Public Law 94-210](#), [90 Stat. 121](#)) in regularly scheduled revenue transportation in the Corridor, when the Northeast Corridor improvement program is completed. Amtrak must decide that equipment complies with this subsection before buying equipment with financial assistance of the Government. Amtrak shall submit a request for an authorization of appropriations for production of the equipment.
- (g) Agreements for off-corridor routing of rail freight transportation.

## 49 USCS § 24902

- (1) Amtrak may make an agreement with a rail freight carrier or a regional transportation authority under which the carrier will carry out an alternate off-corridor routing of rail freight transportation over rail lines in the Northeast Corridor between the District of Columbia and New York metropolitan areas, including intermediate points. The agreement shall be for at least 5 years.
  - (2) Amtrak shall apply to the Surface Transportation Board for approval of the agreement and all related agreements accompanying the application as soon as the agreement is made. If the Board finds that approval is necessary to carry out this chapter [[49 USCS §§ 24901](#) et seq.], the Board shall approve the application and related agreements not later than 90 days after receiving the application.
  - (3) If an agreement is not made under paragraph (1) of this subsection, Amtrak, with the consent of the other parties, may apply to the Surface Transportation Board. Not later than 90 days after the application, the Board shall decide on the terms of an agreement if it decides that doing so is necessary to carry out this chapter [[49 USCS §§ 24901](#) et seq.]. The decision of the Board is binding on the other parties.
- (h) Coordination.
- (1) The Secretary of Transportation shall coordinate--
    - (A) transportation programs related to the Northeast Corridor to ensure that the programs are integrated and consistent with the Northeast Corridor improvement program; and
    - (B) amounts from departments, agencies, and instrumentalities of the Government to achieve urban redevelopment and revitalization in the vicinity of urban rail stations in the Northeast Corridor served by intercity and commuter rail passenger transportation.
  - (2) If the Secretary finds significant noncompliance with this section, the Secretary may deny financing to a noncomplying program until the noncompliance is corrected.
- (i) Completion. Amtrak shall give the highest priority to completing the program.
- (j) Applicable procedures. No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in connection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this [title \[49 USCS §§ 24101](#) et seq., [24301](#) et seq., or [24701](#) et seq.] or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land. These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns, in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.

## History

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(July 5, 1994,[P.L. 103-272](#), § 1(e), [108 Stat. 930](#); Sept. 30, 1996, [P.L. 104-205](#), Title III, § 334, [110 Stat. 2974](#); Dec. 2, 1997, [P.L. 105-134](#), Title IV, § 405(b)(1), [111 Stat. 2586](#).)

(As amended July 6, 2012,[P.L. 112-141](#), Div C, Title II, Subtitle I, Part III, § 32932(c)(3), [126 Stat. 829](#).)

### Prior law and revision:



## 49 USCS § 24902

- 704(i); added May 30,  
1980, [Pub. L. 96-254](#), Sec.  
204(b), [94 Stat. 411](#).
- 45:855(b).
- 24902(d)... 45:853(4)  
(last sentence).
- 24902(e)... 45:853(7). Feb. 5, 1976, Pub. L. 94-  
210, [90 Stat. 31](#), Sec.  
703(7); added May 30,  
1980, [Pub. L. 96-254](#),  
Sec. 209, [94 Stat. 414](#).
- 24902(f)... 45:853(1)(C).
- 24902(g)... 45:431(k). Oct. 16, 1970, Pub. L. 91-  
458, [84 Stat. 971](#), Sec.  
202(k); added June 22,  
1988, [Pub. L. 100-342](#),  
Sec. 9, [102 Stat. 628](#).
- 24902(h)... 45:853(1)(E). Feb. 5, 1976, Pub. L. 94-  
210, Sec. 703(1)(E), 90  
Stat. 121; May 30, 1980,  
[Pub. L. 96-254](#), Sec. 202  
(3), [94 Stat. 410](#).
- 45:855(b).
- 24902(I)... 45:853(5). Feb. 5, 1976, Pub. L. 94-  
210, [90 Stat. 31](#), Sec.  
703(5); added Oct. 5,  
1978, [Pub. L. 95-421](#), Sec.  
8(3), [92 Stat. 927](#).
- 45:855(b).
- 24902(j)... 45:853(3)(B). Feb. 5, 1976, Pub. L. 94-  
210, [90 Stat. 31](#), Sec.  
703(3)(B); added May 30,  
1980, [Pub. L. 96-254](#),  
Sec. 203(1), [94 Stat. 410](#).
- 45:855(b).
- 24902(k)... 45:854(c)(1). Feb. 5, 1976, Pub. L. 94-  
210, Sec. 704(c)(1), 90  
Stat. 123; May 30, 1980,  
[Pub. L. 96-254](#), Sec. 210  
(1), [94 Stat. 414](#).
- 45:854(c)(2). Feb. 5, 1976, Pub. L. 94-  
210, [90 Stat. 31](#), Sec.  
704(c)(2); added May 30,  
1980, [Pub. L. 96-254](#), Sec.  
Sec. 210(2), [94 Stat. 414](#).
- 24902(l)... 45:545(h) (last Oct. 30, 1970, Pub. L. 91-  
sentence). 518, [84 Stat. 1327](#), Sec.  
305(h) (last sentence);  
added Oct. 28, 1974, Pub.  
L. 93-496, Sec. 3, 88  
Stat. 1527; Sept. 29,  
1979, [Pub. L. 96-73](#), Sec.  
106, [93 Stat. 539](#).
- 45:855(b).

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In this section, the word "program" is substituted for "project" for consistency in this chapter.  
In subsection (a)(1)(A) and (B), the words "schedule" and "appropriate" are omitted as surplus.  
In subsection (a)(2), the words "in order" and "rail" are omitted as surplus.  
In subsection (a)(4)-(6), the words "the goals contained in" are omitted as surplus.

In subsection (a)(4), the text of 45:853(2)(B) is omitted as executed.

In subsection (a)(5), the words "to all users of rail freight service located" are omitted as surplus. The word "in" is substituted for "on" as being more appropriate. The words "all . . . which remain" are omitted as surplus.

In subsection (a)(6), the word "mobile" is added for consistency in this chapter. The word "on" is substituted for "aboard trains operated in" to eliminate unnecessary words. The word "passenger" after "rail" is added for consistency in this chapter. The word "Washington" is omitted as surplus.

In subsection (b), the words "each fiscal year" are substituted for "annual" for clarity. The text of 45:851(d)(1)(A) and (B) is omitted as obsolete.

In subsection (c)(1), the words "in his sole discretion" are omitted as surplus.

In subsection (c)(2)(B), the words "and in the amounts" are omitted as surplus.

In subsection (d), the words "department, agencies, and instrumentalities of the United States Government" are substituted for "relevant Federal agencies, including the Federal Communications Commission" for consistency in the revised title and with other titles of the United States Code. The words "shall assist Amtrak under subsection (a)(6) of this section" are substituted for "shall take such actions as are necessary to achieve this goal" for clarity. The words "including necessary licensing, construction, operation, and maintenance" are omitted as surplus.

In subsection (e), before clause (1), the words "of priority" are added for clarity. In clause (2), the words "Potential ridership should be considered" are omitted as surplus. In clause (5), the words "Reducing maintenance cost levels is desirable" are omitted as surplus. The words "before other improvements" are added for clarity.

In subsection (f), the words "accomplished in a manner which is", "the accomplishment in the . . . of additional", and "levels" are omitted as surplus.

In subsection (g), the words "after April 1, 1990" are omitted as executed. The words "between [sic] Washington, D.C., and Boston, Massachusetts" are omitted as surplus. The words "or between the main line and Atlantic City" are substituted for "on the feeder line referred to in section 854(a)(1)(B) of this title" for clarity. The text of 45:431(k)(2) is omitted as executed.

In subsection (h), the text of 45:853(1)(E) (1st-4th sentences) and the word "Thereafter" are omitted as executed. The words "carries out" are substituted for "achieves the service goals specified in" for consistency in this section.

In subsection (i), the words "rolling stock and related", "designed to be", "set forth", and "specified" are omitted as surplus. The text of 45:853(5) (last sentence words after "such equipment") is omitted as obsolete.

In subsection (j)(1), the words "Within 6 months after May 30, 1980, the Secretary shall develop plans" and the text of 45:853(3)(B)(v) are omitted as executed. The words "rail lines" are substituted for "lines" for clarity and consistency in this chapter. The words "Washington" and "on such terms and conditions as the parties may agree" are omitted as surplus.

In subsection (j)(2), the words "including the provision of service use of tracks and facilities as provided in such application" are omitted as surplus.

In subsection (j)(3), the words "other parties" are substituted for "involved rail freight carriers" to eliminate unnecessary words. The words "conditions and" are omitted as surplus.

In subsection (k)(1), before clause (A), the words "take all steps necessary to" are omitted as surplus. In clause (A), the words "all", "implementation of", and "under this subchapter" are omitted as surplus. Clause (B) is substituted for 45:854(c)(2) to eliminate surplus and obsolete words.

## Annotations

## Notes

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### References in text:

"Section 703(1)(E) of the Railroad Revitalization and Regulatory Reform Act of 1976", referred to in this section, is § 703(1)(E) of Act Feb. 5, 1976, *P.L. 94-210*, Title VII, *90 Stat. 121*, which appeared as *45 USCS § 853(1)(E)*, and was repealed by Act July 5, 1994, *P.L. 103-272*, § 7(b), *108 Stat. 1388*.

### Amendments:

**1996** . Act Sept. 30, 1996, added subsec. (m).

**1997** . Act Dec. 2, 1997, deleted subsec. (a) which read:

“(a) Northeast Corridor improvement plan. To the extent of amounts appropriated under section 24909 of this title, Amtrak shall carry out a Northeast Corridor improvement program to achieve the following goals:

“(1) establish not later than September 30, 1985, regularly scheduled and dependable intercity rail passenger transportation between--

“(A) Boston, Massachusetts, and New York, New York, in not more than 3 hours and 40 minutes, including intermediate stops; and

“(B) New York, New York, and the District of Columbia, in not more than 2 hours and 40 minutes, including intermediate stops;

“(2) improve facilities, under route criteria approved by Congress, on routes to Harrisburg, Pennsylvania, Albany, New York, and Atlantic City, New Jersey, from the Northeast Corridor main line, and to Boston, Massachusetts, and New Haven, Connecticut, from Springfield, Massachusetts, to make those facilities more compatible with improved high-speed transportation provided on the Northeast Corridor main line;

“(3) improve nonoperational parts of stations, related facilities, and fencing used in intercity rail passenger transportation;

“(4) facilitate improvements in, and usage of, commuter rail passenger, rail rapid transit, and local public transportation, to the extent compatible with clauses (1)-(3) of this subsection and subsections (f) and (h) of this section;

“(5) maintain and improve rail freight transportation in or adjacent to the Northeast Corridor and through-freight transportation in the Northeast Corridor, to the extent compatible with clauses (1)-(4) of this subsection and subsections (f) and (h) of this section;

“(6) continue and improve passenger radio mobile telephone service on high-speed rail passenger transportation between Boston, Massachusetts, and the District of Columbia, to the extent compatible with clauses (1)-(3) of this subsection and subsections (f) and (h) of this section; and

“(7) eliminate to the maximum extent practicable congestion in rail freight and rail passenger transportation at the Baltimore and Potomac Tunnel in Baltimore, Maryland, by rehabilitating and improving the tunnel and the rail lines approaching the tunnel.”;

deleted subsecs. (c) and (d) which read:

“(c) Cost sharing for nonoperational facilities.

(1) Fifty percent of the cost of improvements under subsection (a)(3) of this section shall be paid by a State, local or regional transportation authority or other responsible party. However, Amtrak may finance entirely a safety-related improvement.

“(2) When a part of the cost of improvements under subsection (a)(3) of this section will be paid by a responsible party under paragraph (1) of this subsection, Amtrak may make an agreement with the party under which Amtrak--

“(A) shall carry out the improvements with amounts appropriated under section 24909 of this title and the party shall reimburse Amtrak; and

“(B) to the extent provided in an appropriation law, may incur obligations for contracts to carry out the improvements in anticipation of reimbursement.

“(3) Amounts reimbursed to Amtrak under paragraph (2) of this subsection shall be credited to the appropriation originally charged for the cost of the improvements and are available for further obligation.

“(d) Passenger radio mobile telephone service. The President and departments, agencies, and instrumentalities of the United States Government shall assist Amtrak under subsection (a)(6) of this section, subject to the Communications Act of 1934 ([47 U.S.C. 151](#) et seq.) and radio services standards, when the Federal Communications Commission decides the assistance is in the public interest, convenience, and necessity.”;

redesignated subsec. (b) and (e)-(m) as subsecs. (a)-(j), respectively; and, in subsec. (j) as redesignated, deleted “(m)” following “This subsection”.

**2012** . Act July 6, 2012 (effective 10/1/2012, as provided by § 3(a) of such Act, which appears as [23 USCS § 101](#) note), in subsec. (g), in paras. (2) and (3), substituted “Surface Transportation Board” for “Interstate Commerce Commission” and “Board” for “Commission” wherever appearing.

#### **Other provisions:**

**Northeast Corridor state-of-good-repair plan.** Act Oct. 16, 2008, [P.L. 110-432](#), Div B, Title II, § 211, [122 Stat. 4920](#), provides:

“(a) In general. Within 6 months after the date of enactment of this Act, Amtrak, in consultation with the Secretary and the States (including the District of Columbia) that make up the Northeast Corridor (as defined in [section 24102 of title 49, United States Code](#)), shall prepare a capital spending plan for capital projects required to return the railroad right-of-way (including track, signals, and auxiliary structures), facilities, stations, and equipment, of the Northeast Corridor main line to a state-of-good-repair by the end of fiscal year 2018, consistent with the funding levels authorized in this division, and shall submit the plan to the Secretary.

“(b) Review and approval by the Secretary.

(1) 60-day approval process. The Secretary shall complete the review of the capital spending plan and approve or disapprove the plan within 60 days after the date on which Amtrak submits the plan. During review, the Secretary may seek comments from the Commission established under [section 24905 of title 49, United States Code](#), and other Northeast Corridor users regarding the plan. If the Secretary disapproves the plan or determines that the plan is incomplete or deficient, the Secretary shall include the reason for disapproval or the incomplete items or deficiencies in a notice to Amtrak.

“(2) 15-day modification period. Within 15 days after receiving notification from the Secretary under paragraph (1), Amtrak shall submit a modified plan for the Secretary’s review.

“(3) Revised requests. Within 15 days after receiving a modified plan from Amtrak, the Secretary shall either approve the modified plan, or, if the Secretary finds that the plan is still incomplete or deficient, the Secretary shall identify in writing to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the remaining deficiencies and recommend a process for resolving the outstanding portions of the plan.

“(c) Plan updates. The plan shall be updated at least annually and the Secretary shall review and approve such updates, in accordance with the procedures described in subsection (b).

“(d) Grants. The Secretary shall make grants to Amtrak with funds authorized by section 101(c) [unclassified] for Northeast Corridor capital investments contained within the capital spending plan prepared by Amtrak and approved by the Secretary.

“(e) Oversight. Using the funds authorized by section 101(d) [unclassified], the Secretary shall review Amtrak’s capital expenditures funded by this section to ensure that such expenditures are consistent with the capital spending plan and that Amtrak is providing adequate project management oversight and fiscal controls.

“(f) Eligibility of expenditures. The Federal share of expenditures for capital improvements under this section may not exceed 100 percent.”.

## Research References & Practice Aids

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### Related Statutes & Rules:

This section is referred to in [49 USCS §§ 24315](#), [24904](#), [24909](#).

UNITED STATES CODE SERVICE

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## *Memorandum*

**To:** Patricia Aho, Commissioner, Maine DEP  
Heather Parent, Deputy Commissioner, Maine DEP  
Mark Bergeron, Director, Division of Land Resource Regulation, Maine DEP

**From:** Lauren Parker, Assistant Attorney General *LPP*  
Mary M. Sauer, Assistant Attorney General *MMS*

**Date:** August 21, 2014

**Subject:** Federal Preemption of the Site Location of Development Law as to the Proposed Passenger Rail Layover Facility in Brunswick

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### Summary

You have asked whether, as asserted by the Northern New England Passenger Rail Authority ("NNEPRA"), federal law relating to Amtrak at 29 U.S.C.A. § 24902(j) preempts the Maine Department of Environmental Protection ("Department") from applying Maine's Site Location of Development Law ("Site Law") to NNEPRA's proposed passenger rail layover facility in Brunswick. Based on the information provided to us, we conclude that, if this issue were litigated, a court is likely to find that the Department is expressly preempted by the Amtrak statute from requiring NNEPRA to obtain a Site Law permit for the proposed facility.

### Analysis

Pursuant to Maine's Site Law,

[a] person may not construct or cause to be constructed or operate or cause to be operated or, in the case of a subdivision, sell or lease, offer for sale or lease or cause to be sold or leased any development of state or regional significance that may substantially affect the environment without first having obtained approval for this construction, operation, lease or sale from the Department.

38-A M.R.S. § 483-A(1). "Development of state or regional significance that may substantially affect the environment" is defined in the Site Law to include, among other things, subdivisions and structures. 38-A M.R.S. § 482(2). In order to approve proposed development, the Department must find that the standards set forth in the Site Law are met, including standards

relating to effect on the natural environment, soil types, stormwater management and sedimentation control, groundwater, infrastructure, flooding, and blasting. 38-A M.R.S. § 484. As expressed by the Legislature, the purpose of the Site Law

is to provide a flexible and practical means by which the State, acting through the department, in consultation with appropriate state agencies, may exercise the police power of the State to control the location of those developments substantially affecting local environment in order to insure that such developments will be located in a manner which will have a minimal adverse impact on the natural environment within the development sites and of their surroundings and protect the health, safety and general welfare of the people.

38 M.R.S. § 481.

The Department may not require Site Law approval for a proposed development, however, if a federal law preempts that action by the State. *See Verizon N.E. v. Pub. Utils. Comm'n*, 2005 ME 64, ¶ 19, 875 A.2d 118. Preemption of state law by federal law is rooted in the Supremacy Clause of the U.S. Constitution. *Mutual Pharmaceutical Co. v. Bartlett*, 133 S. Ct. 2466, 2472-73 (2013). That clause reads: “the Laws of the United States . . . shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.” U.S. Const. art. VI, cl. 2. “Federal preemption of state law may occur either expressly or by implication.” *Brown v. United Airlines*, 720 F.3d 60, 63 (1<sup>st</sup> Cir. 2013).

The federal Amtrak law at issue, 49 U.S.C.A. § 24902(j), expressly provides for preemption of certain types of State and local laws governing Amtrak-related improvements. Section 24902(j) reads as follows:

**(j) Applicable procedures.**--*No State or local building, zoning, subdivision, or similar or related law, nor any other State or local law from which a project would be exempt if undertaken by the Federal Government or an agency thereof within a Federal enclave wherein Federal jurisdiction is exclusive, including without limitation with respect to all such laws referenced herein above requirements for permits, actions, approvals or filings, shall apply in connection with the construction, ownership, use, operation, financing, leasing, conveying, mortgaging or enforcing a mortgage of (i) any improvement undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project (including without limitation maintenance, service, inspection or similar facilities acquired, constructed or used for high speed trainsets) or chapter 241, 243, or 247 of this title or (ii) any land (and right, title or interest created with respect thereto) on which such improvement is located and adjoining, surrounding or any related land.* These exemptions shall remain in effect and be applicable with respect to such land and improvements for the benefit of any mortgagee before, upon and after coming into possession of such improvements or land, any third party purchasers thereof in foreclosure (or through a deed in lieu of foreclosure), and their respective successors and assigns,

in each case to the extent the land or improvements are used, or held for use, for railroad purposes or purposes accessory thereto. This subsection shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.

(Emphasis added). Based on the wording of the Amtrak statute quoted above and for the reasons set forth below, a court would likely find that the Department is expressly preempted from requiring NNEPRA to obtain a permit under the Site Law for the proposed passenger rail layover facility.

First, for 49 U.S.C.A. § 24902(j) to have preemptive effect, the State law at issue must be a “building, zoning, subdivision, or similar or related law.” The wording of the Site Law shows that it pertains to the construction or operation of a development of state or regional significance that may substantially affect the environment, as well as the sale or lease of a subdivision that qualifies as such, and requires a permit for such development. 38-A M.R.S. § 483-A. Given that the Site Law requires Department approval for the construction and operation of certain development, including subdivisions, and sets forth standards for Department approval, a court would likely find that the Site Law may be properly characterized as a State “building, zoning, subdivision, or similar or related law,” thus falling within the ambit of 49 U.S.C.A. § 24902(j).<sup>1</sup> This conclusion is further supported by the Site Law’s purpose, which is “to control the location of those developments substantially affecting local environment in order to insure that such developments will be located in a manner which will have a minimal adverse impact on the natural environment . . . and protect the health, safety and general welfare of the people.” 38 M.R.S. § 481.

Second, the Site Law may only be preempted by 49 U.S.C.A. § 24902(j) if the improvement at issue is “undertaken by or for the benefit of Amtrak as part of, or in furtherance of, the Northeast Corridor Improvement Project . . . or chapter 241, 243, or 247 of [title 49].” We understand that the proposed layover facility will be constructed for the benefit of Amtrak. The proposed layover facility does not appear to be part of or in furtherance of the Northeast Corridor Improvement Project, which relates to the route extending from Washington D.C. to Boston. 49 U.S.C.A. §§ 24102(6), 24902(a). The proposed facility, however, appears to fit within Chapter 247, which is titled “Amtrak Route System.”<sup>2</sup> Chapter 247 authorizes Amtrak to

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<sup>1</sup> While the Site Law is not a zoning statute that seeks to place restrictions on where development occurs generally, the Site Law “bears a resemblance to zoning ordinances in that both seek to restrict the use of land to areas appropriate for the purpose.” *In Re Spring Valley Development*, 300 A.2d 736, 753-54 (Me. 1973); *see also In Re Maine Clean Fuels, Inc.*, 310 A.2d 736, 742 (Me. 1973).

<sup>2</sup> While 49 U.S.C.A. § 24902(j) falls within Chapter 249, which is titled “Northeast Corridor Improvement Program,” the wording of Section 24902(j) makes clear that preemption also applies in situations that do not involve that program. Specifically, the inclusion of “or chapter 241, 243, or 247 of this title” in the statute logically means that preemption applies when an improvement is “undertaken by or for the benefit of Amtrak as part of, or in furtherance of” any of those three chapters. A contrary interpretation would render the reference to these three chapters meaningless. *See Linnehan Leasing v. State Tax Assessor*, 898 A.2d 408, 413 (Me. 2006) (applying “our rule of construction that we will not treat any provision of a statute as surplusage when a reasonable construction of a statute can provide meaning to each provision”); *Cobb v. Board of Counseling Professionals Licensure*, 896 A.2d 271, 277 (Me. 2006) (“no language is to be treated as surplusage if it can be reasonably construed”).

contract with a regional authority “for Amtrak to operate an intercity rail service or route not included in the national rail passenger transportation system.” 49 U.S.C.A. § 24702(a). We understand that the Downeaster is an intercity rail service not included in the national rail passenger transportation system.<sup>3</sup> NNEPRA is an authority established for the purpose of promoting passenger rail service between points within Maine and points within and outside Maine. 5 M.R.S. § 12004-F(16); 23 M.R.S. §§ 8002(1), 8003(1), 8111. NNEPRA therefore is a regional authority as that term is used in 49 U.S.C.A. § 24902(j). We also understand that Amtrak has contracted with NNEPRA for Amtrak to operate the rail service between Portland and Brunswick. Thus, a court would likely find that the proposed layover facility constitutes an improvement undertaken for the benefit of Amtrak in furtherance of Chapter 247 of title 49.<sup>4</sup>

Third, the Amtrak statute provides that Section 24902(j) “shall not apply to any improvement or related land unless Amtrak receives a Federal operating subsidy in the fiscal year in which Amtrak commits to or initiates such improvement.” 49 U.S.C.A. § 24902(j). We understand that Amtrak has received and continues to receive federal operating subsidies. Given these operating subsidies, a court would likely find that this part of Section 24902(j) is met.

For the above-stated reasons, a court is likely to find that the Amtrak statute found at 49 U.S.C.A. § 24902(j) preempts the Department from requiring NNEPRA to obtain a Site Law permit for the proposed layover facility.

This conclusion is limited to Maine’s Site Law. Whether other Department laws are preempted by 49 U.S.C.A. § 24902(j) would require separate analysis.

This memorandum is also limited to an analysis of the preemptive effect of one particular federal statute concerning Amtrak—49 U.S.C.A. § 24902(j). Given our conclusion that this statute likely preempts the Department from requiring a Site Law permit, analysis of other possible sources of preemption is unnecessary. Specifically, we have made no determination as to whether 49 U.S.C.A. § 10501, which is part of the Interstate Commerce Commission Termination Act of 1995 (ICCTA) administered by the Surface Transportation Board, has any preemptive effect. Therefore, concerns expressed as to whether ICCTA preempts or does not preempt application of the Site Law have no bearing on the analysis set forth in this memorandum.

If you have any questions, please do not hesitate to contact us.

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<sup>3</sup> See definition of “national rail passenger transportation system” at 49 U.S.C.A. § 24102(5).

<sup>4</sup> In addition, it is possible that the proposed facility may fit within Chapter 243, which is titled “Amtrak.” This chapter authorizes Amtrak to “acquire, operate, maintain, and make contracts for the operation and maintenance of equipment and facilities necessary for intercity and commuter rail passenger transportation.” 49 U.S.C.A. § 24305(a).

## [49 USCS § 24301](#)

Current through PL 114-9, approved 4/7/15

[United States Code Service - Titles 1 through 54](#) > [TITLE 49. TRANSPORTATION](#) > [SUBTITLE V. RAIL PROGRAMS](#) > [PART C. PASSENGER TRANSPORTATION](#) > [CHAPTER 243. AMTRAK](#)

### **§ 24301. Status and applicable laws**

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- (a) Status. Amtrak--
- (1) is a railroad carrier under section 20102(2) [[49 USCS § 20102\(2\)](#)] and chapters 261 and 281 of this [title \[49 USCS §§ 26101](#) et seq. and [28101](#) et seq.];
  - (2) shall be operated and managed as a for-profit corporation; and
  - (3) is not a department, agency, or instrumentality of the United States Government, and shall not be subject to title 31.
- (b) Principal office and place of business. The principal office and place of business of Amtrak are in the District of Columbia. Amtrak is qualified to do business in each State in which Amtrak carries out an activity authorized under this part [[49 USCS §§ 24101](#) et seq.]. Amtrak shall accept service of process by certified mail addressed to the secretary of Amtrak at its principal office and place of business. Amtrak is a citizen only of the District of Columbia when deciding original jurisdiction of the district courts of the United States in a civil action.
- (c) Application of Subtitle IV. Subtitle IV of this [title \[49 USCS §§ 10101](#) et seq.] shall not apply to Amtrak, except for sections 11123, 11301, 11322(a), 11502, and 11706 [[49 USCS §§ 11123](#), [11301](#), [11322\(a\)](#), [11502](#), and [11706](#)]. Notwithstanding the preceding sentence, Amtrak shall continue to be considered an employer under the Railroad Retirement Act of 1974, the Railroad Unemployment Insurance Act, and the Railroad Retirement Tax Act.
- (d) Application of safety and employee relations laws and regulations. Laws and regulations governing safety, employee representation for collective bargaining purposes, the handling of disputes between carriers and employees, employee retirement, annuity, and unemployment systems, and other dealings with employees that apply to a rail carrier subject to part A of subtitle IV of this [title \[49 USCS §§ 10101](#) et seq.] apply to Amtrak.
- (e) Application of certain additional laws. Section 552 of title 5, this part [[49 USCS §§ 24101](#) et seq.], and, to the extent consistent with this part [[49 USCS §§ 24101](#) et seq.], the District of Columbia Business Corporation Act (D.C. Code § 29-301 et seq.) apply to Amtrak. *Section 552 of title 5, United States Code*, applies to Amtrak for any fiscal year in which Amtrak receives a Federal subsidy.
- (f) Tax exemption for certain commuter authorities. A commuter authority that was eligible to make a contract with Amtrak Commuter to provide commuter rail passenger transportation but which decided to provide its own rail passenger transportation beginning January 1, 1983, is exempt, effective October 1, 1981, from paying a tax or fee to the same extent Amtrak is exempt.
- (g) Nonapplication of rate, route, and service laws. A State or other law related to rates, routes, or service does not apply to Amtrak in connection with rail passenger transportation.
- (h) Nonapplication of pay period laws. A State or local law related to pay periods or days for payment of employees does not apply to Amtrak. Except when otherwise provided under a collective bargaining agreement, an employee of Amtrak shall be paid at least as frequently as the employee was paid on October 1, 1979.
- (i) Preemption related to employee work requirements. A State may not adopt or continue in force a law, rule, regulation, order, or standard requiring Amtrak to employ a specified number of individuals to perform a particular task, function, or operation.
- (j) Nonapplication of laws on joint use or operation of facilities and equipment. Prohibitions of law applicable to an agreement for the joint use or operation of facilities and equipment necessary to provide quick and efficient rail passenger transportation do not apply to a person making an agreement with Amtrak to the extent necessary to

allow the person to make and carry out obligations under the agreement.

- (k)** Exemption from additional taxes.
  - (1)** In this subsection--
    - (A)** "additional tax" means a tax or fee--
      - (i)** on the acquisition, improvement, ownership, or operation of personal property by Amtrak; and
      - (ii)** on real property, except a tax or fee on the acquisition of real property or on the value of real property not attributable to improvements made, or the operation of those improvements, by Amtrak.
    - (B)** "Amtrak" includes a rail carrier subsidiary of Amtrak and a lessor or lessee of Amtrak or one of its rail carrier subsidiaries.
  - (2)** Amtrak is not required to pay an additional tax because of an expenditure to acquire or improve real property, equipment, a facility, or right-of-way material or structures used in providing rail passenger transportation, even if that use is indirect.
- (l)** Exemption from taxes levied after September 30, 1981.
  - (1)** In general. Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are exempt from a tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom after September 30, 1981. In the case of a tax or fee that Amtrak was required to pay as of September 10, 1982, Amtrak is not exempt from such tax or fee if it was assessed before April 1, 1997.
  - (2)** The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this subsection and may grant equitable or declaratory relief requested by Amtrak.
- (m)** Waste disposal.
  - (1)** An intercity rail passenger car manufactured after October 14, 1990, shall be built to provide for the discharge of human waste only at a servicing facility. Amtrak shall retrofit each of its intercity rail passenger cars that was manufactured after May 1, 1971, and before October 15, 1990, with a human waste disposal system that provides for the discharge of human waste only at a servicing facility. Subject to appropriations--
    - (A)** the retrofit program shall be completed not later than October 15, 2001; and
    - (B)** a car that does not provide for the discharge of human waste only at a servicing facility shall be removed from service after that date.
  - (2)** Section 361 of the Public Health Service Act ([42 U.S.C. 264](#)) and other laws of the United States, States, and local governments do not apply to waste disposal from rail carrier vehicles operated in intercity rail passenger transportation. The district courts of the United States have original jurisdiction over a civil action Amtrak brings to enforce this paragraph and may grant equitable or declaratory relief requested by Amtrak.
- (n)** Rail transportation treated equally. When authorizing transportation in the continental United States for an officer, employee, or member of the uniformed services of a department, agency, or instrumentality of the Government, the head of that department, agency, or instrumentality shall consider rail transportation (including transportation by extra-fare trains) the same as transportation by another authorized mode. The Administrator of General Services shall include Amtrak in the contract air program of the Administrator in markets in which transportation provided by Amtrak is competitive with other carriers on fares and total trip times.
- (o)** Applicability of District of Columbia law. Any lease or contract entered into between Amtrak and the State of Maryland, or any department or agency of the State of Maryland, after the date of the enactment of this subsection [enacted Aug. 3, 2007] shall be governed by the laws of the District of Columbia.



## 49 USCS § 24301

- Stat. 1332, 1333.
- 24301(e)... 45:541 (4th sentence).  
 45:545(a) (last sentence).  
 45:545(e) (8). Oct. 30, 1970, Pub. L. 91-518, [84 Stat. 1327](#), Sec. 305(e) (8); added Nov. 3, 1973, [Pub. L. 93-146](#), Sec. 6, [87 Stat. 551](#).
- 45:546(g). Oct. 30, 1970, Pub. L. 91-518, [84 Stat. 1327](#), Sec. 306(g); added June 22, 1972, [Pub. L. 92-316](#), Sec. 3(b), [86 Stat. 228](#).
- 24301(f)... 45:546(d).  
 24301(g)... 45:546(c).  
 24301(h)... 45:546(1). Oct. 30, 1970, Pub. L. 91-518, [84 Stat. 1327](#), Sec. 306(1); added Sept. 29, 1979, [Pub. L. 96-73](#), Sec. 112(c), [93 Stat. 541](#).
- 24301(i)... 45:797j (words "the National Railroad Passenger Corporation,"). Jan. 2, 1974, Pub. L. 93-236, [87 Stat. 985](#), Sec. 711 (words "the National Railroad Passenger Corporation,"). added Aug. 13, 1981, [Pub. L. 97-35](#), Sec. 1143(a), [95 Stat. 667](#).
- 24301(j)... 45:546(e).  
 24301(k)... 45:546(n). Oct. 30, 1970, Pub. L. 91-518, [84 Stat. 1327](#), Sec. 306(n); added Aug. 13, 1981, [Pub. L. 97-35](#), Sec. 1178, [95 Stat. 692](#); restated Oct., 27, 1992 [Pub. L. 102-533](#), Sec. 6, [106 Stat. 3517](#).
- 24301(l)... 45:546b. Sept. 10, 1982, Pub. L. 97-257, Sec. 107 (par. under heading "Grants to the National Railroad Passenger Corporation"), [96 Stat. 852](#).
- 24301(m)... 45:546(i). Oct. 30, 1970, Pub. L. 91-518, [84 Stat. 1327](#), Sec. 306 (i); added Feb. 5, 1976, [Pub. L. 94-210](#), Sec. 706(e), [90Stat. 124](#); Oct. 19, 1976, Pub. L. 94- 555, Sec. 105, [90 Stat. 2615](#); May 30, 1980, Pub. L. 96-254, Sec. 206(a), 94 Stat. 412; Nov. 16, 1990, Pub. L. 101-610, Sec. 601(a), [104 Stat. 3185](#).
- 24301(n)... 45:546(f). Oct. 30, 1970, Pub. L. 91-518, [84 Stat. 1327](#), Sec. 306 (f); added June 22, 1972, [Pub. L. 92-316](#), Sec. 3(b), [86 Stat. 228](#); Apr. 7, 1986, [Pub. L. 99-272](#), Sec. 4004, [100 Stat. 107](#).

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In subsection (a), before clause (1), the text of 45:541 (1st sentence) is omitted as executed. The text of 45:541 (last sentence) is omitted as surplus. In clause (1), the words "rail carrier" are substituted for "common carrier by railroad" because of 49:10102. In clause (3), the words "department, agency, or instrumentality" are substituted for "agency, instrumentality, authority, or entity, or establishment" for consistency in the revised title and with other titles of the United States Code. The word "instrumentality" includes entities, authorities, establishments, and any other organizational unit of the United States Government that is not a department or agency.

In subsection (b), the words "In connection with the performance of such activities" and "to which the Corporation is a party" are omitted as surplus.

In subsection (c)(1)(B), the words "whether by trackage rights or otherwise" are omitted as surplus.

In subsection (c)(2)(B), the words "adversely affected" are substituted for "aggrieved" for consistency in the revised title and with other titles of the Code.

In subsection (d), the word "same" is omitted as surplus.

In subsection (e), the text of 45:545(a) (last sentence) and (e)(8) is omitted as surplus.

In subsection (f), the words "the place" are omitted as surplus.

In subsection (h), the word "applicable" is omitted as surplus.

In subsection (j), the words "existing", "including the antitrust laws of the United States", and "contracts . . . leases" are omitted as surplus.

In subsection (k)(2), the words "of funds" are omitted as surplus.

In subsection (l)(1), the words "Notwithstanding any other provision of law", "other", "including such taxes and fees levied after September 30, 1982", and "notwithstanding any provision of law" are omitted as surplus. The text of 45:546b (2d sentence) is omitted as executed.

In subsection (l)(2), the words "Notwithstanding the provision of section 1341 of title 28" are omitted as surplus.

In subsection (m)(1), before clause (A), the word "New" is omitted as surplus.

In subsection (m)(2), the word "vehicles" is substituted for "conveyances" for clarity.

In subsection (n), the words "uniformed services" are substituted for "Armed Forces or commissioned services" for consistency in the revised title and with other titles of the Code.

## Annotations

## Notes

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### References in text:

The "Railroad Retirement Act of 1974", referred to in this section, is Act Oct. 18, 1976, *P.L. 94-547, 90 Stat. 2523*, which appears generally as [45 USCS §§ 231](#) et seq. For full classification of such Act, consult USCS Tables volumes.

The "Railroad Retirement Tax Act", referred to in this section, is Act July 31, 1946, ch 709, *60 Stat. 722*. For full classification of such Act, consult USCS Tables volumes.

The "Railroad Unemployment Insurance Act", referred to in this section, is Act June 25, 1938, ch 680, *52 Stat. 1094*, which appears generally as [45 USCS §§ 351](#) et seq. For full classification of such Act, consult USCS Tables volumes.

### Amendments:

**1995** . Act Dec. 29, 1995 (effective 1/1/96, as provided by § 2 of such Act, which appears as [49 USCS § 701](#) note), in subsec. (c), in para. (1), in the introductory matter, substituted "Part A of subtitle IV" for "Subtitle IV" and, in para. (2), in subpara. (A), substituted "section 10721 of this title applies" for "sections 10721-10724 of this title apply" and, in subpara. (B), substituted "Surface Transportation Board under part A of subtitle IV" for "Interstate Commerce Commission under any provision of subtitle IV of this title applicable to a carrier subject to subchapter I of chapter 105"; and, in subsec. (d), substituted "rail carrier subject to part A of subtitle IV" for "common carrier subject to subchapter I of chapter 105".

**1997** . Act Dec. 2, 1997, in subsec. (a), in para. (1), substituted "railroad carrier under section 20102(2) and chapters 261

and 281" for "rail carrier under section 10102" and, in para. (3), inserted ", and shall not be subject to title 31"; substituted subsec. (c) for one which read:

"(c) Application of Subtitle IV.

(1) Part A of subtitle IV of this title applies to Amtrak, except for provisions related to the--

"(A) regulation of rates;

"(B) abandonment or extension of rail lines used only for passenger transportation and the abandonment or extension of operations over those lines;

"(C) regulation of routes and service;

"(D) discontinuance or change of rail passenger transportation operations; and

"(E) issuance of securities or the assumption of an obligation or liability related to the securities of others.

"(2) Notwithstanding this subsection--

"(A) section 10721 of this title applies to Amtrak; and

"(B) on application of an adversely affected motor carrier, the Surface Transportation Board under part A of subtitle IV of this title may hear a complaint about an unfair or predatory rate or marketing practice of Amtrak for a route or service operating at a loss.";

in subsec. (e), added the sentence beginning "Section 552 of title 5 . . ."; substituted subsec. (f) for one which read: "(f) Laws governing leases and contracts. The laws of the District of Columbia govern leases and contracts of Amtrak, regardless of where they are executed."; in subsec. (l)(1), substituted "(1) In general. Amtrak, a rail carrier subsidiary of Amtrak, and any passenger or other customer of Amtrak or such subsidiary, are" for "(1) Amtrak or a rail carrier subsidiary of Amtrak is", substituted "tax, fee, head charge, or other charge, imposed or levied by a State, political subdivision, or local taxing authority on Amtrak, a rail carrier subsidiary of Amtrak, or on persons traveling in intercity rail passenger transportation or on mail or express transportation provided by Amtrak or such a subsidiary, or on the carriage of such persons, mail, or express, or on the sale of any such transportation, or on the gross receipts derived therefrom" for "tax or fee imposed by a State, a political subdivision of a State, or a local taxing authority and levied on it", and substituted the sentence beginning "In the case of a tax or fee that . . ." for "However, Amtrak is not exempt under this subsection from a tax or fee that it was required to pay as of September 10, 1982."; and, in subsec. (m)(1)(A), substituted "2001" for "1996".

**2004** . Act Jan. 23, 2004, in subsec. (c), inserted "11123,".

**2007** . Act Aug. 3, 2007, added subsec. (o).

#### **Other provisions:**

**Regulations controlling Amtrak waste.** Act Nov. 16, 1990, *P.L. 101-640*, Title VI, § 601(d), (e), [104 Stat. 3186](#), provides:

"(d) Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation, after appropriate notice and comment, and in consultation with the National Railroad Passenger Corporation, the Administrator of the Environmental Protection Agency, the Surgeon General, and State and local officials shall promulgate such regulations as may be necessary to mitigate the impact of the discharge of human waste from railroad passenger cars on areas that may be considered environmentally sensitive.

"(e) Not later than 1 year after the date of enactment of this Act, the Secretary of Transportation shall promulgate regulations directing the National Railroad Passenger Corporation to, where appropriate, publish printed information, and make public address announcements, explaining its existing disposal technology and the retrofit and new equipment program, and encouraging passengers using existing equipment not to dispose of wastes in stations, railroad yards, or while the train is moving through environmentally sensitive areas."

**Passenger rail tickets for which no refund has been claimed; exemption from laws relating to abandoned or unclaimed property.** Act Sept. 30, 1996, *P.L. 104-205*, Title III, § 347, [110 Stat. 2976](#), provides: "Hereinafter, the National Railroad Passenger Corporation (Amtrak) shall be exempted from any State or local law relating to the payment or delivery of abandoned or unclaimed personal property to any government authority, including any provision for the enforcement thereof, with respect to passenger rail tickets for which no refund has been or may be claimed, and such law shall not apply to funds held by Amtrak as a result of the purchase of tickets after April 30, 1972 for which no refund has been claimed."

**Business travel by Federal employees.** Act Dec. 2, 1997, *P.L. 105-134*, Title I, Subtitle A, § 109, [111 Stat. 2574](#), provides: "Federal employees are authorized to travel on Amtrak for official business where total travel cost from office to office is competitive on a total trip or time basis."

**Applicability of [41 USCS § 4702](#).** Act Dec. 2, 1997, *P.L. 105-134*, Title I, Subtitle A, § 110(b), [111 Stat. 2574](#), provides: "Section 303B(m) of the Federal Property and Administrative Services Act of 1949 ([41 U.S.C. 253b\(m\)](#)) [[41 USCS § 4702](#)] applies to a proposal in the possession or control of Amtrak."

## Case Notes

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### I. IN GENERAL

1. Generally
2. Employee relations

### II. APPLICATION OF PARTICULAR LAWS

3. False Claims Act
4. Freedom of Information Act
5. State alcoholic beverage control laws
6. State and local public health laws
7. State work crew laws

### III. EXEMPTION FROM TAXATION

8. Generally
9. Constitutionality
10. Applicability
11. --Assessments for improvements
12. --Rental payments

### I. IN GENERAL

#### 1. Generally

Passenger Rail Investment and Improvement Act of 2008, *Pub. L. No. 110-432*, Div. B, § 207, [122 Stat. 4848](#) ([49 USCS § 24101](#) note), which authorized National Railroad Passenger Corporation (Amtrak) to jointly develop regulations related to Amtrak's priority over freight traffic, constitutes unlawful delegation of regulatory power to private entity; Amtrak is private corporation with respect to Congress's power to delegate regulatory authority. *Ass'n of Am. R.R. v United States DOT* (2013, App DC) 721 F3d 666 (criticized in *State Nat'l Bank of Big Spring v Lew* (2013, DC Dist Col) 2013 US Dist LEXIS 108308).

National Railroad Passenger Corporation is not government agency or establishment but private corporation operated for profit; thus, its position is no different from that of any private corporation organized under federal law. *National Railroad Passenger Corp. v Miller* (1973, DC Kan) 358 F Supp 1321, affd (1973) 414 US 948, 38 L Ed 2d 205, 94 S Ct 285.

In action by decedent's estate against Amtrak in which estate claimed that decedent's death was caused by Amtrak's dangerous seats and seating configurations along with Amtrak's failure to warn passengers about deep vein thrombosis, Amtrak's underlying duties related to providing proper seating and warning passengers were not preempted under [49 USCS § 24301\(g\)](#), part of Amtrak Act, or under [49 USCS § 20106](#), part of Federal Railroad Safety Act; underlying duty related to providing proper seating was preempted based on Commerce Clause, *U.S. Const. art. I, § 8, cl. 3* because it would be

burdensome on railways to permit differing state regulations regarding train seating; duty to warn passengers, however, was not unduly burdensome on commerce. [Haynes v AMTRAK \(2006, CD Cal\) 423 F Supp 2d 1073.](#)

## 2. Employee relations

Amtrak, although federal corporation set up by Act of Congress, is not federal agency or establishment and should be considered as private corporation rather than federal government entity in regard to its employee relations. [Kimbrough v National R. Passenger Corp. \(1982, MD Ala\) 549 F Supp 169, 97 CCH LC P 10143.](#)

## II. APPLICATION OF PARTICULAR LAWS

### 3. False Claims Act

Employee's qui tam litigation under False Claims Act, [31 USCS §§ 3729](#) et seq., against contractors alleging fraud did not compel National Railroad Passenger Corporation to take any action in order to satisfy demands of False Claims Act and therefore, his action did not implicate "subject to" provision of Amtrak Reform and Accountability Act of 1997, [Pub. L. No. 105-134](#), § 415(d), [III Stat. 2570](#) (1997), codified at [49 USCS § 24301\(a\)\(3\)](#). [United States ex rel. Totten v Bombardier Corp. \(2002, App DC\) 351 US App DC 30, 286 F3d 542](#), motion gr, dismd (2003, DC Dist Col) [2003 US Dist LEXIS 25970](#), affd (2004, App DC) [363 US App DC 180, 380 F3d 488](#), reh, en banc, den (2004, App DC) [2004 US App LEXIS 25245](#) and cert den (2005, US) [161 L Ed 2d 1059, 125 S Ct 2257](#) and (criticized in [United States ex rel. Maxfield v Wasatch Constructors \(2005, DC Utah\) 2005 US Dist LEXIS 10162](#)).

Trial court properly dismissed relator's qui tam action against two contractors that allegedly defrauded federal grantee by supplying it with defective rail cars; pursuant to [49 USCS § 24301\(a\)\(3\)](#), grantee was not federal government, and submission of invoices to grantee did not satisfy presentment requirement of [31 USCS § 3729\(a\)](#), part of False Claims Act; contrary to argument of relator, U.S., and dissent, presentment requirement applied to §§ 3729(a)(2), as well as to §§ 3729(a)(1). [United States ex rel. Totten v Bombardier Corp. \(2004, App DC\) 363 US App DC 180, 380 F3d 488](#), reh, en banc, den (2004, App DC) [2004 US App LEXIS 25245](#) and cert den (2005, US) [161 L Ed 2d 1059, 125 S Ct 2257](#) and (criticized in [United States ex rel. Maxfield v Wasatch Constructors \(2005, DC Utah\) 2005 US Dist LEXIS 10162](#)).

### 4. Freedom of Information Act

Rail Passenger Service Act (former [45 USCS §§ 501](#) et seq.) expressly makes Amtrak subject to provisions of Freedom of Information Act ([5 USCS § 552](#)), by virtue of which Congress fully intended to expose Amtrak's policy decisions and interpretations to public inspection; requirements of former [45 USCS § 548\(a\)](#) that Amtrak compile certain statistical and financial information and that Amtrak make such information available to public does not lessen obligations of disclosure mandated by FOIA. [Aug v AMTRAK \(1976, DC Dist Col\) 425 F Supp 946.](#)

### 5. State alcoholic beverage control laws

Oklahoma's liquor laws could be enforced against Amtrak notwithstanding exemption by Congress of its operations from "any state or other law pertaining to the transportation of passengers by railroad as it relates to rates, routes, or service" (former [45 USCS § 546\(c\)](#)). [National Railroad Passenger Corp. v Harris \(1974, CA10 Okla\) 490 F2d 572.](#)

Former [45 USCS § 546\(c\)](#) is valid and does not prevent enforcement of Kansas Liquor Control Act; construction of former [45 USCS § 546\(c\)](#) which would forbid or prevent enforcement of state's regulatory liquor law under guise of classifying use and sale of liquor by the drink as "service", would amount to circumvention of clear provision of second section of Twenty First Amendment. [National Railroad Passenger Corp. v Miller \(1973, DC Kan\) 358 F Supp 1321](#), affd (1973) [414 US 948, 38 L Ed 2d 205, 94 S Ct 285.](#)

### 6. State and local public health laws

State and local public health laws may not be enforced against Amtrak, even though its older passenger cars continue to discharge raw human waste onto tracts and into rivers and streams over which trains pass, because Congress in former [45](#)

USCS § 546(i) expressly preempted state and local action against Amtrak for its abhorrent human waste disposal practices, which must be rectified by October 15, 1996. National R. Passenger Corp. v Nevada, Dep't of Conservation & Natural Resources (1991, DC Nev) 776 F Supp 528.

New York's public utility rule, which this section did not preempt, made Amtrak responsible for cost of removing electrical equipment from bridge; however, city already had paid removal cost and could not recover it from Amtrak under emergency assistance doctrine or as implied indemnity. City of New York v Amtrak (2013, DC Dist Col) 960 F Supp 2d 84.

### **7. State work crew laws**

Former section 797j does not violate Tenth Amendment to U.S. Constitution, notwithstanding contention that it is invalid exercise of Congressional power under Commerce Clause because state-mandated minimum crews designed to ensure safe train operations are exempt from federal regulation. Boettjer v Chesapeake & O. R. Co. (1985, Sp Ct RRRRA) 612 F Supp 1207.

Pre-emption of Indiana minimum crew law by former § 797j does not violate constitutional due process and equal protection requirements, notwithstanding contention that former § 797j deprives non-Conrail employees of protections under Indiana minimum crew law without providing alternative benefits available to Conrail employees, since former § 797j is rationally related to Regional Rail Reorganization Act (former 45 USCS §§ 712 et seq.) purpose of preserving essential rail service in Northeast and Midwest Regions. Boettjer v Chesapeake & O. R. Co. (1985, Sp Ct RRRRA) 612 F Supp 1207.

Language of former § 797j makes it clear that Congress intended to pre-empt state minimum crew laws. Boettjer v Chesapeake & O. R. Co. (1985, Sp Ct RRRRA) 612 F Supp 1207.

Former section 797j was not intended to extend to private collective bargaining agreements governing non-Conrail employees; but question whether collective bargaining agreement between union and railway which included minimum crew protections available under Indiana minimum crew law remained valid as matter of contract law should be submitted to National Railroad Adjustment Board. Boettjer v Chesapeake & O. R. Co. (1985, Sp Ct RRRRA) 612 F Supp 1207.

Former 45 USCS § 797h(b) does not preempt all common law theories of tort liability which may be asserted against Conrail by employees who contracted asbestosis while employed by Conrail's predecessor railroads, because protective benefits under former § 797j do not include right to sue for personal injuries, federal legislation is not so pervasive as impliedly to preempt state law of successor liability, and federal interest in creating economically viable railroad does not preclude successor liability. Consolidated Rail Corp. v Reading Co. (1987, Sp Ct RRRRA) 654 F Supp 1318.

## **III. EXEMPTION FROM TAXATION**

### **8. Generally**

49 USCS § 24301(f), which conferred same tax exemption on certain commuter authorities as possessed by Amtrak Commuter, also implicitly conferred on such authorities same federal-court access to enforce that immunity as Amtrak Commuter, despite absence of explicit reference to 28 USCS § 1341. SEPTA v Board of Revision of Taxes (1999, ED Pa) 49 F Supp 2d 778.

Because state officials had determined that Amtrak was exempt under 35 ILCS 173/5-5 from Illinois gas use tax and had voluntarily ceased imposing tax long before litigation commenced, there was no reasonable expectation that gas use tax would be imposed upon or collected from Amtrak; thus, Amtrak's challenge to imposition of tax as violative of 49 USCS § 24301(l) was moot under U.S. Const. art. III, § 2, as were constitutional claims relating to imposition of tax. AMTRAK v Peoples Gas Light & Coke Co. (2011, ND Ill) 776 F Supp 2d 759.

### **9. Constitutionality**

Former 45 USCS § 546b does not impermissibly intrude on reserved taxing power of state and is within Congress' authority under necessary and proper clause and commerce clause and therefore is constitutional. National R. Passenger Corp. v New Castle County (1986, DC Del) 633 F Supp 354, and on other grounds (1986, DC Del) 636 F Supp 1482.

## 10. Applicability

Former [45 USCS § 546b](#) permits state and local taxing authorities to collect taxes from Amtrak only for periods up to and including September 30, 1981; accordingly, date on which Amtrak cuts check for payment of taxes should not be controlling and Amtrak was entitled to refund for taxes paid for period October 1, 1981 through June 30, 1982. [National R. Passenger Corp. v New Castle County \(1986, DC Del\) 633 F Supp 354](#), and on other grounds (1986, DC Del) [636 F Supp 1482](#).

National commuter railroad and commuter authority could continue to enforce federal court judgments holding that they were exempted from their share of maintenance and construction costs of highway bridges over railroad rights of way in Pennsylvania despite conflicting state court judgments. [SEPTA v Pa. PUC \(2002, ED Pa\) 210 F Supp 2d 689](#), affd (2003, CA3 Pa) [342 F3d 242](#).

Taxes imposed on gas company under 35 ILCS 615/2, 220 ILCS 5/2-100 et seq., and Chicago, Ill., Mun. Code § 3-40-040, which were passed on to Amtrak as permitted by 220 ILCS 5/9-221, 220 ILCS 5/9-222 did not constitute exempt charges under [49 USCS § 24301\(l\)](#) because they were not imposed by state or local taxing authority. [AMTRAK v Peoples Gas Light & Coke Co. \(2011, ND Ill\) 776 F Supp 2d 759](#).

## 11. --Assessments for improvements

Amtrak's immunity from local "taxes or other fees" in former § 546b extends to assessments levied by state agency for construction of railroad grade crossing improvements. [National R. Passenger Corp. v Commonwealth Public Utility Com. \(1988, CA3 Pa\) 848 F2d 436](#), cert den (1988) [488 US 893, 102 L Ed 2d 220, 109 S Ct 231](#) and (criticized in [Parkesburg Borough v Pennsylvania PUC \(1996, Pa Cmwlth\) 681 A2d 872](#)) and (criticized in [City of Philadelphia v Pennsylvania PUC \(1998, Pa Cmwlth\) 720 A2d 845](#)).

Amtrak is exempt from state assessment for construction and maintenance of right-of-way crossing by clear import of former 45 USCS § 5466, and state's attempt to designate assessment as special assessment under police power rather than tax for general treasury is of no effect where it is clear that effect of assessment is to tax Amtrak's funds in manner Congress sought to prohibit. [National R. Passenger Corp. v Pennsylvania Public Utility Com. \(1987, ED Pa\) 665 F Supp 402](#), affd (1988, CA3 Pa) [848 F2d 436](#), cert den (1988) [488 US 893, 102 L Ed 2d 220, 109 S Ct 231](#) and (criticized in [Parkesburg Borough v Pennsylvania PUC \(1996, Pa Cmwlth\) 681 A2d 872](#)) and (criticized in [City of Philadelphia v Pennsylvania PUC \(1998, Pa Cmwlth\) 720 A2d 845](#)).

## 12. --Rental payments

Am Trak is not exempt from payments required under certificate, entered into between predecessor in interest and City of New York, since payments owed city under such certificates constituted rent and did not therefore fall within exemption for state and local taxes and fees that are equivalent of taxes, as set forth in former § 546b. [National R. Passenger Corp. v New York \(1989, CA2 NY\) 882 F2d 710](#).

Amtrak is not exempted from making rental payments to municipality under former [45 USCS § 546b](#), because legislative history clearly shows phrase "any taxes or other fees" was meant only to extend full scope of federal government's sovereign immunity to Amtrak, not to avoid rental payments; this interpretation is bolstered by principle of ejusdem generis, under which general term "other fees" would be limited by specific types of taxes that preceded it in House bill. [Consolidated Rail Corp. v Youngstown Steel Door Co. \(1988, ED Pa\) 695 F Supp 1577](#).

## Research References & Practice Aids

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### Code of Federal Regulations:

National Railroad Passenger Corporation (AMTRAK)--AMTRAK Freedom of Information Act program, [49 CFR 701.1](#) et seq.

**Federal Procedure:**

[1 Administrative Law \(Matthew Bender\), ch 2, Preemption §§ 2.01, 2.02.](#)

**Am Jur:**

[65 Am Jur 2d, Railroads § 27.](#)

UNITED STATES CODE SERVICE

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INFORMATION PROVIDED AT THE  
MEETING

BY BRUNSWICK WEST NEIGHBORHOOD  
ASSOCIATION

## **Statement to Town Council in support of Brunswick Station Train shutdown equipment**

My name is Sandra Buckles and I live in Brunswick. In 2014 I moved back to my Brunswick home after retiring from a 35 year career in the Navy. This included a deployment to Iraq. I was expecting a nice quiet retirement where I could live out the rest of my life without having to be concerned about exposure to excessive idling trains, toxins and contaminants caused by a Maine State organization (NNEPRA). I support installing train shutdown equipment at the Brunswick Maine Street Station. Downeaster locomotives currently idle near the Church Road crossing (next to a day care facility) during the day and deadhead a train back to Portland each evening and from Portland each morning.

NNEPRA is a state agency and currently operates at approximately \$9 MILLION dollar deficit each year, I would think they would look to implement cost saving measures as soon as they could. Further discussion regarding the MLF is not needed, the immediate issue is reducing excessive train idling. NNEPRA was directed by the Joint Committee for Transportation to work with the Town of Brunswick to resolve the idling issue in exchange for tabling LD 439, Prohibit Excessive idling of Passenger Trains. The Transportation Committee is anticipating a letter from NNEPRA outlining the agreement reached with the Town on technology, location, and a timeline for installation of a system that will reduce excessive idling of the train at its in town location. If an agreement cannot be reached, LD 439 will be taken off the table for a vote. From the legislative working session of the Transportation Committee concerning LD 439 bill, Patricia Quinn, when asked by the chair regarding location of the shutdown equipment stated "as long as it doesn't impede operations, we don't care where it goes."

Installing an APU with compressed air unit and battery charger will enable the Downeaster locomotives to completely shut down while at the station. This equipment configuration has been verified by train experts. All required locomotive and passenger car services will be available if these three components are installed. All three components are required to enable the locomotives to shut down, which was the instruction from the Transportation Committee. Most of the year, (ambient temperature is above 45 degrees F), the locomotives could completely shut down. A small portion of the year (ambient temperature is below 45 degrees F), the locomotive would idle at the lowest idle. Current idle speeds are much higher and burn fuel at a rate of approximately 22–28 gph. The low idle setting, which would be in effect for a small portion of the year, using the above three components, would burn approximately 3-4 gph. NNEPRA and Amtrak estimate cost savings of \$40,000 per year. Providing only Head End Power (HEP) or a plug-in, as stated by Ms. Quinn at last week's Town Council update, would NOT enable locomotives to shut down or go to the low idle setting. Only the full wayside power system would meet the requirements of LD 439 and we support NNEPRA's moving forward by installing the complete wayside system

at the Maine Street Station. Haverhill, MA has this complete wayside power system in place and simultaneously shuts down 4 complete train sets.

Locomotives currently idle for 2-3 hours in Brunswick, during the weekdays; they still idle approx. 5 ½ hours on the weekends. By shutting them down at the station, between \$110 to \$300 dollars could be saved each day; that amounts to \$40K to \$60K per year in savings. The last train in the evening could be shut down completely within minutes of arrival and instead of deadheading an empty train back to Portland each night at a cost of, according to ED Ms. Quinn's last fall *Channel 13 News* statement, \$500K to \$750K per year; it could be parked at the Brunswick Station overnight. Refueling and sanitary services could be accommodated right at the well-lighted station through the use of the paved areas adjacent to the tracks. This would ensure the train is ready to go on time for the early morning run to Boston and also prevents the morning dead head run from Portland to Brunswick. Eliminating these train movements will delete unnecessary intersection crossings at Union St, Stanwood St, Church Rd and Highland Ave and two non-revenue train moves.

Parking the train at the Maine Street Station has many advantages; no intersection crossings during the day to park the train elsewhere which will certainly help with attaining quiet zones in Brunswick; no late night or early morning runs back to/from Portland with intersection crossings – again helping with the quiet zone application; great advertising by leaving the train in a very visible location and most important saving Maine taxpayer money. The Maine Street Station is on a historic Train Station site, those who argue against leaving the train at the station because of the noise, vibration and train emissions should have known that the location was a train station and that is what trains do. However, with today's common technology, trains can be completely shutdown in the summer with fuel, pollution and noise reduced by roughly 90% in the winter. And nearby neighbors to the south will be further insulated from noise and vibration by the massive buildings at Maine Street Station and heavy concrete platform.

What better place to see the train than at the station. I believe parking it at the station will give the Downeaster great visibility and perhaps increase the ridership as folks will see the train at the station when it is between runs. Free advertising, can't get any better than that! This added visibility would be a great advantage for the Downtown Business Development to see the train at the station spurring additional economic opportunities.

For the reasons stated, I believe that installing equipment allowing the Downeaster locomotives to shut down is best installed at the Brunswick Maine Street Station.



**Brunswick West Neighborhood Coalition**

**Let's Do It Right!**

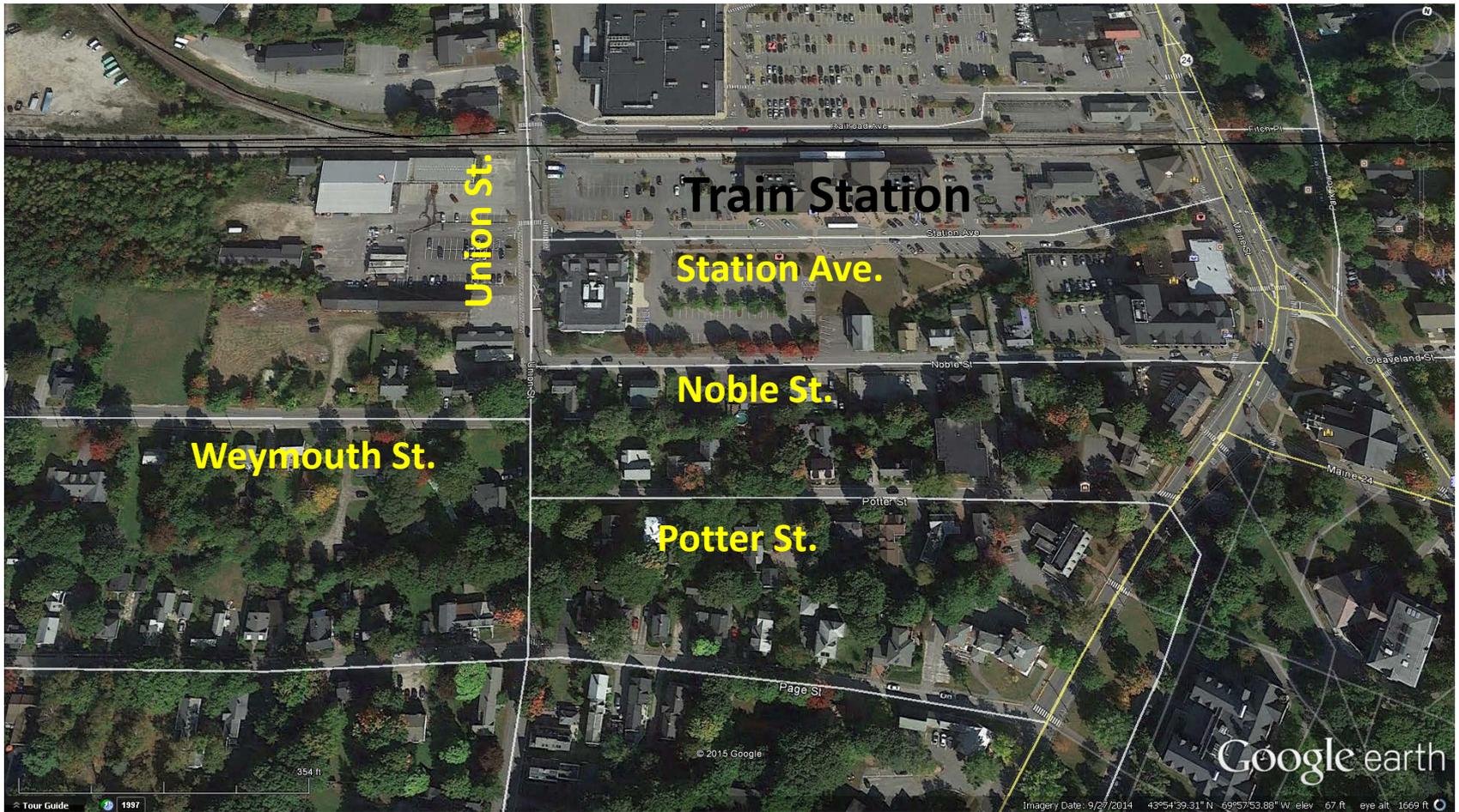
**BRUNSWICK, ME  
STOP DOWNEASTER IDLING**

**H - O - W?**

# H is for Haverhill (Bradford Station)



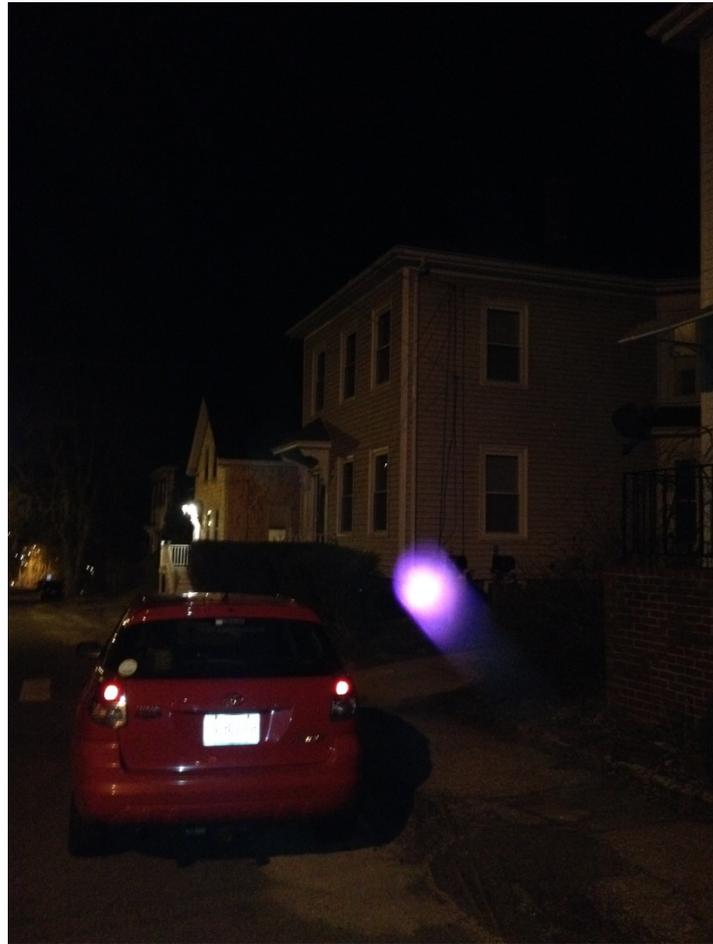
# Brunswick Station



# Haverhill neighborhood near Bradford Station



# Haverhill neighborhood near Bradford Station



Most homes were 2 and 3 story homes like this one.



**O**

is for the expression “Oh my God!”

# Engine plug in Electricity, Air, Battery Charger



# Caboose plug in Electricity, Air, Battery Charger



## 2 Train sets extending east



## 2 Train sets extending west



# WIN – WIN



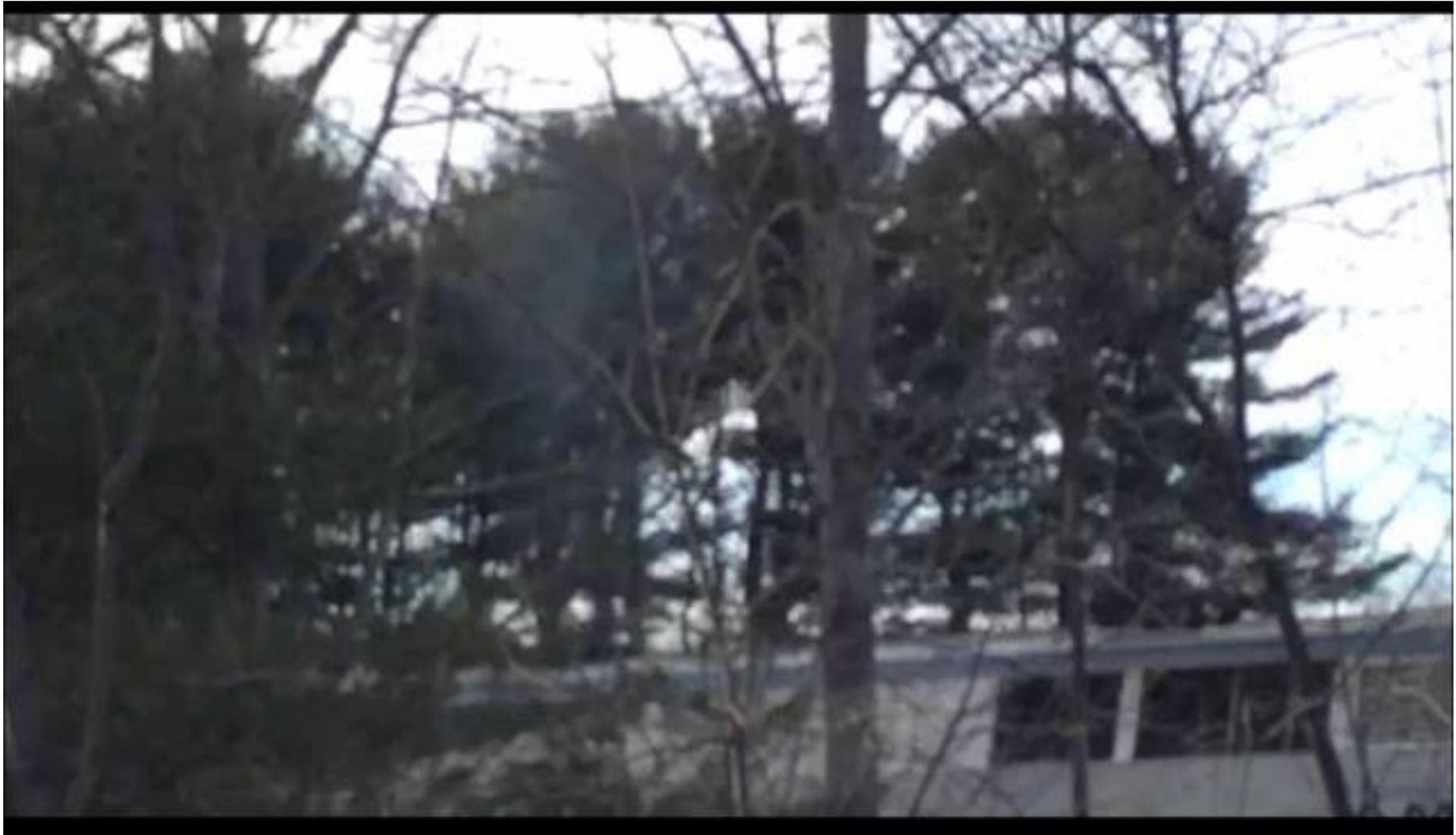
# *Introduction*

- **Charles F. Wallace, Jr. PE, INCE, Diplomate of ACFE**
- **Long term resident of Brunswick Maine**
- **My office is located at 30 Parker's Way less than 200' from the idling train**
- **I am speaking today in favor of locating Wayside Power at Brunswick's Maine Street Station and want to emphasize the advantages**
- **Excessive idling during layovers is not a necessary part of routine passenger service operations**
- **I want to share current experiences with excessive idling of Downeaster Locomotives for the past 29 months of passenger service adjacent to my office**
- **You have all heard plenty about problems. I am here tonight to discuss solutions**
- **Video clips self explanatory**
  - **30 Sec of Train idling at 30 Parkers Way**
  - **AMTRAK idling then heading to Brunswick Station**

# 30 Sec of Train idling at 30 Parkers Way



# AMTRAK idling then heading to Brunswick Station



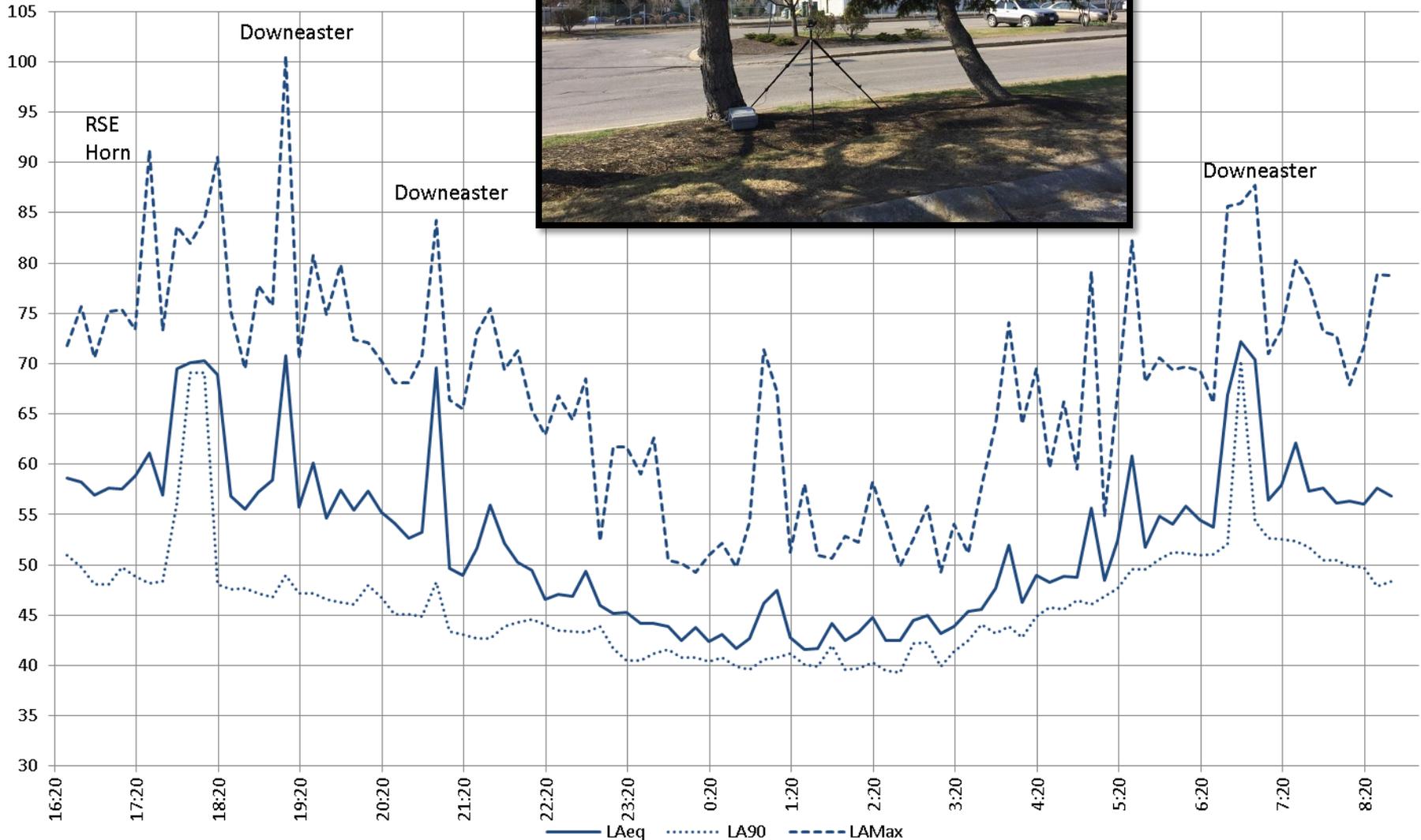
# Maine Street Station Meter Positions



**MSS-1  
(Hannaford Side)  
Maine Street Station, Brunswick  
May 3 to 4, 2015**



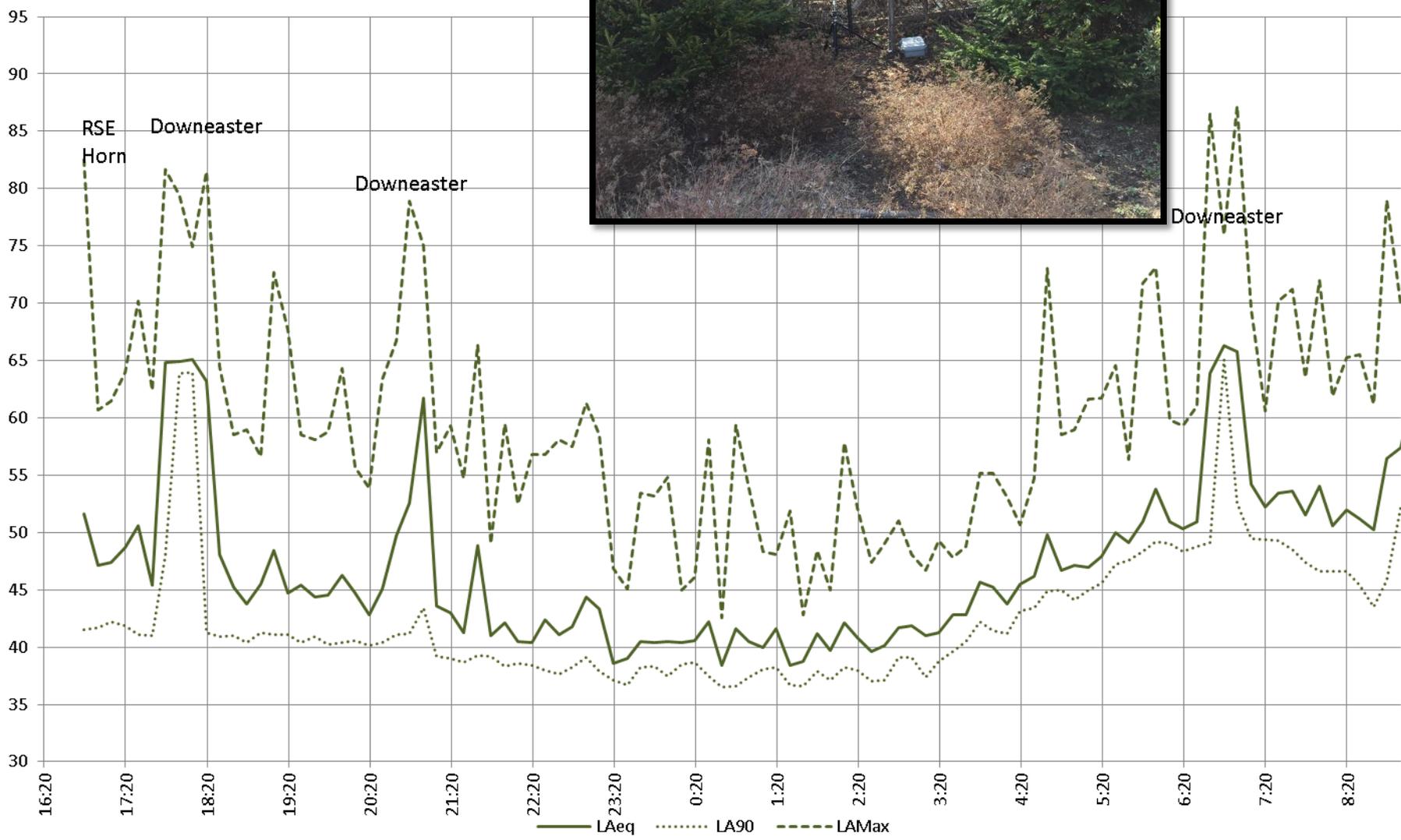
Approximately  
145 ft. to  
Locomotive



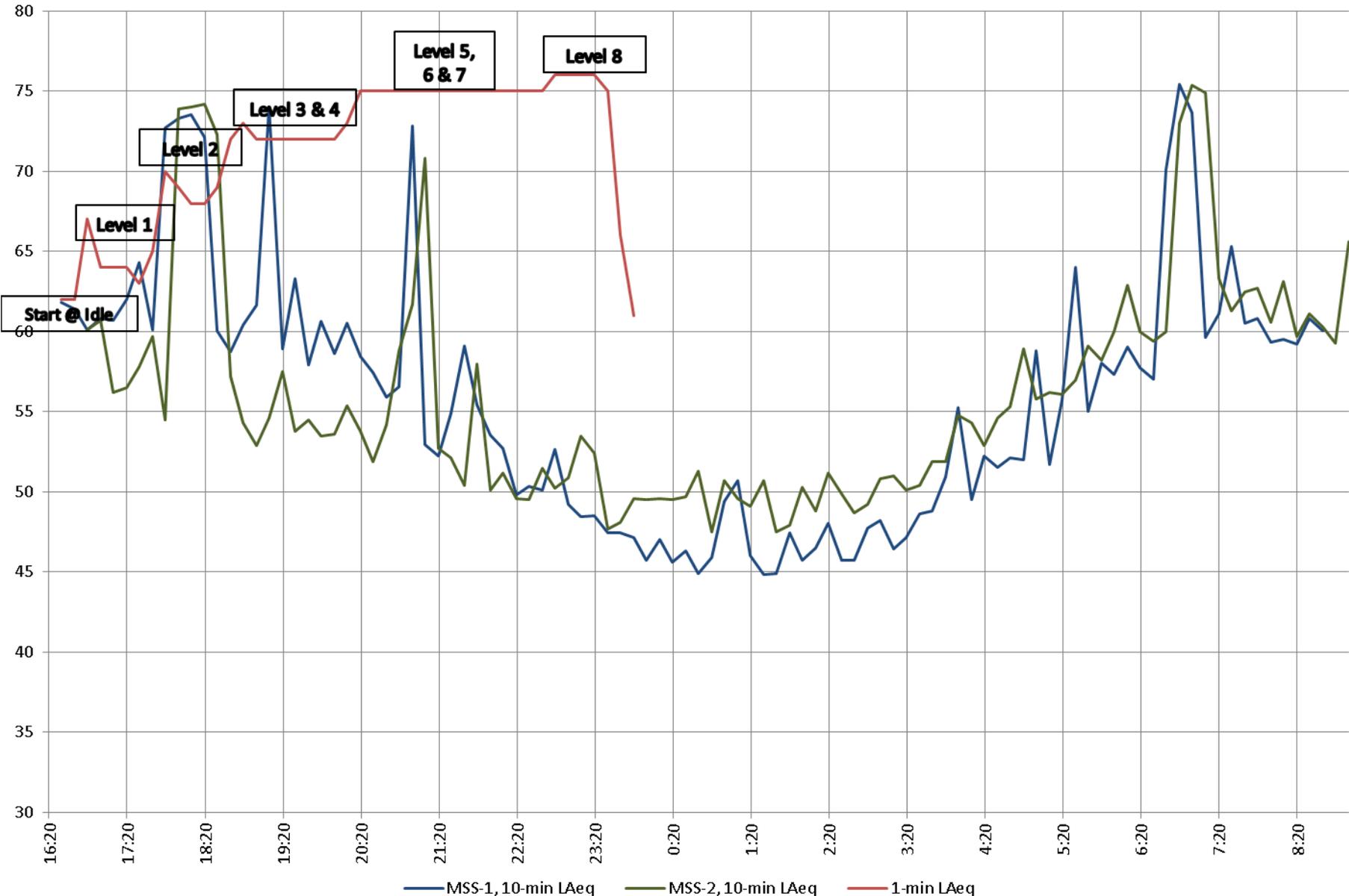
**MSS-2  
 (Maine Street Station Park - Nearest Residence)  
 Maine Street Station, Brunswick  
 May 3 to 4, 2015**



Approximately  
 285 ft. to  
 Locomotive

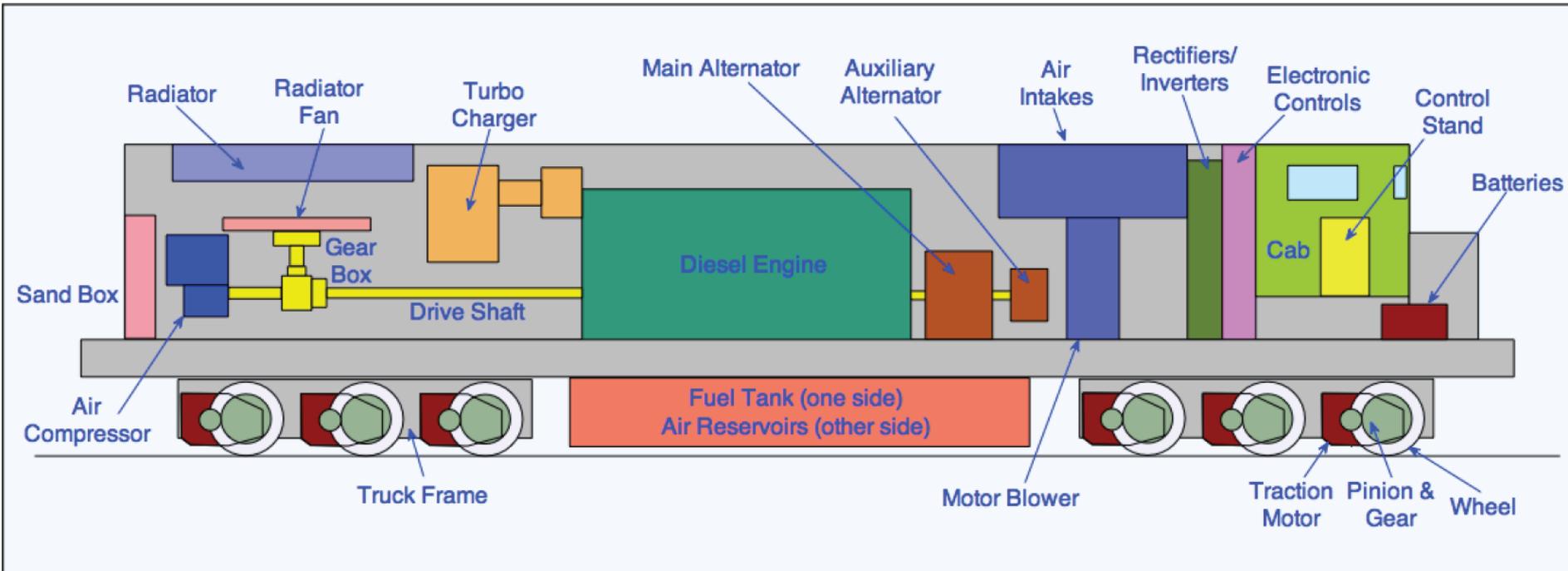


# Maine Street Station, Brunswick vs. Downeaster Throttle Levels



# KEY TO UNDERSTANDING DIESEL ELECTRIC LOCOMOTIVES

## Diesel Locomotive Schematic



Brunswick Station Video  
5/3/2015 Approximately 8:30 p.m.



# Portland Photos (pg. 1 of 4)



# Portland Photos (pg. 2 of 4)



# Portland Photos (pg. 3 of 4)



# Portland Photos (pg. 4 of 4)



175 CFM 125 psi  
Portable Air Compressors  
Rental Price:  
Per day \$69.30  
Per Week \$311.85



Orange are diesel  
Yellow is gasoline



# Haverhill, MA – Bradford Station

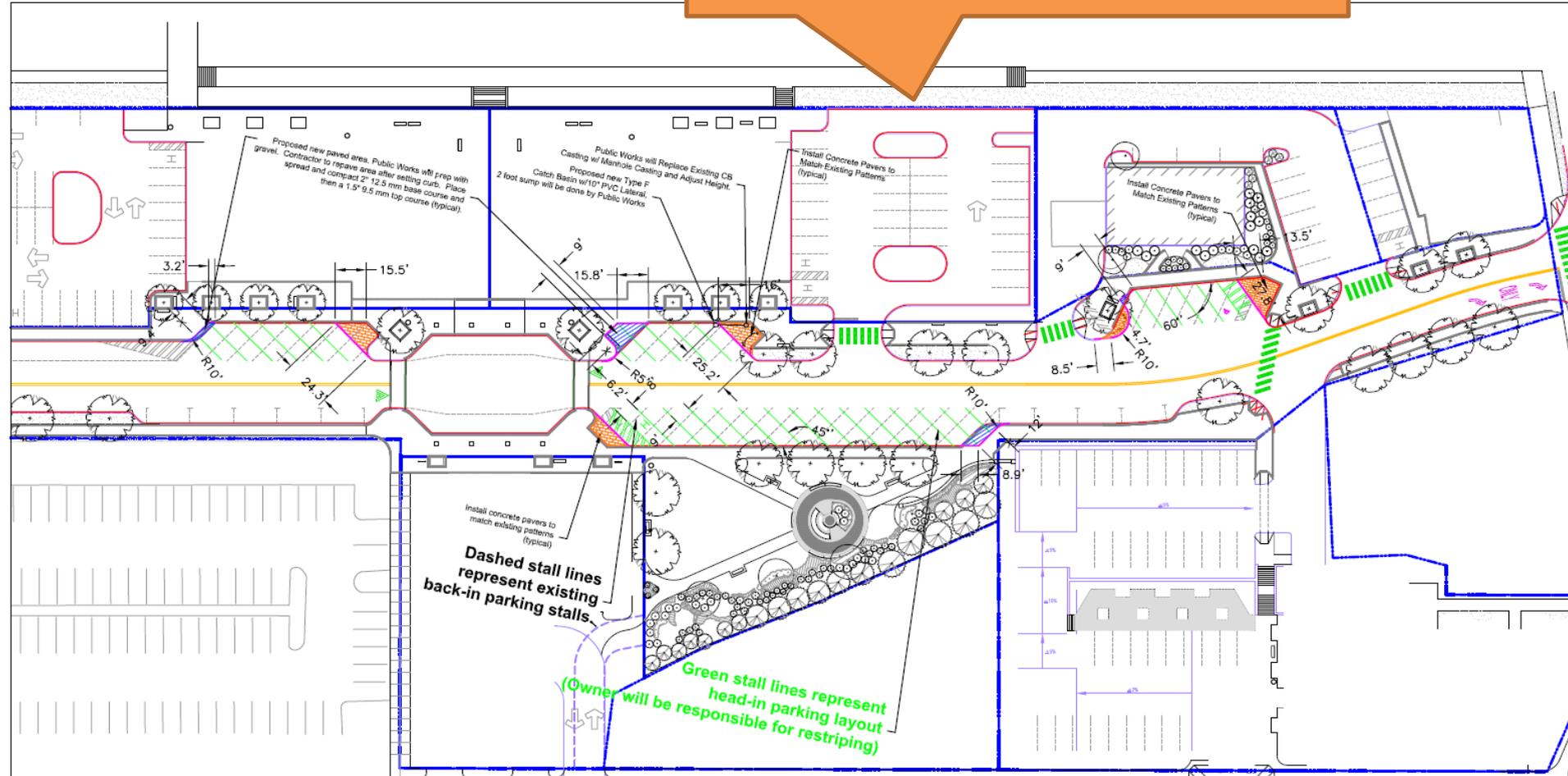


Portland Lighting



Brunswick Lighting

Wayside Power System can go here  
From curb to 1<sup>st</sup> tie is 14 feet



**LEGEND:**

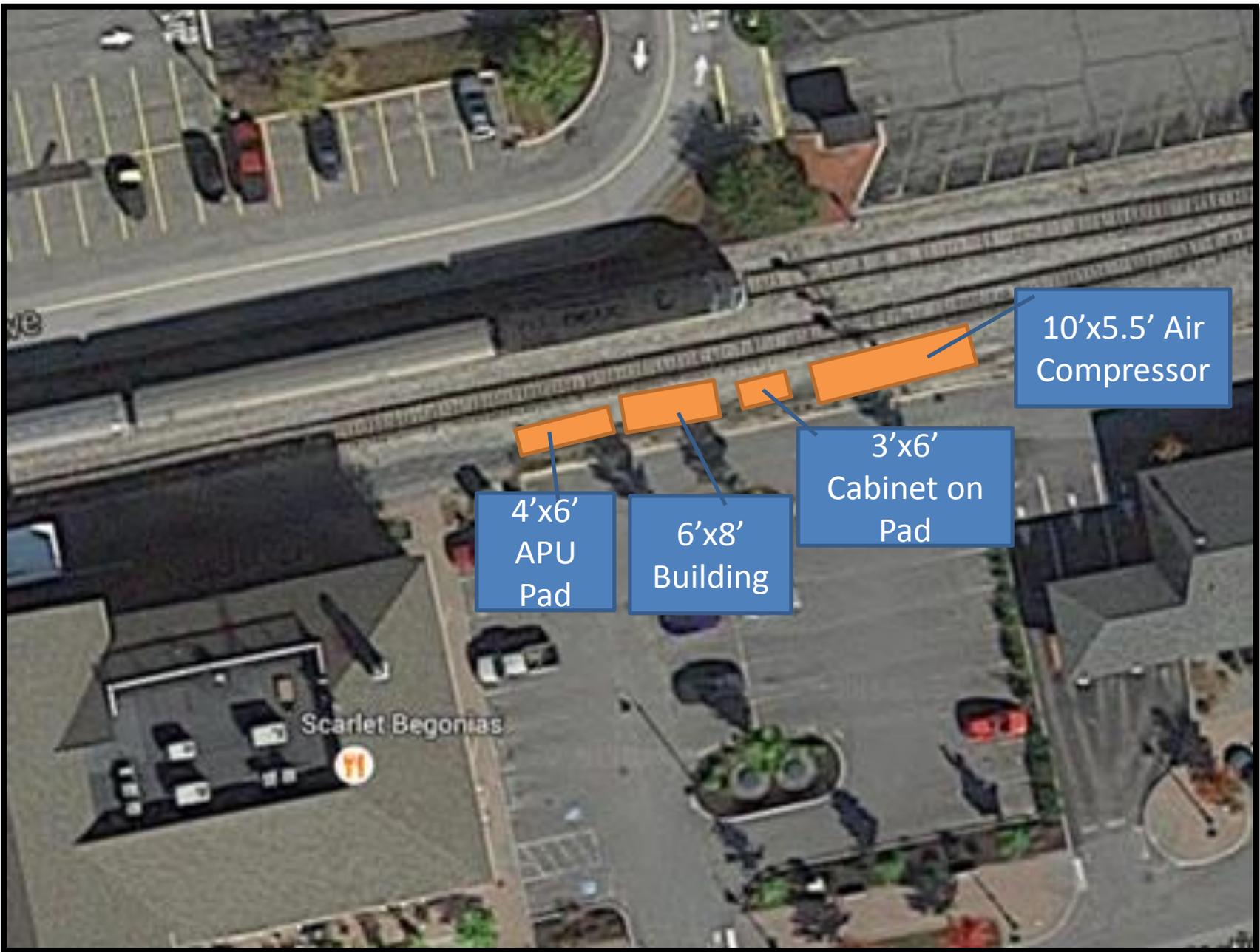
-  Existing paved road area to be infilled with concrete pavers under this contract.
-  Existing sidewalk area to be converted to paved roadway under this contract.
-  Proposed New Curb Alignment - curb to be installed under this contract. Owner will provide all curbing from salvage and new stock as needed.

**Malne Street Station  
Sketch of Curb, Sidewalk Changes to Switch to  
Head-In Parking Option**

**Parking Summary:**

Existing Back-In Stalls:	33 spaces
Head-In Stalls w/UpdatedCurb Change:	30 spaces

JAF/BPWD  
March 31, 2011  
Revised 4/3/2011



4'x6'  
APU  
Pad

6'x8'  
Building

3'x6'  
Cabinet on  
Pad

10'x5.5' Air  
Compressor

# Summary

- **Town of Brunswick is required to maintain the station under contract with NNEPRA**
- **Brunswick's costs have ranged between \$70K & \$100K per year**
- **Downeaster should use the well maintained station platform versus moving the train elsewhere**
- **A well lighted facility will be a more secure location**
- **Locating the Wayside Power System at the Brunswick Maine Street Station is the ideal location**

# Takeaways

## **SUMMERTIME SHUTDOWN (locomotive off above 45F)**

- Wayside power system
  - APU + Compressor & Dryer + Battery Charger
  - **WPS** approximately \$65k

## **WINTERTIME LOW IDLE (Temperature below 45F)**

- Wayside power system
  - APU + Compressor & Dryer + Battery Charger
  - **WPS** approximately \$65k

### **Brunswick Station is best:**

- **Platform to safely access/clean/restock train**
- **Superior Lighting & Security**
- **Re-Fuel and Sanitary Services available**
- **Platform acts as noise & vibration suppressor**
- **Eliminates road crossing at prime sleeping time**
- **Complete Train shut down within 10 minutes**
- **Summertime shutdown / Wintertime low idle**

ITEM 49

BACK UP MATERIALS

## MEMORANDUM

TO: Town Council

FROM: John Eldridge  
Town Manager

DATE: April 29, 2015

RE: Municipal Code - Solid Waste  
Proposed Amendment

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Solid waste disposal fees at the Graham Road Landfill are governed by ordinance and can be found in the Municipal Code, section 13.72. A proposed amendment is attached. The amendment would allow the Town to contractually reduce the solid waste fees as part of a contract the Town executes to provide residential curbside rubbish collection funded through the Town's annual budget. The purpose of the amendment is to allow a discounted disposal fee in return for a reduction in the contract charge for curbside residential rubbish collection.

The Town currently contracts with Pine Tree Waste for the curbside collection of residential rubbish. The contract expires on June 30, 2015 and we have been negotiating an extension. One of the ways to offset an anticipated increase in the cost of collection is to allow Pine Tree Waste to deliver non-residential waste to the Graham Road Landfill at a reduced tipping fee. Given the uncertainties with the landfill, we believe it makes sense to allow for the opportunity to accept additional waste at a lower tipping fee while we continue to discuss the options surrounding the continued operation of the landfill.

We recommend the Council set a public hearing on the amendment.

Sec. 13-72. - Graham Road Landfill.

The Graham Road Landfill is a Maine Department of Environmental Protection approved Secure Landfill located on Graham Road in Brunswick, Maine.

(a) *Acceptable materials at the Graham Road Landfill.*

(1) The following waste classifications are acceptable for disposal at the Graham Road Landfill:

- Brown goods;
- Commercial waste;
- Construction and demolition material;
- Household furniture;
- Household refuse;
- Municipal waste;
- Scrap metal;
- Tires;
- White goods;
- Waste wood;
- Trees and brush; Masonry.

(b) *Graham Road Landfill disposal fees.* All users of the Graham Road Landfill are subject to the following fee schedule with the exceptions noted for those holding valid residential permits and vehicles operated by the town.

(1) Acceptable waste (with the exception of individual items noted below on this schedule of fees):

a. Residential waste delivered to the landfill by a resident who possesses a valid residential disposal permit shall be subject to the following fees and conditions:

Household refuse (per ton) .....\$80.00

Minimum charge shall be five dollars (\$5.00)

White goods and scrap metal (per ton) .....\$60.00

Minimum charge shall be three dollars (\$3.00)

Construction & demolition debris, brown goods, & household furniture (per ton) .....\$80.00

Minimum charge shall be five dollars (\$5.00)

Asphalt shingles (per ton) .....\$60.00

Minimum charge of three dollars (\$3.00)

Masonry (per ton) .....\$60.00

Minimum charge of three dollars (\$3.00)

Waste wood and wood items (per ton) .....\$60.00

Minimum charge of three dollars (\$3.00)

Tree and brush waste (for resident) .....No Charge

b. Commercial waste fees:

Disposal fee (per ton) .....\$80.00

The minimum charge per load shall be five dollars (\$5.00)

Asphalt shingles (per ton) .....\$60.00

Minimum charge of three dollars (\$3.00)

Masonry (per ton) .....\$60.00

Minimum charge of three dollars (\$3.00)

Waste wood and wood items (per ton) .....\$60.00

Minimum charge of three dollars (\$3.00)

Tree and brush waste (per ton) .....\$30.00

Minimum charge of three dollars (\$3.00)

- (2) Tires. All tires disposed of at the landfill are subject to the following fees. No tires will be accepted unless they are separated from their rims.

Up to but not including eighteen (18) inch rim size (each) .....\$2.00

Truck tire, eighteen (18) inch rim diameter or greater (each) .....\$10.00

Heavy equipment tire (Twenty-five dollar (\$25.00) minimum charge—Per pound) .....\$0.15

- (3) White goods and scrap metal (per ton) .....60.00

Minimum charge of three dollars (\$3.00)

- (4) Inseparable wood waste or masonry debris (per ton) .....\$160.00

- (5) Refuse which contains wood waste or masonry material deemed by the public works director as inseparable will be accepted at the Graham Road Landfill provided the person depositing such material has first obtained a permit from the department of public works.

(6) The town council may contractually reduce the fees in this section as part of a contract the town executes to provide curbside residential rubbish collection funded through the town's annual budget.

(Ord. of 3-1-93; Ord. of 5-3-04; Ord. of 10-18-06)

Sec. 13-73. - Reserved.

ITEM 50

NO BACK UP MATERIALS

ITEM 51

BACK UP MATERIALS

## MEMORANDUM

DATE: April 29, 2015  
TO: Brunswick Town Council  
FROM: Appointments Committee  
RE: Nominations for Town Boards and Committees

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Below are the nominations from the Committee to fill vacancies on Town Boards and Committees:

### Conservation Commission

Amanda Bunker for reappointment for a term to expire on 05/01/2018

Kurt Stinson for reappointment for a term to expire on 05/01/2018

Frederic Stott for appointment for a balance of a term to expire on 05/01/2017

### Downtown and Outer Pleasant Street Implementation Committee

Paul Dostie for reappointment as a resident downtown for a term to expires 12/01/2017

### Marine Resources

Mark Latti for reappointment as a recreation license holder member for a term to expire on 05/01/2018

Darcie Couture for appointment as a non-license holder member for a term to expire on 05/01/2018

### Recycling and Sustainability Committee

Caron Grich for reappointment for a term to expire on 01/12/2018

## **BRUNSWICK BOARD COMMISSION AND COMMITTEE CURRENT & UPCOMING OPENINGS FOR 2015**

The Brunswick Town Council will be holding interviews for the following Board Commission and Committee vacancies listed below. Interested citizens should complete an application form, available in the Town Clerk's Office.

### **Existing Vacancies on Boards Commissions and Committees**

#### Conservation Commission

1 member – balance of 3 year term to expire on 05/01/2017

#### Downtown & Outer Pleasant Street Master Plan Implementation Committee (3 year terms to expire on 12/01/2017)

1 member - Pleasant Street Business Owner

1 member – Pleasant Street Resident

1 member – Brunswick Downtown Association member

#### Fair Hearing Authority

3 members – 3 year terms to expire on 10/01/2017

#### Marine Resource Committee

1 alternate member – Commercial Harvester – balance 3 year term to expire 05/01/2017

1 alternate member – Non License holder - 3 year term to expire 05/01/2018

#### Personnel Board

2 alternate members – 3 year terms to expire on 01/12/2018

1 alternate member – 3 year term to expire on 01/12/2018

#### Recycling and Sustainability Committee

2 members – 3 year terms to expire on 01/12/2018

#### Trust Fund Advisory Committee

1 member (citizen) – balance of 3 year term to expire on 5/10/2017

#### Village Review Board

1 member (district resident) – 3 year term to expire on 10/20/2017

#### Zoning Board of Appeals

1 associate member – balance of 3 year term to expire on 07/01/2016

1 associate member – balance of 3 year term to expire on 07/01/2018

1 associate member – 3 year term to expire on 12/18/2017

### **Special committee –**

#### William Fitzgerald USN Recreation and Conservation Area Master Plan Committee

1 citizen

### **Upcoming vacancies for 2015 (Please apply at least one month prior to the month vacancy occurs – you may apply for an upcoming vacancy at any time)**

#### May

#### Conservation Commission

2 members – 3 year terms to expire on 05/01/2018

#### Marine Resource Commission

1 Alternate (Non-license holder) – 3 year term to expire on 05/01/2018

2 Commercial harvester - 3 year terms to expire on 05/01/2018

1 Non-license holder - 3 year term to expire on 05/01/2018

1 Recreational harvester - 3 year term to expire on 05/01/2018

#### Trust Fund Advisory

1 member - 3 year term to expire on 05/10/2018

#### June

#### Housing Authority

1 member – 5 year term to expire on 06/03/2020

#### Davis Fund

3 members - 3 year terms to expire on 06/30/2018

#### July

#### Recreation Commission

2 members - 3 year terms to expire on 07/01/2018

#### Zoning Board of Appeals

1 Associate member – 3 year term to expire on 07/01/2018

#### September

#### Cable TV Committee

5 members – 3 year terms to expire on 09/06/2018

#### Water District Board of Trustees

2 members – 3 year terms to expire on 09/13/2018

#### October

#### Village Review Board

2 members – 3 year terms to expire on 10/20/2018

#### November

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only	
3/9/15	Date App. Received
_____	Date App. Entered
_____	Appointed

Full Name: Amanda Bunker Date 3-3-15

Street Address: 3 Alder Drive Home Phone # 406-2719

Cell/mobile Phone #: 458-2841 E-mail Address: amanda.j.bunker@gmail.com live in Council Dist. #: \_\_\_\_\_

I wish to be considered for appointment to the:

Conservation Commission

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS:

TERM BEGINS: May 2015

and/or

ASSOC/ALT MEMBERSHIP STATUS:

TERM EXPIRES: \_\_\_\_\_

Do you or any relative currently serve on any Town Board/Commission/Committee? Y If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

conservation com, RCWC # of Years 5? Date term exp. May 2015 Relationship \_\_\_\_\_

Your occupation:

land use and community planning consultant

Employer: self employed Work Telephone #: 458-2841

List any civic organizations to which you belong:

Maine Association of Planners (Exec. Board), Brunswick-Topsham Land Trust (Lands Committee, Stewardship committee)

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Professional experience in conservation and open space planning; several years as chair/co-chair of Monmouth Comp Plan and Comp Plan Implementation committees; BTLT committees

Have you previously served on a Town board/commission/committee? \_\_\_\_\_ If so, please list the board/commission/committee and years of service:

con com, 5 years  
RCWC, 2 months

Amanda J. Bunker  
SIGNATURE

PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT - PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Conservation Commission

Term Length: \_\_\_\_\_

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

No (apart from current discussions with Council)

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

Several years already on Con Com; active work as BTLT volunteer/committee member; over 12 years experience as a professional planner, including conservation and open space planning experience.

3. Why would you like to be on the Board/Commission/Committee?

Continue the work we've been doing, excited for the current projects and opportunities

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No

6. Do you have anything you would like to add?

No

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only
<u>3-30-15</u> Date App. Received
_____ Date App. Entered
_____ Appointed

Full Name: Darcie A. Couture Date 3/27/15  
Street Address: 710 River Rd Home Phone # 725-5683  
Cell/mobile Phone #: 266-8984 E-mail Address: darcie.couture@att.net I live in Council Dist. #: 4

I wish to be considered for appointment to the:  
**Marine Resources Committee**

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS: X

TERM BEGINS: May 2015

and/or

ASSOC/ALT MEMBERSHIP STATUS: \_\_\_\_\_

TERM EXPIRES: May 2018

Do you or any relative currently serve on any Town Board/Commission/Committee? no If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

\_\_\_\_\_ # of Years \_\_\_\_\_ Date term exp. \_\_\_\_\_ Relationship \_\_\_\_\_

Your occupation: Marine resource scientist

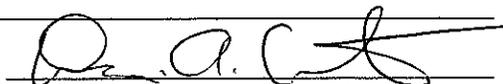
Employer: Resource Access International Work Telephone #: 266-8984

List any civic organizations to which you belong:  
none

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Please see cover letter and resume

Have you previously served on a Town board/commission/committee? no If so, please list the board/commission/committee and years of service:

  
SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT – PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Marine Resources Committee

Term Length: 3 years

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

no

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

yes - please see cover letter and resume

3. Why would you like to be on the Board/Commission/Committee?

I have extensive experience in marine resource research and management, and would like to offer the benefits of this experience to enhance the natural marine resources in my home town.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

I agree to refrain from engaging in activities that would result in financial gain from the Town of Brunswick during my term on this committee.

6. Do you have anything you would like to add?

please see cover letter and resume for details

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

Darcie A. Couture  
710 River Road, Brunswick, Maine 04011  
(207) 266-8984 / [darcie.couture@att.net](mailto:darcie.couture@att.net)

## Education

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<i>University of Maine, Orono, ME</i>	<i>LIU – Southampton College, NY</i>
M.S. Marine Biology (pending thesis completion)	B.A. Biology, minor in Marine Science
M.S. Marine Policy (pending thesis completion)	(1992)

## Environmental and Marine Sciences Work history

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### *Fair Winds, Inc.*

*Resource Access International, LLC, Brunswick, ME*

Mar 2012 - present

#### President / Lead Scientist

Established the first private lab in the country that has been inspected by the Food and Drug Administration (FDA) and is approved for performing Mouse Bioassay testing for shellfish toxins, which may be used to make regulatory decisions. Oversee a staff of three, and currently provide screening of shellfish tissues for marine biotoxins for clients in New Hampshire, Massachusetts, New York, and Florida. Design and manage environmental studies in the local area, special focus on integrating fishing community members into program activities and goals.

*Department of Marine Resources, West Boothbay Harbor, ME*

Apr 2005 – Mar 2012

#### Director, Biotoxin Monitoring Program

Directed 15 seasonal and full-time staff, responsible for all testing in the state of Maine for Paralytic Shellfish Poisoning and other marine biotoxins, in accordance with Interstate Shellfish Sanitation Conference requirements. The Biotoxin program was fully integrated and all staff were cross-trained to handle all components of the program, including field collection and laboratory work, working around a tidal cycle, which often involves starting field sample runs in the dark at 3:00AM and regularly working 12 – 15 hour days. Budgeted and managed over \$4 million in federal grant money over a three year period, including planning and coordinating a multi-tiered approach to minimize impacts from “red tide” in Maine, through innovative program design and regional collaborative projects. Built relationships with nationally recognized research groups, academic institutions, and other federal, regional, and state groups, and regularly speak about biotoxin and other public health issues to a wide range of audiences, from local school groups to U.S. Senators and Congressmen on Capitol Hill in Washington D.C. Represented the State of Maine Department of Marine Resources in local media, including newspapers, radio, and television interviews, as well as provided quotes for press releases at a national level through NOAA.

*University of Maine, Orono, ME*

Sep 2003 – Apr 2005

#### Research Assistant, School of Marine Sciences

While pursuing two Master Degrees in Marine Biology and Marine Policy, served as a research assistant to Dr. Jim Acheson, studying the dynamics of the Maine Lobster Fishery. Attended Lobster Zone Council meetings all over the coast of Maine for two years, tracking issues and concerns of the lobster industry in the different geographic regions, went out on lobster boats of various sizes to observe daily activities.

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

3/9/15	Date App.
	Received
	Date App.
	Entered
	Appointed

Full Name: Paul Dostie Date 03/04/15

Street Address: 27 Noble Street Home Phone # 449-8450

Cell/mobile Phone #: \_\_\_\_\_ E-mail Address: pdostie@curtislibrary.com I live in Council Dist. #: 6

I wish to be considered for appointment to the:

**Brunswick Master Plan Implementation Committee**

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS: X

TERM BEGINS: 2015

and/or

ASSOC/ALT MEMBERSHIP STATUS: \_\_\_\_\_

TERM EXPIRES: 2018

Do you or any relative currently serve on any Town Board/Commission/Committee? Yes If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

MPIC # of Years 3 Date term exp. 2015 Relationship \_\_\_\_\_

Your occupation:

Employer: Curtis Memorial Library Work Telephone #: 725-5242 X 228

List any civic organizations to which you belong:

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

Five years (2004-09) on board of Tri-County Literacy. Ten years (so far) on board of Harpswell Historical Society.

Have you previously served on a Town board/commission/committee? yes If so, please list the board/commission/committee and years of service:

Three years (so far) on MPIC.

  
SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

**PLEASE NOTE:** This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT – PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Master Plan Implementation

Term Length: Three years

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

No

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

Have participated (on a board level) with numerous community organizations.

3. Why would you like to be on the Board/Commission/Committee?

I would like to continue to represent in-town residents on this board. The future of Brunswick is my future.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No

6. Do you have anything you would like to add?

No

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

Application for Appointment to Board/Committee/Commission

4/13/15	Date App.
	Received
4/13/15	Date App.
	Entered
	Appointed

Full Name: Caron Grich Date 4/13/15

Street Address: P.O. Box 928

Home Telephone #: 725-1266 E-mail Address: grincher2@aol.com live in Council District #: \_\_\_\_\_

I wish to be considered for appointment to the:

(NAME OF BOARD/COMMITTEE/COMMISSION)

Check one or both:

FULL MEMBERSHIP STATUS:

TERM BEGINS: 1/12/15

ASSOCIATE MEMBERSHIP STATUS:

TERM EXPIRES: 1/12/18

Do you currently serve on any Town Board/Committee/Commission? No If so, please state name of Board/Committee/Commission and the number of years of service:

Number of Years \_\_\_\_\_ Date term expires \_\_\_\_\_

Occupation: CNA (Formerly retired Adv, PR, Writing Sales/consultant)

Employer: Casco Bay Home Care Work Telephone #: 846-6886

List any civic organizations to which you belong:

St. John's Church Volunteer, Senior Volunteer, Tedford Shelter

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

35 years PR, news research, writing, adv. sales

Have you previously served on a Town board/committee/commission? No If so, please list the board/committee/commission and years of service:

Caron Grich

SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION**

Applicants may submit a cover letter and resume with the application form. Applications should be returned to the TOWN CLERK'S OFFICE, 28 Federal Street, Brunswick, Me 04011 - BY 4:30 P.M. on the date specified by the public notice.

You will be contacted to set up an interview with the Appointment Committee

It is the intent of the Town to televise proceedings of Boards/Committees/Commissions



Board/Committee/Commission Applying For: Recycling Committee

Term Length: 3 yrs.

1. Do you have any questions about what the Board/Committee/Commission does or on its charge?

no

2. Do you have any practical experience or formal education that would be relevant to the Board/Committee/Commission?

Very interested/active in recycling, composting, plastic bags, etc.

3. Why would you like to be on the Board/Committee/Commission?

Be active communicator in town

4. Are you aware of the time involved and would you be able to attend most of the meetings?

yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

no

6. Do you have anything you would like to add?

I recommend the board's ideas to others all the time

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only	
2/4/15	Date App.
2/4/15	Received
	Date App.
	Entered
	Appointed

Full Name: Mark S. Latti Date 2-3-15

Street Address: 33 Hemlock Road Home Phone # 729-1592

Cell/mobile Phone #: 592-1339 E-mail Address: mark.latti@maine.gov I live in Council Dist. #: 2

I wish to be considered for appointment to the:

Marine Resources Committee

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS: X TERM BEGINS: May, 2015

and/or

ASSOC/ALT MEMBERSHIP STATUS: \_\_\_\_\_ TERM EXPIRES: \_\_\_\_\_

Do you or any relative currently serve on any Town Board/Commission/Committee? X If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

Marine Resources Comm. # of Years 10 Date term exp. 5/1/2015 Relationship \_\_\_\_\_

Your occupation:

Employer: State of Maine Work Telephone #: 287-5216

List any civic organizations to which you belong:

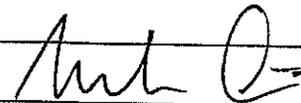
Maine Guides Association, Maine Public Relations Council

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

10 years on the committee, four years as chair. Background in natural resource sciences and conservation.

Have you previously served on a Town board/commission/committee? Yes. If so, please list the board/commission/committee and years of service:

Marine Resources Committee, ten years.



SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT – PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Marine Resources Committee

Term Length: \_\_\_\_\_

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

No.

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?  
Yes, as an employee of the Maine Department of Inland Fisheries and Wildlife, I have a background in natural resource conservation, protection and enhancement.

3. Why would you like to be on the Board/Commission/Committee?

The Marine Resource Committee directly supports nearly 50 jobs, and those jobs indirectly support dozens of other jobs in the community. Shellfish conservation, protection, and enhancement are vital in order for these jobs to continue, and are threatened by competition and invasive species.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes.

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

None.

6. Do you have anything you would like to add?

No thank you.

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only	
4/13/15	Date App.
	Received
	Date App.
	Entered
	Appointed

Full Name: Kurt Stinson Date 4-8-15

Street Address: 288 Maine St Home Phone # 729-7143

Cell/mobile Phone #: 751-7417 E-mail Address: thestins@myfairpoint.net I live in Council Dist. #: 7

I wish to be considered for appointment to the:

Conservation Commission

(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:

FULL MEMBERSHIP STATUS: X

TERM BEGINS: May 2015

and/or

ASSOC/ALT MEMBERSHIP STATUS: \_\_\_\_\_

TERM EXPIRES: May 2018

Do you or any relative currently serve on any Town Board/Commission/Committee? Y If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:

Conservation Commission # of Years 9 Date term exp. May '15 Relationship \_\_\_\_\_

Your occupation:

Employer: Bath Iron Works ( Engineering Supv) Work Telephone #: 442-2866

List any civic organizations to which you belong:

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:

9 Years on the Con Com

Have you previously served on a Town board/commission/committee? Y If so, please list the board/commission/committee and years of service:

Investment Trust Advisory Committee (1996-2002)



SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

You will be contacted to set up an interview with the Appointment Committee.

It is the intent of the Town to televise proceedings of Boards/Commissions/Committees

PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT – PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Conservation Commission

Term Length: 3 yrs

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

No. I have been on the Commission for 9 years.

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

Just experience from being on the Commission.

3. Why would you like to be on the Board/Commission/Committee?

I want to continue to work on the projects that are underway and that we have planned, while continuing to improve open space opportunities in Brunswick.

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes.

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No.

6. Do you have anything you would like to add?

No.

PLEASE REVIEW THE TOWN OF BRUNSWICK BOARDS, COMMISSIONS, AND COMMITTEES APPOINTMENT POLICY PRIOR TO SUBMITTING THIS APPLICATION. YOU MAY VIEW THE POLICY AT <http://www.brunswickme.org/departments/town-clerk/boards-committees/> OR OBTAIN A COPY FROM THE TOWN CLERK'S OFFICE.

Town of Brunswick  
Application for  
Appointment to Board/ Commission/ Committee

For Office Use Only
4-13-15 Date App. Received
_____ Date App. Entered
_____ Appointed

Full Name: Frederic (Sandly) Stott Date 4/5/15

Street Address: 4 Braemar Rd Home Phone # 798-4709

Cell/mobile Phone #: \_\_\_\_\_ E-mail Address: fsandystott@gmail.com I live in Council Dist. #: \_\_\_\_\_

I wish to be considered for appointment to the:  
Conservation Commission  
(NAME OF BOARD/COMMISSION/COMMITTEE)

Check one or both:  
FULL MEMBERSHIP STATUS:  TERM BEGINS: 5/2015  
and/or  
ASSOC/ALT MEMBERSHIP STATUS:  TERM EXPIRES: 5/1/2018

Do you or any relative currently serve on any Town Board/Commission/Committee? No If so, please state name of Board/Commission/Committee, the number of years of service, and the relationship to this applicant:  
\_\_\_\_\_ # of Years \_\_\_\_\_ Date term exp. \_\_\_\_\_ Relationship \_\_\_\_\_

Your occupation: Writer; retired teacher

Employer: \_\_\_\_\_ Work Telephone #: \_\_\_\_\_

List any civic organizations to which you belong:  
Appalachian Mtn Club  
Thoreau Farm Trust

Note any prior experience knowledge, or abilities that you have which would contribute to the activities of the board/committee/commission:  
5-year member of Walden Pond Advisory Board  
Editor of Appalachia Journal 1989-1999

Have you previously served on a Town board/commission/committee? No If so, please list the board/commission/committee and years of service:  
\_\_\_\_\_  
\_\_\_\_\_

Frederic S. Stott  
SIGNATURE

**PLEASE COMPLETE THE QUESTIONS ON THE BACK OF THIS APPLICATION.**

Applicants may submit a cover letter and resume with the application form.  
Applications should be returned to the TOWN CLERK'S OFFICE, 85 Union Street, Brunswick, Me 04011.

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PLEASE NOTE: This completion of this application allows a person to be considered for a Town

Board/Commission/Committee, but does not guarantee placement on a Board/Commission/Committee.

APPLICANT – PLEASE COMPLETE THE QUESTIONS BELOW

Board/Commission/Committee Applying For: Conservation Commission

Term Length: 3 yrs

1. Do you have any questions about what the Board/Commission/Committee does or on its charge?

Please see attached  
↓

2. Do you have any practical experience or formal education that would be relevant to the Board/Commission/Committee?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Why would you like to be on the Board/Commission/Committee?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Are you aware of the time involved and would you be able to attend most of the meetings?

Yes

5. Do you have any conflict of interest that might involve either a direct financial gain or other gain?

No

6. Do you have anything you would like to add?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Conservation Commission Application, 2nd page - Stott**

1.) My only question at this point has to do with the follow-up work from the recent inventory of properties: from the study, it seems that two priorities emerge: one is to find other stewards to manage properties that can enjoy considerable use; the other is to look for linkages among properties that may form corridors for wildlife and/or for people. How do these priorities (if I have them right) fit together?

2.) Years of teaching literature about the wild and its value give me some depth in the thinking that undergirds conservation. Also, my writing and editing of conservation-related work adds to that depth.

My years of working on the Walden Pond Advisory Board gave me a sense of how and when partnerships work (or don't) for conservation.

3.) For me, local work on behalf of the natural world offers an antidote to the feeling of powerlessness often brought on by large-scale problems. I write a blog for the Thoreau Farm Trust, entitled "The Roost" ([www.thoreaufarm.org](http://www.thoreaufarm.org)), which often celebrates such a local focus. I'm also interested in getting to know my new town better through this sort of work.