

Executive Privilege

TO: Governor Peter Shumlin

DATE: October 7, 2015

**SUBJECT: *The Vermonter to Montreal* Project Update from Brian Searles
(Confidential - Distribute on Need to Know basis)**

During the week of October 5th, I had meetings in Washington D.C. with the legislative staff of Senator Patrick Leahy.

In addition I met with:

Alan Bersin, Assistant Sec. for Int'l Affairs of the U.S. Department of Homeland Security;
Todd Owen, Director of Field Services for U.S. Customs and Border Protection;
Edgar Coutremanche, of Amtrak;
the Quebec team on the project, former Ambassador Raymond Chretien, Emissary;
Daniel Picotte, Assistant Emissary; and Frederic Tremblay, Director of the Quebec Government Office in Washington.

I had less formal conversations with:

Tom Winkowski, former Dir. of the CBP, now President of Global Border Solutions, LLC;
Steven Covey, Chief of Police for Canadian National Railroad.

The following is a summary of where I think we are in terms of tasks and timeline:

There exists at the highest level of US DHS a desire to enter a new era of thinking about the movement of people and goods back and forth across borders in general and the Canadian border in particular. It is rooted in the idea that we should be thinking north/south and not east/west. By concentrating on border security at specific places on the border itself we risk missing the bigger picture of where people and goods are coming from and where they can best be screened and often that is many miles from the border itself. This makes preclearance an important issue for DHS as it has the potential to improve the security of the border, along with making travel more convenient.

The problem, at this moment, is the stalled legislation known as CEJA (Criminal Extradition and Jurisdiction Act), sponsored by Senators Leahy and Schumer. The bill is considered "must have" enabling legislation by CBP and spells out procedures and protections for US CBP officers along with specifically allowing preclearance activity in Canada. Unfortunately, this bill does not have Republican support, particularly in the House, where it has been linked to Immigration Reform and has led to fears that it will be easier for illegal immigrants to cross the border from Canada.

The work over the next few weeks, done mainly by the sponsors in the Senate, is to win the support of Republicans in that chamber. They have the support of Senators Graham and Johnson, the former because of Porter Air's desire to serve Myrtle Beach and the

latter because of the potential rail and air links to Wisconsin.

The potential of this bill passing anytime soon is not good but Leahy staffers describe some progress in their discussions in the last couple of weeks. They fear, however, if it becomes an obvious part of the immigration debate it will also become part of presidential politics and not be considered until after November, 2016.

On the Canadian side there is a real fear that the October 19, 2015 election will result in a minority government. This would not bode well for legislation that has to pass Parliament and is unlikely to result in any financial commitment from P.M. Harper, who would still be in office but with reduced power. Officials from both sides of the border see no real movement on needed legislation until Spring, 2016 at the earliest unless a breakthrough comes soon on CEJA in the US Senate. I will remain in close contact with Leahy staff on this issue. There is some concern on the part of both governments that one not be seen holding up the other on the issue of preclearance.

In the meantime, all parties believe that there are things that can be done over the next few months:

- We should learn all we can about the Vancouver-Seattle rail preclearance project that is farther advanced than ours and could be customized to meet needs in Montreal. This will involve continuation of the design of the Montreal facility with consultation between MTQ, CBSA and US CBP to ensure that all needs are met.
- We should begin now to build support for CEJA in the US House of Representatives. This is largely an educational effort to deal with the fear that House Republicans have that this bill could enable illegal immigration. In fact, the opposite is true. I will be discussing strategy in this regard with Peter Welch in the coming weeks.
- Raymond Chretien will be closely reviewing the progress made in CN labor agreements to ensure that we will not have those issues again. Mr. Chretien expressed that if those issues are resolved, he will urge Amtrak to take *The Vermonter* into Central Station even before the facility is built. I have not discussed this possibility with Amtrak but it is on the agenda for further discussion in the next few months.

Determining whether the CN labor agreements will require a change of train crews at the border is very important to Vermont. Ambassador Chretien has indicated that he thinks they are no longer in effect and is looking into this, but it would be helpful if you mentioned this issue during your meeting with the Premier.

In the 1990s this was a major issue. Requiring crew changes at the border added significant costs to the Montrealer and were in part, one of the contributing reasons that lead to the cancellation of that train.

- New York State: It is important to ensure support, cooperation and participation from New York State while continuing to develop full preclearance facilities in Montreal Central Station. All of our current efforts are the direct result of Canadian Border Services Agency's (CBSA) declaration that they could not continue to support security clearance for NYSDOT sponsored Amtrak Adirondack passenger service at the current location on the NY-Quebec border. Our work has been done in partnership with NYSDOT, Ministère des Transports du Québec, Amtrak, and the Central Station facilities are being developed to accommodate passenger rail services for New York and Vermont.

The Province of Quebec and State of New York have a cooperative agreement, similar to ours. NYSDOT has a new DOT Commissioner and it may be helpful for you and the Premier to reach out to Governor Cuomo to ensure he is on-board and to keep things on the front burner. This would be helpful for you to mention.

- Mr. Chretien will host me (and possibly others from VTrans) in Montreal later this year to look at Central Station and the rest of the infrastructure needs north of the border.

It appears to me that we have the attention of the partners in this effort. It also appears that airports are likely to have an easier time of it on the preclearance issue due to fewer perceived security and illegal immigration issues. At this time the CBP Office of Preclearance is focused on nine large airports around the world to develop preclearance facilities, none of them in Canada. However, their efforts were stymied temporarily by a Congress that wants oversight of this entire matter. Thanks to Senator Leahy, Canada was exempted from this power and control effort and that should help us a great deal as our project progresses.