

Eric M. Hocky
T (215) 640-8523
F (215) 640-8501
Email: ehocky@clarkhill.com

Clark Hill
Two Commerce Square
2001 Market Street, Suite 2620
Philadelphia, PA 19103
T (215) 640-8500
F (215) 640-8501

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BY E-FILING

Cynthia T. Brown
Chief, Section of Administration,
Office of Proceedings
Surface Transportation Board
395 E Street SW
Washington, DC 20024

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Office of Proceedings
October 27, 2022
Part of
Public Record

Re: **New England Transrail, LLC d/b/a Wilmington & Woburn
Terminal Railway-Construction, Acquisition and Operation
Exemption-in Wilmington and Woburn, Massachusetts**
Docket No. FD 34797 (Sub No. 1)
Further Status Report

Dear Ms. Brown:

By this letter, Petitioner New England Transrail ("NET") and Wilmington Woburn Intermodal, LLC ("WWI")¹ provide their joint further status report pursuant to the April 5, 2019 Board decision, as amended by the October 24, 2019 Board decision, which required the parties to submit a status report by November 8, 2019, and every 90 days thereafter. NET and WWI filed their most recent joint report on July 29, 2022 as required.

As noted in previous reports, in October 2018, representatives of WWI presented to the Wilmington Board of Selectmen, WWI's concept for a potential project alternative to the project which is the subject of NET's petition before the Board. The parties apprised Danielle Gosselin in the Board's Office of Environmental Assessment ("OEA") of those preliminary discussions. The conceptual alternative would involve an expanded version of its proposed warehouse for the bulk transfer and storage of retail and other commodities.

¹ In November 2018, NET petitioned to substitute WWI as the Petitioner. WWI is a joint venture between NET and commercial developer GFI Partners. That petition is still pending with the Board. Nevertheless, WWI is joining in this status report.

In its May 3, 2021 status report, NET and WWI reported that USEPA released its Record of Decision ("ROD") on March 30, 2021, and provided links to a general description of the ROD, and the timeline for next steps, and to the ROD. WWI/NET also provided a copy of the ROD to OEA.

Over the summer EPA indicated that Olin was beginning a nine- or ten-month study (the "treatability study") reviewing treatment options for the contaminated liquids to be pumped out of the aquifer. As noted previously, the treatability study was expected in the next six or seven months. Olin continues to negotiate with USEPA for a Consent Agreement in response to the ROD; WWI / NET understand the responsible parties are in the final stages of memorializing their agreement. The final Consent Agreement will be sent to DOJ for acceptance. Remedial design activities will commence after the Consent Agreement is lodged in Federal Court. Discussions with the Town in conjunction with the redevelopment of the site will continue after the Consent Agreement is filed.

WWI (and, by extension, NET as an investor in it) continue to refine their current plans for the property in the context of the ROD, and based on continuing discussions with Olin as Olin negotiates the final Consent Agreement with USEPA. WWI and NET have requested timelines and design parameters from which to base their redevelopment options, and plan to meet with Olin again in upcoming months.

As previously reported, WWI / NET had their first meeting with the Town of Wilmington ("Town") following the issuance of the ROD. WWI/NET has since addressed the Town's follow-up questions and observations about how to best implement development without adversely affecting any ongoing cleanup efforts. Some of the issues discussed have included warehouse design, wetlands protection, and fire protection. WWI/NET believes the discussions have been collaborative and productive, and WWI/NET remain committed to further discussions and to providing additional information which supports their proposal's non-impact as well as information that further describes those areas of the proposed development that will contribute to the EPA's cleanup solutions and remediation goals as will be set forth in the Consent Agreement.

WWI and NET will continue to provide status reports to the Board while the proceeding remains in abeyance.

In recent matters the Board has suspended or reduced the frequency of status reports. Given that the progress on the remediation studies and consent agreement are outside of the control of WWI/NET and the Town, WWI/NET requests that the Board suspend the submission of status reports until after Olin and USEPA negotiate the final Consent Agreement. This will reduce the burden on the Board, OEA and the parties to prepare and review the status reports while the environmental cleanup process plays out.

Please let us know if the Board has any questions concerning this report.

Sincerely,

CLARK HILL PLC

/s/ Eric M. Hocky

Eric M. Hocky

*Attorneys for New England Transrail and
Wilmington Woburn Intermodal, LLC*

EMH/e

cc: Danielle Gosselin, OEA (by email)
Adam Assenza, OEA (by email)
Daniel Deutsch, Esq. (by email)
Attached Service List for Sub-Docket No. 1

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of October, 2022, a copy of the foregoing "Further Status Report" was sent by email to the following Party of Record in Sub-Docket No. 1:

Daniel R. Deutsch
Principal and Managing Attorney
Brooks & DeRensis, P.C.
200 Franklin Street, Suite 700
Boston, MA 02110
ddeutsch@bdboston.com

Eric M. Hocky