

February 19, 2009

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Surface Transportation Board
395 E Street SW
Washington, D.C. 20423

Attention: Environmental Filing STB Finance Docket No. 35116

**Subject: Environmental Impact Statement Scope Being Greatly Restricted by
Unwarranted Assumptions and Presumptions**

During my review of your draft Environmental Impact Statement (EIS) Scope of Study, I noted that the train-hauled contents were not being addressed in Impact Categories 1-12.

During the public scoping meeting held February 10, 2009, in Philipsburg, Pennsylvania (PA), I raised this issue with Skelly and Loy representatives at three display stations. I was told that the impact of train-hauled contents would be minimal because of the policies of the hauler, supplier, and the landfill/industrial park proposed by Resource Recovery, LLC (RRLLC). Their stated reasons are as follows:

- 1) The president of RRLLC told them RRLLC was no longer interested in biofuel production because the price of soybeans is too high.
- 2) The municipal trash conveyed will originate from New York (NY) and New Jersey (NJ). Because NY and NJ export their municipal trash in plastic-wrapped bales, this eliminates the typical transport-related impacts—litter, leakage, and odor.
- 3) Norfolk Southern, the primary railroad link to NY and NJ, has a policy that all municipal trash be hermetically sealed in plastic-wrapped bales, then transported in covered, leak-proof gondola cars.

I disagree with Skelly and Loy's reasons and conclusions for the following reasons:

- 1) Since RRLLC announced their proposed landfill and industrial park in 2004, they have often, formally, and in writing, proposed biofuel production as a centerpiece, including production of methane, ethanol, and biodiesel. This has included full-page advertisements in the Centre Daily Times signed by Mr. Abel, their president. As recently as December 2008, RRLLC conveyed to a local municipal official their interest in a biofuel plant that would convert agricultural, forest, and other organic wastes to ethanol. Additionally, the life of the proposed landfill will be at least 28 years during which soybean and other feedstock prices will vary and again be favorable for biofuel production. To be defensible, this scoping effort must be based on the long haul, not today's conditions, nor sudden changes in RRLLC policy that, coincidentally, reduce they and their petitioners EIS vulnerability.

- 2) A major assumption is their rail-transported municipal trash will be coming from NY and NJ. However, RRLLC has no enforceable commitments from these suppliers. We, who have talked with trash suppliers and local landfill operators, know that the waste industry runs on contracts. Repeatedly, we have been told: no contract = no waste delivery = no tipping fee. The non-contract or "spot" market is a relatively insignificant revenue source. Without signed contracts in hand, RRLLC has no basis to claim NY or NJ suppliers, and that their incoming municipal waste will originate in plastic-wrapped bales. Furthermore, to presume they will win these NY-NJ contracts later by competition is not warranted because the supply of rail accessible landfills in PA is increasing while the amount of imported waste is decreasing precipitously. In 2008, the critical Environmental Assessment phase for permitting the expansion of a nearby landfill (McKean County) was approved for rail delivery and in nearby Clinton County a landfill expansion permit to include rail delivery is being processed by the PA Department of Environmental Protection (PADEP). Their combined potential rail capacity (8,000 T/d) substantially exceeds RRLLC (5,000 T/d) whose permit application has been suspended by PADEP. Based on PADEP data, municipal waste imports into PA have declined 6% per year from 2001-2007, for a total reduction of 35%, whereas PA waste-source tonnage has not changed. This is a classic case of too much rail-accessible landfill supply for too little NY-NJ demand for this capacity. This disparity is increasing.
- 3) Norfolk Southern is a private company, responsive mainly to its owners. Thus, changes in ownership, leadership, markets, clients, and competitors can prompt or force changes in their policies. Given this impetus, their self-imposed policy could be changed and the change implemented very quickly. The standards set by these policies should not be incorporated or influence the EIS scoping or analysis. Because this project would be active for at least 28 years, the scope needs to be broad-based and assess impacts above regulatory standards, not by Norfolk Southern's standards. Over the 28-plus years, the only assurity regarding municipal trash transports is that the regulatory minimum standards always apply. They set the floor above which all institutions must operate and the base level from which the EIS analysis starts.

Skelly and Loy need to expand the scope of their EIS analysis to fully include the train-hauled contents and all their impacts. It needs to be realistically and defensibly based on long-term operations and on minimally required regulatory standards. Otherwise the EIS will not fully measure impact. The EIS scope as proposed is indefensibly narrow and does not meet National Environmental Policy Act (NEPA) goals or regulations.

Respectfully,



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