



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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OFFICE OF THE
REGIONAL ADMINISTRATOR

December 20, 2016

Danielle Gosselin
Office of Environmental Analysis
Surface Transportation Board
Docket No. FD 34797 (Sub. No 1)
395 East Street, SW
Washington, D.C. 20423-0001

RE: EPA Comments in response to the Surface Transportation Board Notice of Intent for the New England Transrail Project, Docket No. FD 34797 (Sub. No. 1)

Dear Ms. Gosselin:

In accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, we submit the following comments as part of the NEPA scoping process for the Surface Transportation Board's (STB) proposed Environmental Impact Statement for the New England Transrail (NET) Rail Project ("Project") in Wilmington, Massachusetts.

Our comments are based on information provided in STB's September 30, 2016 Notice of Intent to Prepare an Environmental Impact Statement and Draft Scope of Study for the New England Transrail LLC d/b/a/ Wilmington and Woburn Terminal Railway ("Petitioner")—Construction, Acquisition & Operation Exemption—in Wilmington and Woburn, Massachusetts; and an October 25, 2016 site visit and public meeting in Wilmington. Our comments are also based on a number of other documents filed with the STB regarding the project and the current Administrative Record for EPA's Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA") related activities for the Olin Chemical Superfund Site ("Olin Site" or "Site").¹

According to NET's Petition, NET seeks STB's authority to install, operate and maintain a rail transloading facility ("Facility" or "Project") as a common carrier on a thirty-two-acre parcel at 51 Eames Street in Wilmington and Woburn, Massachusetts. This parcel is part of a larger fifty-acre property (the "Property") currently owned by Olin Corporation ("Olin"). Twenty or so acres of the Property owned by Olin are subject to a conservation easement held by the Town of Wilmington. NET holds an option to purchase the Property from Olin. In addition, the Project

¹ Our comments are also based on NET's June 24, 2016 Petition ("Petition"); STB's August 29, 2016 First Information Request to NET; NET's Response to the First Information Request; NET's September 15, 2016 Wetlands Map of West Ditch and email to EPA on degraded wetlands; NET's Clarification and Supplemental Response to STB's First Information Request, including information on Hazardous Materials and Fire Safety Plan.

layout will include approximately two and one half acres of adjoining land to the west of the Property to be leased from Pan Am Railways ("Pan Am") for conversion into a rail interchange yard, including rehabilitation of existing track and switches and construction of additional tracks and switches. The Project plans to receive service from Pan Am and Pan Am Southern ("PAS"), a joint venture between Pan Am and Norfolk Southern Railroad. The Property is located in an industrially-zoned portion of Wilmington and is abutted by light industrial and commercial businesses, with the closest residential properties located approximately one thousand yards to the north on Eames Street. The Property is the original source of local chemical releases and part of a broader environmental investigation under CERCLA for the Olin Chemical Superfund Site.

Facility development work would include demolition and removal of all existing buildings, excavation and re-grading, rehabilitation and relocation of existing and former tracks and switches within the Property, and installation of new facilities. The Project plans propose to create three activity areas on the Property: tracks to unload center-beam and bulkhead flat cars to be transloaded onto trucks within a covered warehouse structure in the northeast corner of the Property; interchange and transloading tracks allowing the unloading of tank and hopper cars in the center of the facility; and interchange and transloading tracks allowing the unloading of box cars into a cross-dock warehouse in the western region of the Property. Specific major elements of the project include: 10,838 feet of new and rehabilitated track, adding to the 5,727 feet of existing track to be acquired; a 65,000 square foot at-grade warehouse with an enclosed truck loading area; a 240,000 square foot cross-dock warehouse transloading facility (60,000 square feet will be temperature controlled) for palletized and bagged products transloaded from railcars to trucks; 1,135,000 square feet of new pavement as driveways for trucks to access the transloading buildings; onsite storage tanks for liquid commodities; water tanks for fire, safety and cleaning; and overall site work including grading and the installation of stormwater management controls and utilities related to operation of the facility.

Under the CERCLA program, EPA has been investigating the full nature and extent of contamination at the Site. Once the investigation is complete, EPA anticipates developing remedial alternatives and selecting a cleanup plan in a Record of Decision (ROD) following review and written response to public comments. That plan will assure that Site conditions are protective of human health and the environment taking anticipated future land uses into account. In order to satisfy CERCLA's statutory requirements, EPA must assure that any future NET Project does not interfere with ongoing investigations and allows for the construction, maintenance and monitoring of any remedial action selected by EPA. That remedial action may need to be changed if significant new information comes to light that indicates that the cleanup plan is no longer protective of human health and the environment. To increase the chances that future development is consistent with required cleanup actions, we strongly encourage the STB to consider the EPA ROD or RODs for the site prior to the close of the NEPA process for the Project.

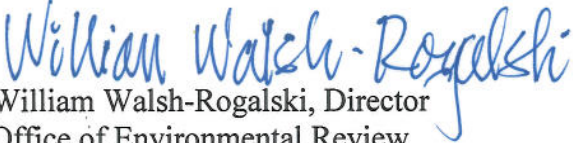
This scoping letter provides our comments under NEPA to help the STB develop an EIS that examines the environmental impacts of the Project with due consideration to our ongoing CERCLA work on the Site. EPA recognizes the intense community interest in the EIS and the ongoing CERCLA work and intends to continue to participate as a cooperating agency through the balance of the NEPA process.

The attachment to this letter provides a history of EPA's involvement in the investigation and cleanup of the Site that we hope will provide insight as to how the cleanup of the Site and future construction of a project on the site may overlap.

The construction and operation of the NET Facility could result in a wide range of direct, indirect and cumulative impacts to resources that are within EPA's areas of jurisdiction and expertise. In conjunction with the STB's work to prepare an EIS for the proposed NET project, EPA will continue to use the CERCLA program to address environmental contamination at the Site. We believe that the STB Notice of Intent identifies many of the potential environmental impacts that need to be examined in the EIS and we intend to remain actively involved in the NEPA process to help STB fully consider the impacts of the proposed Facility and reasonable alternatives with appropriate consideration given to on and off-Site contamination issues. We have specific concerns about the consideration of alternatives and the potential for project impacts related to air quality, wetlands, groundwater, stormwater, and emergency response. Our attached comments provide detail and direction on how to address these issues in the EIS.

Please contact me at 617-918-1035 with any questions regarding our scoping comments.

Sincerely,


William Walsh-Rogalski, Director
Office of Environmental Review

Enclosure

Detailed Scoping Comments for the New England Transrail (NET) Project

Site History/Background

Between 1953 and approximately 1970, a series of chemical companies operated on the Property. The operations disposed of liquid wastes in unlined pits on the west/central portion of the Property in the area currently referred to by EPA as "the containment area." In approximately 1970, lined lagoons and an acid treatment and neutralization system were added to the operations to replace the unlined pits. The acid treatment and neutralization system initially discharged to the natural drainage feature referred to now as the South Ditch, which drains off the Property into the East Ditch. These ditches are heavily contaminated in areas but are outside the location of NET's Project development, as currently proposed. In approximately 1972, the discharge system was connected to a municipal sewer system. The lined lagoons were periodically dredged and disposed of in the southwest corner of the Property in an area known as the calcium sulfate landfill. The NET Project will not affect the calcium sulfate landfill.

Monitoring data from the late 1970s indicated that the lined lagoons were leaking. They were re-lined in approximately 1981 and 1983. Leaks in sewer lines were also repaired in approximately 1983 and 1984. Olin Corporation purchased the Property in 1980 and continued chemical operations at the Property until 1986.

Contamination resulting from historical operations migrated in groundwater to the Wilmington drinking water supply wells located in the Maple Meadow Brook wetland area northwest of the Property, causing closure of five of the Town's nine wells in 2003.

Prior to inclusion on EPA's National Priorities List (NPL) on April 19, 2006, the Site was subject to many years of investigations and cleanups carried out by Olin Corporation and supervised by Massachusetts Department of Environmental Protection under the Massachusetts Contingency Plan ("MCP"). The majority of these investigations and response activities were focused on the former chemical operations on the Property including: the excavation and off-site disposal of contaminated soil from two drum disposal areas, a buried debris area, and Lake Poly (a former lagoon). NET's proposed Phase I development currently under review would be on top of or in immediate proximity to these former disposal areas. Cleanup activities conducted under the MCP also included the disposal of contaminated sediments from the West Ditch and associated wetland, the upper South Ditch, and Central Pond. These sediment areas are outside the location of NET's proposed development. A groundwater extraction and treatment system, referred to as Plant B, was installed in the northeast area of the Property in 1989 to arrest the migration of contaminants into the East Ditch that runs between the east boundary of the Property and the Massachusetts Bay Transit Authority ("MBTA") rail line. The extracted groundwater is discharged to the West Ditch. Plant B will continue to operate for the foreseeable future and is located outside the location of NET's proposed Project development.

In 2000, Olin constructed a slurry wall/cap containment structure, referred to as the containment area, around an approximately five-acre area of heavily contaminated soil overlaying heavily contaminated groundwater on the western boundary of the Property. The containment area is comprised of a three-foot-thick perimeter slurry wall extending from the land surface to the top

of bedrock (about 40 feet below ground surface) and is covered with a temporary five-acre geosynthetic cap. NET proposes to use the containment area in what it refers to as Phase II of its Project, a warehouse that may be developed following the implementation of final remedial action for the containment area. The slurry wall and cap are designed to eliminate, to the extent feasible, the groundwater from within the containment area as a continuing source of contaminants to area groundwater. A significant volume of viscous, dense aqueous phase liquid (DAPL), contains concentrated levels of contamination and remains within and outside the containment structure.

On July 3, 2007, EPA entered into an enforceable agreement with Olin Corporation and other companies that had operated at the Site. The agreement requires that these companies perform additional investigations to determine the full nature and extent of contamination at the Site. These additional investigations have been undertaken in three segments, referred to as operable units ("OUs"), as follows:

- Operable Unit 1 ("OU1") encompasses the 50-acre Property, including the former facility area, established conservation area, on-Property ditch system, calcium sulfate landfill, Plant B, and containment areas. Investigations for OU1 addressed the sources of contamination in soil, sediment, and surface water along with potential vapor issues. The field and laboratory work for this segment of the investigation, and an assessment of human and environmental risks posed by the contamination, is complete and documented in a Remedial Investigation (RI) Report for OU1 and OU2 issued on July 24, 2015. The investigation and risk assessment for OU1 serve as the basis of EPA's preliminary finding that commercial/industrial re-use of the Property will not pose unacceptable chemical exposure risks to construction or on-site workers or visitors on the Property.² This finding is important to decisions regarding redevelopment of the Property by NET. However, this finding does not become final until such time as EPA responds to formal public comments on the Proposed Plan and approves a final cleanup strategy in a ROD for the Site.
- Operable Unit 2 ("OU2") encompasses off-Property surface water and sediment areas including, at a minimum, the off-Property East Ditch, South Ditch and Landfill Ditch; Sawmill Brook and Maple Meadow Brook; and North Pond. A cleanup decision by EPA for OU2 will address management of contamination on the Property and its migration off the Property. This includes contamination in surface water and sediments. The field and laboratory work for this segment of the investigation, and an assessment of human and environmental risks posed by the contamination, is complete and documented in a Remedial Investigation Report for OU1 and OU2 issued on July 24, 2015. The investigation and risk assessment for OU2 serve as the basis of EPA's preliminary finding that these surface water bodies, with the exception of South Ditch and a portion of East Ditch, will not pose unacceptable risks. However, this finding does not become final until EPA receives public comment on the RI Report and approves a final cleanup strategy in a ROD for the Site.
- Operable Unit 3 ("OU3") encompasses all on- and off-Property groundwater potentially impacted by chemical releases from the Site including groundwater in the Maple Meadow Brook

² See also EPA's November 6, 2015 Environmental Comment submitted to the STB regarding New England Transrail, LLC, FD-34797.

aquifer, groundwater beneath the Site and groundwater contamination located north, south and east of the Property, which includes several active, private supply wells. OU3 also includes significant areas of DAPL and potential human exposure risks posed by contaminated vapors. The field and laboratory work for this segment of the investigation is on-going but substantially complete. An assessment of human and environmental risks posed by the groundwater contamination will be documented in a Remedial Investigation Report for OU3 anticipated in 2017.

Field work for OU1 and OU2 was conducted from 2009 to 2012. Field work for OU3 is nearing completion. A combined ROD for OU1, OU2 and OU3 is anticipated in 2018.

STB's Jurisdiction

EPA recommends that the EIS explain STB's approach regarding the application of State, Federal and local law on the project.

On December 22, 2004, the STB published a Post Environmental Assessment (PEA) for a previous project proposed by NET on the same site in Wilmington, Massachusetts. The PEA Executive Summary (pages ES-2 to ES-4) presents an explanation of the Board's jurisdiction for the review of such projects, along with an explanation of the Board's position on the pre-emption of state and local law in proceedings over the construction, acquisition, and operation of common carrier rail lines. EPA recommends that the EIS include an updated discussion of the Board's jurisdiction. The relationship between the Commerce Clause of the U.S. Constitution, STB jurisdiction, federal statutory and regulatory law, state law and local law is complex and shapes how various arms of government can regulate the construction and operation of the facility. EPA encourages STB to present the explanation in "plain English" so that it is easily understood by the public.

Alternatives

Our comments in various sections of this attachment, when taken as a whole, speak to the need for a comprehensive look at alternative sites for the proposed project. In addition to the consideration of offsite alternatives to achieve the project purpose, we recommend that the STB explore whether alternate project designs brought on by changes in the scale and/or layout of the facility (including configuration of site buildings, rails, and related infrastructure) could reduce adverse environmental impacts. State of the art management of stormwater from the project site is likely to dictate changes in project design that may partially address this issue. In addition, we recommend that the STB explain whether the demand being addressed by the project could be otherwise met by other facilities in the region. The limited-real-estate-based alternatives analysis provided to date is not sufficient for NEPA purposes. We strongly encourage STB to provide a more complete analysis of site location and design alternatives.

Construction Activities

EPA recommends that the EIS assess the environmental consequences of site preparation and construction activities in addition to environmental consequences of the Project's operation.

Demolition and removal of existing buildings, excavation and re-grading, rehabilitation and relocation of existing and former tracks and switches within the Property, as well as the installation of new facilities, will result in the generation of noise, dust, air emissions, increased traffic, vibration and solid waste. All of these construction impacts deserve analysis in the EIS.

Consideration of construction and operation impacts on the Property is complicated by ongoing and future CERCLA remediation decisions regarding cleanup of the property. At a minimum we recommend that the EIS describe whether site preparation and construction will disturb contaminated materials at the Site, and how the STB will incorporate conditions in any project approval to accommodate future potential EPA response activities related to site remediation/cleanup. Construction and operation activities that relate to remedial actions that EPA decides are appropriate for the Site are legally required to meet all applicable or relevant and appropriate state and federal requirements ("ARARs"). EPA may also decide that other standards, limitations or environmental safeguards are to be considered ("TBC") as part of the remedial actions. EPA will likely request that STB condition NET's activities at the site with a requirement that they comply with all ARARs and TBCs in any EPA ROD. EPA recommends that the EIS explain how issues that arise as a result of the issuance of an EPA ROD (or RODs) will be addressed by the STB in the NEPA context.

Reducing Air Pollution Emissions during Construction of the Facility

Given the public health concerns about diesel exhaust from heavy duty diesel trucks and other heavy duty construction equipment, EPA encourages the STB to require the use of newer vintage diesel engines where possible during all phases of the proposed Project. Alternatively, we encourage the STB to require diesel retrofits where practicable, require the use of cleaner fuels, and institute idle reduction measures to minimize emissions from diesel construction equipment. Retrofit technologies may include EPA verified emission control technologies and fuels and CARB-verified emission control technologies. A list of these diesel exhaust control technologies can be accessed at <https://www.epa.gov/verified-diesel-tech/manufacturer-contact-list-clean-diesel>. A list of approved idle reduction technologies can be found on the Agency's SmartWay site: <https://www.epa.gov/verified-diesel-tech/smartway-verified-list-idling-reduction-technologies-irts-trucks-and-school>. Additionally, operator training to reduce unnecessary idling of equipment to supplement the adoption of these technologies is encouraged.

The Northeast Diesel Collaborative has prepared model construction specifications to assist in developing contract specifications that require construction equipment to be retrofitted with control devices and use clean fuels in order to reduce diesel emissions. The model construction specifications can be found on the Northeast Diesel Collaborative web site <http://northeastdiesel.org/pdf/NEDC-Construction-Contract-Spec.pdf>.

Stormwater

The site is located at the divide between the Ipswich and Boston Harbor/Mystic River watersheds. Both watersheds have numerous segments not currently attaining Massachusetts Surface Water Quality Standards for various pollutants. Among these pollutants, excessive phosphorus loading from the watershed is contributing to cultural eutrophication of the Mystic River. Stormwater runoff from impervious surfaces, particularly those that are subject to exhaust

from diesel engines, is known to carry high loads of phosphorus. Given the potential for intense use of the NET Facility by diesel trains and trucks, it will be critical for the STB to describe how the project will manage stormwater to reduce phosphorus in run-off prior to surface water discharge from the site. Management of stormwater from the project site will likely be one of the more challenging components of the engineering design of the facility.

EPA is currently working with numerous Mystic River watershed stakeholders to develop a nutrient management plan for the watershed that would address the excessive phosphorus loading, cultural eutrophication and related water quality impairments. New or increased sources of phosphorus, like the proposed Facility, will need a high level of treatment to control phosphorus loadings and minimize impacts on water quality. We encourage the STB and NET to coordinate early with the Mystic River watershed stakeholders during the development of the onsite stormwater management program.

The Project will entail the creation of approximately thirty acres of impervious cover. Stormwater from the site will present the potential for environmental impacts relating to both surface and groundwater pollution, flooding, streambank erosion, and potential impacts to aquatic organisms, at a minimum. It would be best if STB characterize and address these impacts in the EIS. Where stormwater discharges directly or indirectly to surface waters, proper management will necessarily involve the identification of all receiving water bodies and downstream segments; the water quality classification of these waterbodies; the pollutants that will likely be discharged in stormwater from the site; the pollutant loads from Site discharges; and the pollutants for which the receiving waters are impaired according to the Massachusetts "303 (d) List." That information will provide an initial factual basis for assessing the environmental impacts to surface water from stormwater discharges and serve as a first step in addressing requirements of stormwater permits, as discussed below.

EPA recommends that the EIS reflect that the construction and operation of the Facility will be subject to the federal Stormwater Construction General Permit and the Stormwater Multi-Sector General Permit, both of which can be found on EPA's national website. EPA may also issue individual stormwater permits, if appropriate. EPA requests that STB condition its authorization of the Project on compliance with those permits.

The Commonwealth of Massachusetts also has a permitting process for discharges to groundwater. Any groundwater discharges from the Site that are not part of the CERCLA remedial action will likely need a Massachusetts permit, and STB's environmental review of the project would benefit from consultation with the Massachusetts Department of Environmental Protection and a discussion of this issue. Where it is anticipated that stormwater may discharge to groundwater, an analysis of how that discharge will affect the hydrology of the site and surrounding area, the migration of pollutants in groundwater, and the relationship of that discharge to remedial activities that may be implemented at the site is appropriate. Moreover, EPA recommends that any stormwater treatment systems that require below grade construction be isolated from contaminated soil on the site.

In developing a stormwater management program for the site, EPA recommends that particular attention be paid to the fact that small streams, such as the East Ditch, are particularly susceptible

to harm from high runoff volumes, flashy flow rates and high pollutant loads in stormwater discharges from impervious areas. Oil and water separators suggested by the applicant as a primary form of stormwater management for the site are not an adequate stand-alone treatment strategy.

Commodities

The Petition in various places lists the commodities that NET expects to be transloading at the Facility. They include: brick, newsprint, paper products, recycled paper, steel, any products transported on pallets or bags that are customarily in box cars (i.e. from canned goods, refrigerated goods, and bagged foodstuffs to hardware, car parts and electronics), lumber, scrap steel, wallboard, wood products and intermodal containers; sand and gravel, salt, plastic pellets and woodchips, corn syrup, glycols (de-icers) vegetable oils, plastics, biofuels and natural gas liquids customarily transported in tank cars. The Petition also states that "the precise mix and types of commodities transloaded at the Facility may change over the years based on customer demand and the dynamic economy in the Northeastern United States. However, NET does not intend to handle commodities that are significantly different in character than the categories of materials outlined above."

The petition also states that solid waste will not be handled at the Facility. EPA recommends that the EIS specifically explain whether the STB authorization can be conditioned to exclude the handling, storage or disposal of any commodity (including but not limited to solid waste). Handling of solid waste raises a number of environmental impacts (odors, vermin, pollution) that could be avoided by operational restrictions/conditions. Likewise, certain flammable fuels raise safety issues for the project site and surrounding area that could be avoided through restrictions/conditions governing their transport. EPA also recommends that the EIS explain whether all commodities will be required to be stored inside buildings. Exposure of stored materials to the elements, even for short periods of time, may lead to avoidable environmental impacts.

Assessing the environmental impact of and mitigating for the handling and storage of unknown commodities would appear to require STB to base its evaluation of reasonably foreseeable impacts on incomplete or unavailable information. EPA recommends that the EIS identify the range of environmental impacts that are reasonably foreseeable given the range of commodities likely at the facility. This exercise will advance the goal of assessing alternatives and identifying mitigation for identified impacts. EPA also recommends that STB evaluate how mitigation measures could be updated as commodities change, and how STB's authorization could be conditioned to assure these adjustments occur in the future.

Site Activities (Operations)

EPA recommends that the EIS characterize all onsite activities and whether those activities will generate impacts. The detailed description of activities and where they will occur on the site could include all handling of materials, all truck and rail car movement, all Facility and railroad equipment maintenance, and other activities that are likely to generate impacts on and off the Site. This discussion would best include: design and construction of the facilities; equipment

and materials that that will be used in the Facility; spill and safety plans; permitting requirements related to the Facility including but not limited to stormwater management; control of air emissions during operation, repair and maintenance activities; noise and waste disposal practices arising from the operation of the Facility; and any other aspect of the Facility that may potentially affect the environment. Construction or rehabilitation of rails, as well as the movement of heavy equipment including rail cars and locomotives, may also affect the slurry wall in the containment area. EPA recommends that the STB study how construction and operation activities could negatively affect the slurry wall.

Train Conflicts with Eames Street

Information provided by the applicant states that trains crossing at Eames Street from the west side of the property would close traffic on the street twice per day for up to four minutes each time.³ Under the proposal Pan Am Railroad would bring rail cars to and picks up rail cars from tracks in the Boston & Main right of way (Tracks N, O, P and). It further states that closings would only occur between the hours of 11:00 PM and 6:00 AM.

A complete discussion in the EIS of the effects of the closure on the movement of local traffic including emergency vehicles such as ambulances, fire trucks, emergency response vehicles associated with on-site accidents, snow plows, utility repair trucks, and other traffic is essential. Further, EPA recommends a complete discussion of the noise and local air impacts that will arise from these closures. A discussion of how NET will address a situation where locomotives become disabled at the Eames Street crossing is also encouraged. We also recommend that the EIS explore whether mitigation measures (such as an overpass or underpass) would be an effective way to eliminate potential roadway conflicts that may arise at Eames Street. Finally, we recommend that the EIS describe how NET and Pan Am will coordinate with Wilmington and Woburn emergency response services to prevent response delays.

Spill Prevention and Management

At various points in the Response to the First Information Request, NET states that spilled materials will be removed and disposed of in accordance with all applicable laws and regulations. In the context of a rail facility, the meaning of “applicable laws and regulations” is ambiguous. EPA recognizes that there may be instances where state and local laws may be preempted if they are discriminatory with respect to railroads or they unduly burden interstate commerce. To understand the intentions of NET in dealing with spills, EPA recommends that the EIS describe in detail how the Facility operators will respond to spills. The EPA recommends that the EIS include a complete discussion of all local, state and federal rules and regulations that NET will observe in the event of spills and any state or local laws that NET anticipates will not be observed. A complete discussion will also address who and by what methods NET will notify authorities regarding the spills when they occur. EPA also recommends that STB examine the environmental law compliance record of the railroad operators who will be using this site. That history may inform the EIS as to enhanced mitigation measures that would decrease the potential for impacts associated with operation of the proposed facility.

³ September 7, 2016 Response to First Information Request

Safety Concerns

General

The transportation and transloading of certain types of materials pose fire, explosion, or other environmental and safety hazards. As a first step in addressing direct, indirect and cumulative impacts of the Facility, EPA recommends that the EIS identify all safety and environmental laws, regulations and guidance documents that would apply to the Facility and explain in specific terms the risks addressed by them and the specific requirements that would apply. For example, if propane exceeding 10,000 pounds would be present at the NET Facility, it would subject the Facility to Section 112(r) of the Clean Air Act and the Risk Management Rule at 40 CFR part 68. Section 112 recognizes that the owners and operators of stationary sources producing, processing, handling or storing substances such as propane have a general duty to assure a safe facility. This requires an operator to identify hazards that may result from releases, using appropriate hazard assessment techniques, to design and maintain a safe facility taking such steps as are necessary to prevent releases, and to minimize the consequences of accidental releases. In our view, the project must adhere, at a minimum, to recognized industry standards and practices (as well as any government regulation) in order to be in compliance with the general duty clause. EPA recommends that the EIS explain how this will be accomplished. The general duty clause also recognizes that there may be instances in which a Facility must address specific conditions that are not specified by industry standards or regulations. EPA recommends that these measures become enforceable conditions of the STB authorization.

As a second step in addressing safety concerns, EPA recommends that the EIS identify and discuss safety measures that go beyond those that are legally applicable. This analysis would best include all safety measures that would create a "state-of-the art" facility, as committed to by NET at page 18 of the Petition. Given this commitment, EPA understands that NET will design and operate a Facility that exceeds existing regulations. EPA recommends that the EIS identify and evaluate the current "state-of-the-art" for transloading facilities authorized by STB.

Onsite Emergency Preparedness/Fire Safety

EPA recommends that the EIS explain with specificity the types and quantities of emergency and firefighting equipment that will be maintained on site and how they will be appropriate and adequate to handle all commodities that may be processed at the site. The list of likely commodities to be transloaded on the site has evolved to include propane and ethanol. Because specialized materials, training and equipment may be necessary to combat fires from ethanol, and other dangerous commodities, it will be critical for the EIS to identify the initial and routine training and specialized materials and equipment required to be prepared for a range of emergency situations. The local community would also benefit from a discussion of available emergency response approaches to potential incidents involving the range of dangerous commodities that could be processed through the facility. EPA recommends that the EIS assess the capacity of local emergency responders and whether appropriate mitigation should include financial support to ensure that they have adequate personal safety and other appropriate firefighting equipment and training.

The fire safety plan provided in support of the project notes that all set back distances from the rail lines will be determined by the train speeds, the elevation of the property and/or rail lines,

and other requirements to be determined by each individual railroad. It notes that these factors will not be considered a part of the fire safety analysis. The EIS fire safety discussion can serve to bridge this relevant gap in information and advance the discussion of fire safety preparedness of the project.

Equipment Impacts

A comprehensive discussion of facility equipment in the EIS will help address concerns often voiced by officials, representatives and the general public about the health effects of emissions from locomotives and trucks operating and dwelling near residential areas.

Rail Equipment

If NET is owned and operated as a Class III railroad, and qualifies as a small business under the U.S. Small Business Administration's regulations at 13 CFR part 121, any locomotives it owns or leases and operates that do not already have an EPA-certified engine may be exempt from EPA's locomotive engine remanufacture standards for existing fleets.⁴ Therefore, no assumption can be made that emissions from onsite switcher locomotives owned & operated by NET will become cleaner over time as part of the general industry-wide fleet turnover and adoption of higher-Tier engines as a matter of federal law. In view of this, EPA recommends that STB require that NET satisfy EPA's locomotive engine manufacture standards for existing fleets as part of its commitment to operate a "state-of-the-art" facility. EPA also recommends that the EIS explain the requirements NET must squarely meet to be granted status as a railway. Moreover, EPA recommends that STB condition its authorization to require that NET specify, for each locomotive it intends to employ onsite for switching operations, the year of manufacture, horsepower rating, most recent year of remanufacture or refurbishment (if any), and certified engine Tier (if any); and require NET to put into and maintain in service at the Facility only locomotives manufactured in 1973 or later, containing EPA-certified engines.

Industry averages cited by NET for rail emissions per ton-mile do not reflect the fact that rail yards, switcher locomotives, and locomotives owned by Class III railroads generally have dirtier emissions than locomotives traveling on through-track, line-haul locomotives, and locomotives owned by larger railroads wholly covered by EPA's engine rule. Truck emissions are probably overestimated by NET because new engine standards took effect twice since the detailed analysis provided as part of its Petition was performed, and fleet turnover has meant lower emissions per ton-mile for trucks. The truck-vs-rail emissions comparison has limited value because NET provides few specifics on the origins and destinations of the truck trips that will be avoided or generated as a result of this Facility being established. The analysis also seems to assume that the Facility will merely relocate, as opposed to generate, freight traffic and, therefore, that the truck-to-rail mode shift is a zero sum game; however, it is likely, assuming the validity of statements in the Petition, that the Facility will stimulate commerce and add freight traffic to the area as well. And while it remains true that in terms of region-wide emission impacts rail is three or so times "cleaner" on average than truck transport, a freight facility must also be judged in terms of its impact on the immediate surrounding area, where air toxics and particulate matter

⁴ Note: this may not apply where a locomotive is not small, in which case it would be required to comply with those standards.

exposure is the primary human health concern. EPA recommends that STB provide an analysis that takes these factors into account.

EPA recommends that the EIS discuss how the project will minimize health impacts for nearby residents and workers from exposure to air pollution from facility operations. EPA recommends that the scope of STB's environmental analysis include localized air emissions and noise impacts of the line-haul locomotives approaching, leaving and dwelling at the Facility based on:

- The number of locomotives that will visit the Facility over a given period of time;
- the average age and engine Tier, and range of ages and Tiers of Pan Am and Pan Am Southern locomotives;
- the percent of Pan Am and Pan Am Southern locomotive fleets equipped with onboard idle reduction technology such as Automatic Engine Start-Stop and/or Auxiliary Power Units;
- the length of time, on average, that each locomotive will remain at the Facility, as well as a realistic minimum-maximum range of time onsite;
- how long each locomotive engine will remain "on" at the Facility per visit, versus shut down when the locomotive is not moving;
- whether ground or yard air will be provided to any/all sections of track where locomotives may wait for several hours so as to facilitate engine-shut down;
- a description of the location where any trains approaching but unable to enter the Facility or any trains leaving the Facility but unable to depart (due to a missed or too-narrow window on through-track shared with other service, readiness of the destination customer, destination railyard crowding, crew change, etc.) will dwell, for what duration, and whether they will be able to shut down one or more engines while waiting (based on onboard or off-board idle reduction technology); and
- a schedule showing how the MBTA and Pan Am/Pan Am Southern anticipate that locomotives traveling to and from NET will dovetail with commuter rail and regular freight service (scheduled and otherwise) on through-track, based on the number of anticipated train lengths as well as number of trips to and from the NET facility. This information can be used to gauge the likelihood of delayed trains and their attendant emissions.

For similar reasons, EPA recommends that the EIS take into account the relevant details pertaining to switcher locomotives likely to operate at the Facility, including:

- number of switcher locomotives, whether they will be leased or owned, and whether they will be dedicated to NET service or changed out regularly;
- where switcher locomotives will be maintained and repaired;
- their duty cycles, detailing how many hours on average each locomotive engine will be "on" (while working or waiting) or shut down per 24-hour period, the durations of on and off periods, the associated times of day, and any seasonal (temperature-based) variations;
- target characteristics of locomotives to be purchased or leased for service at NET, including averages or ranges for year of manufacture, horsepower, certified engine Tier levels, and onboard idle reduction technology (AESS, APU, Fuel Operated Heater, Direct Fired Heater, etc). EPA recommends that as a mitigative measure STB consider requiring low-emission, low-noise diesel, hybrid, genset, natural gas, or electric engines to this operation;

- whether, where and how many shore connection systems will be provided to enable onboard idle reduction systems to draw electricity rather than consume fuel to maintain essential parameters; and
- whether ground or yard air will be provided to locomotives that may wait for arriving or departing trains to further facilitate engine-shut down and avoid resultant pollution.

Truck Impacts

Again to avoid health consequences to nearby residents and workers, EPA recommends that STB's environmental analysis include likely localized air emissions and noise impacts of the trucks approaching, leaving and dwelling at the NET Facility, based on:

- the number of trucks that will visit the Facility (refer to the Institute of Transportation Engineers Trip Generation Manual), and how those trips map out over the course of a 24-hour day;
- how likely volume and timing of truck trips will affect traffic flow on Eames and other local road segments on the approach to I-93, in terms of congestion and potential need to widen roadways and change intersection geometry (e.g., the acute corner at Eames & Woburn);
- the average model year, by truck class and duty type, of the trucks that could be expected to visit the Facility
- the percent of those trucks likely to be equipped with automatic engine start-stop technology;
- how long on average each truck will remain at the Facility, as well as a realistic minimum-maximum range of time onsite;
- how long each truck engine will remain "on" at the Facility per visit, versus shut down when the truck is not moving;
- a description of where any trucks approaching but unable to enter the Facility, or departing from the Facility but unable to leave the local road network, will dwell, and for what potential duration;
- whether NET will employ a modern appointment system, updated in real time "24/7" and accessible to truck drivers via cellphone or in-cab technology, whereby drivers can time their approach so as to minimize the potential for queuing to enter the Facility and delay once on site;
- how trucks that arrive too early will be managed to minimize idling on approaches to NET;
- whether NET will employ modern gate control technology whereby trucks can be pre-approved for entry, directed at the gate to the onsite receiving location, and scanned for expedited exit;
- how the Facility layout and operational controls will minimize truck turn times (time spent on site);
- whether shore power pedestals will be provided to enable refrigerated trailers dwelling short- or long-term, and equipped with standby-ready refrigeration equipment, to run on electricity rather than diesel while being loaded or awaiting departure; and
- the capacity of any waiting area for trucks onsite, and whether and how it will be equipped with shore power to enable standby-ready cab comfort and auxiliary devices, and trailer refrigeration units, to draw power rather than idle.

Other Equipment Impacts

NET refers to acquiring a number of track mobiles, fork lifts, loaders, and other equipment for use at the Facility. Since each piece of equipment emits noise and emissions, EPA recommends that the EIS evaluate the cumulative impact of all of the equipment that will be used at the facility. Specifics, which are relatively more important for large or powerful equipment types, include:

- number of pieces of equipment, of each type;
- number of in-use hours per year for the average piece of equipment of each type;
- type of engine/fuel (diesel, biodiesel, natural gas, electric, hybrid, etc.) used by each piece of equipment;
- for equipment used outdoors, engine-on durations by time of day and season;

EPA also recommends that STB condition its authorization by requiring NET to dedicate low-emission, low-noise equipment to this operation, and substituting track mobiles powered by gasoline or other non-diesel fuel, where possible for switcher locomotives. EPA also recommends that STB's authorization provide standards for mitigating environmental impacts based on the analyses suggested above.

With respect to equipment impacts, EPA recommends that the STB conduct a study of noise impacts on nearby residences and establish appropriate perimeter buffers (vegetated where possible) to attenuate impacts from both noise and particulate matter emissions.

Once more information is available on the particulars described in the sections above, EPA can assist the STB with quantifying emissions using agency calculators and databases. EPA can also direct NET to more information on equipment and strategies to minimize emissions, including cost-benefit data and examples from other freight facilities.

Air Quality Impacts

General Conformity

The NET Petition provides a project map and description that indicates that the Project will not be located within an area that is in either nonattainment or an area with a current maintenance plan in place for any criteria pollutant or precursor. Therefore, the General Conformity requirements of the Clean Air Act do not apply to this Facility.

Although General Conformity requirements do not apply, EPA encourages the STB to link NETs authorization to a requirement that NET identify and implement specific exhaust emission mitigation measures identified in this letter to reduce and minimize the air quality impacts from construction and operation of the proposed Project.

In addition to safety concerns identified previously, EPA has concerns about the potential air quality impacts associated with the transfer and storage of volatile substances such as liquid petroleum gas, ethanol, biodiesel, and glycols (e.g. propylene). EPA recommends that the EIS assess and detail mitigation measures that could be taken to minimize any air quality impacts from the transloading and storage tanks proposed for the Facility.

Wetlands and other Aquatic Resources

Existing Conditions

It appears that wetlands in the southern region of the site have previously been altered for the construction of the "containment area" which include a bentonite slurry wall to attempt to prevent migration of contaminants in groundwater at the site. This work appears to have included the culverting of the wetland system which drains toward River Meadow Brook. EPA recommends that the EIS include information about this past alteration of wetlands in support of an evaluation of the cumulative impacts of past, present and foreseeable future alterations to wetlands at the site.

Proposed Site Development Impacts to Wetlands and Streams

Based on information provided by the applicant, it appears that approximately half an acre of wetland on the site will be excavated and filled to allow for construction of one of the proposed warehouse buildings. That work will require a permit from the U.S. Army Corps of Engineers (Corps) and an individual Water Quality Certificate from the Massachusetts Department of Environmental Protection (MA DEP).

Recommendations for the EIS

We recommend that the EIS provide a detailed description of the wetlands/water bodies that will be affected by the project from direct and indirect impacts. A complete description would typically include information on the location of wetlands, streams, and other waterbodies, as well as an assessment of their ecological functions and services they provide.⁵ We recommend that the EIS also describe all construction work that includes the discharge of dredged or fill material in wetlands or other waters of the United States subject to the permit requirements of Section 404 of the Clean Water Act (CWA). EPA recommends that the EIS include an evaluation of ways in which each alternative configuration of the facility and other associated offsite infrastructure can be designed/sited to avoid, and where unavoidable, minimize impacts to wetlands and other waters of the U.S.

Discharge activities must comply with EPA's regulations issued under CWA Section 404(b)(1), referred to as EPA's Section 404(b)(1) Guidelines (the "Guidelines") (40 CFR Part 230), which include the following requirements: that there be no practicable, less environmentally damaging alternative to the proposed action; that the activity not cause or contribute to violations of state water quality standards or toxic effluent standards; that the activity not jeopardize endangered or threatened species or violate requirements to protect marine sanctuaries; that the activity not cause or contribute to significant degradation of waters of the United States; and that all practicable and appropriate steps be taken to minimize potential adverse impacts to the aquatic ecosystem (40 CFR 230.10). The Guidelines further establish a presumption, which the applicant has an opportunity to rebut, that for projects that are not water-dependent, less damaging, practicable alternatives exist that do not involve activities in special aquatic sites such as wetlands. Ideally, the information presented in the EIS will support the evaluation of

⁵ We recommend that the wetland assessment be prepared in a manner consistent with the Army Corps of Engineers New England District descriptive approach to wetland assessment as presented in *The Highway Methodology Workbook Supplement Wetland Functions and Values - A Descriptive Approach*, NEDEP-360-1-30a, November 1995.

alternatives and associated impacts required under the Guidelines and ultimately a better informed permitting process.

Unavoidable impacts to wetlands, surface water resources (impacts to rivers/streams quality and flow), and wildlife should be fully disclosed in the EIS. These impacts include but are not limited to: direct filling of wetlands or other waters for site development and/or operation; temporary impacts to wetlands or other waters resulting from access for construction and/or operation purposes; indirect⁶ impacts, such as clearing impacts resulting in a change (either permanent or temporary) of cover type within a wetland (e.g. converting a forested wetland to an emergent or scrub/shrub wetland); and indirect impacts resulting from erosion or sedimentation into wetlands or water bodies.

In addition, we recommend that the EIS:

- discuss the advantages and disadvantages associated with each site and design alternative considered (with respect to wetland and aquatic resource issues) and the rationale for selecting project facility designs and locations with respect to potential impacts to wetland, and stream ecosystems on and off the site. EPA recommends that the EIS show how the facility was designed to avoid and minimize aquatic impacts.
- clearly identify the locations of temporary and permanent access roads and construction staging areas (if any) and discuss how wetland and other aquatic ecosystems will be protected from direct and indirect impacts associated with these activities.
- discuss and describe appropriate buffer zones to avoid or reduce indirect effects of construction to streams and wetlands (which may vary depending on the wetland community type described). The EIS should include enough information to show the type and location of wetlands in the project area. This information will help assess the potential impacts of the proposed action and determine the effectiveness of the mitigation measures proposed.

In addition, we recommend that the EIS describe a strategy for determining adequate mitigation to compensate for all unavoidable direct, indirect and cumulative impacts to wetlands and aquatic resources from construction and operation of the project. We note that it does not appear that mitigation was provided for previous onsite wetland impacts pursuant to Section 404 of the Clean Water Act or the Massachusetts Wetland Protection Act. We recommend that the EIS explain whether this is the case and if additional site area will be required to address this deficiency (in advance of or concurrent with the work proposed to develop the NET facility).

We recommend that the EIS describe how the project will be consistent with the 2008 Compensatory Mitigation Rule (33 CFR Part 332, and 40 CFR Part 230, Subpart J, also discussed in detail at the Corps website referenced in the footnote below). Compensatory mitigation will also need to comply with the Corps New England District Compensatory

⁶ We note that under Section 404 of the Clean Water Act these types of impacts are referred to as "secondary impacts," but that for clarity and consistency we are using the term "indirect impacts" in this letter.

Mitigation Guidance.⁷ We recommend that this strategy specifically describe the methodology that will be used to determine the amount and type of mitigation that will be necessary to address direct and indirect wetlands and other aquatic resources, and the approach that will be used to develop an appropriate mitigation package. This description and analysis would best include but not be limited to a clear presentation of the following impacts and the compensatory mitigation strategy proposed to offset those impacts:

- Direct Impacts (the placement of fill) to wetlands and streams.
- Indirect Impacts, including but not limited to: the permanent conversion of forested wetlands to scrub-shrub wetlands; permanent conversion of forested wetlands to emergent wetlands; and removal of forested cover (upland or wetland) within 100' of any stream.

Similarly, as EPA suggested during a recent meeting with STB, alternative facility designs in the EIS best consider if environmental impacts can be reduced while still meeting the project purpose. For example, a design using a different configuration for the facility could eliminate or reduce onsite impacts to wetlands.

Again, in assessing alternatives, the key criterion for facility location and design (including engineered features to reduce required site area, etc.) is practicability. While cost, desirability of location, etc., is taken into consideration, the fact that an alternative may have reasonably greater costs, or be sited in a less than optimal location, does not necessarily render that alternative impracticable.

We recommend that the EIS be prepared to meet the requirements of both NEPA and address the requirements of Section 404 of the Clean Water Act. We support this coordinated environmental review and believe that it will save time, avoid redundancy and make it easier for the public to participate in the process. EPA intends to continue to work closely with STB and the Corps during the NEPA process to support a comprehensive analysis of alternatives and to strengthen the NEPA and Section 404 processes going forward.

Children's Health Issues

Pursuant to Executive Order 13045 on Children's Health and Safety, we recommend the EIS identify and assess environmental health and safety risks that may disproportionately affect children. Analysis and disclosure of these potential effects under NEPA is important because some physiological and behavioral traits of children render them more susceptible and vulnerable than adults to health and safety risks. Children may be more highly exposed to contaminants because they generally eat more food, drink more water, and have higher inhalation rates relative to their size. Also, children's normal activities, such as putting their hands in their mouths or playing on the ground, can result in higher exposures to contaminants as compared with

⁷ The US Army Corps of Engineers (Corps) New England District Compensatory Mitigation Guidance can be found at :

<http://www.nae.usace.army.mil/Missions/Regulatory/Mitigation/CompensatoryMitigationGuidance.aspx>.

adults. Children may be more vulnerable to the toxic effects of contaminants because their bodies and systems are not fully developed and their growing organs are more easily harmed.

We recommend that an analysis of impacts to children from construction and operation of the Facility be included in a NEPA analysis if there is a possibility of disproportionate impact on children related to the proposed action. EPA views childhood as a sequence of lifestages. Therefore, exposures to children at each lifestage, as well as pregnant and nursing women, are relevant and best considered when addressing health and safety risks for children.

Because children may be more susceptible to noise levels, mobile source air pollution, construction dust, and the chemicals associated with building and construction materials, we recommend that the NEPA analysis specifically address the potential direct, indirect, and cumulative impacts of the proposed Project on children's health, including consideration of prenatal exposures (exposures that may be experienced by pregnant women).

For more information on how to characterize and address children's exposures and susceptibilities to pollutants of concern, please see our August 14, 2012 memo "Addressing Children's Health through Reviews Conducted Pursuant to the National Environmental Policy Act and Section 309 of the Clean Air Act."⁸

Please contact Kathleen Nagle, EPA New England's Children's Environmental Health Coordinator at 617-918-1985 with any questions regarding the consideration of Children's Health issues.

Consideration of Floodplains

Executive Order 11988 requires Federal agencies, to avoid, to the extent possible, the long and short term adverse impacts associated with the occupancy and modification of floodplains and to avoid the direct or indirect support of floodplain development whenever there is a practicable alternative. Executive Order 13690 establishes Federal Risk Management Standards to improve the nation's resilience to current and future flood risks which are anticipated to increase over time. Executive Order 13690 and the Federal Risk Management Standards reinforce the important tenets articulated in Executive Order 11988, such as avoiding adverse impacts associated with actions in a floodplain and minimizing potential harm if an action must be located in a floodplain. They also expand on these concepts by calling for agencies to use a higher vertical flood elevation and corresponding horizontal floodplain than the base flood (for the 100-year flood) for federally funded projects to address current and future flood risk and ensure that projects last as long as intended.

While Executive Order 13690 sets a federal risk management standard for federally funded construction projects, EPA recommends that the STB consider use of the revised approach to establishing floodplain delineation for this non-federally funded project that the proponent describes as "state-of-the-art." We believe previous and future federal involvement with the site through the CERCLA program warrants STB consideration of floodplain issues for this EIS.

⁸ <http://www2.epa.gov/sites/production/files/2014-08/documents/nepa-childrens-health-memo-august-2012.pdf>

Mitigation

EPA recommends that Massachusetts and local governments have an opportunity to consult with STB for thirty days from the date of the Board's final decision and notify STB of additional conditions, if any, the Board might impose on the Applicant prior to the commencement of site operations. In doing so, it would seem appropriate for Massachusetts and local governments to provide support for why the conditions are required to mitigate potential harm and protect the environment, public health and safety.

EPA recommends that NET provide Wilmington with adequate funding to allow it to hire a Massachusetts Licensed Site Professional (LSP) who is a Professional Engineer to review health, safety and environmental reports. It is likely that the Town would request that NET respond in a timely fashion to any comments received from the Town. EPA believes such a mitigation measure will allow for Town to engage productively with NET in protecting its interests during the construction and operation of the facility. It would be helpful if STB supported/promoted such a relationship as a condition of project approval.

In its 2004 PEA, the STB Office of Environmental Analysis recommended that the STB impose 38 mitigation conditions on the NET project under consideration at that time. Many of those conditions are relevant to the current project, and EPA recommends that the STB consider these as a starting point in developing mitigation measures for the current project. EPA recommends that these mitigation measures be updated to reflect changes in the proposed project, changed legal requirements and changed conditions at the site. EPA further recommends that these conditions be amended to reflect recommendations made in this letter and input from the local community. Where the mitigation conditions require NET to submit plans to its LSP for review, EPA recommends that NET also submit the plans to the Town's LSP (as noted above) for review and comment.

EPA recommends that STB incorporate the following measures into its authorization:

NET shall not interfere with Olin Corporation's continuing obligation to remediate the property and to investigate conditions on and off the property. NET shall allow continued access to any part of the property by Olin, the United States Environmental Protection Agency, the Massachusetts Department of Environmental Protection and any other government agency with jurisdiction related to hazardous waste cleanup, historic preservation, endangered or threatened species, wetlands, or other natural resources.⁹

If EPA determines that NET's construction or operation activities are impeding investigation, monitoring or remediation activities in any manner, NET shall remove or modify any development or operations at its own cost to accommodate these activities.

⁹ In its May 13, 2015 Comfort/Status and Reasonable Steps letter to NET, EPA describes steps that are necessary to qualify as a "bona fide" prospective purchaser for the Property, based on information that EPA had evaluated up to the date of the letter. The reasonable steps described in the May 13, 2015 letter are consistent with the measures EPA is recommending that STB incorporate into its authorization.

NET shall provide access to the property at all reasonable times to EPA and its officers, employees and contractors to allow for inspections, investigations, monitoring, or remediation-related activities.

NET shall comply with all existing deed restrictions, institutional controls, and activity and use limitations.

NET shall agree to record and comply with any additional deed restrictions, institutional controls or activity and use limitations as deemed necessary by EPA pursuant to a Record of Decision.

Subject to EPA direction, NET shall protect and maintain all aspects of the existing groundwater recovery and treatment system designated by Olin as Plant B during and after redevelopment activities, including any surface water discharge.

Subject to EPA direction, NET shall protect and maintain all aspects of the existing slurry wall containment area and temporary cap, and cooperate fully with the design and installation of a permanent remedy in this area of the site.

NET shall cooperate fully with any future response actions to be determined by EPA through Records of Decision or Action Memoranda.

As directed by EPA, NET shall install vapor barriers or incorporate other suitable vapor intrusion mitigation measures in future buildings on the property.

NET shall provide EPA, STB, MADEP and the Town of Wilmington with all environmental data collected at the property.

NET shall provide EPA, STB, MADEP and the Town of Wilmington with weekly progress summaries during active redevelopment construction, including the identification of anticipated areas of intrusive activities, such as excavations on the property.

NET shall cooperate with EPA's field oversight activities during response actions.

NET shall refrain from using the property in any manner that would interfere with or adversely affect the implementation, integrity or protectiveness of any existing or reasonably foreseeable future response actions at the property.

Coordination with the Host Community

EPA recommends that the STB and NET work closely with the host community to develop avenues of communication regarding the project and ways it can be designed/operated to avoid or minimize impacts. We encourage STB to facilitate this discussion as part of the NEPA process to advance discussions regarding concerns and how they can be addressed.

Analysis of Indirect and Cumulative Impacts

The Council on Environmental Quality's (CEQ) NEPA regulations require EISs to evaluate growth-inducing changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems that result from the proposed action and alternatives. The regulations define indirect (sometimes called 'secondary') effects as those "which are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable." The regulations state that impacts include ecological, aesthetic, historical, cultural, economic, social, or health impacts, whether direct, indirect, or cumulative. The CEQ NEPA regulations define cumulative impacts as "...the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." The cumulative impacts analysis is especially relevant in this case given the pollution on the site, ongoing efforts to remediate that pollution and NET's evolving plans for a future facility.