

EI-17842

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July 28, 2009

Ms. Victoria J. Rutson, Chief
Section of Environmental Analysis
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: R.J. Corman Railroad Company/Pennsylvania Lines, Inc. – Construction
and Operation Exemption - Clearfield County, PA
Finance Docket No. 35057

Dear Ms. Rutson:

I am writing to assure that the Board has a complete record with respect to the assertion by "People Protecting Communities" (PPC) and its allies, that this railroad line construction proposal should be treated as a connected action with a proposed landfill to be owned and operated by Resource Recovery, LLC (RRLC). PPC argues that these two proposals constitute "connected actions," which in turn would require this Board to study alternative waste disposal facilities as part of its alternatives analysis. The fact is that alternative waste disposal facilities will be studied in any event by the Pennsylvania Department of Environmental Protection (PaDEP).

Before Resources Recovery, LLC, can own or operate a solid waste landfill in Pennsylvania, it must obtain a permit to do so from the PaDEP. An applicant must complete an extensive Environmental Assessment, which evaluates a wide range of potential impacts. PaDEP will not approve such a permit unless it finds that the social and economic benefits of such an operation outweigh its environmental harms. 25 Pa. Code §271.127. See *Eagle Environmental II, L.P. v. Pennsylvania*, 584 Pa. 494, 884 A.2d 867 (2005). Where, as here, the proposed landfill is not provided for in the host county's waste management plan, Pennsylvania law requires that a permit can be issued only if the PaDEP finds, *inter alia*, "The proposed location of the facility is at least as suitable as alternative locations giving consideration to environmental and economic factors." 53 P.S. §4000.507(2)(iii). Thus, PaDEP must perform the alternatives analysis sought by PPC before it can issue a landfill permit to RRLC. I am enclosing for your convenience copies of the relevant statute and regulations.

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Resource Recovery, LLC filed an application for a solid waste permit with the PaDEP in 2006. Although the PaDEP processing of that application has been administratively suspended pending resolution of the transportation access issues the STB is now considering, the PaDEP already commented on one of RRLLC's alternatives analyses with respect to an accompanying permit application to the PaDEP Soils and Waterways Division and the U.S. Army Corps of Engineers in connection with the landfill project, and RRLLC responded to those comments. Enclosed as Attachment A is a copy of correspondence between PaDEP and RRLLC's environmental consultants concerning that alternatives analysis. Attachment A demonstrates that PaDEP has requested and received information from RRLLC regarding its investigated alternative landfill sites, and after this Board acts, PaDEP will continue to consider the alternatives analysis. Moreover, the very issues raised by PPC in this proceeding, viz., the source of waste to be processed and disposed of at the landfill, and other Eastern landfill sites that might be able to accept such waste was recently cited by PaDEP as a basis for the denial of a permit application. See, Attachment B (submitted to SEA by Centre County Planning and Community Development Office, EI 17782.)

This material is not submitted to the Board to argue whether RRLLC's landfill is at a suitable location – that determination can and will be made by PaDEP. The agency with both jurisdiction and expertise to consider alternate landfill sites will study the very issues raised by PPC in this proceeding. Without rearguing the legal issues already before the Board, we simply note for completeness of the record that the analysis sought by PPC and others by deeming this proceeding a connected action with the landfill development is not only costly and time consuming, but duplicative and unnecessary.

Please contact me if you need any further information.

Very truly yours,



Ronald A. Lane

RAL:dg
Enclosures

cc: Robert B. McKinstry, Jr.