



LEAGUE OF WOMEN VOTERS OF WILMINGTON
P. O. Box 149 • Wilmington, MA • 01887

May 12, 2006

Phillis Johnson-Ball
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423
Re: Finance Docket No. 34797
New England Transrail, LLC, d/b/a/ Wilmington & Woburn Terminal Railway – Construction,
Acquisition, and Operation Exemption – in Wilmington and Woburn, MA

Dear Ms. Johnson-Ball:

The League of Women Voters of Wilmington (LWVW) thanks the Surface Transportation Board's Section of Environmental Analysis (SEA) for its invitation to make additional comments on the above-referenced filing. We would like to provide information on potential environmental impacts, resources, and issues concerning the revised application of New England Transrail (NET), put forth in its most recent Petition filed on December 5, 2005, that might help the SEA in determining that the highest level of environmental assessment is required in this matter.

Potential Shortcomings in the prior environmental analysis

Based on the current information we continue to oppose New England Transrail, LLC's request for a construction, acquisition and operation exemption from the STB, and reiterate our request that the Board require the preparation of a comprehensive Environmental Impact Statement (EIS) for public review and comment. As we indicated in our letter of September, 2004, we believe the Section of Environmental Assessment's evaluations of the site failed to fully address the myriad problems with the Olin Corporation's property located at 51 Eames Street in Wilmington, or to completely evaluate the future "effects" and "cumulative impacts" of the Proposed Action. (Please refer to that letter, appended for your reference, and address our previous concerns in greater detail in your new analysis.)

We also take issue with the SEA's *Final Recommended Mitigation* presented in the **Post Environmental Assessment** issued December 20, 2004. Not one of the SEA's recommendations imposes any greater duty or obligation on the Applicant than to use common sense and follow the laws of the land. For example, "(The) Applicant shall:

- develop internal emergency response plans;
- comply with the reasonable requirements of the USEPA regarding handling and disposal of any hazardous or nonhazardous waste materials;
- comply with the applicable reasonable requirements of the USEPA and OSHA;
- comply with USDOT Hazardous Materials Regulations;
- comply with Federal Railroad Administration regulations" and so on.

(Please see Post EA pages 1-1 and 1-2)

Each of SEA's mitigation recommendations is no more than basic corporate citizenship we would expect from any reputable business, and none of them provides any more protection of the human and ecological environments in Wilmington and Woburn than all Americans expect and deserve without having to sacrifice their quality of life. We also question the SEA's use of the qualifying adjectives "reasonable" and "applicable reasonable" in describing which EPA

regulations or requirements the Applicant should meet. Again, American citizens expect and deserve that the laws, rules, regulations, and requirements of our governmental agencies should be observed and followed by those subject to their jurisdiction. Nor does the Petitioner's assurance, couched in the same qualifying language, provide us comfort: "*NET intends to comply fully with all applicable substantive state health and safety regulations governing NET's construction and operations.*" (Petition, page 15) [underline added]. Who decides what is "applicable", "reasonable", or "substantive"? In sum, we do not find the SEA's recommended mitigation as put forth in the Post EA adequate, and ask that you develop more stringent mitigation measures that actually provide protection over and above the basic level our environmental laws and regulations are supposed to provide.

We ask that you revisit our comments and concerns on air quality, and that SEA's new environmental investigation address in more detail noise contamination. The proposal to grind asphalt, concrete products, and construction debris in the area of the existing parking lot will increase noise levels well beyond that generated by locomotives and heavy trucks. Airborne particulate matter from these processes will also add to South Wilmington's already impaired air quality.

New Scientific Information

As you know, this site, with its complex history of contamination and many adverse impacts both on the property itself and in numerous areas off-property resulting from past operations, was just added to the National Priorities List (Superfund) last month, and is now under the jurisdiction of the USEPA. In its letter to the Board dated January 26, 2006, the EPA requested time to transition from MADEP's jurisdiction, and to conduct a complete and comprehensive review of documents from the plethora of prior site assessments, past remedial activities, and potential human health and environmental risk evaluations conducted under the Commonwealth of Massachusetts' Contingency Plan (MCP).

In its letter the EPA advised the Board "*that EPA cannot consent to any activity at this site until it makes its own determination that the site is safe for human health and the environment, and that the proposed use will not exacerbate site conditions or hinder EPA's remaining investigation and clean-up.*" At its first public meeting held in Wilmington on April 6, 2006, EPA's officials promised the residents of Wilmington and Woburn that they will not only review the voluminous files and thousands of letters, reports, plans, and other documentation about the Eames Street property and the Olin Superfund site, but will also conduct their own investigations so as to be able to provide thorough regulatory oversight and to work with Olin in determining all necessary, additional remedial actions.

We ask that the SEA and the Board allow the EPA to do its job. Indeed, it seems logical that the SEA and EPA work cooperatively to conduct the comprehensive, in-depth assessment of this site and find ways to save taxpayer dollars without compromising the integrity of either organization's work product, but we understand that this may not be possible.

In the interim, new information regarding the site is accumulating as on-going remedial activities and previously established sampling programs continue. One area of particular concern and relevance to the Proposed Activity is the East Ditch. As we indicated in our previous comments, it has long been documented that contaminants from Olin and other industrial properties in South Wilmington entered and traveled through the East Ditch, which is essentially the drainage pathway along the existing railroad line. In October, 2005 the USEPA added ammonia as an additional contaminant of concern in its combined IndustriPlex/Wells G & H Superfund Aberjona River Study. The EPA is in the process of identifying potential responsible parties, but Olin

Corporation is certain to be named given the long history of and continuing discharges from the Eames Street property.

Chromium is another COC that Olin and the MADEP have been monitoring and trying to remediate for over a decade. Much of the on-site remediation to date had focused on mitigating the release of chromium from groundwater into surface water in the on- and off- property ditches. The original weir installed in the 1990's at the confluence of the West Ditches (on and off the property) with the South Ditch has been replaced with a concrete box culvert control structure, but occasional releases of chromium evidence by "floc" continue to occur. (Please see enclosed photos dated May, 2005.) In August, 2004, concerned residents in Woburn contacted the EPA to inquire about reports of new chromium contamination in the Industri-plex area and were told that the agency was investigating the possibility that discharges to the East Ditch upstream of the Industri-plex property were responsible. SEA's analysis should describe how the proposed redevelopment will improve Olin's attempts to fully remediate the occurrence of chromium in the surface water at the site, and if the recurring floc presents any risk to human workers on the Property, what mitigative measures NET should take to protect employees and visitors.

The most recent **Post Construction Monitoring Plan Status Report** placed in the Public Information Program's Repository at the Wilmington Memorial Library indicates that there have been unexplained fluctuations in the levels of several of the constituents sampled northwest and south of the DAPL Containment Area. These included ammonia, chromium, and sulfate. We reiterate our concern that the construction of connecting tracks across the property could potentially create additional pathways to transport contamination onto, across, and from the site. While we are pleased to see that the Applicant has modified plans to eliminate the proposed railroad trackage on top of the DAPL Containment Area, we question whether the slurry wall and proposed "permanent" cap will have the structural integrity necessary to support the proposed storage of bulk commodities.

In a letter dated March 8, 2006, to the EPA's Water Technical Unit, Olin reports new and troubling toxicity test results. Olin is reviewing "*all aspects of (its) treatment process to aid in the identification and reduction of the observed toxicity*" and is in the process of developing modifications to treatment under its NPDES permit. This new information is of particular concern because plans presented earlier indicate that the NPDES outfall infrastructure is to be relocated "by others". More recent plans do not. We ask that the SEA provide information on the location and assess the future viability of the NPDES treatment facilities if the proposed activity is permitted.

In addition, EPA's chemists continue to work on identifying the unknown and tentatively identified COCs found in the Maple Meadow Brook Aquifer. We continue to maintain that, until this work is completed, and laboratory sampling procedures are developed to reliably test for these contaminants in soil, sediment, surface water and groundwater, no one can say with certainty that the Eames Street property poses no risk to human health or to the environment. We also maintain our opinion that without complete removal of all contaminated soils and sediments from the property the possibility, if not the likelihood, of migration, recontamination, and/or formation of new or different COC's *in situ* remains.

These are only a few instances of new scientific information that the SEA and the EPA need to address in your respective assessments.

Misinformation

We appreciate the Board's finding on May 3, 2005 that the project before it was substantially different from the original filing, and the Board's instructions to NET:

"Should it file a new petition or an application, we expect NET to be as forthcoming as possible with all project details. For example, to eliminate the current confusion and uncertainty about the specifics of this project, NET should provide information such as the length and location of all trackage to be constructed, the exact types of structures to be built, the degree to which such construction would involve excavation or the movement of any soil, and the locations where specific commodity transloading activities would take place. Moreover, the information provided to the Board should be wholly consistent with the information that NET presents to other agencies. In the event of a new filing, NET should also describe in detail the proposed grinding, baling, and other processes to which construction waste and solid waste could be subjected at the Olin site, as well as NET's basis for asserting that those activities should be considered part of rail transportation. Such information will enable the Board to conduct its NEPA analysis and to address the questions that have been raised about the scope of the Board's jurisdiction, if any, over those activities."

One of our concerns with the new petition is that it still appears to be a "project constantly in flux" with a similar pattern of "minor modifications" whether in response to public comments, new regulatory requirements, or to the ever-changing conditions on the site as previously authorized remedial work progresses. In describing the site on page 6 of the Petition, NET states:

"As seen on Figure STB-2...the Wilmington-Woburn-West Medford branch line of the Boston & Maine Railroad (B & M) runs along the west side of the Property. To connect with this branch line, Petitioner intends to enter into an agreement with the B & M...to reinstall a removed switch at MP 14. Petitioner also intends to enter into an agreement with the Massachusetts Bay Transportation Authority (MBTA) to connect with the Boston-Concord line directly east of the Property. While the precise locations of these connections are still being investigated, NET currently expects that the locations will be adjacent to the Property and south of the end of the southeasterly proposed tracks shown on Figure STB-2."

Because this entire project is predicated on the Petitioner's construction, acquisition and operation of a railway, how can the Board accept such a nebulous description as "specific"? We'd like to know what the variability factor is in the actual location of the trackage, switches, and connections on both sides of the Property. Is NET anticipating that the locations are within six feet? or 6000 feet? of what they currently envision. The total length of track being proposed has also increased from the original proposal. What is the variability factor going forward for total linear feet of trackage? And at what point will the applicant actually have a *final* plan?

Due to the extensive contamination in the ditches flanking the Property on both sides and across the entire "developed area", variations of even a couple of feet may make a profound difference in the volume of contaminated soils and sediments that must be removed during construction. In addition, Olin is in the process of developing a DAPL extraction point in the same vicinity along the B & M tracks west of the property. How will NET's proposal help or hinder Olin's test-remedial operation to the rear of Jewel Drive? (We note for the record that Olin adamantly insists that the DAPL removal via railcar is totally unrelated to NET's proposed rail operation at the site.)

Over the past year the Town of Wilmington's consultant, GeoInsight, Inc., has pointed out to MADEP and others that information submitted by Olin under the MCP was incomplete, inconsistent, had data gaps, and raised almost as many questions as it answered. As a result, GeoInsight often did not concur with findings asserted and conclusions drawn. We recognize that Olin and NET employ different firms and individuals to provide them with technical assistance, but, the Petitioner clearly relies on information from both parties. In its comments to the STB in January, GeoInsight also asserts that NET's proposal to redevelop the Property may be premature, due not only to incomplete characterizations of COCs and their potential environmental impacts and remedial systems and structures that may be required in the future, but also because NET's redevelopment proposal is "confusing", "contradictory", and "seeks to avoid certain environmental requirements for regulated solid waste facilities". (Please see the Town of Wilmington's filing of January 27, 2006.) We concur, and enumerate just a couple of seemingly small but inaccurate details in the Petition and in the SEA's letter dated April 7, 2006 in support of GeoInsight's assertions and concerns:

- "The Town of Woburn's former municipal landfill...is located directly south of the property." [Petition, page 5] Woburn, MA is incorporated as a city, not a town.
- "The Town of Wilmington's current municipal landfill is located about 2,000 feet west of the Property." [Petition, page 6] The former Spinazola's Dump ceased operations in 1976, and there has been no active, permitted landfill operation in the Town since.
- "NET intends...to operate over the entire 7500 feet of track located on and adjacent to a parcel of land owned by Olin in Wilmington and Woburn, Massachusetts on which Olin had in the past operated a chemical plant." [SEA April 2006] We are not aware that Olin owns or owned land in Woburn or that it operated a chemical plant at any time in Woburn. We would appreciate clarification on this point.
- "The Olin property is located approximately 12 miles from downtown Boston." [SEA April 2006] As the crow flies, the Property may be within 12 miles. As the truck drives, it is 15.9 miles from 51 Eames Street to Boston City Hall.

We ask that the SEA base its decision on the level of environmental assessment appropriate for the site on independent data to the greatest extent practicable, and take care to avoid repeating misinformation and inaccuracies.

Finally, under the heading of "misinformation" we must express our concern that none of the most recent documents generated by NET have been provided to the PIP repository at the Wilmington Memorial Library. On behalf of the PIP signatories and residents of both Wilmington and Woburn, we respectfully ask that the NET include the PIP repository on its distribution list for future reports and revised plans.

Clarification of prior comments

Since our correspondence in September, 2004, we have done additional research on the so-called Lake Poly area. We previously expressed concern that the "hot spot" removal action Olin conducted in June of 2004 ended at the base of the existing railroad track on the property, despite the urgent requests of the Wilmington Conservation Commission that Olin remove additional material clearly evident under the railroad tracks at the northern extent of the excavation. (Please see enclosed photos taken of the removal operation by Wilmington's Conservation officials present.)

We insert here for your record, comments made in September, 2005 to MADEP regarding concerns about the Lake Poly area. Taken in conjunction with GeoInsight's observations about Lake Poly, and comments in the Verified Statement of Margaret Hanley included in the Petition, we believe total removal of the Lake Poly sediments throughout the estimated historical extent is essential to the Property ever achieving the state of "No Significant Risk", and that such remediation should have and could have been done five years ago when Olin received approval from MADEP and the Wilmington Conservation Commission to further investigate, delineate, and excavate the Lake Poly area. Because the proposed removal and reconstruction of trackage on the Property is concentrated in the Lake Poly area, we believe the information we provide here is both relevant and important for all parties to fully appreciate the daunting task ahead of the EPA in properly characterizing the site, and to fully understand the fears and concerns of the residents in Wilmington and Woburn that premature redevelopment of the property may result in additional harm to human health and the environment.

September 21, 2005

Christopher Pyott, Environmental Analyst
Department of Environmental Protection
Bureau of Waste Site Cleanup
One Winter Street
Boston, MA 01887

Re: RTN: 3-0471, Olin Chemical, 51 Eames Street, Wilmington, MA
Part 2, Construction RAM Status Report No. 8
And Construction RAM Completion Statement

Dear Mr. Pyott:

Many of us are very concerned about Olin's decision not to fully remediate the former Lake Poly site at its 51 Eames Street location to "background levels". I write on behalf of several residents in support of the Department's determination that additional response actions are required before the Olin property can attain a "Permanent Solution" under the MCP. We remain unconvinced that Olin's cost of achieving such a solution in today's dollars outweighs the benefits of doing so, especially given the thousands of dollars for consulting services being incurred by both Olin and the Town of Wilmington, and ask that DEP, in cooperation with the U.S. Environmental Protection Agency as appropriate, direct Olin to take the measures necessary to eliminate all remaining contamination at the site.

In its response to your letter dated March 29, 2005 MACTEC correctly identifies the two actions residents of Wilmington understood to be Olin's options under DEP's policy governing the Construction of Buildings in Contaminated Areas (WSC-00-425), and Olin's promised intention as stipulated to the Wilmington Conservation Commission in June, 2001. Those actions are to either install an engineered barrier over any Kempore left in place (provided it is more than 15 feet below ground surface) and implement an Activity Use Limitation, or, preferably, the complete removal of Kempore from the entire known and estimated extent of Lake Poly. [Clearly complete removal of all Kempore, Opex, Wytox, etc. remaining at 51 Eames Street site is the surest means of achieving a level of No Significant Risk.]

MACTEC, in its reply to you dated June 23, 2005, does a marvelous job of manipulating semantics, claiming that because Kempore is neither soil nor NAPL, it cannot by definition exceed an Upper Concentration Limit, and thus should not be further regulated. We find this

line of reasoning specious and, frankly, frightening, given the magnitude and complexity of the entire Olin site, and the many unknowns regarding the fate and transport of the plethora of chemicals associated with this property. And given the extent to which Kempore has been found in seams running from 2 to 9 feet thick (not just in "chunks" and "small pieces" as noted in MACTEC's photos), comparing Olin's Kempore to "blobs of waste material" in DEP's Master Q & A appears to be an attempt to minimize this site's very serious contamination issues, which we find in very poor taste in light of Wilmington's Childhood Cancer Study and ongoing efforts to secure an alternative water supply.

MACTEC concedes that "there are no Kempore analytical data for soils because the analytical laboratories were unable to develop a technically sound analytical method for the analysis of soil" (page 7). We would like to point out that there exists little to no scientific data available for Kempore, Opex, Wytox, and all the other products manufactured at this location (or their waste streams) by various companies from 1953 to 1986. This is particularly true for human health studies, whether for inhalation, ingestion, or dermal applications or for determining if they carry potential for carcinogenic or genetic disorders in humans or other animals [Please see the World Health Organization's 1999 report cited by MACTEC, which states repeatedly that no reliable data on the effects of Kempore exist: "Literature searches have failed to identify relevant studies in the area of environmental concerns"; "Developmental toxicity has not been studied"; "Studies in humans have concentrated solely on the ability of azodicarbonamide to induce asthma and skin sensitization"; "There are no reports describing the measurement of azodicarbonamide and its metabolite biurea in human body fluids"; "There are no adequate data available relating to carcinogenic, reproductive, or developmental effects, hence it is not possible to evaluate the risk to human health on these endpoints"; etc., etc. Simply put, no one knows what the possible effects of these chemicals may be, particularly when they are combined with so many other contaminants of concern on and off the Olin property. We do not believe that leaving thousands of cubic yards of these materials in the ground is warranted or reasonable.

On June 8, 2001 Olin submitted a 'Request for Determination of Applicability, Former Lake Poly Area' to the Wilmington Conservation Commission. The Work Description read: "The proposed work includes an assessment of the historical limits of Former Lake Poly to determine if sediments require remediation. Following assessment of the area, results will be evaluated to determine the feasibility of remedial action, such as capping in place, limited excavation, or complete excavation in the location indicated on the attached site plan."

At the public hearing Margaret Hanley, LSP for Olin, informed the Commission that the sediment within the historical boundaries of Lake Poly would either be removed or capped in place. The Commission expressed surprise that the full extent of Lake Poly had not been determined after so many years of site investigations, and expressed concern that 10 to 20 samples were too few to fully delineate the bounds and/or characterize the contamination. In response to a question from Chairman James Morris about the cap, Ms. Hanley replied that it would be a minimum of 4-5 inches thick. [See the WCC's minutes of June 20, 2001.]

Based on her presentation, the WCC issued a negative determination, and in correspondence to DEP the same week, Olin expressed a desire to conduct the additional investigation the following month to save money "while Olin's general contractor for the Part 2 RAM is still mobilized at the Property"; however, the proposed work was not done until June, 2004, just 3 days before the WCC's Order of Conditions was to expire. As you note, representatives of the Commission observed additional contamination, which they believe to be another seam of Kempore, extending beneath the railroad spur and beyond the northerly extent of the

excavation. We dispute subsequent assertions by Olin that the Former Lake Poly area has been fully delineated as a result of several "hot spot" removals done between 2001 and 2004, and now poses no significant risk.

A review of information provided under oath as part of Olin's lawsuit against previous owners of the property shows that discharges of all manner of liquid wastes were sent from Plants A, B, and C to Lake Poly over the course of at least 15 years, and diagrams indicate that the waste pipes from yard drains and the plant buildings most likely entered Lake Poly at its northeasterly end, perhaps where the additional seam of suspect material extends under the railroad tracks.

In its response to DEP's Request for Information dated October 18, 2002, Olin submitted a number of documents listing raw materials used in various manufacturing processes from the 1950's until the plant at 51 Eames Street closed in 1986. Information provided by Dr. Andy Davis of Geomega describes which products' liquid wastes were discharged to the ground or groundwater on the site, and additional information ascribed to Stepan Chemical lists products and their respective raw materials, amounts produced, and waste by-products without mentioning their form or method of disposal. In addition to Kempore, these include Kempore Dispersions, Opex, hydrazine, Wytox 312, Wytox Pap, Wytox ADP, Actafoam R-3, Nitropore OT and Nitropore 5PT, Phenolic and Urea Formaldehyde resins, Phthalate plasticizers, and Wiltrol N.

According to Dr. Davis's testimony, Opex wastes were sent to Lake Poly from 1953 to 1969; Wytox liquid wastes were sent to Lake Poly from 1961 to 1969, and liquid wastes from the Wiltrol-N process went to Lake Poly in 1967-68. Liquid wastes from the production of Kempore were only sent to Lake Poly in the years 1956 and 1957, and wastes from the manufacture of hydrazine and OBSC/OBSH (not listed in the Stepan data) did not go to Lake Poly at all.

Additional evidence in Olin's answers to interrogatories affirms Dr. Davis's statements with respect to "hazardous substances and/or materials used in or generated by the Opex manufacturing process" being released into Lake Poly, "beginning in or around 1954". It also concurs that wastes from the Wytox manufacturing process (dioctyldiphenylamine, aluminum chloride, aluminum hydroxide, sodium chloride and diisobutylene) were piped to Lake Poly from 1961 to September, 1969.

Olin's dates regarding wastes from the Wiltrol-N process differ slightly—1965 to 1967, and its response lists sodium nitrite, sulfuric acid, diphenylamine and N-Nitrosodiphenylamine as some of the hazardous substances piped to Lake Poly during that period.

There were also many other releases to Lake Poly:

- "Wash water from weekly cleanings of Plant A carried hazardous substances and/or material used or created in the Opex manufacturing process (including sodium chloride, sodium nitrate, formaldehyde, ammonium chloride, processing oil, hydrochloric acid, hexamethylenetetramine, and dinitropentamethylenetetramine);
- At least on one occasion a batch of unfinished Opex was piped to Lake Poly;
- Off-spec Opex was either dumped into Lake Poly or piped there from Plant A;
- From 1956 until as late as July, 1957, an acidic effluent from the Kempore manufacturing process was piped to Lake Poly;
- Daily washing of Plant C's floors and weekly cleanings of Plant C carried hazardous substances and/or materials used or created in the Kempore process manufacturing process to Lake Poly (including chromium sulfate, sodium dichromate, sulfuric acid, sodium

sulfate, urea, ammonium sulfate and azodicarbonamide); [As of 1967 the waste stream no longer contained chromium sulfate, but instead included sodium chloride.]

- At least on one occasion an off-spec batch of Kempore was flushed down the drain to Lake Poly;
- Drums of aluminum chloride were dumped into Lake Poly in 1963 or 1964;
- Throughout the period (1954 to January, 1964) acetone used for cleaning in the laboratory and plants was piped to Lake Poly after its use;
- From 1961 through January, 1964 phenol and formaldehyde wastes from the resin manufacturing process were piped to Lake Poly.
- Wash water from weekly cleanings of Plant B was also piped to Lake Poly, adding dioctylphthalate, dibutylphthalate, 2-ethylhexanol, and butyl alcohol.
- Periodically throughout the period of 1952 through January, 1964, drums containing a variety of hazardous substances and/or materials were dumped into Lake Poly."

It is not known where on the property, or how frequently, additional depositions of contaminated materials were made, but an estimated 5000 gallons of Kempore dispersions, Wytox, and miscellaneous liquid wastes and another 9 tons of Wytox solids and floor sweepings contaminated by Kempore, Opex, or calcium stearate were produced each year in addition to the tons of market grade products. But all the documentation agrees that wastes were disposed on-site.

It is also interesting to note that, from 1953 through 1965 production of Opex exceeded the output of Kempore, and that wastes from the Opex processes were sent to Lake Poly much more routinely and over a much longer period. We wonder how carefully distinctions have been made over the years in various site investigations to sample for Opex, Wytox, Wiltrol and other products and their constituent compounds, in Lake Poly and elsewhere on the site? Samplings in recent years leave us in doubt that they have been comprehensive and thorough. In May, 2001, for instance, GEI Consultants noted that: "approximately 1 to 2 feet of sandy fill was underlain by 2 to 4 feet of stratified material composed of a fine-grained orange material (Kempore), a gray-blue to blue-green, fine-to medium-grained material, and a fine-grained dark brown material... The gray-blue to blue-green material was most pronounced in a layer above the Kempore in the southern half of Trench No. 2. However, this material was also interbedded with the Kempore in both trenches."

The same report goes on to say, "Samples of the blue-green crystalline material and Kempore were collected in drillers jars. These samples were not submitted for laboratory analysis." (emphasis added) Nor were water samples collected from the two trenches. **Why on earth weren't they?** How certain is Olin that the orange material observed is actually pure Kempore, given that the records Olin provided show that very little Kempore was actually dumped into Lake Poly and GEI's decision not to test the samples? We can't help but have the feeling that samples are collected and tested selectively, and that Olin is hoping not to have to expand the investigation of Lake Poly under the railroad tracks despite clear evidence that waste materials remain there, choosing instead, yet again, the more expedient course of action, which for them is to do nothing more.

The fact is that no one knows with certainty how much of each product was actually produced, how many "bad batches" were dumped out back, drained to Lake Poly, or buried on the site. No one knows with certainty what effect each of the products might have on human health and the natural environment in isolation, since few or no studies have been done. No one knows, period, what effect these products might have in combination with each other, with "bad" batches and "off-spec" batches, nor with other chemicals directed into Lake Poly from Plant B. No one seems able to explain how Kempore and Opex managed to migrate off-property to 87D

and the Butters Row Water Treatment Plant, but they have been detected in samples from the Maple Meadow Brook aquifer.

In the April, 2002 Focused Feasibility Study GEI Consultants determined that excavation of the ammonia hot spot and UCL exceedances outscored installation of a subsurface barrier by 8 to 1. The report goes on to state that "the selected remedy, Excavation/Disposal, could be implemented on a wider scale to approach or achieve background for Lake Poly." The estimated cost to do so after the hot spot removal was \$370,000. The cost of implementing the subsurface barrier on an expanded basis is not given, but at this point Olin is now proposing to take no further action of any kind in the Lake Poly area.

Yet in the October, 2004 Focused Site Characterization/Focused Risk Assessment GEI notes higher frequency and/or higher concentrations of a number of chemicals on the property, including several in the Lake Poly area. These include trimethylpentenes, bis(2-ethylhexyl)phthalate, N-nitrosodiphenylamine, ammonia, and chromium. How can this area possibly be deemed safe for reconstruction and operation of a rail line or any other activity?

With so many questions unanswered and so much uncertainty about the fate and transport of the chemical constituents of the products manufactured at the Eames Street facility during the last 52 years, and with Olin's admission that a number of elevated levels of contamination still exist in Lake Poly, we respectfully request that the entire area of Former Lake Poly be delineated, and that any and all materials within the bounds of the former industrial waste pond that do not match indigenous soils found on the undisturbed portions of the site be removed.

In its submissions to MADEP since 2001 Olin has consistently acknowledged that the authority to determine that a condition of No Significant Risk has been achieved, and that the requirements for assessment and remediation at the Property under the MCP have been met rests with the Department. We ask that you discharge your responsibilities to protect the people and the natural environment of Wilmington and Woburn to the utmost of your professional abilities.

Other issues and concerns

Just before news about NDMA in the DAPL and Wilmington's Maple Meadow Brook Aquifer broke in the spring of 2003, a former employee of one of Olin's predecessors at the site wrote to MADEP to suggest that a materials balance calculation be done to better determine the total quantities of chromium that have migrated off-site. This recommendation has not been implemented to our knowledge, and it appears that chromium has fallen from the top of the COD list and been replaced by hydrazine and its many derivatives. We suggest that SEA require that a materials balance calculation be done for chromium as it was for the Opex, Wytox, Wytox ADP-X, Kempore and O.B.S.H. (oxybissulfonylhydrazine) waste streams by the National Polychemical Company in 1969.

The latest redevelopment plan shows several new stormwater infiltration basins. NET proposes to line the basins with an impermeable barrier and pipe the runoff into either the existing detention basin south of the DAPL Containment Area or into detention basin number 2 prior to discharging it to the remaining ditch system. We note with alarm the presence of two "hot spots" within the delineation of detention basin number 2, which is also designed to receive stormwater from basin number 1 located in the northeastern corner of the Property, which lies within the Town of Wilmington's Groundwater Protection District. (GWPD)

Much has been written in the past six years about the need to avoid recharging stormwater on the Property, particularly within the GWPD. For instance, on June 27, 2000, Olin's licensed site professional, Margaret Hanley wrote to MADEP: *"It is my opinion that stormwater runoff from the building roof and paved areas associated with the proposed redevelopment should not be recharged to groundwater at the Property, because that recharge could alter or exacerbate the extent of groundwater contamination at the Property, and compromise the effectiveness of the existing and proposed groundwater remediation systems at the Property."* Olin has since presented subsequent modeling and studies in an attempt to better delineate the ground- and surface water divides on and near the Property, but the SEA's new analysis should clarify the need to avoid infiltration on the property, and the efficacy of the new proposal to discharge to the Aberjona River basin, especially in light of the EPA's renewed concerns about contamination of downstream waters. Also, will the "hot spots" be removed prior to installation of the new basins?

The Petition states that NET expects to generate annual revenues of less than \$5,000,000. It also mentions that NET and Olin have a contractual agreement under which NET will pay one million dollars for the construction of the permanent cap over the DAPL Containment Area. We ask for a more complete financial disclosure of NET's projected revenues and net income. It is our understanding that solid waste transfer stations typically generate revenue well in excess of the estimated \$13,000 to \$16,000 per based on NET's \$5,000,000 figure and assumption that it will run one train 300 days of the year. A 20% commitment of one year's expected revenue, rather than net profit, seems like a risky proposition to us, particularly for newly formed business venture. If NET wants to take the calculated risk of investing in the capping of the DAPL, it is their option and an obligation they enter into willingly. That said, we strongly discourage the SEA, the STB, or any other governmental agency at any level from granting NET special treatment or dispensation from usual and customary review, oversight, and regulation simply because they intend to contribute financially to a remedial action that is in their own best interest.

Closing comments

We continue to maintain that the "effects" and "cumulative impacts" of any project proposed for this site cannot be determined unless and until the site assessments are completed and all potential risks to human and ecological receptors are identified. Given the complexity of the Olin site, and the many unknown factors regarding the extent and content of its various "sites within the site" we have grave concerns that constructing a railroad and its adjunct facilities across this highly contaminated land will actually create even more environmental hazards than currently exist. Based on the finding of NDMA in the Maple Meadow Brook aquifer, the EPA's continuing work to identify the nearly two hundred contaminants of concern now associated with the site (known, tentatively identified, and unknown), and the lack of full understanding of the interaction between the DAPL, its diffuse zone, and groundwater it is still premature and presumptuous for anyone to claim that any new use would have no effect, adverse or otherwise.

For these and many other reasons, we believe the proposed redevelopment should not and cannot appropriately be approved without a full and complete Environmental Impact Statement and subsequent public review. At a minimum, a determination should be made as to whether this project, if allowed to go forward as presented, will preclude any future remediation of the on- and off-site contamination that would require use of the Olin property. We also respectfully request a detailed and realistic analysis of the "effects" and "cumulative impacts" as required under 49 CFR Sec. 1508.7 resulting from the past activities on the site, current operations in the immediate vicinity, and the construction and operation of a truck/rail reload facility at this location, and how they will further affect the environment and the health and well-being of the

residents of Wilmington and Woburn prior to the issuance of any approvals or permits for this project.

Again we ask that the Board assure the statutory and regulatory safeguards to our environment and the public health under the National Environmental Policy Act, 42 U.S.C. 4223, 49 CFR. Sec. 1105.1, and all other applicable laws by instructing the SEA to prepare an EIS for this proposed project. To do so is clearly within the Board's authority under 49 CFR 1105.6(d). We believe the Board also has a responsibility, commensurate to its authority, *"to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man"* and to fully protect and safeguard the health and quality of life of the people in our communities to the utmost of its abilities.

Thank you, again, for the opportunity to comment on this matter.

Sincerely,



Martha K. Stevenson
Natural Resources Chair
(978) 658-5488

cc: The Honorable Edward M. Kennedy, US Senate
The Honorable John Kerry, US Senate
The Honorable John Tierney, US House of Representatives
The Honorable Edward Markey, US House of Representatives
The Honorable Bruce Tarr, MA Senate
The Honorable Robert Havern, MA Senate
The Honorable James R. Miceli, MA House of Representatives
The Honorable Charles Murphy, MA House of Representatives
Secretary Steven Pritchard, MA EOE (MEPA Unit)
James DiLorenzo, Site Remedial Project Manager, USEPA
Wilmington Board of Selectmen
Wilmington Conservation Commission
LWVM
GeoInsight, Inc.
Wilmington-Woburn Collaborative
Concerned Citizens Network
Woburn Neighborhood Association