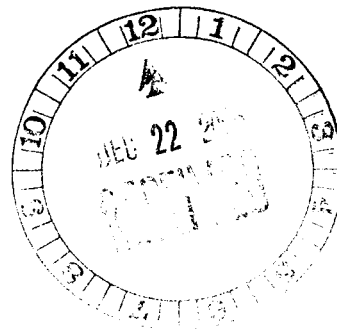




Metro Waste Authority

No Wasted Resources



215410

December 13, 2005

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423

Re: Formal Comment on Petition for Declaratory Order National Solid
Wastes Management Association, et al FD-34776

Dear Secretary Williams:

Enclosed please find the comments of Metro Waste Authority on the Petition
for Declaratory Order filed by National Solid Wastes Management
Association, et al, Finance Docket Number 34776.

Sincerely,

Thomas B. Hadden III
Executive Director

300 East Locust Street, Suite 100
Des Moines, Iowa 50309-1864
515-244-0021
515-244-9477 fax
www.mwatoday.com



**BEFORE THE
SURFACE TRANSPORTATION BOARD
FINANCE DOCKET NO. 34776
COMMENTS OF METRO WASTE AUTHORITY
ON THE PETITION OF
NATIONAL SOLID WASTES MANAGEMENT ASSOCIATION, ET AL
FOR DECLARATORY ORDER**

Thomas B. Hadden III, Executive Director
Metro Waste Authority
300 E. Locust St., Ste. 100
Des Moines, IA 50309
515-244-0021

Dated: December 13, 2005

Metro Waste Authority (MWA) is a regional government agency in Central Iowa. We serve more than 20 communities through a landfill, transfer station, and other facilities as well as numerous programs and services for the cost-effective management of solid waste.

MWA supports the petition filed by the National Solid Waste Management Association (NSWMA) which puts forth the concept that the federal preemption for railroads does not extend to rail based waste facilities. State and local laws, regulations and rules should apply to the planning, siting, building and operation of *all* waste facilities, even if they are at rail yards and operated by railroads.

MWA understands that the Surface Transportation Board (STB) has exclusive jurisdiction over legitimate rail facilities and rail functions, but we don't agree that the STB has jurisdiction over solid waste management facilities like the one described in the petition by the NSWMA. These facilities are regulated across the country – including here in Iowa – by local (city or county) and state authorities.

The regulation of solid waste facilities is left to these local and state authorities due in part to the large network of laws and regulations that agencies like MWA must comply with.

By arguing that the STB has exclusive jurisdiction over solid waste transfer stations that use rail lines, the STB is ignoring these local laws and regulations. The majority of these laws are in place to ensure public health

and safety and the protection of the environment. From my understanding of the STB, these are not areas that the agency specializes in. By having local control over such facilities, it provides the ability to address public complaints and violations in a quick and appropriate manner. MWA doesn't believe the STB has the expertise, resources, or experience to play this role – and we don't believe it's appropriate for the STB to insert itself into the area of solid waste transfer stations like the one described in the NSWMA petition.

For these reasons, Metro Waste Authority urges the Surface Transportation Board to grant NSWMA's Petition for Declaratory Order.

Respectfully Submitted,

A handwritten signature in black ink that reads "Tom Hadden III". The signature is written in a cursive style with a large, stylized "T" and "H".

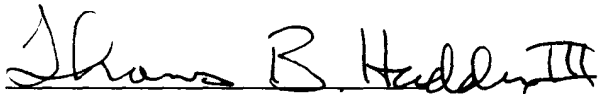
Tom Hadden III
Executive Director

I hereby certify that a true copy of the foregoing Comment was served this 13th day of December 2005, upon the following by first class mail:

Stephen M. Richmond
Beveridge & Diamond, P.C.
45 William Street - Suite 120
Wellesley, MA 02481-4004

New York, Susquehanna & Western Railway Corporation
1 Railroad Avenue
Cooperstown, NY 13326-1110
Attn: Nathan Fenno, Esq., General Counsel

RailTech, LLC
1034 Hudson Avenue
Ridgefield, NJ 07657


Thomas B. Hadden III
Executive Director, Metro Waste Authority