

July 12, 2006

BY ELECTRONIC FILING

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

RE: Request for Comments on the New England Transrail, LLC d/b/a Wilmington & Woburn Terminal Railway--Construction, Acquisition and Operation Exemption-- in Wilmington and Woburn, MA, STB Finance Docket No. 34797

Dear Secretary Williams:

Please accept these comments on behalf of the Idaho Department of Environmental Quality (IDEQ) pursuant to the Surface Transportation Board's decision in this matter decided on June 12, 2006, and served on June 13, 2006.

IDEQ is a state executive department charged with the implementation and enforcement of environmental laws and regulations in the State of Idaho. Among these are authorities related to the management of solid and hazardous waste. IDEQ has an interest in the proposed NET decision submitted for comment due to the precedent it will set for other such facilities including those which may be sited in Idaho presently or in the future.

The activities proposed at the Wilmington & Woburn Terminal Railway (NET) and similar such activities at other rail facilities are not unique to the railroad industry. The process of sorting, grinding, crushing, aggregating, segregating and/or bailing of solid waste are common activities at solid waste transfer stations and other solid waste management facilities. State and local governments have established regulations that address the design, operation, closure and post-closure of solid waste management facilities that are intended to protect human health and the environment.

Transfer stations generate leachate from the processing and storage of solid waste. Leachate from transfer stations typically contains a wide array of contaminants including exempt small quantity generator hazardous waste, household hazardous waste, infectious waste, commercial and industrial waste. If not properly managed, leachate can contaminate ground and surface water thereby impacting public health and the environment.

Solid waste transfer stations also pose a fire threat. Fires at transfer stations may emit toxic smoke and produce water run-off that may impact surface and ground water as a result of fire suppression activities. This risk seems to be increasing as solid waste management facilities see an increasing rate of fires due to the illegal disposal of

methamphetamine manufacturing waste as well as other problematic wastes. This fire risk is made even more significant considering that it will be adjacent to other traditional railroad facilities that carry a wide array of materials such as chemicals, fuels and other potentially flammable materials. Inadequate fire response to a fire at the solid waste facility could result in greater risks to firefighters, surrounding property owners and increased damage to rail facilities.

Another issue at solid waste transfer stations includes disease vectors such as rodents and flies that may carry disease and pose a health threat to site works and neighbors. Such facilities are often the source of significant odor and other forms of air pollution generated when solid waste is not properly managed.

Solid waste is processed at facilities serviced by truck, train, barge and other modes of transportation. These facilities are often engaged in interstate commerce equivalent to railroad facilities similar to the proposed NET facility and are required to comply with local and State laws regarding protection of the environment. The processing of solid waste is not unique to the railroad industry and should not be exempt from local and state solid waste requirements.

The concerns of Idaho regarding the exercise of STB jurisdiction over these traditional solid waste management activities is heightened because the STB does not purport to regulate these activities itself via licensing. This leaves these activities in a virtual "no-mans land" of regulatory jurisdiction wherein the public health and environment are left at risk. This in-turn also results in uneven competition. Companies engaged in solid waste management affiliated with railroad facilities will obtain a competitive advantage over other companies engaged in the same activity at non-railroad facilities by virtue of being exempt from rules and regulations applicable under state or local jurisdiction.

In summary, IDEQ opposes exempting traditional solid waste management activities from State and local environmental and public safety authorities solely because those activities are associated with a railroad loading facility. Such an exemption will leave public health, safety, and the environment at risk and create a competitive disadvantage to other waste management facilities.

Thank you for the opportunity to comment on this important issue.

Sincerely,
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