

2 17039

G. STEVEN ROWE
ATTORNEY GENERAL



REGIONAL OFFICES:
84 HARLOW ST., 2ND FLOOR
BANGOR, MAINE 04401
TEL: (207) 941-3070
FAX: (207) 941-3075

44 OAK STREET, 4TH FLOOR
PORTLAND, MAINE 04101-3014
TEL: (207) 822-0260
FAX: (207) 822-0259
TDD: (877) 428-8800

128 SWEDEN ST., STE. 2
CARIBOU, MAINE 04736
TEL: (207) 496-3792
FAX: (207) 496-3291

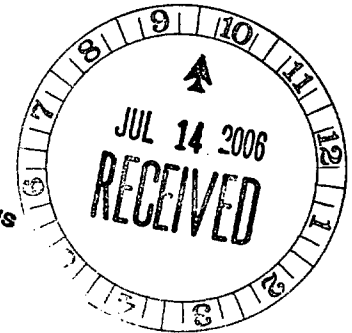
TEL: (207) 626-8800
TTY: 1-888-577-6690

STATE OF MAINE
OFFICE OF THE ATTORNEY GENERAL
6 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0006

July 11, 2006

Surface Transportation Board
1925 K Street, NW
Washington DC 20423-0001

ENTERED
Office of Proceedings
JUL 14 2006
Part of
Public Record



Re: **New England Transrail LLC d/b/a Wilmington and Woburn Terminal
Railway – Petition for Exemption
STB Finance Docket No. 34797**

Dear Board Members:

By your Decision dated June 12, 2006 in the above matter, you solicited comments from interested persons concerning jurisdictional issues arising from New England Transrail's ("Transrail") petition to seek exemption from state and local regulatory authority for a spur line located in Wilmington and Woburn Massachusetts. While the spur line itself may not be subject to state and local regulatory jurisdiction when approved by your Board, Transrail's explicit purpose is to extend your Board's authority of preemptive exemption from state and local regulation of a waste processing facility that it intends to own and operate. The State of Maine wishes to offer these brief comments in opposition to Transrail's petition and in support of the Commonwealth of Massachusetts' compelling and comprehensive filings with you on this matter.

I adopt but will not restate Massachusetts' extensive arguments. Clearly, under the laws that control in this matter, Transrail should not be allowed a preemptive exemption from state and local regulation of the waste processing facility that it intends to build. There is no other conclusion that can reasonably be drawn from the laws under which the Board operates. Congress did not and could never have intended that its preemption of the location and construction of railroad lines, as approved by your agency, would extend to all manner of manufacturing plants, shopping centers, housing, and, in this case, waste processing facilities that might be "served" by a railroad spur. Transrail's position is untenable. But for the fact that it has asserted such a position, it would be unthinkable.

The Board should act now to stop this line of thinking, and this particular matter is the best time to do so, as it presents this issue to you directly, and you can swiftly and effectively respond to it so that the Board never has to deal with this issue again. Projects like this proposed waste processing facility have nothing to do with the operation of a railroad and are by law subject to state and local regulations. To do otherwise would perversely undermine the intent of Congress.

Thank you for the opportunity to comment.

Sincerely,

A handwritten signature in black ink, appearing to read "G. Steven Rowe", with a stylized flourish at the end.

G. Steven Rowe
Attorney General