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July 13, 2006

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Seventh Floor
Washington, D.C. 20403

RE: STB Finance Docket No. 34797
New England Transrail, LLC -- Petition for Exemption

Dear Secretary Williams:

Per your decision of June 12, 2006 in the above captioned matter, attached are the comments of the Colorado Department of Health and Environment. The Department appreciates the opportunity to comment.

Please contact me if you have any questions.

Sincerely,

FOR THE ATTORNEY GENERAL

/s/ Richard E. Lotz

RICHARD E. LOTZ

Assistant Attorney General

Natural Resources & Environment Section

303-866-5065

303-866-3558 (FAX)

Enclosure

cc: All Parties

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 34797

NEW ENGLAND TRANSRAIL, LLC
D/B/A WILMINGTON & WOBURN TERMINAL RAILWAY
PETITION FOR EXEMPTION

COMMENTS OF
THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

In accordance with the decision of the Board in this proceeding on June 12, 2006, the Colorado Department of Public Health and Environment submits its comments with respect to the proposed activities of the New England Transrail, LLC (“NET”).

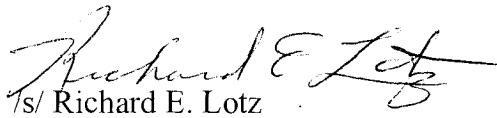
1. The Colorado Department of Public Health and Environment (“CDPHE”) is an administrative agency of the State of Colorado established pursuant to C.R.S. 25-1-101 et seq. The CDPHE is responsible for protecting the environment and the health and safety of Colorado’s citizens, and administers numerous regulatory programs including solid waste.

2. CDPHE has reviewed the activities proposed by NET in its petition and, as set forth in the attached verified statement of Charles G. Johnson, would characterize such activities as typical of those activities normally associated with municipal solid waste and construction and demolition debris processing that would occur even absent rail transportation.

3. CDPHE also concurs and joins in the arguments in the reply submitted on January 27, 2006 by the Commonwealth of Massachusetts, and the comments submitted on January 27, 2006 by the State of New Jersey Department of Environmental Protection and the New Jersey Meadowlands Commission.

Respectfully Submitted,

JOHN W. SUTHERS
Attorney General


/s/ Richard E. Lotz

RICHARD E. LOTZ, #9068
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Dated: July 13, 2006

CERTIFICATE OF SERVICE

I hereby certify that I have duly served the foregoing Comments of the Colorado Department of Health and Environment upon all parties herein by causing a copy thereof to be delivered via first class mail, postage prepaid, at Denver, Colorado, this 13th day of July, 2006 addressed as follows:

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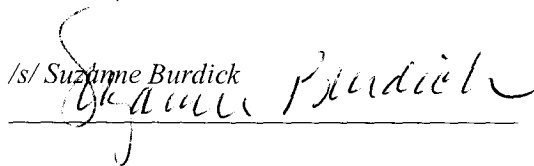
Honorable James R. Miceli
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Stephen R. Sasala, II
Waterbury Regional Chamber
P.O. Box 1469
Waterbury, CT 06721

/s/ Suzanne Burdick

A handwritten signature in cursive script, appearing to read "Suzanne Burdick", written over a horizontal line.

VERIFIED STATEMENT OF CHARLES G. JOHNSON

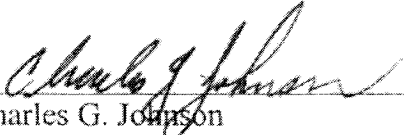
1. I am the Solid Waste Unit Leader within the Colorado Department of Public Health and Environment. I have held this position since February 2005. Between January 1991 and January 2005, I was the Team Leader for Hazardous Waste Corrective Action.
2. I have an M.S. in Civil Engineering from University of Colorado (1995), M.S in Geology from Texas A&M (1983), and B.S. in Geology from the University of Texas (1980).
3. The responsibilities of the Solid Waste Unit are to protect the environment and human health through efficient, equitable and ethical implementation of Colorado's solid waste statutes and regulations: to assist citizens and local governments in providing integrated solid waste management that is effective and safe, through promotion of waste minimization, recycling and environmentally sound disposal practices, and in promoting the effective cleanup of unauthorized and contaminated disposal sites.
4. The solid waste unit regulates and provides oversight at landfills, landfarms, surface impoundments, transfer stations, medical wastes, compost, incineration, scrap tire, waster treatment plant facilities that manage and dispose of solid waste. These activities also include the regulation of facilities managing and disposing of municipal solid waste (MSW), and construction and demolition (C&D) debris. I have personally visited several of these solid waste processing facilities within the State of Colorado and am familiar with these operations.
5. Solid waste processing facilities, including MSW and C&D, include disposal and reuse operations. These activities typically include operations for materials segregation from and the compaction of the MSW and C&D waste, as well as, the direct disposal. Recycling and reuse typically includes the separation of materials predicated on potential end use and potential product generation. Concrete may be segregated and ground to produce new aggregate for future concrete. Asphalt may be separated and reused as new feedstock. Metal may be removed for scrap recycling

activities. Wood and timbers may be ground up and used for mulch or compost, or utilized as fuel by a facility permitted to burn such material. All of these activities are conducted independent of rail transportation, and with conventional over the road modes of transportation.

6. As should be the case, these solid waste processing facilities are subject to and must comply with Colorado's Solid Waste statutes and regulations subject to regulatory oversight by my unit. The solid waste processing facilities may present threats and risks to groundwater, surface water, and air if not managed appropriately. Some of these risks can include the release of solid waste and hazardous constituents into soil and groundwater in excess of state standards. Surface water may be impaired causing violation state and federal water quality standards. Runoff from inappropriately controlled facilities can have impacts on downstream water users including farmers and drinking water treatment plants. Other issues may arise that relate to solid waste nuisance conditions such as odors and vectors (e.g., insects, rodents and other scavengers).

Verification: I, Charles G. Johnson, certify under penalty of perjury that the foregoing is true and correct. Further I certify that I am authorized to file this statement.

Executed on July 13, 2006.



Charles G. Johnson
Colorado Dept. of Public Health & Environment
Solid Waste Unit Leader

From: "Mary Scott" <MASCOTT@SMTPGATE.DPHE.STATE.CO.US>
To: "DENNIS TYLER" <DTYLER@SDSFIRM.com>
Date: 6/28/2006 12:30:42 PM
Subject: Re: Environmental Covenant

Dennis,

I forwarded this on to the States attorney, David Kreutzer (david.kreutzer@state.co.us 303-866-5667) to review the citations. He indicated it would be early to mid July before he had a chance to take a look. I will be on vacation through most of July, and requested David send his comments to you directly.

From my cursory review of the file, it seems we may need to reference the OU4 ROD as it addressed sitewide groundwater contamination and called for institutional controls such as the environmental covenant. Although the site lays atop the LC Corp property, the soils were addressed and the OU2 ROD included a no further action necessary finding. I am therefore not sure whether OU2 needs to be cited.

Please let me know if you have any further questions.

Regards,
Mary

Mary A. Scott
State Project Officer
Remedial Programs
Hazardous Materials & Waste Management Division
Colorado Department of Public Health and Environment
303-692-3413

>>> "DENNIS TYLER" <DTYLER@SDSFIRM.com> 06/28/06 11:14 AM >>>
Mary,

As we discussed, I have attached a draft Environmental Covenant related to the property being purchase by my client Speedco, Inc. Please let me know if you see any references or other information that should be revised.

The property being purchased is Lot 4, Block 1, Maddox Industrial Subdivision, Adams County, CO

Thanks for your help.

Dennis R. Tyler
Stark Doninger & Smith LLP
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Indianapolis, Indiana 46204
(317) 638-2400 phone
(317) 633-6618 fax

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CC: <david.kreutzer@state.co.us>