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Wilmington-Woburn Collaborative

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April 17, 2007

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The Honorable Vernon W. Williams, Secretary

Surface Transportation Board

395 E Street, S. W.

Washington, DC 20423-0001

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

Position Statement of the Wilmington-Woburn Collaborative for the Oral Argument,
April 19, 2007 in "New England Transrail" Case.

Dear Secretary Williams,

The Wilmington-Woburn Collaborative wishes to extend its appreciation for the opportunity to submit this statement and appear before you in oral argument on this very important matter.

The Wilmington-Woburn Collaborative (WWC) is comprised of community members from the Woburn Neighborhood Association, Inc., the Concerned Citizens Network of Wilmington and individual citizens from both the Town of Wilmington and the City of Woburn. We represent the many residents, over 700, who have written letters to the Surface Transportation Board and signed petitions to oppose New England Transrail's projected operations at 51 Eames Street, in Wilmington, Massachusetts.

As residents of two communities, the WWC has strived to improve the quality of life in a very desperate environment. We have been extensively involved in the Olin property site at 51 Eames Street which has had a long history pertaining to contamination and migratory chemical impacts adversely affecting two watersheds, the Ipswich and Aberjona, along with the Maple Meadow Brook Aquifer.

It is quite poignant that the Board would choose this date to hold this hearing. It was exactly one year ago, April 19, 2006 that the United States Environmental Protection Agency officially listed the Olin Chemical Corporation's 53 acre property on their National Priority List as a Superfund Site. It is, according to the EPA Region I, historical wastewater disposal and general handling of chemicals and waste products at the plant that led to significant environmental contamination. It is the groundwater contamination plume associated with these historical releases extending $\frac{3}{4}$ of a mile that has forced the closing of five municipal water supply wells which served more than 7,000 people.

<http://yosemite.epa.gov/opadmpress.nsf/02026b527e93b1af852570180055b9b9?4c13124b0a2165b885257154006ba19610OpenDocument>

The community's exposure to these chemicals is being investigated as part of the Massachusetts Department of Public Health's childhood cancer study in Wilmington. The WWC has forged and bridged relationships with the Graduate Environmental and Hydrogeological Studies Program at Tufts University and the Mass. D.P.H. so that a comprehensive and extensive review of the aquifer, its contamination and all potential exposure pathways are explored and researched. This study along with the EPA's analysis has only just commenced.

The EPA outlined to our community their plan of investigation which involves many years of assessments and studies. They need to proceed with a Remedial Investigation, a baseline Risk Assessment, and a Feasibility Study with anticipatory critical removal of contamination on the site culminating to a Record of Decision with Remedial Design and Remedial Action. Mr. Tim Conway of the U.S. EPA, Region I has commented explicitly that the 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 or cleanup" [1]

It is our position that redevelopment of this Site is premature and that the Site requires an extensive and exhaustive environmental review prior to any consent or exemption consideration. We feel that the proposed project clearly intensifies the environmental peril that presently exists rather than attenuates the present condition. The EPA should have unfettered access to source site areas on the property prior to construction or redevelopment so that their expected and anticipated removal of critical soils can take place and we stress that this agency should be allowed to take the lead in deciding what redevelopment is suitable and appropriate after their studies are completed.

Until such time that the EPA can consent to redevelopment activity, it is the position of the WWC that the Surface Transportation Board follow and abide with its own Congressional Declaration in the National Environmental Policy Act (NEPA), Section 102 [42 USC #4332] wherein it states "prior to making any detailed statements, the responsible Federal Official shall consult with and obtain the comments of any Federal Agency which has jurisdiction by law or special expertise with respect to any environmental impact involved". [2]

The WWC feels that any decision made in these proceedings including the matter of jurisdiction is premature, considering the comments previously filed by the US EPA. Simply, the jurisdiction of this site at the present time falls under the auspices of the EPA. It is the Board's desire to explore whether it can grant a conditional exemption letting the state environmental officers inspect the operations of the solid waste activities. The WWC wishes to re-iterate that EPA is the environmental authority of the site and we believe that any such conditional exemption would oppose their authority and their specific recommendation.

The Wilmington-Woburn Collaborative wishes to address the Boards interest on New England Transrail, LLC intermodal container railroad transport proposal of June 2003 to its present proposal to build and operate a solid waste processing facility that includes processing C & D material of December 2005.

In June of 2003, two of the principals of New England Transrail met with a select group of concerned residents of Wilmington and Woburn to explain their operation at the behest of US Congressman John Tierney. The community had read its ill-prepared proposal that was riddled with factual, grammatical and spelling errors. The proposal was worrisome and the fears of having a C&D facility on this site were looming once again.

This project as described by New England Transrail principals Ronald Klempner and Robert Jones was to operate a rail to truck facility where all commodities would be transported by railway to the property in closed, sealed intermodal containers. The transfer of these containers to trucks would require one sprung structure only and no other construction of holding areas was discussed. The hours of operation would be in the wee hours of the morning from 1am-6am daily. When asked about storage of materials, they responded that only lumber would be stored on the property. We asked if there would be C&D fines brought to the site or if their company planned on operating a C & D facility. They denied such intention. When asked if nuclear waste would be a commodity in the future they responded that they would transport any material, hazardous or otherwise including nuclear waste if it was properly sealed and had cleared all permitting regulations. When asked of their work and professional background, Mr. Klempner declared that he was just a railroad man trying to build a small start-up rail company.

It is now four years later and we see a very different proposal and a far different company. Our worst fears have been confirmed. The newest proposal details activities consistent with a solid waste transfer facility where transferring of solid waste into hoppers would undergo a grinding and bailing process. There would be holding areas erected and two sprung structures would be necessary. These activities are consistent with a C&D facility, the very operations they denied. It was very disconcerting to us to learn from the New Jersey Department of Environmental Protection's comments to the Board, that the primary principals have a long history in the solid waste industry. [3] This flies in the face of what was initially presented to us.

New England Transrail has not held one open public meeting to detail their plans to our community and to answer questions from the concerned citizens of the City of Woburn and the Town of Wilmington. NET has sparsely evaluated the cumulative air quality issues in South Wilmington and North Woburn. They have not considered the poor infrastructure that exists in our roadways to and from the site. They have ignored with indifference the residents concerns that live in close proximity of the property evoking that it is a non-residential area exempting them from mitigating noise and traffic concerns. There are many neighborhoods and a nursing home that will be adversely affected by this industry.

In conclusion, the Wilmington-Woburn Collaborative remains steadfast in its objection to this company, its deceptive practices and to the indifference it has shown to the residents of this community. We support our US Congressional leaders in their comment that this proposal is nothing more than a trash transfer station with very little to do with rail transportation. [4] We go one step further and state that this operation is no more than a solid waste transfer station of C& D and municipal waste operating under the ruse of a railroad company.

When deciding on whether we as citizens should speak before you at this oral argument, we deliberated on whether we were main principals in the matter of a jurisdictional ruling. We wondered if we could articulate how offended we are and effectively express the profound disappointments we have with this company and whether you should be aware that they represented a vastly different proposal to us. We decided that their actions put in question their integrity and credibility and should be shared with the Board. We continue to wonder why they could not and would not be truthful with us in their intentions from the beginning.

Our decision to speak before you is premised on the belief that we are the main principals in these proceedings. It is our health and our welfare that is threatened by the activities proposed. It is an elaborate scheme now and it is evident with their history and their intentional yet false presentations, that they wished to convince us in the community that their operations were only railroad activities so to acquire the federal exemption solely to circumvent and contravene our stringent state and local environmental laws designed to protect our health and welfare. It can be up to you and can be in your discretion to uphold the national policies under NEPA wherein it states that "in order to carry out the policy set forth (in NEPA) it must assure for all Americans safe, healthful, productive and aesthetically and culturally pleasing surroundings" [2]

I respectfully thank you for the opportunity to speak in oral argument in these proceedings.

Kathleen M. Barry

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Kathleen M. Barry, Chair
Wilmington-Woburn Collaborative

References:

1. Conway, T. January 26, 2006. Comment on New England Transrail, LLC, Finance Docket No. 34797; United States Environmental Protection Agency, Region 1.
2. The National Environmental Policy Act of 1969, as amended. Online reference retrieved on May 9, 2006 at <http://ceq.ch.doc.gov/nepa/regs/nepa/nepaeqia.htm>
3. New Jersey Department of Environmental Protection. January 27, 2006. Comment on Finance Docket No. 34797 to the Surface Transportation Board
4. United States Legislators, Kennedy, Kerry, Markey, and Tierney. January 27, 2006. Comment on Finance Docket No. 34797 to the Surface Transportation Board.