

The resistance by Olin Chemical Corporation for adherence to the MADEP laws and regulations, and recommendations governing Tier 1A sites under the Massachusetts Contingency Plan brings into question once again this project's impact on remedial activities. Since the EPA will need to conduct extensive review of the property and groundwater contamination, construction as approved by the RAM based on an old data set now in question, is inappropriate. The EPA National Laboratory has found new compounds and constituents in the Maple Meadow Brook Aquifer not previously known by DEP or Olin. Developing the site and applying a concrete cap with construction of any structures may preclude access to potential source contamination areas.

The safer alternative argument afforded to rail transportation over truck transport cannot be considered or entertained with this proposal on this site. In fact safety concerns loom at the end of any rail line where transfer from rail to truck and truck to rail exists. The admitted potential of accidental spills, air and groundwater releases, the ever expanding list of commodities, the chance of truck accidents on the local streets and the ramps of highways, pose huge risks to residents in neighborhoods which are located on and near the exit streets proposed, to other automobile drivers, and to other industrial companies and their workers.

In June 2003, the applicant, at the behest of our Federal Representative, met with approximately seven residents and described the project proposed at that time. Since that time, the project has evolved to include a list of commodities, which now includes propane. There was a mention of one sprung structure only. There was no mention of a future break-bulk facility. In fact the applicants stated that there would be no open containers and the only product that would be stored on the site would be lumber. The applicant's omission of the future plans of this site to include a break bulk facility in this initial meeting and then including it now in this application is consistent with underhanded business practices no better than a bait and switch practice which the Surface Transportation Board should recognize and reject. In June 2003, when asked if the commodities could include nuclear waste the applicants response was that if it could be transported in a closed container and met with the approved licensing and permitting, it would not be eliminated as a possibility. There has been no public or other community meeting and NET has falsely represented itself as having developed community relations with residents.

In considering the very poor planning of this applicant, the need for the Environmental Protection Agency to have unfettered access to the source sites on the property in doing their own investigation from newly found constituents, the potential usage of this site and remedial alternatives should fall under the Environmental Protection Agency after new Risk Assessments can be measured. The community cannot be put at any further risk. As it stands right now, the environment in this region and hazards from this property are under investigation as a precipitating factor in our childhood cancer cluster.

I request the Surface Transportation Board to defer to the requests of the community, the Town of Wilmington and City of Woburn's officials, our State and Federal Representatives to issue the No-Action Alternative and allow for a thorough and complete investigation of the property by EPA, so that a complete and proper characterization can be determined for the appropriateness of redevelopment in the future.

Very truly yours,

561 Woburn St
Wilmington MA
01887

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September 10, 2004

Case Control Unit
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423
Attention: Ms Phyllis Johnson-Ball

RECEIVED
SEP 20 2004
U.S. DEPT. OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

Re: Environmental Assessment Finance Docket No. 34391
New England Transrail, LLC, d/b/a/ Wilmington and Woburn Terminal Railroad Co. -
Construction, Acquisition, and Operation Exemption - in Wilmington and Woburn, MA

Contamination Knows No Boundary

The Aberjona Study Coalition, Inc. (ASC) is a coalition of six local community groups: Mystic River Watershed Association, Woburn Neighborhood Association, Inc., Concerned Citizens Network, Friends of the Upper Mystic Lake, Medford Boat Club and Woburn Residents Environmental Network.

The Aberjona Study Coalition, Inc. represents over 225,000 residents that border the Aberjona Watershed. We have received a double TAG Grant from the Environmental Protection Agency (see attached) and are working closely with the EPA as well as a Technical Advisor of whom we have hired, Cambridge Environmental, Inc. (see attached).

ASC has grave concern over the operation at the Olin, 51 Eames Street property that is in close proximity to the Aberjona Watershed. Our primary goal is to ensure that the future assessment and remediation of two Woburn Superfund sites, the Industri-Plex and the Woburn G & H Wells are completed by the responsible parties. Will the possibility of New England Transrail, LLC be added to the list of responsible parties?

As reported in the Department of Environmental Protection report dated April 29, 2003 Re: Wilmington Olin Chemical, 51 Eames Street, RTN3-0471 North Pond Area: It was determined that the North Pond may receive groundwater discharge from the direction of the East Ditch and the Olin property. GEI Consultants, Inc. determined that additional investigation is necessary to assess the nature and extent of contamination that may be due to historical release at the Olin property. (See attached)

As also stated in this report: DEP's conditional approval letter is dated February 1, 2002, and in this letter DEP made it clear that the full extent of contamination that may have migrated downstream through the East Ditch and beyond must be delineated. The East Ditch is a narrow and shallow surface water drainage ditch that flows along the east side of the Olin property through a heavily industrialized area. Surface water drainage from the Olin property enters the East Ditch approximately 3/8 mile south of Eames Street. The East Ditch continues to flow to the South and turns into the New Boston Street Drainway, which was addressed as part of cleanup activities for the Industri-Plex Site. The New Boston Street Drainway (Woburn) flows South and discharges into Hall's Brook (Woburn) then into Hall's Brook Holding Area (Woburn), and then eventually into the Aberjona River. (See attached)

The Wells G & H area has been the subject of intense study since the early 1980's. The Aberjona Study Coalition, Inc. working in conjunction with the Environmental Protection Agency is taking steps forward. The great possibility of spillage or leakage by the operation of New England Transrail, LLC will endanger the Aberjona Watershed. Steps will be taken backward by permitting New England Transrail, LLC to operate on the 51 Eames Street site.

As stated to the EPA in the comment report on the Baseline Human Health and Ecological Risk Assessment, Wells G & H Superfund Site, Operable Unit 3, Woburn, MA on behalf of the Aberjona Study Coalition, Inc. by Cambridge Environmental, Inc., John Durant, Tufts University and Bonnie Potocki, Eco-Solutions, Inc. on October 10, 2003 on the following site: <http://www.epa.gov/region01/superfund/sites/industriplex> The Aberjona River watershed has undergone many changes since the time that the 100-year flood plain was delineated. The recent history of flooding along the Aberjona suggests that the flood plain definition is out-of-date, and raises the possibility of contaminant transport to areas beyond the 100-year flood plain during flooding events. EPA has not collected sufficient data to evaluate whether flooding has increased the concentrations of river-related contaminants in upland soils. For example, the backyards of many residences line the western shores of the Upper and Lower Mystic Lakes. Is it possible that flooding has brought contaminants to these areas? If so, what are the concentrations of contaminants in these soils? We note that residential exposure assumptions assume a significantly higher degree of potential exposure than that considered in the Risk Assessment's recreational use scenarios, and hence even a modest increase in contaminant concentrations in soil could reflect potentially significant risks to human health.

Photographs posted by the U.S. Geological survey during the March 2001 flooding event appear at http://ma.water.usgs.gov/floods/flood032001_img.htm These photographs are indicative of recurrent flooding problems that have developed in the Aberjona Watershed that are not adequately characterized by the flood plain delineations. All locations that flood are of potential concern in the Risk Assessment from the standpoint of contaminant transport and deposition.

We believe that such areas might be extensive. Flooding problems have plagued the Aberjona River Watershed in recent years. The Massachusetts Department of Environmental Management (DEM) is presently updating the flood plain delineation (DEM, 2003). More generally, it is conceivable that the river-related contaminants have migrated to residential soils through flooding events. (See attached)

There are already some residential properties that overlap the existing delineation of the 100-year flood plain, which is widely believed to be undersized. Barring permanent land use restrictions, additional residential properties could be constructed closer to the river in the future.

The Environmental Protection Agency (EPA) will be issuing their report this fall on the Aberjona Watershed study from Route 128 North towards the Olin site. And for this reason we ask that all information be assessed by all parties including for public review and comment.

For the health, safety and welfare of these residents whom we represent we urge you not to grant New England Transrail, LLC application permit that will have the potential to cause injury to the Aberjona Watershed as well as its habitants along the river now and in the future.

Sincerely,

Linda A. Raymond, Treasurer
Aberjona Study Coalition, Inc.

Cc:
Senator John Kerry
Senator John Tierney
Senator Edward Kennedy
Senator Edward Markey
Ellen Roy Herzfelder, Secretary EEOA
EPA Regional Administrator Robert W. Varney
State Representative Carol Donovan
State Representative James Miceli
State Representative Jay Kaufman
Woburn Mayor John Curran
Woburn Board of Health Director, Jack Fralick
Chairman Woburn City Council
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Alderman-at-Large Joanna Gonsalves
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September 16, 2004

GeoInsight Project 3754-001

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Phillis Johnson-Ball
Surface Transportation Board
Office of Economics, Environmental Analysis, and Administration
1925 K Street, NW, Suite 500
Washington, DC 20423

RE: Sea Environmental Assessment
New England Transrail, LLC
Construction, Acquisition, And Operation Exemption
Wilmington And Woburn, Massachusetts
Finance Docket 39321

Dear Ms. Johnson-Ball:

Enclosed please find a document presenting comments on the report referenced above that were prepared on behalf of the Town of Wilmington, Massachusetts. Please note that copies of certain documents referenced in the comments were transmitted to you under separate cover by Daniel Deutsch, Esq. of Deutsch, Williams, Brooks DeRensis & Holland, P.C., counsel to the Town of Wilmington.

Please contact me if you have any questions regarding the enclosed material or if you desire additional information.

Sincerely,
GEOINSIGHT, INC.

John A. Gilbert, P.E.
Principal

Enc.

Cc: Service List
Michael Cairra, Town of Wilmington
Daniel Deutsch, Esq.



**COMMENTS ON SEA ENVIRONMENTAL ASSESSMENT
NEW ENGLAND TRANSRAIL, LLC - CONSTRUCTION,
ACQUISITION, AND OPERATION EXEMPTION
WILMINGTON AND WOBURN, MASSACHUSETTS**

Prepared for:

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Date: September 16, 2004

GeoInsight Project 3754-001

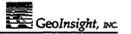
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Environmental Solutions At Work



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**COMMENTS ON SEA ENVIRONMENTAL ASSESSMENT
NEW ENGLAND TRANSRAIL, LLC - CONSTRUCTION,
ACQUISITION, AND OPERATION EXEMPTION
WILMINGTON AND WOBURN, MASSACHUSETTS**

1.0 INTRODUCTION

GeoInsight, Inc. (GeoInsight) submits this report, on behalf of the Town of Wilmington (Town), to accompany and to supplement the comments of several Town departments regarding the Environmental Assessment (EA) prepared on the New England Transrail, LLC (NET) Construction, Acquisition, and Operation Exemption in Wilmington and Woburn, Massachusetts (Finance Docket No. 34391) for the Section of Environmental Analysis (SEA) of the Surface Transportation Board (STB). The EA ("report") reportedly was prepared to identify and evaluate direct, indirect, and cumulative environmental impacts of the proposed project in order to support a decision by the STB on whether the project qualifies for exemption from the requirements of 49 U.S.C. 10901 for completion of an Environmental Impact Statement. The EA is dated August 4, 2004 (Decision ID No. 34929).

This firm has been for some years consulting engineer to the Town on matters involving the property on which the proposed project site is located. Accordingly, GeoInsight is intimately familiar with the site conditions, past and present, the decade-long efforts of the Massachusetts Department of Environmental Protection (MADEP), local agencies, and private parties to investigate, characterize, and remediate this complex site, and the present status of those efforts. GeoInsight's professional review of the EA, and close review of it by Town department heads, identified several important deficiencies in the report and many remaining uncertainties regarding the impacts that the proposed project would have on that already polluted and complicated ecosystem. Because of these deficiencies and evident uncertainties regarding impacts associated with the proposed redevelopment, it would be imprudent, from the standpoint of sound environmental engineering practices, to exempt this project from the prescribed federal review process. Fundamentally, the EIR process from which the applicant seeks exemption is designed to ensure protection of human health and welfare; the EA does not adequately address the level of review warranted in this unique case.

1.1 COMMENT SUMMARY

The situation at this site is unique in that redevelopment is proposed for a site at which characterization of identified impacts is not complete; indeed, the full range of potential contaminants to be evaluated in characterizing site conditions has not been established (MADEP letter dated August 30, 2004). In the absence of complete characterization, risks associated with impacts at the site cannot be assessed and the location and scope of necessary remedial actions cannot be reliably identified. Proceeding with redevelopment of a contaminated site under these conditions poses significant risks to the community and to the project. Those risks involve damage to structures and containment systems incurred during investigation and remedial activities, should they be necessary at those locations, and potential contamination of soil and ground water associated with breaches of containment systems in the event of a release of fuel or materials being transhipped at the site, as the applicant (NET) proposes.

An additional consideration in this regard is that responsibility and attendant liability for at least some of the environmental contamination at the proposed project site is unresolved pending the outcome of already-planned characterization activities. Construction to support NET's proposed project activities may impair access by investigators as they attempt to collect necessary information. That interference could make it more difficult to identify responsible parties and bring them to account for the full extent of their liabilities, by creating new scientific uncertainties and fueling disputes about the allocation of liability and contribution.

The EA is inadequate in several important respects, including:

- factual inaccuracies and omissions;
- over-reliance on representations by the project applicant;
- analyses of prospective environmental impacts on a regional scale with inadequate assessment of the same impacts at the local level;
- failure to recognize the cumulative impacts of the proposed project on local conditions that are already unacceptable or in failure;

- failure to fully assess the implications of possible future activities identified by the applicant; and
- incomplete or inadequate requirements for mitigation of identified potential environmental impacts.

In general, redevelopment of underutilized or abandoned industrial property, as is proposed by NET, is a worthy objective. However, there are a number of key criteria that are required for such projects including:

- complete characterization of the environmental issues present at the site;
- assessment of the risks associated with the identified contamination under various use scenarios; and
- development of approved remedial action plans that will mitigate the identified risks by addressing the contamination, which are then implemented by the developer.

The sections that follow first will describe the documents and materials reviewed in preparing these comments and then will elaborate on the previously listed inadequacies of the EA and associated report. It is important to note that the discussion of inadequacies here is not an exhaustive catalog of every instance, but is rather intended to illustrate the nature of the issues identified through specific examples. In addition to this review, the Board should refer to the enclosed detailed comments of Town departments.

1.2 DOCUMENTS REVIEWED

Documents consulted in preparing these comments include:

- an Environmental Assessment Form prepared by NET, dated May 10, 2003*;
- a Petition to Stay Exemption for New England Transrail, LLC, Finance Docket Number: 34365 (and enclosures), dated June 25, 2003*;

* These documents were transmitted to the STB under separate cover by Daniel Deutsch, Esq. of Deutsch, Williams, Brooks, DeRensis & Holland, P.C., Counsel to the Town of Wilmington, Massachusetts.

- a letter dated June 4, 2003 from Wilmington Town Council to NET and enclosed memoranda from various Town officials and departments commenting upon the April 2003 Notice of Exemption filed by NET*;
- a letter dated November 4, 2003 from Wilmington Town Council to an SEA contractor that enclosed memoranda from various Town officials and departments and a letter from an environmental consultant to the Town commenting upon the proposed exemption filing;
- a letter from Site Management at the MADEP, dated November 20, 2003;
- a reply to the Town's petition prepared for NET, dated July 8, 2003;
- a Supplemental Phase II Report prepared for the Olin site, dated June 1997 (copy not enclosed);
- MADEP Bureau of Waste Prevention Noise Policy, DAQC Policy 90-001, February 1, 1990;
- letters from the Business Compliance Division of the MADEP dated May 5, 2004 and August 25, 2004;
- a letter from Site Management at the MADEP, dated August 30, 2004;
- the EA report referenced previously, dated August 4, 2004 (copy not enclosed);
- a letter from Town of Wilmington Board of Health to Neil Sullivan, ICF Incorporated, dated August 26, 2004;
- a memorandum from Wilmington Police Department to Town Manager, dated August 25, 2004;
- a memorandum from Carole Hamilton, Director of Planning and Conservation, Wilmington Planning & Conservation Department to Jeffrey Hull, Assistant Town Manager, dated August 26, 2004;
- a memorandum from Robert Douglas, Director of Planning and Conservation, Wilmington Planning and Conservation Department to Jeffrey Hull, Assistant Town Manager, dated August 26, 2004; and
- a letter from the MADEP to the United States Environmental Protection Agency (USEPA) Region 1, dated August 23, 2004.

* These documents were transmitted to the STB under separate cover by Daniel Deutsch, Esq. of Deutsch, Williams, Brooks, DeRensis & Holland, P.C., Counsel to the Town of Wilmington, Massachusetts.

2.0 FACTUAL INACCURACIES AND OMISSIONS

2.1 PROJECT DESCRIPTION

The EA report contains numerous factual inaccuracies and omissions that prevent an accurate assessment of potential impacts associated with the proposed project. For example, the site figure (Figure 1-2) illustrating the layout of the proposed project does not indicate the relative locations of some of the features of the Olin property that are currently the focus of remedial activities under MADEP supervision. In particular, the EA report makes reference (Section 3.8.1.3) to remedial operations at Plant B; however, the location of Plant B is not identified on the figure, inhibiting an assessment of the accuracy of the statement that construction of a building in the vicinity of Plant B is not part of the applicant's proposal (Section 3.8.1.4). Similarly, discussion of potential surface water impacts is constrained by the absence of information regarding locations of surface water flow features (other than wetlands) on the figure. The location of the Maple Meadow Brook Aquifer (MMBA), historically the source of a substantial portion of the Town's public water supply, and the Town's Ground Water Protection District are not illustrated on the figure. The analysis of the significance of these and other features of the property is hindered by the absence of information illustrating their location relative to that of the proposed project.

The analysis of alternative sites for a facility of the type proposed by the applicant is cursory and based upon several inaccuracies. Distances to Boston from Tewksbury and Wilmington appear to be inaccurate and to differ by less than claimed by the applicant (Wilmington Planning and Conservation Department Memorandum dated August 26, 2004). It does not appear that the SEA contractor independently assessed this information. The Ayer alternative site seems scarcely credible as a comparison for the other two sites given its lack of an active rail line. It is dismissed for this reason, insufficient acreage (not specified), and because it is "not suitable for Applicant's future development plans." These plans are not elsewhere described nor are the features of the site that make it unsuitable are not described in reference to the future development plans. The EA report appears to uncritically accept the applicant's analysis of this site without independently identifying and testing its bases.

The EA report is not clear with respect to the nature of the materials to be handled during proposed operations. It presents a general list of the types of materials that may be handled, but is vague regarding the nature of such materials as "aggregates," "construction debris," "contaminated soils," "liquid chemicals," "non-hazardous waste," and "plastics," all of which can be associated with various types of risks and impacts, depending upon their form, quantity, packaging, and the manner in which they are handled. The list is virtually the same as that presented by the applicant in its original Notice of Exemption, and the bases, criteria, or regulations were not identified by which, for example, "liquid chemicals" are judged to be as "non-hazardous and non-explosive" and waste as "non-hazardous." It is not clear how the SEA contractor was able to fully analyze the potential impacts associated with handling the proposed materials based upon the vague, general information provided by the applicant.

There is no description in the EA report of the proposed nature and location of on-site equipment maintenance activities. A switch locomotive is expected to be used on-site, and it is reasonable to expect that there will be heavy equipment associated with loading and transfer operations. This equipment will require periodic maintenance and fueling. The SEA contractor failed to identify and assess potential impacts associated with such activities.

Significantly, the EA report also notes that the applicant reports future plans that would involve development of a break-bulk facility at the site and that the details of such a facility and the timing of its development are not presented. Indeed, the project proponent may perceive such further site activities to be inevitable in order for the redevelopment to be financially viable, yet it does not appear that the SEA contractor pursued additional information regarding the nature of these operations and the materials to be handled, which is critical to a full analysis of potential impacts associated with the proposed project. It is not clear from the EA report whether future changes in operations will be subject to environmental review by the SEA. In that event, the project is unfairly segmented, which alone provides good reason not to exempt the project as currently presented.

2.2 GROUND WATER

The EA report identifies the existence of Town supply wells approximately 3,500 feet from the site of the proposed project, but fails to acknowledge significance of their potential contribution to the Town's water supply and the Town's intent to see that the MMBA is restored to use through either remediation of impacted ground water, installation of well-head treatment, or a combination of both. The MMBA has historically been the source for five of the Town's nine public water supply wells, constituting approximately 60 percent of the Town's water supply. It is clear that this aquifer is an important and sensitive Town drinking water resource with a direct effect on public health and welfare, an assessment that is underscored by the fact that an investigation currently in progress of a potential cancer cluster in the Town is evaluating, among other possible causative factors, exposures associated with the presence of contamination detected in the aquifer originating from sources on the Olin site. The absence of this information results in a significantly understated analysis of the impacts of possible future releases to ground water associated with the project. For example, Section ES.3.1.3 states that salt, among other products, is to be stored at the property occupied by the proposed project. Depending upon the conditions under which it is stored, releases from stored salt has the potential to adversely affect the utility of the ground water for drinking; however, the potential consequences of such storage are not analyzed in the EA report.

2.3 SURFACE WATER

The EA report fails to note the requirement that this project comply with, at a minimum, permitting requirements for management of storm water at construction sites. The area of the site that will apparently be disturbed (estimated from Figure 1-2) is well above the threshold at which such permitting is required by the USEPA. Depending upon the location of re-loading operations (i.e., inside or outside) and the nature of materials handled, a storm water permit may be required along with preparation of a Storm Water Pollution Prevention Plan. The EA does not report estimates of storm water flows nor an analysis of the probable flow directions and receiving waters to establish whether such permitting is required, much less whether its proposed

mitigation measures of "Best Management Practices" will provide adequate protection of surface waters that may receive runoff during facility construction and operation.

2.4 OLIN PROPERTY REMEDIATION

Investigations into environmental contamination at the Olin property were, until recently, considered complete and the site was moving into Phase III under the MCP, which is the development of a remedial action plan; a draft Phase III report was completed in early 2003. However, additional investigations were recently undertaken at the site to address the detection of N-nitrosodimethylamine (NDMA), a contaminant related to former operations at the Olin site, in the Town's aquifer. Extensive monitoring efforts are currently in progress to evaluate the extent of NDMA contamination in the aquifer and, presumably, assist in the identification of NDMA source areas on the Olin site; investigation reports to date have not identified such source areas (MADEP letter dated November 20, 2003).

It should also be noted that MADEP and USEPA are assessing the possible presence of other target contaminants associated with former operations at the Olin site that have not yet been investigated (MADEP letter dated November 20, 2003). If such contaminants are identified and found to pose an unacceptable human health risk in ground water or soil, monitoring and source identification efforts similar to those for NDMA will be undertaken. The EA report summarizes this information, but fails to address its significance in its assessment of possible impacts of the proposed project. In particular, construction of structures, track, and containment facilities on the property may inhibit or interfere with contamination investigation and remedial activities related to NDMA and other contaminants of concern that may be identified by USEPA and MADEP.

Sections ES.5.8.1.1 and 3.8.1.2 of the EA report reference the fact that a Construction Release Abatement Measure (CRAM) is being "developed" or "conducted," respectively, at the Olin property. Based upon the EA report, it is not clear whether the CRAM is being prepared or is in progress. Regardless, the EA report fails to note that (as described in a November 20, 2003 letter from MADEP), firstly, completion of the CRAM activities is required before redevelopment can

proceed and, secondly, that completion of a CRAM does not constitute completion of remedial action. It will not be possible to complete a CRAM for the portion of the Olin property to be occupied by the proposed project until all contamination has been characterized and measures to mitigate associated risks to future worker have been identified and implemented.

2.5 SOLID WASTE PERMITTING

The absence in the EA report of detailed information regarding the nature of "construction debris," "contaminated soil," and "non-hazardous waste" to be handled at the proposed facility is compounded by the failure to note that operations involving these materials will be subject to MADEP review for compliance with applicable solid waste regulations. Construction debris and non-hazardous waste are regulated under Chapter 111, Section 150A of the Massachusetts General Laws and Title 310, Sections 16.00 and 19.00 of the Code of Massachusetts Regulations. If operations meet certain regulatory triggers, it may be necessary for the applicant to obtain a solid waste site assignment from the Town Board of Health and a permit from the MADEP pursuant to the provisions of these regulations (MADEP letters dated May 5, 2004 and August 25, 2004). The most recent MADEP letter confirms that the project proponent has failed to respond to the Commonwealth's request for information necessary to determine whether such a permit is required. Likewise, in this proceeding, because it did not obtain specific information regarding the nature of waste material handling at the proposed facility, SEA's contractor could not and did not properly assess potential permitting requirements with which the applicant must comply. In addition, the possible existence of the prohibited nuisance conditions cited by MADEP in its letters was not evaluated in the EA report.

2.6 NOISE

The analysis of noise impacts failed to identify and consider the MADEP noise pollution criterion of 10 decibels (dB) above background as measured at the property line of the site (MADEP Noise Policy, February 1, 1990). The distance between the site and sensitive noise receptors of 1,300 feet referenced extensively in the EA report, used without citation to a regulatory basis, is of little relevance in light of this criterion. The EA report failed to note that

there is land zoned for residential use (R-20) within 350 feet of proposed project site (Wilmington Planning and Conservation Department memorandum dated August 26, 2004). It should also be noted that background noise levels between 1:00 and 5:00 a.m. are likely to be relatively low, suggesting that the MADEP noise pollution threshold is likely to be exceeded by proposed operations during those hours. Indeed, the Town Board of Health noted that a single truck recently triggered a noise violation that merited a citation and fine at a location near that of the proposed project (Wilmington Board of Health letter dated August 26, 2004).

The EA report failed to identify and address the Town nuisance noise policy developed pursuant to Sections 122 through 125 of Chapter 111 of the Massachusetts General Laws (Wilmington Board of Health letter dated August 26, 2004). The Town Board of Health reports that repeated violations of the policy can result in criminal enforcement actions that are typically upheld by the court with local jurisdiction.

In the EA report, there is extensive, detailed description and calculation of noise levels and impacts associated with certain elements of railroad equipment and operations (Section 4.2); however, the discussion of noise associated with truck traffic at the proposed facility is not analyzed in a similar manner although the report acknowledges an increase in truck traffic in the vicinity of the proposed project area by 3 to 5 percent of an already-heavy volume. At a minimum, the SEA contractor should have identified noise levels associated with typical heavy trucks and then calculated the aggregate noise increase associated with proposed operations in the same manner as was used for the rail traffic. In addition, although cited as sources of additional noise associated with the proposed project, the SEA contractor did not analyze levels impacts associated with unloading and loading of rail cars and trucks and idling locomotives and trucks on the proposed project property.

2.7 AIR QUALITY

The EA report provides detailed calculations of the air emissions expected to be associated with construction of the proposed project using emission factors for specific types of equipment and the estimated duration of construction activities (Section 4.3.1). Only very general descriptions

of structures and facilities proposed to be constructed are provided in materials prepared by the applicant and presented in the EA report, and the basis for the estimate of construction time is, therefore, not established. Furthermore, the EA report analyzes emissions associated with operations for only an on-site locomotive; it does not attempt to estimate the emissions from truck traffic at the site in a similar manner and level of detail despite acknowledging that the truck traffic associated with the proposed project will produce a local adverse impact on air quality (Section 4.3.2).

2.8 TRAFFIC

The EA traffic analysis dismisses the additional traffic burden in the area local to the proposed project as not significantly impacting existing Level of Service (LOS) ratings for affected intersections without a detailed analysis although a number of the intersections are already in a failed condition, as acknowledged in the EA report (Section 4.1.3 and Table 3-2). The 2005 projections of traffic at key intersections presented in Table 3-2 do not include traffic associated with the proposed project. The SEA contractor failed to add the impacts of the this additional traffic to these projections to assess its cumulative effect.

The EA report describes a key travel intersection, at Eames and Woburn Streets, as "problematic" without describing the nature of the problem. Information provided by the Town Police Department indicates that (Police Department Memorandum dated August 25, 2004) large trucks must cross over into oncoming traffic lanes to negotiate the turn from Eames Street onto Woburn Street. Moreover, these trucks were observed to travel from 130 to 165 feet from the intersection before returning fully to their own lanes and necessitating oncoming traffic coming to a full stop to allow the turns to be completed. The EA report failed to explore the safety and traffic flow implications of increasing truck traffic at this critical intersection by 400 trips per day, at the same time noting that funds were not available to the Town for construction of a re-designed intersection, projected to cost \$400,000.

2.9 ENVIRONMENTAL JUSTICE

The EA report used census data and federal Department of Health and Human Services poverty thresholds to evaluate whether a "low-income" population was potentially affected by the proposed project. However, the basis for use of this threshold is not clear. The federal Department of Housing and Urban Development defines "low-income" as 80 percent or less of median income for the portion of the state in which a town is located, and the Town established that 24.5 percent of households in the Town meet this criterion (Wilmington Planning and Conservation Department memorandum dated August 26, 2004). Efforts by the Town to reproduce the census data used in the EA report found that the block group number cited in the EA report does not exist in Wilmington; the accuracy of the assessment of the presence of a low-income population cannot, therefore, be verified from information presented in the EA report. It should also be noted that Figure 1-1 of the EA report clearly illustrates the location of the proposed project site as being on the boundary between the Towns of Wilmington and Woburn; accordingly, analysis of environmental justice implications for neighboring populations in Woburn is warranted.

The EA report did not pursue analysis of "high and disproportionate impacts" on the community, the second element of an environmental justice analysis. There are numerous sources for environmental database searches that can easily identify the presence of significant environmental sites (e.g., landfills, Superfund sites, uncontrolled waste sites, etc.) at various radii.

3.0 COMPLETENESS OF REVIEW EFFORT

The EA exhibits an over-reliance on representations of the applicant, NET. Documents and other information developed and presented by NET is clearly the primary source of the information used in completing the EA. It does not appear that the SEA contractor responsible for completing the EA made efforts to solicit independent input from agencies with knowledge of conditions at the site of the proposed project and in the immediate area, beyond sending letters requesting input. The information presented by the applicant was accepted with little apparent effort at independent confirmation. For example, traffic flow and volume information presented by the applicant cited a 2000 traffic study. Consultation with the Town's Police Department would have identified the fact that the study was based upon survey data obtained no later than 1998 and possibly earlier. In addition, the Police Department has the capability to undertake traffic flow and volume observation and measurement that would have provided an independent check on the accuracy of the information presented by the applicant.

The Town and its advisors developed a detailed set of comments on the applicant's initial Notice of Exemption Failure, which appears to have led the applicant to withdraw its notice after these comments were filed. These comments were augmented and reasserted in a letter prepared by counsel to the Town (Deutsch Williams, November 4, 2003) that enclosed correspondence and memoranda prepared by various officials of and advisors to the Town regarding the proposed project. Information presented in this material questioned the accuracy of the information presented by the applicant and offered supplementary information. The November 4, 2003 letter also enclosed detailed comments on the proposed project prepared by an environmental consultant to the Town that is charged with reviewing, analyzing and monitoring remediation at the Olin property; these comments were not included in Appendix C of the EA report. The SEA contractor failed to avail itself of additional pertinent information by contacting the Town officials and advisors involved in preparing these comments to obtain additional information. Furthermore, aside from a passing reference to "[c]ommunity leaders" having "expressed concern that redevelopment of the Olin property poses a risk to public health and safety" (e.g., Section ES.3.1.5, page ES-5), the EA report does not directly reference these comments nor does it analyze the issues identified therein.

As discussed previously, the SEA contractor received information regarding the status of remedial activities on the Olin property from the MADEP and failed to fully assess the significance of that information. This information indicates the complexity of remedial activities at the Olin property and should have motivated further contact with MADEP by the SEA contractor. Such contact would have clarified the nature of development restrictions imposed by the incomplete site characterization and remediation and might have elicited the information that MADEP is in the process of transferring regulatory authority for the site to the USEPA under the federal Superfund program (MADEP letters dated August 23 and August 30, 2004). Remedial action under Superfund will add substantial complexity to the process of investigating and resolving contamination issues at the site, potentially affecting areas to be occupied by the proposed inter-modal project.

With regard to the critical operational issues of managing potential impacts on ground water associated with releases of chemicals and fuels, the EA report indicates that the "Applicant has advised the Board that its on-site personnel would be trained in handling the commodities at issue and in spill response" (Sections ES.5.5.1 and 4.5.1); however, description of the qualifications and training of these personnel, the training programs to be employed, and the spill prevention and response plans is not presented in the EA report. It appears that the SEA contractor relied solely upon the representations of the applicant with regard to these concerns and did not pursue confirmation of the existence of these staff, programs, and plans nor the adequacy of these measures.

The same sections of the report state that, again according to the applicant, reloading of liquids and other "sensitive commodities" will occur an impervious surface of "concrete or asphalt" that would be equipped with a containment berm; however, the SEA contractor did not pursue further information regarding the structural design of the containment system nor the containment capacity of the berm relative to the maximum volume potentially released. Failure to complete this analysis prevents an accurate assessment of the risks of impacts from proposed operations, a particularly egregious oversight in light of the fact that the property on which the project is to be located overlies the Maple Meadow Brook Aquifer, which has historically been the source for approximately 60 percent of the Town's public water supply.

With regard to air quality, the SEA contractor accepted the assertion of the applicant that the truck traffic to the site will simply replace other regional truck traffic. The basis of this assertion is not presented in the report nor does the EA identify the measures that were employed to independently verify this assertion.

4.0 REGIONAL VS. CUMULATIVE LOCAL IMPACT ANALYSES

The EA presents its analyses of air and traffic impacts in terms of changes in regional conditions, which it concludes are relatively minor on that regional scale, and is generally dismissive of local impacts as also minor. For example, Section 4.3.2 presents a simplistic and incomplete analysis of air impacts associated with increased truck traffic from proposed project operations, concluding that "although some small adverse air quality impact would be experienced locally, the regional emissions from trucks would not increase but would remain essentially the same." This conclusion is premised on the assertion by the applicant that the truck traffic associated with the proposed project is already present in the region and will merely be changing its routing.

As previously discussed, it is not evident that the SEA contractor independently verified this assertion. Nevertheless, it is self-evident that the diversion anticipated by the applicant will effectively result in a new, currently non-existent concentration of the truck traffic associated with the proposed project in the immediate area of the site. The effect of this concentration will be to worsen air quality in the local area, which is located in a region that is already designated as an Ozone Non-Attainment Area. The EA report dismisses this potential impact without completing a detailed analysis.

Similarly, the diversion of truck traffic to the proposed project area will unavoidably increase traffic in area where current traffic levels result in failed intersections. Although regional truck traffic may not be increased, it is self-evident that diversion of up to 400 truck round-trips daily will serve to concentrate this additional traffic in the immediate area of the project site and worsen an already unacceptable condition. The EA report is dismissive of this effect by concluding that the increase in traffic volume is not significant; it does not complete an analysis of the actual effects of the additional traffic in terms of incremental delays in transit times through the area of the proposed project.

5.0 INCOMPLETE AND INADEQUATE MITIGATION CONDITIONS

5.1 TRANSPORTATION SAFETY AND TRAFFIC ISSUES

The EA report cites the applicant's proposal to prohibit project-related truck traffic from using Route 38, including banning drivers that fail to comply with this requirement from using the facility; in practice, it is not likely that the operators of the proposed project will risk alienating customers by following through on the proposed remedy of banning their non-compliant drivers. The EA report accepts this proposal uncritically, and it does not appear that efforts were made to investigate the efficacy of this approach at other sites with similar issues.

The EA report adopts the applicant's proposal of \$50,000 toward the cost of reconstructing the Eames and Woburn Street intersection as suitable mitigation for the additional impact of 400 additional trucks passing through the intersection daily despite knowledge that the estimated cost of necessary improvements is \$400,000 and that the intersection is already failed. The proposed mitigation is inadequate to the needs of the situation and inequitable given the scale of the additional burden that will be asserted on the Town and its residents by the additional project-related road traffic.

The EA report concludes that one train round trip per day, during the night, will not pose a significant impact on the Town; however, its mitigation conditions fail to require limitation of applicant activities to that one daily round trip. If this assumption is critical to the conclusion of no significant impact, then it should be established as a mitigation condition. Otherwise, the EA report should analyze the effects of a potentially higher level of train traffic at different operating hours to assess associated impacts on the Town and its residents.

The EA report requires compliance with all requirements of applicable federal, state and local regulations regarding handling and disposal of waste materials as a mitigation measure. It is silent with regard to compliance with laws and regulations governing the transport and handling of hazardous materials. Mitigation should require compliance with all federal, state, and local regulations applicable to the operations and facilities associated with the proposed project.

The EA report establishes mitigation requirements for responding to spills and releases, but is silent regarding measures to prevent and contain such releases. The mitigation measures should include spill prevention planning requirements and construction of suitable containment structures and facilities for the operations conducted on the site.

5.2 WATER RESOURCES

The EA report concludes that there will be negligible impacts on site ground water and the Town drinking water resource because construction and operations personnel will be familiar with regulatory requirements and safe procedures for handling hazardous materials such as fuels and oil. However, it does not include a mitigation condition requiring that the construction and operations personnel have the necessary training to ensure safe management of these materials in compliance with applicable regulations. In effect, this failure undermines a key assumption that is the basis for concluding that there is negligible potential for impacts. Training and necessary certification of construction and operations personnel to address these issues should be a required mitigation condition.

Similarly, the EA report concludes that "not handling hazardous materials in the GWPD would eliminate a potential source of contamination" to the Town drinking water resource. However, the mitigation conditions do not require that such materials not be handled on the site. This omission is particularly grave, given the very general and vague list of commodities proposed by the applicant to be handled on the site. Some of those types of commodities routinely contain materials that may be characterized as hazardous or that exert adverse environmental impacts under certain conditions. The SEA needs to identify with a high degree of specificity the types of commodities that can be handled on the site that will minimize potential risk to water resources in the area.

The EA report also concludes that the regulatory prohibition against the applicant interfering with continuing remedial efforts at the Olin property will result in negligible impacts on drinking water sources. The list of mitigation conditions does not, however, affirm the obligation of the applicant to not interfere with these activities.

The U.S. Army Corps of Engineers does not administer regulatory and permitting programs for storm water discharges (Condition 5). This responsibility belongs to the USEPA. Condition 5 requiring compliance with storm water permitting requirements should be corrected to cite the proper regulatory authority.

5.3 WETLANDS

Section 4.13.1 of the EA report states that future connection of a spur to the existing MBTA line could result in impacts on wetlands. That section then goes on to outline a series of steps that the applicant would be required to take to comply with regulations and permitting requirements governing disturbance of wetlands. These requirements are not included in the mitigation conditions for the project and should be added.

5.4 HAZARDOUS MATERIALS/WASTE SITES

As discussed in Section of the EA, the Olin property is the site of an extensive, continuing effort to remedy historical environmental impacts in soil, sediment, and ground water that, to date, has been overseen by MADEP. The scope of the final remedy is not yet clear because additional characterization of site impacts is required to address NDMA and other contaminants that have not, as yet, been identified (MADEP letter dated November 20, 2003). The EA report concludes that the MADEP oversight and proposed contractual obligations between the applicant and property mitigate concerns regarding interference of the proposed project with the continuing remedial efforts; however, the mitigation conditions do not assert the requirement that the activities and facilities associated with the proposed project not interfere with continuing efforts to characterize the relatively complex existing environmental impacts and subsequent remedial efforts. This condition should be added to the list of mitigation requirements asserted by SEA.

5.5 FUTURE USE

In Section 4.13.2, the EA report refers to the applicant's future plans to establish a "break-bulk facility (storage facility) and accompanying enclosures" on the proposed project site. There is no

information provided regarding the proposed operations of this facility, the nature of the materials to be handled therein, and the design of the facility and "accompanying enclosures" to allow analysis of potential environmental impacts associated with the planned future use. The future use of the site also is described as including development of industrial spurs to the south and west of the site, areas that are identified to contain wetlands. There is no information or analysis regarding potential impacts to wetlands associated with such development. To the extent that the future operations involve repacking containers of construction debris or other wastes (i.e., operating a transfer station), the MADEP has clearly established that such operations will be subject to at least review and probably permitting under the Commonwealth's solid waste regulations (MADEP letters dated June 5, 2004 and August 25, 2004). Given the absence of detailed information and analysis of the proposed future operations at this site with its history of extensive historical environmental impacts in an area of the Town that supplied approximately 60 percent of the public water supply, the SEA should reserve the authority to perform a detailed environmental review of proposed future operations of the applicant before they are initiated. At a minimum, the mitigation conditions should include a requirement for such a review.

6.0 SUMMARY

Because of its rail operations, NET seeks exemption from the level of federal scrutiny that would otherwise govern the location of a rail facility and that would certainly apply to a commercial facility at the Olin site. Any lack of a detailed review process would eviscerate programs that are designed to protect public health and welfare associated with use of the Maple Meadow Aquifer, and would place the community at risk. Among these requirements are the Ground Water Protection section of the Town of Wilmington Zoning Bylaw (Attachment C) and the Massachusetts requirements for activities within the Zone II of a public water supply well (Attachment D). The community of Wilmington has already been significantly affected adversely by the historical impacts to the Maple Meadow Aquifer that have caused it to remove 60 percent of its water supply from use. Careful review of the uses proposed by NET is warranted to ensure protection of the public health and welfare of the community from exposure to additional impacts and exacerbation of existing impacts. The EA report does not adequately identify and analyze potential environmental impacts associated with the proposed NET project. It also does not establish adequate mitigation requirements for conditions that the SEA considers may pose an impact or for conditions that are necessary to ensure the viability of assumptions the SEA makes in concluding that certain conditions will not result in unacceptable impacts.

As stated previously, redevelopment of impacted sites is typically a positive event in the eyes of a community. However, redevelopment of the Olin site, as for all such sites, must carefully consider site impacts and incorporate close coordination with remedial planning. This approach ensures that development does not proceed in a manner that impairs full and appropriate remediation of the site. The recent discovery of NDMA impacts associated with the Olin site and the potential for identification of other as yet unknown impacts indicate that site conditions and contamination sources are not yet sufficiently characterized to support development of a comprehensive remedial action plan for the site. Indeed, MADEP has suspended review of certain elements of the Phase III Remedial Action Plan pending completion of the NDMA investigations. Redevelopment activity on this property in the existing context of incomplete knowledge of the nature and extent of site impacts would be highly unusual, perhaps even unprecedented, and would be entirely inconsistent with the standard of practice for brownfields

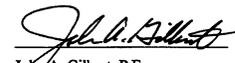
redevelopment. At a minimum, a far more extensive and thorough analysis of the potential impacts of the proposed project is required to ensure adequate protection of the people and natural resources of the Town of Wilmington before a reasonable, technically defensible decision regarding the appropriateness of an exemption from the formal application procedures of Section 10901 of Title 49 of the U.S. Code.

September 16, 2004
GeoInsight Project 3754-001

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CERTIFICATION

I hereby certify that I have served a true and complete copy of the foregoing documents by first class mail, postage prepaid, this 16th day of September, 2004 to the persons listed on the attached service list.


John A. Gilbert, P.E.
Principal
GeoInsight, Inc.

SERVICE LIST

John McHugh, Esq.
Six Water Street, Suite 401
New York, NY 10004

September 16, 2004
GeoInsight Project 3754-001

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Town of Wilmington

Board of Health
121 Glen Road
Wilmington, Massachusetts 01887

August 26, 2004

Neil Sullivan
ICF, Incorporated
9300 Lee Highway
Fairfax, VA 22031

Re: Finance Docket No. 34391
New England Transrail, LLC
D/b/a/ Wilmington and Woburn Terminal Railroad Co.
Construction, Acquisition, and Operation Exemption
In Wilmington and Woburn, MA

Dear Mr. Sullivan:

I am writing to offer comments on behalf of the Board of Health of the Town of Wilmington on the New England Transrail proposal to construct and operate a truck-rail reload facility at the Olin Chemical site located at 51 Eames Street, Wilmington, MA.

Upon review of the current document, Environmental Assessment by SFA, it appears that the current consideration for this project is that it be approved with a list of conditions which are meant to mitigate the environmental concerns involving the construction and operation of the facility.

I am writing to advise the Transportation Board that the environmental conditions that exist at this site and in the immediate area are of such a severe nature that this project should not be approved.

As Director for the Wilmington Board of Health for the past nineteen years I can attest to a long history of chemical spills, air pollution incidents, citizen complaints, and enforcement actions which have occurred in this small industrial area in the Town of Wilmington. The amount of complaints and environmental problems that plague this small area is very serious and deserves much more consideration than is being given. The operation of a truck-rail facility will exacerbate all of the existing conditions.

It will be impossible to conduct this kind of operation without, at the very least, violating noise standards. With residential homes in close proximity, and based on past and present experience, one can assume that citizens' complaints will be forthcoming for noise created at the site by operations. Citizen complaints will result in required enforcement action by the Wilmington Board of Health

On this point, the Environmental Assessment document discusses noise using a standard involving 1300 feet distance to effected residences, and concluding that there will be no problem with noise as a result of this assessment. This conclusion has no basis in reality. I would point out that the standard in the Commonwealth of Massachusetts, set by the Department of Environmental Protection (DEP) policy for noise pollution is that the sound levels cannot exceed 10 decibels (dB) over background as measured at the property line of the site, not 1300 feet away. Under this standard a truck-rail operation would constantly be in violation. During the week of August 20, 2004, enforcement action was taken and a citation with a fine was issued for a single truck delivery at a nearby location. This a common occurrence in this neighborhood. At early morning hours (those hours when rail activity is proposed) the sound levels will be very high relative to the background levels. Noise at these times will not be tolerated by the citizens, nor by the Board of Health.

In addition to the DEP policy, the Town of Wilmington has its own local policy which is even more restrictive than that of the DEP. In accordance with Section 122-125 of Chapter 111 of the Massachusetts General Laws, the Board of Health is required to investigate into all nuisances and take appropriate actions, wherein there is no decibel standard for noise, except that when it is determined that any noise is a nuisance, the nuisance must be abated. Failure to abate the nuisance or allowing the nuisance to continue or repeat is a criminal offense and is enforced with citations and fines, and when necessary by criminal complaint in the Woburn District Court. This Director is very familiar with this process as it needs to be used routinely. My experience is that all nuisances are abated, with the action of the court. The result of which, many businesses have left the area as they cannot operate without disturbing the peace and quiet of the community in that area.

What is more troubling, however, is the attempt to establish a new high risk industrial activity at this site at this very critical time. Chemicals from the 51 Eames Street site have contaminated the aquifer and caused the majority of the Town of Wilmington's water supply to become unusable for the distant future. Five of the nine Wilmington water supply wells have been closed due to the chemical contamination from the 51 Eames Street site. Claims in the NIEI submittal that the project is not in the Zone II (Aquifer Recharge Area) are incorrect. There is little dispute that the severe contamination came from the Olin site.

The Comprehensive Site Assessment (CSA) required by the Massachusetts Contingency Plan (MCP) regulations has not yet been completed. The site must remain inactive until all site assessment activities have been completed, else the possibility of new contamination and new responsible parties will complicate the already complex problem (i.e., the project plans to store salt (sodium chloride) on site. It happens that both sodium and chloride are constituents of the Olin site contamination drawn by the town's water supply wells).

The Transportation Board may not be aware that this contamination problem has migrated off site and covers hundreds of acres of land in the Town of Wilmington. It may take many years to fully assess the effected area. The site assessment, as well as human health assessments presently in progress need to be completed before further potential risks can be fully understood. The introduction of new chemicals in such large quantities bring with it the potential for catastrophic environmental damage. On this point alone, the project should be denied, and I emphatically put that comment to you.

I would also point out that although it is true that air pollution is reduced over all by eliminating truck traffic in the general area when replacing it with rail service, it is also true that the Town of Wilmington would be the host community of the rail service and would not only bare the burden of the air pollution caused by that rail service, but would also be the focal point of all truck traffic bound for the rail service. The benefit of reducing air pollution generally is not justified when all of that air pollution will be now concentrated in an area already suffering from a high number of documented air pollution violators.

Finally, it has been surmised that this facility will be involved in some way with the transport of municipal solid waste (MSW). It is my view that neither the Board of Health nor the citizens of the Town of Wilmington will welcome any MSW handling facility. The town will aggressively pursue any measures that will prevent MSW activities at this site.

Thank you for your consideration.
For the Board of Health

Yours truly,

Gregory Erickson, R.S., C.H.O.
Director of Public Health

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email: boh@town.wilmington.ma.us



Chief Robert H. Spencer

TOWN OF WILMINGTON
MASSACHUSETTS
POLICE DEPARTMENT
One Adelaide Street
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FAX 978-658-0035

August 25, 2004

Town Manager
Michael Cairra

Subject: New England Transrail, LLC

After reviewing this report, I have the following to offer:

NOISE:

This proposal is indicating they will bring a train pulling 25 cars comprised of a variety of materials. The report indicates this train will arrive at said location between the hours of 1-5am. The report also indicates that the nearest residential development is 1000 feet distant.

During the early morning hours, noise carries much further. Competing interests such as motor vehicle traffic and businesses are not operating to muffle the noise. The report also does not indicate at what time these materials will be off-loaded and or transferred to trucks.

The vehicles necessary to re-load the proposed trucks will be equipped with backing signals that emit a loud beeping signal when backing. The buckets utilized to scoop up the materials deposited are made of metal. When they clash with the sides of the trucks they will be loading, further noise will be emitted into the neighborhood.

This particular area has been the focus of much discussion for many years. This discussion centered around pollutants in the water to odors emitted from a variety of businesses located within a short distance of this proposed Transrail project.

The rail line which runs through this same area onto Lowell is a conduit for noise. Since I live a short distance away, it is not unusual to have noise from this area travel up this rail line. When Brewster Lumber yard was in operation, noise was



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frequently heard from this operation. Many times over the years, noise complaints would be attributed to Eames St businesses. Noise complaints were also attributed to a soft drink company performing work during the early morning hours.

To add into this mix, additional noise from Transrail will serve as an indicator that the residential properties outside this 1000 foot boundary are not being considered by the proponents of this Transrail project.

TRAFFIC:

Eames Street: Speed limits for this street are as follows:

EAMES STREET EASTBOUND:

Beginning at a point 160 feet from Route 38, thence easterly on
Eames Street
0.27 miles at 30 miles per hour
0.12 miles at 20 miles per hour
0.22 miles at 25 miles per hour ending at Woburn Street;
the total distance being 0.61 miles

EAMES STREET WESTBOUND

Beginning at a point 50 feet from Woburn Street thence westerly on
Eames Street:
0.21 miles at 25 miles per hour
0.12 miles at 20 miles per hour
0.30 miles at 30 miles per hour ending at Rte 38.
The total distance being 0.63 miles

In conversations with Prem Kapor of the Mass Highway in Arlington, (781-641-8310) I was informed that the Eames Street bridge was designed by Fay Spofford and Thorndike and it is designed to carry:

- 20 Ton trucks with Two Axles
- 25 Ton trucks with three Axles



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36 ton Trucks with Five Axles.
The 36 ton trucks with five axles are designed to carry a maximum capacity of 36 tons.

According to Prem Kapor, the bridge is not posted and is not required to be posted with these specific weights. This is all predicated on the fact that the Bridge Rating Report was prepared by FST during February 2004.

Bridge Posting Sign Policy

"Effective February 14, 1995, bridge postings that were previously ordered by the Board of Commissioners, to establish legal enforcement signs, shall be rescinded under the following conditions:

- When the posted bridge has been replaced with a new bridge designed in accordance with AASHTO H18-20 loading or higher.
- When the existing bridge is entirely reconstructed or rehabilitated in accordance with AASHTO HS-20 loading or higher.
- At the completion of the reconstruction projects, existing posting signs shall be removed.

No action by the Board of Commissioners is required.

I see no indication in the Transrail report that trucks exiting this property and traveling towards Woburn Street on Eames Street and crossing this bridge will be weighed on site to comply with the capacities of this bridge.

Trucks of a five axel length are usually 53 to 58 feet in total length. Presently, trucks which are of a much smaller overall length are having extreme difficulty making the right hand turn from Eames Street onto Woburn Street. Since this report was issued, I have parked on Ox Bow to observe. Tractor Trailer trucks exiting Eames St onto Woburn Street Southbound are having to traverse far into the West Bound lane of Eames Street to make this turn. (**Avg Auto is approx 14ft)



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Additionally, this intersection (Eames and Woburn Street) is intersected by another road known as Oyster Bow Drive. A school bus is in this intersection Monday through Friday in the am and mid afternoon picking up and dropping off students. This proposed Transrail Operation will contribute to an already overburdened intersection and directly affect the safety of motorists, residents and school children.

per Mass Highway District Four

"Should a truck exceed these loads, which is crossing the bridge, they must apply for permission giving the distance between the axles and each axle weight of the vehicle in question, to the Bridge Engineer, 10 Park Plaza, Boston, MA. Many cities and towns do apply for this permission for their fire equipments when the equipment loads are exceeding these statutory load limits."

TRAFFIC SURVEY 08-23-08-24-2004 from 5am-5am

WOBURN STREET WEST TURNING ONTO EAMES ST 2646 Vehicles
EAMES STREET TURNING ONTO WOBURN STREET 2651 Vehicles
TOTAL VEHICLES ENTERING/EXITING EAMES ST. 5,297 vehicles

Intersecting business driveways and streets with Eames Street. There are presently 20 driveways, to homes, businesses and one Street that intersects with Eames Street along its entire length from Main Street to Woburn Street.

TRAFFIC SURVEY from 9am/8-24 to 9am 8/25/2004

TRUCK COUNTS TURNING FROM EAMES ONTO WOBURN SOUTHBOUND there were: 855 trucks. Includes all trucks from 2 axles through 5 axles.

TURNING FROM WOBURN STREET ONTO EAMES



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WEST BOUND there were: 813 Trucks comprised of two axles through 5 axles.

There were a total of 1668 trucks entering and exiting this intersection during a 24 hour period from 8-24 9am thru 8-25-2004 9a.m.

Peak time frame in morning 6am-9am on 08/25/2004 a total of 205 trucks entered Woburn Street from Eames Street.

6am-9am on 08/25/2004 a total of 168 trucks entered Eames Street from Woburn Street

4pm-7pm on 08/25/2004 a total of 125 trucks exited Eames Street onto Woburn Street.

4pm-7pm on 08/25/2004 a total of 175 trucks turned from Woburn Street onto Eames Street.

This is a total truck count of 673 trucks turning and exiting this intersection between these peak hours.

This does not include the number of trucks that are traversing down Woburn Street without making a turn or entering Eames Street.

Additionally, on 8/25/2004, during the time frame of 8:15am through 8:30a.m., I along with Safety Officer Brian Moon observed trucks exiting Eames Street on Woburn Street.

- A 53-foot box truck with a 15-foot tractor pulling it approached the intersection. It was indicating a turn to go southbound from Eames Street on Woburn Street. I spoke to the driver. He was coming from a business on Jewel Drive, Wilmington. He was hauling cheese and he was trying to make his way to Presidential Way to enter Rte 93.

We then observed him make the right hand turn onto Woburn St (SB) He had to



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venture into the (WB Lane) of Eames Street to make this turn. In doing so, he crossed all the way over into the (NB Lane) of Woburn Street and also crossed over the (NB Lane) fog line. By the time he had straightened out his tractor into the proper lane (SB) he had arrived at the driveway to Advanced Automotive Technology located 779 Woburn Street. (This property includes the house on the corner) This particular truck traveled approximately 130 feet from the intersection with Eames before the tractor ended up in its proper lane. The box truck took another (estimated) 35 feet. before it was wholly within its proper lane.

We observed another two box trucks with tractors have to perform the same turning maneuver to be able to properly make this turn southbound onto Woburn Street. The third truck as it was about to turn a line of traffic had stopped close by the intersection with Ob Box Dr. This necessitated hand signaling them to proceed NB on Woburn St so enough room would be available for this third box truck to make the turn.

Sincerely,

Robert Spencer
Chief of Police



TOWN OF WILMINGTON MASSACHUSETTS POLICE DEPARTMENT One Adelaide Street Wilmington, MA 01887



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Chief Robert H. Spencer



TOWN OF WILMINGTON 121 GLEN ROAD WILMINGTON, MA 01887

PLANNING & CONSERVATION DEPARTMENT

(978) 658-0238 (978) 658-3311 FAX (978) 658-3334

MEMORANDUM

To: Jeffrey Hull, Assistant Town Manager
From: Carole Hamilton, Director of Planning & Conservation
Re: Comments on New England Transrail, Environmental Assessment
Date: August 26, 2004

This memorandum draws attention to two methodological issues concerning New England Transrail's Environmental Assessment which should be addressed. The first is found in the section on Noise in the Executive Summary (ES.5.2) and the report (3.2) and the second in the section on Environmental Justice, Executive Summary (ES.5.12) and report (3.12). Each is discussed below.

Additionally, there is a blatant disregard for comments made by Lynn Duncan, former Director of Planning and Conservation, in her memorandum dated October 15, 2003 concerning traffic and conservation issues. These issues are also reiterated below.

- 1. Noise The Assessment (ES.5.2) determines there are "no noise-sensitive receptors... within 1,300 feet of the proposed project site." No standard is cited for determining the use of the distance of 1,300 feet. It appears this distance is arbitrary and used to further the applicant's case. Doubling the distance to 2,600 feet takes in a large residential area, including a nursing home, located along Woburn Street starting at the intersection of Eames Street. There is good reason for using 2,600 feet, as it represents the area also impacted by the truck traffic exiting the site and turning onto Woburn Street on the way to Rte 93.

Using the Assessment's standard, in Wilmington alone, there are actually 26 residential dwellings, including one classified as an apartment according to the Wilmington Assessor's Office, within 1,300 feet of the proposed project site. In the report (3.2) there is a change in the measurement standard to 1,000 feet and an admission that "...the nearest noise sensitive receptors to the proposed project site

Jeffrey Hull
August 26, 2004
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are in a residential area located over 1,000 feet west of the project," a further indication that the measurement is arbitrary and attempting to be advantageous to the applicant. There is no identification of the residentially zoned land existing in an R-20 zoning district less than 350 feet from the proposed project site to the east. Some of the 26 residential dwellings identified above exist in this area. As there is undeveloped land in this zoning district, it is yet to be determined how many homes eventually would be impacted by this project.

The Assessment also fails to analyze the noise impact of 400 truck trips per day on the residents located within 1,300 feet of the intersection of Eames and Woburn Streets. There are 97 homes and one nursing home located within this area. With the one trip per day train entering the proposed project site between 1 and 5 a.m., it is reasonable to think that at least some of the truck traffic will occur during night time hours when people in those 97 single family homes are trying to sleep, put children to bed, enjoy a few quiet hours of entertainment or relaxation not to mention the impact on the residents of the nursing home.

2. The Environmental Assessment contends there is no adverse environmental impact on minority or low-income communities. While it is agreed there is no unusually high concentration of minority populations in the area of the site, the Assessment appears to incorrectly define "low income" populations. The Assessment uses persons living below the poverty level even though the environmental justice criterion is low income. In general, HUD income guidelines are the standard for determining low income households. They are used to issue Section 8 Housing Certificates and administer HUD funded programs benefiting low and moderate income households. HUD defines low income as 80% of median income for the MSA, adjusted for family size. In Wilmington's case the MSA is Lowell, MA-NH and for Wilmington the town-wide percent of low-income households is 24.5% (Information from the Massachusetts Department of Housing and Community Development). The HUD income limits are modified annually. The attached chart details low income limits by family size for fiscal year 2000. The FY2000 limits are provided so there is consistency with census data used by the Assessment to compare the Block Group with the unit of geographic analysis (Middlesex County). An inquiry to the Metropolitan Planning Commission for comparable data on low income households for the Block Group uncovered that Wilmington does not have a Block Group numbered 251073313002, the number identified in the Environmental Assessment. The Assessment should, at least, use the appropriate criteria and data for determining whether or not Environmental Justice Laws apply to this project.

3. Traffic - The Assessment indicates the Applicant shall provide \$50,000 to the Town to "...assist in purchasing land to expand the Eames Street right-of-way and improve the right-turn geometry of the Eames Street and Woburn Street

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intersection." The mitigation the Town requests be conditioned, should the project be approved, is that the intersection of Eames and Woburn Streets be improved by the Applicant in accordance with engineered plans subject to the approval of the Town of Wilmington. This includes, as part of the Applicant's responsibility, the actual acquisition of the right-of-way necessary to implement the intersection improvements. The Town should not be responsible for conducting negotiations with a private property owner for purchase of land to benefit another private property owner, nor is there any guarantee the owner will be willing to sell for the "fair market value." Limiting the contribution and responsibility of the Applicant to \$50,000 for reconstruction of the intersection virtually insures the intersection improvement will not be accomplished.

4. Conservation - Additional comments from Robert Douglas, Assistant Director of Planning and Conservation, are submitted under separate cover and specifically address the outstanding conservation issues and concerns on this property. However, it cannot be stated forcefully enough that this site is currently unstable. Remediation is not complete. Having a new owner developing the site will administratively complicate the clean-up of this site. The Assessment states a future intention to conduct a Break Bulk Facility (4.13.2) on this site. The operation, its future and current proposals, provides potential for material (construction debris, non-hazardous chemicals) to mix with hazardous material already existing on the site. No one is able to determine with certainty that this new mixture will not produce something equally or more hazardous than what already exists. Who then is responsible for the new contaminate: Olin for the fact of a hazardous material already on site or New England Transrail for the introduction of a material causing the production of a new contaminate?

HUD INCOME LIMITS

FY 2000

Low - Income, 80% of Median

Family Size

1.....	\$ 35,150
2.....	\$ 40,150
3.....	\$ 45,200
4.....	\$ 50,200
5.....	\$ 54,200
6.....	\$ 58,250
7.....	\$ 62,250
6.....	\$ 66,250



TOWN OF WILMINGTON

121 GLEN ROAD
WILMINGTON, MA 01887

PLANNING & CONSERVATION
DEPARTMENT

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Memorandum

To: Jeffrey Hull, Assistant Town Manager
From: Robert Douglas, Asst. Director of Planning & Conservation
Re: Conservation Commission Comments on New England Transrail, Environmental Assessment
Date: August 26, 2004

The Wilmington Conservation Commission appreciates the opportunity to comment on the Environmental Assessment submitted by New England Transrail. The Commission remains very concerned about the possible ramifications of redeveloping a site currently in the midst of extensive remediation. The proposed project, at the objection of the Conservation Commission, has avoided filing an Environmental Impact Report (EIR) by gaining a designation as a "previously permitted project." The Commission reiterates that the Transrail proposal is not a "project change" but in fact represents a completely new project. There is no question that had the Commission known the extent of the Olin contamination at the time of the previous application, the commission would have denied the project. Since the previous application, the DEP has produced a report showing high levels of the carcinogen NDMA including one sample collected 530-feet from a previously active water well. The Commission agrees with the statements made by Senators Edward M. Kennedy and John F. Kerry, and US Representatives Markey and Teimony, who state in their October 29, 2003 letter to Neil Sullivan of ICF Incorporated that the, "Investigation of the extent of the NDMA impacts and source(s) is currently in progress. The presence of NDMA and the discontinued use of certain municipal wells will require reevaluation of the currently selected remedial alternative for this site; this reevaluation is currently in its early stages." The Senators conclude their letter with the emphatic request "that all environmental issues be fully addressed and mitigated before any construction is allowed to proceed."

The Commission is quite familiar with the Olin site, and fully concur with the Senator's request above. Due to its close proximity to critical State jurisdictional resource areas, the Commission and its agent inspect the site more frequently than any other Town Department. The Commission has had over 25 different Notice of Intent filings for the Olin property, and as detailed below, many remain open. The Commission is well aware that the site cleanup and remediation is far from completion, and urge that any site redevelopment be deferred until the property is fully remediated.

The Olin site has several open Orders of Conditions. These Orders of Conditions are identified by a unique DEP file number, and currently DEP orders 344-419, 344-733, 344-850, 344-879, 344-881, and 344-928 remain open. Each of these permits addresses reconstruction of natural areas, monitoring, or cleanup of previous spills and on site pollutant components. Each of these orders must be complied with, and each order states, that should a transfer of ownership occur, the new owner must be notified in a timely fashion. It has been the Commission's experience that the Olin Corporation has "dragged its feet" and has not expedited the cleanup of the property. Deadlines, assigned by DEP and the Commission, are met with requests by Olin for more time after little work has been accomplished. Additionally, it is the Commission's contention that transfer of ownership must be predicated on Olin's commitments being met as well as the submission of a system wide cleanup plan detailing all aspects and funding of these efforts.

The following are the Commission's specific comments concerning the Environmental Assessment:

- 1) In a prior document, the Town of Wilmington Conservation Commission was assured that a large wooded portion of the Olin site would be protected via a Conservation Restriction. The applicant has voluntarily agreed to restrict development of the remainder of the property from the wetlands associated with the south ditch to the southern property line. This will be accomplished with a Conservation Restriction. (Order of Conditions #344-733, page 2, special condition 22). This land must have a restriction placed on the property's deed with the protection of Conservation restrictions granted in perpetuity. The restriction is required as part of the DEP's 401 Water Quality Certification for the site. A letter to Olin by the DEP Wetland Chief, James Sprague clearly details that "a conservation easement will be placed on 13 acres of the site south of the south ditch." Furthermore, the letter details that, "Failure to comply with this certification is grounds for enforcement, including civil and criminal penalties, under MGL c21 Section 42 MGL c21A Section 16, or other possible actions/penalties as authorized by the General Laws of the Commonwealth." The letter from DEP is dated July 27, 2000, over 4 years ago. While mentioned in the EA, (ES.5.6), the disposition of this restriction is unresolved.
- 2) The Project proponent's "no action alternative" (ES.3.2) states that under this alternative, "The only activity occurring at the Olin property would be the ongoing environmental remediation from previous industrial activity involving Olin." The Commission would prefer that this alternative be chosen. It is essential that remediation occur in an unimpeded fashion.

Olin's Alternatives (ES.3.32 The Tewksbury Alternative and ES.3.3.3 Ayers Alternative) seem misleading and inappropriate. Tewksbury is rejected as being unsuitable due to its location. The proposed Transrail location in Wilmington would itself affect residential and retail locations in the area. The distance of the Tewksbury site from Boston was also mentioned (30 miles). A quick check of distances on the website Mapquest reveals the distances as approximately 22 miles from Tewksbury to Boston, and 16 miles from Wilmington to Boston. The difference in distance (6 miles) seems to be arbitrary, and the Commission does not feel six miles meets the grounds for exclusion. The size of the alternative parcel of 8 acres is mentioned as being too small for the project to be located in Tewksbury. It should be mentioned that while the Olin site is a total of 53 acres, nearly 75% of the area will be unusable due to the wetlands, the required Conservation restriction, the Calcium-Sulfate landfill and other impediments. The remaining 14 usable acres is not significantly larger than the Tewksbury acreage.

The Ayer, Massachusetts alternative site, (mistakenly referred to as "Ayers" in the EA), seems to be a completely inappropriate location for any kind of consideration, as it is not near an active rail

line. It appears that Transrail has not made a good faith attempt to present a fair Alternative Analysis. By using an unrealistic site as alternative, it seems the project proponents are attempting to create a false impression as to the suitability of the Olin site. The Commission suggests serious consideration of the "No-Action Alternative".

- 3) The Olin Property currently contains a landfill, which does not meet DEP's criteria for a closed landfill. This area is comprised of calcium-sulfate and other material dredged from Olin's open discharge lagoons. Documents from the Department of Environmental Protection indicate the cover is less than required. A letter from the DEP Regional Engineer dated March 1992, states; "To date the Department has not received documentation that the landfill was closed pursuant to the approved closure plans, as amended by the Department June 6, 1988, or replacement plans." This letter is dated over 12 years ago. This landfill is just one of many serious mitigation measures that remains unaddressed on the site.
- 4) The Commission does not concur with the EA that the "implementation of the proposed action would result in negligible impacts on groundwater". Increased truck traffic would be to the detriment of the resources under the Commission's jurisdiction. The increase in exhaust, automotive fluid spills, dropped materials, and noise would have an undeniable negative cumulative environmental effect. The possibility of spills is of great concern to the Commission. It has been theorized by experts that the NDMA contamination may have been formed by chemicals from different sources mixing and combining within the groundwater. The EA in Section 1.4.1 footnote 5 correctly states that, "Contamination on the property has migrated beyond the properties boundaries." Additionally in section 1.8 that, "In the past, activities at the proposed project site have been linked to the contamination and closure of drinking water wells in Wilmington." Any possible source of new contamination, or combination of chemical components chemical components must be strictly avoided.
- 5) The plan in section ES.5.5.4, states that the Proposed Action would not directly impact the wetlands on the site. The concern remains, however, that expansion of the project mentioned in ES.5.13.1, allowing to access the Boston-Concord line, would violate existing restrictions delineated in the Commissions Orders of Conditions for the Olin site. The property has undergone severe impacts to its wetlands and other resource areas; further development of these jurisdictional areas are restricted under the Orders.
- 6) The nature of materials that are handled at the re-load center is of great concern to the Commission. The list presented is extremely general. Unfortunately, as had been mentioned by the Commission previously, mixed materials, as listed for transport are notorious for contaminants that are not described in the shipping manifest. While the project proponent may state that "the facility will not reload any hazardous materials", it is common knowledge that mixed waste often includes contaminants. Unconsolidated materials, such as construction debris, is often laden with contaminants of which the shipper may not be aware; yet the surrounding area may become adversely effected none the less. The applicant's list which includes; Chemical products, liquids, non hazardous wastes, soils, wood products, and any other products which can be transported; is far too general. All too often municipalities are harmed by materials brought inside their communities of which they are unaware. The list presented is so general (ie: any other products) that it essentially gives carte blanche to bring in any materials the owner wishes. The Olin Corporation, and the site's previous owners had in many ways the same free hand. The community and environment still suffer hardships as new chemical compounds are found within the area. As the recent discovery of NDMA so clearly demonstrates; it is in the best interest of a community to have control of and be aware of all materials brought into its confines. Additionally, in previous meetings with Transrail representatives, the Commission was assured that the

proposed use would prohibit the transport of radioactive material to the Olin site and that all subsequent plans and proposals would mention this exclusion. The EA does not mention the radioactive materials exclusion.

September 14 2004

Case Control Unit, Chief
Surface Transportation Board
Attention: Ms. Phyllis Johnson-Ball
1925K Street NW
Washington, D.C. 20423

RE: Finance Docket # 34391
New England Transrail, LLC d.b.a Wilmington and Woburn Railroad

Dear Ms. Johnson-Ball,

Please except the enclosed petition to make you aware of the opposition to the approval of the rail line and break bulk facility being proposed by New England Transrail, LLC which is currently under your review. The petition also insists that at a minimum the STB require a full formal review and investigation of the contamination associated with the Olin site that is responsible for shutting down the Town of Wilmington's water supply.

The 378 signatories urge the STB to implement their policies responsibly to ensure that no segment of the population, such as Wilmington, is burdened with a disproportionate share of negative consequences resulting from industrial operations and the execution of governmental policies.

In addition, the petitioners strongly urge the STB to not only give this site the environmental review it deserves, but to also consider the information being submitted by the citizens and the Town of Wilmington.

Thank you!
Sincerely,
Suzanne M. Sullivan
60 Lawrence Street
Wilmington, MA 01887
978 694 9043

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I the undersigned petitioner, am signing this petition to make the Surface Transportation Board aware of my opposition to the construction, acquisition, and operation of rail line under your jurisdiction by New England Transrail for redevelopment of the former Olin Chemical Plant's property into a railroad transload/reload facility. I urge the Surface Transportation Board (STB) to allow for a thorough full formal review and investigation to the extent of contamination associated with this site and to allow for the elimination of any and all potential human health risks. The Town of Wilmington has lost its water supply due to past chemical releases at the Olin site. We can not afford anymore new chemical releases in the future which could impede the clean up process and further burden this residential community which has already shoulder more than its fair share of human health impacts.

1. The neighborhoods in this area are with in a mile radius of 5 landfills (one on the Olin site), multiple hazardous waste sites, the Olin site (one of the worst in the state), a super-fund site. The proposed transload break bulk facility operating at the wee hours of the morning and associated traffic impacts will further diminish what quality of life there is.

It is the STB's responsibility to ensure that "no segment of the population is, as this area already has endured, is not further burdened and with a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies". Therefore I strongly urge that the STB deny the construction of the proposed rail lines, and at a minimum, require a formal review this site deserves and to consider the information being submitted by citizens and the Town of Wilmington regarding this site.

- Allen Fugle 1401 Patriot Pl. Wilmington
- Sonia Fung 1401 Patriot Pl. Wilmington, MA 01887
- Michael Hammond 17 Forest St. Wilmington, MA 01887
- James M. Desjard 17 Forest St. Wilmington, MA 01887
- David A. Boudreau 16 Pershing St. Wilmington, MA
- Karen Boudreau 16 Pershing St. Wil. MA 01887
- Mark Sullivan 49 Alonstino Dr. Wil. MA 01887
- MARIA SULLIVAN 49 Alonstino Dr. Wil. MA 01887
- Michael C. Brown 25 West St. Wil. MA 01887
- Diana Lense 568 Woburn St. MA 01887
- Robert Mathew 150 Main St. MA 01887

Dear Ms. Phillis Johnson-Ball: I am writing out of concern for my family and for members of my community. I am alarmed at the possibility that our town may have to bear the burden of a Transrail facility. You are aware that the site being considered is an environmental hazard and has caused a disproportionate number of our residents to become ill with various debilitating sicknesses. I am convinced after reviewing the various briefs filed with your agency that the facility being considered will expose our community to additional hazardous wastes both airborne and waterborne. Furthermore, any new development on the site would hinder the cleanup of the site so desperately needed. I am also alarmed at the increased traffic congestion and the associated dangers involved to our community. My wife drives our three children to school over that route every day and the increased congestion would be a major impact to the safety and welfare of my family. The facility states that it would handle 400 trucks per day. That means 400 trucks entering and 400 trucks leaving the facility each day. During an 8-hour day that would calculate to more than one truck each 1 1/2 minutes on a 2-lane road that is already congested. It just won't work! The roads will not handle it. Considering these and other important concerns voiced by my neighbors, I hereby request that you and the other members of the board reject any initiative to permit building such a facility in Wilmington. Sincerely Concerned, John J. Frackleton

ET 1038

Ms. Phillis Johnson-Ball
Case Control Unit
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423

September 19, 2004

RE: Finance Docket No. 34391
Environmental Assessment, New England Transrail, LLC, d/b/a Wilmington and Woburn Terminal Railroad Co. - Construction, Acquisition, and Operation Exemption - in Wilmington and Woburn, MA

Dear Ms. Johnson-Ball,

This comment is being made in regards to the above referenced Environmental Assessment (EA) conducted by the Surface Transportation Board's (STB) Section of Environmental Analysis (SEA) dated August 4, 2004. The purpose of the EA is to meet requirements of NEPA under the STB's jurisdiction. According to the STB's website and regulations (49 CFR 110) the Board "must take a "hard look" at the potential environmental impacts of a proposed action before it makes a final decision to approve or deny the proposal". Considering the SEA preliminary concludes that the Proposed Action would have no significant impacts if the Board imposes and the Applicant implements the environmental mitigation conditions recommended in the EA indicates that the STB has not take a "hard look" as required. I urge the STB to fulfill their absolute regulatory authority and responsibility in reviewing this Major Federal Action (Sec. 1508.18).

ES.1.1 Board's Obligations Under the National Environmental Policy Act

The STB states that the EA identifies and evaluates the potential direct, indirect, and cumulative environmental impacts of the Proposed Action including the potential of the Proposed Action to impact Olin's ongoing remediation activities.

Sec. 1508.7 Cumulative Impact.

"Cumulative impact" is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

How can the SEA come to the conclusion of no significant impact? The EA falls seriously short in recognizing and assessing the current cumulative impacts of the Project as defined under this filing. To exacerbate an already flawed conclusion the EA disregards the incremental impacts in the future. The SEA identifies two "obscure" pending actions, the MBTA Connection and a Break Bulk Facility. The EA states, "The details of any such facility, and when the property might be developed to include these structures, are not known at this time". There is no doubt that the project before the STB today will soon change. This segmentation will side step the environmental review. It has become clear that this process is the Proponents "foot in the door" to an even less desirable adverse activity.

Sec. 1508.13 Finding of no significant impact.

"Significantly" as used in NEPA requires considerations of both context and intensity.
(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short- and long-term effects are relevant.
(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:

The SEA fails in the following categories outlined by the NEPA requirements...

1. Impacts that may be both beneficial and adverse. A significant effect may exist even if the Federal agency believes that on balance the effect will be beneficial.
The STB fails to address or realize the "Environmental Justice Issues that exist in this area. Evidence of "Environmental Injustice" is further outlined later in this comment. The natural environment can only absorb so much harmful influences before the effects are seen in the human environment. This area has had over a century of abuse and discharges of contamination. The EA only cites the regional benefits and neglects to examine the local adverse effects.
2. The degree to which the proposed action affects public health or safety.
The SEA fails to address the public safety issue regarding traffic, noise, and the effect any accidents/spills will have on the contamination that exists on the Olin site. Until "no significant health risk" is obtained at the Olin site and full discovery of attained there should be no further adverse impacts to this area to complicate or impede what little progress there has been to make this a safe place for people to work. It is the obligation of all agencies to improve conditions at this site not worsen them.
4. The degree to which the effects on the quality of the human environment are likely to be highly contentious
The SEA acknowledges the highly controversial nature of the Olin site. Contention existed prior to this filing and is the cause and effect of the complexities and the impacts the migrated contamination has had on the surrounding communities. The STB appears to have disregarded the concerns of the citizens, state and federal legislators, town officials, the impacts and loss and loss to our community, and the controversy it has provoked.
5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.
Unknown risks; possible effects on the human environment; uncertain; and unique sum up the conditions of the Olin site well. Time and time again both Olin, the DEP, and recently the EPA have stated how unique and uncertain the conditions are at the site and with in the "plume environment". The multiple file cabinets full of scopes of work after scopes of work, the Phase II Assessment that took approximately 10 years to develop, but is still a work in progress due to the discovery of NDMA, and the report from the EPA regarding the evaluation of Chemicals of Concern and the reactions of such with in the Dense Aqueous Plume (DAPL) that has contaminated hundreds of acres of groundwater are all evidence of the complexities of this site. The EA fails to even mention the DAPL which is one of the most prominent features of the Olin site. The fate and transport and "reactionary zones" a.k.a. "Diffused Layer" of this DAPL continues to challenged some of the most astute in their field. We can not afford any more variables until a well thought out plan is in place.
6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.
The two known, however, yet to be determined projects, mentioned previously, the MBTA Connection and the Break Bulk Facility, would fall under this category.
7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.
The two known, however yet to be determined projects, the MBTA Connection and the Break Bulk Facility, would once again fall under this category. The Proponent can not break down the Project to avoid "Significance". This is obviously an attempt to do so. If the Proponent know they will come forward in the future, isn't the STB's jurisdiction to require information on the future acts now?
8. The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.

The SEA seriously fails in evaluating the impact of truck traffic in Wilmington. The SEA does efficiently

address the traffic from entering the RT 38 corridor from the Olin site. However, it does not evaluate the existing conditions at the Woburn St, and Eames St intersection and the West St and 129 intersections. Trucks exiting the site to travel 93 north will use Industrial Way to West Street to 129. Olin describes this route in their original traffic study. Yet those findings are omitted from the SEA report. The Woburn and Eames intersection is dangerously inadequate to handle any large truck turns. This is recognized in the Olin traffic study from a previous project. The intersection of West St and 129 has a rating of F. There has been a plan to improve this intersection for decades, yet no funding has been designated for this action to date. To add to the magnitude of the existing conditions, the New Boston Street Bridge which will connect to Woburn St. will also be opened in the near future adding to the already congested area of West St and 129. Trailer trucks routinely "take out" the traffic lights at this intersection. Trailer trucks turning right onto Woburn from Eames can not avoid crossing to the opposite side of the road in on coming traffic. This is a significant challenge to ever come under current conditions.

The STB is required to address this issue. To indicate that mitigation of \$50,000 is comparable to the impacts to these infrastructures is nonsensical and risks public safety.

Mitigation

The proposed offered mitigation the STB outlines appears to only be of "cookie cutter quality" Many of the requirements are redundant to what would be a required under the Wetland Protection Act and Federal Clean Water Standards. They are no comfort to the citizens of Wilmington and Woburn. In all do respect, I'm sure this mitigation would seem woefully unsatisfactory for members of the STB if this was a decision you would have to live with on a daily bases.

Environmental Justice Issues

It is the STB's regulatory obligation to honestly review the Environmental Justice Issues. The Environmental Justice Laws are quite clear. "Fair treatment" means that no group of people, including a racial, ethnic, or a socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies. Below are facts the STB is required to take into consideration when evaluating whether the "group of people" that inhabit this area have Environmental Justice Issues.

- Wilmington has been engaged in a childhood cancer study since 1999. The Wilmington childhood cancer study is focused on finding any common factors, particularly environmental, which may have caused twice the state average in cancer among our children. Woburn's childhood cancer study and outcome linked to the "Civil Action" is well documented.
- The Anderson Commuter Rail Station, named after a little boy who died of leukemia due to the industrial contamination linked to the Industrial-Plex/Wells G and H Superfund sites is just outside the mile radius from the center of the Olin site which has been mapped (Please see photo attachments.), but which is with in one mile of the Olin property line.
- Two of the Industrial-Plex Superfund site landfills are with in a mile of the center point of the Olin site (See map/aerial photo attachments).
- Within a mile radius of the Olin site there are 5 landfills (6 if one of the Industrial-Plex landfills is considered 2.) They are as follows: The Olin Landfill (still not closed out properly under the MCP), The 2-3 Industrial-Plex landfills, the Woburn Landfill (a stone's throw from the Olin Landfill), and the Maple Meadow/Spirozzola Landfill in Wilmington on the Woburn border.
- The Industrial-Plex landfills, the Woburn landfill, and the Maple Meadow Landfill all received Big Dig materials (contaminated soils) for "capping". It would be a challenge find another area in the State of Massachusetts that has received as much Big Dig and other so called shaping and grading materials (contaminated soils and construction and demolition) in such a small geographical area of a one mile radius.
- According to the Scorecard website Pollution Locator out of the 56 facilities contributing to cancer hazards in Middlesex County, 12 were located in Wilmington and Woburn - six in Wilmington and six in

Woburn - roughly 1/4 of all the facilities in Middlesex for the combined geographic area of both Wilmington and Woburn. The only other community in Middlesex County that comes close to the same number of facilities is Lowell, the 4th largest city in the entire state. According to the 2000 census, Lowell has a population of just over 105,000 people and a land area of 14.5 square miles. The Town of Wilmington has a population of just under 22,000. Woburn has just under 36,000 people. These numbers are alarming and statistically significant. The combined population of Wilmington and Woburn is more than half of the population of Lowell. Yet our numbers for burden of air quality are worse. As an example of just one contaminant, the attached Pollution Indicator shows toluene equivalents in pounds in relation to the facilities cited in the previous section. The numbers are alarming: 8,926,913 lbs. in Wilmington and Woburn and 8,796,023 in Lowell. Middlesex County is considered by Scorecard one of the dirtiest/worst counties in the country.

The statistics for cancer hazards are very similar. In this area it has been reported and be quantified that not just individuals have high cancer (mortality) rates, but whole families. There are many residents still on private wells in this area of Wilmington.

Both Wilmington and Woburn have 2 commuter rail stations. More than any of the other communities in the area. Wilmington has approximately one mile of railroad track for every square mile of our town. Wilmington's historical roots run deep regarding its relationship with the railroad. This has always been viewed as a positive. Unfortunately it is also what appears to have left us vulnerable to endure more than our fair share.

According to the 2000 census and Wilmington Master Plan, Wilmington employs just as many people as we have residents.

Commercial and industrial uses cover 12% of Wilmington. Many of these business operations are located within a mile of the Olin site. The land in Woburn abutting is also industrial except for the neighborhoods to the south of the Olin border which is primarily residential.

The Ipswich River, the third most endangered in the country (designated by American Rivers in 2003), has been impacted by this site. Since the Wilmington wells have been shut down and approximately 1.5 million gallons per day is no longer being withdrawn from Maple Meadow Brook Aquifer, the affects of not pumping on the migration of contamination to surface waters and/or in the groundwater is unknown at this time. The Ipswich River serves 14 communities as a drinking water source.

Rest assure, if the STB researched into the adjacent area to this site, they would certainly find those living in close proximity to this industrialized area meet the criteria for low-income in the Middlesex region. From the data it is clear that Wilmington and Woburn are already bearing more than their fair share for the greater good of the general population. How could any Federal agency expect this area to bear more of a burden than it already does? I do not write this comment as a so called NIMBY (Not In My Back Yard). I do not live in this area of town. However, I feel it is my civic and human responsibility to speak up for those who are unfairly singled out for the profit of others. How ironic that the human sacrifice and the contribution to industry and transportation Woburn and Wilmington have made has also leaves them the target for the "dirty" development the more affluent communities do not want. The purpose of the exemption is to evenly distribute the rail road infrastructure and a use that most do not want in their back yard. I actually support the concept behind the exemption process if done transparently and accurately. But to allow the exemption to be used to facilitate a development of such a complex and highly contaminated site because the landowner can not attract a "clean use" due to hazards that exist there is not only wrong but unjust when the people this site effects have sacrificed so much already.

Our government can not and should not sanction any action that penalizes any group of people because the sacrifices they have already made make them even more vulnerable. This segment of the population deserves the same same opportunities to clean air, water, and a healthy environment that so many others enjoy across the nation and to also allow us to better what is already a seriously awful situation. The people of Wilmington and Woburn are feverishly working to improve our living conditions to make this area a better place to raise our children. It is unfair to play Russian Roulette with an already complex and little understood site like this and risk setting us back 30 years. We are only asking to be given the opportunity to improve the quality of our lives, we have sacrificed enough.

Therefore, I ask that you at the very least require a full EIR for this site before any actions taken result in a disastrous situation worse then the one that exists today. I also ask that you, under your regulatory

authority review the Environmental Justice Issue further. Based on all the comments from the town of Wilmington, City of Woburn, the citizens of both communities, the Wilmington town counsel, the DEP, and Geolnsights anything less than this request would appear to be arbitrary and capricious and based in politics which counters the purpose of the STB's authority and purpose.

Thank you for your consideration on this matter.

Sincerely,

Suzanne M. Sullivan
Co-chair Headwaters Stream Team
60 Lawrence Street
Wilmington, Ma 01887

LWVV

Docket No. 34391

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League of Women Voters of Wilmington
P. O. Box 149 • Wilmington, MA • 01887

September 17, 2004

Case Control Unit
Attention: Ms Phillis Johnson-Ball
Surface Transportation Board
1925 K Street NW
Washington, D.C. 20423

Re: Finance Docket No.34391
New England Transrail, LLC, d/b/a/ Wilmington and Woburn Terminal Railroad Co. -
Construction, Acquisition, and Operation Exemption - in Wilmington and Woburn, MA

Dear Ms. Johnson-Ball:

The League of Women Voters of Wilmington (LWVV) appreciates the Surface Transportation Board's willingness to extend the comment deadline on the above-referenced case under review, thus enabling us to participate in the process. We join with our local, state, and federal officials and many concerned residents of both Woburn and Wilmington, Massachusetts in expressing our opposition to New England Transrail, LLC's request for a construction, acquisition and operation exemption from the STB at this time.

We believe the Section of Environmental Assessment's evaluation of the site fails to fully address the myriad problems with the Olin Corporation's property located at 51 Eames Street in Wilmington, and to completely evaluate the "effects" and "cumulative impacts" of the Proposed Action will have both on-site and on the numerous off-site areas that have

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been adversely affected by past operations. We ask that the STB reject the SEA's finding that an Environmental Assessment (EA) is adequate to fully disclose this property's complex history of contamination and the impacts of its former and future uses, and to require the preparation of a comprehensive Environmental Impact Statement (EIS) for public review and comment. To do so is clearly within the Board's authority under 49 CFR 1105.6(d). We believe the Board has a responsibility to fully protect and safeguard the health and quality of life of the people in our communities to the utmost of its abilities, and ask that it do so.

We would like to underscore for you how serious this site's existing problems already are. In February, 2003 Olin and the Massachusetts Department of Environmental Protection (MADEP) announced that the Town of Wilmington's Maple Meadow Brook Aquifer, which until the wells were shut down, provided up to 60% of Wilmington's drinking water, is contaminated with N-nitrosodimethylamine (NDMA). Last October MADEP confirmed what many of us have long feared – that the Town of Wilmington's drinking water most likely has been contaminated with NDMA for years. Since that time the USEPA staff in Ada, Oklahoma and Las Vegas, Nevada have been engaged in trying to identify the plethora of Contaminants of Concern (COC's) in the Maple Meadow Brook Aquifer and to work with Olin to propose possible remedial strategies. Olin has been charged with the task of identifying all chemicals known to have been used, stored, and/or disposed of on the site, and to develop sampling regimes for some that have never been tested for in the past. They continue investigating on-site as well as monitoring off-site contamination

west, south, and east of their property for NDMA and the possibility of more COC's still to be identified. In addition the Agency for Toxic Substances and Disease Registry (ATSDR) is currently evaluating the possible long-term health effects of NDMA on the Town's residents in conjunction with the MA Department of Public Health's on-going childhood cancer study. At the same time Olin continues to conduct a whole host of remedial actions throughout the entire 21E site, which involve among others: Plant B, the East Ditch, the North Pond, the Calcium-Sulfate Landfill, Central Pond, Lake Poly, the Off-Property West Ditch, the South Ditch Weir, private wells on Main and Cook Streets, and the Maple Meadow Brook Aquifer.

One area of particular concern and relevance to the Proposed Activity is the East Ditch. It has long been documented as fact that contaminants from Olin and other industrial properties in South Wilmington and North Woburn have entered and traveled through the East Ditch, which is essentially the drainage pathway along the existing railroad line. The construction of connecting tracks across the property could potentially create additional pathways to transport contamination onto, across, and from the site. Unless and until Olin completes remedial removal of all contaminated soils and sediments from the property the possibility, if not the likelihood, of migration, recontamination, and/or formation of new or different COC's *in situ* remains. In addition, the Lake Poly area is also worrisome, especially in light of Olin's failure earlier this summer to completely remove contaminated soils from under existing trackage in what is possibly the most contaminated "hot spot" on the entire Eames Street parcel, despite the urgent requests of the Wilmington Conservation Commission.

In addition to the many existing conditions that potentially could adversely affect human and ecological receptors on and near the property, the Proposed Action, if allowed, is very likely to lead to even more degradation in the area. We would like to cite for your just a couple examples of our concerns.

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Section 4 of the Environmental Analysis (EA) contains contradictory information regarding the types of materials the Applicant is proposing to unload, reload and/or store on the property once the facility is constructed and operating. Are hazardous materials going to be transferred at this site, or not? Even the SEA is unsure of the intentions of the Applicant: "Although the Applicant maintains that it would not transport large quantities of hazardous wastes, some hazardous materials, including propane, could be transported or be used on the site during construction and as part of everyday operation...." (Section 4.8, Page 4-15, emphasis added). What volume of hazardous waste are we to consider "large"? What volume of hazardous material is "small"? Propane is considered both hazardous and explosive, so how can the Applicant claim it will only handle chemical products and other liquid products that are non-hazardous and non-explosive? Most problematic for us is the "and any other products which can be transported in intermodal containers" (Section 4.5.1., Page 4-12). What commodities would be excluded by this designation? This appears to us to be yet another case of a proponent making promises they have no intention of keeping, knowing full well that no government entity can or will make them fulfill. We are not reassured at the Applicants' continued coyness in declining to fully reveal their real intentions for this proposed facility.

We also take issue with the EA's conclusions regarding air quality. On Page 3-5 it states that Middlesex County "is listed as a 'serious' nonattainment area for the one-hour ozone standard and is part of the Boston-Lawrence-Worcester, MA-NH Ozone Nonattainment

Area. Current sources of emissions in the area immediately surrounding the Eames Street parcel include vehicles, industries, and locomotives." According to the Environmental Defense Fund's Scorecard the entire population of Middlesex County, as of 1996 1, 456,000 people, is already at 720 times higher risk of contracting cancer from diesel emissions than the Clean Air Act goal of one case per one million people. While the EA estimates that idling locomotives at the site will generate 17.42 tons of nitrogen oxides (Nox), a major ozone precursor, it concludes that the additional contamination is insignificant because it does not exceed the USEPA's allowed threshold of 50 tons per year. But even 17.42 tons per year is an addition to the already over-contaminated air in the region, so is, by definition, an additional adverse impact that should be compensated for as both an unacceptable "effect" and "cumulative impact".

The EA also goes on to dismiss any consideration of the potentially large volume of additional emissions generated by 400 heavy truck trips a day to/from the site as being the equivalent to existing traffic in greater Middlesex County. We find the SEA's reasoning faulty in this regard for two reasons. First, they fail to factor in the emissions of idling diesel trucks at the reload facility, even though they acknowledge that idling trucks as well as locomotives are a major source of NOx and other air contaminants. The critical need for Middlesex County and the entire Boston-Lawrence Worcester, MA-NH Nonattainment Area to reduce emissions was highlighted in a recent article in the Boston Business Journal". The article points out that "Massachusetts regulations prohibit the idling of any motor vehicle for more than five minutes" and that "long-term inhalation of diesel exhaust is 'likely' to pose a risk of lung cancer, while even short-term exposure can cause irritation and inflammation". We do not see that the EA addresses the potential adverse health effects on workers at the site, or recommends specific Best Management Practices such as exhaust vent hoods for the staging area and requiring that truck engines be turned off while they are being loaded and unloaded.

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*(Please see <http://boston.bizjournals.com/boston/stories/2004/08/23/daily28.html>).

Furthermore the EA also fails to compute the volume of additional diesel emissions and its "cumulative impact" on the site and route(s) leading to the facility. This is a much smaller area than the whole of Middlesex County. In reality the preferred route identified in the EA is currently not the route of choice for the vast majority of trucks coming to the North Woburn and South Wilmington industrial areas. The route requires that the 18-wheelers and other heavily laden trucks precariously navigate the fly-ramp from Interstate 93 –not easy even at reduced speed in an SUV –, then turn onto Commerce Way, climb a steep grade, take a wide curve all before negotiating the dangerous turn from Woburn Street onto Eames Street. These maneuvers require constant shifting and alternating braking and acceleration, which results in additional exhaust. We request that additional evaluation of the likely diesel emissions along this route be done in an EIS. We also would like more assurance that the truck traffic to and from the site will actually use this route, rather than the Interstate 93-to-Route 129-to Industrial Avenue and/or-to Woburn Street via Lowell Street routes that are so heavily used now, or the Route 38 through North Woburn to the westerly extent of Eames Street. The City of Woburn and its residents have exhaustively documented the adverse impacts of heavy truck traffic through their neighborhoods. (Footnote 2, page 4-2). Again, we ask, what guarantee can the Board give us that the Applicant's customers will actually use the preferred route? Again, we fear the answer is "none".

The EA describes on-going regulatory oversight of the Olin property under the Massachusetts Contingency Plan (310 CMR 40). Olin Corporation has been assessing

the environmental damage done to our communities as a result of former chemical operations at its 51 Eames Street location in Wilmington, MA since it acquired the property in 1980 (far longer than "over a decade" as stated in the EA on Page1-3). Contamination both on- and off-site has resulted in Olin being designated as a Tier 1A site. The EA makes many references to Olin's continuing obligations to conduct additional investigative and remedial activities as required by the MADEP under the MCP. Within the past month, however, MADEP has asked the United States Environmental Protection Agency (USEPA) to accept the Olin site on the National Priorities List for Superfund status and federal regulatory oversight. Based on this major change alone the Board should deem the EA obsolete and inadequate and order the preparation of an Environmental Impact Statement.

Assuming that the USEPA accepts MADEP's recommendation as is expected, the Agency will have to review the voluminous file and thousands of letters, reports, plans, and other documentation to be able to adequately regulate the site, and to work with Olin in determining additional remedial actions. While we seriously question the SEA's claim that they have already "reviewed all pertinent documentation to gain a firm understanding of the status of remediation activities and to assess whether the Proposed Action could have any effect on the ongoing remediation activities at the property." (Section 3.8, Page 3-12; emphases added.), we vehemently object to the assertion that "SEA evaluated the potential 'cumulative impact' of the Proposed Action in accordance with CEO [Council of Environmental Quality] guidelines and concluded that no significant 'cumulative impact' could be expected." (Section 4.13, Page 4-18, emphases added.)

The truth is, the "effects" and "cumulative impacts" of any project proposed for this site cannot be determined unless and until the site assessments are completed and all

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potential risks to human and ecological receptors are identified. Based on the recent finding of NDMA in the Maple Meadow Brook aquifer, the USEPA Las Vegas facility's on-going attempts to identify over one hundred additional contaminants of concern in the aquifer, and Olin's current investigation for NDMA, formaldehyde, and hydrazine on the Eames Street parcel and in several of the off-property portions of "the site", it is premature and presumptuous for anyone to claim that any new use would have no effect, adverse or otherwise. For the Board or any other Agency to approve any project at this site at this time is irresponsible at best.

Given how complicated the Olin site is, and the many unknown factors regarding the extent and content of its various "sites within the site" we have grave concerns that constructing a railroad and its adjunct facilities across this highly contaminated land will actually create even more environmental hazards than currently exist. The very nature of railroading, heavy trucking, handling of chemical processing ingredients, (even those deemed "non-hazardous"), waste products, building materials, and "any other commodity which can be transported in intermodal containers" that are now being proposed for the Eames Street property in and of themselves pose the potential for further contaminating the property. We seriously question how the Applicant can possibly redevelop the Property without having an adverse effect on the environment. By definition, redevelopment will preclude, at least in some ways, future site investigation and/or remedial actions necessary for Olin Corporation to meet its legal obligation to fully restore the Eames Street Property to some relatively stable level of "no significant risk" to human health and to wildlife populations. We do not see how the Board's acceptance of the current Environmental Assessment under review can possibly fulfill its obligation "to

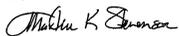
promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man."

For these and many other reasons, we believe the Proposed Activity should not and cannot appropriately be approved without a full and complete Environmental Impact Statement and subsequent public review. At a minimum, a determination should be made as to whether this project, if allowed to go forward as presented, will preclude any future remediation of the off-site contamination that would require use of the Olin property. We also respectfully request a detailed and realistic analysis of the "cumulative impacts" as required under 49 CFR Sec. 1508.7 resulting from the past activities on the site, current operations in the immediate vicinity, and the construction and operation of a truck/rail reload facility at this location and how they will further affect the environment and the health and well-being of the residents of Wilmington and Woburn. The status of regulatory oversight and whether jurisdiction will remain with MADEP or be transferred to the USEPA should also be resolved, as well, before any approvals or permits for this project are granted.

Therefore we ask that you assure the statutory and regulatory safeguards to our environment and the public health under the National Environmental Policy Act, 42 U.S.C. 4223, 49 CFR, Sec. 1105.1, and all other applicable laws by denying New England Transrail LLC's request for a construction, acquisition and operation exemption and requiring an EIS for this proposed project.

Sincerely,

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Martha K. Stevenson
Natural Resources Chair
(978) 658-5488

- cc: The Honorable Edward M. Kennedy, US Senate
The Honorable John Kerry, US Senate
The Honorable John Tierney, US House of Representatives
The Honorable Edward Markey, US House of Representatives
The Honorable Bruce Tarr, MA Senate
The Honorable Robert Havern, MA Senate
The Honorable James R. Miceli MA House of Representatives
The Honorable Charles Murphy
James Hunt, MA MEPA Unit
Wilmington Board of Selectmen
Wilmington Conservation Commission
Wilmington Community Advisory Panel
LWVM
Wilmington-Woburn Collaborative
Concerned Citizens Network
Woburn Neighborhood Association