

APPENDIX C
COMMENT LETTERS

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Appendix C contains copies of letters received by SEA that comment on the Proposed Action. Attachments to the letters are not reprinted here. Below is a list of the agencies and individuals whose letters are reprinted in Appendix C.

Federal Agencies

U.S. Army Corps of Engineers, New England District

State Agencies

Division of Fisheries and Wildlife
Massachusetts Department of Environmental Protection
Massachusetts Historical Commission
Massachusetts Highway Department

Town of Wilmington

Town Counsel (Deutsch Williams)
Assistant Director of Planning and Conservation
Superintendent Water and Sewer Department
Fire Chief
Chief of Police
Assistant Town Manager
Superintendent of Public Works
Director of Planning and Conservation
Director of Public Health

Elected Representatives

Senators Kennedy and Kerry and Representatives Markey and Tierney
Woburn City Council

Citizens

Concerned Citizens Network
Concerned Citizens Network Petition (approximately 250 copies received in two batches)
Deborah L. Duggan
Ann L. Yurek
Lee A. Brooks and Family

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



DEPARTMENT OF THE ARMY
NEW ENGLAND DISTRICT, CORPS OF ENGINEERS
696 VIRGINIA ROAD
CONCORD, MASSACHUSETTS 01742-2751

REPLY TO:
ATTENTION OF:

November 21, 2003

Regulatory Division
CENAE-R-200301119

Ronald A. Klempner
New England Transrail, LLC
843 Red Road
Teaneck, New Jersey 07666

Dear Mr. Klempner:

This letter responds to your letter dated May 10, 2003, requesting comments on the proposed construction of a railroad reload center, and a determination of jurisdiction for wetlands areas, located at 53 Eames Road, Wilmington, Massachusetts.

Alan Anacheka-Nasemann of our Regulatory Division conducted a field inspection of the site on September 11, 2003. During this inspection, areas labeled on the enclosed plans as "Temporarily Impacted Wetlands" and "Approximate Existing Wetlands Boundary," were reviewed for potential jurisdiction. We note that areas designated "Permanently Impacted Wetlands" have been legally filled and/or removed pursuant to Department of the Army Permit No. 20001354, issued to Olin Environmental Management, Inc. on August 21, 2000. We also found that present conditions on the site are in full compliance with the terms and conditions of that permit.

The delineation of waters of the United States, including jurisdictional wetlands, on the drawing you submitted entitled "Eames Street Redevelopment, 51 Eames Street, Wilmington MA," on one sheet labeled, "Fig. No. 3a," and dated, "5/05/00," is accurate.

Our verification of this project's wetland delineation under the January 1987 Corps of Engineers Wetlands Delineation Manual is valid for a period of five years from the date of this letter unless new information warrants revision of the determination before the expiration date.

The Corps of Engineers has implemented an administrative appeals process for permit denials, proffered permits for which you object to the terms, conditions and jurisdictional determinations. A Notification of Administrative Appeal Options form and flow charts explaining the appeals process and your options are enclosed with this letter. However, in order to retain your right to appeal, you must submit the enclosed NAAO form within 60 days of this letter's date.

Enclosed with this letter is a form explaining the basis for our jurisdictional determination. For appeals of permit denials, proffered permits and approved jurisdictional determinations, you must complete Section II of the NAAO form ("Request for Appeal") and submit it along with any supporting or clarifying information to the following address: James W. Haggerty, Regulatory Appeals Review Officer, US Army Engineer Division, North Atlantic, Fort Hamilton Military Community, Bldg. 301, General Lee Avenue, Brooklyn, NY 11252-6700, Telephone: (718) 765-7150, E-mail: James.W.Haggerty@nad02.usace.army.mil. Questions regarding the Corps appeals process should be directed to Ms. Joanne M. Barry, Chief, Policy and Technical Analysis Branch at (978) 318-8156 or at the above address.

We have further determined that a Department of the Army permit is not required for your proposed construction of a Rail Reload Facility on the subject site. This determination is based on the information on the attached plans in one sheet, entitled "PROPOSED RAIL RELOAD FACILITY, WILMINGTON, MA," and dated, "7-21-03."

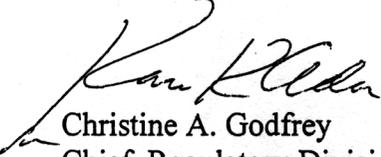
Our regulatory jurisdiction encompasses all work in or affecting navigable waters of the United States under Section 10 of the Rivers and Harbors Act of 1899 and the discharge of dredged or fill material into all waters of the United States, including adjacent wetlands, as well as the excavation and grading within those waters, under Section 404 of the Clean Water Act. Since your proposal avoids impacts to existing waters of the United States, it does not include any of the aforementioned activities, and therefore, a Department of the Army permit is not required.

Should you modify your proposal to entail a discharge into waters of the United States, including wetlands located on the site, you must contact this office for information on Department of the Army permit requirements. Please note that performing work within our jurisdiction without a Corps of Engineers permit can result in prosecution by the U.S. Government. Violations of Section 10 can result in criminal prosecution with fines ranging from \$500 to \$2,500 per day of violation and/or imprisonment for up to one year. Violations of Section 404 are punishable by civil fines of up to \$25,000 per day and/or imprisonment for up to one year.

Finally, our Corps permit process does not supersede any other agency's jurisdiction. Therefore, if other Federal, State, and/or local agencies have jurisdiction over your proposed activity, you must receive all other applicable permits before you can begin work.

If you have any questions regarding this letter, please contact Alan Anacheka-Nasemann, of my staff, at (978)-318-8214.

Sincerely,


Christine A. Godfrey
Chief, Regulatory Division

Enclosures

Copies Furnished:

James Sprague, DEP Northeast Regional Office, Wetlands and Waterways, 1 Winter Street,
Boston, Massachusetts 02108.

Larry J. Welch, GEI Consultants, Inc., 1021 Main Street, Winchester, Massachusetts
01890-1970

Neil Sullivan, ICF, Incorporated, 9300 Lee Highway, Fairfax, Virginia 22031; Attn:
Finance Docket No. 34391 - Environmental Comments

Todd Stribley, ICF, Incorporated, 9300 Lee Highway, Fairfax, Virginia 22031

Victoria Rutson, Chief, Section of Environmental Analysis, Surface Transportation Board
Washington, DC 20423

Paul R. DeRensis, Deutsch-Williams, 99 Summer Street, Boston, Massachusetts 02110-1213



MassWildlife

Commonwealth of Massachusetts

Division of Fisheries & Wildlife

Wayne F. MacCallum, *Director*

January 12, 2004

Neil Sullivan
Attention: Finance Docket No. 34391-Environmental Comments
ICF Incorporated
9300 Lee Highway
Fairfax, VA 22031

Re: New England Transrail, LLC
Wilmington/Woburn, MA
NHESP File: 03-12885

Dear Mr. Sullivan,

Thank you for contacting the Natural Heritage and Endangered Species Program (NHESP) of the MA Division of Fisheries & Wildlife (DFW) for information regarding state-protected rare species in the vicinity of the site identified above.

At this time we are not aware of any rare plants or animals or exemplary natural communities in the vicinity of this site.

This evaluation is based on the most recent information available in the Natural Heritage database, which is constantly being expanded and updated through ongoing research and inventory. Should your site plans change, or new rare species information become available, this evaluation may be reconsidered.

If you have any questions regarding this review, please call Patricia Huckery, Endangered Species Analyst, at ext. 151.

Sincerely,

Thomas W. French, Ph.D
Assistant Director

www.masswildlife.org

Division of Fisheries and Wildlife

Field Headquarters, One Rabbit Hill Road, Westborough, MA 01581 (508) 792-7270 Fax (508) 792-7275

An Agency of the Department of Fisheries, Wildlife & Environmental Law Enforcement



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

MITT ROMNEY
Governor

KERRY HEALEY
Lieutenant Governor

ELLEN ROY HERZFELDER
Secretary

ROBERT W. GOLLEDGE, Jr.
Commissioner

NOVEMBER 20, 2003

Ellen Roy Herzfelder, Secretary
Executive Office of
Environmental Affairs
251 Causeway Street, Suite 900
Boston, MA 02114

RE: Wilmington
Eames Street Development Project
EOEA # 12245

ATTN: MEPA Unit

Dear Secretary Herzfelder

The Massachusetts Department of Environmental Protection has been requested by the Massachusetts Environmental Policy Act (MEPA) Unit to provide an update on the status of a Construction Release Abatement Measure (RAM) that is underway at the property located at 51 Eames Street in Wilmington, MA. Olin Chemical is in the process of completing the Construction RAM to make the property suitable for redevelopment in accordance with guidance provided in DEP's Policy No. WSC-00-425 "Construction of Buildings in Contaminated Areas." It is important to note that DEP's review of the RAM was focused to ensure only that there would be no significant risk to future developers/workers/occupants of the property. DEP did not consider the RAM Plan to be a Phase III Remedial Action Plan for the property, which will be required by the Massachusetts Contingency Plan. Any potential purchaser/developer of the property should be aware that DEP may potentially require further remedial actions in the future to achieve a Response Action Outcome for any portion of the property.

The major activities that have been completed as part of the Construction RAM are listed below:

- Sediment has been excavated from the west ditch wetland, the buried debris area, the on-property west ditch, portions of the south ditch, the central drainage area, and the central pond. Post excavation samples show that chromium and phthalate concentrations were reduced to levels below Upper Concentration Limits specified in the Massachusetts Contingency Plan (MCP), and mean concentrations of site related contaminants of concern approach previously reported site background conditions for soil. Sediment was initially transferred to a Biocell for treatment, but due to elevated levels of chromium, the sediment was eventually disposed off site. Wetland areas have been restored.
- Soil has been excavated from three hot spots identified as A8CW-1, RSO-6, and Lake Poly 1. Post excavation samples show that contaminants were reduced to below applicable MCP Method 1 standards in all areas.

This information is available in alternate format by calling our ADA Coordinator at (617) 574-6872.

DEP on the World Wide Web: <http://www.state.ma.us/dep>

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- A containment wall has been installed to contain dense aqueous phase liquid on the property. A temporary cap has been placed over the containment area. The containment wall is intended to reduce the discharge of contaminated groundwater to the surface water and sediments in the on-property ditch system. A Post Construction Monitoring Plan is in place to monitor the effectiveness of the wall.
- The remedial system at Plant B, which formerly consisted of three groundwater recovery wells, was upgraded to include an air sparging/soil vapor extraction/nutrient injection system. The upgrade to the treatment system is intended to expedite remediation in this area of the Olin property. The remediation is performed as part of the Plant B Immediate Response Action (IRA) and is summarized in semi-annual IRA status reports.
- Drum areas A and B have been excavated. Drums and associated contaminated soil have been appropriately characterized and disposed off property.

Prior to property development the following additional activities must be completed to fulfill DEP's approval requirements for the Construction RAM:

- There are some additional contaminants of concern that are being investigated at the Olin site that were not evaluated in the original Construction RAM. These include N-nitrosodimethylamine (NDMA), formaldehyde, and hydrazine. Evaluation reports completed for the Construction RAM, as required by DEP Policy No. WSC-00-425 *Construction of Buildings in Contaminated Areas*, must be updated. The Focused Site Characterization must be updated to define the nature and degree of these contaminants within and adjacent to the areas proposed for development. The Focused Risk Assessment must be updated to adequately characterize the nature of risks to construction workers, surrounding populations, and future occupants from these chemicals. The Focused Feasibility Study must be updated to identify additional remedial actions, if necessary, to eliminate unacceptable risks to construction workers, surrounding populations, and/or future building or site occupants. An investigation has already been approved to complete these investigations and evaluations in the vicinity of the former Lake Poly. Risk due to ammonia contamination in soil has already been identified in the Lake Poly area and this soil must be excavated prior to property development. The soil excavation area may need to be expanded pending the results of the investigation of additional potential contaminants of concern.
- DEP is presently working with the United States Environmental Protection Agency to determine if there are additional potential contaminants of concern at the Olin site. If additional contaminants of concern are identified, they must also be included in the updated Focused Site Characterization, Focused Risk Assessment, and Focused Feasibility Study.
- If a building and/or buildings are constructed in the vicinity of Plant B, sufficient remedial actions must be implemented to achieve a level of no significant risk to construction workers, surrounding populations, and/or future building or site occupants.
- A construction RAM completion report must be submitted that documents that sufficient remedial actions have been completed so that a condition of no significant risk to future developers/workers/occupants at the property has been achieved.

DEP understands that New England Transrail LLC is in the process of purchasing the 51 Eames Street property, and plans to develop it as a truck-to-rail reload facility. It should be noted that if contaminated soil and/or groundwater are expected to be encountered during property development, the proposed soil and groundwater monitoring and management plans for this development must be incorporated

RE: Wilmington
Eames Street Development Project
EOEA # 12245
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into a Construction Release Abatement Measure (RAM) Plan for approval prior to the initiation of those specific construction activities that may encounter contaminated media. The Construction RAM must comply with the applicable provisions of 310 CMR 40.0440. Additional guidance on the performance of construction related RAM activities is contained in DEP Policy No. WSC-00-425, *Construction of Buildings in Contaminated Areas*.

Your cooperation in this matter is appreciated. If you have any further questions regarding this matter, please contact Christopher Pyott at (978) 661-7739 or at the letterhead address.

Very truly yours,

Christopher Pyott
Environmental Analyst
Site Management

Stephen Johnson
Section Chief
Site Management

cc via e-mail:

Wilmington, Chairman of the Community Advisory Panel, Attn: Jeff Hull
Wilmington Conservation Commission, Attn: Robert J. Douglas
Wilmington Board of Health, Attn: Greg Erickson
Wilmington Water Department, Attn: Mike Woods
GeoInsight, Inc., 319 Littleton Road, Suite 100, Westford, MA 01886, Attn: Michael Webster
Jack Fralick, Board of Health, City Hall, 10 Common Street, Woburn, MA 01801
DEP/NERO/Water Supply, Attn: Jim Persky
DEP/Boston/Legislative Liaison: Marc LaPlante
Olin Corporation, P.O. Box 248, Charleston, TN 37310
Attn: Stephen Morrow
Sleeman, Hanley & DeNitto, 50 Congress Street, Boston, MA 02109
Attn: Margret Hanley
MACTEC Engineering and Consulting, 107 Audubon Road, Wakefield, MA 01880
Attn: Michael Murphy
Foley, Hoag & Eliot LLP, 155 Seaport Boulevard, Boston, MA 02210
Attn: Laurie Burt
Kathleen & Winifred Barry, 14 Powder House Circle, Wilmington, MA 01887
Senator Bruce Tarr, Room 507, State House, Boston, MA 02133
Rep. James Miceli, Room 167, State House, Boston, MA 02133
Rep. Charles Murphy, Room 166, State House, Boston, MA 02133
Rep. Carol Donovan, Room 473-B, State House, Boston, MA 02133

cc via mail:

DEP/Data Management: C&E/INTLET
Chairman, Board of Selectmen, 121 Glen Road, Wilmington, MA 01887
Mayor John Curran, City Hall, 10 Common Street, Woburn, MA 01801
Public Library, 175 Middlesex Avenue, Wilmington, MA 01887
Attn: Olin Site Repository