

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E. Streets, S.W.
Washington, D.C.20423-001

April 15, 2007

Re: Docket Number: FD_34797_0 oral argument - position filing

Case Title:

NEW ENGLAND TRANSRAIL, LLC D/B/A WILIMINGTON & WOBURN TERMINAL
RAILWAY--CONSTRUCTION, ACQUISITION AND OPERATION EXEMPTION-- IN
WILMINGTON AND WOBURN, MA

Dear Secretary Williams,

I am not an attorney, a business leader, or even an environmentalist by education. I am however, a concerned citizen who has a deep environmental interest about the impacts of what solid waste facilities appear to be having on our land, our air and water. These impacts, affect the health / safety of the citizens not only in the immediate vicinity, but potentially those much further away. They may have no idea of the source, or of groundwater contamination that may cause damage to their health.

For years I have been involved / witnessed the impacts of numerous contamination / environmental concerns in my county. Superfund sites, brownfield sites, Including two landfills and transfer stations within my hometown. I have witnessed, to the point it makes you sick to your stomach, children playing in superfund sites, where the soil shows so much contamination, you wonder if it is even safe to walk on. I have seen leachate leaking from containers, improper disposal of waste, groundwater /drinking water contamination, improper handling of waste, as well as to many permit violations to even begin to list. These, amongst others, are the reasons I have doubt about any construction, acquisition and operation exemption applied for.

I have researched, as well as worked on the environmental degradation that has fallen on communities in my area. These have resulted from past decisions, where it appears there was no reason to consider the future impacts of what was being allowed in the name of public utilities and business. Indeed the cost to the federal, state, and local governments for the cleanup of those mistakes is rising exponentially.

It seems to me that what once was black and white, is now only represented by shades of grey. That is, the concept of pre-emption was created during a period when the issues of concern were significantly limited and different than they are today. Consequently, pre-emption was not the concern we must now recognize when certain applications are made.

The solid waste industry is one such use that has undergone a change in scrutiny because representatives at the local, state, and national level have come to recognize the concerns regarding the health, safety, and environmental risks that they pose. As little as 25 years ago, solid waste facilities were treated not much differently than any other industry, but today, after numerous accidents and tragedies, there is nearly universal recognition of the differences and the necessary oversight that must be applied to the location, siting, and use of such facilities.

There are some physical locations that are just not suitable for use as a solid waste facility, since the risks are much too high, and the costs are prohibitive to adequately protect the health and safety of residents, citizens, businesses, and the environment.

Unfortunately, these impacts may not be contained within a small geographic area. For example, the siting of solid waste facilities (landfills) over sole source aquifers and principal aquifers can have potentially catastrophic impacts on thousands to millions of people along with corresponding businesses.

Look at the letter dated 4/6/07 from Joanna Jerison - EPA Region 1- to the STB concerning this Net application. This site is going through the Superfund process for several reasons. On site waste disposal practices appear to have caused or contributed to subsurface contamination both on and off the Olin Chemical property with the closure of 4 municipal drinking water supply wells serving over 7,000 persons. . . Yet, we are here discussing solid waste facility/disposal and pre-emptions. I do not understand this mindset.

What are the long & short term cumulative health impacts to people *living* in this superfund site area, as well as exposure to those on site chemicals as a result of *working* at this proposed NET/Superfund site? What is the cost for the superfund cleanup and restoration of this site? What is the cost for the loss of municipal drinking water to this entire community? What water sources are proposed to be used for NET's project? Is it one of the contaminated or closed wells? What impact will it have? What is the cost of this propose project to the people's health and welfare? Is this a high cancer area? Has an Environmental Justice review taken place for this project/area? Has this been reviewed with the CAA –non attainment area? Yet, here we are, discussing solid waste facility/disposal and pre-emption, adding this to a superfund site.

I concur with the EPA and strongly recommend that the review take the form of an environmental impact statement, rather than an environmental assessment.

To give carte blanche pre-emption of state and local regulations to the siting of these facilities just because the land is near, and claiming that these activities are integrally related to rail transportation, is simplistic at best, and in my opinion raises the question of whether these activities border on being criminally or morally negligent^{abcdefgh}.

^a Rutgers Environmental Law Clinic July 12, 2006 electric filing to STB see enclosed Exhibits

^b 42USC sec. 6901 congressional findings (a) 3

^c 42USC Section 6901 (b) 1.

^d 42USC Section 6901 (b) 2

^e 42USC Section 6901 (b) 6

Everyone can appreciate that railroads cross rivers and ***no one claims*** we should dump solid waste into the rivers for transloading on to trains. The issue can be seen as deciding how close to the river should the industry be allowed to go without further review.

The STB has to recognize that it must, for the sake of the health and safety of the people, the land, and even the railroad industry, share responsibility in the review of the siting of locations where the solid waste and rail transportation meet and interact.

I would argue that in the case of the solid waste industry, pre-emption could never be absolute due to the inherent risks involved in this industry.

This hybrid use requires a hybrid review. There may be some uses associated with the rail system, which can be allowed pre-emption, although I can not think of more than a handful that might be so benign as to warrant that allowance. Passenger rail service is certainly one, and I recognize that under the guise of need, local and state involvement can be abused to create a defacto block wall to the legitimate use of the rail industry.

I also recognize the abuse that industry can make in claims for pre-emption as a way to ask this board to stick its collective heads in the sand and pretend that no further review is needed just because a rail line will be used at some point in the process.

I speak for many others that share these same thoughts, but who for several reasons will never get to the point of putting their objections on paper. In the end, it is all about protecting the health, safety and well being of the citizens that you are honor bound to represent. Please do your part in supporting a safe future for those citizens!

^f 40 CFR 239

^g Executive order 13045 Protection of Children from Environmental Health Risks and Safety Risks

^h Executive order 12898 Federal actions to Address Environmental Justice in Minority – Low Income Populations

Thank you for recognizing the issues and acting on them accordingly!

Sincerely,

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