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September 30, 2004

Victoria Ruston, Esq.
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C, 20423

Re: New England Transrail, LLC d/b/a Wilmington & Woburn Terminal Railway-Petition for Exemption-Construction and Operation as a Rail Carrier on Tracks and Lands Acquired from Olin Corporation
FD No. 34391

Dear Ms. Ruston:

Due to a computer malfunction we need to substitute this replacement for the material dispatched to you last night. An uncorrected draft was produced, the corrected version having disappeared mysteriously during final printing.

I apologize for any inconvenience.

Very truly yours,

John F. McHugh

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September 29, 2004

Victoria Ruston, Esq.
Chief, Section of Environmental Analysis
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C, 20423

Re: New England Transrail, LLC d/b/a Wilmington & Woburn Terminal Railway-Petition for Exemption-Construction and Operation as a Rail Carrier on Tracks and Lands Acquired from Olin Corporation
FD No. 34391

Dear Ms. Ruston:

This letter is in response to two sets of comments received by the Board relating to the Draft Environmental Assessment for the captioned transaction.

We reply to the Massachusetts Department of Environmental Protection's comments, dated August 25, 2004. The Department requested an analysis of environmental impacts from noise, dust, odors and storm water management if solid waste may be handled at the terminal proposed by the Applicant. These are elements of a State review of such a facility which the Department specifically asked the Section of Environmental Analysis to cover in the final EA. NET had ET Environmental, an engineering firm specializing in solid waste issues, prepare, a report on "Storm Water, Noise, Dust and Odor Review Relating to Waste Transloading Activities". It is inserted herein as Section I.

NET also responds to the comments of the Town of Wilmington in Section II.

PRELIMINARY COMMENT

It is respectfully submitted that the comments submitted in response to the Draft Environmental Assessment relate to items fully covered by that Assessment and by mitigation measures either contained in the Assessment or which the applicant has agreed to, all of which are within guidelines imposed by the Board in Joint Petition for Declaratory Order—Boston & Maine Corporation and Town of Ayer, MA, April 30, 2001, Finance Docket # 33971 (Ayre). In Ayre the Board listed "solutions" proffered by the railroad "that appear to us to be reasonable including conditions requiring railroads to (1) share their plans with the community, when they are undertaking an activity for which another entity would require a permit; (2) use state or local best management practices when they construct railroad facilities; (3) implement appropriate precautionary measures at the railroad facility, so long as the measures are fairly applied; (4) provide representatives to meet periodically with citizens groups or local government entities to seek mutually acceptable ways to address local concerns; and (5) submit environmental monitoring or testing information to local government entities for an appropriate period of time after operations begin." (Supra p.12) Applicant has agreed to do all of these things.

The mitigation measures contained in the Environmental Assessment (EA)as well as those offered by Applicant in its latest submission to the Section for Environmental Analysis (SEA) go beyond those approved in the Ayer decision as being reasonable and non-discriminatory measures. Indeed, while the Board approved street improvements agreed to by the Gilford System to accommodate the Town of Ayer, the Board made it clear that such improvements were beyond the power of a locality to impose[1], (NET has offered to provide up to $50,000 to allow the Town of Wilmington to acquire and improve the intersection at Eames Street and Woburn Avenue. NET has made this offer despite the fact that other users of that street corner will account for about 90% of its traffic. Nevertheless, Applicant is willing to accept this mitigation measure since it is similar to the measure offered by the prior proposal to place a 350,000 sq. ft warehouse on the property, a proposal approved by the local planning board. The prior proposal was approved even though it resulted in much higher traffic levels on local streets than does that of NET.

It is also of note that the NET project has been reviewed by numerous other agencies, including the EPA, and the Massachusetts Department of Highways, which determined that the proposed project did not present any significant impacts on traffic. Finally, the project has been reviewed by the Massachusetts Executive Office of Environmental Affairs (Mass EOEA), which issued a certificate of 'no significant impact' after receiving and reviewing local comments similar to those received by the SEA.

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[1] In Footnote 39 the Ayre Court stated: "Railroads may agree voluntarily to take actions that go beyond that which a state or local government could require. See, e.g., condition 9 (requiring Guilford to pay for certain road improvements) and condition 12 (pertaining to the railroad's giving up land). We encourage railroads and communities to work together to reach mutually acceptable solutions to localized environmental concerns.

Based upon all well established law, the applicant has fulfilled its responsibilities as they apply to this project and its potential environmental effects. The applicant and the Board are bound by this precedent, The New York Cross Harbor Terminal Railroad v Surface Transportation Board and New York City Economic Development Corporation 374 F.3d 1177, 1182 (DC Cir. 2004) "An agency acts arbitrarily and capriciously if it 'reverse[s] its position in the face of a precedent it has not persuasively distinguished'".

SECTION I

Storm Water, Noise, Dust and Odor Review Relating to Waste Transloading Activities [2]

By: ET Environmental

I. DESCRIPTION OF OPERATIONS

The following are three types of transloading of solid waste from trucks to railcars which may occur at the Terminal.

Container transloading: Intermodal containers will arrive at the Terminal by truck. A filled container will be lifted off of a truck chassis and placed onto a flat bed rail car; and an empty container will be removed from a flat bed rail car and placed onto the empty truck chassis. Containers will be sealed and watertight. Container lifting will be performed either by a fixed bridge crane; mobile gantry crane; or a side-pack loader, and may be conducted outdoors.

Bale transloading: Baled waste will arrive at the Terminal in an open topped truck trailer covered with a rigid cover or tarp. The truck will drive into an enclosed structure at the Terminal, whereupon the cover will be removed. Individual bales will be lifted by a Material Handler and placed into watertight Gondola cars, which will also be located within the same enclosed structure. When filled, the Gondola car will be covered (either with a tarp or rigid cover) before leaving the enclosed structure.

Loose Material transloading: Waste material will arrive at the Terminal in either: trucks with roll-off containers; dump trucks or compactor trucks. Trucks will drive into an enclosed structure at the Terminal, whereupon the covering on the trucks (roll off containers and dump trucks) will be removed—covers will not be allowed to be removed outside of the enclosed structure. Compactor trucks have fully enclosed hauling compartments. When trucks are in place, material will be tipped into the tipping area.

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[2] This analysis related to potential waste loading operations as that was the major concern of many commentators. However, the mitigation measures reviewed here will apply equally to all materials handling activity on the premises.

Construction and demolition debris will be lifted by a Material Excavator from the tipping area and placed into a Mechanical Grinder which will grind material to a suitable size to allow balanced and stable stowage in the Gondola rail car and prevent damage to the rail cars. During loading, the Gondola will also be located within the same enclosed structure. All Gondolas will be tarped prior to leaving the enclosed structure. Non-conforming materials will be isolated by a contractor prior to loading into the Gondola , This contractor will also be a customer of the railroad shipping such non-conforming materials by rail.

Other solid wastes will be transloaded using two possible methods: (i) moved by conveyor system to a Mechanical Baler which will bale the material into bales of approximately 42" high, 42" wide and 60" long. Individual bales will be lifted by a Material Handler and placed into a watertight Gondola. During loading, the Gondola will also be located within the same enclosed structure. When filled, the Gondola car will be covered (either with a tarp or rigid cover) before leaving the enclosed structure; (ii) alternatively, a series of concrete vaults will be located within the enclosed structure in a position parallel to the railroad tracks. A container will be located in each concrete vault with the top of the vault/container at grade and the remainder of the container/vault below grade. A truck will back up to the container located in the vault and deposit its material directly into the container. Spill skirts surrounding the vault/container will direct material into the container. After each load is deposited in the container, a small material excavator located between every other vault will smooth out the material and tamp it down to increase its density. When the container is filled, it will be covered and lifted onto a rail car positioned adjacent to the container using a bridge crane and an empty container will be positioned back into its place. There will be multiple vaults within the enclosed structure. Dust and odor control mechanisms will be positioned at or near the top of each individual vault.

II. GENERAL FACTORS:

All activities will be conducted on an impervious surface which will drain into the local sewer system[3].

All water generated within the enclosed structure, including floor washing, will be discharged into the local sewer system, which water use is not expected to exceed 2,000 gallons per day.

III. STORM WATER

Transloading of intermodal containers will not affect storm water management and will not impact surface water or ground water because the containers will remain sealed at all times while at the Terminal. Transloading of intermodal containers of waste will be no

[3] Note, no railway or highway waste handling equipment will be cleaned at the premises. All will be cleaned at their destination where waste loads are discharged.

different than transloading of intermodal containers containing other materials in respect to noise, dust and odors.

Transloading activities involving baled waste and loose waste material will not affect storm water management and will not impact surface water or ground water because all activities will occur within an enclosed structure and on an impervious surface which will drain to the local sewer system. Vehicles carrying waste will not discharge their load outside of the enclosed structure. All water generated within the enclosed structure will be discharged to the local sewer system, which has adequate capacity to handle the discharged load. Consequently, waste being transloaded at the Terminal will not come in contact, directly or indirectly, with storm or surface waters.

IV LOCATION AND SURROUNDINGS RELATING TO NOISE, DUST AND ODOR

The setting of the proposed facility and the location of the buildings within the site are important factors with respect to noise, dust and odors that could be attributable to the facility operation and the potential for these conditions to be observed at the site boundary. Abutting uses are as follows:

- To the East – Railroad corridor abutted by an industrial zone and warehouse and distribution centers
- To the South– Town of Woburn Landfill (inactive) abutted by compost operation and industrial zone
- To the West – Railroad Corridor abutted by industrial zone and warehouse and distribution centers
- To the North – Eames Street abutted by industrial zone and cement plant

The overall project site is approximately fifty-three (53) acres. Vehicular access to the rail operations areas is via Eames Street, where vehicles turn onto the site roadway and approach the inbound truck scale and scale house. Vehicles would then proceed to the enclosed transloading structure where the predominant trucking and transloading activities would be conducted. This structure will be located roughly in the center of the site. From the perimeter of the structure, the distance to a property line in the direction of the closest offsite building, which is an industrial building, is approximately 350 feet. This distance within the site, in conjunction with other visual buffers within the site (such as existing buildings and landscaping), will assist in the attenuation of noise, dust and odors that may not be contained and completely controlled within the building through the use of state-of-the-art environmental controls. Descriptions of the environmental controls that are proposed for the facility are presented in the following narrative.

V. NOISE

The land in the immediate vicinity of the proposed project site is used for general industrial purposes. The proposed project site is located between two active rail lines. Immediately surrounding the proposed project site are other industries including light

manufacturing and distribution centers, research facilities, and former landfills. The major sources of noise in the vicinity of the Proposed Action include the existing rail traffic, existing truck traffic, and the noise generated by warehouses and industrial uses. The nearest noise sensitive receptors (e.g. schools, hospitals, residences) to the proposed project site are located in residential areas located over 1,300 feet west and east of the proposed location of waste transloading operations at the project site. The closest schools, Wildwood Street School in Wilmington and the Veterans Memorial School in North Woburn, are located over one mile north and south of the proposed project site, respectively. Typical ambient noise levels for the general land use categories in the vicinity of the proposed project site range from 40 to 90 decibels.

Consistent with the Board's rules at 49 CFR 1105.7(e)(6), we used L_{dn}, the day-night equivalent sound level to characterize community noise. L_{dn} is a measure of cumulative noise over a 24-hour period, adjusted to account for the perception that noise at night is more bothersome than the same noise during the day. The unit for L_{dn} is A-weighted decibel (dBA). A-weighted approximates the manner in which the human ear responds to sound.

The Board's rules further specify that the noise analysis should determine the number of noise-sensitive receptors (residences, schools, hospitals, and churches) in two cases:

1. An increase in community noise exposure as measured by Day-Night Average Noise Level (L_{dn}) of 3 A-weighted decibels (dBA) or more.

2. An increase to a noise level of 65 dBA L_{dn} or greater.

The Proposed Action would increase noise levels in the adjacent community and along truck routes. The operation of freight trains and related activities within the proposed project boundaries creates additional noise sources in the community. Examples of the primary noise sources which specifically would deal with the transloading of waste materials, other than truck traffic and rail traffic which have been the subject of the Board's environmental assessment, include the following:

1. Mobile equipment, such as wheel loaders or hydraulic excavators

2. Stationary equipment for size reduction or consolidation, e.g. baler or grinder.

The proposed project site is located in an industrial area that is zoned for industrial use. The closest sensitive noise receptors include residential neighborhoods that are located approximately 1,300 feet from the proposed location of waste transloading operations at the project site.[4] The operation of mobile equipment within the building will produce

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[4] Town of Wilmington, Master Plan 2001. In addition, based on aerial photos, the closest residential structure in the R-20 area zoned as residential within 350 feet of the Property (west of the Property, not east of the Property) is approximately 400 feet west of the Property. However, the portion of the Property closest to this zone is the

noise levels of approximately 80dBA at the building envelope. The operation of baling and grinding equipment within the building will produce noise levels of approximately 90 dBA within one foot of the equipment. At a distance of approximately 300 feet from the building, it is projected that the noise level would be approximately 65 dBA L_{dn}, calculating noise attenuation with distance traveled from the building and multiple mobile equipment noise sources. Note that no sensitive receptors would be affected, as the distance to sensitive noise receptors would be in excess of 1,000 feet beyond this distance. Stationary equipment, as typically constructed, would produce noise levels greater than mobile equipment. Consequently, given the absence of noise-sensitive receptors within the immediate vicinity of the proposed project site, the Board's thresholds at 49 CFR 1105.7(e)(6) would not be triggered. For this Proposed Action, the stationary equipment will be constructed and installed with sound attenuation components as may be required to further minimize noise generation if required to maintain acceptable noise levels at the facility boundary.

VI. DUST

There will be two types of dust controls, first is general structure dust control and ventilation, and in addition, dust will be controlled at points of generation. General structure dust control will be managed by an engineered system that will be mounted to the underside of the structure roof support system or at another suitable location. A system of nozzles that atomize water will be constructed in a series of zones above the operational areas. Each zone can be independently operated by remote control (by mobile equipment operators, for example) to provide immediate response to a dust condition within a specific area of the building or to provide general dust control within the structure. As the atomized water falls through the air toward the floor, dust particles agglomerate and are removed from the air. This system is in wide use in solid waste facilities throughout the country to control dust. Water consumption for complete coverage of the structure would be on the order of only several gallons per minute. Several manufacturers have been identified that engineer and install this dust control equipment, including AiReactor and MicroCool, among others.

Dust will also be controlled at each piece of stationary equipment, where hoods and ductwork will affect the capture of dust where the equipment is loaded with waste

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area reserved as a Conservation Restriction which will remain in its current wooded/vegetated condition without any development or activities conducted thereon. Based on aerial photos, this residential area is surrounded on three sides by industrial trucking warehouse operations, each of which is approximately 400 feet from this area—the only side not bordered by industrial warehousing, is the side facing away from the Property. The closest portion of the Property on which development and operations can occur is almost 800 feet from the closest residence in this area, and is buffered from those residences by two to three warehouse/truck distribution centers. The mitigation measures referred to in Item 24 of section II below will also apply to this area.

materials and direct the captured dust to air handling equipment specifically designed to remove dust. This equipment, referred to as dust collectors, will provide "continuous duty" removal of dust that is entrained within the air stream. The collectors are steel structures that contain filters, controls and associated equipment. Dust laden air is ducted into the collector. Dust will be captured on filters. Compressed air will be automatically introduced on a timed cycle into the filters to periodically remove dust particles that accumulate on the filters. The dust falls to the bottom of the collector and is automatically removed. Cleaned air will be discharged from the collector down stream of the filers. Electronic controls will be incorporated into the dust collectors to monitor their performance and to indicate when the filter media needs to be replaced to maintain a high degree of effective dust control. OptiFlo PulseJet Cartridge Dust Collectors, manufactured by American Air Filter (AAF International), or an equivalent system, are proposed for this specialized dust collection application. Dust control systems are scalable in terms dust intensity and scalable with regard to the necessary cubic volume of air which may require management.

Consequently, as a result of these measures and the distance of over 1,000 feet from the enclosed structure in which waste will be transloaded and the property boundary, there will be no significant impact outside the project site from dust generated by transloading of waste material.

VI. ODORS

The dust control system will also serve to minimize odors. If additional odor control measures are required, odors will be controlled at the structure door openings using several mechanisms. First would be to install plastic or fabric strip doors at the vehicle and rail car openings to structure (which would also be a further dust control measure). Second, would be a technology specifically developed to control odors. Equipment that will be installed will include an evaporator, piping, and nozzles placed on both sides (door jambs) of each door opening. The system will deliver a vaporized odor neutralizer through each nozzle at each door opening, thereby controlling odors where they would otherwise disperse from the building envelope. This system or a functionally equivalent system could be engineered and installed by Hinsilblon or other companies. Odor control systems are scalable in terms odor intensity[5] and cubic volume of air which may need to be managed.

Consequently, as a result of these measures and the distance of over 1,000 feet from the enclosed structure in which waste will be transloaded and the property boundary, there will be no significant impact outside the project site from odor generated by transloading of waste material.

[5] Odor intensity varies based on type of activity, such as baking which is low intensity to sewer treatment plants which are high intensity and volumes of activity.

SECTION II

RESPONSE TO THE COMMENTS OF THE TOWN OF WILLMINGTON

While the comments of the Town are generally or specifically covered by the EA an additional response is made here. However the comments of Robert Douglas, Assistant Director of Planning and Conservation: require special attention.

Mr. Douglas claims that the Town would not have approved the prior use plan for the Property, a 350,000 sq. ft warehouse, had it known of the conditions existing thereon. This site is one of the most notorious contaminated sites in the region. It has been the center of the attention of the Town of Wilmington for almost a decade and his office has led community efforts relating to the site. Thus, the statement that the prior approval was caused by municipal ignorance simply can not be credited.

The conditions resulting from the prior proposal which were reviewed by the Town were the effects on noise and traffic. Each was of greater severity than those from NET's proposal. The problems related to the land's unfortunate history are fully dealt with by Olin's continuing obligation to clean this site and NET's obligation not to interfere with Olin's discharge of that obligation. Indeed, NET will have less of an impact on that clean up effort than the prior proposed use which would have built a 350,000 sq. foot permanent structure. Similarly, the calcium sulfate landfill he is concerned with is outside of the planned development area and is, in fact, part of the Conservation Restriction area which NET is not permitted to develop. The landfill is also Olin's obligation.

The following responds to the concerns of the Town of Wilmington in the order raised in their submission. In general, NET will retain a Licensed State Professional to review all of its plans and procedures as they may be changed from time to time to assure that they include the best practices recommended by the State. To the extent that any change is made in facilities, those plans must be submitted to Olin and to the Licensed State Professional for the site. This fact addresses most of the Town's concerns about future events. Some comments here repeat comments made above.

1 NET's proposed development and operations at the Property has been determined by Olin, as well as the Licensed State Professional (LSP), for the Property, Sleevey & Hanley, not to interfere with Olin's obligations to investigate and remediate the Property or surrounding Site.

Furthermore, NET has a legal obligation to Olin and has made a commitment to the STB that NET will develop the Property so as not interfere with Olin's continuing obligation to remediate the Property and investigate conditions on and off the Property (including continuing efforts to characterize existing soil conditions), including continued access to any part of the Property by Olin, the

Massachusetts Department of Environmental Protection (MADEP) and/or US Environmental Protection Agency (USEPA); and that if in the future it is determined that there is such an impediment for whatever reason, including newly discovered information, any development and operations conducted at the Property must be removed or modified to accommodate Olin's efforts. NET would be willing to memorialize this contractual obligation and commitment as a mitigation measure, which would be effective based on a determination of NET's LSP for the Site.

2 It must be noted that while NET as a rail carrier may be exempt from State regulation, Olin is not. Therefore, the Construction Remediation Action Module (CRAM), which will be submitted to and must be approved by the MADEP prior to commencement of development at the Property, will not be approved if MADEP determines that there is an unreasonable risk to remediation efforts, structures, etc. previously done or planned at the Property. Furthermore, NET must submit any CRAM to Olin's LSP prior to submittal to MADEP, and Olin will not allow a CRAM to be submitted to MADEP if it creates such a risk. Thus, MADEP will have oversight of the continuing clean up of this site and NET's status will not obstruct those efforts.

3 Based on STB's requirements that NET comply with local health and safety laws, consistently applied, etc., NET would be required to develop the Property in a way which meets such local best practices regarding surface water and storm water flow. NET would be willing to memorialize this obligation and commitment as a mitigation measure, which would be effective based on a determination by NET's LSP for the Site.

4 The distances regarding Wilmington and a potential site in Tewksbury are accurately reflected in the EA. The Wilmington Planning and Conservation Department Memorandum dated August 26, 2004, erroneously measures distances from the center of the respective Towns to downtown Boston, whereas NET measured these distances from the actual properties in question—NET's Property is on the southeast section of Wilmington, indeed on the southern-most border of Wilmington, and the potential site in Tewksbury is in the northwest corner of that Town. From the potential Tewksbury site, a vehicle must first travel approximately 1.25 miles in a Northwest direction to I-495; then Northeast approximately 4.75 miles to I-93; before it can turn South on I-93 approximately 23 miles to Boston (including 12.1 miles to reach the Inner Beltway (I-95) for a total of 29 miles.

5 The Tewksbury site was not feasible for several reasons:

First, it had only 8 total acres of which, based on the owners representation, because of a 3 acre common entrance right-of-way, left only 5 acres which were available for development (not deducting for unusable wetlands). This space would be too small for a multi-commodity truck to rail reload facility. After

allocating space for truck scales, parking, turn around areas and unloading facilities, based on our preliminary view of the geometry of the parcel, we estimated that there would be room for no more than 5 to 10 rail cars, which would not sustain a viable transload facility. Furthermore, the limited space would not accommodate the multiple types of reload operations required for a viable facility. This compares with the 30 acres available at the Property even after deducting for wetlands and conservation restrictions.

Second, the Tewksbury site owner was asking $150,000 to $200,000 per acre, which because of the fact that only 5 acres were developable, and the limited number of rail cars and type of loading activity that the site could accommodate, make it financially not viable.

Third, the greater distance of the Tewksbury site to downtown Boston (29 miles road vs. 13 road miles for the Wilmington site) and, equally importantly, its greater road distance to the inner Beltway (I-95) (18 miles v 3 miles for the Wilmington site) did not make the site attractive to customers serving the greater Boston area, which, in turn, would affect the viability of the site as a rail transload facility.

6 As a mitigation measure, NET would be willing to define "liquid chemicals" which are "non-hazardous and non-explosive" and waste which is "non hazardous", are those that are not listed as RCRA materials.

7 All maintenance and fueling will be conducted on paved areas with protective berms and drains. Normal clean up protocols will be instituted and personnel trained in emergency spill response measures will be in place to prevent any spills from affecting surface or ground water. Rail cars and trucks will not be cleaned on the premises. NET would be willing to memorialize this commitment as a mitigation measure with plans to be reviewed by an LSP hired by NET.

8 A Break Bulk facility is only one of several options which NET could develop/operate at the Property, all of which are part of rail transloading operations. It was included in NET's submission so as to be as comprehensive as possible and avoid claims that there was not full disclosure as to all future potential plans.

Presently, NET has no intent or plans to develop a Break Bulk facility at the Property. It has not conducted any market study or performed a feasibility study as to the same.

Furthermore, Break Bulk facilities deal with dry goods—containers and/or boxes. If NET were to develop and operate such a facility, it would have no greater impact than the other transloading operations proposed by NET.

9 All transloading activities will be conducted on impervious and bermed surfaces with drainage to the acceptable discharge sources so there cannot be a discharge affecting the MMBA. NET would be willing to memorialize this obligation and commitment as a mitigation measure, which would be effective based on a determination by NET's LSP for the Site.

10 Development of the Property will not dig into or otherwise affect any ground water. NET would be willing to memorialize this obligation and commitment as a mitigation measure, which would be effective based on a determination by NET's LSP for the Site.

11 Salt will be stored and handled according to best management practices to prevent release to surface or ground water, with any discharges going to the local sewer discharge. NET would be willing to memorialize this obligation and commitment as a mitigation measure, which would be effective based on a determination by NET's LSP for the Site.

12 The MADEP February 1, 1990, Policy Statement regarding noise levels specifically dealt only with "stationary" sources, and did not address "mobile" sources such as trucks and railcars or engines. As a mitigation measure, NET will commit to design, install and/or acquire necessary measures relating to activities conducted on the Property to assure that sound levels from activities conducted on the Property did not exceed the levels required by the SEA as set forth in the EA at the point of currently existing sensitive receptors.

13 Demolition and construction is projected to require 6 months (Demolition and Site Work-60 days; Concrete and Paving-60; Trackage and Sprung Structure-30—some of these activities can partially occur simultaneously). Note that the alternative truck-to-truck warehouse development approved by the Town of Wilmington and determined to have no significant impact by the Mass EOEA would have required three to four times that demolition and construction period.

14 The Mass EOEA in two separate certificates (one for the prior development and one for NET), determined that at truck levels of 1680 vehicular trips per day, there was no significant impact from air emissions or on safety and traffic flow.

15 NET's commitment to contribute $50,000 for the acquisition of the intersection in question was based on the mitigation measure proffered by the prior developer and accepted by the Town of Wilmington when it approved the prior development—a 350,000+ square foot warehouse distribution center generating over 1600 vehicular trips per day. In that situation, the developer offered to provide funds to purchase the corner property and the Town would obtain the funds to make the necessary improvements thereon. NET has made a similar proposal, except that it would have the Town use its powers of eminent domain to acquire only the necessary portion of the corner property in question, and the NET

goes further by allowing the Town to apply excess funds to improvements, as well.

16 Sufficient and complete staffing cannot be done until development of the Property commences, which must await the final STB order. Staff programs cannot be put in place until staff is hired. Therefore, it is not appropriate to indicate staff and programs at this time, as long as NET is capable of providing such staffing and programs in the future. As a mitigation measure, NET could commit to submit its staffing and programs to an LSP hired by NET to assure that staff training, programs and plans would adequately address operational issues of managing potential impacts on ground water associated with accidental releases of chemicals and fuels.

17 The exact location and design of the containment system will be done at the appropriate time when specific customers are obtained. Therefore, it is not appropriate to indicate the same at this time, as long as NET is capable of such design. As a mitigation measure, NET would commit to submit its design to an LSP hired by NET for review and approval.

18 As a mitigation measure, NET would commit to comply with all federal laws dealing with hazardous materials, and all State and local laws provided they have not been preempted by federal laws dealing specifically with transportation of hazardous materials.

19 As a mitigation measure, NET would commit to submit its training programs to an LSP hired by NET for review and approval.

20 As a mitigation measure, NET would commit not to handle hazardous materials in the GWPD and would submit its plans to an LSP hired by NET for review and approval.

21 As a mitigation measure, NET would commit to reaffirm its obligations to the STB and Olin not to interfere with Olin, MADEP or the USEPA's future remediation and investigation efforts at the Property.

22 As a mitigation measure, NET will submit its plans in connection with any future connection with the MBTA main line to NET's LSP for the site to review and determine whether they comply with the requirements governing disturbance of wetlands.

23 As a mitigation measure, NET will submit its plans in connection with any activity to be conducted at the Property, which is not covered by the EA, to NET's LSP for the Property for review and determination that it will not affect the Town's public water supply and the Maple Meadow Brook Aquifer.

24 As a mitigation measure NET will develop, acquire and/or institute odor and dust

control measures to the extent necessary to prevent any significant impacts of the same beyond the site boundaries as described in Section I above, and of noise on sensitive receptors as described in Section I above.

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Thank you for your attention to these comments.

Very truly yours,

John F. McHugh
For New England Transrail, LLC

Cc: Deutch Williams
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Boston, MA 02110-1213

Ellen Roy Herzfelder, Secretary
Executive office of Environmental Arrairs
251 Causeway St, Boston, MA 02114