

Wilmington Environmental Restoration Committee  
7 Chandler Rd.  
Wilmington, MA 01887

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Office of Proceedings  
March 15, 2016  
Part of  
Public Record

January 14, 2016

VIA ELECTRONIC FILING

Rachel Campbell, Director  
Office of Proceedings  
Surface Transportation Board  
395 E Street S.W., Room 1034  
Washington, DC 20423-0001

Re: STB Finance Docket No. FD-34797-0  
New England Transrail, LLC  
Response of Wilmington Environmental Restoration Committee (WERC) to  
USEPA's Environmental Comment of November 6, 2015

The Wilmington Environmental Restoration Committee (WERC) is a local citizens group formed in 2008 to administer an EPA Technical Assistance Grant (TAG). We thank the Board for inviting comments on the USEPA's letter dated November 6, 2015, and for extending the comment period to allow for a more comprehensive response from interested parties.

1. We respectfully disagree with the USEPA's conclusion that current site conditions no longer warrant continuing the STB's deferral of its own environmental investigation. It is premature for the EPA to recommend that the STB move forward at this time. Although the Remedial Investigation has been completed for soil, sediment, and surface water on the Eames Street parcel, the Remedial Investigation for groundwater has not been completed. We remind the Board and others that groundwater contamination is the reason the Olin site

was elevated to Superfund status from the CERCLA process overseen by Mass DEP (MADEP) beginning in 2005.

Additionally, the Feasibility Study for the site has not been proposed; hence there is no decision on the cleanup of the site. EPA has required Olin to combine all three Operable Units (OU) for the Feasibility Study, so the FS cannot be completed until the OU3 (groundwater) RI is finished. Because there is only an incomplete RI on Groundwater contamination, no Feasibility Study, and no Record of Decision, the Board should continue to defer its environmental analysis and decision on the petition.

We refer the Board to its own decision of June 19, 2012:

*“Before the Board can address NET’s petition, the EPA’s investigation and study will need to progress further. EPA has not yet published a draft RI/FS study, and the RI/FS process can be considered final only after EPA responds to public comments on the draft RI/FS report, issues a RI/FS addressing public comments, and issues a Record of Decision (ROD). The Board will continue to defer its environmental review until the RI/FS study has been completed and a ROD has been issued that explains which cleanup alternatives have been approved for the Olin Site. A ROD must be issued before NET can construct on the Olin Site. Accordingly, it would be premature for the Board to grant NET’s request to resume processing the application at this time.”*

2. As we pointed out in our comments last September, there is no Conceptual Site Model regarding formation of NDMA, a potent carcinogen and key site contaminant. No one can

state authoritatively whether NDMA in the groundwater across the site is a remnant artifact of past industrial processes, or if it is continuing to form *in situ*. What is clear is that NDMA has migrated far from the area on-property where it was first detected in 1990, and that the soils, surface water and sediments (OU1 and OU2) and the groundwater (OU3) interact on and off the site in ways not adequately characterized or fully understood. Again, as the Board stated in its June 19, 2012 decision, it is premature to conduct its environmental review without a full characterization of contamination on the site, as the remedies for OU1 and OU2 may be impacted by OU3.

3. On-property investigations into the adequacy of the slurry wall for the Containment Area (CA) are on-going. Olin is attempting to determine the integrity of the slurry wall, which was constructed in 2000, three years prior to the confirmation of NDMA contamination in the Town of Wilmington's drinking water wells in the Maple Meadow Brook Aquifer. Testing of the wall thus far has either failed, or shown the wall to be quite permeable. This raises significant concern regarding leaching of materials within the CA into groundwater, via the pressure equalization window, the bedrock interface, the fractures in the bedrock, and through the wall itself. It appears from semiannual reports that contamination in the southwestern portion of the CA may be contributing to high levels of ammonia and other contaminants reported in the surface water and sediments downgradient of the CA.

Further investigations of the slurry wall are essential for determining if the CA is an appropriate and adequate remedial action. If the slurry wall is not functioning as designed, then the material and groundwater in the CA will need to be better characterized and fully remediated in other ways besides simple containment. Because the NET's proposed plans

for the Olin property include warehouse and parking facilities that would cover nearly half of the existing CA, premature construction will preclude the additional investigation and options for other remedial actions should EPA conclude that the slurry wall is not adequate.

Evaluations of the CA as an effective remedial action should continue and be completed before the STB allows NET to move forward with its petition.

4. The Ecological Risk Assessment in the Final Remedial Investigation Report for OU1 and OU2 (dated July 24, 2015) found "adverse effects" from the contamination on the site to two areas; sediment in the Lower South Stream (Ditch) and the surface water in South Stream (Ditch). No feasibility study has been done to determine how to remediate this water body, which is part of the natural drainage of the site, but EPA's letter identifies an "Additional Area" in the lower South Stream (Ditch) as "not suitable for redevelopment". The "Additional Area" appears to address the area where the sediment is contaminated. However, EPA should also state that the South Stream (Ditch) and an associated buffer zone, is "not suitable for redevelopment".

5. WERC also disagrees with a comment made by Olin Corporation in its letter of December 30, 2015, in which Olin states: "The Plant B infrastructure can be installed anywhere on Site", which we understand them to mean anywhere on the Eames Street parcel that they currently own. Included with their letter Olin provided supplemental information regarding the Environmental and Open Space Restriction Agreement Olin and the Town of Wilmington executed in 2006. The restriction was granted in part as compensation for destruction and degradation of wetlands during remediation of portions of the property under MADEP's jurisdiction. While the restriction does allow exceptions for remedial activities and remedial structures if deemed necessary in the future, it is

presumptuous to imply that the Plant B infrastructure should be relocated to the restricted area for the caprice or convenience of NET's siting of its proposed operations. Given that NET's preliminary plans show new track and a very large parking/loading area in, through, and over existing wetlands that will be destroyed, preserving the protected open space on the property becomes even more important. Plant B infrastructure should not be relocated to the restricted area, but remain in place as recommended by the EPA unless another suitable location in the previously disturbed part of the property can be identified.

6. We do agree in part with Olin's comment that "the views expressed in the USEPA's November 6, 2015 letter are inconsistent with its prior public statements regarding the suitability of the site redevelopment." From the beginning of EPA's involvement locally until this past August, when EPA revised its policy on so-called "Comfort Letters", the people of Wilmington and Woburn have been led to believe that no reuse or redevelopment of the property would occur until the Superfund process has been completed; in other words, not until the development of the comprehensive RI/FS followed by the Record of Decision for the entire Olin Chemical Superfund Site. We, the people affected directly by Olin's contamination, deserve the full protection and fulfilled promises of our government agencies and officials. The Superfund process should continue to the Record of Decision before redevelopment of the site is permitted.

7. If the Board ignores the wishes of the Town of Wilmington and the residents of Wilmington and North Woburn and lifts its deferral, WERC would strongly support the EPA's recommendation that the Board require an Environmental Impact Statement (EIS) rather than a simpler Environmental Assessment (EA). Given the nature, extent, and

complexity of the known contamination at this site, along with the Public's "keen interest", an EIS is more appropriate.

Furthermore, we believe that an EIS is actually required under the STB's own environmental rules. Section 1105.6 of Title 49 (*49 CFR 1105 et seq.*) authorizes the Board to require the preparation of a full EIS where the probability of significant impacts from the proposal is high enough to warrant an EIS rather than an EA. Generally an EIS is prepared for all rail construction proposals. In NET's case rail and truck transport will be vastly increased in South Wilmington, so that impacts from traffic, emissions, and potential danger from unknown cargoes being brought in or out of town should be assessed in addition to potential impacts to the as yet un-remediated portions of the Superfund site.

Finally, subsection 1105.6(b)(1) provides an exception to the EIS requirement for proposals that are limited to construction of connecting track within existing rail rights-of-way or on land owned by the connecting railroads, in which cases an EA is deemed sufficient. We point out that NET does not currently own the Olin property, nor does it own adjacent parcels on either side of Olin where it appears new track is proposed. Also, more infrastructure than new connecting track in existing rights-of-way is proposed, so that NET fails to meet the criteria for either exception. Therefore the EIS process should be followed if and when the Board chooses to initiate its own environmental review.

For these reasons WERC respectfully asks that the STB continue deferring its environmental review until the combined RI/FS documents have been approved and an ROD is issued for the entire Olin Chemical Superfund Site.

Thank you, again, for the opportunity to comment. As always we trust you will give careful consideration to the comments and concerns of the affected residents in both Wilmington and Woburn.

Sincerely,

A handwritten signature in black ink that reads "Martha K. Stevenson". The signature is written in a cursive style with a large, looped initial 'M'.

Martha K. Stevenson, President

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CERTIFICATE OF SERVICE

I, Martha K Stevenson, hereby certify that on or before March 14, 2016, a copy of the foregoing was sent via electronic or U.S. mail, to the Parties of Record.



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