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September 7, 2007

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S W
Washington, DC 20423-0001

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Public Record

Re: New England Transrail, LLC d/b/a/ Wilmington & Woburn
Terminal Railway - Construction, Acquisition and Operation Exemption
In Wilmington and Woburn, MA. STB Finance Docket 34797

Dear Secretary Williams:

I am filing the attached letter in response to the Petitioner's New England Transrail's
Submission of Supplemental Information Requested by the Board.

Please call me if you have any questions on the attached document. Thank you for your attention
to this matter

Sincerely,


JAMES R. MICELI
CHAIRMAN

**Re: New England Transrail, LLC d/b/a Wilmington & Woburn
Terminal Railway – Construction, Acquisition and Operation Exemption
In Wilmington and Woburn MA. STB Finance Docket 34797**

In response to the Board's decision served on July 20, 2007 ("Decision") I want to reply to the Submission of Supplemental Information by New England Transrail, Inc., d/b/a Wilmington & Woburn Terminal Railway ("NET") on or about August 9, 2007.

The three requirements that New England Transrail states are Surface Transportation Board requirements to decide whether to approve an application to acquire or construct a rail line are

- 1) whether there is a public need for the proposed new service
- 2) whether the proposal is in the public interest and will not unduly harm existing services; and
- 3) whether the applicant is financially able to undertake the project and provide the rail service

Requirement 1:

They argue that the new rail capacity need, and the need for outside investment in rail infrastructure are well documented. Although in their decision the STB recognizes that NET is not now a rail carrier and it does not matter that no interchange agreement is yet in place NET's applications have never established any proposed contracting with any rail services i.e. the MBTA or Guilford Industries. Isn't it imperative when writing a plan with financials to know what it might cost to procure contracts with the connecting rails? More importantly, I believe this proposal for rail service, and the preemption with a transload facility, is really a proposal for a solid waste facility and not to enhance the northeast rail infrastructure

Requirement 2:

Second, health and safety is my main concern as it affects my constituents. I would be remiss if I didn't say that with preemption the health and safety of our residents is threatened. I believe that the operation practices potentially create air pollutants and other adverse effects to the environment and neighboring communities as had happened in the past. Especially from transload activities that include separation of materials like solid waste materials that could be very unsafe and unhealthy. Solid waste processing activities which the board found to be part of rail transportation is not in the public interest. These facilities whether on rail lines or as part of business entities require municipal oversight to ensure the health and safety of the environment and people directly impacted by them. Third I cannot understand how this will decrease highway traffic due to the fact that the commodities need to get to the transrail (at least 400 trucks per day), and thus will increase truck traffic to the sight in an area that is highly residential. And finally, fourth it is very discomfoting when New England Transrail says it will comply with substantive state and local health and safety regulations. The term substantive says a lot and it is not clear how that might be defined. I might add that such a sight as an EPA superfund sight would not be so attractive to people hired to work on such a sight as evidence in a company that wanted to locate there in the past and determined that it was unhealthy.

New England Transrail stated that NET is a new entrant to the rail transportation business. How does NET know what it takes to be successful in this business if it is new for them? How does NET anticipate that it will generate significant net income? Where is the evidence that NET will generate significant net income despite environmental mitigation costs? What part of the business would be most profitable transload and rail or solid waste management? I believe it is the waste management business where they are anticipating significant net income and not operating as a rail service.

It is with all of these concerns that I ask the Board not to provide NET with preemption as a rail carrier. I still don't believe that the New England Transrail application provides enough substantive and convincing information to warrant a transrail operation with preemption.

I believe that Commissioner Mulvey is right in stating that it would be a mistake to grant such preemption to New England Transrail and I agree with his dissent of the decision. Further, I want to state my position that New England Transrail's has not been totally forthcoming not during initial application and not during the testimony on April 19th when they brought in a late filing. I believe that Commissioner's Mulvey's dissent provides a strong case for reconsideration of any decision especially as it relates to the very inappropriate operations of Solid Waste handling.

In closing, I believe it would be in the best interest of all parties that the Surface Transportation Board looks at this proposal once more and not respond favorably to it.

Sincerely,

JAMES R. MICELI
CHAIRMAN

Cc: Service List in STB finance Docket NO 34797 (first class mail)