



COMMONWEALTH OF MASSACHUSETTS  
 EXECUTIVE OFFICE OF ENVIRONMENTAL AFFAIRS  
 DEPARTMENT OF ENVIRONMENTAL PROTECTION  
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 SEP 2 2004  
 WASTE MANAGEMENT

August 25, 2004

Case Control Unit  
 Surface Transportation Board  
 1925 K Street NW  
 Washington, DC 20423

Attn: Ms. Phillis Johnson-Ball  
 Environmental Comments  
 Finance Docket No. 34391

Re: New England Transrail, LLC. d/b/a Wilmington and Woburn Terminal Railroad Co.

Dear Ms. Johnson-Ball:

The Massachusetts Department of Environmental Protection (DEP), Business Compliance Division has reviewed the Environmental Assessment, Finance Docket No. 34391 for the Wilmington and Woburn Terminal Railroad Co. Construction, Acquisition, and Operation Exemption and has the following comments.

The project consists of the acquisition and construction of a total of approximately 4,000 feet of track located on and adjacent to a parcel of land owned by Olin Corporation in Wilmington, Massachusetts. In addition, the applicant proposes to construct a reload facility on-site to facilitate the transloading of various commodities between truck trailers and rail cars. The list of commodities noted in the Environmental Assessment includes "construction debris", and "non-hazardous waste". Construction debris and non-hazardous waste are solid wastes that are regulated in Massachusetts pursuant to Chapter 111, section 150A of the Massachusetts General Laws and the regulations promulgated thereunder at 310 CMR 16.00, Site Assignment Regulations, and 310 CMR 19.000, Solid Waste Management Facility Regulations.

The Environmental Assessment makes it clear that construction and operation of the reload facility is "... not a matter subject to the Board's regulatory authority." The purpose of these comments is to make clear that if solid waste materials are to be handled at the reload facility, both the Department and the local Board of Health do have regulatory authority. Depending on how solid waste materials are handled at the facility both a Site Assignment and a Solid Waste Permit may be needed before the reload facility can be constructed and operated. In an attempt

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to determine which, if any, solid waste materials will be handled by the facility. If any solid waste materials would be handled, the Department submitted comments on the project to the Environmental Affairs during the Massachusetts Environmental Impact Review. DEP followed up by sending a letter, dated May 5, 2004, to the proponents of the project for further clarification on these issues. As of this date, no response to that letter has been received by the Department.

To reiterate the Department's position regarding the transload facility, if the facility will be transferring construction and demolition debris, non-hazardous solid waste material, from one vehicle or container to another vehicle or container, this activity will require further review by DEP for compliance with applicable solid waste regulations. Depending on how solid waste materials are transferred and/or stored, such review may result in a determination that the activity must obtain a Solid Waste Site Assignment from the Department of Health and a Solid Waste Permit from the Department. As stated in DEP's EOEI dated November 28, 2003, for a truck-to-rail operation to be exempt from applicable regulations the following must occur:

- Only closed containers of solid waste may be transferred from trucks to railcars.
- Uncontained solid waste is not unloaded, stored or transferred during the transfer process.
- Regularly scheduled departures of trains loaded with waste containers. The frequency of a departure may be variable depending on the material handled and the potential for nuisance conditions.
- The operation shall not result in the generation of nuisance conditions limited to, odors, dust, noise, vectors, etc.

The Department still seeks clarification from New England Transrail on the types of materials to be handled by the proposed facility, if any, and clarification on how solid wastes will be stored and/or transferred. If solid wastes are proposed to be handled in any manner other than as described above for an operation that would be exempt from solid waste regulations, then there may be environmental impacts from noise and stormwater management that will need to be specifically addressed by the applicant and considered by SEA in its final Environmental Assessment decision.

Thank you for the opportunity to comment on this proposed project.

Sincerely,



Steven A. DeGabriele  
Director  
Business Compliance Division

Cc: James Doucett – DEP  
James McQuade – DEP  
John Felix – DEP