



Wilmington, Massachusetts

INTER-DEPARTMENTAL COMMUNICATION


FROM THE TOWN MANAGER

November 14, 2020

TO: Board of Selectmen

RE: New England Transrail Status Report

Attached are the required 90-day status reports that must be filed with the federal Surface Transportation Board by Wilmington Woburn Intermodel (WWI)/New England Transrail (NET) and the Town of Wilmington. As you will see the correspondence reflects the fact that WWI and NET efforts remain on hold pending the issuance of a Record of Decision (ROD) by the federal Environmental Protection Agency (EPA).


Jeffrey M. Hull
Town Manager

Attachment

CLARK HILL

Eric M. Hocky
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Clark Hill PLC
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February 6, 2020

VIA E-FILING

Ms. Cynthia T. Brown
Surface Transportation Board
395 E Sreet, S.W.
Washington DC 20423

**Re: New England Transrail, LLC d/b/a Wilmington & Woburn Terminal
Railway-Construction, Acquisition and Operation Exemption-in Wilmington
and Woburn, Massachusetts
Docket No. FD 34797 (Sub No. 1)
*Further Status Report***

Dear Ms. Brown:

By this letter, Petitioner New England Transrail ("NET") and Wilmington Woburn Intermodal, LLC ("WWI")¹ provide their joint further status report pursuant to the April 5, 2019 Board decision, as amended by the October 24, 2019 Board decision, which requires the parties to submit a status report by November 8, 2019, and every 90 days thereafter. NET and WWI filed their joint most recent report on November 8, 2019 as required.

As noted in previous reports, in October 2018, representatives of WWI presented to the Wilmington Board of Selectmen, WWI's concept for a potential project alternative to the project which is the subject of NET's petition before the Board. The parties apprised Danielle Gosselin in the Board's Office of Environmental Assessment of those preliminary discussions. The conceptual alternative would involve an expanded version of its proposed warehouse for the bulk transfer and storage of retail and other commodities.

¹ In November, 2018, NET petitioned to substitute WWI as the Petitioner. WWI is a joint venture between NET and commercial developer GFI Partners. That petition is still pending with the Board. Nevertheless, WWI is joining in this status report.

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As reported in November, 2019, Olin and EPA, in an October 22nd Public Meeting reiterated their plans for completion of a cleanup plan. However, nothing has yet been issued by the EPA. Based on recent discussions with Olin and EPA, WWI understands that EPA continues to work on the proposed cleanup plan which it hopes to issue in the first quarter of 2020. The issuance of the cleanup plan will be followed by public comment and further negotiation of the plan with involved parties, and ultimately the release of Record of Decision ("ROD") regarding cleanup of the subject property.

In light of the halting progress in the Superfund matters affecting the project site, WWI (and, by extension, NET as an investor in it) represents that it is not in a position to bring to a final conclusion its engineering and planning of a potential alternative redevelopment project until tangible progress has been made toward the development and approval of remedial options for clean-up of the Olin site. WWI has continued its ongoing dialogue with EPA and Olin, and, the channel of discussions with the Town of Wilmington remains open. WWI (and NET) are intent on contributing positively to the Olin - EPA efforts towards the development and approval of a cleanup plan and ROD for the site which supports an environmentally friendly redevelopment. At that time, or shortly thereafter, the Town of Wilmington and WWI will be able to integrate the EPA planning into their discussions. The cleanup plan and the ROD will also be informative to the STB and its deliberations.

Please let us know if the Board has any questions concerning this report.

Respectfully,

CLARK HILL PLC


Eric M. Hocky

Attorneys for New England Transrail and
Wilmington Woburn Intermodal, LLC

EMH/e

cc: Danielle Gosselin, OEA (by email)
Daniel Deutsch, Esq. (by email)
Attached Service List

Ms. Cynthia T. Brown
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CERTIFICATE OF SERVICE

I, hereby certify that on the 6th day of February, 2020,, a copy of the foregoing "Further Status Report " was sent by U.S. Mail to the following Parties of Record:

Daniel R. Deutsch
Principal and Managing Attorney
Brooks & DeRensis, P.C.
111 Devonshire Street, Suite 800
Boston, MA 02109

Steven C. Armbrust
CSX Transportation, Inc.
500 Water Street, J150
Jacksonville, FL 32202

Kathleen M. Barry
Wilmington-Woburn Collaborative
14 Powder House Circle
Wilmington, MA 02210

Linda Raymond
Woburn Neighborhood Association, Inc.
10 North Maple Street
Woburn, MA 01801

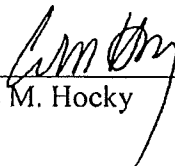
Curtis M. Richards
Olin Corporation
3855 North Ocoee Street, Suite 200
Cleveland, TN 37312

Martha K. Stevenson
Wilmington Environmental Restoration Committee
7 Chandler Road
Wilmington, MA 01887

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Laura Swain
Commonwealth of Massachusetts
Department of Environmental Protection
One Winter Street
Boston, MA 02108

William Walsh-Rogalski (Mail Code ORA 17-1)
Office of Environmental Review,
U.S. EPA Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912


Eric M. Hocky



Daniel R. Deutsch, Esq.
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Boston, MA 02109
(857) 259-5200
(857) 259-5212 fax

February 7, 2020

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

**RE: New England Transrail, LLC, D/B/A Wilmington & Woburn Terminal
Railway-Construction, Acquisition, and Operation Exemption-in
Wilmington and Woburn, Massachusetts
FD 34797 Sub-Docket 1**

Further Status Report

Dear Ms. Brown:

On behalf of the Town of Wilmington ("Wilmington"), we submit this further status report pursuant to the Board's decision dated April 5, 2019 and amended October 24, 2019, requiring the parties to submit a status report by November 8, 2019 and every 90 days thereafter.

Wilmington is content with the report submitted by NET and WWI on February 6, 2020, except to note that the pace and timing of WWI's engineering and planning of a protentional alternative redevelopment project depends upon both the development and approval of remedial options for clean-up of the Olin site by EPA and Olin Corporation and also the decision-making of WWI and NET, matters which largely are beyond the control of Wilmington.

Having said that, Wilmington stands ready to resume consideration of any additional relevant information and submittals from WWI and NET when circumstances permit. In the meantime, Wilmington and its environmental consultant are continuing to confer with Olin and EPA as appropriate, and provide technical comments, regarding the development of the clean-up plan and ROD for the Superfund Site.

Please let us know if you require any additional information.

Very truly yours,


Daniel R. Deutsch



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cc: Eric M. Hocky, Esq.
Danielle Gosselin, OEA
Jeffrey M. Hull, Town Manager, Town of Wilmington
Attached Service List

Ms. Cynthia T. Brown
February 7, 2020
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CERTIFICATE OF SERVICE

I, Daniel R. Deutsch, hereby certify that a copy of the foregoing Status Report on behalf of the Town of Wilmington dated February 7, 2020, was sent via first-class mail to the following parties of record.

Eric Hocky, Esq.
Clark Hill Strasburger
1025 Connecticut Ave NW, Suite 717
Washington, DC 20036-5439

William Walsh-Rogalski
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Office of Environmental Review
U.S. EPA Region 1
5 Post Office Square, Suite 100
Boston, MA 02109-3912

Steven C. Armbrust
CSX Transportation, Inc.
500 Water Street, J150
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Kathleen M. Barry
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Martha K. Stevenson
Wilmington Environmental Restoration
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7 Chandler Road
Wilmington, MA 01887

Laura Swain
Commonwealth of Massachusetts Department
of Environmental Protection
One Winter Street
Boston, MA 02108

Daniel R. Deutsch



Wilmington, Massachusetts

INTER-DEPARTMENTAL COMMUNICATION

FROM THE TOWN MANAGER

February 21, 2020

TO: Board of Selectmen

RE: Potential Conflict on Board of Appeals

The July Fourth Committee will be seeking a special permit from the Board of Appeals to authorize the use of the former Swain School property for a carnival as part of their planned July 4th celebration for 2017. The application is made in accordance with Section 4, subsection 4.1.9 *Fairs, Bazaars, Antique Shows and Carnivals* of the Wilmington Zoning By-law revised. Daniel Veerman, a member of the Board of Appeals, is also an abutter to the former Swain School property and as such per Massachusetts General Law Chapter 268A is presumed to have a potential financial interest in the Board of Appeals decision related to the carnival unless he can demonstrate that he does not have a financial interest.

Mr. Veerman emailed me the attached communication to request that I bring to the Board's attention the potential conflict and request that the Board consider whether to deem his circumstances not in conflict with his ability to make an impartial decision on the matter. You may recall that similar circumstances have presented themselves for many years when the Committee sought a special permit to conduct a carnival at the former Swain School property.

The public hearing on consideration of the special permit has been scheduled for Wednesday, March 18, 2020 before the Board of Appeals. The Board of Selectmen is being asked once again to consider whether it believes Mr. Veerman's ownership of property near the potential location of a carnival is so substantive as to likely affect his ability to impartially act on the Committee's special permit application for the Fourth of July carnival and whether his participation presents a conflict of interest with respect to his ability to execute his duties as a member of the Board of Appeals.


Jeffrey M. Hull
Town Manager

Attachment

Jeffrey Hull

From: Daniel Veerman <attydjv1@aol.com>
Sent: Tuesday, February 18, 2020 12:06 PM
To: Jeffrey Hull
Subject: [EXTERNAL] 4th of July Committee Application

February 18, 2020

Jeffrey Hull
Town Manager
Town of Wilmington
121 Glen Road
Wilmington, MA 01887

Dear Mr. Hull:

As you are aware, I am a member of the Wilmington Board of Appeals. It has just recently and informally been brought to my attention that on March 18, 2020 the 4th of July Committee will be applying for a special permit to locate the 4th of July Carnival to the property known as the former Swain School site on Middlesex Avenue for this year's upcoming Independence Day celebration. This area is directly across the street from my residence at 131 Middlesex Avenue. Although I am not sure if I am technically a direct abutter, I certainly may be, and clearly live within 300 feet of the area.

When this issue first arose years ago, I contacted Town Counsel who informed me that due to the proximity of my residence to the area in question, the safe course of conduct would be to recuse myself from hearing the Committee's special permit application, since a direct abutter would be presumed to have a financial interest in the matter. Although I do not believe the Carnival would necessarily benefit or disadvantage me financially due to the location of my house to the area, I was advised that the presumption of a financial interest is a matter of law, if not fact. He advised me to communicate my conflict to my appointing authority, namely the Board of Selectmen, and they have on all four previous occasions decided to waive my conflict after proper deliberation and decision.

Toward that end, please forward this communication to the Board of Selectmen, should they decide to entertain this issue at their next meeting, deliberate and take such action.

Please feel free to contact me if needed.

Daniel J. Veerman, Esquire
131 Middlesex Avenue
Wilmington, AM 01887

Sent from my iPhone

