

RFK

State of Connecticut

RICHARD BLUMENTHAL
ATTORNEY GENERAL



Hartford

July 22, 2009

The Honorable Joseph E. Borst, First Selectman
Town of Newtown
Edmond Town Hall
45 Main Street
Newtown, CT 06470

Dear First Selectman Borst:

Thank you for your letter of July 7, 2009, asking for my assistance concerning the current operation and proposed expansion of the Housatonic Railroad facility at 30 Hawleyville Road in Newtown.

I share your questions and concerns and will support strong steps to protect against potential environmental damage from of this facility, including a halt to possible expansion.

The proposed expansion certainly raises significant and serious environmental and legal issues that must be addressed as soon as possible. Regarding the environmental impact, as you know, there is a transfer station permit application pending at the Department of Environmental Protection ("DEP"). The DEP's review of the application is in its preliminary stages and is limited presently to the sufficiency of the application itself. That review will be followed by a substantive review and then a tentative determination by DEP staff. I will support any request for a hearing on the tentative determination and I recommend that you do so as well. I will join you in closely monitoring the permit review process.

I am deeply concerned as well that present ongoing operations of the Housatonic Railroad facility may violate the state's wetland laws. The facility owners arguably have ignored town efforts to address significant violations. I agree substantially with your legal memorandum regarding the authority of local inland wetland agencies to protect wetlands from operations of railway transfer stations. My office will carefully and thoroughly review this memo and other legal documents to determine the extent of respective state or local jurisdiction in this area, and how my office can assist and coordinate with your efforts.

One point is clear: state environmental laws cannot be ignored by this facility owner. The DEP and local inland wetlands commissions work as partners to enforce the Wetlands Act.

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These laws protect the fragile and limited wetland resources of the state and may not be disregarded. I will review the information you provided and consider how best to investigate and enforce the Wetlands Act in this situation. Finally, you should know that the Commissioner of Environmental Protection can take the history of non-compliance with environmental laws into account when acting on a permit application.

I look forward to our coordinated efforts to be sure our environment and residents are protected and that all environmental laws are respected and obeyed.

Very truly yours,



RICHARD BLUMENTHAL