

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 35116

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES INC. – CONSTRUCTION
AND OPERATION EXEMPTION – CLEARFIELD COUNTY, PA

FINANCE DOCKET No. 35143

R.J. CORMAN RAILROAD COMPANY/PENNSYLVANIA LINES INC. – ACQUISITION
AND OPERATION EXEMPTION – LINE OF NORFOLK SOUTHERN RAILWAY
COMPANY

DOCKET NO. AB 167 (SUB-NO. 1004N)

CONRAIL ABANDONMENT OF THE SNOW SHOE INDUSTRIAL TRACK IN CENTRE
AND CLEARFIELD COUNTIES, PENNSYLVANIA

DECLARATION OF JOANN GILLETTE

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COMMUNITIES

Dated: June 13, 2008

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DECLARATION OF JOANN GILLETTE

My name is JoAnn Gillette and I am the custodian of records and of the website maintained by People Protecting Communities (“PPC”). People Protecting Communities is a group of citizens in and around Rush and Snow Shoe Townships in Centre County, Pennsylvania, in close proximity to a site at which the firm, Resource Recovery, LLC, has proposed to site a landfill and other associated and still unpermitted solid waste and industrial facilities at an undeveloped “industrial park” in Rush Township. PPC was formed to oppose the siting of this facility and to promote sound land use at the site. The members of PPC will be

adversely affected by the siting of the landfill and other facilities and their associated odors, traffic, noise, and air emissions, threatened impact on groundwater, upon which I and the other members rely for our water supply, threatened impact on surface water, and the adverse impacts upon tourism, our uses of trails, and other recreational activities. I have been responsible for following the attempts by Resource Recovery, LLC, and related companies to obtain necessary approvals from the Pennsylvania Department of Environmental Protection (“PADEP”), the United States and Pennsylvania Departments of Transportation, Centre County, Rush and Snow Shoe Townships, United States Fish and Wildlife Service and now the Surface Transportation Board. I have reviewed the pertinent files of each of those agencies and have personally received correspondence from those agencies. I make this declaration on the basis of personal knowledge and the contents of those files and that correspondence, pertinent copies of which are attached.

I am submitting this Declaration in support of the Petition to Hold Proceedings in Abeyance in Finance Docket No. 35116, Finance Docket No. 35143, and Docket No. AD 167. These three proceedings involve an attempt by R. J. Corman to reactivate an abandoned rail line whose sole purpose will be to serve an as yet unpermitted and unconstructed landfill and associated “industrial park” proposed by Resource Recovery, LLC. While much of the rail line has been abandoned, two portions have been converted to trails which the Commonwealth of Pennsylvania, through the Pennsylvania Department of Conservation and Natural Resources (“PADCNR”) has spent substantial public monies to improve. The proposed rail line and the trail are located at an area that the Commonwealth has designated as the Pennsylvania Wilds with the intent of promoting the rural heritage of the area and tourism. The landfill and “industrial park” would be located at the eastern entrance to this area and, as inconsistent land

uses, have been opposed by the County, PADCNR and other state, local and federal entities, including Centre County and Snow Shoe Township.

The proposed rail line will service only a proposed landfill and proposed industrial park. There are currently no industrial or commercial uses that exist at the site that the proposed railroad would serve. There are therefore no current customers. Moreover, there is a substantial likelihood that there will be no future customers. The only uses that have been proposed to date, the landfill and a rock quarry, will require permits from the Pennsylvania Department of Environmental Protection under a variety of programs, as well as approvals from the United States Army Corps of Engineers and the United States and Pennsylvania Departments of Transportation, and none of these approvals or permits has been granted. Based on the proceedings to date, comments and review letters prepared by these and other agencies, and the law in Pennsylvania, it is unlikely that these approvals will be granted.

This is evident from the history of the major approvals required:

Access Approvals - There is no adequate access to the site of the proposed landfill and industrial park. Access would be through Snow Shoe Township and the uses and transportation are inconsistent with the Snow Shoe Township Zoning. The current access roads are dirt roads and Snow Shoe will not permit modification of the roads to service an inconsistent use. The landfill proposal was premised on obtaining approval from the United and Pennsylvania Departments of Transportation for the construction of a new exit from Route I-80. The history of the application indicates that this is unlikely to occur and the agencies involved have recommended that all aspects of the project, including the rail spur be subject to a consolidated NEPA review as follows (in chronological order):

09-24-04 Rush Township submitted a Point of Access (“POA”) study on behalf of RRLLC for the I-80 Interchange, a true and correct copy of which I obtained from the Centre County Planning and Community Development Office and have attached hereto as Exhibit 1.

09-27-05 The Centre County Metropolitan Planning Organization (“CCMPO”) unanimously voted the proposed new I-80 interchange is not consistent with the Mobile Action Plan 2015, the CCMPO’s current adopted long range transportation plan. I attended this meeting and have attached as Exhibit 2 a copy of the meeting minutes which were posted on the CCMPO website.

11-05-05 The United States Fish and Wildlife Service (“USFWS”) recommended to a representative of RRLLC that all phases of the project, landfill, industrial park, rail spur, interchange, landfill expansion be treated as a single and complete project for agency review, as reflected in the letter attached hereto as Exhibit 3, which is a true and correct copy of the letter that I obtained from the files of PADEP

07-19-05 The Centre County Planning Office conducted a consistency review of the I-80 POA at the request of Federal Highway Administration (“FHWA”) and recommended the Centre County Planning Commission find that the landfill/industrial park/I-80 interchange is inconsistent with the Centre County Comprehensive Plan. This determination was upheld by the Centre County Planning Commission at a meeting that I attended at which the letter from the Planning Office was distributed. A true and correct copy of that letter is attached hereto as Exhibit 4. The Planning Commission action was upheld by a vote of the Centre County Board of Commissioners.

03-28-06 The I-80 interchange proposal was brought once again before the CCMPO for inclusion in the Centre County Long Range Transportation Plan. The CCMPO voted to defer the request until PADEP permits the landfill. I was present at this meeting and obtained a copy of the minutes from the CCMPO website, a copy of which is attached as Exhibit 5.

12-01-06 PennDOT District issued the attached letter stating that although the POA met design criteria , it did not satisfy the requirements for consistency determinations for land use and Centre County's Long Range transportation plans. A true and correct copy of this letter, which I obtained from the PADEP website is attached hereto as Exhibit 6.

01-19-07 FHWA issued a letter to the Army Corps of Engineers (“USCOE”) stating that its approval of I-80 will be withheld pending the outcome of NEPA studies and designating USCOE potential lead agency for the NEPA review. A true and correct copy of this letter, which I obtained from the PADEP website is attached hereto as Exhibit 7. No further action has been taken with respect to NEPA review.

01-25-07 FHWA sent a letter to PennDOT stating that the POA does not meet FHWA requirements #1 and #5 and that, therefore, conceptual approval for the

interchange could not be granted at that time. A true and correct copy of the letter, which I obtained from a review of PADEP files, is attached hereto as Exhibit 8.

04-19-07 FHWA sent a letter to the Rush Township Supervisors in response to their questions regarding the denial of conceptual approval and, in that letter stated that various regulatory agencies could not proceed with environmental studies and permitting action without a clearly defined project scope with a clearly defined purpose and need, all of which were lacking. I am not aware of anything occurring since that date addressing these concerns. A true and correct copy of the letter, which I obtained from the Centre County Planning Office, is attached hereto as Exhibit 9.

Landfill Permit - The project cannot proceed without a permit from PADEP under the Pennsylvania Solid Waste Management Act and that agency's Municipal Waste Regulations. This permit cannot issue without PADEP being satisfied that there is adequate access, that state and federal wetlands permits will issue, and the applicant will satisfy the requirements for a "harms benefit analysis" similar to NEPA review but including a substantive requirement that the benefits outweigh the harms. PADEP has suspended its review of the application and will not proceed unless the wetland and access issues are resolved, as evidenced by the following:

05-05-05 RRLLC submitted a landfill permit application to PADEP, consisting of seven volumes which I obtained through Senator Corman's office and have in my records.

11-05-05 In comments on the application, USFWS recommend that all phases of project, landfill, industrial park, rail spur, interchange, landfill expansion be treated as a single and complete project for agency review, as reflected in Exhibit 3.

10-02-06 DEP sent a letter to RRLLC suspending landfill permit application review until uncertainties with the I-80 interchange and wetlands issues that had been raised by PA DEP Watershed Management Program were resolved. A true and correct copy of this letter, which I obtained from the PADEP website is attached hereto as Exhibit 10.

02-07-07 DEP sent a letter to RRLLC in response to their deficiency letter response reiterating their position that the landfill permit application will remain suspended until uncertainties with the I-80 interchange and wetlands issues that had been raised by PA DEP Watershed Management Program were resolved. A true and correct copy of this letter, which I obtained from the PADEP website is attached hereto as Exhibit 11.

05-19-08 PADEP Secretary McGinty sent a letter to People Protecting Communities confirming that the RRLLC landfill permit application review is still suspended, a true and correct copy of which is attached as Exhibit 12.

Wetlands Permits - The proposed landfill, interchange and industrial park contain jurisdictional wetlands regulated by the US COE and PADEP and other wetlands regulated only by PADEP. Filling these wetlands will require a PADEP permit and a permit under Section 404 of the federal Clean Water Act, which will require a section 401 certification from PADEP, which will apply its regulations. PADEP, USEPA and the USFWS have objected to the application and, as of this date, it appears that the required wetlands approvals cannot be granted, as reflected in the following:

10-02-06 In response to RRLLC's application, PADEP issued a wetlands deficiency letter in which it identified numerous deficiencies, including, inter alia, the lack of an adequate alternatives analysis, the lack of a showing of water dependency, and the lack of an explanation why the landfill footprint could not be relocated to avoid large wetland areas. A true and correct copy of that letter, which I obtained from the PADEP website, is attached hereto as Exhibit 13.

01-19-07 USCOE issued a Public Notice Wetlands soliciting public comment on Permit Application 04-02142 submitted by RRLLC, a true and correct copy of which is attached hereto as Exhibit 14.

02-13-07 EPA submitted a review letter to USCOE recommending that Permit Application 04-02142 be withdrawn because it lacked sufficient information to allow review to proceed. A true and correct copy of the letter, which I obtained from the USCOE files is attached hereto as Exhibit 15.

02-14-07 USFWS objected to issuance of permit in response to Application 04-021-42. A true and correct copy of this letter, which was sent to People Protecting Communities, is attached hereto as Exhibit 16.

Non-coal Surface Mining Permit - An application for a non-coal surface mining permit for a quarry to mine sandstone, a very common stone, was submitted by Glenn O. Hawbaker. Although this would be located within the industrial park, the material would be used for road construction and the only likely market would be the interchange for I-80, which is a part of the

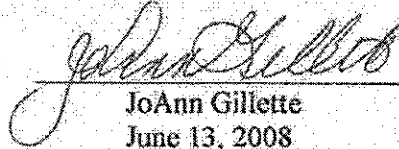
landfill project. This would not be a customer for the railroad. Moreover, this permit application is also deficient, as indicated from the following:

02-05-07 Glenn O. Hawbaker submits a Small Industrial Minerals Surface Mine Permit, a copy of which I obtained from the Centre County Planning Office along with their comments identifying deficiencies and inaccuracies in the application. A true and correct copy of the letter and application are attached hereto as Exhibit 17.

08-24-07 PADEP issues deficiency letter to Glenn O. Hawbaker, a copy of which was sent to People Protecting Communities. A true and correct copy of that letter is attached as Exhibit 18.

DECLARATION

JoAnn Gillette declares, under penalty of perjury, that the foregoing statement is true to the best of her information, knowledge and belief.


JoAnn Gillette
June 13, 2008

Joyce A. Beaty 6/13/08

Notarial Seal
Joyce A. Beaty, Notary Public
Bellefonte Boro, Centre County
My Commission Expires Feb. 10, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of June 2008, copies of the foregoing Declaration of Joanne Gillette have been served by first class mail, postage prepaid, upon:

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