

pertinent STB decision

Inbox

Kyla Bennett

Wed, May 3,
2:05 PM (8 days
ago)

to me

Dear Ed,

I wanted to make sure the Hopedale Water and Sewer Commission is aware of this Surface Transportation Board (STB) decision as it may relate to GURR in Hopedale. It appears that the Zone II regulatory requirements, including the need for special permits, would apply to GURR's railyard, 1 Fitzgerald Drive, which is located within your Zone II water protection district.

Specifically, the Clean Railroads Act, 49 U.S. Code § 10908 et seq. (the Act) was meant to increase state and local oversight of polluted rail yards across the country. In the case at hand, GURR has transported residual waste from the BASF superfund site, has/is transporting contaminated soils from the Nuclear Metals, Inc. (NMI) Superfund site in Concord, MA, and continues to transport fly ash. The Act states that any solid waste rail transfer facility, which appears to describe GURR, "shall be subject to and shall comply with all applicable Federal and State requirements, both substantive and procedural, including judicial and administrative orders and fines, respecting the prevention and abatement of pollution, the protection and restoration of the environment, and the protection of public health and safety, including laws governing solid waste, to the same extent as required for any similar solid waste management facility..."

Additionally, the STB has ruled that **manufacturing** is not within the definition of "transportation" (see attached 2004 decision from Milford, MA), and therefore, the STB does not have jurisdiction over manufacturing activities. Simply stated, preemption would not prevent the application of state and local regulations.

In a FY21 IRAP grant request, GURR's (then) President Michael Milanoski clearly defined the operation of 2MResources recycling process as "manufacturing." Because 2MResources operates within the only warehouse at GURR's 1 Fitzgerald Drive, Hopedale location, it appears that this portion of GURR's operations is recycling and preemption would not apply. In other words, these activities should not be "exempt from local zoning" as described in the attached STB decision.

Best,

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