

COMMENTS OF VICE MAYOR REDELLA S. PEPPER  
AT STB HEARING  
JULY 22, 2008

GOOD MORNING CHAIRMAN NOTTINGHAM, VICE CHAIRMAN MULVEY AND COMMISSIONER BUTTREY. I AM DEL PEPPER, THE VICE MAYOR OF THE CITY OF ALEXANDRIA, VIRGINIA. WITH ME TODAY AT THIS HEARING ARE JIM HARTMANN, OUR CITY MANAGER, POLICE CHIEF DAVID BAKER, AND FIRE CHIEF ADAM THIEL, ALONG WITH IGNACIO PESSOA, OUR CITY ATTORNEY, AND CHARLES SPITULNIK, OUR OUTSIDE SPECIAL COUNSEL.

I WANT TO BEGIN BY EXPRESSING MY APPRECIATION ON BEHALF OF THE CITIZENS OF ALEXANDRIA FOR GIVING THE CITY THE OPPORTUNITY TO ADDRESS THIS BOARD TODAY ON A SUBJECT THAT, IN RECENT MONTHS, HAS BECOME THE FOCUS OF A GREAT DEAL OF CONCERN TO US – THE PROCESS USED TO DECIDE WHERE A RAILROAD CAN LOCATE A FACILITY FOR TRANSLOADING HAZARDOUS MATERIALS FROM RAIL CARS TO TRUCKS, OR FROM TRUCKS TO RAIL CARS.

YOU HAVE ALREADY HAD AN OPPORTUNITY TO READ THE STATEMENT THAT I SUBMITTED EARLIER THIS MONTH, AND I WILL NOT REPEAT ALL OF THAT TODAY.

HOWEVER, I WANT TO CONCENTRATE TODAY ON THE NEED FOR A PROCESS –

ONE THAT WILL BRING THE INTERESTS OF THE PUBLIC INTO MAKING DECISIONS ABOUT WHERE A RAILROAD CAN LOCATE A FACILITY FOR TRANSLOADING HAZARDOUS MATERIALS.

RAILROADS IN THIS COUNTRY OWN AN ENORMOUS NETWORK OF RAIL LINES AND YARDS. THE RAILROAD WERE AN INTEGRAL PART OF ALEXANDRIA'S HISTORY, AND THE CITY IS AN EXCELLENT EXAMPLE OF THE WAY THE RAILROADS, AND LAND USES SURROUNDING RAIL LINES AND YARDS, HAVE CHANGED. OVER THE PAST 20 YEARS, THE LARGE YARDS HAVE CLOSED, AND THE RAILROADS HAVE DEVELOPED PREMIER RESIDENTIAL, RETAIL AND COMMERCIAL PROJECTS. SOME LINES AND YARDS THAT WERE ONCE SURROUNDED BY INDUSTRIAL OR COMMERCIAL USES ARE NOW SURROUNDED BY AND IN VERY CLOSE PROXIMITY TO DENSELY DEVELOPED RESIDENTIAL COMMUNITIES. OTHER RAILROAD FACILITIES, HOWEVER, REMAIN SURROUNDED BY THE INDUSTRIAL OR COMMERCIAL LAND USES THAT PROVIDED THE JUSTIFICATION FOR THE RAILROAD TO LOCATE THEIR FACILITIES THERE IN THE FIRST INSTANCE. THE AERIAL PHOTOGRAPH ON THE EASEL AND ON THE MONITORS IS AN EXCELLENT EXAMPLE OF AN AREA WHERE THE USE OF LAND SURROUNDING A RAIL FACILITY HAS CHANGED. WHERE ONCE THERE WAS A SPRAWLING MILITARY BASE, THERE IS NOW A WONDERFUL RESIDENTIAL COMMUNITY WITH A PARK AND PLAYGROUND, A COMMUNITY CENTER AND AN ELEMENTARY SCHOOL. THAT SCHOOL IS ONLY 600 FEET FROM

A SITE WHERE NORFOLK SOUTHERN AND ITS PREDECESSOR COMPANIES FOR MANY YEARS OPERATED AN INTERMODAL YARD. THE RESIDENCES ARE EVEN CLOSER – 270 FEET. JUST AS THE USE OF THE SURROUNDING NON-RAIL PROPERTY HAS DRAMATICALLY CHANGED, SO TOO HAS THE RAILROAD RADICALLY CHANGED THE USE OF THAT FACILITY -- GONE IS THE INTERMODAL YARD. IN APRIL OF THIS YEAR THE RAILROAD INSTALLED A CONTRACTOR, RSI LEASING, WHICH OPERATES A FACILITY FOR UNLOADING ETHANOL FROM RAIL TANK CARS INTO TRUCKS FOR DELIVERY TO GASOLINE TANK FARMS IN FAIRFAX COUNTY. NOW, INSTEAD OF GENERAL FREIGHT, AS MANY AS 50 TANK CARS OF ETHANOL ARE STORED, LOADED AND UNLOADED AT THIS FACILITY ON ANY GIVEN DAY. I WILL NOT COMMENT FURTHER ON WHETHER THIS CHANGE IN USE WAS LAWFUL, BECAUSE THAT QUESTION IS THE SUBJECT OF LITIGATION BOTH BEFORE THIS BOARD AND IN THE FEDERAL COURT IN ALEXANDRIA.

UNTIL NOW, THIS BOARD HAS GIVEN RAILROADS WIDE DISCRETION TO DETERMINE HOW THEY WILL USE AND REUSE EXISTING RAILROAD PROPERTY. THE CITY IS HERE TODAY TO ASK YOU TO PLACE LIMITS ON THAT DISCRETION IN ONE LIMITED INSTANCE. THE VERY FACT THAT THIS BOARD IS HOLDING THIS HEARING ABOUT THE RAILROADS' COMMON CARRIER OBLIGATION AS IT RELATES TO HAZARDOUS MATERIALS CONFIRMS THAT THIS BOARD RECOGNIZES THAT HAZMATS REQUIRE SPECIAL ATTENTION. I DON'T NEED TO BELABOR THE POINT AS TO WHY THESE MATERIALS ARE DIFFERENT – YOU

ALREADY KNOW THAT, AND YOU'LL BE HEARING A GREAT DEAL FROM THE RAILROADS AND FROM SHIPPER GROUPS TODAY THAT WILL ADDRESS THAT DIFFERENCE.

INSTEAD, WHAT I WANT TO ASK YOU TO CONSIDER IS OUR REQUEST THAT THE BOARD ADOPT A PROCEDURE TO PLACE THE DECISION ABOUT LOCATING A RAILROAD FACILITY FOR LOADING AND UNLOADING HAZARDOUS MATERIALS IN THE PUBLIC DOMAIN BEFORE SUCH A FACILITY CAN BE OPENED. THIS BOARD IS THE AGENCY WITH EXPERTISE IN REGULATING THE CONSTRUCTION AND OPERATION OF RAIL FACILITIES. BY HOLDING THIS HEARING TODAY YOU HAVE ACKNOWLEDGED - PRETTY EXPLICITLY - THAT TRANSPORTATION AND HANDLING OF HAZARDOUS MATERIALS IS IN A CLASS BY ITSELF, AND REQUIRES SPECIAL ATTENTION. AND OUR PROPOSAL TODAY WOULD GIVE THE MATTER THE SPECIAL ATTENTION IT DESERVES.

YOU HAVE THE AUTHORITY UNDER THE STATUTE TO REQUIRE THE RAILROADS TO SUBMIT A PLAN AND TO SOLICIT PUBLIC COMMENT ABOUT A PROPOSAL TO OPEN A HAZMAT TRANSLOADING FACILITY. THAT'S ALL WE ARE SEEKING HERE - THE OPPORTUNITY TO BE HEARD.

THE PROPOSAL I HAVE OUTLINED IN MY TESTIMONY WOULD GIVE US THAT OPPORTUNITY. IT WOULD REQUIRE THE RAILROAD TO ADVISE THIS BOARD, IN

THE FORM OF AN APPLICATION, OF ITS PLANS TO LOCATE A HAZMAT TRANSLOADING FACILITY. THAT APPLICATION WOULD DESCRIBE THE LOCATION AND THE SIZE OF THE PROPOSED FACILITY, AND WOULD DESCRIBE THE MATERIALS THE RAILROAD PROPOSES TO HANDLE THERE. THE PUBLIC WOULD BE NOTIFIED AND WOULD HAVE AN OPPORTUNITY TO COMMENT. UNDER EXISTING RULES, STATE AND LOCAL GOVERNMENTS HAVE THE RIGHT TO RECEIVE NOTICE AND TO COMMENT WHEN A RAILROAD PROPOSES TO ABANDON A RAILROAD LINE IN THEIR COMMUNITY. DOESN'T IT MAKE SENSE THAT WE SHOULD HAVE AN OPPORTUNITY TO COMMENT WHEN A NEW AND POTENTIALLY HAZARDOUS FACILITY LIKE THIS IS GOING TO BE OPENED AS WELL?

THIS PROCEEDING CAN BE MUCH LIKE OTHER PROCEEDINGS PERMITTED UNDER THE BOARD'S RULES. THE RAILROAD WOULD SUBMIT INFORMATION ABOUT ALTERNATIVES CONSIDERED AND REJECTED ALONG WITH AN EXPLANATION FOR THE CHOICE. THE COMPANY WOULD BE REQUIRED TO DOCUMENT THE STEPS IT PLANS TO TAKE TO MINIMIZE THE RISK TO THE SURROUNDING COMMUNITY, AND TO ADDRESS ANY POTENTIAL ENVIRONMENTAL IMPACTS. MOST IMPORTANTLY, THE PUBLIC WOULD HAVE A CHANCE TO COMMENT, TO PARTICIPATE IN THE MAKING OF A DECISION THAT HAS ENORMOUS POTENTIAL TO AFFECT THE LIVES AND THE PROPERTY OF THE RESIDENTS OF THE SURROUNDING COMMUNITY.

BEFORE I CONCLUDE – I WANT TO EMPHASIZE ONE POINT. THE CITY OF ALEXANDRIA IS NOT HERE TO SAY “NOT IN MY BACK YARD”. WE HAVE A BIG BACK YARD IN THE CITY. WE HAVE TRIED, AS THE CITY HAS GROWN AND AS THE NEEDS OF OUR POPULATION HAVE CHANGED, TO REGULATE THE USE OF THE LAND IN THAT BACK YARD IN A WAY THAT WILL ALLOW THE NEIGHBORS WHO LIVE ACROSS THE FENCE FROM EACH OTHER TO COEXIST PEACEFULLY. WE HAVE COMMERCIAL AND INDUSTRIAL USES, WE HAVE RESIDENTIAL USES, AND WE HAVE MIXED USES. WHAT WE ARE ASKING THIS BOARD TO DO IS TO GIVE US, AND TOWNS AND CITIES LIKE US ACROSS THE COUNTY, A CHANCE AT LEAST TO HAVE SOME INPUT IN THE DECISION TO USE RAILROAD PROPERTY IN OUR BACK YARD IN A WAY THAT MIGHT BE PARTICULARLY HAZARDOUS TO THE HEALTH AND WELFARE OF THE NEIGHBORS.

ONCE AGAIN, I WANT TO THANK YOU FOR GIVING ME THE OPPORTUNITY TO BE HEARD TODAY. I AND THE TEAM I HAVE BROUGHT WITH ME TODAY WILL BE HAPPY TO ANSWER ANY QUESTIONS YOU MAY HAVE.