

Great Bay Stewards
89 Depot Rd
Greenland, NH 03840
Phone: (603) 778-0015
Fax: (603) 778-7398



Email:
info@greatbaystewards.org

Website:
www.greatbaystewards.org



Supporting education, research & conservation on Great Bay

Great Bay Stewards
Great Bay Discovery Center
89 Depot Rd.
Greenland, NH 03840
March 13, 2015

Chairman, Public Utilities Commission
Martin Honigberg, Chairman
21 South Fruit Street, Suite 10
Concord, NH 03301

Dear Mr. Honigberg,

We are writing in regards to the January 8, 2015 request from Sea-3 for an exemption from the Site Evaluation Committee requirement for a full site review of its proposed expansion project in Newington Docket No. 2015-01. The Great Bay Stewards are a non-profit, volunteer organization that works to protect the Great Bay and support the Great Bay National Estuarine Research Reserve. We respectfully ask that you not give Sea-3 an exemption from your evaluation process because you are the only body that can review the full scope of the project, including the rail connection, and consider the full public interest. We note specifically that the Site Evaluation Committee is charged to ensure that proposed energy facilities under Title XII Public Safety and Welfare Chapter 162-H:16(c)

- (c) ... will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, and public health and safety.

In Sea-3's January 8 request for an exemption the company argues that all public interest issues were fully considered by the Newington Planning Board during its lengthy hearing process. This assertion is not correct. The Newington Planning Board, under pressure from Pan Am's legal counsel, erroneously concluded that it was not permitted to consider the many public interest concerns related to Sea-3's plans to use the Pan Am rail line between Rockingham Junction and Newington to bring in propane. The Newington Planning Board said several times that it could not consider the safety and environmental concerns about transporting propane on this rail line because the rail company itself was not petitioning the town.

The Pan Am rail line that runs between Rockingham Junction and Newington is rated as a Class 1 rail line. Prior to the Newington public hearing process, it was rated as Class 1 **with excepted track**, meaning that portions of the line did not even meet Class 1 standards. Because

of this status, the rail line was limited to transporting five cars at a time and the trains could not exceed a speed of 10 miles per hour. Following the public hearing process, Pan Am replaced several thousand rail ties and made other repairs to bring the entire branch line up to Class 1. It has said that it will upgrade to Class 2, if the Sea-3 expansion is approved and implemented.

This Newington Branch is a sleepy rail line that runs all along the southern side of the Great Bay estuary. It has not seen substantial traffic for about 20 years and it has not been well maintained. If the traffic on this line grows due to demand from Sea-3, we have significant concern that there could be substantial negative impacts on Great Bay water quality and wildlife for at least three reasons:

The rail line crosses two rivers and runs through numerous wetlands protected with conservation easements. If the rail line upgrades and expands dramatically the number and length of trains running through these sensitive environmental areas there could be an impact on the wildlife that uses the conservation areas.

As part of its recent repair and maintenance work, Pan Am replaced thousands of deteriorated railroad ties with new ties that had been soaked in creosote. The Environmental Protection Agency has determined that creosote, particularly coal-tar creosote is potentially carcinogenic. Moreover, creosote contains chemicals that researchers believe to have the ability to disrupt or modulate the endocrine system and is a potential threat to aquatic animals and wildlife. Pan Am discarded the old ties in its right of way and, in some cases, left them in drainage ditches and wetland areas.

Another critical worry concerns the rail bridge crossing the Squamscott River. Federal regulations permit railways to conduct their own bridge inspections. Despite numerous requests from concerned individuals, media, interest groups, and the New Hampshire Congressional Delegation, Pan Am has refused to provide a full public disclosure of its inspection record for that bridge. If a train were to derail on the Squamscott bridge it could have a serious adverse impact on the estuary, including the work done to restore oyster reefs important to the health of the estuary. Absent disclosure of inspection reports that would allay concerns, there can be no confidence that the bridge is capable of carrying longer, heavier trains, running more frequently.

Much of the branch line runs through conservation lands to which there is no ready access for emergency response personnel. Additionally, the estuary and its rivers are tidal, with extensive mudflats restricting access from the water side. If a derailment were to occur at low tide or in the winter with the estuary frozen over, it would be very difficult for regional emergency teams to reach the site quickly in response to an explosion or significant spill.

The Great Bay Stewards respectfully asks that the Site Evaluation Committee deny the Sea-3 request for an exemption from the procedure established by the legislature for review and approval. While the Newington Planning Board concluded it had neither the authority nor need to examine regional impacts, the objectives of RSA 162-H:1 require that approval of a site consider “the welfare of the population... the environment of the state, historic sites, aesthetics, air and water quality, the use of natural resources, and public health and safety” and that “full

and timely consideration of environmental consequences be provided” with “environmental, economic, and technical issues ... resolved in an integrated fashion.”

Finally, the Great Bay Stewards respectfully submit that in doing the site evaluation, Pan Am’s role in supplying the site must be considered because (a) the Sea-3 expansion will occur, in part on land owned by Pan Am and (b) most of the impacts of regional importance occur because Sea-3 will be supplied by rail. The Federal Railway Act prohibits regulation of the railways by states and municipalities. However, consideration of the impacts of the railway is not regulation. Sea-3 has said that its expansion is dependent on receiving propane via rail, so the security of the rail line is an integral part of this expansion project, not a side issue.


In reviewing the Sea3 expansion proposal, the Committee might wish to include the following questions and observations in its deliberations:

Generally, rail transport is regarded as the safest and most environmentally benign way to move freight. However, absent a formal transportation analysis, it is impossible to know if supplying New Hampshire from Newington results in less truck traffic than would be the case if the State were supplied from distribution operations located to the west, closer to production sources. Moreover, rail transport through populous and historic areas and through the environmentally sensitive Great Bay National Estuarine Research Reserve entails significant risks of damage from accidents and day-to-day operations.

Consistent with full public disclosure of plans, should Pan Am be required to provide inspection reports for the Piscataqua Bridge?

Consistent with an appropriate environmental assessment, should Sea-3 and/or Pan Am be required to fund an environmental impact assessment and subsequent monitoring of wildlife and water quality along the Pan Am branch line right of way and around the Sea-3 site?

Should Pan Am be required to escrow funds to clean up a major spill?

Sincerely, 
President
Great Bay Stewards