

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 15, 2008

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: JAMES K. HARTMANN, CITY MANAGER 

SUBJECT: NORFOLK SOUTHERN CORPORATION ETHANOL
TRANSLOADING FACILITY

In mid-April the Norfolk Southern Corporation (NSC) began operation of an ethanol transloading terminal at their Van Dorn Intermodal Facility located behind the Waste to Energy plant. The NSC property is accessible from Metro Road, which runs between Eisenhower Avenue and Van Dorn Street (Attachment 1).

When we learned that the NSC intended to open this facility in April, City staff met to discuss our concerns about the impact of such an operation on the community and what could be done by the City government to ensure the safety and security of nearby residents and workers, and to protect our environmental assets.

City representatives from the Alexandria Fire Department, and its Code Enforcement Bureau and Emergency Management Office, the Transportation and Environmental Services Department and the Planning and Zoning Department have met with representatives of NSC and discussed the operation of the terminal, as well as City concerns about the safety, environmental and truck hauling issues that may arise.

In our discussions with Norfolk Southern we have encouraged them to meet with the community to discuss their new ethanol operation. City representatives from the Fire Department and Emergency Management will also attend.

Norfolk Southern's Ethanol Transloading Operation

Ethanol is a grain-based fuel that is used as a motor fuel and fuel additive. Ethanol cannot travel in pipelines along with gasoline, because it picks up excess water and impurities. As a result it must be transported by trucks, trains or barges. Transloading means transferring bulk shipments from the vehicle/container in one mode of transportation (railcars) to another mode (tanker trucks) at a terminal interchange point.

NSC ships liquid ethanol via rail car to the transloading facility, where the material is off-loaded by the railroad's contractor into tanker trucks for final delivery to gasoline tank farms in Springfield and in Fairfax City. A perimeter fence surrounds the NSC transloading facility and, according to NSC, the active transloading track has the capacity

to handle a maximum of 20 railroad tank cars. An NSC contractor oversees the transfer of ethanol directly from the railcars into tanker trucks (one tank car serves approximately four trucks).

Currently, about 16 trucks use the terminal each day, five days a week. This number is based on initial operations, and could change depending on the level of business in the terminal at any given time. According to NSC, the current hours of operation for the facility range from 6:00 a.m. to 7:00 p.m., with transloading occurring from 7:00 a.m. to 6:00 p.m., and truck arrivals/departures taking place from 6:00 a.m. to 7:00 p.m. Similarly, these hours are dependent on the amount of business in the terminal at any given time, and if the operation were to expand, the maximum hours of service would be 24 hours a day, seven days a week.

Currently, only one train is transloaded at the facility per day, and switch service for trains is provided from 5:00 p.m. to 5:00 a.m. five days a week. However, train arrivals may occur any day of a seven-day week, or at any hour of the day, based on volume, and crew availability.

Zoning/Legal Issues

While we are opposed to and have concerns about this type of facility, the City Attorney advised us that the federal Surface Transportation Board (STB) recently issued a decision that preempts local zoning laws that would regulate or prohibit such railroad transloading operations, including laws requiring a special use permit for the operation. The STB is the successor to the Interstate Commerce Commission as the federal agency with oversight of railroad operations. This decision is authorized pursuant to the Commerce Clause of the U.S. Constitution, and the Interstate Commerce Commission Termination Act of 1995 (the Act).

The City Attorney determined that the STB has unequivocally preempted local zoning regulation even if a contractor, and not the railroad itself, handles the transloading, provided that the contractor is acting as the agent of the railroad and is taking delivery or loading a bulk product, without making significant processing changes to the material at the rail site.

However, under the Act, the City is able to enforce traditional health and safety codes, such as building and fire prevention and hazardous materials regulations, so long as such codes regulate the manner in which the use is conducted, are reasonably objective in the standards imposed, are not applied in a discriminatory fashion, and will not have the effect of unreasonably preventing the use.

Safety Issues

Safety is of utmost concern to the City. NSC informed staff that in order to be prepared for potential spills of ethanol they have created primary and secondary containment areas, installed a grounded, bonded, and monitored product transfer system, and added several

fire hydrants and eye wash stations. NSC also has installed additional fencing around the transloading area and has provided a shed that contains a quantity of the foam needed for a fire incident. Water cannot be used on ethanol fires. Fighting ethanol fires requires a special type of firefighting foam, which is more expensive than conventional foam.

Following a series of discussions between the Fire Department and NSC over the last few weeks, NSC has agreed to provide the specialized equipment and supplies (including additional quantities of the foam discussed above) that we need. NSC will also help provide our Fire Department with the training needed to safely and effectively handle any incident involving large quantities of ethanol. We appreciate NSC's positive response to our requests.

We are currently discussing with NSC specific truck hauling routes and the preparation of a stormwater pollution and prevention plan as required by the state Department of Environmental Quality.

We will be sending a copy of this letter to the business and citizen associations located nearby. We will keep City Council and community members informed as other information becomes available.

cc: Richard Baier, Transportation and Environmental Services Director
Tony Castrilli, Communications Director
John Catlett, Code Enforcement Director
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