

## Statement to the House Subcommittee on Railroads, Pipelines and Hazardous Materials

Thank you for the opportunity to speak on behalf of the residents of Monmouth County, NJ. I am Barbara McMorrow, an elected Freeholder.

This spring, Ashland Railroad Company in Monmouth County, applied to the Surface Transportation Board for an exemption to operate a solid waste transfer station on previously abandoned railroad tracks adjacent to a stream, and just a stone's throw from farms and homes. That stream, which parallels the train tracks, is a tributary of the Manasquan River, part of the watershed that comprises the drinking water for thousands of people. I was shocked to learn that a loophole in the law exists to allow railroad companies to operate solid waste transfer stations without any regulation by state or local governments.

I joined Congressman Pallone, DEP Commissioner Lisa Jackson and State Senator Ellen Karcher in April to protest the application to operate this unregulated solid waste transfer station, and offered my support as a county elected official in this fight to protect our residents and our environment.

Subsequently, Congressman Pallone and Senator Lautenberg shared with me information about their bill, the Clean Railroads Act of 2007. This bill would close the loophole in the federal law and would allow states to regulate solid waste stations regardless of proximity to rail lines. This bill must be passed, not only to protect the citizens of Monmouth County, New Jersey, but also the citizens of every county in every state in our country.

I have closely followed the application filed by Ashland Railroad Company, learning as much as I could from our County Solid Waste expert, Larry Zaayenga and a local citizen advocacy group, Sludge Busters. We were together at a meeting in August when we learned that the Surface Transportation Board had dismissed the application of the Ashland Railroad Company to operate a solid waste transfer station in Freehold Township. This temporary respite does not mean that our fight is over because the Surface Transportation Board rejected "without prejudice" the application of Ashland Railroad. That means that Ashland Railroad can re-apply, using the lessons learned from their rejected application, gain an exemption, and operate an unregulated solid waste transfer station.

Unlike our state law that requires the Counties to include any solid waste facility in its County Solid Waste Plan before any application is accepted by the New Jersey DEP, there is nothing in the law that would require the Surface Transportation Board to even notify the township or the County if Ashland Railroad resubmits an application. That means if any of us who are advocates for the people and environment in Monmouth County blink, the opportunity to oppose this plan is missed.

It appears that the Surface Transportation Board does not have the interests of our residents foremost. I say this because, in June, the Surface Transportation Board issued a decision that refused to close the loophole that allows unregulated solid waste transfer stations. In July, the Surface Transportation Board ruled that railroads that load, unload, handle and store solid waste do not have to be regulated by state or local agencies. I believe that all solid waste must be regulated at the state and local level, regardless of its proximity to railroad tracks.

New Jersey has suffered greatly from this loophole. We have had solid waste piles next to railroad tracks that have polluted the air, ground and water. These unregulated piles have grown so high that they have caused power blackouts! They emit arsenic and mercury, two dangerous chemicals that are otherwise strictly regulated under the law. These stations operate in open air, with no buildings, so the chemicals and particulates are airborne, wreaking more havoc on residents and the environment.

Furthermore, property values surrounding an unregulated solid waste transfer station plummet. The hundreds of trucks that will travel to and from these unregulated waste stations will cause additional pollution, hazards to citizenry and damage to roads. All of these issues are addressed and mitigated when solid waste transfer stations are under the jurisdiction of the local and state governments.

New Jersey law requires all solid waste transfer stations to be in closed buildings. If hazardous waste is detected, the buildings have to utilize negative air flow to protect the environment and citizens. Additionally, New Jersey law only allows solid waste to be at a transfer station for a maximum of 24 hours. Unregulated solid waste transfer stations, ones that are granted an exemption under the loophole in the law, can leave solid waste as long as they chose, allowing significant damage to the environment.

This is multi faceted issue. What is at stake is not only quality of life, but fundamental health and safety issues. As a Monmouth County Freeholder, I am entrusted to preserve the integrity of the environment for our future generations.

Under the Interstate Commerce Commission Termination Act of 1995, the Surface Transportation Board has exclusive jurisdiction over “transportation by rail carriers” and the ability to grant federal preemption over other laws at any level—local, state or federal—that might impede such transportation. Congress intended such authority to extend only to transportation by rail, not the operation of facilities that are merely sited next to rail operations or have a business connection to a rail company. We can not allow hazardous waste to be unregulated due to a loophole in federal law.

How many members of this subcommittee would want to wake up one morning and find that they are living near an unregulated solid waste transfer station? That could happen because of the loophole in the law. This is why I am before you today to urge the passage of the Clean Railroads Act of 2007.