

The Long Island
ADVANCE

YAPHANK

Winters Bros. wants to move waste by rail

Environmental group presents concerns



Winters Bros. is seeking exemption from local zoning for a solid-waste rail transfer operation in Yaphank.

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Since Winters Brothers acquired Brookhaven Rail LLC in May via its affiliate Shamrock Rail, the waste management company has been looking to extend its reach into a solid-waste rail transfer operation in Yaphank off Old Dock Road.

"Purchase of the railroad is complete and Winters Bros. is operating the railroad on a daily basis," said general manager Will Flower.

Brookhaven Rail will eventually operate under Shamrock Rail and "will provide rail car delivery and switching services and perform other common carrier and private railroad operations at the Winters Rail Terminal and Industrial Park and at the Brookhaven Rail Terminal," Flower said, continuing on to stress that Brookhaven Rail Terminal is not affiliated with Winters Brothers.

Flower said there is a garbage crisis on Long Island.

"There has been a lot of talk about what needs to be done," he said. "Winters Bros. has developed an economic and environmentally sound solution."

However, Winters Bros. sought an exemption from local zoning laws through the federal Surface Transfer Board. A second exemption included their proposed facility to recycle municipal solid waste and construction and demolition debris, despite its lack of these materials' absolute dependency on rail for departure.

"This ruling is very good news for the public and the residents of Brookhaven because it keeps the door open for Brookhaven Town to retain control over land use, zoning, and environmental

review of this unprecedented and massive proposal, instead of allowing critical local issues to be evaluated by the STB in Washington, D.C.," said Adrienne Esposito, executive director of Citizens Campaign for the Environment.

On behalf of the environmental group, Esposito addressed two letters to Brookhaven Town supervisor Ed Romaine regarding the subject matter. The second letter, sent on Oct. 30, discussed the group's concern regarding a collaboration between the township and Brookhaven Rail to advance the proposal.

"In an Oct. 22, 2020 letter, jointly submitted by both Brookhaven Rail and the Town of Brookhaven, the Town of Brookhaven seems to be working with Brookhaven Rail to reach a 'mutual agreement' on this project through a private STB mediation. The letter specifically requests a Mediation Session to provide 'clarity and mutual agreement of some of the complex matters that concern the town,'" the group's letter reads.

In response to the letter, an attorney representing the township provided a statement explaining the town's involvement to ensure environmental oversight. The town's first filing "requested that the STB incorporate all of the comprehensive environmental mitigation requirements imposed by the town as part of the town's own SEQRA review and Negative Declaration," said Robert Calica, of Rosenberg Calica & Birney LLP.

Secondly, Calica pointed out that the town provided a comprehensive environmental submission from Peter Fontaine, senior town analyst, on July 31, "which contained a request for the imposition of detailed town environmental conditions and restrictions deriving from the lengthy town SEQRA proceedings," the statement reads.

Thirdly, a more recent response, on Sept. 11, states that the township was prepared to review an application filed by Winters Bros. for any zoning change or permits "because local regulation and control of municipal solid waste is a traditional and legally favored function," Calica writes. "As a result, the STB rulings have not resolved the merits of the case, have recognized and recited the town's environmental filings as part of its reasoning in requiring a full environmental and zoning review, and the town's role in arriving at this ruling has been pivotal."

Esposito and CCE wrote that several critical concerns have been generated by the Sept. 11 letter.

"It is easily construed as the town reversing their position and therefore sends mixed messages to the STB," the groups wrote, indicating two other concerns. "The STB stated that if the town and Brookhaven Rail want to pursue mediation, they should submit another joint letter to STB requesting it. Any such additional letter signifies the town is supporting this project and is willing to abdicate authority to STB. This mediation letter describes a mediation only between the town and Brookhaven Rail. The mediation would be private, confidential and totally insulated from any public review, input, or scrutiny. This is the very opposite of the role of good government, particularly on this project."

In response to the environmental group's letter written by Esposito, Flower responded positively.

"Brookhaven Rail is pleased that the Town of Brookhaven is willing to engage in mediation before the Surface Transportation Board to address some of the complicated and necessary steps to bring the rail construction project to reality," Flower said. "At this point we are glad to be moving forward. This project, combined with the eventual construction by Brookhaven Rail of a solid-waste rail transfer facility, will result in thousands of construction phase and permanent jobs, but, more importantly, cleaner air and a huge reduction of trucks on the Long Island Expressway. It is critically important for residents, government officials, and regulators to acknowledge and understand the severity of the solid-waste crisis caused by the closure of the Brookhaven Landfill, and to be constructively engaged in formulating solutions to that crisis."

Brookhaven Rail Terminal, which is a separate entity from Brookhaven Rail LLC and Winters Bros. entirely, abuts their property from Sills Road. BRT also makes use of the rail and has its own main-line switch, a commodity that Winters Bros.' operation calls for, too.

"To accomplish this, we will install a southern turnout on the main line," said Flower, adding that it is a common process. "Therefore, trains heading to the Winters Bros. Rail Terminal will go directly into the 228-acre parcel and not go into or through the BRT."

In this area is the presence of two environmental easements created during discussions in 2016 to connect Parcel C (owned by BRT) with Parcel D (owned by Winters Bros. and Brookhaven Rail LLC). BRT president Andy Kaufman considered the presence of the environmental easement, which he said exists where Winters Bros.' would like to lie tracks.