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JUN 09 2003

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Of Counsel
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June 5, 2003

By Federal Express

Hon. Vernon Williams
Secretary, Surface Transportation Board
Mercury Building
1925 K Street, N.W.
Washington, D.C. 20423-0001

FEE RECEIVED

JUN 09 2003

SURFACE
TRANSPORTATION BOARD

Re: FD 34192, Hi Tech Trans LLC
Petition for a Declaratory Order- Hudson County, NJ

Dear Mr. Williams:

Enclosed please the original and ten copies of a petition for a clarification of the Board's order of November 19, 2002 as well as a 3.5" disk with the electronic copy of same.

Very truly yours

FILED

JUN 09 2003

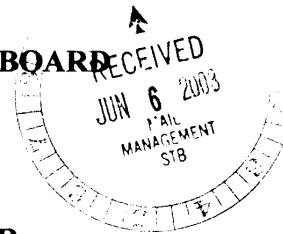
John F. McHugh

BEFORE THE SURFACE TRANSPORTATION BOARD

FD 34192

**HI TECH TRANS, LLC
-PETITION FOR DECLARATORY ORDER-
HUDSON COUNTY, NJ**

PETITION FOR CLARIFICATION



Hi Tech Trans, LLC ("Hi Tech"), requests an expedited clarification of the Board's decision dismissing Hi Tech's Petition for a declaratory order, rendered November 19, 2002. The matter is urgent. On April 1, 2003 the United States District Court for the District of New Jersey, held that "the STB's decision that Plaintiff is not a rail carrier is conclusive." On May 28, 2003 Hi Tech was served with a Cease and Desist Order from the New Jersey Department of Environmental Protection ordering Hi Tech to shut down the transloading facility it operates for the Canadian Pacific Railway ("CP") within twenty days. This event appears to be based upon a misreading of the November 19, 2002 Order.

Hi Tech had opened its business with CP after it received two informal opinions from the Board, dated May 3, 2000 and October 19, 2000, stating that Hi Tech's operation was exempt. After operation started on September 18, 2001, Hi Tech sought to additional informal opinions, October 3, 2001 and November 15, 2001. Each informal opinion confirmed that Hi Tech's operation was exempt from local regulations, particularly those relating to permitting, as a permit could be refused and thus block the rail related operation from proceeding. The last letter directly addressed the Hudson County flow control regulations, which bar trucks from bringing waste to Hi Tech's facility. In that the Board advised that while it still believed that Hi Tech's operation was exempt, that exemption would not extend to "...the movement of trucks operated by C&D haulers over public roads en route to the Facility as that was sufficiently separate from the rail activity at the Facility that it falls outside the definition." But the Board continued that those local regulations may run afoul of the Commerce Clause and, if necessary, should be reviewed by a Court.

Hi Tech formally petitioned the Board for a declaratory order that its operation of the CP transloading facility within the Oak Island Railyard, and the trucks delivering cargos to that facility, were within the definition of a rail carrier in 49 USC §10201.

In its order dismissing Hi Tech's Petition the Board made a similar determination, in pertinent part, "in sum, movement of trucks carrying C&D debris over New Jersey roads **to reach the CP transload facility that Hi Tech operates** is not part of "transportation by rail carrier" as defined in section 10501(a)" and that, consequently, the Board did not have jurisdiction over those (truck movements on New Jersey roads) activities. Hi Tech Trans LLC Petition for a Declaratory Order, FD 34192, (11/19/02), (emphasis added).

The decision of the Board did not conclude that Hi Tech itself was not a rail carrier. Indeed, a reading of the decision indicates that the Board assumed that Hi Tech was a rail carrier and the issue presented related to solely to the activity of trucks on public roads, not to the activity of Hi Tech as the operator of a truck to rail car transload facility feeding traffic onto the CP system. Relatedly, CP filed a submission in support of Hi Tech's Petition on June 5, 2002, which asserted, "Hi Tech is an integral component of CP's movement of this particular type of freight by rail."

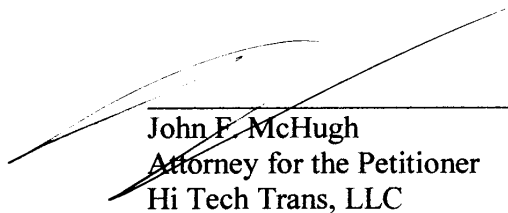
The Court's interpretation of the Board's decision, stated in an order issued on March 31, 2003, led the State of New Jersey to issue a Cease and Desist Order against Hi Tech's operation of CP's transloading facility. Therefore, a clarification of the Board's order is urgently needed.

We would note that the Court did not conduct a hearing to determine facts but relied entirely on its interpretation of the November 19, 2002 Order dismissing Hi Tech's Petition

Wherefore the petitioner requests that the Board clarify its November 19, 2002 order stating whether Hi Tech Trans LLC itself is a rail carrier as it operates the CP transloading facility on the Oak Island Yard, moving C&D by rail, pursuant to the Board's interpretation of the Interstate Commerce Commission Termination Act, 49 U.S.C. 10101 et seq. The petitioner further requests that this proceeding be expedited as an clarification is urgently needed and the record is fully before the Board from the prior

submissions. Therefore, Petitioner requests that replies be required within one week and that papers be limited to reference to papers and positions in papers previously filed before the Board.

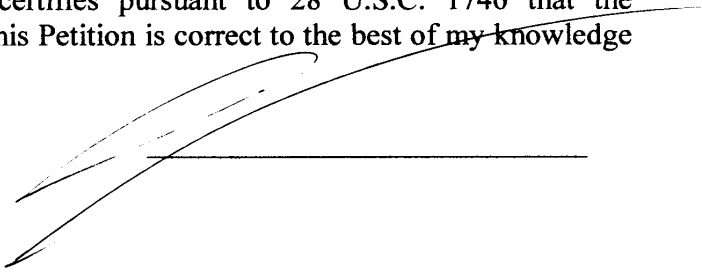
Dated, New York, N.Y.
June 5, 2003



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Certification

John F. McHugh certifies pursuant to 28 U.S.C. 1746 that the information contained in this Petition is correct to the best of my knowledge and belief.



Certificate of Service

Melissa Gomez certifies under penalty of perjury pursuant to 28 U.S.C. §1746 that on this 5th day of June 2003 I served a copy of this Petition for Clarification on:

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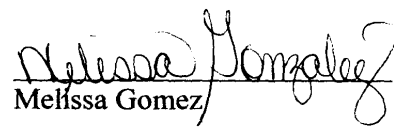
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By Federal Express


Melissa Gomez