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2/5/63

November 11, 2005

Surface Transportation Board
1925 K Street, NW
Washington, D.C. 20423-0001

FD 34776



**Re: National Solid Wastes Management Association, et al.
Petition for Declaratory Order**

Dear Sir/Madame:

We represent Rail-Tech, L.L.C., a limited liability company of the State of New Jersey ("Rail-Tech"), which has been served with a Petition Of National Solid Wastes Management Association, et al. For Declaratory Order dated October 24, 2005 ("Petition"). The Petition is moot, for the reason that on November 4, 2005 The New York, Susquehanna and Western Railway Corporation, a New Jersey corporation ("NYS&W"), wrongfully and illegally terminated Rail-Tech's Rail Transportation Contract with NYS&W dated June 2, 2005, and thereafter on November 7, 2005 NYS&W wrongfully and illegally closed the facility referred to in the Petition, and, wrongfully and illegally refused to permit Rail-Tech to retrieve its personalty located at the Site referred to in the Petition.

While Rail-Tech clearly has valid causes of action for compensatory and punitive damages against NYS&W, they are not within the jurisdiction of this Board. Thus, the Petition is moot and should be dismissed by this Board.

We are submitting the executed original and 11 copies of this letter. Please return one copy with the filing data stamped thereon to us in the enclosed self addressed, stamped envelope.

Sincerely,

Donald Horowitz

DH/lmg
Enclosure

c: G. Paul Moates, Esq.
John A. McKinney, Jr., Esq.
Kevin P. Auerbacher, Esq.
Carter H. Strickland, Jr., Esq.
Rail-Tech, L.L.C.

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