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August 16, 2002

VIA UPS OVERNIGHT AND FACSIMILE

Vernon A. Williams, Secretary
Office of the Secretary
Surface Transportation Board
Mercury Building, Room 700
1925 K Street, N.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

AUG 19 2002

Part of
Public Record



Re: Petition for a Declaratory Order by Hi Tech Trans, LLC
Finance Docket No. FD34192

Dear Mr. Williams:

This office represents respondents Essex County Utilities Authority and Hudson County Improvement Authority in the above-referenced matter. I am in receipt of a copy of a letter from John McHugh, Esq., attorney for petitioner Hi Tech Trans, LLC, to the Board, transmitting copies of pleadings from a suit that Hi Tech has recently instituted in the United States District Court for the District of New Jersey. As a review of the pleadings will confirm, in that suit Hi Tech seeks similar relief and asserts similar legal claims as in the petition it has filed with the Board.

In this regard, the Board should be further advised that, in May of this year, New York Cross Harbor filed a suit in the District of New Jersey raising similar claims of preemption under the Interstate Commerce Commission Transportation Act, 49 U.S.C. §10101 *et seq.* Attached hereto is a copy of a letter sent by this office to the two federal judges assigned to the cases, calling their attention to the substantial similarity of the issues and claims raised.

Mr. McHugh, in his letter, asserts that the "actions of the defendants are seriously impacting on the petitioner's operations." Respondents dispute that assertion, and of course intend to address

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August 16, 2002

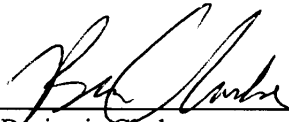
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it in the proper forum, i.e., federal court. Hi Tech's institution of a federal action raising the same claims as it raises in its petition, and the pendency of a substantially parallel litigation in the same District Court, constitute two additional reasons – beyond those set forth in respondents' previously filed papers – why the Board should decline to open a proceeding on Hi Tech's petition.

If the Board needs any further information regarding the federal lawsuits, please advise. Thank you.

Very truly yours,

DeCotiis, FitzPatrick, Gluck & Cole, LLP

By: 
Benjamin Clarke

Enclosure

c: see attached service list

SERVICE LIST
PETITION FOR A DECLARATORY ORDER
BY HI-TECH TRANS, LLC
FINANCE DOCKET NO. FD 34192

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August 13, 2002

Hon. Faith S. Hochberg, U.S.D.J.
Hon. Dennis M. Cavanaugh, U.S.D.J.
U.S. Post Office Courthouse Bldg.
Federal Square
P.O. Box 999
Newark, New Jersey 07101-0999

Re: New York Cross-Harbor v. Jersey City
Civil Action No. 02-1884 (DWC)

Hi Tech Trans, LLC v. Hudson County Improvement Authority
Civil Action No. 02-3781 (FSH)

Dear Judges Hochberg and Cavanaugh:

This office represents the Hudson County Improvement Authority ("HCIA") in both of the above-referenced matters, and also represents the Essex County Utilities Authority ("ECUA") in Hi-Tech v. Hudson County Improvement Authority. We write to call the Court's attention to the substantial similarity and inter-relation of the two cases, which involve common claims of federal preemption of local solid waste laws under the Interstate Commerce Commission Termination Act, 49 U.S.C. § 10101 et seq., and share at least one common party (HCIA).

In light of the substantial overlap of the two cases, we would respectfully suggest that the interests of judicial economy and efficiency favor consolidated or coordinated case management. To facilitate a comparison of the two cases, attached hereto are the tables of contents from the briefs filed by plaintiffs in each of the two cases.

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DECOTIIS, FITZPATRICK,
GLUCK & COLE, LLP

August 13, 2002

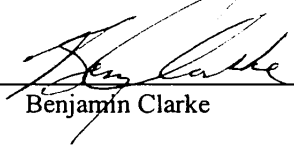
Page 2

If Your Honors would prefer counsel to proceed by way of formal motion, we will of course be happy to do so, but in the first instance we thought this issue might best be handled as a matter of judicial supervision.

Respectfully yours,

DeCotiis, FitzPatrick, Gluck & Cole, LLP
Attorneys for HCIA and ECUA

By: _____


Benjamin Clarke

Enclosure

c: W. Patrick Quast, Esq.
John F. McHugh, Esq.
Anthony Valenti, Esq.
Nora Kallen, Esq.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

HI TECH TRANS, LLC,

Civil Action No. 02-3981(FJH)

Plaintiff,

vs.

HUDSON COUNTY IMPROVEMENT
AUTHORITY, ESSEX COUNTY UTILITIES
AUTHORITY, THOMAS P. CALVANICO,
individually and in his capacity as the Executive
Director of the Hudson County Improvement
Authority, MAURO G. TUCCI, individually
and in his capacity as Chairman of the Essex
County Utilities Authority, and JOHN DOE 3,
employee or agent of The Essex County
Utilities Authority,

Defendants.

PLAINTIFF'S MEMORANDUM OF LAW IN
SUPPORT OF THE ISSUANCE OF A PRELIMINARY INJUNCTION

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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NEW YORK CROSS HARBOR
RAILROAD CORP., a New York
Corporation

Plaintiff,

v.

JERSEY CITY and the JERSEY CITY
DEPARTMENT OF HOUSING AND
ECONOMIC DEVELOPMENT –
DIVISION OF ZONING

Defendant.

: CIVIL ACTION

: NO.

**BRIEF ON BEHALF OF PLAINTIFF IN SUPPORT
OF ORDER TO SHOW CAUSE AND APPLICATION FOR
PRELIMINARY INJUNCTION**

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