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SEC

SERVICE DATE - MAY 17, 2002

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 34192

HI TECH TRANS, LLC
-PETITION FOR DECLARATORY ORDER-
HUDSON COUNTY, NJ¹

Decided: May 16, 2002

On May 3, 2002, Hi Tech Trans, LLC (Hi Tech) filed a request (styled an application) pursuant to 49 CFR 1104.11 for leave to amend its April 4, 2002 petition seeking a declaratory order that the Board's authority over its rail-related activities preempt New Jersey state law and local ordinances requiring Hi Tech to use a single, designated truck-to-truck solid waste facility when hauling construction and demolition debris and contaminated soils. According to Hi Tech, the purpose of its amendment is twofold: (1) to remove Canadian Pacific Railway as a party; and (2) to add arguments under the preemption provisions of the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. 5125.

In a letter filed on May 6, 2002, the New Jersey Department of Environmental Protection (NJDEP) notified the Board that it intends to file a reply to Hi Tech's request for leave to amend and the amended petition for declaratory order on or before May 23, 2002. NJDEP asserts that the amended petition expands Hi Tech's asserted basis for relief and contains several other changes from its initial petition.

In a letter filed on May 7, 2002, the Hudson County Improvement Authority and Essex County Utilities Authority (collectively, Authorities) request additional time to reply in order to consider the changes to Hi Tech's initial petition for declaratory order, specifically its new arguments under HMTA. The Authorities request that they be permitted to file their reply 20 days after the Board decides whether it will accept Hi-Tech's amended petition.

¹ Formerly captioned Hi Tech Trans, LLC, et al.-Petition for Declaratory Order-Hudson County, NJ.

The request for leave to amend the petition for declaratory order will be granted. No one has yet replied to the original petition and, therefore, no one will be prejudiced by the amendment. The due date for replies to the amended petition will be extended to 20 days after the service date of this decision.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request for leave to amend the petition for declaratory order is granted.
2. The due date to file replies is extended to June 6, 2002.
3. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary