

April 20, 2005

*Via Hand Delivery*

The Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K St. N.W.  
Washington, D.C. 20423

RE: Finance Docket No. 34666, *Columbus and Greenville Railway Co. – Verified Notice of Exemption – Acquisition and Operation of 2.99 Miles of Newly Constructed Track in Greenwood, Leflore County, MS*

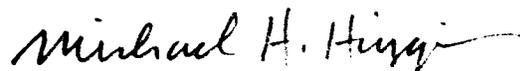
Dear Secretary Williams:

Please find enclosed the original and ten (10) copies of Morris Recycling Inc.'s Reply to Motion to Quash Discovery Request for filing in the above referenced proceeding. Also enclosed is one diskette with a copy of the Motion in PDF format.

An extra copy of the Motion is enclosed for stamping and returning to our offices.

Should you have any questions regarding the foregoing, please do not hesitate to contact the undersigned.

Sincerely,



Jeffrey O. Moreno  
Michael H. Higgins  
*Counsel for Complainant*

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**



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FINANCE DOCKET NO. 34666

COLUMBUS AND GREENVILLE RAILWAY CO.  
—VERIFIED NOTICE OF EXEMPTION—  
ACQUISITION AND OPERATION OF 2.99 MILES OF NEWLY  
CONSTRUCTED TRACK IN GREENWOOD, LEFLORE COUNTY, MS

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**MORRIS RECYCLING INC.'S  
REPLY TO MOTION TO QUASH DISCOVERY REQUEST**

Morris Recycling, Inc. ("Morris"), by and through its undersigned counsel, hereby submits this Reply to the Motion to Quash Discovery Request, filed by the Columbus and Greenville Railway Company ("C&G") in this proceeding on April 18, 2005. As explained herein, C&G is simply mistaken in its assertion that discovery is not available in a rail exemption proceeding. On the contrary, the Board's regulations at 49 C.F.R. Part 1121, governing rail exemption proceedings, expressly allow for discovery. See 49 C.F.R. § 1121.2. Thus, Morris's discovery is proper.

Morris filed its Emergency Petition to Stay and Petition to Revoke Exemption, on March 30, 2005, under a compressed time-frame, after C&G filed its Notice of Exemption on March 23, 2005. Morris promptly served its First Discovery, on April 1, 2005, and notified the Board of such discovery on April 14, 2005, in its Petition for Leave to File a Reply to a Reply. Morris seeks to ascertain, among other things, C&G's contributions, if any, to the development and construction of the by-pass line, and C&G's anticipated operations over the line, including service to new rail customers located in the Greenwood-Leflore Industrial Park. On April 12,

2005, counsel for C&G requested an extension of time to respond to Morris's First Discovery from April 15, 2005 until May 2, 2005 (Attached hereto at Tab 1). Counsel for Morris promptly granted C&G's request (Attached hereto at Tab 2).

Given the foregoing circumstances and that the Board's rules plainly allow for discovery in rail exemption proceedings, Morris maintains that its discovery is proper and that C&G's Motion to Quash Discovery Request is without merit. For example, in STB Finance Docket No. 34540, The Columbus & Ohio River Rail Road Company—Acquisition and Operation Exemption—Rail Lines of CSX Transportation, Inc. (Served February 22, 2005), the Board declined to disallow discovery requests that were not filed simultaneously with a petition to revoke. The Board noted,

[T]he provision relied upon by [the opponent] at 49 CFR 1121.2 is intended in large part to allow a petitioner to conduct discovery expeditiously so that it may use the information produced to support the institution of a revocation proceeding under 49 U.S.C. 10502(d) within the 90-day period provided by the statute for the Board to decide whether to institute such a proceeding.

Slip Op. at 2. Accordingly, the Board should deny C&G's motion and allow Morris to conduct discovery in accordance with the controlling regulations of the Board.

Respectfully submitted,

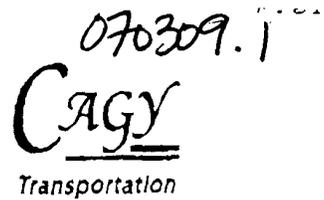


Jeffrey O. Moreno  
Michael H. Higgins  
Thompson Hine LLP  
1920 N Street, N.W.  
Suite 800  
Washington, D.C. 20036-1600

*Attorneys for  
Morris Recycling, Inc.*

April 20, 2005

# Tab 1



**Columbus and Greenville Railway**

P. O. Box 6000  
Columbus, MS 39703

April 12, 2005

*Via FACSIMILE*  
202-331-8330

Jeffrey O. Moreno  
Michael H. Higgins  
Thompson Hine  
1920 N. Street  
Washington, D.C. 20036-1600

Re: Finance Docket No. 34666, Columbus and Greenville Railway Co.  
Verified Notice of Exemption

Gentlemen:

While I have reviewed the files of Columbus and Greenville Railway Company as they relate to the captioned filing, I would like to have the opportunity to again look at the files and put together a complete response to your discovery requests. The volume of paper I have seen is quite limited.

To review the files I must travel. In order to keep expenses down for C&G I would like to take advantage of discount airline fares that require a seven to fourteen day prior purchase. With these time guidelines in mind I request an extension of time from April 15 to May 2 to respond.

A response within twenty-four hours to facsimile number 410-467-2936 would be appreciated.

Yours Sincerely,

Wandaleen P. Cole

Copy to:

H. Lynn Gibson

# Tab 2

April 12, 2005

Wandaleen P. Cole, Esq.  
Columbus and Greenville Railway  
P.O. Box 6000  
Columbus, MS 39703

RE: Finance Docket No. 34666, Columbus and Greenville Railway Co.  
Verified Notice of Exemption

Dear Ms. Cole:

Per your letter today requesting an extension of time, I hereby grant your request with the understanding that this is without prejudice to Morris Recycling. The responses to our discovery requests will be due on May 2, 2005.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Jeffrey O. Moreno

**CERTIFICATE OF SERVICE**

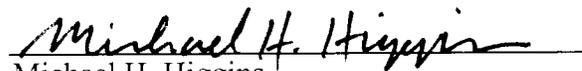
I hereby certify that I have this day served copies of this “Reply to the Motion to Quash Discovery Request” upon all parties of record in this proceeding, as indicated below:

Facsimile and Overnight Mail

Wandaleen Poynter Cole  
STB Counsel  
Columbus and Greenville Railroad Company  
201 19<sup>th</sup> Street North  
Columbus, Mississippi 39703

Regular Mail

Billy B. Bowman  
Brewer, Deaton & Bowman  
P.O. Drawer B  
Greenwood, Mississippi 38935-0706

  
Michael H. Higgins

April 20, 2005