

READING & NORTHERN RAILROAD

2011 Regional Railroad of the Year

1 Railroad Blvd., P.O. Box 218, Port Clinton, PA 19549

Phone: 610-562-2100 Fax: 610-562-1920 www.READINGNORTHERN.com

December 8, 2014

Chairman Dan Elliott
Vice Chairman Deb Miller
Commissioner Ann Begeman
Surface Transportation Board
395 E Street, SW
Suite 1220
Washington, DC 20423-0001

237174
ENTERED
Office of Proceedings
December 8, 2014
Part of
Public Record

Re: Docket No. EP 526 (Sub-No. 6)
Notice of Railroad-Shipper Transportation Advisory Council Vacancy

Dear Board Members:

My name is Wayne Michel and I am President of the Reading, Blue Mountain & Northern Railroad ("RBMN").

We write this note in opposition to the request by Mr. Larry Malski to become a member of your Railroad Shipper Transportation Advisory Council.

We do not question Mr. Malski's background in the railroad industry, we do question his suitability to fill one of the small railroad openings on the Council.

Mr. Malski is the president of a railroad authority, and is not employed with or affiliated with an operating railroad. Moreover, we question the manner in which his rail authority has failed to comply with Pennsylvania state law. Specifically, Mr. Malski has led an authority that for over twenty years has refused to consider bids for operation of the railroad. Moreover, Mr. Malski has recently testified via deposition that he sees his role as a public official to be a fierce competitor to private, for-profit railroads in the area.

RBMN brought an action against the Authority a year ago to prohibit these practices. Although the Authority has proceeded with a series of delay tactics we remain confident that we will prevail in State court.

However, the Authority's attorney has argued that the State courts are preempted from considering the interpretation of state law to rail authorities because of Federal preemption. As recently as last week in oral argument on a procedural motion the Authority's attorney argued that the issues needed to be brought before the STB. Nonetheless, we are concerned that Mr. Malski will try to use his appointment to the Council as a means of influencing the STB on this issue and other issues related to the status of publicly-owned railroads.

Accordingly, we respectfully request that the Board Chairman not appoint Mr. Malski to this position.

Respectfully submitted,



Wayne A. Michel
President
Reading & Northern Railroad
Phone (610) 562-0227
Cell (484) 332-1007

"The Road of Anthracite"

SERVING OUR CUSTOMERS AND THE ENVIRONMENT