

235584



**RMS**<sup>TM</sup>  
Rail Management Services

ENTERED  
Office of Proceedings  
March 7, 2014  
Part of  
Public Record

March 6 2014

Chairman Daniel R. Elliott III  
Vice-Chairman Ann D. Begeman  
Surface Transportation Board  
395 E Street, S.W.  
Washington, DC 20423

Dear Chairman Elliott and Vice-Chairman Begeman:

I write today concerning the STB's decision that Rail-Term, an independent contractor providing dispatching services, is a rail carrier subject to the STB's jurisdiction. I am the owner of Pacific Rail Services ("PacRail"), one of the largest intermodal ramp operators in the country. PacRail contracts with Class I railroads to operate intermodal ramps as an independent contractor. PacRail's services include loading and unloading intermodal trains and the operation and maintenance of yard facilities.

In its 30 years of existence, there has never been a serious question that PacRail is not a rail carrier and is not subject to the STB's jurisdiction. The STB's decision has thrown PacRail's status into doubt. Like Rail-Term, PacRail does not hold itself out to customers as providing common carrier rail service. PacRail also provides services that may now be deemed "essential" to intermodal rail transportation.

The STB's decision created significant uncertainty and this uncertainty makes it harder for PacRail to plan for the future. PacRail's business model was built with the certainty that PacRail is not a rail carrier. PacRail structured its relationships with railroads to follow what it believed to be the STB's rules as to who is and is not a rail carrier. With the current uncertainty, PacRail must reevaluate its operations while trying to plan for the future. However, PacRail's ability to plan for the future is significantly reduced because we cannot predict what operations may or may not subject PacRail to the STB's jurisdiction.

I appreciate your consideration of my concerns and I urge you to reconsider your decision that Rail-Term is a rail carrier even though it merely provides a service to railroads as an independent contractor and does not hold itself out as providing common carrier rail service.

Sincerely,

John J. Gray