

F. GARY SIMPSON
Minority Leader
STATE SENATOR
18TH District



SENATE
STATE OF DELAWARE
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DOVER, DELAWARE 19901

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October 25, 2016

242510

The Honorable Daniel R. Elliott III
Chairman
United States Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

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Office of Proceedings
January 24, 2017
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The Honorable Debra Miller
Vice Chairman
United States Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Ann D. Begeman
United States Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Dear Chairman Elliott and Surface Transportation Board Members:

The railroad industry is a critical part of our country's economic success, and the success of Delaware. In Delaware alone, there are seven freight railroads and 250 miles of track. Several of the current proceedings underway at the Board, if not handled with the utmost caution and deliberation, could result in significant unintended consequences for the health and efficiency of the nation's rail network.

In a bipartisan effort, Congress recently passed the Surface Transportation Board (STB) Reauthorization Act of 2015, reauthorizing the STB for the first time since 1996. This legislation is primarily concerned with improving the Board's transparency and efficiency. By comparison, Congress chose to keep intact the underlying rail economic framework that has guided the Board for the past several decades.

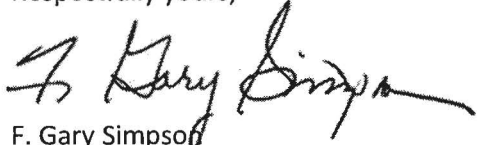
Recently, however, the Board has advanced several new regulatory proceedings that it has framed as providing additional avenues for shippers to seek regulatory oversight and relief. These efforts include a proposal to require one railroad to open up its line to a competitor through switching in certain instances.

Taken together, these proposals have the potential to dramatically change the regulatory regime that has been successful in allowing a safe and efficient freight rail system to develop. Excessive regulatory involvement in routing, rates, and other railroad operations were hallmarks of the faltering rail system prior to the Stagger's Railroad Act of 1980. Railroads have relied on that regulatory system to complete mergers and enhance single line service for the benefit of the entire rail system's operations. Since 1980, to preserve the existing, successful system, Congress repeatedly has considered and rejected legislation advancing many of the same concepts that are in the Board's regulatory proposals. Any significant policy change in favor of greater regulation like that which bankrupted many railroads in the 1970s is the prerogative of Congress, not a regulatory agency.

It is critical that these proposals, should they progress through the regulatory process, be grounded in sound, well-established economic principles and supported by data-driven empirical analysis of their impact. All stakeholders in the rail network have relied on the current structure in making investment decisions, and all shippers will feel the impacts of any changes. At a time when freight traffic is only expected to grow in this country – by nearly 60 percent by 2040 – doing anything that would weaken the nation's railroads' abilities to meet the transportation needs of the country could have dire consequences for our economy.

Thank you for your careful consideration of this important matter.

Respectfully yours,

A handwritten signature in black ink, appearing to read "F. Gary Simpson", with a stylized flourish at the end.

F. Gary Simpson
Delaware State Senator, Minority Leader
18th Senatorial District