

KEN BUCK
4TH DISTRICT OF COLORADO



JUDICIARY
SUBCOMMITTEE ON IMMIGRATION AND
BORDER SECURITY

SUBCOMMITTEE ON REGULATORY REFORM,
COMMERCIAL AND ANTITRUST LAW

RULES

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October 11, 2018

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

Dear Chairman Begeman,

I write to draw your attention to information I received regarding a business in my district under the jurisdiction of Interstate Commerce Commission Termination Act (ICCTA) of 1995. In this case, Martin Marietta Materials (MMM), a commodities company, purchased a railroad regulated by the Surface Transportation Board (STB) and obtained federal preemption of local laws and oversight procedures.

In 2015, MMM reached an agreement with the Board of Weld County Commissioners to operate its new asphalt and concrete distribution center in Weld County, Colorado, if the company met certain mitigation obligations. During the early stages of a three-year legal dispute with local residents, MMM purchased Rock & Rail, LCC, a previously defunct federally-regulated railroad. In fact, Rock & Rail, LCC's previous owner, Union Pacific, petitioned the STB to abandon a portion of the line due to inactivity. After ultimately losing the lawsuit in early 2018, MMM proceeded to lease the distribution center to Rock & Rail, LLC for \$10. The company then stated in a letter to Weld County officials that by leasing the distribution facility to Rock & Rail, LLC, MMM could now commence operations under federal preemption authority. I am concerned because it is unclear to me if MMM will continue to honor all mitigation conditions set forth in the company's 2015 agreement with Weld County officials to operate the facility.

Following conversations with Weld County officials, my discussion with David Hagerman, MMM's Regional Vice President/General Manager of the Rocky Mountain Aggregate District, and a phone call with STB's Office of Legislative Affairs, I believe that there is an opportunity to reach an equitable solution that provides local authorities and residents with additional protections. As such, I request that you initiate a process of providing informal assistance in this matter through the STB's Rail Customer and Public Assistance Program.

As I read the relevant law, it appears to me that federal preemption was intended to apply to a railroad that builds a facility such as a gravel pit for legitimate business purposes, not when a materials company buys a shuttered federally-regulated railroad and avoids local jurisdiction. Therefore, I look forward to working with you in the future to craft a legislative solution that will clarify the legislative intent of this area of law. If you require further information please contact my Legislative Director, James Hampson, at James.Hampson@mail.house.gov. Thank you in advance for your consideration.

Sincerely,



Ken Buck
Member of Congress

CC: Mike Freeman, Weld County Commissioner, District 1
Julie Cozad, Weld County Commissioner, District 2
Barbara Kirkmeyer, Weld County Commissioner, District 3
Sean Conway, Weld County Commissioner, At-Large
Steve Moreno, Weld County Commissioner, At-Large
David Hagerman, Regional Vice President/General Manager of the Rocky Mountain Aggregate District, Martin Marietta Materials