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April 17, 2009

The Honorable Richard Shelby  
United States Senate  
110 Hart Senate Building  
Washington, D.C. 20510

**VIA FACSIMILE: (202) 224-3416**

**RE: S. 146, the Railroad Antitrust Enforcement Act**

Dear Senator Shelby:

I am writing to ask you to support S.146, the Railroad Antitrust Enforcement Act of 2009, which may be considered by the full Senate before the Memorial Day recess. As you may remember, the Railroad Antitrust Enforcement Act was approved by the House and Senate Judiciary Committee in the 110<sup>th</sup> Congress and has been endorsed by the American Bar Association's Antitrust Law Section.

Quite simply, the Railroad Antitrust Enforcement Act updates the nation's antitrust statutes so that the railroads will be subject to the same fundamental rules as every other industry. Many of these industries are railroad customers, including shippers of important products Americans use and rely upon everyday, from food to forest products, steel, chemicals, and coal for electricity. Yet none of these industries enjoy the same sort of broad antitrust exemptions as the railroads.

The antiquated railroad antitrust exemptions have no public policy justification in today's economy. What was useful and perhaps necessary in the late 19<sup>th</sup> and early 20<sup>th</sup> century simply is not applicable in today's economic environment. According to a Wall Street Journal article, "the financial performance of railroads stood out in a year when the ailing economy brutalized other freight haulers...each of the largest railroads--CSX, Union Pacific, Burlington Northern Sante Fe Corp., and Norfolk Southern Corp.—reported higher year-over-year profits for each of the first three quarters of 2008. Their total freight volumes, meanwhile, dropped almost every quarter." Alex Roth, *Rail Shippers Ask Congress to Regulate Freight Prices*, Wall St. J., Jan. 4, 2009.

The railroads' antitrust exemption has contributed to and reinforced the lack of access to competition faced by many rail customers, which often results in unreliable service and the billing of exorbitant fees. Utilities, paper mills, steel mills, chemical companies, cement companies, producers of ethanol, and the agriculture sector have all seen

declining service, unreliable rail shipments and unreasonably high costs, all of which have a harmful effect on consumers of their products and services. Promoting more rail competition through the elimination of these antitrust exemptions will help lower costs and improve service to our members, and ultimately their customers.

As representatives of captive rail customers across Alabama and the United States, we strongly support the Railroad Antitrust Enforcement Act and urge you to support the Act when it comes to a vote on the floor of the Senate.

Sincerely,



George N. Clark  
President  
Manufacture Alabama