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October 14, 2015

VIA E-FILING

Cynthia T. Brown, Chief
Section of Administration, Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Norfolk Southern Railway Company – Acquisition and Operation -
Certain Rail Lines of the Delaware and Hudson Railway Company, Inc.,
FD 35873

Dear Ms. Brown:

Norfolk Southern Railway Company (“NS”) is writing in response to the October 5, 2015 filing made by James Riffin, which Mr. Riffin purports to be a “supplement” to the record but also notes that it is a “reply” to the September 15, 2015 filing by the American Train Dispatchers Association (“ATDA”). The “supplement” or “reply” is just another improper and frivolous attempt by Mr. Riffin to stop a transaction that has already been consummated. Consistent with statements of the Surface Transportation Board (“Board”) in Petition Of Norfolk Southern Railway Company To Institute A Rulemaking Proceeding To Address Abuses Of Board Process, EP 727 (STB served Sept. 23, 2015), the Board should exercise its authority under 49 C.F.R. § 1104.8 and strike the pleading as redundant, irrelevant, immaterial, impertinent, or scandalous.

If the filing was intended as a reply to the ATDA filing, it is redundant, irrelevant and immaterial because the Board had ruled on the merits of ATDA’s petition on September 18, 2015 prior to the Riffin filing.¹ If the pleading seeks to introduce new argument, evidence, or

¹ There is nothing in the Board’s regulations, precedents, or within procedural due process that required the Board to wait 20 days for comments from the public before ruling on ADTA’s filing, especially given that ATDA was requesting a stay of the effective date of a decision that was to take effect before the 20 day comment period expired.

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changed circumstances, as Riffin also asserts, it was procedurally improper because there are no provisions in the Board's regulations for the filing of a supplement to the record. If Mr. Riffin believes that there is new evidence or changed circumstances so as to justify a "supplement" to the record, the proper procedural course was to file a petition for reconsideration of the Board's September 18, 2015 decision or to seek to reopen the Board's May 15, 2015 decision. Having done neither, the filing should be rejected.

There is also no merit to any of Riffin's arguments. To a large extent, he simply repeats previous arguments made by others. Other times, he is simply flat out wrong, i.e., NS did not acquire or buy anything from Delaware and Hudson Railway's sister company, Soo Line Railroad Company ("Soo") and Soo was not involved in the Transaction that was the subject of this proceeding. Therefore, Soo was not required to be an applicant and the Transaction did not involve two Class I railroads.

Respectfully submitted,



William A. Mullins
Attorney for Norfolk Southern Railway Company

cc: Parties of Record