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January 11, 2016

### 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 December 21, 2015 filings made by James Riffin.<sup>1</sup> Although styled as a request to supplement the record, in effect, Mr. Riffin appears to request that the Board reopen its May 15, 2015 decision based on events that have occurred since NS consummated its acquisition of and commenced operating over the D&H South Lines. There is no provision in the statute or the regulation for “supplementing” an evidentiary record that is already closed and involving a transaction that has already been consummated. It should therefore be rejected.

If intended to be a petition to reopen, it should likewise be rejected. It does not meet the standards of 49 U.S.C. §722(c) and 49 CFR §1115.4. None of the alleged new information cited

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<sup>1</sup> Riffin filed similar pleadings in Delaware and Hudson Railway Company, Inc. – Discontinuance of Trackage Rights Exemption – In Broome County, NY; Essex, Union, Somerset, Hunterdon, and Warren Counties, NJ; Luzerne, Perry, York, Lancaster, Northampton, Lehigh, Carbon, Berks, Montgomery, Northumberland, Dauphin, Lebanon, and Philadelphia Counties, PA; Harford, Baltimore, Anne Arundel, and Prince Georges Counties, MD; The District of Columbia; and Arlington County, VA, STB Docket No. AB-156 (SUB-NO. 27X). This reply letter is also being filed in that docket as well.

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by Mr. Riffin is relevant to the Board's decision approving NS's acquisition of the D&H South Lines. All statements made by NS throughout the proceeding were factually accurate to the best of NS's knowledge at the time and were verified as such. Likewise, the Board's findings were accurate as of the date of the Board's decision and remain so. The alleged new information does not change the Board's conclusions or in any way impact the merits of NS's purchase of the D&H South Lines.

The "supplement" is just another improper and frivolous attempt by Mr. Riffin to stop a transaction that has already been consummated. Consistent with statements of the 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.

Respectfully submitted,



William A. Mullins  
Attorney for Norfolk Southern Railway Company

cc: Parties of Record