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November 14, 2017

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W., Room 1034
Washington, DC 20423-0001

Re: **Docket No. FD 36127**
Grand Elk Railroad, Inc. – Acquisition Exemption – Norfolk
Southern Railway Company

Docket No. FD 36127 (Sub-No. 1)
Grand Elk Railroad, Inc. – Petition for Board Order Pursuant to 49
U.S.C. § 1321

EXPEDITED CONSIDERATION REQUESTED

Dear Ms. Brown:

Grand Elk Railroad, Inc. (“GDLK”) hereby offers a brief, post-closing supplement to the records in the above-referenced proceedings, and urges Board action in keeping with stated agency resolve to address a lingering service issue.

The underlying facts and circumstances remain unchanged. A longstanding rail service disruption exists in Grand Rapids, the product of what is ultimately a dispute between CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Railway Company (“NS”). GDLK is seeking a way out of the situation in keeping with its commitment to affected customers. These customers periodically seek case status updates, and they know that, as of September 5, 2017, the Board anticipated ruling on GDLK’s petitions in the “near future.” In light of CSXT’s continued opposition to restoring GDLK’s trackage rights operations and the Michigan state court’s ruling, the path to a resolution of the disruption is through the Board.

There are many eyes looking to the Board, including, the state court that had adjudicated the trackage rights claims that GDLK and NS had presented there. As the record reflects, the 17th Judicial Circuit Court for Kent County, Michigan – Civil Division (the “Michigan Court”) granted summary disposition of the contract action. GDLK and NS were entitled to file an amended complaint by June 22, 2017, after which the Michigan Court’s

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disposition order would have become final. The Michigan Court stayed the amended complaint deadline. The Michigan Court extended the stay until at least November 29, 2017, tacitly acknowledging that agency action here might warrant a return to the court. The stay is temporary; the Michigan Court does not intend to extend the deadline indefinitely, and there is a November 29, 2017 hearing to discuss continuing the stay.

GDLK does not plan to pursue relief before the Michigan Court (the court has fulfilled its role, and GDLK has fully pursued that avenue in accordance with the Board's expectations), but a possible return to the court would depend upon the outcome here. Continuation of the stay would be justified if the Board contemplated subsequent state court action, but, because the Board has not yet acted, the usefulness of the stay is unknown.

Should the Board care for any additional information concerning the status of the Michigan Court case, it may contact the court. In the interests of the various affected parties, and with so many watching the agency for a decision, GDLK again urges an expedited Board decision in keeping with the relief it has requested.

Respectfully submitted,



Robert A. Wimbish
Attorney for Grand Elk Railroad, Inc.

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cc: Parties of Record