

January 30, 2015

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VIA E-FILING

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Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street SW
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ENTERED
Office of Proceedings
January 30, 2015
Part of
Public Record

Re: STB Docket No. 42141

Dear Ms. Brown:

I am writing on behalf of Norfolk Southern Railway Company ("Norfolk Southern") in reply to Amtrak's Motion for Leave to File a Reply to Norfolk Southern's Response to Amtrak's Complaint, filed on January 28, 2015. Norfolk Southern does not oppose acceptance of Amtrak's Reply on condition that Norfolk Southern be permitted brief comment on Amtrak's position on mediation.

Amtrak opposes mediation on the ground that mediation "would not be fruitful here" because "further discussion through mediation would not be productive." Reply at 6-8. Amtrak's only specific objections appear to be the "extensive list of issues that Norfolk Southern suggests" should be addressed and the fact that Norfolk Southern has proposed mediation without the involvement of CSX. *Id* at 7. Those objections are insubstantial. Norfolk Southern's list of issues for mediation is no broader than the issues that would have to be addressed in any adjudication of Amtrak's Complaint, and assessing the causes of (and developing steps to improve) the Capitol Limited's performance *over Norfolk Southern's lines* does not require CSX's involvement. From Norfolk Southern's perspective, then, Amtrak's Reply appears to communicate that Amtrak's decision to file a complaint means that it is no longer interested in attempting to work together to address the performance of its Capitol Limited train on Norfolk Southern's lines.

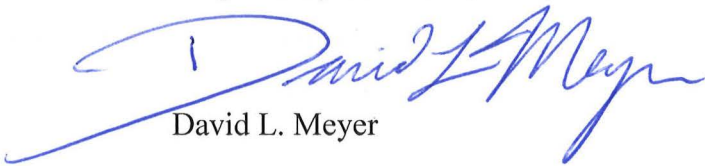
Norfolk Southern sees the goals of mediation as particularly important in this context: bringing the parties together to explore the issues that adversely affect performance of the Capitol Limited on Norfolk Southern's lines, and making progress toward constructive solutions that might improve that performance. Perhaps mediation would be successful,

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perhaps not. But at minimum it holds some promise of narrowing the scope of issues that would have to be fought over if this matter ultimately proceeds to an investigation.

Importantly, as Norfolk Southern's Response made clear, Norfolk Southern is prepared to mediate without awaiting the outcome of either the pending Supreme Court litigation over the Metrics and Standards or potential Board proceedings to construe on-time performance and then apply that definition in this case. NS Response at 9; *see also id* at 31-33. As such, notwithstanding Amtrak's desire to proceed straight to adversarial litigation, mediation would in fact serve the Board's twin objectives of supporting the potential constructive *and expeditious* resolution of disputes. We urge the Board to instruct Amtrak to mediate in good faith the issues raised by its Complaint.

Respectfully submitted,



David L. Meyer

Attorney for Norfolk Southern Railway Company

cc: All Parties of Record