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November 17, 2017

Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

ATTORNEYS AT LAW

1666 K Street, NW
Suite 500
Washington, DC 20006
T 202.887.1400
F 202.466.3215

Edward Fishman
D 202.887.1410
efishman@nossaman.com

 GRANTED Office of Proceedings	DECISION ID NO.: <u>46162</u>
	DECIDED DATE: <u>11-21-17</u>
	SERVICE DATE: <u>11-21-17</u>
	APPROVED: <u>[Signature]</u> Acting Director
	☐

Re: NOR No. 42141 - National Railroad Passenger Corporation – Investigation of Substandard Performance of the Capitol Limited

Dear Ms. Brown:

On September 1, 2017, Norfolk Southern Railway Company (“NS”) filed a letter in this proceeding asking the Board to rule on its pending Motion to Dismiss as a result of the 8th Circuit decision in Union Pac. R.R. Co. v. Surface Transp. Bd., 2017 U.S. App. LEXIS 12408 (8th Cir. July 12, 2017)(“Union Pacific”). On October 13, 2017, CSX Transportation, Inc. (“CSXT”) filed a letter in this proceeding asking the Board to rule on its pending Motion to Dismiss for the same reason.

Presently, Amtrak’s reply to the NS and CSXT letters is due November 22, 2017. See NOR No. 42141, National Railroad Passenger Corporation – Investigation of Substandard Performance of the Capitol Limited (STB stamp order served October 18, 2017). Since the Board’s last order in this proceeding, Amtrak and other parties have filed petitions for writ of certiorari to the Supreme Court with respect to the Union Pacific decision.

I am writing to request that the Board grant Amtrak an extension of time to reply to the NS and CSXT letters until ten days after the Supreme Court grants or denies the petition for writ of certiorari that Amtrak has filed.

The Board has discretion under 49 C.F.R. §1117.1 to grant Amtrak’s request for good cause. Amtrak believes that it would be in the interest of the Board and all parties to this proceeding to allow Amtrak to respond to the NS and CSX letters after the Supreme Court has ruled on the pending petitions.



Amtrak's counsel has conferred with counsel for NS and CSXT about Amtrak's request for abeyance, and they have authorized us to inform the Board that they do not oppose Amtrak's request.

Sincerely,

A handwritten signature in dark ink, appearing to read 'E. Fishman', with a long horizontal flourish extending to the right.

Edward J. Fishman
Counsel for National Railroad Passenger
Corporation

Certificate of Service

I, Justin J. Marks, hereby certify that on November 17, 2017, a copy of the foregoing letter was served by e-mail or by first-class mail on all parties of record, as follows:

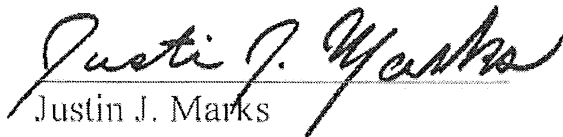
Thomas H. Dupree, Jr.
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5306
TDupree@gibsondunn.com

Laura E. Weis
Champaign County Chamber of Commerce
303 West Kirby Avenue
Champaign, IL 61820

Michael K. Murphy
Gibson, Dunn & Crutcher LLP
1050 Connecticut Avenue, NW
Washington, DC 20036-5306

Jeffrey O. Moreno
Thompson Hine LLP
1919 M Street, NW, Suite 700
Washington, DC 20036
Jeff.Moreno@thompsonhine.com

David Meyer
Morrison & Foerster LLP
2000 Pennsylvania Avenue NW
Washington, DC 20006-1888


Justin J. Marks