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21 26 88
2004
December 2, 2004

Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Docket No. AB-156 (Sub-No. 25X), Delaware & Hudson Railway
Company, Inc.—Discontinuance of Trackage Rights—Between
Lanesboro, PA and Buffalo, NY.

Dear Secretary Williams:

This letter has reference to the letter filed in the above-captioned proceeding by Mr. Sam Hoyt, a member of the New York State Assembly. The letter, which was dated as of November 1, 2004, but apparently was not filed with the Secretary's office until November 23, 2004, purports to be an "appeal" from the Board's October 21, 2004 Decision establishing the procedural schedule in this exemption proceeding (the "*October 21 Decision*"). Specifically, Assemblyman Hoyt urges the Board to conduct an oral hearing, and to extend the due date for the submission of comments until December 20, 2004.

By decision served on November 10, 2004, the Board denied a request by Samuel J. Nasca, on behalf of the United Transportation Union—New York Legislative Board ("UTU-NY"), for precisely the same relief as is sought by Assemblyman Hoyt's letter. The *November 10 Decision* effectively renders Assemblyman Hoyt's "appeal" moot. Even if the Board should determine that Assemblyman Hoyt's request is not mooted by the Board's prior decision, it should nevertheless deny the appeal for the reasons set forth in the *November 10 Decision*.

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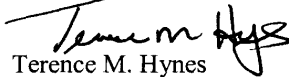
WASHINGTON, D.C.

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Counsel for Norfolk Southern Railway Company ("NSR") has authorized the undersigned counsel to advise the Board that NSR concurs with the position set forth in this letter, and likewise urges the Board to deny Assemblyman Hoyt's appeal.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Terence M. Hynes", with a stylized flourish at the end.

Terence M. Hynes
Attorney for Canadian Pacific Railway Company
and Delaware and Hudson Railway Company, Inc.

TMH:aat

cc: All Parties of Record