

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW

SUITE 300

WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820

FACSIMILE: (202) 663-7849

ENTERED
Office of Proceedings
November 21, 2023
Part of
Public Record

CRYSTAL M. ZORBAUGH

(202) 663-7831 (Direct Dial)

E-Mail: czorbaugh@bakerandmiller.com

November 21, 2023

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: Canadian Pacific Kansas City Limited, et al. – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727

Dear Ms. Brown:

On behalf of Norfolk Southern Corporation and Norfolk Southern Railway Company (together, “Norfolk Southern”), the undersigned hereby submits to the Surface Transportation Board (“STB” or “Board”) a Brief Update on the Status of Discovery and other Matters¹ in the above-referenced proceedings together with the directly related proceedings, each of which were filed on October 6, 2023.²

¹ While Norfolk Southern does not believe leave is necessary for it to provide the Board copies of discovery served related to the above-captioned proceedings and a renewed request/basis for expedited consideration on its pending motion, should the Board disagree Norfolk Southern moves for leave to submit this Brief Update on the Status of Discovery and other Matters. The Board typically accepts material in the interest of a complete record and given the incredibly tight procedural schedule, copies of discovery and a request for expedited action arguably would fall under such an umbrella, especially since the Board may need to appoint an administrative law judge (“ALJ”) to handle discovery disputes, should any such disputes arise. See CSX Transportation, Inc. – Abandonment Exemption – In Summit County, OH; Terminal Warehouse, Inc. v. CSX Transportation, Inc., AB-55 (Sub-No. 631X), Docket No. 42086 (STB Served May 12, 2004) (Accepting the responses of CSXT to the reply memo and the supplemental verified statement because no party would be prejudiced and it was in the interest of developing a complete record).

² The following are directly related to FD 36732: CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights

Ms. Cynthia T. Brown
November 21, 2023
Page 2

Norfolk Southern is reporting to the Board about the status of discovery and other matters solely as they relate to Norfolk Southern's interactions with the applicants in the referenced proceedings, and not as to other parties that may be involved in the discovery process or about other related matters involving these proceedings.

Discovery:

On November 3, 2023, the Board issued a decision in FD 36732 and, separately, a decision in FD 36727, accepting for consideration the CPKC³ Application and the CSXT Application, respectively.⁴ In those decisions, the Board directed that discovery "may begin immediately"⁵ The Board also provided that "[t]he parties are encouraged to resolve all discovery matters expeditiously."⁶ The Board ordered CPKC and CSXT to supplement their respective Applications by November 20, 2023, but, due to an issue with the publication of the associated notices in the Federal Register, the date for CPKC and CSXT to supplement their respective applications was moved to November 21, 2023.⁷

On November 8, 2023, Norfolk Southern served its "First Discovery Requests Directed to CPKC."⁸ On November 9, 2023, Norfolk Southern served its "First Discovery Requests Directed to CSX Transportation, Inc."⁹ On November 14, 2023, Norfolk Southern served its "First Discovery Requests Directed to Meridian & Bigbee Railroad, L.L.C."¹⁰ Each of those three discovery requests sought

Exemption—Kansas City Southern Railway, FD 36730. The following are directly related to FD 36727: Alabama & Gulf Coast Railway – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, ALA., AB 1335X.

³ A reference to "CPKC" shall be a reference to The Kansas City Southern Railway Company d/b/a CPKC. A reference to "CSXT" shall be a reference to CSX Transportation, Inc. A reference to "G&W" shall be a reference to Genesee & Wyoming, Inc., together with Meridian & Bigbee Railroad, L.L.C. ("MNBR") and Alabama & Gulf Coast Railway LLC ("AGR").

⁴ Canadian Pacific Kansas City Limited, et al. – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732, served November 3, 2023 ("CPKC Decision No. 1"); CSX, Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727, served November 3, 2023 ("CSXT Decision No. 1").

⁵ CPKC Decision No. 1, slip op at 12; CSXT Decision No. 1, slip op. at 12.

⁶ CPKC Decision No. 1, slip op at 12; CSXT Decision No. 1, slip op. at 12.

⁷ Canadian Pacific Kansas City Limited, et al. – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732, served November 9, 2023 ("CPKC Decision No. 2"); CSX, Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727, served November 9, 2023 ("CSXT Decision No. 2").

⁸ See Exhibit A, First Discovery Request Directed to CPKC.

⁹ See Exhibit B, First Discovery Request Directed to CSXT.

¹⁰ See Exhibit C, First Discovery Request Directed to Meridian & Bigbee Railroad, L.L.C.

Ms. Cynthia T. Brown
November 21, 2023
Page 3

information and documents concerning both the CPKC Application and the CSXT Application, as well as their respective related proceedings.¹¹

On November 18, 2023, CPKC objected to Norfolk Southern's request that CPKC serve objections it might have to Norfolk Southern's discovery requests within ten (10) days of the service of those requests (i.e., on November 18th). Norfolk Southern had sought, in good faith, to receive CPKC's objections on a slightly truncated basis due to the expedited nature of the proceedings requested by CPKC and CSXT. CPKC instead stated that it would serve responses and objections to Norfolk Southern's discovery on Wednesday, November 22, 2023, and would "start producing documents on a rolling basis" beginning November 27, 2023, two weeks before Norfolk Southern's comments would be due in response to the CPKC Application and the CSXT Application.

On November 19, 2023, CSXT also responded that it would mirror the CPKC discovery process and serve objections and substantive responses on Wednesday, November 22, 2023, and noted it anticipated a rolling production of responsive documents beginning no later than November 27, 2023.

Norfolk Southern has not heard back from G&W, but with recognition of the expedited nature of the procedural schedule that is involved in these seven related proceedings, and the significant amount of new materials expected to be produced by Applicants CPKC and CSXT on November 21, 2023, Norfolk Southern also asked MNBR (and G&W) to inform Norfolk Southern within 10 days of any objections to the limited discovery that was served.

Each of CPKC and CSXT has advised Norfolk Southern that it will at least begin to produce responses to discovery on November 27, 2023. However, CPKC and CSXT also have both stated that such production will be handled "on a rolling basis", which indicates that some responses may not be provided to Norfolk Southern until significantly later. Hopefully, the corpus of their responses will arrive in sufficient time for Norfolk Southern both to review what is produced (as well as determine what has not been produced and the reasons therefor) and to integrate such responses into Norfolk Southern's comments, which are due only two weeks after CPKC and CSXT have committed to beginning to provide discovery responses. Under the current schedule, which includes the Thanksgiving holiday, Norfolk Southern will be reviewing the supplemental material provided by the Applicants on November 21, 2023, while spending the week after Thanksgiving reviewing discovery, which leaves Norfolk Southern little time to determine what, if any, additional discovery is called for in response thereto, or to file a Motion to Compel should one be necessary. Although Norfolk Southern is not moving for an extension in the procedural schedule yet because it remains hopeful that the parties can, as the Board directed, handle discovery amicably, Norfolk Southern is providing the Board with copies of the discovery it has served on CPKC, CSXT and GWI, so the Board will be better equipped to make rapid decisions on discovery-related issues, should it become necessary.

Other Matters:

Adding to the obstacles Norfolk Southern is facing with a tight procedural schedule is the significant amount of material that CPKC and CSXT assert should be submitted and classified as "highly confidential" and thus not able to be shared with in-house personnel.

¹¹ In CPKC Decision No. 1, slip op at 11 and CSXT Decision No. 1, slip op. at 11, the Board specifically discussed evaluating the two respective transactions "in conjunction with" the other.

Ms. Cynthia T. Brown
November 21, 2023
Page 4

Early on in the proceeding, Norfolk Southern communicated with CPKC and CSXT concerning the over-designation of items in their applications as “highly confidential” out of a concern that such over-designation significantly hampers Norfolk Southern’s ability to review and comment on the material that CPKC and CSXT submitted for the Board’s approval. Early on, CPKC refused Norfolk Southern’s request to redesignate specific information contained in an exhibit to the proposed transaction agreement, which was provided as part of the Application it submitted on October 6, 2023 (“Original Exhibit”). On October 24, 2023, CPKC provided Norfolk Southern with a revised exhibit to be substituted in the proposed transaction agreement (“Revised Exhibit”). On November 4, 2023, Norfolk Southern asked both CPKC and CSXT to reconsider whether certain items designated as Highly Confidential in its Application truly deserved a Highly Confidential designation. CPKC refused all requests for redesignation. CSXT agreed to redesignate some documents on November 9, 2023, and on November 20, 2023, provided Norfolk Southern with a confidential version.¹²

On November 8, 2023, Norfolk Southern filed both a public and highly confidential version of its Motion to Redesignate the Highly Confidential Designation of Certain Materials (“Motion to Redesignate”) seeking redesignation of certain portions of the CPKC Application. Norfolk Southern included a copy of the Revised Exhibit in the Motion to Redesignate. On November 13, 2023, CPKC filed a public and highly confidential Reply to Norfolk Southern’s Motion to Redesignate the Highly Confidential Designation of Certain Materials. As part of that filing, CPKC provided yet another substitute page for the CPKC Application (the “Further Revised Exhibit”), which Further Revised Exhibit CPKC purported mooted some of the more problematic elements of the Norfolk Southern Motion to Redesignate.

CPKC and CSXT’s over-designation of gross traffic data and gross carloads diverting **has and continues** to deprive Norfolk Southern of fully assessing the impact of the proposed transactions on Norfolk Southern’s shippers, who would bear the burden of any service variability that results from the proposed transactions. In that regard, the Board has not yet responded to the Motion to Redesignate. Note, that another party recently raised the same concern that CPKC’s tactics have deprived it of fully assessing the impacts of the two minor transactions.¹³

It is hoped that matters with regard to at least some of the issues raised in that motion can be resolved prior to the Thanksgiving holiday so that Norfolk Southern and other parties to these proceedings can provide their in-house personnel and other individuals access to these materials, subject to the terms of the applicable protective orders. This is critical because the in-house operational and other

¹² Counsel for CSXT confirmed for Norfolk Southern that despite CSXT redesignating certain documents, CSXT did not plan to file a confidential version with the Board.

¹³ See Illinois Central Railroad Company (“CN”)’s November 20, 2023 filing stating “it is essential that CN be able to probe the basis for CPKC’s traffic projections, so CN may assess the reliability of those projections and determine the extent to which transaction-related increases could impact CN’s own freight traffic and Amtrak’s passenger trains. To do so, CN’s personnel need to be able to review information concerning the Applicants’ traffic projections. They cannot effectively do so here, however, because CPKC has wrongly over-designated significant non-shipper-specific traffic information as “Highly Confidential.”

Ms. Cynthia T. Brown
November 21, 2023
Page 5

individuals are often the people in the best position to most efficiently review and understand the relevance of the materials in the context of the proposed transactions¹⁴.

Norfolk Southern will continue to try to meet the challenging schedule established for this proceeding, but its ability to do so effectively will depend in large part on whether CPKC, CSXT, and GWI produce the materials requested, both by the Board (via required supplemental information) and by Norfolk Southern (via discovery), in a good-faith and timely manner. Lastly, Norfolk Southern hopes this filing will enable the Board to quickly appoint an administrative law judge (“ALJ”) to handle discovery disputes, should any such disputes arise.

If there are any questions about this matter, please contact me directly, either by telephone: at 202-663-7831 or by e-mail: czorbaughbakerandmiller.com.

Respectfully submitted,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern Corporation and
Norfolk Southern Railway Company

cc: Parties of Record

¹⁴ While counsel for CPKC expressed concern that Norfolk Southern would use the information derived from this proceeding to compete for traffic, such a concern is amiss, because the express language of the protective order provides the information obtained in this proceeding can be used to present evidence in this proceeding **only** and for no other purpose.

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this “Brief Update on the Status of Discovery and other Matters” on counsel in the following proceedings:

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732, Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731, CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727, CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724, Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

by first class mail, properly addressed with postage prepaid, or via more expeditious means of delivery, and on all parties of record.

Crystal M. Zorbaugh
Attorney for Norfolk Southern Railway Company and Norfolk
Southern Corporation

November 21, 2023

**BEFORE THE
SURFACE TRANSPORTATION**

**FD 36732, FD 36731, FD 36730, AB 55 (Sub-No. 814X),
FD 36727, FD 36724, and AB 1335X**

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Brief Update on the Status of Discovery and other Matters

Exhibit A

First Discovery Requests Directed to CPKC

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820

FACSIMILE: (202) 663-7849

Crystal M. Zorbaugh

Direct Dial: (202) 663-7831

E-Mail: czorbaugh@bakerandmiller.com

November 8, 2023

VIA E-MAIL

David F. Rifkind

STINSON LLP

1775 Pennsylvania Avenue NW, Suite 800

Washington, DC 20006

Tel: (202) 785-9100

Email: David.Rifkind@stinson.com

Re: Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Dear David:

On behalf of Norfolk Southern Railway Company (“NSR”) and Norfolk Southern Corporation (collectively, “Norfolk Southern”), I am enclosing herein “Norfolk Southern’s First Discovery Requests Directed to Canadian Pacific Kansas City Limited and The Kansas City Southern Railway Company, d/b/a CPKC” (“CPKC”) in the above-captioned proceeding. This discovery is served pursuant to the Surface Transportation Board’s regulations at 49 C.F.R. §1114.21 et. seq. and related regulations.

Complete responses to these requests are due by November 24, 2023.¹ Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests. Norfolk Southern understands that CPKC has informational disclosures due on November 20, 2023. Thus, if CPKC believes that its November 20, 2023 response will cover the entire scope of any discovery request, please state so in any objection offered on that basis. Norfolk Southern reserves the right to challenge such an objection if CPKC's forthcoming disclosure and its discovery request response do not fully cover the scope of the discovery request. Please feel free to contact me promptly to discuss any objections or questions regarding these requests with a view toward resolving any disputes or issues of interpretation informally and expeditiously consistent with the Board's November 3, 2023 decision.² I can be reached by phone at (202) 663-7831 or by e-mail at czorbaugh@bakerandmiller.com.

Sincerely,

/s/ *Crystal M. Zorbaugh*

Crystal M. Zorbaugh

cc: Parties of Record

¹ Because November 23, 2023, is Thanksgiving, under the Board's practice rules, CPKC has until Friday, November 24, 2023, to respond.

² The November 3, 2023 decision embraced the following dockets: Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730 (referred to hereafter as “Decision ID 51913”). Decision ID 51913 at 12 ordered that parties could begin immediately and encouraged the parties “to resolve all discovery matters expeditiously and amicably.”

**BEFORE THE
SURFACE TRANSPORTATION**

FD 36732, FD 36731, FD 36730, AND AB 55 (Sub-No. 814X)

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama; Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City; CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss.

NORFOLK SOUTHERN’S FIRST DISCOVERY REQUESTS DIRECTED TO CPKC

**Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
NORFOLK SOUTHERN CORPORATION
650 W Peachtree St NW
Atlanta, GA 30308
Tel: (470) 571-5208**

**Rose-Michele Nardi
John V. Edwards
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037
Telephone: (202) 663-7820
Facsimile: (202) 663-7849**

**Attorneys for Norfolk Southern Railway
Company and Norfolk Southern Corporation**

Dated: November 8, 2023

**BEFORE THE
SURFACE TRANSPORTATION**

FD 36732, FD 36731, FD 36730, AND AB 55 (Sub-No. 814X)

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama; Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City; CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss.

NORFOLK SOUTHERN’S FIRST DISCOVERY REQUESTS DIRECTED TO CPKC

Pursuant to 49 C.F.R. §1114.21 et. seq. and related regulations, Norfolk Southern Railway Company (“NSR”) and Norfolk Southern Corporation (collectively, “Norfolk Southern”) hereby direct the following discovery requests to Canadian Pacific Kansas City Limited and The Kansas City Southern Railway Company, d/b/a CPKC (“CPKC”). Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests. Responses should be served as soon as possible, or by November 24, 2023.³ Moreover, CPKC is requested to contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously consistent with the Board’s directive in its November 3, 2023, decision.⁴

DEFINITIONS

³ Because November 23, 2023, is Thanksgiving, under the Board’s practice rules, CPKC has until Friday, November 24, 2023, to respond.

⁴ See Decision ID 51913 at 12 noting “Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.”

1. “Agreement” means any agreement in the normal sense of the word and shall include without limitation whether it be formal or informal, written or oral, or memorialized in any fashion including by signed writing, memorandum, written statement, audio, orally, or in notes.
2. “Application” means CPKC’s minor application to acquire from Meridian & Bigbee Railroad, LLC (“MNBR”) and to operate approximately 50.4 route miles of rail line between Meridian, Mississippi and Myrtlewood, Alabama and related transactions filed by CPKC. See Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.
3. “Board” or “STB” means the Surface Transportation Board and its predecessor agency, the Interstate Commerce Commission, if applicable.
4. “CN” means Illinois Central Railroad Company/ Canadian National Railway.
5. “Communication” means any transmission or receipt of information (whether by one or more persons or between two or more persons) by means including but not limited to in-person conversations, telephone conversations, voicemail, letters, fax, social media posts, or conversations, email, text messages, instant messages, video conversations, internet-based exchanges, written memorandum, notes, or other written medium.
6. “CPKC” means Canadian Pacific Railway Limited, a Canadian company; Canadian Pacific Railway Company (“CPRC”), which operates in Canada; and Canadian Pacific Railway Limited U.S. rail carrier subsidiaries, including the Soo Line Railroad Company (“Soo Line”), a Class I

carrier; The Kansas City Southern Railway (“KCSR”), a Class I carrier, and the following Class II carriers: the Central Maine & Quebec Railway US Inc.; the Dakota, Minnesota & Eastern Railroad Corporation; the Delaware & Hudson Railway Company, Inc.; and, The Texas Mexican Railway Company (“Tex Mex”); collectively all of which are common carriers by rail engaged in domestic interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101, et seq, including predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies, and all persons acting or purporting to act on their behalf.

7. “CPKC Application” means the minor application submitted by CPKC in Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732.
8. “CSXT” means CSX Corporation parent company to (1) CSX Transportation, Inc., a Virginia corporation, and a Class I common carrier by rail engaged in interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101; (2) CSX Intermodal Terminals, Inc.; (3) CSX Real Property, Inc.; (4) CSX Technology, Inc.; (5) Total Distribution Services, Inc. and (6) TRANSFLO Corporation, including its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.
9. “CSXT Transaction” means CSXT’s Application seeking Board approval for CSXT to acquire and operate the assets comprising the rail line of Meridian & Bigbee Railroad, L.L.C. that runs

approximately 93.68 miles between the cities of Burkville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox and Marengo Counties (referred to herein as the Eastern Line), and related transactions. See CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian and Bigbee Railroad, L.L.C., FD 36727; Alabama & Gulf Coast Railway— Trackage Rights Exemption—CSX Transportation, Inc., Docket No. FD 36724; Meridian & Bigbee Railroad—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, Ala., Docket No. AB 1335X.

10. Decision ID 51913 means the Board’s initial November 3, 2023 decision in Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.— Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.
11. “Describe” when used in relation to a discussion, meeting or other communication means to identify the participants, the date or period when the communication took place, the location of the participants at the time of the communication, and a detailed summary of the content of the communications.
12. “Document(s)” means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including intra-company communications; electronic mail; correspondence; telegrams; memoranda; contracts; instruments; studies; projections; forecasts; summaries; notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of

negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models; statistical statements; graphs; charts; diagrams; plans; drawings; brochures; pamphlets; news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term “Document” includes:

- a. both basic records and summaries of such records (including computer runs); and
- b. both original versions and copies that differ in any respect from the original version, including notes.

13. “Eastern Line” means the rail line CSXT plans to reacquire and operate, which includes assets comprising the rail line of MNBR that runs approximately 93.68 miles between the cities of Burkville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox, and Marengo Counties. The Eastern Line consists of two segments: (1) extending from milepost XXB 189.00 near Burkville to milepost XXB 222.00 at Western Junction, a distance of about 30.22 miles; and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, a distance of about 63.46 miles. The Eastern Line includes Selma Yard, at Selma, Ala., and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead, Tyler, Benton, Whitehall, and Burkville. Two other carriers, Alabama Gulf Coast Railway LLC (“AGR”) and NSR connect with the Eastern Line. AGR’s line connects to the Eastern Line at Linden, Ala. AGR operates over an approximately 10-mile portion of the Eastern Line between Linden and Myrtlewood to interchange traffic with MNBR.4 NSR connects to the Eastern Line at Selma, where it interchanges traffic with MNBR.
14. “Including” means including without limitation.
15. “Identify” with regard to an agreement (whether in draft form or executed) means to provide the title of the agreement, the parties to the agreement, the current status of the agreement (whether in

draft or executed), the date of execution if executed, and a summary of the substance of the agreement.

16. “Meridian Interchange” means the current location of physical interchange of rail traffic between MNBR and operators on the Meridian Speedway at approximate MP 0.5 (Meridian Yard) (Meridian, Mississippi).
17. “Meridian Speedway” means the rail line owned and operated by the NSR and KCSR-owned Meridian Speedway, LLC (“MSLLC”), a critical rail line connecting Meridian, Mississippi and Shreveport, Louisiana. Related to the MSLLC transaction, NSR intermodal shippers using the Meridian Speedway have the benefit of services provided on the KCSR line between Shreveport, Louisiana, and Wylie, Texas (the “KCSR Section”) and at the Wylie Intermodal Terminal. Together, the Meridian Speedway and the KCSR Section comprise the “Meridian-Wylie Route”. Relevant transactional documents (the “Meridian Speedway Agreements”) relating to the formation of the MSLLC were filed with the STB in 2006 by NSR and KCSR in connection with the Notices of Exemption for those elements of the transaction requiring Board authorization. The Board approved the Meridian Speedway transaction on February 22, 2006. See Norfolk Southern Railway Company – Trackage Rights Exemption – Meridian Speedway LLC – Between Meridian, MS and Shreveport, LA, FD 34821 (served February 22, 2006); Kansas City Southern, The Kansas City Southern Railway Company, and Meridian Speedway LLC – Exemption for Transactions Within a Corporate Family, FD 34822 (served February 22, 2006); and, Kansas City Southern Railway Company – Trackage Rights Exemption – Meridian Speedway, LLC, FD 34823 (filed February 22, 2006).
18. “MNBR” means Meridian & Bigbee Railroad, L.L.C., a subsidiary of Genesee & Wyoming, Inc. (“G&W”), a Class III rail carrier, who pre-transaction owned 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood, Ala. (the “Western Line”), and operated a rail line known as the Eastern Line that connects to the Western Line at Myrtlewood and extends east to Burkville, Ala.

MNBR also operates between Burkville (the eastern end of the Eastern Line) and Montgomery pursuant to overhead trackage rights. MNBR, as a common carrier by rail engaged in domestic interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101, et seq., includes predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies, and all persons acting or purporting to act on their behalf.

19. “National Passenger Railroad Corporation” or “Amtrak” means National Passenger Railroad Corporation and its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.
20. “Norfolk Southern” means Norfolk Southern Corporation and Norfolk Southern Railway Company (“NSR”) and predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.
21. “Passenger” means actual or projected user or customer of Amtrak service over rail lines that Amtrak currently provides service over and rail lines that Amtrak plans to commence service over in the future.
22. “Person” means an individual, company, partnership, or other entity of any kind.
23. “Produce” or “Produced” means to make available to the undersigned attorneys for copying and viewing. “Produce” shall mean, to the maximum extent possible, making documents and other materials available, in electronic format that retains all information in the original form of the

materials, via a platform through which the materials can be made available for download by the undersigned attorneys.

24. “Provide” (except where the word is used concerning providing service or equipment) or “describe” means to supply a complete narrative response.
25. “Relate to” or “relates to” or “related to” or “relating to” a subject means making a statement about, referring to, or discussing the subject, including, as to actions, any decision to take, not take, defer, or not defer a decision, and including, as to any condition or state of affairs (*e.g.*, competition between carriers), its absence or potential existence.
26. “Request” means an interrogatory, request for admission, or request for production of Documents or things.
27. “Shipper” means a consignor, a consignee, receiver, or other user of rail services.
28. “Shreveport Line” means KCSR’s rail line between Shreveport, Louisiana and Wylie, Texas.
29. “Studies, Analyses, and Reports” means studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.
30. “This Proceeding” means CPKC’s minor application to acquire from Meridian & Bigbee Railroad, LLC (“MNBR”) and to operate approximately 50.4 route miles of rail line between Meridian, Mississippi and Myrtlewood, Alabama, and related transactions filed by CPKC. See Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.

31. “Western Line” means the MNBR-owned rail line that is comprised of approximately 50.4 route miles of rail line between milepost 0.0± at Meridian and milepost 50.4± at Myrtlewood that CPKC proposes to acquire, including According to the Application, KCS would also acquire all operating rail property owned by MNBR on the Western Line, including yards at Meridian; Naheola, Ala.; and Myrtlewood; as well as stations at Meridian; Whynot, Miss.; Yantley, Ala.; Cromwell, Ala.; Jachin, Ala.; Naheola; and Myrtlewood. (Id. at 22.)
32. All other terms used within this document, including any terms used within the definitions section, possess their customary or standard meaning within the railroad industry.

INSTRUCTIONS

1. Unless otherwise specified by an individual Request, these Requests cover the period beginning January 1, 2021, to present; that is, the “Discovery Period.”
2. These discovery requests (“Requests”) call for all non-privileged information that is in the possession, custody, or control of CPKC and its affiliates, subsidiaries, and counsel.
3. Where a Request has a number of separate subdivisions, or related parts or portions, a complete response is required to each part or portion. Any objection to a Request should clearly indicate the subdivision, part, or portion of the Request that CPKC objects to, and CPKC should specifically state the reasons for such objection, including all information that forms the basis for such objection. Additionally, CPKC should respond to the remaining portion of a Request not objected to or where an objection does not prevent a response.
4. Each Request shall operate and be construed independently, and, unless otherwise indicated, no Request limits the scope of any other Request.
5. Words used in the singular shall include the plural and words used in the plural shall include the singular, whenever the context permits. Terms such as “and,” “or,” or “including” shall be construed in the broadest and most inclusive manner, in the disjunctive or conjunctive as necessary, to call for all responsive information without limitation.

6. References to railroads, shippers, and other companies include parent companies, subsidiaries, controlled, affiliated, and predecessor firms, divisions, subdivisions, components, units, instrumentalities, partnerships, and joint ventures.
7. References to the present tense shall be construed to include the past tense, and references to the past tense shall be construed to include the present tense, as necessary to bring within the scope of each Request all responsive information that might otherwise be construed to be outside the scope of the Request.
8. Electronic documents must be Produced in native format to allow for complete data analysis.
9. Any table or computerized dataset produced in response to these requests should be accompanied by a full description of what the entries in the table or dataset represent, a list of all variables contained therein, a full definition and description of all data fields, and definitions for all codes or abbreviations contained in the table or dataset.
10. If CPKC believes that any Request or Definition or Instruction applicable thereto is ambiguous, CPKC should identify the language that CPKC believes is ambiguous and the interpretation that CPKC is applying in responding to the Request.
11. These Requests are governed by the protective orders entered in this case. For any Request that seeks information that CPKC believes the disclosure of which violates 49 U.S.C. § 11904, CPKC must Describe how and why provisions of the Protective Order filed, in this case, are insufficient to maintain confidentiality or disclosure violates 49 U.S.C. § 11904.
12. If any document covered by a Request is withheld for whatever reason, including any privilege, the Defendant withholding the document shall furnish a written document identifying all withheld documents in the following manner:
 - i. the specific Request to which the document is responsive;
 - ii. the date of the document;
 - iii. the name of each author or preparer;

- iv. the name of each person who received the document and the name of such person's employer at the time the person received the document;
 - v. a brief description of the subject matter of the document and any withheld attachments or appendices, including the number of pages withheld;
 - vi. the specific factual and legal basis for withholding; and
 - vii. the number of pages withheld.
13. All Requests are continuing and, pursuant to 49 C.F.R. §1114.29, CPKC remains under a duty seasonably to supplement its responses with respect to any question.
14. If CPKC knows or later learns that a response to any Request is incorrect, CPKC is under a duty promptly to correct that response.
15. Any delay in the production of requested Documents or answers to Requests is certain to prejudice the ability of Norfolk Southern to present evidence to the Board concerning the Application. Accordingly, responsive Documents, to the extent they cannot be produced electronically via a platform from which they can be downloaded, should be Produced to the undersigned counsel at Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037, not later than November 24, 2023. See FN 1. Serial production of relevant Documents and narrative responses during that period is encouraged and appreciated. Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests.
16. CPKC should contact Crystal M. Zorbaugh at (202) 663-7831 immediately to discuss any objections or questions with a view to resolving any dispute or issues of interpretation informally and expeditiously.

REQUESTS FOR ADMISSION

1. Admit or Deny: CPKC does not intend to allow any trains exceeding 8,500 feet to traverse the Meridian Speedway and Western Line to accommodate CPKC's proposed new west-to-east service routing.
2. Admit or Deny: The current 3,500-foot clearance designated interchange location at the Meridian Interchange can accommodate at most 60 cars.
3. Admit or Deny: Current capacity constraints at the Meridian Interchange today routinely result in blocked crossings on the NSR lines north and south of Meridian itself.
4. Admit or Deny: CPKC employees worked with CSXT employees to develop the "Operating Plan #2: All Transactions Implemented Simultaneously" as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.
5. Admit or Deny: CPKC employees had access to CSXT traffic analysis projections including shipper-specific information, in the CPKC employees' efforts to aid in the development of the "Operating Plan #2: All Transactions Implemented Simultaneously" as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.

INTERROGATORIES

Interrogatory No. 1. Describe the train composition and length of the train referenced in the carry-over paragraph on pages 11 to 12 in the CPKC Application that CPKC will utilize run-through power.

Interrogatory No. 2. When did discussions between CPKC and CSXT commence concerning CSXT's plans to take back the Eastern Line, and CPKC's plans to acquire the Western Line from MNBR?

Describe any verbal conversations and coordination by CPKC and CSXT concerning undertaking both the CPKC Transaction and the CSXT Transaction and Identify all agreements (draft or executed) pertaining thereto.

Interrogatory No. 3. Describe existing capacity limitations currently impacting CPKC's operations over the CPKC's Shreveport Line.

Interrogatory No. 4. Describe in detail any planned infrastructure improvements to CPKC's Shreveport Line, the Meridian Speedway, Jackson, MS, the Meridian Interchange, and other lines feeding into and out of Western Line and Eastern Line resulting from the CPKC Transaction and the CSXT Transaction.

Interrogatory No. 5. Describe any communications (including any draft or executed agreements and/or settlements) involving CPKC, Amtrak, CSXT, and/or MNBR concerning current or future Passenger service over the Meridian Speedway and/or the Western Line.

Interrogatory No. 6. Does the operational analysis done for the Western Line and the Eastern Line and reflected in the "Operating Plan #2: All Transactions Implemented Simultaneously" as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application consider impacts resulting from the CPKC Transaction and the CSXT Transaction to the portion of the Meridian Speedway controlled by CN at Jackson, MS. If so, please describe such impacts in detail.

Interrogatory No. 7. Describe the basis for the statement in the Transaction that "Yard activity at Meridian should decrease as a result of the Transaction," page 38 of the Application, including whether the reference to "Yard activity" includes all rail yards located in Meridian, Mississippi. If the "Yard activity" refers only to the MNBR yard, describe any analysis that CPKC and/or others associated with the submission of the CPKC Application or the CSXT Application performed with regard to any other rail yard located at Meridian.

Interrogatory No. 8. Describe in detail the specific improvements that comprise the \$46 million in immediate improvements and the \$100 million in additional improvements that CPKC plans to invest in the MNBR rail line it proposes to acquire in the CPKC Transaction. Specifically, explain which improvements (and the estimated cost of those improvements) that are referenced in the first complete paragraph on page 39 of the CPKC Application, and which improvements (and the estimated cost of those improvements) that are referenced in the second complete paragraph on page 39 of the CPKC Application.

Interrogatory No. 9. Describe in detail the specific improvements (and the cost thereof) that are required to facilitate the increase of maximum track speed from 10 mph to 25 mph as referenced in the last, carry-over, paragraph on page 9 of the Verified Statement of Raymond A. Elphick and, separately, what other track improvements are anticipated (including the cost thereof).

Interrogatory No. 10. Describe any discussions between CPKC, CSXT, and G&W concerning (i) the composition (including train length and number of cars) of the “one train a day in each direction” referenced on page 13 of the CPKC Application; (ii) projected volumes (and the projected composition and timing) anticipated to introduce additional trains (beyond the “one train a day in each direction” anticipated to move over the Western Line) and identify prospective connecting line segments from which that traffic is anticipated to be diverted.

Interrogatory No. 11. Describe the operating plan at Meridian for the run-through power train that will be exchanged between CPKC and CSXT at Myrtlewood, and provide any analysis of the interaction of that operating plan with other operations anticipated to be undertaken in Myrtlewood.

Interrogatory No. 12. What is the proposed operating schedule for the anticipated run-through power train over the Western Line and the Meridian Speedway?

Interrogatory No. 13. Describe the designated operating windows for MNBR’s local operations over the Western Line referenced on page 7 of the Verified Statement of Raymond A. Elphick, including identifying the designated operating windows’ times of the day and days of the week.

Interrogatory No. 14. Describe any operational analysis performed by CPKC on the potential of location of new shippers on the Western Line in the five years following consummation of the transaction, including the impact on fluidity caused by CPKC having to serve these shippers while MNBR was required to continue to serve existing local shippers. Include the identity of the potential newly-located local shipper, the commodities anticipated to be moved, and the volumes anticipated to be moved therefrom or thereto.

Interrogatory No. 15. Describe discussions with potential shippers concerning plans for new automotive plants and/or parts facilities in the Southeastern United States that could result in additional traffic over the Meridian Speedway, the Western Line, and/or the Eastern Line.

Interrogatory No. 16. Describe how CPKC in-house marketing and operational personnel were involved in preparing the combined Western Line-Eastern Line operational and competitive analysis offered in support of the Transaction and the CSXT Transaction and reflected in the “Operating Plan #2: All Transactions Implemented Simultaneously” as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.

Interrogatory No. 17. Describe the basis for CPKC’s planned train activity and/or traffic projections through the Meridian Gateway. Specifically, describe what types and volumes of traffic are planned to move on the Meridian Speedway and how CPKC plans to grow traffic through the Meridian Gateway and over the Western Line.

Interrogatory No. 18. Describe any marketing or planning analysis concerning the Western Line’s traffic volume projections over the next 10 years.

Interrogatory No. 19. Identify all Persons who assisted in the preparation of CPKC’s answers to these discovery requests, or that have knowledge relating to the matters covered in Norfolk Southern’s First Discovery Requests Directed to Canadian Pacific Kansas City Limited and The Kansas City Southern Railway Company, d/b/a CPKC.

Interrogatory No. 20. Describe the impact, if any, of the transaction on Dallas Intermodal Terminal Traffic as defined in the NSR Joint Use Agreement (“domestic intermodal containers or trailers with an origin and destination in the United States, with a lift or drop at KCSR’s Dallas Intermodal terminal, that moves over the [Meridian Speedway] and over KCSR’s tracks between Shreveport and the [Dallas intermodal] terminal, and that originates or terminates at or east of Meridian, and that originates or terminates at or west of the Dallas/ Ft. Worth, TX. Standard Metropolitan Statistical Area (SMSA) as published by the Office of Management and Budget (OMB).”)

DOCUMENT REQUESTS

Document Request No. 1. Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports used, relied upon, or referenced in CPKC's responses to the Requests for Admissions and in response to any of the Interrogatories served by Norfolk Southern. If CPKC objects to answering any interrogatory or request for admission on the basis that doing so would be too burdensome or would require a special study, Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports from which the answer to the interrogatory or request for admission can be derived.

Document Request No. 2. Produce all Documents and Communications related to and containing the Track Charts and Schematics of Meridian, MS, including the Meridian Interchange and the connection between the Western Line and the Meridian Speedway, and supporting interchange facilities on the Meridian Speedway and the Western Line.

Document Request No. 3. Produce all Documents and Communications related to and containing CPKC and MNBR timetables for the relevant divisions and subs, and the proposed schedule for CPKC's proposed operations over the Western Line.

Document Request No. 4. Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports concerning the operational capabilities of CPKC's Shreveport Line, the Meridian Speedway, and other lines feeding into and out of Western Line and Eastern Line, to handle the additional west-east traffic proposed in the CPKC Transaction and the CSXT Transaction in the next five years and should traffic levels increase in the next decade.

Document Request No. 5. Produce any agreement (draft or executed) between CPKC and CSXT, between CSXT and G&W, between G&W and CPKC, among CPKC, G&W and CSXT or, with respect to any of the foregoing, between or among their respective affiliates and/or subsidiaries with regard to interchange, routing, pricing, service of existing or new, or development of, traffic, and/or the construction or financing of infrastructure and/or maintenance of infrastructure on or between the Eastern Line, the Western Line, and/or the Meridian Speedway.

Document Request No. 6. Provide copies of all Documents involving efforts by CPKC to market, solicit, obtain, and transport any fuel, industrial products, agricultural products, automotive, intermodal, or other traffic to/from Western Line, including copies of any prior, existing, or future contracts, proposals, or tariffs.

Document Request No. 7. Produce any agreement (draft or executed) that relates to the Second Train Trigger as defined in the Transaction Agreement.

Document Request No. 8. Provide copies of all Documents relating to CPKC's combined \$146 million planned investment in the Western Line and all studies, presentations, or plans to serve shippers over the Meridian Speedway and other connecting line segments.

Document Request No. 9. Provide copies of all Documents, Communications, Agreements, Studies, Analyses, and Reports concerning CPKC planned train activity and/or projections for traffic growth through the Meridian gateway and over the Western Line.

Document Request No. 10. Provide a copy of any agreement (draft or executed) governing the utilization of run through power and described on page 10 of the Verified Statement of Raymond A. Elphick.

Document Request No. 11. Produce workpapers in support of all filings encompassed in This Proceeding.

Document Request No. 12. Produce all promotional and shipper marketing materials, including those featuring a specific commodity and/or shipper, developed by CPKC or CSXT involving the proposed movement of goods over the Western Route and/or the Eastern Route.

Respectfully submitted,

/s/ Crystal M. Zorbaugh

Rose Michele Nardi
John V. Edwards
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037

Phone: (202) 663-7820

Fax: (202) 663-7849

November 8, 2023

Attorneys for Norfolk Southern

Railway Company and Norfolk Southern Corporation

CERTIFICATE OF SERVICE

I, Crystal M. Zorbaugh, hereby certify that on this 8th day of November 2023, copies of the foregoing Discovery Requests were served by email and mail upon counsel for CPKC, and all Parties of Record.

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern
Railway Company and Norfolk Southern Corporation

**BEFORE THE
SURFACE TRANSPORTATION**

**FD 36732, FD 36731, FD 36730, AB 55 (Sub-No. 814X),
FD 36727, FD 36724, and AB 1335X**

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Brief Update on the Status of Discovery and other Matters

Exhibit B

First Discovery Requests Directed to CSXT

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

Crystal M. Zorbaugh

Direct Dial: (202) 663-7831
E-Mail: czorbaugh@bakerandmiller.com

November 9, 2023

VIA E-MAIL

Peter W. Denton
Steptoe & Johnson LLP
1330 Connecticut Ave. NW
Washington DC 20036
Tel: (202) 429-6445
Email: pdenton@steptoe.com

Re: Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Dear Peter:

On behalf of Norfolk Southern Railway Company (“NSR”) and Norfolk Southern Corporation (collectively, “Norfolk Southern”), I am enclosing herein “Norfolk Southern’s First Discovery Requests Directed to CSXT Transportation, Inc. (“CSXT”)” in the above-captioned proceeding. This discovery is served pursuant to the Surface Transportation Board’s regulations at 49 C.F.R. §1114.21 et. seq. and related regulations.

Complete responses to these requests are due by November 24, 2023. Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests. Norfolk Southern understands that CSXT has informational disclosures due on November 21, 2023. Thus, if CSXT believes that its November 21, 2023 response will cover the entire scope of any discovery request, please state so in any objection offered on that basis. Norfolk Southern reserves the right to challenge such an objection if CSXT's forthcoming disclosure and its discovery request response do not fully cover the scope of the discovery request. Please feel free to contact me promptly to discuss any objections or questions regarding these requests with a view toward resolving any disputes or issues of interpretation informally and expeditiously consistent with the Board's November 3, 2023 decision (as revised on November 9, 2023).¹ I can be reached by phone at (202) 663-7831 or by e-mail at czorbaugh@bakerandmiller.com.

Sincerely,

/s/ *Crystal M. Zorbaugh*

Crystal M. Zorbaugh

cc: Parties of Record

¹ The November 3, 2023 decision embraced the following dockets: CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X (referred to hereafter as “Decision ID 51928”). Decision ID 51928 at 12 ordered that parties could begin immediately and encouraged the parties “to resolve all discovery matters expeditiously and amicably.”

**BEFORE THE
SURFACE TRANSPORTATION**

FD 36727, FD 36724, AND AB 1335X

CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee
Railroad, L.L.C.; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX
Transportation, Inc.; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental
Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL

**NORFOLK SOUTHERN’S FIRST DISCOVERY REQUESTS DIRECTED TO CSX
TRANSPORTATION, INC.**

**Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
NORFOLK SOUTHERN CORPORATION
650 W Peachtree St NW
Atlanta, GA 30308
Tel: (470) 571-5208**

**Rose Michele Nardi
John V. Edwards
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037
Telephone: (202) 663-7820
Facsimile: (202) 663-7849**

**Attorneys for Norfolk Southern Railway
Company and Norfolk Southern
Corporation**

Dated: November 9, 2023

**BEFORE THE
SURFACE TRANSPORTATION**

FD 36727, FD 36724, AND AB 1335X

CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C.; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc.; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL

**NORFOLK SOUTHERN’S FIRST DISCOVERY REQUESTS DIRECTED TO CSX
TRANSPORTATION, INC.**

Pursuant to 49 C.F.R. §1114.21 et. seq. and related regulations, Norfolk Southern Railway Company (“NSR”) and Norfolk Southern Corporation (collectively, “Norfolk Southern”) hereby direct the following discovery requests to CSX Transportation, Inc. (“CSXT”). Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests. Responses should be served as soon as possible, or by November 24, 2023. Moreover, CSXT is requested to contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously consistent with the Board’s directive in its November 3, 2023, decision.²

DEFINITIONS

1. “AGR” means Alabama & Gulf Coast Railway LLC.
2. “Agreement” means any agreement in the normal sense of the word and shall include without limitation whether it be formal or informal, written or oral, or memorialized in

² See Decision ID 51928 at 12 noting “Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.”

any fashion including by signed writing, memorandum, written statement, audio, orally, or in notes.

3. “Application” means CSXT’s minor acquisition to acquire from Meridian & Bigbee Railroad, LLC (“MNBR”) and to operate approximately 93.6 route miles of rail line between Burksville, Ala., and Myrtlewood, Ala., and related transactions filed by CSXT. See CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724, Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X.
4. “Board” or “STB” means the Surface Transportation Board and its predecessor agency, the Interstate Commerce Commission, if applicable.
5. “CN” means Illinois Central Railroad Company/Canadian National Railway.
6. “Communication” means any transmission or receipt of information (whether by one or more persons or between two or more persons) by means including but not limited to in-person conversations, telephone conversations, voicemail, letters, fax, social media posts, or conversations, email, text messages, instant messages, video conversations, internet-based exchanges, written memorandum, notes, or other written medium.
7. “CPKC” means Canadian Pacific Railway Limited, a Canadian company; Canadian Pacific Railway Company (“CPRC”), which operates in Canada; and Canadian Pacific Railway Limited U.S. rail carrier subsidiaries, including the Soo Line Railroad Company (“Soo Line”), a Class I carrier; The Kansas City Southern Railway (“KCSR”), a Class I carrier, and the following Class II carriers: the Central Maine & Quebec Railway US Inc.;

the Dakota, Minnesota & Eastern Railroad Corporation; the Delaware & Hudson Railway Company, Inc.; and The Texas Mexican Railway Company (Tex Mex); collectively all of which are common carriers by rail engaged in domestic interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101, et seq, including predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies, and all persons acting or purporting to act on their behalf.

8. “CPKC Application” means CPKC’s minor application to acquire from Meridian & Bigbee Railroad, LLC (“MNBR”) and to operate approximately 50.4 route miles of rail line between Meridian, Mississippi and Myrtlewood, Alabama, and related transactions filed by CPKC. See Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.
9. “CSXT” means CSX Corporation parent company to (1) CSX Transportation, Inc., a Virginia corporation, and a Class I common carrier by rail engaged in interstate

commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101; (2) CSX Intermodal Terminals, Inc.; (3) CSX Real Property, Inc.; (4) CSX Technology, Inc.; (5) Total Distribution Services, Inc. (6) TRANSFLO Corporation, including its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.

10. “CSXT Application” means the minor application filed in CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727.
11. “Decision ID 51928” means the Board’s initial November 3, 2023, decision in CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724, Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X.
12. “Describe” when used in relation to a discussion, meeting, or other communication means to identify the participants, the date or period when the communication took place, the location of the participants at the time of the communication, and a detailed summary of the content of the communications.
13. “Document(s)” means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including intra-company communications; electronic mail; correspondence; telegrams; memoranda;

contracts; instruments; studies; projections; forecasts; summaries; notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models; statistical statements; graphs; charts; diagrams; plans; drawings; brochures; pamphlets; news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term “Document” includes:

- a. both basic records and summaries of such records (including computer runs); and
- b. both original versions and copies that differ in any respect from the original version, including notes.

14. “Eastern Line” means the rail line CSXT plans to reacquire and operate, which includes assets comprising the rail line of Meridian & Bigbee Railroad, L.L.C. (MNBR) that runs approximately 93.68 miles between the cities of Burkville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox, and Marengo Counties. The Eastern Line consists of two segments: (1) extending from milepost XXB 189.00 near Burkville to milepost XXB 222.00 at Western Junction, a distance of about 30.22 miles; and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, a distance of about 63.46 miles. The Eastern Line includes Selma Yard, at Selma, Ala., and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead, Tyler, Benton, Whitehall, and Burkville. Two other carriers, Alabama Gulf Coast Railway LLC (AGR) and NSR connect with the Eastern Line. AGR’s line connects to the Eastern Line at Linden, Ala.

AGR operates over an approximately 10-mile portion of the Eastern Line between Linden and Myrtlewood to interchange traffic with MNBR. NSR connects to the Eastern Line at Selma, where it interchanges traffic with MNBR.

15. “Including” means including without limitation.
16. “Identify” with regard to an agreement (whether in draft form or executed) means to provide the title of the agreement, the parties to the agreement, the current status of the agreement (whether in draft or executed), the date of execution if executed, and a summary of the substance of the agreement.
17. “Meridian Interchange” means the current location of the physical interchange of rail traffic between MNBR and operators on the Meridian Speedway at approximate MP 0.5 (Meridian Yard) (Meridian, Mississippi).
18. “Meridian Speedway” means the rail line owned and operated by the NSR and KCSR-owned Meridian Speedway, LLC (“MSLLC”), a critical rail line connecting Meridian, Mississippi and Shreveport, Louisiana. Related to the MSLLC transaction, NSR intermodal shippers using the Meridian Speedway have the benefit of services provided on the KCSR line between Shreveport, Louisiana, and Wylie, Texas (the “KCSR Section”) and at the Wylie Intermodal Terminal. Together, the Meridian Speedway and the KCSR Section comprise the “Meridian-Wylie Route.” Relevant transactional documents (the “Meridian Speedway Agreements”) relating to the formation of the MSLLC were filed with the STB in 2006 by NSR and KCSR in connection with the Notices of Exemption for those elements of the transaction requiring Board authorization. The Board approved the Meridian Speedway transaction on February 22, 2006. See Norfolk Southern Railway Company – Trackage Rights Exemption – Meridian Speedway

LLC – Between Meridian, MS and Shreveport, LA, FD 34821 (served February 22, 2006); Kansas City Southern, The Kansas City Southern Railway Company, and Meridian Speedway LLC – Exemption for Transactions Within a Corporate Family, FD 34822 (served February 22, 2006); and, Kansas City Southern Railway Company – Trackage Rights Exemption – Meridian Speedway, LLC, FD 34823 (filed February 22, 2006).

19. “MNBR” means Meridian & Bigbee Railroad, L.L.C., a subsidiary of Genesee & Wyoming, Inc. (“G&W”), a Class III rail carrier, who pre-transaction owned 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood, Ala. (the “Western Line”), and operated a rail line known as the Eastern Line that connects to the Western Line at Myrtlewood and extends east to Burkville, Ala. MNBR also operates between Burkville (the eastern end of the Eastern Line) and Montgomery pursuant to overhead trackage rights. MNBR, as a common carrier by rail engaged in domestic interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101, et seq., includes predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies, and all persons acting or purporting to act on their behalf.
20. “National Passenger Railroad Corporation” or “Amtrak” means National Passenger Railroad Corporation and its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates,

divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.

21. “Norfolk Southern” means Norfolk Southern Corporation and Norfolk Southern Railway Company (“NSR”) and its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.
22. “Passenger” means actual or projected user or customer of Amtrak service over rail lines that Amtrak currently provides service over and rail lines that Amtrak plans to commence service over in the future.
23. “Person” means an individual, company, partnership, or other entity of any kind.
24. “Produce” or “Produced” means to make available to the undersigned attorneys for copying and viewing. “Produce” shall mean, to the maximum extent possible, making documents and other materials available, in electronic format that retains all information in the original form of the materials, via a platform through which the materials can be made available for download by the undersigned attorneys.
25. “Provide” (except where the word is used concerning providing service or equipment) or “describe” means to supply a complete narrative response.
26. “Relate to” or “relates to” or “related to” or “relating to” a subject means making a statement about, referring to, or discussing the subject, including, as to actions, any decision to take, not take, defer, or not defer a decision, and including, as to any

condition or state of affairs (*e.g.*, competition between carriers), its absence or potential existence.

27. “Request” means an interrogatory, request for admission, or request for production of Documents or things.

28. “Shipper” means a consignor, a consignee, receiver, or other user of rail services.

29. “Shreveport Line” means KCSR’s rail line between Shreveport, Louisiana and Wylie, Texas.

30. “Studies, Analyses, and Reports” means studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.

31. “This Proceeding” means CSXT’s Application seeking Board approval for CSXT to acquire and operate the assets comprising the rail line of Meridian & Bigbee Railroad, L.L.C. that runs approximately 93.68 miles between the cities of Burkville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox and Marengo Counties (referred to herein as the Eastern Line), and related transactions. See CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian and Bigbee Railroad, L.L.C., FD 36727; Alabama & Gulf Coast Railway— Trackage Rights Exemption—CSX Transportation, Inc., Docket No. FD 36724; Meridian & Bigbee Railroad—Discontinuance of Incidental Overhead Trackage Rights—in Lowndes & Montgomery Counties, Ala., Docket No. AB 1335X.

32. “Western Line” means the MNBR-owned rail line that is comprised of approximately 50.4 route miles of rail line between milepost 0.0± at Meridian and milepost 50.4± at Myrtlewood that CPKC proposes to acquire, including According to the Application, KCS would also acquire all operating rail property owned by MNBR on the Western

Line, including yards at Meridian; Naheola, Ala.; and Myrtlewood; as well as stations at Meridian; Whynot, Miss.; Yantley, Ala.; Cromwell, Ala.; Jachin, Ala.; Naheola; and Myrtlewood. (Id. at 22.)

33. All other terms used within this document, including any terms used within the definitions section, possess their customary or standard meaning within the railroad industry.

INSTRUCTIONS

1. Unless otherwise specified by an individual Request, these Requests cover the period beginning January 1, 2021, to present; that is, the “Discovery Period.”
2. These discovery requests (“Requests”) call for all non-privileged information that is in the possession, custody, or control of CSXT and its affiliates, subsidiaries, and counsel.
3. Where a Request has a number of separate subdivisions, or related parts or portions, a complete response is required to each part or portion. Any objection to a Request should indicate the subdivision, part, or portion of the Request that CSXT objects to, and CSXT should specifically state the reasons for such objection, including all information that forms the basis for such objection. Additionally, CSXT should respond to the remaining portion of a Request not objected to or where an objection does not prevent a response.
4. Each Request shall operate and be construed independently, and, unless otherwise indicated, no Request limits the scope of any other Request.
5. Words used in the singular shall include the plural and words used in the plural shall include the singular, whenever the context permits. Terms such as “and,” “or,” or

“including” shall be construed in the broadest and most inclusive manner, in the disjunctive or conjunctive as necessary, to call for all responsive information without limitation.

6. References to railroads, shippers, and other companies include parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.
7. References to the present tense shall be construed to include the past tense and references to the past tense shall be construed to include the present tense, as necessary to bring within the scope of each Request all responsive information that might otherwise be construed to be outside the scope of the Request.
8. Electronic documents must be Produced in native format to allow for complete data analysis.
9. Any table or computerized dataset produced in response to these requests should be accompanied by a full description of what the entries in the table or dataset represent, a list of all variables contained therein, a full definition and description of all data fields, and definitions for all codes or abbreviations contained in the table or dataset.
10. If CSXT believes that any Request or Definition or Instruction applicable thereto is ambiguous, CSXT should identify the language that CSXT believes is ambiguous and the interpretation that CSXT is applying in responding to the Request.
11. These Requests are governed by the protective orders entered in this case. For any Request that seeks information that CSXT believes the disclosure of which violates 49 U.S.C. § 11904, CSXT must Describe how and why provisions of the Protective

Order filed, in this case, are insufficient to maintain confidentiality or disclosure violates 49 U.S.C. § 11904.

12. If any document covered by a Request is withheld for whatever reason, including any privilege, the Defendant withholding the document shall furnish a written document identifying all withheld documents in the following manner:
 - i. the specific Request to which the document is responsive;
 - ii. the date of the document;
 - iii. the name of each author or preparer;
 - iv. the name of each person who received the document and the name of such person's employer at the time the person received the document;
 - v. a brief description of the subject matter of the document and any withheld attachments or appendices, including the number of pages withheld;
 - vi. the specific factual and legal basis for withholding; and
 - vii. the number of pages withheld.
13. All Requests are continuing and, under 49 C.F.R. §1114.29, CSXT remains under a duty seasonably to supplement its responses with respect to any question.
14. If CSXT knows or later learns that a response to any Request is incorrect, CSXT is under a duty seasonably to correct that response.
15. Any delay in the production of requested Documents or answers to Requests is certain to prejudice the ability of Norfolk Southern to present evidence to the Board concerning the Application. Accordingly, responsive Documents, to the extent they cannot be produced electronically via a platform from which they can be downloaded, should be produced to the undersigned counsel at Baker & Miller PLLC, 2401

- Pennsylvania Ave., NW, Suite 300, Washington, DC 20037, not later than November 24, 2023. Serial production of relevant Documents and narrative responses during that period is encouraged and appreciated. Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests.
16. CSXT should contact Crystal M. Zorbaugh at (202) 663-7831 immediately to discuss any objections or questions with a view to resolving any dispute or issues of interpretation informally and expeditiously.

REQUESTS FOR ADMISSION

1. Admit or Deny: CSXT does not intend to allow any trains exceeding 8,500 feet to traverse the Western Line and Eastern Line to accommodate the new west-to-east service routing referenced in the third paragraph on page APP-194 (carrying over to page APP-195) of the CSXT Application.
2. Admit or Deny: The current 3,500-foot clearance designated interchange location in Meridian, Mississippi, located at the Meridian Interchange and the point of interchange for the trackage rights granted in CSX Transportation, Inc. – Trackage Rights Exemption – Meridian and Bigbee Railroad, FD 32962 (served June 6, 1996), and sought to be discontinued in This Proceeding, can accommodate at most 60 cars.
3. Admit or Deny: CSXT employees worked with CPKC employees to develop the “Operating Plan #2: All Transactions Implemented Simultaneously” as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.
4. Admit or Deny: CSXT employees had access to CPKC traffic analysis projections including shipper-specific information, in the CSXT employees’ efforts to aid in the development of the “Operating Plan #2: All Transactions Implemented Simultaneously”

as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.

5. Admit or Deny: The CSXT Transaction Operating Plan #1, the discussion of which begins on page APP-199 of the CSXT Application, does not discuss or analyze combined operations or impacts to fluidity over the Western Line and Eastern Line. See APP-192 of the CSXT Application (“In each [of the scenarios analyzed for Operating Plan #1 and the Operating Plan #2], the operating plan includes information regarding railroad operations on the Eastern Line, the Burkeville-Montgomery segment, and the connection with the Western Line... Because the CSXT Transaction does not involve the Western Line, the operating plans do not discuss operations on the Western Line.”)
6. Admit or Deny: The CSXT Transaction Operating Plan #2, the discussion of which begins on page APP-203 of the CSXT Application, does not discuss or analyze combined operations or impacts to fluidity over the Western Line and Eastern Line. See APP-192 of the CSXT Application (“In each [of the scenarios analyzed for Operating Plan #1 and the Operating Plan #2], the operating plan includes information regarding railroad operations on the Eastern Line, the Burkeville-Montgomery segment, and the connection with the Western Line... Because the CSXT Transaction does not involve the Western Line, the operating plans do not discuss operations on the Western Line.”).
7. Admit or Deny: The statement in the CSXT Application on page APP-203 that “No adverse impacts on commuter or other passenger services are anticipated” only applies to operations covered by Operating Plan #1 and that any analysis performed in making that statement does not apply to Operating Plan #2 and potential adverse impacts on commuter or other passenger services in Meridian, MS.

8. Admit or Deny: The total volume of diverted traffic from New Orleans, LA., East St. Louis, MO., and Brookwood, AL. anticipated to be diverted to a direct CPKC – CSXT operation as described in the second complete paragraph of page APP-215 was developed in direct consultation with CPKC personnel.
9. Admit or Deny: The increase in total overhead traffic on the Eastern Line and the Western Line discussed in the carry-over paragraph on APP-217 was developed in direct consultation with CPKC personnel.
10. Admit or Deny: The environmental analysis included in Exhibit 4 of the CSXT Application does not include any increased speeds or other conditions anticipated by the maintenance work and the improvements anticipated by the agreement discussed in the second full paragraph on page APP-220.

INTERROGATORIES

Interrogatory No. 1. On page 12 of the Verified Statement of James Clements, contained in the CPKC Application, Mr. Clements states that “In addition, CPKC and CSXT are aligned on their plan to establish a premium train service and have agreed on an operating plan which maximizes the efficiency of the interchange. Under the operating plan, the carriers will coordinate closely on scheduling and utilize run through power, which will enable CPKC’s crew to step off the train and CSXT’s crew to step on, or vice-versa.”

(a) Describe the train composition and length that CSXT and CPKC will utilize to provide service roundtrip service over the Eastern Line and Western Line described in the quoted Verified Statement of James Clements.

(b) Describe the operating schedule over the Eastern Line and the Western Line for that train.

(c) Describe any analysis and the operating plan and operating schedule at Meridian and over the Meridian Speedway for that train.

(d) Identify the CPKC and CSXT personnel involved in creating the operating plan described in the quoted Verified Statement of James Clements.

Interrogatory No. 2. When did discussions between CSXT and CPKC commence concerning CSXT's plans to take back the Eastern Line, and CPKC's plans to acquire the Western Line from MNBR? Describe any verbal conversations and coordination by CSXT and CPKC concerning undertaking both This Proceeding and the CPKC Transaction and Identify all agreements (draft or executed).

Interrogatory No. 3. Describe existing and anticipated capacity challenges on lines feeding into and out of the Western Line and Eastern Line, which could worsen as a result of This Proceeding and the CPKC Transaction.

Interrogatory No. 4. Describe in detail any planned infrastructure improvements to the Eastern Line, and other lines feeding into and out of the Eastern Line and the Western Line to ameliorate any congestion resulting from This Proceeding and the related CPKC Transaction.

Interrogatory No. 5. Describe any communications (draft or executed) involving CSXT, Amtrak, CPKC, and/or MNBR concerning current or future Passenger service over the Meridian Speedway, the Western Line, and the Eastern Line.

Interrogatory No. 6. Does the operational analysis done for the Western Line and the Eastern Line and reflected in the "Operating Plan #2: All Transactions Implemented Simultaneously" as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application consider impacts resulting from the CPKC Transaction and the CSXT Transaction to the portion of the Meridian Speedway controlled by CN at Jackson, MS? If so, please describe in detail how.

Interrogatory No. 7. Describe the basis for the claim, found on Page 38 of Appendix 4 to the CPKC Application, that “Yard activity at Meridian should decrease as a result of this Proceeding and the CPKC Transaction,” including whether the reference to “Yard activity” includes all rail yards located in Meridian, Mississippi. If the “Yard activity” refers only to the MNBR yard, describe any analysis that CSXT and/or others associated with the submission of the This Proceeding or the CPKC Transaction performed with regard to any other rail yard located at Meridian.

Interrogatory No. 8. Describe in detail any siding improvements CSXT anticipates making to the Eastern Line to preserve the fluidity of rail operations over the Eastern Line and Western Line.

Interrogatory No. 9. Describe in detail the significant investments in the infrastructure of the Eastern Line that CSXT plans to make to increase safety, reliability, and speeds of the Eastern Line and identified in the last, carry-over, paragraph beginning on page APP-220 of the CSXT Application.

Interrogatory No. 10. Describe any discussions between CSXT, CPKC, AGR, and G&W concerning:

- (a) the composition (including train length and number of cars) of the four CSXT trains that will operate over the Eastern Line, including the Burkeville-Montgomery segment; specifically (1) the westbound road train, (2) the eastbound road train, (3) the local Selma train, and (4) the local Montgomery train, as referenced on page APP-200 of the CSXT Application; and
- (b) any projected volumes (and the projected composition and timing) anticipated to introduce additional CPKC interchange trains (beyond the “one train in each direction daily” that CPKC identified as being anticipated to move to and from the Eastern Line

and described on the bottom carry-over paragraph found on the page designated 37 in Exhibit 4 of the Environmental Information of the CPKC Application).

Identify prospective connecting line segments from which the foregoing discussed traffic is anticipated to be diverted.

Interrogatory No. 11. Describe any operational analysis performed by CSXT on the potential location of new shippers on the Western Line in the five years following consummation of the transaction, including the impact on fluidity on the Western Line, the Eastern Line, or any of Meridian, Myrtlewood, and/or Burkeville, caused by CPKC having to serve these shippers while MNBR was required to continue to serve existing local shippers. Include the identity of the potential newly-located local shipper, the commodities anticipated to be moved, and the volumes anticipated to be moved therefrom or thereto.

Interrogatory No. 12. Describe plans and discussions concerning coordination of CSXT's and AGR's operations over the Eastern Line.

Interrogatory No. 13. This interrogatory is presented with recognition that MNBR is only permitted to serve existing customers at existing locations.

- (a) Assuming that new customers locate on the Eastern Line, please describe plans developed among CSXT, MNBR, AGR and CPKC for ensuring that AGR and CSXT operations would not unreasonably impact fluidity if CPKC was required to serve local shippers on the Western Line.
- (b) Describe any coordination of schedules amongst all named railroads in the event an additional daily train (in addition to the one referenced in Interrogatory No. 10) traveled the Western Line and Eastern Line in each direction.

Interrogatory No. 14. Describe discussions with potential shippers concerning plans for new plants and/or facilities in the Southeastern United States that could result in additional traffic over the Meridian Speedway, the Western Line, and/or the Eastern Line.

Interrogatory No. 15. Describe how CPKC's in-house marketing and operational personnel were involved in preparing the combined Western Line-Eastern Line operational and competitive analysis offered in support of the Transaction and the CSXT Transaction and reflected in the "Operating Plan #2: All Transactions Implemented Simultaneously" as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.

Interrogatory No. 16. Describe any marketing or planning analysis concerning growth activity and/or change in traffic volume over the Western Line and/or the Eastern Line in the next five years to 10 years.

Interrogatory No. 17. Confirm whether Table 2, referenced in the first paragraph of Section 3.2.1 on page APP-1987 of the CSXT Application, is missing, and, if so, please provide it.

Interrogatory No. 18. Describe the maintenance work and the improvements anticipated by the agreement discussed in the second full paragraph on page APP-220, as well as the cost of the maintenance work and improvements anticipated therein and the party bearing the cost thereof.

Interrogatory No. 19. Describe the origin, destination, route, and volumes of the "new traffic, particularly, for intermodal and automotive traffic" described in, among other locations, the Verified Statement of Jonathan Wahba in the CPKC Application. Explain whether these are new intermodal volumes, new automotive volumes, diverted intermodal volumes, diverted automotive volumes, or a defined combination of each (and, to the extent a combination of each, the percentage of each).

Interrogatory No. 20. Describe discussions with potential shippers concerning plans for new intermodal facilities in the Southeastern United States that could result in additional traffic over the Meridian Speedway, the Western Line, and/or the Eastern Line.

Interrogatory No. 21. Identify all Persons who assisted in the preparation of CSXT's answers to these discovery requests, including Norfolk Southern's Request for Admissions and Interrogatories, or that have knowledge relating to the matters covered in Norfolk Southern's Request for Admissions and Interrogatories.

DOCUMENT REQUESTS

Document Request No. 1. Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports used, relied upon, or referenced in CSXT's responses to the Requests for Admissions and in response to any of the Interrogatories served by Norfolk Southern. If CSXT objects to answering any interrogatory or request for admission on the basis that doing so would be too burdensome or would require a special study, Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports from which the answer to the interrogatory or request for admission can be derived.

Document Request No. 2. Produce all Documents and Communications related to and containing the Track Charts and Schematics of Meridian, including the Meridian Interchange and the connection between the Western Line and the Meridian Speedway, and supporting interchange facilities on the Meridian Speedway, the Western Line, and the Eastern Line.

Document Request No. 3. Produce all Documents and Communications related to and containing the Track Charts and Schematics of the AGR/CSXT Interchange and its connection to the Eastern Line, and supporting interchange facilities (including sidings) on the Eastern Line.

Document Request No. 4. Produce all Documents and Communications related to and containing CSXT's timetables for the relevant divisions and subs, and the proposed schedule for both CSXT's proposed and AGR's existing operations over the Eastern Line.

Document Request No. 5. Produce all Documents and Communications related to and containing CPKC and MNBR timetables for the relevant divisions and subs, and the proposed schedule for CPKC's proposed operations over the Western Line.

Document Request No. 6. Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports concerning the operational capabilities of CPKC's Shreveport Line, the Meridian Speedway, and other lines feeding into and out of Western Line and Eastern Line, to handle the additional west-east traffic proposed in the CPKC Transaction and the CSXT Transaction in the next five years and should traffic levels increase in the next decade.

Document Request No. 7. Produce any agreement (draft or executed) between CSXT and CPKC, between CPKC and G&W, between G&W and CSXT, among CSXT, G&W and CPKC or, with respect to any of the foregoing, between or among their respective affiliates and/or subsidiaries with regard to interchange, routing, pricing, service of existing or new, or development of, traffic, and/or the construction or financing of infrastructure and/or maintenance of infrastructure on or between the Eastern Line, the Western Line, and/or the Meridian Speedway.

Document Request No. 8. Provide copies of all Documents, Communications, Agreements, Studies, Analyses, and Reports concerning CSXT's planned train activity and/or projections for traffic growth through the Meridian gateway, and over the Western Line and Eastern Line.

Document Request No. 9. Provide copies of all Documents involving efforts by CSXT to market, solicit, obtain, and transport any fuel, industrial products, agricultural products, automotive,

intermodal, or other traffic to/from Western Line and Eastern Line, including copies of any prior, existing, or future contracts, proposals, or tariffs.

Document Request No. 10. Provide documents concerning siding capacity at Myrtlewood and over the Eastern Line.

Document Request No. 11. Produce workpapers in support of all filings encompassed in This Proceeding.

Document Request No. 12. Provide copies of all Documents, Communications, Agreements, Studies, Analyses, and Reports concerning CPKC planned train activity and/or projections for traffic growth through the Meridian, MS gateway and over the Western Line and Eastern Line.

Document Request No. 13. Produce all promotional and shipper marketing materials, including those featuring a specific commodity and/or shipper, developed by CPKC or CSXT involving the proposed movement of goods over the Western Route and/or the Eastern Route.

Document Request No. 14. Provide a map of the MNBR's interchange partners and locations on the Eastern Line and the Burkeville-Montgomery segment, as discussed on page APP-197 of the CSXT Application.

Document Request No. 15. Provide the Haulage Agreement dated as of February 28, 2022, that is being amended by the proposed First Amendment to Haulage Agreement, which appears in Exhibit F to the Transaction Agreement included in its application, beginning on page APP-140.

Document Request No. 16. Produce the operating plan discussed in the following statement appearing on page 12 of the Verified Statement of James Clements in the CPKC Application:

“CPKC and CSXT ... have agreed on an operating plan....”

Respectfully submitted,

/s/ Crystal M. Zorbaugh

Rose Michele Nardi
John V. Edwards
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037
Phone: (202) 663-7820
Fax: (202) 663-7849

November 9, 2023

Attorneys for Norfolk Southern Railway Company and
Norfolk Southern Corporation

CERTIFICATE OF SERVICE

I, Crystal M. Zorbaugh, hereby certify that on this 9th day of November 2023, copies of the foregoing Discovery Requests were served by email and mail upon counsel for CSXT, and all Parties of Record.

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern
Railway Company and Norfolk Southern
Corporation

**BEFORE THE
SURFACE TRANSPORTATION**

**FD 36732, FD 36731, FD 36730, AB 55 (Sub-No. 814X),
FD 36727, FD 36724, and AB 1335X**

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Brief Update on the Status of Discovery and other Matters

Exhibit C

First Discovery Requests Directed to Meridian & Bigbee Railroad, L.L.C

BAKER & MILLER PLLC

ATTORNEYS and COUNSELLORS

2401 PENNSYLVANIA AVENUE, NW
SUITE 300
WASHINGTON, DC 20037

TELEPHONE: (202) 663-7820
FACSIMILE: (202) 663-7849

Crystal M. Zorbaugh

Direct Dial: (202) 663-7831
E-Mail: czorbaugh@bakerandmiller.com

November 14, 2023

VIA E-MAIL

Justin J. Marks
Clark Hill PLC
1001 Pennsylvania Ave., N.W.
Suite 1300 South
Washington, DC 20004
Tel: (202) 772-0916
Email: jmarks@clarkhill.com

Re: Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

Dear Justin:

On behalf of Norfolk Southern Railway Company (“NSR”) and Norfolk Southern Corporation (collectively, “Norfolk Southern”), I am enclosing herein “Norfolk Southern’s First Discovery Requests Directed to Meridian & Bigbee Railroad, L.L.C. (“MNBR”) in the above-captioned proceedings. This discovery is served pursuant to the Surface Transportation Board’s regulations at 49 C.F.R. §1114.21 et. seq. and related regulations.

Complete responses to these requests are due by November 29, 2023. Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests. Please feel free to contact me promptly to discuss any objections or questions regarding these requests with a view toward resolving any disputes or issues of interpretation informally and expeditiously consistent with the Board's November 3, 2023 decisions (each as revised on November 9, 2023).¹ I can be reached by phone at (202) 663-7831 or by e-mail at czorbaugh@bakerandmiller.com.

Sincerely,

/s/ ***Crystal M. Zorbaugh***

Crystal M. Zorbaugh

cc: Parties of Record

¹ On November 3, 2023, the Board served two decisions. One decision embraced the following dockets: CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X (referred to hereafter as “Decision ID 51928”). The other decision embraced the following dockets: Canadian Pacific Kansas City Southern Railway Company, d/b/a CPKC – Acquisition and Operation – Certain rail Line of Meridian & Bigbee Railroad, L.L.C. in Lauderdale County, Miss., and Choctaw and Merengo Counties, ALA., Docket No. 36732; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., Docket No. AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway – Trackage Rights Exemption – Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, Docket No. FD 36731; and CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway, Docket No. FD 36730 (referred to hereafter as “Decision ID 51913”). Both Decision ID 51928 and Decision ID 51913, at 12, ordered that parties could begin immediately and encouraged the parties “to resolve all discovery matters expeditiously and amicably.”

**BEFORE THE
SURFACE TRANSPORTATION**

**FD 36732, FD 36731, FD 36730, AB 55 (Sub-No. 814X),
FD 36727, FD 36724, and AB 1335X**

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

**NORFOLK SOUTHERN’S FIRST DISCOVERY REQUESTS
DIRECTED TO MERIDIAN & BIGBEE RAILROAD, L.L.C.**

**Thomas E. Zoeller
Hanna M. Chouest
Julianne C. Freeman
NORFOLK SOUTHERN CORPORATION
650 W Peachtree St. NW
Atlanta, GA 30308
Tel: (470) 571-5208**

**Rose Michele Nardi
John V. Edwards
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037
Telephone: (202) 663-7820
Facsimile: (202) 663-7849**

**Attorneys for Norfolk Southern Railway
Company and Norfolk Southern
Corporation**

Dated: November 14, 2023

**BEFORE THE
SURFACE TRANSPORTATION**

**FD 36732, FD 36731, FD 36730, AB 55 (Sub-No. 814X),
FD 36727, FD 36724, and AB 1335X**

Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X)

**NORFOLK SOUTHERN’S FIRST DISCOVERY REQUESTS
DIRECTED TO MERIDIAN & BIGBEE RAILROAD, L.L.C.**

Pursuant to 49 C.F.R. §1114.21 et. seq. and related regulations, Norfolk Southern Railway Company (“NSR”) and Norfolk Southern Corporation (collectively, “Norfolk Southern”) hereby direct the following discovery requests to Meridian & Bigbee Railroad, L.L.C. (“MNBR”). Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests. Responses should be served as soon as possible, or by November 29, 2023. Moreover, MNBR is requested to contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously consistent with the Board’s directive in its November 3, 2023, decisions.²

² See Decision IDs 51913 & 51928 at 12 both noting “Discovery may begin immediately. The parties are encouraged to resolve all discovery matters expeditiously and amicably.”

DEFINITIONS

1. “AGR” means Alabama & Gulf Coast Railway LLC.
2. “Agreement” means any agreement in the normal sense of the word and shall include without limitation whether it be formal or informal, written or oral, or memorialized in any fashion including by signed writing, memorandum, written statement, audio, orally, or in notes.
3. “Applications” means both CPKC’s and CSXT’s minor applications, specifically including CPKC’s minor application to acquire from MNBR and to operate approximately 50.4 route miles of rail line between Meridian, Mississippi and Myrtlewood, Alabama, and the related CSXT minor application to acquire from MNBR and to operate approximately 93.6 route miles of rail line between Burkeville, Ala., and Myrtlewood, Ala., together with related transactions filed with the Board. See Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – The Kansas City Southern Railway Company D/B/A Canadian Pacific Kansas City, FD 36731; CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. –

Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X).

4. “Board” or “STB” means the Surface Transportation Board and its predecessor agency, the Interstate Commerce Commission, if applicable.
5. “CN” means Illinois Central Railroad Company/Canadian National Railway.
6. “Communication” means any transmission or receipt of information (whether by one or more persons or between two or more persons) by means including but not limited to in-person conversations, telephone conversations, voicemail, letters, fax, social media posts, or conversations, email, text messages, instant messages, video conversations, internet-based exchanges, written memorandum, notes, or other written medium.
7. “CPKC” means Canadian Pacific Railway Limited, a Canadian company; Canadian Pacific Railway Company (“CPRC”), which operates in Canada; and Canadian Pacific Railway Limited U.S. rail carrier subsidiaries, including the Soo Line Railroad Company (“Soo Line”), a Class I carrier; The Kansas City Southern Railway (“KCSR”), a Class I carrier, and the following Class II carriers: the Central Maine & Quebec Railway US Inc.; the Dakota, Minnesota & Eastern Railroad Corporation; the Delaware & Hudson Railway Company, Inc.; and, The Texas Mexican Railway Company (Tex Mex); collectively all of which are common carriers by rail engaged in domestic interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101, et seq, including predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies, and all persons acting or

purporting to act on their behalf.

8. “CPKC Application” means CPKC’s minor application to acquire from MNBR and to operate approximately 50.4 route miles of rail line between Meridian, Mississippi and Myrtlewood, Alabama, and related transactions. See Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.
9. “CSXT” means CSX Corporation parent company to (1) CSX Transportation, Inc., a Virginia corporation, and a Class I common carrier by rail engaged in interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101; (2) CSX Intermodal Terminals, Inc.; (3) CSX Real Property, Inc.; (4) CSX Technology, Inc.; (5) Total Distribution Services, Inc. (6) TRANSFLO Corporation, including its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.

10. “CSXT Application” means the minor application filed in CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727, and the related transactions. See CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., 36727; CSX Transportation, Inc. – Trackage Rights Exemption – Kansas City Southern Railway Company, FD 36730; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724; Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X; CSX Transportation, Inc. – Discontinuance of Trackage Rights Exemption – in Marengo and Choctaw Counties, AL and Lauderdale County, MS, AB 55 (Sub-No. 814X).
11. Decision ID 51913 means the Board’s initial November 3, 2023 decision in Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.— Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.
12. Decision ID 51928 means the Board’s initial November 3, 2023, decision in CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee

Railroad, L.L.C., FD 36727; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724, Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X.

13. Decision IDs 51913 & 51928 encompass the Board’s two initial November 3, 2023, decisions and include the dockets stated in Paragraphs 11 and 12, *supra*.
14. “Describe” when used in relation to a discussion, meeting or other communication means to identify the participants, the date or period when the communication took place, the location of the participants at the time of the communication, and a detailed summary of the content of the communications.
15. “Document(s)” means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including intra-company communications; electronic mail; correspondence; telegrams; memoranda; contracts; instruments; studies; projections; forecasts; summaries; notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models; statistical statements; graphs; charts; diagrams; plans; drawings; brochures; pamphlets; news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term “Document” includes:
 - a. both basic records and summaries of such records (including computer runs); and

- b. both original versions and copies that differ in any respect from the original version, including notes.
- 16. “Eastern Line” means the rail line CSXT plans to reacquire and operate, which includes assets comprising the rail line of MNBR that runs approximately 93.68 miles between the cities of Burkeville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox, and Marengo Counties. The Eastern Line consists of two segments: (1) extending from milepost XXB 189.00 near Burkeville to milepost XXB 222.00 at Western Junction, a distance of about 30.22 miles; and (2) extending from a connection with the first segment at Western Junction, milepost OOR 716.25 to milepost ORS 779.71 near Myrtlewood, a distance of about 63.46 miles. The Eastern Line includes Selma Yard, at Selma, Ala., and the following stations: Myrtlewood, Linden, Thomaston, Safford, Orville, Beloit, Selma, Industrial Lead, Tyler, Benton, Whitehall, and Burkeville. Two other carriers, Alabama Gulf Coast Railway LLC (AGR) and NSR connect with the Eastern Line. AGR’s line connects to the Eastern Line at Linden, Ala. AGR operates over an approximately 10-mile portion of the Eastern Line between Linden and Myrtlewood to interchange traffic with MNBR. NSR connects to the Eastern Line at Selma, where it interchanges traffic with MNBR.
- 17. “G&W” means Genessee & Wyoming Inc., together with its subsidiaries Alabama & Gulf Coast Railway, L.L.C. (“AGR”) and MNBR. A reference to G&W not only includes Genessee & Wyoming, Inc., AGR and MNBR, but also to any other G&W subsidiary or affiliate.

18. “Including” means including without limitation.
19. “Identify” with regard to an agreement (whether in draft form or executed) means to provide the title of the agreement, the parties to the agreement, the current status of the agreement (whether in draft or executed), the date of execution if executed, and a summary of the substance of the agreement.
20. “Meridian Interchange” means the current location of the physical interchange of rail traffic between MNBR and operators on the Meridian Speedway at approximate MP 0.5 (Meridian Yard) (Meridian, Mississippi).
21. “Meridian Speedway” means the rail line owned and operated by the NSR and KCSR-owned Meridian Speedway, LLC (“MSLLC”), a critical rail line connecting Meridian, Mississippi and Shreveport, Louisiana. Related to the MSLLC transaction, NSR intermodal shippers using the Meridian Speedway have the benefit of services provided on the KCSR line between Shreveport, Louisiana, and Wylie, Texas (the “KCSR Section”) and at the Wylie Intermodal Terminal. Together, the Meridian Speedway and the KCSR Section comprise the “Meridian-Wylie Route.” Relevant transactional documents (the “Meridian Speedway Agreements”) relating to the formation of the MSLLC were filed with the STB in 2006 by NSR and KCSR in connection with the Notices of Exemption for those elements of the transaction requiring Board authorization. The Board approved the Meridian Speedway transaction on February 22, 2006. See Norfolk Southern Railway Company – Trackage Rights Exemption – Meridian Speedway LLC – Between Meridian, MS and Shreveport, LA, FD 34821 (served February 22, 2006); Kansas City Southern, The Kansas City Southern Railway Company, and Meridian Speedway LLC – Exemption for Transactions Within a Corporate Family, FD

34822 (served February 22, 2006); and, Kansas City Southern Railway Company – Trackage Rights Exemption – Meridian Speedway, LLC, FD 34823 (filed February 22, 2006).

22. “MNBR” means Meridian & Bigbee Railroad, L.L.C., a subsidiary of Genesee & Wyoming, Inc. (“G&W”), a Class III rail carrier, who pre-transaction owns 50.4 route miles of rail line between Meridian, Miss., and Myrtlewood, Ala. (the “Western Line”), and operates a rail line known as the Eastern Line that connects to the Western Line at Myrtlewood and extends east to Burkeville, Ala. MNBR also operates between Burkeville (the eastern end of the Eastern Line) and Montgomery pursuant to overhead trackage rights. MNBR, as a common carrier by rail engaged in domestic interstate commerce subject to the jurisdiction of the Board under the Interstate Commerce Act, as amended, 49 U.S.C. 10101, et seq., includes predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies, and all persons acting or purporting to act on their behalf.
23. “National Passenger Railroad Corporation” or “Amtrak” means National Passenger Railroad Corporation and its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.

24. “Norfolk Southern” means Norfolk Southern Corporation and Norfolk Southern Railway Company (“NSR”) and its predecessors and successors in interest, as well as the present and former directors, officers, employees, agents, managing agents, representatives, attorneys, predecessors, successors, parents, subsidiaries, affiliates, divisions, area offices, and regional offices of the foregoing companies; and all persons acting or purporting to act on their behalf.
25. “Passenger” means actual or projected user or customer of Amtrak service over rail lines that Amtrak currently provides service over and rail lines that Amtrak plans to commence service over in the future.
26. “Person” means an individual, company, partnership, or other entity of any kind.
27. “Produce” or “Produced” means to make available to the undersigned attorneys for copying and viewing. “Produce” shall mean, to the maximum extent possible, making documents and other materials available, in electronic format that retains all information in the original form of the materials, via a platform through which the materials can be made available for download by the undersigned attorneys.
28. “Provide” (except where the word is used concerning providing service or equipment) or “describe” means to supply a complete narrative response.
29. “Relate to” or “relates to” or “related to” or “relating to” a subject means making a statement about, referring to, or discussing the subject, including, as to actions, any decision to take, not take, defer, or not defer a decision, and including, as to any condition or state of affairs (*e.g.*, competition between carriers), its absence or potential existence.

30. “Request” means an interrogatory, request for admission, or request for production of Documents or things.
31. “Shipper” means a consignor, a consignee, receiver, or other user of rail services.
32. “Shreveport Line” means KCSR’s rail line between Shreveport, Louisiana and Wylie, Texas.
33. “Studies, Analyses, and Reports” means studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.
34. “These Proceedings” means CPKC’s and CSXT’s Applications seeking Board Approval for CPKC to acquire and operate the assets comprising the rail line of Meridian & Bigbee Railroad, L.L.C. that runs approximately 93.68 miles between the cities of Burkeville, Ala., and Myrtlewood, Ala., in Lowndes, Dallas, Wilcox and Marengo Counties (referred to herein as the Eastern Line), and related transactions and to acquire and operate the rail line of MNBR that runs approximately 50.4 route miles between Meridian, Mississippi and Myrtlewood, Alabama, and related transactions filed by CPKC. See Canadian Pacific Kansas City Limited and the Kansas City Southern Railway Company, D/B/A CPKC – Acquisition and Operation – Certain Rail Line of Meridian & Bigbee Railroad, L.L.C., in Lauderdale County, Mississippi and Choctaw and Marengo Counties, Alabama, FD 36732; CSX Transportation, Inc.—Discontinuance of Trackage Rights Exemption—in Marengo & Choctaw Counties, Ala. & Lauderdale County, Miss., AB 55 (Sub-No. 814X); Alabama & Gulf Coast Railway—Trackage Rights Exemption—Kansas City Southern Railway d/b/a Canadian Pacific Kansas City, FD 36731; and CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD

36730; see also CSX Transportation, Inc. – Acquisition and Operation – Rail Line of Meridian & Bigbee Railroad, L.L.C., FD 36727; Alabama & Gulf Coast Railway LLC – Trackage Rights Exemption – CSX Transportation, Inc., FD 36724, Meridian & Bigbee Railroad, L.L.C. – Discontinuance of Incidental Overhead Trackage Rights – In Lowndes and Montgomery Counties, AL, AB 1335X.

35. “Western Line” means the MNBR-owned rail line that is comprised of approximately 50.4 route miles of rail line between milepost 0.0± at Meridian and milepost 50.4± at Myrtlewood that CPKC proposes to acquire. According to the Application, KCS would also acquire all operating rail property owned by MNBR on the Western Line, including yards at Meridian; Naheola, Ala.; and Myrtlewood; as well as stations at Meridian; Whynot, Miss.; Yantley, Ala.; Cromwell, Ala.; Jachin, Ala.; Naheola; and Myrtlewood. (Id. at 22.)
36. All other terms used within this document, including any terms used within the definitions section, possess their customary or standard meaning within the railroad industry.

INSTRUCTIONS

1. Unless otherwise specified by an individual Request, these Requests cover the period beginning January 1, 2021, to present; that is, the “Discovery Period.”
2. These discovery requests (“Requests”) call for all non-privileged information that is in the possession, custody, or control of MNBR and its affiliates, subsidiaries, and counsel.
3. Where a Request has a number of separate subdivisions, or related parts or portions, a complete response is required to each part or portion. Any objection to a Request

should clearly indicate the subdivision, part, or portion of the Request that MNBR objects to, and MNBR should specifically state the reasons for such objection, including all information that forms the basis for such objection. Additionally, MNBR should respond to the remaining portion of a Request not objected to or where an objection does not prevent a response.

4. Each Request shall operate and be construed independently, and, unless otherwise indicated, no Request limits the scope of any other Request.
5. Words used in the singular shall include the plural and words used in the plural shall include the singular, whenever the context permits. Terms such as “and,” “or,” or “including” shall be construed in the broadest and most inclusive manner, in the disjunctive or conjunctive as necessary, to call for all responsive information without limitation.
6. References to railroads, shippers, and other companies include parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.
7. References to the present tense shall be construed to include the past tense, and references to the past tense shall be construed to include the present tense, as necessary to bring within the scope of each Request all responsive information that might otherwise be construed to be outside the scope of the Request.
8. Electronic documents must be Produced in native format to allow for complete data analysis.
9. Any table or computerized dataset produced in response to these requests should be accompanied by a full description of what the entries in the table or dataset represent,

a list of all variables contained therein, a full definition and description of all data fields, and definitions for all codes or abbreviations contained in the table or dataset.

10. If MNBR believes that any Request or Definition or Instruction applicable thereto is ambiguous, MNBR should identify the language that MNBR believes is ambiguous and the interpretation that MNBR is applying in responding to the Request.
11. These Requests are governed by the protective orders entered in this case. For any Request that seeks information that MNBR believes the disclosure of which violates 49 U.S.C. § 11904, MNBR must Describe how and why provisions of the Protective Order filed, in this case, are insufficient to maintain confidentiality or disclosure violates 49 U.S.C. § 11904.
12. If any document covered by a Request is withheld for whatever reason, including any privilege, the Defendant withholding the document shall furnish a written document identifying all withheld documents in the following manner:
 - i. the specific Request to which the document is responsive;
 - ii. the date of the document;
 - iii. the name of each author or preparer;
 - iv. the name of each person who received the document and the name of such person's employer at the time the person received the document;
 - v. a brief description of the subject matter of the document and any withheld attachments or appendices, including the number of pages withheld;
 - vi. the specific factual and legal basis for withholding; and
 - vii. The number of pages withheld.

13. All Requests are continuing and, pursuant to 49 C.F.R. §1114.29, MNBR remains under a duty seasonably to supplement its responses with respect to any question.
14. If MNBR knows or later learns that a response to any Request is incorrect, MNBR is under a duty seasonably to correct that response.
15. Any delay in the production of requested Documents or answers to Requests is certain to prejudice the ability of Norfolk Southern to present evidence to the Board concerning the Applications. Accordingly, responsive Documents, to the extent they cannot be produced electronically via a platform from which they can be downloaded, should be produced to the undersigned counsel at Baker & Miller PLLC, 2401 Pennsylvania Ave., NW, Suite 300, Washington, DC 20037, not later than November 29, 2023. Serial production of relevant Documents and narrative responses during that period is encouraged and appreciated. Objections, if any, should be made as soon as possible, and not later than 10 days after the date of service of the Requests.
16. MNBR should contact Crystal M. Zorbaugh at (202) 663-7831 immediately to discuss any objections or questions with a view to resolving any dispute or issues of interpretation informally and expeditiously.

REQUESTS FOR ADMISSION

1. Admit or Deny: The current 3,500-foot clearance designated interchange location in Meridian, Mississippi, located at the Meridian Interchange and the point of interchange for the trackage rights granted in CSX Transportation, Inc. – Trackage Rights Exemption – Meridian and Bigbee Railroad, FD 32962 (served June 6, 1996), and sought to be discontinued in This Proceeding, can accommodate at most 60 cars.

2. Admit or Deny: G&W personnel worked with CPKC personnel and CSXT personnel to develop the “Operating Plan #2: All Transactions Implemented Simultaneously” as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.
3. Admit or Deny: G&W personnel had access to CPKC and CSXT traffic analysis projections including shipper-specific information, in the CSXT personnel’ efforts to aid in the development of the “Operating Plan #2: All Transactions Implemented Simultaneously” as is reflected in the CSXT Application beginning on page APP-203 of the CSXT Application.
4. Admit or Deny: The CSXT Transaction Operating Plan #2, the discussion of which begins on page APP-203 of the CSXT Application, does not discuss or analyze combined operations or impacts to fluidity over the Western Line and Eastern Line. See APP-192 of the CSXT Application (“In each [of the scenarios analyzed for Operating Plan #1 and the Operating Plan #2], the operating plan includes information regarding railroad operations on the Eastern Line, the Burkeville-Montgomery segment, and the connection with the Western Line.... Because the CSXT Transaction does not involve the Western Line, the operating plans do not discuss operations on the Western Line.”).
5. Admit or Deny: The increase in total overhead traffic on the Eastern Line and the Western Line discussed in the carry-over paragraph on APP-217 was developed based on direct consultation between CPKC personnel, CSXT personnel, and G&W personnel.

INTERROGATORIES

Interrogatory No. 1. Schedule D to the Retained Trackage Rights Agreement included in the CPKC Application lists “Existing Customers” that MNBR may continue to provide service to on the Western Line pursuant to Section 2.1 of that Retained Trackage Rights Agreement. Identify

traffic volume for listed Existing Customers over the past five years. See Pages 188 and 212 of 290 of the CPKC Application, public version.

Interrogatory No. 2. Describe what would constitute a “material change in use of the facility” as that phrase is used in the definition of “Existing Customers” appearing on page 186 of 290 of the CPKC application, public version.

Interrogatory No. 3. On page APP-220 of the CSXT Application, CSXT states that “prior to consummation of CSXT’s acquisition of the Assets comprising the line, MNBR will conduct maintenance work and make certain improvements to the Eastern Line, including adding automated equipment identification (AEI) readers and defect detectors. The MNBR work will upgrade the Eastern Line to CSXT’s operating and safety standards....”

- a. Pursuant to what agreement is that work identified?
- b. Pursuant to what agreement will that work be performed?
- c. Describe the “maintenance work” and the “certain improvements” anticipated by the agreement discussed in that second full paragraph on page APP-220, as well as the cost of the described maintenance work and the cost of the described improvements anticipated therein.
- d. Identify the party bearing the cost of each of the items of maintenance work and the certain improvements anticipated.

Interrogatory No. 4. On page APP-220 of the CSXT Application, CSXT states that certain identified maintenance work and certain improvements will be performed on the Eastern Line by MNBR prior to consummation of the Eastern Line Transaction.

- (a) Is MNBR obligated to perform the same type of work on the Western Line prior to consummation of the Western Line Transaction?

(b) Describe the maintenance work and the improvements anticipated to be performed on the Western Line, as well as the party bearing the cost thereof.

(c) Pursuant to what agreement is that work identified?

Interrogatory No. 5. When did discussions between CSXT, CPKC, and MNBR commence concerning CSXT's plans to take back the Eastern Line, and CPKC's plans to acquire the Western Line from MNBR? Describe any verbal conversations and coordination by MNBR, CSXT, and CPKC concerning undertaking These Proceedings. Identify all agreements (draft or executed).

Interrogatory No. 6. Describe in detail any planned infrastructure improvements to the Eastern Line, and other lines feeding into and out of the Eastern Line and the Western Line to ameliorate any congestion resulting from These Proceedings.

Interrogatory No. 7. Describe any communications (draft or executed) involving CSXT, Amtrak, CPKC, and/or MNBR concerning current or future Passenger service over the Meridian Speedway, the Western Line, and the Eastern Line.

Interrogatory No. 8. Describe the basis for the claim, found on Page 38 of Appendix 4 to the CPKC Application, that "Yard activity at Meridian should decrease as a result of this Proceeding and the CPKC Transaction," including whether the reference to "Yard activity" includes all rail yards located in Meridian, Mississippi. If the "Yard activity" refers only to the MNBR yard, describe any analysis that CSXT and/or others associated with the submission of This Proceeding or the CPKC Transaction performed with regard to any other rail yard located at Meridian.

Interrogatory No. 9. Describe in detail any siding improvements CSXT has proposed for the Eastern Line.

Interrogatory No. 10. Describe any discussions between CSXT, CPKC, AGR, and G&W/MNBR concerning:

- (a) the composition (including train length and number of cars) of the four CSXT trains that will operate over the Eastern Line, including the Burkeville-Montgomery segment; specifically (1) the westbound road train, (2) the eastbound road train, (3) the local Selma train, and (4) the local Montgomery train, as referenced on page APP-200 of the CSXT Application; and
- (b) any projected volumes (and the projected composition and timing) anticipated to introduce additional CPKC interchange trains (beyond the “one train in each direction daily” that CPKC identified as being anticipated to move to and from the Eastern Line and described on the bottom carry-over paragraph found on the page designated 37 in Exhibit 4 of the Environmental Information of the CPKC Application).

Identify prospective connecting line segments from which the foregoing discussed traffic is anticipated to be diverted.

Interrogatory No. 11. This interrogatory is presented with the recognition that MNBR is only permitted to serve existing customers at existing locations.

- (a) Assuming that new customers are located on the Eastern Line, please describe plans developed among CSXT, MNBR, AGR, and CPKC for ensuring that AGR and CSXT operations would not unreasonably impact fluidity if CPKC were required to serve local shippers on the Western Line.
- (b) Describe any coordination of schedules amongst all named railroads in the event an additional daily train (in addition to the one referenced in Interrogatory No. 11(b)) traveled the Western Line and Eastern Line in each direction.

Interrogatory No. 12. Describe discussions with potential shippers concerning plans for new plants and/or facilities in the Southeastern United States that could result in additional traffic over the Meridian Speedway, the Western Line, and/or the Eastern Line.

Interrogatory No. 13. Describe any marketing or planning analysis concerning growth activity and/or change in traffic volume over the Western Line and/or the Eastern Line in the next five years to 10 years.

Interrogatory No. 14. Describe the designated operating windows for MNBR's local operations over the Western Line referenced on page 7 of the Verified Statement of Raymond A. Elphick, included in the CPKC Application, including identifying the designated operating windows' times of the day and days of the week.

Interrogatory No. 15. Describe any analysis performed by G&W on the potential location of new shippers on the Western Line in the five years following consummation of the transaction, including the impact on fluidity caused by CPKC having to serve these shippers while MNBR was required to continue to serve existing local shippers. Include the identity of the potential newly-located local shipper, the commodities anticipated to be moved, and the volumes anticipated to be moved therefrom or thereto.

Interrogatory No. 16. Identify any agreements (draft or executed) implementing or related to the provisions set forth on page 185 of 290 of the CPKC Application, , as that page appeared in the CPKC Application submitted on October 6, 2023. If the answer would be different with reference to the revised page 186 of 290 of the CPKC Application as attached to CPKC's Reply to NS's Motion to Redesignate the Highly Confidential Designation of Certain Materials, Identify the differences.

Interrogatory No. 17. Identify all Persons who assisted in the preparation of MNBR's answers to these discovery requests, including Norfolk Southern's Request for Admissions and Interrogatories, or that have knowledge relating to the matters covered in Norfolk Southern's Request for Admissions and Interrogatories.

DOCUMENT REQUESTS

Document Request No. 1. Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports used, relied upon, or referenced in MNBR's responses to the Requests for Admissions and in response to any of the Interrogatories served by Norfolk Southern. If MNBR objects to answering any interrogatory or request for admission on the basis that doing so would be too burdensome or would require a special study, Produce all Documents, Communications, Agreements, Studies, Analyses, and Reports from which the answer to the interrogatory or request for admission can be derived.

Document Request No. 2. Produce all Documents and Communications related to and containing the Track Charts and Schematics of Meridian, including the Meridian Interchange and the connection between the Western Line and the Meridian Speedway, and supporting interchange facilities on the Meridian Speedway, the Western Line, and the Eastern Line.

Document Request No. 3 Produce all Documents and Communications related to and containing CPKC and MNBR timetables for the relevant divisions and subs, and the proposed schedule for CPKC's proposed operations over the Western Line.

Document Request No. 4. Produce all Documents and Communications related to and containing the Track Charts and Schematics of the AGR/CSXT Interchange and its connection to the Eastern Line and supporting interchange facilities (including sidings) on the Eastern Line.

Document Request No. 5. Produce any agreement (draft or executed) between CSXT and CPKC, between CPKC and G&W/MNBR, between G&W/MNBR and CSXT, among CSXT, G&W/MNBR and CPKC or, with respect to any of the foregoing, between or among their respective affiliates and/or subsidiaries with regard to interchange, routing, pricing, service of existing or new, or development of, traffic, and/or the construction or financing of infrastructure and/or maintenance of infrastructure on or between the Eastern Line, the Western Line, and/or the Meridian Speedway.

Document Request No. 6. Provide documents concerning siding capacity at Myrtlewood and over the Eastern Line.

Document Request No. 7. Produce all promotional and shipper marketing materials, including those featuring a specific commodity and/or shipper, developed by CPKC, MNBR, or CSXT involving the proposed movement of goods over the Western Route and/or the Eastern Route.

Document Request No. 8. Provide a map of the MNBR's interchange partners and locations on the Eastern Line and the Burkeville-Montgomery segment, as discussed on page APP-197 of the CSXT Application.

Respectfully submitted,

/s/ Crystal M. Zorbaugh

Rose Michele Nardi
John V. Edwards
Crystal M. Zorbaugh
BAKER & MILLER PLLC
2401 Pennsylvania Ave., N.W.
Suite 300
Washington, DC 20037
Phone: (202) 663-7820
Fax: (202) 663-7849

November 14, 2023

Attorneys for Norfolk Southern Railway Company
and Norfolk Southern Corporation

CERTIFICATE OF SERVICE

I, Crystal M. Zorbaugh, hereby certify that on this 14th day of November 2023, copies of the foregoing Discovery Requests were served by email and mail upon counsel for MNBR, and all Parties of Record.

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Attorney for Norfolk Southern
Railway Company and Norfolk Southern
Corporation