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December 28, 2023

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VIA-EMAIL

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ENTERED
Office of Proceedings
December 28, 2023
Part of
Public Record

Email: David.Rifkind@stinson.com

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 36732¹

Dear David,

Pursuant to 49 C.F.R. § 1114.21 et seq. and related regulations, Norfolk Southern Corporation and Norfolk Southern Railway Company (“NSR”) (together, “Norfolk Southern”) hereby provides Norfolk Southern’s Response to “CPKC’s First Set of Discovery Requests Directed to Norfolk Southern,” which was served on December 13, 2023. If there are any questions concerning Norfolk Southern’s response, please contact me by phone at (202) 663-7831 or by email at czorbaugh@bakerandmiller.com. Please note, effective January 1, 2024, my email address will change to czorbaugh@mullinslawgroup.net.

Respectfully submitted,

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

Counsel for Norfolk Southern Corporation and
Norfolk Southern Railway Company

cc Surface Transportation Board
Judge Thomas McCarthy
Charles Tolbert (fmshrc.gov), Connor Brightwell (fmshrc.gov)

¹ CPKC’s minor application in FD 36732 is directly related to several other proceedings, including 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, FD 36731; CSX Transportation, Inc.— Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.

Hanna Chouest

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**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**

**NORFOLK SOUTHERN’S RESPONSE TO “CPKC’S FIRST SET OF DISCOVERY
REQUESTS DIRECTED TO NORFOLK SOUTHERN”**

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

Dated: December 28, 2023

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**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 36732²**

**NORFOLK SOUTHERN’S RESPONSE TO “CPKC’S FIRST SET OF DISCOVERY
REQUESTS DIRECTED TO NORFOLK SOUTHERN”**

Pursuant to 49 C.F.R. § 1114.21 et seq. and related regulations and other applicable rules and authority, Norfolk Southern Corporation and Norfolk Southern Railway Company (together, “Norfolk Southern”) hereby provides Norfolk Southern’s Response to “CPKC’s First Set of Discovery Requests Directed to Norfolk Southern,” which was served on December 13, 2023.

GENERAL RESPONSES

Norfolk Southern makes the following General Responses to “CPKC’s First Set of Discovery Requests Directed to Norfolk Southern” and incorporates them into its responses to each and every Request, whether or not specifically stated in the individual response. Norfolk Southern is conducting a reasonable search for responsive information and documents. Subject to the specific and general objections that follow, responsive documents will be produced on a rolling basis. Production of information or documents does not necessarily imply that the

² Canadian Pacific Kansas City Limited and The Kansas City Southern Railway Company d/b/a CPKC’s (“CPKC”) minor application in FD 36732 is directly related to several other proceedings, including 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, FD 36731; CSX Transportation, Inc.—Trackage Rights Exemption—Kansas City Southern Railway, FD 36730.

information or documents are relevant to or admissible in this proceeding and is not to be construed as waiving any objection stated herein.

GENERAL OBJECTIONS

Norfolk Southern's General Objections, set forth herein, apply to each one of the CPKC's Requests for Admission, Interrogatories, and Requests for Production of Documents (together, "Requests"). Norfolk Southern's General Objections shall not waive, limit, or prejudice any objections it may later assert. Norfolk Southern's failure to object to a specific Request on a particular ground shall not be construed as a waiver of its right to object on any ground.

1. Norfolk Southern objects to the Requests, including the Instructions and Definitions, to the extent they impose burdens, obligations, or requirements that are greater than the requirements or permissible scope of discovery under 49 C.F.R. Part 1114, Subpart B, or under other Surface Transportation Board ("Board") rules or precedents.
2. Norfolk Southern objects to the Requests to the extent they seek identification of "all" or "any" documents, data, or a category of information where the production of a subset of documents, data, or information would be sufficient to respond to the Request, on the basis that such Requests are unduly burdensome.
3. Norfolk Southern objects to the Requests to the extent they are overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence in the proceeding to the extent that the Requests purport to require Norfolk Southern to conduct anything beyond a reasonable search of accessible sources.
4. Norfolk Southern objects to the Requests to the extent they seek documents, data, or information in a form not maintained by Norfolk Southern in the regular course of business or not available in the form requested by CPKC, where such documents, data, or

information could be developed, if at all, only through the preparation of compilations, documents, summaries, analyses, or other special studies of any sort not already in existence, and Norfolk Southern by its responses does not unless otherwise noted, undertake to prepare or produce any special studies. Any production by Norfolk Southern of information or documents in this category shall not be considered a waiver of this objection.

5. Norfolk Southern objects to the Requests to the extent that they seek information protected from disclosure by the attorney-client privilege, attorney work product doctrine, any applicable common interest or joint defense privilege, or any other applicable privilege, doctrine, statute, regulation, agreement, or protective order. If any such privileged, protected, or exempt information is unintentionally produced or provided, Norfolk Southern reserves all rights under applicable law to demand and/or require the return of all copies thereof and non-use by Norfolk Southern or any other person or entity in this or any other proceeding.
6. Norfolk Southern objects to the Requests, including the Instructions and Definitions, to the extent a particular Request, Definition, or Instruction is vague or ambiguous.
7. Norfolk Southern reserves the right to challenge the competency, relevance, materiality, or admissibility of, or to object on any ground to, the use of information requested in the Requests. To the extent that Norfolk Southern produces responsive information or Documents, Norfolk Southern does not concede that such information is relevant, material, or admissible into evidence, and any such production is not intended to waive any of Norfolk Southern's objections to any of the Requests.

8. Norfolk Southern objects to the Requests to the extent that they seek information relating to documents prepared, generated, or received in anticipation of or after the commencement of litigation. Norfolk Southern will not produce any documents created after September 4, 2023.
9. Norfolk Southern objects to the Requests, including the Instructions and Definitions, to the extent they seek information that is already in CPKC's possession, custody, or control, or that is obtainable from publicly available sources, or from another source that is more convenient, less burdensome, or less expensive, including, without limitation, by other means of discovery.
10. Norfolk Southern objects to the Requests to the extent that they seek the production of documents prepared in connection with, or information relating to, possible settlement or mediation of this or any other proceeding.
11. Norfolk Southern objects to the Requests, including all Instructions and Definitions, to the extent they call for information or documents that are confidential, proprietary, or commercially or competitively sensitive. Despite this objection, Norfolk Southern is producing any relevant and responsive information and documents subject to the STB's Protective Order issued on October 11, 2023, and all responses and Documents should be treated in accordance with that order.
12. Norfolk Southern's General Objections and responses are based upon information presently known to it. Norfolk Southern reserves the right to rely upon facts, Documents, or other evidence that it may develop or that may subsequently come to its attention; to assert additional objections and to supplement or amend these responses pursuant to 49 C.F.R. § 1114.29 at any time as this proceeding continues.

13. Norfolk Southern objects to the Requests to the extent they seek information protected from disclosure by confidentiality or nondisclosure agreements with third parties, as well as disclosure of non-public, financial, or otherwise confidential or commercially sensitive information.
14. Norfolk Southern objects to the Requests to the extent they seek information that Norfolk Southern is prohibited from disclosing under 49 U.S.C. § 11904.
15. By responding to the Requests, Norfolk Southern does not concede or adopt any misleading statement, misleading definition, inaccurate assumption, and/or mischaracterization of the facts or the position that Norfolk Southern has taken in this case contained in any Request.
16. Norfolk Southern objects to Instruction No. 7, which calls for six different disclosures related to documents withheld based on privilege, as overbroad, unduly burdensome, and on the basis that it would require the disclosure of information or data that is itself protected by the attorney-client privilege, work product doctrine, or otherwise protected or privileged, exempted, or excluded from discovery or disclosure by an applicable privilege, protection, rule, or doctrine.

SPECIFIC OBJECTIONS

1. Norfolk Southern objects to the CPKC's definition of "Norfolk Southern," "you," or "your" means Norfolk Southern Railway Company ("NSR") and Norfolk Southern Corporation as overly broad to the extent that CPKC seeks to include (1) all Norfolk Southern affiliates and subsidiaries, (2) any joint venture to which they (an undefined term) are a party, and (3) employees, agents, officers, directors, representatives, consultants, accountants, and attorneys, who would neither have information that is

relevant nor proportional to the needs of the proceeding, and would be unduly burdensome to produce.

2. Norfolk Southern objects to the definition of “Document” to the extent it is, overly broad, unduly burdensome, and seeks information that is not proportional to the needs of the proceeding, including that it seeks production of documents other than final versions of responsive documents.
3. Norfolk Southern objects to the Requests to the extent the Requests seek responses and documents back to 2018. Requiring Norfolk Southern to search for records dating back five years would be highly prejudicial, force Norfolk Southern to incur significant costs, unduly delay timely responses, and not lead to admissible evidence, particularly given the fact that, in its November 22, 2023, discovery responses, CPKC objected to “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”),” which was served on November 8, 2023, to the extent Norfolk Southern sought

“documents or information created before May 1, 2023. **Documents and information created before May 1, 2023, are irrelevant to this Proceeding because CPKC did not begin working on its Application or the underlying transaction until May 2023.** CPKC agrees to produce documents or information created on or between May 1, 2023, and November 8, 2023. Any production by CPKC of documents or information created before May 1, 2023, shall not be considered a waiver of this objection.” Emphasis supplied. See Objections to Definitions and Instructions, No. 4.

CPKC cannot have it both ways. In good faith, Norfolk Southern is willing to search for documents back to January 1, 2022.

4. Norfolk Southern objects to Definitions 6 – “Identify” with respect to a Person to the extent that it seeks (6) present or last known addresses in 6(b), as overly broad, unduly burdensome, and seeks information that is not proportional to the needs of the proceeding. All communications with any Norfolk Southern employees should be arranged through the undersigned counsel.
5. Norfolk Southern objects to Definition 7 - “Identify” with respect to a Document. To the extent Norfolk Southern believes a document is sufficient to satisfy 49 C.F.R. § 1114.30 and related regulations, Norfolk Southern will produce a Document, and Norfolk Southern will not provide commentary, as the Document will speak for itself.
6. Norfolk Southern specifically objects to CPKC’s definition of “Meridian Interlocking” as vague, ambiguous, and unintelligible.

INTERROGATORIES

1. Identify and describe any forecasts or projections that Norfolk Southern has prepared relating to the number of trains Norfolk Southern anticipates will travel on the Meridian Speedway (both directions) over the next five (5) years.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located.

2. Identify and describe each instance in which service performance on the Meridian

Speedway over the past ten (10) years has triggered any of the cure obligations set forth in the Meridian Speedway Agreements.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and General Objection 9, Interrogatory No. 2 seeks information that CPKC, as co-owner of the MSLLC, has in its possession. Further, pursuant to General Objection No. 4, it would be unduly burdensome for Norfolk Southern to search ten years of documents, when CPKC, as co-owner, has access to the same information and can perform any special analysis or studies it believes necessary. Norfolk Southern will not be responding to Interrogatory No. 2.

3. For the period January 1, 2021, through the present, identify and describe what percentage of Amtrak trains arrive on time, i.e., arrives within 15 minutes of its published scheduled arrival time, at Amtrak's Meridian Station, and at the scheduled Amtrak station stops immediately prior to and after Amtrak's Meridian Station.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, General Objection No. 4, Norfolk Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to its Comments and Requests for Conditions ("NSR Comments") and workpapers Norfolk Southern is preparing in support of the same.

4. For the period January 1, 2021, through the present, identify and describe what percentage of Amtrak trains arrive on time, i.e., arrives within 15 minutes of its published scheduled arrival time, at the scheduled Amtrak station stops immediately prior to and after Amtrak's Meridian Station.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, General Objection No. 4, Norfolk

Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

5. Identify and describe the number of Amtrak trains that currently run over the Meridian Interlocking per day.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, Specific Objection No. 6, which, objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, Norfolk Southern will be providing related information in its "Comments and Request for Conditions," which will be filed on December 29, 2023. Accordingly, Norfolk Southern refers CPKC to its Comments and Requests for Conditions and workpapers Norfolk Southern is preparing in support of the same.

6. For the period January 1, 2018, to the present, identify and describe whether Amtrak meets the Customer On Time Performance Standard at Amtrak's Meridian Station.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, General Objection No. 4, Norfolk Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Norfolk Southern objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located.

7. For the period January 1, 2018, to the present, identify and describe whether Amtrak service meets the Customer On Time Performance Standard at the Amtrak scheduled station stops immediately prior to and after Amtrak's Meridian Station.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, including specifically, General Objection No. 4, Norfolk Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Norfolk Southern objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Subject to

and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

8. For the period January 1, 2018, to the present, identify and describe the Freight Train

Interference and Signal Delays for Amtrak trains that traverse the Meridian Interlocking.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, Specific Objection No. 6, which objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, Norfolk Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Norfolk Southern objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located.

9. Identify and describe the Freight Train Interference and Signal Delays for Amtrak trains that occurred at the Meridian Interlocking.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, including specifically, Specific Objection No. 6, which objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, Norfolk Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Norfolk Southern objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located.

10. Identify and describe the locations where the Amtrak trains that operate through Meridian on your mainline meet in the vicinity of Meridian, Mississippi.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, Specific Objection No. 6, which, objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, Norfolk Southern is searching for documents and to the extent said

documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

11. Identify and describe how train movement over the Meridian Interlocking is currently communicated between different railroad operators.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, including, specifically, Specific Objection No. 6, which objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, and further that this Request seeks information that CPKC, as the operator of the Meridian Speedway LLC rail lines, has in its possession, Norfolk Southern states that CPKC is fully aware of communications between Norfolk Southern and CPKC, as CPKC is a party to those communications. As such, no documents will be produced in response to this request as to communication between Norfolk Southern and CPKC. Norfolk Southern communicates with other rail carriers in Meridian in the same manner as it does with CPKC, and that communication is on a daily basis, several times per day. Norfolk Southern objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Attempting to produce documents in response to this request would be so burdensome that Norfolk Southern will not provide such a response. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

12. Identify the times that Norfolk Southern trains are scheduled to cross CPKC tracks in the vicinity of Meridian, Mississippi.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern will be producing documents related to Interrogatory No. 12. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

13. Identify and describe how much advance notice Norfolk Southern gives CPKC to alert CPKC that Amtrak trains are approaching the Meridian Interlocking.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, Specific Objection No. 6, which, objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, and subject further to the objection that this Request seeks information that CPKC, as operator of the Meridian Speedway LLC rail lines has in its possession, Norfolk Southern does not have to formally alert CPKC that Amtrak trains are approaching because CPKC has full access to Norfolk Southern's dispatching system covering 13 miles south of Meridian and 129 miles north of Meridian. Further, the response to this request is already within the ability of CPKC's knowledge, insofar as the request seeks information on how

much notice Norfolk Southern gives CPKC as to the requested event. CPKC and Norfolk Southern are in constant informal communication concerning all aspects of train movements in and through Meridian, MS, including but not limited to the movement of Amtrak's trains.

14. Identify all persons who assisted in the preparation of Norfolk Southern's answers to these Requests, or that have knowledge relating to the matters covered in CPKC's First Set of Discovery Requests Directed to Norfolk Southern Railway Company and Norfolk Southern Corporation.

Norfolk Southern Response: Norfolk Southern objects to Interrogatory No. 14 as vague, ambiguous, overbroad, and unduly burdensome to identify all persons who "have knowledge relating to" the matters covered in CPKC's First Set of Discovery Requests Directed to Norfolk Southern Railway Company and Norfolk Southern Corporation. Norfolk Southern will not perform an extensive search for individuals who may have any knowledge relating to any matter covered in CPKC's 29 Requests.

Subject to and without waiving the foregoing General and Specific Objections, Norfolk Southern states that the following individuals provided information to assist in the preparation of Norfolk Southern's answers to the Requests:

Michael McClellan - SVP and Chief Strategy Officer
David Lehlbach – AVP Strategic Planning
Gregory Pope – Director Strategic Planning
Frank Meador - Director Strategic Planning
Andrew Koch - Assistant General Manager Network Operations Center
Kevin Lynch – Manager Passenger Policy
Lisa Roper – Group Manager – Corporate Data and Analytics
Michael Bradley – Senior Director Network Optimization
Bernard Williams – AVP Market Research & Forecasts

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all forecasts, estimates, studies, and projections that Norfolk Southern has prepared since January 1, 2018, related to rail traffic on the Meridian Speedway.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to

objection, Norfolk Southern will provide such documents from January 1, 2022, until September 4, 2023, if any, are located.

2. Produce all documents created since January 1, 2018, and related to past, current, and future rail capacity on the Meridian Speedway.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents from January 1, 2022, until September 4, 2023, if any, are located.

3. Produce all documents created since January 1, 2018, and related to capacity on Norfolk Southern's rail lines in Meridian and its vicinity.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents exist and are not otherwise subject to objection, Norfolk Southern will provide such documents from January 1, 2022, until September 4, 2023, if any, are located.

4. Produce all documents created since January 1, 2018, and related to actual, planned, or considered changes to improve rail operations in Meridian and the vicinity, including investments in rail infrastructure and changes to operating plans.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents from January 1, 2022, until September 4, 2023, if any, are located.

5. Produce all documents indicating that CPKC's service performance over the past ten (10) years has triggered its duty to cure under the Meridian Speedway Agreements.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and General Objection 9, Document Request No. 5 seeks information that CPKC, as co-owner of the MSLLC, has in its possession. Further, pursuant to General Objection No. 4, it would be unduly burdensome for Norfolk Southern to search ten years of documents, when CPKC, as co-owner, has access to the same information and can perform any special analysis or studies it believes necessary. Norfolk Southern will not be producing documents in response to Document Request No. 5.

6. Produce all documents related to the percentage of Amtrak trains that are delayed, i.e., arrive more than 15 minutes outside of their published scheduled arrival time, and that arrives on time, i.e., within 15 minutes of published scheduled arrival time, at Amtrak's Meridian Station during the time period January 1, 2021, to the present.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, General Objection No. 4, Norfolk Southern does not maintain such information in its ordinary course of business. Any such information would be calculated by Amtrak and passed through to Norfolk Southern. Norfolk Southern objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Subject to and without waiving the General Objections and Specific Objections set forth above, Norfolk Southern is searching for documents, and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

7. Produce documents sufficient to show the number of Amtrak trains that operate over the Meridian Interlocking on a daily basis.

Norfolk Southern Response:

Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, Specific Objection No. 6, which, objects to CPKC's definition of "Meridian Interlocking" as vague, ambiguous, and unintelligible, Norfolk Southern will be producing documents related to Document Request No. 7 to the extent said documents are not otherwise subject to objection. Further, Norfolk Southern will produce a copy of the Amtrak Crescent schedule in full response to Document Request No. 7.

8. Produce all documents created since January 1, 2018 and relating to whether Amtrak service meets the Customer On Time Performance Standard for arrival at Amtrak's Meridian Station.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that Document Request No. 8 is unintelligible in that it inquires about whether a specific train "meets the Customer On Time Performance Standard at a specific station (Amtrak's Meridian Station)," irrespective of the fact that the "Customer on Time Performance Standard" is reported across a corridor, which in Norfolk Southern's case extends from New York to New Orleans (the Crescent service). Norfolk Southern further objects to the extent that Document Request No. 8 would require Norfolk Southern to run special reports or studies. Subject to the foregoing, Norfolk Southern refers CPKC to the Federal Railroad Administration quarterly station performance metrics found at <https://railroads.dot.gov/rail-network-development/passenger-rail/amtrak/intercity-passenger-rail-service-quality-and> which indicates that, for the third fiscal quarter of 2023, 404 of 528 Amtrak customers (76.5%) departing an Amtrak train in Meridian were considered late. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

9. Produce all documents created since January 1, 2018 and relating to the Freight Train Interference and Signal Delays for the Amtrak train sets operating through Meridian, Mississippi.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, and subject to the further objection that Document Request No. 9 would require Norfolk Southern to run special reports or studies, Norfolk Southern objects to Document Request No. 9 to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

10. Produce all documents created since January 1, 2018 relating to the cause of delays of trains operating on NS's rail line through Meridian including but not limited to communications with Amtrak regarding such delays.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, particularly Specific Objection No. 3 related to the period that Norfolk Southern must search for responsive documents, Norfolk Southern further objects to the Request to the extent that it asks for several years of data that involve multiple daily events, as extraordinarily burdensome. Norfolk Southern further objects to the extent that Document Request No. 10 would require Norfolk Southern to run special reports or studies. Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

11. Produce documents sufficient to show where Amtrak trains meet in the vicinity of Meridian, Mississippi.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies. Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents. Further, Norfolk Southern refers CPKC to its NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

12. Produce documents sufficient to show how train movement over the Meridian Interlocking is communicated between different railroad operators at present.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents. Further, Norfolk Southern refers CPKC to its NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

13. Produce documents sufficient to show the times that Amtrak trains are scheduled to cross CPKC tracks in the vicinity of Meridian, Mississippi.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, and subject to the further objection that the request is overbroad and unduly burdensome to the extent the request requires Norfolk Southern to run special reports or studies, Norfolk Southern is searching for documents and to the extent said documents are not otherwise subject to objection, Norfolk Southern will provide such documents, if any, are located.

14. Produce all documents relating to or discussing the amount of advance notice that

Norfolk Southern provides CPKC to alert CPKC that Amtrak trains are approaching the Meridian Interlocking.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically General Objection No. 9, Document Request No. 14 seeks information that CPKC, as the operator of the Meridian Speedway LLC rail lines, has in its possession. Further, pursuant to General Objection No. 4, it would be unduly burdensome to require Norfolk Southern to perform any special analysis or studies related to information in CPKC's possession. As noted in Norfolk Southern's response to CPKC Interrogatory No. 13, Norfolk Southern does not have to formally alert CPKC that Amtrak trains are approaching because CPKC has full access to Norfolk Southern's dispatching system covering 13 miles south of Meridian and 129 miles north of Meridian. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same, which addresses Document Request No. 14.

15. Produce all Documents and Correspondence relied upon or reviewed to answer CPKC's Interrogatories.

Norfolk Southern Response: Subject to and without waiving the General Objections and Specific Objections set forth above, specifically, Norfolk Southern will be producing documents related to Document Request No. 15 to the extent said documents are not otherwise subject to objection. Further, Norfolk Southern refers CPKC to the NSR Comments and workpapers Norfolk Southern is preparing in support of the same.

Respectfully submitted,

/s/ Crystal M. Zorbaugh

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

Dated: December 28, 2023

CERTIFICATE OF SERVICE

I hereby certify that I have caused this 28th day of December Norfolk Southern's Response to "CPKC's First Set of Discovery Requests Directed to Norfolk Southern," to be served on this date upon counsel for CPKC, the Surface Transportation Board, Judge Thomas McCarthy, Charles Tolbert, Connor Brightwell, all parties of record, and the Secretary of Transportation and the Attorney General of the United States by depositing a copy in the U.S. mail in a properly addressed envelope with adequate first-class postage thereon prepaid, or by other, more expeditious means.

Dated: December 28, 2023

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