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PUBLIC VERSION

May 20, 2025

VIA E-FILING

Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: **STB Docket No. NOR 42183, *CSX Transportation, Inc. v. Norfolk Southern Corporation and Norfolk Southern Railway Company***

Dear Ms. Brown:

Enclosed for e-filing in the above-referenced proceeding is a public version of a Complaint filed on behalf of CSX Transportation, Inc. ("CSXT") against Norfolk Southern Corporation ("NSC") and Norfolk Southern Railway Company ("NSR") (collectively "NS"), with appropriate redactions that the Board can place in its docket.¹

Concurrent with the filing of this Complaint, CSXT is making two related filings: (1) an Application for Terminal Trackage Rights, FD 36859, and (2) a Motion to Dismiss or to Continue to Hold in Abeyance the trackage rights compensation proceeding involving NS, Norfolk & Portsmouth Belt Line Railroad ("NPBL"), and CSXT, FD 36223.

This letter is intended to assist the Surface Transportation Board ("Board" or "STB") with understanding the purpose of these filings, as well as the interconnected (and in some instances, overlapping) nature of:

1. CSXT's participation in FD 36836, where NS has sought STB authority to control NPBL;

¹ We are concurrently filing a Motion for Protective Order, along with a confidential version of the Complaint, to be filed under seal. The filing fee of \$350 has been paid via pay.gov.

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2. this CSXT Complaint filed in NOR 42183;
3. the CSXT Application for Terminal Trackage Rights in FD 36859; and
4. the CSXT Motion to Dismiss or to Continue to Hold in Abeyance in FD 36223.

Purpose of the filings: to address NS's unlawful control of NPBL. In 2018, CSXT filed an antitrust case in federal district court focused on NS's anticompetitive manipulation of NPBL to artificially exclude CSXT from on-dock rail access at Norfolk International Terminals ("NIT"), an important intermodal terminal in Virginia. In 2022, upon referral from the district court, the Board found that NS was never granted authority to control NPBL, and directed NS and CSXT to "take appropriate steps to address" NS's unlawful control of NPBL after the resolution of CSXT's antitrust case.² While the district court concluded that CSXT had presented substantial evidence of anticompetitive conduct by NS and NPBL – enabled by NS's unlawful control of NPBL – the court ultimately dismissed CSXT's complaint on procedural grounds.³ CSXT's appeals to the Fourth Circuit and subsequently to the U.S. Supreme Court have now been exhausted with the denial by the Supreme Court of CSXT's petition for writ of certiorari on April 21, 2025.⁴ Accordingly, CSXT's antitrust case (including any appeals) has now been resolved, and so CSXT is proceeding pursuant to the Board's directive to address NS's

² *Norfolk S. Ry. Co.—Pet. for Declaratory Order*, FD 36522, slip op. at 17 n.25 (STB served June 17, 2022).

³ *CSX Transp., Inc. v. Norfolk S. Ry. Co.*, 648 F. Supp. 3d 679, 721, 727 (E.D. Va. 2023), *aff'd*, 114 F.4th 280 (4th Cir. 2024). The Court's dismissal of CSXT's damages claims as untimely leaves unaddressed the adverse impacts of an on-going course of anticompetitive conduct by NSR and NPBL. However, in dismissing the injunctive claims, the District Court expressly noted that CSXT's claims of anticompetitive conduct could be subject to investigation by the U.S. Department of Justice, which has recently opened an antitrust investigation into NSR's and NPBL's conduct. Moreover, the Court also noted that, to the extent that CSXT's concerns involve NSR's unauthorized control over NPBL, they could "be subject to federal oversight and certain injunctive remedies as imposed by the STB." *CSX Transp., Inc. v. Norfolk S. Ry. Co.*, No. 2:18-cv-00530, 2023 U.S. Dist. LEXIS 47633, at *29 n.13 (E.D. Va. Jan. 27, 2023).

⁴ *CSX Transp. Inc. v. Norfolk S. Ry. Co.*, No. 24-591, 2025 WL 1151230 (U.S. Apr. 21, 2025).

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unlawful control of NPBL. Each of today's filings is intended to advance that objective.

NS has sought STB authority to control NPBL. On February 14, 2025, NS filed an application for a “minor” transaction seeking Board authority to control NPBL.⁵ NS filed this application before CSXT's antitrust case had ended, notwithstanding the Board's direction otherwise. On March 14, 2025, the Board issued a decision finding that the proposed transaction would be a “significant” transaction and directed NS to “perfect” its application for a significant transaction by June 14, 2025.⁶

NS has sought to end the abeyance in the NS/NPBL trackage rights compensation proceeding, despite its continuing unlawful control of NPBL. On April 30, 2025, NS asked the STB to end the abeyance in FD 36223, where NS has asked the STB to increase the trackage rights fee paid by NPBL for use of certain NS lines.⁷ The reasons the STB originally put this proceeding into abeyance – the need to address and resolve NSR's unlawful manipulation of NPBL before considering a change in trackage rights fees – remain valid and unresolved. Accordingly, CSXT is filing today a Motion to Dismiss or to Continue to Hold in Abeyance the trackage rights fee proceeding until NS's unlawful control of NPBL has been addressed, either via the NS control proceeding or CSXT's affirmative cases. Dismissal or continuance of the abeyance is necessary to protect the integrity of the Board's processes from abuse by parties seeking an anticompetitive goal.

CSXT will continue to oppose any NS request to control NPBL. Granting NS authority to control NPBL would be inconsistent with NPBL's charter and purpose as a terminal railroad providing access to all of its owners, including CSXT. In response to any complete application that NS later files seeking authority to control NPBL, CSXT will establish that the strong likelihood of anticompetitive effects and the lack of any countervailing public benefits will warrant denial of such an NS application. Alternatively, CSXT will ask the Board to impose conditions on

⁵ (NS Minor Appl., Feb. 14, 2025, *Norfolk S. Corp. & Norfolk S. Ry. Co.—Acquisition of Control—Norfolk & Portsmouth Belt Line R.R. Co. (NS Acquisition of Control)*, FD 36836.) NS filed a “minor” application despite the very apparent competitive concerns raised by its control proceeding.

⁶ *NS Acquisition of Control*, FD 36836 (STB served Mar. 14, 2025).

⁷ *Norfolk S. Ry. Co.—Petition to Set Trackage Rights Compensation—Norfolk & Portsmouth Belt Line R.R. Co.*, FD 36223 (STB served July 25, 2019). An increase in the trackage rights fee would raise the costs for NPBL to provide switching services to CSXT. Meanwhile, NS does not need to utilize NPBL to reach NIT and therefore would be unaffected by such cost increases.

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any approval of NS's control of NPBL, including responsive or inconsistent applications proposing an alternative control structure and trackage rights for CSXT to access NIT directly.

CSXT requests affirmative relief to address NS's unlawful control.

Rather than granting NS authority to control NPBL in the face of blatant anticompetitive conduct by those railroads, CSXT believes that the "appropriate steps to address" NS's unlawful control of NPBL are set forth in CSXT's Complaint in NOR 42183 and CSXT's Application for Terminal Trackage Rights in FD 36859:

1. The Board should order NS to divest control of NPBL and ensure that NPBL will operate independently.
2. The Board should order NS to restore and rebuild track assets comprising a line of railroad that NS unlawfully removed and that would allow for efficient service to NIT by NPBL or CSXT.⁸
3. The Board should award CSXT such damages as may be shown to have resulted from NS's violations of the law.
4. The Board should apply penalties on NS to the extent that the STB believes they are warranted.
5. The Board should grant CSXT terminal trackage rights over NPBL and NSR lines allowing CSXT to serve NIT directly.

CSXT must file its affirmative cases, notwithstanding the pending NS/NPBL control proceeding. The Board could theoretically grant through the NS/NPBL control proceeding certain of the forms of relief requested by CSXT in its affirmative cases. For example, the Board may decide to grant inconsistent applications filed by CSXT in the control proceeding for trackage rights or an alternative NPBL control structure. But the Board may decide to simply deny any complete NS control application outright and not impose any conditions or approve any inconsistent applications. And NS has recently questioned whether it would even ultimately seek Board authority to control NPBL.⁹ Additionally, other forms of

⁸ NS should also restore its service obligations and permit NPBL to restore its trackage rights over that rail line. CSXT intends to file a separate request that the STB revoke the exemptions that allowed NSR to discontinue its service obligations, and that allowed NPBL to discontinue its trackage rights, over this line of railroad.

⁹ (NS Pet. for Reconsideration 8, Apr. 21, 2025, *NS Acquisition of Control*, FD 36836.) NS asserted that it "is not bound to file such a significant application" and

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relief, including damages owed to CSXT resulting from NS's violations of law, cannot be granted through the NS/NPBL control proceeding. Allowing the current situation to continue is unacceptable and contrary to the Board's direction for the parties to take "appropriate steps to address" NS's unlawful control of NPBL. Therefore, CSXT must now seek this relief through its affirmative cases.

CSXT urges the STB to give careful and expeditious consideration to the attached Complaint, the concurrently filed Application for Terminal Trackage Rights, the concurrently filed Motion to Dismiss, and the upcoming requests for revocation of improper exemptions, in which CSXT seeks relief to remedy the long-standing unlawful conduct by NS to control and manipulate NPBL and to artificially prevent competition at NIT. CSXT recognizes that the issues and evidence that would be addressed in the NS/NPBL control proceeding will overlap to some extent with the issues and evidence raised by CSXT's affirmative pleadings. Therefore, CSXT stands ready to participate in a scheduling or case management conference with the Board to ensure efficient consideration of the related issues, including potential consolidation or concurrent development of the record in each case.

Respectfully submitted,

/s/ Peter W. Denton

Peter W. Denton

Attorney for CSX Transportation, Inc.

Enclosures

that NS could take certain alternative steps to address the unauthorized control issue.

CSXT-1

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR DOCKET NO. 42183

CSX TRANSPORTATION, INC.

v.

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

COMPLAINT

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Dated: May 20, 2025

CSXT-1-5

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR DOCKET NO. 42183

CSX TRANSPORTATION, INC.

v.

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

COMPLAINT

Plaintiff CSX Transportation, Inc. (“CSXT” or “Complainant”), pursuant to 49 U.S.C. § 11701(b), 49 U.S.C. § 11704, and 49 C.F.R. § 1111.2, files this Complaint against Defendants Norfolk Southern Corporation (“NSC”) and Norfolk Southern Railway Company (“NSR”) (collectively, “NS”) as follows:

NATURE OF THE ACTION

1. CSXT asks the Surface Transportation Board (“Board” or “STB”) through this action to remedy NS’s unlawful control of Norfolk & Portsmouth Belt Line Railroad Company (“NPBL”) and to compel NS to restore certain track assets that it unlawfully removed without first obtaining abandonment authority from the Board, making the line of railroad between NS Junction and Carolina Junction unusable.

2. Over the last four decades, NS has openly exercised – and continues to exercise – improper control over NPBL without the required authorization from either the Board or its predecessor, the Interstate Commerce Commission (“ICC”). NS’s unlawful exercise of control has enabled NS to transform NPBL from a neutral

switching railroad into a controlled subsidiary and to wield NPBL to anticompetitive effect.

3. Through its unlawful control, NS has systematically, and over a period of years, perpetrated an anticompetitive scheme to manipulate NPBL to exclude CSXT from on-dock rail access at Norfolk International Terminals (“NIT”), one of the most important intermodal terminals serving ocean vessels on the East Coast. In the last couple of decades, CSXT was only able to provide *de minimis* on-dock rail service to NIT during one limited period of extraordinary circumstances and demand in 2015. Even then, NS acted to keep that limited CSXT service from being timely and effective.

4. NS has repeatedly admitted that it controls NPBL. In 2022, the Board found that NS was never granted authority to control NPBL. *Norfolk S. Ry. Co.—Pet. for Declaratory Order (NSR Pet. for Declaratory Order)*, FD 36522, slip op. at 1 (STB served June 17, 2022). Despite the Board’s ruling, NS has continued to unlawfully control NPBL.

5. CSXT has repeatedly proposed governance changes to NS and NPBL to address the unauthorized control issue by ensuring NPBL independence. For example, under the most recent proposal, CSXT and NS would have equal representation on the NPBL Board, and the Virginia Port Authority (“VPA”) would appoint a director to ensure that neither CSXT nor NS could control NPBL. NS used its unlawful control over NPBL to prevent a vote on the proposal.

6. NS’s unlawful control of NPBL has harmed competition by preventing CSXT from providing on-dock rail service to NIT. Likewise, CSXT has proposed commercial terms to NPBL to give CSXT the opportunity to compete at NIT. For example, CSXT repeatedly asked NPBL to adopt switching rate changes and other commercial terms that would enable CSXT to compete with NS for intermodal traffic to and from NIT while guaranteeing revenue to NPBL. For this proposal, and

others like it, NS has used its unlawful control of NPBL to ensure that these changes are not adopted.

7. NS's efforts to exclude CSXT from effective access to NIT began as early as 2008, when NS and NPBL discontinued service over a line of railroad between NS Junction and Carolina Junction ("Connecting Line"). Without first obtaining abandonment authority, NS later unlawfully removed certain track assets associated with the Connecting Line, including a double diamond at NS Junction and a connection at Carolina Junction, which rendered the Connecting Line unusable. Before the unlawful track removal, NPBL could have used the Connecting Line to efficiently reach NIT. NS's efforts to exclude CSXT from on-dock rail access to NIT have continued since 2008.

8. NS's ongoing unlawful control of NPBL and unlawful removal of the track assets associated with the Connecting Line has caused harm to CSXT, the Port of Virginia ("POV"), and to intermodal shippers.

9. To remedy the continuing violations of 49 U.S.C. § 11323(a)(3) and 49 U.S.C. § 10903(d), and pursuant to 49 U.S.C. § 11701(b) and 11704(c), CSXT requests that the STB (1) order NS to comply with the Board's control provisions by divesting control of NPBL and ensuring that NPBL will operate independently; (2) order NS to reinstall and rehabilitate the track assets associated with the Connecting Line, restore NS's service obligation over the Connecting Line, and permit NPBL to restore its trackage rights over the Connecting Line; (3) award CSXT damages, including interest, as may be shown to have resulted from NS's violations; and (4) apply civil penalties on NS, as may be warranted pursuant to 49 U.S.C. § 11901(a).¹

¹ CSXT is concurrently filing in Docket FD 36859 an application pursuant to 49 U.S.C. §11102 for terminal trackage rights over certain lines owned by NSR and

PARTIES

10. CSXT is a Class I railroad operating in the Eastern United States and Canada. CSXT is headquartered in Jacksonville, Florida at 500 Water Street, Jacksonville, FL 32202, and is incorporated under Virginia law.

11. NSR is a Class I railroad operating in the Eastern United States and Canada. NSR is headquartered in Atlanta, Georgia at 650 West Peachtree Street NW, Atlanta, Georgia 30308, and is incorporated under Virginia law.

12. NSC is a holding company that owns 100% of NSR. NSC is headquartered in Atlanta, Georgia at 650 West Peachtree Street NW, Atlanta, Georgia 30308, and is incorporated under Virginia law.

13. Nonparty NPBL is a Class III terminal switching railroad. It is headquartered in Chesapeake, Virginia, at 1340 Truxton Street, Chesapeake, Virginia 23324, and is incorporated under Virginia law.

JURISDICTION

14. The Surface Transportation Board has jurisdiction pursuant to 49 U.S.C. §§ 11701(b), 11704(c).

by NPBL in the Norfolk, VA and Chesapeake, VA areas (including the Connecting Line). CSXT is also concurrently filing in Docket FD 36223 a motion to dismiss the Petition to Set Trackage Rights Compensation filed by NSR on September 13, 2018 in that proceeding, or to continue to hold the proceeding in abeyance. Additionally, CSXT intends to file in Docket AB 290 (Sub-No. 299X) and AB 1024X a petition to reject the joint Notice of Exemption filed in those proceedings, or revoke the exemptions. CSXT also intends to participate fully in Docket FD 36836, where NSR has requested Board authority to control NPBL.

FACTUAL ALLEGATIONS

1. NS unlawfully controls NPBL, which was established for the mutual benefit of all its owners.

15. NPBL was incorporated as the Southeastern and Atlantic Railroad Company in 1896. It was formed by eight railroads: Norfolk & Western Railway (“NW”); Chesapeake & Ohio Railway; Southern Railway Company (“SRC”); New York, Philadelphia & Norfolk Railroad; Atlantic & Danville Railroad; Atlantic Coast Line; Norfolk & Southern Railroad; and Seaboard Air Line Railroad.

16. In 1898, the corporate name was changed to NPBL, and NPBL commenced operations. NPBL was established as a belt line railroad explicitly “for the mutual benefit of each” owner and in which “all [owners] are to be equally interested.” (Ex. 1, NPBL Operating Agreement dated July 7, 1897, at 1.) Additionally, NPBL was to provide an efficient means of interchanging the traffic of its owners between their lines and various marine terminals and industries located on NPBL’s network.

17. The NPBL Operating Agreement, as amended, governs the ownership and operation of NPBL, and it creates and establishes various duties and obligations between and among the owners. Under the Operating Agreement, NPBL anticipates that its owners will deliver to NPBL all cars to be delivered to customers that they cannot serve directly (“switching service”). (Ex. 1, NPBL Operating Agreement dated July 7, 1897, at 4.)

18. Since NPBL’s founding, several consolidations among the original owning railroads have changed the ownership structure of NPBL.

19. In 1982, the ICC approved NS’s consolidation of NW and SRC, and its subsidiary companies, but the ICC did not authorize NS to control NPBL. *See Norfolk S. Corp. —Control—Norfolk & W. Ry. Co.*, 366 I.C.C. 171 (1982).

20. In 1991, the ICC granted SRC authority to directly control NW. *S. Ry.—Control Exemption—Norfolk & W. Ry., et al.*, FD 31791 (ICC served Jan. 14, 1991). SRC changed its name to NSR. Authority to control NPBL was neither requested nor granted.

21. In 1998, via a Notice of Exemption, the Board authorized the merger of NW into its parent entity, NSR (formerly, SRC). *Norfolk S. Ry. Co.—Merger Exemption—Norfolk & W. Ry. Co.*, FD 33648 (STB served Aug. 31, 1998). As a result of the merger, NSR acquired ownership of over 57% of the common stock of NPBL and direct control, while NSC retained indirect control. Again, authority to control NPBL was neither requested nor granted.

22. The consolidation of these railroads has resulted in the current ownership structure under which CSXT and NS are the two owners, with CSXT owning slightly less than 43% and NS owning slightly more than 57% of the common stock of NPBL.

23. The NPBL board of directors currently consists of six voting members and one non-voting member. By virtue of its mergers and consolidation, NS has designated, voted for, and now controls four members of the NPBL board, including its President and Chairman.

24. CSXT can designate only two members for election to the NPBL board. NS has appointed current and former NS employees as NPBL directors, officers, and management, thereby exercising complete control of the NPBL board, and the management and operation of the railroad, without participation by any independent director or officer, much less CSXT's input. Indeed, NS has rebuffed CSXT's proposals to install an independent board and independent management.

25. NS has repeatedly admitted to exercising control of NPBL through its actions and statements, including, among other things, its ownership of a majority of the common stock and control of a majority of the NPBL board.

26. As a result of NS's anticompetitive conduct, in 2018, CSXT filed a complaint against NS, NPBL, and members of the NPBL Board of Directors in the United States District Court for the Eastern District of Virginia (the "District Court Proceeding") alleging federal antitrust and state law claims relating to the anti-competitive conduct. (Complaint, *CSX Transp., Inc. v. Norfolk S. Ry. Co.*, No. 2:18-cv-00530 (E.D. Va. Oct. 4, 2018), ECF No. 1.)

27. During that suit, the District Court referred questions to the STB regarding whether NS had been granted approval to control NPBL. The STB instituted a proceeding to address the referred questions.

28. On June 17, 2022, the Board found that NS was never granted authority to control NPBL. *NSR Pet. for Declaratory Order*, FD 36522, slip op. at 1. The Board stated that "[g]iven this decision, the Board expects the parties to take appropriate steps to address the unauthorized control issue immediately following resolution of the district court proceeding, including any appeals." *Id.* at slip op. at 17 n.25.

29. In the District Court Proceeding, CSXT developed extensive evidence of anticompetitive conduct by NS and NPBL – enabled by NS's unlawful control of NPBL – and the anticompetitive effects of that conduct. The District Court concluded that CSXT had presented evidence from which a jury could conclude that NS and NPBL engaged in unlawful, anticompetitive conduct harming competition at NIT. Even though the anticompetitive conduct continues today, the Court found that the conduct started outside the statute of limitations period and dismissed CSXT's complaint.

30. Dismissal of CSXT's claims as untimely leaves unaddressed the adverse impacts of an on-going course of anticompetitive conduct by NS and NPBL.

31. In dismissing the injunctive claims, the District Court expressly noted that CSXT's claims of anticompetitive conduct could be subject to investigation by

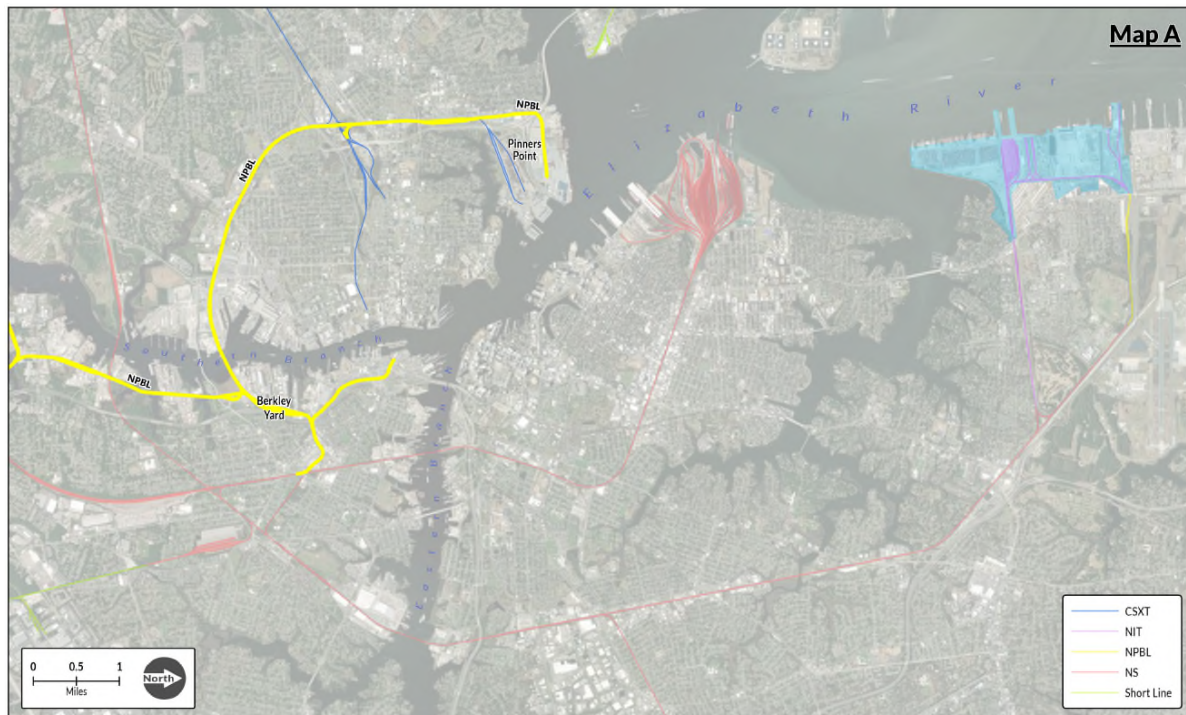
the U.S. Department of Justice (“DOJ”). The Court also noted that, to the extent that CSXT’s concerns involve NS’s unauthorized control over NPBL, they could “be subject to federal oversight and certain injunctive remedies as imposed by the STB.” *CSX Transp., Inc. v. Norfolk S. Ry. Co.*, No. 2:18-cv-00530, 2023 WL 2552343, at *10 n.13 (E.D. Va. Jan. 27, 2023).

32. On February 19, 2025, counsel for CSXT received a letter from the DOJ’s Antitrust Division stating that it opened an investigation into the alleged exclusionary conduct undertaken by NS and NPBL against CSXT at NIT, in potential violation of Sections 1 and 2 of the Sherman Act, 15 U.S.C. §§ 1 and 2.

33. Notwithstanding the Board’s 2022 decision, NS continues its unlawful control of NPBL. NS has unlawfully controlled NPBL both knowingly and willfully.

2. NPBL has trackage rights over NS lines to provide switching services that would allow CSXT to access NIT.

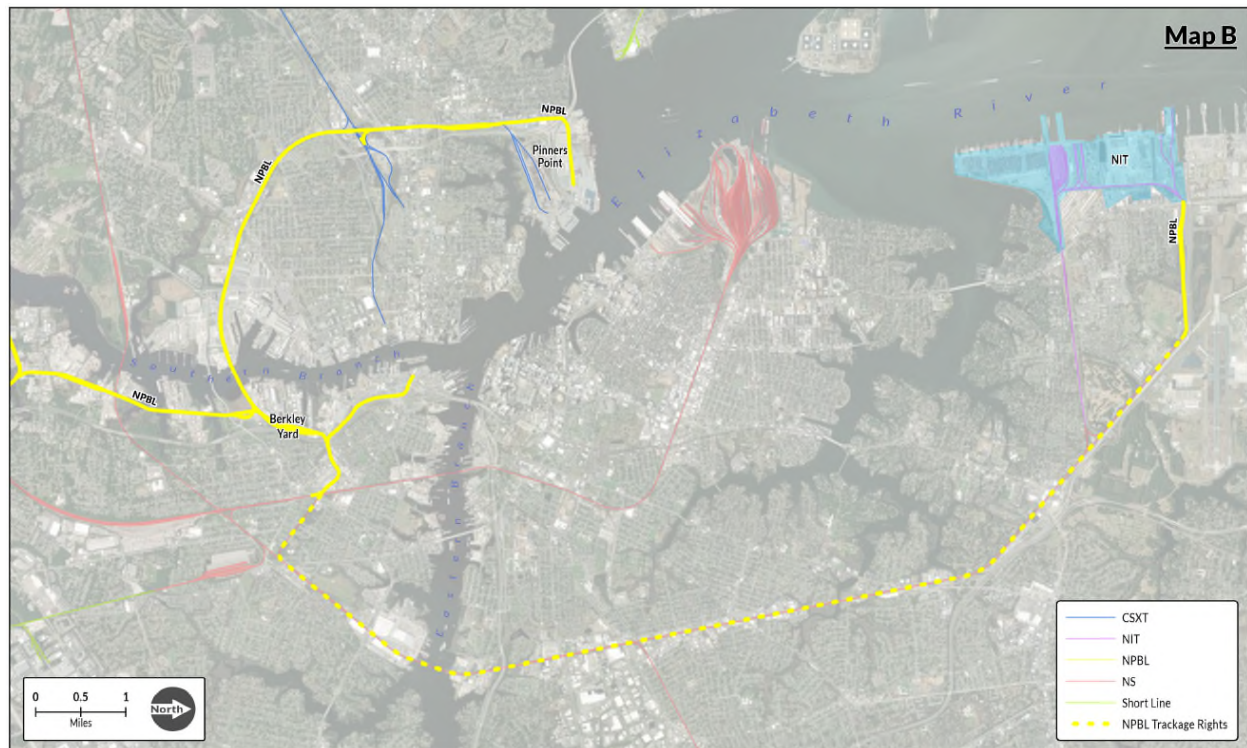
34. When it began operations, NPBL served an area from Pinnars Point on the Elizabeth River in Portsmouth, VA, to an interchange point across the Southern Branch of the Elizabeth River in Berkley, VA (in South Norfolk) as depicted in [a portion of] Map A, below.



Ex. 2-A Map – NPBL’s Initial Operations

35. In 1917, NPBL extended the scope of its operations through trackage rights granted to NPBL by the Virginian Railway, an NS predecessor and co-owner of NPBL at the time, from South Norfolk across the Eastern Branch of the Elizabeth River to reach the area in Norfolk, VA, that is now occupied by NIT, as depicted in Map B. (Ex. 2-B Map – NPBL’s Extended Operations in 1917; Ex. 3, July 26, 1917 Trackage Rights Agreement.²)

² CSXT understands that NPBL and NS’s predecessors entered into a July 26, 1917 trackage rights agreement and a July 27, 1917 trackage rights agreement. CSXT only has access to the July 26, 1917 agreement, which is attached as Exhibit 3.



Ex. 2-B Map – NPBL’s Extended Operations in 1917

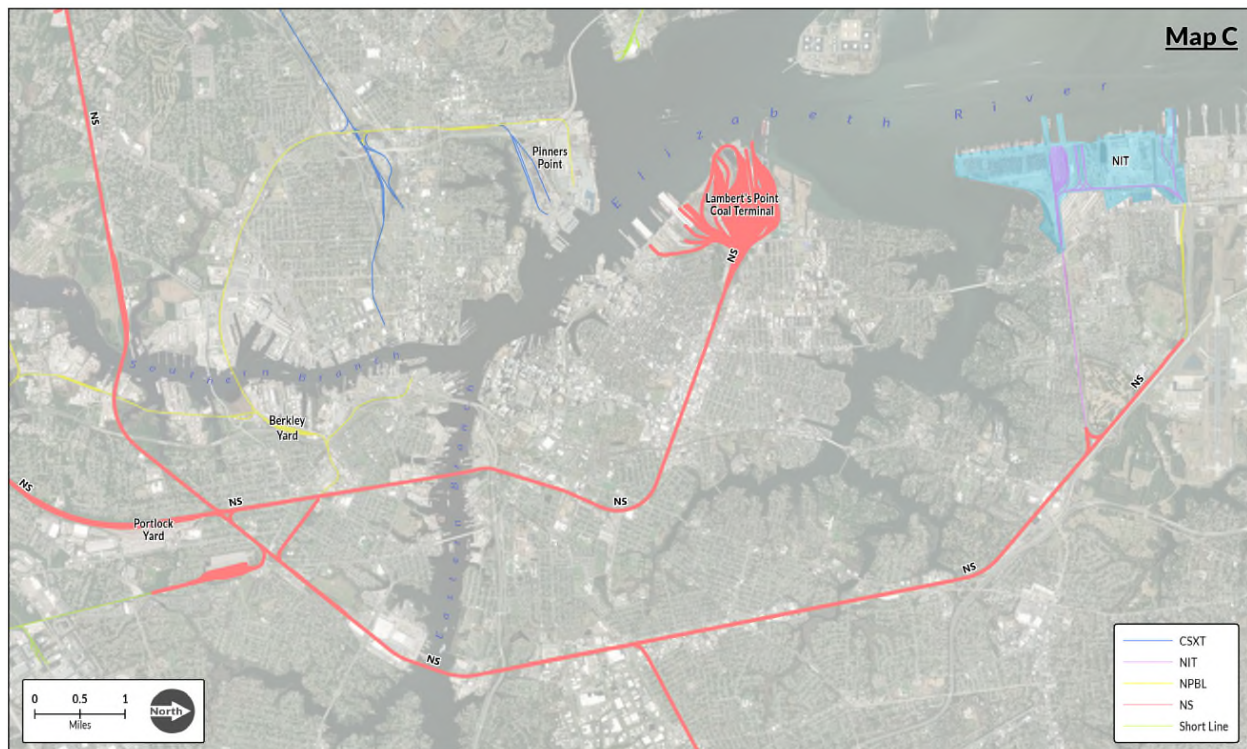
36. NIT has become one of the most important intermodal terminals serving ocean vessels on the East Coast. NIT is one of several terminals at the POV. These terminals are all owned or operated by the VPA, a political subdivision of Virginia.

37. In fiscal year 2024, approximately 1.9 million containers (3.5 million twenty-foot equivalent units) moved through the POV’s terminal properties.³ Additionally, the POV is implementing its \$1.4 billion Capital Gateway Program. For example, in 2024, POV completed its \$83 million Central Rail Yard expansion

³ POV, Annual Comprehensive Financial Report for the Fiscal Year ended June 30, 2024, at 17 (2024), <https://www.portofvirginia.com/wp-content/uploads/2024/09/Virginia-Port-Authority-06-30-2024-Annual-Comprehensive-Financial-Report-as-Issued.pdf>.

at NIT, which will open for business in 2025, and will provide additional capacity at NIT.⁴

38. Crucially, NS can reach NIT directly. NS's main line serving the Norfolk area enters from the west at NS's Portlock Yard, located between the Southern and Eastern branches of the Elizabeth River. From Portlock Yard, NS has a rail line that continues north across the Eastern Branch of the Elizabeth River, eventually reaching NIT, as depicted in Map C below.



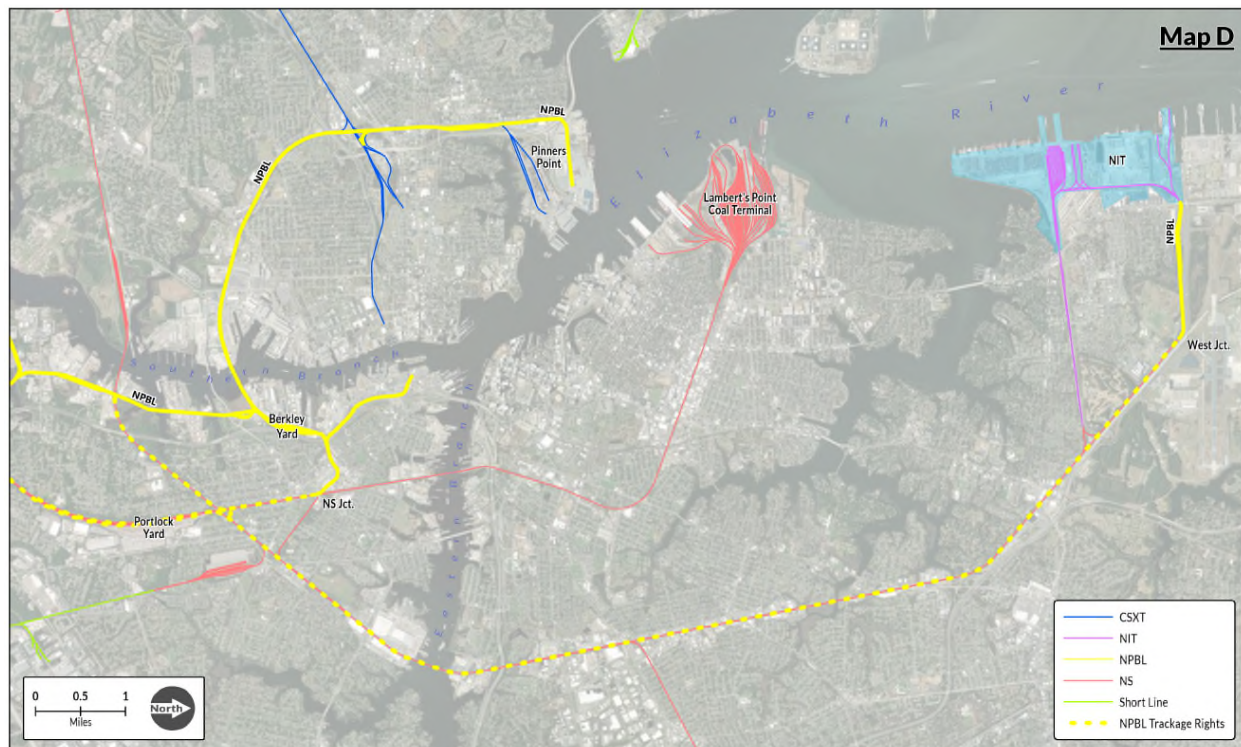
Ex. 2-C Map -- Current NSR Lines

39. NPBL can only reach NIT using trackage rights to operate over NS's lines from a point just outside of NPBL's Berkley Yard (NS Junction) to a point just outside of NIT (West Junction), as depicted below.⁵ (Ex. 2-D Map – Current NPBL

⁴ *Id.* at 8; *see e.g.*, Port of Virginia, Norfolk International Terminals (NIT) (2024), <https://www.portofvirginia.com/wp-content/uploads/2024/03/2024-NIT-1-Pager.pdf>.

⁵ CSXT currently has certain access to NPBL's line between Seaboard Junction and Berkley Yard. CSXT's access is limited to interchange.

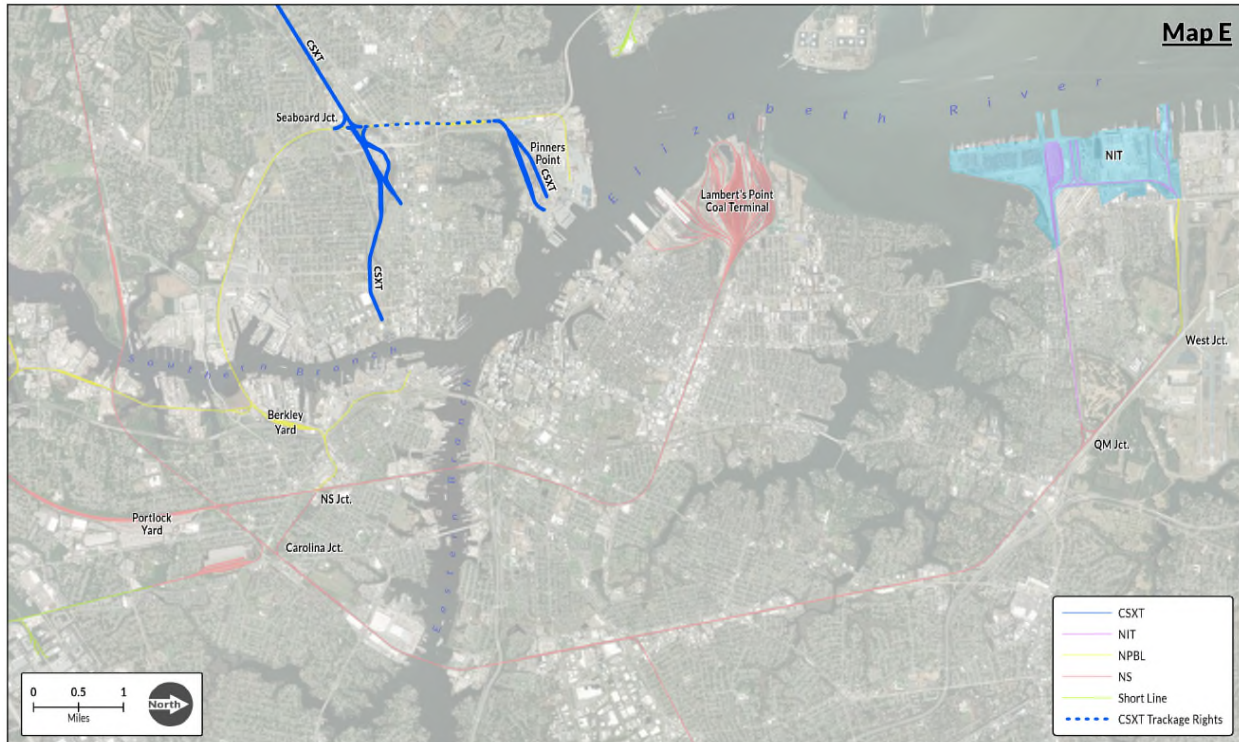
Lines and Trackage Rights.) NPBL connects there to its rail line located inside the NIT gates. (See VPA Mot. to Dismiss 3, June 21, 2021, *VPA Acquisition Exemption*, FD 35532.)



Ex. 2-D Map – Current NPBL Lines and Trackage Rights

40. These NPBL trackage rights were granted as part of the creation and expansion of NPBL for the purpose of giving NPBL’s owners equal access to a wide range of industries, including those located in Norfolk and the Norfolk marine terminal area.

41. CSXT does not have a direct rail line to the Norfolk marine terminal area that includes NIT. Instead, CSXT’s main line into the Norfolk area enters the area from the west, where it intersects with NPBL’s belt line in Portsmouth, near Pinners Point, as depicted below.



Ex. 2-E Map – Current CSXT Lines and Trackage Rights

From there, CSXT would have to use NPBL's switching service to reach shippers at NIT by rail.

42. Consistent with the purpose of NPBL, CSXT (the joint owner of NPBL) should be able to use NPBL's switching services to reach shippers at NIT by rail. CSXT would do so were it not for NS's unlawful control of NPBL and the exclusionary switch fees and practices that have resulted from that control.

3. In 2008, NS unlawfully removed certain track assets, making the rail line between NS Junction and Carolina Junction unusable.

43. NS's efforts to exclude CSXT from effective access to NIT via unlawful control of NPBL began as early as 2008, when NS and NPBL discontinued service over the Connecting Line. Without first obtaining abandonment authority, NS unlawfully removed certain track assets associated with the Connecting Line, including the double diamond at NS Junction and a connection at Carolina Junction, which rendered the Connecting Line unusable.

44. The Connecting Line runs between NS Junction (Milepost NS 1.40) and Carolina Junction (Milepost NS 2.30) in Chesapeake, Virginia and is 0.9 miles in length, as depicted below, Map F shows NPBL's trackage rights in 2008. The double diamond was located at NS Junction (Milepost NS 1.40). The connection between the Connecting Line and NS's line leading to NIT was located at Carolina Junction (Milepost NS 2.30).



Ex. 2-F Map – NPBL Trackage Rights Near the Connecting Line Prior to the 2008 Discontinuances

45. Prior to 2008, NPBL had trackage rights over and NS had service obligations over the Connecting Line.

46. The Connecting Line allowed efficient movement of traffic between NPBL's Berkley Yard and the tracks leading to NIT without having to use other routes, such as entering and exiting NS's Portlock Yard. (Ex. 2-F Map – NPBL Trackage Rights Near the Connecting Line Prior to the 2008 Discontinuances.)

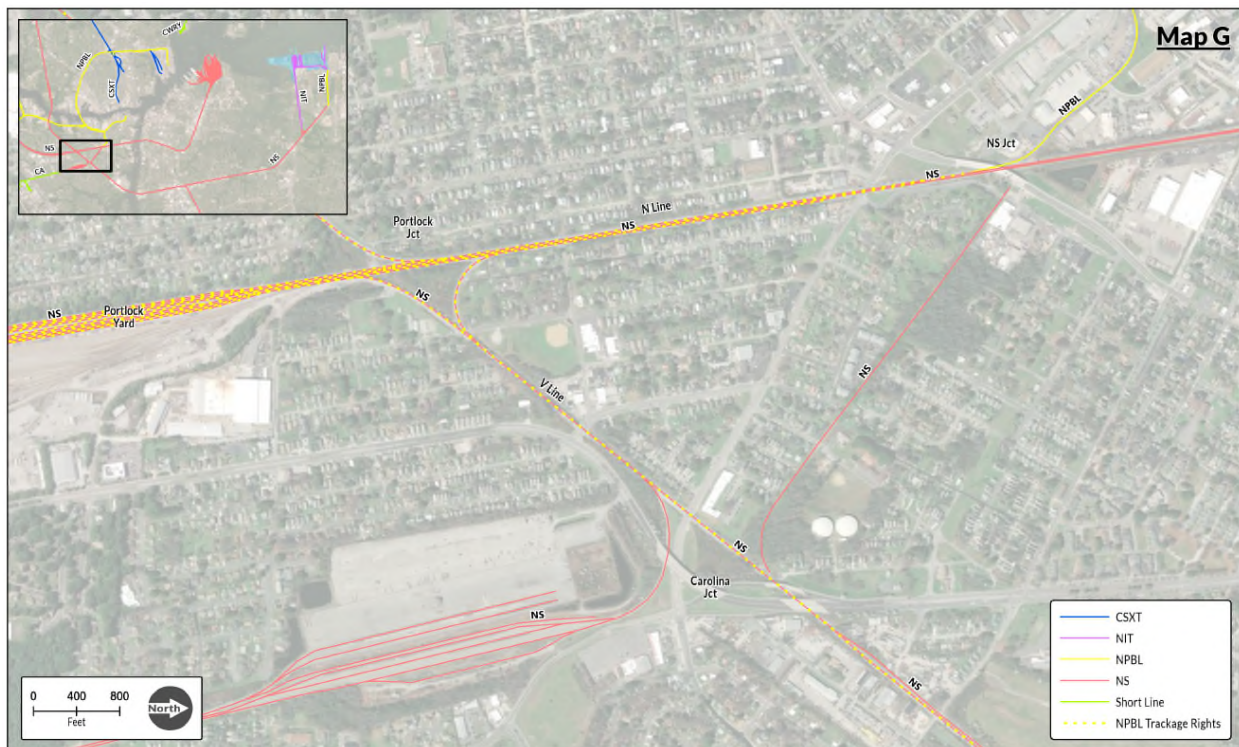
47. Using Portlock Yard instead of the Connecting Line for movements between NPBL's Berkley Yard and NIT is inefficient and burdensome. It requires engines to be attached to the back of the train before proceeding along NS's track (over which NPBL has trackage rights) to NIT. Additionally, NPBL trains carrying intermodal traffic must travel a longer distance to Portlock Yard than if the trains used the Connecting Line. As the Port of Virginia has recognized, this increases NPBL's and CSXT's operational costs to access NIT.

48. In 2008, through a combined class exemption proceeding at the STB, NS discontinued its service and NPBL discontinued its trackage rights over the Connecting Line.⁶ CSXT did not oppose that proceeding, as it was unaware that NS was manipulating NPBL to prevent rail competition at NIT.

49. In their discontinuance of service exemption filing to the STB, NS and NPBL specifically stated that "[b]ecause this is a discontinuance of service and trackage rights proceeding and not an abandonment proceeding, no environmental or historic documentation is required under 40 CFR 1105.6(c)(2) and 49 CFR 1105.8(b) Further STB approval is required for NS[] to abandon the Line." (*See* NS & NPBL Notice of Exemption 8, Apr. 25, 2008, *Norfolk S. Ry. Co.—Discontinuance of Service Exemption—in Chesapeake, VA*, AB 290 (Sub-No. 299X).).

⁶ *See Norfolk S. Ry. Co.—Discontinuance of Service Exemption—in Chesapeake, VA*, AB 290 (Sub-No. 299X) (STB served May 15, 2008); *Norfolk & Portsmouth Belt Line R.R. Co.—Discontinuance of Trackage Rights Exemption—in Chesapeake, VA*, AB 1024X (STB served May 15, 2008).

50. Subsequently, without seeking authority to abandon the Connecting Line or advising the Board of its plans, NS unlawfully removed certain track assets associated with the Connecting Line, including the double diamond at NS Junction and the connection at Carolina Junction, which precluded NPBL from using the Connecting Line and making efficient movements to NIT, as depicted below in Map G. Map G reflects the state of rail assets today.



Ex. 2-G Map – Current NPBL Trackage Rights Near the Connecting Line

4. NS has exercised its unlawful control of NPBL to prevent CSXT from competing with NS for intermodal traffic movements at the NIT by rail.

51. NS has exercised its unlawful control of NPBL to prevent CSXT from competing for intermodal traffic movements to and from NIT by rail.

52. In 2009, NPBL rejected a CSXT rate proposal for a volume-based intermodal-specific switching rate to NIT, which would have allowed CSXT to utilize NPBL to compete with NS's direct on-dock rail service at NIT and would have generated significant revenue for NPBL.

53. NS, using its control over NPBL, induced NPBL to reject CSXT's proposal and manipulated NPBL into adopting a counter proposal from NS that provided for a \$210/car uniform switching rate for all traffic, including intermodal traffic to and from NIT.⁷ Thus, instead of reducing the existing rate that would apply to intermodal traffic to give CSXT access to NIT, NS/NPBL increased that rate by subjecting all intermodal traffic to a much higher universal switching rate, thereby excluding CSXT from accessing NIT.

54. In 2015, CSXT attempted to utilize NPBL to move intermodal traffic to meet the extraordinary demand for intermodal service from international shippers seeking to use East Coast facilities. But NS used its control over the line and NPBL to impede the movement of CSXT's traffic. Given the obstacles thrown up by NS to prevent NPBL from even traversing the subject trackage during a time of need, CSXT could not effectively service NIT via rail due to the severe delays in operating windows and ultimately moved, at most, a few trains that entered or exited Portlock Yard over a period of several months in 2015.

55. Since 2015, CSXT has been unable to move any intermodal traffic by rail to or from NIT due to the unlawful control of NPBL by NS. NS has exercised this control to stifle competition by foreclosing CSXT's access to NIT. NS has caused NPBL to refuse to adopt policies and practices that would allow CSXT to compete for on-dock rail traffic at NIT, including imposing NPBL's cost-prohibitive switching rate.

⁷ This rate was orders of magnitude higher than the switch rate charged by an independent terminal railroad (the Commonwealth Railway) for comparable movements from the other major, albeit smaller, intermodal terminal in Norfolk, the Virginia International Gateway ("VIG") terminal. NSR also cited operating and safety concerns with CSXT's proposal, as a result of NSR and NPBL discontinuing service over the Connecting Line.

56. In 2016, NS sought to replace the 1917 trackage rights agreement with NPBL with a new agreement charging even higher trackage rights fees and imposing other costs and limitations on NPBL access to NIT.⁸ This would enable NS to argue that NPBL's switching rates could not be reduced and might need to be raised, which NS subsequently did argue.

57. In 2018, CSXT asked NPBL to (1) change its governance and management to be independent of NS and (2) adopt switching rate changes that would enable CSXT to compete with NS for intermodal traffic to and from NIT while guaranteeing revenue to NPBL.⁹ NS once again voted down the governance and management changes through its majority control, and NPBL did not adopt CSXT's rate and service proposal.

58. Also in 2018, NS filed a Petition to Set Trackage Rights Compensation for the trackage rights of NPBL over NS lines and to allow for an increase in the trackage rights fee above the existing rate. *Norfolk S. Ry. Co.—Petition to Set Trackage Rights Compensation—Norfolk & Portsmouth Belt Line R.R. Co. (NSR Trackage Rights Compensation)*, Docket FD 36223. The STB decided to hold the proceeding in abeyance during the pendency of CSXT's antitrust case against NS. That made sense, as the District Court Proceeding informed and could have obviated the apparent need for the trackage rights proceeding.

59. Following the STB's 2022 decision that NS never obtained authority to control NPBL, CSXT made two proposals to NS and NPBL – the first regarding

⁸ Under long-standing STB precedent, the terms of that 1917 trackage rights agreement will remain in place until the STB authorizes NPBL to enter into a new agreement with NS, or until the STB sets those terms through a proceeding. *See, e.g., N.C. R.R. Co.—Petition to Set Trackage Rights Compensation & Other Terms & Conditions—Norfolk S. Ry. Co.*, FD 33134, slip op. at 3 (STB served May 29, 1997).

⁹ CSXT's proposal included free use of CSXT locomotives and free fuel for use by NPBL.

governance structure of NPBL and the second to address rates and service which were intended to remedy NS's unauthorized control and prior anticompetitive conduct. NS caused NPBL to block both of them.

60. On November 26, 2024, CSXT proposed to NS and NPBL that NPBL adopt a change in its governance structure to address continuing unlawful control of NPBL by NS. Under CSXT's proposal, { [REDACTED] }
[REDACTED]
[REDACTED] } (Ex. 12, CSXT Letter, Nov. 26, 2024.)

61. NS used its unlawful control over NPBL to prevent a vote on the governance proposal. At the NPBL board meeting on December 4, 2024, the NPBL board { [REDACTED] }
[REDACTED] }

62. Prior to the April 2, 2025 Annual Stockholder's Meeting of NPBL, CSXT duly requested { [REDACTED] }
[REDACTED] }.

63. Then, just hours before the April 2, 2025 Annual Stockholder's Meeting, NS sent CSXT a { [REDACTED] }
[REDACTED] } At the ensuing April 2 stockholders meeting, CSXT { [REDACTED] }
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] }

64. On May 1, 2025, CSXT { [REDACTED] } and requested a { [REDACTED] }. (Ex. 13, CSXT Letter, May 1, 2025.)

65. Similarly, NS has used its unlawful control to block CSXT proposals regarding rates and contractual terms. On November 26, 2024, CSXT (yet again) made a proposal to the NPBL board regarding rates and contractual terms for NPBL to provide switching services to CSXT for movement of intermodal traffic to and from NIT. In addition to free use of CSXT locomotives and free fuel, CSXT offered to pay NPBL's crew costs. The terms of CSXT's proposal would have given CSXT an opportunity to compete for on-dock rail business at NIT and would have generated positive revenues for NPBL. (Ex. 4, CSXT Letter, Nov. 26, 2024.)

66. On December 4, 2024, NS responded to CSXT's proposal, claiming that { [REDACTED] }
[REDACTED]
[REDACTED]
[REDACTED] } (Ex. 5, NS Letter, Dec. 4, 2024.)

67. The NS members of the NPBL board followed up with a letter on the same day { [REDACTED] }
[REDACTED] }

68. Ironically, NS also suggested that { [REDACTED] }
[REDACTED]
[REDACTED] } (Ex. 5, NS Letter, Dec. 4, 2024.) Of course, while CSXT's minority representation on the NPBL board cannot cause the NPBL board to accept the NS trackage fee proposal, NS could certainly do so with its majority representation.

69. NS exercised its unlawful control of NPBL to prevent NPBL from accepting CSXT's offer. At the NPBL board meeting held on December 4, 2024, NPBL's President and director, affiliated with NS, { [REDACTED] }

[REDACTED]
[REDACTED]
[REDACTED] }

70. Upon information and belief, NS’s attempt to justify denial of CSXT’s proposals based on the pending NS-NPBL trackage fee dispute is patently pretextual. NS has admitted to the STB that it exercises control over NPBL and has done so for decades. (*See* NSR Minor Appl. 7-8, Feb. 14, 2025, *Norfolk S. Corp. & Norfolk S. Ry. Co.—Acquisition of Control—Norfolk & Portsmouth Belt Line R.R. Co.*, FD 36836); *see also* *Norfolk S. Ry. Co.—Pet. for Declaratory Order*, FD 36522, slip op. at 7-8 (STB served June 17, 2022). NS has repeatedly utilized its control over the NPBL Board to deny or stymie CSXT’s proposals related to NIT service, regardless of the interests of NPBL and its customers. NS claims that CSXT’s service proposal cannot be evaluated because of a supposed trackage rights compensation “dispute” between NS and NPBL, a company NS has admitted to controlling and does in fact control. Rather than providing a legitimate basis to defer consideration of CSXT’s proposal, the NS-NPBL trackage rights “dispute” is just another means in which NS denies CSXT’s access to NIT via NPBL.

71. In a letter to NS and NPBL dated February 12, 2025, CSXT explained that the trackage rights compensation proceeding { [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] } (Ex. 6, CSXT Letter, Feb. 12, 2025.)

72. In a letter dated February 24, 2025, NPBL expressed { [REDACTED]
[REDACTED] }. (Ex. 7, NPBL Letter, Feb. 24, 2025.) Then, in a letter dated February 27, 2025, NS-appointed NPBL directors asked { [REDACTED] }.

73. On February 28, 2025, NSR sent a letter to CSXT, asserting that, { [REDACTED] }
[REDACTED]
[REDACTED] } (Ex. 8, NS Letter,
Feb. 28, 2025) (emphasis added).

74. On March 21, 2025, CSXT responded { [REDACTED] }
[REDACTED] } (Ex. 9, CSXT Letter,
Mar. 21, 2025.) CSXT explained again that the { [REDACTED] }
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] } *See id.* at 2-3. CSXT further stated that { [REDACTED] }
[REDACTED]
[REDACTED]
[REDACTED] } *Id.* at 3, 8. CSXT also { [REDACTED] }
[REDACTED]
[REDACTED] } *Id.* at 1-2, 8.

75. At the meeting of the NPBL board, held on April 2, 2025, an NS-
affiliated NPBL director stated again that NPBL { [REDACTED] }
[REDACTED]
[REDACTED] }

76. On May 1, 2025, CSXT sent a letter to NPBL, { [REDACTED] }
[REDACTED]
[REDACTED] } (Ex.
10, CSXT Letter, May 1, 2025.) CSXT noted that { [REDACTED] }
[REDACTED]

[REDACTED]

[REDACTED] }¹⁰

77. On May 12, 2025, NPBL sent a letter to CSXT, stating that { [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] }

78. If NPBL operated as a nondiscriminatory, neutral carrier, CSXT intermodal traffic would move to or from the NIT via NPBL switching services.

79. Instead, NS has prevented – and continues to prevent – NPBL from providing the switching services necessary for CSXT to move intermodal containers by rail to or from NIT, thereby depriving CSXT of an efficient means of serving NIT by rail.

80. NS has done this through its exclusionary switching rate and by using its control of the Board to shut down CSXT’s proposals that would enable NPBL to provide equitable service to its owners, as NPBL’s founding railroads intended.

81. It is undisputed that, once implemented in 2009-2010, the exclusionary NIT switch rate continued in force over the following years and remains in effect today. The continued application of the switch rate has had the practical effect of

¹⁰ In the letter, CSXT proposed to NS that, to { [REDACTED]

[REDACTED]

[REDACTED] } (Ex. 10, CSXT Letter, May 1, 2025.)

artificially limiting CSXT from providing intermodal service at NIT. For example, between 2009-2020, NS has handled between 84% and 98% of the international intermodal business at NIT.

82. CSXT's inability to compete for intermodal traffic and move **any** traffic to or from NIT via NPBL has resulted in lost opportunities and revenue, and extra costs to U.S. exporters, importers, and consumers.¹¹

83. NS's exercise of unauthorized control of NPBL harms everyone – including the public, Virginia and its Port Authority, NPBL, CSXT, and NIT – except NS.

84. Without effective on-dock rail access to NIT, CSXT must first move intermodal containers to or from NIT by truck and then transload them to rail. CSXT could move much more intermodal traffic to and from NIT if on-dock rail access was a viable option. Rail transportation is a more efficient and cost-effective method of transporting large numbers of intermodal containers to or from a terminal.

COUNT I

Unlawful control of NPBL (Order compelling compliance with statute, damages and penalties)

85. CSXT incorporates and realleges the allegations of Paragraphs 1 through 84 of this Complaint as fully set forth herein.

86. Pursuant to 49 U.S.C. § 11323(a)(3), NS cannot control NPBL without approval and authorization of the Board.

87. NS neither sought nor received approval and authority from the ICC or the STB to control NPBL.

¹¹ The evidence in the District Court Proceeding showed that NS's suppression of competition at NIT cost CSXT hundreds of millions of dollars in lost profits. Additionally, ocean carriers have expressed concern that CSXT does not have reliable on-dock access at NIT, negatively impacting CSXT's ability to compete for this business.

88. NS has used its unlawful control of NPBL to prevent CSXT from effectively competing for business at NIT.

89. On June 17, 2022, the Board found that NS was never granted authority to control NPBL.

90. In the same decision, the Board indicated NS was engaged in unauthorized control of NPBL.

91. NS and NPBL have admitted that NS has exercised and continues to exercise control of NPBL. NS has knowingly and willfully continued its unlawful control after the Board's June 17, 2022, decision.

92. NS has used its unlawful control of NPBL to prevent NPBL from adopting governance changes that would ensure competitively neutral decision-making by NPBL. For example, in 2024 NS used its unlawful control of NPBL to prevent a change in governance of NPBL that would have given VPA a deciding vote on commercially and competitively sensitive matters and thereby would have prevented either railroad with an ownership interest in NPBL from controlling those decisions by NPBL.

93. NS's unlawful control violates 49 U.S.C. § 11323(a)(3).

94. NS uses its unlawful control of NPBL to preclude CSXT from accessing NIT, thereby making CSXT unable to meaningfully compete for business at NIT, resulting in lost business to CSXT, extra costs to exporters, importers, and U.S. consumers.

95. Additionally, CSXT has been forced to use trucks to move containers to or from NIT. Until NS's unlawful control ends, each container that CSXT will ultimately move to or from NIT has to be moved individually by truck to a rail terminal, where the container is then loaded onto a railcar. This is a more expensive and less efficient process than directly transporting the containers by rail to and from NIT.

96. As a direct and proximate result of NS's actions, CSXT has suffered damages.

COUNT II

Unlawful removal of track assets associated with the Connecting Line (Order compelling restoration of the Connecting Line)

97. CSXT incorporates and realleges the allegations of Paragraph 1 through 96 of this Complaint as fully set forth herein.

98. NS and NPBL filed a Verified Notice of Exemption to discontinue NS's service and NPBL's trackage rights over the Connecting Line.

99. A rail carrier must obtain Board approval before abandoning any portion of its railroad line, pursuant to 49 U.S.C. § 10903.

100. In the Verified Notice of Exemption, NS explicitly stated it was not seeking abandonment authority for the Connecting Line.

101. Additionally, NS said that because it did not request abandonment authority, it did not need to prepare environmental or historical documentation.

102. NS conceded that further STB approval was necessary to lawfully abandon the Connecting Line.

103. A rail carrier cannot remove track assets associated with a line of railroad without first obtaining STB abandonment authority.

104. NS unlawfully removed certain track assets associated with the Connecting Line that rendered the Connecting Line unusable, without first obtaining the necessary abandonment authority from the Board.

105. As a direct and proximate result of NS's actions, CSXT has suffered damages.

REQUESTS FOR RELIEF

Wherefore, CSXT respectfully requests the following:

1. The STB find that NS's unlawful control of NPBL violates 49 U.S.C. § 11323(a)(3) and order NS to divest control of NPBL and ensure that NPBL will operate independently. The Board's divestiture order should ensure that NS lacks the ability – including through, among other things, potential changes in ownership of stock, voting rights, governances and/or the decision-making processes of NPBL, to affect NPBL decisions on commercially and competitively sensitive matters. CSXT intends to provide specific proposals when CSXT submits its evidence in this case.
2. The STB find that NS unlawfully removed certain track assets associated with the Connecting Line in violation of 49 U.S.C. § 10903 and order NS to reinstall and rehabilitate the track assets comprising the Connecting Line, restore NS's service obligations over the Connecting Line, and permit NPBL to restore its trackage rights over the Connecting Line.
3. The STB award CSXT such damages, including interest, as may be shown to have resulted from NS's violations.
4. The STB apply any civil penalties on NS it finds are warranted pursuant to 49 U.S.C. § 11901(a).
5. The STB award such other relief as it deems just and proper under the circumstances.

Respectfully submitted,

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Dated: May 20, 2025

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR DOCKET NO. 42183

CSX TRANSPORTATION, INC.

v.

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 1

NPBL Operating Agreement dated July 7, 1897

REDACTED TO BE PLACED ON PUBLIC FILE

AFE-WP
STEP-7
7/17/87

Agreement

BETWEEN

NEW YORK, PHILADELPHIA & NORFOLK R. R. CO.,

SEABOARD AND ROANOKE R. R. CO.,

NORFOLK AND SOUTHERN R. R. CO.,

NORFOLK AND WESTERN RY. CO.,

ATLANTIC AND DANVILLE RY. CO.,

SOUTHERN RY. CO.,

NORFOLK AND CAROLINA R. R. CO.,

AND

CHESAPEAKE AND OHIO RY. CO.

DATED JULY 7, 1897.

IN RE: NORFOLK AND PORTSMOUTH BELT LINE R. R. CO.

AN AGREEMENT made and entered into on this Seventh day of July, A. D. 1897, by and between THE NEW YORK, PHILADELPHIA & NORFOLK RAILROAD COMPANY, THE SEABOARD & ROANOKE RAILROAD COMPANY, THE NORFOLK & SOUTHERN RAILROAD COMPANY, THE NORFOLK & WESTERN RAILWAY COMPANY, THE ATLANTIC & DANVILLE RAILWAY COMPANY, THE SOUTHERN RAILWAY COMPANY, THE NORFOLK & CAROLINA RAILROAD COMPANY, and THE CHESAPEAKE & OHIO RAILWAY COMPANY.

WHEREAS each of the Companies above named desires to secure the construction of a Belt Line Railroad from Pinner's Point, Virginia, to a connection with the Norfolk and Western Railway in Berkley, Virginia, for the mutual benefit of each in the interchange of business, and it is conceded to be for the best interest of all that the same should be constructed, maintained and operated under a separate organization in which all are to be equally interested and each to have an equal representation, and it has been decided to construct, maintain and operate the same under the charter of The Southeastern and Atlantic Railroad Company.

Now, Therefore, This Agreement Witnesseth That the several companies hereinbefore named, each in consideration of the mutual agreements hereinafter made, do hereby mutually agree that the said The Southeastern and Atlantic Railroad Company shall be organized and its business and affairs conducted and maintained on the following terms and conditions, to wit:

First.—That the Capital Stock of the said Southeastern and Atlantic Railroad Company shall be fixed at Fifty Thousand Dollars.

Second.—That each of the Companies above named, parties hereto, doth hereby agree to subscribe to one-eighth of the Capital Stock of said Company, and to pay for the same at such time or times and in such amount or amounts as the same may be called by the Board of Directors of said Company.

Third.—That if the said Capital Stock should at any time hereafter be increased, the same will be subscribed for and taken in equal proportions by such of the Companies above named as may then hold stock in the said Southeastern and Atlantic Railroad Company.

Fourth.—That the number of Directors of the said Southeastern and Atlantic Railroad Company shall always be fixed to correspond to the number of Companies holding stock therein, so that each of said Companies shall have one representative on the Board, and that such representative shall in all cases be elected upon the nomination of the President or Vice-President of the Company holding such stock. In case of a vacancy the Board of Directors shall fill the same at their first subsequent meeting upon the nomination of the President or Vice-President of the Company in whose representation the vacancy occurred.

Fifth.—That there shall be a President, a Vice-President, a Secretary and Treasurer, which two last named offices may be filled by one person, and such other officers and agents as may be from time to time elected by the Board of Directors of the Southeastern and Atlantic Railroad Company.

Sixth.—That the affairs of the Company shall be under the management of the President and Directors, and that the By-Laws of the Company to be adopted by them shall provide for carrying into effect the provisions of this Agreement.

Seventh.—That the Southeastern and Atlantic Railroad Company is to forthwith commence and is to complete as soon as practicable a Belt Line Railway from the point of connection of the New York, Philadelphia and Norfolk Railroad Company's terminal tracks with the tracks of the Norfolk and Carolina Railroad Company at Pinner's Point, Virginia, to a connection with the track of the Norfolk & Western Railway Company in Berkley, crossing and connecting with the tracks of the Seaboard and Roanoke Railroad Company, the Atlantic & Danville Railway Company and the Norfolk & Southern Railroad Company, and crossing the Southern branch of the Elizabeth River by a suitable bridge.

Eighth.—That to provide for the construction of the said Belt Line Railway, and for the future purposes of the Company, the Southeastern and Atlantic Railroad Company is to make a mortgage to secure an issue of forty year five per cent Gold Bonds, limited in the aggregate to Four Hundred Thousand Dollars, in denominations of One Thousand Dollars each, and that the said Company shall have the right to issue so many of such bonds as may be necessary for the construction and equipment of its railroad including right-of-way, roadbed, superstructures and bridges, not to exceed Two Hundred and Fifty Thousand Dollars, as the same may be required, but the remaining One Hundred and Fifty Thousand Dollars shall be issued under the direction of the Board of Directors only when necessary to provide in part the funds required for the acquisition of property and for additional construction and equipment purposes, and then to the extent only of seventy-five per cent of such expenditures, the remaining twenty-five per cent to be provided by the issue of additional Capital Stock, or otherwise as may be provided by the Board of Directors.

Ninth.—That a uniform rate shall be fixed for the movement of freight cars over the said Southeastern and At-

lantic Railroad Company's railroad, regardless of distance, and that the rate per loaded freight car shall be so adjusted from time to time as to yield a net revenue sufficient to pay the interest upon the bonds outstanding and a dividend of six per cent on the stock. In case arrangements shall hereafter be perfected for the handling of passenger traffic by the Belt Line the net revenues derived therefrom shall be divided equally among the lines, owners of the stock, as an extra dividend, quarterly semi-annually or annually, as the Directors may determine, it being understood that if the net revenue from the passenger business shall be sufficient to pay extra annual dividends of more than six per cent, then the Directors may reduce the rate per loaded freight car sufficiently to absorb such excess.

Tenth.—That the Companies hereinbefore named, parties to this agreement, will co-operate cordially in encouraging the business of the Southeastern and Atlantic Railroad Company, for which it is constructed, and that each of them will deliver to the said Company all cars to be interchanged with other Companies hereinbefore named, parties hereto, except where there are physical connections already existing.

Eleventh.—That each and all of the aforesaid Companies, parties hereto, are to make the rates of freight in full car load lots between points on the said Southeastern and Atlantic Railroad to points on or that can be reached by their respective lines, in both directions, no higher than those between Norfolk or Portsmouth and such points.

Twelfth.—That no one of the aforesaid Companies, parties hereto, will sell its stock in the Southeastern and Atlantic Railroad Company to any other person, persons, corporation or corporations, until it shall first have given to the other owners of the stock in said Company the

right to purchase the same in an amount *pro rata* to the amount held by each of them, and at a price not to exceed what may be offered by others, and that to accomplish this notice shall be given by any such stockholder which may desire to sell its interest, to the President and Directors of the Southeastern and Atlantic Railroad Company of its desire to sell, and that the stockholders in said Southeastern and Atlantic Railroad Company shall have at least thirty days from the delivery of such notice within which to purchase the same under the terms above set forth, and that the certificates of stock to be issued by the Southeastern and Atlantic Railroad Company shall provide that the same are not transferable except upon the conditions stated above.

Thirteenth.—That any and all vacancies that may occur in the Board of Directors shall be promptly filled, at once if nomination can be made and the Board be in session, and if not then at the succeeding meeting of the Board, such vacancies to be filled by the election of the nominee of the President or Vice-President of the Company whose representation may be vacant, and that such election shall take place when such nomination has been or may be made before any other business shall be transacted at the said meeting.

Fourteenth.—That none of the Companies, parties hereto, shall be in any way liable for any of the debts, obligations or liabilities of the said Southeastern and Atlantic Railroad Company beyond the amount of their subscriptions to its Capital Stock.

Fifteenth.—It is understood and agreed that the locomotives owned by the parties hereto are not to enter upon or use the tracks of the Southeastern and Atlantic Railroad Company for any purpose whatever, excepting under such rules and regulations as may be established by the Board of Directors of the Southeastern and At-

lantic Railroad Company by a vote of a majority of all the members of said Board, the intent being that the Southeastern and Atlantic Railroad Company shall perform the service for which it was built and said Company be directly responsible for the competent and efficient discharge of its every obligation to the parties hereto.

Sixteenth.—No other Railroad Company shall be admitted as a stockholder of the Southeastern and Atlantic Railroad Company excepting with the consent of a majority of all of the members of the Board of Directors.

Seventeenth.—That each of the Companies parties hereto, agrees that the Director named by each to represent it in the Board of the Southeastern and Atlantic Railroad Company shall and will vote for such resolutions, by-laws or other proceedings as may be necessary to carry into effect the agreements herein made.

7

In Witness Whereof the several Companies above named have each caused this agreement to be signed by its President, Vice-President or General Manager.

THE CHESAPEAKE & OHIO Rwy. Co.

By

DECATUR AXTELL,
and Vice-President.

THE ATLANTIC & DANVILLE Ry. Co.

By

CHAS. O. HAINES,
Gen. Manager.

THE NORFOLK & SOUTHERN R. R. Co.

By

W. B. DICKERMAN,
President.

THE NORFOLK & CAROLINA R. R. Co.

By

W. G. ELLIOTT,
President.

THE NEW YORK, PHILA. & NORFOLK R. R. Co.

By

A. J. CASSATT,
President.

THE NORFOLK & WESTERN Rwy. Co.

By

HENRY FINK,
President.

SOUTHERN RAILWAY COMPANY,

By

A. B. ANDREWS,
1st Vice-President.

SEABOARD AND ROANOKE R. R. Co.

By

R. C. HOFFMAN,
President.

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR DOCKET NO. 42183

CSX TRANSPORTATION, INC.

v.

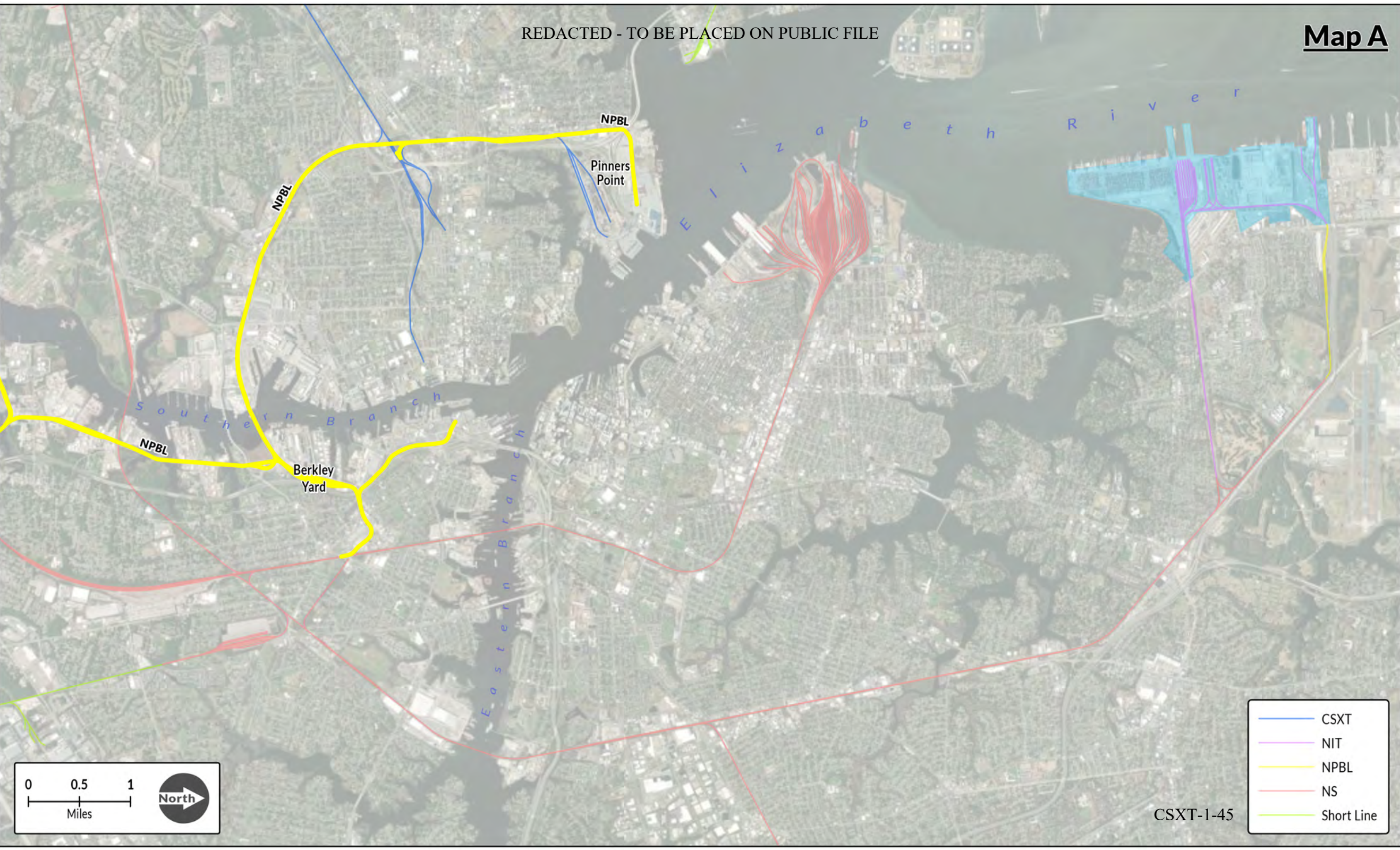
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 2

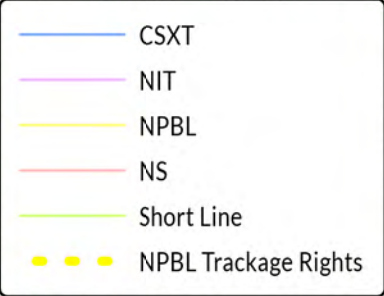
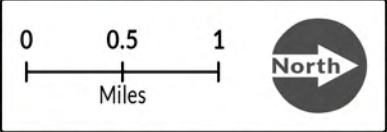
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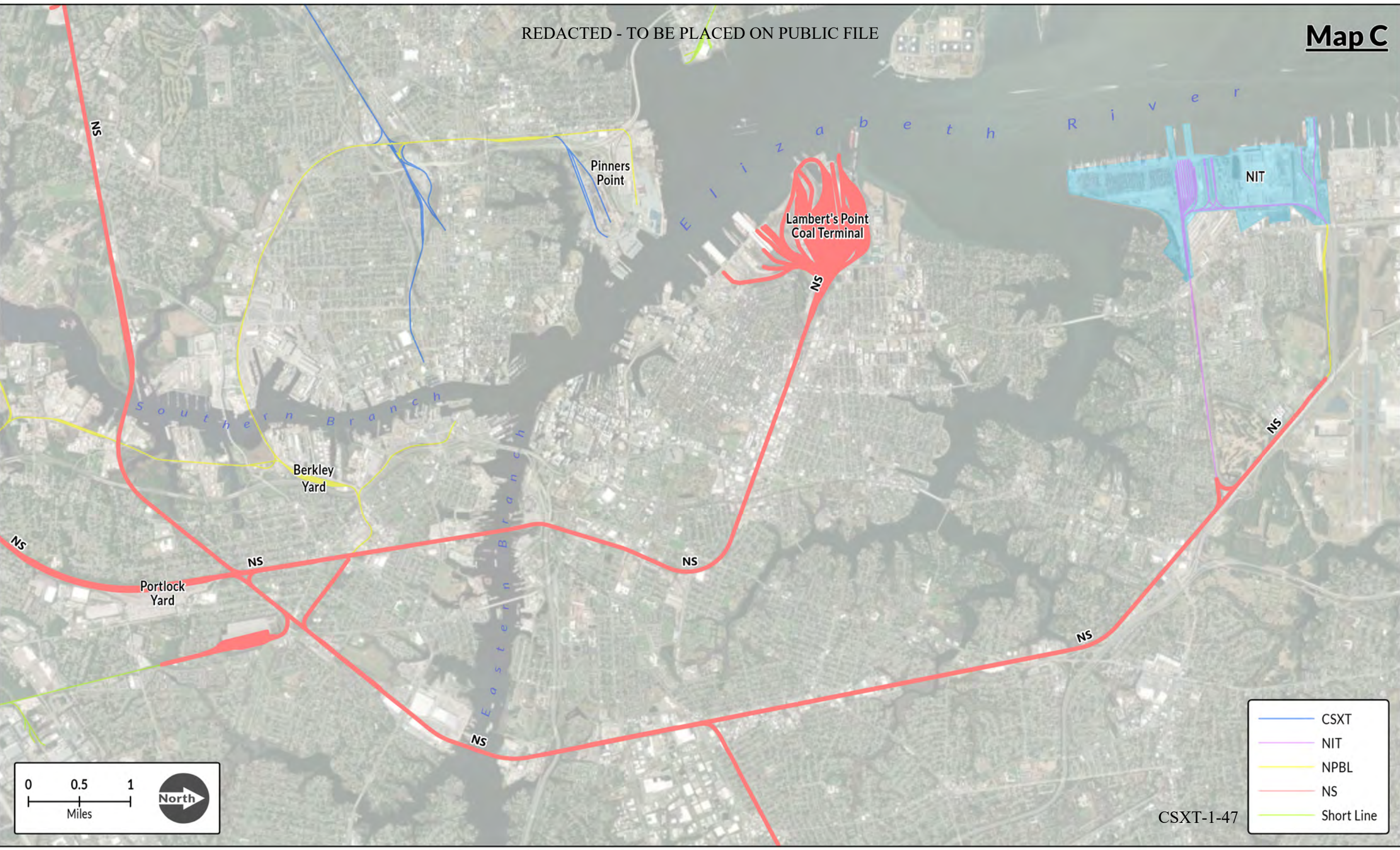
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Exhibit 2-F	NPBL Trackage Rights Near the Connecting Line Prior to the 2008 Discontinuances
Exhibit 2-G	Current NPBL Trackage Rights Near the Connecting Line
Exhibit 2-H	Current CSXT, NPBL, and NSR Operations Near NIT



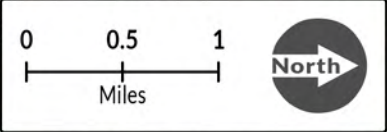
- CSXT
- NIT
- NPBL
- NS
- Short Line



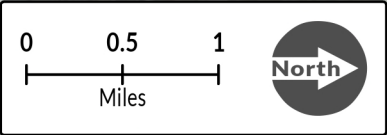
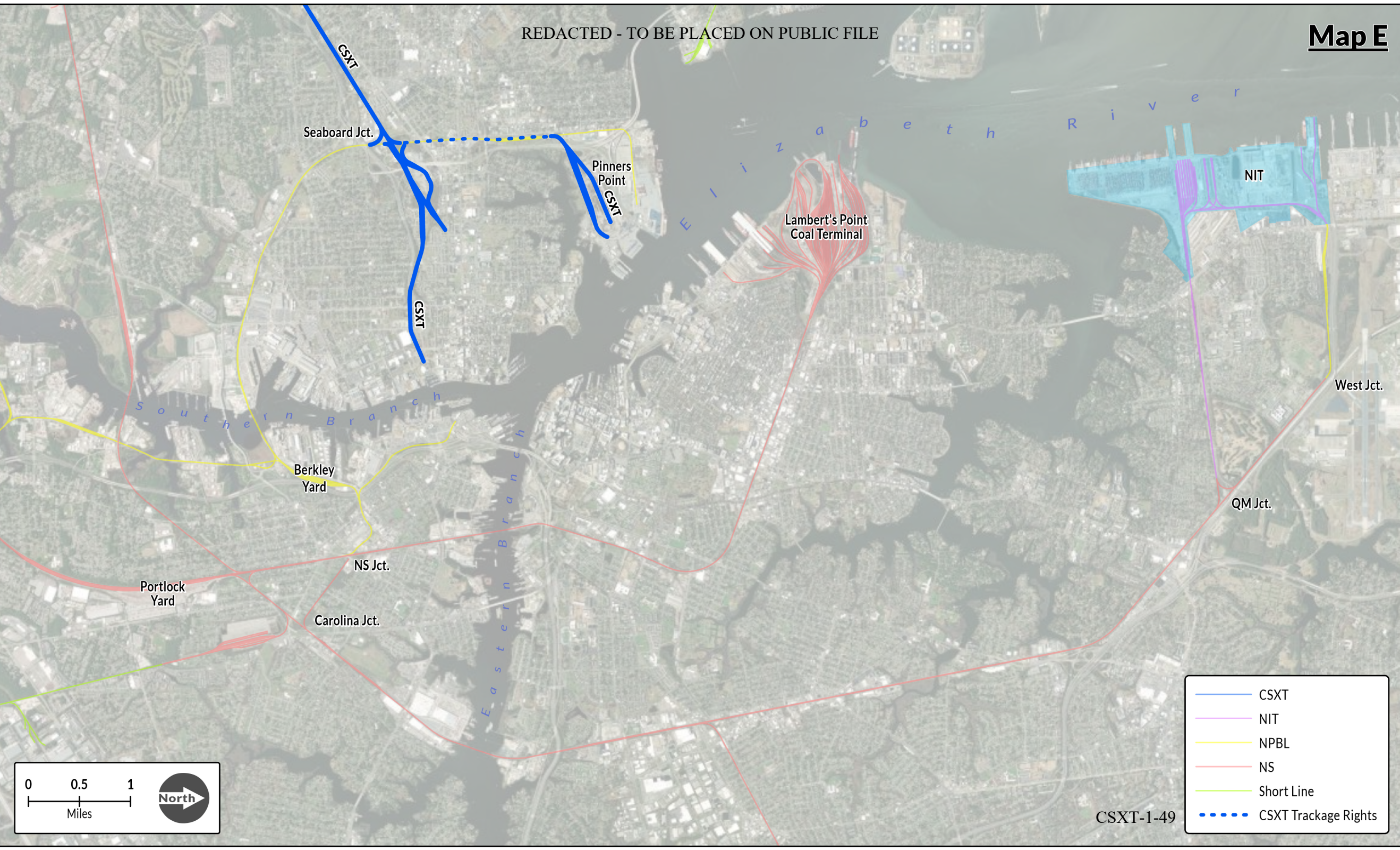


- CSXT
- NIT
- NPBL
- NS
- Short Line

CSXT-1-47



- CSXT
- NIT
- NPBL
- NS
- Short Line
- NPBL Trackage Rights



CSXT

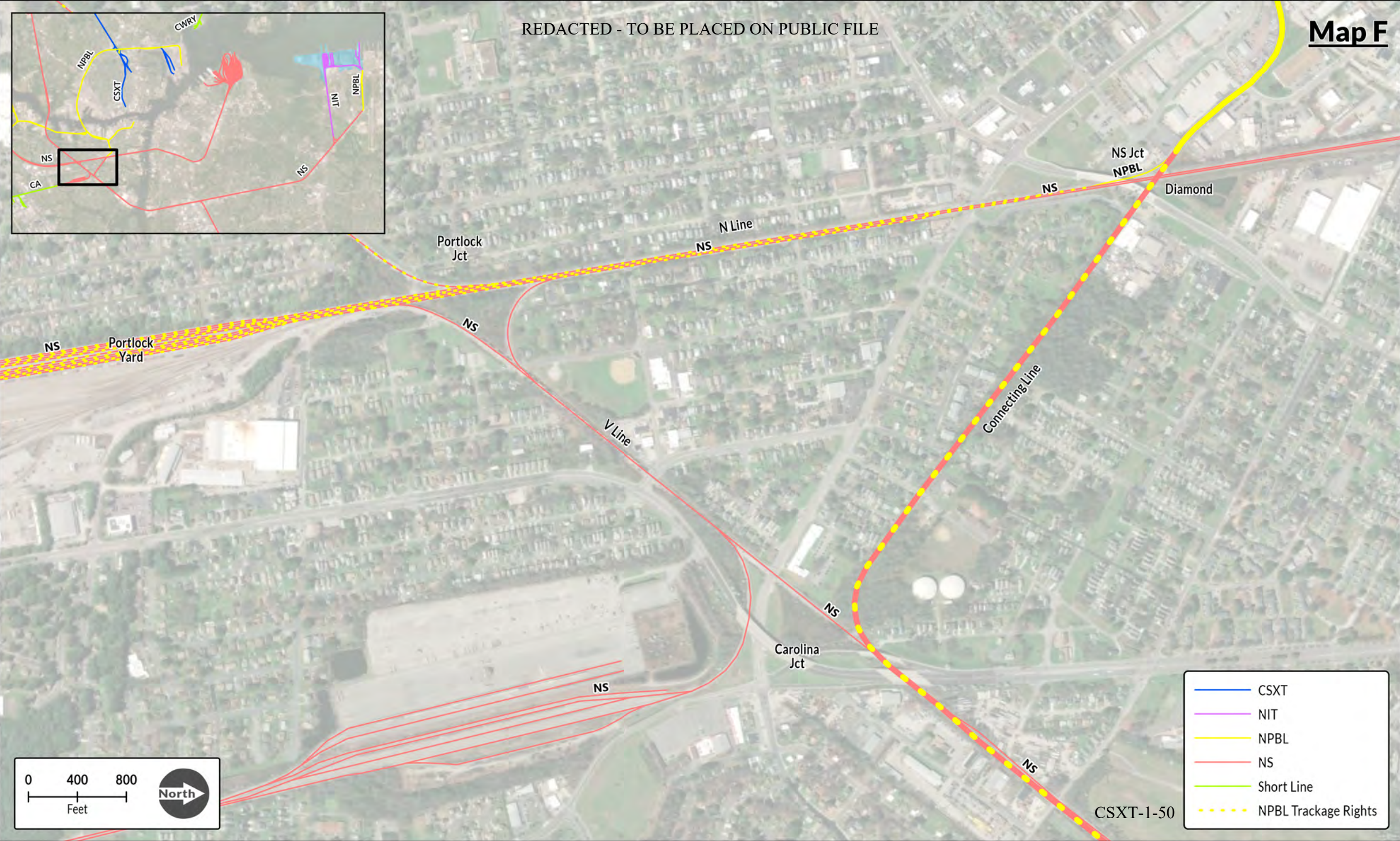
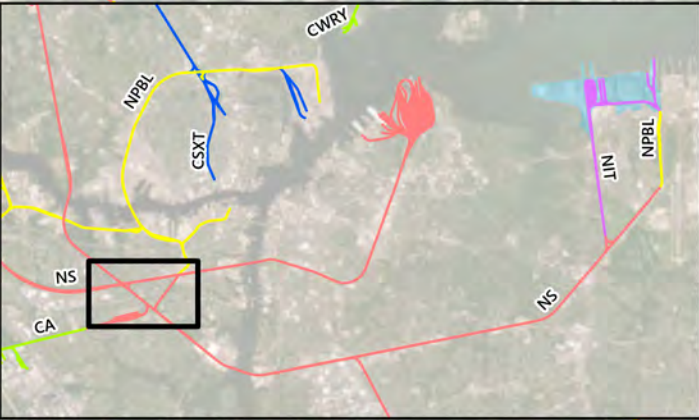
NIT

NPBL

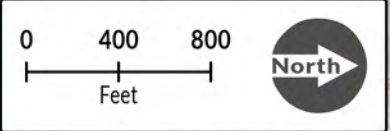
NS

Short Line

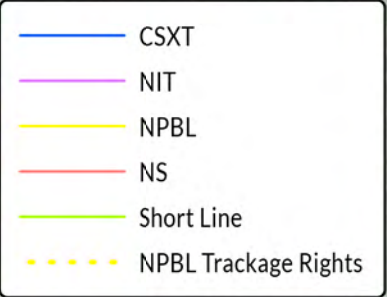
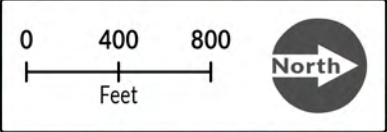
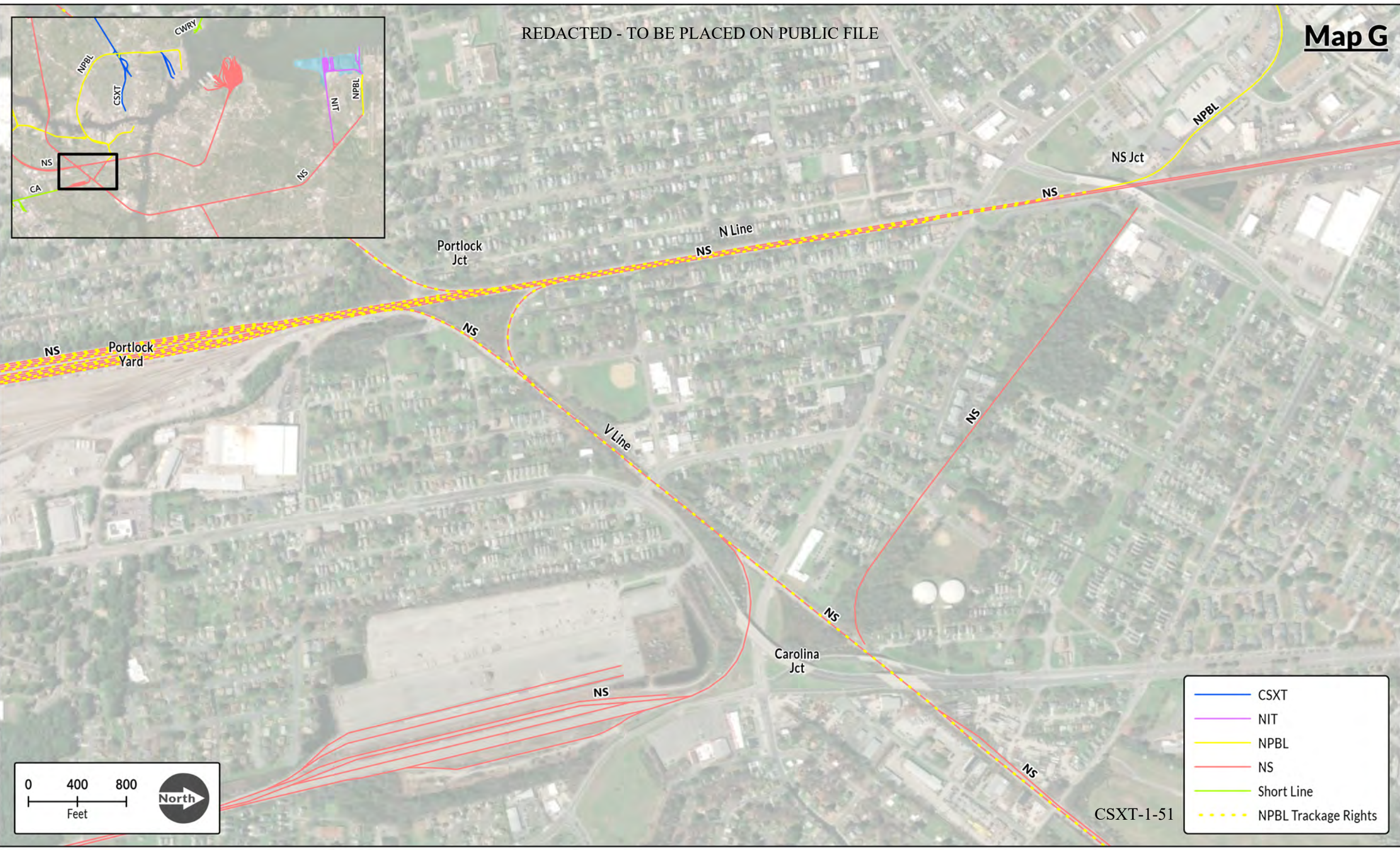
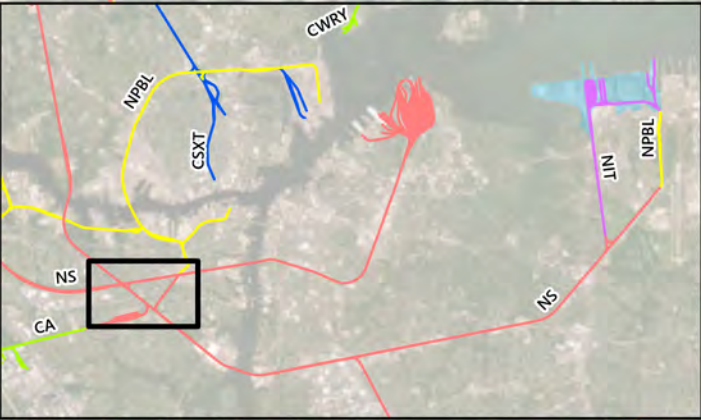
CSXT Trackage Rights



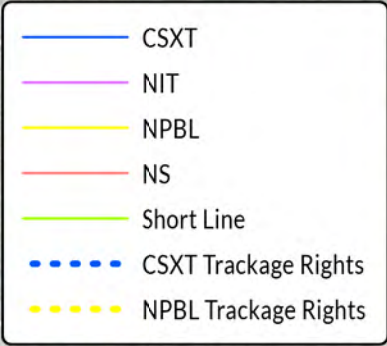
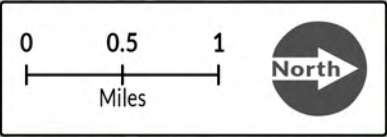
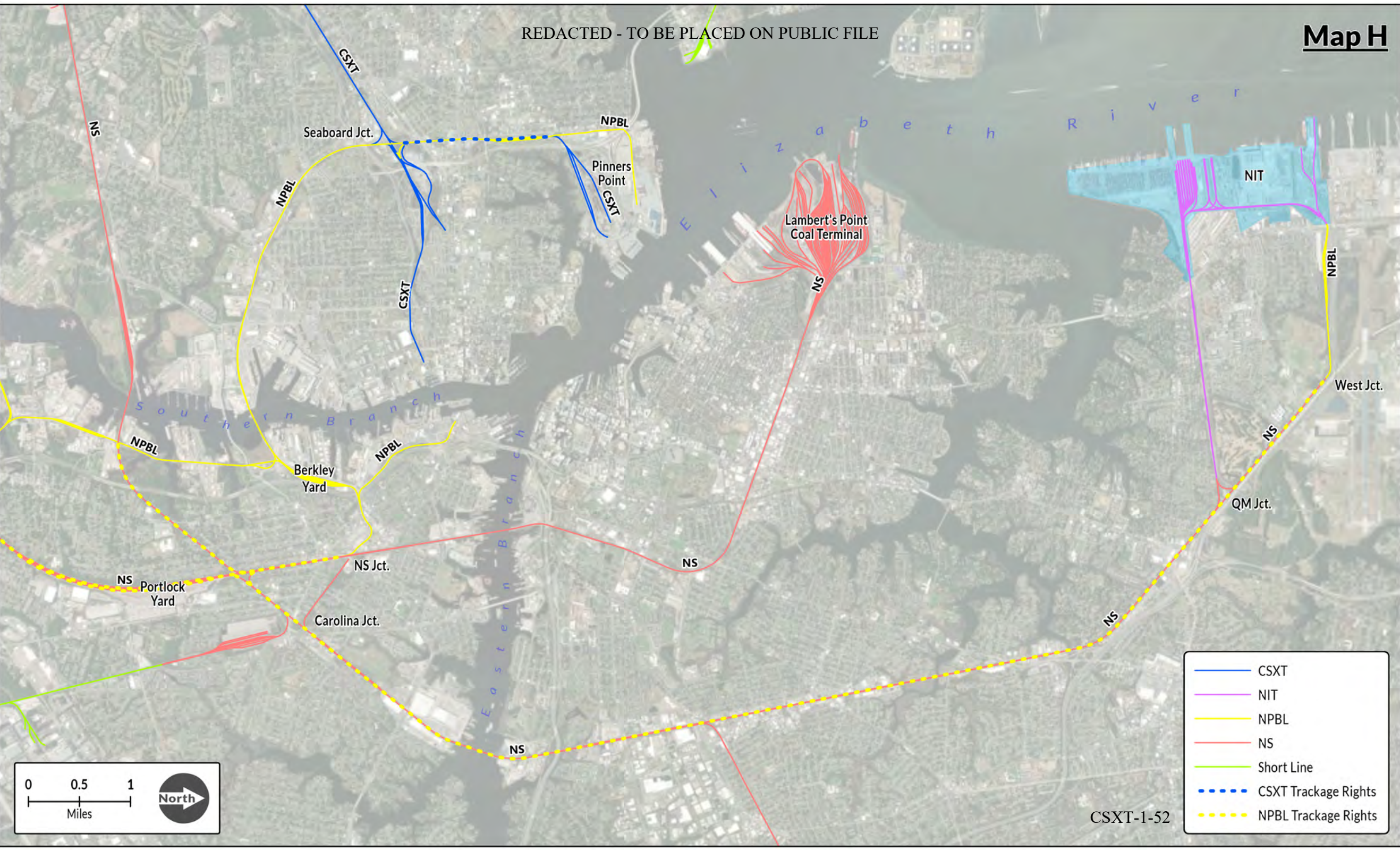
- CSXT
- NIT
- NPBL
- NS
- Short Line
- NPBL Trackage Rights



CSXT-1-50



CSXT-1-51



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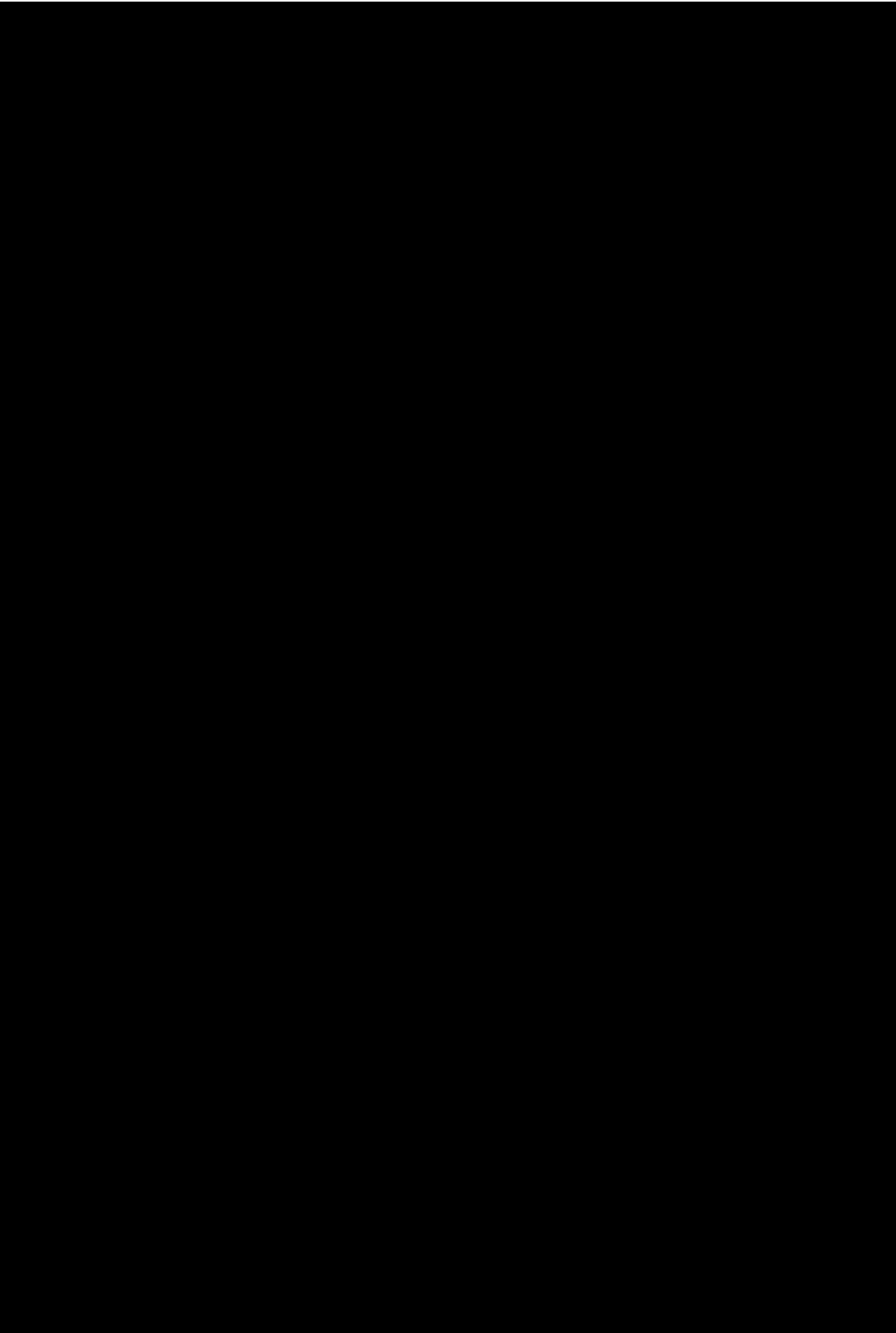
CSX TRANSPORTATION, INC.

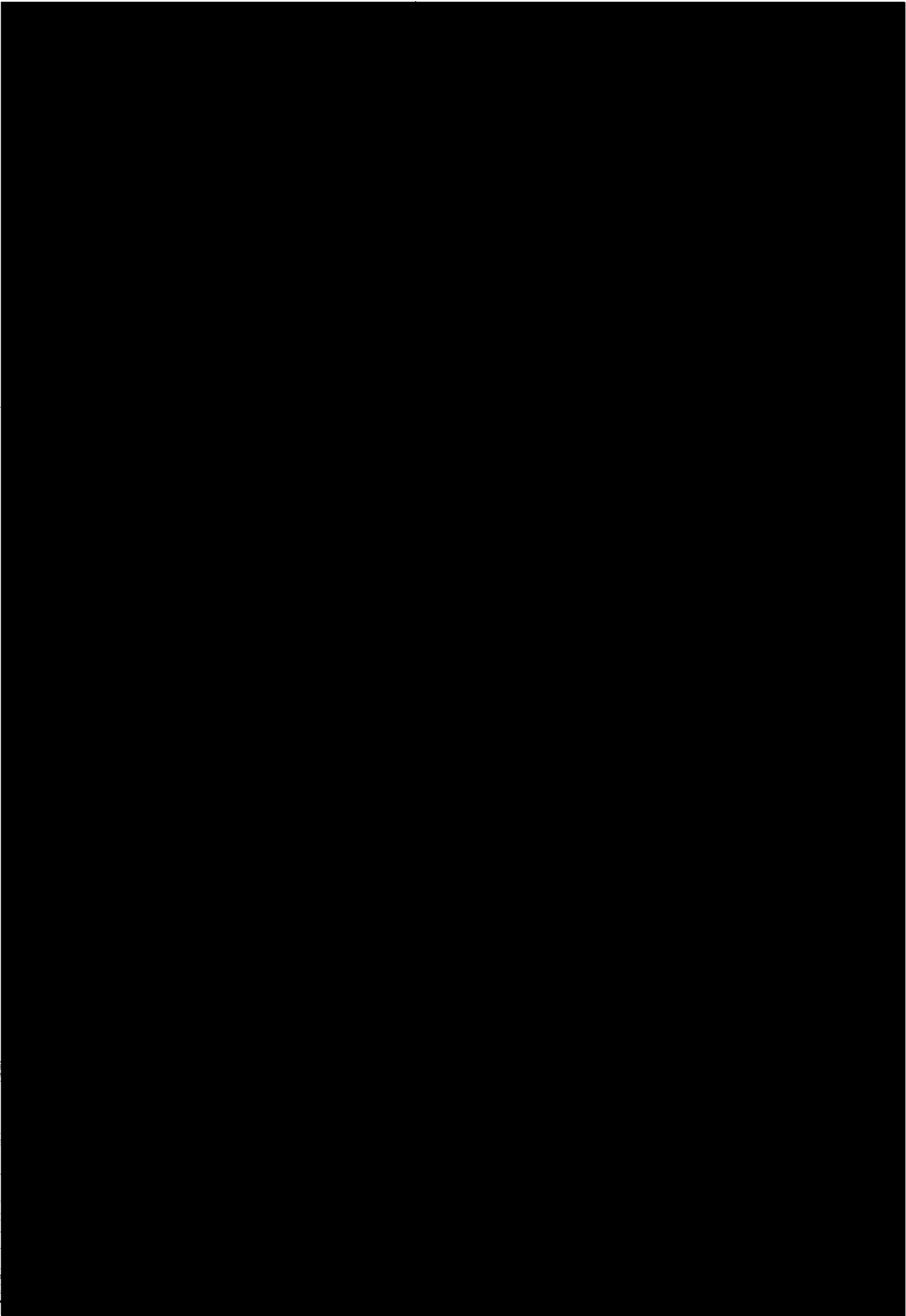
v.

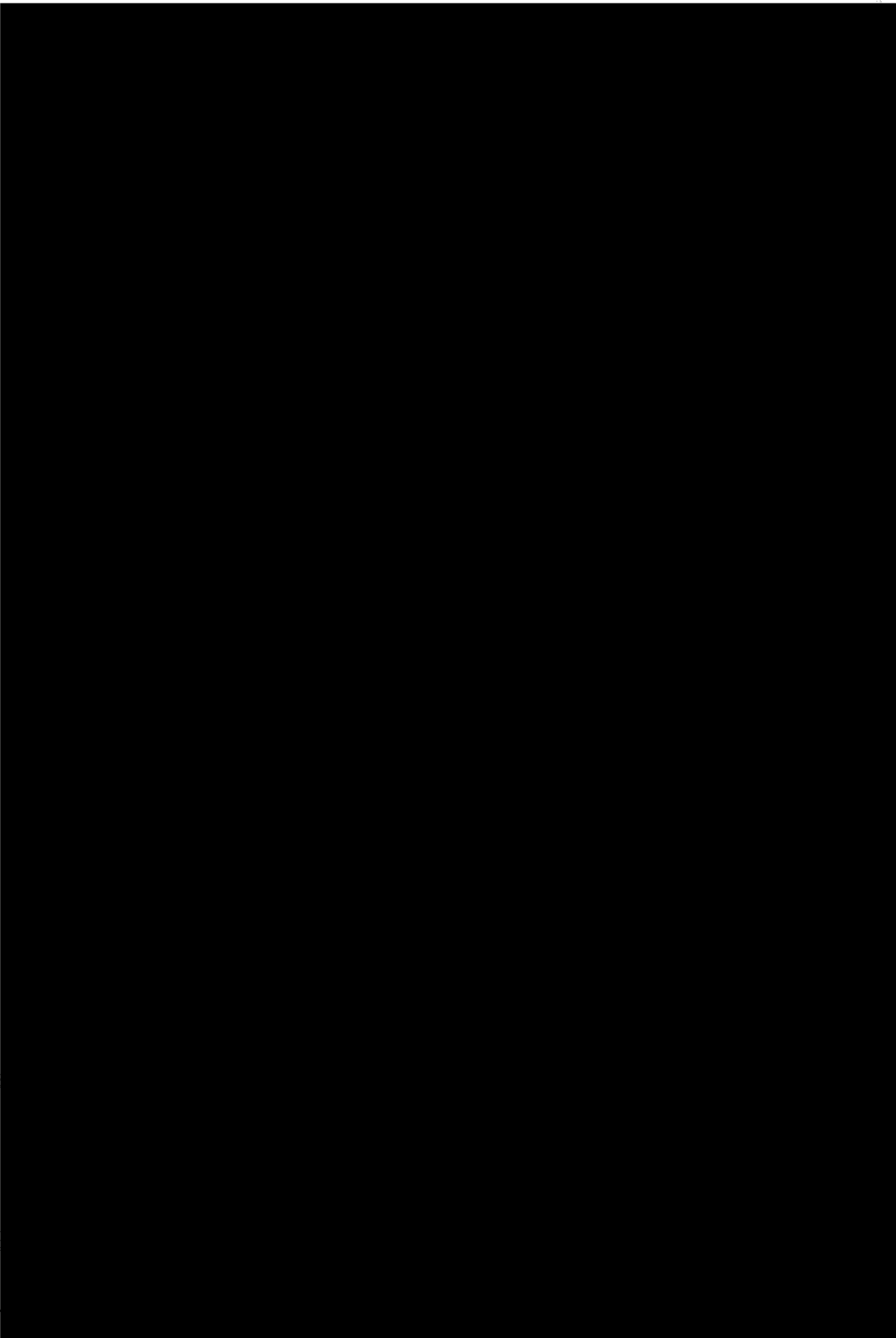
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

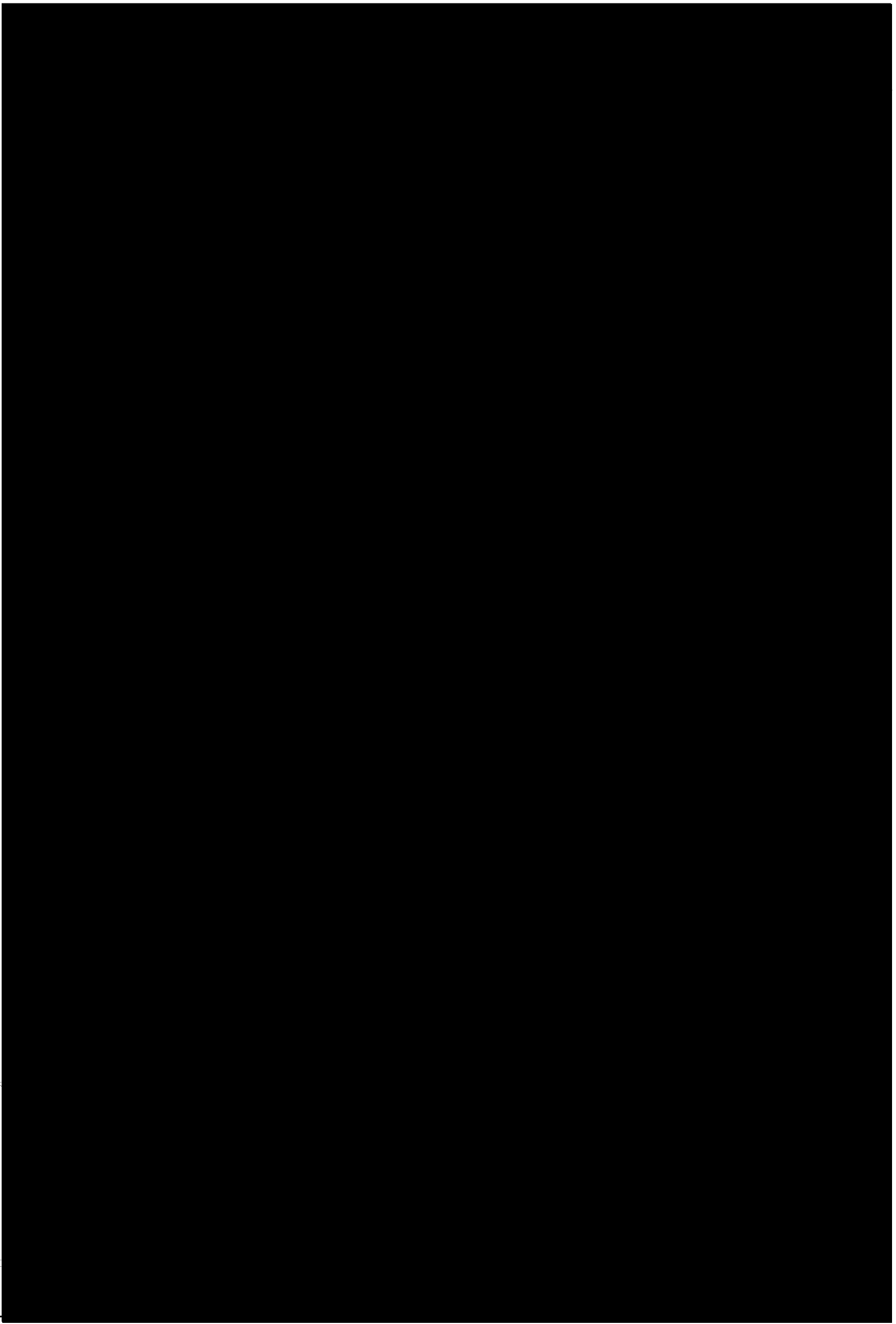
EXHIBIT 3

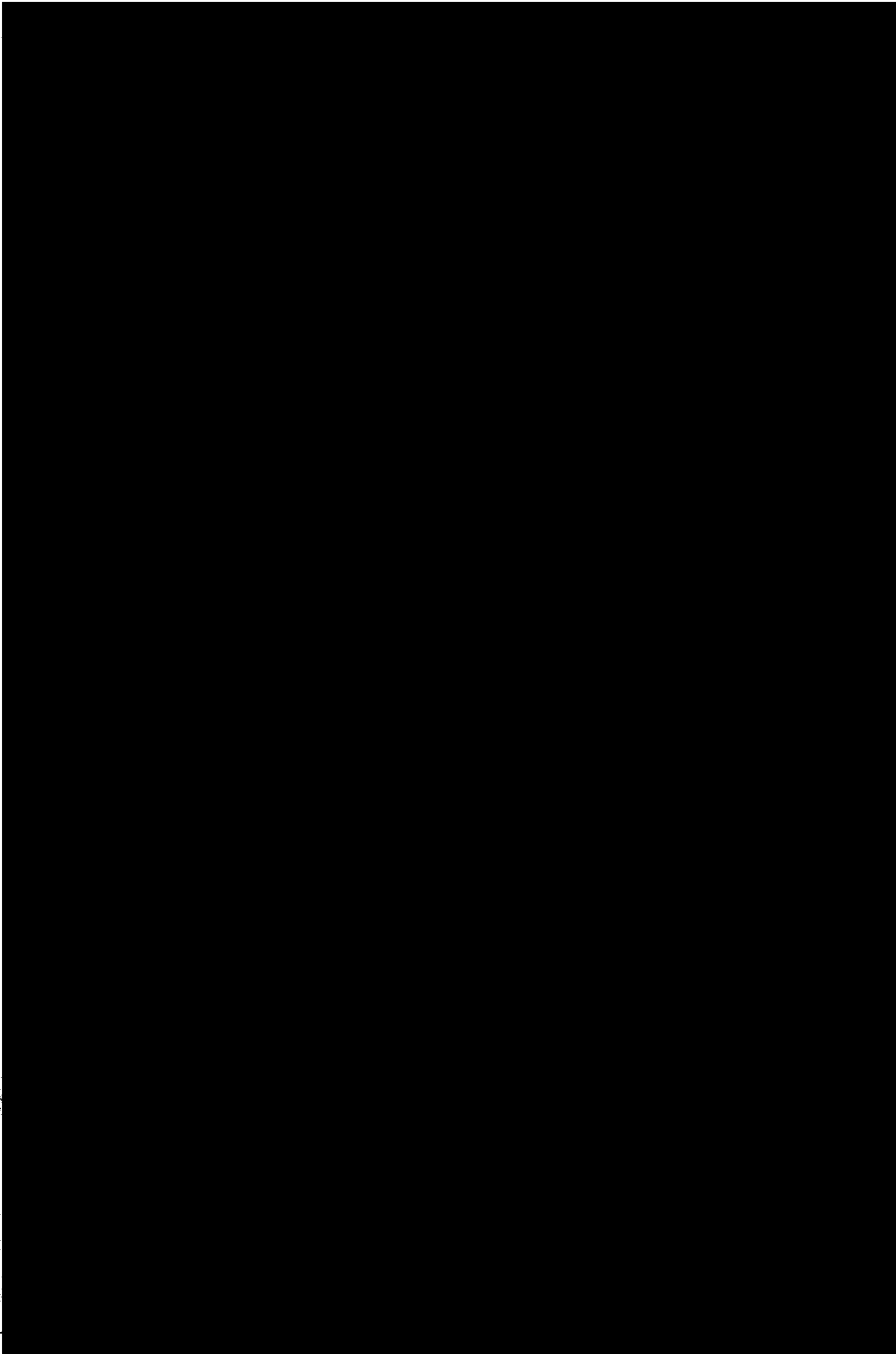
Agreement between NPBL and Virginian Railway, July 26, 1917

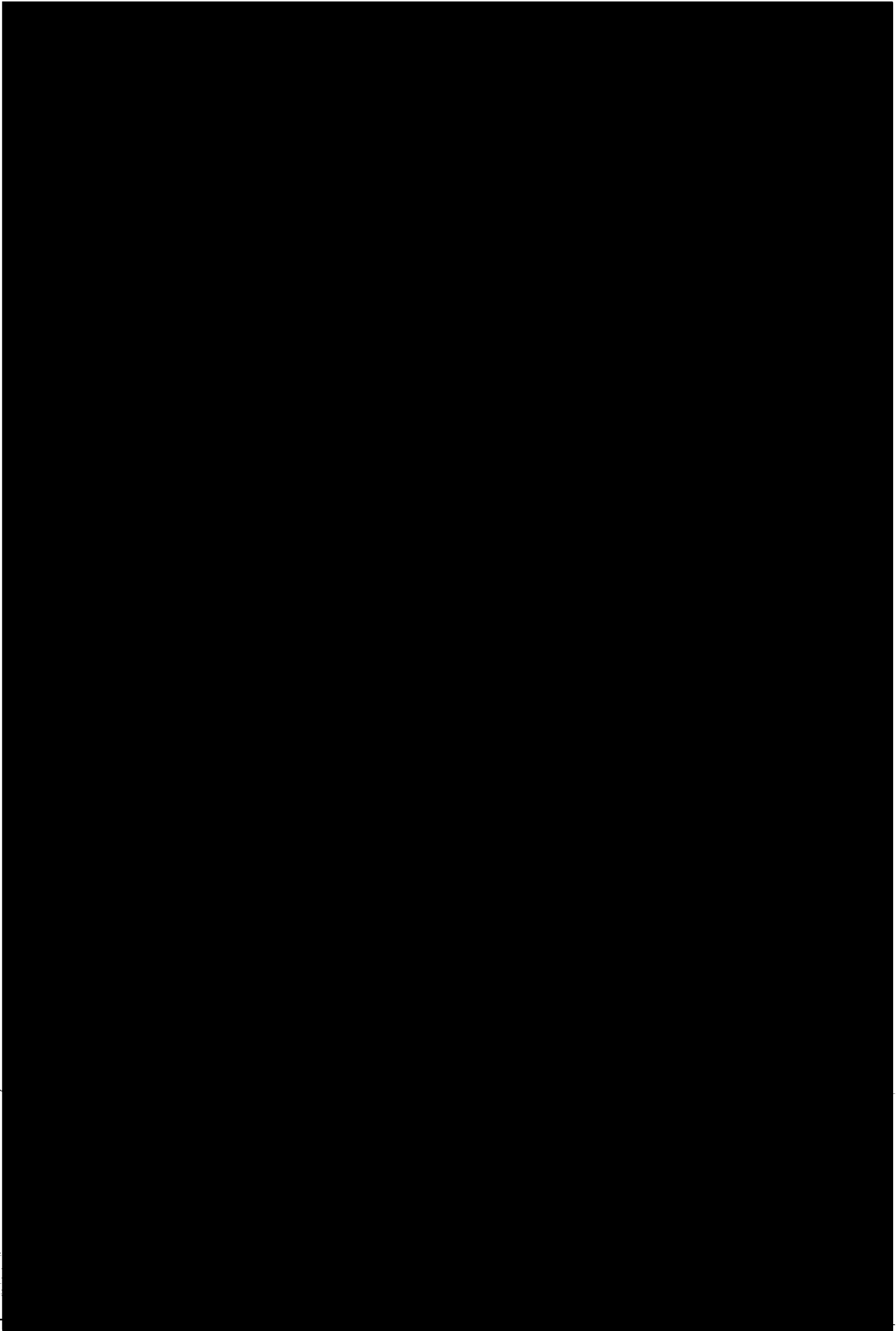


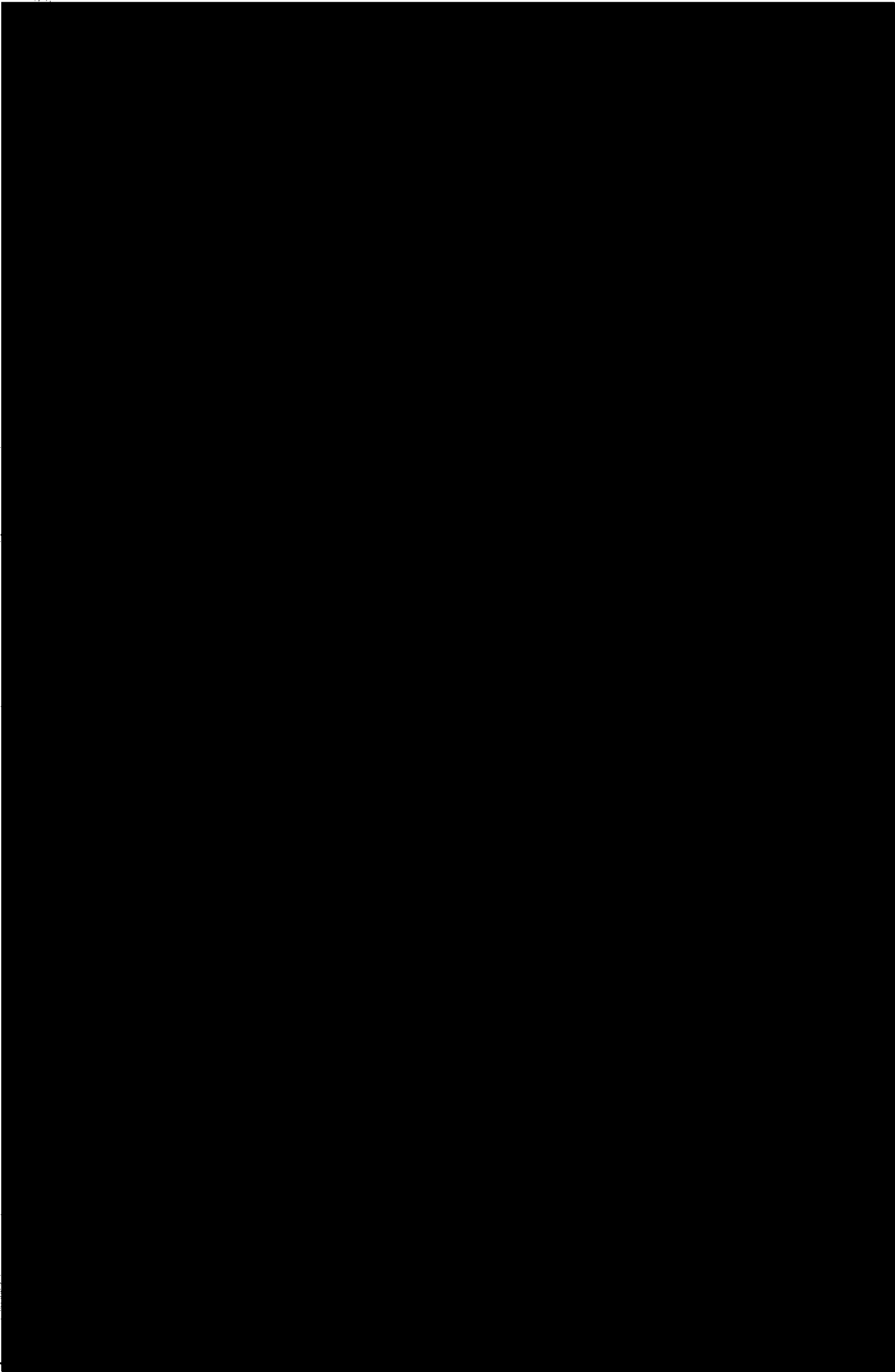




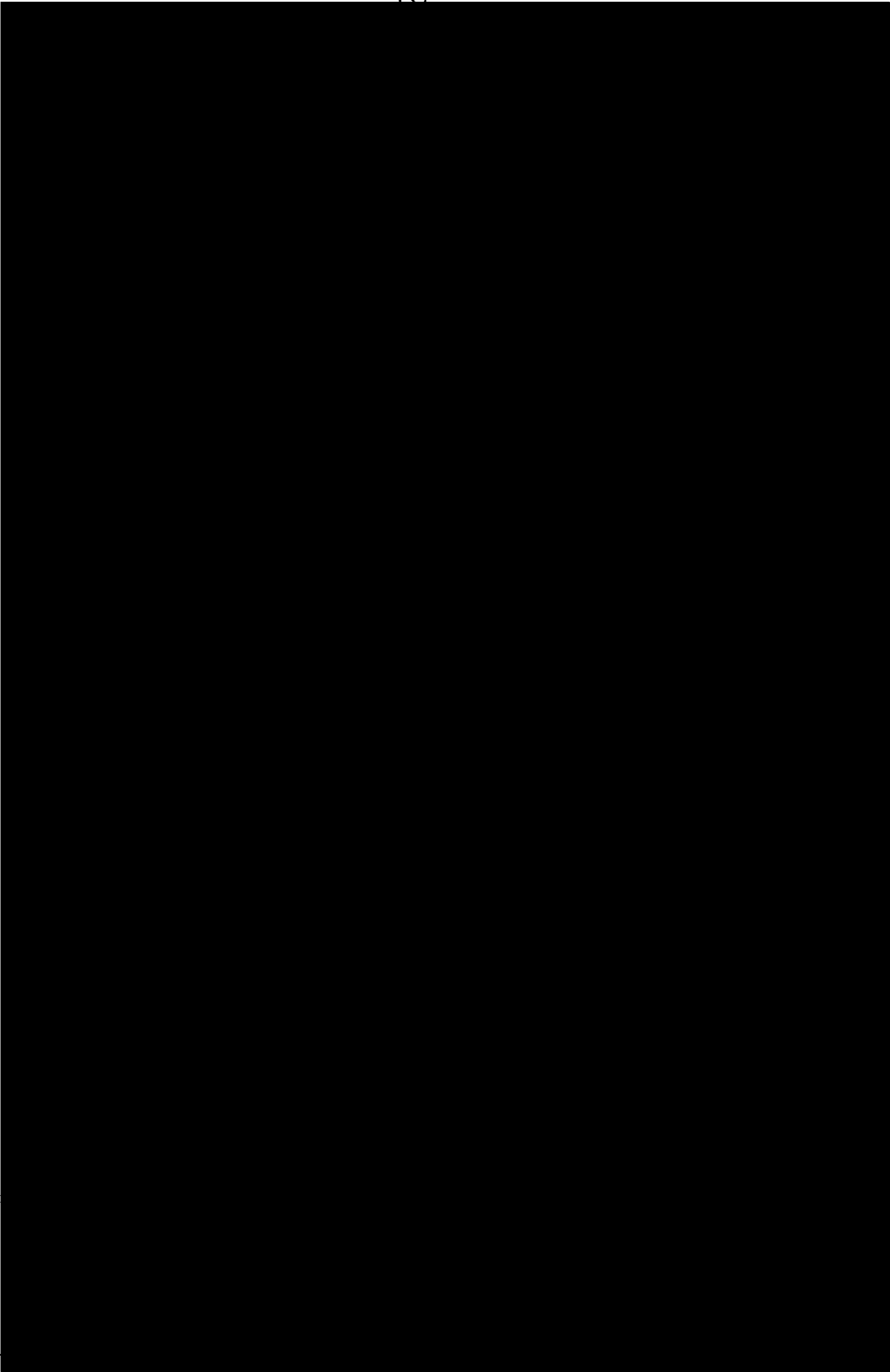


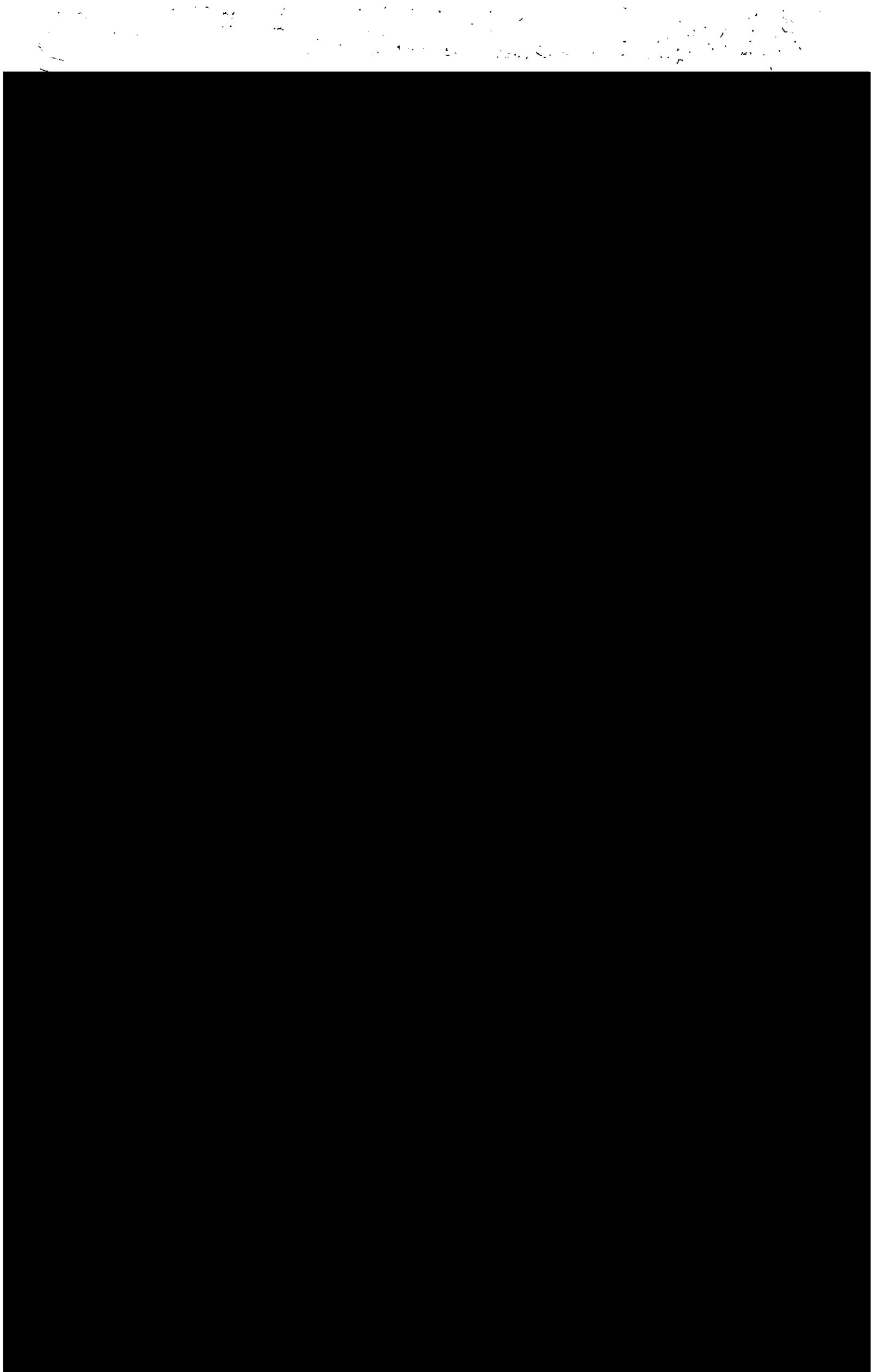


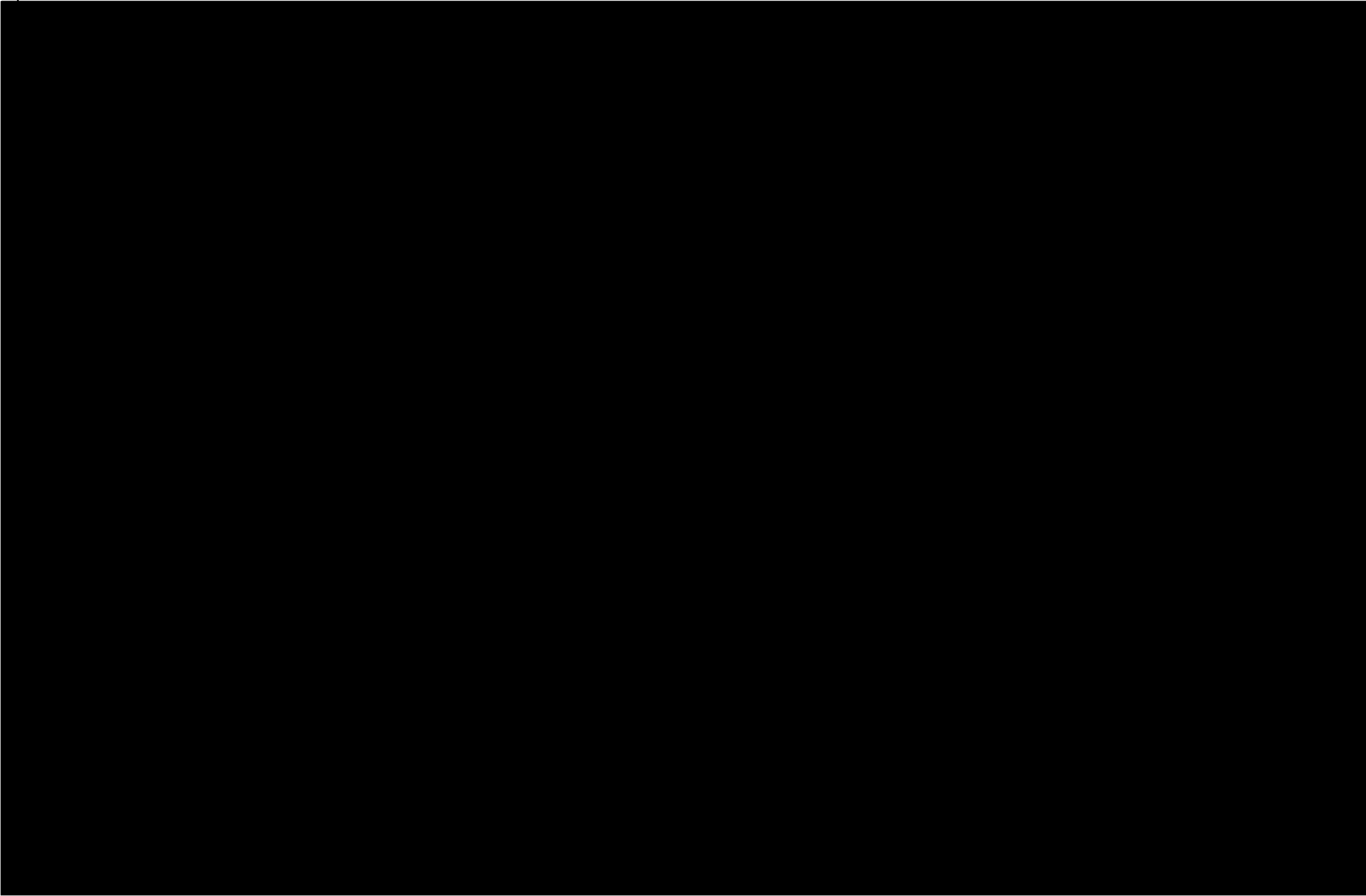


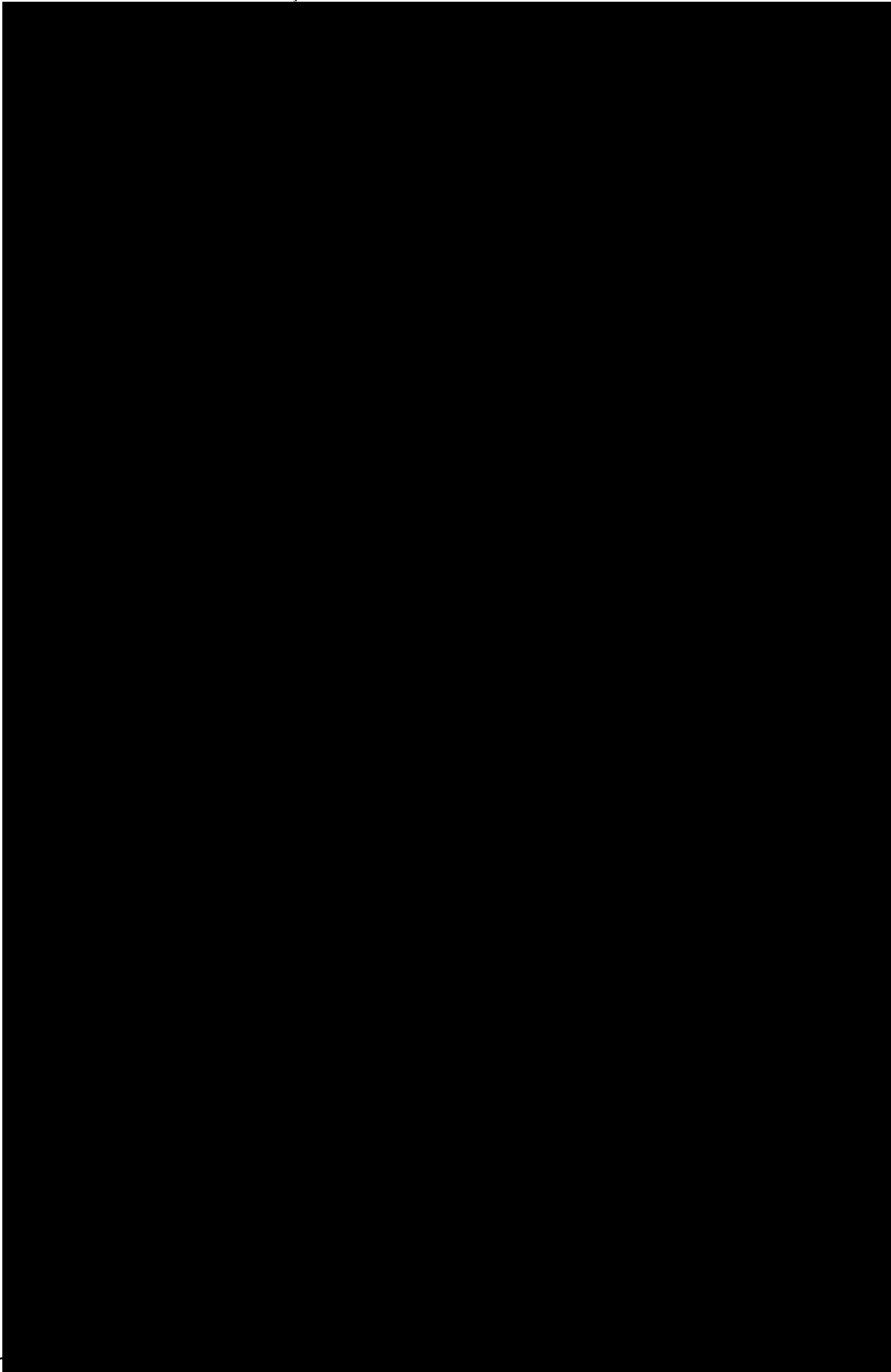


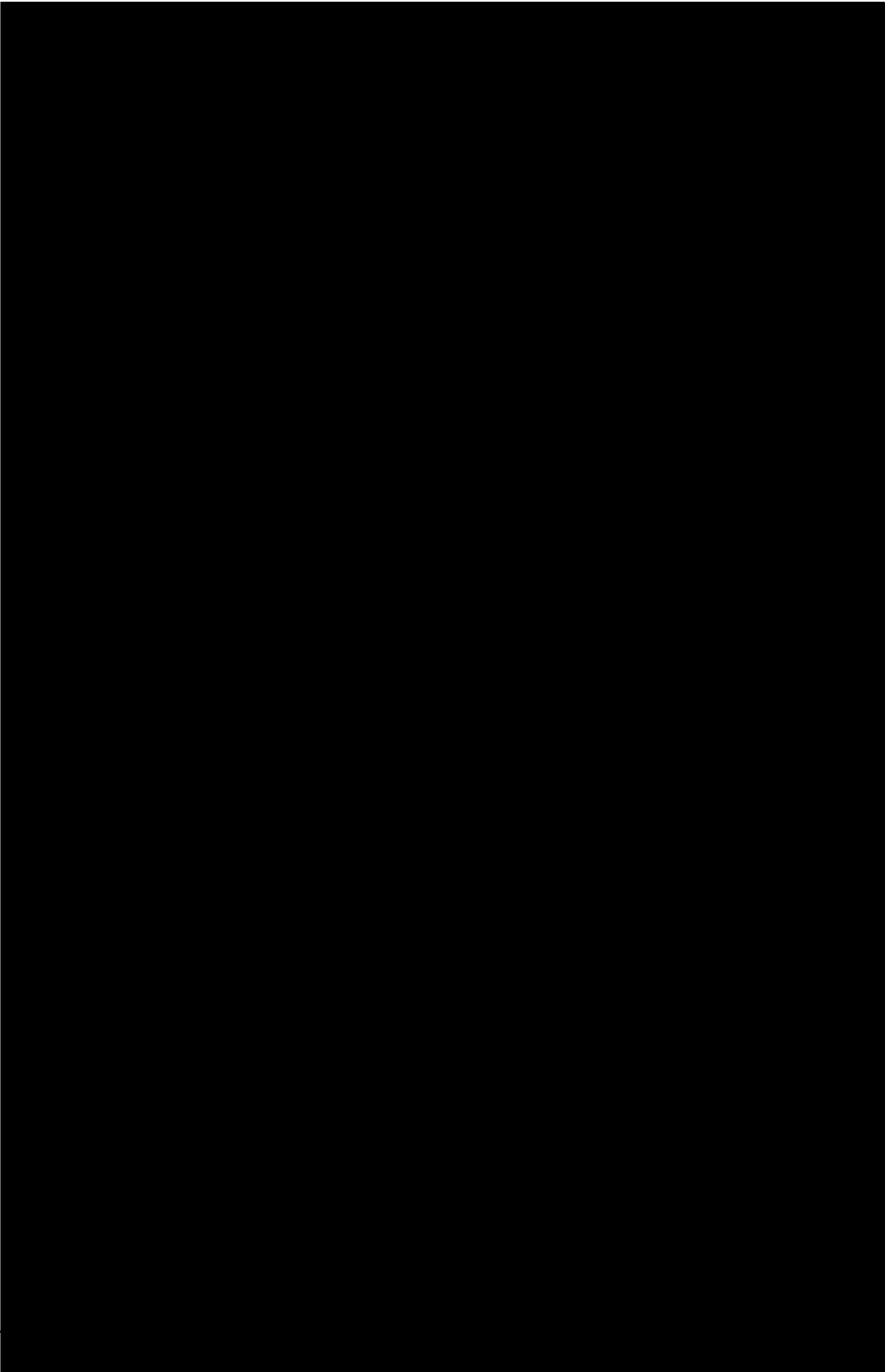
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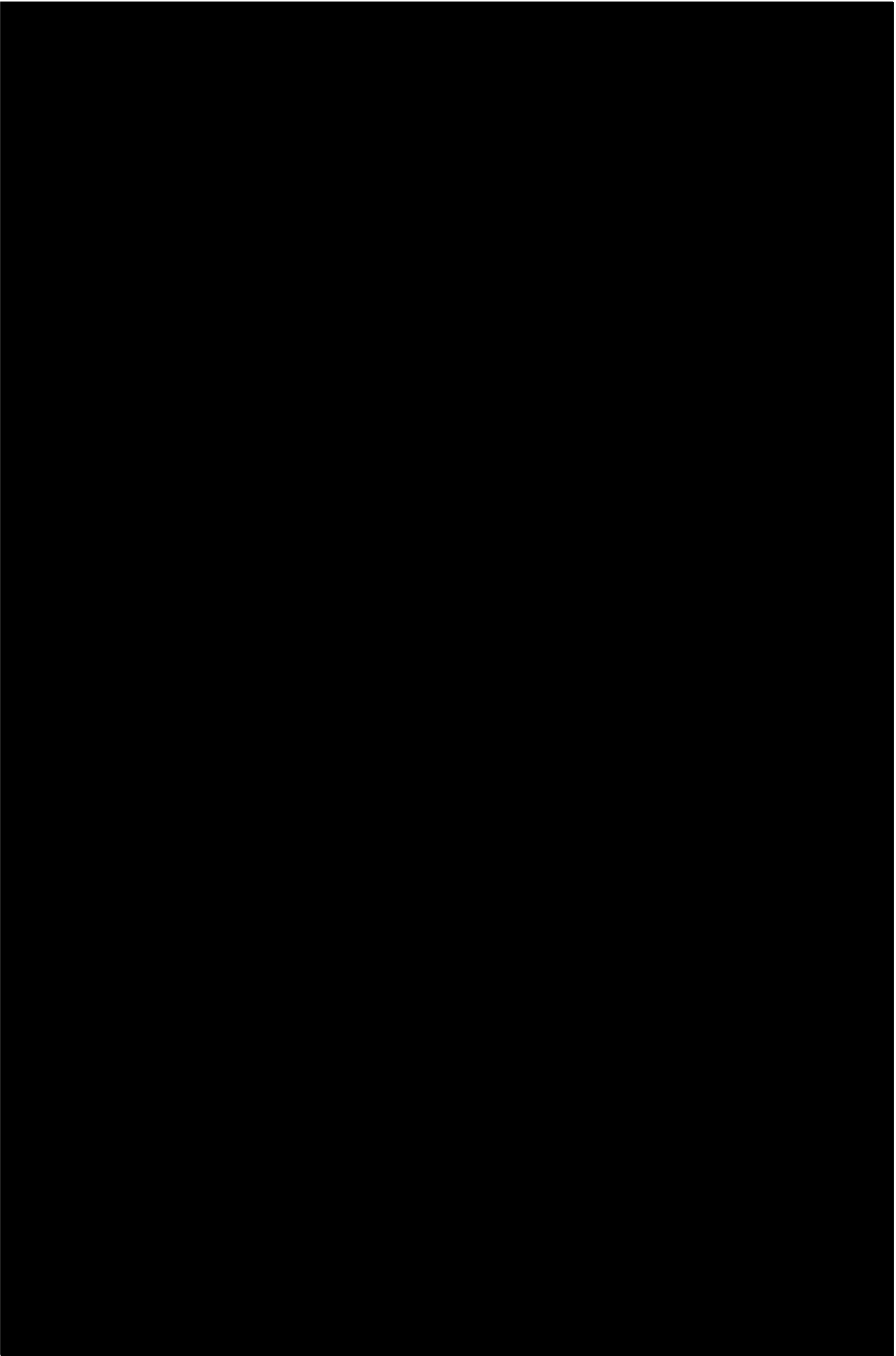












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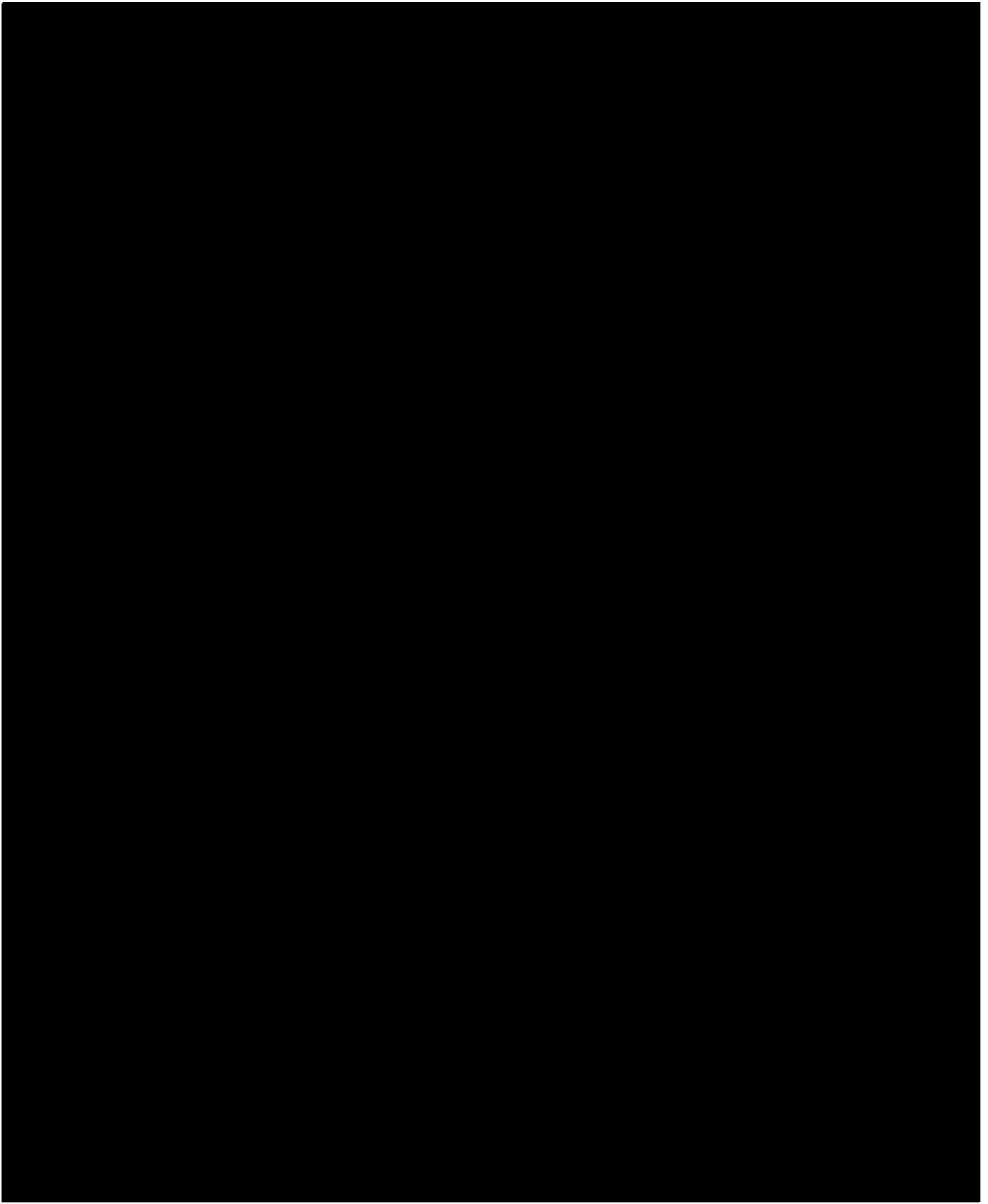
CSX TRANSPORTATION, INC.

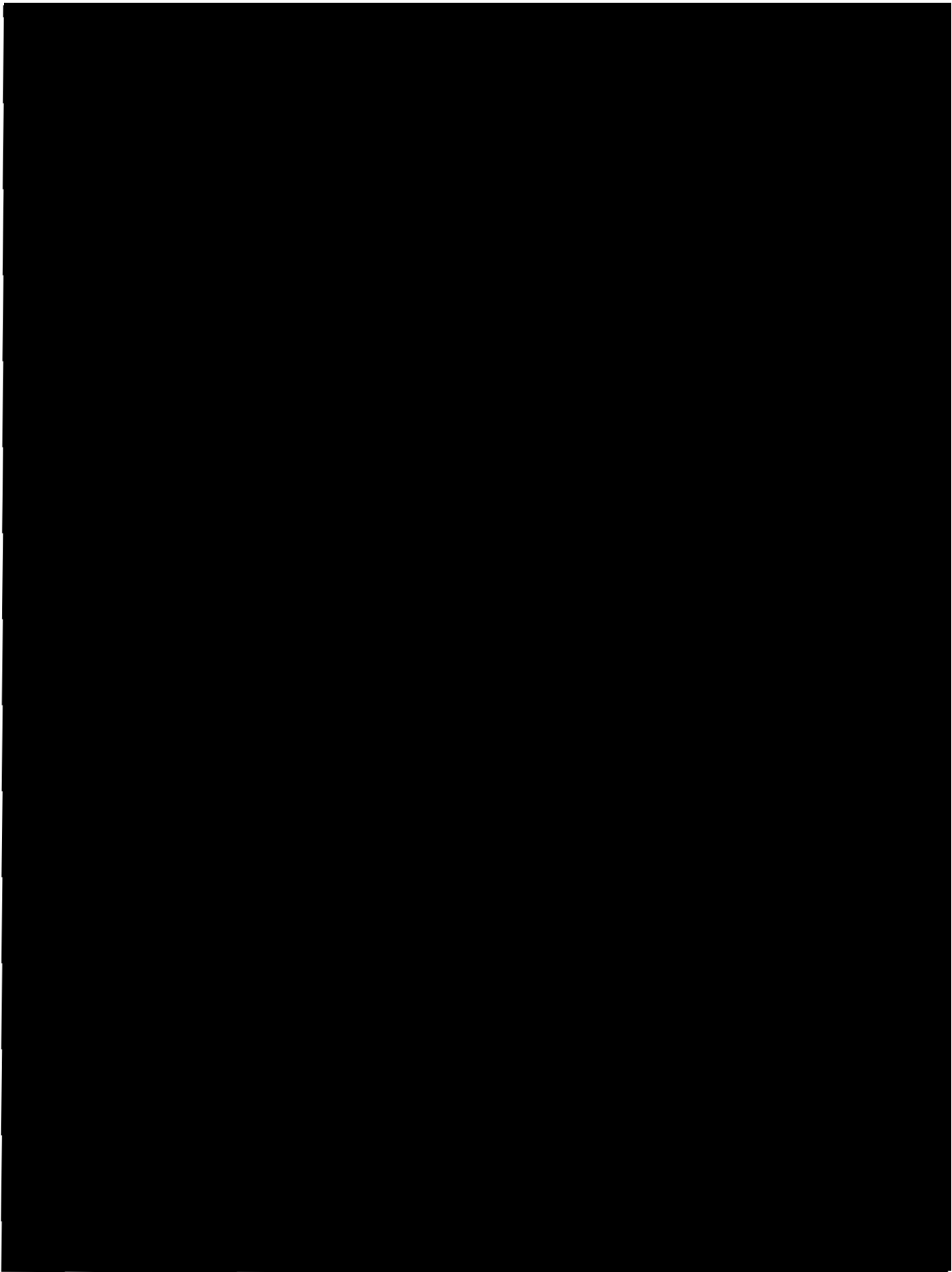
v.

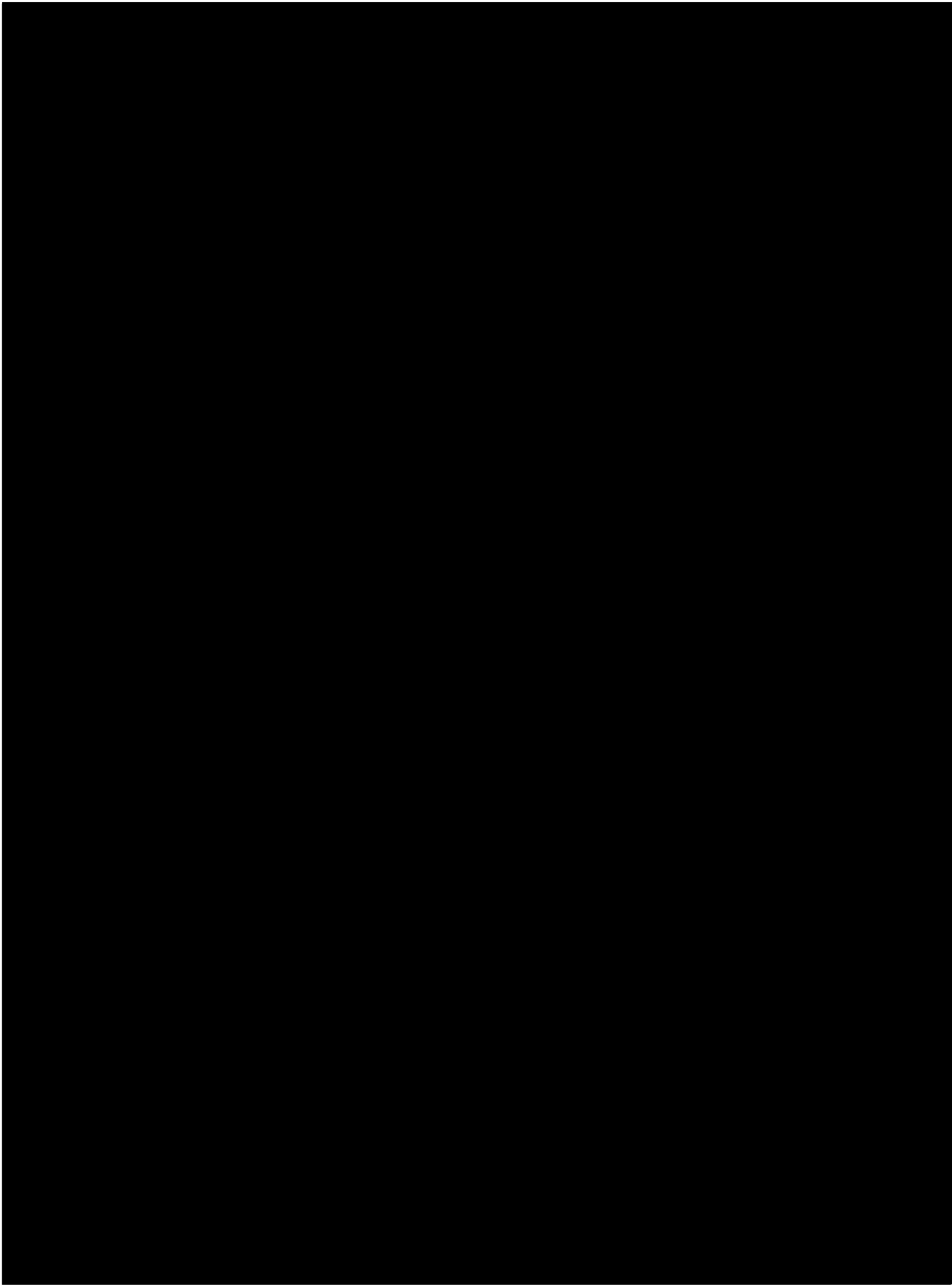
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 4

CSXT Letter to NPBL & NSR, Nov. 26, 2024







BEFORE THE
SURFACE TRANSPORTATION BOARD

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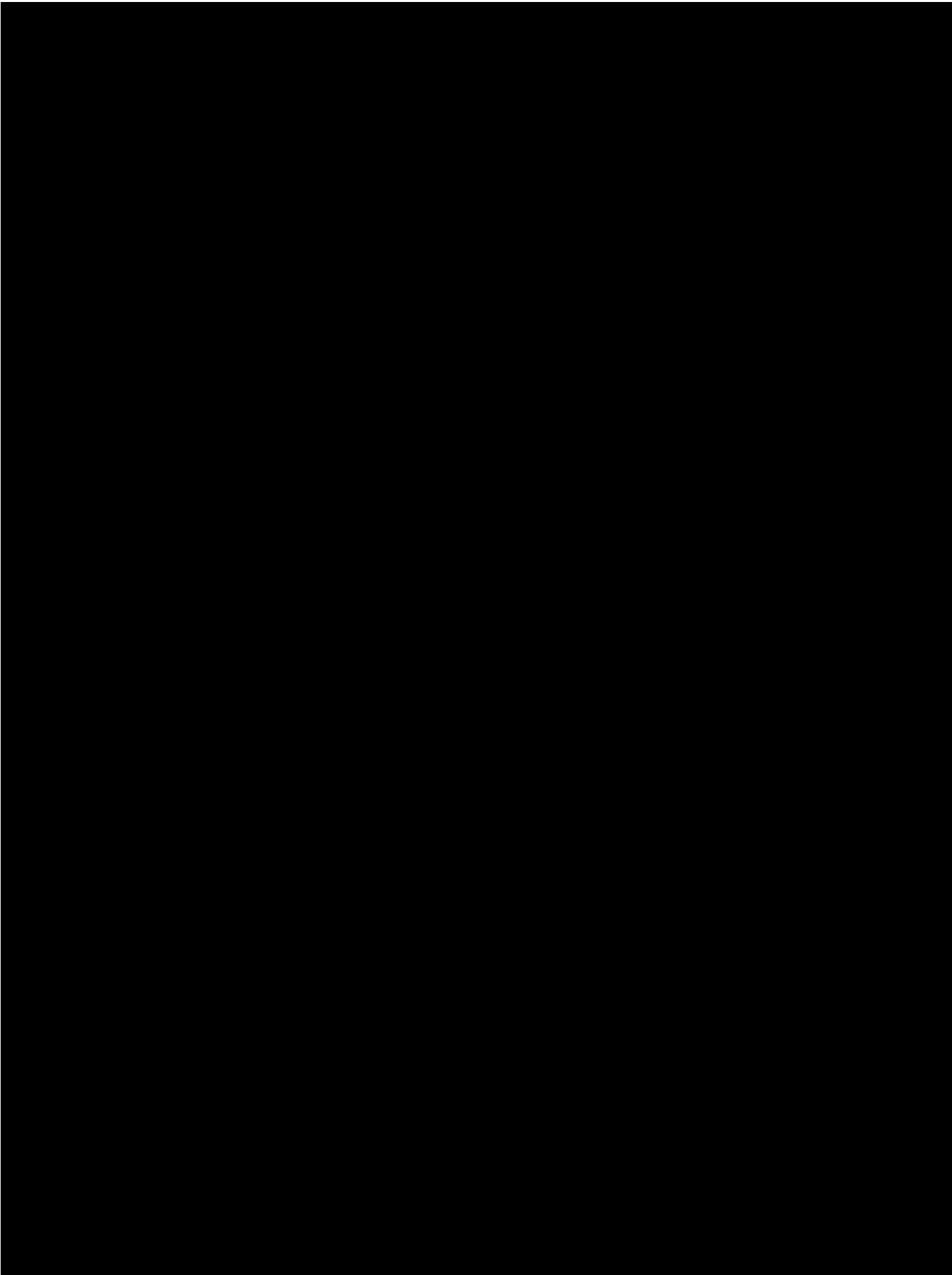
CSX TRANSPORTATION, INC.

v.

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NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 5

NSR Letter to NPBL & CSXT, Dec. 4, 2024



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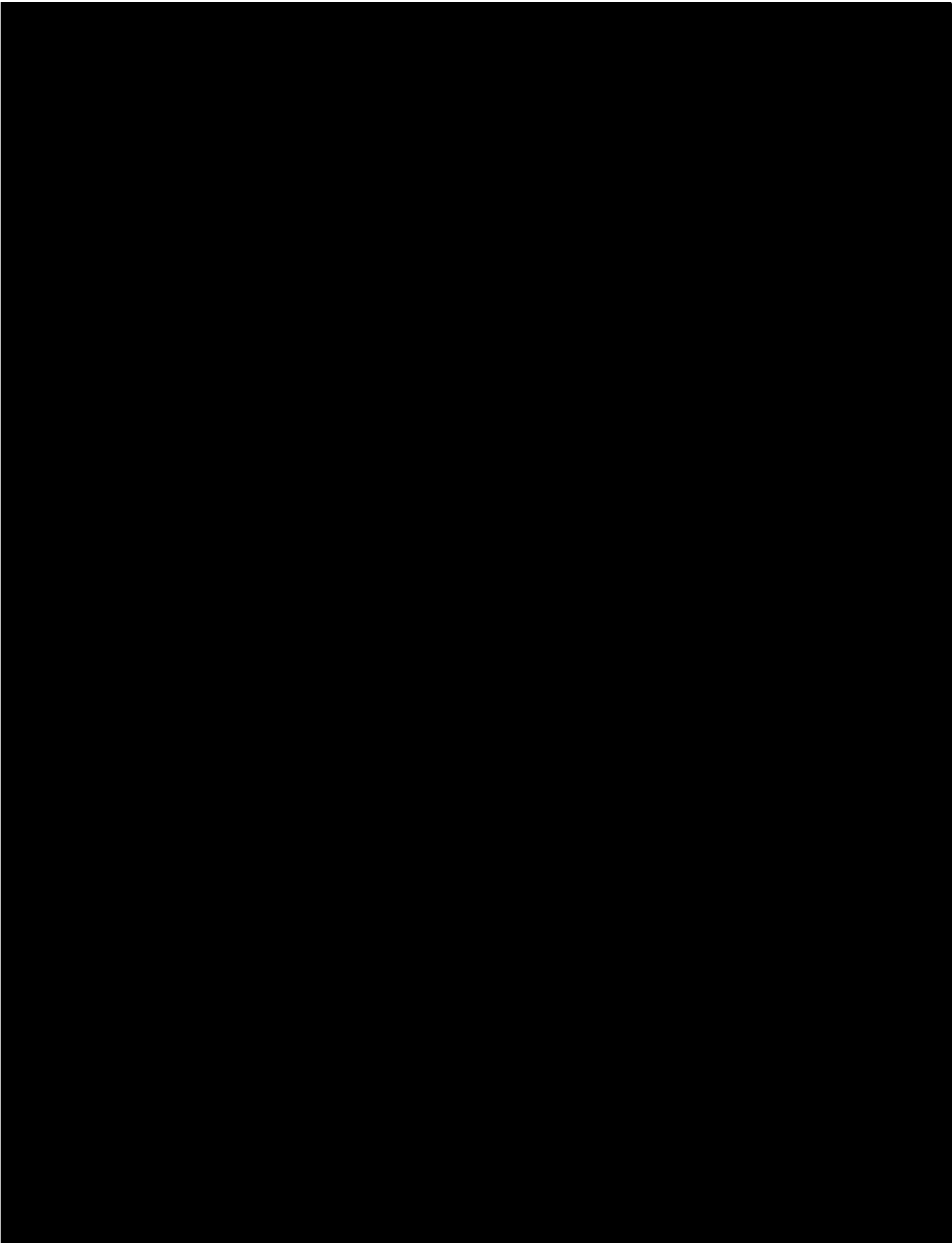
CSX TRANSPORTATION, INC.

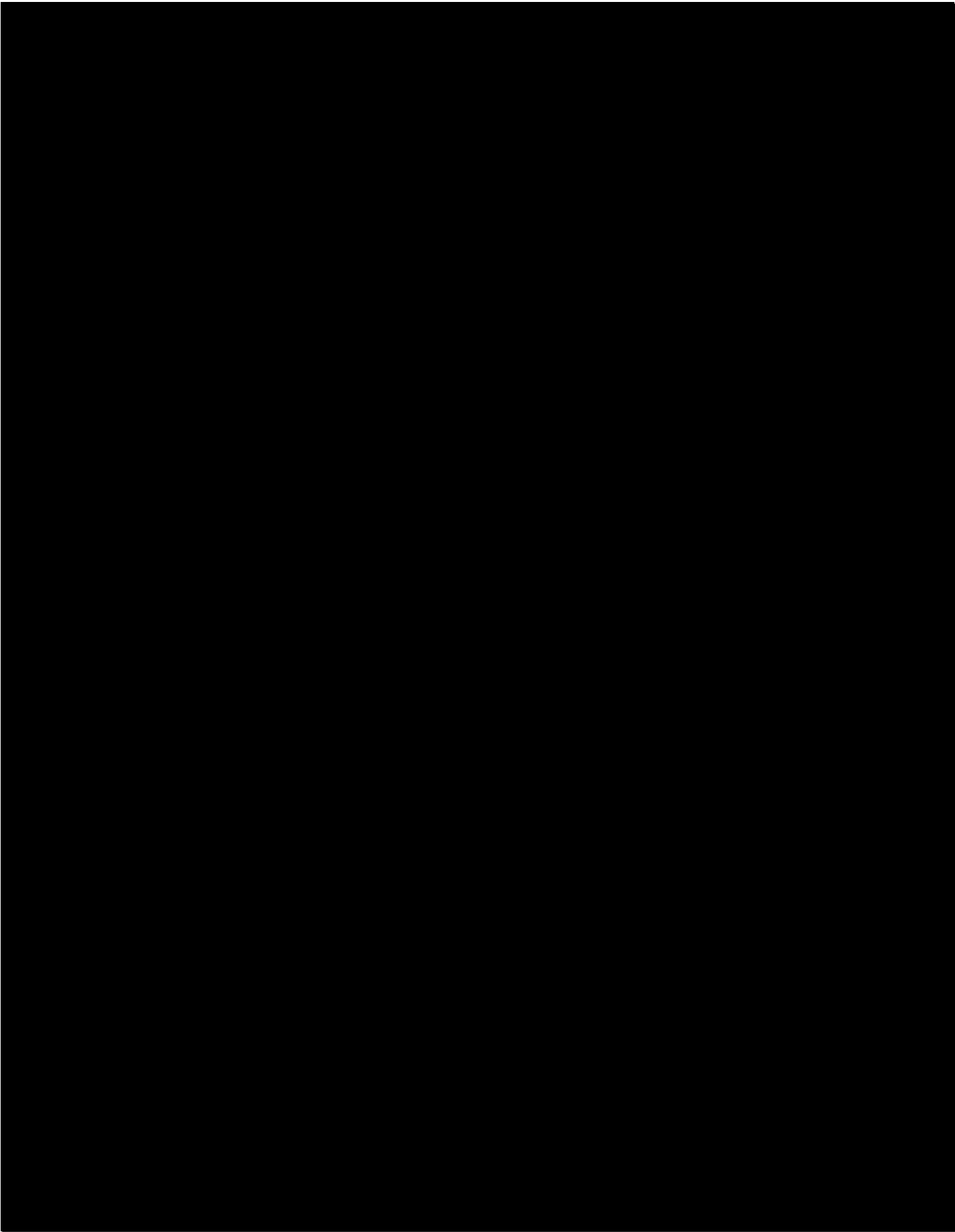
v.

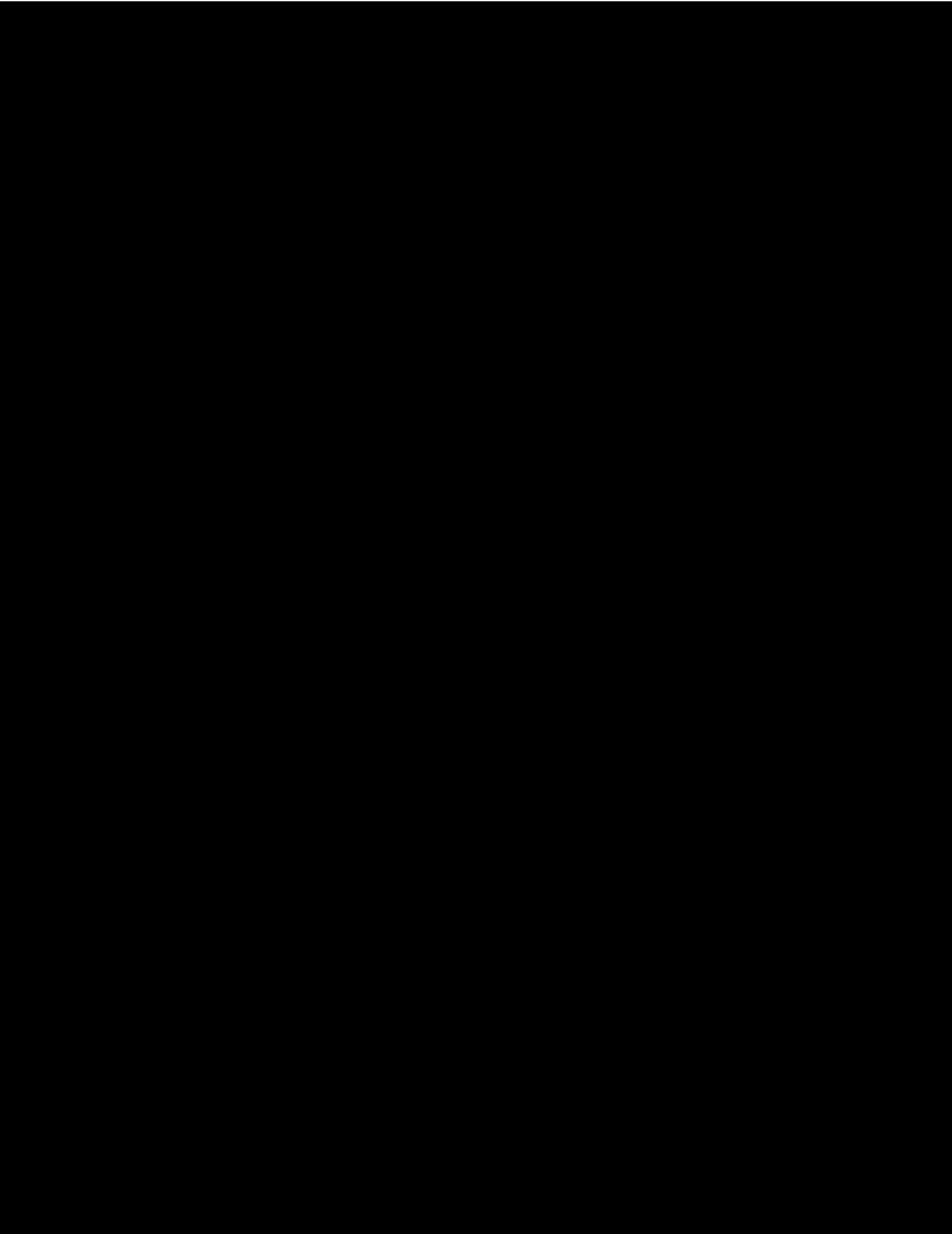
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 6

CSXT Letter to NPBL & NSR, Feb. 12, 2025







BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR DOCKET NO. 42183

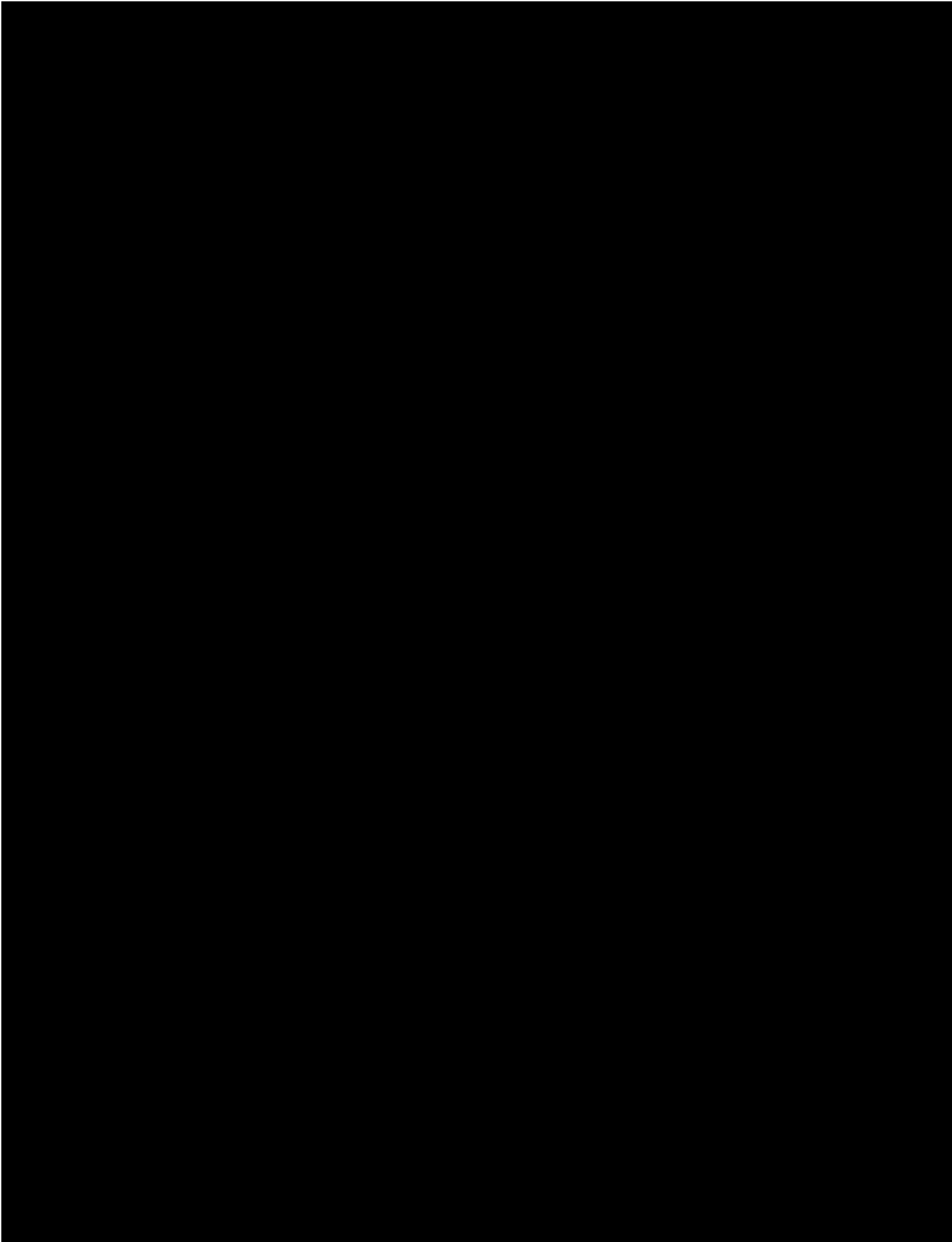
CSX TRANSPORTATION, INC.

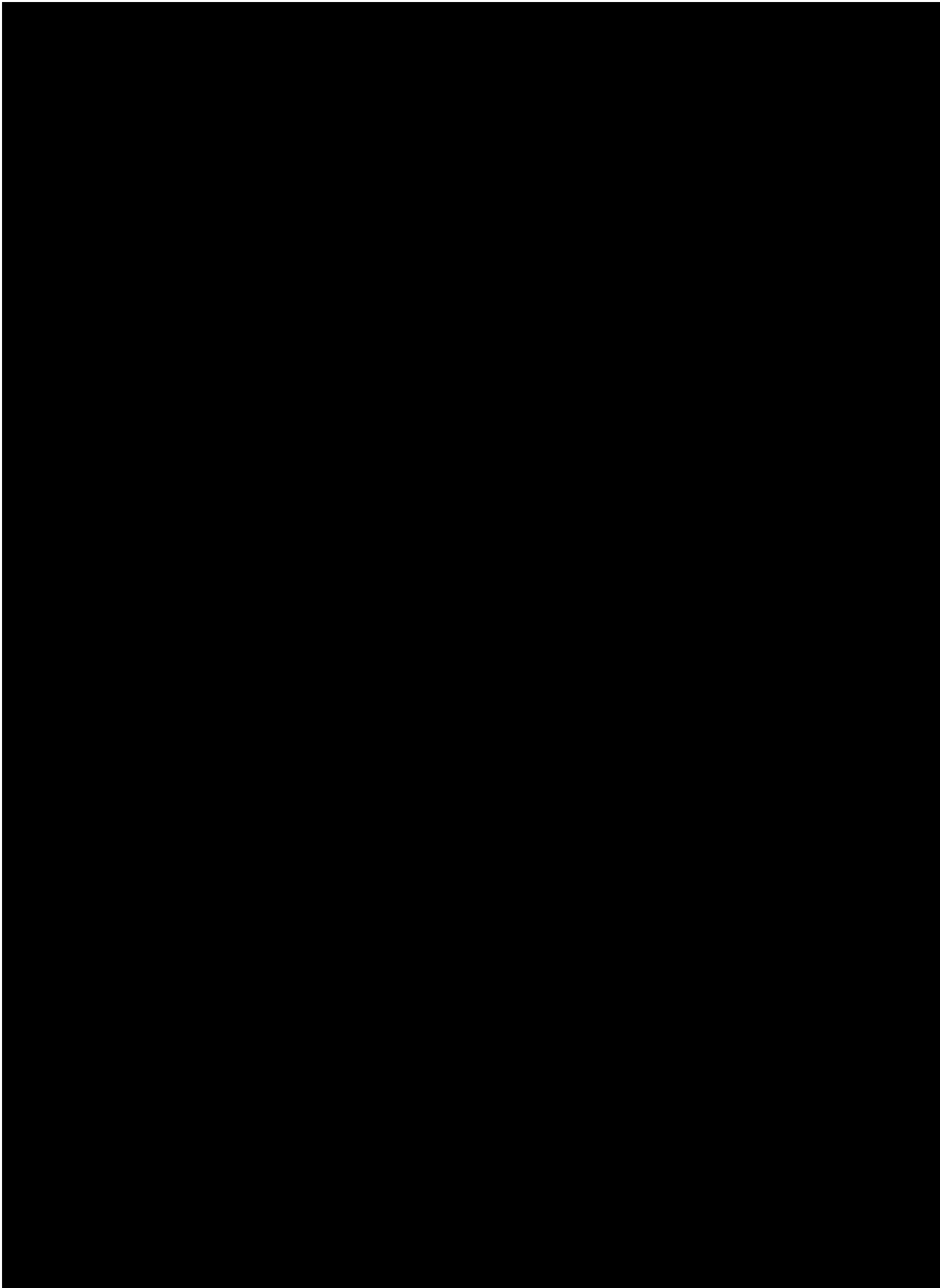
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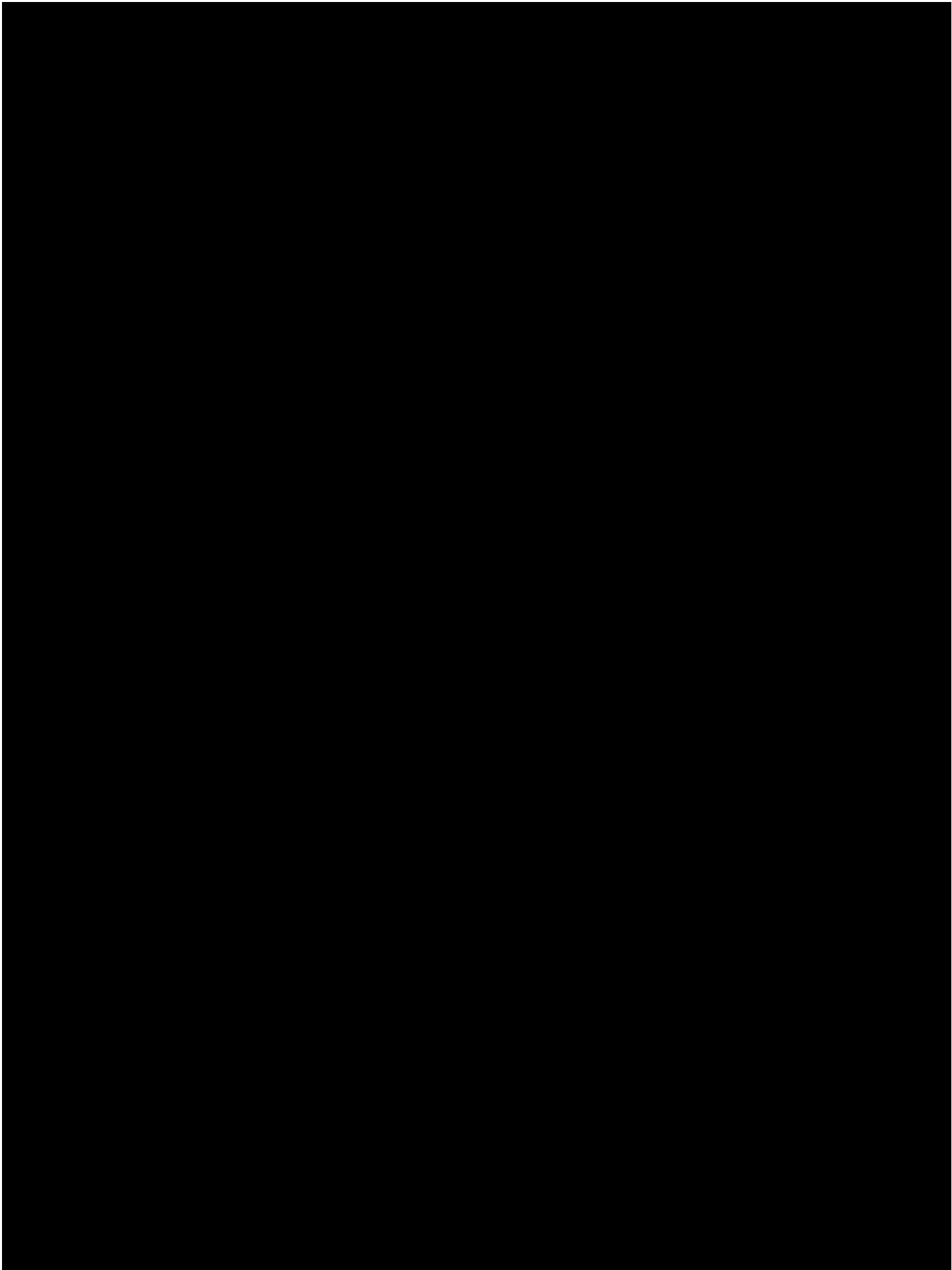
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

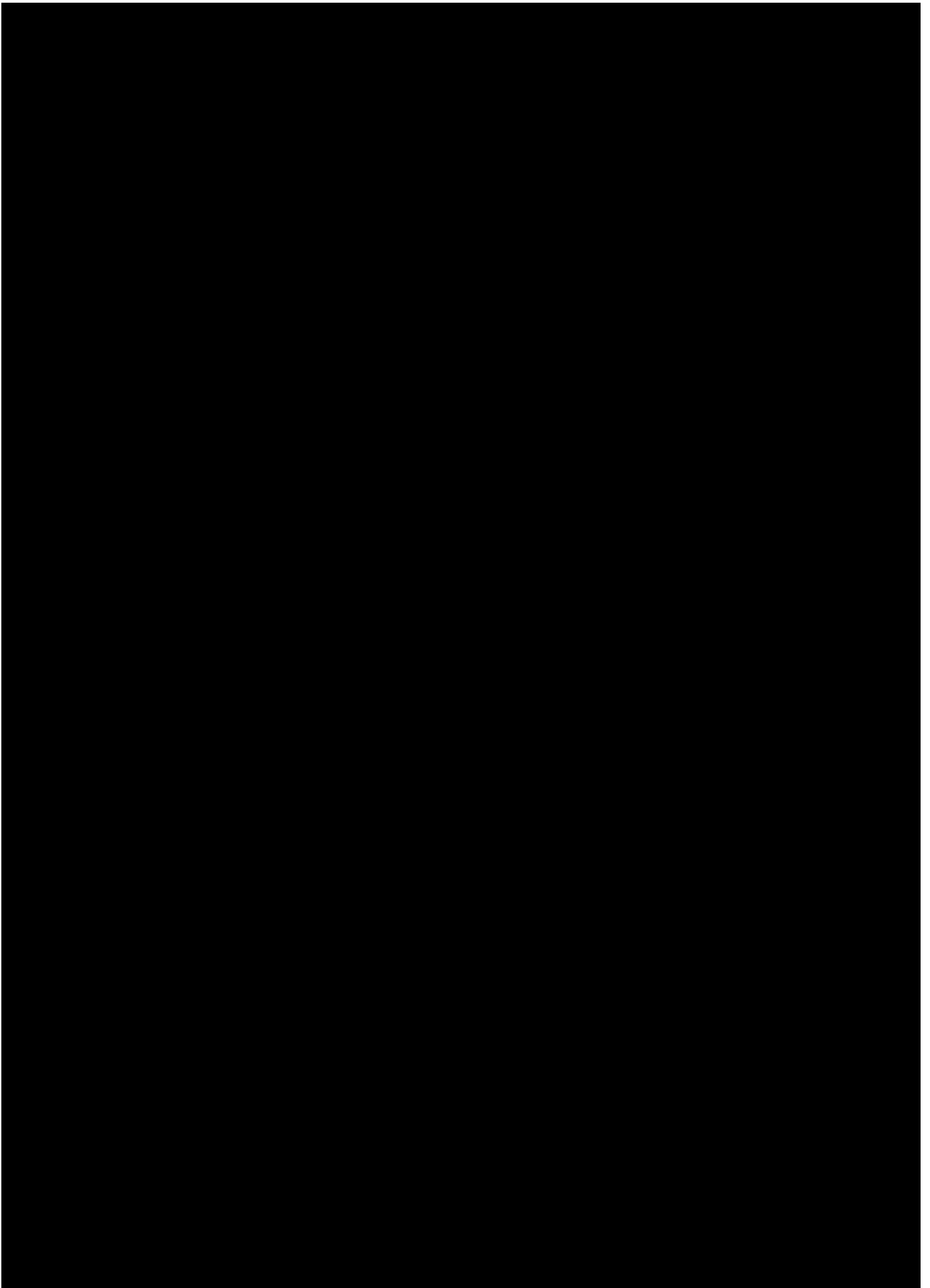
EXHIBIT 7

NPBL Letter to CSXT, Feb. 24, 2025









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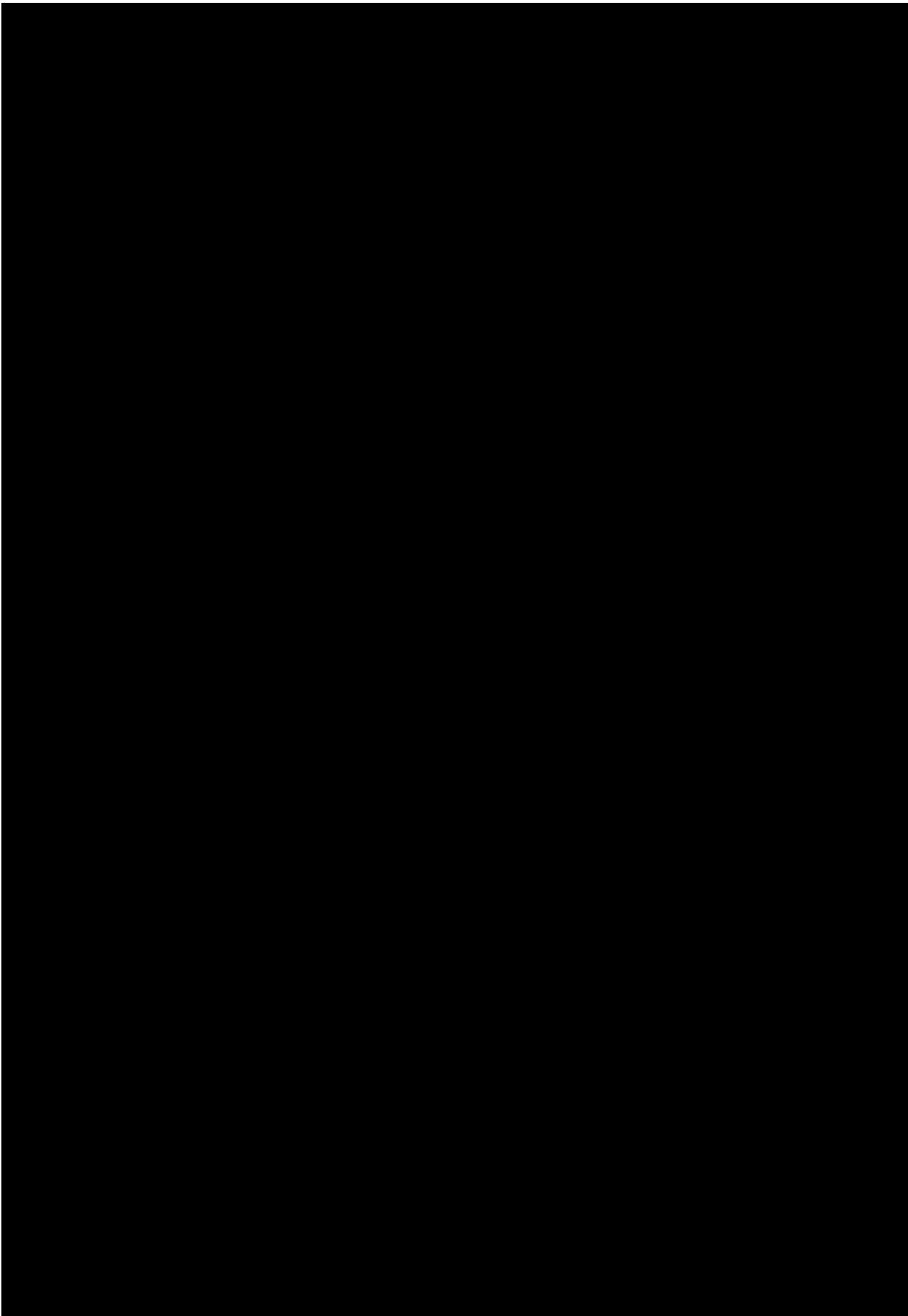
CSX TRANSPORTATION, INC.

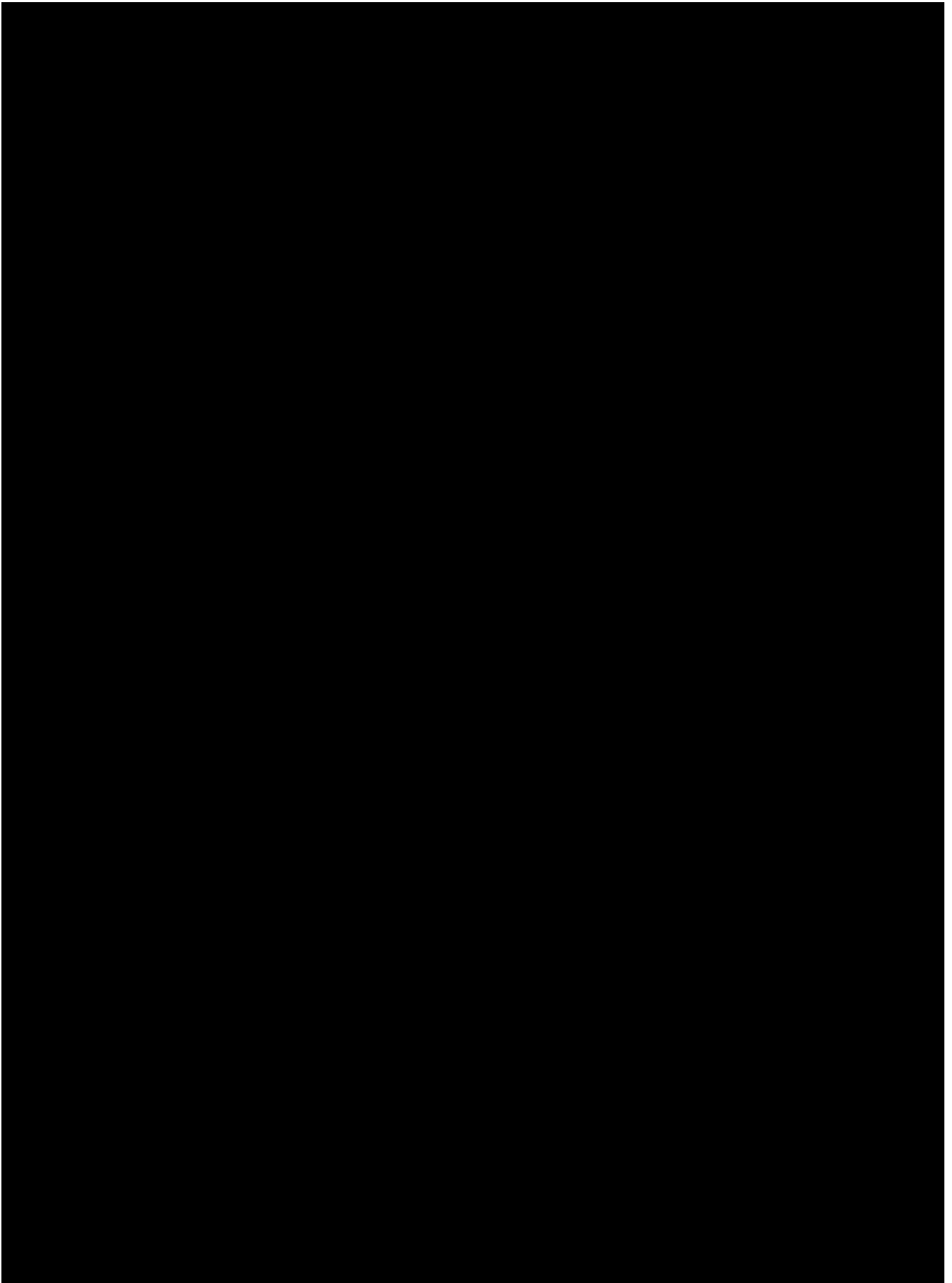
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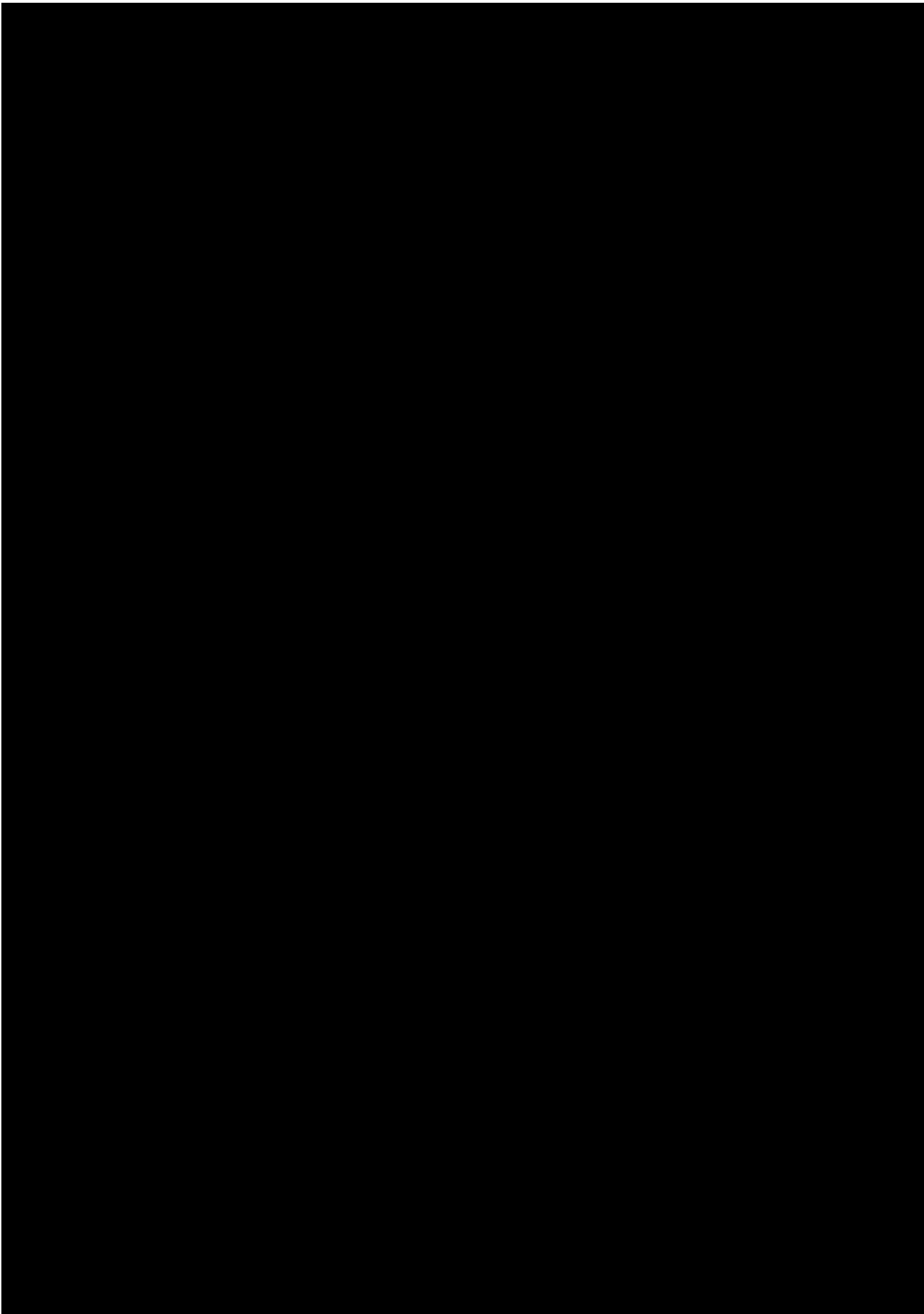
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 8

NSR Letter to CSXT, Feb. 28, 2025







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SURFACE TRANSPORTATION BOARD

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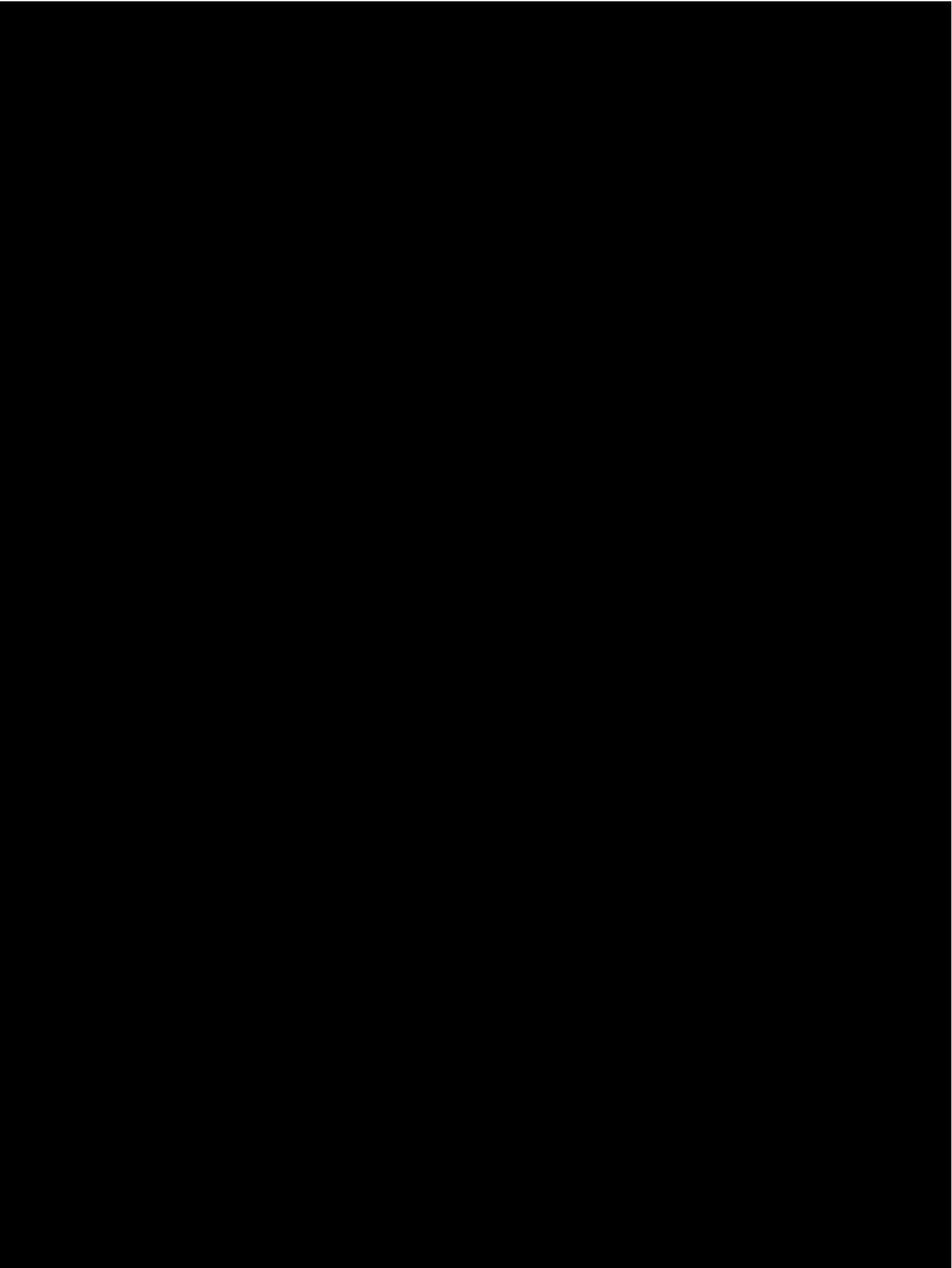
CSX TRANSPORTATION, INC.

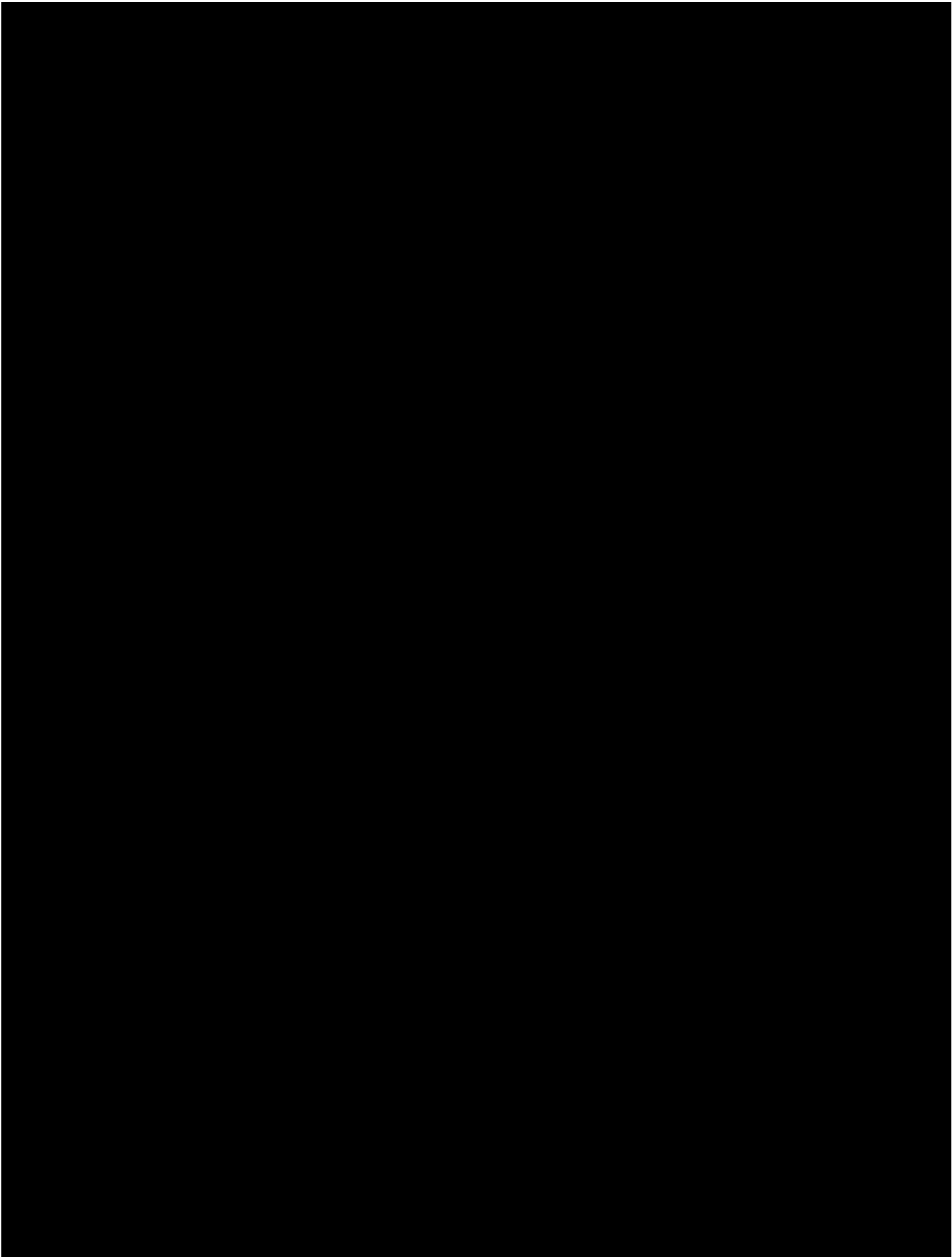
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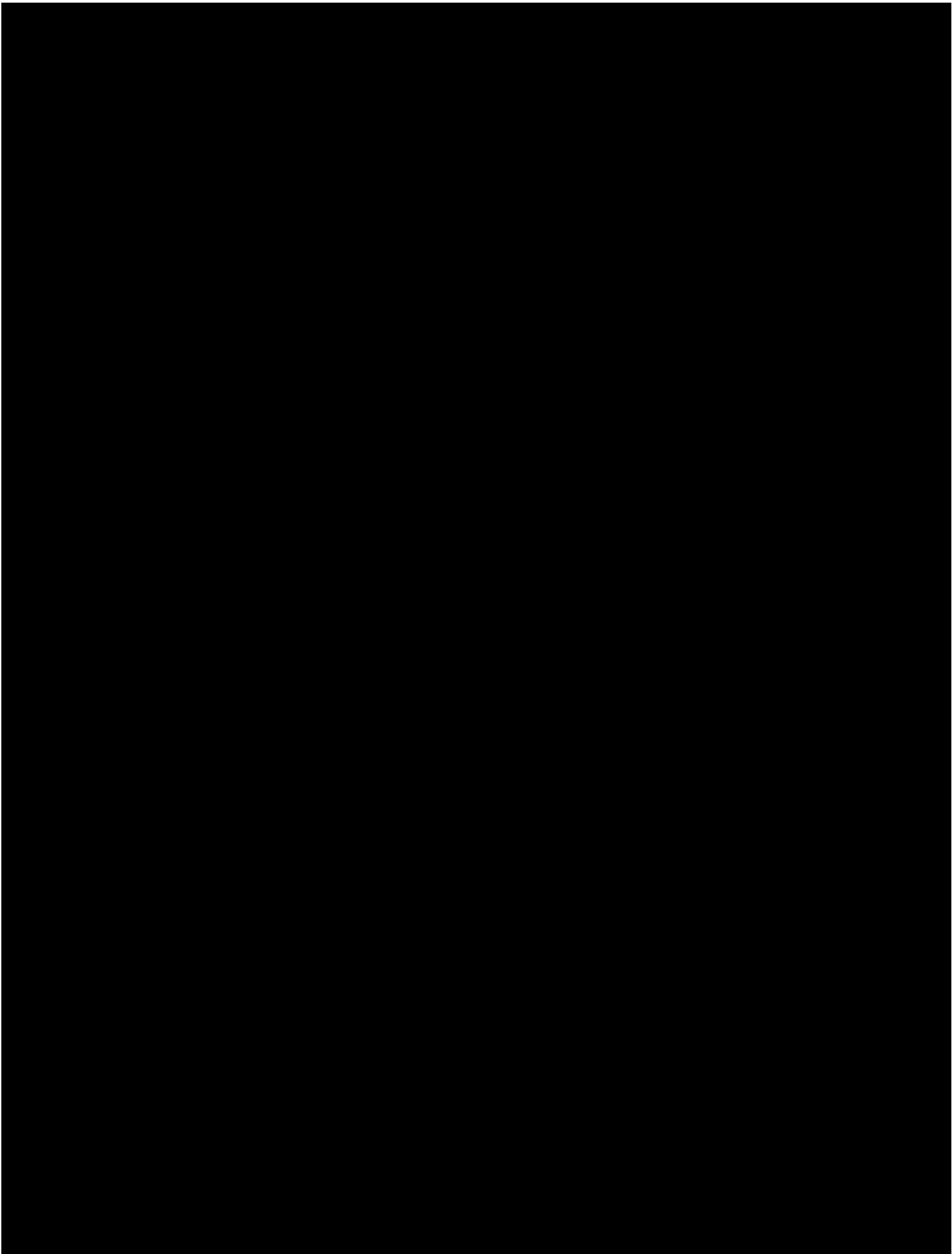
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

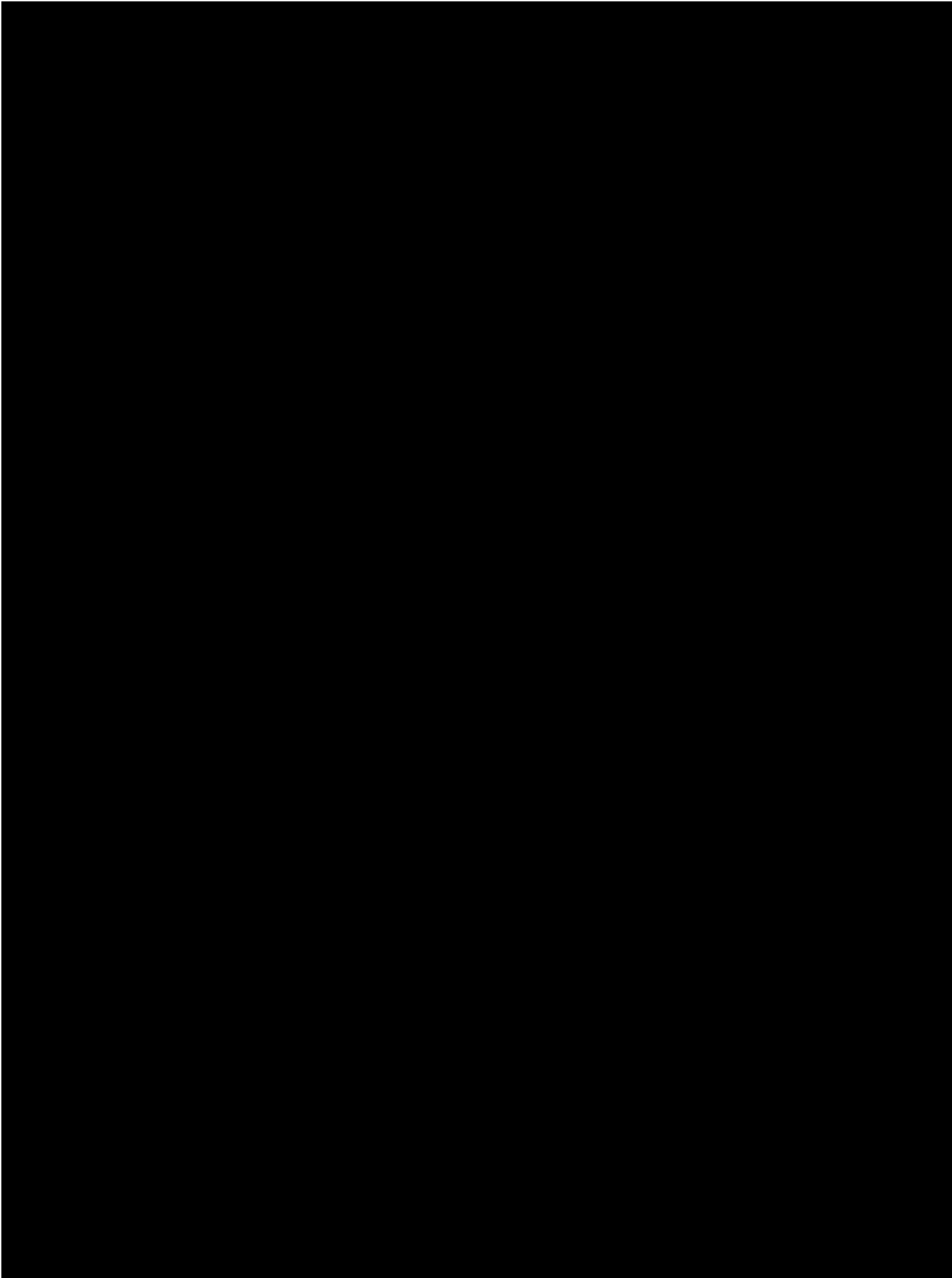
EXHIBIT 9

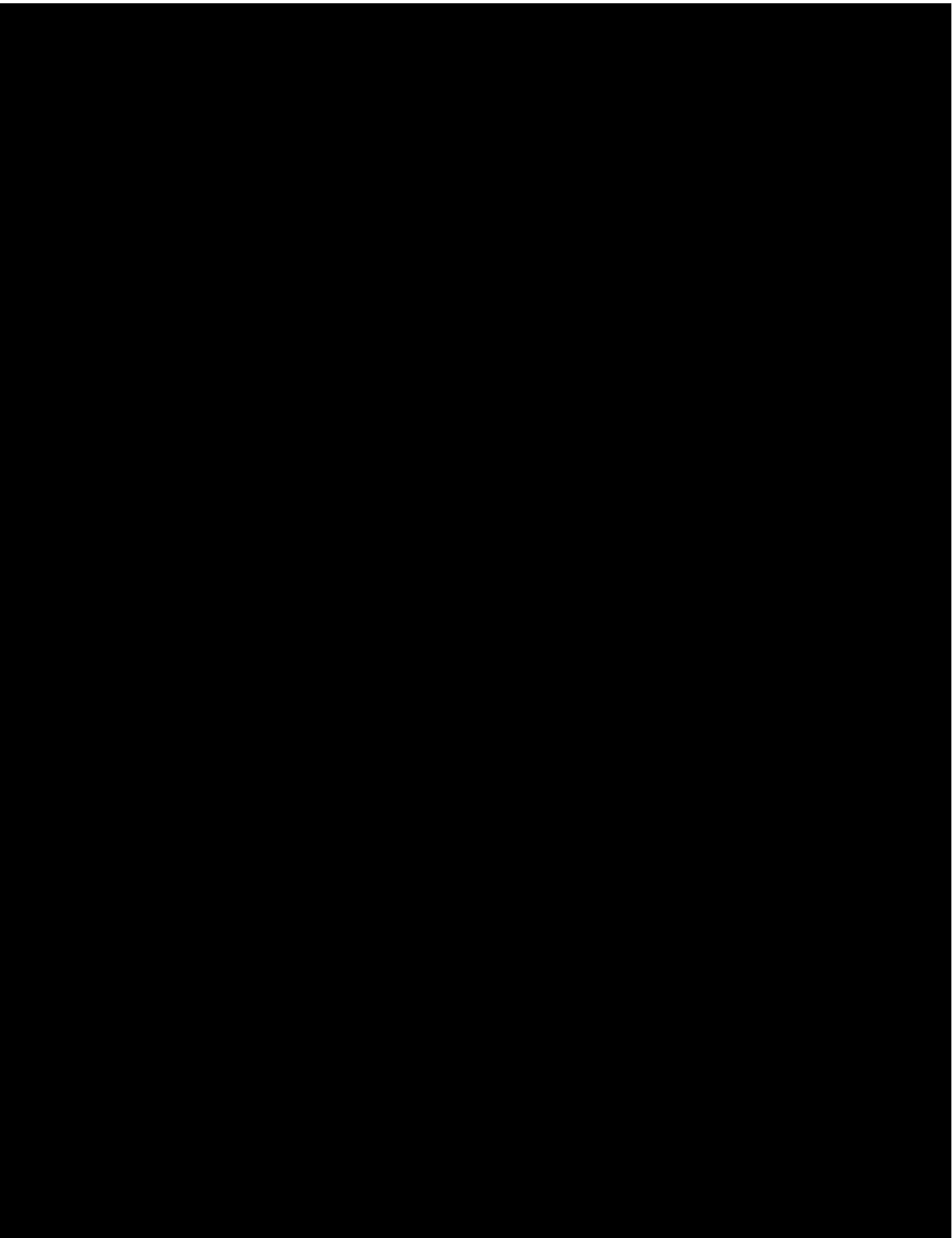
CSXT Letter to NPBL, Mar. 21, 2025

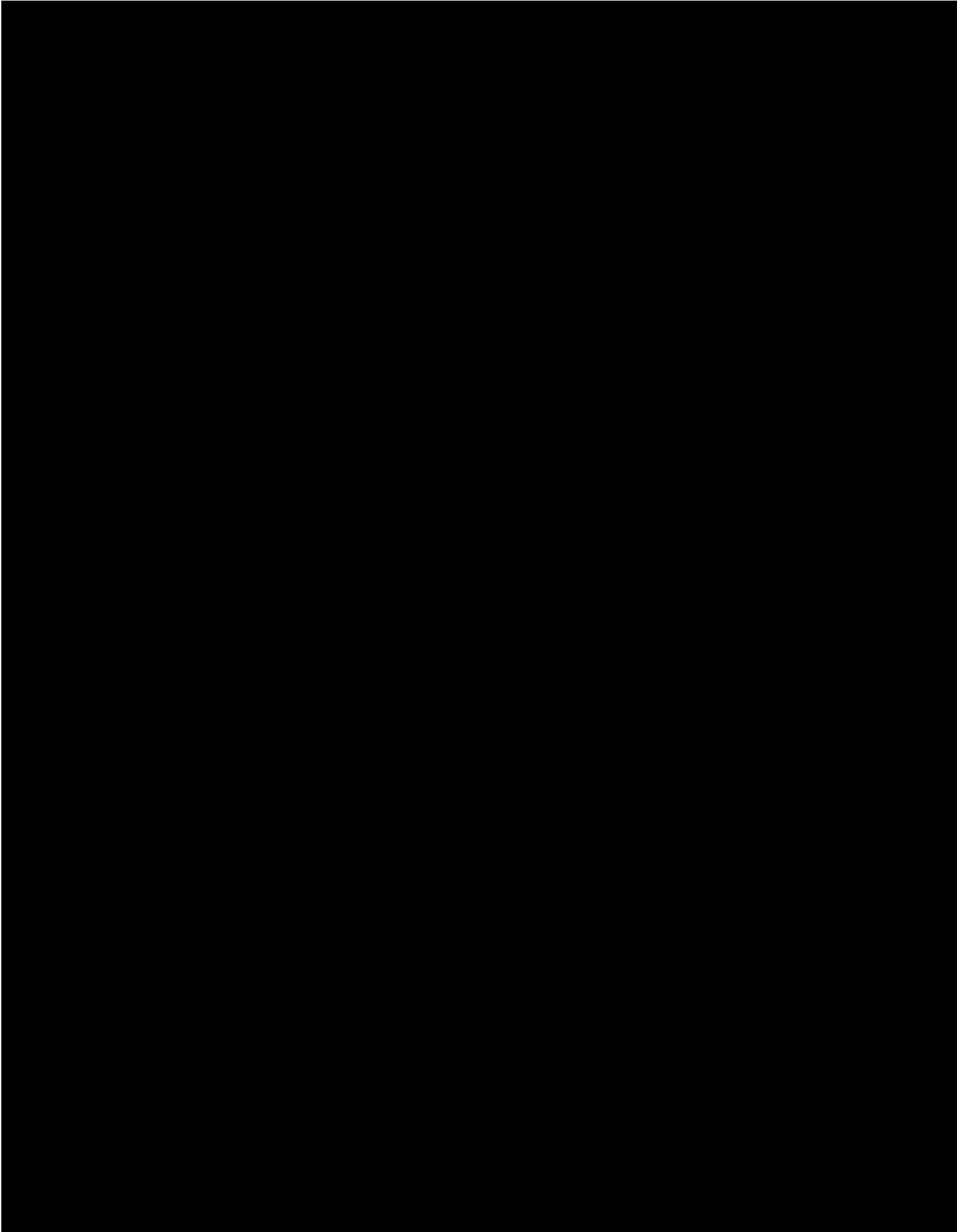


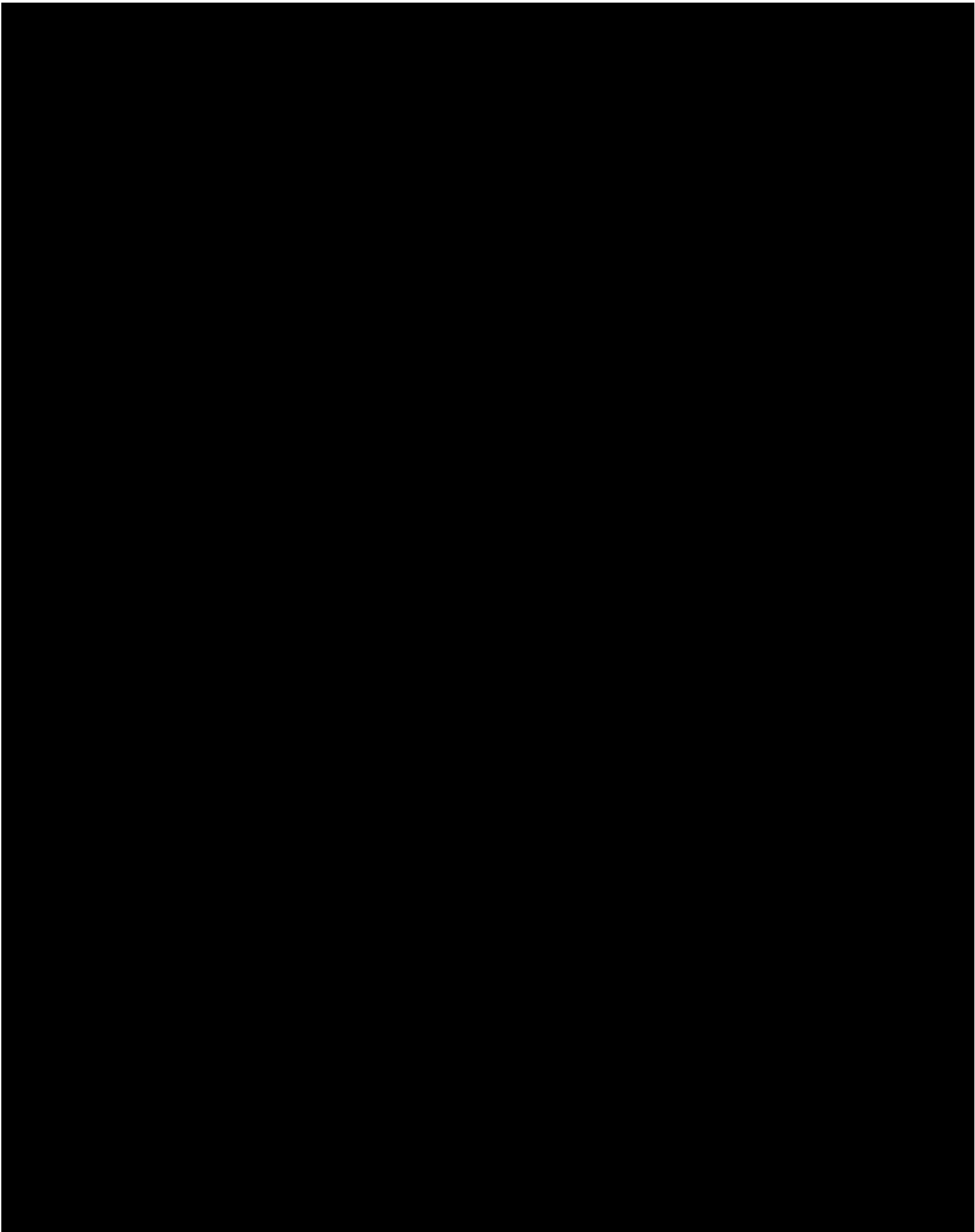












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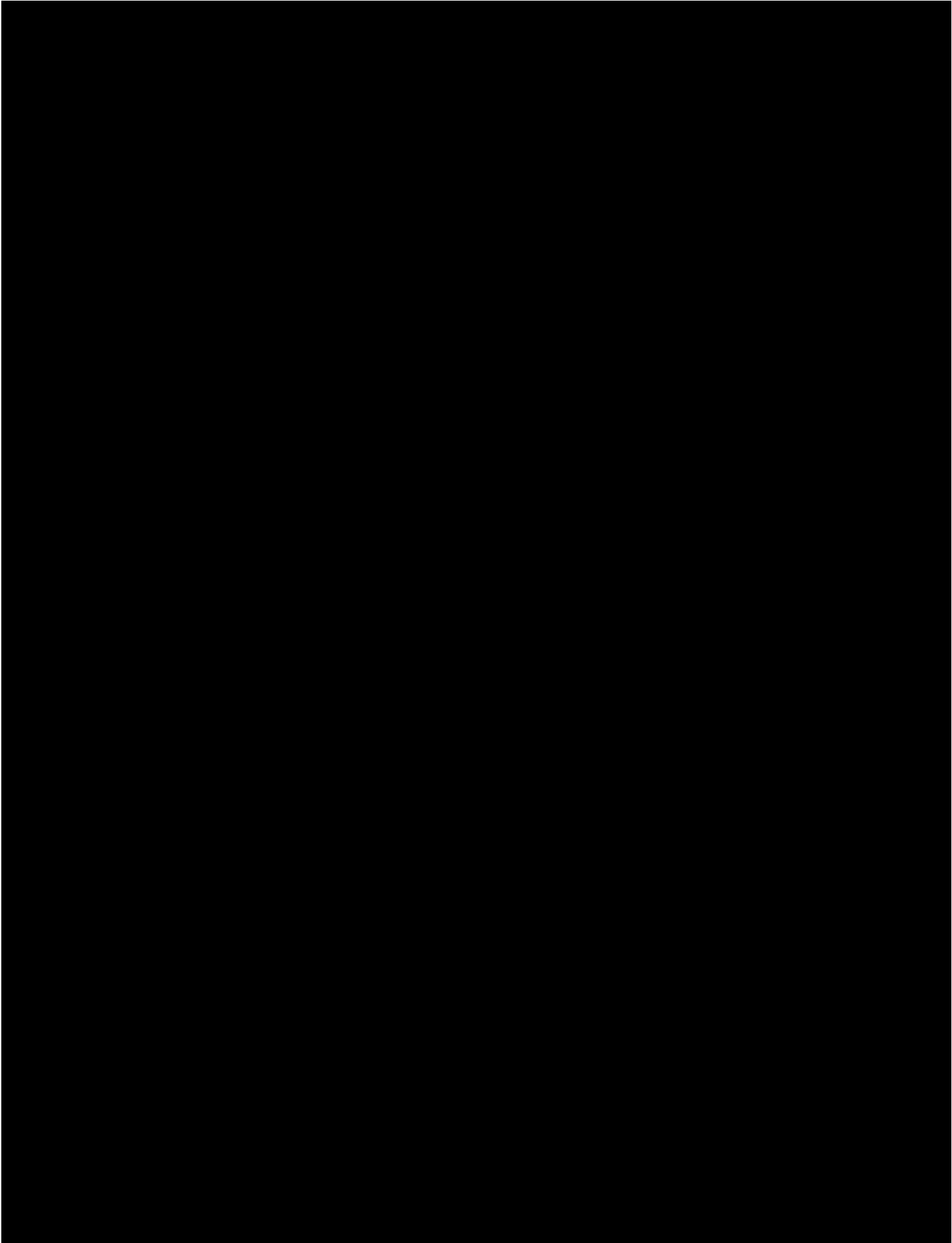
CSX TRANSPORTATION, INC.

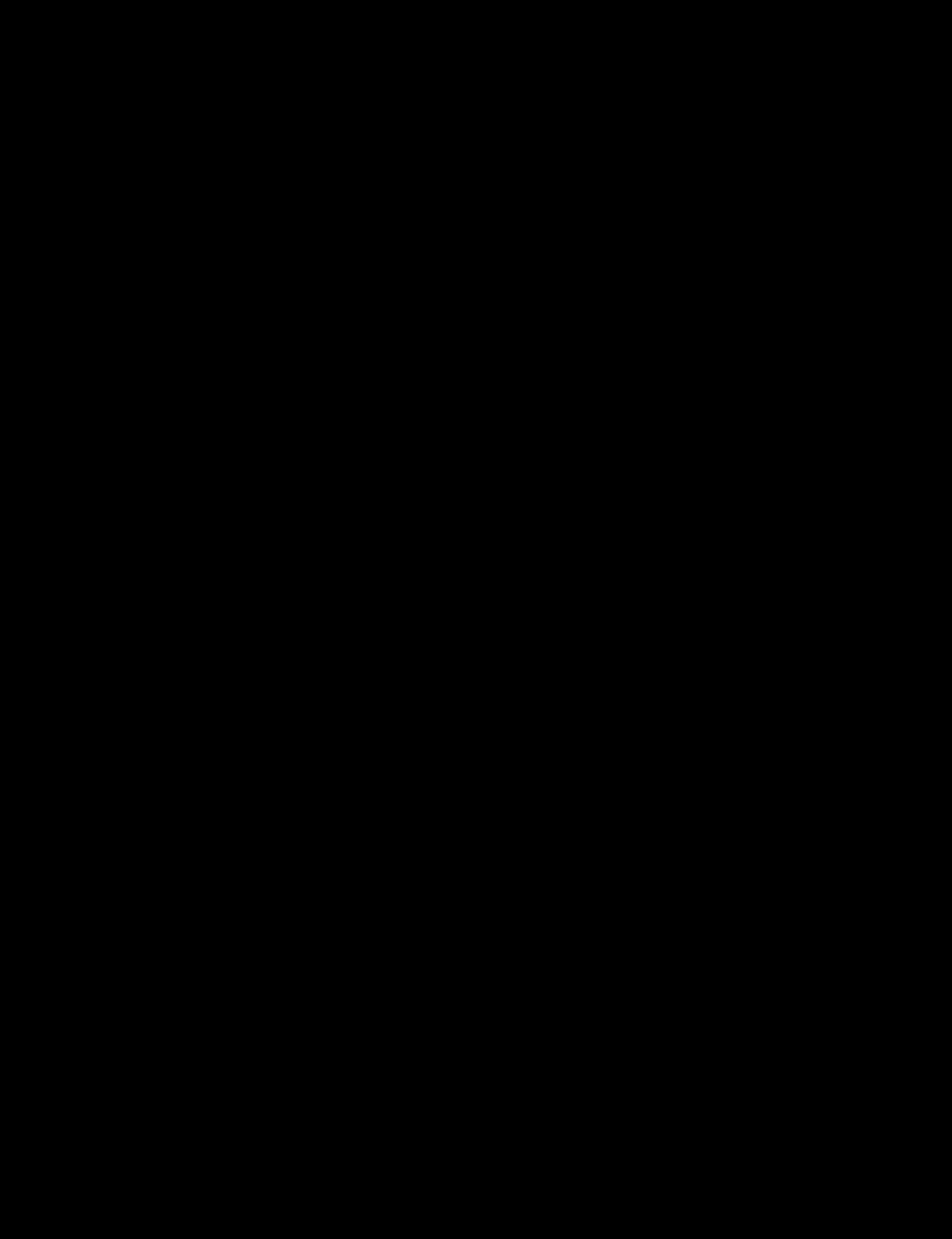
v.

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 10

CSXT Letter to NPBL, May 1, 2025





BEFORE THE
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CSX TRANSPORTATION, INC.

v.

NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 11

NPBL Letter to CSXT, May 12, 2025

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR DOCKET NO. 42183

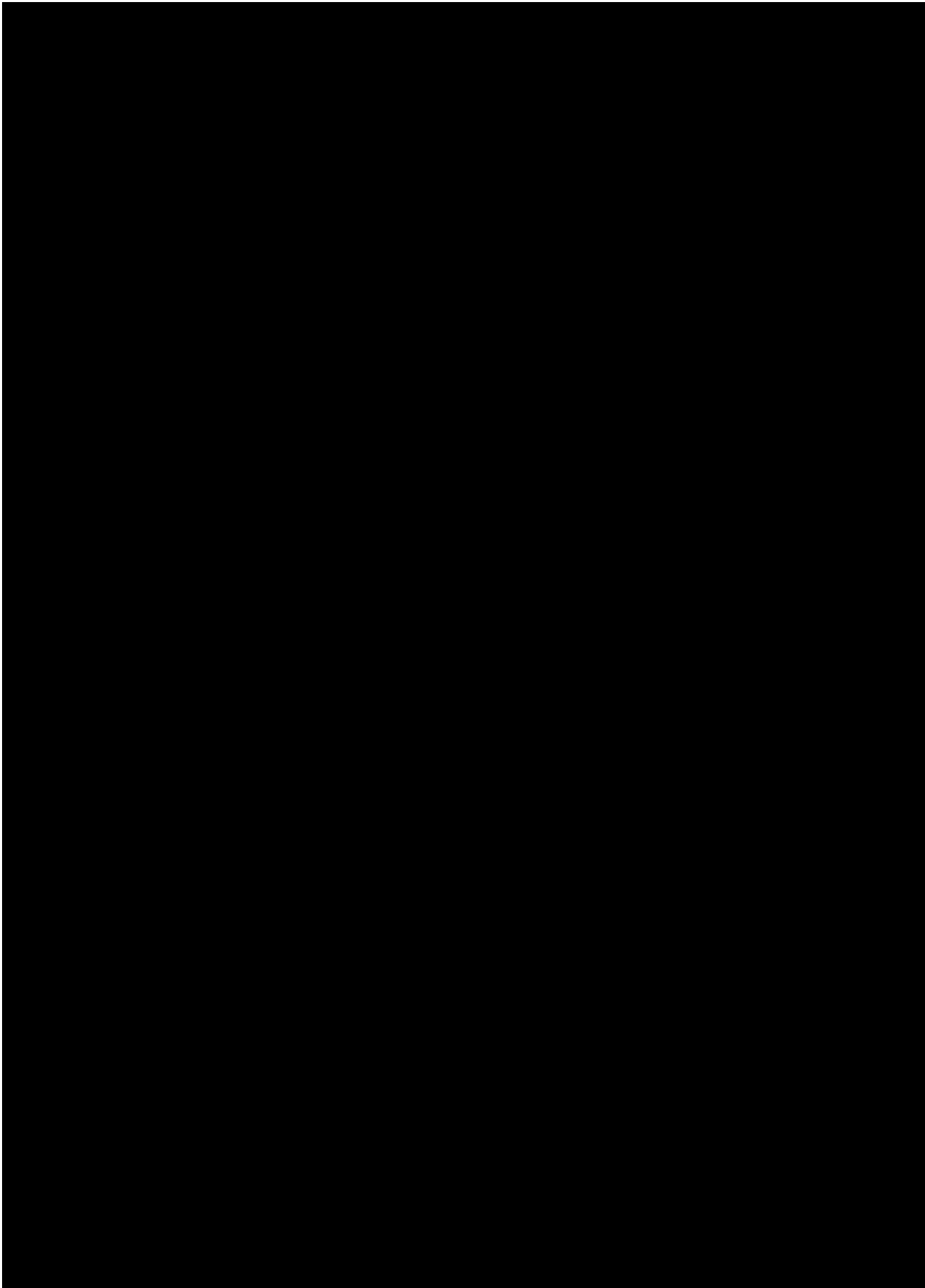
CSX TRANSPORTATION, INC.

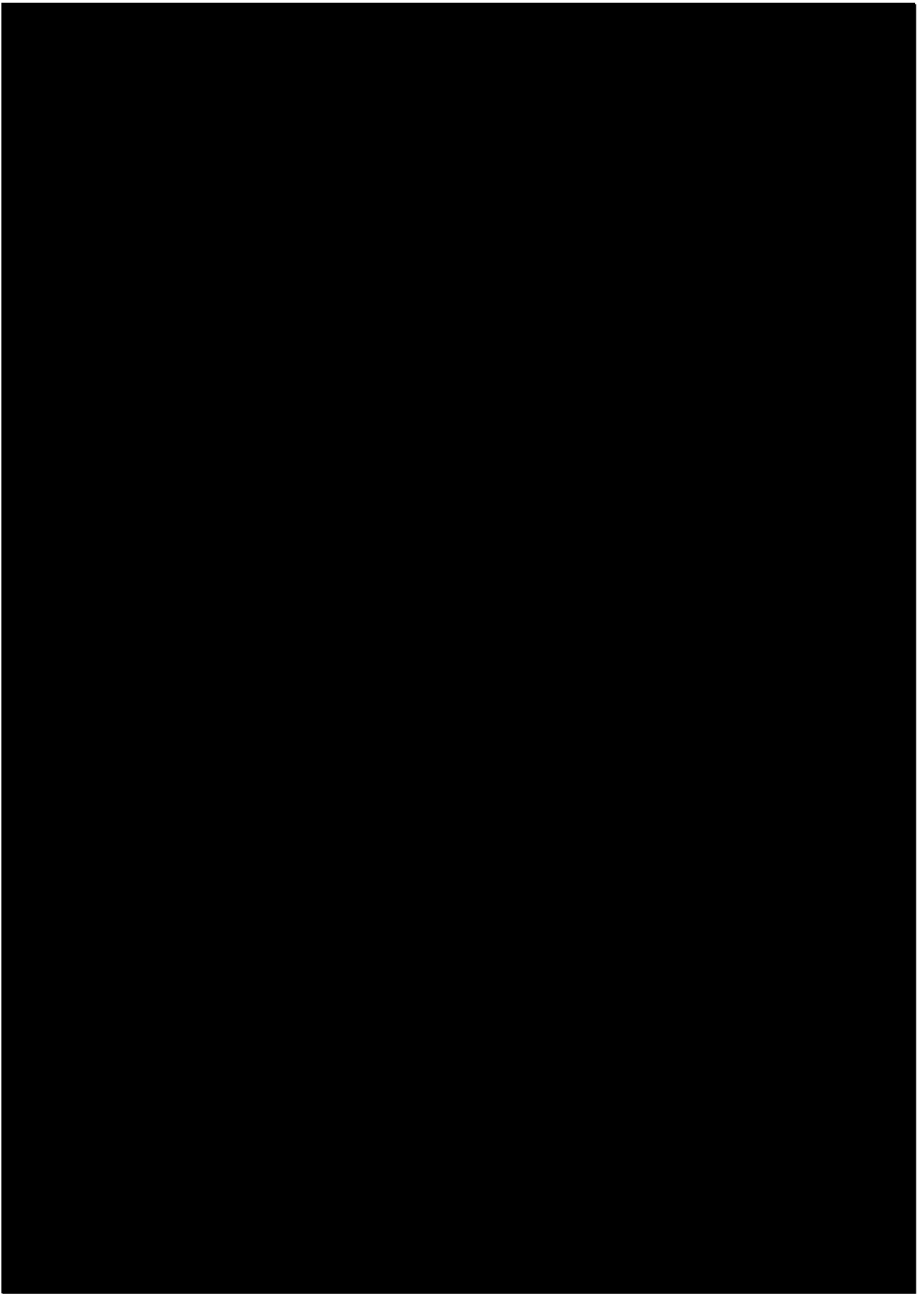
v.

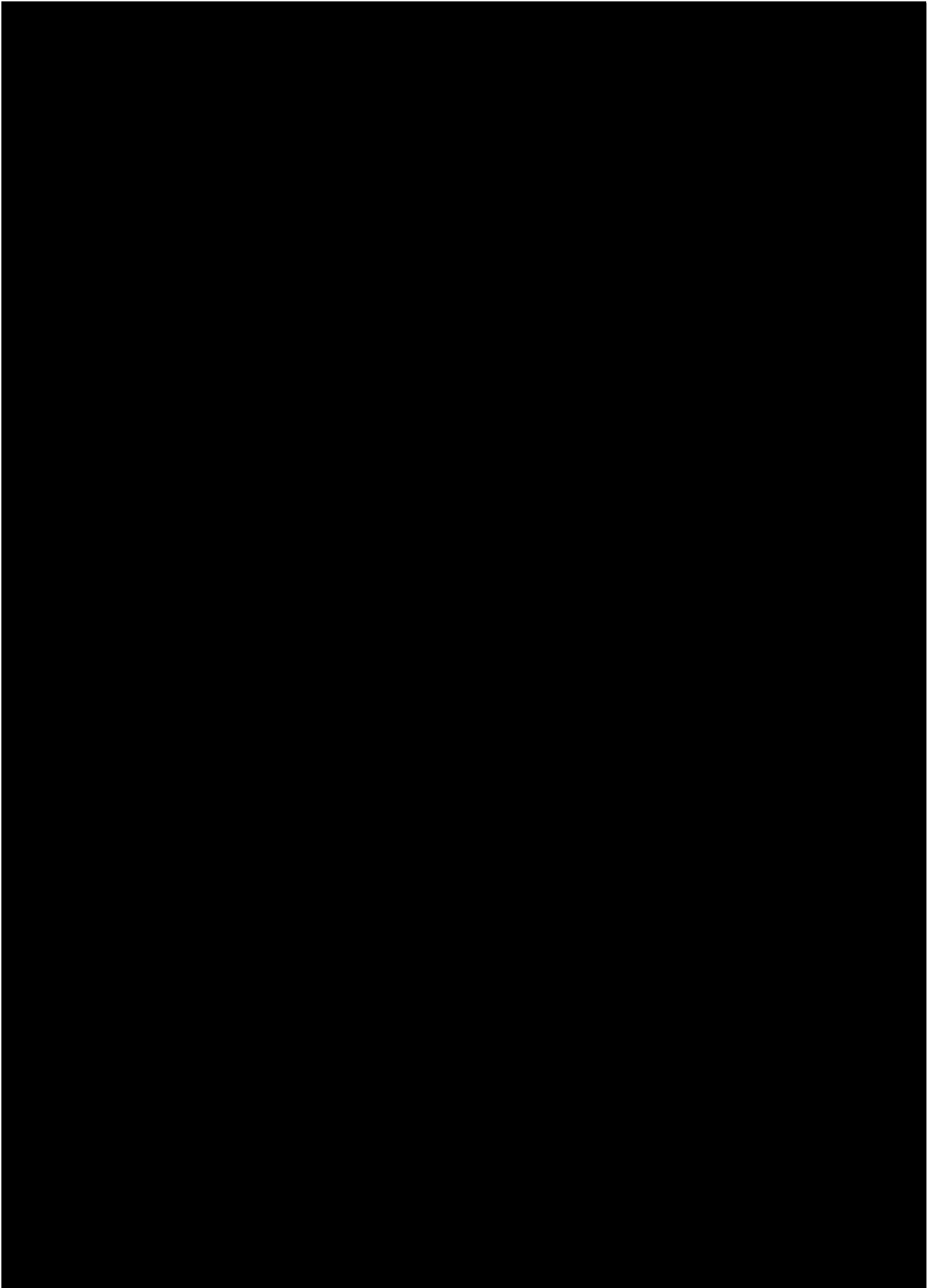
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

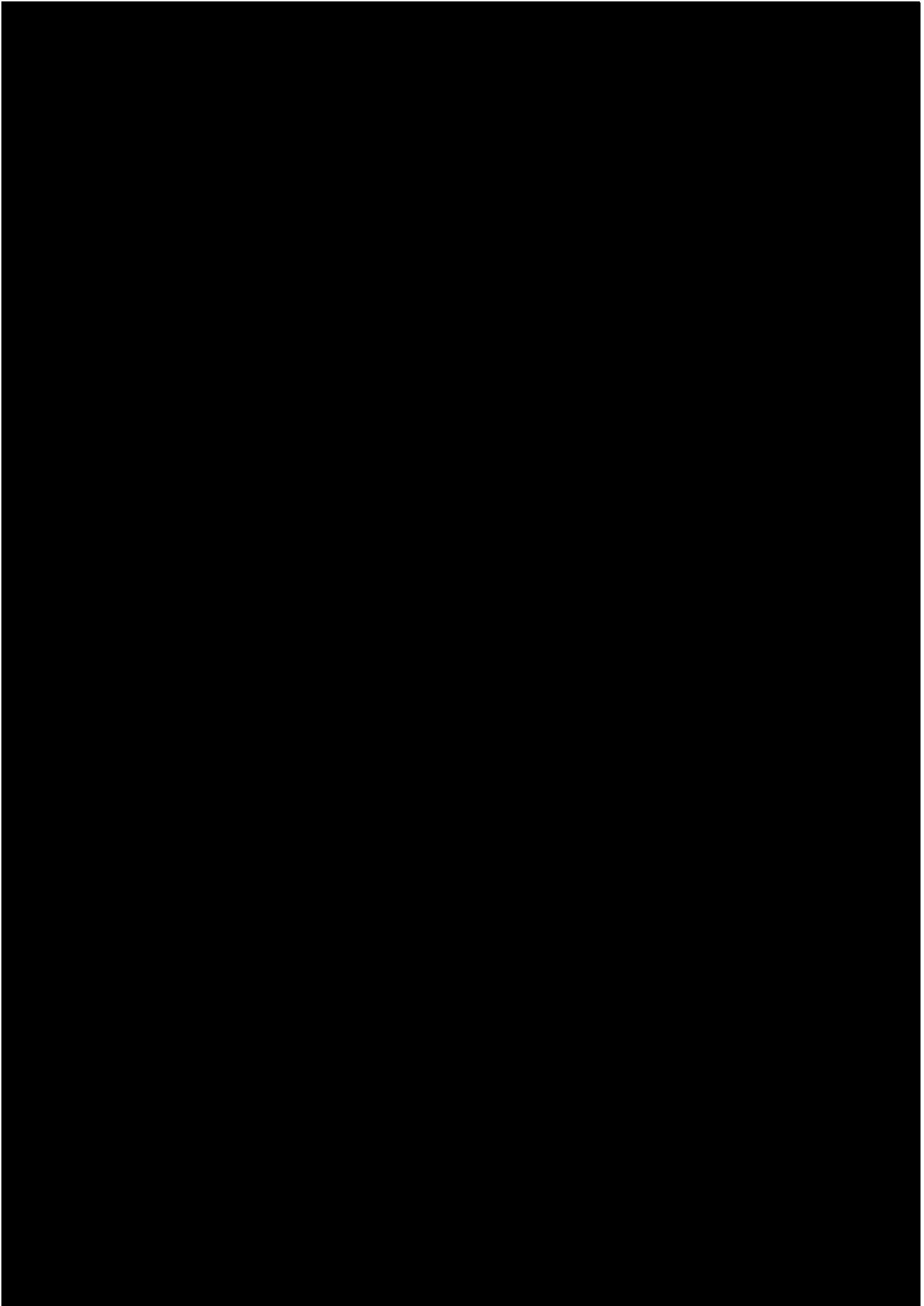
EXHIBIT 12

CSXT Second Letter to NPBL & NSR, Nov. 26, 2024









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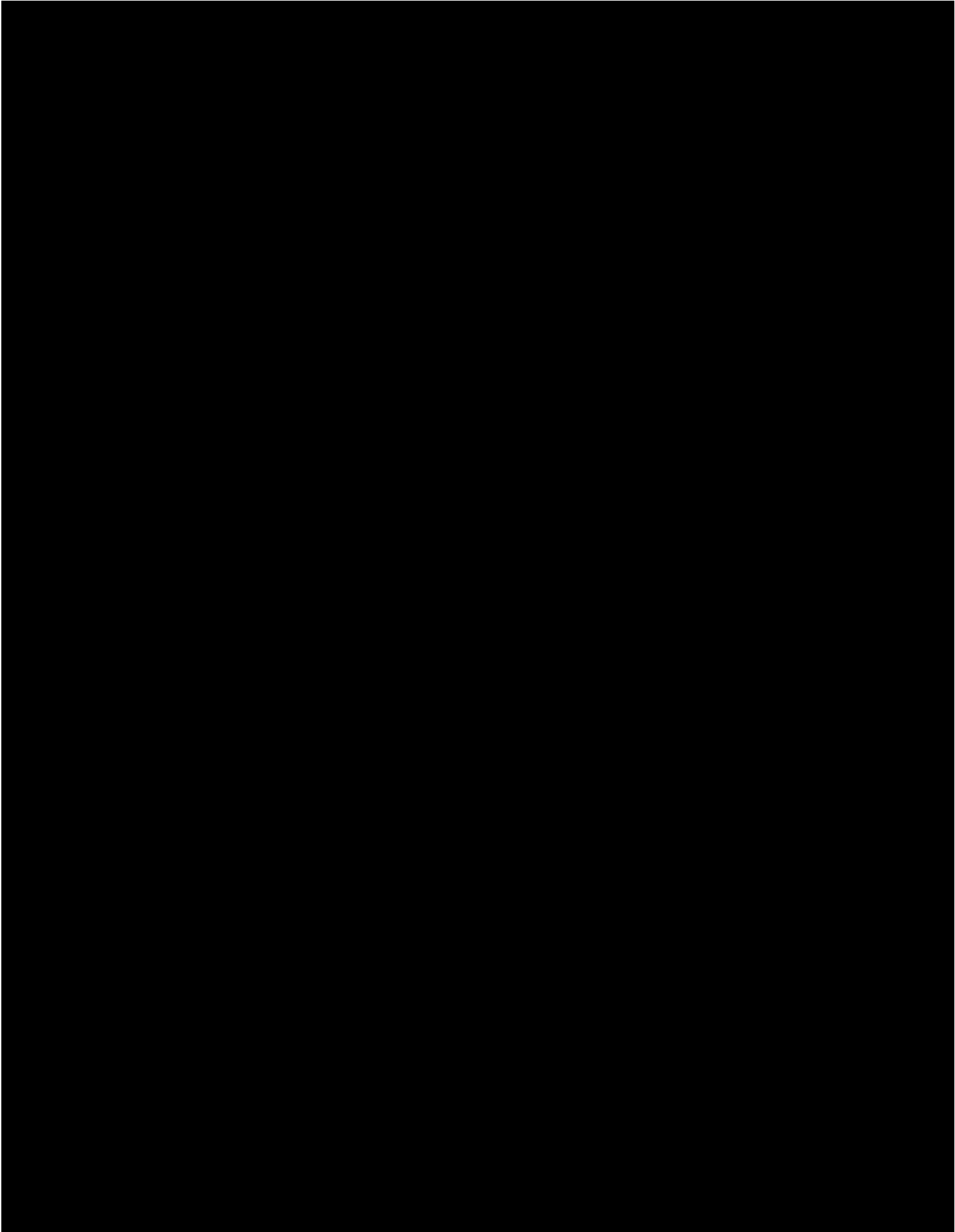
CSX TRANSPORTATION, INC.

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NORFOLK SOUTHERN RAILWAY COMPANY

EXHIBIT 13

CSXT Second Letter to NSR, May 1, 2025



VERIFICATION

I, Maryclare Kenney, declare under penalty of perjury that I am Vice President of Intermodal and Automotive of CSX Transportation, Inc., that I am authorized to make this verification, and that I have read the Complaint and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information, and belief.

/s/ Maryclare Kenney
Maryclare Kenney

May 20, 2025

CERTIFICATE OF SERVICE

I hereby certify that I have this 20th day of May 2025 caused a copy of the foregoing to be served via email and by overnight express courier upon Defendant NS, as follows:

Jason Morris
Senior Vice President &
Chief Legal Officer
Norfolk Southern Corporation
650 West Peachtree Street NW
Atlanta, Georgia 30308

/s/ Sally Mordi
Sally Mordi
Attorney for CSX Transportation, Inc.

May 20, 2025