

MULLINS LAW GROUP PLLC*Transportation Solutions for the 21st Century*

2001 L Street NW, Suite 720
Washington, DC 20036

John V. Edwards
jedwards@mullinslawgroup.net
mullinslawgroup.net

Telephone: (202) 663-7850
Direct: (202) 663-7853
Facsimile: (202) 459-2115

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August 11, 2025

ENTERED
Office of Chief Counsel
August 11, 2025
Part of
Public Record

VIA E-FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: FD 36836, Norfolk S. Corp. & Norfolk S. Ry. Co. – Acquisition of
Control – Norfolk & Portsmouth Belt Line Rr. Co.

Dear Chief of Case Administration:

Norfolk Southern Corporation and Norfolk Southern Railway Company (“NS”) provides this letter in response to the August 7, 2025 motion filed by CSX Transportation, Inc. asking the Surface Transportation Board (“Board”) to redesignate the confidentiality of certain documents produced by NS in response to discovery (“Redesignation Motion”). Once again, the CSXT motion is another desperate attempt to allege some imagined injustice in the designation of materials to which CSXT has complete and unfettered access. CSXT asks the Board to reduce the time available to NS to prepare and deliver its response, and to reduce the time available to the Board to act on CSXT’s Redesignation Motion. NS respectfully submits that there is no reason for the Board to accelerate the timelines proposed in this motion. This letter will not address the substantive aspects of the motion, and NS expressly reserves its right to respond to the substance within the time frame permitted by the Board’s regulations.

The time frames proposed by CSXT would result in a substantial reduction in time for NS and the Board to respond to the merits of CSXT’s motion. The Board’s regulations permit a party twenty (20) days to file a reply, which in this case would be August 27th (49 C.F.R. 1104.13(a)). However, CSXT would have NS respond no later than August 11, 2025 (a mere four days after the filing of the Redesignation Motion, two of which are weekend days). CSXT then asks the Board to rule on the Motion no more than four days later (on August 15, 2025.) Thus, CSXT would require the Board to *rule* on CSXT’s motion twelve (12) days *before* the regulatory deadline for NS to even *reply* to the motion.

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CSXT wholly fails to justify the stark departure from the Board's regulations governing the time frame for NS to reply to CSXT's Motion for Redesignation. No prejudice to the public will result from adherence to the Board's regulations.

CSXT seeks to justify the compressed time frame it proposes by noting that "[t]he current procedural schedule calls for any stakeholder comments to be filed by August 27, 2025, just 20 days from the date this Motion is filed". Redesignation Motion at 5. However, CSXT is well aware that (1) the Board's procedural schedule provides the procedure by which interested parties may become a party of record in this proceeding and file comments, and (2) that parties to this proceeding generally can obtain access to confidential materials by executing the protective order that was adopted by the Board in this proceeding. Thus, all interested stakeholders that desire to become a party to and file comments in this proceeding already have the ability to access the subject documents, regardless of its confidentiality designation.

CSXT further argues that there is some time sensitivity for the general public interest in the documents subject to CSXT's Redesignation Motion. This argument is simply without merit. CSXT provides no justification to deprive NS (and the Board) the time permitted under the regulations to address the merits of CSXT's redesignation request. The general public – i.e., those who are not parties of record and are not filing comments in this proceeding – are not disadvantaged from the Board addressing the Redesignation Motion after August 27, 2025. Moreover, should the Board ultimately conclude that one or more documents should be redesignated, CSXT can simply resubmit its August 27, 2025, comments with the selected material unredacted. At that point, the general public will have several months to digest any redesignated information before final briefs are due on January 6, 2006. In other words, in an attempt to provide support for CSXT's proposal to drastically limit NS's time to respond to CSXT's redesignation request, CSXT has simply manufactured a time-sensitive issue that does not exist.¹

CSXT bears the burden to justify the need for expedited treatment of its request for redesignation. It has failed to do so, and therefore that aspect of the CSXT Redesignation Motion must be denied. Cerro Gordo County, Iowa – Adverse Abandonment – Backtrack, Inc., Docket No. AB 1063 (STB served April 29, 2010), slip op. at 1 (good cause was not shown for granting the request for expedited consideration, which would deprive interested parties of an opportunity to prepare an adequate reply, and deprive the Board of any time to consider the request, and therefore the request for expedited treatment is denied).

¹ On page 4 of CSXT's Redesignation Motion, CSXT identifies the items for which it seeks redesignation because none of them "appear" to contain confidential information subject to the protective order. However, one need look no further than the first of these 12 items to caution the Board against unnecessarily rushing to determine the merits of the Redesignation Motion. This first item (NSR 00000704) is identified by CSXT simply as { [REDACTED]

[REDACTED] }. However, { [REDACTED]

[REDACTED] }.

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For the reasons discussed above, NS opposes CSXT's proposed deadline for NS to respond to CSXT's Redesignation Motion by August 11, 2025.

Sincerely,

//s// John V. Edwards

John V. Edwards

Enclosure

cc: Parties of Record