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Office of Chief Counsel

September 30, 2025

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MULLINS LAW GROUP PLLC
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September 30, 2025

VIA E-Filing

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

ALJ Jenifer Soulikias
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001
Email: alj.soulikias.inbox@stb.gov

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

Letter Motion to Modify the Procedural Schedule & Seek ALJ's Assistance
in Resolving Discovery Issues

Dear Chief of Case Administration and ALJ Soulikias,

In light of the (1) potential government shutdown at midnight today; (2) extensive and unreasonable delays in CSXT Transportation, Inc.'s ("CSXT") responding to Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively "Norfolk Southern" or "NS") first and second set of discovery requests;¹ (3) the fact that negotiated discovery with the Virginia Port Authority d/b/a Port of Virginia ("VPA") and the Virginia International Terminals, LLC d/b/a Port of Virginia ("VIT") remains ongoing; (4) the fact that Norfolk Southern has not yet had an opportunity to seek and take depositions of CSXT's witnesses and other personnel;² and (5) other considerations discussed herein, Norfolk Southern is writing to (1) request that the Board modify the procedural schedule to make Norfolk Southern's responses to the comments, protests, requests

¹ Norfolk Southern's First Set of Requests for Production of Documents and Interrogatories to CSX Transportation, Inc. was served on July 11, 2025 ("NS First Requests"), while Norfolk Southern's Second Set of Requests for Production of Documents to CSX Transportation, Inc. was served on July 31, 2025 ("NS Second Requests").

² CSXT's failure to comply with its commitment to respond to discovery and produce all relevant documents in a timely manner has delayed Norfolk Southern's ability to seek depositions against not only the CSXT's witnesses, but potentially other CSXT personnel who might also have relevant information and whose identity cannot be determined until NS has reviewed relevant discovery documents.

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for conditions, and other opposition, including to DOJ and USDOT filings; CSXT's responsive application; and rebuttal in support of the application be due 20 days after ALJ Soulikias certifies to the Board that CSXT, VPA, and VIT's discovery obligations (document production and depositions) were fulfilled; and, (2) request that ALJ Soulikias help expedite discovery in this proceeding.³

The requested extension is necessary because, given all of the above, Norfolk Southern would be extremely disadvantaged and its due process rights violated if NS were required to meet its November 6, 2025 deadline without having discovery completed and appropriate depositions taken.⁴ Indeed, as discussed below, CSXT was provided two extensions and a full opportunity to have discovery and depositions completed 20 days before having to file its comments and requests for conditions. NS should likewise receive the same treatment.

**Background –
 Recap of CSXT's Two Extension Requests and CSXT Production To Date**

CSXT – First Extension Request (Granted)⁵

On August 15, 2025, CSXT sought to modify the procedural schedule in this proceeding to provide CSXT a 12-day extension of its deadline to submit comments, protests, and requests for conditions. See CSXT-18. In that request, similar to the situation here, CSXT alleged it could not move forward because two outstanding discovery matters had to be resolved: (1) the production of certain discovery from NS, and (2) CSXT's motion to compel the appearance and testimony of Cannon Moss, the president and general manager of Norfolk & Portsmouth Belt Line Railroad

³ On August 27, 2025, ALJ Soulikias' intervention encouraged Norfolk Southern, VPA, and VIT to try to work through their disagreements, and ultimately resulted in the parties reaching a compromise on their discovery disputes. See NS 26 (confirming that parties reached an agreement on narrowed discovery). VPA and VIT have not completed their discovery obligations, although the parties continue to meet and confer and work to do so. Norfolk Southern is optimistic that the ALJ's intervention now would help expeditiously complete discovery between CSXT and Norfolk Southern. In that regard, Norfolk Southern respectfully requests that the ALJ issue a decision directing the parties to, in good faith, meet and confer by Monday, October 6, 2025 on when and how CSXT intends to fulfill its discovery obligations.

⁴ See National Railroad Passenger Corporation –Section 213 Investigation of Substandard Performance of Rail Lines of Canadian National Railway Company, NOR 42134 (STB served Jan 3, 2013) (discussing development of discovery and motion practice guidelines set forth in 1112 and 1114 of the Board's rules and emphasizing that the record should be built through party-directed discovery. Further, clarifying that parties are in the best position to identify relevant information and develop the record, ensuring that due process considerations are met.

⁵ It is important to note that at the time of CSXT's First Extension Request, Norfolk Southern had already produced over 2,200 documents totaling 13,831 pages.

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Company (“NPBL”). Id. at 3. CSXT argued that the matters remained outstanding and were unlikely to be resolved before the August 27, 2025, deadline. Id. at 3, 6. In realization of the fact that discovery had indeed not yet been fully completed, NS, even though it was not requested to do so by CSXT, consented to CSXT’s request, which was granted the requested extension.⁶ See Decision No. 10 (STB served Aug. 21, 2025).

CSXT – Second Extension (Granted)⁷

On August 29, 2025, CSXT filed a second motion to modify the procedural schedule.⁸ This time, CSXT sought an additional 10-day extension of its response deadline. The basis for CSXT’s second extension request was that it received a “significant and unexpected” quantity of discovery documents from Norfolk Southern on August 28, 2025. Id. at 3. CSXT argued that it needed additional time to review, analyze, and incorporate the relevant discovery produced by Norfolk Southern into its comments. Id. at 1-2. CSXT argued that an extension was warranted because it was entitled to full discovery before submitting comments and that Norfolk Southern would not be prejudiced by this limited extension. Id. at 3, 6. Norfolk Southern objected to the second extension request on the grounds that it had fulfilled its discovery obligations in a timely manner and that CSXT did not need additional time to review and incorporate that information. Over Norfolk Southern’s objections, the Board gave CSXT an additional 10 days to file its comments and requests for conditions. This 10-day extension permitted a 20-day period between the date Norfolk Southern completed its discovery (document production and depositions) and the due date for the submission of its comments and requests for conditions.

In light of the above two extensions granted to CSXT and given that neither CSXT nor VPA and VIT have completed their discovery requests, and in light of the likely government shut down where neither the Board’s nor the ALJ’s assistance may not be available to assist NS in ensuring that CSXT and VPA and VIT complete their discovery, and for the reasons discussed below, Norfolk Southern requests that all of its evidentiary deadlines be tolled to 20 days after ALJ Soulikias certifies to the Board that CSXT, VPA, and VIT’s discovery obligations (document production and depositions) were fulfilled. The requested 20 day extension from the date the ALJ certifies discovery, including depositions, is complete, affords Norfolk Southern the same latitude CSXT was given – namely the evidentiary deadline being 20 days after discovery and depositions were completed.

⁶ Norfolk Southern, in not objecting to the requested extension, noted in FN 2 that granting the relief sought by CSXT would erode the time for Norfolk Southern to prepare its rebuttal filing. Norfolk Southern did not, at the time, ask for an extension of time to file its rebuttal, but noted that should CSXT continue to be derelict in its discovery response, Norfolk Southern would need to do so. See NS-21 at FN 2.

⁷ By the time CSXT’s filed its Second Extension Request, NS had completed production of a total of 7,016 documents consisting of 36,254 pages.

⁸ See CSXT-21.

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I. Norfolk Southern's Extension Request is Justified, Largely Consistent with Board Practice, Reasonable, and ALJ Involvement Could Minimize the Duration of the Request.

Norfolk Southern is deeply concerned that the pending government shutdown will jeopardize Norfolk Southern's ability to present its reply and rebuttal case. Given the history of government shutdowns and the Board's statements in the past that no filings will be accepted during a shutdown, it is unclear whether, if, and how long the Board and the ALJ will be able to continue to handle discovery issues if the shutdown materializes. Sections III, IV, and V herein discuss the state of discovery and depositions, all of which are issues that, at this juncture, Norfolk Southern believes will likely require the ALJ's or the Board's assistance to resolve.

Historically, the Board has tolled evidentiary due dates for proceedings where evidence and argument are due to be filed during shutdowns.⁹ Unfortunately, such decisions have been silent as to how the Board would handle proceedings where completion of discovery is a predicate to a party submitting evidence and comments, but that discovery cannot be completed during the shutdown due to the unavailability of the ALJ or the Board to resolve discovery disputes. In full recognition of the competing considerations and impediments, Norfolk Southern believes its request is fair and affords Norfolk Southern the same latitude CSXT was given to prepare and submit its evidence.

Moreover, to the extent that ALJ Soulikias continues to handle cases during the shutdown, for the reasons explained in Sections III, IV, and V, Norfolk Southern respectfully requests that the ALJ issue a decision directing the parties to, in good faith, meet and confer overseen by the ALJ on Friday, October 6, 2025 to discuss when and how CSXT intends to fulfill its discovery obligations.¹⁰ To be clear, Norfolk Southern served NS First Requests on July 11, 2025, and served NS Second Requests on July 31, 2025. To date, CSXT has produced 76 documents, consisting of 1,078 pages. Norfolk Southern anticipates likely needing ALJ Soulikias not just with respect to CSXT satisfying its discovery obligations, but also potentially should Norfolk Southern

⁹ See Filings Submitted or Due to Be Submitted During the Partial Federal Government Shutdown, EP 751 (STB served Jan. 28, 2019) (noting deadlines for evidence due December 22, 2018 to January 25, 2019 were tolled, establishing February 4, 2019 as the new deadline, and directing parties who believe a longer extension is warranted to seek an extension in the individual case dockets). See New Filing Deadlines for Material Due to Be Submitted During the Federal Government Shutdown, EP 721 (STB served October 18, 2013) (noting deadlines for evidence due October 1, 2013 to October 16, 2023 were tolled, establishing October 24, 2013 as the new deadline, and directing parties who believe a longer is warranted to seek an extension in the individual case dockets).

¹⁰ It is not clear at this hour that a government shutdown will happen, but due to CSXT's failure to comply with discovery commitments and outstanding discovery discussions with VPA and VIT, this request is justified even if the government shutdown does not occur and even if ALJ Soulikias is available between now and November 6.

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need to compel depositions, as discussed in Section V. As explained herein, despite CSXT's prior accusations of Norfolk Southern engaging in discovery gamesmanship,¹¹ the factual record demonstrates that all along, CSXT has been the one playing the games. Before we delve into those facts, we first discuss the legal standard for extensions of time.

II. Legal Standard

As CSXT states sets forth in CSXT-18, the legal standard for extensions of time is located in 49 C.F.R. § 1104.7(b). The regulation states that “[a]ny time period . . . may be extended by the Board in its discretion, upon request and for good cause.” In past cases, the Board has found good cause for extending procedural schedules in a wide variety of situations. SCIO Pottery Co. v. Consol. Rail Corp., NOR 40330, 1990 WL 287229, at *1 n.1 (ICC Jan. 18, 1990) (finding “a sufficient basis” for extending discovery based on movant’s assertion “that it needs additional time to complete desired discovery”). As most appropriate here, and as explained in Section III, the Board has granted extensions where the party with the burden of production’s response has been woefully inadequate and strategically slow. See E.g., E.I. Dupont De Nemours & Co., NOR 42125, slip op at 2 (STB served Sept. 11, 2012) (granting an extension of procedural schedule due to the non-moving party’s delayed production of documents and the complexity of the case). In the interest of brevity, Norfolk Southern refers the Board to CSXT-18 for other instances where the Board has granted extensions of time for evidentiary submission based on good cause. In CSXT-18, CSXT also explains that the Board has rejected extension requests where the movant failed to justify its request for modification of a procedural schedule. See CSX Transp., Inc.—Abandonment Exemption—in Clark, Floyd, Lawrence, Orange & Washington Cntys., Ind., AB 55 (Sub-No. 775X), slip op. at 1 (STB served Feb. 6, 2018) (noting that the movant made “no attempt to explain why it [was] unable to comply with the regulations in the extended time it ha[d] already been given”).

In Sections III, IV, and V, Norfolk Southern provides its good-faith justification for the extension it seeks. The reasons set forth in this letter more than meet the legal standard for granting an extension, especially given that CSXT has previously been granted two extensions, for a total of 22 days to file its opposition comments and requests for conditions, or 20 days from the completion of discovery and depositions, which occurred on August 28, 2025.

III. CSXT, not Norfolk Southern, Has Refused to Meaningfully Engage in Discovery.

As noted previously, CSXT twice sought extensions of its evidentiary due dates because (1) discovery was not complete; (2) NS had not timely fulfilled its discovery obligations; and (3) purportedly Norfolk Southern was “abusing the discovery process again.” See CSXT-21 at 2. CSXT also accuses Norfolk Southern of “repeatedly dragging its feet to prevent CSXT from accessing information and relevant materials.” Id. Interestingly, a comparison of Norfolk

¹¹ See CSXT-21 at 2.

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Southern's production and discovery efforts to CSXT's production and discovery efforts tells a far different story.

Looking at Norfolk Southern's participation to date in responding to discovery in this proceeding shows that NS has provided meaningful discovery and in a timely fashion. As Norfolk Southern explained in NS-25, once the Board ruled on discovery objections in Decision No. 7 on July 25, 2025, Norfolk Southern fast-tracked responding to CSXT's voluminous requests. Exhibit A - NS Discovery Stats shows that Norfolk Southern produced 519 documents on July 29, 2025, 607 documents on August 14, 2025, and the balance of 4,798 documents on August 28, 2025. Moreover, in total between June 20, 2025, and August 28, 2025, Norfolk Southern produced 36,254 pages and 7,016 documents to CSXT's 109 requests (4 RFPs).¹²

By comparison, looking at CSXT's efforts thus far to respond to Norfolk Southern's 89 discovery requests¹³ contained in NS First Requests and NS Second Requests tells a far different story than NS's good faith and expeditious efforts to complete discovery by August 28, 2025. On September 4, 2025, Norfolk Southern wrote counsel for CSXT asking about CSXT's plans for production. As Exhibit B states, "[i]t is my understanding that no document production has occurred in the five weeks since CSXT's First Responses & Objections. Before we escalate this matter, I wanted to write to inquire about a status update on when CSXT anticipates its rolling production to begin." Exhibit C provides CSXT's response.

Thank you for your email. We have been working to respond to NS's document requests. We have identified the key individuals for document and email searches and have started the search. As we identify relevant documents, relevant documents we will provide them on a rolling basis. We anticipate making an initial production next week.

To be clear, based on the email, it took CSXT five weeks just to identify custodians from which to search for potentially responsive documents. Despite CSXT's promise of rolling productions, Norfolk Southern has received to date one production, on September 12, producing 76 documents totaling 1078 pages. See Exhibit D. At this pace, Norfolk Southern will still be waiting for CSXT's rolling discovery productions months after our current deadline for submitting Norfolk Southern's response and rebuttal. Given this lack of good faith in responding to NS's discovery requests, it appears that it is CSXT that is playing games with discovery. Regardless, 12 days have passed since CSXT's last production, and yet we continue to wait on CSXT's second

¹² See CSXT's First RFP - 7 Requests (1-7) (served March 19, 2025); CSXT Second RFP – 89 Requests (1-89) (served March 26, 2025); CSXT's Third RFP – 11 Requests (90-100) (served June 6, 2025); and CSXT's Fourth RFP – 2 Requests (101-102) (served July 17, 2025).

¹³ NS's requests were served on July 11, 2025 and July 31, 2025, despite CSXT's commitment that it would produce relevant and non-privileged documents, by the time NS sent its September 4 communication, CSXT had produced absolutely zero documents.

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rolling production. At this juncture, what is clear is that the 76 documents did not fully respond to Norfolk Southern's request. Either CSXT needs more time to produce documents, or we need a discovery hearing to resolve issues related to CSXT's failure to produce responsive documents in a timely manner. Either way, CSXT's failure to meaningfully engage in discovery supports the good-faith, limited, and appropriate extension that Norfolk Southern seeks.

One last note on document production, on September 18, 2025, CSXT filed its comments, witness statements, and workpapers, yet Norfolk Southern has yet to receive a full document production in response to NS First Requests and Second Requests. NS is currently drafting a third set of discovery requests based upon the witness statements and workpapers and which is anticipated to be served this week. Given CSXT's pattern of delaying its discovery production, it is hard to even know when CSXT will fully respond to any of NS's discovery requests. If the government is shut down and NS does not have access to an ALJ or the Board itself, NS has no remedy for which to require CSXT to produce a timely response. Indeed, without involvement from the Board or the ALJ, CSXT could simply wait until shortly before November 6 to complete its discovery, providing NS with no time to review that discovery before its comments would be due.

IV. While VPA and VIT Engaged in Multiple Meet and Confers to Negotiate a Narrowed Set of Discovery Requests, Discovery With VPA and VIT Remains Ongoing and Incomplete As Well.

As explained to the Board and ALJ Soulikias in NS-26, on September 5, 2025, thanks to ALJ Soulikias' intervention, Norfolk Southern, VPA, and VIT engaged in multiple "meet and confers" and reached an agreement on narrowed discovery with discovery production to commence as soon as possible. While the parties negotiated a narrower scope for discovery, discovery remains ongoing. On September 17, 2025, VPA and VIT provided revised written responses and pledged document production to begin the early part of the week on September 22. See Exhibit E. Counsel for Norfolk Southern filed up on the production on September 24, 2025. See Exhibit F.

VPA and VIT's first unnumbered production occurred last Friday. Counsel for Norfolk Southern has reviewed documents, but information responsive to Requests 1, 24, 25, 35, 36, 39, and 45 still needs to be produced, and a supplemental number production (for Friday's unnumbered) production needs to be reproduced. See Exhibit G. Norfolk Southern needs time to review the documents VPA and VIT produced on Friday, as potentially responsive, and determine the adequacy of the production and if we have any follow-up questions. Norfolk Southern likewise anticipates additional responses from VPA and VIT over the coming weeks.

In summary, due to CSXT's lack of discovery production and the ongoing discovery discussions with VPA and VIT, making Norfolk Southern move forward with the current procedural schedule without discovery from VPA and VIT and CSXT being complete and without the ability of the ALJ or the Board to intervene to assist in discovery efforts, would be extremely

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prejudicial to Norfolk Southern's presentation of evidence. To be clear, Norfolk Southern cannot present its opposition and rebuttal case if it is hamstrung by not having adequate responses to discovery or the availability of the Board or ALJ to ensure compliance with that discovery. Complicating matters, the documents to be produced by VPA and VIT, along with CSXT's document production, must occur before Norfolk Southern takes depositions against CSXT's witnesses and other personnel, as discussed in the next section.

V. Norfolk Southern is Preparing to Depose CSXT's Witnesses. Unfortunately, CSXT's Failure to Meaningfully Respond to Discovery Has Hindered Norfolk Southern's Ability to Do So.

CSXT's failure to meaningfully respond to discovery is preventing Norfolk Southern from issuing its deposition notices, in addition to undermining the fundamental purpose of the discovery process - to facilitate case development and ensure fairness in litigation. While the Board is not expressly bound by the Federal Rules of Civil Procedure ("FRCP"), underlying principles from the FRCP are just as apropos here. Courts have recognized that outright failures to respond to discovery requests halt the case development process and deprive the opposing party of information required to prepare for depositions or other proceedings. For instance, in Hikita v. Nichiro Gyogyo Kaisha, 12 P.3d 1169, 2000 Alas. LEXIS 106 (Alaska Nov. 17, 2000) the court emphasized that such failures strike at the heart of the discovery system, threatening its self-executing nature and justifying sanctions, including dismissal, under Rule 37(d). Similarly, in Shabd-Sangeet Khalsa v. Chose, 261 P.3d 367 (Alaska July 29, 2011),¹⁴ the court noted that failure to respond to discovery requests halts case development and prejudices the opposing party's ability to proceed effectively. Discovery obligations are interconnected, and noncompliance on the production of documents can and does impede the opposing party's ability to determine the proper deponents and once determined, the effectiveness of the conduct of any resulting depositions. CSXT understands this well – its inability to depose Cannon Moss, president of NPBL, was one of CSXT's justifications for the CSXT – First Extension Request. The Board's own regulations also acknowledge the essential need for parties to have the full opportunity to undertake discovery. Indeed, failure of party to comply results in significant consequences. Cf. 49 CFR 114.31.

Sometime in the next week or so, Norfolk Southern intends to issue CSXT five (5) to six (6) requests for depositions. Norfolk Southern knows the deposition requests will include deposing

¹⁴ Courts/STB have found that a party's failure to provide written discovery responses prejudiced the opposing counsel's ability to prepare for a scheduled deposition, demonstrating the direct impact of such failures on the deposition process. See Canadian National Railway Company, Grand Trunk Corporation, And Grand Trunk Western Railroad Incorporated--Control--Illinois Central Corporation, Illinois Central Railroad Company, Chicago, Central And Pacific Railroad Company, And Cedar River Railroad Company, FD 33556 (STB served October 2, 1998) (granting an extension when the parties were unable to come to an agreement on discovery disputes, including document production and depositions).

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the following individuals, five of whom submitted verified statements in CSXT-22 and one of whom is a key CSXT personnel involved with the management of NPBL.

- Maryclare Kenney, CSXT's Vice President of Merchandise – Sales and Marketing
- Dr. Nathan Miller, Professor at Georgetown University and Founding Partner with Econic Partners and former Chief Economist of the U.S. Department of Justice, Antitrust Division
- Julie M. Carey, Senior Managing, Director with National Economic Research Associates, Inc.
- Dr. William Huneke, former STB Chief Economist and former Director of the STB's Office of Economics
- Steven Armbrust, Counsel for CSXT

Admittedly, Norfolk Southern has yet to issue these deposition notices. Given the uncertainty of whether and to the extent the ALJs' services will be available, Norfolk Southern is raising the need to depose these individuals preemptively. That aside, to rebut allegations of anticompetitive conduct raised by these witnesses, we need answers to discovery requests that CSXT has had for 80 days with respect to NS First Requests and for 60 days with respect to NS Second Requests. Answers to discovery requests are even more critical with respect to deposing Mr. Armbrust on non-privileged communications.

Under the existing schedule, Norfolk Southern has just over five weeks (37 days) to take five to six depositions (of which the ability to review documents produced in discovery is a critical element of any deposition of the CSXT witnesses), wrap up discovery with CSXT, VPA, and VIT, and incorporate the results of any information received into its evidence. CSXT was granted 75 days to take discovery and depositions and to prepare and file its comments, reply, protests, and request for conditions. It was then granted an additional 22 days for a total of 97 days to file its comments and requests for conditions. This included 20 days from the completion of discovery. In stark contrast, NS was given only 60 days to take discovery, depositions, and draft and file its reply and rebuttal comments. Here, due to the government shutdown, the lack of the availability of the ALJ and the Board to facilitate discovery, and CSXT's failure to respond to discovery in the same expeditious manner that NS responded to CSXT, it is reasonable to grant NS's request that all of its evidentiary deadlines be due 20 days after ALJ Soulikias certifies to the Board that CSXT, VPA, and VIT's discovery obligations (document production and depositions) were fulfilled.

CONCLUSION

For all of the reasons Norfolk Southern has explained herein, Norfolk Southern respectfully requests that the Board modify the procedural schedule to make Norfolk Southern's responses to comments, protests, requests for conditions, and other opposition, including to DOJ and USDOT filings; CSXT's responsive application; and rebuttal in support of the application due 20 days after ALJ Soulikias certifies to the Board that CSXT, VPA, and VIT's discovery obligations (document production and depositions) were fulfilled. The requested extension is

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necessary because, given the current state of affairs, failure to grant Norfolk Southern an extension under these circumstances will adversely impact Norfolk Southern's ability to present its rebuttal case and violate its due process rights.

Respectfully Submitted,

/s/ Crystal M. Zorbaugh

Crystal M. Zorbaugh
Counsel for Norfolk Southern Corporation
and Norfolk Southern Railway

cc: Parties of Record
U.S. Secretary of Transportation
U.S. Attorney General of the United States

Exhibit A

Exhibit A - NS Discovery Stats

CSXT served 109 Requests, with the focus being on the 100 Requests within the Second and Third RFPs.

- CSXT's First RFP - 7 Requests (1-7)
- CSXT Second RFP – 89 Requests (1-89)
- CSXT's Third RFP – 11 Requests (90-100)
- CSXT's Fourth RFP – 2 Requests (101-102)

Document Universe

- 62,786 documents
 - 18,473 documents from the previous workspace were loaded on July 10, 2025
 - 19,125 uploaded on August 4, 2025
 - Remaining 25,188 documents uploaded on August 12, 2025
- Page count for Document Universe is unknown. Based on the production being 5x, I would estimate over 300,000 pages.

Between July 25, 2025, NS made continuing productions over the next 30+ days, wrapping up its response to the discovery by August 28th.

Production Specifics

- Total of 7,016 documents produced, consisting of 36,254 pages
- 1st Production (Annual Reports) on June 20, 2025
 - 10 Documents
 - 339 pages (STB-NS-0000001 to STB-NS-0000339)
- 2nd Production on July 18, 2025
 - 1,082 Documents
 - 5,422 (Bates Range: STB-NS-0000340 to STB-NS-0005761)
- 3rd Production on July 29, 2025
 - 519 Documents

- 3,266 pages (Bates Range: STB-NS-0005762 to STB-NS-0009027)
- 4th Production on August 14, 2025
 - 607 Documents
 - 4,804 pages (Bates Range: STB-NS-0009028 to STB-NS-0013831)
- 5th Production on August 28, 2025
 - 4,798 Documents
 - 22,423 (Bates Range: STB-NS-0013832 and ends at STB-NS-0036254)



Outlook

Exhibit B

Discovery Status Update

From Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>

Date Thu 9/4/2025 3:53 PM

To Denton, Peter <pdenton@step toe.com>; Molly Bruder <mbfox@step toe.com>

Cc John Edwards <jedwards@mullinslawgroup.net>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Peter/Molly,

Hope this finds you both well on this rainy afternoon.

I am writing to inquire as to when CSX Transportation, Inc. ("CSXT") intends to start its rolling discovery production. In CSX Transportation, Inc.'s Responses and Objections to Norfolk Southern's First Set of Requests for Production of Documents and Interrogatories to CSX Transportation, Inc. dated July 28, 2025 ("CSXT's First Responses & Objections"), and CSX Transportation, Inc.'s Responses and Objections to Norfolk Southern's Second Set of Requests for Production of Documents to CSX Transportation, Inc. dated August 15, 2025, CSXT indicated in response to nearly all discovery requests that it would "produce non-privileged material" that was responsive to Norfolk Southern's requests.

It is my understanding that no document production has occurred in the five weeks since CSXT's First Responses & Objections. Before we escalate this matter, I wanted to write to inquire about a status update on when CSXT anticipates its rolling production to begin.

Best,

Crystal



Crystal Zorbaugh

Partner

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The above message may be privileged, confidential and protected from disclosure by attorney/client work product or other privileges. If you believe that it has been sent to you in error, do not read it. Please reply to the sender that you have received the message in error. Then delete it. Thank you.



Exhibit C

RE: Discovery Status Update

From Fox, Molly Bruder <mbfox@step toe.com>

Date Fri 9/5/2025 5:32 PM

To Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>; Denton, Peter <pdenton@step toe.com>

Cc John Edwards <jedwards@mullinslawgroup.net>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Crystal:

Thank you for your email. We have been working to respond to NS's document requests. We have identified the key individuals for document and email searches and have started the search. As we identify relevant documents, relevant documents we will provide them on a rolling basis. We anticipate making an initial production next week.

Regards,

Molly

Molly Bruder Fox

Partner

Step toe

Step toe LLP | 1330 Connecticut Avenue NW | Washington, DC 20036

+1 202 429 8157 direct | mbfox@step toe.com | [www.step toe.com]www.step toe.com | [Step toe Bio](#)

From: Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>

Sent: Thursday, September 4, 2025 3:54 PM

To: Denton, Peter <pdenton@step toe.com>; Fox, Molly Bruder <mbfox@step toe.com>

Cc: John Edwards <jedwards@mullinslawgroup.net>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Subject: [EXTERNAL] Discovery Status Update

Importance: High

Peter/Molly,

Hope this finds you both well on this rainy afternoon.

I am writing to inquire as to when CSX Transportation, Inc. ("CSXT") intends to start its rolling discovery production. In CSX Transportation, Inc.'s Responses and Objections to Norfolk Southern's First Set of Requests for Production of Documents and Interrogatories to CSX Transportation, Inc. dated July 28, 2025 ("CSXT's First Responses & Objections"), and CSX Transportation, Inc.'s Responses and Objections to Norfolk Southern's Second Set of Requests for Production of Documents to CSX Transportation, Inc. dated August 15, 2025, CSXT indicated in response to nearly all discovery requests that it would "produce non-privileged material" that was responsive to Norfolk Southern's requests.

NS-27
It is my understanding that no document production has occurred in the five weeks since CSXT's First Responses & Objections. Before we escalate this matter, I wanted to write to inquire about a status update on when CSXT anticipates its rolling production to begin.

Best,

Crystal



Crystal Zorbaugh

Partner

2001 L Street NW, Suite 720

Washington, DC 20036

[202-663-7831](tel:202-663-7831) Direct

[240-501-9620](tel:240-501-9620) Cell

czorbaugh@mullinslawgroup.net

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Molly Bruder Fox
202 429 8157
mbfox@steptoe.com

Exhibit D

NS-27
Steptoe

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoelaw.com

September 12, 2025

Via E-Mail

William A. Mullins
Mullins Law Group
2001 L Street NW, Suite 720
Washington, DC 20036
wmullins@mullinslawgroup.net

**Re: CSX Transportation, Inc.'s First Production of Documents in FD 36836,
Norfolk Southern Railway Company – Acquisition of Control – Norfolk &
Portsmouth Belt Line Railroad Company**

Dear Mr. Mullins:

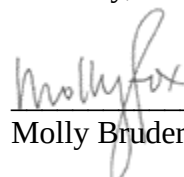
On behalf of CSX Transportation, Inc. ("CSXT"), enclosed please find the link to CSXT's first production of documents pursuant to Norfolk Southern's First Set of Requests for Production served on July 11, 2025, and Norfolk Southern's Second Set of Requests for Production served on July 31, 2025: <https://steptoe.global.sharefile.com/d-s11262e51b5ef4a089f919c32143e6ccb>. CSXT will continue to produce documents on a rolling basis.

This production contains 76 documents in the Bates range CSX_STB_0000001 – CSX_STB_0001078. Documents within this production have been designated Confidential and Highly Confidential pursuant to the Protective Order issued by the Board in this proceeding (FD 36836) on February 19, 2025. CSXT reserves the right to amend the level of confidentiality of any of its produced documents if CSXT learns that any document is properly considered to fall under a different category under the Protective Order.

CSXT does not concede the relevancy of these requests and reserves all rights, including the right to object to the requests in the future.

Please let us know if you have any questions or if there are any issues opening the production. A password will follow under separate cover.

Sincerely,


Molly Bruder Fox

Counsel for CSX Transportation, Inc.

William A. Mullins
Mullins Law Group
September 12, 2025
Page 2

Steptoe

cc: Administrative Law Judge Jenifer Soulikias (alj.soulikias.inbox@stb.gov)
Rose-Michele Nardi (rnardi@mullinslawgroup.net)
John Edwards (jedwards@mullinslawgroup.net)
Spencer Naake (snaake@mullinslawgroup.net)

Exhibit E



GENTRY LOCKE
Attorneys

Kathleen L. Wright

wright@gentrylocke.com

P: 540.983.9360

F: 540.983.9400

September 17, 2025

Via email

Crystal M. Zorbaugh, Esq.
John V. Edwards, Esq.
MULLINS LAW GROUP
2001 L. Street NW, Suite 720
Washington, DC 20036

Re: Surface Transportation Board Case FD 36836; *Norfolk Southern Railway Company – Control Acquisition – Norfolk & Portsmouth Belt Line Railroad Company*

Dear Ms. Zorbaugh:

Enclosed are the written responses from Virginia Port Authority and Virginia International Terminals, LLC, to Norfolk Southern's ("NS's") September 2, 2025, document requests and interrogatory.

We have been working with VPA and VIT to collect documents responsive to the agreed-upon requests. All searches have been run for the "communications," "document" and "data file" requests. To date we have uploaded about 121 GB of data, and we are still uploading.

We anticipate some basic data file information will be produced soon (no later than the beginning of next week); however the documents, collected from a Laserfiche system, are requiring a significant time to upload and will take more time to produce. For the "communications" responses (emails with attachments), we anticipate an initial production by the end of September.

Please contact me with any questions.

Very truly yours,
GENTRY LOCKE

Kathy L. Wright

cc William A. Mullins, Esq.
Peter W. Denton, Esq.
Sally Mordi, Esq.
Thomas J. Litwiler, Esq.
Abigail Slater, Esq.

Crystal M. Zorbaugh, Esq.
September 17, 2025
Page 2

Sarah McCoy, Esq.
Brianna Barnes, Esq.
Noah P. Sullivan, Esq.



Exhibit F

Re: Finance Docket 36836

From Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>

Date Wed 9/24/2025 7:20 PM

To Viar, Leslie A. <Viar@gentrylocke.com>; John Edwards <jedwards@mullinslawgroup.net>; smmcoy@portofvirginia.com <smmcoy@portofvirginia.com>; William Mullins <wmullins@mullinslawgroup.net>; Brianna Barnes <bbarnes@portofvirginia.com>; Wright, Kathleen L. <wright@gentrylocke.com>

Cc Sullivan, Noah P. <NSullivan@gentrylocke.com>; Michaela Bowles <mbowles@mullinslawgroup.net>

📎 2 attachments (113 KB)

September 17 letter with written discovery responses.pdf; VPA Responses to NS 9.2.25 Discovery.pdf;

Kathy,

Sorry for the delayed response, but I am recovering from knee surgery last Wednesday. Thank you for your revised responses and objections. Per your letter last week, we were supposed to be served data files by the **beginning of this week**. Unless I am missing something, no documents have been produced thus far. Can you please provide an update?

Best,

Crystal



Crystal Zorbaugh

Partner

2001 L Street NW, Suite 720
Washington, DC 20036

202-663-7831 Direct
240-501-9620 Cell
czorbaugh@mullinslawgroup.net
mullinslawgroup.net

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From: Viar, Leslie A. <Viar@gentrylocke.com>

Sent: Wednesday, September 17, 2025 3:27 PM

To: pdenton@steptoe.com <pdenton@steptoe.com>; tltwiler@fletcher-sippel.com <tltwiler@fletcher-sippel.com>; smordi@steptoe.com <smordi@steptoe.com>; Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>; John Edwards <jedwards@mullinslawgroup.net>;

smmcoy@portofvirgnia.com <smmcoy@portofvirgnia.com>; William Mullins
<wmullins@mullinslawgroup.net>; Brianna Barnes <bbarnes@portofvirginia.com>;
don.amlin@usdoj.gov <don.amlin@usdoj.gov>
Cc: Sullivan, Noah P. <NSullivan@gentrylocke.com>
Subject: Finance Docket 36836

You don't often get email from viar@gentrylocke.com. [Learn why this is important](#)

Sent on behalf of Kathleen L. Wright, Esq.

Re: Norfolk Southern Corporation & Norfolk Southern Railway Company –
Acquisition of Control – Norfolk & Portsmouth Belt Line Railroad Company

Counsel,
Please see the attached.

Thank you,
Leslie



[web](#) | [map](#)
Leslie A. Viar
Legal Assistant
Direct: 540.983.9419

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advise by return email and delete immediately without reading/forwarding to others.



RE: Finance Docket 36836

From Wright, Kathleen L. <Wright@gentrylocke.com>

Date Fri 9/26/2025 10:29 AM

To Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>; Viar, Leslie A. <Viar@gentrylocke.com>; John Edwards <jedwards@mullinslawgroup.net>; smmcoy@portofvirginia.com <smmcoy@portofvirginia.com>; William Mullins <wmullins@mullinslawgroup.net>; Brianna Barnes <bbarnes@portofvirginia.com>

Cc Sullivan, Noah P. <NSullivan@gentrylocke.com>; Michaela Bowles <mbowles@mullinslawgroup.net>; Arthur, Jenny D. <Arthur@gentrylocke.com>; Viar, Leslie A. <Viar@gentrylocke.com>

Crystal –

I was at a hearing yesterday – sorry for the delay.

The currently available data file information spreadsheet will be uploaded to a Sharefile site for you to download today as a stop-gap measure. This information is Highly Confidential under the STB FD 36836 Protective Order. Ms. Arthur, who runs the productions on Logikcull, is not in the office today. She will be able to send a numbered production version when she returns next week.

I have reviewed most of the documents collected from the VPA/VIT Laserfiche system in response to searches for Requests 1, 24, 25, 35, 36, 39 and 45, so responsive final versions of those documents should be available to produce next week.

Sincerely,
Kathy

Kathy L. Wright

Direct: [540.983.9360](tel:540.983.9360)

VIRGINIA: Roanoke | Lynchburg | Richmond | Norfolk
[web](#) | [bio](#) | [map](#)

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From: Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>

Sent: Wednesday, September 24, 2025 7:21 PM

To: Viar, Leslie A. <Viar@gentrylocke.com>; John Edwards <jedwards@mullinslawgroup.net>; smmcoy@portofvirginia.com; William Mullins <wmullins@mullinslawgroup.net>; Brianna Barnes <bbarnes@portofvirginia.com>; Wright, Kathleen L. <Wright@gentrylocke.com>

Cc: Sullivan, Noah P. <NSullivan@gentrylocke.com>; Michaela Bowles <mbowles@mullinslawgroup.net>

Subject: Re: Finance Docket 36836

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Kathy,

Sorry for the delayed response, but I am recovering from knee surgery last Wednesday. Thank you for your revised responses and objections. Per your letter last week, we were supposed to be served data files by the **beginning of this week**. Unless I am missing something, no documents have been produced thus far. Can you please provide an update?

Best,

Crystal



Crystal Zorbaugh

Partner

2001 L Street NW, Suite 720
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czorbaugh@mullinslawgroup.net

mullinslawgroup.net

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From: Viar, Leslie A. <Viar@gentrylocke.com>

Sent: Wednesday, September 17, 2025 3:27 PM

To: pdenton@steptoe.com <pdenton@steptoe.com>; tlitwiler@fletcher-sippel.com <tlitwiler@fletcher-sippel.com>; smordi@steptoe.com <smordi@steptoe.com>; Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>; John Edwards <jedwards@mullinslawgroup.net>; smmcoy@portofvirginia.com <smmcoy@portofvirginia.com>; William Mullins <wmullins@mullinslawgroup.net>; Brianna Barnes <bbarnes@portofvirginia.com>; don.amlin@usdoj.gov <don.amlin@usdoj.gov>

Cc: Sullivan, Noah P. <NSullivan@gentrylocke.com>

Subject: Finance Docket 36836

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Sent on behalf of Kathleen L. Wright, Esq.

Re: Norfolk Southern Corporation & Norfolk Southern Railway Company – Acquisition of Control – Norfolk & Portsmouth Belt Line Railroad Company

Counsel,

Please see the attached.

Thank you,

Leslie



[web](#) | [map](#)

Leslie A. Vlar

Legal Assistant

Direct: 540.983.9419

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