

MULLINS LAW GROUP PLLC*Transportation Solutions for the 21st Century*2001 L Street NW, Suite 720
Washington, DC 20036**William A. Mullins**
wmullins@mullinslawgroup.net
mullinslawgroup.netTelephone: (202) 663-7850
Direct: (202) 663-7823
Facsimile: (202) 459-2115

November 13, 2025

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VIA E-Filing**ENTERED**
Office of Chief Counsel
November 13, 2025Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001ALJ Jenifer Soulikias
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001
Email: alj.soulikias.inbox@stb.gov
Part of Public RecordRe: 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

Dear Chief of Case Administration and ALJ Soulikias,

On October 1, 2025, the Surface Transportation Board (the “STB” or “Board”) announced that, due to a lapse in appropriations and the resulting partial government shutdown, its functions would be suspended. Despite this suspension, Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively “Norfolk Southern” or “NS”), CSX Transportation, Inc. (“CSXT”), and the Virginia Port Authority and Virginia International Terminals (collectively “VPA/VIT”) have continued to engage in discovery, produce documents, and conduct depositions. In the absence of Judge Soulikias’s availability, the parties have worked in good faith to resolve outstanding issues. CSXT asserts that its discovery is complete, and Norfolk Southern generally concurs, subject to minor exceptions.

While CSXT’s discovery is largely resolved, VPA/VIT’s production remains incomplete, creating a critical timing issue for Norfolk Southern. Norfolk Southern continues to work with VPA/VIT to complete production of the narrowed negotiated discovery agreed upon via several meet and confers, but discovery remains ongoing. Norfolk Southern sent VPA/VIT a letter on October 28, 2025, following up on outstanding discovery and asking to set a meet and confer to resolve the remaining issues. Counsel for VPA/VIT promptly responded, stating that technical and other problems have delayed its production.¹

¹ Email from Kathleen Wright to Crystal Zorbaugh, dated 10/29/25 is attached as Exhibit A.

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Counsel for Norfolk Southern and VPA/VIT held a meet and confer on October 31, 2025 (“Meet and Confer”). VPA/VIT stated that it simply requires more time to fulfill its outstanding discovery obligations.² During that Meet and Confer, Kathleen Wright, outside counsel for VPA/VIT, and Brianna Barnes, Director, Contracts and Compliance, both explained a desire to complete production of the agreed-upon scope. VPA/VIT’s last production was done on October 31, 2025, and consistent with the discussions during the Meet and Confer, the production cover letter noted, “This is not a final production.”³ In the Meet and Confer, VPA/VIT indicated it is two weeks away from substantially completing discovery and three weeks away from fully completing its production.⁴

Norfolk Southern appreciates VPA/VIT’s efforts to date to meet its discovery obligations. It is important to note that once VPA/VIT fully completes its discovery obligations, Norfolk Southern will need additional time to review VPA/VIT’s final production and incorporate relevant evidence into Norfolk Southern’s responses to comments, protests, and other opposition and its rebuttal in support of the application. Norfolk Southern anticipates that it will need an additional fifteen (15) days from the date that VPA/VIT certifies that it has completed its final production and fulfilled its outstanding discovery obligations. It is worth noting that Norfolk Southern is requesting less time than the extensions previously provided to CSXT in this proceeding for incorporating discovery responses.⁵ During the Meet and Confer, counsel for VPA/VIT noted that it would not object to Norfolk Southern’s extension request.

Based on the foregoing, Norfolk Southern respectfully requests that the Board modify the procedural schedule to make Norfolk Southern’s response to comments, protests, and other opposition and its rebuttal in support of the application⁶ due fifteen (15) days after VPA/VIT certifies that it has completed its final production and fulfilled its discovery obligations. The

² On September 2, 2025, Norfolk Southern served on both VPA and VIT a narrower set of discovery requests pursuant to a meet and confer on August 29, 2025.

³ The October 31, 2025, production cover letter is Exhibit B.

⁴ Based on needing three (3) weeks to complete discovery, VPA/VIT should be able to wrap up discovery by November 21, 2025.

⁵ CSXT was provided two extensions on August 15, 2025, and August 29, 2025, respectively, to submit its comments, protests, and requests for conditions. The second 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.

⁶ Because NS’s reply to CSXT’s Responsive Application (which should have been docketed as separate sub-docket) does not rely upon any unresolved discovery issues with VPA/VIT, NS is not requesting an extension of the deadline to file that reply and will file that reply when directed to do so by any order the STB has issued with respect to filings due during the government shutdown.

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inability to review and incorporate any VPA/VIT discovery would be prejudicial to NS's ability to fully reply to the previous comments filed in this proceeding.

Respectfully Submitted,

/s/ William A. Mullins

William A. Mullins
Counsel for Norfolk Southern Corporation and
Norfolk Southern Railway Company

cc: Parties of Record
Enclosures



RE: VIT-VPA Discovery Deficiencies Letter

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

Date Wed 10/29/2025 4:35 PM

To Spencer Naake <snaake@mullinslawgroup.net>; Crystal Zorbaugh <czorbaugh@mullinslawgroup.net>

Cc alj.soulikias.inbox@stb.gov <alj.soulikias.inbox@stb.gov>

Crystal –

I can respond more fully to your letter tomorrow; however, VIT and VPA's production is not complete. I apologize for the short message in the letter of October 17th with the second production – I was out of town in Texas and just wanted to get a production out. I did not look at what my assistant drafted as a cover letter, but it was not intended to convey that no more documents were coming.

VPA and VIT, although not parties to this proceeding, have collected and are in the process of reviewing more than 154,000 documents, containing over 7 million pages (275 GB of data), which may include documents or information responsive to NS's 29 document requests. We had technical problems with one of the document sets, which were able to resolve. We have five people working on the review and will continue to produce documents as they are identified, reviewed for privilege, redacted, processed and numbered for production.

As for a meet/confer, I am available any time Friday afternoon. How about 2?

Kathy



Kathy L. Wright

Direct: [540.983.9360](tel:540.983.9360)

VIRGINIA: Roanoke | Lynchburg | Richmond | Norfolk

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

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GENTRY LOCKE
Attorneys

Kathleen L. Wright
wright@gentrylocke.com
P: 540.983.9360
F: 540.983.9400

October 31, 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:

Virginia Port Authority and Virginia International Terminals, LLC are producing the following documents via Sharefile:

VIT PROD003 (Bates Nos. VIT_00000001 through 00001132); and

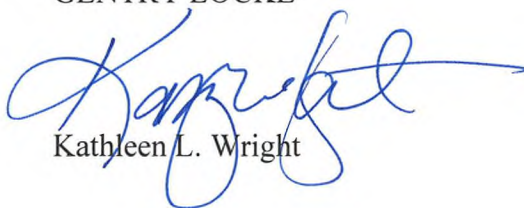
VPA PROD003 (Bates Nos. VPA_00000001 through 00000075).

This is not a final production.

Please contact me with any questions.

Very truly yours,

GENTRY LOCKE



Kathleen L. Wright

KLW:lav

cc: William A. Mullins, Esq. (via email)
Peter W. Denton, Esq. (via email)
Sally Mordi, Esq. (via email)
Thomas J. Litwiler, Esq. (via email)
Abigail Slater, Esq. (via email)

Crystal M. Zorbaugh, Esq.
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Sarah McCoy, Esq. (via email)
James L. Chapman, IV, Esq. (via email)
W. Ryan Snow, Esq. (via email)
Brianna Barnes, Esq. (via email)
Noah P. Sullivan, Esq. (via email)