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Office of Chief Counsel
April 5, 2022
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Date: April 5, 2022

Case: Public Evidentiary Hearing

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1 SURFACE TRANSPORTATION BOARD

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REMOTE PUBLIC EVIDENTIARY HEARING FOR

4

"Application of the National Railroad Passenger

5

Corporation Under 49 U.S.C. Section 24308(e)

6

CSX Transportation, Inc., and Norfolk Southern

7

Railway Company."

8

9

VOLUME II

10

Tuesday, April 5, 2022

11

9:30 a.m.

12

Via Zoom Government

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The above-entitled matter came on,

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pursuant to notice, at 9:32 a.m., Chairman Martin

16

Oberman, presiding.

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1 P R O C E E D I N G S

2 CHAIRMAN OBERMAN: Good morning,
3 everybody. Welcome to the second day of the
4 hearing involving Amtrak's application under
5 24308(e). And I think we were still in the middle
6 of the examination of Mr. Banks. Is he available
7 and ready to retake the stand?

8 MR. ATKINS: Chairman Oberman, can you
9 hear me? This is Ray Atkins.

10 MS. AMUNSON: Yes, Ray.

11 MR. ATKINS: So before we call Mr. Banks
12 back, Norfolk Southern and CSX would like to raise
13 some issues for the board to consider before we
14 restart his cross.

15 CHAIRMAN OBERMAN: That's fine. And
16 actually, there is one issue that I wanted to
17 mention, so I'm glad you reminded me of that. So
18 go ahead.

19 MR. ATKINS: From our perspective, we
20 think it actually might be advantageous to move the
21 Zoom into the confidential setting.

22 CHAIRMAN OBERMAN: Right now you mean?

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1 MR. ATKINS: Yes.

2 CHAIRMAN OBERMAN: All right.

3 TECHNICIAN CROSS: There are still a
4 couple of people joining right now. Should we wait
5 maybe a minute or two to make sure everybody that
6 needs to be in there is actually joining the
7 meeting. We still have a couple of people coming
8 in.

9 CHAIRMAN OBERMAN: All right. Sure.
10 Let's make sure we have a complete group.

11 (Confidential session follows.)

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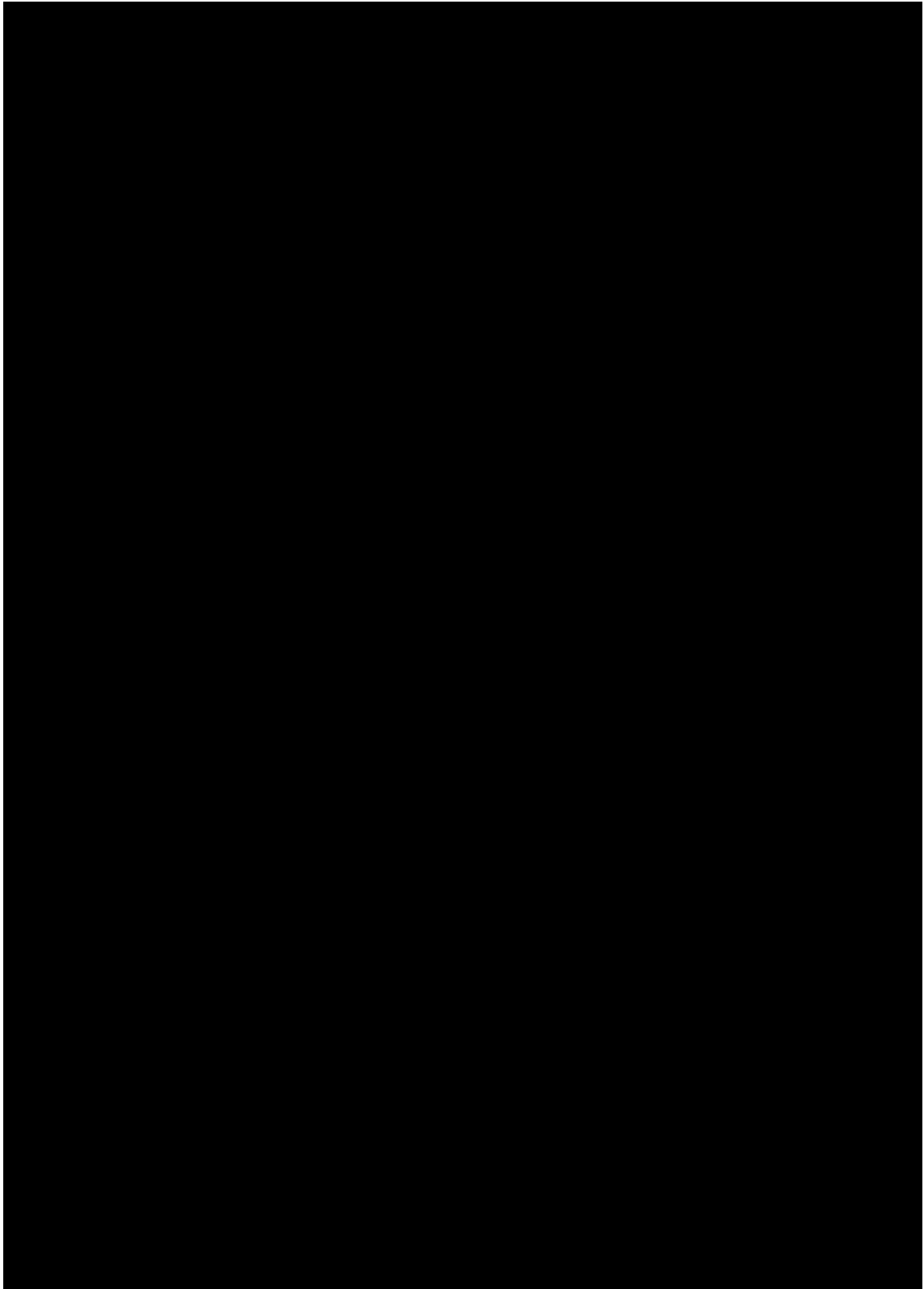
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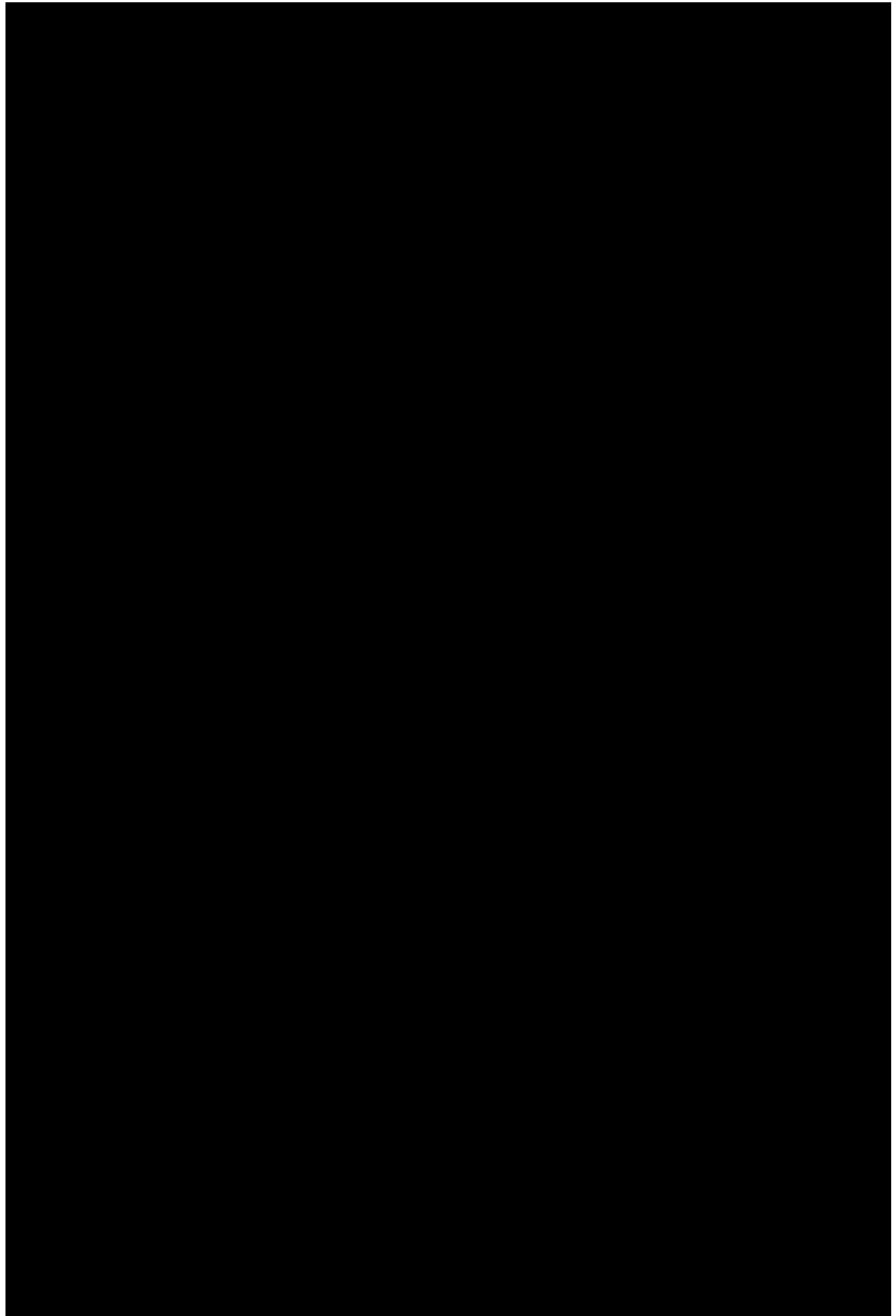
CONFIDENTIAL SESSION



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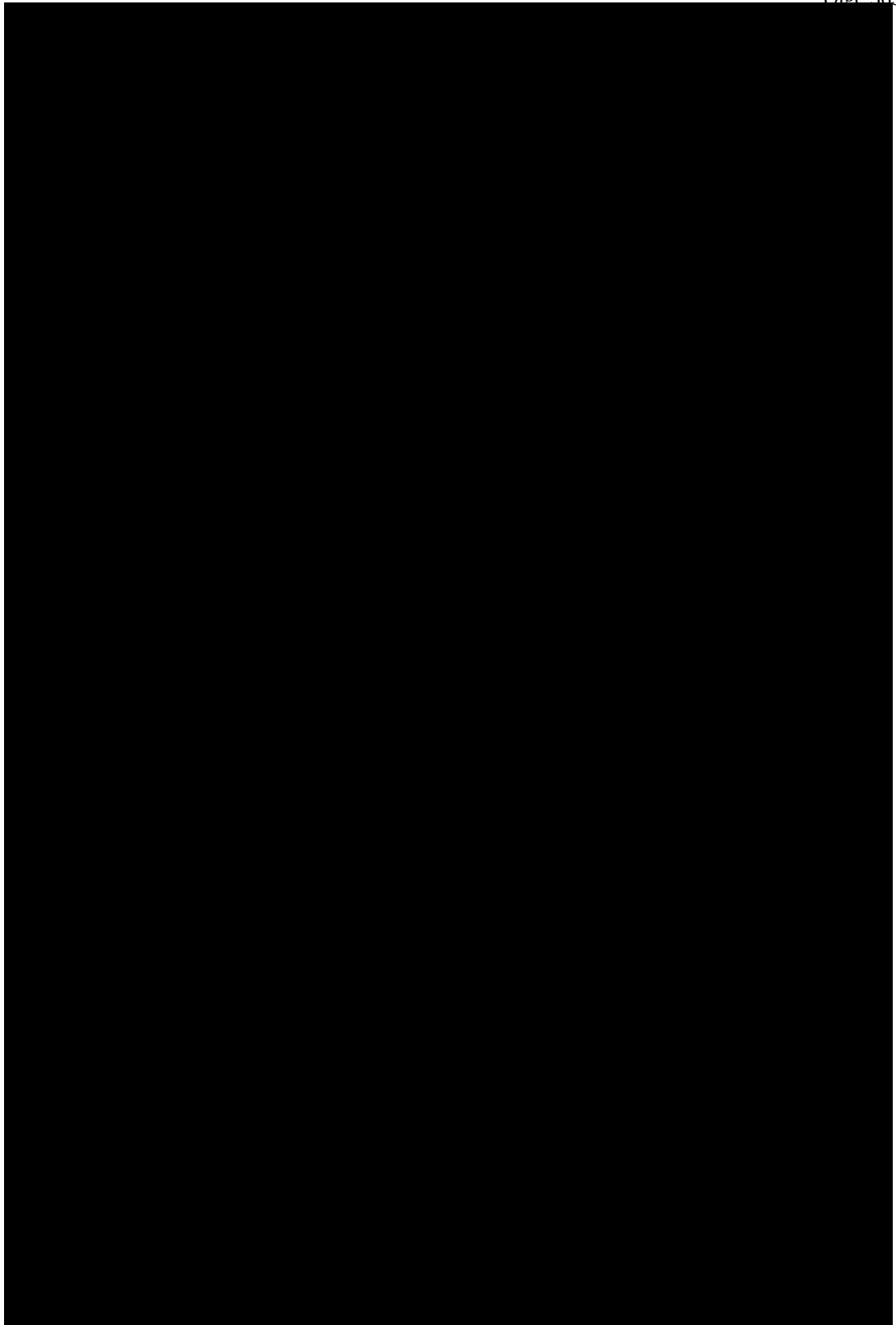


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(End of confidential session.)

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1 OPEN SESSION CONTINUED

2 CHAIRMAN OBERMAN: I'm going to say a
3 couple of things.

4 First of all, I apologize to all
5 participants and the public for the length of that
6 recess, but the question that was raised, which
7 we'll talk about here in a moment, required me to
8 consult not only with staff, but I think as people
9 know here, I have insisted since the time I've been
10 chairman that this board acts by consensus and
11 collegially, and the questions that were raised
12 required input from each board member which cannot
13 be had under the Sunshine Act unless I talked to
14 them one at a time, and that is time consuming.
15 But those conversations have been had and I now
16 have the input from each board member. And I would
17 only say that doing this properly in proper
18 procedure and having a full and fair hearing is
19 more important than time. And so when counsel
20 makes a request, as has been made, just be aware
21 that we are going to spend the time necessary to
22 properly evaluate it and make a reasoned decision.

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1 So there is no way to avoid it, but it is time
2 consuming.

3 Having said that, it's been determined
4 that the subject matter that counsel wanted to
5 address the board on under the Sunshine Act must be
6 discussed in public. There wasn't any proprietary
7 or confidential data involved in the question that
8 was raised. And so an issue was raised by
9 Mr. Atkins, we are reassembling in public session,
10 and I will hand the floor back to Mr. Atkins to
11 re-raise the issue and we will have this discussion
12 in public.

13 Ray, you're on.

14 MR. ATKINS: Thank you, Chairman. So I'll
15 start again.

16 Norfolk Southern and CSX has a proposal
17 and a suggestion for the board members to expedite
18 this hearing and to have it comport more closely
19 with what we think are the expectations for a
20 trial-type setting on the record.

21 The specific recommendation is that board
22 members, although they do have a role as the judge

1 to ask clarifying questions of witnesses both
2 during direct and on cross of all the witnesses
3 that are presented, we would be urging the board
4 members to limit themselves to questions of a
5 clarifying nature and that fall within the bounds
6 of what is expected of when you're in a trial of
7 this sort under the federal rules of evidence.

8 We offered that recommendation for three
9 reasons. The first is just efficiency. We think
10 that process would promote the efficiency of this
11 trial. The parties have designed their evidence to
12 get all of the information out before the board
13 through their witnesses. I think the majority of
14 the questions that were asked yesterday would have
15 been addressed and will be addressed by subsequent
16 witnesses. And the board also has existing
17 processes to make sure that all their questions are
18 answered. So any questions that are addressed, you
19 know, about the record in this case could be
20 addressed to counsel in closing arguments or, if
21 there are any other questions that they have of the
22 record, the presiding officer has the ability,

1 under the board's rules, to seek to ask some
2 supplemental questions.

3 But we think that letting the parties play
4 the role of advocate and to put forth their cases
5 is just much more efficient.

6 The second reason is we have very serious
7 concerns, from what we heard yesterday, that this
8 hearing might extend well into April, with a break
9 in the presentation of evidence. We think there is
10 a due process and precedent problem with that, from
11 our perspective, where we have to put on our case
12 this week. And the way we're going, you know,
13 we'll be lucky to get our presentation done by
14 Friday. And then an extensive break -- because we
15 understand the board are very busy next week and
16 the week after -- that that will be harmful to our
17 case and inappropriate.

18 And then the third point, which I'm going
19 to ask Mr. Donahoe to address, is there actually
20 are parameters in a trial-like setting that the
21 reviewing courts are going to expect the judges to
22 adhere themselves to. There are certain principles

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1 that they're expected to follow, and we think if
2 you were to limit yourself to clarifying questions
3 during cross, that there is really no likelihood of
4 treading over the line.

5 And so if I may, Chairman, I would like to
6 introduce Dan, who has 32 years of experience. He
7 is simply one of the most experienced trial
8 attorneys in this space. He tries before federal
9 judges, state judges, triers of fact. And he's
10 just going to lay out some principles that we're
11 hopeful the board will keep in mind.

12 When we say this, understanding this is a
13 case of first impression, none of us has done this
14 before, so we're offering these forward in the
15 interest of just helping the board understand that
16 its role in this type of proceeding is different
17 than, say, in a merger proceeding or any other type
18 of proceeding where you can, you know, ask
19 questions of the witnesses here. Because your role
20 is more of a judge, there are expectations about
21 what the line of questioning to witnesses will be
22 when you're in that role.

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1 So Mr. Donahoe, if you could just, you
2 know, give the chairman and the members a little
3 bit of your perspective on that, those principles,
4 and then I'll wrap up.

5 MR. DONAHOE: Good morning to the board,
6 and I will be brief but there's a couple of
7 points --

8 CHAIRMAN OBERMAN: Mr. Donahoe, your mic
9 is not -- there you go. Thank you, sir.

10 MR. DONAHOE: Good morning, Chair. My
11 points will be brief, but I think there's a couple
12 of caveats and cautionary tales that need to be
13 said here.

14 First and foremost, I realize this is a
15 somewhat new process, but it is similar to juries
16 and jury trials, and the board similarly has the
17 role of a judge in this case. And primarily, under
18 the Federal Rules of Civil Procedure, a judge is
19 primarily a factfinder and they also rule on the
20 admissibility of evidence.

21 With that being said, I think there's a
22 couple of things that the judge in this case, or

1 the board, has to be careful about. And the first
2 is based on case law, Wright and Miller. Under
3 Rule 43 of civil procedure, which we have been told
4 are the applicable rules in this process, the trial
5 court is not permitted to appear to be an advocate
6 or a prosecutor. And if its questioning is too
7 partisan or too extensive, it constitutes
8 reversible error. And I don't think any of us want
9 that to happen here.

10 Another important point from the case law
11 is United States versus Pellegrino, which is
12 470 F.2d 1205. Judges are not permitted to usurp
13 the functions of the representatives of the
14 parties. It is our belief that, based on some of
15 the questioning yesterday, that that did occur,
16 that the questioning done by the board did usurp
17 the function of Amtrak's counsel.

18 The other thing we'd like to point out is
19 that in United States versus Cassiagnol --
20 C-A-S-S-I-A-G-N-O-L -- on appeal in the fourth
21 circuit, the appellate court said that the judge
22 conducted exhaustive interrogation which covered 13

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1 consecutive pages of cross-examination of one of
2 the party's witnesses. I don't have the page count
3 from yesterday, but I would suggest that the
4 questioning done by the board far exceeded 13
5 pages.

6 CHAIRMAN OBERMAN: What's the cite,
7 Mr. Donahoe, in that case?

8 MR. DONAHOE: I'm sorry. 420 F.2d 868,
9 Fourth Circuit, 1970.

10 And the last point I would like to make is
11 that there were some references to newspapers and
12 outside sources by the board yesterday, and I also
13 believe, under the Federal Rules of Civil
14 Procedure, that is improper. And I would cite the
15 case of Petrobras -- P-E-T-R-O-B-R-A-S -- versus
16 Samsung, 9 F.4th 247 --

17 CHAIRMAN OBERMAN: I didn't hear the full
18 cite.

19 MR. DONAHOE: 9 F.4th 247.

20 CHAIRMAN OBERMAN: Thank you.

21 MR. DONAHOE: It's a fifth circuit case in
22 2021 that specifically said -- concluding that

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1 newspaper articles were not proper material for
2 judicial notice. And I would indicate that some of
3 the references to newspaper articles yesterday
4 were, in fact, an attempt at judicial notice.

5 I would also cite the case of Brown v.
6 City of Pittsburgh, 586 F.3d 263.

7 CHAIRMAN OBERMAN: Give me the cite again.

8 MR. DONAHOE: Sorry. I apologize.

9 586 F.3d 263, which stands for the proposition that
10 reliance on facts and press reports and statistics
11 on websites was reversible error when the parties
12 had no notice that the court was relying on such
13 evidence.

14 In general, I just believe that some of
15 the questioning -- certainly not all of it -- and I
16 realize the board is trying to get information, but
17 it is my belief that it went past the factfinding
18 role and more into the advocacy role, as I thought
19 there was certainly questions about Mr. Banks's
20 credibility and I thought there was somewhat
21 commentary on his questioning, which I believe,
22 given the way this process has been set up, is

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1 improper.

2 Thank you.

3 MR. ATKINS: So let me just wrap up,
4 Chairman. So we want to put on the record, just so
5 we have it, an objection to the line of questioning
6 that took place yesterday. But what we're really
7 hoping to do here is just help all of us get to an
8 efficient process here so we can get this done by
9 Friday.

10 I think I mentioned in the confidential
11 part, but I'll say it in public -- just want to
12 make sure I hit everything -- we think we need to
13 get through four witnesses today -- that's three
14 hours of direct testimony, to have any chance of
15 getting the witnesses all done by Friday. And so
16 in order for that to happen, I think the board is
17 going to have to let the parties put on their cases
18 and step back into the role of the judge and not
19 take on the role of an advocate.

20 So we would respectfully ask the
21 members -- and we would like to treat this as a
22 standing objection so we don't have to raise it

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1 over and over again, Chairman Oberman, I hope
2 that's okay, you know, if it's overruled, but just
3 so we don't have to continuously raise this point.
4 But we would just urge -- in order to get this done
5 by Friday so we can get all of the witnesses'
6 testimony complete by Friday, we would urge the
7 members to have their questions of witnesses be
8 clarifying questions that come under the scope of
9 testimony and reserve questions about the record
10 and its completeness and whether it satisfies the
11 burden of proof to counsel in closing arguments.

12 And if you have any supplemental questions
13 that are not fully addressed over the course of
14 these next four days, there is still an opportunity
15 for you to ask the parties to supplement the record
16 with written comments.

17 Thank you.

18 CHAIRMAN OBERMAN: Does counsel for the
19 Port or Amtrak want to address this issue?

20 MS. AMUNSON: Yes, Mr. Chair. Jessie
21 Amunson for Amtrak.

22 CHAIRMAN OBERMAN: By the way, let me say

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1 for the public that about the first two minutes of
2 what Ray said was all that was said in the private
3 session. Nobody missed anything. Ray did an
4 excellent job of recounting everything. I was very
5 concerned that this discussion be held in public,
6 so the public hasn't missed a thing.

7 So, I'm sorry, Jessie. Go ahead.

8 MS. AMUNSON: So, Mr. Chairman, we would
9 just take issue with the timing of this objection
10 being raised today as opposed to when the chair
11 began questioning yesterday of the witnesses.

12 Clearly, as you heard from Mr. Donahoe, it
13 appears that what CSX and NS are trying to do is
14 set up some sort of appellate issue upon their
15 first witness being subject to questioning and then
16 precluding the board from questioning other
17 witnesses in the same way.

18 We also believe that the board in this
19 case is not actually an Article III adjudicator,
20 that the board is acting as it is charged, with the
21 public interest. We do share the concern of CSX
22 and NS in trying to get through this proceeding as

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1 expeditiously as possible, but we do not believe
2 that the board should -- if the board has questions
3 of the witnesses, the board should have the
4 opportunity to ask those questions of the
5 witnesses, particularly because the board has
6 already taken the opportunity to ask questions of
7 the first witness of CSX.

8 CHAIRMAN OBERMAN: All right. And Rob, do
9 you want to weigh in?

10 MR. WIMBISH: Just to let you know, I'm
11 going to defer to my colleague, Jim Helenhouse, who
12 is kind of our resident litigator on this
13 proceeding, and I'm going to turn the floor over to
14 him. I will say, from an IT perspective, that the
15 sound is going to be coming through as if it's from
16 my source, but it will actually be Jim, so I'm
17 going to ask your IT people to make sure that they
18 can get him up on your screen for you.

19 But, Jim, go ahead.

20 MR. HELENHOUSE: Thank you. I just --

21 CHAIRMAN OBERMAN: Identify yourself for
22 the record, please.

1 MR. HELENHOUSE: Jim Helenhouse on behalf
2 of the Port.

3 I know the board raised that it has a
4 concern that it has the added duty to consider the
5 public interest. We would proffer that it's up to
6 the parties to present evidence of what's in the
7 public interest and it's the board's job to decide
8 whether to weigh that evidence as opposed to
9 inquire about that evidence.

10 And in this regard -- I guess if you want
11 to put an analogy to litigation terms, it's moving
12 for a preliminary injunction. One of the factors
13 is the public interest: Does it favor it or does
14 it not favor it? And this is sort of an analogous
15 situation where the parties have an obligation to
16 prove the public interest -- of what's in the
17 public interest, and it's the board's role to
18 decide that. Thank you.

19 CHAIRMAN OBERMAN: Anybody else?

20 MR. WIMBISH: Mr. Chairman, the only thing
21 I would add is that I am -- the Port clearly shares
22 and is very concerned about the prejudice of a

1 proceeding that could conclude this week without
2 the completion of the presentation of the evidence,
3 particularly if Amtrak is in a position where its
4 evidence is presented at a much later date. And I
5 am very concerned about how extremely prejudicial
6 the Port feels that would be under the
7 circumstances.

8 So I just wanted to make sure that we were
9 on record now. We can raise that point again at a
10 later point, if that unfortunate circumstance
11 unfolds here.

12 CHAIRMAN OBERMAN: All right. Anybody
13 else want to be heard on this?

14 MR. DONAHOE: I'd just like to add one
15 thing. This is Dan Donahoe. In response to
16 Ms. Amunson's comment about the timing of our
17 objection, I would just note for the record that
18 Mr. Banks is still on the stand, so technically we
19 have not waived any objection to what occurred
20 yesterday.

21 CHAIRMAN OBERMAN: Anybody else?

22 Okay. I think we've all heard your

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1 arguments. I'm going to tell you how we're going
2 to proceed. If any of the other board members want
3 to weigh in, I will ask them to do so after I
4 finish.

5 I'll take the simple question first. As
6 far as the timing is concerned, Rob -- or if any
7 other lawyer has any case law about prejudice
8 because of hiatuses between the presentation of
9 evidence in a nonjury matter, please provide it to
10 us. I am unaware of any such law.

11 I've tried many bench trials where judges
12 have given you a day of trial every other week and
13 a trial that takes seven days, extends over six
14 weeks. And I know that, Mr. Donahoe, given your
15 experience, you've been through the same.

16 Sometimes it's not possible. There's -- and if we
17 have to have a recess, I can assure you there will
18 be no prejudice to any party. All the evidence
19 will be considered, you know, equally, for what
20 it's worth, regardless of when presented.

21 We didn't determine the timing of this
22 matter. The timing of this case is being

1 determined by the number of witnesses that the
2 parties have, I might add, by the preparation and
3 efficiency of counsel and witnesses in terms of
4 their presentations. The board has an obligation
5 to perform its duties under the law, and it's my
6 view we would not be performing those duties if we
7 attempted to adhere to some kind of artificial
8 schedule because the matters are complex and the
9 questions are time-consuming.

10 I would not cut off any counsel from their
11 examinations. I suppose I may come back to eat
12 those words, but I don't think -- I think counsel
13 should be entitled to ask their questions and try
14 the case the way they want to on both sides. But
15 equally importantly, I would not artificially cut
16 off or suggest limiting board members in any way
17 from asking the questions that they believe need to
18 be asked.

19 We will look at the cases that Mr. Donahoe
20 cited for enlightenment on this subject, but I
21 would just say a few things and then we will
22 proceed. I start out by noting, Ray, the rebuttal

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1 brief that you filed at page 61 at which you cited
2 to us, as you well know, having been former general
3 counsel here, our obligation -- and what you cited
4 was a case called Public Service against BN. And
5 the quote in your brief is the board, like the ICC
6 was, quote, not intended to be a passive arbiter,
7 but the guardian of the general public interest,
8 end quote -- and it's within a quote -- with a duty
9 to see that this interest is at all times
10 effectively protected, end quote.

11 I think you're absolutely right. I think
12 we are not supposed to be a passive arbiter. We
13 are not a court. We are not a jury. We have some
14 similarities to those bodies, but we are an
15 administrative agency with an obligation to protect
16 the freight rail network, to insure that the law is
17 enforced with regard to passenger rail network with
18 a very broad and important public interest.

19 I would also point out that in the short
20 time staff has had a chance to look at this -- I
21 will cite two matters for you. I'm sure that there
22 could be more research -- do more research, but we

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1 have a fabulous staff, as you know. And I will
2 read this to you from Roach against the National
3 Transportation Safety Board, 804 F.2d 1147: The
4 record reveals that the ALJ conducted the hearing
5 fairly and made its findings impartially. An ALJ
6 has an obligation to conduct the hearing in an
7 orderly manner and to elicit the truth. He has the
8 right to interrogate witnesses for that purpose.

9 Also, Jackson against the United States,
10 329 F.2d 893. Quote, in a nonjury case, as in an
11 appellate court, needless or active interrogation
12 by judges, although not always helpful, is rarely
13 prejudicial.

14 So with that observation, I will say this,
15 speaking for myself, although I think I speak for
16 the other board members -- they can weigh in if I
17 don't -- all the matters we hear are important;
18 it's hard for me to elevate one more than the
19 other. But everybody agrees that this is a
20 precedent-setting case. It involves potentially
21 nearly a half a billion dollars of public funds.
22 It involves a statute which has never been

1 litigated before. And, in my judgment, our
2 obligation is not the same as a court or a jury.

3 And I might note, by the way, you know,
4 there is a growing trend in courtrooms to let
5 jurors ask questions for just this reason, when
6 they don't think the lawyers have asked the right
7 questions. And a number of trial judges are
8 allowing jurors to weigh in.

9 I think we occupy a role a little bit
10 different than jurors and judges, and I think we
11 all take these obligations quite seriously. And if
12 I -- and I would just say, with regard to the
13 current examination that's going on, CSX/Norfolk
14 Southern's case rests almost entirely on this RTC
15 report. That's the essence of what you are saying
16 proves your case. It's not the only thing, and I
17 don't mean to say it with prejudgment, but nobody
18 could quarrel with the idea that the RTC report is,
19 if not the central piece of evidence in the case, a
20 central piece of evidence in the case, and we're
21 being asked to make a decision based on it. And if
22 counsel haven't asked questions to elicit the

1 foundations and the bases on which these
2 conclusions are reached, it would be a dereliction
3 of our duty, in my judgment, for us not to elicit
4 that information.

5 And I will confess that I spent many years
6 in the courtroom, and I have a trial lawyer's
7 demeanor. A lot of people would say that's not an
8 attribute, and I might not necessarily quarrel with
9 it. So if my style of question has bothered
10 somebody, I stand admonished. But nothing I have
11 done, in my view, nor any other board member, is
12 prejudicial, biased; it's an attempt to elicit
13 facts on which we need to make a decision.

14 And if we don't have those facts and we
15 make a decision, if there is a reason for an
16 appellate court to overturn us, that would be it.
17 And I want facts in the record that will sustain
18 any decision we reach. And I think I speak for the
19 board members.

20 So if a board member asks a question, I
21 would suggest that you raise your concern in a
22 timely fashion at the time. I'll make no ruling on

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1 Mr. Donahoe's observation that you have waived or
2 not waived any objections. This is much more
3 informal than a court proceeding in that regard.
4 And if anybody wants to -- if you want to come back
5 in, Ray, and strike any of Mr. Banks's answers,
6 either at the end of his examination or at the end
7 of the case, we'll entertain such a motion. If you
8 want to make objections when a question is posed,
9 you will have a right to make such an objection.
10 But I think if you want to facilitate the efficient
11 processing of this, you'll let the questioning
12 proceed.

13 I'm not going to tell you how to try your
14 case in that regard, but I am going to absolutely
15 insist that this board fulfill its obligation in a
16 way -- and each individual board member has its own
17 fiduciary duty to the public. We're all appointed
18 by the President, we're all confirmed by the
19 Senate, we all took the same oath, and we all have
20 our own obligation, and we act collegially but
21 independently. And so I'm not going to tell any
22 board member how and whether and when to -- and how

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1 many questions to ask. That's up to them.

2 So with that, we will proceed.

3 MR. ATKINS: So, Chairman, I'm sorry, I'm
4 going to put our objection on the record now that
5 you've made your position forcefully.

6 You have a different role here. Judges
7 who are affirmed by the Senate and the President
8 and who have a constitutional obligation to do
9 justice also have to play within the role that is
10 prescribed for them. And we'll supplement the
11 record today with some additional briefing on this
12 issue, but I would just caution all of the board
13 members that, yes, you are the guardians of the
14 public interest. That means, in your
15 decision-making process, you have to take into
16 consideration broad facts and things of that sort.

17 But in an adjudication on the record,
18 which was not the case in the ACELA case -- this is
19 a unique case where you are charged by Congress and
20 stepping into the role of a judge, and you can
21 overstep those bounds if your questioning is too
22 partisan or too extensive.

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1 There's several cases -- we'll cite them
2 all -- that say if you are asking questions of the
3 witnesses over and over and over again extensively,
4 you will have exceeded those bounds.

5 Now, Chairman, we will raise our
6 objections on an ongoing basis. I appreciate
7 you're not going to tell the other members what to
8 do or not do, but I want it on the record that we
9 believe that this unique type of setting -- you
10 have to play the role of the judge and not of the
11 advocate.

12 So I'll just -- I'll leave it at that,
13 Chairman, just so the statement is on the record.
14 And in the interest of efficiency, I suppose we
15 should -- you've made your position clear. Unless
16 the other members are going to overturn you, we'll
17 move on to the continued redirect of Mr. Banks.

18 CHAIRMAN OBERMAN: I think you made your
19 point, Ray. I think that it's time to move on.
20 And --

21 MR. ATKINS: We agree.

22 CHAIRMAN OBERMAN: -- we don't need to

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1 address this further.

2 There is one -- unless -- does any board
3 member want to weigh in on this at all before we
4 move on?

5 MEMBER FUCHS: Marty, it's Patrick. I
6 just want to make sure I have clarity on how we're
7 going to proceed.

8 Ray -- and this is for all CSX and NS
9 counsel -- do you expect, if you hear a question in
10 the future, to raise a specific concern at the time
11 of the question going forward?

12 MR. ATKINS: Yes, based on Mr. Oberman's
13 statement that he is going to continue, yes, we
14 will start objecting to any question that we think
15 steps over the bounds.

16 MEMBER FUCHS: And just to reiterate, I
17 personally would have found it helpful if you had
18 done so yesterday, without commenting on whether or
19 not you needed to or whether or not you waived
20 anything --

21 MR. ATKINS: So, Patrick, just --

22 MEMBER FUCHS: On a personal level, I

1 would have found it helpful, because you didn't
2 appear to have any issue stepping in for other
3 questions.

4 And the second is I do find it a tad
5 confusing when you cite, in one of your last
6 filings, a case that explicitly says the board's
7 job is not to call balls and strikes, and then come
8 in today and say, be a judge, and, you know,
9 famously -- some folks refer to judges as calling
10 balls and strikes.

11 So, you know, there is a little bit of
12 a -- I know they're different contexts, but the
13 failure to raise a concern during a question, as
14 well as some argument that suggests that we should
15 be more assertive, I think, helped sow a bit of
16 confusion as to what NS and CSX were suggesting the
17 board should do.

18 MR. ATKINS: So my apologies if we sowed
19 any confusion. We will try to make it clear in our
20 briefing today. When we were talking about public
21 interest, you know, it's when you wrestle with the
22 decision in this case. But if some of the

1 confusion is on our end -- but I will also make
2 this one point, Member Fuchs. The reason that the
3 courts require judges to be careful in their
4 questioning is precisely because of how difficult
5 it is for counsel to step in when it's the judge
6 themselves who is asking the questions.

7 So we wanted to make sure -- we were up
8 all last night making sure the cases that we had
9 are sound and reliable. We'll share them with you
10 today. But that's actually part of the reason why
11 reviewing courts ask judges to be careful, because
12 of how difficult it can be for counsel to step in
13 while the judge themselves is asking questions.

14 And I appreciate maybe we should have been
15 more aggressive yesterday. We will be more
16 aggressive going forward so that you know right
17 away if we have a concern. But that was part of
18 the reason we waited, to make sure that we could
19 review what took place yesterday and assess the
20 proper role for the board.

21 MEMBER FUCHS: I appreciate that. And I
22 think you know us well enough to know that we want

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1 to treat people who come before us fairly, and so
2 it's with that in mind is -- you know, I would be,
3 you know, extremely disappointed if you had felt
4 that way. So, you know, I want to do everything we
5 can to prevent that going forward.

6 MR. ATKINS: Thank you.

7 CHAIRMAN OBERMAN: Any other board member
8 have anything to say?

9 I'm just going to say one more thing, Ray,
10 and I stand to be corrected if I am wrong, but I am
11 reasonably confident that the concern about judges'
12 conduct on the bench in the middle of the trial is
13 primarily aimed at influencing the jury. The trial
14 judges who I have tried cases before are very
15 concerned about saying anything in the midst of an
16 examination which might influence whether the jury,
17 you know, should believe this witness or not
18 believe the witness. That's the primary concern in
19 my experience. It's the one I would be concerned
20 about.

21 This is not a jury trial. And I will -- I
22 will tell you that if a fact that I want to know in

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1 order to figure out how to decide this case is not
2 brought out by counsel, I'm going to get those
3 facts out, if I can, so I have a record on which to
4 decide. I'm just going to leave it at that.

5 I don't think we should have any more
6 argument about this, but I will say this -- and I
7 absolutely will not stop you from making an
8 objection when a board member asks a question. But
9 if you do, state in very simple terms the grounds
10 for your objection, we'll rule on it and move on.

11 If you want to make a standing objection
12 to any board member's questions, be my guest. You
13 can do it any way that you think serves you and
14 your client's interests. We will serve the public
15 interest.

16 I just want to raise one other procedural
17 matter, because we did not deal with it yesterday,
18 because we didn't have it. I did have a chance to
19 look briefly at the motion in limine that you
20 filed -- you and Norfolk Southern filed --
21 concerning one of the Amtrak witnesses. And we're
22 not going to rule on that in advance, but when that

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1 witness takes the stand, I think it would be
2 appropriate for you, if you want to persist in your
3 motion, to raise it at that time. You won't have
4 waived it if you wait until that witness is called.

5 But we have so much to cover here, I
6 didn't want to stop, research your motion, deal
7 with it then. I'd rather you focus on it
8 specifically at the time that witness is called,
9 assuming they are called.

10 MR. ATKINS: We understand, Chairman.

11 CHAIRMAN OBERMAN: So with that,
12 Mr. Banks, I think is to be recalled.

13 MR. ATKINS: So we will -- I'm sorry.
14 Member Hedlund had a question.

15 CHAIRMAN OBERMAN: I'm sorry. Karen?

16 MEMBER HEDLUND: Yes. When you do
17 whatever you're going to do to object, either
18 during the questioning or at the end, I would hope
19 that you would include not only a recitation of the
20 question that you thought was improper, but the
21 fact that was brought out that you would prefer not
22 having been brought out pursuant to such question.

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1 Thank you.

2 CHAIRMAN OBERMAN: By the way, there is --
3 thank you, Karen. One other observation I would
4 just make for all concerned. Any concern you may
5 have that the board is somehow acting in a way that
6 is not treating all the parties equally, I think
7 you should reserve those observations until the
8 board has had a chance to not only hear and perhaps
9 question the railroads' witnesses, but also
10 Amtrak's witnesses, and then make an assessment at
11 the end about how the board has handled its conduct
12 of this hearing.

13 But that's up to you. You can choose to
14 do it that way or not if you want.

15 All right. Mr. Banks.

16 MR. ATKINS: So the three of us are going
17 to step away and leave the podium to Mr. Warren.

18 CHAIRMAN OBERMAN: Mr. Banks, welcome
19 back.

20 THE WITNESS: Good morning.

21 CHAIRMAN OBERMAN: You understand that you
22 remain sworn from yesterday.

1 THE WITNESS: I do.

2 CHAIRMAN OBERMAN: I have a few more
3 questions about the RTC report that I didn't have a
4 chance to ask you about yesterday.

5 MR. WARREN: Chairman Oberman, while
6 you're formulating that, I wanted to make clear
7 that we -- our standing objection to your further
8 questioning of this witness stands.

9 At this point, I believe the chairman has
10 cross-examined Mr. Banks for longer than Amtrak's
11 entire cross-examination was and we continue to,
12 you know, state that objection for the reasons that
13 we've expressed.

14 CHAIRMAN OBERMAN: For the record, the
15 board does not accept your characterization of this
16 questioning as cross, but I understand your point.

17 Mr. Banks, in doing RTC studies in the
18 past that you stated you had in your experience,
19 would it be correct to understand that it is common
20 for RTC studies to have -- to consider the question
21 on movable bridges on the rail line that's being
22 studied?

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1 THE WITNESS: If I understand your
2 question, sir, if there are movable bridges on the
3 corridor that is the subject of an RTC analysis,
4 then, yes, it is appropriate to include them.

5 CHAIRMAN OBERMAN: My real question was,
6 have you personally had occasion to do RTC studies
7 where movable bridges were --

8 THE WITNESS: I'm sorry. I misunderstood.

9 CHAIRMAN OBERMAN: I perhaps didn't state
10 it very clearly.

11 THE WITNESS: I do not recall an RTC study
12 that we did that had movable bridges.

13 CHAIRMAN OBERMAN: So this one was the
14 first one that you were involved in that you
15 personally had to consider movable bridges?

16 THE WITNESS: That I recall, yes, sir.

17 CHAIRMAN OBERMAN: All right. So in --
18 does the RTC study include input from the Coast
19 Guard as to how each of the movable bridges on this
20 line actually functions?

21 THE WITNESS: I believe that some of that
22 information was available to us. It would be best

1 for you to ask Mr. Dingler about the specifics,
2 but, in any case, Mr. Dingler proposed a
3 methodology to address the way the bridges were
4 done. I know that was the subject of at least one
5 clean call and perhaps more than one -- clean team
6 call, excuse me.

7 And my understanding of it is that the way
8 we resolved it was, in fact, if not neutral, then
9 perhaps potentially favorable to Amtrak as compared
10 to other assumptions we, in fact, considered.

11 CHAIRMAN OBERMAN: Well, I'm asking you
12 this question because you said you audited it and
13 edited how the study was done, or what was included
14 in the study. Did you personally find out if there
15 was input from the Coast Guard as to the actual
16 functioning of these bridges, and is that in the
17 study?

18 MR. WARREN: Mr. Chairman, I'm sorry, I am
19 going to have to object. The witness just
20 testified that Mr. Dingler did the study.
21 Mr. Dingler is going to be a witness coming to
22 testify.

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1 CHAIRMAN OBERMAN: Objection overruled.

2 Can you answer the question, Mr. Banks?

3 Did you find out if the input was there from the
4 Coast Guard and that input was included in the
5 study?

6 THE WITNESS: I think that's a two-part
7 question.

8 CHAIRMAN OBERMAN: Okay.

9 THE WITNESS: The first part is did we get
10 the information from the Coast Guard? And I
11 thought I answered in my previous answer, yes, we
12 did.

13 CHAIRMAN OBERMAN: All right.

14 THE WITNESS: What I was trying to convey
15 to you, so that you didn't get misled, was that we
16 didn't necessarily rely on the information provided
17 by the Coast Guard because we thought it would lead
18 to results that would raise more objections than
19 what we did.

20 CHAIRMAN OBERMAN: Are you in a position
21 to explain what you relied on and what you didn't
22 rely on, or is that for Mr. Dingler?

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1 THE WITNESS: For Mr. Dingler.

2 CHAIRMAN OBERMAN: Well, the reason I ask
3 the question is that we admitted into the record
4 yesterday the letter we received from the Coast
5 Guard dated March 28th which says, among other
6 things, that trains are usually controlled by the
7 block method; that is -- I'm quoting from the
8 letter -- that is, the track is divided into blocks
9 or segments of a mile or more in length. When a
10 train is in a block with a drawbridge, the
11 drawbridge may not be able to open until the train
12 has passed out of the block and the yardmaster or
13 other manager has unlocked the drawbridge controls.

14 So do we know that each of the drawbridges
15 involved in your RTC study operated in that manner
16 or not in terms of not opening when the train was
17 in the block?

18 MR. WARREN: Mr. Chairman, I'm going to
19 object. I think you need to first establish
20 whether or not Mr. Banks is even aware of this
21 filing. I don't know whether he is or not.

22 CHAIRMAN OBERMAN: Objection overruled.

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1 Mr. Banks, are you familiar with this
2 provision the Coast Guard has in its regulations
3 about bridges not opening when the train is in the
4 block?

5 THE WITNESS: No.

6 CHAIRMAN OBERMAN: So you don't know
7 whether the RTC study accounted for that procedure
8 for any of the bridges on the line; would that be a
9 fair statement?

10 THE WITNESS: Mr. Dingler would know.

11 CHAIRMAN OBERMAN: You're sure he would
12 know?

13 THE WITNESS: If any member of our team
14 would know, it would be Mr. Dingler.

15 CHAIRMAN OBERMAN: Okay. Then we'll ask
16 Mr. Dingler that question.

17 Do you know whether your team or anybody
18 at your railroads that you were hired by had any
19 discussions with the Coast Guard about heading into
20 particular arrangements for any of these bridges in
21 terms of limiting the times that they may open or
22 close in the event of passenger trains being added

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1 to the line? Was that explored with the Coast
2 Guard, to your knowledge?

3 THE WITNESS: I am not aware of any such
4 discussions or communications of any sort on that
5 topic.

6 CHAIRMAN OBERMAN: Well, when you say
7 you're not aware of it, would it be fair to say,
8 given your role, if that happened, you would know
9 about it?

10 MR. WARREN: I'm actually going to have to
11 object as leading, Mr. Chairman.

12 CHAIRMAN OBERMAN: Overruled.

13 THE WITNESS: I would have thought that I
14 would have heard if such communications had taken
15 place.

16 CHAIRMAN OBERMAN: All right. A couple
17 more questions on the bridges. We are told, I
18 believe, in your paper, the railroads' papers, or
19 in the study, that some of these bridges are
20 currently remotely operated and others are planned
21 to be remotely operated. Do I understand that
22 correctly?

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1 THE WITNESS: Yes.

2 CHAIRMAN OBERMAN: And the ones that are
3 remotely operated don't have a bridge tender having
4 to go there on a high-rail; is that right?

5 THE WITNESS: Yes.

6 CHAIRMAN OBERMAN: I think you told us
7 that among the, quote, trains that are measured or
8 events that occupy track includes the high-rails
9 that the bridge tenders have to use to get to their
10 job. That's included in the various occupiers of
11 track when you did the RTC study.

12 THE WITNESS: Correct.

13 CHAIRMAN OBERMAN: Did you take into
14 account or in any way account for a reduction in
15 high-railers over time as more of these bridges
16 became remotely operated? Is that in the RTC
17 study?

18 THE WITNESS: I don't believe it is.

19 CHAIRMAN OBERMAN: So if we -- if you or
20 whoever ran the RTC study were to change the input
21 to account for a reduction in high-rail trips --
22 there are three a day, as I understand it, correct?

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1 Three shifts on these?

2 THE WITNESS: Yes.

3 CHAIRMAN OBERMAN: So if one or more of
4 these bridges, when they become remotely operated,
5 reduce the number of high-railers and that data
6 were entered into the RTC modeling system, you
7 would come out with a different result?

8 THE WITNESS: We would come out with a
9 different result, and I think we anticipated that
10 you might have questions along this line, and I
11 think Mr. Dingler is in a good position to answer
12 questions about what-ifs related to the bridges,
13 not unlimited what-ifs but some what-ifs.

14 CHAIRMAN OBERMAN: You mean the specifics?

15 THE WITNESS: Yes, sir.

16 CHAIRMAN OBERMAN: Which you're
17 not equipped to tell us about today?

18 THE WITNESS: Yes.

19 MR. WARREN: If I can object to that
20 question, Mr. Chairman, as argumentative. And I
21 apologize, but unfortunately -- this is why we
22 raise the objection, and this is a difficult

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1 position to be in, but I'm going to object to that
2 question. I don't think it is appropriate.

3 CHAIRMAN OBERMAN: Overruled.

4 MEMBER FUCHS: Marty, I will say for my
5 future questions, Matt, I don't at all take issue
6 with your jumping in. I know it's an uncomfortable
7 situation for you, and I appreciate that, but to
8 the extent I ask questions today, you know, please
9 don't hesitate to jump in.

10 MR. WARREN: Thank you.

11 CHAIRMAN OBERMAN: Was there any part of
12 the capital projects aimed at equipping any more of
13 the bridges to become remote than might now be
14 planned to become remote in the future?

15 THE WITNESS: No.

16 CHAIRMAN OBERMAN: All right. The last
17 question I'm going to ask for the moment is -- of
18 you, Mr. Banks -- is I wanted to get clarity on the
19 origin of the 14 projects which are the subject --
20 or mentioned in the RTC study. Was it the RTC
21 modelers who came up with the design for each of
22 these projects? How did they come about?

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1 THE WITNESS: To the extent design has
2 been done, it was done by Ted Niemeyer's group at
3 V3, working as a subcontractor to us. However, the
4 clean team recommended the set of projects for
5 Mr. Niemeyer to cost out.

6 CHAIRMAN OBERMAN: And that team -- I'm a
7 little -- I'm not sure I could find it in my notes.
8 That team included you, Mr. Guthrie -- could you
9 tell us quickly the rest of that team?

10 THE WITNESS: Mr. Dingler, Hannah Rosse,
11 Holly Sinkkanen -- S-I-N-K-A-N-N-E-N [sic], I
12 think.

13 CHAIRMAN OBERMAN: Right. I have her,
14 yes.

15 THE WITNESS: Randall Hunt. A gentleman
16 whose name I forgot yesterday. Just give me a
17 second. I'm sorry. Can Mr. Warren instruct me
18 with the right answer?

19 MR. WARREN: I don't think I can testify,
20 Charlie.

21 THE WITNESS: Okay.

22 CHAIRMAN OBERMAN: Matt, if you know the

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1 name, it will speed things up. If you could
2 refresh the witness's memory, I have no objection.

3 MR. WARREN: Mr. Chairman, I don't think
4 is -- I did not make an objection of asked and
5 answered, but Mr. Banks was asked this yesterday.
6 If he doesn't remember, I do not believe it is
7 appropriate for me to supply the answer.

8 THE WITNESS: It was another gentleman
9 from CSX --

10 CHAIRMAN OBERMAN: All right. I think
11 it's totally appropriate --

12 THE WITNESS: -- who was responsible for
13 special projects.

14 CHAIRMAN OBERMAN: It's totally
15 appropriate. My question was, are any of these
16 people experienced in the actual design and
17 construction of railroad infrastructure as opposed
18 to, you know, computer people, analysts, of the
19 system?

20 THE WITNESS: I understand your question.

21 MR. WARREN: Answer if you know, Charlie.

22 THE WITNESS: Yes.

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1 CHAIRMAN OBERMAN: Who were they?

2 THE WITNESS: The gentleman from CSX --

3 MR. WARREN: So -- I want you to finish
4 before I...

5 Mr. Chairman, as Mr. Banks testified, you
6 know, a number of the members of the clean team
7 will be coming, and some of them may -- you know,
8 may be able to recall it and answer your question.
9 So I don't think -- I don't think it's appropriate
10 for me to be jogging Mr. Banks' memory. If he
11 doesn't remember, you are going to have ample
12 opportunity to talk to other individuals who could
13 answer that question.

14 CHAIRMAN OBERMAN: Well, all I would say
15 is, Matt, when the tribunal asks you to provide
16 information, it's not objectionable for you to
17 provide it, but if you choose not to, it won't
18 delay us finishing this examination.

19 MR. WARREN: And I can tell you, not only
20 am I not sure it's appropriate for me to be
21 supplying answers to the witness that he doesn't
22 remember, I don't remember. I wasn't on the team.

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1 CHAIRMAN OBERMAN: That's fine --

2 MR. WARREN: So -- right.

3 CHAIRMAN OBERMAN: Matt, if you want to
4 proceed, all you had to do was say that. Come on.
5 We're talking about the name of a human being.
6 We're not talking about a contested issue.

7 Mr. Banks, all I'm trying to figure out is
8 was it the railroad person whose name you can't
9 remember who came up with the proposals for these
10 different --

11 THE WITNESS: No.

12 CHAIRMAN OBERMAN: -- sidings and so
13 forth.

14 THE WITNESS: No -- I'm sorry to interrupt
15 you. No, it was not. The RTC modelers, not just
16 in this matter but in matters even in the course of
17 trying to improve network capacity or fluidity are
18 often confronted with the issue of they know there
19 is a problem that warrants a solution, which might
20 be a capital improvement. They often, in fact, as
21 far as I know, always identify the location and the
22 kind of problem, the kind of investment that might

1 be a solution, and then they usually test it. They
2 don't have to be engineers to do that. In fact,
3 most of the modelers are not civil engineers.
4 They're operations people.

5 The only thing that we did differently
6 here than is usually the case is that we hired an
7 engineering firm to go out and look at the sites
8 and look at the constructibility issues and then
9 give us a high-level estimate of what they think
10 the range of costs might be for each of those
11 improvements.

12 CHAIRMAN OBERMAN: So the team came up
13 with the areas that improvements you thought were
14 needed, and then it's Mr. Niemeyer's firm that went
15 out and said, could you really build these things?
16 Is that how it worked?

17 THE WITNESS: We're getting -- we're
18 close. And how much they would cost is another
19 aspect of Mr. Niemeyer's work. We didn't come up
20 with the locations. To be sure, RTC indicated
21 where the problems were. It does that. Okay?
22 Then the team came up with solutions that we

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1 thought would address those problems. It's not
2 necessarily at the site, for example, where a
3 failure would occur, but the RTC software does
4 indicate where the problems are. And experienced
5 modelers then test solutions to the problem.

6 CHAIRMAN OBERMAN: But in order to then
7 recommend these 14 projects, somebody had to come
8 to the conclusion that they were buildable and
9 would actually work in a railroad network --

10 THE WITNESS: That's right.

11 CHAIRMAN OBERMAN: -- in terms of
12 switching and so forth.

13 THE WITNESS: The first-level screening
14 was done by the clean team. And then, in a process
15 that began before the visit to the field by
16 Mr. Guthrie and Mr. Niemeyer and an assistant to
17 Mr. Niemeyer, we discussed -- the people who were
18 there discussed the issues and the constructibility
19 and the extent to which those locations made sense
20 from an engineering point of view. Then
21 Mr. Niemeyer and his group went back and costed
22 them out. And if they had questions, they asked us

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1 about them.

2 CHAIRMAN OBERMAN: And in terms of how
3 these additional pieces of infrastructure would
4 then intertwine or work into the existing
5 networks -- mostly CSX's, I guess -- didn't
6 somebody have to evaluate whether they would work,
7 whether you put a siding here and you put this kind
8 of switch in, it will actually handle the train and
9 that sort of thing?

10 THE WITNESS: I believe I'm following your
11 line of thought. That work that you've just
12 discussed is really done in the context of the RTC
13 model. You test the model and you see, okay, if I
14 put a switch here, if I extend this siding here, if
15 I put double track over there, you know, either
16 individually or collectively, what are the impacts
17 of those?

18 CHAIRMAN OBERMAN: Well, all I'm trying to
19 understand here is how do we know -- and I assume
20 there is an answer -- that the railroads themselves
21 who will be operating trains over this new
22 infrastructure know that they will actually fit

1 into their system, their dispatching and their
2 train starts and whatever else you have to do, the
3 yard work -- we heard a lot in the RTC report
4 about, on this line, a lot of yard work ends up
5 going out onto the main line. Didn't the railroads
6 have to eventually overlook -- oversee the
7 recommendations of your team to see if it would
8 actually work?

9 THE WITNESS: Well, as I -- the answer is
10 yes. The short answer is yes. The longer answer
11 is that, as I discussed yesterday, there were two
12 representatives on the clean team, one from each
13 railroad, who became aware of what these proposed
14 improvements were. And if they had a problem with
15 them, I believe they would have raised them.

16 I don't remember any such objections being
17 raised, but perhaps they were, and if such
18 objections were raised, I would think Mr. Guthrie
19 or Mr. Dingler would be in a position to answer
20 that question. I do not recall any such objection.

21 MR. WARREN: And, Mr. Chairman, if I may,
22 our next witness, if we could get to him, is

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1 Mr. Ricky Johnson, the chief engineer of CSX, so I
2 think he will be able to answer your question. And
3 he'll be followed by Randy Hunt, from Norfolk
4 Southern, who will also be able to talk from the
5 railroad perspective of how these would work.

6 CHAIRMAN OBERMAN: And who was the next
7 person, Matt?

8 MR. WARREN: Randy Hunt.

9 CHAIRMAN OBERMAN: Okay. That's very
10 helpful. Thank you.

11 Those were the only other questions I had
12 for you, Mr. Banks, at this point, anyway.

13 Are there any other board members that
14 have questions for Mr. Banks?

15 All right. Matt, do you have any further
16 examination for Mr. Banks?

17 MR. WARREN: I do have very briefly some
18 quick redirect.

19 REDIRECT EXAMINATION

20 BY MR. WARREN:

21 Q. Charlie, you got a number of questions
22 yesterday about the -- what I'll call the original

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1 RTC report by -- the original RTC report that was
2 marked, I believe, 23D that was submitted with
3 CSX's and NS's opening evidence. You recall all of
4 those questions, I'm sure.

5 A. Yes.

6 Q. Do you recall that there was also a
7 rebuttal RTC report?

8 A. Yes.

9 Q. And do you remember, what was the purpose
10 of the rebuttal RTC report?

11 A. Can you be more specific?

12 Q. Sure. So let me ask it this way. What
13 was the purpose of the -- was there a rebuttal RTC
14 report?

15 A. Yes.

16 Q. Would it refresh your recollection to look
17 at the rebuttal RTC report?

18 A. Yes.

19 Q. Why don't you take a look -- I believe
20 that binder right there should contain -- you tell
21 me if this is incorrect, Charlie. I want you to
22 make clear for the record what you're looking

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1 at -- the document that's marked JE-40B, that is
2 the rebuttal RTC modeling report. This was --

3 CHAIRMAN OBERMAN: What's the -- I'm
4 sorry, Matt.

5 MR. WARREN: Sure. Let me state it
6 clearly. It is Joint Exhibit 40B, so it's marked
7 JE-040B. This is the rebuttal RTC modeling report
8 by HNTB and R.L. Banks that was attached --

9 CHAIRMAN OBERMAN: This is joint exhibit
10 of all parties or joint of NS --

11 MR. WARREN: This is joint of all parties.

12 CHAIRMAN OBERMAN: Okay.

13 MR. WARREN: And one thing we can do that
14 might make things easier is if it starts with JE,
15 that means it's a joint exhibit that is -- and all
16 of those are in the records and -- they were, you
17 know, in the record before yesterday, actually,
18 because they're the prior filings in evidence that
19 has come in.

20 BY MR. WARREN:

21 Q. Do you have that in front of you, Charlie?

22 A. I do, yes.

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1 Q. So I'll ask again. Do you recall what was
2 the purpose of the rebuttal RTC report?

3 A. Well, the purpose of any rebuttal is to
4 respond to reports put in by the other side and to
5 try to put them in the proper context and
6 perspective.

7 Q. Okay. And was one of the criticisms from
8 the other side that the rebuttal RTC report
9 responded to the criticisms about how on-time
10 performance was used in the original RTC reports?

11 A. I'm sorry, would you repeat that question?

12 Q. I'll start again. Was one of the
13 questions -- you've just testified that the purpose
14 of the rebuttal RTC report was to respond to the
15 criticisms that Amtrak made in reply. And was one
16 of those criticisms that the rebuttal RTC report
17 responded to the criticisms that Amtrak's experts
18 made asserting that a 95 percent on-time
19 performance was improperly used as an input to the
20 original RTC model?

21 A. Yes.

22 Q. I'm going to ask you to turn to -- let's

1 turn to page 11 of the RTC rebuttal report. It is
2 actually -- just so the record is clear, if you
3 look at the exhibit numbering, it's page 11 of 48
4 at the very bottom, but it's also -- it was
5 originally numbered page 10 in our -- in the -- in
6 CSX's and Norfolk Southern's rebuttal evidence.

7 Mr. Banks, do you have that in front of
8 you? This is the section that's titled 2.3,
9 Modeling Passenger Trains?

10 A. Yes, I do.

11 Q. Is this --

12 MEMBER FUCHS: Sorry, Matt. I'm trying to
13 follow along --

14 MR. WARREN: Okay. All right. Let me
15 know when you're there. So what I'm looking at --
16 or what -- what I have directed Charlie to is
17 Section 2.3. It's titled Modeling Passenger
18 Trains. It would be on page 11 of 48 of JE-40B.
19 Do you --

20 MEMBER FUCHS: I'm coming up on it. I'm
21 sorry.

22 MR. WARREN: That's fine.

1 MEMBER FUCHS: Okay. I'm good. Thank
2 you.

3 BY MR. WARREN:

4 Q. So, Charlie, is this the section that we
5 were just talking about, the section that
6 specifically responded to the 95 percent OTP
7 argument?

8 A. Yes.

9 Q. Okay. And on this page, page 11, am I
10 accurately quoting when I note that the report
11 reads: In hindsight, the RTC modelers acknowledge
12 that the modeling report could have been clearer as
13 to how the OTP metrics were used in the modeling
14 process?

15 CHAIRMAN OBERMAN: Where are you -- where
16 are you reading from on that page?

17 MR. WARREN: I am reading, Mr. Chairman,
18 from five lines down on page 10. And I apologize
19 for just reading it into the record, but I think it
20 will make things go faster.

21 CHAIRMAN OBERMAN: You know, my pagination
22 has this on page 11, so what paragraph -- what's

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1 the beginning of the paragraph?

2 MR. WARREN: It's the bottom paragraph on
3 the page.

4 CHAIRMAN OBERMAN: Well, how does it --

5 MR. WARREN: It begins "In hindsight."

6 I can read from the beginning, if that
7 would be helpful.

8 CHAIRMAN OBERMAN: No, no. I just want to
9 know where the paragraph itself begins. "In
10 hindsight"?

11 MR. WARREN: No. The sentence begins "In
12 hindsight."

13 The paragraph begins, Messrs. Crowley and
14 Powell.

15 CHAIRMAN OBERMAN: Also state?

16 MEMBER HEDLUND: Yes. Also claim.

17 CHAIRMAN OBERMAN: Also claim or also
18 state?

19 Okay. I see. I'm sorry. It's the first
20 paragraph under Section 2.3. Is that where you're
21 reading from?

22 MR. WARREN: Yes, that's right.

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1 CHAIRMAN OBERMAN: I see it.

2 MR. WARREN: And that's right -- apologies
3 for that, but just to be clear --

4 CHAIRMAN OBERMAN: I see --

5 BY MR. WARREN:

6 Q. The sentence that I was directing you to,
7 Charlie, is "In hindsight, the RTC modelers
8 acknowledge that the modeling report could have
9 been clearer as to how the OTP metrics were used in
10 the modeling process." Is that right?

11 A. Yes. The confusion is it's on page 10 in
12 some versions of this, including mine. Okay. I
13 see it.

14 Q. Yes. Well, hopefully, we can cut through
15 that. So why don't we turn -- just to move this
16 along, if you could turn to what -- what is either
17 page 11 or page 12, I guess, depending on which
18 version that you're looking at. Turn the page.
19 And, Charlie, that paragraph that is cutting across
20 the pages that begins "The modeling inputs and
21 infrastructure project selected," do you see that
22 paragraph?

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1 A. I do.

2 Q. Would you mind reading that into the
3 record, because I think that does respond to many
4 of the questions that we got yesterday?

5 A. The modeling inputs and infrastructure
6 projects selected were not done to obtain a high
7 OTP, nor is the 95 percent OTP an input into the
8 2021 Gulf Coast RTC model. Rather, this is the
9 final OTP obtained in the model once the freight
10 impacts were fully mitigated. When a passenger
11 train is provided preference, it will have a high
12 OTP regardless of the impact on other traffic.
13 Other traffic will attempt to avoid delaying that
14 train even if it results in significant delays to
15 freight. The OTP measure was provided as a
16 confirmation that the service works for passenger
17 trains in addition to freight trains.

18 Q. Thank you, Charlie. You also got a number
19 of questions yesterday about the growth assumptions
20 that were used for the 2039 model. Do you recall
21 those?

22 A. I do.

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1 Q. Okay. And I believe you testified -- it
2 got a little confused, but I believe you testified
3 that the growth -- the data for the growth inputs
4 came from, you know, CSX and Norfolk Southern.

5 A. Correct. It was also how to treat that
6 growth in terms of how they would impact trains.

7 Q. Do you recall specifically which
8 individuals at CSX and Norfolk Southern were
9 responsible for providing data to the RTC modelers?

10 A. I don't.

11 Q. Would it --

12 MR. WARREN: I'm going to show the
13 witness -- apologies but --

14 BY MR. WARREN:

15 Q. I believe you testified that Hannah Rosse
16 and Holly Sinkkanen provided that information?

17 CHAIRMAN OBERMAN: Matt, I'm just going to
18 interject here as a follow-up earlier. Just let me
19 know when you think it's proper for you to give the
20 witness an answer to a question and when it's not.
21 But I have no objection to you doing this to move
22 it forward, just for the future. Okay.

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1 MR. WARREN: Yes. I understand,
2 Mr. Chairman. I'm trying to move this along. It
3 is approaching noon on day two.

4 CHAIRMAN OBERMAN: Just --

5 THE WITNESS: I'm just trying to get
6 something clear in the record.

7 CHAIRMAN OBERMAN: Just keep me posted so
8 I can follow along your approach to the case.
9 Okay? Thank you. Please proceed.

10 MR. WARREN: Mr. Chairman, I apologize,
11 but I'm going to have to object to that last
12 comment.

13 CHAIRMAN OBERMAN: Your objection is
14 overruled.

15 MR. WARREN: I appreciate that.

16 MEMBER FUCHS: Matt, I have to say,
17 without being snarky, I am having a little bit of
18 difficulty following what you think is in bounds
19 and out of bounds. Because the name was out of
20 bounds, but what you're doing seems to be a bit
21 more than a name. I'm just trying to -- is it that
22 we can't do it, but you can? I'm just --

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1 MR. WARREN: So -- so --

2 MEMBER FUCHS: I'm really trying to
3 understand. If you could just explain so that I
4 know the parameters you're trying to impose on the
5 board.

6 MR. WARREN: To be clear, I was --
7 Mr. -- Charlie has been up here for a long time,
8 and, you know, I think I'm probably going to, you
9 know, call my redirect in a minute. But, you know,
10 he had actually testified that the data that was
11 used -- and I don't want to testify here -- but
12 the -- my question was leading, but it was, you
13 know, reflecting the witness's prior testimony.

14 And I feel like if I keep talking about
15 where I want to go, then I really am testifying,
16 and I don't think that's appropriate. But what I
17 do think is appropriate is for us to -- you know,
18 I'll end my direct -- my redirect of Mr. Banks, and
19 we can get moving with our other witnesses, who I
20 do think are going to be able to respond to all of
21 these issues.

22 MEMBER FUCHS: And my question was I just

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1 want to know, you know, what you think we can say
2 and can't say. Because, you know, you were taking
3 issue with trying to get a name in the record, and
4 I have to say I'm confused.

5 MR. WARREN: Okay. Well, to be, you know,
6 perfectly clear, if that's possible at this point,
7 I don't think it's appropriate for me to be
8 supplying an answer to the witness. But that's not
9 quite the same as a leading question.

10 So, you know, I -- that last question I
11 asked, maybe I should withdraw it; maybe it was a
12 little bit too leading, and I should have shown
13 Mr. Banks something to refresh his recollection.
14 But, you know, I think that we can -- as far as I'm
15 concerned, I think I can end my redirect, and we
16 can --

17 MEMBER FUCHS: And I think all of us are
18 just trying to get the truth and we're doing the
19 best we can, and I know you are too.

20 MR. WARREN: I do, and I appreciate
21 this -- you know, this is a very uncomfortable
22 position to be in as an advocate where, you know,

1 you feel like you need to object to questions from
2 the board, and it's a bit -- it's very difficult,
3 honestly, because -- you know, and I understand
4 that it's difficult for the board too, because
5 ordinarily at a public hearing you've got all a
6 party's witnesses up there and you can pose a
7 question, and somebody is going to have to answer
8 it, you know, like at the 711 hearing. You know,
9 if it's a legal question, you can ask it of the
10 lawyer, you can ask whoever is there.

11 And we're in a situation here where it's a
12 trial and we're bringing our witnesses forward one
13 at a time, and they each have knowledge about
14 particular parts of the case. And we do think that
15 it -- we think that, in this trial setting, it
16 creates, you know, significant issues when the
17 board members are asking, you know, questions. And
18 then it creates issues when we have to try to clean
19 some of that stuff up on redirect.

20 I'm not going to belabor this. We want to
21 get this thing moving but, you know, this is bases
22 for, you know, the objections we've been talking

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1 about much of this morning.

2 THE WITNESS: Mr. Warren, may I ask --

3 MR. WARREN: Well, I don't think you
4 should ask, Charlie.

5 CHAIRMAN OBERMAN: Let's just proceed.
6 Patrick, if you were finished.

7 MEMBER FUCHS: I am, yeah.

8 CHAIRMAN OBERMAN: Thank you.
9 Matt, proceed.

10 MR. WARREN: Mr. Chairman, I don't have
11 any further questions for Charlie.

12 CHAIRMAN OBERMAN: Amtrak, Ms. Bracey?

13 MS. BRACEY: No further questions.

14 CHAIRMAN OBERMAN: I have a further
15 question.

16 Mr. Banks, you cited some language in the
17 rebuttal report saying that the modeling report
18 could have been clearer as to how the OTP metrics
19 were used.

20 Can I take you back to page 27 of the RTC
21 report, Section 25?

22 THE WITNESS: The build case, 3.5?

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1 CHAIRMAN OBERMAN: Yes.

2 THE WITNESS: I'm there.

3 CHAIRMAN OBERMAN: If you look at the
4 second sentence of that paragraph -- I'm going to
5 read it, and then I'm going to ask you a question:
6 As such, the project selection must meet the
7 following criteria: Provide capacity to achieve
8 above 95 percent OTP for passenger trains and limit
9 the need for passenger trains to enter and be
10 delayed in a siding.

11 Do you follow me?

12 THE WITNESS: I do.

13 CHAIRMAN OBERMAN: Is that the language
14 which the rebuttal report said could have been
15 clearer? I just want to know what we're referring
16 to here.

17 THE WITNESS: I believe it is.

18 CHAIRMAN OBERMAN: So you now, looking at
19 that language, are you saying it's not as clear as
20 it should be?

21 MR. WARREN: I'm going to have to object
22 to the premise of the question. We've just shown

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1 that the rebuttal RTC report submitted many months
2 ago, you know, indicated that that should have been
3 clearer.

4 CHAIRMAN OBERMAN: Well, what about it is
5 not clear?

6 THE WITNESS: Shall I answer that question
7 Mr. Warren, to the best of my ability?

8 CHAIRMAN OBERMAN: It's not up to
9 Mr. Warren.

10 MR. WARREN: I've objected and I believe
11 the chairman has --

12 CHAIRMAN OBERMAN: Overruled.

13 MR. WARREN: -- overruled my objection;
14 so, yes, you need to answer.

15 THE WITNESS: I believe what is unclear is
16 that it leaves the impression that we -- that we
17 were trying to achieve a 95 percent on-time
18 performance as an absolute objective when, in fact,
19 what we did was reach a consensus on the fact
20 that -- on the approach that we should use
21 95 percent OTP in order to have a cushion such that
22 we would be able to meet the enhanced customer OTP

1 percentage.

2 CHAIRMAN OBERMAN: Well, if I take you
3 back to page 10 that you were just reading from in
4 the rebuttal report, that sounds different from
5 what you just said. On page 10 it says: Nor is
6 the 95 percent OTP an input.

7 I thought you just said that you used
8 95 percent as an input in order to achieve
9 80 percent. I'm just trying to understand your
10 report, sir.

11 MR. WARREN: I'm going to object,
12 Mr. Chairman. The report is by Mr. Dingler and
13 Mr. Guthrie, who will be testifying.

14 CHAIRMAN OBERMAN: Overruled. Mr. Banks
15 has made it clear that his job is to audit and edit
16 these reports, and you have put him forward as one
17 of the world's foremost experts on RTC modeling. I
18 think he can speak to this report and educate the
19 board. If you want us to make a judgment in your
20 favor based on this report, I want to make sure the
21 board understands the report.

22 THE WITNESS: Mr. Chairman, I'm sorry, but

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1 my page 10 doesn't have any text. So can you --

2 CHAIRMAN OBERMAN: Okay. Well, it's on
3 page 11 in my report. It's the paragraph that you
4 read from: The modeling inputs and infrastructure
5 projects selected were not done to obtain a high
6 OTP, nor is the 95 percent OTP an input into the
7 model.

8 That's the rebuttal report, sir.

9 THE WITNESS: I'm sorry. I was looking at
10 the RTC report. Excuse me.

11 I'm sorry. The rebuttal RTC modeling
12 report, right? Page 10?

13 CHAIRMAN OBERMAN: Well, it's 11 in my
14 copy. It's the paragraph that begins, "The
15 modeling inputs and infrastructure projects."

16 It's the one you just read from,
17 Mr. Banks.

18 THE WITNESS: What is your question?

19 CHAIRMAN OBERMAN: Is the court reporter
20 able to read back Mr. Banks' last actual answer on
21 in what way it was misleading? Because I wanted to
22 follow up on the way he answered the question to

1 make sure I understood what we're looking at here.

2 Ms. Reporter, can you do that?

3 (The record was read as requested.)

4 CHAIRMAN OBERMAN: So, Mr. Banks, it
5 sounds like you're telling me that you used the
6 95 percent as an input in order to achieve the
7 cushion to get to 80 percent; is that the way this
8 worked?

9 THE WITNESS: No. So I think the problem
10 I'm having in communicating with you is -- the key
11 to it is, in the second line, the word "input."
12 You cannot input OTP into the RTC model.

13 We were focused on the output. If the
14 output was 95 percent OTP, we believed it provided
15 enough of a cushion so that the -- so that Amtrak
16 would be able to achieve the customer OTP metrics
17 it was looking for.

18 CHAIRMAN OBERMAN: Well, how do you -- how
19 do you program -- I'm ignorant about how the RTC
20 computer software works, as I am about all computer
21 software. How do you arrange for it to output a
22 95 percent if you don't put that into the input?

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1 I'm confused how that works.

2 THE WITNESS: Well, you put the
3 improvements into the RTC model and you see what it
4 does to on-time performance.

5 CHAIRMAN OBERMAN: And where did the
6 95 percent come from? It just happened to produce
7 the 95 percent? Is that what you're saying?

8 THE WITNESS: It produced the 95 percent,
9 and we thought the 95 percent provided us enough of
10 a cushion.

11 CHAIRMAN OBERMAN: Well, the reason I'm
12 confused here, Mr. Banks, is that in your initial
13 report at page 27 the team wrote -- and you
14 approved -- saying the project selection must meet
15 a 95 percent. It just didn't happen to turn out a
16 95 percent, but it must meet it.

17 Is that the way it worked?

18 THE WITNESS: Let me look, please. I'm
19 sorry. Where are we?

20 CHAIRMAN OBERMAN: Page 27 in the original
21 report.

22 THE WITNESS: And what is it that you're

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1 specifically -- thanks for giving me an opportunity
2 to read this. Tell me again what your specific
3 issue is.

4 CHAIRMAN OBERMAN: You just told us that
5 the 95 percent OTP was what happened to be turned
6 out once you put these projects in, that you
7 weren't aiming at 95 percent. I thought that's
8 what you said.

9 Now, your original report says, no, the
10 projects were selected so that it must meet
11 95 percent.

12 Those strike me as two very different
13 ideas about how we got to the 95 percent.

14 THE WITNESS: My apologies. We chose
15 projects that we wanted to result in on-time
16 performance that would meet 95 percent as a
17 surrogate because we thought that it would then
18 give us enough cushion to achieve the customer OTP.

19 CHAIRMAN OBERMAN: So the language that we
20 were just looking at on page 27 in the original
21 report is not lacking in clarity; it states exactly
22 what you did.

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1 MR. WARREN: Mr. Chairman, I'm trying not
2 to object, but I think we're outside the scope of
3 redirect, which was just pointing out language in
4 the rebuttal RTC report that -- you know, that
5 specifically addressed this language. And, you
6 know, I do think that we're, you know, at the point
7 where your questions would be answered very
8 directly by, you know, Mr. Dingler, by Mr. Guthrie.
9 And I think we've explained -- and I think the
10 evidence that's already in the record explains that
11 and the rebuttal RTC report responds to this
12 argument. And you can accept it or you cannot
13 accept it, but, you know, we've acknowledged that
14 that language in the original RTC report was not as
15 clear as it should have been. And maybe there is a
16 different term that you want to apply to it, but I
17 think that this is ground that has been covered.

18 CHAIRMAN OBERMAN: Well, Matt I would just
19 say this: You invited this man to come in here
20 this morning and tell me that something was not
21 clear in this report. Now, you want us to rely on
22 this report. I'm trying to find out which aspects

1 of the report I should rely on as a board member
2 and which we should disregard.

3 Now, as I understand Mr. Banks'
4 testimony -- and I would like him to have the last
5 word on this -- the language here in this initial
6 report is not unclear; it is exactly what you did.
7 You put projects in that would churn out a
8 95 percent OTP. Isn't that what you're telling us?
9 That is not unclear.

10 THE WITNESS: So the report that we have
11 been discussing here was prepared by Mark Dingler
12 and Larry Guthrie. I did review it. I made -- I
13 had lots of questions about it. I made some edits
14 to it. But my suggestion is that you discuss this
15 issue with Messrs. Guthrie and Dingler. I don't
16 think I can provide you any more information with
17 respect to this particular issue.

18 CHAIRMAN OBERMAN: Well, you just told us
19 it was unclear. Are you now saying you're not sure
20 if it's unclear; we shouldn't rely on you; we
21 should rely on the next witness?

22 I just want to know what parts of this

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1 record to base our decision on, Mr. Banks.

2 THE WITNESS: With respect to this
3 particular issue, I think the board would be well
4 advised to speak to those two.

5 CHAIRMAN OBERMAN: Amtrak, do you have any
6 questions? Hello?

7 MS. BRACEY: We don't have any questions.

8 CHAIRMAN OBERMAN: All right. Matt?

9 MR. WARREN: No.

10 CHAIRMAN OBERMAN: Mr. Banks, you're
11 excused.

12 THE WITNESS: Thank you.

13 CHAIRMAN OBERMAN: We have been going for
14 quite some time. I wonder if we should take a
15 ten-minute -- what's the pleasure of the board?
16 Should we take a ten-minute recess and then convene
17 and go for a little while and take a later lunch?

18 MR. ATKINS: Chairman, just stepping in,
19 Ray Atkins. So I'll be doing the direct for
20 Mr. Johnson, who is next. His testimony -- his
21 direct testimony is about an hour, maybe an hour
22 and 15 minutes, just to help you -- understanding

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1 if you want to do lunch now and then run the whole
2 direct with him or do a lunch break in the middle
3 of his testimony.

4 CHAIRMAN OBERMAN: What's the pleasure of
5 the board?

6 MEMBER PRIMUS: Why don't we just break
7 now for lunch? That way we can knock it all out
8 this afternoon, without that -- if that's okay
9 with -- I'll just speak for myself.

10 CHAIRMAN OBERMAN: All right. Does
11 everybody agree with that idea on the board?

12 VICE CHAIR SCHULTZ: I agree.

13 MEMBER HEDLUND: That's okay.

14 CHAIRMAN OBERMAN: All right. We'll break
15 now. It's 12:04. Why don't we reconvene at 12:40?

16 (Luncheon recess from 12:04 p.m. until
17 12:41 p.m.)

18 CHAIRMAN OBERMAN: It is 12:41, and we are
19 back in session, and we will proceed with the next
20 witness for CSX and NS, whoever that is.

21 MR. ATKINS: Mr. Chairman, we're calling
22 up Ricky Johnson from CSX.

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1 CHAIRMAN OBERMAN: So just for preparation
2 purposes, Ray -- there is no concern; I just am
3 looking at the witness list. It looks to me like
4 it's not exactly the same order that you submitted
5 to us. There's no problem; you can call them in
6 any order you want. I just want to get prepared.

7 MR. ATKINS: So the list is -- you know,
8 Ricky Johnson is next. Randy Hunt from Norfolk
9 Southern will be our third witness. And then if we
10 can get to them today, Holly -- Hannah, sorry,
11 Rosse, will be our third witness. And then Holly
12 Sinkkanen will be our fourth witness today.

13 CHAIRMAN OBERMAN: Okay. That's fine.
14 And then your next witnesses will be Mr. Dingler
15 and Mr. Guthrie?

16 MR. ATKINS: Yes. They will end our
17 presentation. Mr. Dingler --

18 CHAIRMAN OBERMAN: That's the end of it,
19 right?

20 MR. ATKINS: Correct.

21 CHAIRMAN OBERMAN: Okay. Thank you.
22 Proceed.

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1 MR. ATKINS: Do you want to go ahead and
2 swear him in?

3 CHAIRMAN OBERMAN: I do. Thank you.
4 Whereupon,

5 RICKY JOHNSON,
6 was called as a witness and, having first been duly
7 sworn, was examined and testified as follows:

8 CHAIRMAN OBERMAN: Matt, proceed.

9 MR. ATKINS: Excellent.

10 DIRECT EXAMINATION

11 BY MR. ATKINS:

12 Q. So, Ricky, could you please introduce
13 yourself to the board?

14 A. Yes. Ricky Johnson. I'm the senior vice
15 president of mechanical and engineering for CSX
16 Transportation.

17 Q. And can you tell us how long you have been
18 working in the railroad industry?

19 A. Absolutely. I started my career 28 -- 29
20 years ago, actually, in Mobile, Alabama, with
21 Burlington Northern, worked with AGR, another
22 railroad there in Mobile, and come to CSX

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1 approximately 21 years ago, and have moved around
2 our system, and presently here at headquarters in
3 Jacksonville.

4 Q. So what positions have you held during
5 your employment with CSX?

6 A. I've held the position of track
7 supervisor, assistant division engineer, division
8 engineer, assistant chief engineer, chief
9 engineering of production, chief engineer of the
10 southern half of CSX, chief engineer of the
11 northern half of CSX, vice president of
12 engineering, and senior vice president of
13 engineering and mechanical.

14 Q. Can you describe your current
15 responsibilities?

16 A. Absolutely. I'm responsible for the
17 maintenance and infrastructure for all the track,
18 bridges, signals, communications, all of the
19 facilities, as well as our locomotive fleet, our
20 car fleet, and the rebuild and general maintenance
21 of all of it.

22 Q. And can you describe your responsibilities

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1 specifically regarding the Gulf Coast line?

2 A. Yes. So on the Gulf Coast line, we have
3 some small shops for some car repair, but primarily
4 there on the Gulf Coast I'm responsible for all of
5 the infrastructure, from the signaling, to the
6 track, to the bridges, as well as all of the
7 buildings and facilities along that way, as well as
8 any design and construction that would go on in
9 that area.

10 Q. And how do the operations along the Gulf
11 Coast line compare to other lines that CSX
12 operates?

13 A. Yeah, it's unique in a couple of different
14 ways. The first uniqueness is it's about 138 to
15 138-1/2 miles from end to end on what we refer to
16 as the NO&M sub. It's -- about 80 percent of it is
17 a single-track railroad with sidings for the
18 passing of trains.

19 And unique to this line is really just the
20 sheer -- it's the sheer number of drawbridges on
21 this line. You have seven of them on this
22 subdivision. And right north of the subdivision

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1 you actually have several more on the bottom end of
2 what we call our M&M subdivision right directly
3 north of Mobile.

4 Other aspects that's kind of particular to
5 this line and only this line is really its
6 proximity to the Gulf Coast. We have large
7 stretches that are within less than a half a mile,
8 some where the water is on both sides of our track
9 as we transition from Bay St. Louis into
10 New Orleans.

11 This line is very capital-intensive. You
12 know, when you look at the cost of capital for this
13 line, we're almost 500 percent more per mile, if
14 you look at it here over the last 15 years,
15 compared to the entire rest of our network on a per
16 mile basis. It's a very expensive railroad. We
17 have been hit -- we get hit almost annually with at
18 least one, if not multiple, primarily hurricanes,
19 tropical storms. In fact, this last year we lost
20 approximately 12 miles of this route due to the
21 hurricane that come across this subdivision.

22 Q. Ricky, how high would you say the stakes

1 are in terms of the line's importance to rail
2 transportation and sort of the economy in that
3 region?

4 A. Yeah, absolutely. I think it's -- really,
5 we ought to think about it in two different areas.
6 New Orleans. It's a tremendous gateway for us as
7 well as other carriers that interchange traffic
8 there. It's the second largest volume of
9 interchange for CSX. And that is a critical point
10 for the east and west traffic. As we think
11 about -- you know, we've all read a lot about the
12 congestion and the supply chains and choke points.
13 And, you know, you think about Chicago a lot when
14 you think about east/west interchange, and while
15 they are definitely the bigger player, New Orleans
16 equally is as important, especially to us, CSX, and
17 to our interchange partners.

18 And then I would tell you that we have a
19 lot of significant customers across the coast of
20 Mississippi. But really when you get into the
21 state of Alabama and you start at Theodore,
22 Alabama, and then, more importantly as far as

1 volume growth, you get to the Port of Mobile. It
2 is one of the fastest growing ports in North
3 America.

4 They have invested a tremendous amount of
5 money over the last several years. They work with
6 multiple different carriers in and around -- out of
7 Mobile to really grow that volume. And the Port --
8 I'm an Alabama native. I'm very familiar with this
9 area. I have got family in all three of these
10 states that go across this line. And, you know,
11 the Port of Alabama is an economic -- is the
12 economic engine of the state of Alabama. Also it's
13 the coal -- it's the coal export for the state of
14 Alabama through the port at McDuffie Island.

15 It is -- it's just -- this is a very
16 critical route for not only the success of us and
17 the smaller companies located across this line, but
18 our interchange partners at both ends, as well as
19 the states and the state of Alabama whose heartbeat
20 of their economy is located in Mobile.

21 Q. So given its importance, what is CSX's
22 position with respect to the passenger service over

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1 this line?

2 A. Bring it on. We welcome passenger trains.
3 It's about doing it the right way. It's about
4 protecting the public interest. The public
5 interest is not only the 26 or so passengers that
6 will be on these trains. It's also the numerous --
7 the 50-plus customers that we have across this
8 line. It's about the 10,000-plus people that -- or
9 more -- that depend on the jobs that these
10 companies that we serve, that they produce. It's
11 about the growing economy and growing the business
12 in and out of Mobile.

13 So we welcome it with a proper investment.
14 But zero is not the proper investment, as was here,
15 without even a dedicated station track at Mobile,
16 the basic 101 of how you run a passenger operation
17 that has terminus in the middle of a yard.

18 Q. So Mr. Johnson, our goal here today, since
19 we can't travel to the Gulf Coast, is to bring the
20 Gulf Coast to members, and I thought we'd start
21 with a broad overview and then dig into some
22 specific features.

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1 Would you be able to recognize a map of
2 the Gulf Coast?

3 A. Yes.

4 MR. ATKINS: Chairman Oberman, I'd like
5 your permission to show the witness CSX/NS
6 Exhibit 273.

7 CHAIRMAN OBERMAN: 273?

8 MR. ATKINS: Yes.

9 CHAIRMAN OBERMAN: Yes. Go ahead.

10 MR. ATKINS: So we're going to go ahead
11 and pull it up on the screen.

12 BY MR. ATKINS:

13 Q. So, Mr. Johnson, can you describe -- can
14 you tell us what this is?

15 A. Yeah, absolutely. It is a map of our NO&M
16 subdivision that originates there in Mobile and
17 with its terminus on the other end in New Orleans.

18 Q. Thank you. Will this map help you explain
19 the key features of the corridor?

20 A. Absolutely.

21 MR. ATKINS: Chairman, we would offer this
22 exhibit into evidence as an illustrative exhibit.

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1 CHAIRMAN OBERMAN: Any objection? Amtrak?

2 MS. AMUNSON: No objection.

3 CHAIRMAN OBERMAN: Port?

4 MR. WIMBISH: No objection.

5 CHAIRMAN OBERMAN: It will be admitted.

6 MR. ATKINS: Thank you, Chairman.

7 (CSX/NS Exhibit 273 marked for
8 identification was admitted into evidence.)

9 BY MR. ATKINS:

10 Q. Mr. Johnson, so we're just going to try to
11 provide an overview just to level-set the board
12 where we are.

13 So we're going to go in to Mobile in a bit
14 more detail in a bit, and as well Gentilly at the
15 tail end, but could you walk the board through --
16 let's call it a typical movement of a morning
17 passenger train -- how it's going to traverse from
18 Mobile down to New Orleans, and just highlight some
19 of the key landmarks at a high sort of 10,000-foot
20 level? And why don't we start in Alabama?

21 A. Okay. Absolutely. So the train, as
22 proposed, would tie up into our Choctaw Yard. And

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1 in the morning it would traverse out of our Choctaw
2 Yard and would actually occupy both of our
3 double-main -- both tracks on our double-main track
4 at the north end of Choctaw Yard, and it would move
5 out to the passenger station at Mobile.

6 At that time, they would commence to
7 loading the passengers, it is my understanding.
8 And at the same time, their crews would have to
9 secure the train, disembark from the engines, and
10 then traverse to the other end of the engines, set
11 those engines up for PTC. And then once they
12 finish their operation, they would start to move
13 south.

14 Immediately after that movement, within
15 about a half of a mile, they would traverse onto
16 single track at Choctaw Interlocking, which is at
17 the north end of Choctaw. And for those, as I
18 speak -- I speak kind of in railroad
19 direction-wise -- Mobile will always be on the
20 north end, New Orleans is the south, so as we speak
21 about points, if I say north, it's the end closest
22 to Mobile; if I say south, it's the end closest to

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1 New Orleans. But please feel free to ask me if you
2 need clarification on that.

3 As they traverse and start onto the single
4 track, they immediately come by the McDuffie Island
5 coal terminal, which is a very busy terminal for
6 us. They immediately go over the old IC
7 Interlocking that we will talk about in a little
8 more detail as we go into -- on a future overview.

9 Brookley -- Brookley is key in that this
10 is an area of huge development. The state of
11 Alabama, the county, the City of Mobile, has
12 invested many million of dollars in moving their
13 commercial airport from out in this area to
14 downtown Mobile. Their vision is this would be a
15 multimodal complex. They are in a process --
16 there's already some commercial flights going in
17 and out of here, and they're developing this, as
18 well as this is the location that everybody that we
19 have talked to outside of Amtrak want the Amtrak
20 station to be here at Brookley.

21 In fact, when they did the permitting for
22 this aeroplex here, they actually zoned off a

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1 location next to our track for an Amtrak station.
2 It kind of fits. You fly in, you get on the train,
3 you go across. Or they'll have bus services stuff
4 planned for downtown for any kind of the tourism
5 aspect from an Amtrak train and/or the airport.

6 As you leave there, as you see these lines
7 here in the state of Alabama, this is what we call
8 the Theodore Industrial. This is an area of
9 growing business. I think you heard from one of
10 the customers in the public comment section,
11 Hultson [ps], this is an area of just busy traffic,
12 lots of customers, lots of chemicals, cement, lime
13 shipments, just absolutely growing.

14 The interesting thing about here is that
15 this is -- these are -- this is local, so we have
16 locals that traverse daily and serve customers all
17 across this line. Again, I said 50-plus customers.
18 So this is a heavy used area from Mobile down to
19 Theodore for our locals in and out every day to
20 serve these customers.

21 As we traverse on over, the first stop is
22 actually in Pascagoula. Pascagoula -- you know,

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1 you have your first drawbridge as well, which we'll
2 talk about a drawbridge in more detail here after
3 awhile. But here, Pascagoula, we have a lot of
4 chemical business, a lot of chemical customers. We
5 have an interchange with another railroad, the
6 Mississippi Export Railroad, at this location.

7 CHAIRMAN OBERMAN: Mr. Johnson, did you
8 say that the first drawbridge coming down from
9 Mobile -- you don't reach a drawbridge till
10 Pascagoula? Did I understand that?

11 THE WITNESS: That is correct.

12 CHAIRMAN OBERMAN: Okay. Thank you, sir.
13 Sorry to interrupt.

14 THE WITNESS: Yes, sir. We'll have a map
15 of the drawbridges here in a minute, Chairman
16 Oberman, that will show the exact location of all
17 of them.

18 CHAIRMAN OBERMAN: All right. I just
19 wanted to be clear. Thank you, sir.

20 THE WITNESS: Yes, sir.

21 A. We interchange with Mississippi Export
22 Railroad here. This is also an interesting

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1 location in the chemical business that's here. A
2 lot of big chemical business here. In fact, we
3 have a yard here that is actually off of a control
4 siding. It doesn't have power switches on this
5 siding because, although it is designated a siding,
6 it is actually a switching lead. But it's long
7 enough that if we had to pass something, we can,
8 but it's not powered -- there's no power switches.
9 So this is a huge industrial area.

10 As you get down to the Amtrak station,
11 again, we'll be on road crossing circuits. There
12 is no dedicated station track. There's numerous
13 road crossings that will be affected here. Whether
14 or not -- in some of these stations, there will be
15 fallen crossings, at others at the very least there
16 will be on approaches, and they'll have to time
17 out. And, of course, any little movement of the
18 train would reactivate these gates while we're
19 loading the passengers for the 10 to 15 minutes
20 that they'll be at these stops.

21 As we leave and we continue across this
22 line, really, when you get to Biloxi, that is the

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1 next stop -- this is another area -- I heard some
2 talk earlier about road crossings and things. And
3 really, when you think about Biloxi and Gulfport,
4 there's approximately, in those two cities alone,
5 put together, there's approximately 30 crossings in
6 each one of those cities.

7 So most of these -- any of you that's been
8 to Biloxi know every single block there is a
9 railroad crossing. Kind of unique here, you also
10 have -- for the majority of Biloxi, you have
11 tracks -- you have roads that run parallel to our
12 tracks. And then every block you have a crossing
13 across the track. So, in essence, you have three
14 routes that kind of come together to cross the
15 track in each way. So we're very concerned that if
16 we're stopping on these crossings in this area, we
17 really need to take a hard look at what's required
18 to protect the traveling public.

19 As you continue to the west, the next stop
20 is Gulfport. This stop is interesting in that we
21 interchange here with KCS Railroad, the Kansas City
22 Southern. And the Amtrak station is directly

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1 adjacent to a railroad diamond. So depending on
2 the length, you'll actually have a passenger train
3 stopped on top of a railroad diamond in the middle
4 of it, which, if you've been around railroads,
5 that's kind of one that you just kind of -- you
6 know, it makes you tense up; although we have
7 protections in place, you like to have redundancy
8 or eliminate the risk if at all possible.

9 Also at the same time we will potentially
10 be sitting on top of a road crossing the entire
11 loading and unloading at this station without
12 moving this station or having a dedicated station
13 track. As well as with the concern with the
14 crossings that I talked about, you've gotta
15 remember that once a train rules -- by operating
16 signal rules, once a train stops in the middle of a
17 block, a signaled block, until they can see the
18 next signal, they have to run at restricted speed.

19 So I can have the speed at 79 miles an
20 hour for Amtrak or, if there's a town ordinance or
21 whatever, you know, I can have it at what the track
22 speed is, but they have got to move at restricted

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1 speed until they see the signal. And that's --
2 that's how we operate in a signal environment.

3 As you continue on west, Bay St. Louis,
4 same scenario here, road crossing approaches and
5 others. Here's the station here -- right here in
6 Bay St. Louis. You do cross -- I'll go back --
7 well, you do have three drawbridges, counting the
8 one at Bay St. Louis. Pascagoula, Biloxi, Bay
9 St. Louis. More on them in a minute.

10 As you come down to this area that I would
11 like to highlight, you have the Port Bienville
12 Railway. It's actually a port operation here right
13 before you cross over into Louisiana. It's a very
14 busy port. A lot of interchange there, a lot of
15 traffic in and out of this operation.

16 As soon as you cross here, you go through
17 a little area called Ansley. It's a little town, a
18 little community. And once you leave Ansley right
19 here, you do not have another road crossing or
20 access to this railroad until you get past the
21 floodgates going into New Orleans towards Michoud,
22 a place called Michoud.

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1 This area here is the area that we
2 typically get battered. You have three drawbridges
3 across this line here. This is the area -- you can
4 see the concave nature of the thing. So those of
5 you that pay attention to hurricanes, you know it's
6 the movement. This is where water builds up.
7 We're about 10 to 12 foot above sea level here, and
8 this is where the brunt of our damage typically
9 happens with any kind of a storm across this Gulf,
10 even as far east as Biloxi, Pascagoula.

11 As you continue then -- and all of this is
12 single track from where -- you remember I told you
13 we went to single track to begin with way back
14 within a half a mile of the route. We're still on
15 single track. And we stay on single track till we
16 get approximately 8 to 10 miles to Michoud. And
17 then we go back to double track into Gentilly where
18 we -- at the north end of Gentilly, we go back to
19 single track there at around Gentilly. And we'll
20 have more on Gentilly.

21 The other crossing I'll leave to -- the
22 other Amtrak stop on this route will be on the

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1 Norfolk Southern. I'm sure Mr. Hunt can -- will
2 speak to that more than I can.

3 Also I would mention there is a drawbridge
4 right here at New Orleans that is controlled by the
5 City of New Orleans. It is not controlled by CSX.

6 BY MR. ATKINS:

7 Q. Thank you, Ricky. Do you know
8 approximately how long the Amtrak train is supposed
9 to take to traverse from Mobile to New Orleans?

10 MS. AMUNSON: Mr. Chair, Jessie Amunson on
11 behalf of Amtrak. We understand that the board at
12 our prehearing conference asked for a better
13 understanding of the geography, et cetera, of the
14 area. We would just note for the record that none
15 of this information was in Mr. Johnson's verified
16 statement, and so this is the first that we are
17 getting this as testimony from Mr. Johnson.

18 CHAIRMAN OBERMAN: Well, is this
19 information, Jessie, that Amtrak didn't have
20 before? I mean, is this news to you?

21 MS. AMUNSON: It's not news, sir, but
22 Mr. Johnson -- this goes well beyond the scope of

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1 Mr. Johnson's verified statement and the purpose
2 for which he was offered by CSX.

3 CHAIRMAN OBERMAN: Well, up until this
4 moment, everything he has said has been testified
5 to without objection. Are you prejudiced in some
6 way by hearing this -- by our hearing this
7 testimony?

8 MS. AMUNSON: No, sir. I'm simply saying
9 that this is not -- this was not contained in his
10 verified statement. We believe this is responsive
11 to what the board asked for at our prehearing
12 conference, but, as I said, this is the first that
13 Amtrak is getting this information through
14 Mr. Johnson.

15 CHAIRMAN OBERMAN: Well, unless you have
16 some objection and are arguing prejudice, I don't
17 see any reason to prevent Mr. Johnson from
18 continuing with his description. I think it's
19 helpful to the board.

20 MS. AMUNSON: Understood. Thank you,
21 Mr. Chair.

22 CHAIRMAN OBERMAN: Proceed.

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1 BY MR. ATKINS:

2 Q. So again, my question was do you know
3 approximately how long the trip for the Amtrak
4 train is to take to get from Mobile to New Orleans?

5 A. Yeah, absolutely. I know that -- well,
6 this one is planned at three hours and 26 minutes
7 versus the old trip that -- when we'd run the
8 Sunset Limited, which was in the middle of the
9 night three days a week, it was between five and
10 six hours was the plan for that. So it's -- you
11 know, it's an hour-and-a-half-plus tighter schedule
12 than was previously run on this line. And, again,
13 that was at night versus this being in the middle
14 of the day.

15 And it's also, you know, two trains,
16 three -- six trips versus 28 on the majority of the
17 route. But it's six trips versus 56 when you think
18 about the eight trains a day that they propose with
19 their operation in Mobile, which is the busiest
20 area on this route.

21 Q. So we'll clarify that eight trains a day,
22 just for the board's benefit, with a slide

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1 momentarily. Just to contrast how quickly the
2 Amtrak train will traverse, just on average or
3 roughly, how long does it take a freight train to
4 traverse from Mobile to New Orleans?

5 A. Eight to ten hours.

6 MR. ATKINS: So Chairman, we're going to
7 turn to Mobile and we would like to introduce a
8 second map that --

9 CHAIRMAN OBERMAN: Let me ask this
10 question. Is somebody going to explain why it
11 takes ten hours to go 150 miles?

12 THE WITNESS: Yeah. Absolutely. So
13 that --

14 CHAIRMAN OBERMAN: Is this -- Ray, is this
15 the appropriate witness? Just so we --

16 MR. ATKINS: Absolutely.

17 CHAIRMAN OBERMAN: Could you just
18 elaborate on that, Mr. Johnson, while we're here?

19 THE WITNESS: Yeah, absolutely. So on
20 this line -- so when you come on duty, you know,
21 you put your train together, right? So they come
22 on duty. You're usually looking at a couple of

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1 hours on duty. So it's -- you know, while they're
2 in the yard, they're building their train, they're
3 putting the train together.

4 Then they leave out of the yard.

5 Potentially they have to meet locals. You have got
6 numerous locals that work all across this line.

7 For example, you've got three locals out of Mobile
8 that work customers and serve industries. You've
9 got three locals out of Pascagoula. So they have
10 to do that as well.

11 Also, when you're going across this line
12 with the drawbridges, six of them here from
13 Gentilly going north, you also have to stop.
14 Right? You have to stop. You know, you have home
15 signals on these bridges and, you know, the home
16 signals are -- you know, depending on the speed,
17 the exact speed of the track, they will be spaced,
18 but typically within a mile of each drawbridge you
19 have a circuit, and it's only within a mile of the
20 drawbridge. And -- so if there's boat traffic --
21 and you can't plan the boat traffic because,
22 especially across the coast of Mississippi, you

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1 have just as much pleasure -- I think it's over
2 200,000 -- the senator of Mississippi's office
3 shared with us there's over 200,000 pleasure
4 boaters and commercial fishermen outside of your
5 typical barge and commercial business on the
6 industrial side that you think about. So there's
7 just a tremendous aspect, and it is totally random.

8 CHAIRMAN OBERMAN: Just so I understand,
9 Mr. Johnson, there are no drawbridges in the
10 Mississippi part of this?

11 THE WITNESS: No, absolutely there are.

12 CHAIRMAN OBERMAN: Oh, I'm sorry. I
13 misspoke. Yes, I see what you're saying. Okay.

14 THE WITNESS: Yes, sir.

15 CHAIRMAN OBERMAN: Yep.

16 THE WITNESS: So there's just tremendous
17 opportunity on that to have a delay because of
18 that.

19 You also have the interchanges in the
20 middle here where there is Port Bienville Railroad.
21 You have the Mississippi Export Railroad. You have
22 the KCS interchange. You have all of these

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1 opportunities to have some delay. And that's why
2 the plan and that's how we operate and we schedule
3 our track.

4 CHAIRMAN OBERMAN: So the eight to ten
5 hours, are you including the time in the yard to
6 assemble the train in that eight to ten hours?

7 THE WITNESS: Yes.

8 CHAIRMAN OBERMAN: What would be the time,
9 once the train is assembled and it embarks on its
10 trip?

11 THE WITNESS: It's highly variable. I
12 couldn't speak to a specific time. It's highly
13 variable. It's dependent -- these drawbridges
14 open, Chairman Oberman, six to eight times a day on
15 average.

16 CHAIRMAN OBERMAN: Well --

17 THE WITNESS: And --

18 CHAIRMAN OBERMAN: -- let me ask this way:
19 How long does it take to assemble the train in the
20 yard before it starts out?

21 THE WITNESS: It depends on what's
22 their -- how many cars they're picking up. Are

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1 they taking one track or are they taking two
2 tracks? Do they have to do the class 1 brake test?
3 It's all kind of variables, as it is across any
4 area of any railroad across any part of our
5 network. So it's --

6 CHAIRMAN OBERMAN: The only reason I ask
7 is I'm trying to understand the operation of the
8 line. And on the question of bridges and
9 infrastructure and places where the train has to
10 stop on its trip -- and tell me if I'm wrong -- as
11 a layman, it strikes me none of that is relevant to
12 how long it takes to assemble the train in the yard
13 before it starts. Is that a correct understanding?

14 THE WITNESS: Ask that question again. I
15 want to make sure I understand what you're asking.

16 CHAIRMAN OBERMAN: You said that it takes
17 eight to ten yards [sic] for these trains,
18 generally speaking, to make this trip.

19 THE WITNESS: That's correct.

20 CHAIRMAN OBERMAN: And that includes the
21 time at the beginning of the trip that it takes to
22 assemble the train in the first yard.

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1 THE WITNESS: That's correct.

2 CHAIRMAN OBERMAN: But that amount of
3 time, it strikes me -- but tell me if I'm
4 wrong -- is irrelevant or unrelated to whatever the
5 infrastructure limitations are during the 150-mile
6 route, bridges and intersections and diamond
7 crosses and so forth, correct?

8 THE WITNESS: No.

9 CHAIRMAN OBERMAN: Okay. Well, could you
10 enlighten us on it then? I don't understand.

11 THE WITNESS: Yeah, absolutely. And I'm
12 going to touch on this in a later slide, but I'll
13 be glad to give you a little bit of information
14 here, or I'll give it to you all, but I have got
15 pictures and all to be able to explain it where --
16 I want to make sure everybody understands this.

17 So New Orleans is a terminus. There is no
18 through trains on CSX that operate through
19 New Orleans. So Gentilly -- bypass around Gentilly
20 is one of the proposed projects.

21 This is a track that will be 100 percent
22 only used by Amtrak. Why? Can you imagine trying

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1 to zigzag Amtrak through yard tracks that have two
2 switching operations with remote control engines on
3 each end of this yard, as well as departing trains
4 in nonsignaled -- noncontrolled track? That's why
5 you need a bypass is because of the nature of the
6 yard operation, which is not only the switching;
7 it's also the inbounding and departing of our
8 freight trains. So they are not -- you know, it's
9 not one and the same.

10 If I have to serve a customer off of the
11 main line -- right? Let's talk about my local or
12 let's talk a about a train that's serving the
13 Theodore Industrial Complex in Alabama. Today it's
14 hand-thrown switches. Right? And it's a Y. So
15 you line your switch to go into Theodore Industrial
16 Complex and you pull about 5- to 600 foot and you
17 come to another switch. So you line that switch.
18 You pull your train all the way down into the
19 Theodore Industrial Complex.

20 Now you're finally clear of the main line
21 with your 3-, 4-, 5,000-foot train that's going
22 into that location, but the track is not free to

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1 run a freight train or Amtrak train. Now I have to
2 walk all the way back out to the main line. I had
3 to restore the main line switch. I then have to
4 walk and restore a D-rail. And then, of course, I
5 have to restore any other switches that need to be
6 restored for the next movement there to tell the
7 Y switch.

8 So there have been infrastructure
9 proposals to power these switches up to facilitate
10 these trains clearing the track faster and
11 getting --

12 CHAIRMAN OBERMAN: Mr. Johnson, I think
13 maybe you misunderstood, or maybe I didn't state
14 the question clearly.

15 When you started explaining how a freight
16 train -- Mr. Atkins asked you how long it takes a
17 freight train to get from Mobile to New Orleans,
18 and you said eight to ten hours.

19 THE WITNESS: Yes.

20 CHAIRMAN OBERMAN: And then you said that
21 includes the amount of time it takes to assemble
22 that train in some yard near Mobile before it

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1 begins its journey.

2 THE WITNESS: Yes.

3 CHAIRMAN OBERMAN: And all -- I'm trying
4 to understand how the railroad operates. Whether
5 it takes one or two or three hours to assemble the
6 train in Mobile is unrelated to whether that train
7 is going to get stopped by a diamond intersection
8 in Gulfport. That's all I'm asking. They are two
9 separate issues you have to deal with, are they
10 not?

11 THE WITNESS: They're two separate issues
12 affecting the same crew.

13 CHAIRMAN OBERMAN: I understand that.

14 THE WITNESS: And the crew has 12 hours.

15 CHAIRMAN OBERMAN: Right. Does the
16 crew --

17 THE WITNESS: You've got to solve what you
18 can solve.

19 CHAIRMAN OBERMAN: Does the crew that's
20 taking the train to New Orleans, is that the crew
21 that's assembling the train in the yard? It's not
22 a different crew?

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1 THE WITNESS: The switching of the train
2 is done by yard jobs within a yard, whether that's
3 Mobile, whether that's New Orleans, but when the
4 outbound crew or the through train comes on duty,
5 they build the train. They put the train together
6 at Mobile. They pick up out of two tracks in
7 the --

8 CHAIRMAN OBERMAN: So it's related in
9 terms of crew time, but it is not related to how
10 the train itself -- movement down the line. That's
11 separate from how long it took to put the train
12 together?

13 THE WITNESS: Yeah. If you're asking
14 about specific time, yeah, you can have -- you
15 have -- okay, how long does the trip take to get in
16 and out of the yard? Okay. That's one. Two, how
17 long does it take to get from point A to B? You
18 can break the time down however you want. But
19 any -- yes, you can break -- any way you want you
20 can break the timing.

21 CHAIRMAN OBERMAN: Would it be
22 enlightening to us to know, for example, how long

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1 it takes the train, once it gets to Brookley,
2 typically, to go all the way to Gentilly?

3 THE WITNESS: I think, when we go through
4 Mobile in expanded detail, you will see how the
5 Amtrak operation without a dedicated station track
6 and the location of the signals and the assets, not
7 only with CSX's switching movements, but also of
8 our departing trains picking up -- or making a
9 pickup or a set-off in Mobile, as well as well as
10 the Alabama state docks, as well as our McDuffie
11 Island operation -- I think here, in a future
12 slide, if you'll indulge me with that, it will
13 become very evident of why we have to do something.

14 CHAIRMAN OBERMAN: Okay. Well,
15 Mr. Johnson, listen -- and I certainly am looking
16 forward to that part of your testimony. For the
17 moment, I'm just trying to understand the movement
18 of a freight train as the line operates today.
19 That's all.

20 MR. ATKINS: So, Chairman, I don't want to
21 cut off these, because I think these are perfectly
22 appropriate clarifying questions that we've spoken

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1 of. What we're trying to do is give you digestible
2 chunks. So if we don't cover this question more
3 completely towards the end, maybe do some
4 additional clarifying questions.

5 CHAIRMAN OBERMAN: I'm happy to hand
6 Mr. Johnson back to you, Ray.

7 MR. ATKINS: Okay. Thank you. So as I
8 was saying, Mr. Chairman, I actually want to pull
9 up a second map, which is a more detailed map of
10 Mobile. So with your permission, may the witness
11 examine CSX/Norfolk Southern Exhibit 281?

12 So Chairman -- well, I mean, I don't know
13 how you want to go through this process. Before I
14 show something to the witness, I would like your
15 permission to show it to him, unless you don't
16 think I need it?

17 CHAIRMAN OBERMAN: Well, is it -- it's
18 just a different map?

19 MR. ATKINS: Correct.

20 CHAIRMAN OBERMAN: Is there any objection
21 from Amtrak?

22 MR. ATKINS: We'll go ahead and put it up

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1 on the screen so Amtrak can see the map, although
2 we provided a copy of it to them.

3 MS. AMUNSON: No objection.

4 CHAIRMAN OBERMAN: All right. Proceed.

5 MR. ATKINS: Thank you, Chairman.

6 CHAIRMAN OBERMAN: I guess I should make
7 sure the Port doesn't either. You guys are not
8 100 percent aligned.

9 MR. WIMBISH: No objection, sir.

10 CHAIRMAN OBERMAN: Go ahead, Ray.

11 (CSX/NS Exhibit 281 marked for
12 identification was admitted into evidence.)

13 MR. ATKINS: Thank you very much.

14 BY MR. ATKINS:

15 Q. So you've already sort of mentioned,
16 Ricky, that the operations in the Port of Mobile
17 are particularly complicated. Can you tell us --
18 describe a little bit for the board so they
19 understand what some of the major rail facilities
20 in the Mobile area are that they've been hearing
21 about in the testimony?

22 A. Absolutely. So hopefully you can see my

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1 red circle here. This is our CSX line that comes
2 in north of Mobile into what we refer to as our
3 Sibert Yard. So the dark blue here where my cursor
4 is, this is our Sibert Yard.

5 Unique here and to this yard is that all
6 of the yellow that you see here that kind of
7 encompasses us on both sides, this is the Alabama
8 State Docks, the Port railroad that uses these
9 tracks, and so we are surrounded by them which, as
10 you've seen some of their folks talk about their
11 use of their rights to cross over our mainlines
12 here to be able to serve the port and the waterside
13 of the port and -- to do their business.

14 Also here you have -- coming in here you
15 have the AGR Railroad. That's the old Burlington
16 Northern. Before that, the Frisco AT&N Railroad,
17 that would come into Mobile. They actually come
18 here and they actually interchange in the outside
19 two tracks they own that's in -- adjacent to the
20 Port property here.

21 Norfolk Southern Railroad, the purple
22 here, they come into this area here. They also

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1 have an interchange here, as well as the CN. The
2 CN is actually -- this is actually now operated by
3 an outfit -- I believe it's ALE, the Alabama Export
4 Railroad, and so they actually operate in this area
5 as well. Multiple movements in and across CSX's
6 main line.

7 As I stated earlier, as we're switching
8 out the north end of our yard, we are going across
9 drawbridges. It's the nature of how this yard is
10 sandwiched into this geographic location, and as
11 well as the south end where most of the interchange
12 to and from -- whether the other roads are coming
13 to us or we're going to them -- come in and out of
14 the south end of the yard. As well as this is our
15 switching lead. As we're switching the inbound
16 interchange or switching for outbound interchange,
17 our trains continually take up the track here
18 and -- on the same segment that Amtrak is proposing
19 their station here that is right adjacent down at
20 the convention center in downtown Mobile.

21 Also, two to three times a day, as the
22 port has to come out of their yard and facility,

1 they also utilize this same track segment where
2 Amtrak is proposing their station to be -- or I
3 guess I should say concrete walkway, because there
4 is no station here, there is no facility, no
5 infrastructure other than a raised concrete
6 platform. And then --

7 CHAIRMAN OBERMAN: But, Mr. Johnson, the
8 two to three times a day the Port trains come out,
9 are those at the same time generally each day, or
10 how does that work?

11 THE WITNESS: It varies. You know,
12 it's -- you know, it's -- they try to group it.
13 You know, they're -- you know, like anything, it's
14 do I have 100 cars to switch and take over today or
15 do I have 50?

16 So it's variable, but it's in blocks, I
17 would say, throughout the day during the daytime,
18 the morning and the afternoon. And they go over
19 and they switch their tracks over here. And you'll
20 see some overheads and some drone stuff here in a
21 minute that really kind of paints this picture.

22 As you continue south -- here is the

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1 Amtrak station that we spoke of as you continue
2 south. Here is our Choctaw Yard. This is a
3 critical yard for us. We do block swapping in this
4 yard for a lot of our customers at Theodore and
5 Pascagoula. There is very minimal -- three, four,
6 usable tracks in this yard. As well as the outside
7 track here is actually the main lead where we take
8 one to three coal trains a day into McDuffie Island
9 coal terminal in order to export our coal that
10 comes out from west of Birmingham out of the coal
11 fields up in that area. Very high-quality
12 metallurgical coal.

13 As you continue going south, here is the
14 CN Railroad here that actually crosses us and that
15 is their access as well into McDuffie Island for
16 their traffic that comes into this area.

17 As you continue further west there's
18 Brookley. You see we have some customers and some
19 industrial tracks here, but here is the new airport
20 and industrial aeroplex complex they're building.
21 The vision of the state and the communities and the
22 people in this area -- they're funding this new

1 commercial airport and their plans are for it to be
2 a multimodal port.

3 Again, as I said, there's already property
4 set aside in the master plan for this airport to
5 facilitate the Amtrak station being located at this
6 location.

7 MR. ATKINS: Thank you, Ricky.

8 So, Chairman, we're going to use a second
9 exhibit to get a little bit more granular just on
10 Mobile track area. These are actually time tables.
11 It's CSX and Norfolk Exhibit 285. So --

12 CHAIRMAN OBERMAN: Ray, let me ask you a
13 question.

14 MR. ATKINS: Of course.

15 CHAIRMAN OBERMAN: Will there be either
16 this witness or some other witness who will place
17 on these maps where the infrastructure projects are
18 and what they would do?

19 MR. ATKINS: Yes, absolutely. Mark
20 Dingler will walk you through that. It will be a
21 slightly different map, Chairman Oberman, but we
22 can always pull this map back up with Mr. Dingler

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1 and do a compare.

2 CHAIRMAN OBERMAN: Well, I think that
3 Mr. Johnson's descriptions of how things work are
4 very helpful, so eventually I suspect I and the
5 other board members as well will want to connect
6 these to what you contend are the needed
7 infrastructure projects.

8 MR. ATKINS: Absolutely. We have a
9 substantial period of direct planned for
10 Mr. Dingler with a similar map where he walks you
11 through by region, first starting in New Orleans,
12 then the middle, then Mobile -- each of the
13 proposed projects.

14 CHAIRMAN OBERMAN: Fine. Then I won't
15 take Mr. Johnson's time on that subject. Thank
16 you.

17 MR. ATKINS: Okay. So if you go ahead --
18 well, I'm sorry. Does Amtrak or anyone have any
19 objection to us showing this exhibit? It actually
20 was produced in discovery. I think it's
21 unobjectionable.

22 MS. AMUNSON: No objection.

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1 CHAIRMAN OBERMAN: Port?

2 MR. WIMBISH: No objection.

3 CHAIRMAN OBERMAN: It will be admitted.

4 285?

5 MR. ATKINS: Yes. Thank you.

6 (CSX/NS Exhibit 285 marked for
7 identification was admitted into evidence.)

8 MR. ATKINS: We're going to go ahead and
9 zoom in on a particular section of this. Thank
10 you.

11 So I am hopeful this will be helpful to
12 the board members. I understand time tables are
13 not as intuitive for members to read, so if anyone
14 has any question about what they're seeing here,
15 obviously Mr. Ricky Johnson sees this type of chart
16 a great deal.

17 BY MR. ATKINS:

18 Q. So, Ricky, I'd like you to use this just
19 to illustrate -- you mentioned eight trains a day
20 instead of four trains a day. Could you walk
21 through how the current plan to put a layover in
22 Choctaw and a Mobile station in -- you know, where

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1 it's located, how the trains are going to traverse
2 in and out over this little region -- and tell them
3 what this timetable is representing?

4 A. Okay. Absolutely. So this is the
5 Mobile -- a lot of the area that was just on the
6 maps. You can see McDuffie Island here. Choctaw
7 Yard is this dotted line right in this area. This
8 is Choctaw Yard. I talked earlier how we go from
9 double track onto single track at Choctaw
10 Interlocking. That's here.

11 Amtrak station is right here. This is
12 Amtrak station. Right here -- about where the "1"
13 is, right in this area, but in this track segment,
14 all of this is signalized track here. So this is
15 where it's at.

16 So let's say they were coming from
17 New Orleans. This train is going to traverse up
18 the single main on the number 1 track. They will
19 stop here. Once they stop here, after they change
20 the ends of train, do their PT -- initialize the
21 other end PTC, load or unload passengers, they will
22 then reverse back.

1 There's actually two routes for them to
2 reverse back. They could come up to this
3 interlocking, cross over onto number 2 main, take
4 number 2 main then where -- we can't operate here.
5 This is also an area to where coal trains are
6 staged typically in and out of Choctaw Yard for the
7 McDuffie Island.

8 They would then enter noncontrolled track.
9 So now they will stop. They will Y -- hand-throw
10 switches and go into what they propose, our Choctaw
11 Yard, which, to my knowledge, is the only time an
12 Amtrak train has been on this track was back in the
13 1984 World Fair out of New Orleans; they had
14 permission to Y trains here to take people to the
15 World Fair at New Orleans.

16 But regardless, this is where they plan to
17 fuel and service the locomotives here. There is
18 no -- again, my question is zero dollars in
19 infrastructure as the water is all along. The Bay
20 of -- Mobile Bay is right here, and we're talking
21 about fueling trains and servicing waste on and off
22 these trains with no infrastructure to protect the

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1 waterways here? We've got issues.

2 But, as you can see, as the train
3 traverses up and then back, that it -- it could
4 also come back in here, but this is a more
5 lengthier time because you have to wait for a
6 hand-throw switch to time out. This would take
7 about 40 minutes if they did it this way. This
8 way, you've got to figure it's about 30 minutes.
9 By the time they change ends, unload passengers,
10 it's 30 minutes each time, two times a day.

11 Basically what is happening with eight
12 trains here, you're taking a 24-hour period that we
13 can run trains today, service our customers, serve
14 the port, serve the communities and the public, and
15 you're taking four hours. Now we're going to cram
16 24 hours of operations into 20 hours because we're
17 not even building the simplest infrastructure of a
18 station track at the terminus of an Amtrak or any
19 passenger operation.

20 CHAIRMAN OBERMAN: On that subject, just
21 so I understand while it's fresh here, are you
22 saying if a second track was built right where your

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1 red dot is where the station is, the Amtrak train
2 wouldn't have to go down to Choctaw; it could just
3 wait on the second track until it's ready to head
4 back south?

5 THE WITNESS: That would minimize the
6 impact to the coal trains and the operation there.
7 They would still, you know, in their route, come up
8 through Choctaw Interlocking, or depending on where
9 their track breaks off, they would still occupy the
10 main up to that point. But, yes --

11 CHAIRMAN OBERMAN: Right. But then they
12 would move off of it, I take it --

13 THE WITNESS: That is correct.

14 CHAIRMAN OBERMAN: Okay. I just wanted to
15 understand that. Okay. Thank you.

16 THE WITNESS: Absolutely.

17 BY MR. ATKINS:

18 Q. So Ricky --

19 VICE CHAIR SCHWARTZ: Mr. Johnson --

20 MR. ATKINS: Oh, go ahead. I'm sorry.

21 VICE CHAIR SCHULTZ: I think you
22 referenced a need for infrastructure -- I believe

1 your icon was down there in Choctaw Yard -- because
2 of waterways. What type of infrastructure? And
3 perhaps you'll be getting to this later, but what
4 type of infrastructure would you anticipate for
5 that?

6 THE WITNESS: I would just say that this
7 is a very old yard. It's very tight track centers.
8 Basically, if Amtrak is servicing and blue-flagging
9 equipment and we're trying to switch out our coal
10 trains when we're switching out bad orders that
11 need to be repaired or worked on before they go
12 north, there's a safety issue there potentially.

13 But even more important to me -- look,
14 this is my home state, and I'm an avid
15 outdoorsman -- the environmental issues that -- how
16 can you say we're going to spend zero but we're
17 going to fuel and service -- at least that's what I
18 understand has been proposed, is that we're going
19 to fuel and service locomotives here, and you're
20 not going to even put down fuel pads or -- to catch
21 fuel when you're adjacent to the Bay of Mobile?
22 You're dumping the waste out of trains here,

1 unloading and reclaiming the waste and you're not
2 going to have protective pans and any kind of
3 infrastructure here? We're not going to widen the
4 track centers to where the workers are -- we've
5 still got to be able to serve our community -- I
6 mean, our customers here. So what are you going to
7 do? Are you going to build another track? No, we
8 want to use your track.

9 Okay. Well, I guess -- basically, with
10 four trains a day and the layover times here,
11 they're basically taking this yard and saying that
12 if you rule in favor of them being able to tie up
13 in Choctaw Yard, we basically lose the use of our
14 Choctaw Yard and you basically allow -- without
15 money and infrastructure improvements here, we
16 allow unsafe conditions to happen as they're
17 fueling locomotives, as they're fueling -- and
18 working on or about tracks as we're traversing this
19 area and switching in this area.

20 BY MR. ATKINS:

21 Q. And, Ricky, just to reiterate -- I think
22 you've said this already -- Chairman Oberman's

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1 point, if a dedicated station track was built off
2 of main line 1, none of that would be necessary
3 because they wouldn't have to lay over in Choctaw
4 Yard?

5 A. It's operation 101.

6 Q. Thank you.

7 A. And I know Amtrak's --

8 Q. So one of the things that was confusing
9 for me personally was -- you're talking about the
10 TASD trains, and you can see -- can you show them
11 where those are and they have to --

12 A. Yeah. Absolutely. So I talked about on
13 the map we seen where yellow was all around. So
14 here is our Sibert Yard right here where my red
15 circle is up and down. This is the lead coming off
16 the Alabama State Docks. They come on, they get
17 CSX track.

18 Then they enter here. Then they have to
19 pull down on this signal. Well, as long as Amtrak
20 is sitting here on this main without their
21 dedicated station track, nothing can happen. Our
22 crews can't come out. Our crews would come out

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1 right here at the same location. There is a track
2 for our yard that comes here. Alabama state docks,
3 they come out here.

4 They can't take headroom -- the Alabama
5 state docks -- to be able to use these crossovers
6 to shove over -- and these are the tracks in the
7 yellow on the other side over here. So they use
8 our tracks to pull out. They have to clear their
9 rear of their train, and then they shove back and
10 into their facility over here where they can serve
11 all the customers within the Port facilities here
12 in Mobile.

13 So if they're stopped here taking, you
14 know, 30 minutes' delay, or however long it takes
15 for Amtrak to move back and get out of the way,
16 well, that's delaying our switching crews. Now we
17 have bottlenecks with our switching, and that's
18 delaying the freight crews here.

19 If they're crossing over, well, I can't
20 originate or bring in a coal train in and out of
21 here because I've got to leave the track open to
22 give them priority to come in here in this yard

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1 that is not -- or is not facilitated for Amtrak
2 operation.

3 Q. So, Ricky, just -- if you could go up just
4 above the "1" to where the line is -- right there.
5 So there is basically a signal there that if
6 that's -- if there's an Amtrak train that's in the
7 track on 1, that signal will read red?

8 A. Yes. And they'll be able to come out
9 and -- just a few foot inside the interlocking --
10 well, no -- yes, there's a red signal here because
11 this signal would be red.

12 Q. Okay.

13 A. It would actually be red here. Everything
14 here, here, here, and here would display red stop
15 signals until you can line something here through
16 this interlocking once they clear this segment for
17 them to be able to have headroom.

18 Q. And we're going to show you this with
19 drone footage in a moment, Chairman.

20 MEMBER PRIMUS: I have quick a question --

21 MR. ATKINS: Of course.

22 MEMBER PRIMUS: -- at this point. How

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1 many trains a day, freight trains, are we talking
2 that operate in this area?

3 THE WITNESS: Okay. So we have eight to
4 ten freight trains a day, one to three coal trains
5 a day, and we have an occasional loaded that
6 runs -- traverse the NO&M sub, an occasional empty
7 grain or loaded grain train that traverse our NO&M
8 sub.

9 But more importantly, you've got the --
10 you know, as you're switching, as CSX and Alabama
11 State Docks can talk about their two to three
12 movements as well in more detail, if you have it --
13 they're two to three times a day. Our switcher
14 here is multiple times a day. Right? You can't
15 switch two cars at a time or you would never get --
16 you'd never serve your customers. You would lose
17 all your business. You'd have -- well we'd be
18 talking to the STB about every day if that was the
19 case right here in this yard.

20 So there are multiple -- 15, 20, could be
21 30 times a day that we come out to take headroom as
22 we're switching. That's not to mention the

1 interchange operations.

2 So we also have an Alabama State Docks
3 interchange. We interchange -- we have NS, the CN,
4 which is operated by the Alabama Export Railroad.
5 You have the AGR. You have all of these railroads,
6 and we all interchange with each other, and you
7 take up this track.

8 And I think in the -- you know, I would
9 dare say that in the modeling, as you asked -- they
10 can give you specifics about the number of train
11 movements in these sections. You know, mine is a
12 guesstimate, and that's based on 29 years, and it's
13 based on me working -- actually working for three
14 different railroads here at Mobile. So I
15 understand what happens.

16 MEMBER PRIMUS: So based on that, how
17 congested is this section of track, in your
18 29 years, on a scale of maybe 1 to 10? What would
19 you say in terms of congestion?

20 THE WITNESS: I don't know if I would use
21 congestion. I would tell you that, out of a
22 24-hour period -- out of a 24-hour period, you need

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1 about 23-1/2 hours of this track to facilitate the
2 operation in this area because of the nature of the
3 operation, because of it being water-locked on two
4 sides, our property, and locked on the other side
5 by other railroads -- so you've got the
6 infrastructure that you got. There is no
7 opportunity to build more infrastructure at this --

8 MEMBER PRIMUS: So -- wait. So two things
9 just on top that. So there's no opportunity to
10 build more infrastructure. That's what you just
11 said. And if you're doing it --

12 THE WITNESS: At Sibert Yard -- at Sibert
13 Yard. There's no opportunity in Sibert Yard,
14 that's what I said. I specifically said Sibert
15 Yard. And there is no opportunity -- so a broader
16 question: Is there opportunity to build more
17 infrastructure? Absolutely. We can build a
18 station track here. We can go down here and do
19 something in Choctaw --

20 MEMBER PRIMUS: I'm not talking about
21 Amtrak right now. I'm talking about from a freight
22 perspective. Just from a freight perspective.

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1 So --

2 THE WITNESS: Yeah. Absolutely. And when
3 you think about the freight and the growth and the
4 traffic, the growth of the Port of Mobile, where
5 does the traffic go out of Mobile? I shouldn't ask
6 a question. I'll tell you. It goes north and it
7 goes northeast on us. Very little goes back to the
8 west.

9 Here at CSX, we recognize that growth, to
10 the point that we're investing over \$70 million in
11 building siding capacity and growing our capacity
12 north in conjunction with the port and the state of
13 Alabama --

14 MEMBER PRIMUS: I --

15 THE WITNESS: But then when --

16 MEMBER PRIMUS: I want to stick to this
17 area here, not about the north. So you're saying
18 you use 23-1/2 hours --

19 THE WITNESS: That -- you asked me in my
20 estimate.

21 MEMBER PRIMUS: Well, I'm basing it on
22 your estimate.

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1 THE WITNESS: Okay.

2 MEMBER PRIMUS: So I'm taking your
3 estimate.

4 THE WITNESS: I will tell you that there
5 is traffic on these lines around the clock. And --

6 MEMBER PRIMUS: Okay.

7 THE WITNESS: -- if you have -- let
8 me -- one second. Let me finish, please. If you
9 have inbound traffic today and you inbound 400 cars
10 in this yard, okay, you need X amount of time. If
11 you inbound 500 cars, guess what? You need a
12 little more switching movements to get those
13 switched.

14 The railroad -- no railroad -- we're not a
15 static environment. We're not an assembly line
16 per se that every day I'm going to produce X.
17 There are fluctuations in traffic and volumes.
18 And so it varies day to day.

19 MEMBER PRIMUS: I guess what I'm saying,
20 though, is there room for growth on this line
21 today?

22 THE WITNESS: Yes, there is room for

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1 growth on this line. Especially to the north
2 there's room for growth and --

3 MEMBER PRIMUS: Not to the north --

4 THE WITNESS: -- we're anticipating --

5 MEMBER PRIMUS: Again -- again,
6 Mr. Johnson, I'm not saying to the north. I'm just
7 talking --

8 CHAIRMAN OBERMAN: Wait. Robert and
9 Mr. Johnson, let's not talk over each other.

10 MEMBER PRIMUS: I don't mean to be. I'm
11 just trying to --

12 CHAIRMAN OBERMAN: I understand.

13 MEMBER PRIMUS: And Mr. Johnson, I don't
14 mean to also. I just want to be brief. I'm just
15 talking about just this is one section. I just
16 want to figure out -- I haven't been down there, so
17 I don't know, so I'm just trying to get your
18 perspective because --

19 THE WITNESS: Okay.

20 MEMBER PRIMUS: -- you're down there and
21 you know.

22 THE WITNESS: Okay.

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1 MEMBER PRIMUS: I'm trying to get a better
2 picture --

3 THE WITNESS: The reason you're getting
4 hung up on the word "north," board Member Primus,
5 if it goes north, it also has to use these tracks
6 here. It can't go up here and go north. So, yes,
7 there is opportunity here to originate more traffic
8 in this area and go north.

9 North -- we recognize that on Elysian
10 Road, we needed to expand in capacity. We needed
11 more capacity going north, because that's where the
12 volume growth is going to happen. That's why I
13 mentioned north. But that same traffic that is
14 going north would use these tracks in and around
15 our Sibert Yard. Absolutely.

16 MEMBER PRIMUS: Okay. That's sort of
17 where I'm getting at in terms of where we are
18 today, where you are today, in terms of --

19 THE WITNESS: Yes. That's --

20 MEMBER PRIMUS: I'm just trying to
21 understand, you know, how much is being used in
22 this area that you're talking about, not

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1 necessarily north, but currently you're describing,
2 you know, the TASD, you described Choctaw Yard, and
3 I'm just trying to figure out -- get a better
4 understanding as to what the capacity is in that
5 area right now, today. You know, is there any
6 issues in terms of infrastructure from the freight
7 side today? I just want to understand how you guys
8 operate today, not about Amtrak --

9 THE WITNESS: There is no issue. We do
10 not have any plans to build infrastructure in our
11 Sibert Yard area. There's no issues there today.
12 Again, it's a very heavily used area. And my
13 concern -- and of all of the areas across here,
14 this is the greatest concern I have -- is that we
15 want to protect the port and all of our business,
16 and the coal pit business right it -- the state of
17 Alabama. And it's -- it is a very heavily used
18 area, and when you talk -- when we think about
19 shrinking that time through 24 hours a day, ability
20 to use this, and taking all of those movements of
21 the eight trains a day that Amtrak has proposed
22 and -- it's extraordinary.

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1 MR. ATKINS: Member Primus, is that --
2 we're going to move to some drone footage, but if
3 you have additional clarifications as we go through
4 the drone footage, that might help you also
5 visualize the area and the operations.

6 MEMBER PRIMUS: I appreciate his answers.
7 Thank you, Mr. Johnson.

8 MEMBER HEDLUND: I have one clarification
9 question.

10 CHAIRMAN OBERMAN: Go ahead, Karen.

11 MEMBER HEDLUND: We've heard testimony
12 that CSX is planning infrastructure along the
13 New Orleans-Mobile line over the next, apparently,
14 20 years. That infrastructure was taken into
15 account in the RTC study.

16 Can you tell us, Mr. Johnson, what of that
17 infrastructure is planned for this area? Now, if I
18 am asking a question that calls for confidential
19 information, I'll hold it until the next time we go
20 in a breakout room.

21 MR. ATKINS: So Member Hedlund, let me --
22 I'm not objecting. This is a perfectly good

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1 clarification question. But I just want to -- the
2 testimony you heard yesterday was that we included
3 it in the model, not that those [sic]
4 infrastructure was along the line from New Orleans
5 to Mobile. Just so you all are aware, the RTC
6 model also models from New Orleans up to
7 Montgomery, which is north of -- exactly the
8 northward movement that he's talking about.

9 So I just would ask, to clarify, the
10 testimony was that we included what CSX was
11 proposing to build over the next 20 years in the
12 RTC model not on the New Orleans to Mobile
13 subdivision.

14 So with that clarification, I would ask
15 Ricky to go ahead and answer the question.

16 THE WITNESS: Yeah. So it is north of
17 Mobile. That is the \$70 million our sub --

18 CHAIRMAN OBERMAN: Mr. Johnson, I can
19 barely hear you. Can you do something with your
20 microphone?

21 THE WITNESS: Yes, sir. Can you hear me
22 now?

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1 CHAIRMAN OBERMAN: Better.

2 THE WITNESS: Okay. That is north of
3 Mobile. That's a subset of the siding extensions
4 that I talked about between -- primarily between
5 Mobile and Montgomery. There's also some of that
6 towards Birmingham, Alabama, towards Atlanta,
7 Georgia, towards Waycross, Georgia, the routes
8 and -- down our Dothan subdivision towards Waycross
9 as well.

10 So that is the route immediately north of
11 Mobile, the M&M subdivision. That is what was
12 planned and that is what has been included as we
13 think about the traffic flows in and out of Mobile,
14 because Mobile is a terminal where trains terminate
15 and originate because the crew district and
16 seniority district changes in and at Mobile.

17 MEMBER HEDLUND: So that infrastructure
18 will allow more trains to come into Mobile; is that
19 correct? Is that --

20 THE WITNESS: It will allow -- it will
21 facilitate more efficient movement of trains
22 because of the growing volume -- yes, because of

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1 the growing volume in and out of Mobile, most of
2 which -- the majority of which is originating at
3 Mobile with -- the Port growth there is just
4 tremendous, has been tremendous and will continue
5 to be going forward.

6 MEMBER HEDLUND: So just to -- my
7 understanding, I think from what Matt said, is that
8 there is no new infrastructure planned by CSX
9 between Mobile and New Orleans?

10 THE WITNESS: That is correct. None of --

11 MEMBER HEDLUND: That was included --

12 THE WITNESS: Yes, none at this time. We
13 don't have a need for it right now.

14 MR. ATKINS: So, Chairman, with your
15 permission, we'd like to --

16 CHAIRMAN OBERMAN: Ray, I have one
17 follow-up --

18 MR. ATKINS: Of course.

19 CHAIRMAN OBERMAN: You told Robert Primus
20 that there was room for growth to the north, and I
21 couldn't clearly hear your complete answer for a
22 moment. Are you saying -- is there room for growth

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1 to the west from Choctaw Yard?

2 THE WITNESS: Yeah, I think there is --
3 there is room for minimal -- for some minimal
4 growth to the west with our trains.

5 CHAIRMAN OBERMAN: What's minimal? Can
6 you quantify that?

7 THE WITNESS: I would -- you know, I would
8 probably refer to some of the following witnesses.
9 I'm not going to quantify -- because, again, you
10 know, we get tied up on percentages or whatever. I
11 would -- I know that this area has grown over the
12 last 15 years. You know, look, our -- if you look
13 at our whole volume as a portfolio, as a company,
14 the headwinds we face with coal, if you look at our
15 NO&M sub, we've grown 15 percent, you know, over
16 the last 15 -- I mean 20 percent over the last
17 15 years.

18 CHAIRMAN OBERMAN: Where is that growth,
19 sir?

20 THE WITNESS: On the NO&M sub. If you
21 look at car loads on the NO&M sub, which is the
22 route we're talking about, New Orleans to Mobile.

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1 And so --

2 CHAIRMAN OBERMAN: And where do we find
3 those numbers? Are they in the record?

4 THE WITNESS: I'm sure that -- I would
5 tell you that Hannah Rosse and others that would
6 testify about the car numbers -- I haven't read all
7 the -- you know, I've got a day job and I haven't
8 read all of the submittals that's been submitted,
9 so I would tell you that somebody else would have
10 to answer that question, sir.

11 CHAIRMAN OBERMAN: Who is the someone
12 else, just so we can --

13 MR. ATKINS: So if you have a question
14 about the record, Chairman, that might be best
15 directed at me. If you just ask a fact question of
16 Mr. Johnson, then he's going to try to give you an
17 answer and he's not going to know whether it was in
18 or not in the record, and it wasn't -- that was not
19 a scripted part of his direct, so we weren't
20 planning on introducing that through his testimony
21 on direct.

22 CHAIRMAN OBERMAN: But when I asked him

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1 about how much room for growth there was to the
2 west, he said another witness. That's all I'm
3 asking: Who is the witness he had in mind?

4 THE WITNESS: I would say that you can ask
5 any of the others that come from CSX, the modelers
6 or whoever. I can't tell you who knows that or who
7 doesn't know that.

8 CHAIRMAN OBERMAN: Well, the only people
9 we have coming are modelers. There aren't any
10 other CSX witnesses, are there, Ray?

11 MR. ATKINS: No. Hannah Rosse was a
12 former CSX witness and she's the one that put
13 together the data and the growth forecast on this
14 line. So Ricky might be referring to her. She
15 stepped into a part-time position in the fall of
16 this year. So we routinely, as a group, refer to
17 her as a CSX employee, but technically she's now a
18 consultant.

19 CHAIRMAN OBERMAN: All right. Proceed.

20 MR. ATKINS: Thank you. So Chairman, I'm
21 going to introduce one of the drone footages. And
22 I want to pause before we put it up just to --

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1 because it will be hard to put it up if -- oh,
2 there it is.

3 This is CSX/Norfolk Southern 013. It's
4 going to depict -- just slowly -- so you can see
5 the current location of where the Mobile track will
6 be.

7 CHAIRMAN OBERMAN: Before we get into
8 that, there was an objection raised earlier to the
9 drone --

10 MR. ATKINS: Yes, sir.

11 CHAIRMAN OBERMAN: -- footage. Amtrak, do
12 you want to be heard on this?

13 MS. AMUNSON: Yes, Mr. Chairman. And
14 first, if I might also just ask a clarifying
15 question about the exhibit that we just saw. That
16 exhibit was initially produced to Amtrak as a
17 highly confidential exhibit. Amtrak challenged the
18 designation of that. It was then designated as
19 [sic] CSX as a confidential exhibit. I'm assuming
20 that the fact that CSX put it up in this public
21 hearing means that CSX no longer considers it a
22 confidential exhibit.

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1 MR. ATKINS: That's correct.

2 MS. AMUNSON: Okay. As to the drone
3 footage --

4 CHAIRMAN OBERMAN: It would be useful
5 going forward, Ray --

6 MR. ATKINS: My apologies, Chairman. I
7 had that in my script; I just forgot it.

8 CHAIRMAN OBERMAN: That's okay. But, you
9 know, it might be useful, you know, maybe tonight
10 when there's a break to go through, and any ones
11 that you're going to use that are no longer
12 confidential or highly confidential, to make a list
13 of it and get it around to everybody so we can save
14 time.

15 MR. ATKINS: Will do, Chairman. It's the
16 only one in this presentation. It's my error.

17 CHAIRMAN OBERMAN: All right.

18 MS. AMUNSON: Thank you. We would
19 appreciate that very much. As the Chair is aware,
20 we have repeatedly raised the issue with CSX and NS
21 of overdesignating their exhibits as highly
22 confidential, or confidential -- or their data,

1 excuse me.

2 As to the drone footage, we would just
3 simply state that we understand that the board, at
4 our prehearing conference, requested that the
5 parties provide the board with drone footage and
6 with a better understanding of the geography of the
7 area for purposes of the hearing. We asked that
8 the parties stipulate -- because CSX/NS and the
9 board each individually went off and produced their
10 own drone footage, whereas I believe what the chair
11 had initially suggested at least was that the
12 parties agree on kind of getting some sort of drone
13 footage of the area -- we simply offered a
14 stipulation stating that we do not agree that this
15 is a representative sample, that these are samples
16 of drone footage that have been produced by each
17 party for their own purposes. And this is not at
18 least what the board had contemplated in terms of a
19 joint presentation of typical or representative
20 conditions along the line.

21 MR. ATKINS: So, Chairman, if I can just
22 respond. It was our understanding that when we

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1 talked about drone footages is that we told you we
2 were putting together drone footages and we would
3 share all of our drone footage that we had
4 collected with all of the parties, which we have
5 done.

6 So we're only going to use three today,
7 but all of the drone footage was shared with all of
8 the parties so that they could select whatever
9 they'd like.

10 Also, we're not submitting this as
11 evidence of the typical operations in Sibert Yard.
12 It's simply being used as an illustrative tool to
13 help the board see the yard in question so you can
14 ask some particular questions that just don't come
15 out if you look at a map or a diagram.

16 CHAIRMAN OBERMAN: Well --

17 MS. AMUNSON: If I can just respond to
18 that.

19 CHAIRMAN OBERMAN: Go ahead.

20 MS. AMUNSON: If that representation that
21 it is not offered as typical and illustrative --
22 that is exactly the stipulation that we asked for.

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1 So if it is just being offered as a visual aid, as
2 Mr. Atkins just represented, we will withdraw our
3 objection to that.

4 CHAIRMAN OBERMAN: Two things. A, so
5 stipulated.

6 Two -- B, I long ago gave up the idea that
7 you parties are going to agree on much of anything,
8 so I'm not surprised.

9 Three, when I made the request -- and I
10 think the board members agree -- that really what
11 we wanted to do was to see the physical layout of
12 what this line looks like, where the bridges and
13 sidings would be and so forth, and not necessarily
14 for you to show us 24 hours of footage so we could
15 see what a typical day looks like.

16 So I'm going to admit this evidence for
17 the sole purpose of showing us the physical
18 structure and not the trains that may appear in the
19 film.

20 Fair enough?

21 MR. ATKINS: Absolutely, Chairman.

22 CHAIRMAN OBERMAN: All right. Let's go.

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1 (CSX/NS Exhibit 013 marked for
2 identification was admitted into evidence.)

3 MR. ATKINS: So we're going to go ahead
4 and run it. Ricky will walk you through it as it's
5 progressing. And if at any point in time anyone
6 wants -- it's not very long. It's only about a
7 minute or so. If anyone needs us to pause it -- so
8 go ahead, Ricky, and we'll start the --

9 THE WITNESS: Absolutely.

10 CHAIRMAN OBERMAN: Is he going to tell us
11 what we're looking at here?

12 MR. ATKINS: Yes.

13 THE WITNESS: Yes. So this is number 1
14 track. This is the convention center. This is
15 number 2 track. The Amtrak station -- you're
16 approaching the Amtrak station. It's hard to see
17 because, again, it's just a little -- about
18 two-foot raised piece of concrete here. This is
19 the Amtrak station right here. Right there. You
20 can see that little -- it looks like a walkway
21 right here next to this City of Mobile parking lot.
22 That is what is referred to as an Amtrak station at

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1 Mobile.

2 CHAIRMAN OBERMAN: Was that -- there was a
3 station building that got destroyed in Katrina. Is
4 that -- or torn down. There was a station building
5 there at one point?

6 THE WITNESS: I would defer to Amtrak to
7 answer that.

8 CHAIRMAN OBERMAN: All right. We'll get
9 into that later then. Go ahead.

10 THE WITNESS: Okay. Go ahead.

11 Again, this is the convention center. We
12 actually have our tracks that run underneath the
13 convention center here at this location.

14 BY MR. ATKINS:

15 Q. And, Ricky, can you describe which
16 direction we're heading? So what do you --

17 A. Yeah, absolutely.

18 Q. -- see beyond the convention center?

19 A. We are north -- we are headed towards
20 Sibert Yard here at this location. We're heading
21 north towards Sibert Yard.

22 Q. Okay.

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1 MR. ATKINS: So we couldn't fly over this
2 convention center, Chairman, so we had to break
3 this into two parts. There is a no-fly zone at
4 this juncture. So we're going to flip over now to
5 CSX/Norfolk Southern 0116. I can represent to
6 Jessie that this is being introduced with the
7 same -- just as an illustrative exhibit, so not to
8 illustrate the actual operations, but just to show
9 the infrastructure and let him -- let the members
10 visually see the complex operations of this area.

11 CHAIRMAN OBERMAN: So if it were on here,
12 Mr. Johnson, where -- what we were just looking
13 at -- is it to the bottom of the screen?

14 THE WITNESS: Yes, sir. Right here where
15 my red line -- this is continuation --

16 CHAIRMAN OBERMAN: Okay.

17 THE WITNESS: -- less than -- you know,
18 less than a half a mile behind us is the convention
19 center that you've seen the two tracks go
20 underneath, sir.

21 CHAIRMAN OBERMAN: All right. That's very
22 helpful.

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1 THE WITNESS: Okay. So before we start,
2 just kind of orient people here of where we're at,
3 this is -- so when you get around here, all of
4 these tracks on this side here -- and you'll be
5 able to see it in more detail as the drone footage
6 runs -- the Alabama state docks. And I will
7 mention it and pinpoint it as we go forward.

8 From this building right here that you see
9 the doors, that's our car shop at CSX. From here
10 over to our main line, this is Sibert Yard. And
11 all of these tracks over here, this is the Alabama
12 State Docks facility and yard, and classification
13 yard.

14 Right here -- this building right here
15 where you see my red, that is the old Burlington
16 Northern. My day 1 on the railroad. I kind of
17 like that building. And this is their switching
18 yard here as well.

19 CHAIRMAN OBERMAN: But that's not
20 Burlington Northern now, is it?

21 THE WITNESS: No, sir. It's AGR, Alabama
22 Gulf Coast Railroad. It's a G&W property.

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1 CHAIRMAN OBERMAN: Okay.

2 THE WITNESS: This is the NS. NS comes in
3 here, as well as the IC, or -- which is now the
4 Alabama Export Railroad.

5 CHAIRMAN OBERMAN: Which is -- is that
6 part of CN?

7 THE WITNESS: Yeah, it's the -- it's, I
8 believe -- yes, it's the short-line that operates
9 that track for CN there, sort of like the
10 Mississippi Export to Alabama Export. This is
11 actually the State Docks movement here going in to
12 service a customer.

13 MEMBER PRIMUS: Mr. Johnson, where was
14 that -- was it the TASD, you said, that --

15 THE WITNESS: Yes.

16 MEMBER PRIMUS: -- comes out? Where is
17 that?

18 THE WITNESS: I'm going to stop it when we
19 get -- it's right in this -- it should be right in
20 this area. Let it run and kind of get around the
21 curve and we should be able to see it clearly here.

22 MEMBER PRIMUS: I think I can see it. So

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1 how far is that point that -- where your red dot
2 is, from the station that you just pointed out,
3 from that walkway?

4 THE WITNESS: I would -- and this is
5 approximate; I do not have that in my memory -- but
6 it's -- I would -- stop the video, please.

7 I would say it's -- so this is the Alabama
8 State Docks interlocking. Probably less than a
9 mile, I would say, approximately, in that
10 neighborhood. I'm sure that -- yeah. That would
11 be my guess right now.

12 MEMBER PRIMUS: Okay. That's -- it gives
13 it more perspective. That's, again, the question I
14 was really asking -- Ray, you -- this doesn't flip
15 around so you can see how far away from that; it
16 just keeps going forward?

17 MR. ATKINS: That's correct. It doesn't
18 rotate.

19 THE WITNESS: Yeah, there's curves in here
20 and some buildings and warehouses. So it would --
21 you know, you wouldn't -- you would be able to see
22 the direction, but because of the curves down

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1 through the downtown Mobile -- but if you're
2 looking here -- again, from here to here, CSX,
3 Alabama State Docks, all of this that we've been
4 going by over here, Alabama State Docks --

5 CHAIRMAN OBERMAN: Are those all -- are
6 those boxcars?

7 THE WITNESS: Yes, sir, most of those are
8 boxcars right here and right here --

9 CHAIRMAN OBERMAN: All right.

10 THE WITNESS: -- yes, sir. And again,
11 that's our car shop. And this is where we switch.
12 So when you think about switching cars, out of all
13 of these tracks, you have to take headroom out here
14 onto the main line. And this is where the Alabama
15 State Docks will come out, come out onto our track,
16 and make the movement that we talked about with the
17 crossover moves across our main lines in order to
18 get over and serve all of these industries here.

19 CHAIRMAN OBERMAN: How do they get there?

20 THE WITNESS: They come out of their yard
21 here, they come here, they enter on the CSX --
22 actually, CSX track, they come through here, and

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1 they come right -- let's see -- right here. They
2 come out of this switch right here onto the
3 number 1 main.

4 CHAIRMAN OBERMAN: Then what? Then how do
5 they get over to the yard?

6 THE WITNESS: Scroll on back just a little
7 bit.

8 They have to clear the crossover moves.
9 I'm trying to see the signal -- I think we have to
10 go back.

11 MR. ATKINS: That's the end of the drone
12 footage.

13 THE WITNESS: Okay. I'm not sure you can
14 see the cross -- anyway, if you remember the
15 diagram, there's a crossover. They cross over and
16 then they come into this track here.

17 BY MR. ATKINS:

18 Q. So, Ricky, they need to come down the
19 main line track to get -- and then they come back
20 up to cross over onto main line 2, and then they --

21 A. Yeah, they have to --

22 Q. -- go across --

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1 A. -- clear the crossover in the
2 interlocking, and then they can make a reverse
3 movement to --

4 CHAIRMAN OBERMAN: And where is the track
5 that takes them into the yard there to the right of
6 this photograph?

7 THE WITNESS: This train here is sitting
8 on top of the switch. It comes in -- these two
9 tracks come together and then they go into number 2
10 main here.

11 CHAIRMAN OBERMAN: All right. Could you
12 run it forward then? Okay. So --

13 THE WITNESS: Yes.

14 MR. ATKINS: Pause right there.

15 CHAIRMAN OBERMAN: So they go down towards
16 the station?

17 THE WITNESS: Yes, sir.

18 CHAIRMAN OBERMAN: They switch onto the
19 track that this train is sitting on, and then they
20 come to where this switch is right above your red
21 dot?

22 THE WITNESS: Yes, sir.

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1 CHAIRMAN OBERMAN: And then they go off to
2 the right and get into their yard; is that it?

3 THE WITNESS: Yes, sir. That's correct.

4 CHAIRMAN OBERMAN: And that is the move
5 they have to make every -- is that -- when you said
6 three trains come out of there every day, is
7 that --

8 THE WITNESS: Yeah. Two to three trains a
9 day on average. As they're switching, you know,
10 they classify -- they have a big classification
11 yard here. And they switch it up. They come over
12 here, they pull, spot, and then they have to take
13 it back over in order to, you know, switch it, get
14 it ready for interchange to a number of these
15 carriers. And, again, they will -- they can
16 testify in greater detail.

17 CHAIRMAN OBERMAN: Is there no physical
18 infrastructure that can be built to get their
19 trains from one side to the other, other than this
20 move?

21 THE WITNESS: You know, I will tell you
22 that crossovers is what we have looked at in

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1 order -- I mean, I would say the existing
2 crossovers work today. That's -- so I have not
3 been party --

4 CHAIRMAN OBERMAN: But is there a physical
5 structure in the railroad world that would allow
6 them to get from here to there other than this move
7 you just described? I'm just trying to be educated
8 here.

9 THE WITNESS: I would tell you that the
10 only way to cross over is either a bridge or a
11 tunnel. Tunnel you're not going to do in this
12 location. It's impossible to get that low. And
13 the waterway -- I can tell you that you pull a tie
14 out in this yard in high tide, water actually will
15 come up into the bed of the tie that you just
16 removed.

17 CHAIRMAN OBERMAN: I'm just trying to --
18 wonder because we heard -- and I'm sure we'll hear
19 more from the Port, and we've heard a little bit
20 from you about the increased port traffic and your
21 building an intermodal yard up in Montgomery and so
22 forth. I'm just wondering, if Amtrak disappeared

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1 tomorrow, how you're going to handle that increased
2 traffic if all of it has to make this complicated
3 move to get from one yard to the other.

4 THE WITNESS: It's no issue there. The
5 intermodal -- this isn't the intermodal here. The
6 intermodal is not located here. The intermodal was
7 actually south of here down towards -- south of the
8 Brookley -- not Brookley. South of McDuffie
9 Island, the coal terminal. That's where the
10 intermodal facility is.

11 CHAIRMAN OBERMAN: So what kind of traffic
12 is the dock -- is the port moving on these trains?

13 THE WITNESS: I would tell you that
14 it's -- you know, they can answer the specific
15 commodities. I can tell you it's merchandise
16 traffic. It's obviously a lot of boxcars and grain
17 hoppers and hoppers. And they can give you
18 specific commodities. I won't have that --

19 CHAIRMAN OBERMAN: Okay. I just wanted to
20 get a general idea. But --

21 THE WITNESS: Yes.

22 CHAIRMAN OBERMAN: Thank you.

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1 MR. ATKINS: So we're going to go ahead
2 and proceed forward, just so we can get you up to
3 the Sibert Yard on the video.

4 CHAIRMAN OBERMAN: We're going to stay
5 with this video, Ray?

6 MR. ATKINS: Yes, sir. Yep.

7 CHAIRMAN OBERMAN: All right. Go ahead.

8 BY MR. ATKINS:

9 Q. So, Ricky, as we're coming -- we're just
10 going to go ahead and run it. So we'll just be
11 quiet for a moment to let you see the yard, and
12 then we'll start in again when we get about halfway
13 up here.

14 MR. ATKINS: I can tell it's a little
15 jerky on your end, Chairman. Are you seeing it
16 okay in terms of the lag that I'm seeing?

17 CHAIRMAN OBERMAN: It's a little jerky,
18 but it's quite, you know, visible and demonstrative
19 to me. I don't know about the other board members.

20 MR. ATKINS: Okay.

21 THE WITNESS: Again, as I've said, this is
22 our classification yard. We switch on both ends of

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1 the Sibert Yard. Here on this end is primarily the
2 interchange and the operation. And then on the
3 other end is really our outbound traffic that we're
4 switching here on this end. And, again, the other
5 end -- that's our office building there. The other
6 end right here is where there's a drawbridge
7 that -- we're actually actively switching over that
8 drawbridge. All of this is still the Port
9 property. This is actually a huge automotive
10 facility here. So all of this is -- the Port
11 continues on this side.

12 BY MR. ATKINS:

13 Q. And, Ricky, can you tell us which bridge
14 that is up to the north, because I think we're
15 going to mention it later on?

16 A. The 3 Mile Bridge?

17 Q. Yeah. Thank you.

18 A. Yes, the 3 Mile Bridge.

19 CHAIRMAN OBERMAN: When you say
20 automotive, Mr. Johnson, it looks to me like an
21 empty lot. There's no tracks in there where you
22 were pointing, but I can't tell.

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1 THE WITNESS: Yeah, and the Port will be
2 able to answer any questions about that that you
3 have.

4 CHAIRMAN OBERMAN: Well, what is it --
5 when you say it's an automotive facility --

6 THE WITNESS: Place to load or offload
7 automobiles.

8 CHAIRMAN OBERMAN: But there's no railroad
9 tracks in there, so that's what I'm trying to
10 figure out. How is it used for the railroad, or is
11 it?

12 THE WITNESS: It's load -- offload on and
13 off ships and then load into railcars, potentially,
14 or load into 18-wheelers as well.

15 MEMBER PRIMUS: So, Mr. Johnson, when you
16 say load and unload, are the cars being driven
17 off -- off of the trains or are they being -- how
18 are they being --

19 THE WITNESS: Yeah, I would defer to the
20 Port on that operation. I was just trying to --
21 the main point was me identifying what was the Port
22 property and what was the State Docks. They can

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1 answer all the questions that you have.

2 CHAIRMAN OBERMAN: Can you just say
3 physically where the cars go from being driven onto
4 a railcar? That's all I'm trying to understand
5 from this picture.

6 THE WITNESS: There is none there, to my
7 knowledge, today.

8 CHAIRMAN OBERMAN: No, but where would it
9 be? I can't see a connection between that parking
10 lot and a railroad track.

11 THE WITNESS: Again, they can explain the
12 operation.

13 CHAIRMAN OBERMAN: All right. Okay.
14 We'll save it for the port then.

15 THE WITNESS: Yeah, I was more just trying
16 to display how we're landlocked, or rail-locked,
17 here, you know, and why this is an area that is
18 actively used around the clock.

19 MR. ATKINS: So, Chairman, our intention
20 is to move now to talk about some of the movable
21 bridges over the line and end our discussion of
22 Mobile, but I don't want to cut short any further

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1 clarifying questions you might have about these
2 particular operations.

3 CHAIRMAN OBERMAN: I have a couple of
4 questions about this.

5 If you could back this up to the beginning
6 of this roll, and then I want to go back to the
7 previous drone for a minute. Just this one we've
8 been watching, can you go back to where it started?
9 Is this the beginning Ray?

10 MR. AKINS: Yes.

11 CHAIRMAN OBERMAN: So were any of the
12 tracks we're looking at used in the past for the
13 Amtrak station?

14 THE WITNESS: No. Do you mean was there
15 an Amtrak station on any of these tracks?

16 CHAIRMAN OBERMAN: No, no. Were any of
17 these tracks part of the tracks that went to the
18 Amtrak station? Or was there a separate station
19 track here?

20 THE WITNESS: Yeah, there's never been a
21 separate station track, to my knowledge, there at
22 the Mobile spot. The Sunset Limited, which is a

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1 totally different operation, or totally different
2 train than this new service that's being proposed,
3 they came all the way through this area in the
4 middle of the night. Three nights a week they
5 would traverse -- so it was, you know, six trains a
6 week in total, three each direction.

7 CHAIRMAN OBERMAN: Can you go back to the
8 previous drone, then, Ray? I had another question.

9 MR. ATKINS: Absolutely.

10 CHAIRMAN OBERMAN: And go up to where the
11 Amtrak station would be.

12 MR. ATKINS: Yep, we will do. Just give
13 us one second.

14 CHAIRMAN OBERMAN: Yep.

15 THE WITNESS: Keep going a little bit
16 more. And it will come in to finally where you can
17 see it here. Okay.

18 CHAIRMAN OBERMAN: So -- all right. So
19 this is good. Perhaps you can stop it here. So
20 what we're looking at here is two tracks, right?

21 THE WITNESS: Yes, sir.

22 CHAIRMAN OBERMAN: And how do you refer to

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1 them, Mr. Johnson? Track 1 or --

2 THE WITNESS: Yes, sir. This is track 1
3 that the train is operating on. And this is
4 track 2 here.

5 CHAIRMAN OBERMAN: Okay. So would you
6 explain to me again -- because when you were
7 talking about the operation here from the --
8 whatever we called that piece of paper that Jessie
9 pointed out had been confidential. What did --

10 MR. ATKINS: The timesheet?

11 THE WITNESS: The timetable?

12 MR. ATKINS: Timetable.

13 CHAIRMAN OBERMAN: Hieroglyphics to me
14 when you were talking about that, but I want to
15 make sure I understood what you were saying.

16 THE WITNESS: Yes, sir.

17 CHAIRMAN OBERMAN: I thought you said that
18 when the Amtrak -- if the Amtrak train came here
19 and stopped, it would stop on this same track where
20 we're seeing a train now?

21 THE WITNESS: That's correct.

22 CHAIRMAN OBERMAN: And then nothing else

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1 could get by, so everything at the yard to the
2 north of here just has to stop?

3 THE WITNESS: Yes, sir.

4 CHAIRMAN OBERMAN: But there is track 2
5 there. Why can't the trains just get past the
6 Amtrak train on track 2?

7 THE WITNESS: Yes, sir. So here comes a
8 freight train, or a coal train. Say it's a coal
9 train, one to three a day. Amtrak stopped here.
10 I've got to stop him back here because if he --
11 north of this interlocking, because once he gets
12 here, Amtrak can't use the crossover to get to the
13 yard. They can't cross from -- because what this
14 train will do, when Amtrak stopped here, it will go
15 this direction back towards the bottom of the
16 scene, and it will cross over onto number 2 track
17 and then cross into Choctaw Yard. The access to
18 Choctaw Yard on the north end is off of number 2
19 track.

20 So when you think about a coal train or
21 something coming in here, and they're going into
22 McDuffie Island and they're hand-lining switches

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1 and trying to put their train away on McDuffie
2 Island, they have the potential to be stretched out
3 here, and so you've got to hold them back or Amtrak
4 will have to sit here -- we wouldn't be giving them
5 preferential treatment, I guess. They would be
6 sitting here waiting at their station. So
7 that's --

8 CHAIRMAN OBERMAN: Well, if the switches
9 were not hand-thrown, hand-lined you say, but were
10 automatic or remote or however they work now in the
11 modern era, how long would it take the coal train
12 to go past there?

13 THE WITNESS: You know, I would have to do
14 the calculation. It would be -- once they got on
15 the noncontrolled track going into the terminal,
16 it's 10 mile per hour or less. Going into McDuffie
17 Island, it's yard infrastructure, it's heavy
18 degree, heavy curvature, unprotected road
19 crossings, so I would have to -- you know, you
20 could do the calculation on the footage and the
21 distance and, you know, the speed but, you know, I
22 don't have -- I haven't done that math.

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1 CHAIRMAN OBERMAN: Well, let me see if I
2 understand here. Now, the station track that we're
3 talking about that you contend needs to be built,
4 was there a station track here at one time?

5 THE WITNESS: I'm unaware that -- I'm not
6 aware that there was a station track here before.

7 CHAIRMAN OBERMAN: There was never one, is
8 that what you're saying?

9 THE WITNESS: That's my understanding.

10 CHAIRMAN OBERMAN: All right. So when the
11 Sunset Limited came through, it just stopped right
12 where this train is now and let people out?

13 THE WITNESS: Yes, sir. In the middle of
14 the night, yes, sir.

15 CHAIRMAN OBERMAN: All right. And where
16 is it that you contend that Amtrak needs to build a
17 station track, then, to solve this problem?

18 THE WITNESS: I mean, in fact, Amtrak has
19 been out and walked it, and I think -- and had
20 looked at it, with us flagging for them. I think
21 that was one of their requests. Right here.
22 They've identified, you know, right here. They'd

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1 bring it in --

2 CHAIRMAN OBERMAN: How long would that
3 track be?

4 THE WITNESS: They'd bring it in there. I
5 don't remember the exact footage, but if we could
6 back the drone up, it would come off somewhere back
7 south of here. I'm not sure, you know, the exact
8 footage of it, but it would come off south of that
9 location.

10 CHAIRMAN OBERMAN: So if that happened,
11 then an Amtrak train coming up from New Orleans,
12 somewhere around where this train is sitting now
13 would be switched off to the station track and go
14 over to where the station is and stop?

15 THE WITNESS: That's correct.

16 CHAIRMAN OBERMAN: And then it would not
17 only let passengers off, but it would sit there for
18 whatever time the schedule called for before it
19 headed back down to New Orleans?

20 THE WITNESS: That's correct.

21 CHAIRMAN OBERMAN: But would it still have
22 to wait for this coal train to get past McDuffie

1 yard?

2 THE WITNESS: No. Because it's on
3 number 2 track. It would have to wait on any -- it
4 could have to wait on the local or the Alabama
5 State Docks movement, depending on where the switch
6 exits. In my view, it should be closer to
7 Brookley.

8 And then there would be less interference
9 with Alabama State Docks movement. But, you know,
10 our through trains use number 1 and number 2 track.
11 But the coal trains, they would never -- if they
12 had a dedicated station track here, they would come
13 out onto either -- they would come out either on
14 number 1 or further down on the single track.
15 There would be no need for them to occupy number 2
16 track, which is the route into McDuffie island.

17 CHAIRMAN OBERMAN: Well, it's also the
18 route into Choctaw, right?

19 THE WITNESS: Yes, sir. So when you go
20 into Choctaw Yard, Choctaw Yard -- as soon as you
21 go through the interlocking there at Choctaw, there
22 is a switch that breaks to the south. And Choctaw

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1 yard breaks off and is between the lead going to
2 McDuffie Island and the single track main line.
3 It's --

4 CHAIRMAN OBERMAN: Are we -- I'm sorry. I
5 didn't mean to interrupt you.

6 THE WITNESS: No.

7 CHAIRMAN OBERMAN: Ray, are we going to
8 have a drone that goes down to show what he just
9 described at Choctaw? Because I have some
10 questions about Choctaw.

11 MR. ATKINS: So, no, Chairman Oberman. So
12 the best we could do is to go back to the timetable
13 and use that to depict it, if you'd like. We can
14 flip back to that prior exhibit.

15 CHAIRMAN OBERMAN: No, I would rather see
16 a depiction of it if there is one. I thought you
17 were going to do a drone of the entire route.

18 MR. ATKINS: Well, there was no way for us
19 to do a drone footage of the entire route. So we
20 just had them go out and do select spots. This is
21 what we --

22 CHAIRMAN OBERMAN: All right.

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1 MR. ATKINS: -- selected for our direct.
2 If you -- if the board would like, as I said, at
3 the end of this hearing, you can leave open the
4 record for anything that you think would be useful
5 for you. And if you wanted us to include drone
6 footage of Choctaw Yard, either we'll look in what
7 we've already provided all the parties and we'll
8 get it to the board or, if so directed, we'll go
9 out and redrone that stretch of track.

10 CHAIRMAN OBERMAN: I'm not asking at this
11 moment to do that work but if --

12 MR. ATKINS: Understood.

13 CHAIRMAN OBERMAN: -- the board members
14 want it done -- but here's what I'm trying to --
15 I'm trying to do a comparison here so I understand
16 what's at issue, that without the station track
17 that you're just talking about, that Mr. Johnson
18 was just describing, the Amtrak train would have to
19 come south on track 1 as it left for the layover,
20 and someplace there is a crossover that gets it
21 onto track 2 and into Choctaw yard; is that right?

22 THE WITNESS: Yes, sir.

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1 CHAIRMAN OBERMAN: And the reason a coal
2 train has to wait is because it's on track 2 and
3 it's trying to get past Choctaw to McDuffie?

4 THE WITNESS: Yes, sir.

5 CHAIRMAN OBERMAN: So the coal train has
6 to wait until Amtrak makes that move into Choctaw
7 Yard?

8 THE WITNESS: Yes, sir.

9 CHAIRMAN OBERMAN: Okay. And --

10 THE WITNESS: I can sign you up in the
11 engineering department, Chairman.

12 CHAIRMAN OBERMAN: Well, you will be
13 guilty of engineering malpractice if you do that,
14 but we'll leave that for another day.

15 So as I understand it, there was a track
16 in Choctaw Yard that was recently taken up by CSX
17 that was used or could have been used by Amtrak; is
18 that correct?

19 THE WITNESS: There's still tracks in
20 Choctaw Yard. You know, there's been none taken up
21 that I know of here in the last couple of years. I
22 know --

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1 CHAIRMAN OBERMAN: I thought I read -- and
2 Ray, correct me, because I read so much in this
3 proceeding -- that in -- I believe it was in
4 2019 -- maybe it was in Amtrak's papers -- but
5 there was a track on which Amtrak could wait that
6 was in Choctaw Yard that was removed by CSX. Is
7 that not correct?

8 MR. ATKINS: So, Chairman, if it's in the
9 record -- I know it's in the record. I can't tell
10 you exactly what page. But you can ask Ricky
11 whatever he knows about it. He'll tell you -- you
12 know, he's the chief engineer. He'll tell you what
13 he does know and he'll tell you what he doesn't
14 know. So if you have questions for him, I
15 expect -- honestly, I expect Jessie is going to
16 have questions for him on this issue as well in her
17 cross so -- but please feel free to ask him --

18 CHAIRMAN OBERMAN: If that's not correct,
19 I don't want to waste time on it. But --

20 THE WITNESS: There have been tracks that
21 have been removed out of Choctaw Yard through
22 the years. Again, none in 2020, 2021 -- I can't

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1 remember any. I don't know the exact timing of
2 when any tracks were removed, but there have been a
3 track or two that has been removed, and it was to
4 facilitate the realignment. So we had some sharp
5 back-to-back S-curves. When you come off -- out of
6 the Alabama State Docks property there on McDuffie
7 Island and you see the Choctaw Yard -- and in order
8 to shift the McDuffie lead over to facilitate the
9 increase in traffic and to prevent -- to be
10 preventive on the maintenance side, yeah, we
11 realigned and we took some tracks that we no longer
12 needed for our operations in the area.

13 There were no existing leases that -- or
14 agreements that I've ever been aware of. The only
15 agreement that I've ever been knowledgeable or knew
16 of involving Amtrak and Choctaw Yard was actually
17 their ability to go into McDuffie Island on our
18 property and the Alabama State Docks and CN's
19 property to Y their train during the 1984 World
20 Fair. And Sunset Limited did not use these tracks.

21 So that's my knowledge of Choctaw Yard.

22 CHAIRMAN OBERMAN: Well, maybe we'll learn

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1 more from another witness, or through Amtrak.

2 MEMBER HEDLUND: Mr. Chairman, I have a
3 quick question.

4 CHAIRMAN OBERMAN: Go ahead, Karen.

5 MEMBER HEDLUND: Mr. Johnson, who owns the
6 land that the proposed station track would go onto?
7 Is it land owned by CSX?

8 THE WITNESS: I believe the majority of it
9 is land owned by us. They may have to get a
10 right-of-way easement or some kind of agreement
11 with the City of Mobile. They actually owned --
12 most of the parking lot is owned by the City of
13 Mobile. I do know -- I believe for -- Amtrak
14 leases their sidewalk there from us. It's on our
15 railroad right-of-way, and they have an agreement,
16 is my understanding, with us to use that cement
17 walkway there for loading and unloading passengers.

18 MEMBER HEDLUND: Thank you.

19 MR. ATKINS: So, Chairman, we've been
20 going for about an hour-and-a-half. With your
21 permission, if we could take just a five-minute
22 break for Ricky, just to kind of pause for a

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1 moment. And then -- this is a perfect place
2 because we're going to transition to a different
3 discussion.

4 CHAIRMAN OBERMAN: What is the estimated
5 plan for the rest of the afternoon, Ray?

6 MR. ATKINS: Well, we've been getting lots
7 of clarifying questions, so it's not entirely
8 within my control, but we're going to walk through
9 movable bridges and then we're going to end with a
10 segue in Gentilly. So that's what we have got
11 remaining on direct.

12 But we do like to move things along so we
13 can kind of get Randy Hunt in before we close today
14 so -- but I would ask for at least a five-minute
15 break so my witness can use the restroom and then
16 come back to the stand.

17 CHAIRMAN OBERMAN: We'll make it a break
18 until 2:40.

19 MR. ATKINS: Thank you very much,
20 Chairman.

21 (Whereupon, a recess was taken at
22 2:27 p.m. until 2:41 p.m. and then the proceedings

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1 continued as follows:)

2 CHAIRMAN OBERMAN: Ray, are you ready to
3 proceed?

4 MR. ATKINS: Chairman Oberman, so I was
5 told by my associate -- sometimes you need to ask
6 questions directed at the right people -- we do
7 have drone footage of Choctaw Yard. That's in our
8 exhibits. We have it on our laptop here. Would
9 you like us to pull that up and do the drone
10 footage or would you like us to move on to talk
11 about movable bridges?

12 CHAIRMAN OBERMAN: I would like to see the
13 track we're talking about here.

14 MR. ATKINS: Thank you. So just for
15 everyone's benefit, Mr. Johnson has not reviewed
16 this, or I don't believe he has. It may take a
17 little bit to orientate himself. We're talking
18 about CSX/NS Exhibit 011. And what I'm going to do
19 is just go ahead and play it from beginning -- it's
20 not very long -- from beginning to end, then we can
21 roll back and forth and let Ricky talk about what
22 he's seeing here.

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1 THE WITNESS: Okay. Before we get -- do I
2 have a pointer?

3 MR. ATKINS: Here you go.

4 (CSX/NS Exhibit 011 marked for
5 identification was introduced.)

6 THE WITNESS: Okay. Before we get
7 started, this is our -- where this train is right
8 now -- so I am facing north. Okay? The Amtrak
9 station is this parking platform that we go by --
10 the Amtrak station is right there north of there.

11 As you come -- just so we're oriented, you
12 come down and right in here is where you go from
13 double track to single track, and that is where the
14 crossover is in that interlocking to get to this
15 lead on the outside. This lead here is -- the
16 outside track on the right-hand side, this is our
17 main lead into McDuffie Island. This is the route
18 that coal trains take.

19 These tracks here, this is Choctaw Yard.

20 CHAIRMAN OBERMAN: So those tracks only go
21 to Choctaw Yard or is that --

22 THE WITNESS: Yes, sir. They come in here

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1 and these three tracks are Choctaw Yard --

2 CHAIRMAN OBERMAN: Oh, that is the yard,
3 what we're looking at?

4 THE WITNESS: Yes, sir.

5 CHAIRMAN OBERMAN: I see.

6 THE WITNESS: I mean, yeah, I know when
7 you think of yard, right, you're, like, three
8 tracks? It's a yard. But --

9 CHAIRMAN OBERMAN: Is where your red dot
10 just was, is that where the track was that was
11 taken out?

12 THE WITNESS: There was a track here, as
13 you can see, that was taken out so that we could
14 adjust this curve here coming in. There was a
15 track here, not that -- I don't have the exact
16 footage, but there was a track here.

17 There is also a connection back on this
18 end of the yard that comes out. It's a little ways
19 down. It comes back out onto the single main line
20 right before you get to the IC -- the old IC, the
21 Alabama Export Railroad diamond that crosses this
22 there.

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1 CHAIRMAN OBERMAN: And if you don't
2 build -- or if the station track we were talking
3 about for Amtrak is not built, where would the
4 Amtrak train lay over?

5 THE WITNESS: The only thing that I have
6 seen, from my knowledge of Amtrak, is Choctaw Yard
7 in general. What I know about Choctaw Yard in
8 general is there's no fueling locations, there's no
9 servicing locations. So I would -- you know,
10 hopefully Amtrak can clarify if they're talking
11 about this track, that track, this track, you know.
12 I'm not sure what their intent is.

13 CHAIRMAN OBERMAN: Well, if they built a
14 station track where we were looking, where would
15 they do the fueling for that?

16 THE WITNESS: They would do it in their
17 own track. That's where they will be tied up.
18 They'll have to -- they'll provide the facilities
19 and do it in their own track.

20 CHAIRMAN OBERMAN: Would they have to
21 build some kind of fuel tank or do it by truck, or
22 how would that work?

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1 THE WITNESS: I'm -- you know, we -- I
2 would do -- CSX would fuel by truck at this
3 location with appropriate fueling reclaim below the
4 track or on the track fans. I'm not sure of
5 Amtrak's procedures there. But if it was on our
6 right-of-way, they could submit the plans and we
7 would approve it as long as it met our
8 environmental protocols.

9 CHAIRMAN OBERMAN: All right. Thank you.
10 Are there any board members who have any
11 questions?

12 MR. ATKINS: So do you want us to actually
13 just show you the -- this is still at the beginning
14 of it. We can actually just go ahead and run you
15 through. It's very short.

16 CHAIRMAN OBERMAN: Okay. That would be
17 helpful.

18 MR. ATKINS: So we're just going to go
19 ahead and run you through it so you can see -- as I
20 said, it's very short.

21 Just pause it at the end, Matthew.

22 Okay. So that's it.

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1 Chairman, with that, unless there's other
2 questions from any of members, we're going to move
3 on to talking about the movable bridges. So we can
4 take this exhibit down and we're going to pull up
5 CSX/Norfolk Southern Exhibit 282.

6 (CSX/NS Exhibit 282 marked for
7 identification was introduced.)

8 CHAIRMAN OBERMAN: All right. Go ahead.

9 MR. ATKINS: Thank you.

10 BY MR. ATKINS:

11 Q. So Mr. Johnson, can you describe what
12 you're seeing here?

13 CHAIRMAN OBERMAN: Is this the previous
14 exhibit you had up, Ray?

15 MR. ATKINS: It is similar except now
16 you're seeing all of the movable bridges, so we
17 took off some of the clutter. You're not seeing
18 all the locations of the passenger trains or the
19 existing sidings. We're just using this to show
20 you where in the line you can find each of the
21 movable bridges.

22 CHAIRMAN OBERMAN: Is there any objection

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1 to this exhibit?

2 MS. AMUNSON: No objection.

3 CHAIRMAN OBERMAN: All right. Thank you.

4 (CSX/NS Exhibit 282 marked for
5 identification was admitted into evidence.)

6 CHAIRMAN OBERMAN: Go ahead.

7 BY MR. ATKINS:

8 Q. Okay. So Mr. Johnson, can you just
9 describe what this map is depicting?

10 A. Absolutely. This is our NO&M subdivision
11 and the location of the drawbridge along this
12 route. It also depicts some of the drawbridges
13 that are north of Mobile on our M&M subdivision
14 right outside of the -- or right north of Sibert
15 Yard.

16 Q. And so we know -- so can you point out the
17 ones that the passenger trains will actually
18 operate over, some that are on the route?

19 A. Yeah. Absolutely. They'll start right
20 here at Pascagoula -- East Pascagoula River. And
21 they'll be all the way -- every one of them,
22 including Industrial Canal here that is right south

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1 of our Gentilly Yard at New Orleans.

2 Q. So you're showing -- we're showing four on
3 the top that the passenger trains are not going to
4 traverse over. Can you explain, though, how a
5 bridge that's not actually on the route might
6 affect the operations south of those locations?

7 A. Yeah, absolutely. So it's really about in
8 and around Mobile. If you're leaving or trying to
9 depart -- our trains are coming through to go
10 north -- you've got right off the bat within, say,
11 a half a mile of Sibert Yard, you've got two
12 drawbridges. And so if the drawbridge is open, the
13 train can't proceed north. Right? So they are --
14 the train is still blocking some of the operations
15 in and out of Sibert Yard. And depending upon the
16 length of the train, it could be affecting the
17 south end of Sibert Yard as well.

18 The same in reverse. As you're having
19 trains come down -- and it's a through train that
20 just -- or a train that just has a set-off in
21 Sibert Yard, as they're coming down, you know, they
22 could take -- potentially take delay from

1 drawbridges, and there is no place to park trains
2 in this area. So when you leave right north of
3 Mobile, Sibert Yard, it's very similar to what I
4 talked about down here with no road crossings until
5 you get all the way up to Highway -- I believe it's
6 231 that runs from Bay Minette, Alabama south
7 towards Spanish Fort. So all of this area is
8 inaccessible. So you couldn't park a train there
9 and say, well, stage your trains here. You've got
10 to get back to it by boat or you've got to get to
11 it by high-rail. That's -- there is no access here
12 north of Mobile.

13 Q. And, Ricky, can you describe as a general
14 level sort of how the bridges -- you know, the
15 movable bridges affect train operations in general?

16 A. Yeah, absolutely. So if there is a -- if
17 there is a water vessel coming through, trains
18 stop. You know, whenever, you know, the tugboat or
19 the boat will -- we have marine radios inside of
20 our -- you know, at all of these bridges. That's
21 how the communication with the vessels take place
22 is over marine radios. All of them know what

1 channel each individual bridge operates on. They
2 communicate with the bridge and they check to make
3 sure that nothing is by the home signals of the
4 bridge. And then we start the opening process.

5 Opening and closing of the bridge -- you
6 have to think about it -- it's really kind of three
7 parts. You push a button and the bridge unlocks,
8 goes through its safety checks. It starts to open,
9 whether it's a lift or, as most of these are, a
10 turn span that turns perpendicular, in line with
11 the river, or the navigable waterway. And then
12 once it locks in the open position, there's
13 communication back with the vessel that asks
14 the -- tells them that the bridge is open and
15 locked and they may proceed through the bridge
16 area.

17 So here comes the 1-mile-per-hour,
18 2-mile-per hour tugboat chugging along. They
19 traverse through this bridge. Once it clears -- it
20 has to fully clear -- if this is 100, 200-foot turn
21 span, they have to clear the other end of it. Once
22 they clear it and it is verified that they're clear

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1 of the turn span, we initiate the closing sequence
2 of the bridge. It goes through its safety checks.
3 It begins closing, and it closes up.

4 When you think about that total time, it's
5 anywhere from, I would approximate -- and it varies
6 from bridge to bridge depending upon what kind of
7 system is on the bridge and how fast it opens and
8 closes, and it's anywhere from 20 to 35 minutes for
9 every time that a drawbridge is opened and closed.
10 And on average, you know, it's -- most of these
11 bridges average six- to ten-day random time
12 openings throughout the day. And it's 20 to 35
13 minutes for -- to be a full cycle of a bridge
14 opening and closing.

15 After the bridge closes, the train gets
16 its signal and talks to the bridge tender and is
17 cleared through this area to continue on their
18 route.

19 Q. Are there occasions where you'll leave
20 the --

21 MS. AMUNSON: Chairman --

22 MEMBER PRIMUS: Ray --

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1 MR. ATKINS: I'm sorry. Go ahead, Member
2 Primus.

3 MEMBER PRIMUS: I have a question, but I
4 think somebody else did too. Did somebody else --

5 MS. AMUNSON: Mr. Chairman, Jessie Amunson
6 on behalf of Amtrak. I, again, just want to raise
7 an objection that this is all well beyond the scope
8 of Mr. Johnson's verified statement. And we have
9 not had any disclosures about any of this prior,
10 about how the bridges operate. And so I just want
11 to reserve Amtrak's right to respond to this by
12 potentially having to call an additional witness.

13 CHAIRMAN OBERMAN: Ray, do you want to
14 respond?

15 MR. ATKINS: Well, I mean, he's a witness
16 that spoke to, in his direct, the operations of the
17 line. And you asked in the prehearing to have
18 witnesses who could actually explain all of the
19 operations along the line.

20 So we believe this is consistent with the
21 directions from the board, but I have no concerns
22 if Amtrak wants to reserve a right to call an

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1 additional witness to just talk about bridge
2 operations. You know, we have no objections to
3 that reservation.

4 CHAIRMAN OBERMAN: Jessie, do you have a
5 witness available if needed?

6 MS. AMUNSON: I'll have to consult with my
7 client, Mr. Chair.

8 CHAIRMAN OBERMAN: Well, I'm going to
9 reserve judgment. I think we should let
10 Mr. Johnson finish his description, and I will
11 reserve judgment on any objection to this going
12 beyond the scope of his disclosed statement until
13 we see how this plays out.

14 MS. AMUNSON: Understood.

15 CHAIRMAN OBERMAN: All right. Go ahead.

16 MEMBER PRIMUS: Thank you. Mr. Johnson,
17 just a couple of quick questions. So does the
18 Coast Guard control the waterway activities or are
19 you saying it's random? So they don't control the
20 ships or boats or tugboats coming in or out of --
21 or underneath those bridges?

22 THE WITNESS: Yeah, that is 100 percent --

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1 you're 100 percent correct, and -- they don't
2 control them. They're random times. And it's also
3 not the tugboats. It's, you know, me and you get
4 in a boat and we'll go catch a catfish on the
5 Mobile River. And it's a low bridge, and we get up
6 there and we need the bridge open so we can get to
7 our favorite fishing spot. So there is no control
8 over it. It's when they show up, we're supposed to
9 open the bridge.

10 MEMBER PRIMUS: Okay. And for the
11 bridges -- I mean, for the bridges that are on this
12 map, how many of them are -- can be remotely
13 opened?

14 THE WITNESS: Yeah, absolutely -- I can
15 share what I know about remote control operation.

16 Two bridges north of Mobile, we have
17 remote control operation on today. We have just in
18 the last couple of weeks, few weeks -- I don't
19 remember the exact day -- got permission to start
20 operating remotely the Bay St. Louis, Biloxi Bay,
21 and East Pascagoula River.

22 And what that means, when I say operate

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1 remotely, it really means that instead of somebody
2 being physically on the bridge, there is somebody
3 in a control center that's at our yard office at
4 Sibert Yard that has videos, has communication
5 equipment, has all the connectivity. And they're
6 opening -- their pushing that start button, for
7 lack of a better word that I said, and the close
8 button. It runs through the parameters and the
9 safety checks.

10 And -- for instance, each -- so there is
11 really no difference in train operations at -- or
12 the line segment here at East Pascagoula River.
13 When we had bridge tenders there, they actually
14 drive up to the house. They do not have to
15 high-rail out to the bridge here. So there's no
16 reduction in the number of high rails there.

17 Biloxi Bay and Bay St. Louis, both of
18 those you have to high-rail about a mile from where
19 you can put the truck on the track out to change
20 the drawbridge tender in both of those locations.
21 And so that did take some of the high-rail vehicles
22 off. But one thing that we have to do now -- so a

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1 drawbridge tender's job is not just to push that
2 button that we've talked about and open and close.
3 They also have responsibilities for weekly
4 maintenance, so for the greasing and lubrication of
5 the bridges.

6 So we actually have a maintenance team
7 that we put on to cover the remote drawbridges, and
8 they actually go out there on a weekly basis,
9 sometimes more than once a week, and they actually
10 have to high-rail steel out there to perform -- to
11 perform the maintenance of the greasing and the
12 lubrication, as well as high-rail trips that, I
13 guess, didn't change from our signal inspectors,
14 because we have signals and the equipment that
15 shows if the wedges are driven and that the locks
16 are locked in place on the drawbridge. That's all
17 maintained by our signal department.

18 And so they have to high-rail on these
19 bridges regardless. As well as our electricians.
20 We have electricians that have to maintain not only
21 the equipment that's for the bridge and the bridge
22 operation; they also have a responsibility to go

1 out -- and we're required to have navigation lights
2 on these bridges. So they're routinely out there
3 cleaning the navigation lights off the side of the
4 bridges or down on the piers and replacing those
5 lights.

6 MR. ATKINS: So if I could do a little --
7 Member Primus, I don't want to cut you off, but if
8 I could do a little direct on this, I think that
9 will -- it might address some of your questions. I
10 don't want to cut you off, though. These are
11 perfectly --

12 MEMBER PRIMUS: Go ahead. I do have one
13 directed towards -- maybe towards you, but I'll let
14 you finish this one.

15 MR. ATKINS: Sure.

16 BY MR. ATKINS:

17 Q. So just to clarify again, could you
18 identify the four where you currently have to
19 high-rail crews to the -- you know, the crew shifts
20 have to be done by high-rail on this line?

21 A. Okay. It was Biloxi Bay, Bay St. Louis
22 until the last couple of weeks when we got

1 permission to operate them -- once we got
2 permission to operate them, we high-railed to
3 Rigolets and to Pearl River.

4 So today we still high-rail to Pearl
5 River, which is about a mile from -- a mile or so
6 from the road -- or 2 miles from the road crossing
7 there at Ansley. And the Rigolets, which is a
8 greater distance there to high-rail in and out of.
9 Chef Menteur, we actually have -- through a boating
10 area, we actually have access by a highway right
11 off of U.S. Highway 90 that we can enter and park
12 beside our bridge here at the Chef.

13 Q. And then -- I think you mentioned this
14 already, but let me just -- so if those bridges
15 were moved to remote control, which is what you
16 referred to as automation, once you have remote
17 control there, would you still need to have some
18 bridge tender movements to get crews to those
19 bridges?

20 A. Yeah, in order to service and maintain
21 them, do the maintenance on them, yes.

22 Q. But to be clear, that wouldn't be quite as

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1 frequently as the crew shifts that are currently on
2 the line?

3 A. That's correct.

4 MR. ATKINS: Okay. I don't know if that
5 helped, Member Primus. I just wanted to ask a few
6 clarifying direct questions.

7 MEMBER PRIMUS: No, that's fine. And my
8 only -- my other questions, just two, is, Ray, do
9 you guys have any -- or are you going to be showing
10 any maps or charts related to the distance between
11 these bridges? I'm just interested in knowing,
12 like, the distance between the bridges, but also
13 the blocks between the bridges, too, because of --
14 if trains are holding -- you know, how many are
15 holding in these particular areas, these particular
16 blocks and the distance between them?

17 MR. ATKINS: That's a really good
18 question. We don't have that planned for this
19 direct testimony. I would need to look at the
20 direct for Mark Dingler, who is going to speak to
21 the line and some of the infrastructure projects.
22 But I don't believe, Member Primus, that we have

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1 that type of demonstrative prepared for this trial.

2 But let me confirm because the last time I
3 said that, the associates all told me we did, and
4 so I was wrong. So let me -- I'll find out for
5 you, but it's certainly not prepared at the moment
6 for Ricky's direct.

7 MEMBER PRIMUS: Okay. Thank you.

8 MR. ATKINS: Yep.

9 MEMBER HEDLUND: I've got a question. I
10 think -- I just want to make sure I heard this
11 right, that the bridges are kept open at all times
12 unless a train wants to cross, and then they're
13 directed to close?

14 THE WITNESS: No, that is not correct.

15 MEMBER HEDLUND: Okay.

16 THE WITNESS: Our bridges are kept shut at
17 all times --

18 MEMBER HEDLUND: Okay.

19 THE WITNESS: -- and we open for barge
20 traffic.

21 MEMBER HEDLUND: Okay.

22 MR. ATKINS: There's another --

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1 CHAIRMAN OBERMAN: Well, I have a couple
2 of questions here.

3 MR. ATKINS: So, Chairman, could I finish
4 my direct just on this particular bridge topic and
5 then --

6 CHAIRMAN OBERMAN: I'm sorry. I thought
7 you were done, Ray.

8 MR. ATKINS: No, no, no.

9 CHAIRMAN OBERMAN: Go ahead.

10 MR. ATKINS: I want to make sure there is
11 a break before we move to something else so we can
12 get all the bridge questions here.

13 CHAIRMAN OBERMAN: Okay.

14 MR. ATKINS: Just so you know, I have a
15 couple of more questions, and then we want to
16 actually show you some pictures of all of them so
17 you understand the bridges and so you can visually
18 see what's there, and then we'll open it up for any
19 clarifying questions that the board has.

20 BY MR. ATKINS:

21 Q. Can you describe the 3 Mile Creek Bridge
22 project that you undertook with -- the pilot

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1 program you undertook with the Coast Guard, and
2 identify again, for their benefit, where 3 Mile
3 Creek is?

4 A. Yeah, absolutely. So 3 Mile Creek is the
5 bridge that I've been referring to as the one that
6 we have to switch over with -- at the north end of
7 our Sibert Yard. So this is -- really, it's an
8 industrial canal that goes into some companies, and
9 I would say 99.9 percent of the traffic is barges
10 or tugs that's going in and out of these
11 businesses.

12 And they were very -- one of the -- well,
13 not one of -- the only bridge in this area, of all
14 of these bridges, that's more predictable. So they
15 go out in the morning, they come back midday, they
16 go out, they come back in the evening.

17 So what we did is we sat down with the
18 Coast Guard because of, you know, delays that both
19 sides were experiencing. And in order to solve
20 that at this location, we actually had come up with
21 a program there with the Coast Guard where for
22 75 minutes a day -- or at a time three times a day,

1 we actually open the bridge and allow for barge
2 traffic and the tugs or boat traffic to come in and
3 out at their will. After that, we shut the bridge,
4 and we actually have priority with our trains and
5 our switching and our train -- all trains in that
6 operation.

7 You know, we were able to facilitate that
8 because of the nature of the boat traffic that goes
9 in and out of this. It's an industrial canal, so
10 we were able to satisfy the needs of both parties
11 by coming to that agreement and working with the
12 Coast Guard to do that.

13 It still hadn't been published in the
14 Register as being a change in the regulation.
15 We've been working on this trial and having
16 numerous meetings and reviewing the progress and
17 the success of it, getting plenty of comments from
18 all interested parties and, you know, we're still
19 in that process of getting it to be formalized into
20 the regulations.

21 Q. And so it's different from the automation
22 in the sense that you have worked with the Coast

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1 Guard to create sort of blocks of time when it
2 would be open or closed. Are you aware of any
3 efforts underway with the Coast Guard to take that
4 pilot program and apply it to the East --

5 CHAIRMAN OBERMAN: To the where?

6 MR. ATKINS: It wasn't that you couldn't
7 hear me, Chairman. It was I couldn't pronounce the
8 bridge.

9 BY MR. ATKINS:

10 Q. So East --

11 A. Pascagoula.

12 Q. Pascagoula, thank you, Ricky, all the way
13 down to Industrial Canal, are there any efforts
14 underway to replicate the pilot program from 3 Mile
15 on those bridges?

16 A. Yeah, my knowledge of that is either
17 conversations that we've had about these bridges as
18 part of our -- you know, when we were automating
19 and when we working on 3 Mile, it's so
20 unpredictable. So I think the concern is the
21 extreme delays to the boats who today have
22 priority, and it's also just the sheer number of

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1 personal watercraft that use these waterways.

2 And so the viewpoint of the parties, you
3 know, the Coast Guard and others, at least in the
4 offhand comments, is that it's not doable because
5 of the unpredictable nature of when boats come and
6 go through these other waterways.

7 MR. ATKINS: Okay. So I'm going to move
8 off this exhibit, although Chairman Oberman, I'm
9 happy to come back to it if you have questions.

10 CHAIRMAN OBERMAN: Well, I have -- I think
11 several of us have more some questions about the
12 bridges.

13 MR. ATKINS: All I was going to do at this
14 point was show pictures of all of them, just so you
15 can visually see the bridges that we're talking
16 about. If you would like me to do that after your
17 questions, I'm happy to wait and stay on this
18 slide.

19 CHAIRMAN OBERMAN: Patrick, do you want
20 to --

21 MEMBER FUCHS: Mine might be a good
22 follow-on from what Mr. Johnson just said but, you

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1 know, Ray, if you --

2 MR. ATKINS: Member Fuchs, go ahead and
3 then I'll move on to the pictures.

4 MEMBER FUCHS: Yeah, that's great. But if
5 you think the pictures will address it, let me
6 know.

7 So, you know, in the Coast Guard letter
8 they referred to a concept which they described as
9 block deference, and, you know, they say, you know,
10 when a train is in a block with the drawbridge, the
11 draw may not be able to open until the train has
12 passed out of the block and the yardmaster or other
13 manager has unlocked the drawbridge controls. And
14 then they say, due to this system that protects
15 trains from unanticipated bridge openings, vessels
16 occasionally will have to wait for a moving train.
17 But then they, of course, list specific bridges and
18 some have specific requirements and some don't.

19 Could you clarify, you know, which of the
20 bridges are subject to block deference and what
21 effects this deference, if it exists, has on CSX
22 operation?

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1 THE WITNESS: Yeah, so -- I mean, I
2 haven't saw a letter that you're talking about, but
3 I know what you're speaking of, so I can talk about
4 our bridges and what blocks they're referring to.

5 Look, the Coast Guard regulations are
6 antiquated and very few of them have been updated,
7 and there's a lot of them that don't necessarily
8 reflect reality. Yardmasters don't operate any
9 bridges across the Gulf Coast. Managers don't
10 operate bridges across the Gulf Coast. It's our
11 union members within the BMWE. And they have
12 different titles, and they're called bridge
13 tenders.

14 The blocks -- our drawbridges have home
15 signals. So this is separate from the signal
16 system. I think people are trying to infer that,
17 well, if you have a 10- or 15-mile -- or let's say
18 an 8- to 10-mile typical between sidings, or say
19 it's 15 miles between sidings, and a train is in
20 that 15 miles, that you don't have to open the
21 bridge because it's in the block. No. That's --
22 we're confusing signal system with the home signals

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1 for a drawbridge.

2 So off of each end of a bridge -- and it
3 can vary based on the -- you know, the speed of the
4 track and all, and I don't have the footages for
5 every bridge, but let's just say within a half a
6 mile or less of each drawbridge, you have a home
7 signal. And those will be red at part of the
8 train, requiring them to stop if we have started
9 the opening process or if the bridge is not locked
10 in line for railway movement.

11 So whereas the thought process, if you're
12 trying to think of it from a signaling perspective,
13 is similar, it's a very small segment of track
14 around the bridge. So basically the train is
15 already en route, it has passed the last, say,
16 absolute signal, whether that be -- which most of
17 the time is at a siding around our drawbridges, and
18 it is approaching this bridge.

19 For instance, when you leave the beginning
20 here where Chef Men -- or Pearl River is, we have a
21 siding there called Claiborne. Once you leave
22 there, your next -- as far as the signal system

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1 goes, your next absolute is all the way right over
2 here almost to Chef Menteur at a siding that we
3 refer to -- the railroad calls Lake Catherine.

4 So it's not if a train has come by Lake
5 Catherine; it's if a train is in the home signal of
6 a bridge. So if he's within a half a mile of the
7 bridge and he's knocking that home signal down and
8 I don't have opportunity to turn that red to stop
9 the train, then I can go ahead and open it. So --

10 CHAIRMAN OBERMAN: Open? What do you
11 mean? Open what?

12 THE WITNESS: I'm sorry?

13 CHAIRMAN OBERMAN: Then you can open the
14 bridge? Is that what you're saying?

15 THE WITNESS: Yes, sir, I can open the
16 bridge. I will -- I am required -- so if a
17 train -- I'll give you kind of a -- walk you
18 through an example. A train has left Claiborne
19 siding here, or right here. He's going across the
20 Pearl River. And let's say he's halfway between
21 Pearl River and Rigolets. He's in the same signal
22 block, but the block they refer to is the -- in the

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1 regulations is home signal that protects the
2 bridge.

3 So there is a home signal on each end of
4 Rigolets. So if he's over here halfway and he's
5 not right there on top of the bridge at the home
6 signal, I have to open that bridge and he has to
7 come to a screeching halt and wait for that 30
8 minutes of the bridge to open and close. And then
9 I can take him on across and repeat at every home
10 signal, at every drawbridge across this route and
11 other routes.

12 MEMBER FUCHS: Very -- extremely clear and
13 helpful, Mr. Johnson. Can you explain to me who
14 determines the home signal location?

15 THE WITNESS: It's -- you know, it would
16 be designed within CSX for the location of the home
17 signals. But it's got to be right there. In other
18 words, the intent of the regulation wasn't that you
19 could carve out a 30-mile block and delay, you
20 know, trains, delay boats for hours on end because,
21 oh, I run a train this way, and, oh, one is in the
22 siding and it's -- before this one clears the

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1 block, this one is coming out of Lake Catherine, so
2 I'm sitting there for hours delaying navigable
3 waterway traffic, which has priority over the
4 railroads, 100 percent by the regulations.

5 So it is referring to a home signal. So
6 working with the Coast Guard, they're aware of
7 where our blocks are and the home signals of a
8 bridge so that they can enforce their regulations.
9 So I don't know of any long home signals for
10 drawbridges within CSX.

11 BY MR. WARREN:

12 Q. Mr. Johnson, I just want to follow up on
13 what you said. So you're saying that -- and what
14 Patrick was saying is he was understanding that the
15 Coast Guard was saying that you guys had -- the
16 railroads had priority, and you're saying that it's
17 the -- it's the boats that have priority; is that
18 correct?

19 A. Boats have priority 100 percent. The only
20 time a train, whether it's Amtrak or freight, has
21 priority is if they have entered onto -- past the
22 home signal of that bridge, which is typically a

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1 half a mile to a mile either side of the bridge.
2 If they've entered or passed that home signal, if I
3 open the bridge, we're fixing to send a train --
4 the reason that regulation is there, if you open
5 the bridge there, there is no signal, no control to
6 stop that train from running off the open bridge
7 into the water. Therefore, you have home signals,
8 and once you pass it, you've got to complete the
9 movement or you can't open the bridge.

10 MEMBER FUCHS: And, Mr. Johnson, the gap I
11 think that you're referring to -- and please
12 correct me if I'm mistaken -- but while the Coast
13 Guard letter stating that block deference protects
14 trains from unanticipated bridge openings, what
15 you're saying is that might be narrowly true for
16 the trains that trigger the home signal, because
17 the home signal is so close and the bridge opening
18 takes so long, there are other anticipated bridge
19 openings that are not protected from block
20 deference even if it's true that block deference
21 protects some unanticipated openings. Do I have
22 that basically correct?

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1 THE WITNESS: 100 percent correct.

2 MEMBER FUCHS: Thank you very much.

3 CHAIRMAN OBERMAN: On this one point,
4 Mr. Johnson, the letter that's in the record that I
5 referenced yesterday morning from the Coast Guard
6 says that the track is divided into blocks or
7 segments of a mile or more in length. You
8 suggested that the blocks are not a mile or more.

9 THE WITNESS: I said up to about a mile or
10 at least on this route they're up to about a mile.

11 CHAIRMAN OBERMAN: Well, you said they
12 were a half a mile.

13 THE WITNESS: I said a half, I believe --
14 and maybe we could go back, but would tell you that
15 if I didn't say it, I'm almost positive,
16 100 percent, that I said a half a mile up to a
17 mile.

18 CHAIRMAN OBERMAN: That is exactly what
19 you said.

20 MEMBER FUCHS: Excuse me. Marty?

21 CHAIRMAN OBERMAN: Just let me finish
22 this.

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1 MEMBER FUCHS: Yeah. Sorry.

2 CHAIRMAN OBERMAN: The Coast Guard letter
3 says a mile or more.

4 THE WITNESS: Yeah, I don't -- I don't
5 have the Coast Guard letter. I don't know if it's
6 legal for me to see what they wrote.

7 CHAIRMAN OBERMAN: It's a public document.
8 You're welcome to see it. I'm reading it to you.
9 All I'm trying to find out is is the Coast Guard
10 wrong, that you have blocks that are only a half a
11 mile?

12 THE WITNESS: Well, are they specific to
13 our bridge or are they quoting regulations?

14 MR. ATKINS: So may I ask, Chairman, just
15 to interject so -- we can make this document
16 available, but I actually think you're starting to
17 tread across the parameters of what's permissible
18 to asking a witness about documents he hasn't seen.
19 But can you clarify, Mr. Oberman, is that letter
20 saying that the block is the combined block on both
21 sides of the bridge or just -- is it the totality
22 of the block or --

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1 CHAIRMAN OBERMAN: You know what, Ray --

2 MR. ATKINS: -- is it the block on either
3 side?

4 CHAIRMAN OBERMAN: You know what Ray? I'm
5 going to ask you to ask Mr. Johnson to read this
6 letter -- this is a very important point about how
7 these bridges work -- and then to answer these
8 questions. I would have assumed, if you were going
9 to ask him to get up here and tell us about how the
10 bridges work, he would have had a chance to read
11 the letter that was written March 28th and sent to
12 everybody.

13 But I would prefer -- I would prefer to
14 get actual facts and not play games with words. So
15 I would much rather Mr. Johnson read the letter, if
16 he feels he needs to read it. I thought this was
17 just a question of mileage, but I don't want to
18 foreclose him from interpreting the entire letter.
19 It didn't seem to me this --

20 MR. ATKINS: So we have got a copy of the
21 letter. We put it in front of Mr. Johnson. I
22 would like to give -- so I need a copy of it as

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1 well. So --

2 CHAIRMAN OBERMAN: It's quite a long
3 letter, so I don't want him to spend --

4 MR. ATKINS: Well, he's going to need to
5 read the letter. If you'd like him to review the
6 letter and comment on it, he needs to be offered an
7 opportunity to read it.

8 THE WITNESS: I would --

9 CHAIRMAN OBERMAN: And I agree, but I --

10 THE WITNESS: I would like to add one
11 thing, because I want to make sure that, Chairman
12 Oberman -- because I speak and people that
13 understand, like, railroad -- like the engineering
14 side, right, and how we speak. And so I want to
15 make sure that I'm very clear, because I'm trying
16 to paint a clear picture for the board so that they
17 understand what's going on.

18 When I say a half a mile to a mile, that's
19 from the drawspan in each direction. Okay? So
20 that could be 2 miles total. Once that -- once
21 the -- there's protection built in, right? So once
22 a train comes by the home signal on the north side

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1 of Rigolets and he occupies that track between the
2 two home signals -- let's say it's 1 mile this way
3 and 1 mile the other way, total of a 2-mile circuit
4 for this drawbridge, for lack of a better word.

5 Once he comes by this home signal, you cannot open
6 that bridge until he gets past the other home
7 signal.

8 So when you talk about a circuit, I'm
9 talking about approach, right, because really what
10 matters is that the train is coming up. So I'm
11 speaking about half, but when they talk about the
12 block in its entirety, it could be 1 to 2 miles, it
13 could be longer than 1 mile. Most of ours would be
14 longer than 1 mile if you add the totality of the
15 block.

16 I was speaking as if I was on a train and
17 I'm going in one direction and I'm about to be
18 stopped, because the home signal on the other side
19 won't stop me. I just can't open the bridge until
20 I get off of it. The only home signal I'm worried
21 about on the train is the one I'm approaching.

22 So I was speaking more from as an

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1 operating train, but, yes, if you add it in
2 totality, it could be.

3 CHAIRMAN OBERMAN: Well, let's do this in
4 order not to drag this out, because the letter is
5 long. I'm going to leave it to you, Ray. If
6 Mr. Johnson wants to read the whole letter and get
7 back on the stand and clarify this, if he thinks it
8 needs it, that would be fine. But I just wanted to
9 find out where this stands vis-à-vis what we
10 learned from the Coast Guard.

11 MEMBER FUCHS: Marty?

12 CHAIRMAN OBERMAN: Go ahead.

13 MEMBER FUCHS: So I don't want to
14 interrupt your chain of questioning. I just wanted
15 to -- maybe it will save time if I just ask this
16 particular clarifying question, which is, you know,
17 whether or not the home signal is a half mile, a
18 mile, a mile and half, 2 miles, given how fast a
19 train is going and given how long it takes to open
20 and close a bridge, the difference in terms of
21 whether or not a train will be delayed would
22 probably be -- Mr. Johnson, would you say, you

1 know, that distance doesn't make a significant
2 difference in how often trains are effected by
3 bridges, given the start and stop time of opening
4 and the velocity of a train?

5 THE WITNESS: Yeah, that's correct,
6 because what would happen if they occupy -- if we
7 open the bridge and the signals went to red, we
8 would still bring the train up to the home signal.
9 We wouldn't stop it way back at the siding. We
10 would bring the train up on a restricted signal up
11 to the home bridge, and as well as communication
12 between our bridge tenders and our train.

13 The delay of the drawbridge is the 20 to
14 35 minutes that it takes to cycle through the
15 bridge, including the boat traffic. Where you get
16 into challenging, when you intermix passenger and
17 freight, is you've got freight trains, and if the
18 freight train is out in the block and Amtrak or
19 passenger, Metra, whoever, is coming out of
20 New Orleans, while that freight train is sitting
21 there on the single main line for 30 minutes, well,
22 that freight train now has to go all the way to

1 Claiborne or -- I mean, Lake Catherine or another
2 siding in order for the passenger train to get
3 around that. And with the speed of the Amtrak,
4 potentially, you know, there's delay there
5 associated, and it was caused by the drawbridge
6 opening in the face of a freight train.

7 So I've read some stuff, and it talks
8 about preference for Amtrak trains on drawbridges,
9 and it's about both trains because you can't give
10 preference to one without giving preference to the
11 other because, if not, you get into the situation
12 that I just kind of explained. But you're exactly
13 right.

14 MR. ATKINS: So, Chairman, I would like to
15 move on to CSX Exhibit --

16 CHAIRMAN OBERMAN: Before you do, Ray, I
17 would just ask you a question of whether there is
18 any witness who could actually tell us -- because I
19 would like the record to be clear on this; it may
20 or may not become the focus of some additional
21 questioning or decision-making by us. Could we get
22 the length of the blocks on each side of each of

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1 these bridges? It sounds like there isn't a
2 standard length of a block.

3 MR. ATKINS: So, Chairman, we'll do our
4 best to see if one of our witnesses that's coming
5 up can answer that; if not, then we would -- you
6 know, and if it remains a question -- a fact
7 question that you need resolved in order to resolve
8 this case, you know, just ask us and we'll submit
9 that factual evidence in the record.

10 CHAIRMAN OBERMAN: I'm asking it now. I
11 would like that to be supplemented --

12 MR. ATKINS: Okay.

13 CHAIRMAN OBERMAN: -- if you don't have a
14 witness who can cover it.

15 MR. ATKINS: If we don't have a witness
16 that --

17 CHAIRMAN OBERMAN: I don't want to
18 leave -- the record is kind of a mess here exactly.
19 I don't say that Mr. Johnson tried to make it a
20 mess, but there was a lot of questioning, and I'm
21 not sure I fully comprehended his rapid answering
22 of this. And rather than delay time, I would

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1 rather just see what does it look like on a map,
2 what are these distances.

3 MR. ATKINS: So we understand, Chairman,
4 and we'll supplement the record with those facts.

5 CHAIRMAN OBERMAN: All right.

6 MR. ATKINS: So --

7 MEMBER PRIMUS: Hey, Ray, I know this -- I
8 know you want to go to the next one. I'm going to
9 be very, very quick --

10 MR. ATKINS: No, please, take your time.

11 MEMBER PRIMUS: Just for Mr. Johnson, do
12 all of the -- are there sidings at all of the
13 bridges on both sides or is it only on one side of
14 each of the bridges that have them?

15 THE WITNESS: Yeah, there's --

16 MEMBER PRIMUS: I'm sorry. I think I may
17 have jumbled that question. So let me ask --

18 THE WITNESS: No, no. I understood.

19 MEMBER PRIMUS: Okay.

20 THE WITNESS: Let me ask if that was
21 the -- you're asking me if there are sidings on
22 both sides of the drawbridges or if it's just one

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1 side?

2 MEMBER PRIMUS: Yes, sir, and also, are
3 there sidings at each bridge? And then I guess the
4 next question is, are there sidings -- if there
5 are, are they on both sides? That's probably how I
6 would put it. Thank you.

7 THE WITNESS: Yeah, and so I would start
8 out again by saying home signals have nothing to do
9 with sidings. Home signals are just attached to
10 that drawbridge.

11 As far as sidings, no, there are not
12 drawbridges [sic] on either side of -- of all of
13 these drawbridges. Some of them have them close,
14 but not all of them have any close. For instance,
15 Rigolets, there is no siding from Rigolets -- on
16 the north side of Rigolets. There is no siding at
17 least adjacent, you know, to a lot of these
18 bridges.

19 Thinking through in my head, at least
20 immediately adjacent, there is not a siding --

21 MEMBER PRIMUS: It doesn't have to be
22 near -- I'm sorry. It doesn't have to be near it.

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1 I guess -- I'm sorry. I didn't want to --

2 THE WITNESS: Okay.

3 MEMBER PRIMUS: -- confuse you with
4 those -- the blocks. This is totally different.
5 You had said earlier about sidings coming up, and I
6 just wondered if there were sidings, like, how
7 close -- if they are there, how close are they to
8 these bridges so you can, if there is a need -- I
9 know you said they're single --

10 THE WITNESS: Yeah, absolutely. So I'll
11 just give you an example, and it's similar across
12 the line, but I think probably when Mr. Dingler and
13 others go through, they may -- they could probably
14 have -- they probably have the exact, like,
15 mileage.

16 But when you come out of the double track
17 down here and come through the flood wall, your
18 first siding is right here, not far from Chef
19 Menteur. You have a siding called Lake Catherine.
20 Then you come out of there, you cross the Rigolets,
21 you cross Pearl River, and then you have a siding
22 right here between the PBVR, the Port railroad, and

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1 Pearl River. You have a siding right there called
2 Claiborne. And then when you go up here, you have
3 some -- a siding here in the vicinity of Bay
4 St. Louis.

5 So just kind of a layout of the sidings
6 through this area.

7 MEMBER PRIMUS: Thank you.

8 MR. ATKINS: So, Chairman, in the interest
9 of time, I'm going to defer the pictures which --
10 they're just there for illustrative purposes and,
11 you know, you can find them online. We're going to
12 move to the end of the line and --

13 CHAIRMAN OBERMAN: You know what, Ray? I
14 think it -- could we just -- we don't have to spend
15 a lot of time, but I would like to see what -- just
16 quickly.

17 MR. ATKINS: All right. We'll go all the
18 way back then. It's --

19 CHAIRMAN OBERMAN: Real quickly, please.

20 MR. ATKINS: Yep.

21 BY MR. ATKINS:

22 Q. So, Ricky, could you just identify each of

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1 these bridges. Just for the benefit of the board,
2 we're starting at the northern-most bridge -- this
3 is just outside of Mobile -- and then we're going
4 to work our way all the way down to the Industrial
5 Canal, which is the last bridge on the line.

6 A. Yeah. This is Mobile River. It was
7 converted. It used to be a turn span, and working
8 with the Corps of Engineers and Coast Guard, they
9 actually wanted to widen the navigable waterway,
10 and so we took out the center pier and made a lift
11 bridge at this location, working with the Coast
12 Guard and the Corps of Engineers.

13 Q. Okay. Next one?

14 A. This is Bayou Sara. You can see there's
15 very little clearance. You might get a canoe under
16 this bridge if it's low tide. This is also north
17 of -- it's the, I believe, one, two -- third
18 drawbridge north of Mobile. It's called Bayou
19 Sara. We've done a lot of work. We actually have
20 replaced this span recently.

21 Q. Okay. The next one, which I'm definitely
22 not going to try to pronounce.

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1 A. Come on.

2 Q. Nope.

3 A. Chickasabogue. This is also a drawbridge
4 right north -- it's the second drawbridge north of
5 Mobile. Again, very low clearance so you have to
6 turn it not only for this location for the fish --
7 you know, regular boats and tugboats, of course.

8 Q. Could you describe, if that bridge swung
9 open, which way would it swing open?

10 A. Yeah, absolutely. So this bridge actually
11 pivots on this center pier here, so it pivots, and
12 it would run parallel with the water traffic. And
13 you'll have an opening here and an opening here for
14 barge or for personal watercraft or fishing vessels
15 to get through.

16 Q. Okay. The next one?

17 MEMBER PRIMUS: Hey, real quick, Ray. Can
18 you -- as you go through, can you just identify
19 which ones are -- you know, technology-wise, or
20 maybe -- flip the switch, and which ones are the
21 ones that are not?

22 MR. ATKINS: Sure. We'll describe -- why

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1 don't we -- the ones that are remote control, so
2 we'll make sure we identify, as we go through it,
3 the ones that have remote control, and you can just
4 assume the rest do not. Does that work?

5 MEMBER PRIMUS: Okay. Thanks.

6 MR. ATKINS: Perfect.

7 BY MR. ATKINS:

8 Q. Just to clarify, is this one remote
9 controlled?

10 A. Chickasabogue is -- yes, it's remote
11 controlled along with -- north, there's two
12 bridges. Bayou Sara and I believe Chickasabogue
13 are, to the best of my recollection --

14 Q. That's fine.

15 A. I am positive on the ones on NO&M sub, the
16 three there.

17 Q. 3 Mile Creek?

18 A. Yeah, this is the one immediately
19 adjacent. Our yard lead and switching lead is
20 right here where you see the red arrow. And this
21 is not remote controlled but it's -- you know, we
22 drive up to this control house right here.

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1 Q. Okay. The next one is -- now we're on the
2 line, so these are the bridges that the Amtrak
3 would pass over. Can you describe this one?

4 A. Yeah, absolutely. This is Pascagoula
5 River -- East Pascagoula River, right there at
6 Pascagoula, Mississippi. This bridge actually
7 lifts up, and this comes down.

8 This one is now remote control, but
9 there's a roadway. We did not ever high-rail
10 because you have access by vehicle to this
11 drawbridge.

12 Q. Okay. Going next to Biloxi Bay?

13 A. Yeah, Biloxi Bay -- I have nightmares
14 about this one. During Katrina, this whole bridge
15 here, these same concrete tugs that are on top of
16 this bridge were actually over here about where
17 this marker is, under 30 to 50 foot of water, and
18 we had divers go down and reclaim them to rebuild
19 this after Katrina.

20 But this, again, is a turn span and, as
21 you can see, it's in the open position. And this
22 is actually a barge, I believe, doing some fender

1 work, but this is how -- this is a fishing vessel
2 or a private watercraft. And this is actually --
3 you know, shows the ones traversing through there.
4 And it is now remote control. Right here -- you
5 can see that overpass right here. We used to have
6 a truck parked right there. They would get on the
7 track, they would high-rail out here. As a matter
8 of fact, you can see a high-rail out on the bridge
9 now with it turned.

10 And then it would leave here and, instead
11 of making a reverse movement, because our rules
12 require us to go slower in reverse, we actually
13 come off the south end of the bridge, get off on
14 the road crossing, drive back around by the casinos
15 and across U.S. 90 bridge here, and park the truck
16 back during crew changes. And it is remote
17 control.

18 Q. Bay of St. Louis?

19 A. Yes, St. Louis Bay. Again, this is a turn
20 span that turns similar -- just like the last one.
21 It will turn this way. And this bridge is about --
22 within a half a mile of the end of the bridge there

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1 is a road crossing. We'd park a vehicle there.
2 They used to high-rail out and high-rail back a
3 half a mile. And this bridge here is now remote
4 control operated out of Seibert Yard.

5 Q. Okay. Pearl River?

6 A. Yeah. This one is not remote control
7 operated. This is the Mississippi/Louisiana state
8 line, and it also turns perpendicular to the
9 railroad, parallel with the water traffic.

10 CHAIRMAN OBERMAN: Does it require
11 high-rail?

12 THE WITNESS: Yes, sir. Angalee Road
13 Crossing. It's about a mile and a half -- about
14 two miles. They high-rail out here. And we
15 actually have a set-off -- we built, like, a road
16 crossing, for lack of a better word, out here, that
17 they can turn to get off of the track and clear the
18 track and pass a train, if needed, and then they
19 get back on and go back so that the vehicle is
20 headed in the right direction, especially for
21 nighttime movements so they can see where they're
22 going and make sure that it's safe.

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1 BY MR. ATKINS:

2 Q. Rigolets Pass?

3 A. Rigolets.

4 Q. Rigolets.

5 A. Yeah, this is another turn span. It turns
6 perpendicular -- or parallel to the waterway,
7 similar to the last turn span. And this is also
8 one that has to be a shift change. So they'll get
9 in the truck, they'll drop the bridge tender off at
10 the -- typically, how it happens, they'll -- back
11 here at Ansley, they'll drop the first bridge
12 tender off, come drop the second one, utilize that
13 road crossing that we built in with water on both
14 sides, and turn the truck around, and then they
15 head back to the clear.

16 CHAIRMAN OBERMAN: Are you saying there's
17 two bridge tenders on this bridge?

18 THE WITNESS: No, sir. There is one here
19 on Rigolets, but there is also one on Pearl River.
20 And there's no access -- in other words, both of
21 them have to come the same way.

22 CHAIRMAN OBERMAN: I see.

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1 THE WITNESS: They all have -- they have
2 the same shift change, so it's like instead of two
3 vehicles taking one to each bridge, it's one
4 vehicle that takes one to the first bridge and then
5 goes to the second bridge, and then they make the
6 reverse move to clear the track.

7 CHAIRMAN OBERMAN: How long is the line
8 closed down to rail traffic when that shift change
9 goes on?

10 THE WITNESS: When this shift change -- I
11 would -- you know, I can estimate that one each
12 way -- you know, it's different for each bridge,
13 depending on the difference. I can tell you for
14 the Pearl River, if we were just changing at Pearl
15 River, it's probably ten minutes or so out, ten
16 minutes or so back. But I believe --

17 CHAIRMAN OBERMAN: You're taking them both
18 at the same time.

19 THE WITNESS: Yes, on this one, unless --
20 unless somebody is working a double shift, which
21 happens down here -- you know, you have vacations
22 or other things -- you know, yes. And I think the

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1 modeling --

2 CHAIRMAN OBERMAN: Well, what is it --

3 THE WITNESS: -- should be able to tell
4 you -- hopefully the modelers can tell you, you
5 know, what it shows as far as the exact times it's
6 taking at each bridge.

7 CHAIRMAN OBERMAN: Is 20 minutes the
8 typical range for how long that line is shut down?

9 THE WITNESS: If I was going to that one
10 bridge at Claiborne, yeah, I would think it would
11 take you ten minutes to get out and ten minutes to
12 get back.

13 CHAIRMAN OBERMAN: Is there a cushion in
14 terms of whatever kind of signal is put up for
15 trains to not move on it while the high-rail is out
16 there?

17 THE WITNESS: Yeah, absolutely. They have
18 to block the signal. So, for instance, whenever I
19 get on at this crossing here we talked about,
20 Ansley Crossing at the Pearl River, whenever I come
21 by Claiborne siding, I have got track authority, I
22 don't run on signals; high-rails don't run on

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1 signals. The dispatcher has to block the signals.

2 And in this case, he would have had to
3 block the signal all the way to Lake Catherine,
4 because this track segment for -- separate from
5 home signals, it has to run from -- he has to block
6 the signal at the north end of Lake Catherine, so
7 nothing can come by the north end of Lake Catherine
8 until I give up my authority.

9 CHAIRMAN OBERMAN: Well, all I'm trying to
10 find out here, Mr. Johnson, is, how long a period
11 are freight trains stopped when one of these
12 high-rail shift changes takes place? Can you give
13 me the range?

14 THE WITNESS: I would tell you that if
15 there is -- if the train is there, yeah, and they
16 were --

17 CHAIRMAN OBERMAN: Well, let me ask it
18 this way. Whether the train is there or not, the
19 signal goes up that says no trains, correct, from
20 here to here?

21 THE WITNESS: Yes.

22 CHAIRMAN OBERMAN: All right. How long is

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1 that signal up? That's all I want to know.

2 THE WITNESS: Yeah, it -- it could be --
3 it could be 20 minutes, 30 minutes, but it's also
4 if -- you know, if the -- I would tell you that if
5 we're dispatching and, you know, if we have to do a
6 shift change 15 minutes later, we do a shift change
7 15 minutes later. Right?

8 Say there was a train approaching Lake
9 Catherine and was getting close there and there's,
10 like, 15 minutes, it's like, okay, we're not going
11 to throw a red signal in their face; we're going
12 to -- the employee that's on the bridge is going to
13 work a little bit of extra overtime while he's
14 waiting on the shift change. So, you know, there's
15 puts and takes to it depending on the circumstances
16 that happen out there each day.

17 CHAIRMAN OBERMAN: You're saying the time
18 that the blockage starts and stops may vary. I'm
19 just trying to figure out the total amount of time
20 that there's no trains allowed on that section of
21 track. Is it typically 20 to 30 minutes or --

22 MR. ATKINS: So, Chairman, I'm going to

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1 object. You've asked this question -- the witness
2 this question three times. He's given you the
3 answer. It varies by location, and he gave you a
4 range.

5 CHAIRMAN OBERMAN: He didn't give me a
6 range, and I'm trying to get an answer.

7 Is it typically 20 to 30 minutes,
8 Mr. Johnson? That's all I'm trying to get at.

9 THE WITNESS: I would say my best guess is
10 20 to 30 minutes for a shift change. It's totally
11 different for the maintenance on the bridge.
12 Totally different --

13 CHAIRMAN OBERMAN: I'm just talking --

14 THE WITNESS: -- for all of those.

15 CHAIRMAN OBERMAN: Just talking about
16 shift changes.

17 THE WITNESS: Yes, sir.

18 CHAIRMAN OBERMAN: All right. Are there
19 more bridges to look at?

20 MR. ATKINS: We are -- second to last one
21 is next.

22 THE WITNESS: Chef Menteur. Again, this

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1 turns -- it will be right over the top of this
2 fender system here. And the water traffic comes in
3 and out of here. This is -- there are some yachts
4 and sailboats and stuff over here, but this is
5 primarily tugboats and some industrial traffic in
6 and out of the Chef.

7 BY MR. ATKINS:

8 Q. And then there's one last one, which is --

9 CHAIRMAN OBERMAN: Wait. Wait. Before
10 you leave that --

11 MR. ATKINS: Yep. Go back.

12 CHAIRMAN OBERMAN: That bridge is -- is
13 that remotely controlled?

14 THE WITNESS: No, sir. It is -- none of
15 these -- once we got past Bay St. Louis, none of
16 these are remotely controlled. They all have
17 physical -- have people on the bridges operating
18 the bridge. So Bay St. Louis was the last remote
19 controlled one.

20 CHAIRMAN OBERMAN: All right. But this
21 bridge does not have a high-rail need to get
22 the -- I thought I made a note of that earlier.

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1 THE WITNESS: Yeah, that is correct.
2 It's -- over here, you can come into this side.
3 There's a boat club, for lack of a better word.
4 And we have to facilitate some road work and
5 repairs to their section after Katrina. And now we
6 have access to drive in to this bridge. And we
7 park right here at the north end of the bridge. We
8 have a parking area for our workers to drive in and
9 park there.

10 CHAIRMAN OBERMAN: Does the bridge tender
11 have to walk out onto the bridge to get -- how does
12 that work?

13 THE WITNESS: Yes, sir. So there's a
14 variety, and, you know, I won't go back through all
15 of the bridges, but typically there's either a
16 control house here in the center here or there is a
17 house over here on the bank, depending upon what
18 style that the bridge is and -- and when it was
19 built. But these bridges have walkways on them,
20 and although we're protected by the 214 subpart for
21 roadway worker protection, we do not actually -- we
22 can actually use -- on most of these bridges, if

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1 you can walk out there, we're safe to walk. We're
2 not within four foot of the rail. We can use
3 watchman lookout and various things, so we don't
4 have to copy track time, for lack of a better word,
5 and block trains --

6 CHAIRMAN OBERMAN: All right.

7 THE WITNESS: -- where we can drive to
8 them.

9 CHAIRMAN OBERMAN: That was the question.
10 Thank you.

11 THE WITNESS: Yes, sir.

12 BY MR. ATKINS:

13 Q. So moving to the last one, Industrial
14 Canal?

15 A. Yeah. So this one is right south of our
16 Gentilly Yard. It is actually operated -- our two
17 main lines go across it but it's -- the City of
18 New Orleans is the owner, and they control the
19 operation of the bridge.

20 CHAIRMAN OBERMAN: And how does it work?
21 Is it a remote or is it a high-rail or what have
22 you?

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1 THE WITNESS: No. They actually are in
2 this house right here.

3 CHAIRMAN OBERMAN: How do they get there?

4 THE WITNESS: They drive up.

5 CHAIRMAN OBERMAN: So there is no blockage
6 of the track for shift change?

7 THE WITNESS: That's correct.

8 MR. ATKINS: And we're going to have a
9 picture in a few moments that shows you where this
10 is in relation to Gentilly Yard. So --

11 CHAIRMAN OBERMAN: Ray, I have some
12 questions about these bridges' operations whenever
13 you're done with this subject.

14 MR. ATKINS: So this would be that
15 opportunity, because I'm prepared to move on to
16 Gentilly Yard.

17 CHAIRMAN OBERMAN: Well, I think this will
18 be an appropriate time, and it will save some
19 time --

20 MR. ATKINS: Absolutely.

21 CHAIRMAN OBERMAN: -- to deal with this
22 while it's fresh here.

1 So I've been trying rapidly to count how
2 many -- let's see. There are two -- as I counted
3 them, there are two bridges north of Mobile that
4 are now remote, so no high-rail is required. Bay
5 St. Louis and Biloxi are also remote, so no
6 high-rail is required. And Pearl River and
7 Rigolets could be made remote but they still have
8 high-rails now. Is that right?

9 THE WITNESS: So speaking to Pearl River
10 and Rigolets, yes, they could still be -- they can
11 be -- we're working -- if investments are made,
12 which we're in the process over the next three to
13 five years of making those investments -- it's not
14 cheap, but we are working towards remote
15 controlling the remaining bridges here on the NO&M
16 sub.

17 There is another bridge -- I won't -- you
18 know, I'll just say you have another bridge that's
19 not on here at Tensaw River north of Mobile, but
20 that one is where you would have very minimal
21 traffic, and, you know, they have to give us a
22 ten-hour notice, and we high-rail somebody out

1 there and turn that bridge. It's very infrequent
2 openings. And we work with the Coast Guard to only
3 have to open it with a ten-hour notice.

4 CHAIRMAN OBERMAN: And are you telling me
5 that CSX is committed to investing in making Pearl
6 River and Rigolets remote over the next three to
7 five years regardless --

8 THE WITNESS: I think it -- no, I would
9 not say that. It really depends on now -- I will
10 tell you right now that's the plan. It depends on
11 the regulator. It depends on the Coast Guard.
12 It's a proven -- it's proven technology. It works.
13 It is as safe as having a manned operation. But
14 unless the Coast Guard approves it -- because they
15 haven't approved Bay St. Louis, Biloxi Bay, and
16 East Pascagoula. They're letting us do it as a
17 trial.

18 Is this trial going to be three months and
19 we're going to put it in the regulation, or is it
20 going to be two-and-a-half years before we're able
21 to get the regulations -- put it in the regulation?
22 Or are they going to say, nah, we don't like it?

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1 You know, and so I think we're at a point now that,
2 until we see some of these things being codified
3 into the regulations, we're -- we're going to make
4 sure that we're investing our money wisely.

5 CHAIRMAN OBERMAN: Well, my question,
6 Mr. Johnson, which you interrupted so I didn't get
7 a chance to finish it, was --

8 THE WITNESS: I apologize for that.

9 CHAIRMAN OBERMAN: That's all right.
10 Is CSX's commitment to spending money on
11 these unrelated to whether Amtrak runs on this
12 track? This is something you want to -- I gather
13 that you are planning to do regardless of Amtrak;
14 is that correct, subject to the Coast Guard's
15 approval?

16 THE WITNESS: That is correct.

17 CHAIRMAN OBERMAN: All right. So as I
18 understand it, you were on the team -- if I'm
19 incorrect, tell me -- that worked on putting the
20 RTC model together. I think you were identified by
21 Mr. Banks. Is that right?

22 THE WITNESS: Yeah, you know, he

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1 identified me, and then I think he corrected
2 himself at some follow-up questioning. I was not
3 on the -- I guess you would call it the clean team.
4 I did have a member of my department, my
5 engineering department, that was on that. I guess
6 I'll reveal the name. It was William Roseborough.

7 CHAIRMAN OBERMAN: Well, the only reason I
8 ask the question is I wanted to ask some questions
9 about how these bridges, all aspects that we've
10 been talking about, were accounted for in the RTC
11 modeling. It sounds like you didn't have any --
12 you weren't responsible for that input. Would that
13 be right?

14 THE WITNESS: That is correct. I am not
15 responsible, but Mr. Dingler can answer all of
16 those questions.

17 CHAIRMAN OBERMAN: Well, we'll find out if
18 he can. I'm not asking you to comment on what
19 other witnesses can and cannot do. My only
20 question is that you aren't the person who made the
21 input, so would it be fair to say you don't know
22 what the input was into the RTC as it relates to

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1 these bridges?

2 THE WITNESS: That's correct.

3 CHAIRMAN OBERMAN: Okay. Then I don't
4 have any more questions for you, but I think Karen
5 does.

6 MEMBER HEDLUND: Thank you.

7 Mr. Johnson, on average, how old are these
8 bridges?

9 THE WITNESS: So these bridges are, you
10 know, I would say -- all of them are 75 to
11 100 years old. Now I say that -- and let me
12 explain. The draw spans on a lot of these bridges
13 have been replaced. The control systems have had
14 multiple upgrades. The stringers and steel
15 support -- so the original structure may be that
16 old, but they have had significant upgrades, and
17 some of them have had complete replacements as far
18 as the draw span or the turn span, particularly,
19 for instance, the Bayou Sara, the Mobile River. So
20 there's been a lot of tremendous work done to them.

21 But they are -- and I will tell you part
22 of our project with automation across these

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1 bridges -- you can't automate if you don't have a
2 reliable bridge. If your bridge is not
3 structurally sound, you can't.

4 So part of this automation project -- it's
5 not -- the reason it is so expensive, it's not just
6 go put a new software package, computer system,
7 control system in it. It is, let's go and -- this
8 bridge is going to be reliable, you know, whether
9 it's the bull gear, whether it's the motor, whether
10 it's the hydraulic cylinders operating the locks
11 and wedges. So there's been substantial work.

12 And there was a tremendous amount of work,
13 I would say, after Katrina in 2005 with the 25-foot
14 storm surge and all of these bridges being really
15 10 to 12 foot above sea level. Every one of these
16 bridges were underwater. And, you know, the
17 recovery effort there across the Gulf Coast on,
18 basically, the NO&M and a little bit of the bottom
19 end of the M&M sub was over \$300 million, which is
20 primarily track and infrastructure that had to be
21 replaced. And a lot of it was with the bridges.

22 MEMBER HEDLUND: How often do you have

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1 mechanical issues opening or closing bridges?

2 THE WITNESS: Yeah, I would tell you very
3 seldom now do we have issues because of the work
4 that's been done, say, over the last five years.

5 As we have, for lack of a better word, hardened the
6 infrastructure, the failure rates have went down
7 significantly.

8 MEMBER HEDLUND: Is very seldom one bridge
9 a month or one bridge a week? What is very seldom?

10 THE WITNESS: And again, I don't have that
11 data. I mean, we log those things. My -- you
12 know, my knowledge of it would be that we probably
13 have -- if you look at all of these drawbridges and
14 put them in a bucket, we might have one to -- you
15 know, a couple of failures a month that might be
16 something as simple as a wedge out of adjustment or
17 a proximity switch that needs to be adjusted by the
18 signal department. Something of that nature is the
19 typical failures that we have.

20 As far as mechanical core to the bridge
21 failure, we don't have -- they're, you know, very
22 seldom, basically nonexistent as far as the core

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1 bridge itself.

2 MEMBER HEDLUND: I'm sure you've heard
3 about Portal Bridge in the Hudson River where, with
4 too much frequency, it doesn't align when it comes
5 back down, and they have to go out with a
6 sledgehammer to put it back together. So I was
7 just trying to see if you had any similar problems
8 with these bridges here, given the age of the
9 bridge and, you know, I assume some difficulty
10 getting replacement parts at this point for bridges
11 that are now that old.

12 THE WITNESS: Yeah -- no, I am familiar
13 with the bridge that you spoke of, but, no, I do
14 not have any issues with that with these bridges on
15 the Gulf Coast.

16 MEMBER HEDLUND: Okay. Thank you.

17 THE WITNESS: Thank you.

18 MR. ATKINS: So, Chairman, I'm going to
19 move off of bridges. I just want to -- oh, I'm
20 sorry. Ms. Schultz, do you have a question?

21 VICE CHAIR SCHULTZ: I do.

22 With regard to the three bridges that you

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1 said have been granted a temporary approval for
2 remote operation, do you have any sense of what
3 that process looks like in terms of when you might
4 find out whether or not you will receive, I guess,
5 long-term approval?

6 THE WITNESS: Yeah, my understanding is
7 that we were granted a 90-day opportunity to test
8 it or to try it, with some other stipulations about
9 the number of bridges that people could control at
10 any given time, and then we would review it and
11 talk about it. That's kind of the first look back,
12 I guess, at the operation.

13 But, again, this 3 Mile Creek, the project
14 that we had going on there, I don't know, I believe
15 we're probably over a year-and-a-half into that
16 without getting that into regulations. It can be
17 difficult, but we're committed to it.

18 And, look, the Coast Guard has worked with
19 us, and we're going to continue to work and give
20 them the data. So hopefully here in three to six
21 months we'll be able to get this in the regulation.

22 VICE CHAIR SCHULTZ: I guess as a

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1 follow-up, is there a possibility that you might
2 not receive long-term approval?

3 THE WITNESS: Absolutely.

4 VICE CHAIR SCHULTZ: And what would be the
5 impact if you would not?

6 THE WITNESS: The impact would be that I
7 will continue the hardening of these bridges, but I
8 will not invest in remote controlling the bridges
9 until we see some movement with the Coast Guard in
10 allowing these to operate.

11 VICE CHAIR SCHULTZ: In terms of
12 scheduling and service, if you would not have
13 long-term remote status --

14 THE WITNESS: Yeah, so -- sorry that I cut
15 you off. The -- if we don't have remote, we'll go
16 back to changing bridge tenders, you know, every
17 shift. We'll put people back on the bridge and
18 we'll go back to the operation that it was prior to
19 being able to operate them remotely.

20 VICE CHAIR SCHULTZ: Thank you.

21 CHAIRMAN OBERMAN: Ray, I've got a
22 couple --

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1 MEMBER HEDLUND: Can I have one last
2 question?

3 CHAIRMAN OBERMAN: I'm sorry. Go ahead,
4 Karen. I have a couple more too.

5 MEMBER HEDLUND: Given the prospect of sea
6 level rise, has CSX considered moving the entire
7 line?

8 THE WITNESS: I'll tell you what knowledge
9 that I have of this line. After Katrina, I think
10 the FRA and others actually looked at rerouting
11 this line up -- you know, through central Alabama
12 and across and back down. There's -- you know, and
13 it was -- I forget how many gazillion billion
14 dollars to facilitate that, and not to mention
15 eminent domain and other things that would have to
16 take place.

17 So, no, I would say there has been no real
18 consideration. And I think the challenge here is
19 that immediately adjacent even to this area where
20 you have the multiple drawbridges, you have Port
21 Bienville Railway. They have to be serviced.
22 They're -- you know, we have common carrier

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1 obligations to all of these customers. So -- and
2 it would, I guess -- potentially it would not only
3 be relocating us; it would -- are we going to
4 relocate all of the businesses and industries? But
5 there are ports and other things. You know, I
6 don't -- I just don't see the possibility of that
7 happening.

8 MEMBER HEDLUND: Thank you.

9 CHAIRMAN OBERMAN: Mr. Johnson, who at
10 CSX -- I assume it may be you, but if it's not --
11 is responsible for negotiating with the Coast Guard
12 for the operations of the bridges on this line, the
13 ones you've talked about? Would that be you?

14 THE WITNESS: No, it's not me. Look, I
15 have an organization of about 8,000 employees, and
16 I have many chief engineers that work for me. I
17 have a chief engineer of bridges and design and
18 construction, Ed Sparks. He's involved in
19 discussions with the Coast Guard.

20 But even more importantly, it's the
21 regional guys, the local guys that have -- you
22 know, depending on what district it is that you're

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1 negotiating various bridge issues or discussing
2 various bridge issues -- I believe this is -- I
3 believe it's the eighth district out of
4 New Orleans. So the local bridge people,
5 personnel, managers, leadership that's in that
6 area. Jeff Sasser and his -- an employee named
7 Jeff Sasser and his team, along with Ed Sparks,
8 they head up those efforts and the negotiations
9 with the Coast Guard.

10 CHAIRMAN OBERMAN: Are those people
11 ultimately responsible to you?

12 THE WITNESS: Yes, absolutely.

13 CHAIRMAN OBERMAN: Well, I ask you that
14 because I only want to ask you questions that you
15 may know the answer to. And my question is has
16 there been any effort by CSX to negotiate with the
17 Coast Guard, whether it's in connection with your
18 freight service or the potential Amtrak service,
19 any arrangements for any of these other bridges
20 limiting their opening times to facilitate train
21 movement?

22 THE WITNESS: My understanding, in

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1 discussions with my field personnel, is there have
2 been -- there has been informal, I would say,
3 discussions around that, and it's been a nonstarter
4 because of the unpredictable nature and the
5 quantity of movements across the Gulf Coast. And
6 so that's kind of been the reception that I've been
7 told that we've been getting.

8 CHAIRMAN OBERMAN: When was the last time
9 that anyone at CSX talked to the Coast Guard about
10 making such arrangements?

11 THE WITNESS: I would say in the last
12 year. I don't know the date, Chairman Oberman.

13 CHAIRMAN OBERMAN: Just approximately,
14 though. Sometime in the last year?

15 THE WITNESS: Yeah, I would say in the
16 last, probably, six months. We're in constant
17 dialogue primarily about the, you know -- informal
18 discussions about other things come up. We have
19 been in constant discussions with them about these
20 three that we got permission to operate remotely,
21 as well as the 3 Mile drawbridge there at Sibert,
22 that program project. So over the last three

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1 months or four months we've been in constant talks
2 with them.

3 CHAIRMAN OBERMAN: Do the people who have
4 these discussions report to you?

5 THE WITNESS: They don't report directly
6 to me. Ed Sparks reports directly to me. But the
7 other ones report -- you know, they're a couple of
8 layers down throughout the organization.

9 CHAIRMAN OBERMAN: Somebody, I take it,
10 reported to you that the discussions were
11 nonstarters?

12 THE WITNESS: Yes, sir. We made -- you
13 know, as we talk about the investments; so at the
14 end of the day, I am -- I ask and approve our
15 capital requests for the moneys that we invest in
16 our infrastructure and, you know, I want to make
17 sure that we're putting our dollars to where we're
18 going to get a return on our dollars and doing the
19 right thing. And --

20 CHAIRMAN OBERMAN: So I -- I'm sorry. I
21 didn't mean to cut you off. Go ahead.

22 THE WITNESS: And so that would have been

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1 in those discussions. I always ask them, well,
2 where are we at with remote controlling? And also,
3 as I have worked with various -- I'll be careful
4 what I say here. As I have worked with various --

5 MR. ATKINS: So, Mr. Johnson, you should
6 not disclose settlement discussions.

7 THE WITNESS: Okay. Yeah, I have -- you
8 know, I have an interest in if we could apply
9 something similar to a 3 Mile project to other areas
10 of the railroad.

11 CHAIRMAN OBERMAN: That was precisely my
12 question. Beyond the remote control, have there
13 been discussions with the Coast Guard about
14 scheduling of bridges so that there would be open
15 periods of time when trains would not have to stop?

16 THE WITNESS: Not formally.

17 CHAIRMAN OBERMAN: Well, what's the
18 nonstart -- when you said there was a nonstarter,
19 what were you referring to? What's a nonstarter
20 with the Coast Guard?

21 THE WITNESS: I would say that -- there's
22 200-plus thousand boaters and users of the waterway

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1 that have priority today. I will tell you there's
2 a lot -- in my opinion, there's a lot of political
3 pressures not to affect that. And, personally,
4 that's the nonstarter. They're not going to take
5 priority away for 26 -- an average of 26 passengers
6 on a train.

7 CHAIRMAN OBERMAN: Well, that's really --
8 I'm not only talking about Amtrak. I'm talking
9 about your freight operations. I just want to be
10 clear from what your knowledge is that, for all of
11 these other bridges other than 3 Mile, discussions
12 with the Coast Guard about shutting schedules of
13 the type that were set for 3 Mile are nonstarters,
14 the last information you have. Is that an accurate
15 statement?

16 THE WITNESS: That's correct.

17 CHAIRMAN OBERMAN: Okay. That's all I
18 wanted to know.

19 And you don't -- I suppose, if we asked,
20 you could provide us with the names of the people
21 who talk to the Coast Guard and the names of the
22 people at the Coast Guard they talk to? You have

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1 that knowledge somewhere so I'm --

2 THE WITNESS: Somebody should have --
3 would have that knowledge. I do not have -- I have
4 knowledge of CSX.

5 CHAIRMAN OBERMAN: If we have any requests
6 for any information, we'll go through your counsel.
7 I just want to know that the information exists.
8 Correct?

9 THE WITNESS: Yes, it should exist and be
10 able to -- yes.

11 CHAIRMAN OBERMAN: All right. Thank you.
12 Ray, proceed.

13 MR. ATKINS: Okay. Thank you.

14 BY MR. ATKINS:

15 Q. So we're going to end with a conversation,
16 Ricky, about Gentilly Yard, which is the tail end
17 of your operations. And we want to show the board
18 that so you can use drone footage and one picture
19 to just walk them through that operation. Do you
20 need a break?

21 A. Nope. I am good to go.

22 MR. ATKINS: So, Chairman, we'll just

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1 proceed forward.

2 (Discussion off the record.)

3 (CSX/NS Exhibit 2 marked for
4 identification was introduced.)

5 BY MR. ATKINS:

6 Q. So we're going to pull up CSX/Norfolk
7 Southern Exhibit 2. It's a drone footage for
8 Amtrak's benefit, subject to the same -- we're not
9 putting it on to be representative of the train
10 movements in the yard. We're just offering it so
11 that they can -- you can see the yard operations.

12 This is -- so, Ricky, can you describe
13 this, what we're seeing and what -- hold on a
14 second. My tech people are telling me to slow
15 down.

16 MR. ATKINS: So you can pause it right
17 there, Matthew.

18 BY MR. ATKINS:

19 Q. So, Ricky, can you just describe, like,
20 which way we're heading and what they're seeing?
21 And this drone footage, for the members' benefit,
22 goes all this way from this end of the Gentilly

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1 Yard all the way to other end where you'll be able
2 to see the Industrial Canal Bridge?

3 A. Yeah, absolutely. This is coming in to
4 the north end of our Gentilly Yard. So --

5 CHAIRMAN OBERMAN: Are we looking north?

6 THE WITNESS: No, sir. You're actually
7 looking south.

8 CHAIRMAN OBERMAN: Okay.

9 THE WITNESS: This is New Orleans down
10 here.

11 CHAIRMAN OBERMAN: Got it.

12 THE WITNESS: And, yes, Mobile is back to
13 the bottom, or towards Mobile is back towards the
14 bottom.

15 CHAIRMAN OBERMAN: Got you. Go ahead.

16 THE WITNESS: Okay. You can go ahead and
17 start.

18 As you're going -- this outside track is
19 our main line. Again, we go -- at this
20 interlocking here, you seen the signals -- saw the
21 signals. We become number 1 -- our single main
22 here. So this outside track where this train is

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1 sitting is our main line. This is a siding and
2 these are all of our yard tracks.

3 We have a switching operation that
4 operates here and switches -- as you can see, these
5 cars, they're switching all of our traffic here.
6 And these tracks over here, as they switch and
7 build trains, whether it's interchange trains or
8 whether it is trains going back towards Mobile --
9 we call these our R&D tracks; in other words,
10 receiving and/or departure tracks. So as they
11 switch cars in blocks, they bring them over here
12 and they start building trains, although some
13 trains are built within these switching tracks
14 depending upon the volume and the time of the day.

15 This yard is not continuous in that these
16 tracks here, it's, for lack of a better word -- can
17 you stop it here for one minute?

18 MR. WARREN: Absolutely.

19 THE WITNESS: This is a north yard and
20 this is a south yard. So there's actually a ladder
21 here for this yard and a ladder right here for this
22 south yard.

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1 BY MR. ATKINS:

2 Q. Ricky, can you explain what a ladder is?

3 A. Yeah. I'm sorry. So a ladder -- when I
4 say a ladder, it is a track that has
5 switches/turnouts to multiple tracks that go down
6 it. So, you know, as the train is switching cars,
7 they're able to line this switch with cars here,
8 line this switch, go here, line this switch -- you
9 know, whatever the switching paperwork calls for,
10 and that's kind of -- when I refer to a ladder,
11 it's a switching lead, for lack of a better word.

12 This is our yard office, not that it
13 matters. This is our fueling -- our facility where
14 we fuel and service our locomotives.

15 Continue on.

16 These are more interchange tracks where
17 we -- you know, we build and put stuff over here.
18 The switching here on this end of the yard, on the
19 south yard, actually takes place -- and I believe
20 you'll be able to see it better towards the end of
21 the drone footage here. This is another switching
22 lead/ladder that they can switch cars into this

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1 track here.

2 Stop it when you get right to the end, if
3 you would.

4 The bypass that has been talked about, or
5 proposed, would actually be to the right side of
6 our main line here. So the thing -- stop it right
7 here, if you would. The thing that's unique about
8 New Orleans and why you see trains on the main
9 line -- this is the end of our line, so to speak.
10 In other words, when I say end of the line, it's
11 like an ocean past here. Right? So it's -- no
12 trains go through here. Every train stops at
13 New Orleans. Every train starts or stops right
14 here at New Orleans, so there are no through
15 trains --

16 Q. When you say New Orleans, do you mean
17 Gentilly Yard?

18 A. Yes. Gentilly Yard. There are no through
19 yards. Every train starts or stops here at
20 Gentilly. Again, right here where the red -- right
21 under this bridge, all of this transitions back to
22 two tracks, and it's double main again across --

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1 that's that drawbridge house that we've seen at the
2 City of New Orleans right there. It all comes back
3 together right here.

4 So we use this right here -- we're
5 switching on it all shifts, day and night. And at
6 the same time, it's the interchange train. So all
7 of the trains except for the CN. We will go to the
8 CN and they will come to us, but all the other
9 carriers, they have to come in through this point
10 here and interchange traffic with us, as much as 12
11 interchange movements a day between all the roads
12 here in New Orleans.

13 And, again, any bypass around this yard
14 would never be used by any freight train, would
15 never be used by a foreign carrier; it would be
16 solely used by Amtrak in order to facilitate their
17 movement around Gentilly instead of trying to weed
18 through a switching and interchange operation here.

19 Does it go any further or is this the end?

20 Q. We'll run it all the way to the end.

21 A. This is I-10 here just so -- you know, I'm
22 sure a lot of you have been there. This is I-10

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1 here right beside our yard. Again, this is a
2 switching lead. And as you can see, it all comes
3 back together. Drawbridge right here, and there's
4 two tracks here. There's also multiple connections
5 with the Public Belt Railroad. There's tracks that
6 go off right here for the Public Belt as well for
7 customers, and lots of customers along this
8 Industrial Canal both from a rail and from a water
9 traffic.

10 MR. ATKINS: So we have one last exhibit
11 which we're going to offer to show the bottleneck
12 portion that you're looking at right now, but it's
13 a bird's eye view. So if I could get permission to
14 introduce our last exhibit, which is CSX/Norfolk
15 Southern 152. Any objection --

16 CHAIRMAN OBERMAN: Yes, but I have some
17 questions which I would like to go back to the
18 other one, but it may be more enlightening to see
19 this first.

20 MR. ATKINS: Okay. We can pull up the
21 drone footage again. So I want to pause. Any
22 objections to our introduction to this -- this

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1 exhibit?

2 MS. AMUNSON: Is it offered for the same
3 purpose, which is just a visual aid?

4 MR. ATKINS: Yes, it is.

5 MS. AMUNSON: No objection on that basis.

6 CHAIRMAN OBERMAN: All right. Proceed.

7 (CSX/NS Exhibit 152 was marked for
8 identification and admitted into evidence.)

9 BY MR. ATKINS:

10 Q. So Ricky, can you use this map to just
11 highlight kind of the features on both the
12 drawbridge but -- the features on both sides and
13 how traffic enters and exits the yard here?

14 A. Yeah, absolutely. So, again, just to make
15 sure we're all oriented, this is our Gentilly Yard.
16 Again, this is primarily -- there are customers
17 here, but this is primarily our interchange with
18 all of the carriers in New Orleans. When you think
19 about an interchange, right, it's -- you know,
20 trains come in, and typically it will be in this
21 yard for 24 hours. So when you think about the
22 amount of time that cars is in here, depending on

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1 the volume and the interchange, you can imagine
2 what this yard at times can be like.

3 As you come here -- I'll start here --
4 this track here is actually NOPB track, New Orleans
5 Public Belt Railroad -- go out to customers, so
6 they're routinely using our main line in order to
7 come over from this track, which is New Orleans
8 Public Belt, and be able to come over and cross
9 over and go serve their customers here, as well as
10 come out on this main line track and go serve their
11 customers around this track.

12 Then they also, as New Orleans Public Belt
13 Railroad, they'll actually come up and cross both
14 of our main lines to go to the customers up here
15 along the waterway.

16 One of the challenges to this area from a
17 congestion standpoint is not only the area, but
18 it's the businesses, it's the other railroads that
19 have track and infrastructure here. You're limited
20 here with I-10 and all the pilings and support and
21 piers here, as well as the crossroads or the major
22 highways that are underneath I-10 but still above

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1 our track. So it kind of chokes you down to a
2 limited area here, underneath this, as well as if
3 you scroll -- blow back out just a little bit. You
4 can see more highways here that cross over us as
5 well as other highways right besides us, as we
6 think about the ability to do any kind of
7 significant infrastructure additions in this area.

8 MR. ATKINS: So, Chairman Oberman, that
9 concludes our presentation of Gentilly. Please, if
10 you have any clarifying questions that you'd like
11 to address -- and we can go back to the drone
12 footage, if it's easier.

13 CHAIRMAN OBERMAN: Please do.

14 MR. ATKINS: Okay. Matthew, can you flip
15 back? There we go.

16 CHAIRMAN OBERMAN: All right. Can you run
17 it forward, you know, to pretty much the center of
18 the yard where we were?

19 MR. ATKINS: Absolutely.

20 CHAIRMAN OBERMAN: This is probably good
21 enough for -- maybe a little bit further. So let
22 me ask a few questions here.

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1 Does Amtrak, any of its current Amtrak
2 trains, use any tracks that go around or through or
3 near this yard?

4 THE WITNESS: No, sir.

5 CHAIRMAN OBERMAN: Have they in the past?

6 THE WITNESS: They used to come through on
7 the main line.

8 CHAIRMAN OBERMAN: Was that the Sunset
9 train?

10 THE WITNESS: Yes, sir.

11 CHAIRMAN OBERMAN: And who paid to have
12 that track constructed? Was that Amtrak or CSX?

13 THE WITNESS: My understanding of the
14 main line -- I'll tell you my belief and knowledge
15 of what I know -- is that that line has been there
16 for 100 years, and so it would predate Amtrak, so
17 it would be whatever predecessor railroad of ours
18 built this track.

19 CHAIRMAN OBERMAN: All right. Now, the
20 track that is being discussed in the RTC that's
21 supposed to go around Gentilly Yard, where is the
22 space for that track? Where would that be built?

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1 THE WITNESS: Right here alongside to
2 the -- right beside this -- where these cars are
3 sitting is the main line. The furthest to the
4 right here, where my red dot is going up and down,
5 it would be built adjacent to it through this area
6 and run from one end of the yard there to the other
7 end of the yard.

8 CHAIRMAN OBERMAN: And then it would merge
9 into the two tracks across the bridge?

10 THE WITNESS: It would -- prior to the
11 bridge -- it would merge into the track there prior
12 to the bridge.

13 CHAIRMAN OBERMAN: And then in order to
14 get to wherever the station is in New Orleans, it
15 has to cross the bridge?

16 THE WITNESS: Yes, sir.

17 CHAIRMAN OBERMAN: Okay. So in the RTC
18 report, Exhibit 23D at page 19, there's a
19 description of the Gentilly Yard, in part. And it
20 says the main line at the north and south -- I'm
21 quoting: The main line at the north and south end
22 of Gentilly are often occupied by yard trains

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1 blocking the main line when switching cars.

2 Can you show me -- first of all, is that
3 an accurate statement as you understand the way
4 Gentilly works?

5 THE WITNESS: Yes, sir.

6 CHAIRMAN OBERMAN: So when we were looking
7 on the drone -- maybe you could back it up at this
8 point, Ray, to understand --

9 THE WITNESS: Back up to the beginning and
10 I can show you where we're talking about.

11 CHAIRMAN OBERMAN: Yeah, that's what I
12 wanted to know.

13 THE WITNESS: Yes, sir. So as --

14 CHAIRMAN OBERMAN: Yeah. Okay. Where are
15 you talking about?

16 THE WITNESS: Yes, sir. There is a
17 switching here out of these tracks here. This
18 goes -- starts double track down -- right in this
19 area is where double track starts, so number
20 2 -- this is number 1 track; this is number 2
21 track. Again, we are -- the inner -- the control
22 point, this is the south end, so the -- this is

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1 already -- in other words, it's -- there's another
2 signal here -- at the bottom of the screen, there's
3 another signal. So as they're taking headroom and
4 switching these, pulling out, as somebody delivers
5 interchange and they pull out here, they have to
6 take headroom on the main line to shove back and
7 start switching the cuts, as well as when
8 they're -- you know, get them switched up and
9 they're doubling back over here, they have to take
10 headroom here.

11 And then if we go to the very end of the
12 video, I can --

13 CHAIRMAN OBERMAN: Wait. Before you leave
14 here --

15 THE WITNESS: Yes, sir.

16 CHAIRMAN OBERMAN: So where your dot is,
17 is the main line 2?

18 THE WITNESS: This is where the main line
19 ends. So when you get to this interlocking, which
20 would consist of this signal here -- it ends right
21 here under this signal. Wherever the I-joints are
22 under this signal, this -- that's the end of the

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1 double track.

2 CHAIRMAN OBERMAN: And the main line is
3 the one to the right?

4 THE WITNESS: Yes, sir. That will be
5 the -- that will start single main right here.

6 CHAIRMAN OBERMAN: And the proposal is for
7 Amtrak to run around it?

8 THE WITNESS: Yes, sir. It would be here.

9 CHAIRMAN OBERMAN: It looks like it would
10 go right through that signal tower.

11 THE WITNESS: Yeah, that signal would be
12 relocated.

13 CHAIRMAN OBERMAN: Okay. But --

14 THE WITNESS: It would have --

15 CHAIRMAN OBERMAN: That green strip,
16 that's --

17 THE WITNESS: Yes, sir, you would take
18 that -- the signal would end up being about right
19 here, and instead of two signals there, it would
20 potentially have three or -- you know, the three
21 track.

22 CHAIRMAN OBERMAN: So in the RTC report,

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1 in next sentence after the one I read about yard
2 trains blocking the main line when switching cars,
3 it then says, quote, activity from these yard
4 trains, Industrial Canal Bridge and other main line
5 interchange activities can result in delays to the
6 interchange traffic from NSR. Interchange trains
7 traveling from UP, BN, and CN often experience
8 delays en route to Gentilly Yard, greatly resulting
9 in multiple hours of main line delays.

10 Those are accurate statements, I assume?

11 THE WITNESS: I would tell you that trains
12 take delays in and out of -- and speaking about the
13 Industrial Canal, that's primarily speaking -- this
14 is CSX and the switching here on the north end.
15 The other, the interchange entrance point, is the
16 south end.

17 CHAIRMAN OBERMAN: Well, here's my
18 question.

19 THE WITNESS: Yes, sir.

20 CHAIRMAN OBERMAN: If you're experiencing
21 the need for this yard -- because it is -- to use
22 the main line for switching and if you already are

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1 having delays, which are described in the RTC, why
2 wouldn't CSX build this same -- I don't even know
3 what you call it -- runaround track or the track
4 we're talking about for Amtrak, to avoid having to
5 use your main? You know, then your main line could
6 become a yard track and that one would be the main
7 line and you wouldn't have to block everything
8 while you were switching. Why haven't you done
9 that?

10 THE WITNESS: It serves no purpose for
11 what the delays are. The delays are -- every
12 train -- again, the only way that would benefit us
13 is if we had through trains that didn't stop and
14 start here. Having another main here -- we'll
15 never put a CSX train on there or -- there's no
16 need. The delays are happening here. On the other
17 end of the yard is where the delays are happening.
18 And all of those trains from to come into the yard.
19 They can't bypass Gentilly and go past Gentilly.
20 They all have to come in to the south end of the
21 yard here for interchange.

22 Go all the way to the very end, if you

1 can.

2 TECHNICIAN CROSS: That's it.

3 THE WITNESS: So they have to come in
4 here, so having a main line over here would serve
5 me no purpose because they can't get over here to
6 interchange the track. That's the delays we're
7 talking about -- or they're talking about are the
8 trains that are coming here trying to get here, not
9 to go north and bypass the yard.

10 CHAIRMAN OBERMAN: Well, I'm trying to
11 figure out what it means when it says activity from
12 these yard trains can cause -- can result in delays
13 to the interchange traffic from NS. What --

14 THE WITNESS: Yes, sir, because they come
15 into here, and because this is such a -- I would
16 say it squeezes down to two tracks. That's what
17 we're talking about. It delay -- because of the
18 trains, the volume of trains that are using this
19 area right here -- and NS needs to come into here.
20 That's -- or whether it's UP -- I think three times
21 a day UP comes and three times a day they go back.
22 It's the volume of trains in and out of the south

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1 end of Gentilly.

2 And, again, if I could build that and it
3 would relieve congestion, yeah, we would have
4 already looked at that, if it would have helped our
5 operation. Everything has to come into here. NS
6 will never run on a new track, whether Amtrak
7 builds it or if I built it. We would not run
8 because there is no need to run through there.
9 It's the switching and the interchange operation
10 here on the south end.

11 CHAIRMAN OBERMAN: It says that the yard
12 trains are blocking the main line, causing delay.

13 THE WITNESS: Absolutely. So --

14 CHAIRMAN OBERMAN: If you built that other
15 track, wouldn't that relieve the main line?

16 THE WITNESS: It's the main line here.
17 It's not the main line right here that's causing
18 the delay.

19 MR. ATKINS: Ricky, why don't we flip to
20 the other exhibit so you can describe for him --

21 THE WITNESS: Okay.

22 MR. ATKINS: -- where it is?

1 Can you zoom down a little bit, Matthew?

2 THE WITNESS: So the main line delays are
3 happening on this main line right here. It's not
4 happening on this main line right here at the yard
5 because there's zero -- zero trains today that need
6 to traverse that main line without stopping here at
7 this yard. And everything that comes into this
8 yard has to be switched.

9 There are no through trains in either
10 direction, so it has to be switched absent an
11 occasional -- maybe you get an occasional grain
12 train, which is very rare, but there's zero trains
13 that go through this main line here. Everything
14 comes in the yard and gets processed.

15 So the yard trains that are being talked
16 about is the switching operation -- that's a yard
17 train that is pulling out here for headroom to be
18 able to switch all of this traffic and to build the
19 interchanges and to build our traffic.

20 CHAIRMAN OBERMAN: So -- well, where would
21 the -- how far would this new track for Amtrak
22 extend on this picture?

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1 THE WITNESS: It would come in -- I
2 would -- you know, I'd look, but my understanding,
3 it comes in somewhere right in this area right
4 here.

5 CHAIRMAN OBERMAN: And how far do the yard
6 trains back up onto the main?

7 THE WITNESS: Sorry?

8 CHAIRMAN OBERMAN: When you just said the
9 yard trains have to come out onto the main line for
10 switching, how far do they go? Do they cross the
11 river?

12 THE WITNESS: Yes. At times they will
13 cross the river. But there's also crossovers in
14 here -- there's flood walls here and there's
15 crossovers. So the goal is to be able to have
16 Amtrak coming down regardless of -- and cross over
17 and get onto the bypass and to get around the yard.

18 CHAIRMAN OBERMAN: Well, there are only
19 two tracks on that bridge, right?

20 THE WITNESS: That's correct.

21 CHAIRMAN OBERMAN: So even a bypass track
22 for Amtrak is not going to stop your yard trains

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1 from blocking up the main that Amtrak has to use?

2 THE WITNESS: No, we're only switching
3 with one switch engine, so as far as yard trains,
4 that's not the case. There is one track open and
5 our trains, you know, switching there on the other
6 one.

7 CHAIRMAN OBERMAN: Well, then I don't
8 understand what I read in the RTC report about the
9 yard trains blocking the main and causing the
10 delays. There are two mains there.

11 THE WITNESS: Yes, sir. Everything has to
12 come in where they're switching. The switching
13 doesn't happen on both main lines. The switching
14 happens on the main line to the bottom, and that is
15 where all the interchange trains comes into is to
16 the bottom.

17 The switching -- and that other video
18 probably -- or the video probably is better -- but
19 all the switching happens on the south --
20 geographical south main line. They pull good
21 headroom and they are switching back -- we're
22 switching here, but all the trains have to come

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1 into here as well to the interchange.

2 If these were through trains, it would be
3 different, but these are foreign carriers coming
4 into our yard to deliver traffic and pick up
5 traffic. They have no need to run on the other
6 main line, the single main that goes around our
7 yard.

8 CHAIRMAN OBERMAN: So when the RTC report
9 talks about blocking the main line, it's talking
10 about blocking the south main line?

11 MR. ATKINS: So, Chairman, I'm going to
12 object. Ricky is not in a position to tell you
13 what the RTC report is or is not saying. That
14 could be directed to the authors of that report.
15 You've asked Mr. Johnson about the operations and
16 he's explained them to the best of his ability.

17 CHAIRMAN OBERMAN: Well, your objection is
18 noted.

19 I would like to get this clear, because it
20 doesn't talk about two main lines in the report; it
21 only talks about one, where yard trains are
22 switching. So yard trains are switching on the

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1 south main line, and then they're causing delays in
2 NSR, BN, UP, and CN trains also coming on the south
3 main line? Is that what you're saying?

4 THE WITNESS: Yes, sir. And, again, they
5 can speak to what -- the report, but that's the
6 operation at this location.

7 CHAIRMAN OBERMAN: And there is no
8 physical way to resolve that forever, just from a
9 freight point of view, I take it?

10 THE WITNESS: No, sir.

11 CHAIRMAN OBERMAN: Okay. All right. That
12 was all I had. I thought it was quite confusing,
13 but these photographs help relate the situation to
14 the RTC report.

15 Did any other board members have any other
16 questions?

17 MEMBER PRIMUS: I just had a follow-up,
18 Mr. Johnson, and again, forgive me if repetitive.
19 I had to step away for a family issue real quick.

20 THE WITNESS: No problem.

21 MEMBER PRIMUS: The other track -- you had
22 the south track, as you said, so the north track,

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1 has there been any conversation about putting that
2 ability to switch or it's just not feasible?

3 THE WITNESS: It's not feasible. You
4 know, with the design and the choke point that you
5 come into in that area, it's not feasible for --
6 to -- I won't say it's impossible. Right? It's
7 can we move Interstate 10? Can I move these other
8 highways? I mean, it's -- I would say that makes
9 it not feasible.

10 MEMBER PRIMUS: And I am sorry -- again,
11 maybe I'm just missing it, but on this map that we
12 have up here currently, there is no place -- after
13 you cross over the bridge, there is no area to
14 switch from that area -- the feasibility of
15 switching from the north main line into the yard,
16 there isn't any capability to do that either?

17 THE WITNESS: I mean, so there is some
18 opportunity, there are crossovers all through here.
19 You can't really see them here on this Google map
20 here.

21 MEMBER PRIMUS: And I wear glasses, so I
22 probably couldn't see even if you --

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1 THE WITNESS: Yeah. You see I have got my
2 readers right here handy, but readers wouldn't --

3 MEMBER PRIMUS: I need my glasses to find
4 my glasses, Mr. Johnson, so I can go even further.
5 But -- that's okay. I just wanted to see if that
6 was possible from that. That was my only question.

7 THE WITNESS: I mean, there's crossovers
8 and things throughout here. Again, we had the
9 Public Belt here that uses this track. And again,
10 in today's operation, or forever operation, no
11 trains bypass this yard. So for lack of a better
12 word, although it's classified as a main line, a
13 single main that goes around our yard, it's used
14 every day for -- to facilitate our switching
15 operation in order to support the business with our
16 interchange partners there at New Orleans.

17 MEMBER PRIMUS: That was my -- you
18 actually just hit on my own clarification, because
19 you said that no -- currently no train goes through
20 the yard. So I'm assuming that -- well, I may be
21 wrong again. I was assuming that coming across
22 that bridge, that both mains had some sort of

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1 crossover because no train -- every train had to
2 stop -- has to stop right now in that --

3 THE WITNESS: Yes, sir.

4 MEMBER PRIMUS: So -- that's what I was
5 getting at. I'm sorry.

6 THE WITNESS: Sir, you are 100 percent
7 correct, there are no trains. In fact, you know,
8 if we build this bypass here at Gentilly, the only
9 train that will ever use this bypass is Amtrak.

10 MEMBER PRIMUS: Okay. Thank you.

11 MR. ATKINS: So, Chairman Oberman, I'm
12 going to conclude our direct presentation of Ricky
13 Johnson at this time.

14 CHAIRMAN OBERMAN: All right. We will
15 switch to the port, if the port has any questions.

16 Where are we in the sense of the board
17 about taking a break? It's 20 minutes to 5:00. It
18 would be nice to finish Mr. Johnson today if we
19 could.

20 Do you have any questions, Rob?

21 MR. WIMBISH: The Port will have some
22 questions in cross-examination through

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1 Mr. Helenhouse. If you would like to have us wait
2 for those after a break, that's fine, or we can
3 proceed right now?

4 CHAIRMAN OBERMAN: And what's your -- do
5 you have an estimate of how much time you need?

6 MR. HELENHOUSE: Five minutes, ten minutes
7 at most.

8 CHAIRMAN OBERMAN: All right. And,
9 Jessie, do you have cross-examination for
10 Mr. Johnson?

11 MS. AMUNSON: I do. I estimate it will be
12 30 minutes to 40 minutes, depending, of course,
13 upon Mr. Johnson. I would like to question
14 Mr. Johnson about his actual verified statement
15 which was not --

16 CHAIRMAN OBERMAN: You don't have to tell
17 us what it's about. I'm just trying to do some
18 scheduling here.

19 How does everybody feel about going, even
20 if it gets close to 6:00, to finish Mr. Johnson?
21 Because I think it might be good to -- we've been
22 going for two hours. It might be good to take

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1 about a ten-minute break here.

2 MEMBER PRIMUS: I think that would be fair
3 to Mr. Johnson.

4 CHAIRMAN OBERMAN: All right.

5 MEMBER FUCHS: I think that's a good idea,
6 Marty.

7 CHAIRMAN OBERMAN: All right. Why don't
8 we take a ten-minute break? We'll come back at
9 4:51 and we will try our best to finish Mr. Johnson
10 today. We'll start with Mr. Helenhouse from the
11 Port.

12 All right. We're in recess.

13 (Whereupon, a recess was taken at
14 4:41 p.m. until 4:52 p.m. and then the proceedings
15 continued as follows:)

16 CHAIRMAN OBERMAN: Let's proceed.

17 Mr. Helenhouse, you're on.

18 CROSS-EXAMINATION

19 BY MR. HELENHOUSE:

20 Q. Mr. Johnson, my name is Jim Helenhouse,
21 and I want to ask you just a few questions.

22 I'm hoping that Mr. Atkins can pull up the

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1 drone footage where the Amtrak station is planning
2 to be or where it was before. Is that possible?

3 TECHNICIAN CROSS: Absolutely. Just give
4 us one second.

5 MR. HELENHOUSE: And if you could go --
6 you zeroed in on -- hovered over where that parking
7 lot was adjacent to the sidewalk and your tracks.
8 It looks like it's almost in the center of the
9 page, a little bit to the left. If you could go
10 forward to that --

11 THE WITNESS: Right in this area?

12 MR. HELENHOUSE: Yeah, that area.

13 MR. ATKINS: Yep, we're working on it.

14 MR. HELENHOUSE: Great. Thanks.

15 That's good. Thank you.

16 BY MR. HELENHOUSE:

17 Q. Mr. Johnson, if I understand your
18 testimony earlier, that parking lot that we see
19 there just to the left of the train operating on
20 main 1 -- right there, yes -- that's owned by the
21 City of Mobile, correct?

22 A. That is my understanding, correct.

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1 Q. Okay. And am I also correct that that
2 grassy area to the south of that parking lot just
3 to the left of that train there -- yes, you've got
4 that area -- is that also owned by the City of
5 Mobile?

6 A. Yes. My understanding is that we have a
7 right-of-way here and then adjacent to us is owned
8 by the City of Mobile.

9 Q. All right. Now, if we could go up a
10 little further north of the parking lot, I want to
11 look at that -- I believe it's a sidewalk along
12 that parking lot.

13 And would you agree with me that there's
14 not enough -- well, first of all, is that
15 sidewalk -- whose properties is that on?

16 A. It is on our property. My understanding
17 is Amtrak has a lease on the portion of lease for
18 this platform sidewalk.

19 Q. And would you agree with me that there's
20 not enough room in that area to add an additional
21 track, as was discussed early in your testimony,
22 and also maintain a sidewalk?

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1 A. When we have looked at it, it would be
2 adjacent -- there's a fence here along the top of
3 this sidewalk -- is that the track would be between
4 here, and they would have to have discussions with
5 the city. I don't remember the exact footage, but
6 there is a distance -- and I don't remember the
7 exact distance -- but some of the track would be
8 located on CSX right-of-way, but they would need
9 some clearance or easement with the city.

10 Q. And as it stands now, CSX does not have
11 any agreement with the city to construct anything
12 in that area that is currently used as a parking
13 lot and, for which I understand, you would need to
14 build a track as discussed earlier in your
15 testimony; is that correct?

16 A. That is correct. And we would not
17 approach the city. That would be something that
18 was the responsibility of Amtrak.

19 MR. HELENHOUSE: Thank you. That's all I
20 have.

21 MS. AMUNSON: May Amtrak proceed,
22 Mr. Chair?

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1 CHAIRMAN OBERMAN: I'm sorry. I was
2 muted. Yes, Jessie, I've been talking to you.
3 Proceed.

4 MS. AMUNSON: Thank you.

5 CROSS-EXAMINATION

6 BY MS. AMUNSON:

7 Q. Mr. Johnson, my name is Jessie Amunson. I
8 represent Amtrak in this proceeding.

9 Mr. Johnson, you and Mr. Hunt jointly
10 submitted a verified statement in this proceeding;
11 is that correct?

12 A. That is correct.

13 Q. And the exhibits that you talked about
14 today in your testimony, were any of those attached
15 to your verified statement?

16 A. Not to -- no, I do not believe so.

17 Q. And your explanations of those exhibits,
18 that was not part of your verified statement; is
19 that correct?

20 A. Not -- all of it would not have, no. It
21 would not all have been in the verified statement.

22 Q. Thank you. And you said you've been at

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1 CSX for 21 years, right?

2 A. Going on 21 years. June 1st will be
3 21 years.

4 Q. What has been your involvement with the
5 restoration of the Gulf Coast service?

6 A. My involvement has been my engineering
7 team has -- you know, there's been many different
8 discussions throughout the years about restoration
9 of service, and so my engineering team has always
10 been involved in those discussions. As I spoke
11 earlier, you know, I had a member of my team on the
12 clean team, the term they used.

13 Q. Were you involved at all with the efforts
14 to restore service of the Gulf Coast working group?

15 A. Can you tell me what year that was?
16 There's been -- and I don't mean -- there's been
17 several different. Is that the 2016 working group
18 that FRA -- the study that FRA was part of in the
19 Southern Region Rail Commission?

20 Q. Yes, sir, that's correct.

21 A. I was -- 2016, I was the vice president of
22 engineering.

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1 Q. And were you involved in those efforts of
2 the Gulf Coast Working Group?

3 A. I was not part of the Gulf Coast Working
4 Group personally. I mean, I have knowledge because
5 of being over the engineering organization at the
6 time, but I was not, per se, a sitting member of
7 the working group.

8 Q. Are you aware of CSX's position in the
9 Gulf Coast Working Group report that CSX said it
10 would take \$1.1 billion of infrastructure before
11 CSX would allow Amtrak to restore service to --
12 between New Orleans and Mobile?

13 A. I am aware of the -- yes, I'm aware of the
14 different cost estimates that have been put out for
15 restoring Gulf Coast service. And I would say that
16 a lot of them are different in scope and nature of
17 what has been proposed.

18 You know, everybody -- I don't know
19 whether it's a news organization or people here in
20 the hearing keep referring to a \$2.1 billion
21 estimate but what people -- which is unfair.
22 That's a 718-mile project that actually went all

1 the way from New Orleans all the way to Orlando,
2 Florida, across many miles of dark territory that
3 would have had to have PTC and other things
4 installed versus being 15 percent is what the route
5 is of that project. It's about a 138-mile project
6 that we're discussing now, although it happens to
7 be the most geographically challenged with
8 waterways and environmental issues and concerns,
9 versus a 1718-mile [sic] route.

10 Q. Mr. Johnson, I'm just going to stop you
11 there. Your counsel will have the opportunity to
12 redirect you if they would like you to expand on
13 your answers but -- I know that it's been a long
14 day for you, and we are trying to get out of here
15 at a reasonable hour, so if you could try to
16 confine yourself to just -- when I ask you a yes or
17 no question, if you can let me know yes or no, that
18 would be terrific.

19 MR. ATKINS: So I'm going to object,
20 Chairman. If the witness wants to add some color
21 to the question, or feels the need to do, I don't
22 think it's appropriate to demand that it always be

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1 a yes or no answer.

2 MS. AMUNSON: May I proceed, Mr. Chairman?

3 CHAIRMAN OBERMAN: I was muted. The
4 witness wandered well beyond what the question was,
5 and I would caution the witness to listen to the
6 question and try to answer the question as asked,
7 if you can. If you cannot answer it with a yes or
8 no, then you can feel free to say so. But listen
9 to the question that's asked. Partly that's the
10 way the proceeding should go and partly because
11 it's late in the day.

12 So proceed, Jessie.

13 MS. AMUNSON: Thank you.

14 BY MS. AMUNSON:

15 Q. Mr. Johnson, you just said that it was a
16 \$2.3 billion estimate, but, in fact, it was 1.1
17 billion specifically for the restoration between
18 New Orleans and Mobile; is that correct?

19 A. Yes, and I guess there was
20 misunderstanding.

21 Q. Thank you.

22 A. The --

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1 CHAIRMAN OBERMAN: Mr. Johnson, there is
2 no pending question, please.

3 THE WITNESS: There's what?

4 CHAIRMAN OBERMAN: There is no pending
5 question. You answered the question.

6 MS. AMUNSON: Thank you.

7 BY MS. AMUNSON:

8 Q. And you just said that the route was
9 138 miles, correct?

10 A. Yes.

11 Q. And so, if my math is correct, CSX was
12 demanding about \$8 million a mile; is that correct?

13 A. Give me a calculator -- if I can pull out
14 my phone, I can do the math. I'm not going to do
15 math here on the stand, but I'm sure you've done it
16 so -- I mean, that's kind of self-explanatory.

17 Q. And in your position as the senior vice
18 president responsible for CSX's infrastructure, how
19 does \$8 million per mile compare to the amount that
20 CSX itself spends on its infrastructure on its
21 21,000-mile network --

22 A. Okay. I know what I spend per mile for a

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1 capital basis.

2 I would -- should that be confidential,
3 Ray? It's not industry-wide knowledge of what I
4 spend per mile for capital maintenance compared to
5 other railroads or Amtrak's --

6 MR. ATKINS: So it sounds like --
7 Mr. Johnson, to answer that question, do you need
8 to discuss highly confidential CSX information?

9 THE WITNESS: Absolutely.

10 MR. ATKINS: So unless Amtrak wants to
11 withdraw the question, Chairman, I think we have to
12 move the hearing into the highly confidential
13 forum.

14 CHAIRMAN OBERMAN: Let me --

15 MS. AMUNSON: I'll try to rephrase the
16 question, if that's okay, Mr. Chair.

17 CHAIRMAN OBERMAN: Yes, go ahead. Well,
18 let me just see if I can help, but I don't want to
19 step on your question, Jessie.

20 Can you answer the question as to whether
21 CSX spends more or less than 8 million a mile
22 without going into confidential information?

1 THE WITNESS: I would answer -- if I
2 answered that question without going into
3 confidential information, I would tell you that the
4 NO&M subdivision, the route from Mobile to
5 Montgomery cost me 460 percent more per mile to
6 maintain over the last 15 years as compared to the
7 entire rest of -- the average for the entire rest
8 of my network.

9 CHAIRMAN OBERMAN: Jessie, feel free to go
10 ahead. If you want to go into a breakout room, we
11 will, if you need to pursue it. So please proceed.

12 BY MS. AMUNSON:

13 Q. I will just ask -- you just said -- and
14 that was for maintenance, not for new
15 infrastructure; is that correct?

16 A. That is for both.

17 Q. So if I represent to you -- and I'm happy
18 to show you the transcript, if you would like to
19 see it, that Mr. Foote told this panel -- told this
20 board in the hearing last month that CSX spends
21 \$2 billion a year in capital investments on CSX's
22 railroad infrastructure, does that sound correct to

1 you?

2 A. Yeah, our capital plan is approximately
3 2-point [sic] billion.

4 Q. Okay. So CSX demanded \$1.1 billion in
5 public money for this 138-mile stretch. But CSX
6 itself spends \$2 billion of its own private money
7 every year on its own 21,000-mile network; is that
8 correct?

9 A. That's correct.

10 Q. I'm going to show you your joint statement
11 in this case.

12 MS. AMUNSON: Mr. Peterson, if you could
13 bring up Joint Exhibit 23A.

14 BY MS. AMUNSON:

15 Q. Mr. Johnson, do you recognize this as your
16 joint verified statement?

17 A. Yes. I guess it's okay for me to refer to
18 the copy I have of my statement.

19 Q. Yes, that's fine, sir.

20 A. Okay.

21 Q. I would like to direct your attention to
22 page 5 of your verified statement.

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1 A. Absolutely.

2 Q. And I think it's about midway through you
3 say that traffic volume increase on the Gulf Coast
4 line, quote, has left freight operations on the
5 route very different from that which Amtrak
6 encountered nearly two decades ago.

7 A. I'm still -- you said about middle ways?

8 Q. Sorry. It's the last line of the
9 paragraph -- the first paragraph.

10 A. Okay. I see it.

11 Q. Okay. Isn't it true that CSX was actually
12 operating far more freight trains per day when the
13 Gulf Coast Limited and the Sunset Limited were
14 running in 1996 and 1997 than it is today?

15 A. Give me one second to read the sentence,
16 please.

17 Q. Sure.

18 A. So you mentioned '95 and '96. I wouldn't
19 know what the train counts were. 2005 and 2006,
20 what I can tell you is that the volume of business
21 has grown on the NO&M sub approximately 20 percent
22 in the last -- since the 2004 to 2006 time frame,

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1 our business has grown 20 percent so -- on the
2 line.

3 Q. How about the number of trains? Those
4 have gone down, correct?

5 A. I would tell you that -- I don't have the
6 number of trains that operated in front of me to be
7 able to be able to tell you definitively. I will
8 tell you the business has grown and we have
9 accommodated growth on our existing trains that are
10 on this territory.

11 Q. And if I were to represent to you -- and
12 I'm happy to show you the exhibit if you would
13 prefer -- that CSX reported that it was running an
14 average of 20 trains per day in 1996 and 1997 when
15 Amtrak's Sunset Limited and Gulf Coast Limited were
16 both running on this same line, is that more than
17 the amount of freight trains that are running on
18 the line today?

19 A. Well, yes. 26 is more than is running on
20 the line today.

21 CHAIRMAN OBERMAN: I'm sorry, Jessie. I
22 just want to hear those numbers. Did you say 26

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1 trains in 1996?

2 MS. AMUNSON: No, sir. 20 trains in 1996.

3 CHAIRMAN OBERMAN: I'm sorry. Okay.

4 Because I thought Mr. Johnson answered 26.

5 THE WITNESS: That's what I heard, but I
6 will tell you that 20 trains is -- as far as
7 through trains, so I'm not sure -- look, I don't
8 know where this '95 to '96 number came from, and
9 so -- as I've testified to already, it's eight to
10 ten through trains a day. So somebody can do the
11 math. It is one to three coal trains per day. It
12 is six to seven locals across the property per day.

13 So I'm not sure -- I don't know if that
14 included the locals in '95 or '96. Again, I
15 started with CSX June 1st of 2001. So if you've
16 got the data points and the train symbols that
17 you're able to provide or put up here that I can
18 verify if they're through trains and local trains,
19 I can answer that question. But if not, I have to
20 say that I can't say that there are more trains or
21 less trains without seeing the data.

22 BY MS. AMUNSON:

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1 Q. Okay. And if I told you that CSX itself
2 reported that it was 20 through trains per day in
3 1996 and 1997, and CSX is today running just eight
4 through trains per day, eight is less than 20,
5 correct?

6 A. Now you're talking about through trains.
7 Okay. So eight to ten through trains a day -- yes,
8 eight to ten is less than 20.

9 Q. Thank you. You also state at page 5 that
10 CSX expects the demand for freight service to
11 steadily increase in coming years. Do you see
12 that?

13 A. No. Where are you talking about on the
14 page? I can read the whole page, but if you'll
15 point me to where it's at, I'll look at it.

16 Q. Sure. It is --

17 MS. AMUNSON: Mr. Peterson, are you able
18 to highlight that?

19 THE WITNESS: I see it.

20 BY MS. AMUNSON:

21 Q. Okay. Sorry about that. I thought we had
22 it prehighlighted.

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1 A. Yeah, I see it. It says -- I want to make
2 sure I'm looking at the exact sentence that you
3 mentioned. It says indeed, CSXT and Norfolk
4 Southern Railroad (NSR) expect the demand for
5 freight service to steadily increase in
6 coming years.

7 Q. But isn't it true that the demand for
8 freight service is decreasing?

9 A. No. I just testified -- and maybe -- I'm
10 going to restate it in case you didn't hear me the
11 last time -- there's been a 20 percent increase in
12 the volume on this line in the last -- over the
13 last 15 years. So I don't know -- I could do the
14 math, but again, I don't have a calculator here.
15 That's 1-point-something percent probably on an
16 annualized basis.

17 Q. And where would I find that information in
18 the record, sir?

19 A. Again, I haven't read all of the record.
20 I think that -- as we talked about earlier, and I
21 think -- I know -- when I think Chairman Oberman
22 asked that question, and it was, hey, you know,

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1 potentially Hannah Rosse will be able to pinpoint
2 or to clarify that information for you.

3 Q. So if I told you that it has been reported
4 that revenue ton miles have decreased 11 percent
5 between 2006 and 2019, would you agree with that
6 statement?

7 A. No. Well, would I agree with what -- can
8 you repeat that, please?

9 Q. Revenue ton miles have decreased
10 11 percent between 2006 and 2019.

11 A. On the NO&M subdivision or the whole CSX?

12 Q. For freight service.

13 A. On the -- freight service on the NO&M
14 subdivision or freight service on CSX?

15 Q. Freight service in general, sir.

16 A. That -- again, as previous testimony, if
17 you look at the decline in coal traffic, which is
18 very high revenue ton miles, yeah, I would say
19 overall at CSX that could -- I'm not going to agree
20 with -- I don't have the data in front of me; I'm
21 not going to agree with the percentage, but I would
22 definitely say there's been a decrease. But I

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1 would tell you there's been an increase -- again --
2 well, it's different talking about averages for
3 whole CSX versus talking about where Amtrak wants
4 to run, which is the NO&M subdivision so -- and I
5 thought that's what this was about, the NO&M sub.

6 Q. But to the best of your knowledge, no
7 information about this 15 percent increase on the
8 NO&M subdivision was provided to Amtrak in this
9 case; is that correct?

10 A. I'm not aware of it.

11 Q. And your statement does not actually cite
12 or rely on any such data or evidence; is that
13 correct?

14 A. That -- well, as far as the business is
15 growing, yeah, the business is growing, so if you
16 want to confer [sic] that statement where we talk
17 about the growth of the business, you know -- but I
18 did not -- there is no chart in here, there is no
19 numbers that I put in here that shows a 15 percent
20 increase.

21 Q. So when you state that CSXT expects the
22 demand for freight service to steadily increase in

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1 coming years, there is nothing cited in this
2 statement to support that, correct?

3 A. I would tell you that there's a lot of
4 opportunity down here. Again, there's opportunity
5 in New Orleans that I'm not -- again --

6 Q. Sir --

7 A. -- we can go to highly confidential --

8 Q. Again --

9 A. Okay.

10 Q. -- your counsel will have an opportunity
11 to --

12 A. Not to my knowledge.

13 Q. -- redirect. I simply asked if there was
14 anything cited or relied on in your statement in
15 connection with that particular quote.

16 A. There's no revenue or no growth that I've
17 submitted.

18 Q. Thank you. Mr. Johnson, we talked a lot
19 about the movable bridges during your testimony.
20 Do you recall that?

21 A. Yes.

22 Q. And you testified, I believe, that three

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1 of the bridges now have remote operation, at least
2 on a trial period; is that right?

3 A. That's correct.

4 Q. And one of the bridges, which is not
5 actually a bridge over which Amtrak will traverse,
6 is also in a pilot project for scheduled opening
7 times; is that correct?

8 A. That's correct.

9 Q. Do you know whether the RTC model in this
10 case took any of that remote operation or pilot
11 project into account in its recommendations for
12 infrastructure improvements along the Gulf Coast
13 line?

14 A. You will have to ask modelers. I do not
15 have any knowledge.

16 Q. Are you familiar with the Northeast
17 corridor over which Amtrak runs?

18 A. I'm somewhat familiar with the Northeast
19 corridor, yes.

20 Q. Are you aware that the Northeast corridor
21 accommodates approximately 2,000 trains per day?

22 A. I don't know the exact number, but there's

1 a lot of trains.

2 Q. Are you aware that the Northeast corridor
3 has far more movable bridges along the corridor
4 then does the Gulf Coast corridor?

5 A. I would -- I'm not aware that they have
6 that many drawbridges in as condensed of an area on
7 single main because, to my knowledge -- and maybe
8 I'm wrong and please tell me if I am -- I don't
9 know -- the Northeast corridor, I don't know where
10 it's single track main line with sidings. I think
11 it's double, triple. I mean, maybe I'm wrong.
12 Maybe there is a single track over drawbridges, so
13 correct me if I'm wrong, but that's my
14 understanding.

15 Q. Are you aware there is a 60-mile stretch
16 of the Northeast corridor between New Haven and
17 Westerly where there are five bridges with average
18 daily frequencies of 12 to 19 openings per day?

19 A. No. Again, no. And, again, I would --
20 yeah, no, I'm not aware.

21 Q. And you said that the Gulf Coast is unique
22 because it's primarily single tracked, correct?

1 A. That's one of the characteristic -- it's
2 one of the characteristics, but that characteristic
3 is important because of the other attributes, such
4 as drawbridges and all of the customers and the
5 density of the customers. That's what makes single
6 track so unique.

7 We have other areas -- we have lots of
8 areas that are single-track railroads across our
9 network. We're by far not a double-track
10 railroad -- we're not the Northeast corridor with
11 triple and quadruple track. We're -- got a lot of
12 single track.

13 Q. And Amtrak operates over a number of those
14 single-track --

15 A. Yes.

16 Q. -- correct?

17 A. Absolutely. The primary -- I mean, Amtrak
18 operates up and down our I-95 corridor, which is
19 single and double. You have about 8 miles of
20 single and then you have about 8 to 10 miles of
21 double track, 8 miles of single, 8 to 10 miles of
22 double. And you don't have the density of

1 drawbridges.

2 And unfortunately, most of our industries
3 along that I-95 corridor from Richmond, Virginia,
4 to Jacksonville, Florida, which is the heaviest
5 area, is really off of the main line on the
6 branches.

7 Q. And are you aware of the statistics about
8 freight train delays and decreases in freight train
9 speeds that were reported by the RTC model?

10 A. Yes, I'm aware that -- yes, I'm aware of
11 the speed and the impacts that was reported.

12 Q. And how did those minutes of delay and
13 freight train speeds compare to the other
14 single-tracked CSX lines over which Amtrak
15 operates?

16 A. Let me -- I want to make sure I'm
17 understanding the question. You're asking me how
18 the decrease in velocity of trains with potential
19 new service on the Gulf Coast compares to decrease
20 in potential -- any potential decrease on other
21 areas that you all operate on; am I correct?

22 Q. Let me ask it more precisely.

1 A. Okay.

2 Q. So, for example, one of the statistics
3 that was reported is that the introduction of
4 Amtrak service will cause freight train speeds to
5 decrease from 14.8 miles per hour to 14.1 miles per
6 hour.

7 Do freight trains on the other
8 single-tracked lines on which Amtrak operates
9 generally operate at 14.1 miles per hour?

10 A. It varies across our network and it varies
11 by type of train, right, so a lot of our others,
12 even on single track, we have intermodal trains.
13 Intermodal trains have a higher velocity. They're
14 not -- you know, they're not involved in yards.
15 They start at a terminal and, you know, go all the
16 way to Chicago, for instance, out of Atlanta, or
17 what the case may be.

18 So there is no way to compare that unless
19 you want me to take the data -- unless you have the
20 data that we can look at and analyze a specific
21 line. But in general, it is nowhere close to being
22 a comparison.

1 You've got to know what the industry is,
2 what's the density of the track, what's the speed
3 of the track. Some of our single mains are slower
4 speed than others. So there's so many variables
5 that play into velocity.

6 It's also the distance between the yard
7 tracks. So, you know, you've got to look at each
8 one of them, and, you know, I didn't -- you know,
9 maybe you all have that info, and if you share it,
10 I can comment on it.

11 Q. Do you know what the average minutes per
12 delay per 100 train miles are for freight trains in
13 general across CSX's network?

14 A. Average minutes of delay per -- no, I
15 don't know that. I don't know that number.

16 Q. Okay. And so you wouldn't know how the
17 average minutes per delay of -- per 100 train miles
18 on this line compares to other lines on which
19 Amtrak operates; is that correct?

20 A. See, I'm not --

21 MR. ATKINS: Chairman, I object. Asked
22 and answered. He's already indicated he doesn't

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1 have that information.

2 A. Yeah, you're throwing metrics out there.

3 We never --

4 CHAIRMAN OBERMAN: Hold on. Objection
5 overruled. This is cross-examination.

6 A. I would say you're throwing metrics out
7 there that -- maybe it's an Amtrak metric you're
8 trying to apply to freight railroads. I would say
9 we have metrics on our railroad and, you know, we
10 track things and so there is a way you can compare
11 things but -- you know, so do I know what that
12 number is? No. So I've already said I couldn't
13 answer that question because I don't have that
14 number, but that's not to say that the question
15 couldn't be answered because, again, you have to
16 look at all aspects of the operation. If you think
17 it's just because Amtrak and freight trains run on
18 the same track, you've got to know what the speed
19 of the trains are. Is it single track? Is it dark
20 territory? Are there multiple yards? Are there
21 multiple industry? Are there yard limits that
22 trains have to go through?

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1 So it's not as simple as what it may be
2 portrayed to be.

3 Q. Thank you, sir. And I will just represent
4 that the metric that I was asking you about was not
5 an Amtrak metric, but is, in fact, a metric that's
6 reported in your RTC model.

7 If we can go back to page 5 of your
8 verified statement.

9 A. Okay.

10 Q. And you say there that CSX's customers
11 expect and need reliable common carrier service
12 from freight railroads. Do you see that?

13 A. I'm looking.

14 Q. It's the very first sentence of the second
15 paragraph.

16 A. Yes. CSX and Norfolk Southern's
17 customers -- yes, I see that.

18 Q. Are you aware that CSX's president
19 received a letter from the board in October of 2021
20 inquiring about the steady stream of complaints the
21 board was receiving from CSX's customers about
22 CSX's poor performance in delivering reliable

1 common carrier service?

2 A. Yes. And I assume you're aware of our
3 response. And I can expound on that, if you would
4 like me to.

5 Q. No need to. Thank you, sir.

6 The infrastructure projects that were
7 recommended by the RTC report were designed to
8 insure that CSX can maintain its current
9 performance, correct?

10 A. That's my understanding, but you can ask
11 the RTC -- the ones that run the RTC to verify
12 that. My main thing, as I stated to you earlier,
13 or stated in earlier testimony, is that, you know,
14 I reviewed the projects to make sure, after they
15 were vetted by whoever, that they were truly
16 buildable.

17 Again, I take significant interest in this
18 territory because -- the reason I'm involved in
19 that way -- I take significant interest in this
20 territory because, again, it's 460 percent more
21 expensive and, after it's built the first time,
22 regardless of who pays for it, I dang well do not

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1 want to build one single foot of track that's not
2 needed to operate this railroad or our freight
3 service or Amtrak's service because every year I'm
4 down there replacing 12 to 30 miles, 50 miles of
5 railroad that is blown out --

6 Q. Thank you, sir.

7 A. -- by tropical storms.

8 CHAIRMAN OBERMAN: Mr. Johnson, I'm going
9 to caution you again. Please listen to the
10 question and try to answer. The hour is late. And
11 there's no -- if there's a need for counsel to
12 bring out additional points, he'll have that
13 opportunity.

14 THE WITNESS: Understood.

15 BY MS. AMUNSON:

16 Q. So I would like to take you to page 12 of
17 your statement where you're talking about those
18 infrastructure projects. And you say that the
19 infrastructure identified by the RTC model --

20 A. One second. Let me --

21 Q. I'm sorry. I'm sorry.

22 A. Let me get there, please.

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1 Q. Please get there. I apologize.

2 A. Okay. Where at on this page?

3 Q. Let's see. It is about --

4 A. Page 11 or page 12?

5 Q. Page 12.

6 A. Okay.

7 Q. And you say that the infrastructure
8 identified by the RTC model is a reasonable and
9 cost-effective means of mitigating these impacts
10 and insuring as close to status quo operational
11 flexibility as possible when the proposed Gulf
12 Coast passenger service begins. Do you see that?

13 A. No, I don't. On page 12?

14 Q. Let me see. Oh, my fault. It's actually
15 on page 9 of your statement. The exhibit stamp is
16 page 12. I apologize.

17 A. Okay. Hold on.

18 Okay. I'm on page 9. Okay. I see a
19 middle of a sentence, so can I turn back to page 8
20 so I can read --

21 Q. Of course.

22 A. -- the whole sentence?

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1 Q. Of course.

2 A. Okay. I am ready now.

3 Q. Okay. So which -- you're familiar with
4 the 14 projects that were identified by the RTC
5 model, correct?

6 A. Yes, I am familiar. I can't name them off
7 the top of my head, but, yes, I'm familiar.

8 Q. Well -- so when you say that they are
9 cost-effective means of mitigating the impacts and
10 insuring status quo operational flexibility, can
11 you tell me which of the 14 projects is meant to
12 mitigate the extra 19 minutes of delay the RTC
13 model says that the introduction of passenger
14 service will cause?

15 A. Rephrase -- or ask that question again.
16 I'm sorry.

17 Q. Sure. So you say that these are -- that
18 the projects that were recommended are a
19 cost-effective means of mitigating impacts and
20 insuring status quo operational flexibility.

21 So I'm asking you which of the 14 projects
22 that were identified is meant to mitigate the extra

1 19 minutes of delay that the RTC model says that
2 introduction of passenger services will cause.

3 A. I think that's -- you know, as far as the
4 individual effect of different projects, I'm not
5 involved in that. Again, the people who run the
6 model should be able to answer that question.

7 Q. And so you also wouldn't know which of the
8 14 projects is meant to mitigate the 14 -- the
9 reduction in freight train speed from 14.8 to 14.1
10 miles per hour?

11 A. I think the -- it's my understanding that
12 11 of the 14 projects are needed to mitigate the
13 impact on freight speed at this time, and the other
14 three projects were for potential growth on the
15 line. That's my understanding.

16 Q. And so you wouldn't know which exactly of
17 the 14 projects is meant to mitigate having to
18 recrew one more time every three days, which is
19 what the RTC model says the introduction of
20 passenger service will cause?

21 A. I would say -- no, I would not.

22 Q. So there's no -- you don't know sort of

1 which projects are tied to which impacts with
2 respect to the RTC model, correct?

3 A. I would tell you that 11 of the 14
4 projects are tied to the -- mitigating the impact,
5 the substantial impact to the freight operation.
6 Primarily a lot of the projects were to mitigate a
7 45 percent impact, negative impact, to our locals
8 that serve these communities and the public here on
9 this line.

10 Q. So it's your position that 11 of those
11 projects have to be constructed before Amtrak
12 service can get started?

13 A. It's my belief that this is what the model
14 showed was necessary. But as in the past, there's
15 all kinds of ways to skin a cat, solve the problem,
16 and this was the solution set here. But as in
17 previous things, when this has happened, you sit
18 down with -- all the parties sit down together --

19 Q. Thank you, sir.

20 A. -- and they agree to what changes need to
21 be made to -- that both can live with.

22 Q. Thank you. I believe you've answered.

1 Can you tell me, then, all 14 projects are
2 what are required in order to maintain the status
3 quo of operational flexibility according to your
4 statement; is that right?

5 A. Through -- for 2039, yes.

6 Q. Thank you. And I believe you testified on
7 direct that CSX is not planning on investing in
8 infrastructure along this line at all; is that
9 correct?

10 A. I would clarify that, that we're not
11 planning on investing in additional infrastructure.
12 But as you are well aware, we have a very strong
13 infrastructure replacement plan, work on bridges
14 and other things on this line.

15 Q. So in recommending these 14 projects, the
16 RTC model didn't consider whether CSX could operate
17 more efficiently, correct?

18 A. You would have to ask the RTC modelers
19 that question.

20 Q. So the projects, the 14 projects, don't
21 differentiate between projects that would mitigate
22 serious adverse impacts on CSX and projects that

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1 would just insure the status quo for CSX; is that
2 correct?

3 A. You'll have to ask the modelers that
4 question.

5 Q. Amtrak runs on CSX the Empire line; is
6 that right?

7 A. I'm sorry. What was that question?

8 Q. I was asking about the Empire line that
9 Amtrak runs on CSX track.

10 A. That's -- is that our old Hudson
11 subdivision?

12 Q. Yes. Correct.

13 A. Okay. Yes.

14 Q. Has Amtrak's on-time performance improved
15 along the Empire line in recent years? Are you
16 aware?

17 A. Well, I would say you know that better
18 than me, so, no, I'm not aware. I don't track that
19 over there that you own and maintain and dispatch.

20 Q. If I represented to you that Amtrak's
21 performance has represented on the Empire line --
22 withdrawn.

1 Are you aware that CSX took out about
2 eight sidings on the Empire line last year?

3 A. So you're not talking about the Hudson
4 line? You're not talking about the Hudson line?
5 The Hudson line is owned and operated -- you lease
6 it from us. Are you talking about our Mohawk
7 subdivision? Our Selkirk subdivision? Are you
8 talking about going from Albany to Syracuse?

9 Q. Albany to Buffalo, sir.

10 A. Okay. That's Albany, then Syracuse, then
11 Buffalo. Yes, I'm well aware that we took out
12 sidings that were predominately -- that were
13 predominantly -- they were called sidings. We did
14 not meet or pass trains there. In fact, the
15 overwhelming of those sidings were used to store
16 cars -- long-term storage of cars. Cars sat there,
17 some of them, for two-plus years because they
18 weren't needed.

19 Q. And so if I represented to you that
20 Amtrak's on-time performance has improved along
21 that line in recent years, it is not because of new
22 infrastructure, correct?

1 A. I would -- no, there's not been new
2 infrastructure. We built some new infrastructure
3 in Buffalo. We redid some Buffalo things. I don't
4 know what time frame that you're speaking to, but
5 in and around Selkirk we've actually built some
6 infrastructure there. We've got some bypass tracks
7 and stuff there around Selkirk.

8 But I'm not sure -- you said Selkirk, but
9 I believe you don't actually run in that area,
10 although you said it. I believe you come on at
11 CP-169 west of Syracuse. And so -- but we have
12 built additional infrastructure in locations to
13 improve the fluidity in that area. We've also, as
14 you're well aware, I'm sure, of we had a rail issue
15 on the Mohawk subdivision; we're actually rail
16 testing the Mohawk subdivision every 31 days.

17 Q. Thank you.

18 A. And we have relaid that rail and so, yes,
19 we have invested in that infrastructure. We've
20 laid probably 70 miles of new rail, which takes off
21 the need for welders, for people --

22 Q. Thank you, sir.

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1 A. -- to change the rail --

2 Q. That's beyond the scope of my question.

3 A. Well, you asked me if I added
4 infrastructure, and I'm telling you what I did.

5 Q. No. My question was that -- my question
6 was that building new infrastructure is not the
7 only way to achieve better on-time performance for
8 Amtrak; is that correct?

9 A. No. You can raise -- spend capital
10 dollars and improve infrastructure as well.

11 Q. But it's not the only way, correct?

12 A. There are multiple ways to improve
13 Amtrak -- any. There's multiple -- I'll speak to
14 it in train, because I don't work for Amtrak.
15 There are multiple ways to improve train speed
16 across a given area.

17 Q. And it's not always adding new
18 infrastructure, correct?

19 A. No. You've got to look at -- each
20 situation is unique.

21 Q. Thank you. Mr. Johnson, Amtrak used to
22 have a lay-over track in CSX's Choctaw Yard for --

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1 MEMBER FUCHS: I'm sorry to take you out
2 of the flow and interrupt you, Mr. Johnson. I
3 just -- when you were talking about the previous
4 train, you were talking about what's known as the
5 Niagara Falls service?

6 MS. AMUNSON: I was -- yes, exactly. Yes.

7 MEMBER FUCHS: Okay. And were you talking
8 about -- when you were making your points, were you
9 talking about improvement for the service overall
10 or the improvement over CSX where CSX is listed as
11 the host railroad?

12 MS. AMUNSON: Where CSX is listed as the
13 host railroad.

14 MEMBER FUCHS: Thank you. I just wanted
15 to -- because there was a little bit -- make sure
16 which train we were talking about. I appreciate
17 it.

18 THE WITNESS: Well, can I -- well, I mean,
19 I've already answered but I guess --

20 CHAIRMAN OBERMAN: Mr. Johnson --

21 THE WITNESS: Okay.

22 CHAIRMAN OBERMAN: -- there is no question

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1 pending.

2 THE WITNESS: Okay.

3 CHAIRMAN OBERMAN: If a question needs to
4 be asked, if it isn't asked by Jessie, it will be
5 asked by Ray.

6 THE WITNESS: Thank you.

7 CHAIRMAN OBERMAN: Or perhaps me.

8 BY MS. AMUNSON:

9 Q. So, Mr. Johnson, Amtrak used to have a
10 lay-over track in CSX's Choctaw Yard for the Gulf
11 Coast Limited; is that correct?

12 A. Not to my knowledge. I'm not aware.

13 Q. You're not aware of a track that was
14 called the Amtrak track or the west stub track
15 within Choctaw Yard?

16 A. I'm not aware. Again, I testified earlier
17 the only thing I'm aware of is Amtrak had a permit
18 or a lease to be able to Y trains for the 1984
19 World Fair in New Orleans.

20 Q. So you're not aware that the Gulf Coast
21 Limited also laid over at Choctaw Yard in 1996 to
22 1997 on a track called the Amtrak track?

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1 A. No. I mean, I researched the permits and
2 the only one that I seen that wasn't deleted or
3 gone was that.

4 Q. And you are the vice president for
5 infrastructure for CSX, correct?

6 A. No. I'm the senior vice president of
7 engineering and mechanical --

8 Q. Apologies.

9 A. -- for CSXT.

10 Q. But you're in charge of CSX's
11 infrastructure, correct?

12 A. I am in charge of CSX infrastructure and
13 engineering department.

14 Q. And CSX -- are you aware that CSX took out
15 the west stub track in 2019?

16 A. I spoke to it earlier in my testimony. I
17 had that exact question, I believe, and I'm not
18 aware of any in the last couple of years. There
19 have been tracks that's been removed, and I'm sure
20 you've seen the video where -- the footage there of
21 Choctaw Yard where the yard was there that we
22 talked about earlier.

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1 Q. Yes, I did hear your testimony, and you
2 said there was no removal of track in 2020 or 2021.
3 Are you aware of removal of track in 2019, sir?

4 A. I'm aware of removal of track, but I can't
5 pinpoint a year.

6 Q. So if Amtrak needs a lay-over track at
7 Choctaw Yard, Amtrak will have to pay for a new
8 track, correct?

9 A. It's CSX infrastructure so I'm not --
10 yeah, I mean, it's -- if you want to use CSX
11 infrastructure, then there's, I'm sure, things in
12 our contract to provide for the compensation of
13 such.

14 Q. So Amtrak would have to rebuild the track
15 that was taken out?

16 A. Well, I think you proposed to use one of
17 our original tracks. So tell me what you proposed.
18 Did you propose to build a track or did you propose
19 to use one of the existing? It's two different
20 things.

21 If you're going to build your own
22 existing, then that's different than if you're

1 proposing that the board demand that we lease you
2 the tracks that we switch cars on.

3 Q. Thank you, sir. I think I'll ask the
4 questions. But when Amtrak previously operated the
5 Sunset Limited, Amtrak funded certain
6 infrastructure improvements for service, correct?

7 A. I'm unaware of that.

8 Q. Amtrak funded improvements at Gentilly
9 Yard, correct?

10 A. I'm unaware of that.

11 Q. Amtrak installed an automatic braking
12 system on the southbound main at Gentilly Yard,
13 correct?

14 A. An automatic brake -- well --

15 Q. An ABS, yep.

16 A. An automatic braking system? I'm not --
17 what is an -- can you tell me what an automatic
18 braking system --

19 Q. An automatic block system, I apologize,
20 sir.

21 A. Oh. A signal system?

22 Q. An AB -- yep.

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1 A. I'm not sure who paid for any signal
2 aspect or signal system, you know, however
3 many years ago. I'm not aware of that funding.

4 Q. And Amtrak paid for track work that was
5 required to increase speeds at Gentilly Yard; is
6 that correct?

7 A. I'm not aware of that.

8 Q. If I represent to you that Amtrak did, in
9 fact, pay for those improvements, you're aware that
10 Amtrak, of course, is not currently operating over
11 CSX line on the Gulf Coast, correct?

12 A. Yeah. That's why you're here.

13 Q. And CSX is still benefiting from those
14 improvements that Amtrak paid for, correct?

15 A. I wouldn't say we're benefiting. I'm sure
16 that, just as you are here, you're very judicial --
17 Amtrak is very judicial in spending taxpayer funds
18 that fund their operations and their capital, and
19 they would not have paid something that wasn't --
20 that's just for the sole benefit of the railroads,
21 you know.

22 Q. Mr. Johnson, within the past week or so,

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1 did CSX run a passenger train on the Gulf Coast
2 line?

3 A. We run -- I was actually on a train. It
4 was an office car train, so I guess you could term
5 that as a passenger train. But, yes, we ran an
6 office car train over that line.

7 Q. And did you park the train at the old
8 Amtrak stations in downtown Mobile for a few hours?

9 A. Yes. We were in Mobile for a couple of
10 hours across this line.

11 Q. And did the port shut down during that
12 time?

13 A. Did the port shut down? No, the port did
14 not shut down.

15 Q. And was there any meltdown in CSX's
16 freight transportation during that time?

17 A. There were actually lots of issues.
18 That's why we sat for so long. First off, coming
19 into Mobile, the local at Theodore, I was stopped
20 for -- I think 35 minutes out on a single main
21 south of Mobile because the industrial local that
22 goes into Theodore branch had to clear the main.

1 That's what I talked about earlier where they had
2 to walk back and line the switches and get out of
3 our way.

4 At that time, we were all scheduled, so
5 hence there were trains that had to -- that we got
6 into the window of that had to leave out of Sibert
7 Yard to go north. And because we missed our window
8 and was delayed, we took additional delay there at
9 the passenger station longer than what was planned.

10 Q. CSX has acknowledged that there is
11 sufficient capacity for the Gulf Coast service to
12 operate, correct?

13 A. We've acknowledged that it's an impact
14 issue that there is capacity, and it's about the
15 impact and the time that's required to get from one
16 end to the other, from the three hour and 36
17 minutes versus a five- to six-hour schedule.

18 Q. And CSX has acknowledged that Gulf Coast
19 service can be added now without causing the
20 corridor to grind to a halt, correct?

21 A. Without causing the what to grind to a
22 halt?

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1 Q. Without causing the corridor to grind to a
2 halt.

3 A. Yes, it can be added now, and we can run a
4 five- to six-hour schedule and we won't -- should
5 not grind to a halt, potentially.

6 Q. Are you aware that the Gulf Coast Limited
7 that operated in '96 and '97 actually operated on a
8 quicker trip time than what is proposed for the
9 Gulf Coast service now?

10 A. I am not aware of the schedule in '95 or
11 '96. I'm aware, you know, of -- I mean, I'm more
12 aware of the ones in the 2000s so...

13 MS. AMUNSON: If you can just give me a
14 moment, Mr. Chairman.

15 CHAIRMAN OBERMAN: Yes, go ahead.

16 MS. AMUNSON: Thank you, Mr. Chair. I
17 have concluded the cross-examination of this
18 witness.

19 CHAIRMAN OBERMAN: Ray, I have two or
20 three questions which I think might be more
21 efficient for me to ask, and then you can do your
22 redirect.

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1 MR. ATKINS: No problem, Chairman Oberman.

2 CHAIRMAN OBERMAN: Jessie had asked you,
3 Mr. Johnson, about the number of -- difference in
4 number of through trains going back to 2001 to
5 today, or I guess before 2001. But there wasn't a
6 follow-up that I heard. Is there a different
7 number of yard trains that are operating on this
8 line between Mobile and New Orleans than there was
9 in 2001, more or less or the same? Do you know?

10 THE WITNESS: I would have to -- I didn't
11 supply the 2001 data for the through trains. If
12 she can supply that, I can, you know, compare
13 numbers.

14 CHAIRMAN OBERMAN: Well, I'm only asking
15 if you know.

16 THE WITNESS: No, I do not, sir.

17 CHAIRMAN OBERMAN: All right. And
18 accepting her questioning that there were 20-some
19 through trains back then and there are now, as I
20 think you confirmed, eight to ten through trains
21 per day, but more car loads -- is that right?

22 THE WITNESS: That's correct.

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1 CHAIRMAN OBERMAN: So there are more car
2 loads on fewer trains?

3 THE WITNESS: Yeah, and I spoke -- when I
4 spoke about more car loads, again, I'm not sure
5 what date she was using for the data that she had.
6 I was specific that over the last, say, 15 years,
7 you know, our business has increased 20 percent
8 really from 2004 to 2006 to 2018, 2020 -- our
9 business has increased 20 percent over that period
10 of -- what is it -- 14- to 16-year period. So with
11 the datas outside of that, I can't speak to any --

12 CHAIRMAN OBERMAN: Well, within the period
13 you're talking about, are there more cars and fewer
14 trains?

15 THE WITNESS: That's correct.

16 CHAIRMAN OBERMAN: Are the trains -- are
17 you running trains longer now -- are any of your
18 trains on that line longer now than will fit into
19 the sidings on that line?

20 THE WITNESS: Yes.

21 CHAIRMAN OBERMAN: When that happens, does
22 all the traffic have to stop until that train goes

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1 from start to finish? What happens?

2 THE WITNESS: No. What we do today in
3 operations -- so at CSX -- and this is our policy
4 and our goal and our train plans -- we run up to
5 12,000-foot freight trains and we run up to
6 14,000-foot intermodal trains.

7 12,000-foot -- there are no intermodal
8 trains on this NO&M subdivision; it is all freight.
9 So what we'll do is on this line, a typical
10 clearing train is limited to 8500 foot, and we will
11 run a -- what's called a nonclearing train in one
12 direction. So let's say today is -- I don't even
13 know what day it is -- Tuesday -- today is Tuesday,
14 and, you know, coming out of Mobile, we run a
15 couple of 10,000 -- let's say they're 10,000-foot
16 trains. They won't clear in all of the sidings
17 or -- you know, in all the areas across this line.
18 And we plan the meets with -- everything coming out
19 of New Orleans will be a clearing train. So they
20 always take the siding and the longer trains stay
21 on the main line.

22 Depending on our interchanges and the

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1 timing of our interchanges in New Orleans,
2 tomorrow, Wednesday, potentially out of New Orleans
3 we'll reverse that and we'll actually run
4 nonclearing 10,000, 11-, up to 12,000-foot trains
5 out of New Orleans towards Mobile and, in reverse,
6 every train coming out of Mobile going to
7 New Orleans will be an 8,500-foot or less train so
8 that we can clear in every siding and it gives us
9 that flexibility to be able to move traffic.

10 CHAIRMAN OBERMAN: How many of the through
11 trains are longer -- 10,000 feet or longer?

12 THE WITNESS: I would tell you on -- you
13 know, there's one or two a day on average.

14 CHAIRMAN OBERMAN: But one or two a day
15 still affects a large number of trains going in the
16 other direction, right?

17 THE WITNESS: It doesn't affect them. The
18 other trains are able to take the sidings and meet
19 and pass. So it doesn't affect them.

20 CHAIRMAN OBERMAN: So are you saying all
21 of the trains going in the opposite direction of
22 the long trains are able to fit into sidings?

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1 THE WITNESS: Yes, sir.

2 CHAIRMAN OBERMAN: All right. Thank you.

3 That was all I had, Ray.

4 Does any other board member have any
5 questions?

6 MEMBER PRIMUS: I have a question.

7 CHAIRMAN OBERMAN: Go ahead, Patrick. Oh,
8 I'm sorry. Robert, did you have a question?

9 MEMBER PRIMUS: Just a couple.

10 Mr. Johnson, you referenced, in talking about the
11 cost of maintaining the line, there's over
12 400 percent, you were saying, compared to the other
13 parts of the network. Is that -- was that correct?

14 THE WITNESS: Yes, sir, about 460 percent
15 over the last 15 years.

16 MEMBER PRIMUS: Okay. Thank you. I just
17 want to be -- you had mentioned specifically the
18 line from -- that portion from Mobile to
19 Montgomery.

20 THE WITNESS: Yes, sir.

21 MEMBER PRIMUS: Is that -- now, what about
22 the Mobile to New Orleans? I mean, does that

1 include that portion as well, or is it only the
2 Montgomery to -- Mobile to Montgomery?

3 THE WITNESS: No, sir. It's -- the
4 460 percent more expensive per -- capital per mile
5 is from Mobile to New Orleans. The rest of the
6 M&M, it falls in with the averages with the rest of
7 our network in total.

8 MEMBER PRIMUS: And my last question is
9 how much of that large percentage is due to the
10 natural disaster and you having to repair those
11 tracks as opposed to any new construction or
12 sidings in those past several years?

13 THE WITNESS: There is a percent -- there
14 is a large percentage, probably more -- probably --
15 you know, if I was handicapping -- I don't have the
16 numbers -- yeah, there's a -- 50 percent or more of
17 that is related. Hence, that's -- I'm sure you
18 heard me say I don't want to build one single foot
19 more railroad than what I've got to rebuild every
20 other year for a hurricane. So, yes, sir, there is
21 a large -- you're absolutely -- your thoughts are
22 right on point.

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1 MEMBER PRIMUS: Okay. I mean, that's
2 just -- I just want to get sort of the
3 clarification of --

4 THE WITNESS: And I would say that it is
5 on the general capital as well. For instance, this
6 line between the -- say, Bay St. Louis into
7 New Orleans, where we always take -- so when the
8 storm surge comes in, it actually will take our
9 track and most times flip it upside down where ties
10 are on top. It will be 30, 40, 50 foot out in the
11 water in Lake Pontchartrain and we have to try to
12 flip it back. So we make sure that we overtimber
13 and we have all good ties, we have it all anchored
14 solid, which is not our standard anywhere else, so
15 that we are able to restore it as economically as
16 we can.

17 MEMBER PRIMUS: Thank you.

18 THE WITNESS: You're welcome.

19 CHAIRMAN OBERMAN: Patrick?

20 MEMBER FUCHS: I want to pause after this
21 question in case it's felt by CSX/NS that this goes
22 beyond clarification, but I do want to understand,

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1 Mr. Johnson, what you mean when you say, you know,
2 you don't want to build more than -- one foot more
3 than you have to.

4 And as you are evaluating infrastructure
5 projects across the CSX network, when you encounter
6 a network delay, is part of your calculus for
7 whether or not to build the infrastructure project
8 a comparison of how much it would cost to make an
9 operational change to mitigate the network delay?

10 THE WITNESS: So I want to make sure I
11 understand. So you're asking if part of the
12 calculation is when we look to expand or make
13 additional infrastructure, is part of -- is
14 changing the operating plan part of that --

15 MEMBER FUCHS: Yeah. So, yeah, yeah. I
16 think that you summarized it but --

17 THE WITNESS: Yeah.

18 MEMBER FUCHS: I can give a hypothetical,
19 but I think you hear where I'm coming from.

20 THE WITNESS: Yeah, absolutely. I'll give
21 you an example to see if this is -- I want to make
22 sure. So our Fitzgerald subdivision, the question

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1 is, can I add infrastructure on the Dothan line to
2 get to Waycross out of Montgomery versus a line
3 that has a tremendous amount of traffic, what we
4 call the Fitzgerald sub, which goes the other way
5 to Waycross?

6 So we do weigh, like, hey, we can build
7 track here, and it may be less costly than building
8 track here on the Fitzgerald sub that has high
9 fields, deep banks, lots of, you know, volume of
10 dirt and other things so...

11 MEMBER FUCHS: So, you know, if you --
12 let's say you have a freight customer that
13 expands -- I'm tracking what you're saying -- and
14 you are going to have more freight traffic on a
15 particular line, and you see that that's going to
16 cause some congestion. So part of your calculus is
17 do I route a different way? Do I run freight
18 trains at a different time? Do I shorten trains to
19 fit in the siding? And compare the cost to CSX
20 versus the comparison of the cost to build
21 infrastructure. That's part of your calculus?

22 THE WITNESS: Yes, sir. When we're

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1 looking at -- yes, we think about any way and every
2 way that, you know, we can serve a customer on a
3 line in order to -- number 1, can we handle it with
4 the existing trains that come through there?

5 When you talk about train plans and
6 changing train schedules, it really affects so much
7 more than just that line, because the train that's
8 leaving Montgomery today, it's for an outbound --
9 that power is for an outbound train in Nashville
10 tomorrow, and two days from now it's for an
11 outbound train in Cincinnati. And so if you make
12 changes and change the schedules, it cascades and
13 you have the potential to change 50 trains for one
14 train. So it's a balancing act of what's the best
15 way to solve -- skin the cat.

16 MEMBER FUCHS: Right. And so when you
17 were thinking about the infrastructure projects in
18 this specific -- on this specific line, and just
19 about whether or not they were good economic value,
20 setting aside who pays for it, did -- was there --
21 are you aware of a comparison between the costs
22 associated with various operational changes versus

1 the costs of the infrastructure? In other words,
2 is it -- I mean, is there a comparison that was
3 made -- to use your language, did CSX assess
4 whether or not there was a cheaper way to skin the
5 cat?

6 THE WITNESS: I think the -- yes, I
7 believe we looked -- the modelers -- and they had
8 various inputs and solutions that they work with.
9 And the challenge really was around the local --
10 the local impact and the times of operation of our
11 customers and really being up against a fence that
12 we can't tell a customer, you've got to go to a
13 24-hour operation because -- you know, in order to
14 spot and service you and when -- if you're a closed
15 gate customer, et cetera. So the real challenge,
16 at least my understanding -- and I'm sure the
17 modelers can expand on it -- was the local service.

18 MEMBER FUCHS: I appreciate it. And I
19 thought, you know, given your expertise in
20 evaluation of infrastructure projects, I thought
21 you were the appropriate person for this question,
22 but I agree that there's obviously a nexus with the

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1 modelers, and I appreciate you providing this
2 information.

3 THE WITNESS: Thank you.

4 CHAIRMAN OBERMAN: Any other board members
5 have questions for Mr. Johnson?

6 MEMBER HEDLUND: I just want to make sure
7 I understand the impact of running two long trains
8 a day. If Amtrak is going north and meets a long
9 train coming south, the only choice is for Amtrak
10 to take the siding because there is no siding long
11 enough for the other train, the long train, to use
12 to allow the Amtrak train to pass it; is that
13 correct?

14 THE WITNESS: Yes, ma'am.

15 MEMBER HEDLUND: Okay. But if Amtrak is
16 going north and there are no long trains then --
17 let me start over.

18 If Amtrak is going north and there is a
19 long train ahead of it, then Amtrak is just going
20 to have to go with the speed of the long train
21 because it can't get -- a long train going north
22 can't get out of the way.

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1 THE WITNESS: That's correct. They would
2 have to -- yes, ma'am.

3 MEMBER HEDLUND: So if you were just
4 looking at this line in a vacuum, setting aside any
5 of the other impacts, there might be an operational
6 way to time the Amtrak trains and long trains to
7 avoid that situation, but I understand that you say
8 that there are a lot of other considerations at
9 play. But there would be an operational fix to
10 this, absent other considerations.

11 THE WITNESS: Yes, ma'am. If we were
12 138-mile railroad, yes, ma'am. If we're 138-mile
13 railroad, you know, you could potentially -- and
14 you hadn't -- yes.

15 MEMBER HEDLUND: Now, the easy case is
16 Amtrak is going north, it's got nothing but short
17 trains in front of it. Those short trains could
18 get out of the way by going into a siding.

19 THE WITNESS: That is -- yes, that's
20 correct.

21 MEMBER HEDLUND: Okay. I just wanted to
22 make sure I understood the implications of the

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1 length of the trains.

2 THE WITNESS: Yes, ma'am.

3 CHAIRMAN OBERMAN: Do you -- Mr. Johnson,
4 do you know -- or did you have any discussion with
5 the modelers about running a model where all of the
6 freight trains were short enough to fit in the
7 existing sidings?

8 THE WITNESS: I have not had any -- I have
9 not personally had any discussions with the
10 modelers about that, no.

11 CHAIRMAN OBERMAN: Okay. We'll ask the
12 modelers.

13 THE WITNESS: Absolutely.

14 CHAIRMAN OBERMAN: Any other board members
15 have questions?

16 Ray?

17 MR. ATKINS: No redirect, Your Honor.

18 CHAIRMAN OBERMAN: All right. I think,
19 Mr. Johnson -- well, Jessie, you had an objection.
20 Do you want to -- I think it's too late in the day
21 to argue it, but do you want to make that objection
22 while Mr. Johnson is -- well, it's not too late --

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1 while he's here? Or do you want to raise it at
2 another time? How do you want to handle your
3 pending objection which we reversed ruling on?

4 MS. AMUNSON: If it's amenable to you,
5 Mr. Chair, the objection was with respect to
6 whether we might need to call another witness,
7 given that Mr. Johnson's testimony went well beyond
8 the scope of his verified statement. And if it's
9 okay with you, I would appreciate the opportunity
10 to consult with my client first about that and then
11 report in the morning to the board.

12 CHAIRMAN OBERMAN: No problem. Please
13 take what time you need. And we'll leave your
14 objection pending for the moment. My only reason
15 for raising it is whether the disposition of that
16 motion might require further questioning of
17 Mr. Johnson. Do you foresee that?

18 So otherwise, we could let Mr. Johnson go.

19 MS. AMUNSON: I do not foresee that,
20 Mr. Chair.

21 CHAIRMAN OBERMAN: Ray, I think we can
22 discharge Mr. Johnson.

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1 MR. ATKINS: I agree.

2 CHAIRMAN OBERMAN: Okay. I'm sorry. You
3 know, I didn't give Rob a chance for any further
4 questioning. Did you have any?

5 MR. WIMBISH: No, sir.

6 CHAIRMAN OBERMAN: All right.

7 Mr. Johnson, thank you for your patience and your
8 calm demeanor. Much appreciated.

9 THE WITNESS: Thank you. Appreciate the
10 opportunity to testify.

11 CHAIRMAN OBERMAN: And I'll add your
12 southern charm.

13 THE WITNESS: Thank you.

14 CHAIRMAN OBERMAN: We are ready to recess
15 for today. Ray, we begin tomorrow with who?
16 Mr. Dingler?

17 MR. ATKINS: No. Randy Hunt from Norfolk
18 Southern, who will be describing the New Orleans
19 terminal area.

20 CHAIRMAN OBERMAN: All right. And we'll
21 have more drone footage?

22 MR. ATKINS: Yes, you will.

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1 CHAIRMAN OBERMAN: And then -- how long do
2 you anticipate Mr. Hunt?

3 MR. ATKINS: 40 minutes on direct if there
4 is no questioning.

5 CHAIRMAN OBERMAN: All right. And
6 followed by?

7 MR. ATKINS: Hannah Rosse.

8 CHAIRMAN OBERMAN: Okay. And she's
9 involved with the RTC model, right?

10 MR. ATKINS: That is correct. She's the
11 CSX who put together the data as well as the
12 forecasts that were used for the growth.

13 CHAIRMAN OBERMAN: All right. And then
14 she'll be followed by?

15 MR. ATKINS: So it's Holly -- I can never
16 pronounce her last name.

17 CHAIRMAN OBERMAN: I know who you mean.

18 MR. ATKINS: Sinkkanen -- thank you.
19 Holly Sinkkanen who is with Norfolk Southern.
20 She's going to kill me when I walk out of the room,
21 by the way. Ms. Sinkkanen is the -- will be
22 describing Norfolk Southern's data gathering

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1 operations for this as well.

2 CHAIRMAN OBERMAN: And then --

3 MR. ATKINS: Mr. Dingler.

4 CHAIRMAN OBERMAN: What about Mr. Guthrie?

5 MR. ATKINS: He'll be last.

6 CHAIRMAN OBERMAN: All right. Well, it
7 sounds like a long day, but maybe we can get
8 through them all. We'll try. Maybe we can go
9 further.

10 I would say this. Rob, in the wishful
11 thinking category, you could have your witnesses
12 prepared, if we finish all this in time to start
13 your case tomorrow afternoon.

14 MR. WIMBISH: That would be great if we
15 could.

16 CHAIRMAN OBERMAN: Yes. Yes, it would.
17 All right, everyone. Thank you. We will recess
18 until 9:30 tomorrow morning Eastern.

19 MS. AMUNSON: Mr. Chairman, apologies --

20 CHAIRMAN OBERMAN: Yes, Jessie. Sorry.

21 MS. AMUNSON: Just one housekeeping
22 matter.

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1 CHAIRMAN OBERMAN: Sure.

2 MS. AMUNSON: When we got on this morning,
3 we heard Member Fuchs discussing with the court
4 reporter whether there is a rough transcript that
5 has been prepared and that could be disseminated to
6 the parties and to the board. If there is such a
7 rough transcript, we would very much appreciate
8 receiving one.

9 CHAIRMAN OBERMAN: Okay. I am not sure
10 who in our shop is responsible for that, but we'll
11 find the right person and -- do you want to know
12 the answer to that tonight?

13 MS. AMUNSON: I imagine all of the parties
14 would, if there are rough transcripts. We did ask
15 about the possibility of real-time transcripts
16 prior to the hearing and were told that was not
17 possible. But if there are, in fact, rough
18 transcripts that we can get, that would certainly,
19 I think, help all of the parties.

20 MEMBER FUCHS: It may be helpful -- I
21 suspect someone on our team can weigh in more
22 fully. I have not received a rough transcript.

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1 But what I have been using is the Zoom live
2 transcription which, as I understand, is AI
3 generated. It is imperfect, but it is still
4 somewhat helpful; so just so that everybody knows,
5 you know, the overall status of that. I don't have
6 that rough transcript.

7 CHAIRMAN OBERMAN: I am going to ask Ellen
8 Erichsen, who I see is on the call, to follow up
9 with whoever is in charge of the court reporter and
10 disseminate whatever we -- we have all of the
11 counsels' e-mail contacts, I believe.

12 (Discussion off the record with court
13 reporter.)

14 CHAIRMAN OBERMAN: All right, everyone.
15 Thank you, again, and we will see you in the
16 morning at 9:30.

17 (Whereupon, the proceedings adjourned at
18 6:08 p.m. and were scheduled to reconvene on
19 Wednesday, April 6, 2022, at 9:30 a.m.)

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CERTIFICATE OF STENOGRAPHIC REPORTER

I, DONNA L. LINTON, Registered Diplomat
Reporter, Certified Court Reporter and Certified
LiveNote Reporter, hereby certify that the
foregoing proceedings were recorded by me in
shorthand and electronically at the time and place
mentioned in the caption hereof and thereafter
transcribed by me; that said proceeding is a true
record of the testimony given by said participants;
that I am neither counsel for, related to, nor
employed by any of the parties to the action in
which this proceeding was taken; and further, that
I am not a relative or employee of any counsel or
attorney employed by the parties hereto, nor
financially or otherwise interested in the outcome
of this action.

Donna L. Linton, RDR-CCR-CLR

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