

FD 36496

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SURFACE TRANSPORTATION BOARD

REMOTE PUBLIC EVIDENTIARY HEARING FOR
"Application of the National Railroad Passenger
Corporation Under 49 U.S.C. Section 24308(e)
CSX Transportation, Inc., and Norfolk Southern
Railway Company."

VOLUME VII

Monday, April 18, 2022

9:36 a.m.

Via Zoom

The above-entitled matter came on,
pursuant to notice, at 9:34 a.m., Chairman
Martin Oberman, presiding.

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

2 CHAIRMAN OBERMAN: Good morning, everyone.
3 Welcome to, I've lost track of the number, of the
4 next session of the hearing on Amtrak's application
5 under 24308(e) FD 36496.

6 Next on for presentation is the Port of
7 Mobile, Rob Wimbish.

8 MR. MULLINS: Rob, if you don't mind, can
9 I take a minute to brief the Board members on the
10 status of the attorney-client work product
11 discussion that we had? Would that be okay?

12 MR. WIMBISH: Sure.

13 MR. MULLINS: So Mr. Chairman and the
14 Board members, I wanted to -- this is Bill Mullins,
15 Norfolk Southern. I wanted to bring you up to speed
16 on -- we had the debate about whether we should
17 brief the attorney-client work product privilege
18 with Mr. Guthrie's testimony and the prior draft.

19 I want to let the Board know that this
20 morning we will be filing a verified statement,
21 supplemental verified statement of Mr. Guthrie. We
22 were not able to speak to him while he was on the

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1 stand, but when he got off the stand and we were
2 able to speak to him, he explained to us that it was
3 not a written draft that he had reviewed but it was
4 an animation where he and Mr. Dingler were reviewing
5 all the animations, and that's where he made
6 changes, was in the animation, and the animations
7 are not kept earlier versions --

8 MR. WIMBISH: Camera is still off.

9 MR. MULLINS: It's on.

10 MR. WIMBISH: It's not showing anything.
11 Okay. You're on.

12 MR. MULLINS: The animations are not kept,
13 the prior drafts of the animations. So he will be
14 filing a verified -- supplemental verified statement
15 this morning.

16 As a result, there is no written study or
17 written prior draft that could be produced.
18 Obviously the Port, Amtrak and the Board will have
19 an opportunity to see Mr. Guthrie's verified,
20 supplemental verified statement. We think based
21 upon this the issue is kind of moot. There is not
22 really a prior draft to produce.

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1 But, Mr. Chairman, I would also want to
2 give you some credit because prior to 2010 under
3 Rule 26, there was some ambiguity about whether, in
4 fact, such a draft would have had to have been
5 produced, but we don't have to face that issue
6 because there is no such written product, it was
7 just an animation.

8 CHAIRMAN OBERMAN: Well, I appreciate
9 that, Bill. I just think we're in different
10 territory when on direct examination the door is
11 open for a witness to talk about prior drafts.
12 That's a completely different inquiry than just
13 generally asking a party to produce all prior
14 drafts, whether they're referred to or not.

15 But we'll wait and see your verified
16 statement.

17 I note Mr. Banks also talked about
18 editing, literally editing drafts, as you will
19 recall. I didn't raise the question at that time.

20 Let's see Mr. Guthrie's statement and
21 we'll still consider this under advisement. But I
22 appreciate your going to the trouble to explore what

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1 happened.

2 MR. MULLINS: Absolutely. I'm also
3 trying -- I'm trying to keep my flight delay
4 privileges that you've given me, you know --

5 (Laughter.)

6 MR. MULLINS: I want to make sure I get to
7 keep that.

8 CHAIRMAN OBERMAN: Bill, it's possible
9 that you could lose them, but you've got a long way
10 to go.

11 MR. MULLINS: Okay.

12 CHAIRMAN OBERMAN: Your conduct here does
13 not warrant that kind of response.

14 MR. MULLINS: Thank you.

15 CHAIRMAN OBERMAN: Thank you. But I
16 appreciate your checking it out and, you know, we'll
17 take a look at the statement. Unfortunately, we're
18 going to be in session a few more times so we'll
19 have time to deal with this.

20 Mr. Wimbish, if you are ready to proceed,
21 before you call your witness, I would like to ask
22 you a couple questions so I understand procedurally.

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1 I know we've talked a lot about this, but now that
2 you're ready to put your case on, I would like to be
3 precise in my mind, I don't know if the other Board
4 members have the same concern about -- just a
5 clarification.

6 In your brief, I guess it's the brief
7 dealing with our questions that we've put to you,
8 the first question in my mind is -- and this doesn't
9 go to the Port's intervention, the Port has been
10 granted leave to intervene, but to me it is a
11 separate question and what exactly is your role
12 here.

13 So I guess the first question in my mind,
14 do you accept the idea that whatever contentions on
15 behalf of the Port you are making in terms of
16 impairment, that you have the burden of proving
17 those under 24308(e)? In other words, does the
18 burden of proof fall on you just as it does on CSX
19 and NS?

20 MR. WIMBISH: Yes, I think that is the
21 position that we have taken from the beginning of
22 this proceeding. I can't point to it at this

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1 moment, Mr. Chairman, but I do believe that very
2 early on in our presentations in this proceeding,
3 that is, somewhere around the time that we had filed
4 our notice of intent to participate, we, I believe,
5 had acknowledged that point. So yes, sir.

6 CHAIRMAN OBERMAN: Well, I do too. But I
7 didn't go back and have time to read the voluminous
8 pleadings here before we started today. I did read
9 your most recent briefs, reread them. And I wanted
10 to be clear on that.

11 The other thing that I want to be clear on
12 is that there's a place in your brief on page 6 in
13 response to the Board's inquiry on our March 14
14 decision where you write that the Board must
15 consider evidence "whether its order," that is
16 putting passenger back on this line, "whether its
17 order would impair unreasonably freight
18 transportation on the lines of the rail carrier."

19 But the statute itself doesn't say freight
20 transportation on the lines of the rail carrier.
21 The statute says unreasonable -- demonstrating that
22 additional trains will impair the freight

1 transportation of the rail carrier, not on the lines
2 of the rail carrier.

3 And I wonder if you equate the Mobile
4 TASD, I guess is the railroad involved, with the
5 freight carrier here. Because as I understand the
6 facts, which you're going to get into, your client
7 uses the lines of the freight carrier, but it is not
8 the freight carrier who is I think the statute is
9 aimed at.

10 So do you want to just clarify for us your
11 contentions in that area? Because it's important in
12 listening to your evidence, I think, how we hear it
13 in terms of the statute.

14 MR. WIMBISH: I think, Mr. Chairman, two
15 things. The first one is that the end of the
16 statute discusses the impacts on freight
17 transportation, and TASD is a provider of freight
18 transportation over the lines that Amtrak seeks to
19 operate on.

20 Our first position has been that under
21 congressional intent, the Congress did not intend
22 ever to specifically bar this Board or the Federal

1 Railroad Administration before it from considering
2 the impact on entities other than the host railroad.

3 We had articulated, for example, an
4 argument about that involving track-type operations.
5 We had posited a scenario, as you know,
6 Mr. Chairman, under which, for example, Norfolk
7 Southern was the predominant user of CSX's line as
8 the host and whether or not under those
9 circumstances, Congress would have intended for you
10 to disregard impacts on the predominant user of the
11 line.

12 We do think that the statute extends those
13 protections to other freight carriers who use the
14 same corridor, and that has been our position.

15 However, you can look at this a different
16 way too, which is, you've indicated earlier in some
17 of your questioning, which is that in this
18 particular case, T ASD is using a portion of CSXT's
19 corridor. It does that under an agreement with CSX
20 Transportation. If for some reason that agreement
21 were to be ended or if that agreement did not exist,
22 the freight traffic that T ASD currently moves

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1 between facilities on either side of the CSXT line
2 would have to be handled by CSX Transportation.

3 So in many respects, T ASD is a more
4 efficient proxy for CSX. So even under a more
5 limited analysis that says I can only look at the
6 entities that are actually providing or actually
7 hosting the service that is the owner of a line,
8 that you can consider the impacts not only to CSX
9 but on T ASD traffic because but for that
10 arrangement, CSXT would be handling that
11 cross-corridor traffic itself. It would have to as
12 a matter of law.

13 I hope that helps answer your question.

14 CHAIRMAN OBERMAN: Well, that's a very
15 insightful point to make. I'm really thinking just
16 about statutory construction. Would it be fair to
17 say that you would like us to read 24308(e) as
18 though it read not impair freight transportation of
19 the rail carrier but freight transportation on the
20 lines of the rail carrier?

21 You would like us to read it as if those
22 words were in there, I take it?

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1 MR. WIMBISH: Well, I wouldn't ask you to
2 read it as if those lines were in there. I'm asking
3 you to interpret the statute to --

4 CHAIRMAN OBERMAN: Well, that's what I
5 mean. You want us to interpret it as if those lines
6 were in the statute, those words were in the
7 statute, "on the lines of the carrier."

8 And I guess what comes to my mind and our
9 obligation to interpret statutes, before we can get
10 into the minds of the Congress, we first have to
11 decide whether those words are ambiguous. If
12 they're not, we're not supposed to go outside the
13 words of the statute. And that is what caused me
14 pause as I reread your brief, because the concepts
15 you raised are certainly reasonable concepts to
16 raise. But that doesn't necessarily tell us what
17 our mandate is to construe the statute, which has
18 never been before construed, at least by this Board.

19 And I don't know the answer at this point,
20 but I wanted to have this discussion as we listen to
21 your evidence. I don't know if any other Board
22 members had any of the same inquiries on this line

1 or need to raise it now, but I wanted to put it
2 front and center because I think eventually we're
3 going to have to reach a conclusion in terms of --
4 obviously this doesn't come up with CSX and NS's
5 case, but it could come up in your case so we're
6 going to have to reach a decision on it.

7 MR. WIMBISH: It certainly could. And
8 Mr. Chairman, the other point I would make out here
9 is that if T ASD demonstrates unreasonable impairment
10 in its operation of the lines, it shares those lines
11 with CSX.

12 CSX presumably also then under this
13 analysis is suffering. That is, if this is a matter
14 of looking at capacity and operation, constraints on
15 T ASD almost by logic indicate that there would be
16 corresponding constraints with CSX.

17 CHAIRMAN OBERMAN: You seem to be
18 suggesting maybe, and I don't want to put words in
19 your mouth, but I'm trying to take to its conclusion
20 what you just said, that if somehow T ASD lost its
21 rights to operate over CSX's tracks, then CSX would
22 be taking this traffic.

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1 Do you mean to suggest that TASD is
2 fulfilling CSX's common carrier obligation to serve
3 the port?

4 MR. WIMBISH: No, I think TASD is
5 fulfilling the obligations to serve the port
6 currently. But I think it does that, in part, as a
7 matter of convenience.

8 That is, practically speaking, in the
9 alternative to TASD's direct operations over CSXT's
10 lines is not to operate over CSXT's lines. And if
11 it doesn't, then CSXT has that obligation to fulfill
12 in TASD's place.

13 CHAIRMAN OBERMAN: Maybe that's another
14 way of saying it.

15 In other words, if TASD disappeared
16 tomorrow, you think CSX would have a common carrier
17 obligation to handle all that traffic?

18 MR. WIMBISH: Yes, I know it would.

19 CHAIRMAN OBERMAN: Okay. All right.
20 Well, very helpful discussion. I'm not sure what
21 the outcome should be. We haven't ruled on
22 anything.

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1 But does any Board member have any
2 inquiries here or should we just move ahead?

3 Okay. Call your first witness.

4 MR. WIMBISH: I would like to call our
5 first witness, which will be the TASD'S CEO,
6 Mr. John Driscoll.

7 Mr. Chairman Oberman, would you kindly
8 swear-in Mr. Driscoll.

9 CHAIRMAN OBERMAN: There he is. I was
10 waiting to see him.

11 Mr. Driscoll, would you raise your right
12 hand, please.

13 THE WITNESS: Yes, sir.
14 Whereupon,

15 JOHN DRISCOLL
16 was called as a witness and, having first been duly
17 sworn, was examined and testified as follows:

18 CHAIRMAN OBERMAN: Proceed.

19 DIRECT EXAMINATION

20 BY MR. WIMBISH:

21 Q Thank you.

22 For the record, please state your name.

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1 A John Driscoll.

2 Q Who is your current employer?

3 A Alabama State Port Authority.

4 Q What is your title?

5 A Director and CEO.

6 Q Can you provide your relevant professional
7 experience.

8 A Certainly. I have over 30 years in
9 maritime management positions. I've held various
10 management positions, primarily in the containerized
11 shipping industry. I started my career out of
12 school working with the innovator of containerized
13 shipping, Sealand Service, but I have also worked
14 with Maersk, CNA and CGN in the container sector.

15 For the past 8-1/2 years, I have held
16 senior-level positions in public ports, level
17 positions, previous -- for the initial 6-1/2 years
18 of that public service, I was the Maritime Director
19 at the Port of Oakland in northern California, and
20 most recently I've been the CEO and director at the
21 Alabama State Port Authority in Mobile, Alabama.

22 My career positions, in some of them I've

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1 had, probably a third of them I've been in
2 operations, a third in marketing and sales and about
3 a third in general management-type of positions.
4 About a quarter of my career I've worked overseas,
5 both in Central America and Latin America, running
6 the different countries and organizations for
7 Sealand at the time and then Maersk Sealand when
8 they acquired Sealand. I've moved about 11 times
9 during my career throughout United States and
10 overseas.

11 Q For the purposes of your testimony, I will
12 refer to the Alabama State Port Authority and its
13 railroad operating division, Terminal Railway
14 Alabama State Docks, as the Port. Do you understand
15 that?

16 A I do.

17 Q Would you please provide the Board with
18 some basic background about the Port.

19 A Of course. The Port is a state statutory
20 agency run by a board represented by members of the
21 board throughout the state. It's really what I
22 would refer to as a state business enterprise.

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1 The port is the 12th largest port in the
2 United States in terms of tonnage. Overall, both
3 private and public, we handle about 54 million tons
4 of cargo through this gateway.

5 The Port has really a very, very diverse
6 mix of cargo types and shipping methods and
7 activities. There's things like containerization,
8 bulk, break bulk, roll-on/roll-off, inland waterway
9 activities, rail ferry services, which is very
10 unique, and most importantly for this discussion,
11 rail activities.

12 Our cargo mix as well is extremely
13 diverse. We have commodities like coal,
14 metallurgical coal, some thermal coal that is
15 slowing going down. Slab steel used for
16 construction for commodities in the United States,
17 airplane parts, wind turbines, deep sea umbilical
18 cords, grains, big irons, steel coils, petroleum,
19 chemicals and the list goes on and on. It's things
20 that move in and out of gateway throughout the
21 United States, many of them come through our gateway
22 through the different services that we have.

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1 We're the second largest steel port in the
2 United States, the third largest coal port in the
3 United States. We have nine railroads that traverse
4 and either start or end services through the port.
5 There's five Class 1 railroads and four smaller
6 railroads, of which T ASD is one of those smaller, we
7 refer to it more as a switching type of railroad.

8 The Port has invested over \$1.3 billion in
9 recent years in infrastructure development, both in
10 deferred maintenance type of activities but mostly
11 in growth activities and modernizing some of the
12 activities that we do through our gateway.

13 The federal government, as a matter of
14 fact, is undergoing currently, started back last
15 year, an extensive project, deepening and widening
16 of our federal channel. It's a \$366 million
17 project, of which 75 percent is funded through the
18 federal government and 25 percent is funded through
19 the state match of that. We're also targeting about
20 another \$700 million investments, both deferred
21 maintenance things like some of these older docks to
22 refurbish and basically bring up to current

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1 standards as well as new projects that we're looking
2 at. Again, this is about a \$700 million investment
3 over the course of the next five years. And that
4 would be through private, public, Port money to be
5 able to do that.

6 Interesting to note, in the last economic
7 development study that was done in 2019 looking at
8 the impact of the Port through the state and
9 elsewhere, we -- basically the Port is credited with
10 employing over 150,000 direct and indirect employees
11 on jobs that are family-based type of jobs, jobs
12 that can support a family I should say.

13 And then we also have about \$25.4 billion
14 in total economic value to the state.

15 So the Port is really an important
16 economic engine for the people that live in the
17 state, in the region and in other places around the
18 country, because it really is the gateway for
19 movement of cargos around the region.

20 The Port is the only deep water seaport in
21 the state, and as I said, is a really important
22 economic driver for the people in the entire state.

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1 Q Did I hear you say that the Port is a
2 subdivision of the State of Alabama?

3 A Yes, as I stated, it's really a statutory
4 state agency, revenue-based. We're independent
5 agency of the State.

6 Q Let me get right to it, Mr. Driscoll. Is
7 the Port categorically opposed to Amtrak service
8 between New Orleans and Mobile?

9 A Not at all. Our position has been very
10 consistent in that we're not against passenger rail.
11 We would love to see it start, provided that it's
12 not going to negatively impact the freight
13 activities through our gateway and the customers
14 that invest in shippers, the companies that have
15 invested so much money and so much trust in what we
16 do through our gateway.

17 Q So would the Port be willing to explore
18 arrangements with Amtrak under which the Port would
19 no longer oppose Amtrak's commencement of railway
20 passenger service between New Orleans and Mobile?

21 A Yes, most certainly. We would certainly
22 love to entertain a discussion with them to be able

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1 to see what we can do to collaborate and make both
2 parties work together.

3 Q Has Amtrak discussed its current Gulf
4 Coast service proposal with the Port?

5 A Yes.

6 Q Please tell me about that meeting.

7 A Yes. There was one meeting that we held
8 back on February 10 of 2021. It was actually a
9 meeting when we got wind that things weren't going
10 as well as expected on the RTC modeling study. We
11 reached out to our Senator Shelby's staff in
12 Washington, D.C. to try to set up a meeting with
13 Amtrak to basically explore what could be done in
14 order to basically explain what we were concerned
15 with and what their position was on reinstituting
16 service between Mobile and New Orleans through the
17 gateway.

18 Q Who was responsible for setting up that
19 meeting?

20 A Senator Shelby's staff.

21 Q Who participated in that meeting?

22 A There's a whole host of people from Amtrak

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1 specifically. I think there was probably eight or
2 nine people from Amtrak that attended. There were
3 two people I think from their government affairs
4 group, senior-level people, one senior-level person,
5 and there were mostly stations and facilities
6 people. I think their trip to the Gulf Coast, I
7 think it started over in New Orleans. I think they
8 were primarily looking at the different passenger
9 stations along the route and from what they had told
10 us, they were looking at what needed to be done to
11 upgrade those and looking at mostly the stations and
12 connectivity to those facilities that had not been
13 used for over 15 years.

14 So there was about I think eight or nine
15 individuals there.

16 There was also two individuals from
17 Senator Shelby's office, one person was there in
18 person and one person joined us via conference call.
19 And also there was somebody from the Southern Rail
20 Commission, the Alabama contingent that was there, a
21 member of that organization representing Alabama.

22 And then from the Port we had four senior

1 managers, our chief operating officer, our TSAD
2 general manager, government affairs person and
3 myself.

4 Q Did you anticipate during this meeting
5 that the Port would have an opportunity to discuss
6 its operations with Amtrak?

7 A Yes, that was really what the intention
8 was. We wanted to really take time to lay out,
9 because we didn't feel that they had a good insight
10 as to really the inner workings of how critical the
11 CSX line and these activities impact what we do and
12 for our customers that come and go through our
13 gateway.

14 So our expectation was to basically try to
15 bring that contingent, that group of Amtrak people
16 up to speed on what we do.

17 And then also, you know, give them some
18 background as to why we have such a high level of
19 concern about what was being proposed without any
20 type of mitigative measures.

21 Q Did those discussions happen during the
22 meeting?

1 A They did to a degree. We basically laid
2 out, in the best context that we could, some of the
3 main concerns that we had if this service were
4 instituted using the existing infrastructure that
5 was there.

6 We took the group through that particular
7 line of thought as to how the intricacies work, how
8 many moves we do, how many -- what we felt would be
9 some real major concerns associated with that
10 particular activity.

11 Q How would you characterize Amtrak's
12 response to your presentation?

13 A It was probably -- not very interested in
14 hearing what we felt were our major concerns. And
15 the reason I said that is during one of the
16 discussions, one of the members there had indicated
17 that -- I think they overnighted the night before in
18 a hotel in Mississippi, and one of the individuals
19 had said that they were at a hotel or they were out
20 near the tracks of the CSX, and they indicated that
21 they didn't see any trains moving through there, and
22 there was no issue, there was very little activity

1 or no activity they saw on those tracks.

2 So we were a little bit concerned that it
3 was -- that our concerns were really not taken as
4 seriously. It was apparent to me that the decision
5 had already been taken. As a matter of fact, in
6 that meeting, they indicated to the group that they
7 were basically going to stop, they're not going to
8 finish the RTC modeling for various reasons. They
9 said that they had been doing this for a while, but
10 they indicated to us that they were going to stop
11 with the RTC modeling and that they were going to
12 start service next January 1 of 2022.

13 Q How long did this --

14 MR. TREPP: Excuse me, Mr. Chairman. I
15 object to the previous answer to the extent that it
16 constitutes hearsay and move to strike it to the
17 extent that it's being offered for the truth of the
18 matters that were asserted in the meeting. The
19 witness can obviously speak to what he believes he
20 heard and its impression on him, but he certainly
21 cannot speak to whether or not Amtrak had taken a
22 decision or what was in the mind of the Amtrak

1 representatives.

2 CHAIRMAN OBERMAN: Are you offering this
3 for the purpose of proving Amtrak's intent in this
4 matter, Mr. Wimbish?

5 MR. WIMBISH: I am offering this as a
6 statement against interest.

7 CHAIRMAN OBERMAN: I'm not sure it is a
8 statement against interest. I'm going to sustain
9 the objection. It does sound to me like -- we
10 haven't even identified the name of the person who
11 said it. I'm go going to sustain the objection.

12 MR. WIMBISH: Can we offer the name of the
13 person who offered that observation?

14 CHAIRMAN OBERMAN: Well, that would be
15 better than nothing, but I don't know how that cures
16 offering this statement for the truth of what it is.

17 And I'm not sure it's a statement against
18 interest. I'm trying to understand, quite frankly,
19 Mr. Wimbish, the relevance to this proceeding of
20 prior discussions. The question is what's going on
21 with the actual freight on the lines and what
22 anybody's attitude about it, it doesn't, I don't

1 think, inform the Board as to the impairment of
2 freight service. That's what the issue is. I
3 haven't -- nobody has objected so I was interested
4 in hearing about the meeting with Senator Shelby.

5 But I don't know what this has to do with
6 the issues of the case. So I'm not sure it's a
7 statement against interest as to whether Amtrak
8 likes or doesn't like RTC studies. That's not an
9 admission of impairment of freight, which is what
10 the case is about.

11 So I'm going to sustain the objection.

12 BY MR. WIMBISH:

13 Q Has Amtrak had any other discussions
14 regarding Amtrak service proposed subsequent to the
15 meeting you've just described?

16 A No, they haven't. Not to my knowledge.

17 Q Are you aware that the Federal Railroad
18 Administration, a modal administration within the
19 United States Department of Transportation, has
20 submitted amicus comments in this proceeding in
21 support of Amtrak?

22 A I am.

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1 Q Have representatives of the Federal
2 Railroad Administration or the U.S. Department of
3 Transportation ever met with the Port to discuss the
4 substance of Amtrak's New Orleans to Mobile
5 passenger service train proposal?

6 A Yes, there was a brief phone call with a
7 member of the FRA.

8 Q And please tell me about that meeting.

9 A Sure. It was -- I think it was in late --

10 MR. TREPP: Excuse me, Mr. Chairman,
11 before the witness answers, I would interpose an
12 objection again.

13 Mr. Driscoll submitted a three-sentence
14 verified statement in this proceeding discussing a
15 single meeting between Amtrak and the Port. He
16 hasn't discussed this meeting in any of his
17 submitted materials, at least that I'm aware of, and
18 we would object that it's therefore beyond the scope
19 of the evidence that he's offered in this
20 proceeding.

21 CHAIRMAN OBERMAN: Can you point me to a
22 place, Rob, where Mr. Driscoll dealt with this

1 meeting?

2 MR. WIMBISH: Mr. Chairman --

3 CHAIRMAN OBERMAN: As I understood his
4 verified statement, he basically says everything in
5 your brief is true, so I'll accept that conclusory
6 kind of a verification. Is there something in your
7 brief which talks about this meeting?

8 MR. WIMBISH: Mr. Chairman, there is in
9 our reply evidence a discussion not of this
10 particular meeting but of the Department of
11 Transportation's participation in this proceeding.
12 They have participated as amicus.

13 Their comments, if they are relevant to
14 this proceeding, warrant a response from the Port.
15 And the Port is prepared to discuss that issue here.

16 The DOT has indicated that they have been
17 engaged in this process, that they have been
18 discussing these matters with Amtrak and other
19 stakeholders. And if that evidence is relevant,
20 then our responsive evidence here is relevant.

21 Also, if what Amtrak is proposing is that
22 we cannot testify to anything that was not included

1 specifically in our prior evidence, then why are we
2 having a hearing?

3 CHAIRMAN OBERMAN: Well, there's been
4 quite a bit of -- the railroad has filed a motion in
5 limine to bar Amtrak from going beyond their
6 verified statements. It hasn't been ruled on yet.
7 But there's been quite a bit of discussion by
8 counsel on all sides that people shouldn't be able
9 to bring in undisclosed evidence. So this is
10 nothing new.

11 We're having a hearing for the obvious
12 reasons that we're having this hearing. If it isn't
13 apparent to the people who have been listening to
14 the cross-examination up to now, then there's not
15 much I can do to help them as to why we're having a
16 hearing.

17 But in terms of introducing a subject
18 matter which has not previously been disclosed,
19 that's where the parties wanted to draw the line. I
20 haven't actually drawn the line there. I think
21 there is some fluidity in an administrative
22 proceeding.

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1 As I said before, I'm still trying to
2 figure out the relevance of prior discussions to
3 whether the trains are actually going to block your
4 trains. That's what we're here about, not what
5 somebody said about it a few months ago.

6 But I'm going to let him testify at least
7 for the moment. We'll see where this conversation
8 goes. But I would like to know the names and places
9 of people we're talking about who allegedly said
10 something.

11 MR. TREPP: Mr. Chairman, I'm sorry --

12 MR. WARREN: Mr. Chairman, I'm sorry to
13 interrupt. I think, just to clarify, the
14 stipulation that was entered was about expert
15 analyses, and I do think the expert witnesses are in
16 a slightly different position when it comes to
17 presenting new expert analyses. Sorry to interject
18 in this colloquy.

19 CHAIRMAN OBERMAN: Well, it may be.
20 Mr. Driscoll has been introduced and as far as I can
21 tell is well qualified as an expert in this world,
22 at least based on what I've heard about his

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1 background so far. So I haven't tried to separate
2 Mr. Driscoll from his expertise and the facts.

3 So for the moment, I would like to hear --
4 I am willing to hear proceeding along these lines,
5 but I do think, Rob, if you're going to get into
6 meetings, we need to know the names and places of
7 people are. They can't just be free-floating
8 discussions.

9 MR. WIMBISH: And we did that --

10 CHAIRMAN OBERMAN: I'll overrule the
11 objection for the moment. Let's see where this
12 testimony goes. Proceed.

13 MR. TREPP: May I just put on the record
14 that Amtrak appreciates that during the course of
15 the hearing, witnesses may elaborate on what's in
16 their verified statement and they may want to
17 respond to things that have been said during the
18 course of the hearing. Our point was only that this
19 is material that, to the extent it was discussed in
20 the reply brief, could also have been discussed in
21 the rebuttal evidence. That opportunity existed and
22 that was the basis for the objection.

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1 CHAIRMAN OBERMAN: I did ask you, Rob, you
2 know, perhaps this is moot, perhaps you could point
3 to someplace in your brief that Mr. Driscoll
4 verified where this conversation was mentioned. Is
5 it someplace? I mean, I haven't memorized your
6 brief. I have read it twice.

7 MR. WIMBISH: No, it is not in the brief.
8 However, the issue was introduced not only by way of
9 the amicus brief but also, as you know, DOT in the
10 earlier public participation process in this
11 proceeding also provided its comments and its
12 testimony then.

13 CHAIRMAN OBERMAN: Well, I understand
14 that. There have been replies, rebuttals and
15 surrebuttals in this case. It certainly would have
16 been possible for you to submit another verified
17 statement from Mr. Driscoll commenting or wherever
18 we're going here on the conversations with FRA. But
19 let's proceed for the moment and if there are
20 further objections, I'll rule on them at the time.

21 BY MR. WIMBISH:

22 Q Representatives of the Federal Railroad

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1 Administration and U.S. Department of Transportation
2 ever met with the Port to discuss the substance of
3 Amtrak's New Orleans to Mobile passenger train
4 service proposal?

5 A Yes.

6 Q Please tell me about that meeting.

7 A It was a meeting that was initially --
8 from what I understand, Wiley Blankenship from the
9 SRC had received a call from Mark Dixon from the
10 FRA, who is a regional manager for the FRA, that
11 they wanted to reach out and speak to the Port in
12 association with the Amtrak passenger service.

13 Q And how long did that discussion with FRA
14 last?

15 A It was a brief discussion.

16 CHAIRMAN OBERMAN: Wait a minute. I'm a
17 little confused. You asked him about the meeting
18 and he answered about a reaching out that sounded
19 like it was before the meeting. Can we just be
20 clear here on was there a meeting or was there just
21 a reaching out?

22 THE WITNESS: No, sorry, I was trying to

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1 set up how the meeting was established,
2 Mr. Chairman.

3 The meeting did take place with Mark Dixon
4 of the FRA at the end of April.

5 CHAIRMAN OBERMAN: Who was there?

6 THE WITNESS: My internal external
7 affairs. It wasn't a personal meeting. It was on
8 the phone. It was during the heights of COVID,
9 there wasn't much travel going from the government
10 or from our offices. So we had about a 20 to 30 --
11 excuse me, sir.

12 CHAIRMAN OBERMAN: I'm sorry. Who was on
13 the call?

14 THE WITNESS: Mark Dixon.

15 CHAIRMAN OBERMAN: And?

16 THE WITNESS: There could have been other
17 people on his end. They were not introduced on the
18 call, but it was Mark Dixon, was the one that
19 identified himself. It was a conference call.

20 BY CHAIRMAN OBERMAN:

21 Q Who was on the call on your end?

22 A Myself and Judy Adams, who is our internal

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1 external affairs person.

2 Q So as far as you know, there were only
3 three people on the call?

4 A Yes, sir.

5 Q And it was in April of 2021?

6 A Yes, sir.

7 CHAIRMAN OBERMAN: Okay. Proceed.

8 BY MR. WIMBISH:

9 Q How long did that discussion with FRA
10 last?

11 A It was brief, it was about 20 to 30
12 minutes I would estimate.

13 Q And what did you tell the FRA as you
14 recall during the call?

15 A Yes. So we had a good discussion. They
16 were interested in what our concerns were. We --

17 CHAIRMAN OBERMAN: Rob, Rob, I'm going to
18 interject here. If we're going to go into this
19 conversation, I think it should be limited to who
20 said what, who was interested or what they were
21 thinking. We're really going far afield here. So
22 I'm going to let this go for the moment, but it has

1 to be what did you say, what did they say, otherwise
2 it's useless. It may be useless anyway, but that's
3 as far as I'm willing to let you go here.

4 BY MR. WIMBISH:

5 Q So what did Mr. Dixon say?

6 A Okay. Mr. Dixon asked us what our
7 concerns were about the services and tell us some of
8 our concerns relative to that.

9 Q And what did you tell him?

10 A I told Mr. Dixon that we had no problem
11 with instituting a passenger rail service if there
12 was no impact to the freight activities associated
13 with our movements to our customers throughout the
14 activities that we do.

15 We had grave concerns about that activity
16 that would happen and that we felt that there needed
17 to be significant infrastructure assessments.

18 We told Mr. Dixon we would like to have
19 the RTC -- we all along have wanted and we wanted to
20 continue to have the RTC study completed so we knew
21 the impact to the different services associated with
22 the implementation of a passenger service on this

1 particular line.

2 Q Aside from the Amtrak discussions you've
3 testified to in February of last year and the FRA
4 meeting in April of 2021, to your knowledge, since
5 Amtrak filed its application, which was on March 16,
6 2021, has any other individual or group that is
7 purported to act on behalf of Amtrak or its port of
8 Amtrak passenger train service proposal reached out
9 to the Port to facilitate a resolution to the Port's
10 concerns about Amtrak-related freight service
11 disruption?

12 A No.

13 MR. WIMBISH: Mr. Chairman, I have a
14 couple of questions here regarding federal funds for
15 Port infrastructure. They were intended to be
16 responsive to some questions that Member Hedlund had
17 asked earlier, but I will leave it to the Board to
18 decide whether or not Mr. Driscoll can testify as to
19 those. We simply were going to provide some
20 testimony again in response to some questions that
21 Member Hedlund had asked at the commencement of this
22 trial phase of the proceeding.

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1 CHAIRMAN OBERMAN: Well, is it your
2 contention that whether federal funds are available
3 is relevant to our deciding this case?

4 MR. WIMBISH: Well, I would submit this.
5 I think that is up to the members of this Board to
6 decide in this case. I'm offering this if Member
7 Hedlund or other members believe that it is
8 relevant, then we will proceed. If you do not
9 believe that it is relevant to your analysis, we
10 will skip this line of questions.

11 BOARD MEMBER HEDLUND: Mr. Chairman, let
12 me explain why I asked the question?

13 CHAIRMAN OBERMAN: Go ahead, Karen.

14 BOARD MEMBER HEDLUND: It's my
15 understanding an award was made of \$25 million to
16 the Port earlier this year, and my question to
17 Mr. Driscoll would be in connection with that award,
18 did he have any conversations with representatives
19 of the Department of Transportation and did he raise
20 his issues with those members of USDOT at the time.

21 THE WITNESS: We have actually received
22 two awards, Member Hedlund, this year. I don't know

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1 of a \$25 million award. There was a \$38 million
2 award for a demonstration grant that had nothing to
3 do with this particular activity. It was for
4 building an interconnector bridge between the
5 container facility and the ICTF. And then the
6 balance of that \$38 million was for development of
7 the logistics part that we're doing there.

8 Then there was another funding that came
9 out of the omnibus bill for the fiscal year 2020
10 that we received about \$67.2 million for
11 specifically rail infrastructure projects that are
12 relating to a Montgomery, Alabama, ICTF intermodal
13 facility that we're going to build.

14 We just got the communication from the
15 agency, the federal agency, the FRA, that is
16 actually managing that, and they have asked us a
17 series of questions relative to the projects. None
18 of those projects were associated with anything for
19 mitigation or measures associated with this
20 particular matter. I think that's where your
21 questioning was going.

22 BOARD MEMBER HEDLUND: Did you take the

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1 opportunity to talk to FRA at that time in
2 connection with that grant about your concerns with
3 the CSX line in Mobile?

4 THE WITNESS: Right. The grant that we
5 received was for some specific project associated
6 with rail that didn't do -- we did not speak to them
7 about that yet. But this literally was two weeks
8 ago where we got the questions from the FRA. We're
9 going to be replying to them actually this week,
10 they're asking specifically things about the
11 projects that were funded through this grant that we
12 are receiving.

13 BY BOARD MEMBER HEDLUND:

14 Q In connection with the \$38 million grant,
15 did you have any conversations -- well, first of
16 all, what agency did that grant come from?

17 A It's coming through the DOT.

18 Q It was not MARAD or another subagency of
19 the DOT?

20 A No, not -- we received communication from
21 the DOT that they were basically inundated with a
22 lot of different infrastructure items that were

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1 going on and they were trying to determine what
2 agency was going to be the one to manage that
3 particular demonstration grant.

4 And we have yet to hear the specifics as
5 to what agency, subagency will be able to handle
6 that. So we don't know at this phase, but we're in
7 dialogue with them, and they're trying to determine
8 what agency will be handling that. But it has not
9 been determined yet.

10 Q What part of the Secretary's office or
11 Assistant Secretary's office have you been talking
12 to with respect to that grant?

13 A The individual's name I don't recall. I
14 think it was -- I would be guessing. I'd have to
15 look that up and get back to you. I don't recall
16 the individual's name for that particular grant.

17 Q Did you take the opportunity, since you
18 were talking to the Secretary's office, to raise
19 your concerns about this rail issue?

20 A About -- excuse me? About what?

21 Q Did you take the opportunity to express to
22 the Secretary's office your concern about the rail

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1 issues in Mobile?

2 A No, I did not. There was one e-mail
3 exchange that they would come back to us relative to
4 this specific grant that was for specific items that
5 had nothing to do with it, so I did not speak to
6 them about this subject, which was different from
7 what this grant was targeted for.

8 BOARD MEMBER HEDLUND: Thank you.

9 CHAIRMAN OBERMAN: Was that as far as you
10 wanted to go, Rob, on grants?

11 MR. WIMBISH: Yeah, yes, it was, sir. It
12 was -- as I said, we had noted early on at the
13 beginning of this proceeding that Member Hedlund had
14 asked a question about this grant program. We
15 simply wanted to afford for an opportunity for
16 Mr. Driscoll to address that question that Member
17 Hedlund had raised.

18 I do have one follow-up for you, though,
19 Mr. Driscoll. You mentioned a bridge as part of
20 this funding. Is that a part of a railroad bridge?

21 THE WITNESS: No, it's an interconnector
22 bridge for truck traffic to get from the container

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1 facilities over to the rail facilities for loading
2 it onto railcars.

3 Q I'm going to move to --

4 VICE CHAIR SCHULTZ: I just had a question
5 before we move forward.

6 Mr. Driscoll, you referenced two grants, I
7 believe, one for 38 million and one for 67.2
8 million. I just wanted to confirm that from your
9 view, none of the projects that would be included
10 within those grants would actually mitigate any of
11 the impact of the additional service from Amtrak.

12 THE WITNESS: That's correct. It would be
13 for projects that were specified and requested
14 through the channels, and they had nothing to do
15 with these particular mitigations that we're talking
16 about. Additional projects, new growth and building
17 additional infrastructure to handle what we felt was
18 the new growth that was coming to our gateway.

19 VICE CHAIR SCHULTZ: Thank you.

20 BY MR. WIMBISH:

21 Q I want to move to screen share here to
22 introduce Joint Exhibit 24A.

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1 CHAIRMAN OBERMAN: This is the joint
2 exhibit of all parties, 24A, is that what we're
3 talking about?

4 BY MR. WIMBISH:

5 Q Yes, this is Joint Exhibit 24A. This is
6 an exhibit that was introduced in connection with
7 the opening evidence. This would have been
8 exhibit -- I believe it was the second page of
9 Exhibit A to the Port's -- the Port's opening
10 evidence.

11 Trying to see if I can open this here.
12 Let's see if we can get that, if you wouldn't mind,
13 Mr. Peterson.

14 Again, this is the second page of Exhibit
15 A of the opening evidence filed by the Port on
16 November 3, 2021.

17 Mr. Driscoll, are you familiar with this
18 document?

19 A I am.

20 Q I see you have a copy of it in front of
21 you?

22 A Yes, I do.

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1 Q I can see that it's a little bit difficult
2 to read from the screen. Can you tell me about what
3 this document shows?

4 A Yes, this reflects the volume forecasted
5 for the TASD rail moves over the next five years.

6 Q Does the Port undertake such traffic
7 forecasts in the ordinary course of business?

8 A We do. It's not exactly in this format
9 that was structured for this particular purpose, but
10 yeah, we do regular forecasts for that. Excuse me,
11 we went to the correct -- they are very similar
12 looking.

13 But yes, we do regular forecasting
14 associated with activities for rail traffic
15 movement.

16 Q How do current railroad track volumes to
17 the Port comport with the Exhibit 24 forecasts?

18 A They are fairly consistent across the
19 board, obviously these are forecasts. But we see
20 some cases moving ahead that the volume is
21 increasing.

22 Q Since the Port prepared the November 3,

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1 2021 railroad traffic forecast you and I have just
2 discussed, have you had reason to revisit your
3 railroad traffic forecasts?

4 A We have. There has been -- through
5 communications with customers and what have you, it
6 looks like some of the volumes in two of the sectors
7 is increasing.

8 Q I would like at this time to move for the
9 introduction of Port Exhibit Port 9. Can you queue
10 that up on the screen sharing.

11 CHAIRMAN OBERMAN: Wait. This is -- I
12 thought you said it was Exhibit A, 24A.

13 MR. WIMBISH: The first document was
14 exhibit -- was the second page to Exhibit A of the
15 Port's opening evidence from November 3.

16 The new document you have in front of you
17 which was shared with you as Port 9, is an updated
18 traffic forecast prepared since the November 3
19 traffic forecast that was introduced in November of
20 last year. This was offered to you as one of the
21 hard copy documents that was sent back in late March
22 and identified as new Exhibit Port 9. It is not one

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1 of the joint exhibits.

2 CHAIRMAN OBERMAN: Hold on a minute. Let
3 me get your Port exhibits. I have them in a
4 different stack. I just want to make sure I'm
5 looking at the same thing.

6 MR. WIMBISH: Oh, no, absolutely, I'll
7 give you an opportunity to do that. This was part
8 of the hard copies, we had provided, I believe, a
9 total of nine exhibits. This is the only text
10 exhibit. The other ones, I believe, were all
11 visuals.

12 CHAIRMAN OBERMAN: Okay. I have it. I
13 see what you're talking about.

14 All right. Is there any objection to Port
15 9?

16 MR. TREPP: We have no objection,
17 Mr. Chairman.

18 CHAIRMAN OBERMAN: It will be admitted.
19 (Exhibit Port 9 received.)

20 MR. WIMBISH: Thank you.

21 BY MR. WIMBISH:

22 Q Mr. Driscoll, is this the Port's most

1 recent railroad traffic forecast?

2 A It is.

3 Q When was it prepared?

4 A About two weeks ago, two to three weeks
5 ago.

6 Q Can you explain to us how the traffic
7 forecast in this Exhibit Port 9 differs from the
8 November 2021 forecast, please?

9 A Sure. There's two areas. In the coal, in
10 the container section, we have the four sections
11 there, coal, containers, mixed freight and
12 automobiles rolling stock, if you look on the left
13 side of the column there.

14 The two that are increasing significantly
15 are the coal and the containers, since we did
16 this -- the first one was done back in August and it
17 stated this was updated in the end of March.

18 Q What circumstances have driven your new
19 increased forecast for coal and intermodal traffic?

20 A If you look at coal specifically first,
21 the narrative tells a little bit about it, but some
22 of our coal customers, specifically the export

1 metallurgical coal that comes out of the mines in
2 northern Alabama, they have given us some revised
3 forecasts over the course of the next one to two
4 years in a very strong manner.

5 One of the customers is actually going to
6 also be opening a new mine, you know, that will take
7 about three to five years to get ready to start
8 shipping. It will be small and it will ramp up.

9 But pretty much the global demand for
10 steel and steel products, metallurgical coal is a
11 high-grade coal that's needed in the construction of
12 steel and steel products. We ship this product
13 throughout the world. And this particular demand
14 for this commodity is very, very strong currently.
15 So we revised the forecast upward.

16 In the container sector, which is the
17 second one on the line here, a similar narrative is
18 happening. In talking to our customers, railroads,
19 the growth estimates are very, very strong over the
20 course of the next five years to where the volumes
21 will be increasing significantly.

22 We have experienced since the fiscal year

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1 I think 138 percent increase in the intermodal
2 container traffic to that facility, and we expect
3 that growth to continue very, very strongly as
4 customers are requesting more activities through our
5 gateway. When the Montgomery ICTF facility comes
6 online, which is the inland intermodal dock
7 extension, and then in McCalla, Alabama, which is
8 outside Birmingham with the NS, we hope that that
9 AUSA corridor traffic will increase significantly as
10 well.

11 So the volumes estimates from customers,
12 BCOs, shippers, consignees, beneficial cargo owners
13 and the railroads all show extremely strong growth
14 over the course of the next five years, which is the
15 forecast window we are looking at here.

16 Q What impact, in your opinion -- in your
17 opinion, Mr. Driscoll, what impact would this
18 forecasted new traffic have on TASD train activity
19 in Mobile?

20 A It will increase the activity.

21 Q I'm going to ask that we exit the screen
22 sharing, please.

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1 Mr. Driscoll, from your previous
2 discussion, you've mentioned several
3 railroad-related infrastructure projects. Would any
4 of those projects improve TASD operations over
5 CSXT's railroad lines?

6 A No.

7 CHAIRMAN OBERMAN: Are you talking about
8 the ones that he was talking about with Board Member
9 Hedlund? Is that what you're referring to when you
10 just asked him?

11 THE WITNESS: Yes. Yes, sir.

12 CHAIRMAN OBERMAN: Okay. Just to be
13 clear. Thank you.

14 BY MR. WIMBISH:

15 Q Are you familiar with the infrastructure
16 project at the Port that Mr. Golden had discussed in
17 the Port's opening evidence, including the flyover
18 and the Virginia Street lead expansion?

19 A I am.

20 Q Do you have any current plans to pursue
21 funding for either of the two infrastructure items
22 that I just mentioned?

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1 A Currently we do not.

2 Q In light of the updated traffic forecast,
3 you've introduced earlier in the course of your
4 testimony, why is it that the Port is not currently
5 pursuing funding for the flyover or the Virginia
6 lead extension?

7 A We believe that there's currently
8 sufficient capacity on the existing lines on our
9 property as well as the connecting carriers to be
10 able to handle this traffic.

11 MR. TREPP: Mr. Chairman, I object and
12 move to strike the previous answer as beyond the
13 scope of Mr. Driscoll's verified statements in this
14 proceeding.

15 Mr. Golden has testified at length in his
16 verified statements about capacity on the lines and
17 how the various infrastructure projects impacts that
18 capacity, and Mr. Driscoll has not.

19 CHAIRMAN OBERMAN: He hasn't, but I don't
20 see him going beyond Mr. Golden's observations, so I
21 don't see any prejudice really to Amtrak on the
22 subject matter. You can cross-examine both

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1 Mr. Driscoll and Mr. Golden on this subject. I'll
2 let it go, I'll let it stay in.

3 BY MR. WIMBISH:

4 Q Mr. Driscoll, finally I just wanted to
5 thank you for your arranging to be here and
6 traveling over the holidays as well. That concludes
7 my direct examination.

8 MR. WARNER: Mr. Chairman, you were muted.
9 If you were asking CSX/NS if we have any questions,
10 I do not.

11 CHAIRMAN OBERMAN: Well, I wasn't, but I'm
12 happy to hear it. I was trying to tell Mr. Trepp to
13 go ahead, but that's fine, Matt, thank you. I
14 appreciate that. I didn't think I was muted, but
15 apparently I still don't know how to work the
16 system.

17 Mr. Trepp, the witness is yours.

18 MR. TREPP: Thank you, Mr. Chairman.

19 CROSS-EXAMINATION

20 BY MR. TREPP:

21 Q Good morning, Mr. Driscoll. You've heard
22 my name a couple times now. But I'm Alex Trepp, and

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1 I represent Amtrak in this matter.

2 I thought I would start by asking, I think
3 during your direct examination, you mentioned an
4 economic development study. Did I hear that
5 correctly?

6 Mr. Driscoll, I think you may be on mute.

7 A Okay. Mr. Trepp, sorry about that. We
8 were muted.

9 Yes, I did refer to an economic
10 development study from 2019.

11 Q And did you attach that 2019 study to your
12 verified statement in this case?

13 A No.

14 Q And that study hasn't been produced in
15 connection with this case, has it?

16 A Not to my knowledge.

17 Q Did you do that study?

18 A I did not. I was not working at the Port
19 at the time. It was 2019 and staff engaged an
20 expert in the study.

21 Q And do you know what data was consulted in
22 connection with the preparation of that study?

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1 A Yes, the Port supplied data associated
2 with volume activities, customers, forecasts, you
3 know, employment, a lot of different data points
4 that are used to be able to come up with those type
5 of economic studies.

6 Q Do you know whether or not the study was
7 audited by any independent personnel?

8 A I do not know if that was audited.

9 Q Just a few questions about your meeting
10 with Amtrak. So you attended that meeting in your
11 capacity as the CEO of the Port; is that right?

12 A I did.

13 Q And I believe you testified that you've
14 been the CEO of the Port since June 2020?

15 A I don't think I said that, but that is
16 correct.

17 Q Before becoming the CEO of the Port, you
18 had been employed at the port of Oakland; is that
19 right?

20 A Yes, sir.

21 Q Did the Port provide Amtrak with any
22 information about its operations in advance of the

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1 February 2021 meeting?

2 A No, we didn't.

3 Q Did you prepare any documents for use at
4 the February 2021 meeting?

5 A Could you repeat that, please?

6 Q Did you prepare any documents for use at
7 the February 2021 meeting?

8 A No documents were prepared for that
9 meeting, no. There was a conversation between the
10 two parties, between the multiple parties.

11 Q Did you take notes at that meeting?

12 A Yes, I did.

13 Q Do you know whether those notes were
14 produced in connection with this proceeding?

15 A Not to my knowledge, no.

16 Q Did you review the notes before executing
17 your verified statement?

18 A Yes, I did.

19 Q Mr. Driscoll, a few questions about some
20 of the investments that you mentioned during your
21 direct. And I guess one throat-clearing question.

22 The Port believes that its cross-corridor

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1 operations are already difficult; right?

2 A They can be challenging at times, but they
3 work well. I mean, things -- our customers are
4 actually very supportive of -- we're able to give
5 them the service that they require.

6 Q Well, just to be clear, the Port has
7 represented to this Board that its cross-corridor
8 operations are difficult, right?

9 MR. WIMBISH: I'm going to object to that
10 question. These are questions that regard the T ASD
11 operations. Mr. Driscoll is the chief executive of
12 the Port. If Mr. Trepp has questions regarding
13 operations and operational issues, those questions
14 should be directed to Mr. Golden, the General
15 Manager of the T ASD, who has experience with
16 handling those operations.

17 CHAIRMAN OBERMAN: Overruled. It's fair
18 cross-examination.

19 BY MR. TREPP:

20 Q Would it be helpful for me to restate the
21 question, Mr. Driscoll?

22 A It would, please.

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1 Q So the Port has represented to the Board
2 that its cross-corridor operations are difficult;
3 correct?

4 A It can be at times.

5 Q And I believe you testified on direct that
6 the Port has spent more than \$1.3 billion; is that
7 right?

8 A That's correct.

9 Q The Port is also targeting another \$700
10 million in federal and state funding. Is that --
11 was that your testimony?

12 A Not just federal and state funding. It's
13 a combination of private/state/federal money.

14 Q Okay. How much of the \$1.3 billion was
15 federal money?

16 A Approximately 75 percent of \$366 million
17 will be spent on the federal channel. Another
18 portion of a TIGER grant for the roll-on/roll-off
19 facility, I think that total amount was about \$60
20 million, of which about 20 to 25 million I believe
21 was TIGER grant money for building of that facility.
22 Other than that, I'm not aware of any

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1 other money, federal money, that's part of that.

2 The rest of it was Port and private money.

3 CHAIRMAN OBERMAN: I didn't quite
4 understand the first part of your answer. 75
5 percent of 356 million, is that what you said?

6 THE WITNESS: Right, yes. This 366
7 million that I referenced previously for the federal
8 widening and deepening of our channel, 75 percent of
9 that is federal dollars that were allocated and 25
10 percent of that 366 million is state moneys to
11 match.

12 CHAIRMAN OBERMAN: And that's part of the
13 1.3 billion in federal money, is that what you --

14 THE WITNESS: No, no. The \$1.3 billion
15 that I referenced is the amount of money that has
16 been spent in the last several years on investments
17 in the Port.

18 CHAIRMAN OBERMAN: So not all -- I see.
19 Not all the 1.3 is federal.

20 THE WITNESS: Right. No, no, sir.

21 CHAIRMAN OBERMAN: Sorry to interrupt,
22 Mr. Trepp, but I was having trouble with the

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1 arithmetic. Go ahead.

2 BY MR. TREPP:

3 Q And how much of the \$700 million that the
4 Port is targeting is going to be federal money?

5 A I would say about a third if we're
6 successful in securing funding for some of those
7 projects.

8 Q Am I right that the Port didn't consider
9 spending any of the \$1.3 billion on the flyover
10 track that you mentioned in your direct?

11 A The flyover track is one of the
12 mitigations that we propose that you are referencing
13 or is the flyover track that I was talking about
14 between the container facility and the ICTF? Which
15 are you talking about?

16 Q The flyover track proposed by Mr. Golden
17 in connection with this proceeding.

18 A Okay. Correct, yeah, there was no money
19 requested for that particular item, because at the
20 time we didn't -- were hoping that that's not going
21 to be needed to be built.

22 Q And am I also correct that the Port didn't

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1 consider spending any of that \$1.3 billion on the
2 extension track along the Bob Hope Bridge that's
3 mentioned in Mr. Golden's testimony?

4 A That's correct. That hasn't come up until
5 the last year on potential -- actually less than a
6 year, on potential mitigated measures that we were
7 asked to look at. So that has come up after we
8 requested some of that money or made those
9 investments.

10 Q And am I correct that the Port did not
11 consider spending any of the \$1.3 billion on
12 improvements to the Virginia Street lead?

13 A Correct. Again, that's the same issue, is
14 that those concepts came up within the last six to
15 eight months as part of these proceedings, we were
16 asked to see if passenger service would be
17 instituted, what measures would be needed to help
18 mitigate some of the things as we see it, not
19 all-inclusive because we rely on the CSX trackage
20 and what they're going to do to make their network
21 work as well. So we were coming up with what we
22 felt would help with some of the constraints and

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1 problems that we would have if the passenger service
2 were to begin.

3 Q But just to be clear, Mr. Driscoll, the
4 flyover track would alleviate some of your existing
5 congestion on CSX lines; correct?

6 A Would it -- would it alleviate existing
7 congestion?

8 Q Well, let me rephrase the question.

9 The flyover track would allow the Port to
10 move trains directly from interchange to riverfront
11 without traversing CSX lines; correct?

12 A That's correct.

13 Q And the Bob Hope extension, that would
14 allow for you to take additional headroom in order
15 to ease transition from interchange to riverfront;
16 is that right?

17 A That's correct.

18 Q And the Virginia Street lead, that would
19 enable the Port to more easily move trains from
20 either interchange or from other CSXT trackage to
21 McDuffie; right?

22 A McDuffie and the ICTF I believe, yes.

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1 Q You didn't in your verified statements
2 provide any cost/benefit analysis to any of the
3 mitigations that Mr. Golden proposed; correct?

4 A You're going to have to repeat that, I'm
5 sorry. I didn't catch that.

6 Q You did not in your verified statement
7 provide any cost/benefit analysis of any of the
8 proposed mitigation measures in Mr. Golden's
9 testimony; correct?

10 A Correct.

11 Q If Amtrak never ran a train on the Gulf
12 Coast border but the flyover track were constructed,
13 would the Port benefit?

14 A Yes, they would, we would.

15 Q How?

16 A We would be able to move, as you had
17 stated, between the Interchange yards and the river
18 yard without impacting and getting onto that one
19 point on the mainline.

20 Q Sorry, I didn't mean to cut you off,
21 Mr. Driscoll.

22 A No problem.

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1 Q Are there other ways in which the Port
2 would benefit?

3 CHAIRMAN OBERMAN: Just before he answers,
4 just a function of -- Jim, did the court reporter
5 get the full question and answer?

6 COURT REPORTER: I believe I did,
7 Mr. Chairman. Thank you.

8 CHAIRMAN OBERMAN: Okay. Thank you. I'm
9 sorry, but I thought that was a very important
10 exchange.

11 Thank you. Go ahead.

12 BY MR. TREPP:

13 Q Mr. Driscoll, are there any other ways in
14 which the Port would benefit?

15 A Not to my knowledge. That's a pretty big
16 advantage if we could move between the Interchange
17 yard and the river yard without relying on the CSX
18 giving us the right to go onto their track.

19 Q And, again, if Amtrak never ran a train on
20 the Gulf Coast corridor but the extensions -- what
21 if the extension over the Bob Hope Bridge were
22 constructed, would the Port benefit?

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1 A It would improve some of the services that
2 we currently do, yes.

3 Q And how would it do that?

4 A It gives us additional headroom, as you
5 stated, for the Bob Hope lead. And then the
6 interconnectivity into the McDuffie would be an
7 improvement into the -- into that infrastructure.
8 But we're not asking for that infrastructure on our
9 own. We don't need it. It's working now as it is.

10 Q But again, just to be clear, the Port has
11 represented to this Board that its operations -- its
12 cross-corridor operations are difficult; right?

13 A They -- as I stated, they can be
14 challenging. What it says exactly, difficult, is
15 that the word we used? It can be challenging
16 because you have to coordinate with other entities
17 to utilize their assets.

18 Q And, Mr. Driscoll, same question with
19 respect to the Virginia Street. If Amtrak never ran
20 a train on the Gulf Coast but the improvements to
21 the Virginia Street lead were constructed, would the
22 Port benefit?

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1 A I would say yes, that the improvements --
2 that's an improvement that could help the fluidity
3 of operations there as well. But again, we're not
4 asking for that unless there is passenger rail
5 service because it's working as it exists today.

6 Q Mr. Driscoll, I want to ask you a few
7 questions about the forecasts that were discussed
8 during your direct.

9 A Yes.

10 Q And Mr. Peterson, just for ease of
11 reference, would you mind bringing up Joint Exhibit
12 24A.

13 Forgive me, we may need a moment just to
14 deal with a technical issue.

15 MR. WIMBISH: Do you want us to pull it
16 up? Do you want the 24A?

17 CHAIRMAN OBERMAN: 24A is the brief, is it
18 not?

19 THE WITNESS: This is the first one --
20 this is the first that was submitted on I think the
21 3rd, November 3.

22 Can you see that? Is that --

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1 MR. TREPP: We can. And when we have it,
2 we'll probably pull it up on our own. But we
3 appreciate you putting it up for the time being.

4 BY MR. TREPP:

5 Q Mr. Driscoll, you recognize this is the
6 forecast that was submitted with the Port's opening
7 comments; right?

8 A Yes, sir.

9 Q And did you prepare this document?

10 A I did not. Members of my team did,
11 various members.

12 Q And do you know what data sources members
13 of your team consulted to prepare the document?

14 A Yes, they referred to existing data that
15 we have to come up with the baseline, and then
16 interacted with customers, as I think I reported
17 previously in my direct, to get customer input onto
18 what they expected their future volumes would be
19 over the course of the next five years.

20 So we spoke to beneficial cargo owners
21 that can be consignees, shippers, railroads, their
22 forecasts and what they see from their customers

1 that we might not have visibility with.

2 So we talked to a whole group of customers
3 to be able to get forecasts to the best of our
4 ability.

5 Q And was any of the data that your team
6 consulted attached to your verified statement in
7 this proceeding?

8 A No, not to my knowledge. No.

9 Q To your knowledge, was it produced in this
10 proceeding?

11 A No.

12 Q Was any of the customer input that you
13 described produced in this proceeding?

14 A Some customers were referenced in here,
15 but it's a bit sensitive. But no, it was not.

16 Q Do you know what methodology your team
17 used to prepare the forecasts?

18 A Methodology. Could you be more specific?
19 When you say "methodology," what are you
20 referencing?

21 Q Well, when the Port does its forecasting,
22 does it apply any particular method to come up with

1 numbers?

2 A No. The methods -- okay. The method that
3 we utilize is looking at the existing volumes that
4 we've handled for the most recent past, say the last
5 couple of years. The most recent year being
6 probably the most valid.

7 Then speaking directly to our customers
8 that utilize these services to come up with what
9 they expect, because the customer is the one that is
10 in the best position to tell us what sales they have
11 made, what sales they expect to get, what
12 investments they are doing, what type of business
13 they are targeting.

14 So the methodology is one to reach out to
15 our customers and get their input. And that's what
16 I referred to before, beneficial cargo owners that
17 can be shippers, consignees and the railroads have a
18 very important part in that as well.

19 Q I see. And what action, if any, does the
20 Port take to verify the input that it receives from
21 its customers?

22 A We would look at, you know, basically

1 forecasts that happen in different parts of the
2 world. For instance, if you look at the coal
3 activity that is going on, the coal forecast that we
4 have had -- it was very logical to us that that
5 volume is going to increase substantially, has
6 increased in the course of the last three months
7 compared to what we had initially forecasted,
8 because of the events that are going on in other
9 parts of the world, in Ukraine and Russia that are
10 very strong in that particular segment.

11 So we do verify, we do check in some ways
12 some of that data that comes in for basically a
13 confirmation of what we're being told.

14 But at the end of the day, we trust what
15 our customers tell us, and we put those comments
16 into our model.

17 Q Has the Port ever told a customer that its
18 forecasts are too high?

19 A Has the Port told their customer -- I
20 think we've challenged customers with some of the
21 data. I would say it's really -- it's probably --
22 it's not too high. There's probably some times when

1 it's too low, when we think that they're being very
2 conservative.

3 I think we've generally erred on the side
4 of conserve -- our customers do and so do we. So I would say
5 even some of these numbers, especially in the two
6 segments that we adjusted, are fairly conservative.

7 Q So the Port has told customers that their
8 forecasts are too low but not too high; is that
9 right?

10 A Honestly, I don't recall an incident of
11 too high.

12 Q Is the forecast that you -- well, strike
13 that.

14 Is the forecast that the Port submitted
15 with its opening evidence verified by any
16 independent personnel or party?

17 A No, it's run internally through multiple
18 sources, different associates and professionals in
19 our organization.

20 As I said, in collaboration and in
21 discussions with our customer.

22 Q And did you personally take any steps to

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1 verify the accuracy of the data or the document?

2 A I reviewed the data for what I thought to
3 be -- to verify it, and I had some input to that.
4 But I thought the method that people used was solid
5 and would have good track record as to why we --
6 what the forecasts were.

7 So in the normal course of a budget, this
8 first document that we're looking at here was
9 initially generated for then put into this format,
10 yes, I reviewed that to make sure that I tested it
11 from my knowledge of what's going on in the
12 business.

13 Q And I think we're going to ask you to take
14 down this exhibit, which I think is Port Exhibit 9,
15 and we're going to display 24A, which is the
16 forecast submitted with the Port's opening evidence.

17 So, Mr. Driscoll, can I first direct your
18 attention to the column titled "One to Two FY Year
19 Over Year New Railcar Increase."

20 Do you see that?

21 A Yes, yes.

22 Q And is that column intended to provide

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1 year over year increase relative to 2021?

2 A Yes, yes. Our fiscal year 2021, yes.

3 Q And can I direct your attention to the
4 column titled "Three to Five-Year Fiscal Year New
5 Railcar Increase"?

6 A Yes.

7 Q Is that column also intended to provide a
8 three- to five-year increase relative to 2021?

9 A Yes. Three to five years after -- I'm
10 sorry. One to two is the first column and then
11 three to five is the last column you just looked at,
12 yes.

13 Q And in 2021, the Port moved 216,774 cars.
14 Does that sound about right?

15 A That sounds about right, yes.

16 Q But in 2019, the Port moved 248,038 cars.
17 Does that sound about right?

18 A Which year was that?

19 Q 2019.

20 A That sounds about right. I think that's
21 in the documents.

22 Q And this forecast, it reports growth in

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1 cars; right?

2 A In cars -- let's see here, yeah, because
3 there are different types of moves, right. You've
4 got container railcars and you've got -- yes, it is.

5 Q It's not reporting growth in trains;
6 correct?

7 A It's railcars. It's the actual railcars.

8 Q Mr. Peterson, would you mind taking down
9 24A and bringing up Port Exhibit 9. Thank you,
10 Mr. Peterson.

11 So, Mr. Driscoll, do you recognize this as
12 the revised forecast that the Port has submitted?

13 A Yes, I do.

14 Q And those modifications were made after
15 the submission of your verified statement; correct?

16 A Correct.

17 Q They're also made after the submission of
18 the Port's rebuttal comments in this case; correct?

19 A Yes, I believe so.

20 Q And is it the case that this document was
21 again staff prepared?

22 A Yes.

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1 Q And the data that staff consulted to
2 prepare it, that's not attached to this exhibit;
3 correct?

4 A Correct.

5 Q And did the Port staff again rely on
6 communications with customers to develop this
7 forecast?

8 A Yes.

9 Q And the substance of that communication,
10 that's also -- that also hasn't been produced in
11 this proceeding; correct?

12 A Correct.

13 Q And the Port didn't have any independent
14 party verify this forecast; correct?

15 A Correct.

16 Q Am I right in thinking the Port relied on
17 the same approach to developing these numbers as it
18 did to its initial numbers?

19 A Yes, exactly, because there were some
20 significant changes since we did that back in
21 August, August/September I think is the time frame
22 we had done the previous. So there'd been significant

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1 developments warranting a relook at this.

2 Q And how often does the Port relook at its
3 forecast, Mr. Driscoll?

4 A Somewhat a fairly consistent basis.
5 Definitely once a year when we're planning budgets,
6 but on a periodic basis, I would say on something
7 like this, probably quarterly we would look at it if
8 we noticed there were some substantial changes in
9 any activities associated with the different
10 businesses that we are responsible for.

11 Q Do you ever revise forecasts downward?

12 A Yes.

13 Q And can I direct your attention to the
14 notes column for coal. And do I understand
15 correctly that one of the grounds for the upward
16 revision in projected growth in this document is
17 western ally sanctions on Russian coal, which are
18 driving demand for U.S. thermal metallurgical coal
19 orders?

20 A Could you direct me to -- are you reading
21 something or --

22 Q Yes.

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1 A Okay. And I didn't catch that. Could you
2 just slow down and tell me where you're reading so I
3 can follow you, please.

4 Q Of course.

5 So the passage that I would like to ask
6 you about are "Western allies' sanctions on Russian
7 coal are driving gains on U.S. thermal and
8 metallurgical coal orders."

9 Do you see that line?

10 A Yes.

11 CHAIRMAN OBERMAN: I'm sorry, Mr. Trepp,
12 where are you reading from? Under notes in Exhibit
13 9?

14 MR. TREPP: Yes. We're in the row
15 dedicated to coal and in the notes column of that
16 row.

17 CHAIRMAN OBERMAN: How many lines down?
18 Oh, I see it. I'm with you. I see it, thank you.

19 MR. TREPP: Of course.

20 BY MR. TREPP:

21 Q So, Mr. Driscoll, do you see the line
22 "western allies' sanctions on Russian coal are

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1 driving gains in U.S. thermal and metallurgical coal
2 orders"?

3 A I do.

4 Q Am I correct that western allies could
5 lift those sanctions?

6 A I lost you there. Repeat that, please.

7 Q Am I correct that western allies could
8 lift those sanctions?

9 A Yes, I believe so.

10 Q And the notes column here also makes
11 reference to ongoing mine challenges in Australia.
12 Do you see that?

13 A I do.

14 Q Are you certain that those challenges will
15 continue?

16 A Am I certain? No.

17 Q Are there any other factors that could
18 drive -- well, strike that.

19 Is it possible that U.S. regulatory
20 developments could reduce the demand for coal?

21 A Yes, of course, for thermal coal I think
22 is what the focus is. This is metallurgical coal

1 where these growths are happening.

2 Q Has the Port considered constructing
3 improvements to the Virginia Street lead to mitigate
4 the increase in railcars that are attributable to
5 these revised coal figures?

6 A Not to my knowledge that have we looked at
7 doing that at this stage.

8 Q Have you looked at constructing the
9 extension on the Bob Hope Bridge to mitigate the
10 increase in railcars attributed to these figures?

11 A No, this only came up as a concept after
12 we were asked to look at potential mitigations by
13 this Court, this proceeding, pardon me.

14 Q Mr. Peterson, would you mind bringing this
15 particular column down.

16 Mr. Driscoll, this forecast also contains
17 an upward revision to the forecasted growth for ICTF
18 containers; is that right?

19 A For which containers?

20 Q ICTF.

21 A Yes.

22 Q And same question. Has the Port

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1 considered constructing improvements to the Virginia
2 Street lead to mitigate the increase in containers
3 attributed to these revised figures?

4 A No, not to my knowledge.

5 Q It hasn't considered constructing
6 improvements to the Virginia -- or pardon,
7 withdrawn.

8 And am I right that the Port also hasn't
9 considered constructing the extension on the Bob
10 Hope Bridge to mitigate the increase in containers
11 associated with these revised figures?

12 A Correct. We had not.

13 Q In 2022, the Port and CSX announced a new
14 fully-funded inland intermodal container transfer
15 facility to connect central Alabama's manufacturing
16 and retail distribution shippers with the Port; is
17 that right?

18 A That is correct.

19 Q How much is being spent on that facility?

20 A We have to make \$58 million, continuing to
21 go up because of inflation and other things.
22 Hopefully we can keep it underneath that number, but

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1 58 million.

2 Q Will that facility result in any added
3 traffic to the CSXT mainline in Mobile?

4 A It will.

5 Q Just a couple of additional questions
6 about the economic development study that I asked
7 you about at the beginning of this examination. Did
8 you personally analyze any of the data used to
9 construct that study?

10 A I did not. That was before I joined the
11 organization.

12 Q Fair to say that you also didn't
13 personally analyze the method used to calculate
14 asserted local economic value in that report?

15 A That's correct.

16 Q Has the SRC met with the Port about its
17 concerns about restoring Amtrak service?

18 A They have.

19 Q About how many times?

20 A I would say about three times, one time
21 when I was in the first several months of being in
22 the position, I met with two representatives from

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1 the Alabama portion of the SRC. I would be
2 guessing, but I would say that would have been in
3 the fall of 2020. And then I've had probably two
4 other discussions with the Alabama contingent, who
5 asked me to join -- and SRC, join on an SRC meeting
6 that was in 2021, I don't remember the exact date,
7 in order to express our concerns during that board
8 meeting.

9 But unfortunately, we were never called
10 upon to provide our input. But I would say it's
11 been about three, maybe four different times with
12 different members of that organization.

13 MR. TREPP: Mr. Chairman, may I just have
14 a moment to look over my notes?

15 CHAIRMAN OBERMAN: Certainly. Take your
16 time.

17 MR. TREPP: Thanks, Mr. Driscoll and
18 Mr. Chairman, for your indulgence. I have no
19 further questions for the witness.

20 CHAIRMAN OBERMAN: Thank you, Mr. Trepp.

21 I have a few questions, Mr. Driscoll.

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1 BY CHAIRMAN OBERMAN:

2 Q Do you know what -- maybe this is a
3 question for Mr. Golden. What is the relationship
4 between T ASD and CSX? Is it trackage rights,
5 haulage rights? Do you know what it is or should I
6 ask Mr. Golden?

7 A I believe I would -- I think I know, there
8 is a trackage rights agreement, but Mr. Golden would
9 be the one who knows it intimately.

10 Q All right. Let's pursue that with him.
11 In the brief opening comments and evidence
12 which you verified, I was a little bit uncertain
13 here, maybe I'm missing the obvious. On page 5, it
14 says "Prepandemic T ASD handled 248,038 car loads of
15 which 226,916 crossed usage with the CSX mainline."
16 Are you with me on that?

17 A Yes, sir.

18 Q So first question is, where did the 22,000
19 car loads go that don't use the CSX mainline?

20 A Yeah, those are moves that happen outside
21 of that particular gateway. I think what we refer
22 to is the country run. It runs north and services

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1 customers on that particular line. And I think
2 that's the majority of it.

3 So I think this represents, I don't know,
4 when I did the number it was 91 percent or
5 something. I think that's in the statistics here.

6 But the majority of it we have to cross --
7 our rail movements have to cross that interchange.

8 Q So these other 22,000, 21,000 car loads
9 are north of Mobile; is that right?

10 A I believe so. Again, I apologize,
11 Mr. Golden would be the best one. But I think
12 that's where the majority of them are moving, yes.

13 Q So those aren't on the same line that the
14 Amtrak trains are on?

15 A Right, right.

16 Q Then I noticed down here on, four lines
17 down, in 2021, that mainline number reduced from 248
18 to 182,000, so 66,000 fewer car loads?

19 A Right.

20 Q Is that right?

21 A I believe so, yes. I'm looking at the
22 chart we had there, and I think that's correct. We

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1 did have volume go down after -- in 2020 and 2021,
2 car traffic.

3 Q So the 226,000 that were handled in 2019,
4 apparently you do without the flyover because you
5 don't have a flyover and you're saying it functions?

6 A We're saying -- I didn't catch the last
7 comment.

8 Q You said you have challenges, but the
9 system works there without the flyover?

10 A Correct. We're able to meet our
11 customers' demands and needs in the vessel traffic,
12 yes, sir.

13 Q And when it went down to 182,000, I assume
14 you're even more easily able to meet the demands
15 because you've got less use of the line; right?

16 A I would say that, but you know, it also
17 needs to coordinate with what our partner, what
18 the -- person controlling that. But I would say
19 yes, the natural logical extension of that is
20 correct. If the volume went down, then it would be
21 easier to meet the needs of those -- of that
22 traffic.

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1 Q So when we look at the increases that are
2 in your projections --

3 A Right.

4 Q -- are those increases over the 182,000,
5 that's where you started since that's the most
6 recent year?

7 A I think the most recent year is the total
8 traffic on the line is 216,000 last year, of which
9 195,000 were on the -- that crossed the CSX
10 mainline. That was the base case. And then from
11 the information we got from customers -- and it was
12 really in the two segments, the coal segment and the
13 container segment where those volumes are expected
14 to increase significantly.

15 Q All right. Well, the brief that I'm
16 looking at on page 5 says in the recently concluded
17 fiscal year 2021, TASP handled on the CSXT mainline
18 182,000. You are now saying it's 196,000?

19 A Yes, I'm actually looking at the chart,
20 jumping to the chart that's on page 20, I think it
21 is.

22 MR. WIMBISH: Is that Exhibit A?

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1 BY CHAIRMAN OBERMAN:

2 Q Are we looking at Exhibit 9? Or what are
3 we looking at?

4 A No, no, it's the page before that. And
5 let me just understand the context here.

6 Q Well, that would apparently include
7 traffic that doesn't go over the CSXT line.

8 A Maybe so.

9 Q Because the brief refers to 182,000 as the
10 car loads on the CSXT mainline. That's what it says
11 on page 5.

12 A Right, okay. I got you.

13 Q I assume that's accurate. And I can't --
14 I see the chart you're looking at on 216, but that's
15 apparently the other traffic not on the CSXT
16 mainline.

17 A Right.

18 Q So when we look at the growth in coal and
19 intermodal, that growth is against the 182,000
20 figure?

21 A Right.

22 Q Not against the 226,000 figure?

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1 A Correct, right. It's based on last
2 year's.

3 Q All right. I just wanted to make sure I
4 understood the base that we're measuring it against.

5 Now, as I read Exhibit 9, there's no
6 change in the three to five-year new volume growth
7 of coal between the 24A and 9. Those are both the
8 same; right?

9 A Yes, they are.

10 Q So the coal growth you are forecasting is
11 just the next one to two years?

12 A Correct.

13 Q It sounds like you've got the war, you
14 know about the problems in Australia, and this right
15 now seems to be a one- to two-year problem, nobody
16 knows what's going to happen after that. Would that
17 be a correct way to understand?

18 A I think that's a correct way, and in that
19 we took a very conservative stance. Generally the
20 coal companies only give us a two-year forecast that
21 we can feel fairly confident in that that's going to
22 happen, that's based on their sales, forward sales

1 and future expected sales.

2 So I would say in this particular case, we
3 took a very conservative approach for the three to
4 five years out for purposes of planning and
5 representing what we felt confident could happen.

6 Q And then just to be clear, if I look on a
7 comparison between Exhibit 24A and Exhibit 9, there
8 seemed to be no change whatsoever on mixed rail
9 freight and automobiles?

10 A Right. There's no change from what we
11 forecasted in August of '21 to when we re-did the
12 forecast in March. We feel confident that those
13 numbers, at that point, would remain the same, correct;
14 no major changes in the two segments.

15 Q So try as best we can, and realize, as
16 Yogi Berra said, making predictions are difficult,
17 particularly about the future, if we try to get a
18 picture here, we only have a sense of coal and in a
19 very acute time frame. And beyond that, so you
20 could almost neutralize that on a 20-year
21 projection, which is what the railroads have given
22 us in the RTC study, your other projections don't

1 change.

2 So the real place to look at what the
3 needs are going to be for TASP would seem to be in
4 the container part, which does not appear to be
5 based on at least in your text on short-term or
6 acute problems like the war in Ukraine; right?

7 A Yes, sir, correct.

8 Q But, you know, at the Board, we have been
9 immersed in the whole supply chain issue, so I have
10 some familiarity with it. And I gather from the --
11 the Port's contention, which seems to be borne out
12 by what recent history shows, is that with the
13 problems at the other ports, you're starting to see
14 your traffic build up because you're less congested;
15 right?

16 A I would say that's a fair statement.
17 We've seen shift of some cargo to our gateway that
18 used to come over the congested gateways that you
19 mentioned to our port, yes.

20 Q And that's good for the country as a
21 whole, if we can get rid of some of that congestion.

22 What I'm wondering is that when we've been

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1 asked to consider what kind of infrastructure is
2 needed on a 20-year case, there have been a lot of
3 talk about the big BCOs onshoring their
4 manufacturing, there's talk about the infrastructure
5 changes at LA Long Beach, which someday may loosen
6 them up.

7 You know, all the other ports are on the
8 move as well. Savannah has its own program. It
9 seems to me just difficult to go beyond a very short
10 term, you've got five years here, which isn't too
11 long, to really understand what the needs of the
12 Port will be in terms of quantity of containers 20
13 years from now. That would be almost impossible,
14 wouldn't it, to predict?

15 A Well, candidly, to predict accurately,
16 yes, I think that's very, very difficult.

17 But we have a terminal operator that we're
18 in discussions with and finishing discussions to
19 where their contract expires in 2039 for operating
20 the container facility, and they have two 10-year
21 options on that property.

22 So if the point on your question is that

1 we do look out for the long term in the container
2 segments, because our customer, the operator, is
3 investing, as we are, into those facilities.

4 We look at it as a conservative approach.
5 We see in the next five years the growth is going to
6 be very significant, as you see from what we have
7 here. And then in the forward years, we're looking
8 at potentially somewhere in the upwards of single
9 digit growth.

10 We've had double-digit growth in our
11 container facility for the last seven years. But we
12 do expect after maybe seven to 10 years that will
13 drop down to probably single digit growth factors.

14 But we are negotiating with them on phase
15 4 and then potentially in a phase 5 development.
16 And those you have to look out many years, five, 10
17 years, because the investments that you're making,
18 just in that container facility so far, we've
19 invested \$550 million in this phase 4, we're looking
20 at doing another \$72 million investment into added
21 capacity for there. And that takes two to three
22 years.

1 So you have to think -- you have to think
2 long term.

3 Q Well, I understand that you have to think
4 long term. That makes eminent sense. And we're not
5 in the business of handing out the money. So we
6 don't make that judgment.

7 But we are being asked at least by some
8 parties to order infrastructure to be built. And
9 I'm trying to measure in my own mind, and I think
10 we'll ask Mr. Golden about the cost of the flyover
11 and some of these other projects, but they're
12 awfully big projects, trying to figure out how badly
13 they're going to be needed in 20 years. That's all
14 I'm trying to get at.

15 I think you've been very helpful here in
16 telling us your point of view of how to think about
17 it.

18 I had -- let me just check my notes. I
19 think the other questions that I have are probably
20 for Mr. Golden.

21 I am going to ask you one question that
22 has been on my mind since this case began, and that

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1 is -- and I don't want to spend a lot of time on it,
2 how in the world did Bob Hope have anything to do
3 with that bridge?

4 A That's not the Bob Hope that you and I
5 know that's famous. Bob Hope was -- happened to
6 have the same name, but I think he was a former
7 director at the Port many, many, many, many years
8 ago, that's named after him. But it's not the
9 comedian and actor that you and I refer to.

10 Q That just shows my ignorance of Alabama
11 history, so I appreciate you clearing that up.

12 A I did the same thing, believe me.

13 Q And you're at least in this business so I
14 guess I can be forgiven.

15 Thank you, Mr. Driscoll. I appreciate it.

16 Do any board members have any further
17 questions for Mr. Driscoll?

18 Karen?

19 EXAMINATION

20 BY BOARD MEMBER HEDLUND:

21 Q On Exhibit 9 -- I just wanted to make sure
22 I have this right. On the coal line, it shows one

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1 to two FY year over year new railcar increase,
2 22,000 railcars, and then three to five shows 21,000
3 railcars.

4 Now, is that 21,000 in addition to the
5 22,000 or is that the amount over the base year?

6 A That's the amount over the previous year.
7 So it's cumulative.

8 So if we are correct in our estimate in
9 years 1 and 2, then it would be on top of that
10 cumulative number.

11 Q So over five years, it would be
12 approximately 43,000 railcars; is that correct?

13 A That's correct.

14 Q Okay. So just I think you've answered
15 this before, but I want to ask it again. Given the
16 increase that you forecast in the next five years
17 and given what you've said is occasional
18 difficulties crossing the CSX line, you do not
19 believe and have not asked for any additional
20 infrastructure to accommodate this level of growth?

21 A Related to the passenger rail --

22 Q I'm saying assuming there's no passenger

1 rail.

2 A Right.

3 Q Have you asked CSX for any additional
4 infrastructure to handle the growth that you were
5 projecting?

6 A No.

7 Q Notwithstanding the fact that you say that
8 it's occasionally difficult?

9 A Yes. We have not asked them for
10 additional, no. But we are investing money in
11 infrastructure, actually in the line that runs north
12 that I was referring to, we call it the country run,
13 we are looking at investing in a second track for
14 that particular line. Nothing to do with passenger
15 rail. It goes north, in order for us to be able to
16 handle the longer container trains and the more --
17 the higher volume of this.

18 So we're looking at building another track
19 from that Three Creek Mile Bridge that you
20 probably -- we've talked about, previous people
21 talked about, up through that northern portion of
22 the track.

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1 So we are investing in that. We're also
2 looking at investing in adding capacity on our
3 Interchange yard. We're looking at purchasing some
4 land and then expanding that to be able to handle
5 some of the increased growth that we're expecting.

6 Again, these are outside of the scope of
7 whether or not the passenger rail goes forward.
8 These are investments that we're doing for the
9 future to handle the increases that we're talking
10 about on this forecast.

11 Q But you haven't asked CSX for any
12 additional infrastructure beyond the work that
13 you've just mentioned?

14 A Correct.

15 Q CSX line is sufficient to handle that?

16 A We believe so.

17 Q Okay. Thank you.

18 A Thank you.

19 CHAIRMAN OBERMAN: Any other Board
20 members?

21 EXAMINATION

22 BY CHAIRMAN OBERMAN:

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1 Q I did have one question I meant to ask,
2 Mr. Driscoll. Is any of the growth in coal going to
3 be moved by barge one way or the other?

4 A Yes, yeah. That's a good point. There
5 is -- you know, so the waterways that we have in
6 Alabama are critical. So of the new mine, we expect
7 probably the majority of that coal coming down will
8 be on a barge and service into the facility there.
9 So yes, that's a good catch.

10 So we didn't forecast all of the growth
11 only in containers on this. We've separated out
12 based on what we know and what the customers told us
13 what percentage split that's going to be.

14 Q And just it would be enlightening I think
15 for us to have an understanding of your port. What
16 is the division between barge and rail
17 percentage-wise, ballpark?

18 A Right. It's probably 60/40 rail/barge,
19 but with this new mine that they're drilling, that
20 is going to be 80/20 is what the estimate is.

21 So it will shift more actually to barge
22 traffic because of that once that is fully

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1 operational. But I think the percentage is 60/40,
2 my recollection, rail versus barge.

3 Q Wait a minute, now you confused me. 60
4 percent rail?

5 A Yes, sir.

6 Q But then it's going to go to 80 percent
7 barge?

8 A The one mine, the one mine that is coming
9 online.

10 So there's a few that can only come barge.
11 There's one particular mine that can only come
12 barge, there is no rail sidings to it. But I think
13 all of the other ones have dual connectivity for
14 them, both barge and rail. But the new mine will be
15 80 percent barge, 20 percent rail.

16 Q So what would --

17 A Predicting barge to go up.

18 Q What does that mean then the overall
19 division will be?

20 A So I would need to do the calculation, but
21 obviously, the rail volume percentage would go down,
22 I would say somewhere in the 50 to 55 percent versus

1 60, this is just off the top of my head type of
2 estimate, and then the barge will pick up the
3 balance.

4 Q I just wanted a ballpark idea. That's
5 very helpful.

6 Thank you, Mr. Driscoll.

7 Rob, any redirect?

8 MR. WIMBISH: Yes, I have just a handful
9 of redirect questions.

10 REDIRECT EXAMINATION

11 BY MR. WIMBISH:

12 Q Mr. Driscoll, are you aware of any
13 requests by Amtrak for the background data to
14 support your November 2021 traffic forecast?

15 A No.

16 Q Would the Port have supplied that
17 underlying data if Amtrak had asked for it?

18 A Most definitely.

19 Q Finally, in your opinion, Mr. Driscoll, in
20 the absence of Amtrak's proposed operations, would
21 the Port need the flyover, the Bob Hope extension or
22 the Virginia Street lead to accommodate forecasted

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1 traffic growth adequately?

2 A If the passenger was?

3 Q In the absence of Amtrak's operations,
4 would you -- would the Port need the flyover, the
5 Bob Hope -- again, in your opinion, would the Port
6 need the flyover, the Bob Hope extension, the
7 Virginia Street lead to accommodate forecasted
8 traffic growth adequately?

9 A No.

10 MR. WIMBISH: I have no further questions.

11 CHAIRMAN OBERMAN: Anything further for
12 Mr. Driscoll?

13 MR. TREPP: I have just one.

14 CHAIRMAN OBERMAN: Mr. Trepp, go right
15 ahead.

16 RECROSS-EXAMINATION

17 BY MR. TREPP:

18 Q Mr. Driscoll, did the Port provide its
19 predicted growth figures to CSX and NS in connection
20 with their RTC modeling in this case?

21 A I apologize, you're breaking up on me,
22 Mr. Trepp. Could you repeat that again?

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1 Q Sure. To your knowledge, did the Port
2 provide CSX and NS with the Port's proposed growth
3 figures in connection with the RTC modeling?

4 A Not to my knowledge.

5 MR. TREPP: That's all I had.

6 CHAIRMAN OBERMAN: Is that it? All right.
7 If there's nothing further, Mr. Driscoll, you are
8 excused. Thank you for your appearance.

9 (Witness excused.)

10 CHAIRMAN OBERMAN: We've been going just
11 about two hours, so I think it would be a good time
12 for a break. And I'm going to take a 15-minute
13 break because there is just a press of some other
14 business the Board members must deal with here.

15 So we will recess. It's 11:00 -- my
16 computer is off. I think it's 11:27. We will
17 reconvene at 11:45. Thank you.

18 (Recess.)

19 CHAIRMAN OBERMAN: Well, we are back. Is
20 everybody here?

21 Okay. We will resume the case of Port of
22 Mobile. It looks like, Mr. Helenhouse, you're on;

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1 is that correct?

2 MR. HELENHOUSE: That's correct,
3 Mr. Chair.

4 CHAIRMAN OBERMAN: All right. Call your
5 witness.

6 MR. HELENHOUSE: We are calling Robert
7 Golden.

8 CHAIRMAN OBERMAN: Mr. Golden, would you
9 raise your right hand, please.
10 Whereupon,

11 ROBERT GOLDEN
12 was called as a witness and, having first been duly
13 sworn, was examined and testified as follows:

14 CHAIRMAN OBERMAN: Proceed.

15 DIRECT EXAMINATION

16 BY MR. HELENHOUSE:

17 Q Mr. Golden, can you please introduce
18 yourself to the Board and tell the Board for whom
19 you work?

20 A My name is Robert Golden, I go by Rob
21 affectionately I guess you would say. I work for
22 the Alabama State Port Authority Terminal Railways.

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1 Q And does the Alabama State Port Authority
2 have a rail division?

3 A We do.

4 Q What is that called?

5 A The Terminal Railway, we go by our
6 reporting initials TASD.

7 Q Is that a common carrier?

8 A Yes, sir.

9 Q Can we agree for purposes of today unless
10 we refer to the Port generally for these purposes,
11 we'll call the Port when we refer to the Port, we're
12 talking about the Rail Division so we're on the same
13 page, okay?

14 A Yes, sir.

15 Q I want to get some background information
16 from you. So can you tell the Board about your
17 experience in the railroad industry?

18 A Sure. I was hired by CSX Transportation
19 prior to finishing college, and I was hired out as a
20 train dispatcher in the Calumet City, Illinois
21 Command Center. I worked there for six years as a
22 train dispatcher, qualified on all four desks that

1 we had at the time when I started. We additionally
2 gained three more desks from Jacksonville
3 decentralization.

4 I dispatched from Portage, Indiana up and
5 to and through Chicago. We had two dispatching
6 desks that dispatched here in Chicago, the RA and
7 the RB. The RB desk, the furthest west desk I guess
8 you'd say, I was responsible for handling from Grand
9 Trunk Tower there, Blue Island, Illinois, up through
10 the Altenheim subdivision and the New Rock
11 subdivision. We handled Metra trains at
12 75th Street and Amtraks in and out at 75th Street.

13 The RA desk handled Amtrak trains coming
14 from the Garrett sub to the Norfolk Southern. They
15 handed them off there to go into Central Station in
16 Chicago, Pine Junction.

17 Q So you've had experience as a CSX
18 dispatcher dispatching trains over which Amtrak
19 operates?

20 A Yes, sir. I also as assistant chief
21 dispatcher, the Chicago West and East desk monitored
22 the 24-hour operations planning up our railroad for

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1 24 to 48 hours, monitoring the dispatchers giving
2 them information on how to move the trains, in which
3 we were in charge of two other lines of Amtrak
4 trains.

5 Q Let me stop you there. Was that another
6 job though?

7 A It was all as a dispatcher in Chicago for
8 the first six years. The assistant chief though has
9 a little bit broader territory. We handle trains
10 going to Grand Rapids, I believe the Pere
11 Marquette leaving out of Grand Rapids to Chicago,
12 and I think it was a cargo line that came out of
13 Chicago down through Lafayette into Indianapolis
14 that we ran every day on the Monon Subdivision.

15 Q In those positions, did the Amtrak
16 operations on those lines create any freight
17 congestion?

18 A Not so much on the bar sub. We had double
19 track. But elsewhere we had single track, and we
20 had to set up the railroad far enough in advance to
21 make sure that Amtrak didn't get delayed. We did
22 get pretty good preference on the Monon and cross

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1 streets. At 75th Street, we had a schedule, had to
2 hold everything to let the passenger trains cross
3 75th Street.

4 Q What was your next position?

5 A After six years I promoted to train master
6 in Grand Rapids, Michigan, responsible for Wyoming
7 Yard. That was my primary responsibility, but
8 secondary, I had the Grand Rapids Subdivision and
9 the subdivision east of Grand Rapids going to
10 Plymouth, Michigan, in which we ran the Amtrak
11 trains, had to respond to Amtrak incidents or
12 situations that we needed a response to along Amtrak
13 in that territory as well.

14 Q Did the Amtrak presence on those lines
15 create any congestion?

16 A That was single track passing siding, so
17 any time we had those trains running, we had the
18 dispatchers and the operations had to clear the
19 railroad for them to get through.

20 For me as trainmaster in Grand Rapids, I
21 had to make sure our mainline was wide open so we
22 were clearing the mainline of cars that were being

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1 delivered from our local trains and building up for
2 outbound trains, we had to make sure we had the
3 mainline cleared for the Amtrak to get through.

4 Q What was your next position?

5 A I was promoted back to the operations
6 center in Chicago as the director of train
7 operations. The director of train operations
8 territory expanded a little further. I handled all
9 of the Chicago division's territory, which
10 incorporated all the state of Michigan, Toledo, Ohio
11 across the northern part of Indiana through Garrett,
12 Indiana and into Portage.

13 And then we also of course had the other
14 territories I was used to, which was the Monon
15 Subdivision down through Lafayette towards
16 Indianapolis and Danville, Illinois, getting across
17 those railroads and back onto our railroads at
18 Woodland Junctions.

19 Q And did the Amtrak operate over the tracks
20 you oversaw in that position?

21 A Yeah, all -- the Amtrak that ran through
22 Garrett, Indiana had ceased operations just before I

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1 got promoted from being a dispatcher, so we still
2 had the line running into Grand Rapids and down
3 through Lafayette into Indianapolis. And of course
4 we still maintained having to run the passenger
5 service on the RB desk on the Blue Island
6 Subdivision at 75th Street, so yes, sir.

7 Q What was your next job?

8 A I left Chicago and was promoted down to
9 Jacksonville, Florida as a manager of network ops.

10 Q Can you tell the Board what a manager of
11 network ops did for CSX or was responsible for at
12 CSX?

13 A Well, my primary duties was to make sure
14 that the operating plan was being adhered to by all
15 the divisions. I dealt with profiles, congestion
16 profiles if we had any issue along the road
17 somewhere and we had to reroute a train. I was also
18 the primary individual that reported to the NRC,
19 train and vehicle collisions at crossings across the
20 network. I had to report that to the computer and
21 if the computer wasn't up, had to make the phone
22 call.

1 And then basically make sure the plan was
2 being followed. Like I said, anything that the
3 general manager of the network operations had me do
4 as a side job, I had to take it up and run and
5 handle.

6 Q You mentioned "operating plan." Can you
7 explain to the Board what that is, what that term
8 means?

9 A Well, at CSX when I worked there, we had a
10 plan for every train, all the regular scheduled
11 manifest trains, intermodal trains, the Amtrak had
12 schedules, automotive trains had schedules, the bulk
13 trains are pretty much the only things that didn't
14 have necessarily a set schedule. They were
15 authorized, knowing when they were about to run, and
16 of course they had a schedule across the network.

17 But managing the profiles just had to do
18 with if we were alternating something that
19 originated, say, in New Orleans that went to Hamlet,
20 North Carolina, we made sure that all the parties
21 involved handling those trains would be able to keep
22 up to our commitments, power coming from the north

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1 today, my supply of power for an outbound going to
2 to Selkirk in three days at Hamlet, North Carolina.
3 So all the trains are interconnected with the plan.

4 Q Did your territory of manager of network
5 ops include Mobile?

6 A It was the entire system, so Mobile was
7 included in that, yes, sir.

8 Q Did you have any interaction with Amtrak
9 trains in your position as manager of network
10 operations?

11 A Any time we had scheduled trains or such
12 that we had issues, Amtrak would be one of the
13 trains set that we would have to deal with. The
14 Amtrak desk would report to Amtrak directly if we
15 had any operational issues.

16 Q Did the Amtrak operations that were
17 occurring when you were manager of network
18 operations cause any congestion on CSX's lines?

19 A It just depended on where you were at.
20 There were some spots on the eastern corridor that
21 had four main lines and may have less congestion.
22 Of course we have a lot more trains running when you

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1 have four main lines because there are needs for
2 four main lines. But other than that, I mean, any
3 time you have Amtrak, we have to prepare to make
4 sure the trains are included so they can run
5 unopposed.

6 Q You said you need prepare for it to come.
7 What did you mean by that?

8 A If I'm dispatching a certain territory,
9 whether it means double track or single track or
10 passenger sidings, if Amtrak is coming into the
11 picture, then I've got to prepare the other trains,
12 whether it's freight, intermodal or automotive, or
13 just bulk in nature, coal, potash, whatever, stone.
14 You've got to get them in the clear for Amtrak to
15 come by, so they had a clear a route to run across
16 the territory. It was very imprinted on us as
17 dispatchers to make sure that we ran Amtrak on time
18 all the time.

19 Q What was your next job?

20 A I was promoted in 2011, April 2011, to the
21 superintendent train operations in Atlanta, Georgia.

22 Q What did those responsibilities include in

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1 that position?

2 A Well, I was in charge of the dispatcher
3 center in Atlanta for CSX. When I first got the job
4 in 2011, it included all the Gulf Coast locations
5 from New Orleans up to Montgomery, at Flomaton,
6 Alabama, it would go railroad north to Pensacola.
7 At Montgomery split, we went north into Atlanta and
8 north to Oakworth, Alabama. At Parkwood, Alabama,
9 we went back east to Manchester, Georgia. The line
10 from Montgomery to Atlanta and basically Birmingham
11 to Manchester crossed in LaGrange. Of course we had
12 a line from Manchester to Atlanta. In Atlanta, it
13 went north to Cartersville, Georgia, where it split.

14 Our line ran from Cartersville, through
15 Chattanooga, Wauhatchie Yard, and then the other
16 line ran up the K&A to Etowah, Tennessee, which
17 eventually drew to Corbin, Kentucky. And then in
18 Atlanta also we went east to Abbeville, South
19 Carolina and then Augusta, Georgia.

20 Q And the dispatch center where you were
21 assigned, did you oversee dispatching in the Mobile
22 area?

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1 A We did, or I did.

2 Q So what is your familiarity with the
3 dispatching in the Mobile area?

4 A Well, that was my primary responsibility
5 is to make sure the dispatchers operated the
6 railroad as close to plan as possible. We wanted to
7 run on time network, make sure power got in the
8 correct position, whether it be in New Orleans, at
9 Mobile, at Montgomery, at Birmingham, Atlanta or off
10 division to other terminals like Nashville or Hamlet
11 and Waycross.

12 Q And did the dispatchers have to make time
13 for track maintenance, track inspectors, track work,
14 track repair?

15 A Well, yes. I mean, what a dispatcher's
16 responsibilities are is the safe and efficient
17 movement of all train and on track equipment. So
18 that would include all your freight trains, your
19 intermodal trains, all the automotive trains,
20 passenger trains.

21 But it would also include making sure they
22 had track time out there. If we didn't give

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1 maintenance the proper time to address our
2 infrastructure that our rolling stock is going
3 across, then we would have delays in and of itself
4 just because the infrastructure would be decrepit.

5 So it's the responsibility of the train
6 dispatcher to make sure we have enough track time to
7 have repairs made, to have precautionary repairs
8 made or reactionary repairs made, whatever they are.
9 But we need to make sure that infrastructure was up
10 to snuff, so to speak.

11 Q You mentioned having to give maintenance
12 of way "track time." Can you explain to the
13 Board what you mean by that?

14 A Part of my duties as superintendent of
15 train operations in Atlanta was to plan curfews. I
16 believe CSX calls them blocks now, or I'm not sure
17 what the terminology is, but we plan curfews.

18 So being in the south of the U.S., we had
19 warmer weather, so we always tended to start the
20 year with a bunch of curfews on multiple
21 subdivisions. A curfew is one where we have
22 particular work coming to refresh and upgrade the

1 infrastructure.

2 So, for example, it was pretty regular
3 that the NO&M subs that run from New Orleans to
4 Mobile would have track gang or tightening coming in
5 that would just replace railroad ties, they would
6 replace them up and down the sub.

7 Depending on our plan, we might be able to
8 throw in rail gangs. R1 gangs and R2 gangs would
9 lay straight rail. But we would have curve patch
10 gangs, C1, C2, C3, that would come in and actually
11 lay rail in curves on our infrastructure.

12 So a lot of the stuff that I had to do as
13 an ST0 was plan our curfews or just our normal work
14 windows. Normal work windows would be required
15 across all of our subdivisions just to fix flow
16 orders, fix issues. You know, in the heat of the
17 day, the rail expands and the next thing you know we
18 have to cut some rail out. Or maybe we had a broken
19 rail happen in the cold, the tracks in the cold and
20 they had to put a joint in, we might be planning
21 track work for someone to go back in and weld up
22 that joint so that we can have good rail.

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1 Q And while that track work was in place and
2 the track maintenance was being done, could trains
3 operate through that block?

4 A It depends. I've had curfews that I've
5 worked with on the Atlanta division, and the Chicago
6 division and other divisions on CSX where there's
7 some of the curfews we really metered that water
8 coming out of the water hose, right, so we got it
9 pinched up and we'll let a train every so often run
10 through, and it's planning to be there at a certain
11 time where they're on double track, and we might let
12 a train sneak through.

13 In the South there's a lot of single
14 tracks and passenger siding, most of the time when
15 you have a curfew or work block, you can't run
16 trains even with the day-to-day window that you
17 might discuss the day before, you might encounter a
18 broken rail. Excuse me. They may need three hours
19 to repair a joint, and during that three hours,
20 nothing is moving through that one location.

21 However, you make plans, you alternate
22 your operating plan to hold the train somewhere long

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1 enough to where we could put them on runs and make
2 the connecting with to try to regroup.

3 Q And those sorts of things need to be done
4 to comply with FRA regulations; is that correct?

5 A With standards of track, yes, sir.

6 Q What was your next job?

7 A After superintendent of train operations,
8 that's where I'm basically at here now at this
9 point.

10 Q At the Port you mean?

11 A Yes, sir. I was hired in August of 2017
12 to be assistant general manager here at the Alabama
13 State Port Authority on the Terminal Railway.

14 Q What do you do for the Port?

15 A As the assistant general manager, I was in
16 charge of just the transportation side of things.
17 We have a chief mechanical officer that handled all
18 the shop crafts, including maintenance of way,
19 machinists and all that. And my job as the
20 assistant general manager was to make sure that we
21 had crews planned properly, we had engineers trained
22 that needed to be trained, we had hired, conductors

1 that needed to be hired.

2 We just manage vacation schedules and
3 operations. I would be the go-between between my
4 train masters and CSX if we needed to get moving
5 across or if we needed to make a plan for a special
6 move with any of the railroads, I was the point man
7 for that. And I remained assistant general manager
8 until about March of last year, in which I was
9 promoted to general manager in March of 2021.

10 Q Based on your various positions at CSX and
11 your current position at the Port, how familiar are
12 you with the dispatching in the Mobile area?

13 A I would say I'm pretty intimately familiar
14 with the dispatching of CSX in Mobile, in
15 conjunction with Terminal Railway.

16 Q And the same question with respect to the
17 operations of CSX in Mobile.

18 A I'm pretty familiar with operations here
19 in Mobile.

20 Q How many employees does the Port -- I'm
21 talking about the Port as a whole have, if you know?

22 A I think we're around 600 employees total,

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1 that may be high. I know for the Terminal
2 Railway --

3 Q About how many does the rail division
4 have?

5 A Well, the Terminal Railway only has 102
6 employees total. So 600 might be way high for the
7 Port. We've got other divisions in the Terminal
8 Railway, the Central Island and the general cargo.
9 So I'm not sure how many they all employ.

10 Q How many other -- I'm going back to using
11 the Port as the substitute for T ASD. How many of
12 those 102 employees operate trains?

13 A Roughly 50.

14 Q Is the Port's rail operations a 24-hour a
15 day operation?

16 A Yes, seven days a week.

17 Q I want to draw your attention to Exhibits
18 Number 1A and 1B as amended. If you could pull
19 those up on the screen, I believe there were no
20 objections to this?

21 CHAIRMAN OBERMAN: Can you identify the
22 exhibits? These are -- these are Port exhibits?

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1 MR. HELENHOUSE: Yeah, 1A and 1B as
2 amended, they are the ones that were filed the
3 incorrect version of 1A and 1B, and then we
4 e-mailed at the beginning of this proceeding the
5 correct versions, which are the same except they
6 provide a little bit more detail in the amended
7 versions.

8 CHAIRMAN OBERMAN: And there is no
9 objection, Amtrak, CSX?

10 MR. TREPP: Mr. Chairman, we didn't object
11 to the revisions, and we don't object to the use of
12 this document as a visual aid.

13 CHAIRMAN OBERMAN: All right.

14 Well, by the way, Mr. Helenhouse, I'm
15 looking at the paper copies that we got shipped to
16 us. If they were e-mailed, I haven't found them,
17 and I don't have a color printer. But you're saying
18 they are the same, they're just blowups of the new
19 version?

20 MR. HELENHOUSE: They're the same, but
21 they have a few more items identified in them. But
22 I'm sure you should be able to follow with the paper

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1 copies you have and Mr. Golden will mark up the
2 exhibits to highlight certain areas as we move
3 through.

4 CHAIRMAN OBERMAN: That would be helpful,
5 thank you.

6 BY MR. HELENHOUSE:

7 Q Can you explain to the Board what 1A and
8 1B as amended is?

9 A Just a second, I'm trying to -- so 1A and
10 1B is a map, I'll scroll all the way through both of
11 them real quick, not to make anybody dizzy. But
12 these are a commercial map we have made to show
13 current customers -- potential customers and current
14 customers the layout of what we do here at the Port.

15 Q Do these show the Port's entire operations
16 in terms of its track and where it runs?

17 A Yes, sir.

18 Q Are they true and accurate representations
19 of where the Port operates?

20 A Yes, sir.

21 Q I understand that this exhibit shows the
22 Port's track in orange; is that correct?

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1 A That is correct.

2 Q Now, let's start with the very top of 1A.

3 There is a line of rail up there that appears in
4 orange. Maybe you can point to that? Are you able
5 to highlight?

6 A I can't get the --

7 Q Please excuse the delay. We're trying to
8 get a tool up that will make this more visible for
9 everyone.

10 MR. ATKINS: So, Jim, this is Ray Atkins.
11 My tech people are suggesting if you go to full
12 screen, it might make it easier.

13 MR. HELENHOUSE: All right. We're just
14 going to have to go forward. Hopefully everyone can
15 see this.

16 If you can maybe point to the orange line
17 running to the left of that.

18 CHAIRMAN OBERMAN: Is the witness speaking
19 now? Somebody is mumbling, but I can't hear it. Is
20 that --

21 MR. HELENHOUSE: We're having a problem
22 sharing the screen because it's not moving when he

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1 moves it.

2 CHAIRMAN OBERMAN: Okay.

3 MR. HELENHOUSE: It should be sharing
4 Mr. Golden's screen. It popped up but it's not
5 moving. Why don't you close out of that and open it
6 back up. It was working a minute ago.

7 Go ahead, Rob.

8 MR. WIMBISH: Mr. Chairman, can you hear
9 me? This is Rob Wimbish. I'm going to start my
10 video here. Can you hear me?

11 CHAIRMAN OBERMAN: I can hear you.

12 MR. WIMBISH: Okay. We appear to be
13 having some sort of connectivity issue. I cannot
14 get my video to run at all. I'm wondering if we
15 could ask for about a five to 10-minute recess to
16 see if we can address this technical issue and see
17 if we can get this to run the way it's supposed to
18 run.

19 CHAIRMAN OBERMAN: Let me just ask this
20 question. I'm guessing, what I was wondering is if
21 we could proceed with some other aspect of
22 Mr. Golden's testimony and then do this at the lunch

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1 break. But I'm going to guess that this map is
2 important to the beginning of Mr. Golden's testimony
3 so you don't want to go out of order. Is that fair?

4 MR. HELENHOUSE: Yeah, that is correct,
5 Mr. Chairman. This is Jim Helenhouse. In addition
6 to that other exhibit I will have to pull up on the
7 screen. I apologize, it was working 10 minutes ago.

8 CHAIRMAN OBERMAN: Listen, this is life in
9 the tech world. Don't apologize. Do you think 10
10 minutes will do it?

11 MR. HELENHOUSE: Yes, I hope so. If we
12 can't figure it out in 10 minutes, I think it's
13 beyond the capability to fix and we'll have to go to
14 plan B.

15 CHAIRMAN OBERMAN: All right. Let's go to
16 break. It's 12:17. Why don't we break until 12:30
17 and we had a later break at 11:30 today, so we'll go
18 for a while and have a little bit later lunch break
19 than usual if that suits the Board's comfort. Maybe
20 another half hour, 45 minutes after we come back and
21 then we'll break for lunch. Is that okay with
22 everybody?

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1 Okay.

2 MR. HELENHOUSE: Thank you.

3 CHAIRMAN OBERMAN: All right. We will
4 break until 12:30.

5 (Recess.)

6 CHAIRMAN OBERMAN: We are back in session.

7 UNIDENTIFIED SPEAKER: Yes, we do and I
8 apologize for that. It was actually a large
9 demonstrative aid that showed that best laid plans
10 of mice and men and dispatchers often go awry. But
11 we got that resolved and we can move on.

12 CHAIRMAN OBERMAN: All right. Very good.
13 No apologies needed. Thank you.

14 BY MR. HELENHOUSE:

15 Q Mr. Golden, I believe we were talking
16 about the orange line on the top of Exhibit 1A.

17 A Yes, sir.

18 Q Can you explain to the Board what that
19 track is -- how you refer to that track?

20 A So this is the very north end of the
21 railroad that's the terminal railway in the
22 port-owned. We are up here at the Port of Chickasaw.

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1 We've got a few customers up there, about five
2 customers up there -- about five customers up there that we serve
3 at the Port of Chickasaw that is owned by the city of Chickasaw.

4 Q And for the Board's clarification, what
5 we're doing now is kind of giving you an
6 overview of the Port's operations and then we'll get
7 to the specifics a little bit. If we go down a
8 little bit further, do you see a couple yards, there
9 is an orange yard separated by a yard in blue. What
10 are those two orange yards?

11 A I guess to answer your first question,
12 this is what we affectionately call our country
13 train, country line.

14 CHAIRMAN OBERMAN: It looks like you
15 scrolled past -- where are you talking about? Which
16 orange?

17 THE WITNESS: Mr. Chairman, this whole
18 line here that I was scrolling through is what we
19 call our country line.

20 CHAIRMAN OBERMAN: I see it. Okay.

21 THE WITNESS: Where we go to Three Mile
22 Creek. Mr. Helenhouse just asked me about this

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1 orange yard here.

2 CHAIRMAN OBERMAN: I see. Okay. I was
3 looking at I guess I thought maybe you were
4 referring to the red yards as yours. Those are
5 private track; is that right?

6 THE WITNESS: That's correct, sir.

7 CHAIRMAN OBERMAN: Okay. All right. I'm
8 with you.

9 BY MR. HELENHOUSE:

10 Q Mr. Golden, can you just explain what the
11 two orange lines are and what the blue line is
12 there? Blue lines, I should say.

13 A So this is kind of a bird's eye view of
14 our Interchange track here on the left-hand side.
15 This is where the Terminal Railway does all of our
16 Interchange business. And then on the blue here is
17 the CSX Sibert Yard and then the orange on the
18 right-hand side is T ASD Riverfront, the Port's
19 Riverfront Yard.

20 Q Let's go a little bit further south to 1B
21 and if you can explain --

22 CHAIRMAN OBERMAN: Before you leave the

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1 1A, just to orient ourselves, is the Mobile -- is
2 the convention center on this map? Just trying
3 to --

4 THE WITNESS: No. No, sir. It would be
5 at the top of 1B that we're scrolling down to.

6 CHAIRMAN OBERMAN: Okay. All right.
7 Thank you.

8 BY MR. HELENHOUSE:

9 Q Why don't you scroll down, Mr. Golden, to
10 where the convention center is. You can see where
11 we have notated the former Amtrak station here off
12 number 1 main. The convention center is actually
13 right here where there isn't anything on the map.
14 It's not highlighted on the map, but the former
15 Amtrak station is.

16 Between those sections of those blue two
17 tracks that connect the top of 1A to the bottom of
18 1B; right?

19 A That's correct. There's just a little bit
20 of railroad vision I guess for demonstrative
21 purposes.

22 CHAIRMAN OBERMAN: Okay. Thank you.

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1 BY MR. HELENHOUSE:

2 Q If you can scroll further down and show
3 the Board what the Port's operations are on the
4 south part -- south end of the operations.

5 A So the orange track here is the other
6 railroad port-owned railroad I guess you would say.
7 The big loop is our McDuffie Coal Terminal where we
8 unload and load coal to and from ships, to and from
9 barges and to and from trains.

10 The part that breaks off here to the left
11 is Garrows Bend. This is where our intermodal
12 container facility is for railroad purposes. The
13 Mobile Container Terminal you see in the upper right
14 is the Port's property that is run by APM terminals.
15 This is where the ships are offloaded with the
16 containers and then transported outward.

17 But as far as the railroad goes, this is
18 where McDuffie Coal Terminal is, we're dumping coal
19 train or loading coal train which we have done some
20 this year, and this is where we load or unload
21 railcars that have containers on them for intermodal
22 purposes.

1 BY CHAIRMAN OBERMAN:

2 Q I'm a little confused between the Mobile
3 Container Terminal and the Garrows Bend. Are they
4 both intermodal terminals?

5 A So, Chairman, the Mobile Container
6 Terminal is where our on dock operations are, where
7 the ships will park alongside the docks here to
8 unload -- well, it actually stops right here, to
9 unload the vessels to the ground.

10 The interconnector bridge that
11 Mr. Driscoll mentioned earlier will connect the
12 Mobile Container Terminal in Garrows Bend ICTF,
13 thereby give an on-dock presence for rail with the
14 Mobile Container Terminal.

15 But they're both the same operator, APM
16 terminals. This side over here doesn't have rail
17 serve. Our rail serve portion is at Garrows Bend on
18 this side over here.

19 Q So are you going to tell us how the
20 terminals at the Container Terminal, how the
21 containers get onto a railcar or vice versa?

22 A Absolutely, sure. So as of right now, as

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1 they unload the ship, they will be drayed. We have
2 a Virginia Street bridge to go over the coal track
3 here.

4 BY MR. HELENHOUSE:

5 Q Let me stop you. When you say "Virginia
6 Street bridge," you're talking about a road?

7 A I'm talking about an automobile bridge to
8 go over the tracks coming into the Virginia Street
9 lead here. And then they dray along this road here
10 and into Garrows Bend with truck traffic. And then
11 unload the trucks off the chassis, the containers
12 off the chassis, and load to the railcars.

13 Q Can you explain what you mean by "dray"?
14 It's kind of a term of art.

15 A Dray is just a simple term of semi
16 tractor-trailer having a chassis with a container
17 mounted to it, draying is taking it from the on-dock
18 facility over to the rail facility for dispersal
19 along the railcars.

20 BY CHAIRMAN OBERMAN:

21 Q You don't have -- the railroad tracks go
22 right by the Mobile Container Terminal on this map.

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1 Why do you have to go all the way to Garrows Bend?

2 A Well, the railroad tracks that come
3 through here were coming through here for years for
4 just coal terminal stuff. The container side of the
5 business has only been around for seven, eight years
6 or maybe a little longer than that, long before I
7 got here.

8 Garrows Bend is dedicated to rail
9 facility. They have got two tracks that actually
10 are service tracks where they can load and unload
11 cars. There are about 32-, 3,300-feet long apiece.
12 And then the outside track that's closer to the bay,
13 Garrows Bend water here, is a runaround track or a
14 storage track right now at the ICTF. And that's
15 where we have got dedicated to do the rail service
16 as of right now.

17 But we are constantly expanding, and
18 Mr. Driscoll alluded to, we're on phase 4 already,
19 discussing those we have completed up through phase
20 3, and we're about to start talking about the
21 expansions on phase 5 for intermodal.

22 Q All right. Do container ships dock down

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1 there near Garrows Bend or is that not suitable for
2 ships?

3 A No, sir, that's not deep enough for
4 container ships. Our container ships dock right
5 alongside the Mobile Container Terminal listed on
6 the right-hand side of the map there near the river.

7 Q So is there no plan to build an extra rail
8 track along that Virginia Street area there so you
9 don't have to go all the way to Garrows Bend to get
10 containers on and off a train?

11 A No, sir, the flyover bridge that
12 Mr. Driscoll talked about was a truck bridge that
13 will have a foot around where the hand is at now and
14 come along here and land over here. So essentially,
15 we'll be able to go from ship to train in less than
16 30 minutes once that rail bridge is built.

17 Q And that flyover bridge is something --

18 A I said rail bridge. I apologize for
19 talking over you, sir, but I said rail bridge. It's
20 a truck bridge to dray cars back and forth.

21 Q And that's a truck bridge that's already
22 planned and funded and so forth, it has nothing to

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1 do with Amtrak, I take it?

2 A That's correct. It's a truck bridge for
3 automobiles or tractor-trailers to dray containers
4 from the Mobile Container Terminal into the Garrows
5 Bend ICTF that Mr. Driscoll alluded to, I think he
6 said \$38 million project. So you have that
7 construction.

8 CHAIRMAN OBERMAN: Thank you. Sorry to
9 interrupt, but this helps me understand the map.

10 MR. HELENHOUSE: No, I was actually
11 confused on the same point and I think it's an
12 important point.

13 BY MR. HELENHOUSE:

14 Q Is it practical from an operational
15 standpoint, because if you look at this, it seems to
16 make sense as the Chairman pointed out, why not
17 connect the Mobile Container Terminal to Garrows
18 Bend?

19 A By rail. You know, it wouldn't be
20 practicable. All that Mobile Container Terminal
21 land is almost full of containers. So there would
22 be no place for us to put rail over there on the

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1 Riverfront side, thereby would make no sense just to
2 put rail on that side of our infrastructure.

3 Garrows Bend has been dedicated since
4 somewhere around '07, '08, I guess, and it's a
5 perfect spot. And we've got room for expansion and
6 expansion plans that are already in the process of
7 being engineered and constructed.

8 Q And if you did move -- if there were track
9 in place and you moved between Mobile Container
10 Terminal to Garrows Bend, that would interfere with
11 operations at the coal terminal as well?

12 A That's correct. These tracks here for
13 McDuffie this is basically our receiving yard here
14 coming in right about in this area here. So to
15 construct a track across, these are where all the
16 railcars are staged to dump the coal, or to load the
17 coal if we're loading the coal train, which we've
18 done as recent as this year.

19 So to construct a track over the Mobile
20 Container Terminal, it wouldn't be feasible. It
21 would really limit what McDuffie can do as far as
22 accepting trains. We can currently hold three

1 loaded coal trains or three 100-car coal sets there
2 to load or unload, whatever we're doing in the time
3 of operations.

4 Q And we will be bringing up photos later in
5 his presentation that better illustrates those
6 issues in the proximity of everything, how busy it
7 is.

8 CHAIRMAN OBERMAN: Thank you very much.

9 BY MR. HELENHOUSE:

10 Q There's a lot of orange lines on this map.
11 How many total miles of track does the Port own?

12 A The Port owns roughly 75 miles of track
13 from here, this is the most southern point to the
14 most northern point up near the Port of Chickasaw.
15 As the crow flies from say Three Mile Creek to
16 McDuffie, you're talking about seven miles roughly
17 with most of that track, and the track from Three
18 Mile Creek to Chickasaw is only about 2.4 miles.

19 So of the 75 miles, 71, 72 miles of it is
20 from Three Mile Creek through down into McDuffie and
21 Garrows Bend.

22 BY CHAIRMAN OBERMAN:

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1 Q Can you show us Three Mile Creek on the
2 map?

3 A Yes, sir. It's on the 1A portion. So
4 this is where we enter CSX and we come up through
5 here, of course like I said there's a little of
6 tracking for commercial purposes, necessarily wasn't
7 built for this. And then Three Mile Creek is this
8 creek right here along the Mobile River.

9 Q And so that bridge is the drawbridge right
10 there that we've been talking about?

11 A CSX has a drawbridge here. We also have a
12 drawbridge across Three Mile Creek here. It's the
13 bascule bridge that folds up. There's a swing
14 bridge.

15 Q All right. So you don't use the bridge
16 that CSX has; you use the one that's orange, I take
17 it?

18 A We typically use the one that's orange.
19 We have not used in recent years the Three Mile
20 Creek bridge for CSX. We do have an agreement that
21 allows us to use that bridge all the way up to
22 Chickasaw bow, which is this movable bridge here, to

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1 get across from our Interchange into our Riverfront.
2 We do have a trackage rights-type agreement to go
3 north, if you will, to help us out getting across
4 from one side to the other.

5 CHAIRMAN OBERMAN: Okay.

6 BY MR. HELENHOUSE:

7 Q Is that practical from an operational
8 standpoint?

9 A To my knowledge, that agreement hasn't
10 even been exercised on our behalf yet because we
11 have not needed that route. We've been able to make
12 all of our moves the normal route.

13 Q Does CSX often occupy that area?

14 A CSX works any train that works in Mobile
15 would operate this line here up to Three Mile Creek
16 typically sometimes all the way up to Chickasaw bow
17 going north. The southbound would occupy all the
18 tracks we're talking about so we can do our work,
19 yes.

20 Q Let's go down to the south end of these
21 maps and 1B. Can you identify which rail carriers
22 are shown on there with whom the Port interchanges?

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1 A So on 1B on the south end, our Interchange
2 locations on this updated map, I'm not sure the one
3 that the Chairman has, we have a green circle with a
4 green X inside that circle. This is the Virginia
5 Street lead here to CSX going into the coal
6 facility.

7 Over here to the left we have another
8 green circle with an X for the CN/IC interlocking.
9 It's also close right there where the CN/IC
10 interlocking on CSX right of way is. We bring in
11 the coal trains and intermodal trains primarily
12 through here, although in the last nine, 10 weeks we
13 haven't run an intermodal train through that
14 diamond. We've been using our CSX rights because
15 coal business has been so busy.

16 Through the Virginia Street lead,
17 obviously CSX comes through there, it comes right
18 off their mainline. The coal trains coming from
19 Bessemer, Alabama or Wilsonville, Alabama or
20 anywhere points north of Montgomery will come to
21 McDuffie through here. We've ran a couple
22 intermodal trains to the CSX through that location

1 as well from Garrows Bend and they have ran a couple
2 to us from Garrows Bend that way as well.

3 But also any traffic coming from our
4 Interchange, we have a new coal customer that comes
5 from the AGR, from the BNSF ultimately, that comes
6 across the CSX right-of-way into McDuffie. The
7 Norfolk Southern will deliver coal trains that have
8 to come across the CSX into McDuffie using our
9 trackage rights.

10 And any other intermodal trains that we
11 might deal with or might deal with in the future
12 might have to come that way, which we are currently
13 not doing.

14 Q I think you mentioned that there's some
15 coal -- there's some coal traffic that actually
16 leaves McDuffie on rail.

17 A Coal traffic?

18 Q Yes.

19 A We have coal trains that come in every day
20 to McDuffie and goes out. But we do load some if
21 that's what you're referring to. We have loaded
22 some trains here recently, we've loaded trains to

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1 give to CSX that run through the same plant up near
2 Wilsonville, Alabama at Yellow Leaf for thermal
3 coal, and recently we've been doing that business
4 with the Norfolk Southern. They have also got
5 access to that.

6 Q I want to draw your attention to where CN
7 comes in on this map. I think you identified it, if
8 we can go back there for a second.

9 CN, is that CN coming in from, I guess,
10 the left side of that map?

11 A Yeah, this purplish line here is Canadian
12 National/IC interlocking. The CN comes through, and
13 it's an at-grade interlocking with CSX. It has
14 recently been upgraded here in the last two years
15 because PTC, it used to be a first come, first serve
16 interlocking, but there was an issue with the
17 programming for PTC, so we had to upgrade it -- not
18 we, CSX had to upgrade it, it is now dispatcher
19 controlled, used to be AA dispatcher, I assume
20 that's what it is, the AA dispatcher.

21 Q So CSX controls that diamond?

22 A Correct, CSX has issues and authorities

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1 for moving across the diamond.

2 Q Now that it's dispatched, is trains that
3 have to go over this diamond ever get delayed?

4 A Sure. From time to time. Most of the
5 time that we're working on --

6 Q I'm sorry.

7 A Most of the time we get through there is
8 called to the dispatcher and as long as there's
9 nothing affecting us getting through, they will let
10 us go. But yeah, we get delayed there from time to
11 time trying to get across.

12 Q And then how do the other carriers that
13 come into the coal terminal or Garrows Bend --

14 A Well, Canadian National hauled trains will
15 come in themselves, just like CSX does. Across the
16 IC interlocking location on the CSX mainline and
17 park in our Ratcliff Yard, which is the yard here
18 that I have the back and forth cross. And they have
19 access to four of the seven tracks so they can yard
20 their trains. And we only take about one of them a
21 day from the Canadian National.

22 Q Well, I guess my point is are there trains

1 that either --

2 CHAIRMAN OBERMAN: Mr. Golden, I'm sorry,
3 Mr. Helenhouse.

4 BY CHAIRMAN OBERMAN:

5 Q Mr. Golden, your sound was a little
6 muffled there for a second. How many CN trains,
7 coal trains come through?

8 A We normally take about one every other
9 day, one a day sometimes depending on if they get
10 bunched up.

11 For example, I think in February we ran
12 about 16 in the month of February, which was a short
13 month. 28 days.

14 Q And are those the only trains that CN
15 brings down here, just coal?

16 A Well, no, the CN is the primary driver in
17 our intermodal business as of right now. We're
18 running intermodal cars back and forth, back and
19 forth every day to the CN, six days a week.

20 Q So what's the total number of CN trains?
21 That's what I'm trying to follow here.

22 A For coal or for altogether, sir?

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1 Q Coal you said one every other day. And
2 how many intermodal?

3 A Well, we're running six days a week both
4 ways. So it's one in, one out, so I guess that's 12
5 a week.

6 Q Okay.

7 BY MR. HELENHOUSE:

8 Q Does CN bring intermodal trains down?

9 A We operate the intermodal cuts from the CN
10 yard. The CN delivers to the -- their Beauregard
11 Yard that they own here in Mobile. However, they
12 have a third-party switcher here, one of the shortlines,
13 Alabama Export, that will segregate those
14 intermodal cars out from their inbound train and
15 then we'll get on that cut, that's roughly somewhere
16 1,500 feet up to 6,500 feet some days.

17 Q So that's coming from Interchange Yard to
18 the north of here down to --

19 A Well, by plan, we would run over the CN
20 railroad from Beauregard Yard around Mobile through
21 downtown and across the CN/IC interlocking, at least
22 one of the routes. The coal business being as much

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1 as it has been here as of recently, I would say over
2 the last 10, 12 weeks, we've run solely across the
3 CSX into the Interchange Yard and then back around
4 once we can show when we go back to map 1A to show
5 how that move happens.

6 Q And which other carriers operate -- that
7 we haven't talked about operate into the Garrows
8 Bend or the coal terminal, and how do they get
9 there?

10 A Well, the only carrier that operates in
11 Garrows Bend is the Terminal Railways. We are the
12 only carrier that will operate in and out of the
13 intermodal facility.

14 Q And you're bringing cars from which
15 railway?

16 A Ninety-eight percent of the time we're
17 bringing cars from the Canadian National by way of
18 ALE.

19 CHAIRMAN OBERMAN: So I'm a little
20 confused. The CN intermodal trains come through
21 that diamond intersection, and then you pick them
22 up? Does CSX actually come into Garrows Bend?

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1 THE WITNESS: No, sir, no one goes into
2 Garrows Bend but us.

3 To try to clarify, I guess, the CN
4 delivers the train into the Beauregard Yard. I'm
5 going to go ahead and scroll up on the map for you.
6 CN's Beauregard Yard runs right here along the
7 Interstate I-165 as you can see the hand moving back
8 and forth on the map.

9 So CN delivers their inbound train daily
10 to this yard, the ALE then separates the intermodal
11 cars for us to come from the Interchange with light
12 power, tie on and take to Garrows Bend.

13 The plan typically would be to go this
14 way. In November, I was given 50/50, 50 percent
15 over them and then the other run would come via CSX.
16 But in the last 10 to 12 weeks, we've run only via
17 CSX on these runs using our trackage rights. We've
18 got to come out of the Beauregard Yard, follow this
19 little purple loop here and you can see the green
20 circle with an X in it, that's where we interchange,
21 they come into the Terminal Railway or we use it to
22 transport our intermodal business.

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1 And then we run around the cut and run
2 back across CSX line south and come in through
3 Virginia Street into Garrows Bend.

4 CHAIRMAN OBERMAN: All right. Well, I'm a
5 little confused then. The at-grade diamond
6 crossing, that's -- the only CN trains that come
7 through that diamond crossing are the coal trains
8 one or so every other day; right?

9 THE WITNESS: Currently, yes. But --

10 BY CHAIRMAN OBERMAN:

11 Q And the trains that you just described
12 don't come through that diamond crossing, they are
13 picked up by you up north and then your trains bring
14 them down to Garrows Bend?

15 A That's currently how we've been operating,
16 yes, sir.

17 Q And that's one in and one out each day of
18 CN's intermodal trains?

19 A That's correct, sir.

20 CHAIRMAN OBERMAN: Okay. I got it. Thank
21 you.

22 BY MR. HELENHOUSE:

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1 Q I just want to clarify a few things there.
2 The CN coal trains that come in as indicated in this
3 area, this part of the map, I think the Chairman
4 said that's one every other day. Is that increasing
5 or --

6 A Excuse me. Yes, sir.

7 Q To how many?

8 A Well, as recently as September, we weren't
9 running any, so now we're running one about every
10 other day. There's roughly four or five coal sets
11 for two different customers that the CN is bringing
12 its cars from, some from Southern Illinois and then
13 some from out west somewhere, I think somewhere in
14 Colorado.

15 So the customer that's shipping via CN had
16 multiple different places they're coming from, and
17 we've got four or five train sets. So could be one
18 every other day, sometimes it's two in a day. It
19 just depends on if it gets bunched up the road and
20 comes to us.

21 Q And there is other carriers, CN, CSX. Are
22 there other carriers that bring the coal into

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1 McDuffie?

2 A Currently, very new business for us is
3 coming from the BNSF by way of the AGR into Mobile
4 coming out of Colorado and it's actually our largest
5 train set. We've got one train set in that service
6 right now that's coming with 120 cars and five
7 locomotives. We don't need the five locomotives,
8 we're not utilizing them once they get to Mobile,
9 but they come into the Interchange from the north,
10 and then we hop on board and deliver them ourselves
11 to McDuffie and then try to start dumping them on
12 arrival.

13 Q Do they have to go into the Interchange
14 Yard?

15 A That one goes through the Interchange and
16 that's when we were loading trains for the NS, those
17 operate through the Interchange Yard as well. And
18 we have to do our brake tests on both of those
19 trains somewhere either at McDuffie or the
20 Interchange Yard.

21 Q All right. Let's go off to the
22 Interchange Yard for a second. I want to clarify a

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1 few other things. So you said that -- about 50
2 percent of the CN trains come down on CSX's track?

3 A Well, back in November, we were running
4 about 50, 51 each way a day. But here in the last
5 12 months, they have been running just over CSX, 12
6 weeks I mean, 10 to 12 weeks.

7 Q And the BNSF coal trains also come down
8 CSX?

9 A They have to come out of the Interchange
10 Yard to CSX's mainline to go to McDuffie, yes, sir.

11 Q And the NS trains you talked about that
12 are heading toward the south operation, those have
13 to come into the Interchange Yard and use CSX?

14 A That's correct. They come in across Three
15 Mile Creek into the Interchange Yard, and we hop on
16 board there and go south onto the CSX into McDuffie.

17 BY CHAIRMAN OBERMAN:

18 Q Where do the NS trains come from?

19 A That's a good question, Chairman Oberman.
20 Up here in our country side, you can see this green
21 circle and X, it's called southern junction. The
22 Norfolk Southern is this black line here that leads

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1 down into Mobile, and they have a yard that is there
2 at Telegraph Road, not too far from our Interchange.
3 I could show you once I walk you through how the
4 trains come.

5 So currently, coal trains from the NS or
6 from the BNSF would enter our railroad here at this
7 location where my hand is across and come across
8 onto our country line and follow its curvature down
9 to Three Mile Creek and enter our Interchange Yard,
10 as opposed to the NS coming into town, they cross
11 Three Mile Creek on a fixed bridge also near
12 Telegraph Road, and they come in this black yard
13 here that is theirs. They have a north yard and a
14 south yard themselves and they're switching here in
15 Mobile.

16 Q Which place do the coal trains come? They
17 come into the Interchange Yard?

18 A They come into our Interchange Yard from
19 Southern Junction, they come onto our railroad. At
20 that point at Southern Junction right here. And
21 they follow the orange line south to Three Mile
22 Creek and cross Three Mile Creek and come into the

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1 Interchange, one of our tracks there.

2 Q And how many NS coal trains are there per
3 day?

4 A That's been cyclical. So we ran -- we are
5 not running any at this time, sir, but back from,
6 say, November to January, I believe we ran about 15
7 trains. And --

8 Q 15 total?

9 A 15 total trains, that's correct, sir.

10 Q Over a three-month period?

11 A Yes, sir. That was coal coming in --

12 Q Is that typical?

13 A Typically, if the plant up there in
14 central Alabama is looking to burn some coal for
15 thermal use and it looks like due to weather
16 projections, they might need some more coal, they
17 will order some in. And we only do that once a
18 year, sometimes twice.

19 This one was supposed to go for eight
20 trains and ended up being extended because of the
21 harshness of the weather through the winter.

22 Q Okay. Sorry to interrupt but it's helpful

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1 as we go along here to get these numbers. Okay.

2 Thank you.

3 BY MR. HELENHOUSE:

4 Q Now, I want to also clarify, we talked
5 about a lot of trains coming in from the north, the
6 NS trains, the BNSF trains and maybe there were some
7 other carriers in there, they come into the
8 Interchange Yard and then they operate down over CSX
9 main into the coal terminal for Garrows Bend.

10 So can you scroll down and show where the
11 CSX -- on the CSX line where those trains have to
12 operate over? From the Interchange Yard to your
13 southern facility.

14 A Sure, sure. So as I said, the left hand
15 yard -- left hand orange set of tracks here, and
16 maybe it would help if I blow it up a little bit, is
17 the Interchange Yard. We've got two points where we
18 interchange with CSX. You're asking me more about
19 the trains that we're operating through. But before
20 I go there, CSX has a team track that is notated
21 here that is direct over onto their switching lead,
22 and that's how they interchange with us.

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1 But for what you're asking me, sir, is
2 going to McDuffie is this circle here where we come
3 onto what is a lead to the CSX drill track. The CSX
4 drill track is their switching lead. Once we get
5 further south on the drill track, there is a signal
6 onto the mainline, roughly -- roughly in this
7 location here, maybe a little bit past there, right
8 in here maybe. And then we go out onto CSX. This
9 is the north end -- the southbound signals for CP
10 Alabama State Docks, this is the northbound signal
11 for CP Alabama State Docks.

12 We will follow the blue line, we will
13 cross over at Choctaw.

14 Q Stop there. So those coal trains and
15 intermodal trains that come from the north, they
16 operate on the CSX mainline 1 and 2 that pass the
17 convention center and where the Amtrak station is,
18 the former Amtrak station is?

19 A Correct. Any interval of train that we're
20 moving from the Interchange into Garrows Bend or
21 Garrows Bend to intermodal train -- or Interchange
22 Yard would pass through either track 1 or track 2.

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1 Typically, we go track 1 out of the Interchange Yard
2 and cross over to Choctaw. There is a few hand
3 throw switches we can take track 2 up and get
4 through to get in the Interchange Yard. But they
5 would go through -- both tracks for CSX mainline go
6 under the convention center and then immediately
7 exit the convention center for the Amtrak station
8 basically.

9 Q Let's go back to the north end of your
10 operations, when you start at the top to get some
11 perspective on your overall operation. What does
12 this north end show if you can explain that to the
13 Board?

14 A All right. Up here at the north end as I
15 mentioned before, we have the port of Chickasaw
16 where we exchanged cars with customers whether they
17 load or unload. We have some dangerous cars that
18 come up here, asphalt comes up here, box cars come
19 up here for different type of products. We scroll
20 on down the country line. The first customer here
21 next is Occidental. It's a chemical company,
22 primarily tank cars go in and out of there but you

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1 have some box cars coming in and out of there for
2 product purposes.

3 The next one over here is Zenith, another
4 tank company that handles hazardous materials.

5 The Central Gulf Rail Services is owned by
6 the CGRS or ultimately Genesee & Wyoming. This is a
7 railcar repair facility for all types of railcars.

8 So the cars we're putting in there are
9 just about any type of railcar that is ordered in
10 primarily by the AGR or the CGRS, but other
11 customers use that facility as well to repair the
12 cars they own that are running out on other
13 railroads.

14 Going across the Norfolk Southern diamond
15 is a DPC. That is probably for layman's terms the
16 nastiest stuff that we deal with that goes in and
17 out of there. They are getting not a lot of cars,
18 about five a month roughly, but they are the worst
19 of the worst chemicals that we handle. Not the
20 worst of the worst chemicals, just the ones that we
21 handle.

22 Coming down here is Merchants Warehouse

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1 and Rooms To Go, primarily handling box cars at
2 Merchants Warehouse and Rooms To Go is whatever you
3 guys know what Rooms To Go is. If you shop with
4 them, it probably comes through us by rail.

5 When you come down through the track here,
6 you enter into this location here which has switched
7 into the industries. Berg Pipe is right here. Berg
8 Pipe handles a lot of structural pipe. They coat it
9 for different things. They had projects for the
10 Keystone that they don't have anymore. They have
11 projects for another pipeline in North Carolina. We
12 are actually bringing in loaded pipe now from
13 another customer that is going to be shipped out to
14 Texas. They are uncoating them, reconditioning the
15 pipes and recoating them for shipping out, about 300
16 car loads.

17 Next to that is Kimberly-Clark Scott, it's
18 the paper company. It's the -- I guess here in the
19 pandemic, it was currency at one point, toilet
20 paper. So that stuff is all made here in Mobile. A
21 lot of it is anyway.

22 And then when we come on down from there,

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1 we're entering into the Interchange.

2 Q Do the cars that you transport north to
3 those facilities, do those all go into Interchange
4 areas?

5 A Yeah. Everything that goes into our
6 country comes back into the Interchange and
7 disburses from there, whether it's to one of the
8 Class 1s railroads that we deal with, whether it's
9 to cross corridor move over to the piers for loading
10 to vessels or whether it came from the piers to go
11 back that way to load from one of the warehouses to
12 another warehouse on the country line.

13 BY CHAIRMAN OBERMAN:

14 Q I think I got lost here on the BN coal
15 trains. They come in from the north too?

16 A Yes, sir, they -- so the AGR comes across
17 the Norfolk Southern. So the AGR is hauling the
18 BNSF coal trains from Amory, Mississippi down into
19 Mobile. They run across the Norfolk Southern for
20 about 138 miles, if I remember correctly.

21 And then they come out off the Norfolk
22 Southern at the same place that NS coal trains run.

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1 It's a new business. I apologize for talking over
2 you, sir.

3 Q No, I apologize. Go ahead.

4 A Again, it's new business. We just started
5 service in February. We have run three total trains
6 since mid-February. And the plan is roughly one a
7 month. I don't expect another one until May at the
8 moment.

9 But they're just ramping up operations in
10 Colorado, and they have told us the goal is once a
11 week here in the next six months. So while they're
12 refining their operations up here, they're running
13 what they mine and ship it out.

14 Q I'm just trying to get a handle on all the
15 coal trains. So have we covered them all?

16 A Well, CSX has been the major player in
17 coal for export coal in Mobile. They have got three
18 mines that they are shipping out of up there, from
19 just one customer, and then another mine from
20 another customer.

21 I know when I was at CSX, our goal was
22 running 28 loads a week. I know there has been a

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1 strike up at that Warrior Met mine that has hampered
2 business here over the last year. But I believe
3 they're ramping back up now, and we're looking --
4 and they're also the customer -- Mr. Driscoll
5 mentioned is going to open a new mine, a fourth mine
6 up there that is going to be highly sought after
7 coal once it gets mined.

8 Q So right now, how many CSX coal trains per
9 day are there?

10 A It varies depending on day of the week.
11 But for the week, I would say we're getting close
12 to -- getting back close to 14, I would say probably
13 10 to 14 trains a week right now.

14 Q So that's one to two -- well, two a day,
15 let's say?

16 A Well, that's just the loaded side coming
17 inbound. Then you've got the empties going back
18 out, so yeah, you're looking at two to four a day.
19 Could be up to five. You can dump a coal train --
20 shift at McDuffie, actually we can dump them quicker
21 than that. I've seen them dump them in five hours.

22 Q And they come down through that CSX yard

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1 between your two yards?

2 A That's correct, sir. They come right down
3 the mainline there, across Chickasaw bow and through
4 Cob Creek and down the mainline. The crew for
5 Montgomery operates it all the way down into
6 McDuffie Coal Terminal and yards it if they have got
7 the time.

8 Q So you don't bring those CSX cars down.
9 CSX brings them down themselves.

10 A That's correct, sir.

11 Q Okay. Thank you.

12 BY MR. HELENHOUSE:

13 Q So the CSX trains, that's 20 to 28 trains
14 that occupy the CSX mainline coming in and coming
15 out a week?

16 A 10 to 12, so 20 to --

17 Q I thought you said 10 to 14.

18 A 10 to 14, so yeah, 20 to 28 trains total,
19 I guess, you would have to load then empty, that's
20 correct.

21 Q And other carriers bring coal into
22 McDuffie?

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1 A The CN is roughly every other day, so I
2 mean you're talking about 15 or 16 a month. And --

3 BY CHAIRMAN OBERMAN:

4 Q Could we go back up here for a minute?
5 Back to the Riverfront Interchange switch? Is
6 that -- and that's where, I've already forgotten,
7 one of the coal trains you switch, that's where they
8 switch; right?

9 A The BNSF and the Norfolk Southern coal
10 trains will come off this switch here out of the
11 Interchange.

12 Q Got it, okay. And I meant to ask you,
13 from that point, that Interchange switch down to the
14 old Amtrak station by the convention center, how far
15 is that?

16 A Roughly 50-ish railcars, 50 to 60 railcars
17 at most, depending on length of railcars. But it's
18 right around 50, 55 railcars, somewhere right in
19 there.

20 Q You're challenging my memory of how long a
21 railcar is. Can you give me that in --

22 A Well, yeah, 55, 50-foot cars, sir. So

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1 you're looking at what, 2,500 feet?

2 Q Talking about a half mile ballpark, would
3 you say?

4 A Ballpark, yes, sir.

5 CHAIRMAN OBERMAN: Okay. Thank you.

6 BY MR. HELENHOUSE:

7 Q And we will get into that more and the
8 operational challenges that distance causes as well?

9 CHAIRMAN OBERMAN: All right. Okay.

10 BY MR. HELENHOUSE:

11 Q You said 15 to 16 CN trains?

12 A A month, yes.

13 Q A month. Okay. Is that a total movement
14 of 30 to 32?

15 A Yeah, the CN of course are doing the
16 diamond move across the CSX when the CSX lets them
17 through. And then the rest are coming across the
18 CSX actual corridor.

19 Q All right. And other than the CSX trains
20 and the CN trains, how many other trains are going
21 on that coal terminal?

22 A Right now, BNSF train is coming once a

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1 month.

2 Q All right.

3 A That will be two trains a month if you
4 think about it, one loaded down and one empty back.

5 Q Okay. And I thought you mentioned NS.

6 A We aren't currently loading anything
7 through NS.

8 Q But you had in the past?

9 A Yeah, as recent as January we had loaded
10 15, 16 trains.

11 Q Is that seasonal?

12 A Yes, sir.

13 Q So 15, 16 trains over what period?

14 A Three-month period.

15 Q So five a month?

16 A Five a month.

17 Q That would be 10 train movements over the
18 CSX corridor?

19 A That's correct.

20 Q Or a couple a week, I guess, two to three
21 a week?

22 A Yes.

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1 Q Why don't you scroll up a little bit.

2 This may help clarify some things as well back to
3 where the yard -- can you just identify, I think we
4 know where -- just identify all the yards here,
5 what's shown on this map and we can go more into
6 detail later.

7 A From left to right on this map, as I
8 mentioned, this is the Canadian National Beauregard
9 Yard that's operating currently by the Alabama
10 Export. This is the Norfolk Southern north and
11 south yard down here on this side that the Norfolk
12 Southern is operating. The green is the Alabama and
13 Gulf Coast Railway, the AGR that they have subleased
14 to the BNSF. And they're operating that yard from
15 basically this point on. We maintain all the rest
16 of it.

17 We talked about the Interchange Yard,
18 Sibert Yard and our Riverfront.

19 Q We see a bunch and we can talk about this
20 more in detail later. But we see a bunch of tracks
21 heading out to the right from the Interchange Yard.
22 What are those?

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1 A These are all of our pier tracks. If we
2 start at the north, this is our roll-on/roll-off
3 facility. I know on the pictures it's --

4 Q We'll go through that in more detail.

5 A But these are all of our pier tracks on
6 the Riverfront side.

7 Q Now, the cars that --

8 BY CHAIRMAN OBERMAN:

9 Q Let me ask, those piers, that's not
10 intermodal ships, I take it, or is it?

11 A It is not intermodal, no, sir. It is all
12 kinds of different commodities that we have. We
13 have steel, aluminum and different -- and different
14 types of media, I guess you'd say, whether they're
15 ingots or slabs or whatnot, wood, coal, pulp or
16 grain, pig iron --

17 Q Okay. And that's all bulk then, I take
18 it.

19 A I'm sorry?

20 Q That's all in bulk, it's not in
21 containers?

22 A Not in containers, no, sir. It would load

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1 box cars, open top gondolas, our grain hoppers or
2 covered gondolas, different type of flat head -- I
3 mean flat cars with bulkheads and spine cars and
4 stuff.

5 Q And this shows my ignorance. The docks
6 where the water is I take it are not deep enough for
7 container ships or not big enough if you ever wanted
8 to expand container traffic up here?

9 A I think they are, it is deep enough. I
10 mean, the only restrictions are the tunnel, which I
11 think is 45 foot. But other than that, we can get
12 container -- maybe not the really large super max
13 containers, but yeah, we could get intermodal
14 container stuff in this area. But most of the Port
15 is already consumed with space of different
16 businesses back up and down through the Port. We've
17 got our roll-on/roll-off facility --

18 BY MR. HELENHOUSE:

19 Q Let's go -- as long as we're here, let's
20 go through what's on the Port already. It's all
21 marked up, but maybe you can walk us through and
22 make sure you use your hand signals so we know what

1 you're talking about.

2 I think you mentioned the roll-on/roll-off
3 facility. Let's start there.

4 A So up here at the corner of Three Mile
5 Creek and Mobile River is our new state of the art
6 automobile terminal, properly named Auto Mobile, AIT
7 for short. We've got 10 service tracks here built
8 onto the auto facility. I know this is all white
9 here in the pictures we saw with CSX but it's all
10 blacktop, which it is all blacktop.

11 But this has been constructed and opened
12 June 2 of last year and can finish automobiles that
13 come in in pieces and then load onto -- load or
14 offload auto carriers so that we can import or
15 export there.

16 Q And are there -- that's recently built?

17 A Yes, sir, that is recently opened as of
18 June 2 of last year.

19 Q Okay. And then what are the plans in
20 terms of future business there?

21 A Well, it's kind of, I guess, almost "Field
22 of Dreams" kind of thing. We've built that for auto

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1 carriers to come import and export out of Mobile.
2 We currently do not have any auto carriers working
3 here. The COVID has kind of backed up the cyclical
4 agreement. So as far as I understand, I'm not an
5 expert on the auto business, but we have not got any
6 railcars come through there as yet, but we are
7 expecting to move 70-car unit trains in and out of
8 there, have 150 on hand pretty much at all times is
9 what we're being told.

10 Q Now, you mentioned cyclical agreement.
11 Can you explain that, and that may help the Board
12 understand why there's currently no traffic coming
13 in there, why you anticipate it will be a lot more
14 in the future?

15 A Again, I'm not an expert on automobile
16 business, but my understanding is that they have got
17 renewable contracts that renew every so many years,
18 and I believe in about two years they renew. And
19 because of the pandemic, they just auto renewed
20 everything. We're expecting some to expire I think
21 at the end of this year and start seeing business at
22 the latest early next year if we don't get some

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1 increment business in between here and there.

2 Q All right. Let's go down to the next
3 operations cell where we have --

4 A So you can see a green circle with an X in
5 it and some green track here. This is our rail
6 bridge for our ferries. We are partnered in that
7 business with the CGR, Gulf Coast Railway, and they
8 run two rail ferries from Mobile, Alabama and
9 Coatzacoalcos, Mexico. Do not quote me on that. I
10 took four years of Spanish in high school but I'm
11 not very fluent. But it's Coatzacoalcos, Mexico, or
12 something like that. We can load about 152-ish cars
13 on each ship that are both brand-new that we have
14 just got the old ships replaced here. We took and
15 started loading the first ship back in September and
16 the new ship has now made two voyages in and out.
17 As a matter of fact, the ship we got in September is
18 working this morning, we are loading the upper deck.
19 We offloaded it Friday.

20 CHAIRMAN OBERMAN: Where is this on the
21 map?

22 THE WITNESS: Right here where my hand is

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1 at, Chairman. It's the green portion.

2 CHAIRMAN OBERMAN: I see, okay. Got it.

3 Thank you.

4 THE WITNESS: So that business requires us
5 to build a load lift of up to 152 cars in the
6 Interchange Yard for the most part. We may have a
7 few cars in the Riverfront that have come off one of
8 the piers. But then we have to haul that separate
9 from our normal business that goes to the piers day
10 in, day out and from the piers back to the
11 Interchange. So that's a separate haul every three,
12 four days a week for our loadouts to go over, and
13 then for our offloads to go back every three or four
14 days also we have to --

15 So every time a ship comes in, we have to
16 make a couple hauls. And like yesterday, we had
17 most of the ship over, we had some late arrivals
18 show up that we had to switch out at the Interchange
19 and then haul them yesterday to meet up with the
20 rest of the cars.

21 That operation takes roughly 24 hours. We
22 do offloading for about 12 and then load back for

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1 about 12. A main deck and a lower deck. We have to
2 use multiple crews to do that separating the cars,
3 switching them for the ship, loading them on the
4 ship. It's pretty time-consuming, but it's a good
5 business partner to have and a good need to help us
6 get cars to Mexico and back.

7 BY MR. HELENHOUSE:

8 Q I wish we had a photo of that but let me
9 see if I understand because I'm not 100 percent
10 clear on this. You actually operate the trains onto
11 tracks that are built on the ferry; right?

12 A Yeah, it's actually pretty unique and
13 cool. I'm sure there's other places where people
14 put railcars on boats, but when I got here to
15 Mobile, it's something I had to see when we started
16 working the BANDA, which no longer exists.

17 But yes, we actually built up a cut of
18 cars that go on the upper deck with certain
19 restrictions, placement restrictions for hazmat,
20 height of cars, different things going to how we
21 build the ship loadout. And then we pull the ship
22 clean and then reload it with cars to go back to

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1 Mexico from the U.S.

2 Q So essentially, the ferry is like a
3 floating rail yard?

4 A I don't know a better way to put it. I
5 mean, it's a vessel that has 18 tracks between the
6 lower deck and upper deck on it, the new ones do.
7 The old ones did not have that many tracks and could
8 only haul about 123 cars.

9 These new vessels are state of the art
10 vessels. The difference between the old vessels and
11 the new vessels, the old vessels operated at
12 somewhere around four to six knots across the Gulf
13 of Mexico. These can operate between like upwards
14 of 16 knots.

15 So they're traversing the Gulf in at
16 minimum a day less just to get across. The upper
17 deck is gorgeous, we can shove whole cuts into each
18 of those tracks for the most part. The lower deck
19 is a little more tedious, we've got a little bit of
20 curvature to deal with with support beams for main
21 deck.

22 But again, I mean, it gives you relief of

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1 150 cars roughly off your yard when it comes, and
2 then the stuff we pull off we switch out and deliver
3 to carriers. Whether it goes to AGR, CSX, CN, and
4 they pull them out of the Interchange Yard and we
5 are moving freight today very quick and efficient
6 that way.

7 Q And they just built -- or they just
8 started -- just purchased two brand-new ships?

9 A Right. And they're both in service now.
10 The Cherokee arrived in September, like I said, and
11 the Mayan showed up here in January, we started
12 loading it I think it showed up in February, and we
13 started loading it in March.

14 Q Let's go to the next operations that you
15 do south of the ferry operations in the Riverfront.

16 A You can see these curvature tracks, this
17 is just warehousing that we're loading to and from,
18 our pier E track. You come on down here to this
19 location here, this is the Alabama Steel Terminal.
20 This is coiled steel coming -- coming down from -- a
21 place north in Alabama that will load coil steel
22 that they have made at that plant. And we export

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1 that coiled steel and it's normally made in
2 automotive parts, I guess, stamping plants and such
3 in different parts of the world.

4 Moving down from there, we get into pier
5 D. You can see four silos. This is our grain
6 elevator here on this side. We will spot up a
7 loaded grain train, whether it's a train that comes
8 in from CSX, which they deliver directly to the
9 Riverfront Yard, their grain train. We also get
10 grain trains from the Canadian National and from the
11 Norfolk Southern. We look to be getting some from
12 the BNSF soon across the AGR. Well, not soon, next
13 fall.

14 But we bring up 33 cars at a time. The
15 grain facilities themselves unloads the cars, they
16 kick the empty car out, it hits self-storage switch
17 and then goes into return. And then we pull and
18 spot them throughout the day. They can normally
19 offload a grain train in the daylight hours with
20 multiple spots by us.

21 The next facility over --

22 Q Let me stop you there. The grain trains,

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1 are those loaded and unloaded?

2 A For unit trains, we normally only unload
3 grain for export. We have imported grain trains.
4 That was back in my days when I was at CSX, I think
5 it was 2014, we had not so good of a crop in
6 America, and we imported grain from South America to
7 supplement U.S.'s grain needs. But they do load
8 single cars all the time individually that we end up
9 shipping out in manifest service.

10 Q And I want to make sure we're clear on
11 something. Every train, every railcar that operates
12 in Riverfront Yard, that has to go over CSX's track;
13 correct?

14 A Yes. Every car that comes here goes
15 across CSX's track. The only thing that I would say
16 is an exception is the CSX grain train, they operate
17 over CSX track but they go north across Three Mile
18 Creek and don't go through the corridor we're
19 talking about.

20 Q Okay. Let's go to the next operation
21 south.

22 A The next operation south is the building

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1 is where our cement plant I guess, if you will,
2 cement factory or warehousing is, where we load and
3 offload cement cars or potash or some other type of
4 powdery substance there that is made for different
5 things. But right next to those is where we do our
6 pig iron. The ships bring the ingots of iron in or
7 steel, whatever it is, and offload it from ship to
8 ground and then ground to rail open top -- open top
9 gondola cars that haul them out to the NS, CSX and
10 AGR.

11 Moving on south, this next track is where
12 we normally do most of our heavy loads, high wide
13 moves that come off ships and we load them to to
14 flat cars in that location.

15 Most of the rest of it is warehousing
16 where we do like frozen food maybe come in, ship
17 out, paper products, pulp board, wood pulp, steel,
18 aluminum, just different things, all the way down
19 through the rest of the piers, where we're mostly
20 using box cars, flatcars, flatcars with bulkheads,
21 all through here.

22 We have unloaded Airbus fuselages at this

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1 location here. They did not go out by rail. They
2 came in through ship and then drayed over to Airbus,
3 which is a manufacturer of airplanes here in Mobile.

4 And then pier E -- or pier 2 down here all
5 the way at the bottom is where we do a lot of our --
6 this is mostly our aluminum section of the Port
7 where we're loading and unloading aluminum to
8 railcars and trucks and such there.

9 Q Now, you mentioned loading and unloading.
10 Obviously, you're loading items to ships. Are you
11 getting also items back to load in the rail cars
12 from the ships?

13 A It goes both ways. The import/export to
14 rail. Whether it's going outbound on a railcar and
15 coming inbound on a railcar and coming back in.
16 We're doing both ways all across the Port.

17 Q Now, leaving the ferry operations aside,
18 which takes a whole railcar, the other cars that
19 operate in the Riverfront or interact with the
20 vessels, how are those loaded and unloaded or who
21 does that?

22 A We have stevedore companies that work not

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1 as Port employees but they are employees there and
2 work on the Port that do the loading and unloading
3 of the actual ships and vessels. And then loading
4 and unloading of railcars and stuff as well.

5 Q And what times of the day do the stevedore
6 employees are actually doing the loading and
7 unloading work?

8 A They are primarily working in daylight
9 hours. It varies throughout the year obviously with
10 time changes and stuff, but they are primarily
11 daylight hours, dusk-to-dawn type thing.

12 Q Does the Port have any control over the
13 stevedore employees?

14 A They are not our employees. They're a
15 stevedore company like I said. I know I don't have
16 any control over them. General Cargo doesn't really
17 have any control over them, if even they try to work
18 the best they can. The stevedoring companies have
19 to handle any issues.

20 Q So the Port does not control their
21 schedules?

22 A That's correct.

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1 Q Is it fair to say that the Port needs to
2 have cars for the stevedores to be loaded and
3 unloaded during the stevedores operational hours?

4 A Yeah. And because of our infrastructure,
5 sometimes we're having to move those cars all the
6 time. There's certain spots like I mentioned for
7 the grain where we've got to spot 33 cars and pull
8 33 cars throughout the day, part of our 24 hours a
9 day of week operations, we're constantly moving on
10 the Riverfront side.

11 Q So the cars are --

12 MR. TREPP: Excuse me for a moment.

13 Mr. Chairman, I would just move to strike
14 a portion of that last answer. Mr. Golden can of
15 course speak to the Port's view about what a
16 particular customer may require, but he certainly
17 cannot speak to whether or not it is possible for a
18 customer to make adjustments to their schedule or
19 when they may require a particular train to be
20 available for loading or unloading.

21 CHAIRMAN OBERMAN: Can I hear the question
22 and answer back, please?

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1 (The reporter read the record as requested
2 as follows: "Q Is it fair to say that the Port
3 needs to have cars for the stevedores to be loaded
4 and unloaded during stevedores operational hours?

5 A Yeah. And because of our infrastructure,
6 sometimes we're having to move those cars all the
7 time. There's certain spots like I mentioned for
8 the grain where we have to spot 33 cars and pull 33
9 cars throughout the day, part of our 24 hours a day
10 of week operations, we're constantly moving on the
11 riverfront side.")

12 CHAIRMAN OBERMAN: No, I think that that
13 answer can stand, yeah. I think he would know what
14 the needs are of TASD to make cars available. I
15 didn't hear him talk about what the stevedores were
16 thinking, Mr. Trepp, so I'll let the answer stand.

17 BY MR. HELENHOUSE:

18 Q Is it for cars that are moving between
19 Interchange and maybe -- maybe scroll up a little
20 bit. That's good.

21 Is it for cars that are moving between
22 Interchange Yard and the Riverfront Yard, you've

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1 talked about having to move different cars,
2 different times for different purposes. Is it
3 practical to hold cars back from movement between
4 those yards?

5 A No, it -- we are constantly trying to make
6 sure the cars are in the right position. There's
7 numerous times in the day where someone might change
8 their order. So if I've got cars for the Riverfront
9 in the Interchange Yard, I need them on the
10 Riverfront side at all times. So when a customer
11 may need to change, may have a last minute order
12 come in that one of their customers might be in
13 shutdown mode, if I have got to do a cross corridor
14 move for three or four cars, it can take forever and
15 the next thing you know a customer could be
16 completely shut down.

17 So it's not feasible for us to hold cars
18 in the Interchange Yard that go to the Riverfront or
19 vice versa. Most of the cars that are in Riverfront
20 to go back to the Interchange need to leave Mobile.
21 So if I just dwell on cars in the Riverfront,
22 Riverfront, Riverfront, Riverfront that need to

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1 leave Mobile, the customers across America will be
2 sitting here looking for cars that should have been
3 there weeks or two earlier, depending on how long we
4 have been holding them.

5 Q What about moving smaller trains between
6 those yards to take up less space on CSX's mainline?

7 A Well, our space on CSX's mainlines is --
8 is still time for them to stop doing what they're
9 doing. We could move smaller cars or smaller amount
10 of cars. As I mentioned to Chairman Oberman, it's
11 about 50, 55 railcars through the Amtrak station.

12 The problem is when I come out of the
13 Interchange, if the Amtrak station is occupied, it
14 don't matter if I have 50 cars or 10 or even these
15 four I just mentioned in this last example, I can't
16 get the signal to go that way until the Amtrak train
17 would be gone because of how the interlocking and
18 the mainlines are tied with signals. It would be an
19 opposing move for me to come out with a train coming
20 northbound.

21 Could I follow a train going southbound?
22 Possibly. But, you know, moving shorter cars just

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1 takes more moves across CSX and more moves means CSX
2 gets, I guess, hamstrung even more for us to move
3 whether it's 10 or 120 cars.

4 Q Let's get a little more granular on moves
5 between Interchange and the Riverfront. Let's start
6 with a train originating at the Interchange Yard
7 moving over to Riverfront.

8 Can you explain for the Board the
9 movements that are necessary every time there's a
10 switch that has to be thrown or operated and any
11 communications with CSX dispatchers?

12 A Sure. So most of our tracks in the
13 Interchange Yard will hold somewhere around 30 cars.
14 We do have some longer tracks that hold up to 60
15 cars. We use those typically for the larger things,
16 when we keep eight, nine open for example for these
17 coal moves we've talked about, because they take up
18 multiple tracks when we break down 120-car coal
19 train or 100-car coal train.

20 So typically, we'll have cars being built
21 up for yard cars, is what we call them, and we build
22 them up.

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1 So once we are ready to go and we've laced
2 all the hoses so we can put air through them, my
3 crew will do an air test, a transfer air test, so
4 they can get across the CSX mainline. They will
5 hang a marker, and when they get to about that
6 point, they start notifying CSX, hey, we are looking
7 to move across the mainline.

8 Q Let me stop you there. So you used a lot
9 of very much railroad-specific lingo. Bottom line
10 is you make up your train and it's ready to go
11 before you contact CSX?

12 A We're at that point, yeah. We've got two
13 tracks, three tracks, whatever it is. It's all not
14 in one piece, but it's ready to go. We can't get in
15 one piece without working with CSX to do that.

16 Q Because you need to move onto the line and
17 back up across the yards?

18 A Because we would have to double or triple
19 up depending on how many cars we have, so again, our
20 tracks only hold at most 60 cars. If I've got
21 120-car train, that's automatically two of the
22 tracks. But just because I have a track that holds

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1 60 cars doesn't mean that's the track they go on.
2 It could be one of the higher end tracks that only
3 holds 25 cars, 30 cars.

4 For me to get in one piece to effectively
5 start my move, I need CSX's permission to start
6 doing that.

7 Q So again we're talking about from
8 Interchange Yard to Riverfront?

9 A To Riverfront.

10 Q And so you have trains, what's -- longer
11 trains are how long?

12 A Typically, 120 cars until we get to a
13 CGRB. The new ships haven't been at 152 yet. I
14 think the most we have hauled for them is about 137,
15 plus adding cars on the Riverfront side that were
16 already there in place to go on the boat.

17 So -- but typically, we are somewhere
18 between 60 and 120 every day, maybe even lower cuts
19 if we've been really efficient at moving cars across
20 that we think are going to go across.

21 Q Let's resume with your description.

22 A So we'll call Sibert Yard, which they will

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1 let us know what it looks like to get across. We've
2 normally had multiple conversations throughout the
3 day telling them how many we plan to haul,
4 approximately when we plan to haul.

5 At that point my crew will call Sibert
6 Yard on the radio, tell them I've got exactly how
7 many they have got, what move they need to make,
8 double up or triple up. Sometimes we're tripling
9 up. Sometimes we don't need CSX more than just
10 getting permission onto their lead that goes to
11 their lead, I guess is the best way to put it.

12 And then, you know, they will tell us a
13 time frame. If we can get in one piece in a
14 different fashion, we will do so. If there are two
15 small tracks and they're on the high side of the
16 yard, sometimes our lead is long enough to just
17 barely get in one piece to be able to be ready to go
18 when CSX says go.

19 We've got hand throw switches in all of
20 our yard. I have no automated switches anywhere
21 until I get to CSX's mainline.

22 So any switch that's handled, mind you, we

1 have three-men crews, an engineer handling the
2 functions of the locomotive, we have a foreman
3 that's in charge of the train and then the helper
4 that is there to assist in making these moves
5 quicker.

6 I know the standard most places CSX
7 doesn't have many three-men crew anymore, but we're
8 still a terminal switching outfit, so we have
9 three-men crew because we have a lot of hand throw
10 switches.

11 BY CHAIRMAN OBERMAN:

12 Q Can I ask this question? Is there a set
13 time of day or a typical time of day when you make
14 switches between your two yards?

15 A That's a great question, Chairman Oberman.
16 We typically start trying to make our moves in the
17 afternoon, our big chunk moves in the afternoon.
18 But sometimes operations bleed over from afternoons
19 to nights and nights to days, and we're making moves
20 24 hours a day, seven days a week. Two to three a
21 day, you know, just to go back and forth across
22 sometimes. And sometimes it's light power.

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1 So like Mr. Helenhouse asked me, sometimes
2 it's short moves. Sometimes it is short moves, but
3 it's still occupying CSX's mainline.

4 Q If we looked at every day of the year,
5 most of the days these moves would be sometime in
6 the afternoon?

7 A Yes. The primary bulk of the moves are in
8 the afternoon between 3:00 and 11:00.

9 Q All right. And how far down do you have
10 to go to make this switch between your two --

11 A So that's where we're going to next. Once
12 we come out here on the drill track, as I said, 60
13 to 120 cars, the typical move is to come out on
14 CSX's number 1 mainline and then we're fouling the
15 Amtrak station here at the 50, 55-car, 60-car mark,
16 and then typically we stop short of CP Choctaw.
17 When we get to be 115 plus cars, then we will have
18 to get a signal through Choctaw even to make the
19 move.

20 And then what has to happen is up here,
21 this location here is where our rear end has to
22 clear, rear end being the north end or the rear, the

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1 back end of the train. And that's the end of the OS
2 right here that we have to clear right near
3 Beauregard Street that dumps into -- it just dead
4 ends here to the track.

5 But that is right there, the Beauregard
6 signal that we have to clear so that we can start a
7 reverse move.

8 We pull out with our locomotives. Someone
9 boards the rear of the train, our helper typically
10 will board the rear of the train when the signal
11 comes in. And they will protect the shove on
12 through.

13 And our foreman is in a pickup truck will
14 come around and go across the Bob Hope Bridge into
15 the Port and start lining switches so that once we
16 start shoving off CSX with a signal, we come up here
17 to a switch -- a power switch that CSX throws on D
18 rail, and then we have to throw our own hand thrown
19 switch inside the Port and two yards of train.

20 Q I'm sorry, go ahead. I didn't mean to
21 interrupt.

22 A Well, much like the Interchange Yard, the

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1 Riverfront Yard is not very big track-wise. Our
2 capacities over there, our largest tracks in the
3 actual north and south yard are around 25 to 28 car
4 length tracks.

5 We do have three tracks that are longer,
6 that will hold a whole grain train in each or two of
7 them will. But those tracks again typically are
8 being used for grain, and we have a grain train
9 sitting in there now that was inspected that will be
10 getting pulled sometime today, and we're expecting
11 even though grain season is typically over, we're
12 expecting more grain trains in here in April.

13 Q It's almost time for lunch. Let me just
14 ask a couple questions and maybe we should take a
15 lunch break. It's quarter to 2:00.

16 You know, it just seems to me, I am a
17 layman here, but in all this growth and hundreds of
18 millions of dollars that we've heard about are being
19 invested in this Port, nothing to do with Amtrak,
20 but having a yard filled with hand thrown switches
21 strikes me as a bit old-fashioned.

22 And with all this activity you have, the

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1 Port has not considered powering up those switches
2 so you don't have to have somebody jumping off and
3 on the train as you're making these moves every day?

4 A Sir, we have considered that. We are
5 considering all kinds of different infrastructure
6 right now to help with our planned growth.

7 Q If you had these switches were all
8 powered, that would make this move a lot faster,
9 wouldn't it?

10 A It would to an extent. We still would need
11 hand on the ground in the doubling and tripling of
12 trains, and someone has got to be on the rear of the
13 train to be able to read the signal aspect so we
14 know if we have got a favorable signal to move back
15 into our Riverfront or back into our Interchange.

16 Q Watching a light is a lot faster than
17 hopping off and throwing a hand switch.

18 A I agree, sir. But mind you, while we're
19 on the CSX mainline, everything is powered,
20 everything is power switch controlled by --

21 Q That's the other question. For an
22 elaborate freight operation that you have down

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1 there, with your two yards, I mean, this is an
2 historical accident I assume that the way they are
3 separated by a CSX yard in the middle. If you were
4 starting from scratch, you wouldn't build it that
5 way; right? You'd have all your yards --

6 A No. And I know you aren't really asking
7 about the history of the Port, but originally back
8 in the day, the Port -- every railroad coming into
9 Mobile had their own piers. The reason the port
10 authority existed is because we needed some more
11 civility and structure around how we service our
12 customers.

13 Q Now, I appreciate that. But I'm just
14 wondering why the Port -- as you've briefed --
15 somewhere in the brief, your statement points out
16 you're third in line all the time to get access to
17 CSX now. And you have to wait your turn.

18 If you built your line alongside the CSX
19 mainline, you wouldn't have to wait for them, you
20 could just go up and back and forth and just have a
21 crossover. So I'm wondering why you -- why you
22 don't do that?

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1 A Well, that would be an excellent idea,
2 sir, and one I have actually picked out a couple
3 times myself. But the problem is the convention
4 center we run underneath. So for us to get by the
5 convention center, we would have to possibly tear
6 down the convention center or completely reconstruct
7 the staircase in the front of the convention center
8 to allow for another track to go through. Going
9 around the convention center would be cumbersome
10 with people going in and out all the time. There
11 is --

12 Q Are you saying underneath that convention
13 center, there's only room for the two tracks that
14 are there now?

15 A I am, sir.

16 Q Do we have a picture of that? I'd be
17 interested in seeing that. We have a similar
18 problem in Chicago and many places, like with
19 McCormick Place. So I have an idea of the concept
20 you're talking about. But I would be interested in
21 seeing what the difficulties are there.

22 MR. HELENHOUSE: I believe it may be shown

1 on one of your exhibits. And before we break for
2 lunch, I don't know if -- I just have two follow-up
3 questions to clarify.

4 CHAIRMAN OBERMAN: All right. Why don't
5 you do that because I interrupted and then let's do
6 our lunch break, Mr. Helenhouse.

7 BY MR. HELENHOUSE:

8 Q If you put power switches in the Port,
9 would that make any difference in how long you have
10 to occupy the CSX mainline?

11 A No, power switches in the Interchange or
12 Riverfront Yard would not change the amount of time
13 we're occupying CSX's mainline. CSX is already
14 powered up so --

15 Q All right. And if you built a track
16 parallel to CSX's track, you still have to cross
17 over CSX's track to get to Riverfront; right?

18 A Either way you go, whether I build it from
19 Riverfront all the way to McDuffie or from
20 Interchange all the way down to McDuffie, CSX is
21 still in the middle at that point. So there's just,
22 A, not any land to do it because of the convention

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1 center primarily, but B, we've still got to cross
2 CSX's mainline some way, shape, form or fashion.

3 CHAIRMAN OBERMAN: I misunderstood
4 something here. I thought part of the time that you
5 occupy the mainline is that before you shove back,
6 as you're shoving back, the train -- somebody has to
7 stop and hand throw all these switches at each
8 place. If you didn't have to hand throw them,
9 couldn't you shove back off the mainline faster?

10 THE WITNESS: Well, sir, I didn't really
11 testify to a time there. Typically, from the time
12 we get the signal on CSX to actually make the move
13 to us clearing CSX is about 40, 45 minutes tops,
14 regardless of 60 cars or 120 cars.

15 Again, I have three-man crews. One of
16 those guys is sitting at the bottom of the train or
17 riding the bottom of the train. The other guy is
18 already driving around in a pickup truck. We have
19 Ford F-150s primarily. They're driving around in
20 the pickup truck, lining the switches before we
21 start making the next move.

22 So my switches in the Riverfront Yard are

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1 typically already lined as far as they can be lined
2 once we start making the shove move into the Port.
3 And the switches on the other side are already lined
4 up for the move as well prior to CSX giving us the
5 signals.

6 So as far as throwing the switches, I
7 don't think that's really a time factor for this
8 particular move, but to your point, I mean, as much
9 switching and stuff as we do, if we had our north
10 end powered up, much like CSX does at their Sibert
11 Yard to do their automated switching, it would help
12 us with switching cars and our viability here.

13 CHAIRMAN OBERMAN: All right. I think I
14 understand.

15 All right. It's now 1:50. We will break
16 for lunch until 2:30. We will reconvene at that
17 point. Thank you all.

18 (Whereupon, at 1:51 p.m., the deposition
19 was recessed, to be reconvened at 2:30 p.m. this
20 same day.)

21

22

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1

2

AFTERNOON SESSION (2:32 p.m.)

3

Whereupon,

4

ROBERT GOLDEN

5

resumed the stand and, having been previously duly

6

sworn, was examined and testified further as

7

follows:

8

CHAIRMAN OBERMAN: Mr. Golden, you remain

9

sworn under oath.

10

THE WITNESS: I do.

11

CHAIRMAN OBERMAN: All right. Proceed.

12

BY MR. HELENHOUSE:

13

Q Mr. Golden, can you bring up the map

14

again, that 1A, 1B. We were talking about before

15

the break about movements from Interchange to

16

Riverfront. And I want to -- I want you to identify

17

where it is where you have to wait to get onto CSX's

18

track. When I say you, trains going from

19

Interchange over to Riverfront.

20

A Well, typically, we are waiting somewhere

21

back in the body of the track, back about where my

22

hand is at now. When we contact CSX, they will tell

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1 us it's going to be 15, 30, 40, an hour, whatever
2 it's going to be, and then we start making our way
3 down towards the drill. Once we cross this road
4 crossing here, which you really can't see because
5 it's not an aerial view, but we're on the CSX's
6 property going that way. So we try not to get
7 across and foul that road crossing until CSX is
8 planning on giving us a signal.

9 From calling the yardmaster or Sibert Yard
10 to getting a signal, on average, probably an hour
11 we're waiting typically before we get going. It
12 could be quicker, depending on how much pre-talk
13 we've had with them. And sometimes it don't matter
14 how much pre-talk we have, they still have got stuff
15 they're doing and we still wait an hour or more.

16 Q So sometimes takes longer than an hour?

17 A Oh, it's taken quite a long time a few
18 times.

19 Q What do you mean?

20 A For example, in early March, for example,
21 we had a train, a cut of cars coming off one of the
22 boats, we were trying to move at 11:00 a.m. and it

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1 didn't get a signal until 5:00 a.m. the next day.

2 But you know it's more the exception than the rule,
3 but we normally work well and get things through
4 when we can.

5 Q Once you're on CSX's main, can you walk
6 through how you get from the Interchange to the
7 Riverfront Yard exactly, using an example on the
8 tracks?

9 A So again, we come out here at this green
10 circle with a green X in it onto their drill track,
11 which pulls on down past this little CN connection
12 here and enters the CSX number 1 main there. Where
13 we enter the number 1 main here, we can only go out
14 number 1 towards the convention center, which again
15 is around this area, and tend to come all the way
16 down to about right in here with our head room,
17 which this is where I-10 comes under Mobile River
18 and you've got the small tunnel coming down
19 Government Street under Mobile River. But we're
20 right around that part of Mobile where the
21 interstates are circling up there.

22 Q Okay. So when the Port is moving a

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1 typical train from Interchange to Riverfront, you
2 are occupying the CSX line that runs past the former
3 Amtrak station?

4 A Correct.

5 Q Okay. And then what happens?

6 A Once we get clear of the northward route
7 signal here at CP State Docks, the dispatcher when
8 he's got a route for us, could be after a train goes
9 by, it could be after he remembers to do it,
10 whatever it is, we'll get the crossover thrown, the
11 power crossover thrown by the dispatcher and signal
12 on into the Riverfront Yard. For the power
13 crossover to go from 1 to 2, the switch to go into
14 the Riverfront and their D rail off again, we'll get
15 a signal into that location, restricted signal to go
16 on into the Port.

17 Q How long does it usually take to get that
18 signal to go on to the Port?

19 A It depends.

20 Q On to the Riverfront.

21 A It depends. That same cut we were talking
22 about in early March, got the signal there around

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1 5:00, and he was out there on the mainline for about
2 45 minutes waiting for the signal to go from 2 to 1
3 and back in the other way into the Interchange.

4 It was raining that day and there was a
5 lot of stuff going on, so it took about 45 minutes
6 from once we pulled out on the main to get the
7 signal to go back in the main. So the total time I
8 think we were on CSX was roughly an hour and a half.

9 Q And running back -- not counting the wait
10 time; correct?

11 A Well, counting the wait time while sitting
12 on mainline, yes, but not counting the wait time
13 from 11:00 a.m. the day before.

14 Q Waiting for the signal to get on the CSX?

15 A Correct.

16 Q Now, let's talk about that reverse move.
17 Can you walk the Board through that?

18 A So -- sure. It's very similar. So same
19 thing happens, we call the Sibert Yard and they say
20 how long we've got to wait.

21 The difference over here is because we've
22 got some advantages of being able to use multiple

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1 tracks, I told you there's three of them that are
2 long. Typically at night we try to use one of those
3 three. But when we're trying -- that's if we're
4 getting there after midnight. CSX does a total
5 train change before 11:00 in the evening. But we
6 try to get in one piece coming back across.

7 Those cuts typically are a little bit
8 smaller than the ones going over and can range from,
9 say, 50 to 110 cars.

10 Same principle. You call Sibert Yard
11 office, they tell you how long you're going to wait,
12 you start to get in one piece. If you can be in one
13 piece, I tell my guys to be in one piece. The
14 problem is for us to get in one piece over here, we
15 can't do any other work, working the Riverfront. The
16 customers can't be spotted or pulled, so that's the
17 big trick.

18 But it is an advantage to be able to do
19 that. We've got a little bit longer because we have
20 two yards over there and we can tie up both yards
21 with our cut.

22 Again, all the tracks are about 25 car

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1 lengths, but when you hit the lead between the two
2 yards, the west and then tie it over into pier E, we
3 can shove a train all the way around pier E and get
4 in one piece. Clear the main. If you do that then
5 you get yourself kind of in a trip bag, you don't
6 have room to break up a train when you're clearing a
7 train. When you're building it up to leave, you can
8 do that. You just can't do anything else when you
9 go to do it.

10 CSX gives us a signal. Like I said, that
11 train that left at 5:00 in the morning that early
12 March got a signal, pulled out of the main and
13 stopped at about the 30 minute mark. Had we got a
14 signal right back in probably in 45 minutes we could
15 be cleared, maybe a little longer. I don't know, it
16 was real close. We got all the way out to Choctaw
17 on that one. And then CSX gives us a signal back
18 into the drill track and then we go on into the hand
19 thrown switches.

20 Q All right. Let me break that up a little
21 bit. I think I got lost a little bit.

22 So to get from Riverfront to Interchange,

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1 you first have to go back onto the CSX mainline?

2 A Correct.

3 Q There's a signal there?

4 A Yeah, there's a signal that comes out of
5 the yard, power switches come out of the yard after
6 we get by our switch, they throw a D rail, throw a
7 switch and give a signal and then come out onto CSX
8 number 2 main typically. We can cross over to
9 number 1 main, but typically when we come up
10 Riverfront, we just pull straight out onto 2 while
11 CSX is running trains on 1.

12 BY CHAIRMAN OBERMAN:

13 Q Let me -- can I just ask, which one is the
14 easternmost track, 2 or 1?

15 A Track 2 is the track closer to the river
16 and track 1 is to the bottom of the river.

17 Q Thank you.

18 BY MR. HELENHOUSE:

19 Q And how long did you typically have to
20 wait for a signal at Riverfront to enter onto CSX's
21 property?

22 A It's typically about the same. About an

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1 hour. Sometimes it can be quicker. Like I said, if
2 we've had a lot of pre-work and there's nothing
3 going on CSX mainline, but that's so few and far
4 between, it's typically about an hour.

5 Q Once you're on CSX -- once you get the
6 signal, how long does it typically take for you to
7 move that train back in?

8 A If all the proverbial stars align, we can
9 be clear of their mainline typically around 45
10 minutes but it normally takes roughly an hour.

11 Q I ask that Exhibit 1A and 1B as amended be
12 admitted into evidence.

13 CHAIRMAN OBERMAN: Is there any objection?

14 UNIDENTIFIED SPEAKER: No objections from
15 CSX or NS.

16 CHAIRMAN OBERMAN: Amtrak?

17 MR. TREPP: No objection from Amtrak,
18 Mr. Chairman.

19 CHAIRMAN OBERMAN: Thank you.

20 (Exhibits 1A and 1B received.)

21 CHAIRMAN OBERMAN: Could I just ask, just
22 so I'm clear, when you said you're waiting an hour

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1 to get permission, you're waiting in the yard so
2 you're not anywhere near where Amtrak would be while
3 you're waiting that hour; correct?

4 THE WITNESS: That's correct.

5 CHAIRMAN OBERMAN: Okay. Thank you.

6 MR. HELENHOUSE: Mr. Chairman, I'm
7 probably going to have them pull this map down --
8 no, not yet. I've got a few other things.

9 BY MR. HELENHOUSE:

10 Q Are you aware that Amtrak contends that
11 each of its trains will operate on CSX's line for 45
12 minutes each, 15 minutes on, 15 minutes in and 15
13 minutes out?

14 A Yes, sir.

15 Q For a total of three hours a day?

16 A Yes, sir.

17 Q Based on your experience in the Port and
18 dispatching and your intricate familiarity with the
19 Mobile train operations, is Amtrak's impact on
20 freight operations limited to just 45 minutes per
21 train?

22 A No, as I alluded to before, talking about

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1 the operations up north, dispatching principles are
2 pretty much the same anywhere you're at, whether
3 it's here, BNSF, Union Pacific. You've got to clear
4 your route for the Amtrak trains to come.

5 CSX has mentioned running 12,000-foot
6 trains or I think closer to 10,000-foot trains.
7 Those have got to go somewhere to be out of the way
8 for Amtrak. If they have got one sitting here at
9 Alabama State Docks waiting to go south hanging out
10 over Three Mile Creek Bridge while Amtrak is coming,
11 well, that's going to block me from doing anything,
12 it's going to block pretty much anything from
13 happening because CSX is blocked themselves with a
14 large train.

15 So to get things in position for Amtrak to
16 operate, you've got to clear the route, whether it
17 be put a train that's opposing in a siding waiting
18 for Amtrak to come, whether it be holding the train
19 at the home signal at the yard office after you have
20 crew swapped or whether it be holding me in the
21 clear because my hour-long move is 10 minutes
22 shorter than when Amtrak is going to be there and

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1 they have got trains either parked or don't want to
2 run the risk of me getting out there and breaking
3 down, which happens from time to time.

4 I would guesstimate if Amtrak is coming --
5 or let's just start with the departure. If it's
6 departing at 6:30 in the morning, CSX is going to
7 start trying to find a way to get things in the hole
8 probably by 5:00. That's how we used to do it when
9 I dispatched.

10 Q What do you mean "getting things in the
11 hole"?

12 A Opening the track for the railroad so
13 Amtrak can get a signal and not get slowed down.

14 If I were dispatching here in Mobile, I
15 would not let a 12,000-foot train take off an hour
16 and a half before an Amtrak. A, if it has
17 communications issues and slows down to 30 miles an
18 hour because it can't read its EOT for the train length,
19 then you're following 30 miles an hour. And we've
20 already established there's no places for 10,000,
21 12,000-foot train to go.

22 B, if it breaks down, i.e., has an

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1 undesired emergency, loses its air somewhere, that's
2 a pretty long way to walk for one guy to walk. I'm
3 sure we would dispatch people, over-the-road trucks
4 or trainmasters or something like that. But it's a
5 long way to walk, to walk two and a half miles on one
6 side and then back the other just to find out where
7 your air problem is.

8 And lastly, I don't want Amtrak to have to
9 try to chase something down. I would want to make
10 sure that Amtrak came out of Mobile so I wouldn't
11 let anything to oppose it or follow it, leave ahead
12 of it until Amtrak left. So I wouldn't want even a
13 6,000-foot train to take off if I had an Amtrak 30
14 or 40 minutes in advance.

15 And me personally, seeing a train coming
16 with a high priority, whether it be the office car
17 special CSX runs across the territory time,
18 personally I have seen yard jobs pull out in front
19 of it because we've got 20 minutes before the train
20 is going to be here and this is a quick five-minute
21 head room shot and then it break down and then the
22 office car specialty stops for three hours.

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1 Q All right. So basically, you're saying in
2 your experience, freight carrier has to clear the
3 track from freight operations an hour or so before
4 Amtrak comes through there?

5 A Yeah, intermodal, automotive, freight,
6 bulk, any type of train operations, I would make
7 sure is out of the way, track cars, any other type
8 of maintenance of way work, I would make sure that I
9 had a route in --

10 Q Is that the same --

11 CHAIRMAN OBERMAN: I'm a little confused
12 here, Mr. Helenhouse. You're talking about a CSX
13 train, not a T ASD train; right?

14 MR. HELENHOUSE: Right. But it's relevant
15 because it cuts down on -- it jams up CSX and T ASD
16 has -- is third in line. So if CSX gets --

17 CHAIRMAN OBERMAN: I wasn't questioning
18 the relevance. I just wasn't sure, I wanted to know
19 which train you were talking about.

20 So what you're talking about at 6:00 in
21 the morning or 5:00 in the morning is if a
22 12,000-foot CSX train is ready to leave Sibert Yard,

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1 if you were the dispatcher, you wouldn't let it
2 leave for fear that it might break down and stop the
3 Amtrak train from leaving the station. Is that the
4 concept here?

5 THE WITNESS: That's -- whether it's a
6 12,000-foot train or any other type of move, you've
7 got to make sure routes are clear. So yes, that's
8 the answer I would give you. I would instruct my
9 people that worked for me when they did in Atlanta
10 for this territory, I controlled the dispatcher, and
11 I would have held it then as well if Amtrak was
12 running.

13 CHAIRMAN OBERMAN: Well, this may be a
14 legal question, but I'm just going to ponder if what
15 we're saying is that the freight railroad has to
16 keep Amtrak off the tracks because the freight
17 railroad can't assure that its own trains don't go
18 out and break down. That's what I'm hearing. Am I
19 hearing that wrong?

20 BY MR. HELENHOUSE:

21 Q Is it beyond just breaking down?

22 A Well, I mean, it's not just breaking down.

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1 It's the delay in and of itself. The difference in
2 speeds, Amtrak can run at 79 miles an hour, or at
3 least it could when I left CSX, from Mobile to New
4 Orleans. Now, there are spots that are not 79 miles
5 an hour. There's spots at bridges, drawbridges and
6 such all the way down where it would lower its train
7 speed. But for the most part, Amtrak can run at 79
8 miles an hour. A freight train, it's running at 60.
9 So you've got 20 mile an hour difference nearly
10 between the freight and the Amtrak.

11 So if you're going to get lean a
12 5,000-foot train that is intermodal that can run at
13 60 go ahead of Amtrak, Amtrak is going to catch it.

14 CHAIRMAN OBERMAN: But there are currently
15 plenty of 5,000-foot sidings for that train to pull
16 over and let Amtrak go by, aren't they?

17 THE WITNESS: There are. But if Amtrak
18 catches it 10 miles before that next siting, then
19 it's going to run at restricted speed for 10 miles,
20 which would take it just about an hour for that
21 train to get in the clear so that it can get clear
22 signals around it.

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1 CHAIRMAN OBERMAN: But why would it take
2 an hour?

3 THE WITNESS: Restricted speed. You can't
4 run faster than restricted speed, which is up to 20
5 miles an hour, but in all likelihood, Amtrak is not
6 going to be running 20 miles an hour with a train
7 ahead, that if they catch the rear of it, it could
8 be devastation if that train goes into emergency and
9 they're following right behind it.

10 CHAIRMAN OBERMAN: I assume,
11 Mr. Helenhouse now is going to tie up the problem
12 with the 12,000-foot CSX train having this quandary
13 with your trains; right? That's where you were
14 going. So I just wanted to make sure I understood
15 the scenario here.

16 BY MR. HELENHOUSE:

17 Q Yes, I do, I am going to follow up on that
18 first of all on the reverse. If an Amtrak train
19 coming into Mobile, what's the effect going to be on
20 freight operations coming into Mobile?

21 A Well, under the current situation that you
22 have with the line of road, I guess the current

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1 infrastructure is what I mean to say, not situation,
2 but the current infrastructure, you can't let any
3 trains leave past Berkeley that are over 10,000
4 feet. And if you have got four trains to head, well
5 they have got to find a place to park.

6 So if you're parking a train in Mobile and
7 there's a train parked out of the mainline, main 1
8 and main 2, and then I'm not able to move across
9 even if I can get over to 2 track or Amtrak is
10 coming on 1 or if I can come on the 2 track or vice
11 versa, because my crossover will be blocked here.

12 Q Okay. And then after -- now let's tie
13 this in how it affects the Port. Amtrak comes in,
14 Amtrak leaves. Now, before the Port moves anything,
15 who is going to move before you?

16 A Well, obviously the host carrier is going
17 to let their traffic go before mine. Even if mine
18 is ready to go, they know it can be cleared in an
19 hour, CSX is not going to give me priority when they
20 have got their own traffic that needs to go that
21 they have been holding for Amtrak.

22 Q So that would be CSX traffic is backed up.

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1 That has to be cleared before the Port gets on the
2 line?

3 A That's correct.

4 Q Now, are you aware that the RTC model
5 assumed four Port trains a day?

6 A Yes, sir.

7 Q And that was measured over a couple-month
8 period in 2019?

9 A That's what I heard in previous testimony.

10 CHAIRMAN OBERMAN: I didn't hear the
11 answer, the RTC model did how many trains?

12 MR. HELENHOUSE: Assumed four Port trains
13 a day that were operating over the CSX's track,
14 mainline track.

15 CHAIRMAN OBERMAN: Thank you.

16 BY MR. HELENHOUSE:

17 Q And that was measured over a two-month
18 period in 2019; correct?

19 A Yes.

20 Q Can you tell the Board how many Port
21 trains have been running recently over those CSX
22 tracks?

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1 A Well, I don't keep a running daily log,
2 but I did have my guys, last time we were here from,
3 April 4 to 7, count trains for me every day, and we
4 did 17 moves in just a four-day period on Monday,
5 Tuesday, Wednesday, Thursday. I had submitted in my
6 testimony that we did about 20 a week. That was
7 just through the first four days of the week, not
8 including Friday, Saturday and Sunday, in which
9 we're moving intermodal traffic still back and
10 forth, and we had a boat work that weekend.

11 So, I mean, we're running probably well
12 over 20 a week at this point, probably 25, 24, 25,
13 just about every week.

14 Q Are there some days you run six trains?

15 A I --

16 MR. TREPP: Sorry, Counselor. Excuse me
17 one moment.

18 Mr. Chairman, I'm just going to object to
19 the last answer, to the extent that Port witness is
20 now offering new evidence that was not identified in
21 its opening brief, reply brief or rebuttal brief.
22 We appreciate that this is a dynamic situation, but

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1 at some point we believe it should be the case that
2 evidence is closed.

3 CHAIRMAN OBERMAN: You're talking his
4 updating the number of trains that are currently
5 running today?

6 MR. HELENHOUSE: Yes. All it is is an
7 updated --

8 CHAIRMAN OBERMAN: I'm asking Mr. Trepp,
9 is that what you're objecting to?

10 MR. TREPP: Yes, Chair.

11 CHAIRMAN OBERMAN: Well, the RTC model
12 wasn't based on those trains. I think it's
13 important for the Board to have some idea of what's
14 going on out here. I note -- I'm going to overrule
15 your objection and take into account the point
16 you're making. I think we can weigh that in when we
17 try to figure all this out. But I wouldn't want to
18 deprive the Board of actual facts that are out
19 there. But if for some reason you think those
20 aren't the facts, then you can go into it on cross.
21 But I would certainly like to know what the facts
22 are, so I'm going to overrule the objection.

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1 MR. HELENHOUSE: You can take down the
2 exhibit now.

3 BY MR. HELENHOUSE:

4 Q Are you aware of the drone footage the
5 Port did on March 10, March 16 and March 21 of this
6 year showing the operations throughout the Port's
7 territory?

8 A Yes, I am.

9 Q Did you review that drone footage?

10 A I did.

11 Q Were you working on each of those days?

12 A I was.

13 Q Are you familiar with the overall
14 operations of the Port on each of those days and the
15 other carriers' operating line?

16 A Yes, sir.

17 Q Did you have a chance to review the still
18 photographs taken from the drone footage which we
19 have marked as Exhibits 2 through 8?

20 A I did.

21 Q Are those a selection of still photographs
22 taken from the drone footage -- I think you answered

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1 that. Do those fairly and accurately reflect the
2 regular operation of the Port on the dates
3 indicated?

4 A On the dates they indicate, yes, sir.

5 Q Why did the Port choose those dates to use
6 drones?

7 A We chose the drones for those dates
8 because Mobile is pretty rainy and windy, and those
9 are the days that the wind and rain had stopped
10 enough to allow our drone to fly.

11 MR. TREPP: Mr. Chairman, I would like to
12 interpose an objection to this line of questioning
13 as well. As with the drone footage, which we of
14 course discussed during the testimony of CSX and NS,
15 Amtrak doesn't object to the use of newly disclosed
16 photographs so long as they are used for the sole
17 purpose of addressing the Board's request to see the
18 corridor, and are not admitted or used to
19 demonstrate the typical amount of traffic or
20 capacity on the corridor.

21 You know, this is the stipulation that
22 Amtrak had proposed when these were disclosed, that

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1 the carriers and the Port initially rejected, but
2 that the carriers subsequently acceded to during the
3 testimony of Mr. Johnson and Mr. Hunt.

4 MR. HELENHOUSE: May I reply,
5 Mr. Chairman?

6 CHAIRMAN OBERMAN: Yes. Do you want to
7 respond?

8 MR. HELENHOUSE: The Port never, never,
9 agreed with the limited scope of those drone
10 footage. CSX and NS with respect to the drone
11 footage it took, it agreed to use them for that
12 limited purpose.

13 In addition, 49 CFR 1114 states any
14 evidence which is sufficiently reliable and
15 probative to support a decision under the provisions
16 of Administrative Procedure Act, or which would be
17 admissible under the general statutes of the United
18 States, or under the rules of evidence governing
19 proceedings in matters not involving trial by jury
20 in the courts of the United States, will be
21 admissible in hearings before the Board.

22 I have established already the

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1 authenticity of these. I have established the
2 relevance. I don't understand how there possibly
3 can be an objection, and I think that Section 1114.1
4 clearly states that is admissible.

5 CHAIRMAN OBERMAN: That may be, except
6 that the photographs didn't come in until after all
7 the evidence was long closed, and the other parties
8 don't have -- didn't have an opportunity to
9 challenge the issue of whether they showed typical
10 amounts of trains.

11 So if you want to use these photographs,
12 I'm going to allow them in for the limited purpose
13 of showing us what the structures look like and not
14 to establish that somehow this has anything to do
15 with the volume of cars on the line, because these
16 are static photographs.

17 So if you use them for that reason, you
18 can use them. Had this all been done during the
19 discovery period it may be a different outcome, but
20 it wasn't. So I'm going to limit the use for that
21 purpose.

22 MR. HELENHOUSE: If I could respond to

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1 that. The Port was not a party at that time. In
2 fact Amtrak vigorously, through a couple motions,
3 tried to deny the Port access to these proceedings
4 and authority, asked that the Court prevent it from
5 presenting evidence. Amtrak didn't serve any
6 discovery, they never requested anything from us.

7 So this is like the orphan who kills his
8 parents and begs mercy from the court, because he is
9 an orphan. Amtrak put itself in this position.

10 CHAIRMAN OBERMAN: Well, that may apply to
11 other aspects of the case, but not to photographs
12 which didn't come into existence or were shown until
13 just a few weeks ago. So my ruling will stand. If
14 you want to use the photographs for the purpose of
15 showing what the physical status of the line looks
16 like, that will be allowed, but not for any further
17 purpose.

18 MR. HELENHOUSE: Can you bring up Exhibit
19 Number 2.

20 BY MR. HELENHOUSE:

21 Q Can you explain, I believe this is the
22 north -- from drone exhibit March 30, 2022?

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1 A March 10 I think, wasn't it?

2 Q I'm sorry, March 10, that's correct. Can
3 you explain to the Board what's shown in this
4 photograph?

5 A All right. So in this photograph here,
6 we're looking north on the railroad so to speak. On
7 the bottom left-hand side, you can see part of CN
8 yard. The very bottom of the screen you can see the
9 CN to CSX connection here.

10 If you go on up further, you can see in
11 this area over here is our interchange yard. This
12 here is CSX Sibert yard, and then this is our north
13 yard and south yard on the Riverfront, and the
14 piers.

15 And you had mentioned we wish we had a
16 picture of the boat. You can just faintly see the
17 Cherokee back there in the background. Not the
18 picture you wanted but --

19 BY CHAIRMAN OBERMAN:

20 Q Could you show us the difference between
21 where the Sibert yard is and your interchange yard?
22 Where is that? It's hard to see where that line is.

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1 A So Chairman, where my cursor is at --
2 showing a plus now on my side, this right here is
3 the CSX car shop.

4 Q I see it.

5 A The first track here next to it is our
6 interchange track number 1.

7 Q Okay. And then to the east of it is the
8 Sibert yard?

9 A So then this is Sibert ladder here to do
10 their switching. This track here with this train on
11 it is the number 2 main. The track, you can just
12 see it in between these two trains, is number 1
13 main. And this is CSX's drill track, and this is
14 the lead that runs into the CSX drill track right
15 there.

16 Q All right. And then your other yard is
17 all those tracks at a slanted angle compared to the
18 other ones?

19 A That's correct. This here is Mobile Sun,
20 which we own and CSX operates, and then our west
21 hold 3, 2 and 1, these are the long tracks I
22 referenced we use for grain typically. These are

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1 grain cars all in here, along with those on west
2 hold 1. This is our north yard here and our south
3 yard. You can see our roll-on/roll-off facility up
4 here. There are 10 tracks, I know I think you asked
5 Mr. Johnson about that, there are 10 tracks that are
6 about 700 feet each. A little under 700 feet each.
7 And you can kind of see our operations at this
8 point.

9 CHAIRMAN OBERMAN: Thank you.

10 BY MR. HELENHOUSE:

11 Q Can you show on this map where -- the
12 tracks that lead to the various piers and locations
13 where ships are loaded?

14 A It's difficult --

15 Q I guess if we can zoom in a little.

16 A You can kind of see tracks going across
17 the roads through here. That's where all of our
18 pier tracks are on the high end. This is our grain
19 elevator you see here. This is our cement. You can
20 see the piles of pig iron I mentioned that come off
21 the ship. There's no ship there now, but they're
22 loading pig iron. That's what these rustic --

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1 rust-ish black-color cars are here.

2 And then the rail ferry is all the way up
3 here. You can see that just short of the
4 roll-on/roll-off facility.

5 Q And does this map show, or photo show,
6 where you come onto CSX's track?

7 A Yes, sir. So right here in this switch,
8 I'll zoom back in a little bit, this is the PSD lead
9 to the CSX drill track, which this train is on here.
10 So we come out here, it is a hand-thrown switch
11 here, but right here is the signal for the drill
12 track to come out on the CSX's line, and that turns
13 into a power switch for us to enter number 1 main.

14 Q Is that where those tanker cars are, on
15 the left side of the track?

16 A The left side of the track with tank cars
17 is CSX drill number 1.

18 Q Is that a CSX train there?

19 A Yes, sir.

20 Q Can you explain how, with the
21 configuration shown on this exhibit, Amtrak's
22 operations would impact your ability to make

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1 movement throughout the corridor?

2 A Well, this isn't shown, where Amtrak would
3 be at, but I can tell you with certainty that if CSX
4 had trains chambered or held in the clear to go
5 south for Amtrak, they would be strung out much like
6 this car train is and this tank car train is here,
7 not allowing us to get out of that switch or off the
8 switch off camera over here, that is down in here,
9 to go onto the Riverfront side.

10 And if those switches are blocked, then I
11 can't make any moves across corridor.

12 Q Okay. And then I would like to ask you --
13 when the other -- when the diagram was up, I forgot.
14 But can you point to the area where -- CSX's Three
15 Mile Bridge?

16 A You can't quite see it, but it's right in
17 this area right here, is where CSX's Three Mile
18 Bridge is. You can see ours, it's up in the air
19 right now for boat traffic. CSX has maybe turned to
20 -- there may be a barge going through. But CSX's
21 Three Mile Creek Bridge is here.

22 Q How does CSX's operations on Three Mile

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1 Bridge affect the Port in terms of making up trains?

2 A So if a barge is required to go through
3 Three Mile Creek Bridge, and it's going through ours
4 as well, CSX can't take their headroom going north
5 to build the northbound trellis. So the 12,000-foot
6 train is running north, it's got to set off and pick
7 up at Sibert today, it would pull up here to this
8 bridge and wait for that to close. And a
9 12,000-foot train is going to hang out all the way
10 through the convention center. That happened
11 actually yesterday on my way to the airport. My
12 daughter had a volleyball tournament at the
13 convention center, I was inside the convention
14 center, I never park in there but for whatever
15 reason I did yesterday, and the creek was open, and
16 they had about an 8,600-foot train I think they told
17 me, sitting there, and I was held inside the
18 convention center for about 35 minutes until that
19 creek closed and the train can go on north, so that
20 I could get out of the convention center and get to
21 the airport.

22 Q You mentioned headroom. Can you explain

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1 to the Board what you mean by that?

2 MR. TREPP: Excuse me, Counsel. Sorry,
3 it's always hard to interpose objections in a
4 virtual context.

5 Again, Chair, we would just ask that to
6 the extent that there's going to be testimony, that
7 it be cabined to sort of the infrastructure that is
8 available on the line and not be treated as sort of
9 typical of the line. Just wanted to ensure we had a
10 clear record on that.

11 CHAIRMAN OBERMAN: I didn't hear anything
12 saying whether this was typical or not, so I'll let
13 the last answer stand.

14 MR. HELENHOUSE: I think we have a
15 question pending. Could you explain what headroom
16 is?

17 THE WITNESS: Headroom is just the mode of
18 transportation to get permission out of the yard,
19 whether it's our yard, headroom towards the
20 countryside or needing headroom towards CSX's
21 mainline to do some sort of yard maneuver. We call
22 taking headroom also going down to switch from our

1 interchange yard to Riverfront, because you're
2 taking the head of the train on down to a certain
3 spot, and a switch being thrown behind you to make a
4 maneuver.

5 So typically our cross corridor movements
6 from Riverfront to Interchange, Interchange to
7 Riverfront, are always a headroom shot that's a
8 little bit longer than most headroom shots.

9 BY CHAIRMAN OBERMAN:

10 Q Where is that point? Is there a point on
11 this picture where you cross over from the east
12 track to the west track?

13 A No, sir, this picture is a little short, a
14 little far north for that part, the crossover.

15 Q All right. If it's on another picture,
16 maybe when we get there, you can show us.

17 A Yes, sir.

18 CHAIRMAN OBERMAN: Thank you.

19 BY MR. HELENHOUSE:

20 Q Actually, let's jump to Exhibit Number 4.
21 That might have it on there.

22 CHAIRMAN OBERMAN: What exhibit number was

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1 this, Mr. Helenhouse?

2 MR. HELENHOUSE: That was Port Exhibit 2.

3 BY MR. HELENHOUSE:

4 Q Why don't we pull back up 1A and 1B and we
5 can address the Chair's question.

6 A I don't know if you can see this, Chairman
7 Oberman, but right in this location here -- let me
8 zoom in a little better. We don't have the
9 crossovers on CSX, and obviously for commercial
10 reasons I'm not trying to point out where they cross
11 trains over. But right in this area here, about
12 where this circle is to this here, is the
13 interlocker. The interlocker at CSX has northward
14 signals and southward signals, and everything in
15 between it is the interlocker that you move trains
16 between.

17 So in this section here, there is a
18 crossover from number 1 back to number 2. That
19 picture on 2 did show -- that's a different
20 crossover.

21 CHAIRMAN OBERMAN: Is it only from 1 to 2?
22 Does it not go back -- is there a crossover to go --

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1 THE WITNESS: There is a crossover from
2 number 1 to 2 going southward. But I believe the
3 main one is west of where we tie in back here.

4 So the crossover to go from 2 to 1 is back
5 in this area here. I'm sorry, going north from
6 number 1 to number 2 and into the interchange is in
7 this location. The one going from 1 to 2 south is
8 back up here, I think CSX showed it on one of their
9 exhibits being north of my enter point.

10 CHAIRMAN OBERMAN: Okay. Thank you.

11 BY MR. HELENHOUSE:

12 Q If we could pull up Port Exhibit Number 3.

13 A So we're again still looking north. This
14 is the Virginia Street overpass that I mentioned was
15 constructed for our APM or our Mobile container
16 terminal. This is just a corner of a container
17 terminal here, where they're parking some of their
18 side booms to load their containers.

19 But this is where the containers will dray
20 that I mentioned earlier in my testimony over to the
21 rail facility, the ICTF. We're looking down CSX's
22 mainline here, which is the left track going

1 underneath Virginia Street overpass.

2 This southbound train here is in Choctaw
3 yard, not at Choctaw OS, which is back here, but
4 through Choctaw yard.

5 This here is the Virginia Street lead that
6 we were looking to demonstrate going into McDuffie
7 coal terminal. It is a single-track lead as you can
8 see, going into McDuffie.

9 And in the current situation that we're
10 looking at, we wouldn't be allowed to enter or exit
11 McDuffie for coal business or intermodal business
12 the way this particular day set up.

13 BY CHAIRMAN OBERMAN:

14 Q So as long as we've got this picture up,
15 isn't one of the projects that you're recommending
16 something to do with the Virginia Street lead?

17 A Virginia Street lead was a project that
18 when we were asked about what might help mitigate
19 Amtrak that we had suggested.

20 Q Well, just without getting into mitigation
21 and so forth, can you just physically point out what
22 the project would be? You can get it in later, but

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1 I just want to visualize it here.

2 A Location here, Chairman Oberman, we have
3 enough room for another track through here. So part
4 of the project on us would tie this track into our
5 other leads over here at Radcliff yard, to the
6 right. And extend out here. This road crossing is
7 where the Port and CSX -- our line of demarcation, I
8 guess you would say. This is actual Virginia Street
9 here. And our property starts on the south end of
10 this road crossing and CSX's starts right there as
11 well going north.

12 So the Virginia Street lead extension
13 would tie into this yard track here at Choctaw yard,
14 and continue on around into the Port, allowing us to
15 yard a coal train and depart a coal train or yard a
16 coal train, hold, and depart an intermodal train as
17 well.

18 CHAIRMAN OBERMAN: So you're talking about
19 double-tracking that lead, in effect?

20 THE WITNESS: In effect, yes, sir.

21 CHAIRMAN OBERMAN: Okay. Thank you.

22 BY MR. HELENHOUSE:

1 Q And using this exhibit as a demonstrative
2 aid, does this depict how Amtrak's operations would
3 interfere with the Port's operations?

4 A Well, Amtrak would have to operate where
5 this train is sitting right here, all the way down
6 to the convention center, which you can just about
7 make out up in the upper left-hand side of the
8 screen.

9 This would be a perfect example, if this
10 train was Amtrak going through here, of CSX staging a
11 train southbound waiting on Amtrak to get by or
12 depart, and that would prevent me from arriving or
13 departing McDuffie or ICTF at Garrows Bend.

14 CHAIRMAN OBERMAN: Why -- on this picture,
15 if Amtrak is on the track to the left, and if CSX is
16 on the track to the right, why would that interfere
17 with Amtrak's going in and out?

18 THE WITNESS: I think the question to me
19 was about my impact, the impact on the Port. So at
20 this point, sir, if Amtrak -- if the CSX train that
21 left wasn't there and Amtrak was coming, and the CSX
22 train on the right would be a very good

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1 demonstrative example of what CSX would do waiting
2 on Amtrak coming into Mobile. Put the train there
3 so it can come.

4 BY CHAIRMAN OBERMAN:

5 Q Why would the CSX train on the right in
6 this picture have to wait? Amtrak is already coming
7 in.

8 A Well, this is a hand-thrown switch that
9 just clears the road. So they would have to wait
10 there for Amtrak to get by them. And then they can
11 take off as soon as Amtrak passed.

12 Q Well, how long would it take an Amtrak
13 train at that point to go past that switch?

14 A If Amtrak was right here where this black
15 tank car is, he's by this switch. But to clear the
16 circuit, he would probably need to get by Virginia
17 Street itself before they would be able to throw the
18 electric lock switch and come out on the mainline.

19 Q How long does that take?

20 A Depends on the timer on the electric lock.
21 Some of them take seven minutes, some 15. It
22 depends on the track speed at that location.

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1 Q So the CSX train might have to sit there
2 from seven to 15 minutes, then it's going to get
3 going, then a T ASD train can come; is that right?

4 A Right. But if this train is sitting here
5 at 5:00 in the morning waiting on a 6:30 departure,
6 then it's sitting there from 5:00 in the morning
7 until 7:00 roughly. And then it will go. But that
8 would prevent us -- this train right now is strung
9 out through Choctaw and blocking the Virginia Street
10 lead. So however long it would take Amtrak to get
11 say by the last place it stops, which is, where, in
12 Gulfport, to come on in, based on the current
13 infrastructure, this train here, if there's a train
14 at Berkeley, this train wouldn't have to sit here.
15 I mean if the train isn't at Berkeley, this train
16 won't have to sit here. If there's a train at
17 Berkeley and this train is sitting here, then
18 they're waiting on Amtrak basically the last 45
19 minutes of this trip to even get into Mobile, which
20 we've already established is 45 minutes, to go from
21 -- by the last switch, to the station, 15 minutes,
22 15 minutes at the station to unload, and 15 minutes

1 back into what I suppose they're saying is Choctaw
2 yard for the storage location at the moment, because
3 they're --

4 BY CHAIRMAN OBERMAN:

5 Q If they built a station track, there's
6 been discussion of that, 1,000, 2,000, 3,000 feet,
7 the Amtrak train wouldn't have to go back into
8 Choctaw yard, it could just stay at the station and
9 leave that track open, couldn't it?

10 A Sure. You probably cut out 30 minutes of
11 that 45-minute time that Amtrak thinks they have.

12 Q And couldn't this CSX train that's on the
13 right track here in this picture stay in Choctaw
14 yard until Amtrak has passed? It doesn't have to
15 come all the way out here on the main, does it?

16 A It's not on the main. It is in Choctaw
17 yard.

18 Q Oh, this track it's on is considered part
19 of Choctaw yard?

20 A That's correct, sir. Choctaw
21 interlocking, if that's what you're talking about,
22 is back up here by this red and blue building so to

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1 speak. So the interlocker for Choctaw is up here.
2 CSX is doing something here running the train
3 through the yard to use a hand-thrown switch to get
4 out of the main in this picture. It's not even a
5 power switch. So that conductor has to throw that
6 switch, let the lead trucks get on it at the
7 trailing point, to come out of the main, and then
8 they can proceed after putting it back on power.

9 CHAIRMAN OBERMAN: Okay. Thank you.

10 BY MR. HELENHOUSE:

11 Q I would also add that there's been no
12 evidence that Amtrak or CSX owns the property on
13 which to build the track to the station, and there's
14 also no evidence that there's no room to build one
15 there.

16 Let's go back to 1A. As long as the
17 Chairman wants -- is asking about those structures,
18 can you just show him where the flyover would be?
19 Because I think there might be a little bit of a
20 confusion about the flyover.

21 A So one of the things I offered to help
22 mitigate us would be a flyover bridge, to do what it

1 says and fly over CSX's tracks.

2 So basically we would come off here short
3 of Three Mile Creek, parallel the creek, and while
4 we're paralleling the creek we're going basically
5 from zero to 25 feet above CSX's mainline here, and
6 then turn back south and dump back in. So it would
7 effectively be a big horseshoe so to speak. Then
8 it's elevated to where the bottom of the bridge
9 would be 25 feet over CSX's mainline, to dump back
10 into the Port.

11 BY CHAIRMAN OBERMAN:

12 Q So you're saying, you did that, you
13 wouldn't have to back-and-forth at the south end of
14 all these yards to do your -- to go between
15 Interchange and Riverfront? Is that what you're
16 saying?

17 A That's what I propose, yes, sir. If we
18 had the flyover bridge, which is just something that
19 someone asked, what would help mitigate for me,
20 nothing I'm presenting for you that we're asking
21 for, but if we had the flyover bridge, we could
22 minimize the Riverfront to Interchange traffic on

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1 CSX's mainline, thereby opening up capacity for not
2 only Amtrak but for our intermodal growth, for the
3 coal train growth and for all the other growth CSX
4 would have, which I think I heard them say something
5 about 20 percent year over year, that they have with
6 their trains. That would help eliminate our moves,
7 two or three, sometimes up to six moves a day,
8 across CSX's corridor in the cross corridor moves
9 that we make.

10 Q So the long answer to my earlier question
11 about this modern railroad having had hand-thrown
12 switches -- lines to do switching would be answered
13 by this overpass, in part?

14 A Well, I don't know that this overpass
15 would do anything about our power switches, no. But
16 I mean, it would help us --

17 Q You wouldn't have to do the backing and
18 filling move all the time. You could just go over
19 your overpass?

20 A Correct.

21 CHAIRMAN OBERMAN: Okay.

22 MR. HELENHOUSE: And I'll just make an

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1 objection to your characterization of a modern
2 railroad. They are a state-owned railroad using
3 public funds, and they are akin to any other short
4 line.

5 CHAIRMAN OBERMAN: I withdraw any
6 allegation that TASD is a modern railroad. I'll
7 leave it stand.

8 THE WITNESS: We still keep track of our
9 crews on pegboards, so we're -- we just brought
10 ourselves into 1995 with the -- Excel, that Al Gore
11 invented the Internet with.

12 CHAIRMAN OBERMAN: Rob, I was trying to
13 help you out.

14 Go ahead.

15 BY MR. HELENHOUSE:

16 Q From an operational standpoint, would you
17 need additional locomotives to make that move?
18 That's a pretty steep grade.

19 A From an operational standpoint, we have
20 got eight locomotives right now although one is
21 being rebuilt to tier 4 standards. If we had the
22 flyover bridge, we would not need more locomotives.

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1 Q And the flyover bridge is not something
2 that you currently need; is that correct?

3 A No, I wouldn't say we need it for getting
4 back and forth from Riverfront to Interchange. It's
5 sometimes cumbersome, but it still happens and it's
6 effective, it's growing our business back and forth,
7 the way we're operating now. Short of Amtrak coming
8 I don't know why we would need that.

9 Q Let's move on to Exhibit Number 3.
10 Actually, Exhibit Number 4. Tell the Board what
11 this shows.

12 A This is another northward-facing look from
13 right above CP Alabama state docks. This is -- this
14 does show the crossover room, so to speak. Our lead
15 to come out, this is the crossover from the drill to
16 number 1 and number 1 to number 2 that you were
17 asking about, Chairman Oberman, going in the south
18 direction.

19 As you see, we come in right around here,
20 and that crossover is over here. So there's no way
21 for us to get from here to here. That would be too
22 steep of a switch to get over that way.

1 CHAIRMAN OBERMAN: Could you build a
2 crossover some other place north of there?

3 THE WITNESS: I'm not an engineering guy
4 like Mr. Johnson is, but most of the time I ask a
5 question like that, they make me feel less than
6 intelligent because you're not supposed to put
7 crossovers in curves.

8 So I would ponder that that would not be
9 able to do it here, because of this curve coming out
10 of our interchange.

11 Now, this crossover here possibly could be
12 moved down further so that we can cross straight
13 from interchange over there.

14 CHAIRMAN OBERMAN: I see. Yep. Got it.

15 THE WITNESS: But the one coming out of
16 our interchange, that one is about where it could
17 be.

18 BY MR. HELENHOUSE:

19 Q While we have this photo up, if you look
20 to the right of it, the Riverfront tracks on the
21 right hand are angled there. What are those used
22 for?

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1 A This is our north yard. Our north yard is
2 primarily where we keep all of our cars to use on
3 the piers. And then the south yard is cars -- well,
4 this is where we yard our cars going to the piers.
5 We break them up and put them in our south yard.
6 And the south yard is where we keep them to actually
7 spot and pull the piers from.

8 Q And I know the piers don't show up very
9 well here, but can you show roughly where they are?

10 A Well, again, this is the pig iron up here,
11 you can kind of see the road crossing there. You
12 can kind of make out faint figures and road
13 crossings going across. This does give you a little
14 bit better view of the railroad tracks. A little
15 bit close-up of the Cherokee that's sitting here
16 just over the top of the buildings over there by the
17 buildings and such. This also shows an NS train
18 leaving the interchange, going around toward the
19 NA -- or CN I guess. Considering they both use that
20 track.

21 Q That's an NS train going to where?

22 A This is a train coming out of our

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1 interchange being interchanged to another carrier.
2 I don't see the locomotive so I can't tell you the
3 ALE and the NS both pull about the same time that
4 day, one after the other.

5 Q Let's go on to Exhibit Number 5.

6 A Now we're looking I guess really --

7 Q Before we talk about train operations, I
8 know there's some questions about this intermodal
9 facility on the left side. Can you talk about that
10 first?

11 A Sure. I was just going to qualify, of the
12 direction we're looking is basically east into
13 Mobile Bay there.

14 This is the intermodal facility that you
15 were asking about, Chairman Oberman. This is the
16 Mobile container facility. This is actually the
17 newest section, newest phase that we built in this
18 area. You can see how compact it already is with
19 trailers, or containers I should say. And this is
20 the southward part of it here, the newest part that
21 we've added, filling in part of the bay near the
22 shore over here so we had more container lay-down

1 area.

2 And then this is their inspection house
3 where the trucks are coming in off that Virginia
4 Street overpass here into the Port, exiting the area
5 here.

6 BY CHAIRMAN OBERMAN:

7 Q Where does the Virginia Street overpass
8 come into?

9 A Directly behind this, in this view.

10 Q Okay.

11 A And the trucks, tractor-trailers, will
12 come through here where my cursor is moving up, and
13 make their left-hand turn to go through the shack
14 that the video -- the video inspects the containers
15 as they come in.

16 BY MR. HELENHOUSE:

17 Q What else is shown on here?

18 BY CHAIRMAN OBERMAN:

19 Q Can I just -- this is a side issue. But
20 it looks like you have a shortage of chassis there
21 for the size of your port.

22 A Shortage of --

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1 Q Pardon?

2 A I didn't follow the question, I apologize.

3 Q Nothing to do with this case, but that's a
4 lot of containers sitting there. Are you running a
5 shortage of chassis? And that's another problem
6 we're dealing with?

7 A No, sir, we're not running a shortage of
8 chassis. There's a lot of chassis over at the ICTF
9 area, and a lot of the trucks will bring their own
10 chassis in to pick up their trailers.

11 I don't mean to speak for APM because I'm
12 not involved with them too much. But I do know
13 there's a lot of chassis over there where I speak
14 of. I see empty chassis pulling in all the time to
15 pick up containers.

16 Looking at our operations, you see here
17 our receiving yard basically. This is where the CSX
18 and CN will land their coal trains.

19 BY MR. HELENHOUSE:

20 Q Can you identify that with your --

21 A I apologize. You can see the coal hoppers
22 here. This is our receiving yard, so to speak, for

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1 lack of a better term. This is where we will land
2 the coal trains coming inbound for CSX or the CN, or
3 we'll bring in -- the NS or the BNSF coal trains in
4 ourselves.

5 We've got seven tracks basically. There's
6 a 1A over here, a 1, 2, 3, 4, 5 and 6. The 1 and 1A
7 will hold about 100 cars roughly, 2 and 3 the same,
8 and then 4, 5 and 6 will hold 100 cars as well. 5
9 and 6 are about 55 together, one is 25, one is 30.

10 Looking south here --

11 CHAIRMAN OBERMAN: This extra track in the
12 Virginia lead you showed us before, would it go
13 alongside these tracks now where these coal hopper
14 cars are?

15 THE WITNESS: It would tie in north of
16 where we're talking here. So we have -- we have two
17 or three tracks that come to the north behind where
18 this camera is facing, and then they all blend into
19 the one track that I showed you under Virginia
20 Street lead, in this picture here.

21 CHAIRMAN OBERMAN: I see, okay. Got it.

22 THE WITNESS: It's a typical rail

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1 structure where you come in with a lead and then it
2 spreads the two, and then a third which allows us to
3 come into this intermodal facility here.

4 CHAIRMAN OBERMAN: Got it.

5 THE WITNESS: So trains typically progress
6 around this way to the island. We have two coal
7 dumps, one is a cannon dump that dumps two cars at a
8 time, rotary-type dump, does not bottom-dump. In
9 this area over here. We can put a train in five
10 hours through that coal dump. It is currently under
11 construction. We are upgrading it. I am told we're
12 taking the Pinto out and putting a Lamborghini in,
13 if that makes sense as far as coal dumps are
14 concerned. I've never seen a Lamborghini coal dump,
15 but I will be interested to see it come to life.

16 So it's supposed to allow us to dump more
17 efficiently, where we're cannon-dumping, dump two
18 cars at a time, the new dump will allow for
19 maintenance and still dump one car at a time, while
20 we're maintaining the other side of the dump, and
21 vice versa, thereby minimizing the amount of
22 downtime we have at the coal dump.

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1 Typically CSX will come in. If we are
2 finishing a train, they will leave the train whole.
3 If we're in the middle of another train, they will
4 go ahead and yard the train into two tracks, and
5 break it up, and we have ground air here at this
6 location, so we don't lose the air test.

7 And then we double it right back the way
8 it was. They come in -- all the carriers are coming
9 in basically with two locomotives on the head end,
10 and no DP power is needed to come into our
11 facilities, other than the BNSF train that's coming
12 from Memphis basically, Amory, Mississippi. We do
13 not need DP power here to operate around the coal
14 facility.

15 We dump at the cannon dump. On the back
16 side of the island just off the camera here is a
17 single car dump on a different lead. We could
18 actually dump two coal trains at the same time, one
19 in a tandem dump operation and one in a single car
20 dump operation.

21 We also have a loadout facility off of our
22 number 1 loop. There are three loop tracks. You

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1 can see them coming out right here. This is where
2 our loop is that leads back over here where the
3 single car dump is.

4 We can dump -- we dump the coal trains at
5 the tandem car dump directly into a loop. We dump
6 the cars at the single car dump and then set them
7 over into a loop as we get about halfway done.

8 And that's basically what we do. We also
9 like I said load out on our loop 1. That's the
10 trains that I had mentioned that are going to the
11 Norfolk Southern or sometimes they go to CSX,
12 depending on who wins the bid for that business that
13 year.

14 BY MR. HELENHOUSE:

15 Q How about that green locomotive there?
16 What is that?

17 A So our green locomotive there, that's one
18 of our new upgraded motors. I can't tell which one
19 that is. It looks like it may be the 802, but my
20 eyesight is not that good. So I think that was one
21 of our R.J. Corman tier 2 upgrade. It is sitting on
22 our intermodal lead, it's a single track going into

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1 the intermodal facility. And we typically start our
2 day there, deliver to the CN yard or ALE yard there,
3 and then we hop on the cars that come back, for them
4 to work the next day.

5 Q And how would Amtrak's operations in the
6 Mobile area impact your business in this area?

7 A Well, like the other picture depicted, you
8 know, I mean, if we've got trains staged for Amtrak
9 or Amtrak itself out there, we aren't going to be
10 able to move. So -- until the movement is done. So
11 whether it's an arriving, taking even the 45
12 minutes, that it takes to come in and then park, or
13 the train is departing, taking the 45 minutes to
14 come out and then leave, you know, unless we're able
15 to run across the CN -- we could run IT interlocker,
16 but even then CSX might not risk us crossing the
17 track, which takes less than 30 minutes most times,
18 just to go across the diamond.

19 Q Can CN come in off of the train terminal
20 if its trains are on that --

21 A Right now with the CSX trains out there,
22 CN cannot arrive at the coal terminal either. They

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1 were actually doubling up two sets that day. All of
2 those cars there in that picture end up leaving on
3 the same train.

4 Q Let's pull up Exhibit Number 6.

5 CHAIRMAN OBERMAN: So we haven't seen 4.
6 I'm trying to keep track.

7 MR. HELENHOUSE: I'm sorry.

8 THE WITNESS: We saw 4.

9 MR. HELENHOUSE: We did see 4. Do you
10 want to pull that back up --

11 THE WITNESS: Showing the crossovers.

12 MR. HELENHOUSE: 2 and 4 are somewhat
13 similar.

14 CHAIRMAN OBERMAN: Maybe that's why I'm
15 confused. Okay. This is 6?

16 THE WITNESS: This is our intermodal
17 facility --

18 BY MR. HELENHOUSE:

19 Q Hold on. This is 6 for the record.

20 A Correct. Sorry.

21 Q You can explain what this shows.

22 A So we're looking more southwest, south.

1 This is our intermodal container facility for rail,
2 the rail side of things. As I said before, you can
3 see the chassis backed up there. But we have two
4 service tracks as I mentioned here, and a runaround
5 track. We're getting ready to depart and go to the
6 CN to deliver for the outbound train, that leaves
7 once a day here. We were getting the runaround
8 track ready and going to double it to one of the
9 service tracks, and you can see they finished up on
10 there, and hauled that I think that was around 4,800
11 feet that day, going to the ALE to make the outbound
12 train for CN.

13 BY CHAIRMAN OBERMAN:

14 Q This is the line where the ships would be
15 along the shore there; is that right?

16 A That is not right, sir. Over, let's see,
17 Exhibit 5, which is where the ships are over here,
18 you can see the big cranes.

19 Q On that side, okay. I got it.

20 A And then this goes around towards the
21 ICTF, which ties it into there -- there's a rail
22 bridge here where you have to go over this body --

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1 this inlet of water here.

2 Q I got it.

3 A And we've been talking about structure
4 upgrades and all that stuff to support future
5 business. APM has already got all the engineering
6 design. They're going to mirror -- there are two
7 tracks here. They already have in this green space
8 here. Those plans are already constructed and being
9 ready to start groundbreaking. And then there's
10 also enough land over here to support another six
11 storage tracks, having seven storage tracks and four
12 working tracks, along with our -- this is a
13 brand-new overhead crane for us.

14 Q So do I understand the operation, that a
15 chassis brings the containers that we saw stacked up
16 on the other picture across this overpass, and they
17 get loaded on trains over here and taken out? Is
18 that how it works?

19 A That's correct. That's until the
20 infrastructure we had talked about earlier, the
21 overpass that Mr. Driscoll brought up that you had
22 asked about, the \$30 million budget for. We're

1 going to be building an overpass that will mirror
2 this track into here from APM terminals, the Mobile
3 container facility, and land right about here, for
4 the trucks to dray directly to the railroad
5 facility.

6 And when we do that, like I said, we'll be
7 able to offload from ships, dray directly over with
8 coming into the Port for rail, and put them on train
9 in less than an hour, probably like 30 minutes,
10 based on what they're telling us.

11 CHAIRMAN OBERMAN: Okay.

12 BY MR. HELENHOUSE:

13 Q I want to clarify something though. Not
14 all of these containers, as shown on here, those
15 don't all come from the container yard. Some of
16 them come from other carriers?

17 A These containers that are on the outbound
18 side come from either container yard or local
19 business. We have the Amazon and Walmart
20 warehouses. I know we've been doing a lot of
21 business for Walmart shipping around and out. I
22 don't know if I should be mentioning that out here,

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1 but that's where most of these come from.

2 The inbound stuff actually comes from the
3 CDM primarily from Chicago, Memphis, Joliet,
4 Illinois, Canada market, straight down to Port of
5 Mobile, to export out of the container facility, to
6 ship.

7 Q We'll talk about that for a minute. So we
8 have inbound traffic coming into this area here?

9 A Uh-huh.

10 Q What happens with those containers?

11 A They will detrain them, take them off the
12 train, put them on a chassis, and they will be
13 drayed over to the Mobile container terminal, which
14 we saw on Exhibit 5. And then they will be loaded
15 to ship and exported.

16 Q And in order for those -- that inbound
17 traffic to get down here -- and I'm sorry, I don't
18 have my -- that has to cross over CSX's line?

19 A Yeah, either at the diamond on the IC or
20 through CSX's corridor from Alabama state docks to
21 Choctaw. Like I said though, in my previous
22 testimony, we've had the last 10 to 12 weeks totally

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1 blocked up on that other on side, so we haven't been
2 able to go that way.

3 Q It looks like there's a fair amount of
4 room for expansion in this area as well.

5 A Like I mentioned, they have got plans
6 already for two additional service tracks and six
7 conditional storage tracks, which would give them
8 plenty of room for the growth Mr. Driscoll alluded
9 to in his testimony.

10 Q Let's take a look at Exhibit Number 7.
11 You've probably talked about most of this area but
12 it's coming from a different perspective and maybe
13 you can add something.

14 A Well, we're looking at Garrows Bend
15 waterway here. The only thing that really uses the
16 Garrows Bend waterway are barges coming to McDuffie.
17 You can see we have barge unloading operation here
18 and there's one just offscreen here.

19 You can see pretty much all the ship
20 loaders here that go out and load the ships. It
21 actually looks like there's a vessel in there now on
22 this picture. And just different coal yards where

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1 they have got here.

2 The single car dump is right here in this
3 area. So this is where -- the single car dump, and
4 then the cannon car dump again is back over in this
5 area.

6 Q Now let's move on to Exhibit 8. And the
7 Chairman thought the containers were a lot before,
8 this will put a new perspective on it.

9 A So this is just looking due east basically
10 towards the river. And it's got a good shot coming
11 out of the container. The other part of our
12 expansion is we've got room for another track across
13 here, across our rail bridge, so that we can have
14 double track coming in and out of the container
15 facility to better utilize the new storage tracks
16 and the inbound stuff.

17 So -- but you can see a train coming out
18 of the empty tracks here, and a whole big view of
19 the Mobile container terminal across the way there.

20 Again, this spot here, I'd say this over
21 here is the newest, I think it was 40 acres or
22 something like that, that we expanded for the

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1 container terminal.

2 BY CHAIRMAN OBERMAN:

3 Q What is the dwell time of those
4 containers? It just looks like a big backlog to me.

5 A I wouldn't be able to answer that. Again,
6 that's APM terminals. It's not railroad-related.
7 So I don't have a clue as to what the dwell time of
8 those containers are.

9 I do know we have plenty of room for
10 expanse. We've got more projects lined up, like I
11 said, that flyover bridge again will come right
12 along here to allow us to essentially have on-dock
13 rail service.

14 Q Well, that might help. I mean, it just
15 looks like those are, you know -- it's a large stack
16 there. If you had enough chassis, there wouldn't be
17 that big of a stack I wouldn't think. But anyway,
18 go --

19 A And don't forget, Chairman, that some of
20 those aren't meant to come inbound. Some of those
21 have already come inland of the U.S. and are
22 planning to go outbound. Some of those are staged

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1 to load the next vessel that comes in. If you're
2 going to load vessels, you need a big stack of
3 containers to do so.

4 BY MR. HELENHOUSE:

5 Q Some of those containers came in by rail?

6 A Some of these have come in by rail, some
7 come in by ship, some of them come by local
8 business, to be exported.

9 MR. HELENHOUSE: I just want to get a
10 clarification on how these exhibits are being used.
11 Are they admitted for demonstrative purposes?

12 Did you hear me, Mr. Chair?

13 CHAIRMAN OBERMAN: I'm sorry, I thought
14 you were talking to the witness. What was your
15 question?

16 MR. HELENHOUSE: Oh, no, I'm sorry.

17 I said I just wanted to get a little
18 clarification on our Exhibits 2 through 8. Can we
19 admit them for demonstrative purposes?

20 CHAIRMAN OBERMAN: They are admitted for
21 the limited purpose that we stated, and that is to
22 show what the topography looks like and not for the

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1 volume of trains and -- even though I've been asking
2 about it, or the volume of containers, but just to
3 show the layout here and where the tracks are and so
4 forth.

5 MR. HELENHOUSE: Okay. Thank you.

6 BY MR. HELENHOUSE:

7 Q Based on your experience -- you can take
8 that down, thank you.

9 Based on your experience in the Mobile
10 area, your experience and familiarity with CSX
11 operations and Amtrak's general operations, will
12 Amtrak's operations as proposed impair unreasonably
13 the Port's operations?

14 A I believe so.

15 Q How?

16 A The congestion it's going to cause, I
17 don't think it's going to be just three hours of
18 track time. I believe CSX is going to be staging
19 trains before and after the arrivals and departures.

20 And because of that, it's going to hold up
21 traffic that needs to be moving south to New Orleans
22 or north to Montgomery in a different location,

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1 which will cause me time to get across.

2 I'm already working 24 hours a day moving
3 stuff on second shift that should have moved on
4 first shift and moving traffic on first shift that
5 should have moved on third shift and third shift
6 that should have moved on second shift. I move my
7 operations nearly daily to try to make sure I get
8 things done in order for us to be successful as a
9 port.

10 And then just taking -- taking even three
11 hours out of the day, which is what's suggested by
12 Amtrak, with the current infrastructure, then it
13 would just impede me even that much more, I mean, we
14 won't be able to grow the container terminal traffic
15 if we have to go north.

16 Perfect example is I have one carrier
17 talking about moving two trains in and out a day,
18 and the inland port we mentioned, that's going to
19 include a train in and out a day, maybe every other
20 day. And then you know Governor Ivey has put out
21 that the AUSA corridor is being constructed on
22 Norfolk Southern for intermodal traffic from

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1 McCalla, Alabama, to Mobile, Alabama. That's going
2 to result in a train in and out a day. So we're
3 looking at four inbound intermodal trains and four
4 outbound intermodal trains per day.

5 Q In addition to what's there now?

6 A In addition to what we have now.

7 Q And what would be the impact on the
8 shippers then if Amtrak comes in?

9 A I fully think shippers will start looking
10 elsewhere even though elsewhere might be congested.
11 I fear that, it's my total speculation, that because
12 the containers won't be able to move by rail, either
13 they will move by truck or move to another port.
14 They can't go by rail.

15 MR. TREPP: Request to strike the answer
16 that was submitted, speculation.

17 CHAIRMAN OBERMAN: Granted. It will be
18 stricken.

19 BY MR. HELENHOUSE:

20 Q Are you familiar with the operations of
21 your customers, and, you know, how many people they
22 have working on what you ship and that sort of

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1 thing?

2 A I don't know the counts of what our
3 customers have for employees, and whatnot.

4 Q Do you know if it would have -- if Amtrak
5 came in, they would have an adverse effect on the
6 business along your routes and for the shippers that
7 you serve?

8 A I would suspect that if there was business
9 that was dropping off, then jobs would as well, as
10 with any other business model in America.

11 Q Are there any operational changes such as
12 shorter train or changing the times of train
13 movements that would avoid the impact Amtrak would
14 have on the Port, its shippers or the connected
15 carriers?

16 A We are constantly moving our operations
17 around to accommodate the CGR vessels that come
18 every three days that aren't regularly scheduled,
19 the coal trains that come that aren't regularly
20 scheduled.

21 The only thing that we can control is the
22 stuff that comes in and out of the Port, and we do

1 our best to keep that on a regular schedule so that
2 we aren't in the critical mode in our country or on
3 the riverfront.

4 So I don't know that there are any
5 operational changes that I can make any further that
6 would accommodate Amtrak coming in four times a day,
7 or even at three hours.

8 Q Now, Mr. Driscoll testified about some
9 projected growth. Are you familiar with that?

10 A Yes, sir.

11 Q Will that require additional trains also?

12 A As I mentioned for the intermodal alone,
13 it's going to require -- we're running one train, I
14 guess you would say, with the -- of cars from the
15 terminal to the CN, and one back a day. And we're
16 talking about getting four that are substantially
17 more than what we're getting now inbound and
18 outbound every day, especially after the
19 infrastructure at ICTF is completed.

20 CHAIRMAN OBERMAN: I couldn't hear the --
21 you trailed off there at the end of your last
22 answer, Mr. Golden. Especially after what?

1 THE WITNESS: Especially after the
2 infrastructure that ICTF is going to be doing,
3 they're starting this year, adding the two extra
4 service tracks I've mentioned and six extra storage
5 tracks. After that infrastructure is done, it will
6 severely hamper that business going in and out.

7 BY MR. HELENHOUSE:

8 Q If Amtrak starts service as proposed, how
9 would that impact the business that Mr. Driscoll
10 discussed?

11 A I don't know how I would be able to make
12 cross corridor moves for eight times a day, across
13 CSX, with that Amtrak holding us in place for that
14 many hours a day. Even if it's at minimum three, as
15 it's proposed by Amtrak.

16 Q What is your relationship with CSX to
17 allow the Port to operate on CSX's lines?

18 A We have a trackage rights agreement that
19 we signed with CSX in March of '79 I think it was,
20 for trackage rights across their corridor. It is
21 an agreement that's been in place, like I said,
22 since '79, so that's our relationship as far as the

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1 trackage rights.

2 CHAIRMAN OBERMAN: What's the term of that
3 agreement?

4 THE WITNESS: It does not have an end
5 date, sir.

6 CHAIRMAN OBERMAN: Okay.

7 MR. HELENHOUSE: I'm sorry, Mr. Chairman,
8 did you have a question?

9 CHAIRMAN OBERMAN: No, I just wanted to
10 know how long -- he said it started in '79. I
11 didn't know what term of years it was, if there was
12 a term. He answered.

13 BY MR. HELENHOUSE:

14 Q If you were not able to operate over CSX's
15 mainline between your various terminals, the Port's
16 various terminals, to service the multiple customers
17 the Port currently serves, who would have to move
18 that traffic?

19 A Are you asking if our trackage rights were
20 revoked?

21 Q Yes.

22 A So if our trackage rights were revoked, I

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1 would have to build the train up and have CXS come
2 up on it, pull it out of the interchange, have them
3 bring it to me on the riverfront side, and then I
4 would hop back on it over there, just to get across
5 the corridor and in to service our customers.

6 Q So essentially, the Port is currently
7 standing in the shoes of CSX as it relates to how
8 the shippers -- the various terminals are serviced?

9 MR. TREPP: Mr. Chairman, I just object to
10 the question to the extent that it calls for a legal
11 conclusion.

12 CHAIRMAN OBERMAN: Well, it is kind of a
13 vaguely worded question, Mr. Helenhouse. When you
14 say stand in the shoes, could you rephrase it? It
15 sounds like you're asking him about CSX's legal
16 obligations.

17 MR. HELENHOUSE: Sure.

18 BY MR. HELENHOUSE:

19 Q If the Port didn't have the right to
20 operate over CSX's lines to service the customers
21 that the Port currently serves, who would move that
22 traffic?

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1 A Only could be CSX at that point.

2 Q So right now, the Port is moving traffic
3 that CSX would otherwise move but for your
4 relationship with the trackage rights agreement with
5 CSX?

6 A Yes.

7 Q To your knowledge, has Amtrak offered the
8 Port any infrastructure improvements that would save
9 the Port from all the negative impacts you
10 discussed?

11 A No.

12 Q To your knowledge, has Amtrak even
13 approached the Port to even suggest that it would
14 fund such improvements?

15 A Not to my knowledge.

16 Q To your knowledge, during this entire
17 case, has Amtrak ever reached out to the shippers
18 you serve in Mobile to get their perspective on how
19 Amtrak operations will affect them?

20 A Not to my knowledge.

21 Q Thank you, Mr. Golden. That's all I have.

22 CHAIRMAN OBERMAN: All right. Amtrak?

1 Your witness.

2 MR. TREPP: Thank you, Mr. Chair.

3 CROSS-EXAMINATION

4 BY MR. TREPP:

5 Q Good afternoon, Mr. Golden. I think you
6 probably heard me introduce myself this morning, but
7 I'm Alex Trepp, I represent Amtrak. I hope you had
8 a good lunch. It's been a long day.

9 I guess I'll start by asking you just a
10 few questions about analyzing traffic on a freight
11 network. You are familiar with the phrase rail
12 traffic controller model; right?

13 A The RTC model, yeah.

14 Q And have you ever prepared an RTC model?
15 I think your audio may have cut out, Mr. Golden. Or
16 ours has.

17 A No, sir, I have not.

18 Q And you did not prepare an RTC model in
19 this case; right?

20 A No, sir.

21 Q And the Port hasn't; right?

22 A You broke up on that one. I didn't hear

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1 you, Mr. Trepp.

2 Q I said and the Port hasn't submitted an
3 RTC model in this case; correct?

4 A Not that I'm aware of.

5 Q Have you ever used another software
6 program to model the capacity of a freight network?

7 A I've never modeled the freight network,
8 sir.

9 Q And to your knowledge, has the Port
10 submitted any formal model of capacity on the
11 network in this case?

12 A Again, I don't believe so, not to my
13 knowledge.

14 Q Mr. Golden, you submitted three verified
15 statements in this case; right?

16 A That's correct.

17 Q And when preparing those -- when preparing
18 those verified statements, did you examine any
19 documents at all?

20 A I don't remember what I examined to
21 prepare my verified statements.

22 Q Do you remember -- do you remember

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1 examining any data?

2 A I don't remember exactly how I got through
3 all my verified statements, to be honest with you.
4 I still am charged with running the railroad day to
5 day, so I'm not living in these documents every day
6 to operate the Port's railroad. So I apologize.

7 I don't remember the data I verified -- or
8 used to verify my statements.

9 Q Do you remember drawing on anything other
10 than your personal experience when you were
11 preparing your verified statements?

12 A I'm sure I used some of our data that we
13 had for the Port. I don't know what data that might
14 have been, whether it's just our budget data,
15 budgetary data for car counts, for revenue loads. I
16 don't remember all the stuff that I used to create
17 my verified statement, and I certainly did use my
18 experience to do so, yes, sir.

19 Q In your verified statements, do you
20 remember if you cited any data or any documents?

21 A I'm sure I did.

22 Q But you can't remember what they are right

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1 now?

2 A Not off the top of my head, no, sir. Is
3 there something you'd like me to look at in
4 particular?

5 Q I will not put you through the
6 excruciating exercise of reading all three of your
7 verified statements in real time.

8 CHAIRMAN OBERMAN: Or us.

9 (Laughter.)

10 BY MR. TREPP:

11 Q Mr. Golden, do you know when Amtrak first
12 announced its intention to seek restoration of the
13 Gulf Coast service?

14 A I'm sorry, I didn't make out your
15 question. What was the question again?

16 Q Do you know when Amtrak first announced
17 its intention to seek restoration of the Gulf Coast
18 service?

19 A I don't know the date off the top of my
20 head, no, sir.

21 Q Are you familiar with the Gulf Coast
22 Working Group's 2017 report?

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1 A No, sir. 2017 I was just -- I was at CSX
2 for most of the year, and came on down this way in
3 August. So I was trying to learn new territory, new
4 company and new business. So I'm not familiar with
5 that off the top of my head.

6 I probably read it in the course of this
7 trial or prepping for the trial, I don't remember it
8 off the top of my head though.

9 Q Do you remember when you learned that
10 Amtrak intended to try and restore the Gulf Coast
11 service?

12 A I remember hearing about Gulf Coast
13 service from the time I got to Atlanta in 2011. But
14 just local news articles and stuff like that. But
15 as far as officially trying to come back online, I
16 would say probably at the end of '17 when I got to
17 Mobile, sometime in '18, the current general manager
18 and I at the time talked a little bit about it, that
19 it no longer -- I couldn't give you a specific date
20 as to when I was aware that Amtrak was trying to get
21 back on the Gulf Coast.

22 Q The Port believes that in coming years it

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1 will increase use of Gulf railway ferry; right?

2 A Yes, sir, the CGRS.

3 Q As a result, the Port anticipates
4 increasing Interchange yard to Riverfront yard
5 switches, in support of CGRL, to six days a week; is
6 that right?

7 A Yes, sir.

8 Q And the Port also believes there will be
9 increased coal, container and automobile traffic
10 over the next few years?

11 A Yes, sir.

12 Q And the Port believes that its
13 cross-border operations are already difficult;
14 right?

15 A They're cumbersome at times. I don't know
16 if difficult is the word, but they are cumbersome at
17 times.

18 Q Well, let me see if I can refresh your
19 recollection.

20 MR. TREPP: Mr. Peterson, would you mind
21 bringing up Joint Exhibit 24 at PDF page 13. I
22 think it's page 12 of the brief.

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1 CHAIRMAN OBERMAN: Is this the brief or
2 the statement?

3 MR. TREPP: This is the brief.

4 CHAIRMAN OBERMAN: And the page is?

5 MR. TREPP: The page is 13 of the PDF and
6 12 of the brief.

7 MR. HELENHOUSE: Mr. Chairman, I object to
8 this. First of all, it's a brief, he didn't write
9 it, and it's not impeachable.

10 CHAIRMAN OBERMAN: Well, let's see where
11 he's going with it.

12 Overruled.

13 BY MR. TREPP:

14 Q Mr. Golden, my question is just has the
15 TA -- well, has the Port told this Board that cross
16 corridor operations are complicated and difficult as
17 it is?

18 A According to this brief, yes.

19 Q And the Port also believes that cross
20 corridor movements will become even more challenging
21 if its traffic volumes continue to grow; right?

22 MR. HELENHOUSE: I object again. He did

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1 not read this full sentence and it's taken out of
2 context. It continues with "TASD manages to obtain
3 cross corridor operating windows." So I think it's
4 an unfair statement without including that portion.

5 CHAIRMAN OBERMAN: You will have an
6 opportunity to redirect.

7 Overruled.

8 THE WITNESS: Could you repeat the
9 question, please?

10 BY MR. TREPP:

11 Q Yeah, the question is the Port also
12 believes that cross corridor movements will become
13 even more challenging if its traffic volumes
14 continue to grow; correct?

15 A Sure.

16 Q And the Port has invested over \$1.3
17 billion in recent years to expand and modernize Port
18 facilities; right?

19 A According to Mr. Driscoll's testimony,
20 yes.

21 Q And so far as you know, the Port didn't
22 consider spending any of that money on the flyover

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1 track you propose in your testimony; right?

2 A As far as I know, that's correct.

3 Q And so far the Port did not consider
4 spending any of that money on the extension track
5 along Bob Hope Bridge that you propose in your
6 testimony; correct?

7 MR. HELENHOUSE: I would object to the
8 proposal he just mentioned on all those
9 alternatives, but go ahead and answer.

10 CHAIRMAN OBERMAN: I didn't hear your
11 objection. Can you say it again, Mr. Helenhouse? I
12 didn't hear your objection. Are you withdrawing it,
13 or --

14 MR. HELENHOUSE: Yeah, I don't believe
15 they were proposals in the sense that the Port is
16 advocating that the issue be done, because it's our
17 position that the Board does not have an authority
18 under subsection E to order these. I think the
19 characterization that he gives was solutions, but
20 it's not a proposal in terms of this is what we're
21 suggesting the Board should order, because we don't
22 think the Board has the authority to order such

1 improvements under subsection E.

2 CHAIRMAN OBERMAN: I think we're arguing
3 about semantics. I can read Mr. Golden's statement
4 where he talks about these ideas, big things that
5 should be done. Whether we call them proposals or
6 suggestions, I'm going to overrule your objection.

7 Go ahead.

8 BY MR. TREPP:

9 Q Would it be helpful for me to restate the
10 question, Mr. Golden?

11 A Please do.

12 Q So far as you know, the Port did not
13 consider spending any of that \$1.3 billion on the
14 extension track along Bob Hope Bridge that you
15 suggest in your testimony; correct?

16 A Correct.

17 Q And the same is true for the improvements
18 of the Virginia Street lead; right?

19 A Correct.

20 Q And the Port is also targeting \$700
21 million in federal, state and other funding for
22 additional Port improvements; correct?

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1 A According to Mr. Driscoll's testimony,
2 correct.

3 Q And so far as you know, the Port hasn't
4 considered spending any of that money on the flyover
5 track you suggest in your testimony; right?

6 A No, that's correct.

7 Q Same is true for the Bob Hope Bridge;
8 right?

9 A That's correct.

10 Q And the same is true for the Virginia
11 Street lead?

12 A That's correct.

13 Q And just to be clear, you've told this
14 board that TSAD's operating environment is already
15 consistently busy, tightly constrained within a
16 limited space, and heavily dependent on CSXT,
17 regardless of whether Amtrak runs a single train
18 between New Orleans and Mobile; right?

19 A That's correct.

20 Q Mr. Golden, I would like to ask you a few
21 questions about the mitigation measures that you
22 suggest in your testimony.

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1 A Sure.

2 Q The flyover track you propose would enable
3 the Port to move trains between Interchange and
4 Riverfront yards without using CSXT's mainline; right?

5 A That's correct.

6 Q And in your verified statement, you don't
7 make any attempt to estimate the cost of
8 constructing that project, did you?

9 A No, I did not. I don't recall I did. I
10 was just asked to provide possible solutions that
11 would help mitigate Amtrak, should they come. So I
12 did not provide any cost estimates for that.

13 Q And you didn't offer any quantitative
14 analysis of the benefits associated with
15 constructing a flyover track that you suggest;
16 right?

17 A That's correct.

18 Q And you don't know whether construction of
19 the flyover track would provide the Port with
20 superior operating conditions today, do you?

21 A Did you say "superior operating
22 conditions"? I missed that.

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1 Q Yeah.

2 A Is that what you said?

3 Q Yeah. And I can rephrase the question.

4 The question is are you certain whether or not

5 construction of the flyover track would provide the

6 Port with superior operating conditions than exist

7 today?

8 A I don't know if it would be superior. It

9 would give us pretty uneven -- or even flow back and

10 forth from the Riverfront. But I guess you could

11 say it would be better than what we have today, yes.

12 Q Let me ask you a couple of questions about

13 the extension over Bob Hope Bridge.

14 That extension would ease movement of

15 traffic between Interchange and Riverfront yard by

16 providing additional headroom south of Alabama state

17 docks; is that right?

18 A Let me just clarify something. Real

19 quick. We're not going over Bob Hope Bridge. Bob

20 Hope Bridge is a road that goes over CSX's mainline

21 into the main port. This is the Bob Hope extension,

22 is really what it -- should be termed, because

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1 there's not room under that bridge, which was the
2 original idea, when I was asked about what could
3 help, it actually goes around the Bob Hope
4 extension. So I don't want anybody thinking it's
5 based on you said it's a bridge because it's not.
6 It just allows us to get headroom, it allows us to
7 enter CSX's main in one piece all the time from
8 Riverfront. And it would allow us to get off of CSX
9 main in one piece coming from the interchange. So
10 it would make the move back and forth across CSX
11 quicker, which would allow them to allow us out
12 quicker too.

13 Q And if going forward in your testimony, I
14 just call it the Bob Hope extension, will you know
15 what I mean?

16 A Yeah, I'm down with that. That would be
17 good.

18 Q Okay. So in your testimony, you didn't
19 make any attempt to estimate the cost of the Bob
20 Hope extension; right?

21 A No, sir, I didn't. Again, it was just I
22 would have -- if there was anything that would help

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1 mitigate Amtrak, I gave an answer. So I did not
2 provide any cost estimates or analysis any way about
3 that possible project.

4 Q When you say you didn't provide any
5 analysis, you didn't provide quantitative analysis
6 about the benefits associated with constructing that
7 project; right?

8 A Correct.

9 Q And you don't know whether construction of
10 the project would provide the Port with superior
11 operating conditions than exist today; right?

12 A I could speculate that it would, but I
13 don't know for a fact that it would.

14 Q All right. Let me ask you a few questions
15 about the improvement to the Virginia Street lead,
16 and I think these will feel familiar.

17 A All right.

18 Q The improvements to the Virginia Street
19 lead would permit movement for the Port and CSX to
20 traffic from Interchange yard, through downtown
21 Mobile, directly to ICT after McDuffie Island; is
22 that right?

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1 A Not exactly. As I mentioned when we were
2 going through the photos with Chairman Oberman, that
3 that Virginia Street lead ties into Choctaw yard.
4 So it basically gives an extension into McDuffie
5 coal terminal, and thereby also into the ICTF, from
6 CP Choctaw, into our McDuffie coal terminal or ICTF.

7 Q Understood. And in your written
8 testimony, you didn't make any attempt to estimate
9 the cost of the improvements to Virginia Street;
10 correct?

11 MR. HELENHOUSE: I would object. ICT did
12 not ask for any --

13 CHAIRMAN OBERMAN: Overruled.
14 You may answer.

15 THE WITNESS: No, I did not include any of
16 those cost estimates or analysis on whether or not
17 it would provide superior movement for the Port.

18 BY MR. TREPP:

19 Q You didn't provide quantitative analysis
20 about the benefits associated with constructing the
21 project?

22 A I thought I was going to have that one

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1 right that time, but you are correct, no, I did not.

2 Q And you don't know whether construction of
3 the Virginia Street lead improvements would provide
4 the Port with superior operating conditions than
5 exist today; right?

6 A No, sir, I do not.

7 Q Now, in your opening comments, I believe
8 you indicated that the Port needs roughly 30 minutes
9 to move a train between Interchange yard and
10 McDuffie coal terminal; is that right?

11 A Correct, yeah. If we've got signals on
12 CSX, it's normally roughly 30-minute run to go to
13 Choctaw lead into Virginia Street.

14 Q And Interchange yard is north of the
15 proposed Amtrak passenger station; right?

16 A Correct.

17 Q McDuffie coal terminal is south of Choctaw
18 yard. Do I have that right?

19 A That is correct.

20 Q But then in your opening verified
21 statement, you said the deadhead movements between
22 downtown Mobile and the proposed storage tracks at

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1 Choctaw yard would take Amtrak half an hour; right?

2 A I may have said that. Choctaw yard is --

3 Q Sorry, go ahead.

4 A Yeah, Choctaw yard is a noncontrolled
5 track, so going in and out of Choctaw yard is a lot
6 slower than driving on the mainline with the trains.
7 Under signal indication, we could do it, you know,
8 about 30 minutes with a train. But just coming from
9 Choctaw to the train station is going to take you
10 longer, because you have got to come out of a bunch
11 of hand-thrown switches, onto the mainline, into the
12 train station. So it would have taken a little
13 longer to do that.

14 Q So just to be clear, is it your testimony
15 today that the deadhead movement from the proposed
16 Amtrak station to where the Amtrak train would lay
17 over in Choctaw would take 30 minutes?

18 A No, I'm not -- I'm not changing anything,
19 I don't think. Unless I said that in November, I
20 don't remember saying that in November. But it may
21 take 15 to 30 minutes, yeah.

22 Q The distance that an Amtrak train must

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1 move to get from the proposed station to the holding
2 site in Choctaw yard, is that about a mile and a
3 half?

4 A Roughly, sure. I'm not real positive on
5 the length from Choctaw yard, or where it would stay
6 in Choctaw yard. It's about a half mile, mile and a
7 half, somewhere around in there.

8 Q I'd like to ask you a couple of questions
9 about a portion of your reply verified statement,
10 Mr. Golden.

11 Mr. Peterson, could you please bring up
12 page 2 of Mr. Golden's reply verified statement. I
13 think it's Joint Exhibit 43. I think this is going
14 to be page 19 of the PDF.

15 And so, Mr. Golden, the passage I want to
16 ask you about is that second highlighted passage,
17 but I also want to give you an opportunity to read
18 the paragraph if you would like it. Do you want to
19 just let me know when you're ready?

20 MR. HELENHOUSE: What document is this
21 from?

22 MR. TREPP: This is reply verified

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1 statement. I apologize, it's his rebuttal verified
2 statement. I misspoke. Joint Exhibit 43.

3 THE WITNESS: Okay. I have read through
4 it.

5 BY MR. TREPP:

6 Q So do I understand correctly from this
7 passage that the Port can't provide train records or
8 dispatching sheets?

9 A Well, we don't have any train dispatchers.
10 It would be difficult to provide dispatching sheets
11 on that. CSX dispatches in this area for us.

12 Q And is there any documentation that the
13 Port could provide that reflects how many of its
14 trains move over CSXT lines each day?

15 A We don't have a regular log of what runs
16 back and forth across. We could look at our billing
17 and find a way to provide exactly what we've ran
18 revenue-load-wise back and forth across CSX's
19 mainline.

20 Q Did you do that when you were preparing
21 your verified statements?

22 A I probably looked at our load list, yes.

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1 Q And you didn't attach those documents to
2 your testimony; right?

3 A Not that I recall.

4 Q Does the Port have any documentation that
5 reflects the aggregate amount of time that its
6 trains have been delayed while waiting to cross CSXT
7 lines?

8 A Unfortunately, we do not have a way that
9 we've calculated time it takes for us to leave our
10 interchange, to get a signal, if that's what you're
11 asking, no. We have not tried to keep a tally on
12 delays from foreign carriers to the terminal railway
13 at this point.

14 Q Does the Port have any documentation that
15 reflects when cross corridor windows are most
16 frequently available?

17 A No, I do not have any documentation for
18 that either.

19 Q And just to be clear, CSX doesn't
20 currently guarantee any cross corridor windows to
21 the Port; right?

22 A That's correct.

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1 Q In fact, CSX has been consistently
2 unwilling to allot the Port operating windows
3 through CSXT's portion of Mobile terminal; right?

4 A I don't know if that would be a correct
5 characterization. I've not actually requested
6 anything officially since I've been general manager
7 in the last year for specific operating windows
8 across CSX's corridor.

9 Q Well, Mr. Peterson, would you mind
10 bringing up Joint Exhibit 33A at 3. And this one is
11 the Golden reply. It should be the second page of
12 the statement, the third page of the PDF.

13 And Mr. Golden, would you mind just
14 reading that first full paragraph to yourself and
15 letting me know when you're done.

16 A All right.

17 Q Thank you.

18 A I've read it.

19 Q So am I right in saying that you've told
20 the Board that CSXT has been consistently unwilling
21 to allot the Port operating windows through its
22 portion of Mobile terminal?

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1 A Yes, sir, I did according to this. I
2 didn't recall doing that, but yes, I did.

3 MR. TREPP: And Mr. Chairman, I'm
4 cognizant of the fact that we've been going for
5 about an hour and 45 minutes. I'm happy to push
6 through. But if the Board or the witness are
7 interested in a short break, then maybe I can
8 condense what remains of my examination.

9 CHAIRMAN OBERMAN: Would that speed it up
10 if you took a little break now? Is that what you're
11 saying?

12 MR. TREPP: It might.

13 CHAIRMAN OBERMAN: I'm not asking for a
14 guarantee, but I've been there myself. How much, a
15 10-minute break, would that be sufficient?

16 MR. TREPP: Certainly.

17 CHAIRMAN OBERMAN: Why don't we break.
18 It's 3:17. Why don't we break until 3:30.

19 BOARD MEMBER HEDLUND: Mr. Chairman, it's
20 4:17 in the East.

21 CHAIRMAN OBERMAN: I'm sorry. 4:17. It's
22 17 something, somewhere. Thank you. We'll convene

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1 at 4:30.

2 (Recess.)

3 CHAIRMAN OBERMAN: Okay. Are we back?

4 Ready to go?

5 Mr. Trepp, proceed.

6 MR. TREPP: Mr. Peterson, would you mind
7 bringing up what I think was the Port's exhibit?

8 So just a couple of clarifying questions
9 about this for you, Mr. Golden.

10 CHAIRMAN OBERMAN: What exhibit number are
11 we on, Mr. Trepp?

12 MR. TREPP: This is Exhibit 3, Port
13 Exhibit 3.

14 BY MR. TREPP:

15 Q Mr. Golden, did I hear you say that what
16 this photo demonstrates is that a CSX train will
17 have to wait at Choctaw for a favorable signal,
18 while Amtrak is northbound; is that right?

19 A Would -- I'm sorry, repeat your question.

20 Q I just wanted to make sure I understand
21 your testimony about what's in this photograph. As
22 I heard it, it sounded as though you testified that

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1 the train on the east track is a CSX train that is
2 waiting for a favorable signal to exit Choctaw and
3 get onto the main; is that right?

4 A No, it won't be waiting for a signal
5 there. It's a hand-thrown switch to go on the main.
6 It's waiting for the train going northbound on the
7 left-hand track to clear in this picture. That's
8 what's going on in the picture. I wasn't referring
9 to that train in particular. I was talking about if
10 that train wasn't there, and Amtrak was coming,
11 you'd have to wait for a favorable signal to go
12 south at Choctaw interlocker.

13 Q I see. And if that train were just held
14 in a different location, would the Port have access
15 to the Virginia Street lead while Amtrak was coming
16 northbound?

17 A Well, we have access to the Virginia
18 Street lead in this picture. However, at CP
19 Choctaw, where this train is going into Choctaw
20 yard, we no longer can do anything.

21 If this train was held say at CP Alabama
22 state docks, which is well off the picture up to the

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1 left, yeah, then we could come out on number 2 main
2 and get all the way up to CP Alabama state docks, if
3 Amtrak is running on this other track, at the same
4 time, correct.

5 Q Okay. Did you listen to Ms. Rosse
6 testify, I think it would have been two weeks ago at
7 this point?

8 A Yeah, I believe we did.

9 Q Did you hear her mention that she spoke
10 with the T ASD about their growth estimates?

11 A No, I did not recall hearing her say she
12 spoke to T ASD about growth estimates.

13 Q Okay. Did you speak to Ms. Rosse about
14 growth estimates?

15 A I have never spoken to Ms. Hannah Rosse in
16 my life.

17 Q Okay. I believe that, during your direct
18 examination, you mentioned that you used to dispatch
19 Amtrak trains over CSXT lines; right?

20 A That's correct.

21 Q And for some portion of that time, you
22 were dispatching in and around Chicago; is that

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1 right?

2 A Yeah, all of my actual dispatching was in
3 Chicago.

4 Q And in your experience, is Chicago busier
5 than Mobile?

6 MR. HELENHOUSE: Objection; vague.

7 CHAIRMAN OBERMAN: Can you answer the
8 question?

9 THE WITNESS: Chicago is well busier than
10 Mobile, yes.

11 BY MR. TREPP:

12 Q Does that mean there's more freight in
13 Chicago than in Mobile, coming into and out of the
14 terminal?

15 A Yes.

16 Q And there are also -- sorry, go ahead.

17 A Chicago is the largest -- Chicago is the
18 largest east-west connection between the eastern and
19 western railroads in the nation, so yes, it's much
20 busier than Mobile.

21 Q And you haven't dispatched a CSX train
22 since August of 2017; is that right?

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1 A Well, I didn't actually dispatch a train
2 since August of 2006, but I was in charge of
3 dispatchers in 2017, yes.

4 Q Okay. So you haven't dispatched a train
5 yourself since 2006?

6 A Correct.

7 Q And you haven't supervised anyone
8 dispatching a CSX train since 2017; is that right?

9 A Correct, that's correct.

10 MR. TREPP: I have no further questions
11 for the witness.

12 CHAIRMAN OBERMAN: I have a few questions,
13 Mr. Golden.

14 BY CHAIRMAN OBERMAN:

15 Q I'm trying to see if I can keep track of
16 the total, to the extent we have them, the total
17 number of trains that TASD operates. And I found
18 myself going back and forth between your first
19 verified statement and the brief the lawyers filed,
20 I thought, basically relying on the factual part of
21 your statement.

22 So in your verified statement, which is

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1 Exhibit 5 -- I'm sorry, page 5 of your Exhibit B to
2 the opening brief -- I'm not sure what number it is
3 in the exhibit.

4 CHAIRMAN OBERMAN: Mr. Helenhouse, do you
5 know what Mr. Golden's verified statement, the
6 exhibit number, is?

7 MR. HELENHOUSE: I actually do not. I
8 just have the --

9 CHAIRMAN OBERMAN: I think we all can
10 identify it's shown as Exhibit B to the opening
11 brief, verified statement of Robert M. Golden, and
12 it's, just to make sure we are clear -- the
13 verification page. But it was filed with the
14 November 3 brief.

15 Anyway, on page -- pardon me?

16 THE WITNESS: I have it in front of me if
17 it helps.

18 BY CHAIRMAN OBERMAN:

19 Q Good. At the bottom of page 5, you say on
20 average, there are two or three daily cross corridor
21 switching movements.

22 A Correct.

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1 Q But in the brief at page 6, it says that
2 TASD operates on an average three to four trains,
3 roughly three to four trains daily across the
4 corridor. Is it two to three or three to four?
5 That's what I'm trying to get at.

6 A I think if you read further down in my
7 verified statement at the bottom of the page, the
8 last part of the first sentence for the next page,
9 on top of that average of one intermodal container
10 run per day.

11 Q I'm getting there, because then they
12 account for that differently too.

13 You say an average of one intermodal
14 container train and four coal trains.

15 A Uh-huh.

16 Q That's on top of the two or three;
17 correct?

18 A Correct.

19 Q But in the brief -- in the brief it says
20 there are roughly six movements of coal and
21 intermodal trains to McDuffie yard.

22 So you have five and two or three, and

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1 they have three or four and six, so those numbers
2 don't seem to match up.

3 Would it be fair for the Board to accept
4 your number since you're the guy who runs the
5 railroad?

6 A I'm at a disadvantage as far as what the
7 brief said, sir, to be able to make them match with
8 mine, or explain how they match with my statement.

9 We do two to three per day on an average
10 over seven days. Cross corridor from the Riverfront
11 to the Interchange.

12 Q All right.

13 A We do two intermodal runs a day. And then
14 between -- I'm sorry?

15 Q Your statement says one.

16 A It did, in November we only did one. We
17 did one across the CSX, in this corridor a day, in
18 November. In the last 12 weeks, we've done two
19 every day.

20 Q Say that again?

21 A Across the CSX corridor.

22 Q You've done two since when?

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1 A About the last 10 to 12 weeks.

2 Q Okay. And still four coal trains a day,
3 is that still accurate?

4 A Between all the carriers, we're going
5 about four times into McDuffie, in and out a day.

6 Q Now, I want get to this question that
7 Mr. Trepp asked you about in your statement that CSX
8 has been consistently unwilling to allot T ASD
9 operating windows.

10 Would it be accurate to say you put that
11 in there because you would prefer that they did
12 allow you operating windows if you could get it?
13 Would that be correct?

14 A That would be a fair statement.

15 Q And if they allotted you -- what would be
16 the advantage? Why do you want operating windows?
17 So you could plan your movements, I assume?

18 A That's correct.

19 Q So if they gave you operating windows, you
20 could organize your movements around those and then
21 the difficulties that you've alluded to here off and
22 on through your testimony, if not eliminated, would

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1 be reduced?

2 A Difficulties would be reduced if we had
3 specific times during the day for us to operate. It
4 wouldn't eliminate them, as you stated. But
5 difficulties would be reduced because we would know
6 that we can go at these times. That's of course if
7 the operating windows were upheld all the time.

8 Q Yeah. And I'm guessing that you haven't
9 tried to figure out operating windows for Amtrak,
10 but the same concept of trying to see if you could
11 get operating windows to take into account both CSX
12 and Amtrak trains, that's an avenue worth exploring,
13 isn't it?

14 A I believe it is an avenue I'd have to
15 explore if Amtrak were coming back to Mobile.

16 Q And if CSX would agree to the operating
17 windows. You'd have to have both; right?

18 A That's a very true statement.

19 Q All right. And I know Mr. Trepp asked you
20 if you supplied cost estimates, and you said you had
21 not. But do you have a ballpark cost estimate of
22 that flyover that is in your statement?

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1 A I don't remember off the top of my head
2 the full exact amounts. But it was -- I'd have to
3 guess to give you a good answer on it for sure.

4 Q Well, I don't want you to guess. Can you
5 give me a minimum number?

6 A I'd say somewhere between 30 and 35
7 million for that because of the land that you'd have
8 to build up to shore it up next to the creek.

9 Q But you could build a flyover for 30 to 35
10 million ballpark?

11 A Ballpark, yes, sir.

12 Q And that number is not part of any of the
13 cost estimates that CSX and NS have submitted as
14 part of their case; right?

15 A That's correct. No, none of the projects
16 that CSX or NS has recommended has got our -- the
17 proposals that I threw out I guess you'd say or
18 solutions that I threw out --

19 Q Can you ballpark the other projects, the
20 Virginia lead and the Bob Hope Bridge?

21 A The ballpark on the Bob Hope extension was
22 somewhere between 3 and 4 million, if I remember

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1 correctly. I don't know the exact price.

2 And then that's just -- that's just on my
3 portion. That wouldn't even be part of what CSX
4 would have to add in there to put a new interlocker
5 in with signals, because we'd be entering back in a
6 spot they don't have an interlocker now between CP
7 docks and CP Choctaw. But just for my portion on
8 our property, it would be about 3-1/2 million. I
9 wouldn't even suggest how much it would cost them to
10 do that project.

11 Q Do you have some familiarity generally
12 with what an interlock -- ballpark, costs?

13 A I do not. I don't know what the two sets
14 of signals are or -- you know, you have dispatcher
15 CADs, you have to have changes in there as well. It
16 would probably be every bit of about what I'm
17 putting into it on the Port side.

18 Q Okay. And the Virginia lead, can you
19 ballpark that one for us?

20 A That one would be like a fifty-fifty
21 project also. Because like I said, that street,
22 Virginia Street, where the lead starts and our line

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1 of demarcations are, a majority of the work would
2 have to be on CSX's property, in their Choctaw yard,
3 rehabbing that track to make it fit to move coal
4 trains across.

5 But if I had a ballpark, I think our
6 portion would be probably around 2 million.

7 Q Okay. And that flyover, is that a
8 single-track or double-track flyover that you have
9 in mind?

10 A It would be a single-track.

11 Q That would be sufficient from your point
12 of view?

13 A Yeah. I mean, having two tracks doing
14 that over CSX I think would be a lot of overkill.
15 But one track would be sufficient.

16 Q Okay. That was all I had. Thank you very
17 much, Mr. Golden.

18 CHAIRMAN OBERMAN: Any other Board members
19 have questions for Mr. Golden? All right.

20 You know, I didn't ask, Matt, does CSX or
21 NS have any questions for this witness?

22 MR. MULLINS: Mr. Chairman, it's actually

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1 Bill Mullins. We do not have any questions. Thank
2 you.

3 CHAIRMAN OBERMAN: All righty.

4 Mr. Helenhouse, any redirect?

5 MR. HELENHOUSE: Yes, just a few.

6 REDIRECT EXAMINATION

7 BY MR. HELENHOUSE:

8 Q You were asked about Chicago. Chicago is
9 much bigger than Mobile; correct?

10 A Yes, sir.

11 Q Does Chicago have multiple rail yards
12 downtown?

13 A Yes.

14 Q Downtown Chicago is a loop?

15 A In the loop area itself, I don't know how
16 many. There's yards for CSX, there's yards -- all
17 the carriers come into Chicago. I mean --

18 Q But they're on the outskirts?

19 A Yes, sir, for the most part.

20 Q And Mobile is different than Chicago in
21 that you have all -- your port is there; correct?

22 A Correct.

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1 Q You're not somewhere located on a port in
2 Chicago?

3 A Not that I'm aware.

4 Q Okay. So you're serving different types
5 of customers, moving different modes of
6 transportation, than what the railroads have to deal
7 with in Chicago?

8 A Correct.

9 Q Did Amtrak ever invite you or -- a
10 question about whether you participated in the
11 study. Did Amtrak ever invite you to participate in
12 any studies?

13 A No, sir.

14 Q Amtrak seemed critical of you for not
15 providing information to them. Did they ever ask
16 for any information?

17 A No, sir.

18 Q Did they ever seek any discovery from you?

19 A Not that I'm aware of.

20 Q In fact, isn't it correct that they
21 actually oppose the Port's ability to put on any
22 evidence or be a participant in this proceeding?

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1 A From what I read, yes, sir.

2 MR. HELENHOUSE: Thank you. That's all I
3 have.

4 CHAIRMAN OBERMAN: All right.

5 Any further, Mr. Trepp?

6 MR. TREPP: I would just like to put on
7 the record, and I'm sure that we will address this
8 at a later date, one of my colleagues will be
9 prepared to speak to it, that discovery was closed
10 at the time that the Port submitted its initial
11 evidence in this case, just would like the record to
12 be complete on that point. But I have no further
13 cross for the witness.

14 MR. HELENHOUSE: Mr. Chairman, can I
15 respond to that?

16 CHAIRMAN OBERMAN: Sure. I think -- we
17 can let the witness go, though, wouldn't we?

18 MR. HELENHOUSE: Well, I would just like
19 to point out that Amtrak never asked for leave to --
20 for discovery on the Port, nor did they ask for
21 anything informally outside of the discovery
22 process, which is fairly common in these types of

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1 proceedings, or Board proceedings.

2 CHAIRMAN OBERMAN: Let me just say this in
3 the interest of time. I can speak for myself, but
4 I'm fairly confident I speak for the other Board
5 members.

6 We all know what the pleadings were and
7 when things were filed and who asked for what. We
8 don't know why, and that may come up. But as to
9 when things closed, what was asked for, what wasn't
10 asked for, we know that. You don't have to argue
11 with us about that. You may want to argue about the
12 impact of these various acts or failures to act.
13 That's a different point. But I don't think we need
14 to spend time on the chronology of the pleadings.

15 Mr. Golden, you are excused. Thank you
16 very much, appreciate your patience.

17 THE WITNESS: Thank you, sir. Pleasure.
18 (Witness excused.)

19 CHAIRMAN OBERMAN: So Mr. Helenhouse, does
20 that end the Port's case?

21 MR. HELENHOUSE: Yes.

22 CHAIRMAN OBERMAN: And just for our

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1 record, as I asked the CSX/NS lawyers, you obviously
2 went into Amtrak's -- some of the things Amtrak
3 said. So can we take it that you were -- subject to
4 any surprises, I suppose. You were putting on your
5 case-in-chief and your rebuttal, we don't have to
6 call these witnesses back, subject to some unknown
7 event? Is that accurate?

8 MR. MULLINS: That's an accurate
9 statement, Mr. Chairman.

10 CHAIRMAN OBERMAN: That was from you,
11 Bill. I wondered about the Port though. Thank you.

12 MR. HELENHOUSE: Yes, we don't have to
13 call anyone back.

14 CHAIRMAN OBERMAN: Okay. Just so our
15 record is clear.

16 With that, it would appear that the people
17 who have the burden of proof or admit that they have
18 the burden of proof, that's an open question
19 perhaps, are done. So that's great.

20 That leaves Amtrak, Mr. Trepp. You are on
21 tomorrow, your first witness.

22 MR. TREPP: Mr. Chairman, just in advance

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1 of tomorrow, I wanted to preview for the Board, we
2 have discussed it with the parties, Mr. Crowley is
3 not available during the two dates in May. We
4 obviously aspire to get him on and off tomorrow for
5 that reason.

6 CHAIRMAN OBERMAN: Well, I was going to
7 ask you if you can tell us what your -- you have
8 four witnesses that I see, Crowley, Blair, Fapp and
9 Johansson; correct?

10 MR. TREPP: That's right.

11 CHAIRMAN OBERMAN: And what -- do you know
12 what order you're planning to call them in?

13 MR. TREPP: I believe our expected order
14 is Mr. Crowley, Mr. Blair, followed by Mr. Fapp and
15 Mr. Johansson.

16 CHAIRMAN OBERMAN: All right. So it
17 sounds like you're not promising to get them all on
18 and off tomorrow.

19 MR. TREPP: Well, true is hope.

20 CHAIRMAN OBERMAN: Judging from
21 experience, are you?

22 All right. So we will start with

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1 Mr. Crowley at 9:30 tomorrow morning, and we'll
2 go -- I actually have a plane to catch tomorrow
3 night to get to the RETAC meeting, so we're going to
4 probably have a pretty hard stop at the 5:00 arena,
5 that is if I'm still flying with the mask mandate,
6 it's an open question.

7 With that, we will recess this hearing
8 until tomorrow morning at 9:30 Eastern. Thank you
9 all.

10 (Whereupon, at 4:52 p.m., the hearing was
11 adjourned, to be reconvened at 9:30 a.m., on
12 Tuesday, April 19, 2022.)

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C O N T E N T S

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WITNESS	DIRECT	CROSS	REDIRECT	RE CROSS
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JOHN DRISCOLL

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Chair Oberman	2443/2458			
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Member Hedlund	2455			
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ROBERT GOLDEN

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by Mr. Helenhouse	2464		2671	
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by Mr. Trepp		2635		
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E X H I B I T S

16

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Port 9		2408
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Port 1A and 1B		2568
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1 CERTIFICATE OF NOTARY PUBLIC & REPORTER

2

3 I, CARMEN SMITH, the officer before whom the
4 foregoing deposition was taken, do hereby certify
5 that the witness whose testimony appears in the
6 foregoing deposition was duly sworn; that the
7 testimony of said witness was taken in shorthand and
8 thereafter reduced to typewriting by me or under my
9 direction; that said deposition is a true record of
10 the testimony given by said witness; that I am
11 neither counsel for, related to, nor employed by any
12 of the parties to the action in which this
13 deposition was taken; and, further, that I am not a
14 relative or employee of any attorney or counsel
15 employed by the parties hereto, nor financially or
16 otherwise interested in the outcome of this action.

17

18 CARMEN SMITH

19 Notary Public in and for the

20 District of Columbia

21

22 My Commission Expires: MARCH 31, 2023

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