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October 26, 2026

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ENTERED
Office of Chief Counsel
October 26, 2026
Part of
Public Record

VIA E-Filing

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

Re: Norfolk S. Corp. and Norfolk S. Ry. Co. – Acquisition of Control – Norfolk & Portsmouth Belt Line R. Co., FD No. 36836

Dear Chief of Case Administration,

Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") respectfully submits this Motion to Strike the First Status Report filed by CSX Transportation, Inc. ("CSXT") with the Surface Transportation Board ("Board") on October 5, 2026, in the above-captioned proceeding. If there are any questions about this matter, please contact me directly, either by telephone: at 202-663-7823 or by e-mail: wmullins@mullinslawgroup.net. If I am unavailable you may contact John V. Edwards, who can be reached at (202) 663-7853 or by e-mail at jedwards@mullinslawgroup.net.

Respectfully submitted,

/s/ William A. Mullins

William A. Mullins

Attorney for Norfolk Southern Corporation
and Norfolk Southern Railway Company

Enclosure
cc: Parties of record

BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36836

NORFOLK SOUTHERN CORPORATION
NORFOLK SOUTHERN RAILWAY COMPANY

– ACQUISITION OF CONTROL –

NORFOLK & PORTSMOUTH BELT LINE RAILROAD COMPANY

MOTION TO STRIKE CSX TRANSPORTATION, INC.'S FIRST STATUS REPORT

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October 26, 2026

MOTION TO STRIKE CSXT'S FIRST STATUS REPORT

Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "NS") respectfully moves to strike CSX Transportation, Inc.'s ("CSXT") October 5, 2026, First Status Report from this Control Proceeding docket under 49 C.F.R. § 1104.8. Neither the Board's April 6, 2026 decision in the Control Proceeding nor its July 6, 2026 abeyance decision ("Abeyance Decision") in the Related Proceedings imposed a requirement that CSXT submit that report in the Control Proceeding. NS seeks to retain the report in the Related Proceedings, where the Board required its submission, while striking it from the Control Proceeding because it does not address the specific NPBL oversight condition imposed there.

ARGUMENT

The Board's decision in the Control Proceeding established a very specific oversight – not a general oversight – condition arising out of the Board's conditioned approval of NS's requested NPBL[1] control. The specific oversight condition imposed in the Control Proceeding did not include generalized filings by any party and did request any status report submissions. After issuance of the Control Decision, CSXT subsequently asked the Board to hold the Related Proceedings in abeyance in order to evaluate CSXT's planned conversion of its subsidized drayage service to NPBL-interlined direct rail service to and from NIT.[2] The Board granted that request, but despite the fact that CSXT filed its request in both the Related Proceedings dockets and in the Control Proceeding docket, the Board only granted the abeyance and the reporting requirement in the Related Proceedings dockets. Permitting the CSXT First Status Report (and

[1] The term "NPBL" shall refer to the Norfolk & Portsmouth Belt Line Railroad Company.

[2] The defined term "NIT" shall refer to the Norfolk International Terminal, one of two integrated marine – rail – trucking terminals in the Port of Virginia ("POV").

presumably any subsequently filed material, including argument and evidence filed in the Related Proceedings dockets) to be filed as well in the Control Proceeding undermines the procedural safeguards imposed by the Board's regulations and now requires NS to respond in the Control Proceeding to any evidence and argument set forth in a status report filed in the Related Proceedings. Because the Control Decision did not authorize the filing of any status reports, CSXT's First Status Report should be stricken from the Control Proceeding docket.

I. The Control Proceeding Oversight

The Board's April 6, 2026, decision in the Control Proceeding permitted NS to acquire control of NPBL, subject to conditions. It also established a five-year oversight period specifically requiring NPBL (not NS and not CSXT) to "inform the Board of any changes to its switching and any related tariffs, any significant operational changes, and any significant changes it makes to its track and related facilities, along with an explanation for the changes…."[3] The Board noted that "any such changes must be consistent with the conditions imposed in this decision."[4] It did not establish a general oversight proceeding such it has in other proceedings.[5] CSXT did not – nor did any other party in the Control Proceeding – seek general oversight. The

[3] Control Decision, slip op. at 32.

[4] Id.

[5] See, e.g., Canadian National Ry. Co. and Grand Trunk Corp. – Control – Iowa Northern Ry. Co., Docket No. 36744, et al., Decision No. 3 (STB served Jan. 31, 2025) (establishing the general oversight, requested by several parties in that proceeding, that is currently on-going in Canadian National Ry. Co. and Grand Trunk Corp. – Control – Iowa Norther Ry. Co. (General Oversight), Docket No. FD 36744 (Sub-No. 3) ("CN/IANR General Oversight"). That oversight condition on the CN/IANR control, required quarterly reports with detailed narratives, specific data requirements, the retention of traffic tapes for the duration of the oversight period, and justifications for rate increases. See, CN/IANR General Oversight, STB decision served March 13, 2025, instituting the general oversight proceeding.

narrow oversight condition that was imposed in the Control Proceeding was imposed instead on the Board's initiative and was directed at NPBL, not NS or CSXT.

II. The Related Proceedings Oversight

CSXT's reporting obligation giving rise to the First Status Report arose not from the Control Proceeding, but from the Board's July 6, 2026, decision continuing the abeyance of the Related Proceedings. That decision was in response to CSXT's specific request with regard to those Related Proceedings: "Keeping the Related Proceedings in abeyance will give CSXT an opportunity to pursue commercial access without the distraction of litigation, while maintaining the ability to seek legal relief if those commercial efforts are unsuccessful. CSXT's choice to pursue commercial access under the Board's framework, and to request continued abeyance, is without prejudice to any of its claims or positions *in the Related Proceedings*, all of which CSXT expressly preserves."[6] (emphasis added)

Although CSXT submitted the request in both the Related Proceedings dockets and the Control Proceeding docket, CSXT requested relief only in the Related Proceedings dockets.[7] The Board's decision served in response granted relief only in the Related Proceedings docket, not only as to keeping the Related Proceedings dockets in continued abeyance but also imposing the

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[6] CSXT Letter submitted May 13, 2026 in the Related Proceedings dockets and the Control Proceeding docket, at 2-3 (emphasis added).
The proceedings in Docket Nos. NOR 42183, FD 36859, AB 290 (Sub-No. 299X), and AB 1024X are referred to collectively as the "Related Proceedings."

[7] NPBL understood the same. "CSXT's letter [concerning continued abeyance of the Related Proceedings] was also filed in the recently-completed control proceeding involving NS and NPBL, but does not appear to seek any relief with respect to that matter. As such, NPBL does not address the fairly extensive characterizations of the Control Decision in CSXT's letter." NPBL Letter submitted in the Related Proceedings, but not the Control Proceeding, on June 2, 2026. The NPBL letter demonstrates that CSXT's failure to comply with the Board's regulations further sows confusion and instills ambiguity as to proper filing of evidence and argument and the Board's control over its own proceedings.

reporting requirement only in those dockets. The Board specifically omitted the filing of a status report or any reporting requirement in its decision in the Control Proceeding docket.

III. Motion to Strike

Under 49 C.F.R. § 1104.8, the Board may strike irrelevant or immaterial matter from any document. The Board has exercised that authority to strike pleadings containing material neither relevant nor material to the particular dockets in which they were filed. Norfolk S. Ry. Co.—Acquisition & Operation—Certain Rail Lines of the Del. & Hudson Ry. Co., FD 35873 et al., slip op. at 2 (STB served Mar. 24, 2016). Section 1104.8 therefore permits the Board to assess the report's relevance to each proceeding separately. NS seeks to retain the First Status Report in the Related Proceedings, where the Board required its submission, while striking it from the Control Proceeding because it does not address the specific NPBL oversight condition imposed there.

The Board's regulations provide procedures for seeking modification of its decisions. Under 49 C.F.R. § 1115.3, a petition for reconsideration generally must be filed within 20 days after service, subject to an authorized extension, and must establish material error, new evidence, or changed circumstances affecting the prior action materially. Under 49 C.F.R. § 1115.4, a petition to reopen may be filed at any time but must detail material error, new evidence, or substantially changed circumstances. Section 1115.5 addresses stays pending judicial review and specified changes to compliance or effective dates. CSXT filed no such petition seeking to alter the reporting framework established by the Board's Abeyance Decision. That omission does not, standing alone, establish that the status report is an impermissible filing. Rather, NS seeks relief under § 1104.8 because the report does not address the specific oversight condition imposed in the Control Proceeding.

CSXT is attempting to expand the Control Proceeding by cross-filing a report required only in the Related Proceedings. CSXT filed its abeyance request in both sets of dockets, but the Board imposed the resulting reporting requirement only in the Related Proceedings. CSXT cannot convert that limited reporting requirement into a vehicle for broader oversight in the Control Proceeding simply by placing the same report in both dockets. Cross-filing is not a substitute for obtaining Board approval to expand the oversight framework. The Board should reject that attempted end run and strike the First Status Report from the Control Proceeding docket, while leaving it in the Related Proceedings where the Board required its submission.

By ignoring the Board's decision to enter the Related Proceedings reporting requirement *only* in the Related Proceedings dockets – and declining the CSXT invitation to impose it in the Control Proceeding docket – CSXT is submitting argument and evidence in a proceeding in a manner not permitted by the Board's regulations. By doing so, CSXT is attempting to keep the docket in the Control Proceeding open in a manner not permitted by the Board's regulations.

If CSXT objected to the Board's oversight condition in the Control Proceeding, it had the opportunity to do so. It did not do so within the time permitted. If CSXT objected to the Board's oversight condition in the Related Proceedings, it had the opportunity but again it did not do so within the time permitted. The Board should strike the CSXT First Status Report from the Control Proceeding docket.[8] Striking the CSXT First Status Report from the Control Proceeding docket will result in no harm to CSXT because that report will continue to be considered in the Related Proceedings docket.

[8] Should the Board decline to strike CSXT's First Status Report as requested by this Motion to Strike, NS will file its Reply to CSXT's First Status Report in the Control Proceeding, without waiving its objection to the report's inclusion in this docket.

CONCLUSION

For these reasons, NS requests that the Board strike CSXT's October 5, 2026 First Status Report from the Control Proceeding docket under 49 C.F.R. § 1104.8, while retaining it in the Related Proceedings dockets. The report's required submission in the Related Proceedings does not establish its relevance to the specific NPBL oversight condition imposed in the Control Proceeding. Striking it from this docket would preserve that distinction without disturbing the reporting requirement in the Related Proceedings.

October 26, 2026

/s/ William A. Mullins

William A. Mullins
Attorney for Norfolk Southern Railway Company

CERTIFICATE OF SERVICE

I certify that, on October 26, 2026, I have caused a copy of the foregoing Motion to Strike CSX Transportation, Inc.'s First Status Report to be served on all parties of record in the above-captioned proceeding.

October 26, 2026

/s/ William A. Mullins

William A. Mullins
Attorney for Norfolk Southern Railway Company