



*Surface Transportation Board
Washington, D.C. 20423*

Office of Proceedings

February 11, 2013

G. Paul Moates
Sidley Austin LLP
1501 K Street, N.W.
Washington, DC 20005

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ENTERED
Office of Proceedings
February 11, 2013
Part of
Public Record

Re: E.I. DuPont de Nemours & Company v. Norfolk Southern Railway
Company, Docket No. NOR 42125 and Sunbelt Chlor Alkali Partnership v.
Norfolk Southern Railway Company, Docket No. NOR 42130

Dear Mr. Moates:

I write in response to your letter as a representative of Norfolk Southern Railway Company (NSR) dated January 25, 2013, regarding the "MultiRail" modeling software. In your letter, you state that NSR has arranged with the developer of this software to provide a copy of the MultiRail program, loaded onto a laptop computer, for the Board's use in evaluating evidence in the above-named dockets. Your letter indicates that the software is commercially available and the record further suggests that the commercial price for a full software license is approximately \$200,000.

The Board is declining NSR's offer to provide a laptop loaded with the MultiRail software. In light of the Board's previous experience with arrangements of this nature, it has become apparent that accepting the MultiRail software and hardware would pose significant and novel classification, maintenance, and archiving problems under the records management policies and schedules created by the Board pursuant to 44 U.S.C. §§ 3101-06. Further, at this point, it is the opinion of the agency that acceptance of the MultiRail software, as well as the hardware, would raise issues under the Antideficiency Act, which prohibits the Board from expending funds beyond those specifically appropriated. The Board lacks the statutory authority to accept supplements to its appropriation from outside sources.¹ Finally, due to the threat of sequestration² and

¹ See 2 Principles of Federal Appropriations Law, GAO-06-382SP, at 6-222, 223 (3d ed. 2006); 31 U.S.C. §§ 1341-42 (agencies are barred from accepting voluntary or personal services, gifts, money, or property in excess of that authorized by law).

² See Budget Control Act of 2011, Pub. L. No. 112-25, 125 Stat. 240; American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, 126 Stat. 2313.

other budgetary issues, the Board is currently unable to purchase a MultiRail license for itself.

Sincerely,

A handwritten signature in cursive script that reads "Rachel D. Campbell".

Rachel D. Campbell
Director

cc: Jeffrey O. Moreno