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By E-Mail and U.S. Mail

LeAndrea Dames
Environmental Protection Specialist
United States Environmental Protection
Agency – Region 2
290 Broadway
25th Floor
New York, NY 10007-1886

Dear Ms. Dames:

Thank you for your inquiry regarding the Environmental Appendix pending before the Surface Transportation Board (the "Board" or "STB") in STB Finance Docket No. 35147, *Norfolk Southern Railway Company, Pan Am Railways, Inc. et al. – Joint Control and Operating/Pooling Agreements – Pan Am Southern LLC*. The responses to your specific inquiries on behalf of the Applicants in Finance Docket No. 35147 (Norfolk Southern Railway Company, Pan Am Railways, Inc., the Boston and Maine Corporation and the Springfield Terminal Company) are set forth below.

Preliminarily, it is important to explain that the Environmental Appendix was submitted to the STB and provided to other persons in connection with an application (the "Application") to the STB for approval of a transaction (the "Transaction") requiring STB approval under provisions of Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 10101, *et seq.* ("ICCTA") and in compliance with the STB's regulations governing federal review of such matters under the National Environmental Policy Act ("NEPA"). Under ICCTA, the STB has exclusive jurisdiction over the regulation of rail transportation and the related operations by railroads, which preempts other remedies provided under other federal and state laws. 49 U.S.C. §§10501(b), 11321(a).

In this case, the relevant STB regulation involves, among other things, the transfer of a rail line from one person to another, and the common control of that other person by more than one rail carrier. This is quintessentially a matter for STB review pursuant to 49 U.S.C. §11321, *et seq.* Accordingly, the rail transportation matters before the Board arising out of the Application in STB Finance Docket No. 35147 are exclusively governed by the Board's regulations and procedures. NEPA review of the potential environmental impact of the Application is subject to the exclusive jurisdiction of the Board and is governed by the Board's

regulations and procedures for NEPA review. The Board's regulations pertaining to NEPA review are at 49 C.F.R. Part 1105.

The Board's environmental regulations governing NEPA review provide for categorical exemptions from environmental documentation for certain actions proposed by applicants. *See* 49 C.F.R. §1105.6(c). Among the Board's categorical exemptions relevant to the Application are transactions involving trackage rights (49 C.F.R. §1105.6(4)) and actions that do not result in significant changes in railroad operations under the thresholds listed at 49 C.F.R. §1105.7(e)(4) or (5). Using these categories and thresholds, the Environmental Appendix explains the reasons for the Applicants' conclusion that the Transaction contemplated by the Application will have no significant environmental impacts and therefore does not warrant additional environmental review. At the request of the STB's Section of Environmental Analysis, we sent copies of the Environmental Appendix to numerous federal and state agencies and other parties to give them an opportunity to provide their comments on the Environmental Appendix to the STB.

While the information you have requested goes beyond the data required to establish that the Application does not warrant more extensive environmental analysis by the Board, Applicants have compiled the following information to assist you in your review of the Environmental Appendix. We have limited our responses to activities in New York State inasmuch the other states involved in the transaction are outside of EPA Region 2. We wish also to note at the outset that in the event specific construction activities may require permits under the Clean Water Act, Applicants will obtain such permits before undertaking those activities.

Vertical Clearances, Track and Bridge Infrastructure Rehabilitation and Slow Order Removal (pages 2, 3 and 7 of the Environmental Appendix)

None of the nine vertical clearances planned by Applicants along the Patriot Corridor is located in New York.

All of the track and bridge rehabilitation work to be performed in New York will be the kind of very routine railroad maintenance activity that is performed by railroads across the nation on a daily basis. No significant environmental impacts are anticipated by the work, and standard Best Management Practices ("BMPs") will be used for such routine railroad work.

Track rehabilitation work to occur in New York will be ordinary replacement-in-kind tasks in which track components (rail, ties, and ballast) are replaced as needed. Work will consist of cross tie removal and replacement, rail removal and replacement, and surfacing of the track structure. Cross tie replacement activity uses motorized track equipment to unspike the rail and remove the used ties. The used ties are consolidated, bundled, and loaded into rail cars for transportation to an authorized disposal facility. New ties then are placed in the track and spiked, also using motorized track equipment. Rail laying activity consists of the removal of old rail, laying of new rail and loading of ferrous materials into rail cars for transportation to a recycling center. Finally, surfacing involves the placement of additional ballast (crushed trap rock or

granite material) onto the track bed. Rail cars are used to transport the new rock to the work site. Once ballast has been distributed, it is compacted below the ties by mechanized on-track equipment to create a stable track foundation and a smooth rail surface. Old ballast becomes part of the track support structure.

At present, the current physical condition of the track structure in certain locations along the Patriot Corridor does not meet standards established by Federal Railroad Administration *Track Safety Standards - Part 213* (Safety Standards) for operation at timetable speed, and thus a lower speed is required. This lower speed is called a "slow order". Imposing a slow order on a portion of track enables trains to continue to operate, albeit at a lower speed, and be in compliance with the Safety Standards. The proposed track rehabilitation efforts, including the cross tie and rail replacement and track surfacing work, will improve the existing track structure, enabling slow orders to be removed and trains to operate at timetable speed in accordance with the Safety Standards.

Bridge rehabilitation to occur in New York will consist primarily of steel repairs to reinforce and strengthen existing steel bridge members that have lost strength and structural cross-section over time due to weathering (e.g., from rusting). Although detailed bridge rehabilitation plans have not yet been completed, it is anticipated that some weathered structural elements will require replacement in kind. The decks of some bridges consist of wooden cross ties, some of which will need to be replaced in kind, with the removed elements transported by rail to an authorized disposal facility. All bridge rehabilitation work will be undertaken in compliance with applicable environmental protection rules and will use appropriate environmental safeguards. Two locations in New York, one of which is on the border with Vermont, will involve bridge rehabilitation work over a water body. As is typical of railroad bridge rehabilitation work, location-specific work plans will be developed to ensure that any work performed over water bodies is properly safeguarded.

Intermodal/Automotive Facility Construction (page 17 of the Environmental Appendix)

The only new or enhanced intermodal or automotive facility in New York proposed in the Application is a new intermodal and automobile unloading facility at Mechanicville, NY. The Mechanicville facility is proposed to be constructed on a vacant industrial use site which was formerly used for railroad purposes as railroad classification yards. In approximately 1985, the railroad tracks and support infrastructure were removed, with the exception of a single railroad main line track that traverses the site. The eastern portion of the original rail yard site was transferred to the City of Mechanicville, NY, which created an industrial park consisting of improved roadways, utilities, and prepared industrial building sites. The proposed Mechanicville intermodal/automotive facility will not impact this industrial park area. Another portion of the former rail yard site was sold to a local industry, but was never redeveloped. This vacant tract, approximately 38 acres in size, has been optioned by Pan Am Railways and will be used in the development of the proposed Mechanicville facility. In addition to the main track that traverses the site, the proposed Mechanicville facility will include three elements: a facility support rail yard consisting of four storage tracks; an intermodal facility on approximately 48 acres,

consisting of two 3500-foot unloading tracks and approximately 300 paved trailer parking spots; and an automobile unloading facility on approximately 38 acres, consisting of two 10-car unloading tracks and 690 paved automobile parking spots. All of the surfaces on which trucks or automobiles are anticipated to traverse will be paved with either concrete or asphalt. The proposed facilities are common elements of railroad operations throughout North America and will be designed in accordance with accepted railroad industry guidelines for such facilities.

The proposed development footprint (including all track areas, paved areas, buffers, etc.) will occupy approximately 162 acres of the approximately 214 acres comprising the total Mechanicville site. The site is bordered on the north by Anthony Kill Branch and is crossed by Sucker Brook, a tributary of Anthony Kill Branch. In the yard area to be used for the proposed construction, Sucker Brook is crossed by an existing concrete decked railroad bridge. The site is currently accessed by an existing private roadway bridge that crosses Anthony Kill Branch. The proposed Mechanicville intermodal/automotive facility will be accessed by a new bridge that also will span Anthony Kill Branch and that is anticipated to have no significant impact to the waterway or adjacent stream bank. The proposed installation will be designed and implemented in compliance with applicable federal and state water quality requirements. The developable portion of the site is fully in uplands, and no direct impact to either stream or any adjacent wetlands is anticipated. The project will be designed and implemented such that any secondary impacts (e.g., controlled release stormwater runoff) will be managed in compliance with applicable federal and state water quality requirements. As necessary, appropriate BMPs will be used for erosion and sediment control at construction access points and all areas disturbed by the construction. Final design and any necessary permitting will determine the extent of required mitigation, but at present it is not anticipated that there will be significant environmental impacts. The site is traversed by a county sanitary sewer line that will handle sanitary runoff from the proposed yard buildings.

We hope that this response addresses your needs. Applicants will submit a copy of this response to the Section of Environmental Analysis ("SEA"), which may post the response in the public record for this proceeding. Should you have further questions, the Board's Project Manager at SEA for this Application is Mr. Ken Blodgett. He may be reached at the Surface Transportation Board, Section of Environmental Analysis, 395 E Street, SW, Washington, DC 20423-001 or at (202) 245-0305.

Sincerely,

A handwritten signature in dark ink, appearing to read "Richard A. Allen". The signature is fluid and cursive, with the first name "Richard" being more prominent and the last name "Allen" following in a similar style.

Richard A. Allen

cc: Section of Environmental Analysis