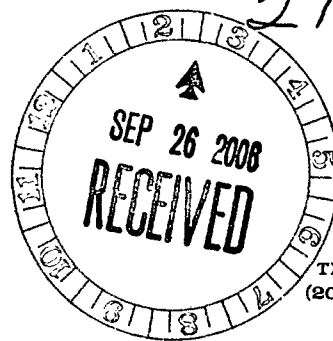


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September 26, 2006

**VIA HAND DELIVERY**

Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, N.W., Room 711  
Washington, D.C. 20423

ENTERED  
Office of Proceedings  
SEP 26 2006  
Part of  
Public Record

Re: Finance Docket No. 33388 (Sub-No. 100),  
Petition for Clarification Or In the Alternative For  
Supplemental Order-North Jersey Shared Assets Area

Dear Secretary Williams:

Enclosed for filing in the referenced proceeding please find an original and ten copies of Petitioners Bridgewater Resources, Inc.'s and ECDC Environmental, L.L.C.'s Second Motion to Compel Responses to Discovery Requests in the above proceeding. As stated in the enclosed motion, it is being filed as a protective measure given the requirements of the Board's decision in this proceeding served August 29, 2006.

Please confirm receipt and filing of this Motion by time-stamping the extra copy of this letter and returning it to our messenger.

Sincerely,

Christopher A. Mills

CAM:jml  
Enclosures

cc: Counsel for parties of record

BEFORE THE  
SURFACE TRANSPORTATION BOARD



CSX CORPORATION AND CSX  
TRANSPORTATION, INC., NORFOLK  
SOUTHERN CORPORATION AND  
NORFOLK SOUTHERN RAILWAY  
COMPANY – CONTROL AND  
OPERATING LEASES/AGREEMENTS –  
CONRAIL INC. AND CONSOLIDATED  
RAIL CORPORATION

Finance Docket No. 33388  
(Sub-No. 100)

(Petition for Supplemental Order)

**PETITIONERS' SECOND MOTION TO COMPEL  
RESPONSES TO DISCOVERY REQUESTS**

BRIDGEWATER RESOURCES, INC. and  
ECDC ENVIRONMENTAL, L.L.C.

OF COUNSEL:

Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

By: Christopher A. Mills  
Stephanie M. Pisanelli  
Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: September 26, 2006

Their Attorneys

|                               |   |                                       |
|-------------------------------|---|---------------------------------------|
| CSX CORPORATION AND CSX       | ) |                                       |
| TRANSPORTATION, INC., NORFOLK | ) |                                       |
| SOUTHERN CORPORATION AND      | ) |                                       |
| NORFOLK SOUTHERN RAILWAY      | ) | Finance Docket No. 33388              |
| COMPANY – CONTROL AND         | ) | (Sub-No. 100)                         |
| OPERATING LEASES/AGREEMENTS – | ) |                                       |
| CONRAIL INC. AND CONSOLIDATED | ) | (Petition for Clarification or in the |
| RAIL CORPORATION              | ) | (alternative for Supplemental Order)  |

Pursuant to 49 C.F.R. § 1114.31(a) and the Board's decisions in this proceeding served July 31 and August 29, 2006, Bridgewater Resources, Inc. and ECDC Environmental, L.L.C. ("BRI/ECDC" or "petitioners") hereby move for an order compelling Norfolk Southern Corporation and Norfolk Southern Railway Company Conrail Inc. and Consolidated Rail Corporation, and CSX Corporation and CSX Transportation, Inc. (collectively "respondents") to answer the interrogatories and produce the documents requested in BRI/ECDC's Second Discovery Requests served September 22, 2006.

- 3 -

presented by BRI/ECDC's Petition). As required by the Board's decision served August 29, 2006 ("August 29 decision"), BRI/ECDC filed a motion to compel responses to the initial requests to which relevancy objections were lodged on September 5, 2006 ("first motion to compel"). The Board has not yet ruled on BRI/ECDC's first motion to compel.

As also required by the August 29 decision, the respondents served responses and objections (other than relevancy objections) to BRI/ECDC's initial discovery requests on September 18, 2006. Subsequently, on September 22, 2006, BRI/ECDC served their Second Discovery Requests. These second requests followed up on the respondents' September 18, 2006 responses to BRI/ECDC's initial discovery requests. A copy of BRI/ECDC's Second Discovery Requests is appended hereto as Attachment 1.

Under the Board's discovery rules, the respondents must be given at least 15 days to respond to discovery requests. *See* 49 C.F.R. § 1114.26(a). Thus responses to BRI/ECDC's Second Discovery requests are not due until at least October 7, 2006.<sup>1</sup> However, the Board's August 29 decision provides that "any motions to compel that may be necessary regarding any other discovery requests [requests that were not the subject of the respondents' initial relevancy objections] must be filed by September 26, 2006." The August 29 decision also provides that the petitioners have until October 9, 2006 to complete discovery.

Given the requirements of the August 29 decision, it appears that BRI/ECDC must file a motion to compel responses to their Second Discovery Requests by September 26, 2006, or they may be deemed to have waived their right to file such a

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<sup>1</sup> October 7 is a Saturday, and the following Monday (October 9) is a federal holiday (Columbus Day). Thus responses to the Second Discovery requests are actually due on October 10, 2006.

motion.<sup>2</sup> Accordingly, this Second Motion to Compel is being filed as a protective measure. BRI/ECDC request the Board to hold this motion in abeyance pending receipt of respondents' responses and objections (if any) to their Second Discovery Requests on October 10, 2006. Within three business days thereafter, or by October 13, 2006, depending on the nature of the responses, BRI/ECDC will either withdraw this motion or supplement it by advising the Board of the second requests to which it seeks to compel responses (and why). BRI/ECDC also suggest that the due date for replies to this motion – presently September 29, 2006 under the August 29 decision – be extended to three business days after they supplement this motion, as described above.

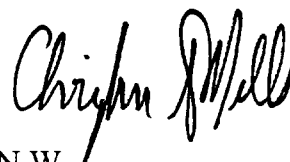
Respectfully submitted,

BRIDGEWATER RESOURCES, INC. and  
ECDC ENVIRONMENTAL, L.L.C.

OF COUNSEL:

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Washington, D.C. 20036

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Washington, D.C. 20036



Dated: September 26, 2006

Their Attorneys

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<sup>2</sup> Counsel for BRI/ECDC requested counsel for the respondents to confirm that the respondents would not file additional relevancy objections directed to the Second Discovery Requests, in which case BRI/ECDC would not file a second motion to compel. Counsel for the respondents have advised that they are unable to make this representation by September 26<sup>th</sup>.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 26th day of September, 2006 I served copies of the foregoing Second Motion to Compel upon counsel for the respondents and other known parties of record, as follows:

**By Hand and E-mail:**

Richard A. Allen, Esq.  
Nisha Saxena  
Zuckert, Scoutt & Rasenberger, L.L.P.  
888 Seventeenth Street, N.W., Suite 600  
Washington, D.C. 20006-3939

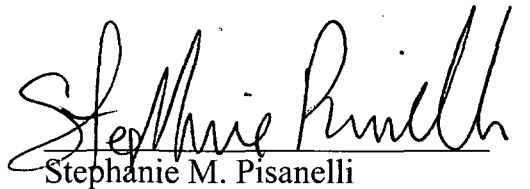
**By E-mail and Overnight Delivery Service:**

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Norfolk Southern Corporation  
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Counsel  
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cam@sloverandloftus.com

September 22, 2006

**VIA HAND DELIVERY AND E-MAIL**

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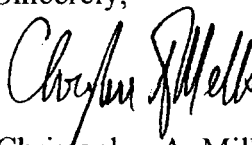
Re: Finance Docket No. 33388 (Sub-No. 100),  
Petition for Clarification Or In the Alternative For  
Supplemental Order—North Jersey Shared Assets Area

Dear Counsel:

Enclosed herewith are Petitioners Bridgewater Resources, Inc.'s and ECDC Environmental, L.L.C.'s Second Discovery Requests to Applicants in the above-referenced proceeding. These Second Discovery Requests supplement BRI/ECDC's initial Discovery Requests served August 4, 2006, responses to which were served on September 18, 2006.

Please note that responses to the enclosed discovery requests are due on October 7, 2006.

Sincerely,



Christopher A. Mills

CAM:jml  
Enclosures

|                               |   |                                   |
|-------------------------------|---|-----------------------------------|
| CSX CORPORATION AND CSX       | ) |                                   |
| TRANSPORTATION, INC., NORFOLK | ) |                                   |
| SOUTHERN CORPORATION AND      | ) |                                   |
| NORFOLK SOUTHERN RAILWAY      | ) | Finance Docket No. 33388          |
| COMPANY – CONTROL AND         | ) | (Sub-No. 100)                     |
| OPERATING LEASES/AGREEMENTS – | ) |                                   |
| CONRAIL INC. AND CONSOLIDATED | ) |                                   |
| RAIL CORPORATION              | ) | (Petition for Supplemental Order) |
|                               | ) |                                   |

Petitioners Bridgewater Resources, Inc. (“BRI”) and ECDC Environmental, L.L.C. (“ECDC”) submit the following second set of Interrogatories and Document Production Requests to Applicants CSX Corporation and CSX Transportation, Inc. (Collectively “CSX”), Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively “NS”) and Conrail Inc. and Consolidated Rail Corporation (collectively “Conrail”).

Responses to BRI/ECDC's Second Discovery Requests should be delivered to the offices of Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, D.C. 20036, within fifteen (15) days of the date hereof, or by October 7, 2006, unless otherwise agreed by the parties.

**I.**  
**DEFINITIONS AND INSTRUCTIONS**

The definitions and instructions set forth in BRI/ECDC's initial Discovery Requests served August 4, 2006, also apply with respect to these Second Discovery Requests.

**II.**  
**INTERROGATORIES**

**Interrogatory No. 10:**

49 C.F.R § 236.751, cited in the second paragraphs of your responses to BRI/ECDC's Interrogatory No. 1, defines an interlocking as:

An arrangement of signals and signal appliances operated from an interlocking machine and so interconnected by means of mechanical and/or other electronic locking that their movements must succeed each other in proper sequence, train movements over all routes being governed by signal indication.

Please state whether, under this definition, an interlocking includes the approach signals and related circuits as well as the home signals and related circuits. If your answer to this question is "no" please give the reason for such answer.

**Interrogatory No. 11:**

In the second paragraphs of your responses to BRI/ECDC's Interrogatory No. 1 you stated that the signals comprising the interlocking at CP-Port Reading Junction include the home signals and the property on which train movements are controlled by

those signals.<sup>1</sup> Please indicate whether the electronic circuits for these home signals are connected with the electronic circuits for the approach signals for CP-Port Reading Junction, and whether movements of the approach signals and home signals succeed each other in sequence so that train movements past these signals are governed by related signal indications.

**Interrogatory No. 12:**

Please identify (a) the locations of the approach signals for the interlocking at CP-Port Reading Junction, and (b) which railroad controls train movements between the approach signals for CP-Port Reading Junction on the Lehigh Line.

**Interrogatory No. 13:**

In your answers to BRI/ECDC's Interrogatory No. 2 you stated that Conrail has maintained the westerly home signals on the Lehigh Line at CP-Port Reading Junction<sup>2</sup> and the tracks east of the insulated joints adjacent to those signals, and NS has maintained the track and signals west of those insulated joints. Please identify who has maintained and/or is responsible for maintaining the westerly approach signals and related circuits on the Lehigh Line for the interlocking at Port Reading Jct. (*i.e.* the signals identified in your answers to Interrogatory No. 12 above).

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<sup>1</sup> NS and Conrail each identified these signals as signals 67RC, 67R, 73R, 67L (2w-1) AND 67I (2w-2). CSX identified these signals as signals 2E-2, 2E-1, 2E-3, 2W-1 and 2W-2.

<sup>2</sup> NS and Conrail each identified these signals as signals 67RC and 67R. CSX identified these signals as the signals located at 2E-2 and 2E-1.

**Interrogatory No. 14:**

In your responses to BRI/ECDC's Interrogatory No. 5 you stated that Conrail has not operated over the "GSA Lead" track for many years prior to Split Date and that the northern half of this track, which was connected to the Lehigh Line, had been removed by Split Date. Please describe (a) the status of the southern half of this track (is it in place or has it been removed, *etc.*), (b) whether this track connected with any other track or facilities included in the CRC Retained Assets and/or the NJSAA as described in the Transaction Agreement, and (c) if the answer to (b) above is "no," why this track was included in the CRC Retained Assets if it did not connect with any other CRC Retained Assets.

**Interrogatory No. 15:**

The print of trackage and property ownerships in the vicinity of Manville/Port Reading Junction labeled "Cut Point Assignments" and dated 8/07/98, produced by CSX in response to BRI/ECDC's Document Request Nos. 1 and/or 2, refers to "NS PROPOSED SIDING EXTENSION - 2500'" with an arrow pointing to a location that appears to be on CSX property as designated on the print. Please identify (a) the exact location of this proposed siding extension, including its end points by milepost, and (b) its status (including but not limited to when it is expected to be constructed, who is to own it, and who is to pay for it).

**III.**  
**DOCUMENT PRODUCTION REQUESTS**

**Request for Production No. 6:**

Please produce all documents related to the location, status, ownership and payment for the construction cost of the NS proposed siding extension described in Interrogatory No. 15 above.

BRIDGEWATER RESOURCES, INC.  
and ECDC ENVIRONMENTAL, L.L.C.

OF COUNSEL:

Slover & Loftus  
1224 Seventeenth Street, N.W.  
Washington, D.C. 20036

Dated: September 22, 2006

By: Christopher A. Mills  
Stephanie M. Pisanelli  
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Their Attorneys