

ZUCKERT SCOUTT & RASENBERGER, L.L.P.

ATTORNEYS AT LAW

888 Seventeenth Street, NW, Washington, DC 20006-3509
Telephone (202) 298-8660 Fax (202) 342-0683
www.zsrlaw.com



RICHARD A. ALLEN

FEE RECEIVED

May 30, 2008 MAY 30 2008

**SURFACE
TRANSPORTATION BOARD**

BY HAND DELIVERY

Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E St., S.W.
Washington, D.C. 20024

FILED

MAY 30 2008

**SURFACE
TRANSPORTATION BOARD**

**ENTERED
Office of Proceedings**

MAY 30 2008

**Part of
Public Record**

**Re: 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**

Dear Secretary Quinlan:

Enclosed for filing in the above-referenced docket please find an original and 10 copies of the Application of Norfolk Southern Railway Company, Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company in the above-captioned proceeding. This Application also includes a Notice of Intent to File a Verified Notice of Exemption for Pan Am Southern LLC's Acquisition and Operation Exemption in STB Finance Docket No. 35147 (Sub-No 1), and Verified Notices of Exemptions for trackage rights in STB Finance Docket No. 35147 (Sub-No 2) and (Sub-No 3).

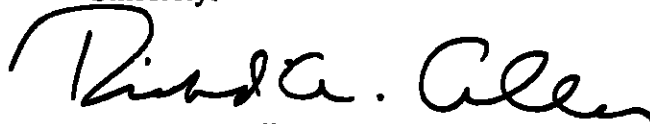
I also enclose an original and 10 copies of a Motion of Applicants to Establish a Procedural Schedule in this proceeding.

A check for \$23,900 is enclosed for the filing fees for the primary application for joint ownership and control of Pan Am Southern LLC (\$6,600), Springfield Terminal Railway Company's contract to operate PAS (\$6,600), Springfield Terminal Railway Company's establishment of PAS rates and distribution agreement (\$6,600), and acquisition of trackage rights by both Norfolk Southern Railway Company and Springfield Terminal Railway Company (\$2,000) as required by 49 C.F.R. § 1002(l).

I have also enclosed a compact disc containing the text of the Application, as required by 49 C.F.R. § 11043(b)(1). The disc contains the texts of the Application itself, a verified statement in support of the Application, and the related notices in Sub-Nos 1-3, as well as exhibits and attachments to those documents. Additionally, a scanned copy of the entire filing is included on the disc in PDF format.

Finally, I have enclosed 20 unbound copies of the maps attached to the application as Exhibit 1, as required by 48 C.F.R. § 11806(a)(6). Additionally, I have enclosed 20 unbound copies of the Exhibit 1 maps to each of the 2 notices of exemption in Finance Docket (Sub- Nos 2-3).

Sincerely,

A handwritten signature in black 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.

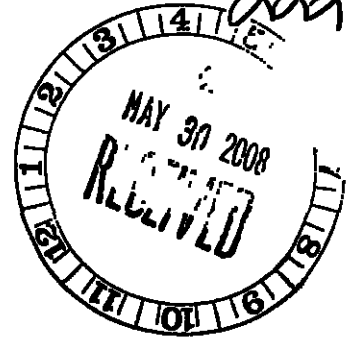
Richard A. Allen

Enclosure

cc: Robert B. Culliford, Esq.
John V. Edwards, Esq.

Before The
Surface Transportation Board

Finance Docket No. 35147



NORFOLK SOUTHERN RAILWAY COMPANY, PAN AM RAILWAYS INC, *ET AL*
—JOINT CONTROL AND OPERATING/ POOLING AGREEMENTS—
PAN AM SOUTHERN LLC

**APPLICATION FOR APPROVAL OF JOINT CONTROL OF
PAN AM SOUTHERN LLC AND OPERATING/POOLING AGREEMENTS**

VOLUME I

**APPLICATION, APPENDICES, EXHIBITS
AND RELATED NOTICES**

FEE RECEIVED

MAY 30 2008

Robert B. Culliford
Senior Vice President and General Counsel
Pan Am Railways, Inc.
14 Aviation Avenue
Portsmouth, New Hampshire 03801
(603) 766-2002
Attorney for Pan Am Railways, Inc

Richard A. Allen
Christina M. Wenzel
David M. Endersbee
Zuckert, Scoutt & Rasenberger, LLP
888 Seventeenth Street, NW
Suite 700
Washington, DC 20006
(202) 298-8660

**SURFACE
TRANSPORTATION BOARD**

ENTERED
Office of Proceedings

MAY 30 2008

Part of
Public Record

James A. Hixon
William A. Galanko
John V. Edwards
David L. Coleman
Helen M. Hart
Norfolk Southern Corporation
Three Commercial Place
Norfolk, Virginia 23510
(757) 629-2838

FILED

MAY 30 2008

**SURFACE
TRANSPORTATION BOARD**

*Attorneys for Norfolk Southern Railway
Company*

Dated: May 30, 2008

(FILING CONTAINS COLOR MAPS)

TABLE OF CONTENTS

VOLUME I OF APPLICATION NS/PA-1 (Blue) Application, Exhibits, Appendices

	<u>Page</u>
Table of Abbreviations.....	vi
Application..	1
INTRODUCTION AND OVERVIEW [§ 1180.6].....	1
DETAILS CONCERNING THE TRANSACTION AND SPECIFIC REQUESTS FOR RELIEF.....	4
SPECIFIC INFORMATION REQUIRED BY THE REGULATIONS.....	14
BRIEF SUMMARY OF THE TRANSACTION.....	14
[§ 1180.6(a)(1)(i)]	
Parties.....	14
Agreements	20
1. Transaction Agreement.....	20
2. PAS Limited Liability Company Agreement.....	21
3. Railroad Operating Agreement.....	24
4. Capital Projects and Facility Management Agreement ..	24
5. Norfolk Southern Joint Use Agreement.....	25
6 Divisions Agreement	26
7. Springfield Terminal Joint Use Agreement.....	27
8. Other Agreements.....	27
PROPOSED TIME SCHEDULE [§ 1180.6(a)(1)(ii)].....	28

PURPOSE OF THE TRANSACTION	
[§ 1180.6(a)(1)(iii)].....	28
SECURITIES AND FINANCIAL ARRANGEMENT	
[§ 1180.6(a)(1)(iv)]	29
PUBLIC INTEREST JUSTIFICATIONS	
[§ 1180 6(a)(2)].....	29
EFFECTS ON COMPETITION	
[§ 1180 6(a)(2)(i)].....	29
FINANCIAL CONSIDERATIONS; OPERATING ECONOMIES; INCREASE IN TRAFFIC, REVENUE AND EARNINGS	
[§ 1180 6(a)(2)(ii)].	32
EFFECT OF THE INCREASE OF TOTAL FIXED CHARGES	
[§ 1180 6(a)(2)(iii)].....	33
EFFECT OF TRANSACTION ON ADEQUACY OF TRANSPORTATION	
[§ 1180 6(a)(2)(iv)]	33
EFFECT OF TRANSACTION UPON APPLICANTS' EMPLOYEES	
[§ 1180 6(a)(2)(v)]... ..	34
EFFECT OF TRANSACTION ON OTHER RAILROADS	
[§ 1180.6(a)(2)(vi)].....	35
OTHER SUPPORTING STATEMENTS	
[§ 1180.6(a)(3)].....	35
OPINIONS OF COUNSEL FOR APPLICANTS	
[§ 1180 6(a)(4)].....	35
LIST OF STATES	
[§ 1180 6(a)(5)]	35
MAP (Exhibit 1)	
[§ 1180.6(a)(6)]	36
NATURE AND TERMS OF PROPOSED TRANSACTION	
[§ 1180 6(a)(7)(i)]	36
1. Acquisition and Operation of Rail Lines by PAS. .	36

2. Joint Ownership, Control and Use of PAS	37
3. Springfield Terminal's Contract to Operate PAS.	38
4. Springfield Terminal's Establishment of PAS Rates and Distribution of Revenues.. . . .	38
5. Acquisition of Trackage Rights by Norfolk Southern and Springfield Terminal.....	39
 AGREEMENTS (Exhibit 2)	
[§ 1180.6(a)(7)(ii)].....	39
 DESCRIPTION OF RESULTING COMPANY	
[§1180.6(a)(7)(iii)].....	39
 COURT ORDER (Not Applicable)	
[§ 1180.6(a)(7)(iv)].....	40
 PROPERTY INCLUDED IN THE TRANSACTION	
[§ 1180.6(a)(7)(v)].....	40
 PRINCIPAL ROUTES, POINTS OF INTERCHANGE, AND MILEAGE INVOLVED	
[§ 1180.6(a)(7)(vi)].....	41
 GOVERNMENTAL FINANCIAL ASSISTANCE (Not Applicable)	
[§ 1180.6(a)(7)(vii)].....	42
 ENVIRONMENTAL DATA	
[§ 1180.6(a)(8)].....	42
 MARKET IMPACT ANALYSIS	
[§ 1180.7]	43
 SAFETY INTEGRATION PLAN (Not Applicable)	
[§ 1180.8(a)(1)]...	43
 OPERATING PLAN-MINOR (Exhibit 15).	
[§ 1180.8(c)].....	43
 FINANCIAL INFORMATION (Not Applicable)	
[§ 1180.9]	44

SERVICE ASSURANCE PLAN (Not Applicable)
[§ 1180.10]

TRANSNATIONAL AND OTHER INFORMATIONAL REQUIREMENTS
[§ 1180.11]

PRAYER FOR RELIEF44

SIGNATURES, OATHS, AND CERTIFICATIONS OF
APPLICANTS' EXECUTIVE OFFICERS
[§ 1180.4(c)(2)(i)] 45

CERTIFICATE OF SERVICE

- Appendix A Opinions of Counsel for Applicants
- Appendix B Verified Statement of John H. Williams, Woodside Consulting Group

EXHIBITS

- Exhibit 1 Maps
 - Exhibit 1A Norfolk Southern System Map
 - Exhibit 1B Springfield Terminal System Map
 - Exhibit 1C Pan Am Southern System Map

Exhibit 2 Agreements (see Volume II)

Exhibit 15 Operating Plan (Minor)

Notice of Intent to File a Verified Notice of Exemption, *Pan Am Southern LLC—Acquisition and Operation Exemption—Lines of Boston and Maine Corporation* (STB Finance Docket No 35147, (Sub-No. 1)

Verified Notice of Exemption. *Norfolk Southern Railway Company--Trackage Rights Exemption--Pan Am Southern LLC--Between Mechanicville, NY and Ayer, MA* (STB Finance Docket No. 35147, (Sub-No. 2)

Verified Notice of Exemption, *Springfield Terminal Railway Company--Trackage Rights Exemption--Pan Am Southern LLC--Between CPF 312 Near Willows, MA and Harvard Station, MA* (STB Finance Docket No. 35147, (Sub-No. 3)

VOLUME II OF APPLICATION NS/PA-1 (Green)

AGREEMENTS

- Exhibit 2A Transaction Agreement**
- Exhibit 2 B PAS Limited Liability Company Agreement**
- Exhibit 2 C Railroad Operating Agreement**
- Exhibit 2 D Capital Projects and Facility Management Agreement**
- Exhibit 2 E Norfolk Southern Joint Use Agreement**
- Exhibit 2 F Divisions Agreement**
- Exhibit 2 G Springfield Terminal Joint Use Agreement**

TABLE OF ABBREVIATIONS

Ancillary Agreements	Agreements referenced in and related to the Transaction Agreement
Applicants	Norfolk Southern Railway Company, Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company
Application	Application by Norfolk Southern Railway Company, Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company for approval of joint control and ownership of Pan Am Southern LLC, an entity to be formed, and its railroad lines and of operating and pooling agreements by which Springfield Terminal Railway Company will operate the lines of PAS and establish rates for PAS
B&M	Boston and Maine Corporation
Board	Surface Transportation Board
Conrail	Consolidated Rail Corporation
CN	Canadian National Railway Company
CP	Canadian Pacific Railway Company
CSXT	CSX Transportation, Inc.
D&H	Delaware & Hudson Railway Company
GTI	Guilford Transportation Industries, Inc.
LLC	PAS Limited Liability Company Agreement
MBTA	Massachusetts Bay Transit Authority
MCR	Maine Central Railroad, Inc.
Mechanicville Facility	Intermodal and automotive facility proposed to be located on the site of two former rail yards at Mechanicville, NY
MNCR	Metro North Commuter Railroad Company

NECR	New England Central Railroad Company
Norfolk Southern	Norfolk Southern Railway Company
Option	An option purchased by Norfolk Southern from B&M to purchase a 26 316% undivided interest in the PAS Lines and certain other related assets
Pan Am	Trade name for the railroad subsidiaries of Pan Am Railways, Inc., including Boston and Maine Corporation and Springfield Terminal Railway Company
PARI	Pan American Railways, Inc.
Patriot Corridor	The main line railroad between Mechanicville, NY and Ayer, MA
PAS	Pan Am Southern LLC
PAS Lines	The rail lines to be conveyed to Pan Am Southern LLC
P&W	Providence and Worcester Railroad Company
SEA	Section of Environmental Analysis
SIP	Safety Integration Plan
Springfield Terminal	Springfield Terminal Railway Company
Transaction	Agreements for which approval and authorization are being sought for by the Application and related notices of exemption
Transaction Agreement	Agreement dated as of May 15, 2008 among Norfolk Southern Railway Company, Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company
VTR	Vermont Railroad, Inc

Before The
Surface Transportation Board

Finance Docket No. 35147

NORFOLK SOUTHERN RAILWAY COMPANY, PAN AM RAILWAYS, INC. *ET AL.*
—JOINT CONTROL AND OPERATING/POOLING AGREEMENTS—
PAN AM SOUTHERN LLC

**APPLICATION FOR APPROVAL OF JOINT CONTROL OF
PAN AM SOUTHERN LLC AND OPERATING/POOLING AGREEMENTS**

49 C.F.R. § 1180.6

INTRODUCTION AND OVERVIEW¹

Norfolk Southern Railway Company (“Norfolk Southern”), Pan Am Railways, Inc. (“PARI”), Boston and Maine Corporation (“B&M”) and Springfield Terminal Railway Company (“Springfield Terminal”),² collectively “Applicants,” submit this application (“Application”) and related notices of exemption in order to receive prior approval of the Surface Transportation Board (the “Board”) for a proposed transaction (the “Transaction”, which will be further defined herein) that will result in a strengthened rail infrastructure between Mechanicville, NY and Ayer, MA, with the result of materially enhancing competition throughout the New England transportation marketplace.

¹ A table of abbreviations used in this Application follows the Table of Contents. Springfield Terminal, B&M and Maine Central Railroad, Inc. (“MCR”) are wholly-owned subsidiaries of PARI, a non-carrier holding company, which in turn is wholly owned by non-carrier holding company Pan Am Systems, Inc. Unless otherwise indicated, a reference to a company includes its wholly-owned subsidiaries.

² B&M and Springfield Terminal are part of a corporate family of rail carriers operating under the trade name Pan Am Railways (“Pan Am”).

The focus of the proposed Transaction is the main line between Mechanicville, NY and Ayer, MA, what will be referred to as the "Patriot Corridor." The Patriot Corridor is the only competitive rail option to the single line reach of CSX Transportation, Inc. ("CSXT") into the Boston area. The proposed Transaction will improve the Patriot Corridor through beneficial capital maintenance, clearance projects, yard construction and improvements and improved train operations. The proposed Transaction will also give the Patriot Corridor new outlets for shortlines and regional railroads, faster and more reliable transit times for traffic both from the west and the north, and more efficient operations. There will be no adverse impacts on any existing competitive options.

In its broadest terms and as is explained in more detail below, the Transaction involves the creation of a new rail carrier (a limited liability company) to operate the rail lines currently owned or operated by Springfield Terminal west of Boston. (Springfield Terminal will retain and continue to operate the rail lines north of Boston) Norfolk Southern and B&M will be owner/members of the limited liability company, to be called Pan Am Southern LLC ("PAS"), and each will have equal ownership and management interests PAS will be a new, independent railroad. Springfield Terminal will provide all railroad operating and administrative support functions for PAS – including marketing and contracting for rail transportation services with customers – as a contractor to PAS.

Norfolk Southern will infuse substantial capital into PAS, \$87.5 million dollars of which will go into improving the infrastructure. PAS will use part of that capital to remove longterm slow orders along the Patriot Corridor, and add capacity and clearances along that line for better traffic flow. Springfield Terminal will provide the labor

associated with these capital projects, to the same extent it would do so under its operation of these lines today under its collective bargaining agreements.

PAS will use a portion of the capital contributed by Norfolk Southern to create an intermodal and automotive facility, proposed to be located on the site of two former rail yards at Mechanicville, NY (the “Mechanicville Facility”). The proposed Mechanicville Facility will, among other things, significantly improve overhead rail operations for intermodal and automotive traffic destined to Ayer, MA. The existing intermodal facility at Ayer also will be improved with Norfolk Southern’s capital contribution, and a new automotive facility will be constructed at San Vel near Ayer (“San Vel Automotive”) as part of the Transaction. In sum, for traffic moving into the Boston area from the west, the Transaction will strengthen the existing Norfolk Southern – Springfield Terminal competitive option to the CSXT single line service.

Shortline and regional railroads in the region – the Providence and Worcester Railroad Company (“P&W”), the New England Central Railroad Company (“NECR”) and the Vermont Railroad, Inc. (“VTR”) – will not only interchange traffic with the new railroad, but will obtain new direct routing opportunities for interchange with Norfolk Southern through haulage service provided to Norfolk Southern by PAS. These railroads and their customers will benefit further from a strengthened infrastructure connecting them with the remaining Springfield Terminal system.

No competitive options will be eliminated CSXT will retain its single line service to Worcester and Boston, and the remaining Springfield Terminal system will have trackage rights to maintain its connection with CSXT at Barbers, MA.

DETAILS CONCERNING THE TRANSACTION AND SPECIFIC REQUESTS FOR RELIEF

Applicants submit this Application pursuant to 49 U.S.C. §§11322 and 11323 and 49 C.F.R. Part 1180 seeking approval by the Board for:

- 1 Norfolk Southern and B&M to acquire joint control and ownership of PAS, an entity to be formed, and its railroad lines, and
2. approval of operating and pooling agreements by which Springfield Terminal will operate the lines of PAS and establish rates for PAS.

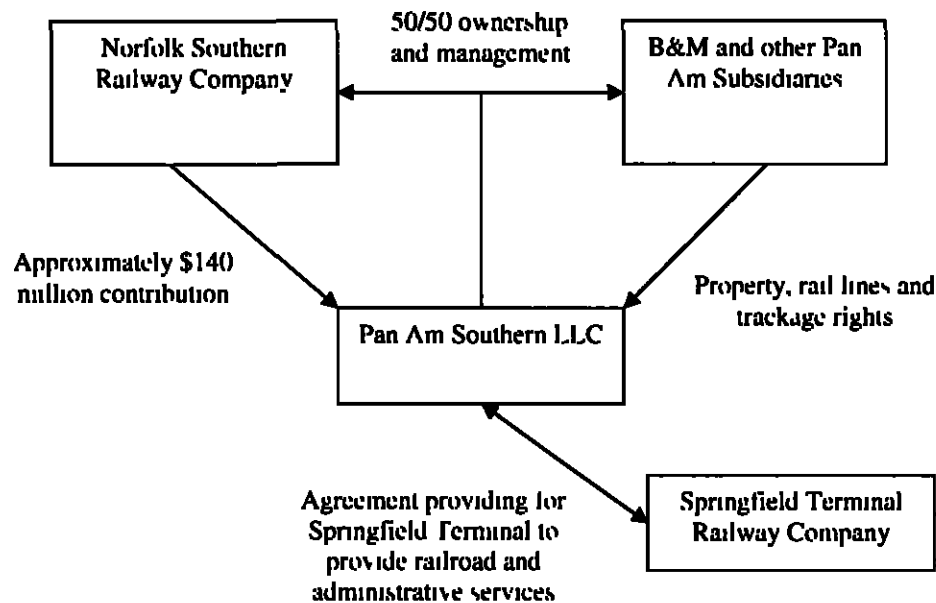
Related notices of exemption to authorize PAS to acquire and operate railroad lines and to authorize the acquisition of certain trackage rights over such lines by Springfield Terminal and Norfolk Southern are included with this Application and are being filed with it

By the agreements for which approval and authorization are being sought by this Application and the related notices (collectively, the "Transaction"), Norfolk Southern and B&M will establish a new company, PAS, which they propose will own railroad lines and acquire certain trackage rights mainly in Massachusetts but also in New York, Vermont, New Hampshire and Connecticut (the "PAS Lines") which are shown on the map on the following page, as well as in Exhibit A. B&M and other Pan Am subsidiaries will contribute the rail lines and assign the trackage rights to PAS.³ Norfolk Southern will contribute \$137.5 million in capital plus an option agreement.

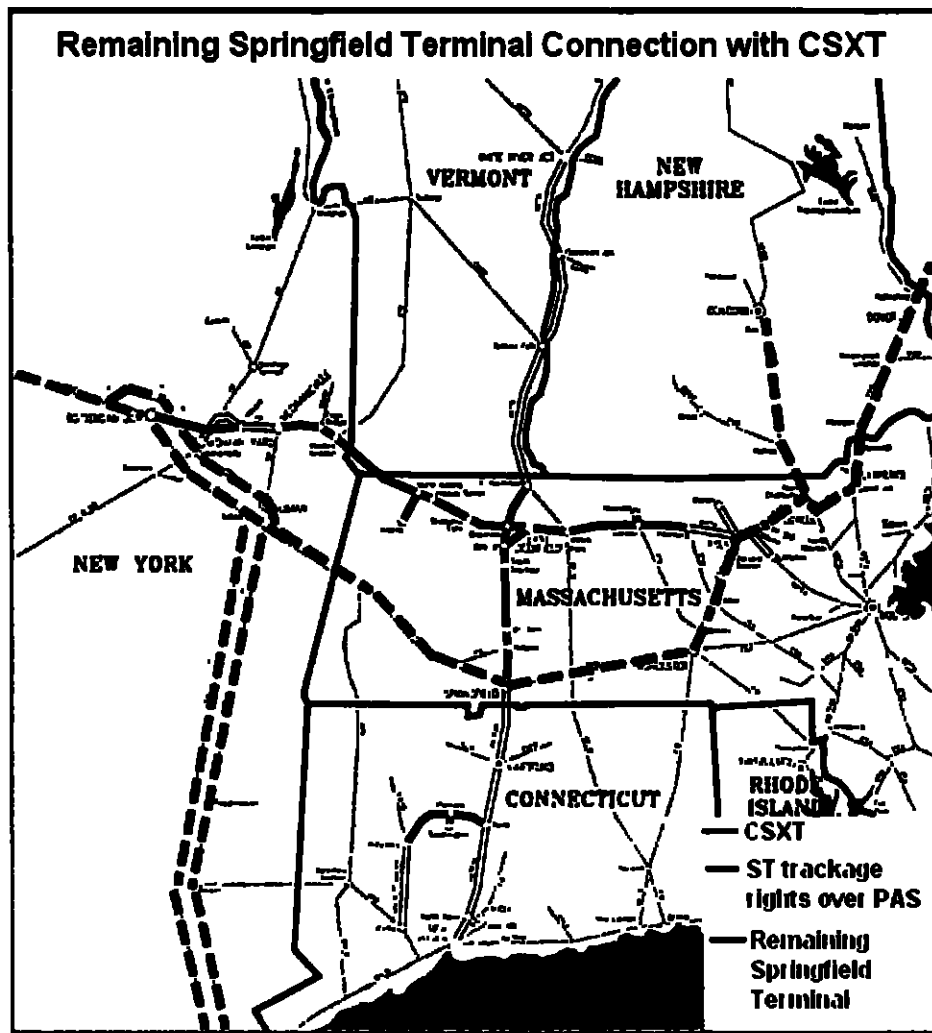
³ Springfield Terminal leases the entirety of its system from B&M and others in the Pan Am family. It will continue to operate those of its leased lines that are not going to be contributed to PAS. Those lines will be referred to herein as the "remaining Springfield Terminal system." The PAS Lines will be contributed to PAS by their present owner, B&M, unburdened by the Springfield Terminal lease, and the trackage rights over MBTA and others will be assigned by their present holder, Springfield Terminal.



PAS will be jointly owned by Norfolk Southern and B&M, which will share equally in supervising its management and capital expenditures Pursuant to an operating agreement, railroad operations (including maintenance, dispatching and train operations) and administrative services will be provided for the foreseeable future by Springfield Terminal, as contractor to, and subject to supervision by, PAS.



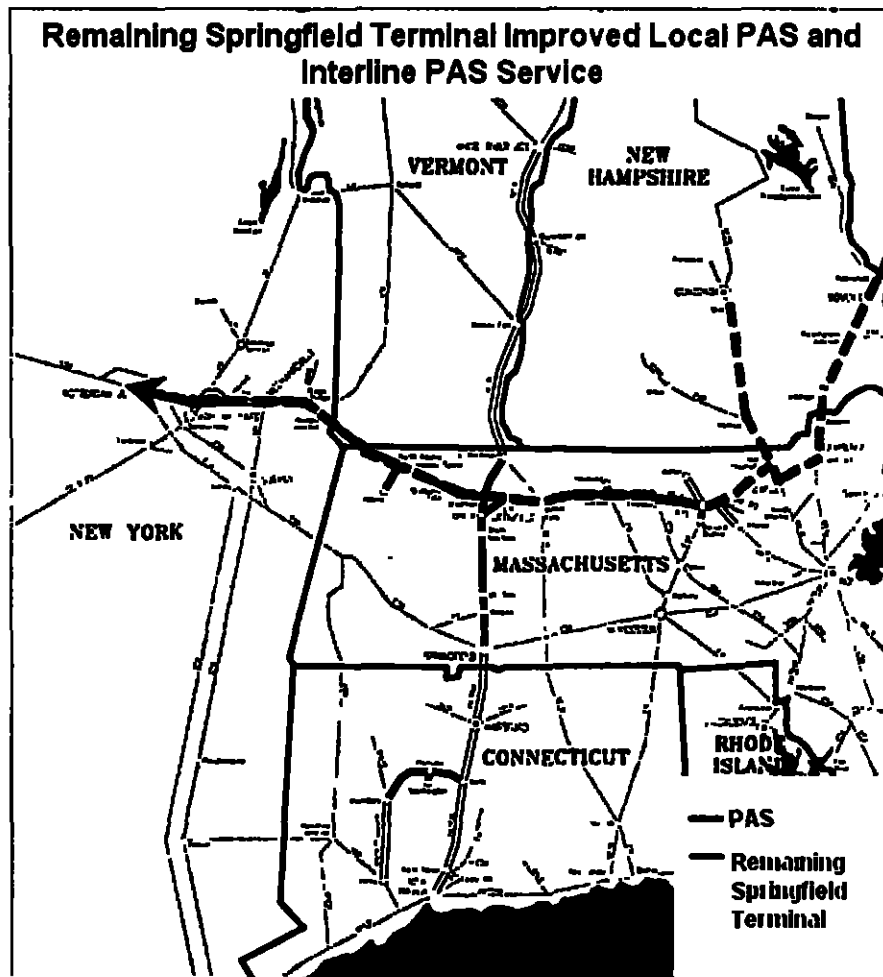
Springfield Terminal will continue to operate the portion of its system that will not be contributed to PAS – the remaining Springfield Terminal system. As is shown on the map on the following page, Springfield Terminal will obtain trackage rights over PAS Lines in eastern Massachusetts to preserve an existing connection to CSXT.



Norfolk Southern will receive certain trackage and haulage rights from PAS. The haulage that PAS provides to Norfolk Southern will enable Norfolk Southern, for the first time, to directly reach interchanges with P&W, VTR and NECR.

The principal purpose of the Transaction is to enhance the existing rail infrastructure on the lines involved, which will be effected initially by Norfolk Southern's substantial capital contribution. While no construction of any new or additional lines is contemplated, the existing lines between Mechanicville and Ayer will be improved, an existing intermodal yard in Ayer will be upgraded, a new automotive

transload facility will be constructed on property in Ayer, and a new intermodal yard and automotive transload facility will be constructed as proposed in Mechanicville.⁴ These improvements will greatly improve rail service to customers on the remaining Springfield Terminal System, as shown on the map on map below. They will also significantly enhance Norfolk Southern's east-west intermodal and automotive capacity.



Applicants anticipate no adverse effects on any existing railroad employees, inasmuch as the lines will be operated for the foreseeable future by the same railroad,

⁴ Construction of the proposed Mechanicville Facility would require a slight relocation of certain tracks of the Canadian Pacific Railway Company ("CP). CP has consented to

Springfield Terminal, and by the same employees that now provide rail transportation services (including maintenance) over the lines and who will continue to provide such services under the same collective bargaining agreements. On the contrary, if the Applicants' expectations on which they have based their very substantial investments in the new venture are realized, increased traffic over the lines will create new jobs for railroad employees over the long term. The planned yard constructions and track improvements will also provide additional work for Springfield Terminal employees.

Applicants also expect no significant change in railroad operations or rail traffic patterns. The railroad operating the lines will remain the same. While they hope to grow traffic on the lines over the long term, they do not plan any substantial rerouting of existing traffic over different lines or, with one exception, to change existing interchanges with other railroads.⁵ Unlike other proposed transactions presented to the Board for approval, this Transaction is not aimed at creating "synergies," cutting overhead or other costs, or significantly increasing traffic flows. This Transaction is aimed at improving the existing infrastructure so that the existing traffic can move faster, more safely and more reliably.

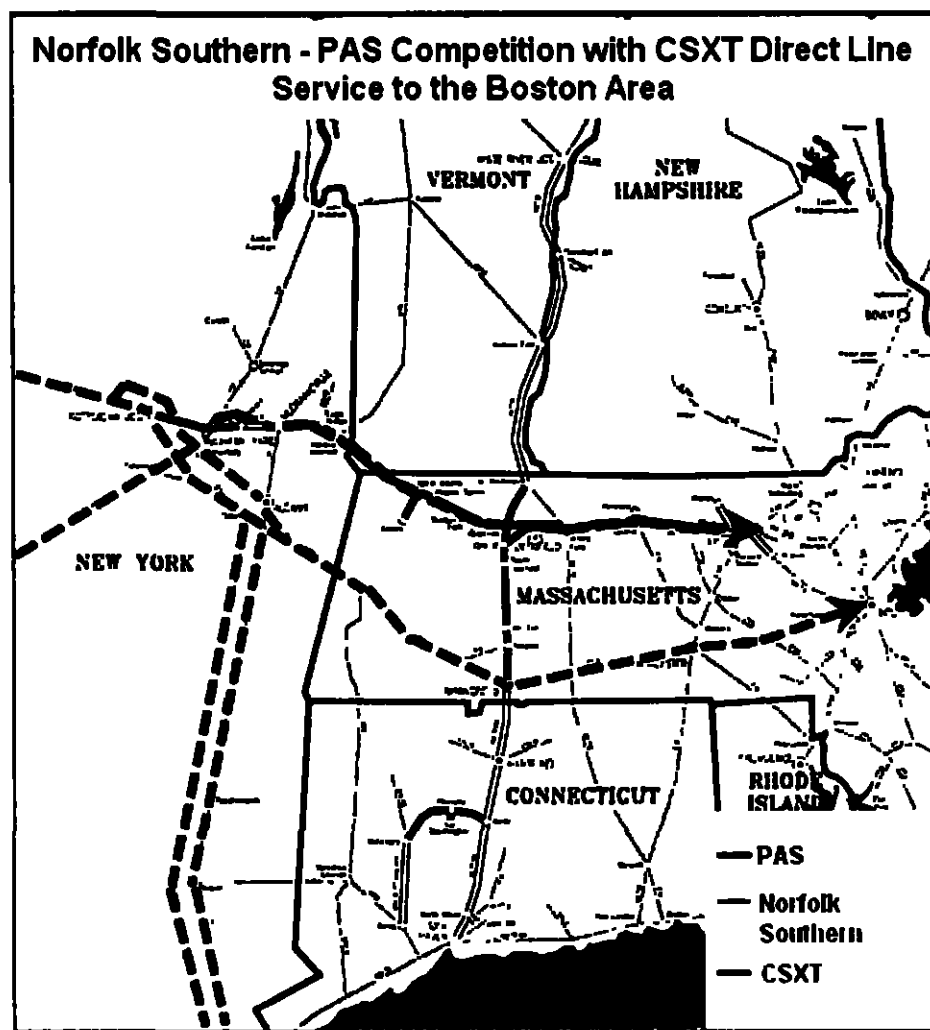
Finally, the Transaction will have no adverse effect on competition but, on the contrary, should significantly enhance both intramodal and intermodal competition. Today the Norfolk Southern and Springfield Terminal systems are entirely end-to-end, and following the Transaction, the PAS Lines will be end-to-end with Norfolk Southern and the remaining Springfield Terminal system. No shipper will lose a competitive rail

this.

⁵ Pan Am currently connects with NECR at East Northfield, MA, Brattleboro, VT, and White River Junction, VT. Applicants will propose improving the connection with

routing for its traffic. Indeed, and as discussed above, the Transaction will give Norfolk Southern new direct connections (via haulage) to VTR, P&W and NECR, which will give shippers served by those railroads new competitive routings.⁶

Moreover, and as shown on the map below, the Transaction will enable Springfield Terminal and Norfolk Southern jointly to compete much more effectively with CSXT, which has a line parallel to the main east-west PAS line and which now



NECR by re-establishing a previously existing interchange with NECR at Millers Falls, MA

⁶ In this regard, the Transaction involves no restrictions on the interchange of traffic of the type that are the subject of Ex Parte No. 575 (Sub-No. 1), *Disclosure of Rail Interchange Commitments*

provides most of the rail service between eastern Massachusetts and points west and south. The Transaction will also enhance the intermodal capacities of Norfolk Southern and Springfield Terminal and thus allow those railroads to compete more effectively with trucks.

In sum, the Transaction will greatly improve rail service in the New England region, enhance competition, reduce long-distance truck traffic and serve the public interest.

The Board Should Find the Transaction to Be “Minor.”

Because the Transaction will result in Norfolk Southern and B&M jointly owning PAS and its lines, it requires Board approval under 49 U.S.C. § 11323(a)(6). *See, e.g.*, F.D. 33362, *Paducah & Louisville Ry—Control Exemption—Paducah & Illinois R. Co.* (served August 25, 1997). It may also require approval under 49 U.S.C. § 11323(a)(3), inasmuch as the Transaction will give both Norfolk Southern and B&M many of the indicia of “control” of PAS, whose lines are now wholly owned and controlled by PARI and its subsidiaries even though each of Norfolk Southern’s and B&M’s management representation and share of the profits will not exceed 50 percent. *See* F.D. 35063, *Michigan Central Railway, LLC.—Acquisition and Operation Exemption—Lines of Norfolk Southern Railway Company* (served December 10, 2007). The agreement by which Springfield Terminal will operate the PAS Lines also requires approval under 49 U.S.C. § 11323(a)(2), and the agreement pertaining to the establishment of PAS’s rates and the allocation of joint transportation contract revenues requires approval under 49 U.S.C. § 11322.

The Board's regulations classify transactions subject to approval under 49 U.S.C. § 11323 as "major," "significant," "minor" or "exempt." 49 C.F.R. § 1180.2. Applicants submit that the Board should deem this Transaction to be "minor."⁷ The Board has previously classified transactions as "minor" which were significantly larger in size and which posed a greater risk of having adverse effects on competition and employees. For example, in F.D. 34000, *Canadian National Railway, Inc., et al.—Control—Wisconsin Central Transportation Corporation, et al.* (served May 9, 2001), the Board deemed to be minor, and approved, the acquisition by Canadian National Railway of a railroad having 2,464 route miles. This Transaction, in contrast, involves the joint ownership and control of a new railroad that will have only 438 route miles of lines and trackage rights. In F.D. 34342, *Kansas City Southern—Control—Texas Mexican Railway Company et al.* (served November 29, 2004), the Board found Kansas City Southern's acquisition of a railroad having 536 route miles of lines and trackage rights to be a minor transaction and approved it despite concerns raised by several parties about vertical foreclosure of competitive routings and other matters. In F.D. 34424, *Canadian National Railway Company, et al.—Control—Duluth, Missabe and Iron Range Railway Company, et al.* (served December 1, 2003), the Board found to be minor, and approved, Canadian National's acquisition of three railroads having approximately 370 combined route miles, despite some overlap among the combining systems and an anticipated adverse effect on

⁷ Because no element of the Transaction subject to 49 U.S.C. § 11323 is categorically exempt from regulation, and the Transaction does not involve two or more Class I railroads, the only two possible classifications are "significant" or "minor."

employees.⁸ As will be discussed, the present Transaction, in comparison, should present no substantial concerns about competition, foreclosure or adverse effects on employees.

This Transaction also clearly meets the criteria in the Board's regulations for a minor transaction, which state:

A transaction not involving the control or merger of two or more class I railroads is not significant if a determination can be made either: (1) That the transaction clearly will not have any anticompetitive effects, or (2) That any anticompetitive effects will clearly be outweighed by the transaction's anticipated contribution to the public interest in meeting significant transportation needs.

49 C.F.R. §1180.2(h). The Transaction will have substantial public benefits without any anticompetitive effects, as shown in the market analysis prepared by Applicants' witness, John Williams and discussed in more detail below. Today, the lines operated by Springfield Terminal and Norfolk Southern are entirely end-to-end, and after the Transaction they will be end-to-end with PAS. No shipper will lose any competitive rail service as a result of the Transaction. The Transaction will not result in vertical foreclosure, reduction in geographic competition or increase in market power over any shippers. Moreover, shippers will suffer no adverse effects on service as a result of the Transaction, inasmuch as the same railroad, Springfield Terminal, will continue to perform rail operations over the PAS Lines and Applicants do not anticipate any significant change in operations or traffic patterns. Indeed, the substantial investment in infrastructure that is the main purpose of the Transaction can only improve service to

⁸ See also, e.g., F.D. 35031, *Fortress Investment Group, LLC—Control—Florida East Coast Railway, LLC* (served September 28, 2007) (acquisition of a Class II railroad by company controlling 40 other railroads); F.D. 31875, *Consolidated Rail Corp.—Merger—Monongahela Railway Co.* (served June 11, 1991) (merger of Class I and Class II railroads).

shippers and the ability of Norfolk Southern and Springfield Terminal to compete with other railroads and trucking companies in this important region of the country.

SPECIFIC INFORMATION REQUIRED BY THE REGULATIONS

Section 1180.6(a)(1)(i)

A brief summary of the proposed transaction, the name of the applicants, their business addresses, telephone numbers, and the name of the counsel to whom questions regarding the transaction can be addressed.

The Parties

Norfolk Southern is a Class I railroad headquartered in Norfolk, VA at Three Commercial Place, Norfolk, VA 23510 (Tel: 757-629-2000). With more than 30,000 employees, it operates approximately 21,000 route miles in 22 states and the District of Columbia. See map at Exhibit 1A. Norfolk Southern is a wholly owned subsidiary of Norfolk Southern Corporation, a publicly-held non-carrier holding company.

In 1998, pursuant to a transaction approved by the Board in *CSX Corp., et al.—Control—Conrail Inc., et al.*, 3 S.T.B. 196 (1998), Norfolk Southern acquired certain lines of Consolidated Rail Corporation (“Conrail”) in New York and Pennsylvania, including a line through Sunbury, PA, and another line through Binghamton, NY. That transaction enabled Norfolk Southern to provide intermodal rail service to upstate New York, New England and Canada through haulage agreements with Canadian Pacific Railway Company and its subsidiaries (collectively, “CP”) and Springfield Terminal. In those agreements, CP agreed to provide haulage of intermodal traffic to Norfolk Southern over a CP line from Sunbury, PA to Mechanicville, NY, near Albany, NY, and Springfield Terminal agreed to provide haulage of intermodal traffic to Norfolk Southern

over its line from Mechanicville to the intermodal terminals in Ayer, MA and Waterville, ME. In describing these routes in the application in *Conrail*, Norfolk Southern's Executive Vice President for Strategic Planning, James McClellan, advised the Board that "[d]iscussions are underway between GTI and NS concerning investments needed to improve the GTI route for taller cars and heavier loads."⁹ Although coming years later, this Transaction serves to fulfill that intent.

Norfolk Southern's counsel to whom questions may be addressed is Richard A. Allen, Zuckert, Scoutt & Rasenberger, LLP, 888 17th St., N.W., Washington, D.C. 20006 (Tel: 202-973-7902; e-mail: raallen@zsrlaw.com).

Springfield Terminal is a Class II rail carrier. Its principal office, and that of its affiliate, B&M, is at 1700 Iron Horse Park, Billerica, MA 01862 (Tel: 978-663-1029). With approximately 700 employees, Springfield Terminal operates some 2,056 route miles in Maine, New Hampshire, Vermont, Massachusetts, New York and Connecticut. See map at Exhibit 1B. Counsel for PARI, Springfield Terminal and B&M to whom inquiries can be made is Robert B. Culliford, Senior Vice President and General Counsel, Pan Am Railways, Inc., 14 Aviation Avenue, Portsmouth, NH 03801 (Tel: 603-766-2002).

PARI is a non-carrier holding company known, before changing its name in March 2006, as Guilford Transportation Industries, Inc. ("GTI"). PARI has four wholly-owned subsidiaries, including B&M and Springfield Terminal. PARI (then GTI) acquired MCR in 1981, and in 1983, it purchased B&M and Springfield Terminal. Springfield Terminal's lines extend from Rotterdam Junction, NY in the west, to Mattawamkeag, ME in the east and, with trackage rights, to New Haven, CT in the

⁹ CSX-NS/18, Vol I at 534 in F.D. 33888.

south.¹⁰ Springfield Terminal interchanges traffic with 15 other railroads. In addition to interchanges with 11 shortlines, Springfield Terminal interchanges with CSXT at Rotterdam Junction, NY, Hartford CT,¹¹ Holyoke, MA, Barbers MA, Clinton, MA and Boston, MA (I and F Junction); with CP at CP's Mohawk Yard in Schenectady, NY, St Johnsbury, VT and Wells River, VT; with Norfolk Southern at Mohawk Yard;¹² and with CN at Danville Jct., ME and St. John, New Brunswick (via Canadian National Railway Company ("CN") haulage rights). The largest source of Springfield Terminal's traffic is the paper industry, for which Springfield Terminal transports inbound chemicals, clay and pulp and outbound paper.

After the division of Conrail between Norfolk Southern and CSXT in 1999, Springfield Terminal enjoyed an increase in traffic, particularly on the western part of its system. As noted, Springfield Terminal has been providing haulage for Norfolk Southern intermodal traffic pursuant to an agreement made in 1998 in connection with the Conrail transaction. By that agreement, Springfield Terminal has transported Norfolk Southern intermodal traffic between CP's Mohawk Yard, where Springfield

¹⁰ In 1984, GTI also acquired the Delaware & Hudson Railway Company ("D&H"). D&H filed for bankruptcy protection in 1988 and was subsequently purchased by its employees and then by CP.

¹¹ The Hartford interchange point with CSXT is currently inactive.

¹² Norfolk Southern has the right to interchange traffic with Springfield Terminal at Mechanicville, NY, but the interchange now takes place by agreement at CP's Mohawk Yard. Following the Transaction and the construction of the proposed Mechanicville Facility, it is anticipated that the interchange between Norfolk Southern and PAS will occur at that proposed facility. CP has consented to the relocation of its mainline and modification of the interchange location, in each case to accommodate the proposed Mechanicville Facility.

Terminal interchanges with CP and Norfolk Southern, and intermodal facilities at Ayer, MA and Waterville, ME.¹³

Norfolk Southern's ability to provide single-system service to eastern New York and New England via the haulage agreements with Springfield Terminal and haulage and trackage rights agreements with CP, as well as Springfield Terminal's ability to compete with CSXT and other transportation providers, have been seriously constrained by the condition of Springfield Terminal's lines and the lack of needed yard facilities, particularly in Massachusetts and New York. The rail on most sections can only handle cars of no more than 263,000 pounds, and some sections of the lines to be acquired by PAS are subject to FRA standards requiring Springfield Terminal to impose "slow orders" limiting train speeds to 10 mph. Springfield Terminal has been able to grow its traffic in recent years despite these conditions, but Springfield Terminal and Norfolk Southern agree that substantial improvements need to be made to sustain growth for the long term, particularly with respect to intermodal and automotive traffic.

As reflected in their Capital Expenditure Plan (Exhibit 2D), Applicants intend to spend \$39,510,000 in the three years following consummation of the Transaction for rehabilitation of the PAS Lines (along the Patriot Corridor) and another \$7,990,000 to construct a two-and-half mile siding between mileposts 432 and 434 in Pownal, Vermont

¹³ In addition, in 2002, Norfolk Southern obtained overhead trackage rights from CP between Sunbury, PA and CP's connection with Springfield Terminal in Mechanicville, NY for certain restricted types and volumes of traffic, including traffic for interchange with Springfield Terminal and CN. *See* F.D. No. 34209, *Norfolk Southern Ry. Co.—Trackage Rights Exemption—Delaware and Hudson Railway Company, Inc.* (served July 25, 2002.) Also, in 2004, Norfolk Southern obtained overhead trackage rights over CP's line from Binghamton, NY to Saratoga Springs, NY, permitting it to move traffic with a prior or subsequent movement over CP's line from Saratoga Springs to Rouses Point, NY. *See* F.D. 34562, *Norfolk Southern Railway Company—Trackage Rights Exemption—Delaware and Hudson Railway Company, Inc.* (served October 21, 2004).

and in creating a 19' 6" clearance at nine locations, which will enable the Patriot Corridor to handle multi-level railcars for the movement of automobiles much more efficiently.¹⁴ The track rehabilitation along the Patriot Corridor will permit the slow orders to be removed and will also increase the line's current load capacity to enable the movement of 286,000 pound cars. This enhanced capacity will be particularly important with respect to movements of coal to an electric generating plant of the Public Service Company of New Hampshire at Bow, NH, adding significantly to the competitive options available to this Springfield Terminal customer. The ability to use larger cars to carry potential increase in rail volumes for this customer would mean that the daily tonnage of coal traffic over the line could increase without a proportionate increase in the number of railcars.

Of equal importance, Applicants intend to spend \$37,500,000 to build the Mechanicville Facility, a new intermodal and automotive facility proposed to be constructed on property to be owned by PAS at Mechanicville, NY¹⁵ and \$2,050,000 to improve the existing intermodal facility at Ayer, MA. A new automotive facility at nearby San Vel also will be constructed and contributed.

As explained in the Operating Plan (Exhibit 15), the proposed Mechanicville Facility is particularly important, because it will permit Norfolk Southern to assemble

¹⁴ Currently, multi-level cars can move between Mechanicville and Ayer, but there are few places where two such cars can pass in opposite directions. The added clearances will enable trains with multilevel cars to operate without causing long delays to other trains.

¹⁵ The property at Mechanicville consists of property that will be owned by PAS plus a parcel that PAS will have an option to buy. The site contained two rail yards some years ago and is currently in an industrial zone. The New York DOT plans to upgrade the roads that will serve the site specifically to make them suitable for truck traffic.

and disassemble double-stack intermodal trains far more efficiently than is now possible at CP's Mohawk Yard.

Double-stack transportation, the movement of one container on top of another, is the most efficient form of rail-based trailer/container transportation available. At present, although the CP and Norfolk Southern lines between western points and the Albany/Schenectady area are capable of handling double-stack trains, the lack of efficient intermodal facilities in the Albany area has prevented Norfolk Southern from moving substantial amounts of freight via double-stack over those lines, making Ayer primarily a single-stack option. Furthermore, while the Hoosac Tunnel in western Massachusetts allows for the movement of a "high-low" double stack configuration, it does not allow for the double-stack movement of a "high-high" configuration,¹⁶ and the costs to clear that tunnel for double-stack "high-high" would be enormous. (In fact, even under the proposed Transaction, there is no intent to perform work to further clear the tunnel.)

The proposed Mechanicville Facility would permit Norfolk Southern for the first time to utilize its capacity to move double-stack intermodal trains between western points and points in the Albany area in two critical ways. First, while freight to Albany has always been a double-stack option, the fact that Ayer, MA was primarily a single-stack option limited the amount of stacking of high-cube containers that Norfolk Southern could do for either market. The proposed Mechanicville Facility will allow Norfolk Southern to "fillet" (convert double-stack trains to single-stack trains for further eastern movement to Ayer) and "toupee" (convert single-stack trains to double-stack trains for

¹⁶ Domestic and international intermodal containers come in a "high cube" variation – 9'6" in height – or in a "low cube" variation – 8'6" in height. A so-called "high-low" double stack configuration is one that stacks one of each on top of one another, whereas a

further movement to points west of Albany.) This file and toupee operation will significantly improve Norfolk Southern's ability to double stack both Albany-area and Ayer freight to the proposed hub at Mechanicville. The second key component of the project will be to increase siding capacity or clearance on PAS so that when there are movements of dimensional trains (those with stacks or "multilevels" (railcars for automotive traffic) on them), these trains will be able to pass at multiple locations on the route (in contrast to only one location now), thus greatly improving fluidity and capacity on the line.

There is no doubt about the competitive constraints in the market – these were foreseen by Norfolk Southern at the time of the Conrail transaction, as it stated to the Board in that application. PARI and Norfolk Southern have now developed the means and methods to increase the competitive landscape in the New England market, and ask the Board's approval to accomplish the Transaction for that purpose.

The Agreements

1. The Transaction Agreement. Norfolk Southern, PARI, B&M and Springfield Terminal entered into a Transaction Agreement dated as of May 15, 2008, included in Exhibit 2A, which requires the parties, upon closing, to establish PAS and to effect various other agreements, described below and collectively referred to as the "Ancillary Agreements." The Transaction Agreement is subject to, and will be consummated following, receipt of Board approval, as well as the effectiveness of applicable exemptions, of the Transaction Agreement and Ancillary Agreements. The Transaction Agreement requires Norfolk Southern to contribute \$137.5 million in cash

so-called "high-high" double stack configuration is one that stacks two of the high cube variation on top of one another.

and demand notes and to assign the Option (as defined below) to PAS for which Norfolk Southern will receive a 50% membership interest in PAS.¹⁷ It requires the Pan Am parties to contribute a 73.684% undivided interest in the PAS Lines, certain trackage rights and other related assets to PAS for which B&M will receive a 50 % membership interest in PAS, and for PAS to use \$47.5 million of its capital to exercise the Option contributed by Norfolk Southern and purchase the other 26.316% undivided interest in the PAS Lines, certain trackage rights and other related assets from the Pan Am parties.

The Transaction Agreement further requires PAS to spend \$87.5 million of its capital to make specified capital expenditures over the three-year period following closing. As previously described, these projects include major rehabilitation of the Patriot Corridor, construction of a new siding and clearances, construction of a new intermodal and automotive yard proposed to be built at Mechanicville, NY, a new automotive yard at San Vel, and improvements at the existing intermodal yard at Ayer, MA.

2. The PAS Limited Liability Company ("LLC") Agreement. The PAS LLC Agreement, between Norfolk Southern and B&M, establishes PAS as a Delaware limited liability company, provides for its governance, the rights and powers of its members and the allocation of its profits and losses among them. The agreement is attached as Exhibit 2B. The agreement provides for a six-member Management Committee, a Capital Projects Committee, a Joint Operating Committee and such other

¹⁷ The \$137.5 million to be contributed by Norfolk Southern will be paid in part at closing and the remainder over a three-year period as specified by the demand notes. Norfolk Southern has purchased an option (the "Option") from B&M to purchase a 26.316% undivided interest in the PAS Lines and related assets for \$52 million, and PARI has agreed to expend \$2.5 million to perform specified track work. The \$5 million

committees as the Management Committee may establish. Unless and until there is a change in control of PARI (parent to B&M and Springfield Terminal), the membership of these committees will consist of an equal number of members designated by B&M and by Norfolk Southern, and decisions of the Joint Operating Committee, which will have responsibility for monitoring operations and having day-to-day interface with Springfield Terminal as it performs its railroad and administrative operations functions, must be by unanimous vote. The PAS LLC Agreement provides that, following a seven-year period during which there will be a preferred distribution paid to B&M, the profits and losses of PAS shall be allocated equally between Norfolk Southern and B&M

In the event of a change of control of PARI, the agreement gives Norfolk Southern the authority to appoint a majority of the members of all committees and all committee decisions will be by majority vote. Further, PAS will have the right to terminate the Railroad Operating Agreement, which, as described in detail below, provides that Springfield Terminal will provide all railroad and administrative functions for PAS.¹⁸ In the event of certain changes in control of Norfolk Southern, the

option price paid by Norfolk Southern is non-refundable but will be credited against the purchase price when PAS exercises the Option at closing of the Transaction Agreement.

¹⁸ The PAS LLC Agreement defines the term "Pan Am" to refer to Pan American Railways, Inc. (which is referred to in this Application as PARI), and it defines "Pan Am Change in Control" as "(1) the establishment of a voting trust described in 49 C.F.R. Part 1013 – Guidelines for the Proper Use of Voting Trusts, or any subsequent regulation, with regard to the acquisition of a controlling block of voting securities of the Pan Am Member, Pan Am, B&M or Springfield Terminal, or any entity having direct or indirect control over any of the same, including but not limited to [Pan Am Systems, Inc.]; (2) the submission to the STB of any application, petition for exemption, or notice of exemption seeking approval, or exemption from approval, to effect a change of control of the Pan Am Member, Pan Am, B&M or Springfield Terminal or any entity having direct or indirect control over any of the same; (3) any Permitted Transfer [of membership interest] as described in Section 9.2 clauses (f) or (g); or (4) not taking into account the Pan Am Member's membership interest in [PAS], the sale, transfer or other distribution

agreement provides that PAS will grant Springfield Terminal overhead trackage rights between CPF 312 (the cut point between PAS and the remaining Springfield Terminal system) and connections with CSXT at Rotterdam Junction, with CP at Mohawk Yard, NY, with VTR at Hoosick Junction, NY and with NECR at East Northfield, MA or Millers Falls, MA.¹⁹

This Application seeks approval for the joint acquisition of control by Norfolk Southern and B&M of PAS prior to any change of control of PARI or Norfolk Southern that may occur in the future. As discussed above, the PAS LLC Agreement provides for an automatic change from equal to Norfolk Southern majority control in the event another entity acquires control of PARI and, in the event another entity acquires control of Norfolk Southern, it provides for an automatic grant to Springfield Terminal of certain additional trackage rights over the PAS Lines.²⁰ The automatic change in control and the automatic grant of additional trackage rights are essential elements of the agreements between the parties that comprise the Transaction without which the parties would not commit their capital and properties to this venture. Applicants nevertheless understand

of all or substantially all of the assets of the Pan Am Member, Pan Am, B&M or Springfield Terminal.”

¹⁹ The PAS LLC Agreement defines “NS Change in Control” as “(1) the establishment of a voting trust as described in 49 C.F.R. Part 1013 – Guidelines for the Proper Use of Voting Trusts, or any subsequent regulation, with regard to the acquisition by CSX or CN, or a subsidiary of either, of a controlling block of voting securities of the NS Member or any entity having direct or indirect control over the NS Member, including but not limited to [Norfolk Southern Corporation]; (2) the submission to the STB by CSX or CN, or a subsidiary of either, of any application, petition for exemption, or notice of exemption seeking approval, or exemption from approval, to effect a change in control of the NS Member or any entity having direct or indirect control over the NS Member; or (3) not taking into account the NS Member’s Membership Interest in [PAS], the sale, transfer or other distribution of all or substantially all of the assets of NSR to CSX or CN, or a subsidiary of either.”

²⁰ Specifically, Springfield Terminal will obtain trackage rights to reach VTR, NECR, CSXT (at Rotterdam Junction) and CPR.

that effectuation of the change in control and the grant of trackage rights may require further approval from, or filings with, the Board when and if the relevant change of control occurs, and they do not seek approval for either at this time.

3. The Railroad Operating Agreement. Pursuant to a Railroad Operating Agreement (Exhibit 2C), PAS will engage Springfield Terminal to act as the initial operator of the PAS Lines and to “manage, administer, supervise, perform and provide all railroad services” over the lines on behalf of PAS, including dispatching, billing and ratemaking. For these services, Springfield Terminal will receive a fee, which will be equal to its costs plus a percentage of PAS’s net earnings. The agreement further requires, among other things, that Springfield Terminal shall “act in accordance with its then-current collective bargaining agreements as if the Pan Am Southern Assets were an integral part of the Springfield Terminal network.” Exhibit E, Section 9(g)(ii)(A). The agreement is to continue in effect until terminated by mutual agreement of the parties, but it may be terminated by PAS upon a material breach of the agreement by Springfield Terminal or upon a change in control of PARI.²¹

4 The Capital Projects and Facility Management Agreement. The Capital Projects and Facility Management Agreement (Exhibit 2D) will govern the performance, oversight and management of the capital projects undertaken by PAS. Among other things, it provides that Springfield Terminal will perform all services in connection with a capital project that its labor contracts would require Springfield Terminal employees to perform in the absence of the Transaction, unless it obtains a waiver of such contractual requirements. For other projects, Norfolk Southern will have

²¹ The agreement defines “Pan Am Change in Control” the same way as that term is defined in the PAS LLC Agreement. See n. 17.

the option to provide services related to the project. Norfolk Southern will also develop the specifications for the proposed Mechanicville project and will be responsible for the oversight of that project and other projects performed by Springfield Terminal, whereas Springfield Terminal will be responsible for the oversight of projects performed by Norfolk Southern or by third party contractors.

5. The Norfolk Southern Joint Use Agreement. By this agreement (Exhibit 2E) PAS will provide certain overhead trackage rights and haulage services to Norfolk Southern over the PAS Lines. PAS will provide haulage to Norfolk Southern for the movement to and from Mechanicville, NY of (1) traffic to be interchanged with three regional carriers: with VTR at Hoosick Junction, NY, with P&W at Gardner, MA, and with NECR at Brattleboro, VT; and (2) intermodal and automotive traffic to and from the Ayer Intermodal, and San Vel Automotive terminals at or near Ayer, MA ²² The intermodal and automotive traffic subject to the agreement may include, at Norfolk Southern's option, traffic in the accounts of CP and its subsidiary, D&H as well as traffic in the account of Norfolk Southern. The agreement also contains specified service standards that PAS must comply with. The Norfolk Southern trackage rights, which are for the overhead movement of intermodal and automotive traffic between Mechanicville and Ayer, are only exercisable in the event of an uncured "Major Service Standard Failure" as defined in the agreement.

²² Part of this route between Fitchburg, MA and Ayer, MA is owned by the Massachusetts Bay Transit Authority ("MBTA"). MBTA has granted freight operating rights over this segment to Springfield Terminal, which will assign them to PAS. MBTA has been consulted and has no objection to the Transaction, including the assignment of Springfield Terminal's trackage rights to PAS and the grant of trackage rights by PAS to Norfolk Southern and Springfield Terminal, as described herein.

The forgoing trackage rights and haulage services significantly expand the rights and services provided to Norfolk Southern under a 1998 haulage agreement by (1) giving Norfolk Southern direct commercial access to VTR, P&W and NECR; (2) adding a service standard; (3) adding automotive traffic to the traffic subject to haulage; (4) allowing Norfolk Southern to extend the intermodal and automotive haulage services to CP; and (5) giving Norfolk Southern trackage rights, which it can exercise if PAS fails to meet the service standards in a substantial way. These expanded rights will significantly enhance Norfolk Southern's ability to compete in eastern New York and New England.

6. The Divisions Agreement. Pursuant to a Transportation Agreement Assignment and Divisions Allocation Agreement (the "Divisions Agreement") (Exhibit 2F), Springfield Terminal will assign existing transportation contracts by which Springfield Terminal has committed to provide transportation services to customers to PAS to the extent the contracts require use of PAS Lines. The Divisions Agreement also retains Springfield Terminal, as long as Springfield Terminal is the contract operator of PAS, to act as agent for PAS with authority to establish rates and to enter into new transportation contracts for freight transportation that moves over the PAS Lines or over both the PAS Lines and the remaining Springfield Terminal system; this transportation would include interline movements with other railroads. Springfield Terminal would also be authorized to negotiate rate divisions for interline movements involving PAS and other railroads, including Springfield Terminal to the extent involving transportation over the remaining Springfield Terminal system, and to establish charges for local services like loading and unloading, weighing of cars, intra-plant shipping, storage and warehousing. To ensure that Springfield Terminal will not exercise the foregoing authority in its own

favor with regard to transportation over its own remaining lines and to the disadvantage of PAS, the Divisions Agreement requires that revenue received from any movement over PAS Lines or over PAS Lines and remaining Springfield Terminal system is to be allocated between PAS and Springfield Terminal in proportion to the relative miles on each railroad's system that the movement entailed, after deducting charges for local services and terminal handling specifically allocated to either of the carriers.

7. The Springfield Terminal Joint Use Agreement. By this agreement (Exhibit 2G), PAS will grant Springfield Terminal overhead trackage rights between CPF 312, MA, the eastern terminus of the PAS main line, and Harvard Station, MA, south of Ayer, MA, to permit Springfield Terminal to continue interchanging traffic with CSXT at Barbers, MA.²³ This will ensure the maintenance of a direct interchange between CSXT and Springfield Terminal and the existing competitive alternatives for those carriers and their customers. With these trackage rights, the Transaction should not affect the flow of interline traffic through Barbers. Pursuant to this agreement, PAS will provide certain haulage rights to Springfield Terminal for the movement of certain automotive and intermodal traffic to the proposed Mechanicville Facility.

8. Other Agreements. In addition to the foregoing agreements, Applicants will execute a number of other agreements that are not subject to the Board's approval requirements, including: (1) an "Ayer Switching Agreement" by which PAS will provide certain switching services for Springfield Terminal traffic in and around Ayer, MA; and

²³ A short segment of this route, between Ayer, MA and Willows, MA, is owned by MBTA. As noted earlier, MBTA has been consulted and has no objection to the Transaction, including the granting of these trackage rights by PAS to Springfield Terminal.

(2) a “Miscellaneous Assignment and Assumption Agreement” by which the Pan Am parties will assign to PAS all of their right, title and interest in various rental, clearance and other agreements to the extent they are associated with the property to be contributed to the limited liability company.

Section 1180.6(a)(1)(ii)

The proposed time schedule for consummation of the proposed transaction.

Applicants expect to consummate the Transaction promptly after the effective date of any Board approval of the Transaction.

Section 1180.6(a)(1)(iii)

The purpose sought to be accomplished by the proposed transaction, e.g., operating economies, eliminating excess facilities, improving service, or improving financial viability of the applicants.

As previously discussed, the principal purpose of the Transaction is to enhance the existing infrastructure of the lines to be acquired by PAS. This will substantially improve service to rail customers. To mention only a few examples, the upgrading of the lines to permit 286,000 pound cars will allow more efficient and economical service to coal-burning electric utilities now served by the lines. The proposed intermodal facility at Mechanicville will enable Norfolk Southern to utilize its existing but unused ability to move more efficient double-stack cars to eastern New York from points west, and to move single-stack intermodal trains faster and more efficiently to eastern Massachusetts. The proposed automotive facilities at Mechanicville and San Vel will greatly improve service to shippers of automobiles to eastern New York and New England.

The investment being made by Norfolk Southern in PAS will benefit not only coal, automotive and intermodal customers but all Springfield Terminal and Norfolk

Southern on-line industrial customers in key ways. First, eliminating the interchange of intermodal traffic at Mohawk Yard should improve the movement of all traffic through this area. Second, all customers that can utilize 286,000 pound railcars will benefit from the rail and track improvements. Finally, the capacity that will be added and the increase in the speed of the mainline between Albany and Ayer will improve the fluidity, speed and consistency of shipments for all customers using the services of PAS.

These infrastructure improvements will enhance competition by improving Applicants' ability to compete with trucks and other modes of transportation and with other railroads, most notably, CSXT, which is the only Class I railroad now providing rail service over its own lines to locations in this New England region.

The Applicants' substantial investments in these infrastructure improvements reflect their belief that they will increase Applicants' revenues and thus improve their financial viability.

The Transaction does not contemplate the elimination of any existing facilities.

Section 1180.6(a)(1)(iv)

The nature and amount of any new securities or other financial arrangements.

No new securities will be issued in connection with the transaction. Norfolk Southern's contribution to PAS will be funded from available cash and credit facilities.

Section 1180.6(a)(2)

A detailed discussion of the public interest justifications in support of the application, indicating how the proposed transaction is consistent with the public interest, with particular regard to the relevant statutory criteria, including:

Section 1180.6(a)(2)(i)

The effect of the transaction on inter- and intramodal competition, including a description of the relevant markets (see § 1180.7). Include a discussion of whether, as a result of the transaction, there is likely to be any lessening of competition, creation of a monopoly, or restraint of trade in any freight service transportation in any region of the United States.

Although Applicants believe the Board will deem this to be a minor transaction, they have nevertheless engaged John H. Williams of the Woodside Consulting Group, an outside consultant with extensive experience in the railroad industry and in many previous railroad transactions considered by the Board, to undertake a study of the likely impacts of the Transaction on intermodal and intramodal competition for freight surface transportation in the regions affected and on the provision of essential services by Applicants and other carriers. Mr. Williams' verified statement setting forth his conclusions accompanies this Application.

Mr. Williams summarizes his findings as follows:

My overall conclusion is that Norfolk Southern's and Pan Am's [*i.e.*, PARI's] joint control and ownership of Pan Am Southern and their related Operating/Pooling Agreements are pro-competitive. The transaction will create new enhanced single-system rail options for Norfolk Southern automotive and intermodal traffic, and will provide such Norfolk Southern customers with improved access to the New England markets for their products. Norfolk Southern's plan to invest \$87.5 million in PAS for the purpose of making capital improvements (in new intermodal and automotive facilities and on PAS's existing lines and yards) will enhance the safety and efficiency of their combined operations and will strengthen the competitive capability of Norfolk Southern, Pan Am Southern and Pan Am.

Williams V.S. at 2.

Mr. Williams also finds that "PAS and its customers will also benefit from the financial investments and financial strength of Norfolk Southern." *Id.* at 4 The short line and regional railroads that will connect with PAS and their customers, including particularly, VTR, P&W and NECR, will likewise benefit from the improved service

over the PAS Lines resulting from those investments, as well as from the direct connections with Norfolk Southern that they will receive.

The improvement in Applicants' ability to compete intermodally and intramodally will be most significant with respect to intermodal and automotive traffic between Massachusetts, eastern New York and points west. Today, CSXT has large intermodal terminals in or near Syracuse, NY, Springfield, MA, Worcester, MA and Boston, MA and automotive terminals in the Boston and Albany areas, and it carries the large preponderance of rail intermodal and automotive traffic to and from those areas.²⁴ With the improvements to the PAS Lines, the terminals at Ayer and San Vel and the proposed Mechanicville Facility, Applicants' ability to expand their intermodal and automotive services into markets now largely dominated by CSXT will be significantly enhanced.

These benefits will also be realized without any adverse effects on competition. Based on his analysis of the locations of the rail lines in the region in relation to each other and of the access of different railroads to various locations reflected in the Official Railway Station List (formerly known as the Open and Prepay Station List), Mr. Williams' principal findings concerning possible adverse effects are as follows:

- This proposal is an end-to-end transaction that will eliminate no competing routes, stations, or services;
- No rail customer will be left with either reduced or without competitive rail service options as a result of the proposed transaction; and
- The proposed transaction will not have any material adverse effects on connecting short lines.

²⁴ CSXT also leases from Pan Am a large terminal facility in Ayer, MA capable of handling automotive traffic, but has elected not to use it and not to relinquish the lease, which expires in 2017. B&M will contribute that facility to PAS, but it will not be available for PAS's use due to the CSXT lease.

Williams V. S. at 3.

In short, Mr. Williams' analysis shows that the Transaction will have a significant beneficial effect on intermodal and intramodal competition for freight transportation by enabling Norfolk Southern, Springfield Terminal and PAS to compete for freight traffic more effectively with trucks and other modes of transportation and with other railroads, including CSXT, which is currently the only Class I railroad providing direct service over its own lines to any New England States.

Because this is a "minor" transaction and because it will result in no lessening of competition, but rather an increase in competition, 49 U.S.C. § 11324(d) requires that it must be approved. *See, e.g.,* F.D. No. 34783, *The Indiana Rail Road Company—Acquisition—Soo Line Railroad Company*, Decision No. 4, served April 6, 2006 at 4.

Section 1180.6(a)(2)(ii)

The financial consideration involved in the proposed transaction, and any economies to be effected in operations, and any increase in traffic, revenues, earnings available for fixed charges, and net earnings, expected to result from the consummation of the proposed transaction.

As described in response to § 1180.6(a)(1)(i) above, Norfolk Southern will contribute \$137.5 million in cash and the Option to PAS at closing and B&M will contribute a 73.684% undivided interest in the PAS Lines, certain trackage rights and other related assets and will sell the remaining 26.316% undivided interest in the PAS Lines, certain trackage rights and other related assets to PAS for \$47.5 million pursuant to the Option.

While the infrastructure investments are expected to result in more efficient rail operations, no line abandonments, retirements of existing facilities, consolidation of administrative functions or reduction in employees are contemplated.

As reflected in the Operating Plan (Minor) (Exhibit 15), the Transaction is expected to result in approximately 6,500 carloads of additional industrial products traffic per year moving over the PAS Lines by the end of the year 2012, which will have associated incremental revenues of approximately \$6.6 million. In addition, the Transaction is expected to result in approximately 14,700 trailers or containers (or about 6,400 carloads based on a 2.3 units per carload ratio) of additional intermodal traffic per year at Ayer, MA by the end of 2012, which will have associated incremental revenues of approximately \$ 1.4 million. Combined, additional traffic and revenue totals are expected to be 12,900 carloads and \$8.0 million per year by 2013.

Section 1180.6(a)(2)(iii)

The effect of the increase, if any, of total fixed charges resulting from the proposed transaction.

Norfolk Southern will fund its contribution to PAS from internally generated funds and available credit facilities,²⁵ and does not expect any increase in fixed charges resulting from the Transaction.

Section 1180.6(a)(2)(iv)

The effect of the proposed transaction upon the adequacy of transportation service to the public, as measured by the continuation of essential transportation services by applicants and other carriers.

²⁵ The Transaction Agreement contemplates that the Applicants may apply for public funding for certain infrastructure improvements, but the Transaction is not contingent upon the receipt thereof.

For the reasons discussed above, the Transaction will enhance the transportation services to rail customers now served by the PAS Lines as a result of the planned infrastructure improvements and other aspects of the Transaction. The Transaction will not entail any abandonments or elimination of any facilities and thus will result in no reduction in any transportation services by Applicants and other carriers.

Section 1180.6(a)(2)(v)

The effect of the proposed transaction upon applicant carriers' employees (by class or craft), the geographic points where the impact will occur, the time frame of the impact (for at least 3 years after consolidation) and whether any employee protection agreements have been reached.

Applicants expect that the Transaction will result in no adverse effect on any of the Applicants' employees. Employees of Springfield Terminal are currently providing all of the rail services over the PAS Lines. The Transaction Agreement and the Railroad Operating Agreement provide that following consummation of the Transaction, Springfield Terminal will become the contract operator of the PAS Lines, and Springfield Terminal will be required to "act in accordance with its then-current collective bargaining agreements as if the Assets were an integral part of the Springfield Terminal railroad network." Exhibit E, Section 9(f)(ii)(A).²⁶ In short, the same employees will be performing the same work under the same agreements for the foreseeable future.

In any event, Applicants expect that, as required by 49 U.S.C. §11326(a), the Board will impose the labor protective conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern District Terminal*, 360 I.C.C. 60, *aff'd sub nom.*, *New York*

²⁶ Also, as noted earlier, the Capital Facilities and Management Agreement provides that Springfield Terminal will perform work on any capital contract that its labor agreements would require Springfield Terminal employees to perform under pre-Transaction circumstances unless Springfield Terminal obtains a waiver of any such requirement.

Dock Ry. v. United States, 609 F.2d 83 (2d Cir. 1979) on the elements of the Transaction subject to 49 U.S.C. §11323.

Section 1180.6(a)(2)(vi)

The effect of inclusion (or lack of inclusion) in the proposed transaction of other railroads in the territory under 49 U.S.C. § 11324.

For the reasons discussed above, the Transaction will have no adverse effect on any other railroad. Inclusion of other railroads in the Transaction is therefore not appropriate.

Section 1180.6(a)(3)

Any other supporting or descriptive statements applicants deem material.

The verified statement of John H. Williams, Woodside Consulting Group, is included in this Application.

Section 1180.6(a)(4)

An opinion of Applicants' counsel that the transaction meets the requirements of the law and will be legally authorized and valid, if approved by the Board. This should include specific references to any pertinent provisions of applicants' bylaws' or charter or articles of incorporation.

Opinions of Applicants' counsel are appended to the end of this Application

Section 1180.6(a)(5)

A list of the State(s) in which any part of the property of each applicant carrier is situated.

Norfolk Southern and its operating subsidiaries operate and own property in the States of Alabama, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North

Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia. Norfolk Southern also operates in the District of Columbia.

The Pan Am parties, Pan Am, B&M and Springfield Terminal own or lease property in the States of Maine, New Hampshire, Massachusetts, New York, Vermont and Connecticut.

Section 1180.6(a)(6)

Map (exhibit 1). Submit a general or key map indicating clearly, in separate colors or otherwise, the line(s) of applicant carriers in their true relation to each other, short line connections, other rail lines in the territory, and the principal geographic points in the region traversed. If a geographically limited transaction is proposed, a map detailing the transaction should also be included. In addition to the map accompanying each application, 20 unbound copies of the map should be filed with the Board.

A map of the Norfolk Southern system is attached as Exhibit 1A. A map of the existing Springfield Terminal system is attached as Exhibit 1B. A map of the proposed PAS system is attached as Exhibit 1C.

Section 1180.6(a)(7)

Explanation of the transaction.

Section 1180.6(a)(7)(i)

Describe the nature of the transaction (e.g., merger, control, purchase, trackage rights), the significant terms and conditions, and the consideration to be paid (monetary or otherwise).

This Application and related notices of exemption seek approval or exemption for the following transactions (collectively, the "Transaction"):

1. **Acquisition and Operation of Rail Lines By PAS.** As described in the Transaction Agreement and the PAS LLC Agreement, PAS, which will be created as a non-carrier, will acquire from B&M rail lines and the assignment of trackage rights over

lines of MBTA, NECR, CP, Amtrak and Metro North Commuter Railroad Company ("MNCR") in New York, Massachusetts, Vermont, Connecticut and New Hampshire and will operate such lines and trackage rights as a common carrier railroad. Authority for such acquisition and operation is being sought in the related Notice of Exemption (F.D. 35147, Sub-No. 1), filed pursuant to 49 U.S.C. § 10502 and 49 C.F.R. §§ 1150.31 and 1150.35.

2. Joint Ownership, Control and Use of PAS. Pursuant to the Transaction Agreement and the PAS LLC Agreement, Norfolk Southern and B&M will acquire joint ownership and control of PAS. In addition, the Norfolk Southern Joint Use Agreement and the Springfield Terminal Joint Use Agreement will give Norfolk Southern and Springfield Terminal joint use of certain of the PAS Lines. For such joint ownership, control and use, this Application seeks approval pursuant to 49 U.S.C. § 11323(a)(6). *See* STB F.D. 33362, *Paducah & Louisville Ry—Control Exemption—Paducah & Illinois R. Co.* (served August 25, 1997); ICC F.D. 30387, *Canadian National and Canadian Pacific Limited—Acquisition—Interests of Consolidated Rail Corporation in Canada Southern Railway et al.* (served August 29, 1984).²⁷ Norfolk Southern will contribute \$137.5 million in cash and the Option to PAS and B&M will contribute a 73.684% undivided interest in the PAS Lines, certain trackage rights and other related assets to

²⁷ As noted earlier, the Transaction may also require approval under 49 U.S.C. § 11323(a)(3), inasmuch as both Norfolk Southern and B&M will acquire many of the indicia of control over PAS recently noted in F.D. 35063, *Michigan Central Railway LLC—Acquisition and Operation Exemption—Lines of Norfolk Southern Railway Company* (served December 10, 2007), even though Norfolk Southern and B&M will have equal shares in the ownership, management and profits of PAS. *Cf. CSX Corp. et al.—Control—Conrail Inc., et al.*, 3 S.T.B. 196, 233 n. 48 (1998), *aff'd sub nom. Erie-Niagara Rail Steering Committee v. STB*, 247 F.3d 437 (2d Cir. 2001) ("Conrail") (holding that acquisition by NS Corp. and CSX Corp. of equal control of Conrail required approval under 49 U.S.C. § 11323(a)(5)).

PAS and pursuant to the Option will sell the other 26.318% undivided interest in the PAS Lines, certain trackage rights and other related assets to PAS for \$52.5 million less a \$5 million credit.

PAS's use of the trackage rights now held by Springfield Terminal and to be assigned by it to PAS is essential to the Transaction and the realization of its benefits. While Applicants expect to obtain consents to all such assignments from the owners of the lines in question, Applicants request that the Board's order approving the Application to include a declaratory order pursuant to 49 U.S.C. § 11321(a) that PAS and any contract operator of PAS Lines will have authority to conduct operations over the trackage rights lines as fully and to the same extent as Springfield Terminal could, notwithstanding any clauses in any such trackage rights agreement limiting or prohibiting Springfield Terminal's unilateral assignment of its operating rights to another person. *See, e.g., Conrail*, 3 S.T.B. at 386, Ordering Paragraph 8;

3. Springfield Terminal's Contract to Operate PAS. Pursuant to the Railroad Operating Agreement, PAS will engage Springfield Terminal to operate the PAS Lines, for which this Application seeks approval under 49 U.S.C. § 11323(a)(2). For such services, Springfield Terminal will receive a fee equal to its costs plus a specified percentage of the profits of PAS.

4. Springfield Terminal's Establishment of PAS Rates and Distribution of Revenues. The Divisions Agreement will give Springfield Terminal authority to establish rates and transportation contracts and ancillary charges for PAS, including rates and contracts for through movements interlined with other carriers, including Norfolk Southern and Springfield Terminal. To the extent such activities constitute pooling of

traffic, revenues and services among carriers within the meaning of 49 U.S.C. § 11322(a), this Application seeks approval under that section. *Cf. Conrail*, 3 S.T.B. at 236 and n. 53.

5. Acquisition of Trackage Rights by Norfolk Southern and Springfield Terminal. The Norfolk Southern Joint Use Agreement and the Springfield Terminal Joint Use Agreement will give Norfolk Southern and Springfield Terminal trackage rights over certain of the PAS Lines. Norfolk Southern and Springfield Terminal are filing notices of exemption pursuant to 49 U.S.C. § 10502 and 49 C.F.R. §§ 1150.31 and 1150.35 to permit their acquisition of such trackage rights.

Section 1180.6(a)(7)(ii)

Agreement (exhibit 2). Submit a copy of any contract or other written instrument entered into, or proposed to be entered into, pertaining to the proposed transaction. In addition, parties to exempt trackage rights agreements described at § 1180.2(d)(7) must submit one copy of the executed agreement or renewal agreement with the notice of exemption, or within 10 days of the date that the agreement is executed, whichever is later.

Copies of the Transaction Agreement, the PAS LLC Agreement, the Railroad Operating Agreement, the Capital Projects and Facility Management Agreement, the Divisions Agreement, the Norfolk Southern Joint Use Agreement and the Springfield Terminal Joint Use Agreement are contained in Volume II of the Application.

Section 1180.6(a)(7)(iii)

If a consolidation or merger is proposed, indicate (A) The name of the company resulting from the consolidation or merger; (B) the State or territory under which the consolidated company is to be formed or the merged company is to file its certificate of amendment; (C) the capitalization proposed for the resulting company; and (D) the amount and character of capital stock and other security to be issued.

The proposed transaction is for the establishment of a new railroad to be jointly owned and controlled by Norfolk Southern and B&M. The name of the new company will be Pan Am Southern LLC ("PAS"), which will be a limited liability company organized under the laws of Delaware, where its certificate of formation will be filed. PAS will be capitalized initially with a cash contribution by Norfolk Southern of \$137.5 million and the contribution of railroad lines and other properties by B&M. One hundred percent of the membership interests in PAS will be issued in equal amounts to Norfolk Southern and B&M

Section 1180.6(a)(7)(iv)

Court order (exhibit 3). If a trustee, receiver, assignee, or personal representative of the real party in interest is an applicant, submit a certified copy of the order, if any, of the court having jurisdiction, authorizing the contemplated action.

Not applicable.

Section 1180.6(a)(7)(v)

State whether the property involved in the proposed transaction includes all of the property of the applicant carriers and, if not, describe what property is included in the proposed transaction.

The property involved in the proposed transaction does not involve all of the property of Norfolk Southern or any of the Pan Am parties; it will include all of the property of PAS. The property involved is the rail lines and trackage rights shown in the map in Exhibit 1C and associated properties as well as the cash to be contributed by Norfolk Southern.

Section 1180.6(a)(7)(vi)

Briefly describe the principal routes and termini of the lines involved, the principal points of interchange on the routes, and the amount of main-line mileage and branch line mileage involved.

The rail lines to be acquired from B&M by PAS consist of rail lines in Connecticut, Massachusetts, New Hampshire, New York and Vermont, totaling approximately 437 route miles. The rail lines involved consist of approximately 238 miles of owned rail lines, including 140 route miles on the freight main line (the Patriot Corridor) between Mechanicville, NY and CPF-312, near Ayer, MA; 12 route miles on the Rotterdam Branch between Rotterdam Junction, NY and Mechanicville, NY; 50 route miles on the Connecticut River Mainline between East Northfield, MA and Springfield, CT; 24 miles on the Waterbury Branch between Berlin, CT and Waterbury, CT; and 13 miles on other branch or industrial lines. In addition, PAS will have trackage rights over approximately 198 miles, including 23 miles over the MBTA, between Fitchburg, MA and Littleton, MA; 62 miles over Amtrak between Springfield, MA and New Haven, CT; 73 miles over NECR between East Northfield, MA and White River Jct., VT; 18 miles over CP between Mechanicville, NY and Mohawk Yard, NY, 19 miles over Metro North Commuter Railroad ("MNCR") between Waterbury, CT and Derby Jct., CT; and 4 miles over CSXT between North Haven, CT and Cedar Hill Yard, CT.

The points of interchange between PAS and other railroads will be: (1) with CSXT at Rotterdam Junction, NY, Springfield, MA and Cedar Hill, CT; (2) with CP at Mohawk Yard, Schenectady, NY or Mechanicville, NY; (3) with Norfolk Southern at Mechanicville, NY; (4) with VTR at Hoosick Junction, NY ; (5) with NECR at Brattleboro, VT, White River Jct., West River, VT, Windsor, VT and, potentially, Millers

Falls, MA; (6) with P&W at Gardner, MA : (7) with Claremont Concord Railroad Corp. at White River Junction, VT and Claremont Junction, VT; (8) with Green Mountain Railroad Corp. at Bellows Falls, VT; (9) with Pioneer Valley Railroad Co. at Holyoke, MA, (10) with Naugatuck Railroad Co. at Waterbury, CT, and (11) with Washington County Railroad Corp. at White River Junction, VT.

Section 1180.6(a)(7)(vii)

State whether any governmental financial assistance is involved in the proposed transaction and, if so, the form, amount, source, and application of such financial assistance.

No governmental financial assistance will be involved in the proposed transaction.²⁸

Section 1180.6(a)(8)

Environmental data (exhibit 4). Submit information and data with respect to environmental matters prepared in accordance with 49 CFR part 1105. In major and significant transaction, applicants shall, as soon as possible, and no later than the filing of a notice of intent, consult with the Board's Section of Environmental Analysis for the proper format of the environmental report.

Applicants' representatives met with the Board's Section of Environmental Analysis ("SEA") on April 22, 2008, to explain why, in Applicants view, the Transaction would not have significant environmental impacts. At SEA's request and to assist the Board in determining whether a formal environmental review should be conducted, Applicants are preparing an Environmental Appendix, which Applicants will make available for public review and comments to ensure that the affected public, including governmental agencies and communities, will have an opportunity to raise any environmental concerns.

Section 1180.6(b) and (c)

These regulations call for certain information in connections with major and significant transactions and are not applicable to this minor transaction.

Section 1180.7 - Market analyses

As noted in response to Section 1180.6(a)(2)(i), although Applicants believe the Board should deem this a “minor” transaction for which the Board’s rules do not require a market analysis, they have nevertheless engaged John Williams of Woodside Consulting Group to undertake such an analysis. Mr. Williams’ findings that the transaction will provide substantial public benefits without any adverse effects on competition are discussed in that response.

Section 1180.8(a)(1)

A Safety Integration Plan, prepared in consultation with the Federal Railroad Administration, to ensure that safe operations would be maintained throughout the merger implantation process.

Because this is a minor transaction under 49 C.F.R. § 1180.2(c), preparation of a Safety Integration Plan (“SIP”) is not required by 49 C.F.R. § 1180 8(a)(1). Furthermore, the Transaction does not propose the amalgamation of operations of two railroads, inasmuch as Springfield Terminal will be the operator of the PAS system. Accordingly, preparation of a SIP is not required by 49 C F.R. Part 1106.

Section 1180.8(c) – Operational Data

For *minor* transactions: Operating Plan-minor (exhibit 15). Discuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after consummation of the transaction. Where relevant, submit information related to the following:
(1) Traffic level intensity on lines proposed for joint operations.

²⁸ Applicants are seeking governmental financial assistance for certain aspects of the transaction, but no element of the Transaction is dependent on the receipt of that assistance.

- (2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated or operated on a consolidated basis.**
- (3) Operating economies, which include, but are not limited to, estimated savings.**
- (4) Any anticipated abandonments or discontinuances.**

The Operating Plan-Minor for PAS is set forth in Exhibit 15. As shown there, no significant changes in patterns or types of service are expected after the Transaction.

While there are expected to be some changes in traffic density on some PAS Lines, no adverse effects on commuter or other passenger service are anticipated. No lines will be downgraded, eliminated or operated on a consolidated basis. No abandonments or discontinuances are contemplated.

Section 1180.9 – Financial information

Not applicable to minor transactions.

Section 1180.10 – Service assurance plans

Not applicable to minor transactions.

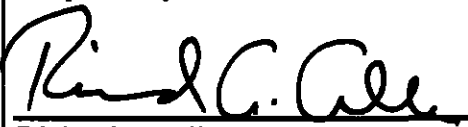
Section 1180.11 – Transnational and other informational requirements.

The Transaction does not involve any lines outside the United States. Pan Am operates only 5.1 miles in New Brunswick, Canada. The Transaction will have no effect on those operations and those operations will not have any impact on the operation of the PAS Lines.

PRAYER FOR RELIEF

For the foregoing reasons, Applicants request the Board to approve the elements of the Transaction subject to this Application pursuant to 49 U.S.C. §§ 11322 and 11323, to permit the related notices of exemption filed under 49 C.F.R. Parts 1150 and 1180 to go into effect, and to declare pursuant to 49 U.S.C. § 11321 that PAS will have authority

to conduct operations pursuant to the trackage rights assigned to PAS by Springfield Terminal as fully and to the same extent as Springfield Terminal could, notwithstanding any clauses in any such trackage rights agreement limiting or prohibiting Springfield Terminal's unilateral assignment of its operating rights to another person.

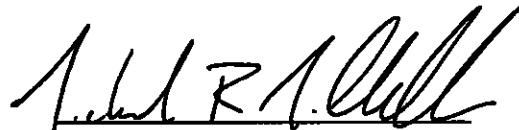
 Robert B. Culliford Senior Vice President and General Counsel Pan Am Railways, Inc. 14 Aviation Avenue Portsmouth, NH 03801 (603) 766-2002	Respectfully submitted,  Richard A. Allen Christina M. Wenzel David M. Endersbee ZUCKERT, SCOUTT & RASENBERGER, LLP 888 Seventeenth Street, NW Suite 700 Washington, D.C. 20006 (202) 298-8660
<i>Attorney for Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company</i>	James A. Hixon William A. Galanko John V. Edwards David L. Coleman Helen M. Hart NORFOLK SOUTHERN CORPORATION Three Commercial Place Norfolk, Virginia 23510-2191 (757) 629-2838 <i>Attorneys for Norfolk Southern Railway Company</i>

May 30, 2008

VERIFICATION AND SIGNATURE
49 C.F.R. 1180.4(c)(2)(i)

I, Michael R. McClellan, declare under penalty of perjury that I am a Vice President of Norfolk Southern Railway Company, that I am an officer duly designated to execute, verify and file this Application, that I have knowledge of the matters contained herein as they pertain to Norfolk Southern Railway Company and the statements herein are true and correct to the best of my knowledge, information and belief.

Executed on May 23, 2008.


Michael R. McClellan

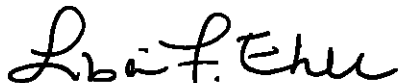
CERTIFICATION
49 C.F.R. 1180.4(c)(2)(i)

I, Howard D. McFadden, being duly sworn, state that I am Corporate Secretary of Norfolk Southern Railway Company, and I certify that Michael R. McClellan is authorized by Norfolk Southern Railway Company to sign, verify, and file the foregoing Application.

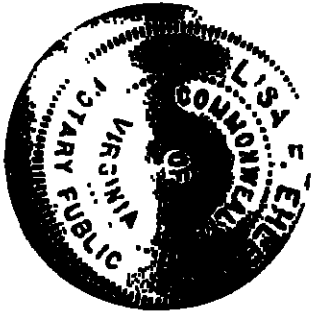

Howard D. McFadden

Subscribed and sworn to before me
this 28th day of May 2008.

City of Norfolk, State of Virginia

 #304163
Notary Public

My Commission Expires: June 30, 2009



VERIFICATION AND SIGNATURE
49 C.F.R. 1180.4(c)(2)(i)

I, David Andrew Fink, being duly sworn, state that I am President and Chief Executive Officer of Pan Am Railways, Inc., and Chief Executive Officer of Boston and Maine Corporation and Springfield Terminal Railway Company. I am an officer of the foregoing corporations duly designated to execute, verify and file this Application. I have knowledge of the matters contained herein as they pertain to Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company, and the statements herein are true and correct to the best of my knowledge, information and belief.


David Andrew Fink

Subscribed and sworn to before me
this 27th day of May 2008


Notary Public

My Commission Expires 4/4/12

WINIFRED TELLES
Notary Public - New Hampshire
My Commission Expires April 4, 2012

CERTIFICATION
49 C.F.R. 1180.4(c)(2)(i)

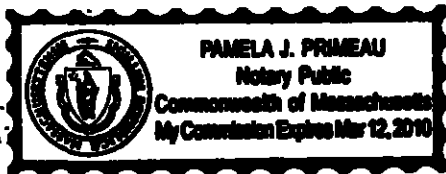
I, Robert B. Culliford, being duly sworn, state that I am Senior Vice President, General Counsel and Corporate Secretary of Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company, and I certify that David Andrew Fink is authorized by Pan Am Railways, Inc., Boston and Maine Corporation and Springfield Terminal Railway Company to sign, verify, and file the foregoing Application.


Robert B. Culliford

Subscribed and sworn to before me
this 27 day of May 2008.


Notary Public

My Commission Expires: _____



APPENDIX A
OPINIONS OF COUNSEL



Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-9241

William A. Galanko
Vice President-Law

Writer's Direct Dial Number
(757) 629-2374
(757) 823-5814 (FAX)
E-mail: william.galanko@nscorp.com

May 27, 2008

Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Finance Docket No. 35147
Norfolk Southern Railway Company, Pan Am Railways, et al. — Joint
Control and Operating/ Pooling Agreements—Pan Am Southern LLC

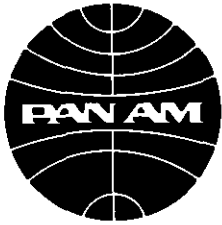
Dear Sirs:

As counsel for Norfolk Southern Railway Company ("Norfolk Southern"), I am familiar with the Application filed by Norfolk Southern, Pan Am Railways, Inc. ("PARI"), Boston and Maine Corporation ("B&M") and Springfield Terminal Railway Company ("Springfield Terminal") (collectively, "Applicants") pursuant to 49 U.S.C. §§ 11322 and 11323 *et seq.* for approval of the acquisition by Norfolk Southern and B&M of joint control and ownership of Pan Am Southern ("PAS"), an entity to be formed, and its railroad lines and operating and pooling agreements by which Springfield Terminal will operate the lines of PAS and establish rates for PAS. I am of the opinion that the transactions described in said Application meet the requirements of the law and will be legally authorized and valid if approved by the Board.

Sincerely,


William A. Galanko

Enclosure



PAN AM RAILWAYS

IRON HORSE PARK
NO. BILLERICA, MA 01862

May 27, 2008

Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Finance Docket No. 35147
Norfolk Southern Railway Company, Pan Am Railways, *et al.* —
Joint Control and Operating/ Pooling Agreements—Pan Am Southern LLC

Dear Sirs:

As counsel for Pan Am Railways, Inc. ("PARI"), Boston and Maine Corporation ("B&M") and Springfield Terminal Railway Company ("Springfield Terminal"), I am familiar with the Application filed by PARI, B&M, Springfield Terminal and Norfolk Southern Railway Company ("Norfolk Southern") (collectively, "Applicants") pursuant to 49 U.S.C. §§ 11322 and 11323 *et seq.* for approval of the acquisition by Norfolk Southern and B&M of joint control and ownership of Pan Am Southern ("PAS"), an entity to be formed, and its railroad lines and operating and pooling agreements by which Springfield Terminal will operate the lines of PAS and establish rates for PAS. I am of the opinion that the transactions described in said Application meet the requirements and will be legally authorized and valid if approved by the Board:

Sincerely,

Robert B. Culliford
Senior Vice President and General Counsel

APPENDIX B

VERIFIED STATEMENT OF JOHN IL. WILLIAMS

VERIFIED STATEMENT OF JOHN H. WILLIAMS

My name is John H. Williams. I am President of The Woodside Consulting Group, Inc., a firm that specializes in railroad transportation consulting. My business address is 385 Sherman Ave., Suite 1, Palo Alto, California 94306. I am also President of the Northwestern Pacific Railroad Company, a start-up short line railroad in Northern California. My qualifications and experience, encompassing almost forty-five years in the railroad industry and consulting, are described in Attachment A. Following is a brief summary of my experience that is of particular relevance to this proceeding.

In 1985, I began presenting testimony before the ICC (and later, before this Board) with regard to the market impacts of railroad consolidations. In 1985, I presented testimony representing both the California Public Utilities Commission and the California Department of Transportation in the Santa Fe/Southern Pacific merger proceeding. In May 1988, representing the Kansas City Southern, I presented similar testimony in support of that carrier's application to acquire control of the Southern Pacific Transportation Company. In June 1997, representing Norfolk Southern Railway Company ("Norfolk Southern"), I presented testimony as to the impacts on rail traffic from the operation by Norfolk Southern of the portion of Conrail that Norfolk Southern sought to acquire. In October 1998, also representing Norfolk Southern, I presented market impact testimony as to the effects on Norfolk Southern of the proposed consolidation of Canadian National Railway Company ("CN") and the Illinois Central

Railroad. Further, I have prepared economic and marketing analyses as an employee of Conrail and of Southern Pacific, as well as in the capacity of a consultant.

The purpose of this Verified Statement is to assess the competitive effects of the proposed joint control and ownership of the Pan Am Southern LLC ("PAS") and its railroad lines and of the related operating and other ancillary agreements (the "Ancillary Agreements") by the Norfolk Southern and by Pan Am Railways, Inc.. (I refer to Pan Am Railways, Inc. and its wholly owned railroad subsidiaries, Springfield Terminal Company ("Springfield Terminal") and Boston and Maine Corporation ("B&M"), (collectively as "Pan Am.") My testimony will consider the impact of the proposed transaction on rail customers, as well as the effects of the transaction on short line carriers whose lines connect with those of Pan Am at present and whose lines will connect with Norfolk Southern and/or PAS post-transaction.

I. Summary of Conclusions

My overall conclusion is that Norfolk Southern's and Pan Am's joint control and ownership of PAS and the Ancillary Agreements are pro-competitive. The transaction will create new and enhanced single-system rail options for Norfolk Southern automotive and intermodal traffic, and will provide Norfolk Southern rail customers with improved access to the New England markets for their products. Norfolk Southern's plan to invest \$87.5 million in PAS for the purpose of making capital improvements (in new intermodal and automotive facilities and on PAS' existing lines and yards) will enhance the safety

and efficiency of their combined operations and will strengthen the competitive capability of Norfolk Southern, PAS, and Pan Am.

I have also concluded that the proposed transaction will have no adverse effects on rail competition. Specifically, my analysis of the impact of the proposed transaction on rail competition led to the following findings:

- This Proposal is an end-to-end transaction that will eliminate no competing routes, stations, or services;
- No rail customer will be left with either reduced or no competitive rail service options as a result of the proposed transaction; and
- The proposed transaction will not have any material adverse effects on connecting short lines.

For all of these reasons, I believe that the proposed transaction will not diminish rail competition and that it should be approved by the Board.

II. The Proposed Transaction Will Enhance Rail Competition

The proposed transaction is a classic end-to-end rail consolidation, as a glance at the map will show. As one of the two principal eastern Class I rail carriers, Norfolk Southern's position in the North American rail system is that of a carrier extending generally between the Mississippi River and the Atlantic Ocean, and between the Great Lakes and the Gulf of Mexico. Norfolk Southern's system serves the major rail gateways of Kansas City, Chicago, Memphis, and New Orleans, but it must connect with Pan Am in order to provide rail service to and from the New England Region. In contrast, Pan

Am is a Class II regional carrier that is limited geographically to serving only the New England Region. Norfolk Southern and Pan Am connect end-to-end at either Mohawk Yard or Mechanicville, NY.¹

The joint control and ownership of PAS by Norfolk Southern and Pan Am will improve service and enhance rail competition. The proposed Norfolk Southern Joint Use Agreement will expand Norfolk Southern's current haulage rights to: (1) add a service guarantee, (2) grant trackage rights exercisable on "Major Service Failure" (as defined in that agreement), (3) add haulage for finished automotive traffic, (4) allow Norfolk Southern to extend haulage to Canadian Pacific Railway ("CPR") for intermodal and automotive traffic, and (5) allow Norfolk Southern to reach by haulage the Providence and Worcester Railroad Co. ("PW") at Gardner, MA, Vermont Railway, Inc. ("VIR") at Hoosick Junction, NY, and New England Central Railroad, Inc. ("NECR") at Brattleboro, VT (and, following rehabilitation of a previously utilized connection, at Millers Falls, MA). As a result, the transaction will provide rail automotive and intermodal service customers with extended single-system routing. The transaction will provide customers with enhanced service options linking PAS' regional network and these three short lines (VIR, NECR, and PW) with points served by Norfolk Southern in the eastern and southern United States. This will afford rail customers served by Norfolk Southern, PAS, VIR, NECR, and PW more efficient access to end markets for their

¹ Norfolk Southern has rights to interchange traffic with Pan Am at Mechanicville, NY, as well as at Mohawk Yard, but all traffic is now interchanged at Mohawk Yard. Following the transaction, Norfolk Southern will use these rights to interchange traffic with PAS at Mechanicville

products. The implementation of service guarantees coupled with the elimination of interchanges and reductions in car handling and transit times made possible by the transaction for automotive and intermodal rail customers will improve the quality of rail service available to shippers as well.

PAS and its customers will also benefit from the financial investments and financial strength of Norfolk Southern. Of particular importance, Norfolk Southern's plan to make, through the joint venture structure, substantial capital investments in PAS' track and facilities will improve the fluidity of traffic movements on PAS' lines and the safety of that carrier's operations. These measures can only serve to enhance the combined competitive performance post-transaction that will be provided by Norfolk Southern and PAS, as well as by Pan Am.

Applicants' ability to provide new and improved single system service, and the greater financial strength brought to PAS under Norfolk Southern's and Pan Am's joint ownership, will enhance head-to-head rail competition within the New England Region with other Class I railroads, particularly CSX Transportation, Inc. ("CSXT"). The competitive benefits of the proposed transaction will be most evident on those routes where reliable single system rail service is not available today for automotive and intermodal traffic, but where Applicants can introduce new single system service, with the resulting public benefits.

III. The Proposed Transaction Will Have No Adverse Effects on Rail Competition

The proposed joint control and ownership of PAS by Norfolk Southern and Pan Am will not have any adverse effects on rail competition, for several reasons. First, as described above, the proposed transaction is entirely “end-to-end” – there is no overlap in Applicants’ current rail systems. Second, the proposed transaction will not leave shippers at any rail station that currently has access to competitive rail service with either fewer or no competitive rail options. Finally, the proposed transaction will not have a significant adverse impact on connecting short line carriers.

A. Methodology

In conducting my analysis of the competitive effects of the proposed transaction, I relied upon a number of sources in addition to my knowledge, experience and judgment. The principal publicly available source of information that I used in conducting the analysis was the *Official Railway Station List* (formerly known as the *Open and Prepay Station List*) issued January 1, 2008 (including Supplements) (referred to hereafter as the “OPSL”). Throughout my assessment, I treated each six-digit Standard Point Location Code (SPLC) in the OPSL as a separate station. The information obtained from the OPSL was augmented by the specific geographic and agreement knowledge of Norfolk Southern and Pan Am personnel.

In determining whether a proposed consolidation would reduce effective rail competition, the Board in prior proceedings has considered whether, following the transaction, rail customers that previously had access to at least two competitive rail

options would be left with only a single rail competitor. Accordingly, I identified for study all stations at which Norfolk Southern and Pan Am are listed in the *OPSL* and are known by Norfolk Southern and Pan Am personnel to be the only serving rail carriers (potential “two-to-one stations”). I also considered all stations that are presently listed in the *OPSL* and are known by Norfolk Southern and Pan Am personnel to be served by Norfolk Southern, Pan Am, and one other railroad (potential “three-to-two stations”).

In evaluating the competitive effect of a proposed consolidation at a particular station, the significant question is not how many railroads serve that station before and after the transaction, but rather whether (and how) rail customers located at that station will be affected. If there are no shipper facilities at a station (for example, if it is merely a point at which two railroads interchange traffic), then the combination of those two railroads would not reduce competitive options for any rail customer. Likewise, absent transload or build-out possibilities, if two rail customers are located at the same station but each is served exclusively by a different railroad, then the combination of those railroads would not harm either shipper, as each would have access to the same number of serving railroads after as it does before the combination

B. There is Minimal Overlap in Applicants’ Service Territories

Attachment B lists the U.S. states and Canadian provinces served by Norfolk Southern and/or Pan Am, either directly or through haulage rights provided by other carriers. Norfolk Southern serves a total of twenty-seven U.S. states and Canadian provinces that are not served by Pan Am. Conversely, Pan Am serves four states and

provinces (Connecticut, New Brunswick, New Hampshire, and Vermont) that are not also served by Norfolk Southern. There are only three U.S. states in which both Norfolk Southern and Pan Am provide rail service: Maine, Massachusetts, and New York.

Within the three states in which Norfolk Southern and Pan Am both provide service, there are only three stations that are commonly served by Norfolk Southern and Pan Am. Those stations are listed in Attachment C. It is important to note that Norfolk Southern does not serve any of these stations directly, but rather accesses all three stations under haulage or trackage rights agreements with either Pan Am or CPR. In most cases, those arrangements are limited to specific commodities. For example, Norfolk Southern has no physical facilities and conducts no operations at Mechanicville, NY, as its access to that station is through an agreement with CPR's wholly-owned subsidiary, Delaware and Hudson Railway ("D&H"), that provides both haulage and trackage rights. Similarly, Norfolk Southern access to the remaining two stations, Waterville, ME and Ayer, MA, is limited to intermodal traffic – except at Ayer, MA, which theoretically includes access to finished automobile traffic as well² – and all of such Norfolk Southern access is now and will continue post-transaction to be provided by a haulage agreement with PAS and/or Pan Am. Thus, the overlap between Norfolk Southern and Pan Am is minimal, and there are only a handful of rail stations at which the proposed transaction could even theoretically lessen rail competition.

² The existing Ayer Automotive facility has been leased by Pan Am to CSXT through 2017. CSXT has to date chosen to leave this facility empty rather than conduct operations pursuant to its lease.

C. The Proposed Transaction Will Leave No Rail Customer With Either Reduced or No Competitive Rail Service Options

As demonstrated below, the transaction will not have adverse competitive effects at any of the three locations listed in Attachment C.

Mechanicville, NY. Mechanicville is the point at which the rail lines owned by Pan Am physically connect with those of D&H, which provides a direct connection between Pan Am and Norfolk Southern. The proposed transaction would not alter the interchange arrangements at Mechanicville, except that Norfolk Southern and D&H would connect with PAS instead of Pan Am. The proposed transaction also provides for a new intermodal and automotive facility at Mechanicville, NY to which both Norfolk Southern and PAS will have access. Moreover, subject to negotiations, Norfolk Southern may allow D&H access to the Mechanicville intermodal terminal as well. The proposed transaction will not result in any diminution of rail competition at Mechanicville.

Ayer, MA. Ayer is currently served by Norfolk Southern and Pan Am, as shown in Attachment C. Ayer is the site of an existing intermodal facility, which is scheduled for improvements as a part of the proposed transaction.³ The Ayer intermodal yard is principally used for in-bound intermodal service via Norfolk Southern. The proposed transaction would ensure access to Ayer for Pan Am, and would not alter the existing rights of Norfolk Southern to access Ayer, although Norfolk Southern has reserved the

³ Also located at Ayer is an automotive facility that is currently under lease to CSXT. As described herein, a new, temporary automotive facility will be constructed at a location commonly referred to as "San Vel," which is across the street from the existing automotive facility. Once the CSXT lease of the Ayer automotive facility has expired in 2017, automotive deliveries will likely be made to the Ayer automotive facility rather than the San Vel facility.

right, subject to negotiation, to extend CPR's access to Ayer for intermodal traffic, and into San Vel (and later Ayer) for finished automotive traffic. Accordingly, the proposed transaction would not result in any diminution of rail competition at Ayer.

Waterville, ME. Waterville is currently served by the railroad lines of Pan Am, and for Norfolk Southern intermodal service, by a haulage arrangement with Pan Am. Waterville is also outside the geographic limits of PAS, so that none of the existing competitive rail service options will be affected as a result of the proposed transaction. Accordingly, the proposed transaction would not result in any diminution of rail competition at Waterville.

D. The Proposed Transaction Will Not Have Adverse Competitive Impacts on Short Line Railroads in Pan Am Southern's Service Territory

As a part of my analysis of the competitive effects of the proposed transaction, I evaluated the potential effects on each of the eight short line carriers whose lines will connect with those of PAS. Those short line railroads, the points at which they will connect with PAS, and the other railroads with which they will connect, are listed in Attachment D.¹ My assessment considered the ability of these short-line railroads to interchange traffic with carriers other than Norfolk Southern or PAS, both pre-transaction and post-transaction. For the reasons discussed in this section, it is my conclusion that

¹ Appendix D lists the points where the lines of Pan Am connect and the lines of PAS will connect with the lines of various short line railroads. These are not in all cases where the connecting railroads have chosen or will choose in the future to interchange traffic between them.

none of PAS' short line railroad connections will be adversely affected and that rail competition involving those short line carriers will not be diminished by the proposed transaction.

It is notable that none of the eight short line carriers that presently connect with Pan Am and will connect in the future with PAS will be left without non-Applicant competitive routing options because of the proposed transaction. As Attachment D shows, all eight of those short line carriers have the ability to connect with at least one railroad other than the Applicants. Accordingly, no short line carrier will become "captive" to either PAS or Norfolk Southern as a result of the proposed transaction. My assessment of each short line railroad follows:

1. Claremont Concord Railroad Corp. (CCRR)

CCRR is a small short line railroad that connects with Pan Am, NECR and Washington County Railroad Corp. (WACR) at White River Junction. A separate segment of the CCRR between Claremont and Claremont Junction connects with Pan Am and NECR at Claremont Junction, NH. Because the proposed transaction will substitute PAS for Pan Am at both White River Junction and Claremont Junction and because CCRR's interchanges with NECR at the same junctions will be unchanged, I concluded that CCRR will not be adversely affected by the proposed transaction.

2. Green Mountain Railroad Corp. (GMRC)

GMRC is a 52-mile long railroad that operates between Rutland and Bellows Falls, VT, where it connects with Pan Am, and, after the transaction, will connect with PAS. GMRC has common executive management with the Clarendon and Pittsford

Railroad Company (CLP), the VTR, and WACR. GMRC connects with CLP and VTR as well as with CPR, CSXT, NECR, and WACR. Because the proposed transaction will substitute PAS for Pan Am at Pan Am's connection with GMRC at Bellows Falls, VT, and because all of the remaining GMRC interchanges will be unaffected, I concluded that GMRC will not be adversely affected by the proposed transaction.

3. Naugatuck Railroad Company (NAUG)

NAUG operates a small, 20-mile long short line between Waterbury and Torrington, CT. NAUG connects with Pan Am at Waterbury although there is no formal interchange agreement in place because of the minimal amount of traffic interchanged. Because the proposed transaction will substitute PAS for Pan Am at Waterbury, I concluded that NAUG will not be adversely affected by the proposed transaction.

4. New England Central Railroad, Inc. (NECR)

NECR operates 366 miles extending from its connection with CN near the Canadian border to New London, CT on Long Island Sound. NECR connects with Pan Am at West River, White River Jct., and Windsor, VT, and, after rehabilitation of a previously existing connection, will connect with Pan Am (and post-transaction with PAS) at Millers Falls, MA. NECR also connects with CN at East Alburgh, VT, CPR at Bellows Falls and Burlington, VT, and CSXT at Palmer, MA. Other NECR connecting railroads are CCRR, GMRC, Lamoille Valley Railroad Co. (LVRC), Massachusetts Central Railroad Co. (MCER), Montreal, Maine & Atlantic Railway Ltd. (MMA), PW, VTR, and WACR. The proposed transaction would add a direct Norfolk Southern connection at East Northfield, MA that would bring single system Norfolk Southern

service to that new connection with NECR. Because, except for the new Norfolk Southern direct connection, none of NECR's other connecting railroads or junctions would be changed by the proposed transaction, I concluded the NECR will not be adversely affected by the proposed transaction and that NECR will likely benefit from the new Norfolk Southern competitive option.

5. Pioneer Valley Railroad Company (PVRR)

A part of the Pinsky Railroad Company, PVRR operates a small short line that connects with Pan Am at Holyoke, MA, and will connect with PAS, post-transaction at the same location. PVRR also connects with CSXT at Westfield, MA, and that connection would be unaffected by the proposed transaction. I concluded that the substitution of PAS for Pan Am at the Holyoke interchange because of the proposed transaction would not adversely affect PVRR.

6. Providence and Worcester Railroad Co. (PW)

PW operates an extensive network of rail lines in southern New England, focused in Rhode Island and Connecticut. As a result of the proposed transaction, PW will interchange with PAS at Gardner, MA and a new direct interchange with Norfolk Southern would be established at Gardner, MA. In addition, PAS will grant trackage rights to Pan Am between CPF 312 and Harvard Station, MA, which will permit Pan Am to maintain its current interchanges with PW at Barbers, MA. PW currently interchanges with CPR, Connecticut Southern (CSO), CSXT, NECR, and New York & Atlantic (NYA), and these connections would be unaffected by the proposed transaction.

Therefore, I concluded that PW will not be adversely affected by the proposed transaction and that PW will likely benefit from the new Norfolk Southern competitive option.

7. Vermont Railway, Inc. (VTR)

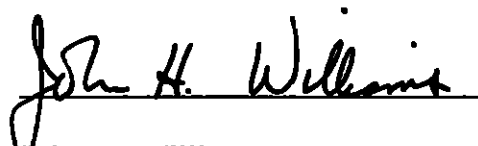
VTR operates a 125-mile long short line extending from Burlington to Bennington, VT. VTR is affiliated with the CLP and GMRC. VTR has connections with Pan Am. and will connect post-transaction with PAS. at Hoosick Junction, NY and Bellows Falls, VT. Currently, all of the traffic moving between Pan Am and VTR is interchanged at Hoosick Junction. Moreover, the proposed transaction will establish a direct connection between VTR and Norfolk Southern at Hoosick Junction, NY, thereby introducing Norfolk Southern's single system service to that point. VTR also connects with its affiliated carriers, CLP and GMRC, and with NECR, none of which will be affected by the proposed transaction. Therefore, I concluded that VTR will not be adversely affected by the proposed transaction and will likely benefit from the new Norfolk Southern competition option.

8. Washington County Railroad Corp. (WACR)

WACR is a small short line railroad that connects with Pan Am, but will connect with PAS, post-transaction, at White River Jct., VT. WACR also has connections with CPR, CCRR, GMRC, MCER, MMA, NECR, none of which will be changed by the proposed transaction. Therefore, I concluded that WACR will not be adversely affected by the proposed transaction.

VERIFICATION

I, John H. Williams, verify under penalty of perjury that the foregoing statement is true and correct. Further, I certify that I am qualified and authorized to file this statement.


John H. Williams

Executed on May 29, 2008.

Attachment A

Qualifications of John H. Williams

I am President of The Woodside Consulting Group, Inc., 385 Sherman Ave., Suite 1, Palo Alto, California 94306, a firm that specializes in railroad transportation consulting. I am also President of the Northwestern Pacific Railroad Company, a start-up railroad short line in Northern California.

I was educated at the University of Illinois, where I received an A.B. in Liberal Arts and Sciences in 1962, with a major in economics, and an M.B.A. in 1963, with finance as my area of specialization; my educational training included courses in these fields as well as in marketing and operations. Although transportation was not a recognized area of emphasis for either degree, that was my interest throughout college; as a result, I completed almost every transportation course, either in the College of Commerce and Business Administration or in the Department of Civil Engineering, offered by Professors D. Philip Locklin (transportation economics), W. W. Hay (railway engineering), and K. U. Flood (distribution).

In 1963, I joined the Southern Pacific Transportation Company as a Transportation Analyst in the Bureau of Transportation Research. Following a year of introductory training, I was transferred to the Total Operations Processing System ("TOPS") project, which was responsible for designing and obtaining the adoption of a real-time, computerized information system for planning, controlling, and evaluating railroad operations. This was a pioneering project in computerized management and control of railroads, which was subsequently adopted by numerous other carriers.

In 1966, I joined the Operating Department of Southern Pacific, working initially as a brakeman on the Western Division and subsequently as an Assistant Trainmaster in El Centro, California. In early 1967, I was promoted to Trainmaster at Lordsburg, New Mexico, where I was responsible for supervising train operations over some three hundred miles of Southern Pacific's main line track, plus branch lines, between Tucson and El Paso.

In 1968, I was granted a three-year leave of absence to join the Department of Transportation's newly formed Federal Railroad Administration in Washington, D.C. As a Transportation Specialist in the Office of Policy and Planning, I provided economic and operational analyses, and evaluated, proposed, and assisted in the development of various public policies affecting the railroads. I specialized in rail network restructuring (where I developed FRA's first rail network model) and mergers, freight car supply, and other rail operational issues, in addition to formulating FRA's economic research and development program. During that time, I also represented FRA as a member of Assistant Secretary Charles D. Baker's interdepartmental team which proposed deregulation of the railroads: many of the concepts and policies that we debated then have now been implemented through the 4-R Act, the Staggers Act, and through subsequent Interstate Commerce Commission and Surface Transportation Board initiatives.

In 1972, I returned to Southern Pacific as a Special Assistant in the Executive Department, with responsibility for coordinating the preparation of Southern Pacific Company's corporate ten-year financial plan. Later that year, I was promoted to Manager of the Bureau of Transportation Research, the organization in which I began my railroad career in 1963. In that capacity, I managed a staff of some twenty individuals, reporting directly to the senior executive management of Southern Pacific. We were responsible for analyses of commodity and route profitability, cost-of-service calculations, evaluations of possible line abandonments, and analyses of prospective investments and

acquisitions – both railroad and non-railroad. In addition, we were responsible for presentations before regulatory authorities; I appeared before the Interstate Commerce Commission on several such issues.

In late 1977, I was promoted to the position of Assistant to the Vice President in the Executive Department of Southern Pacific. In that position, I managed the Office of Special Projects, which was created in order to permit me to concentrate on those matters of particular importance to the senior executive management of Southern Pacific. At that time, those special projects included Southern Pacific's prospective acquisitions of the Chicago, Rock Island & Pacific's Tucumcari Line and of the Seaboard Coast Line System – the latter now being a part of CSXT.

In August 1980, I left Southern Pacific to become Assistant Vice President – Strategic Analysis for Consolidated Rail Corporation in Philadelphia. I reported directly to the Chairman, Mr. Edward G. Jordan, and my responsibilities continued to be focused in the mergers and acquisitions area. I directed the preparation of Conrail's position on the Norfolk Southern merger – and testified before the Interstate Commerce Commission in that case – as well as the preparation of Conrail's merger studies and policy position in the Union Pacific/Missouri Pacific/Western Pacific merger case. In both instances, I participated in the negotiated settlements that resulted. I was also responsible for designing and evaluating structural alternatives to Conrail as a corporate entity.

In late 1981, I returned to San Francisco as Vice President/Land Transportation of Manalytics, Inc., a transportation consulting firm. There, I was responsible for the business development and conduct of land transportation activities.

In October 1983, I became President of The Woodside Consulting Group, Inc. In this capacity, I am responsible for all of the business conduct and policy decisions of our firm. We offer a broad range of transportation consulting services, both to public agencies and private sector clients, dealing primarily with railroad transportation issues.

In March 1985, representing both the California Public Utilities Commission (CPUC) and the California Department of Transportation, I presented testimony before the Interstate Commerce Commission in the proposed Southern Pacific/Santa Fe merger proceeding. My testimony – which was cited in the Commission's *Decision* – analyzed the market impacts of that proposed merger on California and its shippers, and recommended the imposition of conditions in order to mitigate the anticompetitive effects of that merger, as proposed.

In October 1985, representing the Chicago & North Western Transportation Company, I presented testimony to the Interstate Commerce Commission in support of that carrier's application for the construction and operation of a line extension into the Powder River Basin in order to introduce rail competition to Burlington Northern in that important market.

In May 1988, representing the Kansas City Southern, I presented testimony before the Interstate Commerce Commission, including a substantial portion of the required Exhibit 12 – Market Impact Analysis, in support of that carrier's application for control of the Southern Pacific Transportation Company. My testimony analyzed the market impacts of a consolidated Kansas City Southern/Southern Pacific System on shippers, competition, efficiency, and other carriers. I also submitted testimony in opposition to the proposed Denver and Rio Grande Western/Southern Pacific combination, in which I characterized those applicants' Exhibit 12 – Market Impact Analysis as being unrealistic in the marketplace.

During 1996, I provided consulting advice and analyses to the CPUC with regard to the Union Pacific's proposed acquisition of Southern Pacific. My recommendations toward ensuring the preservation of adequate and effective competition were included in the CPUC's presentation to this Board.

In June 1997, representing the Norfolk Southern Railway Company, I presented testimony before the Surface Transportation Board as to the results of a Rail Traffic Diversion Study concerning the likely impacts of the operation by Norfolk Southern of Conrail's Penn Lines on the traffic and revenues of affected railroads. The Board accepted the results of that Study in its Decision approving the Conrail Transaction. Subsequently, I was involved in many aspects of the transition to Norfolk Southern of the Penn Lines' portion of Conrail's commercial functions.

In October 1998, representing the Norfolk Southern Railway Company, I presented Market Impact Study testimony before the Surface Transportation Board as to the effects on Norfolk Southern of the proposed consolidation of the Canadian National Railway System and the Illinois Central Railroad System. My Study addressed probable traffic volumes and train and traffic volumes on routes and at locations important to Norfolk Southern.

In June 2001, representing the Canadian Pacific Railway Company, I presented Market Impact Study testimony before the Surface Transportation Board as to the effects on competition of the proposed acquisition of the Wisconsin Central Transportation Company by Canadian National Railway Company. My Study addressed the adverse effects on rail competition of that proposed transaction in the absence of measures to ensure that existing gateways were kept open to other carriers.

In October 2007, representing the Canadian Pacific Railway Company, ("CPR"), I presented an analysis of the competitive effects of the proposed acquisition of the Dakota, Minnesota and Eastern Railroad Corporation ("DME") and its rail carrier subsidiary, Iowa, Chicago & Eastern Railroad Corporation by a corporate entity of CPR. My analysis considered the impact of the proposed transaction on shippers at common points, geographic competition, and the effects on short line carriers that connect with DME.

As a part of our consulting practice during the past two decades, The Woodside Consulting Group has undertaken more than three dozen regional railroad analyses, including due diligence studies, the preparation of Business Plans, and assessments of the operating entities when the Business Plans were not being met. Included among the railroads we have studied are MidSouth Rail Corporation, Paducah & Louisville Railways, Inc., Dakota, Minnesota & Eastern Railroad Corporation, and Montana Rail Link. For each such analysis, my responsibility has been either to prepare a marketing plan or to evaluate whether the marketing plan being presented was realistic. I also served, on a part-time basis, as Chairman of the Board of Directors of the Dakota, Minnesota & Eastern Railroad Corporation, from early 1992 through November 1993.

During my forty-four year career at Southern Pacific, Conrail, the Federal Railroad Administration, Manalytics, and The Woodside Consulting Group, my work has required me to consider many aspects of railroading, including marketing, operations, finance, economics, planning and public policy. At FRA, the economic research and development program I developed included marketing studies of grain and perishable produce. At Southern Pacific, I conducted and directed numerous marketing studies of both deficit and highly profitable railroad commodities (including lumber, wood chip, automotive, chemical, intermodal, perishable, sugar beet, and iron ore traffic), as well as of competing modes. At the higher corporate levels my positions entailed beginning in 1972, the types of work for which I was responsible required me to consider all aspects of railroading,

including the three basic functional areas of marketing, finance, and operations. As a consultant, I have provided services to clients encompassing most aspects of railroading – including primarily mergers and strategic planning, marketing, finance, operations, economics, and public policy.

Attachment B
U.S. States and Canadian Provinces Served by
NSR and/or Pan Am Systems

<u>NSR Only</u>	<u>Pan Am Only</u>	<u>NSR and Pan Am</u>
1. Alabama	1. Connecticut	1. Maine*
2. Delaware	2. New Brunswick	2. Massachusetts*
3. District of Columbia	3. New Hampshire	3. New York
4. Florida	4. Vermont	
5. Georgia		
6. Illinois		
7. Indiana		
8. Iowa		
9. Kentucky		
10. Louisiana		
11. Maryland		
12. Michigan		
13. Minnesota*		
14. Mississippi		
15. Missouri		
16. Nebraska*		
17. New Jersey		
18. North Carolina		
19. Ohio		
20. Ontario		
21. Pennsylvania		
22. South Carolina		
23. Tennessee		
24. Texas*		
25. Virginia		
26. West Virginia		
27. Wisconsin*		

*NS Haulage or Trackage Rights only

Source:

Official Railroad Station List (OPSL 6000-AC), January 1, 2008, and Supplements 1, 2, and 3.

Attachment C
Stations Served Jointly By Both Norfolk Southern and Pan Am

<u>Station</u>	<u>State</u>	<u>SPLC</u>	<u>Railroads</u>
1. Waterville	ME	118040	NS, ST
2. Ayer	MA	141260	NS, ST
3. Mechanicville	NY	171760	CPR, NS, ST

Source.

Official Railroad Station List (OPSI. 6000-AC), January 1, 2008, and Supplements 1, 2, and 3, augmented by the specific geographic and agreement knowledge of Norfolk Southern and Pan Am personnel.

Attachment D
Relevant Future Pan Am Southern and Norfolk Southern Short Line Railroad Connections

	Short Line Railroad	Code	PAS and NSR Junctions	Other Connecting Railroads
1.	Claremont Concord Railroad Corp.	CCRR	PAS White River Jct., VT Claremont Jct., NH	NECR, WACR
2.	Green Mountain Railroad Corp.	GMRC	PAS Bellows Falls, VT	CPR, CLP, CSXT, NECR, VTR, WACR
3.	Naugatuck Railroad Co.	NAUG	PAS Waterbury, CT	
4.	New England Central Railroad, Inc.	NECR	PAS Millers Falls, MA West River, VT White River Jct., VT Windsor, VT	CCRR, CN, CPR, CSXT, GMRC, LVRG, MCER, MMA, PW, VTR, WACR
			NSR East Northfield, MA	
5.	Pioneer Valley Railroad Co.	PVRR	PAS Holyoke, MA	CSXT
6.	Providence and Worcester Railroad Co.	PW	PAS Gardner, MA	CPR, CSO, CSXT, NECR, NYA
			NSR Gardner, MA	
7.	Vermont Railway, Inc	VTR	PAS Hoosick Jct., NY	CLP, GMRC, NECR
			NSR Hoosick Jct., NY	
8.	Washington County Railroad Corp.	WACR	PAS White River Jct., VT	CPR, CCRR, GMRC, MCER, MMA, NECR

Notes:

- (1) Source: Official Railroad Station List (OPSL 6000-AC), January 1, 2008, and Supplements 1, 2, and 3, augmented by the specific geographic and agreement knowledge of Norfolk Southern and Pan Am personnel
- (2) NSR junctions (in bold) are as proposed by Applicants in this transaction.
- (3) CLP is the Clarendon and Pittsford Railroad Co.
- (4) CSO is Connecticut Southern Railroad, Inc
- (5) LVRG is Lamoille Valley Railroad Co.
- (6) MCER is Massachusetts Central Railroad Co.
- (7) MMA is Montreal, Maine & Atlantic Railway Ltd.
- (8) NYA is New York & Atlantic Railway Co.

EXHIBITS

Exhibit 1A

**NORFOLK SOUTHERN RAILWAY COMPANY
SYSTEM MAP**

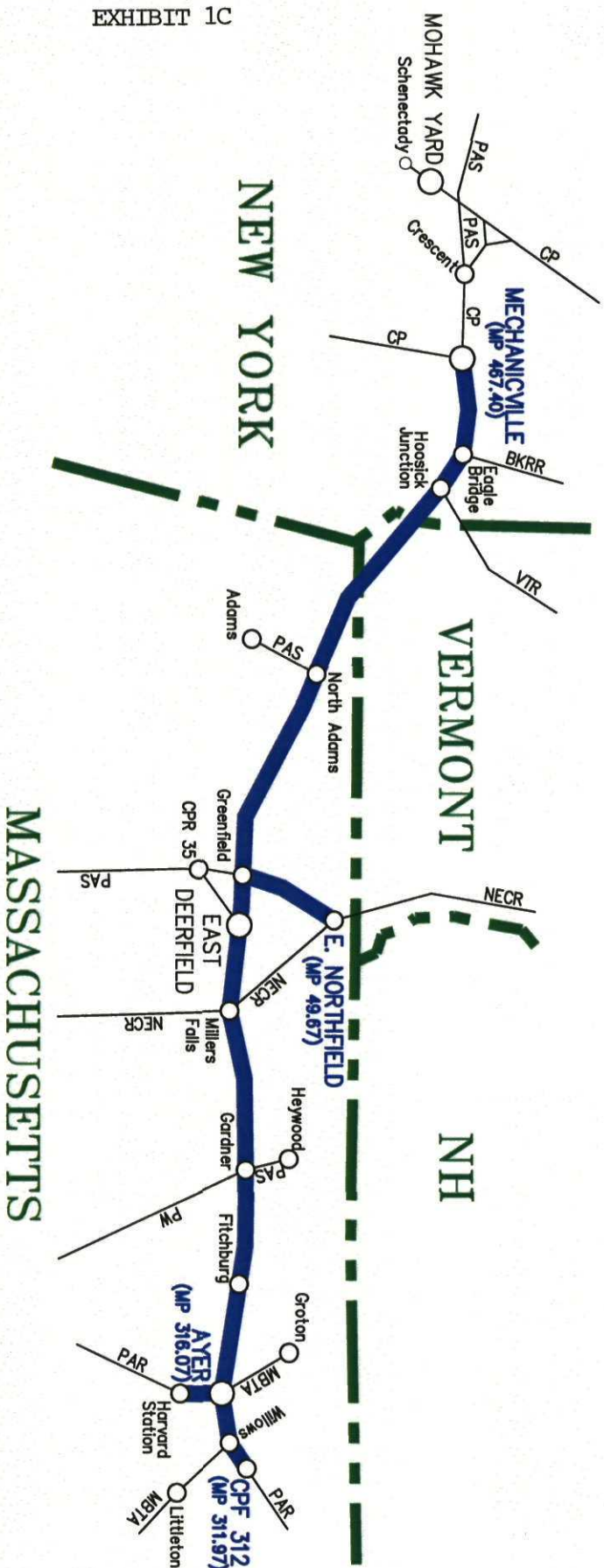


 **NORFOLK SOUTHERN**

SYSTEM MAP

2006

National Customer
Service Center
800-635-5768



LEGEND

- NORFOLK SOUTHERN TRACKAGE RIGHTS
- OTHER TRACK



OFFICE OF THE VICE PRESIDENT - ENGINEERING

PAN AM SOUTHERN, LLC (PAS) SYSTEM MAP
MECHANICVILLE TO AYER & E. NORTHFIELD
NORFOLK SOUTHERN TRACKAGE RIGHTS

REVISIONS	LINE	FREIGHT MAIN LINE	DATE POST	AS SHOWN
V.S.	VAR.	MAP		
SCALE	NOT TO SCALE		DATE	5/29/08
DESIGNED BY	M.S.		DRAWN BY	M.S.
CHECKED BY	V.C.M.		APPROVED BY	R.E.M.

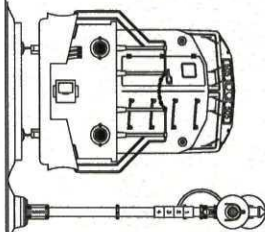
EXHIBIT 1B

PAN AM RAILWAYS 2007 SYSTEM MAP

APPROVED JANUARY, 2007



SPRINGFIELD TERMINAL RAILWAY CO.
BOSTON AND MAINE CORPORATION
MAINE CENTRAL RAILROAD CO.
PORTLAND TERMINAL COMPANY

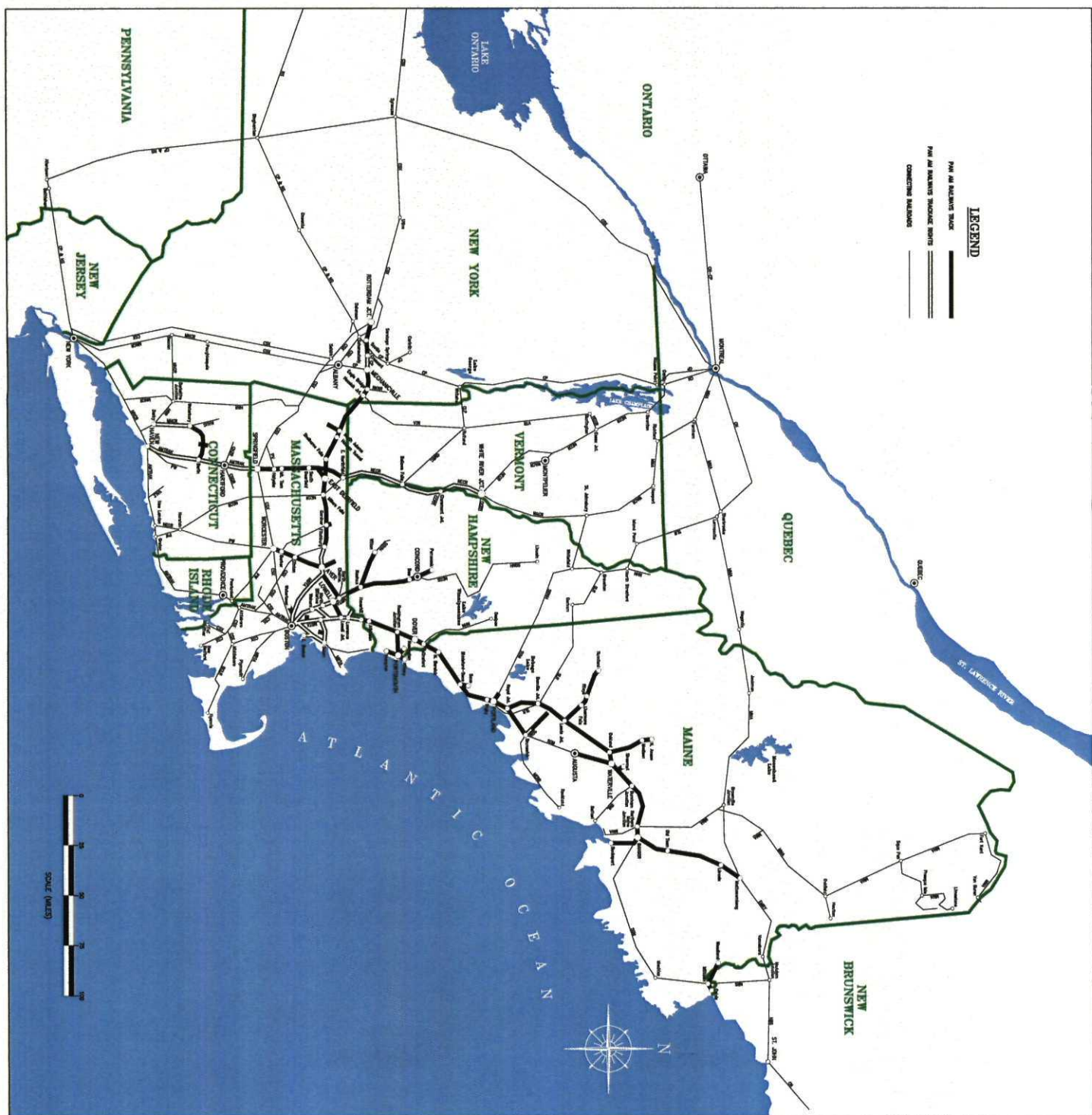


LEGEND:

BGR BAY COLONY RAILROAD CORP.
BRR BATTENKILL RAILROAD CO.
BLR BELFAST AND WOODS LAKES RAILROAD
CCR CLARENDON & CONCORD RAILROAD CORP.
CLP CLARENDON & PITTSFORD RAILROAD CO.
CN CANADIAN NATIONAL RAILWAYS
CNR CENTRAL NEW ENGLAND RAILROAD
CP CANADIAN PACIFIC RAILWAYS
CSOR CONNECTICUT SOUTHERN RAILROAD
CSX CSX TRANSPORTATION, INC.
DTR DANFORTH TERMINAL RAILROAD
EMR EASTERN MAINE RAILWAY
GMR GREEN MOUNTAIN RAILROAD CORP.
HRR HOUSTON RAILROAD
MER MAINE EASTERN RAILROAD
MMA MASSACHUSETTS BAY TRANSIT AUTHORITY
MNR MONTELEONE, MAINE, & ATLANTIC RAILROAD
MTR METRO NORTH CONNECTICUT RAILROAD CO.
NALG NAUATLUTIC RAILROAD
NBR NEW BRUNSWICK SOUTHERN
NECR NEW ENGLAND CENTRAL RAILROAD
NEN NEW ENGLAND SOUTHERN RAILROAD CO. INC.
NHC NEW HAMPSHIRE CENTRAL
NHN NEW HAMPSHIRE NORTHCOAST CORP.
NS NORFOLK SOUTHERN CORP.
PV PIONEER VALLEY RAILROAD CO. INC.
PW PROVIDENCE AND WORCESTER RAILROAD CO.
SLR SAINT LAMBERT AND ATLANTIC RAILROAD
SOM STATE OF MAINE
SONN STATE OF NEW HAMPSHIRE
VLR VERMONT RAILROAD CO.
WACR WASHINGTON COUNTY RAILROAD

LEGEND

PAN AM RAILWAYS TRACK
PAN AM RAILWAYS TRACKS BEING BUILT
CONNECTING RAILROADS



Before The
Surface Transportation Board

Finance Docket No. 35147

NORFOLK SOUTHERN RAILWAY COMPANY, PAN AM RAILWAYS, INC. *ET AL*
—JOINT CONTROL AND OPERATING/ POOLING AGREEMENTS—
PAN AM SOUTHERN LLC

EXHIBIT 15

OPERATING PLAN/MINOR

Introduction

49 C.F.R. § 1180.8(c) requires the operating plan of applicants seeking approval for minor transactions to “[d]iscuss any significant changes in patterns or types of service as reflected by the operating plan expected to be used after the consummation of the transaction. Where relevant, submit information regarding the following:

- (1) Traffic level density on lines proposed for joint operations.
- (2) Impacts on commuter or other passenger service operated over a line which is to be downgraded, eliminated or operated on a consolidated basis.
- (3) Operating economies, which include, but are not limited to, estimated savings.
- (4) Any anticipated discontinuances or abandonments.”

Applicants do not expect that the Transaction (as more fully defined and explained in the Application) will result in “significant changes in patterns or types of service.” The Transaction involves the creation of a new railroad, Pan Am Southern LLC (“PAS”), which will be owned equally by Norfolk Southern Railway Company (“Norfolk Southern”) and the Boston and Maine Corporation (“B&M”), which will share equally in the management of PAS. PAS will own and operate over lines contributed to it by B&M and over trackage rights assigned to it by B&M’s sister railroad, Springfield Terminal Company (“Springfield Terminal”)¹ (collectively, the “PAS Lines”) in New York,

¹ As explained in the Application, B&M and Springfield Terminal are wholly-owned subsidiaries of Pan Am Railways, Inc. (“PARI”). Springfield Terminal currently leases and operates the lines of B&M and other PARI subsidiaries (referred to herein as the “Springfield Terminal System”), and, if the Transaction is approved, it will operate the lines of PAS

Massachusetts, New Hampshire, Connecticut and Vermont. The PAS Lines are entirely end-to-end with the Norfolk Southern system and the remaining Springfield Terminal System. The Transaction will not involve any line abandonments, service discontinuances or elimination of redundant facilities. No lines will be downgraded. On the contrary, the Transaction contemplates that PAS will expend approximately \$90 million to upgrade the PAS Lines, upgrade an existing but non-operational siding, upgrade existing terminals and construct a new intermodal and automotive facility in Mechanicville, NY and a new automotive facility at San Vcl near Ayer, MA. Accordingly, Applicants do not anticipate any “operating economies,” and no adverse effect on passenger service resulting from downgrading, eliminating or operating lines on a “consolidated basis.”

Initially and for the foreseeable future, PAS will engage Springfield Terminal to operate the PAS Lines. Springfield Terminal is the railroad that is currently providing service over the lines. While Applicants expect some increases in traffic in the five years following the consummation of the Transaction, which are described below, they do not anticipate any major changes in volumes or types of traffic during that time. The planned infrastructure improvements will result in improved service to customers over time, but Applicants do not expect significant changes in routings or patterns of service, inasmuch as the same railroad and same employees will continue to provide the transportation over the lines after consummation of the Transaction.

1. Description of Rail Lines and Yards To Be Acquired and Operated By PAS.

The rail lines PAS will acquire from B&M and the trackage rights PAS will acquire from Springfield Terminal consist of rail lines in Connecticut, Massachusetts, New Hampshire, New York and Vermont, totaling approximately 437 miles.

The rail lines involved consist of approximately 238.3 miles of rail lines to be owned by PAS as well as approximately 198.4 miles of trackage rights over other railroads. The 155.4 mile Patriot Corridor, which is the designation for the west to east mainline section of the PAS Line, will be comprised of approximately 139.7 miles of owned track extending between Mechanicville, NY and CPF-312, near Ayer, MA, as well as approximately 15.8 miles of trackage rights over Massachusetts Bay Transportation Authority ("MBTA") between Fitchburg, MA and Willows, just east of Ayer, MA. The north-south section of the PAS Line extending from White River Junction, VT to New Haven, CT will be comprised of: (1) approximately 72.8 miles of trackage rights over New England Central Railroad ("NECR") between White River Junction, VT and East Northfield, MA; (2) approximately 49.7 miles of owned track on the Connecticut River Mainline between East Northfield, MA and Springfield, MA; and (3) approximately 62.0 miles of trackage rights over Amtrak between Springfield, MA and New Haven, CT

The PAS Lines will also include several branch lines: (1) the Rotterdam Branch, which is approximately 30.5 miles between Rotterdam Junction, NY and Mechanicville, NY (including 18.3 miles of trackage over Canadian Pacific Railway Company ("CP") between Mohawk Yard in Schenectady, NY and Mechanicville, NY); (2) the Adams

Industrial branch, which is approximately 4.6 miles between N. Adams, MA and Adams, MA; (3) the Heywood Industrial branch, which is approximately 1.2 miles between Gardner, MA and Heywood, MA; (4) approximately 2.3 miles between Ayer, MA and Harvard Station, MA; (5) the Groton Industrial, which consists of trackage rights over MBTA extending approximately 5 miles between Ayer, MA and Groton, MA; (6) approximately 2.3 miles of trackage rights over MBTA between Willows, just east of Ayer, MA, and Littleton, MA, (7) approximately 42.9 miles between Berlin, CT and Derby, CT (including 18.6 miles of trackage rights over Metro North Commuter Railroad (“MNCR”) between Waterbury, CT and Derby, CT); (8) the Southington Industrial branch, which is approximately 4.5 miles between Plainville, CT and Southington, CT, and (9) approximately 3.7 miles of trackage rights over CSX Transportation, Inc. (“CSXT”) between North Haven, CT and Cedar Hill, CT.

In sum, PAS freight trains will operate over approximately 238.3 miles of lines to be owned by PAS and via trackage rights currently held by Springfield Terminal over a total of approximately 94.8 miles of CP (18.3 miles), CSX (3.7 miles) and NECR (72.8 miles), as well as approximately 103.7 miles over the passenger lines of Amtrak (62.0 miles), MNCR (18.6 miles) and MBTA (23.1 miles).

PAS will acquire and operate nine yards or other facilities located or to be located at Mechanicville, NY, East Deerfield, MA, Gardner, MA, Fitchburg, MA, Waterbury, CT, Plainville, CT, and three facilities in Ayer, MA. The Ayer facilities include (1) an automotive transload facility that is currently under a long-term lease between PARI and

CSXT but not currently operational (referred to herein as “Ayer Automotive”)², (2) an existing intermodal facility and switching yard (referred to herein as “Ayer Intermodal”), (3) and an automotive transload facility to be constructed at San Vcl, which is across the street from the Ayer Automotive facility (referred to herein as “San Vcl Automotive”). The Mechanicville facility, referred to herein as “Mechanicville Facility”, currently is not developed, but is proposed to be developed as part of this transaction as an intermodal and an automotive transload facility.

2. Post-Transaction Rehabilitation and Improvement to Rail Lines.

Applicants expect that PAS will spend more than \$42 million over the three years following consummation of the transaction on rehabilitation of roadbed, track and associated structures. The major components of this program and their estimated costs will include tie replacements (\$13.3 million), surfacing (\$2.5 million), rail replacement (\$11.1 million), bridge rehabilitation (\$6.9 million) and communication and signal improvements (\$5.6 million). The foregoing improvements will permit movement of railcars up to 286,000 pounds and will allow PAS to remove currently imposed slow orders, which limit train speeds on several line segments to 10 mph, and thereby permit trains to operate at timetable speed of up to 40 mph on several sections of the PAS mainline between Mechanicville, NY and Ayer, MA.

In addition, it is expected that PAS will construct, on PAS-owned right of way, an 11,900 foot siding at Pownal, VT, for an estimated cost of \$4.8 million. The work will upgrade an existing track that is not presently in service, so no extensive subgrade work will be required, except at the turnouts, where approximately 450 feet of track will

² At this time, CSXT has elected not to use the Ayer Automotive facility and not to relinquish the lease, which expires in 2017. B&M will contribute that facility to PAS, but

require a new roadbed section. The area is relatively flat, and Applicants believe that the siding can be constructed without impact on adjacent properties or increase in surface runoff. PAS will also create 19'6" vertical clearances on all sidings and second main tracks between Luxemborg, MA and North Adams, MA. The new siding and the increased clearances will allow more frequent and faster two-directional train operations and more frequent and faster movements of multilevel trains and high-low³ double-stack trains on the PAS mainline.

Applicants also expect to propose to NECR that a former connection between the PAS mainline and a line of NECR at Millers Falls, MA be reconstructed to permit a more efficient interchange of traffic between PAS and NECR than now occurs between PARI and NECR at East Northfield, MA. The topography is relatively flat, and the work would upgrade an existing track that is not presently in service, so no extensive subgrade work or new drainage would be required. No property acquisition would be required, and Applicants believe that the connection can be built with no physical impact on adjacent properties or roadway crossings and without increase in surface runoff.

3. Post-Transaction Yard Improvements and Construction.

Applicants intend that PAS will construct a proposed new intermodal yard and automotive transload facility at Mechanicville, NY, make improvements to the existing intermodal yard at Ayer, MA and build a new automotive transload facility at the San Vel site in Ayer, MA.

it will not be available for PAS's use due to the CSXT lease.

³ Domestic and international intermodal containers come in a "high cube" variation – 9'6" in height – or in a "low cube" variation – 8'6" in height. A so-called "high-low" double stack configuration is one that stacks one of each on top of one another, whereas a so-called "high-high" double stack configuration is one that stacks two of the high cube variation on top of one another.

Mechanicville. The proposed Mechanicville Facility will be an intermodal and automotive facility constructed on a 64-acre site that will be owned by PAS. The estimated cost for the proposed Mechanicville Facility is \$37.5 million. The property at Mechanicville consists of property that will be owned by PAS plus a parcel that PAS will have an option to buy. The site contained two rail yards some years ago and is currently in an industrial zone. The area is bounded on the north by Route 67, one of the major east-west routes through the area, and on the south by the B&M mainline. The project will entail realigning certain CP tracks that traverses the area, to which CP has agreed in principal. The New York Department of Transportation has plans, unrelated to this Transaction, to upgrade the roads in the area specifically to make them more suitable for truck traffic.

The proposed Mechanicville Facility is particularly important because it will permit Norfolk Southern and Springfield Terminal to assemble and disassemble double-stack intermodal trains far more efficiently than is now possible at CP's Mohawk Yard in nearby Schenectady, NY. The intermodal yard at Mechanicville will have facilities for "fileting" incoming double-stack intermodal trains (i.e., converting them into single-stack trains by removing the top containers) and also for "toupeeing" incoming single-stack trains (i.e., converting them into double-stack trains by placing containers on top of the single container.) Such facilities are not present at CP's Mohawk Yard, where Norfolk Southern and Springfield Terminal currently interchange traffic with each other and with CP.

The addition of these facilities at Mechanicville will greatly improve the efficiency with which Norfolk Southern will be able to move intermodal traffic

(containers and trailers on railcars) between points west and the eastern New York and New England regions. In fact, they will enable Norfolk Southern for the first time to move double-stack trains, which are the most efficient form of intermodal transportation, between western locations and the Albany area. That is so because the Hoosac Tunnel in western Massachusetts does not permit the passage of double-stacked containers of the most prevalent and highest volume variety, the 40-foot and 45-foot international containers and the 48-foot and 53-foot domestic containers.⁴ Without the capacity to efficiently convert double-stack trains to single-stack trains capable of passage to Ayer Intermodal or to convert single-stack trains originating in Ayer to double-stack trains, Norfolk Southern has not found it feasible to move double-stack trains to and from the Albany region even though its lines west of Albany can handle such trains. The new Mechanicville Facility will make such movements feasible. In addition, the reestablished siding at Pownal, VT and the other track improvements described earlier will substantially increase the speed and frequency of all train movements, including intermodal trains, between Mechanicville, NY and Ayer, MA.

At Mechanicville, PAS will also construct a new automobile transload facility, which is initially planned to have 690 20-foot by 10.5-foot parking bays and tracks able to hold 15 94-foot auto racks (multilevels). This facility and the new San Val Automotive, described below, will greatly improve the ability of Springfield Terminal, PAS and Norfolk Southern to compete with other railroads for the rail transportation of automobiles in the eastern New York and New England regions.

⁴ The Hoosac Tunnel does permit the passage of "high lows" (one 8'6" container and one 9'6" container stacked on each other) and "multilevels" (19'6" cars used to transport automobiles). No clearance work is planned for the Hoosick Tunnel.

Ayer Intermodal. PAS will expand and improve the existing intermodal facility at Ayer, MA, at an estimated cost of \$2.3 million.

San Vel Automotive. PAS will construct a new automotive transload facility with 810 parking spots on its property at San Vel near Ayer, MA. CSXT also leases the Ayer Automotive terminal facility, capable of handling automotive traffic, from PARI (and from PAS after the Transaction is approved). At this time, CSXT has elected not to use this facility and not to relinquish the lease, which expires in 2017. PAS plans to use San Vel Automotive for automotive traffic at least until Ayer Automotive becomes available to it.⁵

4. NSR and Springfield Terminal Trackage and Haulage Rights.

Norfolk Southern currently has a right to haulage services from CP for certain types of traffic between Sunbury, PA and Mechanicville, NY and has a right to haulage services from Springfield Terminal between Mechanicville, NY and Ayer, MA and Waterville, ME.

Under the Transaction, PAS will provide haulage services to Norfolk Southern for the movement to and from Mechanicville, NY of (1) traffic to be interchanged with three shortline and regional carriers: with VTR at Hoosick Junction, NY, with P&W at Gardner, MA, and with NECR at Brattleboro, VT; and (2) intermodal and automotive traffic to and from Ayer Intermodal, Ayer Automotive and San Vel Automotive at or near Ayer, MA. The intermodal and automotive traffic subject to the agreement may include, at Norfolk Southern's option, traffic in the accounts of CP and its subsidiary, Delaware &

⁵ Separate from and unrelated to the Transaction, Norfolk Southern intends to construct on vacant land at San Vel that it will lease from B&M (or from PAS if the Transaction is approved) a 3-track corn syrup Thoroughbred Bulk Transfer terminal, which will be operated by Norfolk Southern.

Hudson Railway Company (“D&H”), as well as traffic in the account of Norfolk Southern.⁶ PAS will also provide switching services to Springfield Terminal permitting Springfield Terminal to retain access to customers in the defined Ayer switching district.

Under the Transaction, PAS will also grant trackage rights to Springfield Terminal to move traffic in Springfield Terminal’s account over PAS lines between CPF 312 and Harvard Station, MA. These rights will preserve Springfield Terminal’s direct connection to its principal interchange point with CSXT at Barbers Station, MA.

Although the foregoing haulage and trackage rights will be over trackage that includes MBTA’s line between Fitchburg, MA and Willows, MA, it is not expected that they will have any significant effect on MBTA’s commuter operations over that line. The projected traffic over this line is discussed below. Also, MBTA has been consulted with respect to the Transaction and has stated that it has no objection.

5. New Norfolk Southern Interchanges with Providence and Worcester Railroad, New England Central Railroad and Vermont Railroad.

As stated herein, under the Transaction, Norfolk Southern will gain for the first time direct connections, via haulage, to three short line and regional railroads that now interchange with Springfield Terminal: VTR, NECR and P&W

6. PAS Interchanges with Other Railroads.

Springfield Terminal currently interchanges traffic with the following other railroads that will connect to PAS after the Transaction at the following locations:

⁶ The relevant agreements establish service standards that PAS must meet in providing these haulage services, and they grant Norfolk Southern trackage rights covering the same traffic, which Norfolk Southern can exercise if the service standards are not met

Railroad	Interchange Locations
CSXT	Rotterdam Junction, NY Hartford, CT (inactive) Holyoke, MA
CP	Mohawk Yard, Schenectady, NY [St. Johnsbury, VT Wells River, VT
Norfolk Southern	Mohawk Yard, Schenectady, NY
VTR	Hoosick Junction, NY
NECR	White River Junction, VT Brattleboro, VT
P&W	Gardner, MA
Claremont Concord RR	White River Junction, VT Claremont Junction, VT
Green Mountain RR	Bellows Falls, VT
Naugatuck RR	Waterbury, CT
Pioneer Valley RR	Holyoke, MA
Washington County RR	White River Junction, VT

None of the foregoing interchanges will be adversely affected by the Transaction. In most cases, PAS will simply be substituted for Springfield Terminal as the interchanging carrier. Springfield Terminal will retain its direct interchanges with CSXT at Barbers Station and Clinton, MA by the trackage rights previously described. As also previously described, PAS will propose to NECR to change its interchange at Brattleboro, VT to an improved interchange to be constructed at Millers Falls, MA.

Also, as discussed above, if the proposed Mechanicville Facility is constructed, Norfolk Southern and PAS will interchange traffic at that facility rather than at Mohawk Yard.

Post-Transaction Operations and Traffic Density

As noted, although Applicants expect some increases in traffic in the five years following the consummation of the Transaction, they do not anticipate any major changes in volumes, patterns or types of traffic during that time. The following table shows, for

each of the nine major line segments to be owned by PAS system, the number of freight trains per day in 2007 and the expected number in 2012. There are no passenger trains now operating or expected to operate on any of these line segments, and the segments will continue to be dispatched by Springfield Terminal after the Transaction as they are today. It should also be noted that major track rehabilitation will be performed on, and one siding reestablished on, the segments that will handle most of the traffic, between Mechanicville, NY and CPF 312, just east of Ayer, MA. This is expected to increase average train speeds significantly on these segments due to a return from long term slow orders to the posted speed

**Table 1. Owned Segments:
Base Case and Post-Transaction (5-Year Projection) Rail Traffic (Trains/Day)¹**

<i>Rail Line Segment</i>	<i>2007 Base Case (Trains/day)</i>	<i>2012 Post- Transaction (Trains/day)</i>	<i>Change (# Trains)</i>
Rotterdam Jct , NY – Crescent , NY	3 4	3 4	0
Mechanicville, NY – Hoosick Jct., NY	6.8	9 3	2 5
Hoosick Jct , NY – E Deerfield, MA	6 8	8 3	1 5
E Deerfield, MA – Gardner, MA	8 3	9 8	1 5
Gardner, MA – Fitchburg, MA	7.1	8 6	1 5
Willows, MA – CPF312, MA	9 4	9 4	0
Ayer, MA – Harvard Stn , MA	2 3	2 3	0
E Northfield, MA – Springfield, MA	3.4	3 4	0
Berlin, CT – Waterbury, CT	0 3	0 3	0

¹ No passenger rail service operates over PAR-owned rail line to be acquired by PAS

The following table shows, for each of the nine line segments over which PAS will operate pursuant to trackage rights, the number of freight and passenger trains per day in 2007 and the expected number in 2012. These line segments are currently dispatched by the owning railroad and will continue to be so dispatched following the Transaction.

**Table 2. Trackage Segments:
Base Case and Post-Transaction (5-Year Projection) Rail Traffic (Trains/Day)²**

Rail Line Segment [Owner]	2007 Base Case (Trains/day)		2012 Post- Transaction (Trains/day)		Change (# Trains)	
	Passenger	Freight	Passenger	Freight	Passenger	Freight
Mohawk , NY – Crescent, NY [CP]	4	5.1	4	6 6	0	1 5
Crescent, NY – Mechanicville, NY [CP]	0	6 6	0	8 1	0	1 5
Springfield, MA – Berlin, CT [Amtrak]	13	<1	13	<1	0	0
Berlin – New Haven, CT [Amtrak]	13	0	13	0	0	0
Fitchburg, MA – Ayer, MA [MBTA]	22	8 0	22	9 5	0	1 5
Ayer, MA – Willows, MA [MBTA]	22	9 4	22	9 4	0	0
Willows, MA – Littleton, MA [MBTA]	22	<1	22	<1	0	0
White River Jct , VT – E Northfield, MA [NECR]	2	<1	2	<1	0	0
Waterbury, CT – Derby, CT [MNCR]	13	<1	13	<1	0	0

² 2007 passenger rail traffic data in this table was obtained from publicly available time tables. Information for 5-year projections of passenger rail traffic is not publicly available, but this transaction is not anticipated to affect passenger rail traffic. Data for non-Applicant freight traffic for rail lines over which Applicants operate via trackage rights is not publicly available, and thus, freight rail traffic data for both base case and post-transaction projections reflects only Applicants' freight traffic. The transaction is not anticipated to affect other railroads' freight traffic over these trackage segments.

The increase of 1.5 freight trains per day on the segment from Fitchburg, MA to Ayer, MA, which is currently used for commuter and other passenger operations, is not expected to have a significant impact on those passenger operations. This segment currently has 22 passenger and only 8 freight trains per day, the latter of which is only anticipated to increase to 9.5 trains per day, and the segment will continue to be dispatched by MBTA.

The increases in traffic shown in Tables 1 and 2 above are not expected to result from diversions of rail traffic from other railroads but are expected mainly to represent organic growth as well as new intermodal and automotive traffic moving between Ayer,

MA and Mechanicville, NY as a result of the new and improved Mechanicville Facility, Ayer Intermodal, and San Vel Automotive, as well as the infrastructure improvements between those locations as discussed herein.

The traffic increases described above are expected to result in approximately 6,500 carloads of additional industrial products traffic per year moving over the PAS Lines by the end of the year 2012, which will have associated incremental revenues of approximately \$6.6 million. In addition, the Transaction is expected to result in approximately 14,700 trailers or containers (or about 6,400 carloads based on a 2.3 units per carload ratio) of additional intermodal traffic per year at Ayer, MA by the end of 2012, which will have associated incremental revenues of approximately \$ 1.4 million. Combined, additional traffic and revenue totals are expected to be 12,900 carloads and \$8.0 million per year by 2013