

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

241032

ENTERED
Office of Proceedings
July 1, 2016
Part of
Public Record

STB Docket FD 35981

PETITION FOR DECLARATORY ORDER - FINCH PAPER LLC

FINCH PAPER'S MOTION TO COMPEL DISCOVERY

Finch Paper LLC ("Finch") hereby moves pursuant to 49 C.F.R. § 1114.31(a) to compel the Delaware and Hudson Railway Company d/b/a Canadian Pacific ("CP"), to provide responses to certain interrogatories and document requests propounded by Finch.

Background

On December 7, 2015, Finch filed a Petition for Declaratory Order ("Petition") with the Surface Transportation Board ("STB") in this Docket. The Petition seeks rulings from the STB on issues that were referred to it by the United States District Court for the Northern District of New York in *Delaware and Hudson Railway Company, t/a CP Rail v. Finch Paper LLC*, 1:15-cv-0417, (N.D.N.Y. 2015). Finch petitioned the STB for an order declaring that certain practices and actions of CP related to its attempted assessment of demurrage charges against Finch are unreasonable practices in violation 49 U.S.C. §10702 and also are contrary to §10746. Finch also sought an Order that CP has, on a continuous basis since October 2012, violated its statutory common carrier obligations to Finch under 49 U.S.C. §11101, and that CP is liable for damages to Finch under 49 U.S.C. §11704 for its violations of §11101. The STB granted the Petition on February 10, 2016.

The Parties

Finch is a Delaware Limited Liability Company with its principal place of business in Glens Falls, New York. Finch owns and operates a paper manufacturing mill that has been located along the banks of the Hudson River in the heart of Glens Falls, New York for 150 years.

CP is a Delaware Corporation trading under the registered name of CP Rail with its principal place of business in New York. CP is a United States subsidiary of Canadian Pacific Railway, a Class I railroad with headquarters in Calgary, Canada. In all of the disputed Interrogatories and Document Requests discussed in this Motion, the term “CP” includes the Canadian Pacific Railway.

Relevant Facts

Finch’s mill in Glens Falls manufactures paper and paper products. The raw materials utilized by Finch include pulp from trees grown in forests and tree farms within a 90 mile radius of the mill. The mill is located at the end of an approximately 3.5 mile line of rail owned and operated by CP that extends from its Fort Edward, New York rail yard. CP delivers carloads of wood pulp, ammonia, caustic soda, sulfur, and corn starch to the facility for use in the paper manufacturing process. These rail cars are moved in and out of the paper mill’s track facilities via switching operations conducted by CP from the Fort Edward yard and from CP’s yard in Whitehall, New York, located 45 miles upstream on CP’s main line. The mill has no other access to railroad transportation, and so it is captive to CP for rail service.

In its Complaint filed in the Northern District of New York, CP asked the District Court to order Finch to pay CP \$1,349,050 in demurrage charges, and \$9,158 in other charges, assessed to Finch by CP during certain months between 2013 and 2015.

Finch answered the Complaint and asserted a Counterclaim against CP for damages based upon the fact that CP has continuously violated its obligations under 49 U.S.C. §11101 beginning in October, 2012 when it unilaterally and substantially reduced rail service to Finch's facility from five days per week to only three days per week. Finch asserts that this reduction in service, over its vigorous protests, violated CP's statutory obligations to Finch under §11101 and caused significant economic harm to Finch.

Discovery Requests

Finch's First Set of Discovery Requests.

On February 18, 2016, Finch served its First Set of Interrogatories and Document Requests on CP. On March 9, 2016 CP filed its responses and objections to Finch. A copy of CP's responses and objections to Finch's first set of document requests is attached as Exhibit A.¹

Document Request No. 30. Document Request No. 30 seeks documents relating to notices or enforcement actions by the Federal Railroad Administration ("FRA") pertaining to the rail lines and tracks used by CP to provide rail service to Finch's Facility. The request seeks this information from 2010 to the present. In addition to its cookie cutter objections that CP asserts to *every one of Finch's discovery requests, i.e.*, it is purportedly "vague and ambiguous, overly broad, [and] unduly burdensome," CP objects to the request on the grounds that the information it seeks is not relevant to this proceeding. After a meet and confer between counsel for the parties and subsequent correspondence, CP refuses to provide any documents responsive to this request.

¹ Finch also has concerns regarding CP's failure to provide meaningful responses to Finch's First Set of Interrogatories and to provide responsive documents to other document requests in Finch's First Set of Document Requests. In order to try and avoid unnecessary motions practice, however, Finch has agreed to reserve its objections in this regard until CP has completed its document production, which under the current procedural schedule is July 25, 2016.

Discussion of Disputed First Discovery Requests

The Board's discovery rules generally follow those in the Federal Rules of Civil Procedure. *See, e.g., Potomac Electric Power Co. v. CSX Transp. Inc.*, 2 S.T.B. 290, 1997 WL 274205 at * 1 n. 5. (1997). Thus, generally, parties may obtain discovery regarding any matter that is not privileged and is relevant to the subject matter involved in a proceeding. *Id.*; *see also Hickman v. Taylor*, 329 U.S. 495, 507 (1947) (discovery rules must be broadly and liberally construed); *In re Urethane Antitrust Litigation*, 261 F.R.D. 570, 573 (D. Kan. 2009) (discovery should be allowed unless it is clear that the information sought can have no possible bearing on the claim or defense of a party.)

CP's rote assertion that the discovery request is "vague and ambiguous, overly broad, [and] unduly burdensome," is baseless. The request is clear and concise, narrowly defined and not unduly burdensome.² Finch is not seeking FRA notices or enforcement actions for all rail lines and tracks operated by CP and its parent company in the United States and Canada. Instead, it is only seeking such notices or enforcement actions regarding the lines and tracks of CP in the New York area (*i.e.*, the Delaware & Hudson Railway lines) used to provide rail service to Finch's Facility. This information is highly relevant to the issues in this proceeding. For example, the extent to which FRA compliance issues with CP's lines caused delays in delivering cars to Finch's facility or picking them up can impact whether demurrage charges were the result of delays caused by CP, and therefore not appropriate. Also, there are questions in this proceeding regarding CP's decision to precipitously and substantially restrict service to the Finch facility due to alleged defects in Finch's plant tracks, which resulted in massive demurrage charges being assessed against Finch because ammonia cars in transit to the plant

² A party cannot sustain its objections based on boilerplate claims that a suit is overly broad or burdensome. *Klesch & Co. Ltd. v. Liberty Media Corp.*, 217 F.R.D. 517, 524 (D. Colo. 2003).

were not delivered. The condition of CP's track, as reflected in FRA notices or enforcement actions, is relevant to the issue of whether the assessment of demurrage in these circumstances was reasonable. Finally, this information is relevant to the question of whether CP's reduction of service to the Finch facility violated 49 U.S.C. 11101.

Document Request 34. Document Request 34 seeks CP's Customer Audit Safety forms from 2013 to the present. Again, in addition to its boilerplate objections, CP objects to the request on the grounds that it is not relevant to this proceeding. After a meet and confer between the parties, CP refused to provide responsive documents.

The document sought are highly relevant to the issues in the petition because they will provide information related to the impact on Finch, and other CP customers, of the Canadian Pacific Railway's decision beginning in mid-2012 to substantially reduce costs, personnel, and equipment over Canadian Pacific's rail system. This information is relevant to a determination of whether the reduction of service to Finch in the fall of 2012 constituted a violation of CP's obligations as a common carrier to provide safe and efficient rail service to Finch and other CP customers.

Second Set of Discovery Requests

On April 11, 2016 Finch served its Second Set of Interrogatories and Document Requests on CP. On April 26, 2016, CP filed its responses and objections to Finch's Interrogatories and Document Requests. A copy of CP's Responses and Objections to Finch's Second Set of Interrogatories is attached as Exhibit B. A copy CP's Responses and Objections to Finch's Second Set of Document Requests is attached as Exhibit C.

Interrogatory 15 and Document Request No. 40. Interrogatory No. 15 asks CP to identify and describe any business plans of CP implemented between January of 2012 and the

end of 2015 that called for reducing the number of CP employees: (1) nationally, and (2) locally in the New York service area in which Finch's mill is located. Document Request No. 40 seeks documents relating to the same subject. CP asserts its boilerplate objections and objects to the discovery on the grounds that it seeks information that is not relevant to this proceeding. After a meet and confer between the parties, CP refused to provide a response to the Interrogatory or responsive documents to Document Request No. 40.

Interrogatory 16. In correspondence to the STB dated October 24, 2105, CP informed the Board that 4,615 "system-wide employee and contract headcount" positions were terminated by CP after July of 2012. Interrogatory No 16 asks CP to identify how many of those 4,615 employees and contractors had been involved in providing rail transportation services to Finch. In response, CP asserted its boilerplate objections and objected to the request on the grounds that it seeks information that is not relevant to this proceeding. After a meet and confer between counsel for the parties, CP refused to provide a response to the Interrogatory.

Interrogatory 17 and Document Request No. 41. Interrogatory No. 17 asks CP to identify and describe any business plans implemented between January of 2012 and the end of 2015 that called for reducing the number of locomotives in use by CP: (1) nationally and (2) locally in the New York service in which Finch's mill is located. Document Request No. 41 seeks documents relating to the same subject. Again, CP asserted its boilerplate objections and objected to the discovery on the grounds that it seeks information that is not relevant to this proceeding. After a meet and confer between counsel for the parties, CP refused to provide a response to the Interrogatory or responsive documents to Document Request No. 41.

Interrogatory 18 and Document Request No. 42. Interrogatory No. 18 asks CP to describe the extent to which during the time period from 2012 to 2015, CP allocated train crews,

locomotives, and track capacity away from providing rail service to customers in the New York service area and used these resources for other customers in other parts of Canadian Pacific Railway's system. Document Request No. 41 seeks documents relating to the same subject. Again, CP asserted its boilerplate objections and objected to the discovery on the grounds that it seeks information that is not relevant to this proceeding. After a meet and confer between counsel for the parties, CP refused to provide a response to the Interrogatory or responsive documents to Request No. 42.

Interrogatory No. 19. Interrogatory No. 19 asks CP to identify changes CP made to its customer service department from January of 2012 until the end of 2015 and seeks to identify the extent to which these changes altered the railroad's customer service department as it applied to Finch. Again, CP asserted its boilerplate objections and objected to this Interrogatory on the grounds that it seeks information that it is not relevant to this proceeding. After a meet and confer between counsel for the parties, CP refused to provide responsive information.

Document Request No. 44. Document Request No 44 seeks documents reflecting the extent to which CP service problems in the Upper Midwestern United States and Chicago that were the primary focus of CP's participation in STB Docket No. EP 724, *United States Rail Service Issues*, affected CP's ability to provide rail service to Finch and other customers located in the New York service area. Again, CP asserted its boilerplate objections and objected to the discovery on the grounds that it seeks information that is not relevant to this proceeding. After a meet and confer between counsel for the parties, CP refused to produce responsive documents.

Discussion of Disputed Second Requests

Contemporaneous with installation of new ownership and management of Canadian Pacific Railway in 2012, CP drastically reduced its provision of rail services to Finch.

Specifically, on or around September 24, 2012 CP announced that, effective one week later, on October 1, 2012 it was permanently reducing the days it would switch cars in and out of the Finch mill from one switch per day to three switches per week, and that henceforth CP would only be available to the facility on Mondays, Wednesdays, and Fridays of each week.

In addition to reducing scheduled switching from five days a week to only three days a week, CP began failing or refusing to provide switches on even those three days. The refusal and failure of CP to provide daily switches five days a week resulted in a severe disruption of the flow of cars into and out of the Finch mill. This caused shortages of railcars carrying raw material, which in turn severely hampered the ability of Finch to operate its facility.

In addition to reducing the number of switches to the Finch mill, CP revised its procedures for calling in cars and made other changes to its customer service department which impaired Finch's ability to timely order and receive service to its mill.

CP's actions in reducing its service to Finch directly coincided with well-documented efforts by CP management starting in mid-2012 to significantly reduce the number of its employees, its locomotives and railcar equipment, and other services in order to reduce its costs and maximize its profits. Finch maintains that these actions by Canadian Pacific rendered CP unable to comply with its common carrier obligations to Finch. The discovery sought by Finch goes to the specific, and highly probative question of whether CP's reductions in the number of its employees, including engineers and train crews, adversely impacted CP's ability to satisfy its service obligations to Finch. Similarly, discovery regarding whether changes to CP's customer service department and its operations left CP unable to adequately service its customers is relevant to Finch's claims. Finally, CP's decision to cut back on locomotives and railcars is

directly relevant to the issue of whether CP violated its statutory common carrier obligations to Finch under 49 U.S.C. §11101.

The relevance of the discovery sought is readily apparent from the actions of the STB itself. In 2014, the Board opened Docket No. EP 724, as a result of serious service problems that were occurring across significant portions of the nation's rail network, particularly on the systems of Canadian Pacific Railway and its United States subsidiaries, and of the BNSF Railway. In addition to requesting information from CP on how it planned to restore its service levels to its customers, the Board held public hearings to allow interested parties the opportunity report on these service problems. *See* Exhibit D. In its June 20, 2014 Decision the Board noted that CP's submissions failed to clearly identify plans for resolving its ongoing service shortages. *Id.* at p. 2.

Following a public hearing on rail service issues in September of 2014, at which CP testified, the Board noted that neither CP's hearing testimony nor its written submissions contained the level of detail necessary for the Board to fully assess CP's plan for resolving its service problems. *See* STB Decision served October 14, 2014, Exhibit E at p. 1. The Board specifically recognized that CP merely stated that it expected to have sufficient resources, locomotives, cars, and crews on hand to accommodate its rail traffic volumes "*to the extent of its ability to do so.*" *Id.* at p. 2 (emphasis supplied.)

The Board also noted that published reports indicated that CP eliminated or planned to eliminate 4,500 to 6000 jobs on its U.S network. *Id.* The Board also recognized that customers had expressed difficulty in communicating with CP about service problems. *Id.* at p. 3. Finally, the Board recognized a need for information as to the extent of the delays in CP's service on a month by month basis.

For the very reasons that the Board deemed it necessary to seek information as to CP's ability to provide adequate service to the nation's rail customers and whether manpower and equipment reductions were impairing that ability, Finch is entitled to obtain discovery as to whether CP's cutbacks in its number of employees, its inventory of locomotives and railcars, and other measures in CP's New York service area contributed to its failures to adequately provide service to Finch in violation of CP's statutory common carrier obligations under 49 U.S.C. §11101.

The Board should order CP to fully respond to the Interrogatories and Document Requests discussed in this Motion.

Respectfully submitted,



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July 1, 2016

EXHIBIT A

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket FD 35981

FINCH PAPER LLC – PETITION FOR DECLARATORY ORDER

**CP'S RESPONSES AND OBJECTIONS TO
FINCH PAPER'S FIRST DOCUMENT REQUESTS**

Delaware and Hudson Railway Company d/b/a Canadian Pacific ("CP"), in accordance with 49 C.F.R. Part 1114, hereby responds to Petitioner Finch Paper LLC's ("Finch Paper") First Document Requests ("Document Requests").

GENERAL OBJECTIONS

These General Objections apply to each Document Request and thus, for convenience, they are not repeated after each request, but rather are hereby incorporated into each Response. The assertion of the same, similar, or additional objections or the provision of partial responses to the Document Request does not waive or modify any of CP's General Objections.

1. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent that they impose burdens or obligations on CP exceeding those specified in applicable provisions of the Rules of Practice at 49 C.F.R. Part 1114 by the Surface Transportation Board ("Board").

2. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they call for documents and/or information that is not reasonably calculated to lead to the discovery of admissible evidence, not

relevant to a claim or defense in this case, or not proportional to the needs of the case.

3. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they seek the identification of documents or information protected by the attorney-client privilege, the work-product doctrine, or any applicable privilege or protection from disclosure.

4. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they are vague, ambiguous, or would unreasonably require CP to speculate as to the nature or scope of the information or documents sought thereby.

5. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they seek documents or information that: (1) are outside CP's possession, custody, or control (including, but not limited to documents or information in the possession, custody, or control of its outside counsel, consultants, affiliates, and directors); (2) have been previously provided or produced; (3) are already within the knowledge of, or equally available to, Finch Paper; (4) are more readily available to Finch Paper than CP; (5) are readily available from public sources; or (6) are best obtained (or which Finch Paper has obtained) by alternative means, including interrogatories to other or third parties.

6. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent that they require the production of information or documents that would violate or be inconsistent with any applicable statute or regulation in a manner not addressed by any protective order entered in this proceeding (the "Protective Order"). CP objects to providing confidential information or documents generated

by any third party without first giving that party an adequate opportunity to object to such production.

7. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they request information and/or documents in a format not maintained by CP in the regular course of business or not readily available in the form requested by Finch Paper, or on grounds that such information or documents could be developed, if at all, only through an unduly burdensome special study or analysis. Where a request seeks relevant, non-privileged information or documents in a form different from that maintained by CP in its ordinary course of business, CP may produce any responsive information or documents in the form in which it is maintained by CP in the ordinary course of business.

8. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they ask for CP to produce "each," "every," "each and every," "any," "all," or "any and all" documents that discuss, relate, address, show, support or identify a subject matter as vague and ambiguous, ambiguous, confusing, overly broad, and unduly burdensome.

9. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they are overly broad, unduly burdensome, redundant, harassing, or oppressive, as well as to the extent that responding to them would impose an undue burden on CP and require it to engage in an excessive expenditure of time or money.

10. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, including without limitation the definition of "You or your"

contained in the "Definitions" section, as overbroad, vague, unduly burdensome, and as attempting to propound Document Requests on persons and entities other than CP.

11. CP reserves the right to amend, supplement, or alter these Responses as additional information becomes available to it.

CP's willingness to provide information or documents containing competitively-sensitive, proprietary, trade secret, railroad traffic or other confidential information, materials, or documents is conditioned upon Finch Paper's compliance with any Protective Order governing the production and disclosure of confidential, highly confidential, or sensitive security information, materials, and documents. In addition, CP's willingness to provide contractual information is conditioned upon CP being able to fulfill any notice requirements that may be present in individual agreements prior to disclosure.

CP submits its responses herein, and produces documents, without conceding the relevancy or materiality of the information or documents provided, and without prejudice to its rights to object to further discovery or to the admissibility of any additional proof on the subject matter of any answer.

Further, no response herein is intended, nor may be construed, as an admission or representation as to the accuracy or existence of any fact on which the request is predicated or as to the existence of documents responsive to the request.

**SPECIFIC OBJECTIONS AND RESPONSES TO
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Document Request No. 1: Produce all documents supporting your answers to Interrogatories 1-14.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking third-party proprietary, commercially sensitive and

confidential information, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 2: Produce true and correct copies of all versions of Tariff #2 containing modifications to the demurrage provisions made after January 1, 2012.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP will produce copies of the published versions of Tariff #2 that were in effect after January 1, 2012.

Document Request No. 3: Produce all documents relating or referring to switching services provided by You to Finch Paper after January 1, 2012.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 4: Produce all documents relating or referring to the Local Service Reliability Program which You announced “is being rolled out to the New York Service Area on May 22, 2012.”

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine, seeking third-party proprietary, commercially sensitive and confidential information, and seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 5: Produce all documents relating or referring to the decision by You to either not roll out, or to terminate the Local Service Reliability Program, including but not limited to any analysis and review conducted by Your operating personnel of Your business model for serving the Glens Falls area, and the new business model for the Glens Falls area adopted on or before September 24, 2012 as a result of that analysis.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine, seeking third-party proprietary, commercially sensitive and confidential information, and seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected

documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 6: Produce all documents relating or referring to the reduction of switching services or other rail transportation services by You to other customers in the New York Service Area and other customers on Your system after January 1, 2012, and any economic analysis of the impact of such reductions on Your revenues and costs.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine, seeking third-party proprietary, commercially sensitive and confidential information, and seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence.

Document Request No. 7: Produce all documents relating or referring to Your decision to reduce switching services to the Facility effective October 1, 2012.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine, and seeks third-party proprietary, commercially sensitive and confidential information. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 8: Produce all documents relating or referring to Finch Paper making requests for switches from You after October 1, 2012.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 9: Produce all documents relating or referring to communications with Finch Paper regarding reducing switching services to the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 10: Produce all documents relating or referring to You being unable or unwilling to provide switches on behalf of Finch Paper after January 1, 2012, including but not limited to You being unable or unwilling to do so due to track conditions, mechanical issues and/or engine problems, or due to lack of employees to perform such switches.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by

applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 11: Produce all documents dated after January 1, 2012 summarizing, referring or relating to Your policy of assessing demurrage, including but not limited to the level of demurrage charges and the methods by which demurrage charges would be assessed and calculated.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine and seeks third-party proprietary, commercially sensitive and confidential information. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 12: Produce all documents analyzing or discussing whether the demurrage charges being assessed or considered by You in Tariff #2 facilitate freight car use and distribution and promote an adequate car supply.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine, and seeks third-party proprietary, commercially sensitive and confidential information. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 13: Produce all documents analyzing, relating or referring to whether demurrage charges being assessed or considered against Finch Paper facilitate freight car use and distribution and promote an adequate car supply.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, unreasonably cumulative or duplicative, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 14: Produce all documents relating or referring to demurrage charges assessed by You against Finch Paper.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 15: Produce all documents after January 1, 2012 that reviewed or analyzed Your demurrage charges and policies, and potential and actual changes to those charges and policies, including but not limited to any analysis of actual or projected revenues from Your customers generally, and from Finch Paper specifically due to potential or actual changes to demurrage charges and policies.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine, and seeks third-party

proprietary, commercially sensitive and confidential information. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 16: Produce all documents relating or referring to “constructive placement” of railcars, as that term is defined in Tariff #2.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, seeking third-party proprietary and confidential information, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 17: Produce all documents relating or referring to You waiving, excusing, or otherwise not assessing demurrage charges against Finch Paper.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request since 2012.

Document Request No. 18: Produce all documents relating or referring to the parties' understanding that You had "standing instructions" to deliver loaded ammonia railcars directly into the Facility upon their arrival at the Whitehall or Fort Edward rail yard.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. CP further objects as the Document Request presupposes that the parties had an "understanding."

Document Request No. 19: Produce all documents from January 1, 2012 to December 31, 2014 relating or referring to Finch Paper disputing demurrage charges assessed by You on railcars containing ammonia based on the understanding that You had "standing instructions" to deliver loaded ammonia railcars directly into the Facility, including but not limited to any waiver or excusing of demurrage charges due to such standing instruction or understanding.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. CP further objects as the Document Request presupposes that the parties had an "understanding." Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents referring to Finch Paper disputing demurrage charges assessed by CP on rail cars containing ammonia based on Finch Paper's assertion of "standing instructions' to deliver loaded ammonia railcars directly into the Facility."

Document Request No. 20: Produce all documents relating or referring to demurrage charges being assessed or not assessed Finch due to "constructive placement" of railcars.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, unreasonably cumulative or duplicative to the extent it seeks documents already requested, including in Requests Nos. 14, 16 and 17, and on the grounds that it

seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Document Request No. 21: Produce all documents relating or referring to You tracking ammonia railcars destined to the Facility from origin to the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous and ambiguous as to the term “tracking,” overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine and to the extent it seeks data that has been designated Sensitive Security Information (“SSI”) by the United States Department of Transportation (“DOT”) or the United States Department of Homeland Security (“DHS”).

Document Request No. 22: Produce all documents relating or referring to Your policy of “calling in” ammonia cars when such cars are within 72 hours of the Whitehall Yard.

RESPONSE: CP objects to this Document Request as vague and ambiguous as to the terms “policy” and “calling in,” overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP interprets this request as seeking documents referring to Finch Paper’s ability to place an order for ammonia rail cars to be delivered before such cars arrive at the serving yard and, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request as interpreted.

Document Request No. 23: Produce all documents relating or referring to Finch Paper leasing tracks from You in the vicinity of the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 24: Produce all documents relating or referring to Your decision to terminate lease and storage tracks agreements(s) with Finch Paper.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 25: Produce all documents relating or referring to Your being unable or unwilling to provide switches of loaded and empty railcars on behalf of Finch Paper as scheduled.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by

applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request created since 2012.

Document Request No. 26: Produce all documents relating or referring to disruptions in the flow of railcars into and out of the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request created since 2012.

Document Request No. 27: Produce all documents relating or referring to how You determined the amount that You would charge shippers for demurrage.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 28: Produce all maintenance and repair records for the tracks used by You to provide rail service to the Facility, including but not limited to documents relating or referring to track outages on tracks servicing or potentially servicing the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information

protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents sufficient to show when, since 2012, CP performed track work on the tracks directly serving the Facility.

Document Request No. 29: Produce all documents relating or referring to derailments on Your lines, including but not limited to lines used to service the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents referring to derailments on CP track between Fort Edwards Yard and the Finch Paper facility since 2012 that either involved a Finch Paper car or otherwise impacted service to the Facility following a meet and confer among counsel to appropriately narrow further the scope of the request.

Document Request No. 30: Produce all documents relating or referring to any notices or enforcement actions by the Federal Railroad Administration pertaining to the rail lines and tracks used by You to provide rail service to the Facility.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and

on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Document Request No. 31: Produce all documents relating or referring to repairs You were making on Your track between the Facility and Whitehall Yard between April 7, 2014 and July 28, 2014.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, unreasonably cumulative or duplicative, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents sufficient to show repairs made on CP mainline track between the Facility and Whitehall Yard between April 7, 2014 and July 28, 2014.

Document Request No. 32: Produce all documents relating to the derailment that occurred on or about April 7, 2014 on the tracks of the Lehigh Cement Company.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, seeking third-party proprietary and confidential information, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to

this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 33: Produce all documents relating or referring to the decision by You to restrict service to the Facility on or around April 22, 2014, and Your decision to resume service on or around July 28, 2014.

RESPONSE: CP objects to this Document Request as vague and ambiguous and ambiguous as to the terms “restrict service” and “resume service,” overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 34: Produce all Your Customer Audit Safety forms from 2013 to the present.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, seeking third-party proprietary, commercially sensitive and confidential information, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Document Request No. 35: Produce all Your Customer Audit Safety forms referring or relating to Finch Paper.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information

protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 36: Produce all documents relating or referring to the number of cars per switch it is feasible or possible for Finch Paper to receive.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

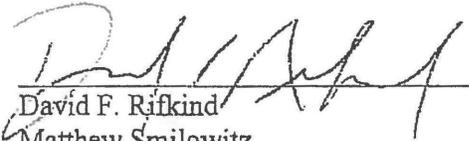
Document Request No. 37: Produce all documents relating or referring to the number of cars switched by You on behalf of Finch Paper.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Document Request No. 38: Produce all documentation showing the time it took for You to complete switches on behalf of Finch Paper.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request following a meet and confer among counsel to appropriately narrow the scope of the request.

Respectfully submitted,



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Dated: March 9, 2016

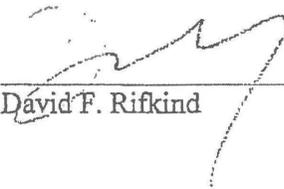
jfiorilla@capehart.com

*Attorneys for Delaware and Hudson Railway
Company d/b/a Canadian Pacific*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March 2016, I served a copy of CP's Responses and Objections to Finch Paper's First Document Requests by first class mail, postage pre-paid and by electronic mail on:

Thomas W. Wilcox (twilcox@gkglaw.com)
Brendan Collins (bcollins@gkglaw.com)
Svetlana Lyubchenko (slyubchenko@gkglaw.com)
GKG Law, P.C.
1055 Thomas Jefferson Street, NW, Suite 500
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David F. Rifkind

EXHIBIT B

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket FD 35981

FINCH PAPER LLC – PETITION FOR DECLARATORY ORDER

**CP’S RESPONSES AND OBJECTIONS TO
FINCH PAPER’S SECOND SET OF INTERROGATORIES**

Delaware and Hudson Railway Company d/b/a CP Rail (“CP”), in accordance with 49 C.F.R. Part 1114, hereby responds to Petitioner Finch Paper LLC’s (“Finch Paper”) Second Set of Interrogatories (“Interrogatories”).

GENERAL OBJECTIONS

These General Objections apply to each Interrogatory and thus, for convenience, they are not repeated after each Interrogatory, but rather are hereby incorporated into each Answer. The assertion of the same, similar, or additional objections or the provision of partial answers to the Interrogatories does not waive or modify any of CP’s General Objections.

1. CP objects to Finch Paper’s Interrogatories, including the “Instructions” and “Definitions” sections thereof, and to each interrogatory, to the extent that they impose burdens or obligations on CP exceeding those specified in applicable provisions of the Rules of Practice at 49 C.F.R. Part 1114 by the Surface Transportation Board (“Board”).

2. CP objects to Finch Paper’s Interrogatories, including the “Instructions” and “Definitions” sections thereof, and to each interrogatory, to the extent they call for information that is not reasonably calculated to lead to the discovery of admissible evidence, not relevant to a

claim or defense in this case, or not proportional to the needs of the case.

3. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent they seek the identification of documents or information protected by the attorney-client privilege, the work-product doctrine, or any applicable privilege or protection from disclosure.

4. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent they are vague, ambiguous, or would unreasonably require CP to speculate as to the nature or scope of the information or documents sought thereby.

5. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent they seek documents or information that: (1) are outside CP's possession, custody, or control (including, but not limited to documents or information in the possession, custody, or control of its outside counsel, consultants, affiliates, and directors); (2) have been previously provided or produced; (3) are already within the knowledge of, or equally available to, Finch Paper; (4) are more readily available to Finch Paper than CP; (5) are readily available from public sources; or (6) are best obtained (or which Finch Paper has obtained) by alternative means, including interrogatories to other or third parties.

6. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent that they require the identification of information or documents that would violate or be inconsistent with any applicable statute or regulation in a manner not addressed by any protective order entered in this proceeding (the "Protective Order"). CP objects to providing confidential information or

documents generated by any third party without first giving that party an adequate opportunity to object to such production.

7. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent they request information in a format not maintained by CP in the regular course of business or not readily available in the form requested by Finch Paper, or on grounds that such information or documents could be developed, if at all, only through an unduly burdensome special study or analysis. Where a request seeks relevant, non-privileged information or documents in a form different from that maintained by CP in its ordinary course of business, CP may produce any responsive information or documents in the form in which it is maintained by CP in the ordinary course of business.

8. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent they ask for CP to identify or produce "each," "every," "each and every," "any," "all," or "any and all" documents that discuss, relate, address, show, support or identify a subject matter as vague, ambiguous, confusing, overly broad, and unduly burdensome.

9. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, and to each interrogatory, to the extent they are overly broad, unduly burdensome, redundant, harassing, or oppressive, as well as to the extent that responding to them would impose an undue burden on CP and require it to engage in an excessive expenditure of time or money.

10. CP objects to Finch Paper's Interrogatories, including the "Instructions" and "Definitions" sections thereof, including without limitation the definition of "You or your" contained in the "Definitions" section, as overbroad, vague, unduly burdensome, and as

attempting to propound Interrogatories on persons and entities other than CP.

11. CP reserves the right to amend, supplement, or alter these Answers as additional information becomes available to it.

CP's willingness to provide information or documents containing competitively-sensitive, proprietary, trade secret, railroad traffic or other confidential information, materials, or documents is conditioned upon Finch Paper's compliance with any Protective Order governing the production and disclosure of confidential, highly confidential, or sensitive security information, materials, and documents. In addition, CP's willingness to provide contractual information is conditioned upon CP being able to fulfill any notice requirements that may be present in individual agreements prior to disclosure.

CP submits its answers herein without conceding the relevancy or materiality of the information provided, and without prejudice to its rights to object to further discovery or to the admissibility of any additional proof on the subject matter of any answer.

Further, no response herein is intended, nor may be construed, as an admission or representation as to the accuracy or existence of any fact on which the request is predicated.

SPECIFIC OBJECTIONS AND ANSWERS

Interrogatory No. 15: Please identify and describe in detail any management strategies or business plans implemented between January 1, 2012 and December 31, 2015 that called for reducing the number of CP employees (a) nationally and (b) locally in the New York service area in which Finch Paper's Facility is located, and state the number of employees reduced in years 2012, 2013, 2014 and 2015.

RESPONSE: CP objects to this Interrogatory as vague, ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks information protected by the attorney-client privilege and work-product doctrine.

Interrogatory No. 16: Please identify how many of the 4,615 “system-wide employee and contractor headcount” positions eliminated by CP after July 2012 described in the October 24, 2014 letter filed by CP with the Surface Transportation Board were employees and contractors that previously were associated in any way with CP’s provision of rail transportation services to Finch Paper.

RESPONSE: CP objects to this Interrogatory as vague, ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks information protected by the attorney-client privilege and work-product doctrine. CP further objects to this Interrogatory on the grounds that it seeks a special study/analysis.

Interrogatory No. 17: Please identify and describe in detail any management strategies or business plans implemented between January 1, 2012 and December 31, 2015 that called for reducing the number of locomotives in use by CP (a) nationally and (b) locally in the New York service area in which Finch Paper’s Facility is located, and state the number of locomotives reduced in years 2012, 2013, 2014 and 2015.

RESPONSE: CP objects to this Interrogatory as vague, ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks information protected by the attorney-client privilege and work-product doctrine.

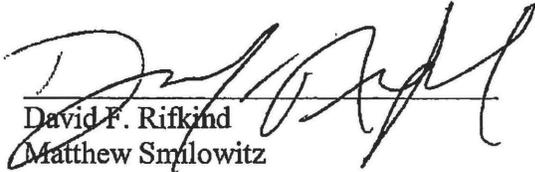
Interrogatory No. 18: Please describe the extent to which CP allocated (1) train crews (2) locomotives, and (3) track capacity away from providing rail service to customers in the New York service area and used them for other customers on other parts of CP’s system between January 1, 2012 and December, 2015, and provide the number of train crews, locomotives, and miles of track that were reallocated in years 2012, 2013, 2014 and 2015.

RESPONSE: CP objects to this Interrogatory as vague, ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks information protected by the attorney-client privilege and work-product doctrine.

Interrogatory No. 19: Please describe any changes CP made to its customer service department between January 1, 2012 and December 31, 2015, and describe in detail the extent of those changes, including the extent to which these changes altered the customer service department as it applied to Finch Paper.

RESPONSE: CP objects to this Interrogatory as vague, ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks information protected by the attorney-client privilege and work-product doctrine.

Respectfully submitted,



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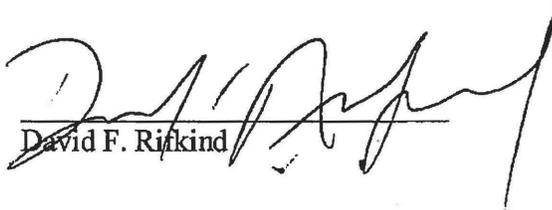
*Attorneys for Delaware and Hudson Railway
Company d/b/a CP Rail*

Dated: April 26, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of April 2016, I served a copy of CP's Responses and Objections to Finch Paper's Second Set of Interrogatories by first class mail, postage prepaid and by electronic mail on:

Thomas W. Wilcox (twilcox@gkglaw.com)
Brendan Collins (bcollins@gkglaw.com)
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Washington, D.C. 20007



David F. Rifkind

EXHIBIT C

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB Docket FD 35981

FINCH PAPER LLC – PETITION FOR DECLARATORY ORDER

**CP’S RESPONSES AND OBJECTIONS TO
FINCH PAPER’S SECOND DOCUMENT REQUESTS**

Delaware and Hudson Railway Company d/b/a CP Rail (“CP”), in accordance with 49 C.F.R. Part 1114, hereby responds to Petitioner Finch Paper LLC’s (“Finch Paper”) Second Document Requests (“Document Requests”).

GENERAL OBJECTIONS

These General Objections apply to each Document Request and thus, for convenience, they are not repeated after each request, but rather are hereby incorporated into each Response. The assertion of the same, similar, or additional objections or the provision of partial responses to the Document Request does not waive or modify any of CP’s General Objections.

1. CP objects to Finch Paper’s Document Requests, including the “Instructions” and “Definitions” sections thereof, and to each request, to the extent that they impose burdens or obligations on CP exceeding those specified in applicable provisions of the Rules of Practice at 49 C.F.R. Part 1114 by the Surface Transportation Board (“Board”).

2. CP objects to Finch Paper’s Document Requests, including the “Instructions” and “Definitions” sections thereof, and to each request, to the extent they call for documents and/or information that is not reasonably calculated to lead to the discovery of admissible evidence, not

relevant to a claim or defense in this case, or not proportional to the needs of the case.

3. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they seek the identification of documents or information protected by the attorney-client privilege, the work-product doctrine, or any applicable privilege or protection from disclosure.

4. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they are vague, ambiguous, or would unreasonably require CP to speculate as to the nature or scope of the information or documents sought thereby.

5. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they seek documents or information that: (1) are outside CP's possession, custody, or control (including, but not limited to documents or information in the possession, custody, or control of its outside counsel, consultants, affiliates, and directors); (2) have been previously provided or produced; (3) are already within the knowledge of, or equally available to, Finch Paper; (4) are more readily available to Finch Paper than CP; (5) are readily available from public sources; or (6) are best obtained (or which Finch Paper has obtained) by alternative means, including interrogatories to other or third parties.

6. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent that they require the production of information or documents that would violate or be inconsistent with any applicable statute or regulation in a manner not addressed by any protective order entered in this proceeding (the "Protective Order"). CP objects to providing confidential information or documents generated

by any third party without first giving that party an adequate opportunity to object to such production.

7. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they request information and/or documents in a format not maintained by CP in the regular course of business or not readily available in the form requested by Finch Paper, or on grounds that such information or documents could be developed, if at all, only through an unduly burdensome special study or analysis. Where a request seeks relevant, non-privileged information or documents in a form different from that maintained by CP in its ordinary course of business, CP may produce any responsive information or documents in the form in which it is maintained by CP in the ordinary course of business.

8. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they ask for CP to produce "each," "every," "each and every," "any," "all," or "any and all" documents that discuss, relate, address, show, support or identify a subject matter as vague, ambiguous, confusing, overly broad, and unduly burdensome.

9. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, and to each request, to the extent they are overly broad, unduly burdensome, redundant, harassing, or oppressive, as well as to the extent that responding to them would impose an undue burden on CP and require it to engage in an excessive expenditure of time or money.

10. CP objects to Finch Paper's Document Requests, including the "Instructions" and "Definitions" sections thereof, including without limitation the definition of "You or your"

contained in the “Definitions” section, as overbroad, vague, unduly burdensome, and as attempting to propound Document Requests on persons and entities other than CP.

11. CP reserves the right to amend, supplement, or alter these Responses as additional information becomes available to it.

CP’s willingness to provide information or documents containing competitively-sensitive, proprietary, trade secret, railroad traffic or other confidential information, materials, or documents is conditioned upon Finch Paper’s compliance with any Protective Order governing the production and disclosure of confidential, highly confidential, or sensitive security information, materials, and documents. In addition, CP’s willingness to provide contractual information is conditioned upon CP being able to fulfill any notice requirements that may be present in individual agreements prior to disclosure.

CP submits its responses herein, and produces documents, without conceding the relevancy or materiality of the information or documents provided, and without prejudice to its rights to object to further discovery or to the admissibility of any additional proof on the subject matter of any answer.

Further, no response herein is intended, nor may be construed, as an admission or representation as to the accuracy or existence of any fact on which the request is predicated or as to the existence of documents responsive to the request.

**SPECIFIC OBJECTIONS AND RESPONSES TO
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Document Request No. 39: Please provide all documents related and referring to the answers in the foregoing Interrogatories.

RESPONSE: CP objects to this Document Request as vague and ambiguous (including what is meant by “documents . . . referring to the answers”), overly broad and unduly burdensome (including seeking “all” documents “related” and “referring to” the answers), and on the grounds

that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents referenced in its answers to Finch Paper's Second Set of Interrogatories.

Document Request No. 40: Please provide all documents relating to or referring to management strategies or business plans that called for reducing the number of CP employees between January 1, 2012 and December 31, 2015 (a) nationally and (b) locally in the New York service area in which Finch Paper's Facility is located.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Document Request No. 41: Please provide all documents relating or referring to strategies or business plans that called for reducing the number of locomotives in use by CP between January 1, 2012 and December 31, 2015, (a) nationally and (b) locally in the New York service area in which Finch Paper's Facility is located.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Document Request No. 42: Please provide all documents relating or referring to CP allocating (1) train crews (2) locomotives, and (3) track capacity away from providing rail service to customers in the New York service area and using them for other customers on other parts of CP's system between January 1, 2012 and December, 2015.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Document Request No. 43: Please provide all documents relating or referring to inquiries by Finch Paper to CP's Customer Service Department between January 1, 2012 and December 31, 2015.

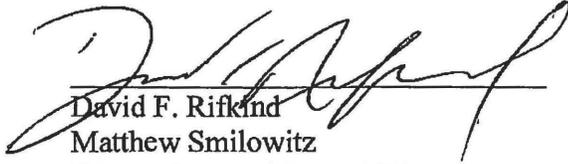
RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, and on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine. Subject to and without waiving these objections and the General Objections, CP states that, to the extent permitted by applicable law and its contractual or other obligations, CP will produce reasonably-available non-privileged and otherwise non-protected documents responsive to this request.

Document Request No. 44: Please produce all documents that discuss the extent to which the CP service problems in the Upper Midwestern United States and Chicago that were the primary focus of CP's participation in STB Docket No. EP 724, United States Rail Service Issues, affected CP's ability to provide rail service to Finch Paper and other customers located on the New York service area portion of CP's system.

RESPONSE: CP objects to this Document Request as vague and ambiguous, overly broad, unduly burdensome, seeking information not relevant to the issues raised in the above-captioned action and not reasonably calculated to lead to the discovery of admissible evidence, and

on the grounds that it seeks documents and/or information protected by the attorney-client privilege and work-product doctrine.

Respectfully submitted,



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*Attorneys for Delaware and Hudson Railway
Company d/b/a CP Rail*

Dated: April 26, 2016

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of April 2016, I served a copy of CP's Responses and Objections to Finch Paper's Second Document Requests by first class mail, postage pre-paid and by electronic mail on:

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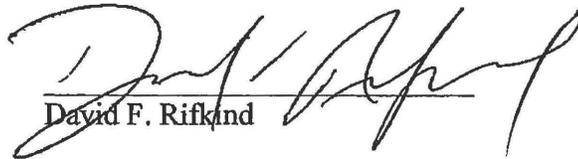

David F. Rifkind

EXHIBIT D

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. EP 724 (Sub-No. 2)

UNITED STATES RAIL SERVICE ISSUES—GRAIN

Digest:¹ Based on concerns raised before and after the public hearing on this matter, the Board is requiring Canadian Pacific Railway Company and BNSF Railway Company to publicly file their plans to timely resolve their backlogs of grain car orders, as well as weekly status reports pertaining to grain car service.

Decided: June 20, 2014

Early this year, the Board began hearing about service problems occurring across significant portions of the nation's rail network, particularly on the Canadian Pacific Railway Company (CP) and BNSF Railway Company (BNSF) systems. In response, the Board sent separate letters to CP and BNSF requesting information on how each Class I planned to restore its service levels.² Pursuant to a decision served on April 1, 2014, in United States Rail Service Issues, Docket No. EP 724, the Board held a public hearing on April 10, 2014, at its offices in Washington, D.C., to provide interested persons the opportunity to report on recent service problems in the United States rail network, to hear from rail industry executives on plans to address their service problems, and to discuss additional options to improve service. During the hearing, farmers and representatives of agriculture producers described severe, negative effects resulting from backlogged grain car orders and delayed shipments of loaded grain cars. The reported impacts included, for example, elevators running out of storage capacity, risks of stored

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, Surface Transportation Board, to E. Hunter Harrison, Chief Exec. Officer and Dir., Canadian Pacific Railway Company (Mar. 6, 2014), available at <http://stb.dot.gov> (open tab at "E-Library," select "Correspondence," select "Fall Peak Letters," follow "03/06/2014" hyperlink, and select the ".pdf" icon); Letter from Daniel R. Elliott III, Chairman, and Ann D. Begeman, Vice Chairman, Surface Transportation Board, to Carl Ice, President and Chief Exec. Officer, BNSF Railway Company (Feb. 5, 2014), available at <http://stb.dot.gov> (open tab at "E-Library," select "Correspondence," select "Fall Peak Letters," follow "02/05/2014" hyperlink, and select the ".pdf" icon).

grain spoiling, and penalties incurred by grain shippers for products that are not delivered on time.

Backlogged grain car orders and grain shipping delays and the resulting problems have been particularly acute on the systems of CP and BNSF. At the hearing, CP's President and Chief Operating Officer estimated that CP's service would be restored to normal in four to six weeks "if everyone does their part."³ BNSF has committed to moving last year's crop prior to the fall harvest.⁴ Following the hearing, staff from the Board's Rail Customer and Public Assistance Program met with shippers and other interested persons in many of the affected areas.

Since the hearing, BNSF and CP have provided data to the Board on a regular basis regarding the status of their operations and their progress in resolving the ongoing service issues.⁵ BNSF has described to the Board its 2014 plans to add employees, locomotives, and make additional capital investments.⁶ BNSF's plans indicate that a significant portion of these increases to personnel and equipment will be allocated to its Northern corridor, which carries a significant amount of grain traffic.⁷ CP's public submissions to the Board, however, have not to date clearly articulated its plans for resolving the grain car order backlog in the near term.

³ See Surface Transportation Board, hearing in U.S. Rail Serv. Issues, EP 724, pt. 3 at 00:04:55 (Apr. 10, 2014), available at <http://www.stb.dot.gov/stb/audiomee.nsf> (follow "4/10/2014" hyperlink, and follow "Hearing041014_3.wmv" hyperlink).

⁴ Letter from Carl R. Ice, President and Chief Exec. Officer, BNSF Railway Company, to Daniel Elliott, Chairman, Ann Begeman, Vice Chairman, and Debra Miller, Commissioner, Surface Transportation Board (May 7, 2014), at 2, available at <http://stb.dot.gov> (open tab at "E-Library, select "Correspondence," select "Fall Peak Letters," follow "05/07/2014" hyperlink, and select the ".pdf" icon); Letter from Carl R. Ice, President and Chief Exec. Officer, BNSF Railway Company, to Daniel Elliott, Chairman, Ann Begeman, Vice Chairman, and Debra Miller, Commissioner, Surface Transportation Board (June 4, 2014), at 2, available at <http://stb.dot.gov> (open tab at "E-Library, select "Correspondence," select "Fall Peak Letters," follow "06/04/2014" hyperlink, and select the ".pdf" icon).

⁵ See, e.g., BNSF Railway Network Velocity and Service; STB Status Update (May 30, 2014), available at <http://stb.dot.gov> (open tab at "E-Library, select "Correspondence," select "Fall Peak Letters," follow "06/04/2014" hyperlink, and select the ".pdf" icon). This document, at 4, shows BNSF's performance versus projections on a weekly basis for working through its backlog of unfulfilled grain car orders, measured in terms of number of cars and average days late.

⁶ See BNSF Oral Argument Ex. at 17, 19, and 20, U.S. Rail Serv. Issues, EP 724 (filed Apr. 10, 2014). BNSF also tracks its progress toward hiring and equipment goals in its biweekly reports available on the Board's website. These biweekly reports are available at <http://stb.dot.gov> (open tab at "E-Library, select "Correspondence," select "Fall Peak Letters," select the desired service report hyperlink, and then select the ".pdf" icon).

⁷ BNSF Oral Argument Ex. at 20, U.S. Rail Serv. Issues, EP 724 (filed Apr. 10, 2014).

Although the data submitted by both railroads indicates some initial progress toward reducing their grain car order backlogs and grain car delays, the Board remains very concerned about the limited time period until the next harvest, the large quantities of grain yet to be moved, and the railroads' paths toward meeting their respective commitments. For these reasons, pursuant to 49 U.S.C. § 721(b), the Board will direct CP to provide its plan, and BNSF to provide an updated plan, by June 27, 2014, to reduce their respective backlog of unfilled grain car orders and resolve grain car delays (for CP, on its United States network) including their timeline for doing so. CP's report shall specifically address its plan for ensuring a fluid and reliable interchange of loaded and empty grain cars with Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E). The Board will further direct CP and BNSF to provide weekly status reports, beginning June 27, 2014, regarding the transportation of grain⁸ on their networks (for CP, on its United States network). As part of these status reports, CP and BNSF shall provide, by state, the running total of outstanding grain car orders at the end of the week, the total number of new orders for the week, the total number of orders filled for the week, the number of orders cancelled by shippers for the week, the number of orders cancelled by CP or BNSF for the week, and the average number of days late for all outstanding grain car orders. CP and BNSF shall also report the number of cars allocated to grain car service each week, including the number of private cars in service. CP's report shall include the number of grain cars requested by RCP&E and the number of cars furnished by CP on a weekly basis. These reports will be required until each carrier resolves its backlog of unfilled grain car orders.

Technical questions regarding compliance with this order may be directed to the Board's Office of Public Assistance, Governmental Affairs and Compliance.

This directive is intended to focus each railroad's attention on working through its backlog of grain car orders and improving its service to grain shippers while simultaneously addressing the extensive service and car supply issues for all commodities across its rail network. The Board continues to closely monitor rail service metrics for all movements and to consider other efforts to address rail service issues.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. CP is directed to report to the Board, by June 27, 2014, its plan to resolve the backlog of grain car orders on its United States network, including its timeline for doing so, and its plan for ensuring a fluid and reliable interchange of loaded and empty grain cars with RCP&E.

⁸ For purposes of this order, the term "grain" shall refer to, and include the following Standard Transportation Commodity Codes: 01131 (barley), 01132 (corn), 01133 (oats), 01135 (rye), 01136 (sorghum grains), 01137 (wheat), 01139 (grain, not elsewhere classified), 01144 (soybeans), 01341 (beans, dry), 01342 (peas, dry), and 01343 (cowpeas, lentils, or lupines).

2. BNSF is directed to report to the Board, by June 27, 2014, an updated plan to resolve the backlog of grain car orders on its network, including its timeline for doing so.

3. CP and BNSF are directed to provide weekly status reports, beginning June 27, 2014, regarding the transportation of grain on their networks (for CP, on its United States network). As part of these status reports, CP and BNSF shall provide, by state, the running total of outstanding grain car orders at the end of the week, the total number of new orders for the week, the total number of orders filled for the week, the number of orders cancelled by shippers for the week, the number of orders cancelled by CP or BNSF for the week, and the average number of days late for all outstanding grain car orders. CP and BNSF shall also report the number of cars allocated to grain car service each week, including the number of private cars in service. CP's report shall include the number of grain cars requested by RCP&E and the number of cars furnished by CP on a weekly basis. These reports will be required for each carrier until it resolves its backlog of unfilled grain car orders.

4. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

EXHIBIT E

SURFACE TRANSPORTATION BOARD

Docket No. EP 724

UNITED STATES RAIL SERVICE ISSUES

Digest:¹ The Board is directing Canadian Pacific Railway Company (CP) to answer specific questions to clarify ambiguities related to CP's efforts to resolve its service problems and respond to fall peak demand.

Decided: October 14, 2014

The Board held a public hearing on September 4, 2014, in Fargo, N.D., to provide interested persons the opportunity to report on rail service problems, to hear from rail industry executives on plans to address service problems, and to discuss additional options to improve service. Among other things, the Board directed representatives of Canadian Pacific Railway Company (CP) to testify at the hearing to discuss ongoing and future efforts to improve service on its railroad and to provide an estimated timeline for a return to normal service levels.

On August 19, 2014, Chairman Elliott requested that each Class I rail carrier submit a letter to the Board by September 15, 2014, outlining the carrier's expectation for the fall peak shipping season and its plan to address peak demand.²

Neither CP's hearing testimony nor its September 17 fall peak response contained the level of detail necessary for the Board to fully assess CP's plans for resolving its service problems or responding to the fall service demand. Therefore, the Board is requesting additional information from CP.

Pursuant to 49 U.S.C. §§ 721(b) and 11145(a), CP is hereby directed to respond to the following requests:

1. Provide a detailed plan that describes both the short-term and long-term steps CP is taking or will take to handle increased demand on its U.S. network, particularly in North Dakota, South Dakota, Minnesota, Iowa, Wisconsin, and Illinois (Midwest and central Northern region). This response should include information about, but not limited to, track and infrastructure projects, crew hiring, and equipment purchases (e.g., locomotives and cars)

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² CP filed its response on September 17, 2014.

aimed at improving fluidity or increasing capacity and steps that are being taken to address severe weather events that might occur.

2. CP's peak season response letter states that it expects an increase in volumes of grain, automobiles, fertilizer, and intermodal, "in amounts that are in line with the seasonal traffic gains that are usually seen at this time of year."³ However, with respect to these peak volumes, CP's response merely states that CP expects to have sufficient resources, locomotives, cars, and crews on hand to accommodate any increased traffic volumes and peaks that may occur, "to the extent of its ability to do so."⁴ Describe in detail the "extent of [CP's] ability" to meet peak season demand for grain, automobiles, fertilizer, and intermodal.
3. Published reports have indicated that CP has eliminated or plans to eliminate 4,500 to 6,000 jobs by 2016, including jobs on its U.S. network.⁵ Similarly, CP's reports to the Board (Form C, Monthly Report of Employees) indicate that employment numbers at CP's U.S. subsidiary, Soo Line Railroad Company, dropped by more than 9% for train and engine employees, and by more than 29% for other employees, between January 2013 and August 2014. At the hearing, CP's representative estimated that CP would hire 150 to 180 employees across its entire system, net of attrition. CP's peak season response letter makes no mention of its specific hiring plans.
 - a. Of the 4,500 to 6,000 jobs that CP has eliminated or plans to eliminate, as referenced above, how many of these employees are based on CP's U.S. network?
 - b. State CP's planned hiring goal for its U.S. network for 2014 and 2015, sorted by the employment categories in 49 C.F.R. § 1245.5 (e.g., Maintenance of Way and Structures, Maintenance of Equipment and Stores).
 - c. Of CP's actual hires for 2014, how many employees, by employment category described above, are or will be based in the Midwest and central Northern region?
 - d. For 2013 and 2014, through the date of CP's response to this Order, state by month the number of trains on CP's U.S. network holding for four hours or longer due to crew shortage.

³ CP Fall Peak Letter 1 (Sept. 17, 2014), available at <http://www.stb.dot.gov/> (open tab at "E-Library," select "Correspondence," select "Fall Peak Letters," follow "09/17/2014" hyperlink under 2014/Fall Peak Demand Letter/CP, and select the ".pdf" icon).

⁴ Id.

⁵ See, e.g., Can. Pac. Ry., Annual Information Form 2013, at 3 (Mar. 5, 2014) available at <http://www.cpr.ca/en/investors-site/Lists/FinancialReports/cp-aif-2013.pdf> (indicating that CP has met its goal of reducing its workforce by approximately 4,500 employees); Frederic Tomesco, Ackman-Backed CEO Pushes CP Rail Profit Above Estimates, Bloomberg News, (Apr. 24, 2013, 4:34 PM), <http://www.bloomberg.com/news/2013-04-24/ackman-backed-ceo-pushes-cp-rail-profit-above-estimates.html> (citing CP plans to eliminate as many as 6,000 positions).

4. At the hearing, several witnesses discussed difficulty in communicating with CP about service problems. Describe in detail CP's processes for communicating service issues with customers, including a list of any call centers CP uses to ensure customers are able to contact CP by phone.
5. At both hearings, CP cited congestion caused by a harsh Chicago winter as a significant cause of its service problems. State whether CP is currently a member of the Chicago Transportation Coordination Office (CTCO) and, if not, explain in detail how CP will coordinate its interchange of traffic at Chicago with other railroads, especially if operating conditions deteriorate during the peak season or over the winter.
6. The implementation of CP's sale of the Dakota, Minnesota & Eastern Railroad Corporation line and the establishment of a new interchange between CP and Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E) at Tracy, Minn., has been difficult. While there have been positive developments in terms of communication and equipment supply, there are also continuing problems in coordination between the two carriers. CP's peak season response letter states that CP "has taken a number of additional steps for the benefit of RCP&E and its customers such as supplying additional grain cars, supplying additional locomotives, and running extra trains."⁶ Provide a detailed description of where these issues stand today and what additional steps CP can take to improve the flow of traffic with RCP&E.

CP shall submit complete and accurate responses to these questions by October 24, 2014. CP is directed to provide these responses in a verified statement by an executive-level official with sufficient knowledge to provide complete and accurate answers.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. By October 24, 2014, CP shall file a verified statement by an executive-level official as described above, responding completely and accurately to the questions contained in this decision.
2. This decision is effective on its service date.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

⁶ CP Fall Peak Letter 2.

CERTIFICATE OF SERVICE

I do hereby certify that on this 1st day of July 2016, I have served a copy of the foregoing
Finch Paper's Motion to Compel by first class mail and email to:

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