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**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

ENTERED  
Office of Proceedings

JUL 11 2011

Part of  
Public Record

E.I. DUPONT DE NEMOURS AND COMPANY

Complainant,

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Defendant.

Docket No. NOR 42125

**DEFENDANT NORFOLK SOUTHERN RAILWAY COMPANY'S REPLY TO  
COMPLAINANT'S MOTION TO MODIFY PROCEDURAL SCHEDULE**

Defendant Norfolk Southern Railway Company ("NS") hereby responds to Complainant E.I. Du Pont De Nemours and Company's ("DuPont's") Motion of June 30, 2011 to Modify Procedural Schedule ("Motion") in the above-captioned proceeding. NS does not oppose the Motion, but responds to clarify two points raised by DuPont.

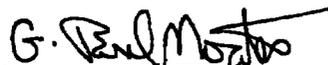
First, DuPont correctly notes that NS has not yet produced the traffic data requested by DuPont during discovery because of concerns that those traffic files (which contain detailed information about the routing of toxic-by-inhalation ("TIH") and other hazardous commodities) contain Sensitive Security Information ("SSI"). DuPont asserts that "a solution satisfactory to DuPont and NS" was reached following an April 13, 2011 meeting between DuPont, NS, the Board, and the Department of Transportation, and that this solution "requires a decision from the FRA." While this is partially correct, NS wishes to clarify that the consultations referenced by DuPont included the Transportation Security Administration ("TSA") and NS has requested not only a decision from FRA (which we understand will be based upon FRA's consultations with TSA) but also an order from the Board advising the parties that based upon consultations with

FRA and TSA, NS may produce its traffic data as "Highly Confidential" information consistent with SSI regulations.

Second, with regards to the timing of the production of traffic data, NS interprets the use of the word "immediately" to mean that NS will be prepared to produce the traffic data promptly upon the issuance of an appropriate Board order. NS notes that while the traffic records at issue here are voluminous, NS stands ready to begin production as soon as it receives governmental authorization to do so.

Finally, NS asks that if the Board grants DuPont's Motion, its Decision make clear that discovery is being extended for both parties, and not just for the Complainant.

Respectfully submitted,



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Dated: July 11, 2011

**CERTIFICATE OF SERVICE**

I hereby certify that on this 11th day of July, 2011, I caused a copy of the foregoing Reply to Complainant's Motion to Modify Procedural Schedule to be served on the following parties by first class mail, postage prepaid or more expeditious method of delivery:

Jeffrey O. Moreno  
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A handwritten signature in black ink, appearing to read 'Eva Mozena Brandon', with a long horizontal flourish extending to the right.

Eva Mozena Brandon