

**US CLAY PRODUCERS
TRAFFIC ASSOCIATION**



March 25, 2019

Re: January 1, 2019 Changes to Tariff 6004-D, Item 1010

Mr. James A. Squires
Chairman, President, and Chief Executive Officer
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510

Dear Mr. Squires:

The undersigned Members of the U.S. Clay Producers Traffic Association ("Clay Producers") are major shippers on Norfolk Southern Railway Company (NS) and take serious issue with the several changes since December, 2017 in Freight Tariff NS 6004-D, Item 1010. We believe that for the most part, the dramatic increases in demurrage Clay Producers are experiencing are unfair and relate more so to NS's difficulties in successfully implementing operational changes than to excessive delays in loading and unloading railcars.

Clay Producer Members include: Active Minerals, LLC, BASF Kaolin, Burgess Pigment Company, Imerys Group (Imerys Kaolin & Imerys Ceramics), KaMin LLC, Lhoist North America, Oil Dri Corporation of America, and Thiele Kaolin Company. Clay Producers have many locations, but are primarily located at rural locations in the Southeastern United States and are captive to NS and rail due to volume and weight of the commodities they transport. Members mine and process clays (such as Kaolin), nonmetallic minerals, earths, ores aggregates and similar minerals and ship to industries through the United States and the world. Production scheduling often needs to correspond with Ocean Carrier schedules at busy and congested ports. Logistical efficiency is essential to the financial survival of Members.

It is well known that NS dominates the Kaolin transportation market. In particular, Kaolin is one of the most captive railroad commodities and one of the largest groups subject to STB

jurisdiction. Kaolin represents approximately 10% of the STCC 32 group (which includes all Clay, Concrete, Glass or Stone Products. Members are also major shippers of STCC 14 group commodities.

Clay Producers are heavily dependent upon cost-effective, timely rail service and have serious concerns about changes NS has been making to its railroad operations and in its demurrage tariff. We ask that you to restore the credits which Tariff 6004-D, Item 1010 deletes for loading and unloading private cars. In just over a one year period (December, 2017 to the present) loading credits have been reduced from five to zero days. As a practical matter, it is virtually impossible to avoid the assessment of storage charges, particularly since NS's scheduled delivery of cars has become unreliable and not as promised.

The traditional justification for demurrage is to discourage shippers and receivers from inefficient use of cars which results in congestions and expense to the railroad. We understand the penal aspect of demurrage can be appropriate where a shipper or receiver is the cause of the delay, but Members report that incidences of NS demurrage charges do not relate to any changes in their behavior, but rather directly relate to the timing of NS's operational restructuring and service declines beginning around Fall-2017.

The sudden and drastic change from five to zero days appears to relate more to NS's revenue needs as it struggles to manage its operational restructuring and implementation of precision scheduled railroading. From the standpoint of commercial fairness, the reduction of credits ought not to be a railroad's response to delays caused by its deteriorated service particularly since NS's service problems have already imposed significant additional costs on its customers.

Under the circumstances widely noted by the nation-wide outcry over unfair demurrage changes, as recorded by the STB at https://www.stb.gov/stb/elibrary/NDP_Correspondence.html, the tariff changes cannot be justified under the traditional grounds of unreasonable shipper/receiver practices. Rather, application of a zero credit day rule is an unreasonable practice which appears to be implemented for revenue enhancement rather than to promote efficiency.

Specifically, our review of demurrage revenue reported on NS's R-1 Annual Reports and its recent quarterly submission show the dramatic nature of these charges. There is no plausible rationale suggesting that on average all shippers have suddenly changed their loading and unloading behavior.

On January 30, 2019, NS responded to STB Chairman Begeman's request with data indicating the dramatic increase in its demurrage revenue with the following:

This shows that during 2018, NS's demurrage revenue

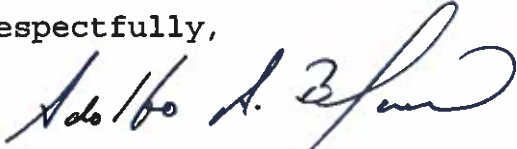
	2018			
	Q1	Q2	Q3	Q4
49 C.F.R. Pt. 1201				
(106) Demurrage	\$ 55,501	\$ 55,528	\$ 62,308	\$ 70,284
(110) Incidental	21,051	23,341	23,368	24,296

increased to \$243,621,000, as compared to \$179,920,000 (2017) (a 35% increase) and \$184,481,000 (2016) (R-1; Sch. 210; Item 106). The quarterly 2018 data speaks volumes. There was a 19.1% increase of 2018 Q1/Q2 compared to 2018 Q3/Q4. Did all shippers on your system simultaneously begin behaving badly at precisely the same time?

Moreover, the impact of the January, 2019 changes is not even seen in the reported demurrage revenues, but the approximate scope of revenue enhancements from December, 2017 through December, 2018 can be seen and can be correlated to tariffs reducing credits from 5 days down to 4 credit, effective December 1, 2017, down to 3 credits, effective March 1, 2018, down to 2 credits, effective June 1, 2018 and ultimately down to 0 credits effective January 1, 2019.

The unjustified nature of these new charges is particularly frustrating in light of NS's recent service declines and the additional costs (not including demurrage) Members have incurred as the result NS's operational restructuring. We strongly urge that NS reconsider the penal changes to your demurrage tariff.

Respectfully,



Adolfo A. Blassino
President, US Clay Producers Traffic Association

On behalf of the member companies:

Active Minerals International, LLC.
BASF Kaolin
Burgess Pigment Company
Imerys Kaolin
Imerys Ceramics
Kamin Performance Minerals LLC.
LHoist North America
Oil Dri Corporation of America
Thiele Tailored Mineral Solutions

cc: The Honorable Ann Begeman
The Honorable Patrick Fuchs
The Honorable Martin Oberman
Lucille Marvin, Dir. STB OPAGAC