

Date: April 8, 2022

Case: Public Evidentiary Hearing

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Public Evidentiary Hearing - April 8, 2022

Page 1179

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SURFACE TRANSPORTATION BOARD

REMOTE PUBLIC EVIDENTIARY HEARING FOR
"Application of the National Railroad Passenger
Corporation Under 49 U.S.C. Section 24308(e)
CSX Transportation, Inc., and Norfolk Southern
Railway Company."

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VOLUME IV

Friday, April 8, 2022

9:36 a.m.

Via Zoom

The above-entitled matter came on,
pursuant to notice, at 9:36 a.m., Chairman
Martin Oberman, presiding.

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Public Evidentiary Hearing - April 8, 2022

Page 1180

1 P R O C E E D I N G S

2 CHAIRMAN OBERMAN: Good morning, everyone.

3 We are reconvening in the case of Amtrak's
4 application under 24308(e) to operate on the Gulf
5 Coast line. We are still in the middle of the
6 opening case by CSX and NS.

7 Before we call the next witness, I want to
8 deal with something. I know that Staff spoke with
9 counsel for all parties yesterday.

10 Here is where the Board members are. We
11 are determined to complete this hearing
12 expeditiously. The Board members, who have, like
13 everybody else, extraordinarily busy schedules, have
14 rearranged schedules and have prepared to cancel
15 meetings so that we can have trial days of next
16 Monday the 11th and Thursday the 14th and the
17 following Monday the 18th and 19th, which, when
18 added to today, would be five more days of trial,
19 which by my estimate, albeit optimistic, ought to be
20 able to be enough to complete this case. I may be
21 off, it may take six days or seven, but I'm
22 optimistic five should do it.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1181

1 I understand some counsel have some
2 resistance to that, so I would like to put this out
3 for discussion and find out where we stand on the
4 11th, 14th, 18th and 19th.

5 Does anybody want to speak up?

6 MR. ATKINS: Mr. Chairman, I think, from
7 CSX's perspective, those dates work. But I will let
8 other parties speak to that, because I do understand
9 that other parties have issues with those dates.

10 CHAIRMAN OBERMAN: I understand. But I
11 just wanted to take the role here. CSX is okay with
12 all of those dates?

13 MR. ATKINS: Yes.

14 MR. MULLINS: Mr. Chairman, this is Bill
15 Mullins for Norfolk Southern. Norfolk Southern is
16 also okay with those dates, but again, we understand
17 there might be some other issues, so we're remaining
18 flexible.

19 CHAIRMAN OBERMAN: Next?

20 MS. BRACEY: Mr. Chairman, from Amtrak, I
21 believe Amtrak is fine with the 11th and 14th, and I
22 believe we may have -- I just need to double-check

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1182

1 one witness who may not be available on the 18th and
2 19th, but we could try to rearrange to make that
3 happen. Otherwise, those dates are okay with
4 Amtrak.

5 CHAIRMAN OBERMAN: That leaves the Port.

6 MR. WIMBISH: So April the 11th is
7 unavailable for us. There will be multiple members
8 of the Port's counsel and Port representatives that
9 are not available on April 11th.

10 We were aware, by the way, of this
11 proposal as of yesterday, Mr. Chairman. We
12 explained to your staff very clearly that we were
13 not available that day, cannot be available that day
14 regardless.

15 The 14th we're in the same situation. The
16 18th is the same situation, and the 19th we're
17 unavailable. The Port has its board meetings during
18 that time, and they cannot be available at all.
19 During the 19th as well. We proposed, in the
20 interest of providing you a consistent and thorough
21 open slot, to be available throughout the beginning
22 of May, from May 2 to 20, any day and every day

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1183

1 between those.

2 So we looked to see what we could do to
3 provide you with as clear a block of time, pick and
4 choose from those, from May 2 to May 20.

5 But the dates you've offered, we
6 appreciate that you've offered them from May 11, 14,
7 18 and 19. We explained to your staff yesterday we
8 cannot do those dates.

9 CHAIRMAN OBERMAN: Mr. Wimbish, who is not
10 available on the 11th?

11 MR. WIMBISH: If you will allow me some
12 time to get back to my client on this one. We spoke
13 to them a couple of days ago about the dates, and I
14 can give you the litany of explanations for each one
15 of those if you would like. But you will need to
16 give me a few minutes to do that.

17 CHAIRMAN OBERMAN: I would do that because
18 your witnesses aren't going to be on on the 11th or
19 14th, I anticipate that CSX's and Amtrak's witnesses
20 are going to take up today -- I'm sorry, not Amtrak,
21 NS, certainly all of today and if we went Monday,
22 all of Monday and probably the 14th. We could get a

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1184

1 lot of work done where your witnesses wouldn't be on
2 the stand.

3 And I don't know how many lawyers are on
4 the team here, but there could be one lawyer who
5 could represent the Port just on the examination, if
6 necessary. I'm not being critical of, that's your
7 strategy, so far on these railroad witnesses.

8 But it seems to me --

9 MR. WIMBISH: Okay. Mr. Chairman --

10 CHAIRMAN OBERMAN: If clients need to be
11 there, they could listen in remotely. So, you know,
12 there's a great deal of organizing to get this done,
13 so I really want to know who is not available and
14 why they're not available. Whether their schedules,
15 like everybody else's, could be modified, that's the
16 question.

17 MR. WIMBISH: Let me start with the 11th,
18 Mr. Chairman. The 11th I will be in California
19 personally attending my grandmother's 102nd
20 birthday. That's why I cannot attend that day. And
21 I cannot tell her that I'm not going to be attending
22 her birthday because of a work commitment that

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1185

1 wasn't previously scheduled. I appreciate that the
2 Board members have done what they have done, but I
3 don't know if there will be other birthdays beyond
4 her 102nd birthday. But that's why I can't be there
5 on the 11th. And again, I endeavored to explain
6 that with your staff.

7 I understand that my witnesses will
8 probably not go that day and you've essentially made
9 that commitment. That's my reason to why I can't go
10 on the 11th, since you've asked.

11 I will check back with my -- I've said
12 that, by the way, for the 19th, the one other one I
13 know is that the Port has its board meeting
14 scheduled that day.

15 I'm sorry, what else do you have? The
16 18th is also that way? I'm sorry, I'm consulting
17 with Mr. John Driscoll, chief executive of the Port,
18 who is immediately to my right, your left as you're
19 looking at me at the screen.

20 What did you tell me, Mr. Driscoll?

21 The 19th is the board conflict. Let me
22 mute just a moment.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1186

1 CHAIRMAN OBERMAN: Mr. Wimbish, if you
2 would like to take a recess to consult, I have no
3 objection to that.

4 MR. WIMBISH: Thank you. Let's recess for
5 just a few minutes. We're exploring the possibility
6 of making an adjustment in the middle of this.

7 CHAIRMAN OBERMAN: Let me just say a
8 couple of things. Your grandmother's 102nd birthday
9 was prescheduled obviously, and I think everybody
10 would defer to your right to be there.

11 But I am wondering, you have co-counsel,
12 if co-counsel can't be present and ask whatever
13 questions would be needed to be asked of the witness
14 that will be there on Monday. That seems to be
15 reasonable. So I would like to explore that.

16 As to the Port having board meetings. The
17 Port -- we respect everybody's meetings. But the
18 Port asked to intervene, we gave them leave to
19 intervene, it seems to me some member could be
20 present.

21 I would like you to explore that. Putting
22 this case off for a month, everybody else has

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1187

1 complex schedules in May, it's not just your
2 availability. And that is a long time in between
3 sessions.

4 So take -- it's 9:45. You want to convene
5 at 10:00 a.m.?

6 MR. WIMBISH: That's perfectly fine.
7 That's more than -- I'm sorry. That's perfectly
8 fine. I'm sure that's more than enough time.

9 CHAIRMAN OBERMAN: All right. Why don't
10 we do that, and while you're off, I'm going to
11 consult with Board members about their
12 availabilities and how we want to respond to this.

13 But if we could get those dates, we would
14 be able to get the evidence done. I would really
15 like to get it done.

16 So we'll recess until 10:00 a.m. Eastern.

17 Thank you.

18 (Recess.)

19 CHAIRMAN OBERMAN: Rob?

20 MR. WIMBISH: Yes, Mr. Chairman. I think
21 that we've gone through some of these dates again,
22 and we've approached this I think in the spirit of

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1188

1 the way that we probably would have liked to have
2 seen discussions among the parties go before this
3 litigation.

4 So in the spirit of compromise, here's
5 what we can do. On April 11, in addition to my
6 personal commitment, my co-counsel, Jim Helenhouse,
7 has a preexisting committed civil trial commitment
8 in another proceeding. Unfortunately for us, April
9 11 just simply -- it does not work. We do not have
10 the availability.

11 CHAIRMAN OBERMAN: Are you telling me that
12 he is -- I'm sorry. Are you telling me he's on
13 trial?

14 MR. WIMBISH: Yes.

15 CHAIRMAN OBERMAN: Where?

16 MR. WIMBISH: Which court? Which
17 proceeding? Wisconsin state court, sir.

18 CHAIRMAN OBERMAN: And, you know, we all
19 know that trials are set and then they don't go. Do
20 we know this trial is going? Is it possible for
21 Mr. Helenhouse to double-check?

22 MR. MULLINS: Mr. Chairman, I just thought

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1189

1 I could raise this. My co-counsel, Mr. Donahoe,
2 also has a trial for that week as well. But he has
3 informed me if you set the dates and actually issue
4 an order, that he will then be allowed to show that
5 to the judge, and that would allow him to get out of
6 that trial. I don't know if that helps
7 Mr. Helenhouse or if that is something that would
8 work for him. But that is certainly something we
9 would like to have if you do change the dates.

10 CHAIRMAN OBERMAN: Bill, I appreciate
11 that. It's certainly been my experience in Cook
12 County that if you're on trial in one court, you're
13 not required to start a trial in another court if
14 you're in the middle of one, and we are in the
15 middle of one.

16 MR. MULLINS: That's my experience as
17 well, and my co-counsel's experience. Thank you,
18 Mr. Chair.

19 CHAIRMAN OBERMAN: Yes.

20 MR. WIMBISH: Mr. Chairman, what if we
21 tried to offer you the morning hours from, say, 9:30
22 Eastern until noon or 12:30 that day?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1190

1 CHAIRMAN OBERMAN: Well, it's better than
2 nothing. But what does that have to do with the
3 trial in Wisconsin? I mean, if he's on trial, he's
4 not starting at noon, is he?

5 MR. WIMBISH: What if we looked at April
6 15, Mr. Chairman?

7 CHAIRMAN OBERMAN: April 15 is Good Friday
8 and the evening of Passover, and I do not think it
9 would be appropriate to require people to be on
10 trial on the 15th. It's okay on my schedule. I
11 think that's unreasonable.

12 MR. WIMBISH: How about April 12?

13 CHAIRMAN OBERMAN: One of our Board
14 members is not available on April 12.

15 MR. WIMBISH: We could do April 12. I
16 mean, we could trade the 11th for the 12th.

17 CHAIRMAN OBERMAN: I don't think that
18 works.

19 MR. WARREN: Mr. Chairman, I don't want to
20 interrupt this colloquy. We do think -- we
21 appreciate the Board's desire to try to get some
22 dates soon. We share that desire. We think in any

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1191

1 event, we're going to need to reserve some dates in
2 early May. Whether we're able to get four or three
3 dates over the next couple weeks, we're not sure
4 that's going to be enough given the pace that we're
5 going. I just wanted to put that in there.

6 CHAIRMAN OBERMAN: Matt, you may well be
7 right and we should reserve them in case we need
8 them. But I don't want to start from where we are
9 now on the first of May. So this case needs to
10 move.

11 MR. WIMBISH: Can we hold off on the 11th
12 for a minute here? Let's go to the other dates that
13 we have, Mr. Chairman.

14 CHAIRMAN OBERMAN: Okay.

15 MR. WIMBISH: As far as April 14 is
16 concerned, counsel for the Port can be available on
17 April 14. Mr. Driscoll and Mr. Golden are not
18 available for testimony on either of those days.
19 If -- and I know you're pushing very hard to resume
20 this on the 11th, I understand that. That's
21 creating extraordinary hardship for us,
22 Mr. Chairman, extraordinary hardship. We are

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1192

1 exploring ways to accommodate that.

2 We can be available, and I had told you
3 originally that we didn't think we could be
4 available on all of these dates.

5 I'm asking you -- I'm asking you to offer
6 some flexibility in exchange for your flexibility on
7 dates that we're available that you're not, to
8 consider the 14th. If we continued on the 14th,
9 although Mr. Driscoll and Mr. Golden are not
10 available on those days, if we were to resume, I
11 have a pretty solid confidence that neither one of
12 them would be called to testify that day.

13 CHAIRMAN OBERMAN: I agree with you.
14 There's no way we'll reach your witnesses by the
15 14th, even if we do all day on the 11th.

16 MR. WIMBISH: Now -- and moving on to the
17 other dates that you've offered, on the 18th, both
18 of our witnesses could, if need be, be available on
19 the 18th of April. So we've also said there that we
20 will adjust our schedules again in an attempt to
21 compromise, that the 14th again we'd be available
22 for -- counsel. All would be available on the 18th.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1193

1 And as far as the 19th is concerned, Mr. Driscoll
2 has a board meeting he cannot -- as a chief
3 executive for the Port, cannot miss. But Mr. Golden
4 could be available on the 19th if you wanted to
5 call -- or we needed to call him as a witness on the
6 19th.

7 So we can do the 14th --

8 CHAIRMAN OBERMAN: Let me ask this
9 question. Could you, if we get there, call
10 Mr. Driscoll on the 18th and then Mr. Golden on the
11 19th?

12 MR. WIMBISH: Yes, we could.

13 CHAIRMAN OBERMAN: So that could work for
14 those two days.

15 MR. WIMBISH: Yes.

16 CHAIRMAN OBERMAN: So it sounds like -- it
17 sounds like of the four days we're talking about,
18 assuming we get to your witnesses -- you know, we
19 may not get to your witnesses on either the 18th or
20 19th, we can go ahead on the 14th, 18th and 19th, it
21 sounds like. So of the four days I suggested, the
22 11th is the only one that seems problematical.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1194

1 MR. WIMBISH: Yes.

2 CHAIRMAN OBERMAN: I'll tell you what.

3 I'll tell you what I'd like to do. You know, we're
4 losing some time here, but I think we've got to get
5 these matters decided.

6 I'm going to take another 10 minutes. I
7 need to consult with Board members about scheduling.

8 Mr. Wimbish, I'm not clear why only the
9 morning of the 11th works on Mr. Helenhouse's
10 schedule.

11 What about the point that Bill Mullins
12 raised, assuming the Board issues an order, which we
13 would have to do to set the hearing, that the trial
14 continues on the 11th, shouldn't that have --

15 MR. WIMBISH: I'm sorry, you're breaking
16 up there a little bit, Mr. Chairman.

17 CHAIRMAN OBERMAN: I'm sorry. If we set
18 the 11th and these other days for continued trial
19 dates by order, we are after all in the middle of a
20 trial, wouldn't that relieve Mr. Helenhouse of
21 having to start another trial in a new court, which
22 is the usual approach by most courts -- I can't

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1195

1 speak to Wisconsin?

2 MR. WIMBISH: I would have to have my -- I
3 would have to have Jim register in on this one.
4 Like I said, we're exploring what we can do for the
5 11th. It's just it does create a lot of difficulty
6 for us. And like I said, we're trying to -- of the
7 other dates that you had proposed, we're finding
8 ways to compromise around the other three.

9 We had offered the 12th as a possibility.
10 You say that doesn't work for one of your Board
11 members. We could make it work for us. You've
12 explained that you do not want to have the trial
13 continue on the 15th. We would have been willing to
14 do that.

15 We could look at dates beyond that.

16 I'm simply telling you right now that --

17 CHAIRMAN OBERMAN: Let me ask this
18 question. How do the other people on this call feel
19 about using up any part of the 15th? It's not only
20 Good Friday, it's Passover. And most people need to
21 be headed out by mid-to-late afternoon on the
22 evening of Passover, if they're Jewish. Or even if

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1196

1 they're not Jewish, if they're observing Passover.

2 So it was my sense to -- it would be
3 unreasonable to impose a trial date on both Good
4 Friday and the eve of Passover, but let me hear from
5 counsel and then I'll talk privately to my Board
6 members.

7 CSX/NS, thoughts about Friday the 15th?

8 MR. MULLINS: On behalf of Norfolk
9 Southern, I think if it was just the morning, that
10 would work, but we do have religious obligations for
11 many parties, both Passover and Good Friday service.

12 CHAIRMAN OBERMAN: Matt, what about you?

13 MR. WARREN: CSX would make itself
14 available, but I do share Mr. Mullins's thoughts
15 that there are individuals who would have religious
16 commitments that they ordinarily would be
17 fulfilling.

18 So it's --

19 CHAIRMAN OBERMAN: And you know what, I've
20 already talked to our staff about the same problem.

21 I don't think Friday works.

22 MR. MULLINS: Mr. Chairman, can I ask

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1197

1 Mr. Wimbish, if he going to be in California and
2 given that they are three hours behind, if
3 Mr. Helenhouse would be able to take the morning,
4 would Mr. Wimbish be able to Zoom in to handle the
5 afternoon? Just trying to work something out.

6 MR. WIMBISH: Bill, I think we've talked
7 through this, we've pretty much made it clear that
8 the 11th is an absolutely difficult day for us to do
9 anything. We are trying to find ways to compromise
10 on this and find ways to give you dates that work
11 for us, working around what's been an abrupt change
12 of schedule, particularly after we had a discussion
13 with staff yesterday about this. And apparently,
14 that didn't resonate.

15 We're doing the best we can, Bill. I
16 appreciate that. We are trying to be as creative as
17 we can.

18 But here's the bottom line, is if the
19 Board is absolutely insistent that no matter what
20 the difficulties for us -- I'm going to be very
21 clear about this.

22 If the Board's position is no matter what

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1198

1 the difficulties we've explained, they are unmoved
2 by our position on April 11 and they tell us you've
3 got to go on April 11, we don't care what your
4 concerns are, we will be there. Not happily, but we
5 will be there.

6 So, Mr. Chairman, if you tell us right now
7 that you want us to be able to be available and
8 participate on the 11th, despite what we've told
9 you, there is really not much more we can do.
10 Someone of us, either me or Mr. Helenhouse, will be
11 here to participate in the hearing on the 11th. And
12 our witnesses can participate remotely.

13 So I'm just leaving that as the bottom
14 line. If you tell us this, we have no choice, we
15 will find some way to accommodate that. That
16 includes me being in California that day, getting up
17 and being available for trial that begins at 6:30 if
18 I have to. And continuing on in the afternoon
19 somehow if I have to.

20 Or if Jim has to make certain arrangements
21 and possibly have other people try to cover for him
22 at the commencement of the proceedings on Monday,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1199

1 then that's what we will do if we have to.

2 I simply was trying to make a request
3 based on hardships for us in light of other
4 hardships for Board members, for example, on the
5 12th, to see if we could do this.

6 So all I'm saying is, Mr. Oberman, if you
7 feel in your judgment, that based on our appeal to
8 you, that the 11th is an unworkable day for us, and
9 you understand that but your decision is we're going
10 to move ahead anyway, well then, that's the die
11 that's been cast.

12 So I just leave it to you. What I can
13 tell you is this. If you order it, we will be there
14 somehow.

15 CHAIRMAN OBERMAN: All right. I'm going
16 to take another 10 minutes and then that's the last
17 break we're going to take on this subject, see if I
18 can work this out. It's very hard to do this
19 remotely, and the only way we can do it is to go off
20 screen.

21 MS. AMUNSON: Jessie Amunson. I did
22 confirm during the break that all of Amtrak's

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1200

1 counsel and witnesses are available for all of those
2 dates, except Mr. Fapp is not available on the 18th
3 and 19th. But we would be willing to work with the
4 parties and the Board to accommodate -- to make all
5 of those dates work.

6 CHAIRMAN OBERMAN: Well, that may -- not
7 clear if we'll reach Mr. Fapp by that day. You have
8 four witnesses; right?

9 MS. AMUNSON: Yes.

10 CHAIRMAN OBERMAN: We're going to take a
11 recess, we'll come back at 10:30.

12 (Recess.)

13 CHAIRMAN OBERMAN: It's 10:40. I
14 apologize for the delay, but I've been able to make
15 a little bit of progress.

16 The member who had some issues on Tuesday
17 is now able to be present for Tuesday except between
18 the hours of 11:00 and 1:00 Eastern. So we will
19 meet on Tuesday, and we'll end up taking a longer
20 lunch break, but we should be able to get a good
21 part of a day in.

22 Thursday seems to work for everyone, as

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1201

1 well as the 18th and 19th.

2 As for Monday, Rob. I hear what you're
3 saying. I'm not interested in creating hardships.

4 I only request that if by the end of the day

5 Mr. Helenhouse is able to work out something so that

6 this is not a hardship, it would be great to have

7 Monday available because everybody else is

8 available.

9 But if the status is at the end of the day

10 that you could just describe to me that you could

11 only be there under great hardship, we would not

12 make such an order for you.

13 MR. WIMBISH: I'm very grateful for that,

14 Mr. Chairman. Thank you.

15 CHAIRMAN OBERMAN: I would like to urge

16 him if he can work it out, because then we would

17 actually have three days next week rather than two.

18 But if he can't, he can't.

19 MR. WIMBISH: I would also suggest, if

20 it's something worth considering that, while I don't

21 know that I'm holding out much hope for the 11th,

22 we'll certainly consider that as the day unfolds, we

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1202

1 could also -- we'd be willing to start these
2 proceedings earlier in the day. For example, on the
3 14th, the 18th and the 19th, start them earlier,
4 allow them to run longer. That includes today. We
5 could run longer by an hour. I know that my
6 witnesses, who are not going to be going today, will
7 have to leave earlier than that, but counsel can
8 stick around longer. We could make up for some lost
9 time that way as well, Mr. Chairman.

10 CHAIRMAN OBERMAN: It's worth the
11 consideration. It's something that I have to
12 discuss with my Board members. And as some of you
13 may know, we have a very large number of our staff
14 members who are very much involved in this case and
15 are monitoring these hearings.

16 So there are a lot of people involved with
17 that schedule. But it's a reasonable idea to
18 pursue, so we will pursue that in the meantime
19 during the day today.

20 So with that, that will be the order of
21 the Board for at least next week.

22 I do think at a minimum, we should also

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1203

1 set May 2, 3 and 4 now as days for this trial so
2 that they are there for everybody, assuming we will
3 get there. It sounds like we are likely to get
4 there.

5 The rest of April after the 18th and
6 19th -- can you hear me? My computer is --

7 MR. WARREN: We can hear you,
8 Mr. Chairman.

9 CHAIRMAN OBERMAN: Because my computer is
10 going in and out. The rest of April is quite
11 complex, but depending on where we are on the 18th
12 and 19th, if it's finding a day someplace maybe we
13 can find it. But if not, we will at least have May
14 2, 3 and 4.

15 So that will be the order going forward
16 subject to any possible flexibility for the 11th by
17 the end of today under any conditions I suggested to
18 avoid the significant hardship Rob was describing.

19 With that, unless anybody else has
20 anything to say on this subject, let us proceed with
21 your witness, who I see has been patiently waiting
22 for us.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1204

1 MR. WARREN: Yes. Thank you,
2 Mr. Chairman. One issue to raise, we will work
3 around it. I did want to put on the record our
4 witness, Mr. Guthrie, is not available on the 18th.
5 We learned during the break. As we get closer to
6 that, we will find a way to work around that,
7 whether it's letting the Port go out of order. When
8 we're at that place, we will figure out a way to
9 keep things moving. But I did want to put that on
10 the record.

11 CHAIRMAN OBERMAN: Thank you.

12 I was hoping we would get to Mr. Guthrie
13 before then, but we may not. Is your witness ready?

14 MR. WARREN: Yes, Mr. Chairman. CSX
15 Norfolk Southern call Hannah Rosse.

16 CHAIRMAN OBERMAN: Ms. Rosse, would you
17 raise your right hand, please.

18 Whereupon,

19 HANNAH ROSSE

20 was called as a witness and, having first been duly
21 sworn, was examined and testified as follows:

22 CHAIRMAN OBERMAN: Thank you. Proceed.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1205

1 MR. WARREN: Thank you.

2 DIRECT EXAMINATION

3 BY MR. WARREN:

4 Q Hannah, will you please introduce yourself
5 to the board.

6 A My name is Hannah Rosse. I am the former
7 director of network modeling and service
8 measurements at CSX. Currently I am working as the
9 technology director at Cyclone International.

10 Q And have you ever testified before?

11 A I have not.

12 Q First time for everything. Could you
13 please describe your educational background.

14 A Absolutely. I have a bachelor's of
15 science in statistics and a master's of science in
16 management, both from the University of North
17 Florida.

18 Q Could you describe your work history after
19 receiving your bachelor's degree.

20 A I worked at Johnson & Johnson Vision Care
21 for approximately a year as a statistician. Then I
22 came to work for CSX for over eight years, and

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1206

1 lastly I started working at Cyclone this year in
2 January.

3 Q So when did you leave CSX?

4 A September of 2021.

5 Q And why did you leave CSX?

6 A After the birth of my second child, I
7 wanted to transition to part-time work, and that
8 unfortunately wasn't an option here at CSX.

9 Q So what positions did you hold during your
10 time at CSX?

11 A I worked as a service measurements
12 analyst, manager of performance analysis, manager of
13 network modeling, director of network modeling and
14 finally a director of network modeling and service
15 measurements.

16 Q So could you describe briefly what your
17 responsibilities were in those roles.

18 A Sure. So in regards to the network
19 modeling, my primary responsibilities were to
20 develop and oversee RTC models in-house, primarily
21 serving analysis of constrained corridors and
22 infrastructure solutions, operational changes and

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1207

1 also supporting CSX in passenger studies.

2 Q And by RTC, you mean rail traffic
3 controller?

4 A Yes, that's correct.

5 Q And you just mentioned that you worked on
6 passenger studies. Can you give any details of some
7 of the passenger-related projects that you worked
8 on?

9 A Certainly. So most recently, I supported
10 CSX in the CSX State of Virginia deal. I also
11 supported CSX in the D.C. to RVA modeling work, the
12 2016 Gulf Coast study, the 2020 Gulf Coast study,
13 trirail, MARC.

14 Q Have you ever participated in an STB
15 proceeding before?

16 A I have. I supplied data inputs and some
17 model validations for total petrochemicals and
18 consumers.

19 Q So in this proceeding, Hannah, what was
20 your role in the development of what we've been
21 calling the 2021 Gulf Coast RTC model that CSX and
22 NS have put into evidence?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1208

1 A Myself and the team supplied the data
2 inputs for the model and also validated the CSX
3 operations.

4 Q So you testified a moment ago that you
5 used RTC in your role, various roles at CSX. Could
6 you talk a little bit about what you used RTC for at
7 CSX in your day-to-day job?

8 A Sure. So I was responsible for
9 maintaining the .train files and the
10 infrastructure files for corridors that we studied
11 frequently due to fluidity questions, operational
12 changes such as directional running, alternate crew
13 change locations and evaluating infrastructure
14 solutions.

15 Q I'm going to pause you right there. What
16 is a .train file?

17 A A .train file is one of the inputs, or
18 the primary input, I should say, for RTC in regards
19 to train and nontrain activities on the corridor in
20 study.

21 Q So how do you create a .train file?

22 A It's quite complex. We start by

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1209

1 collecting a number of electronically collected
2 sources, and then those sources are woven together
3 to create a kind of first pass, if you will, at a
4 .train file. And then through an iterative
5 process with support from the field in terms of
6 validating train movements and also supplying
7 information about other activities that are not
8 present or clearly available in the electronically
9 collected sources, they supply information about how
10 to model those activities as well.

11 Q Is it important for the .train file to
12 reflect real world operations?

13 A Absolutely. The entire purpose of
14 constructing a model is to support the business, and
15 so the .train file needs to match reality.

16 Q So when you were working on RTC modeling
17 for CSX and working on .train files, why was CSX
18 typically doing that, to your understanding?

19 A So we used the modeling to evaluate
20 infrastructure solutions. You know, those were
21 long-term investments in the network. So we would
22 analyze those corridors and propose solutions

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1210

1 working with the teams, also looking at directional
2 running options and crew change locations.

3 Q Would you say that most of the work you
4 did in developing RTC modeling was for litigation
5 purposes like in cases like this one or for business
6 purposes?

7 A Business purposes all the time.

8 Q So when you -- let me ask you this,
9 Hannah.

10 When you're doing a new RTC modeling
11 project, did you typically create a .train file
12 from scratch every time?

13 A No. They are extremely time-consuming to
14 build due to the amount of detail that goes into
15 those .train files.

16 So we maintain all of the .train files
17 and infrastructure files in organized libraries.
18 And as updates are needed due to internal studies,
19 we would dust those off, if you will, and run the
20 models off of those.

21 Q What would you do to update the files?

22 A So there are three primary electronically

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1211

1 collected sources that we would pull. The first of
2 those is what's called our train profile data. This
3 contains high-level trip route information for a lot
4 of the trains on the study corridor, not all. I'll
5 get into some of that.

6 Some of that information would contain
7 origination, destination, crew change locations,
8 pickup setoff activities, train size information,
9 et cetera, but at a very, very high level.

10 So for example, they tell you there's a
11 crew change in Mobile, but it doesn't tell you where
12 that crew change is actually happening in Mobile.

13 The next data we pull is OS data, on
14 station data is what the OS stands for there. This
15 is going to be movement information at each OS point
16 along the route for when a train hits that OS point
17 the first time.

18 Just to explain, an OS point is at its
19 simplest, a point where the train could move onto
20 like a siding, for example, divergent to another
21 track. So we pull that to get a more clear picture
22 on model entry/exit times and movements throughout

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1212

1 the corridor.

2 Similarly, we pull a third data set called
3 dispatch data. This data is sourced directly from
4 our dispatch system. It's very similar to the OS
5 data, except it's, you know, one layer deeper at the
6 track circuit level. But again, supplying a lot of
7 the same information. It's generally more useful
8 when we're trying to look at smaller movements.

9 And so those are the primary
10 electronically collected sources. There are some
11 other ones, such as our GPS data. But I don't
12 necessarily pull that in the same way that I pull
13 the other sources.

14 We have a proprietary tool at CSX where I
15 can go and visually watch, you know, the locomotive
16 pinging around and where it's available.

17 Q Okay. Thank you.

18 So just to make the record clear, the
19 three sources are the train profile data, the OS
20 data, the dispatch data, sometimes you consult other
21 things. Are those electronic data sources typically
22 enough to construct a .train file that reflects

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1213

1 real world operations?

2 A Unfortunately no.

3 There are a lot of cases where those
4 sources simply either miss movements, miss trains or
5 they don't supply enough information to correctly
6 simulate those trains.

7 For example, none of those sources would
8 explain how a local works a customer. For example,
9 the local may pull up, cut its power away, pull
10 forward, back into the customer's facility, get the
11 cars, pull forward, back into the cut that it left
12 on the line, and it may have to cut its power off
13 again to work its way around to the other side of
14 the train and depart.

15 None of those sources explain that
16 activity at all.

17 Those sources also wouldn't contain high
18 rail movements, which I think we started to talk
19 about here in this proceeding. It's not going to
20 contain a lot of yard activities that are kind of
21 occupying yard leads or even mainline simply because
22 those movements aren't passing control points or,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1214

1 you know, anything that's kind of dispatcher
2 controlled.

3 It's not going to contain blocks of cars
4 for the reasons -- they're not a train, and those
5 sources are primarily focused on trains.

6 It's also -- you can kind of see light
7 engine movements, but not in the way that we're
8 going to think about them here.

9 So there's a lot that those sources aren't
10 going to provide a modeler with.

11 Q So how do you get information about those
12 things that don't show up, like the examples you
13 were giving, light engine movements, blocks of cars,
14 things that wouldn't show up in the train profile
15 data or the OS data or dispatch.

16 How do you find out what's actually
17 happening?

18 A Sure. So with every model, we always
19 interview the field for those specific areas. So
20 we'll talk to the terminal to understand if there's
21 customers that are served close by to the terminal,
22 to capture any of those movements. We'll talk to

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1215

1 the train managers responsible for the line to
2 understand how locals work customers. Same thing,
3 they will supply us with information on any other
4 mainline occupancies that we're missing. Another
5 one that I should have mentioned earlier is also any
6 sort of foreign cross traffic that would block our
7 ability to proceed on the mainline.

8 So these come from the field because they
9 are the experts of this information.

10 Q So just to step back, and thinking about
11 how the RTC model works and how the .train file
12 works.

13 So does the RTC model know, and the
14 .train file, if you've got a full merchandise road
15 train and you've got a block of cars and you've got
16 a high rail movement, does it know how to tell the
17 difference between those different kinds of
18 capacity-occupying activities?

19 A Yes. The .train file knows the
20 difference between all of the different trains or
21 nontrains that are in there.

22 There are fields that identify, you know,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1216

1 types of these movements that tie ultimately to
2 priority, dispatching decisions. And also, you
3 know, the movements themselves. High rails, for
4 example, they're only going to be on the track for a
5 short period of time for a short distance, whereas
6 the train file knows that the merchandise train is
7 going to traverse the entirety of the segment.

8 Q So, Hannah, at this point I'm going to ask
9 you to talk about some of the criticisms that Amtrak
10 has made of the modeling done in this case, and
11 particularly the trains included in the .train
12 file.

13 And I might pause for a moment to see if
14 there are any questions from the Board about
15 Ms. Rosse's work.

16 BOARD MEMBER PRIMUS: I have a quick
17 question, if I might.

18 Ms. Rosse, just very briefly, let me ask
19 you, how often do you update the .trains? You
20 said that you do updates. How often do you do that?

21 THE WITNESS: Sure. So these corridors
22 are studied quite frequently. So really whenever

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1217

1 the question is kind of raised about, for example,
2 like the southeast corridor. So fairly regularly,
3 you know, several times a year I would estimate.

4 BOARD MEMBER PRIMUS: When you were
5 describing the different types of when you said like
6 the local takes its engine off and backs up, you
7 said that it doesn't really -- it's not really a
8 train. Like when you have cars there, that's not
9 really a train.

10 How do you define train when you're making
11 those calculations? What is a train to you?

12 THE WITNESS: That's a great question. So
13 a train in the way that we would think about it is a
14 locomotive crew and set of cars, if you will, that
15 share the same -- generally the same origin,
16 destination and kind of main stops along its route.

17 And then also the freight, the typical
18 freight that that train carries.

19 BOARD MEMBER PRIMUS: Thank you.

20 CHAIRMAN OBERMAN: I just had a question,
21 because right at the beginning of Ms. Rosse's
22 testimony, my Zoom was in and out a little bit.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1218

1 Could I -- I'm trying to -- I just want to
2 be clear on her role in this case.

3 Do I understand you were contracted
4 directly with CSX as an outside contractor, but your
5 role was to get the data over to the modeler, to
6 R.L. Banks in effect? Is that the relationship
7 there?

8 THE WITNESS: So I -- at the onset of the
9 2021 study, I was still an employee of CSX. I was
10 the director of network modeling service
11 measurements. So I oversaw the data input supply
12 and assumptions for the model, in addition to the
13 .train file that was supplied at the time.

14 In September of 2021, that's when I left
15 CSX, but I remained with CSX as a consultant, but
16 not an employee.

17 CHAIRMAN OBERMAN: But your role was to
18 get the data, and I'm not a computer person, but I
19 was following along, to be at least one of the
20 places of supplying data to R.L. Banks ultimately.
21 Is that where you fit in? That's all I'm trying to
22 understand.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1219

1 THE WITNESS: Yes, that's correct. And
2 that work all occurred prior to me leaving CSX.

3 CHAIRMAN OBERMAN: So since you left and
4 as a consultant, what role did you have with R.L.
5 Banks, if any?

6 THE WITNESS: I continued to support CSX
7 in terms of validations, inputs. Not that I was
8 pulling inputs, I should clarify there.

9 I was also a member of the claim team kind
10 of pre- and post-employment with CSX.

11 CHAIRMAN OBERMAN: So your role -- it
12 sounds like your role is the same as it would have
13 been if you had remained as a full-time employee but
14 you just had the part-time contractor role. Is that
15 a way to understand it?

16 THE WITNESS: Yes, sir.

17 CHAIRMAN OBERMAN: Okay. Thanks very
18 much. I think Patrick had a question.

19 BOARD MEMBER FUCHS: Thank you.

20 I want to ask this carefully. I'm going
21 to try not to identify anything about a particular
22 train, because I understand that may be

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1220

1 confidential.

2 But if I do touch on anything that's
3 confidential, Matt, I'll count on you to jump in if
4 that's okay.

5 MR. WARREN: Okay.

6 EXAMINATION

7 BY BOARD MEMBER FUCHS:

8 Q I just want to understand the dispatching
9 data a little bit more clearly.

10 Are there examples in the RTC model that
11 show a train leaving a yard at a markedly different
12 time than the dispatching logs would suggest?

13 A So just to make sure I understand the
14 question, you're asking if the RTC model would
15 differ significantly from what you would see in the
16 dispatching data; is that correct?

17 Q Yes. And maybe I'll provide a little bit
18 more. The dispatching logs, you are able to see
19 sort of call time and departure time, the
20 distribution of departure times; right?

21 A So you see -- you see times where a track
22 circuit is first hit -- not to get down into the

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1221

1 weeds there.

2 Q No, no, please do.

3 A But it's not going to tell you that's a
4 departure time. It's just going to tell you that's
5 the time that the train hit that track circuit.

6 Q Okay. And the RTC model could show the
7 same?

8 A Yes, yes. You would see generally an
9 alignment between the actuals and what's in the
10 model.

11 Q If those two times were off by a few
12 hours, comparing the dispatching logs to the RTC
13 model, what, in your experience, is the explanation
14 for that? How should the Board interpret that?

15 A Do you have a specific example that you
16 were maybe seeing there? It kind of depends.

17 Q I do, but it may require us to go into
18 confidential session.

19 A Okay.

20 Q So maybe I could ask you, if you were to
21 see that in the dispatching logs, a train were
22 hitting the circuit at a certain time and then in

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1222

1 the RTC model it was hitting the circuit a few hours
2 prior, you know, if you were to see that type of
3 scenario, what are the type -- out of a particular
4 yard, what are the types of causes, what are the
5 types of explanations you might generally expect?
6 And if you can't answer the question without a
7 specific example, I totally understand.

8 A It probably depends on the type of train,
9 if it's a foreign train or a yard train. Generally,
10 the information that you would see in the dispatch
11 data is incomplete, is the best way to really kind
12 of think about it.

13 Again, the dispatch data is really only
14 collecting information on dispatcher-controlled
15 track. And there's a lot of activities that occur
16 within the yard that's controlled by the yard that
17 you would be missing there.

18 So really, without seeing the type of
19 train, the train itself, it's hard to kind of answer
20 the question.

21 Q Did you as part of your work in developing
22 the inputs change any departure times or change when

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1223

1 a train might leave the yard or hit the circuit
2 manually, rather than feeding in departure --
3 dispatcher logs, for example?

4 A I don't recall a time. Again, the model's
5 purpose is to reflect reality. So if there is such
6 a difference, it would have been because the field
7 told me that as they were watching the simulation,
8 it wasn't matching reality.

9 Q Could you just explain that a little bit
10 more?

11 A Sure. So if they -- if the field was
12 watching the simulation with me and they saw a train
13 leaving New Orleans at 8:00 a.m., I'm just going to
14 make up a time here, and, you know, traverse the
15 track, if that wasn't consistent with what they
16 would see every single day, like say the train
17 really leaves at 6:00 a.m. or 10:00 a.m., or maybe
18 that it varies quite a bit, I would take that input
19 and then align it with the model.

20 Q Would your modeling allow for a scenario
21 where a train was consistently departing the yard
22 outside of the observed window?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1224

1 A Sorry, can you ask the question one more
2 time? I want to make sure I heard it correctly.

3 Q Would your model allow for the RTC to show
4 that a train was leaving a yard consistently at a
5 time that is outside the window in the dispatching
6 logs?

7 A That really depends on the type of train.
8 I'm not trying to be difficult, but it would depend
9 on the type of train.

10 Q No, no, no.

11 A Again, going back more specifically on the
12 yard trains and the foreign trains. Again, they
13 electronically collect information. It's just not
14 very reliable.

15 For road trains, again I would need to see
16 that to really talk specifically to it.

17 Q Well, I wanted to understand the general
18 concepts and if we have to get into specifics, I
19 guess we can at the appropriate time. But I just
20 wanted to understand how you go about inputting the
21 dispatching data, and I appreciate the information.

22 A Sure. No, it's a great question.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1225

1 MR. WARREN: If there's not anything else,
2 Hannah, I'm going to --

3 CHAIRMAN OBERMAN: Are there any other
4 questions from Board members?

5 All right, Matt, why don't you proceed.

6 MR. WARREN: I'm going to start and ask a
7 clarifying question about the clarifying questions.

8 DIRECT EXAMINATION (Continued)

9 BY MR. WARREN:

10 Q When you say you provided information to
11 the RTC modelers, who are you referring to?

12 A Mark Dingler, Larry Guthrie and Mr. Banks.

13 Q And where are they all employed?

14 A Mark Dingler is employed at HNTB, and
15 Mr. Guthrie and Mr. Banks are employed with
16 R.L. Banks.

17 Q I just wanted to make sure it was clear
18 that Mark Dingler is at HNTB and not R.L. Banks.

19 So shifting gears, Hannah, so one of the
20 main criticisms that Amtrak's experts have raised in
21 this proceeding is they have said that the RTC model
22 submitted by CSX and NS overstates the number of

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1226

1 trains. I think specifically they said that there
2 are 1,265 trains in the model that they don't think
3 should be there.

4 How would you respond to that criticism?

5 A It's inaccurate, and it shows a complete
6 lack of understanding of railroad data and
7 operations.

8 CHAIRMAN OBERMAN: Matt, the 1265 was over
9 a two-week period; correct?

10 THE WITNESS: That's correct.

11 MR. WARREN: I'll let Hannah answer that.

12 CHAIRMAN OBERMAN: That you were referring
13 to. Just to be clear on the record. Okay. Thank
14 you.

15 MR. WARREN: Mr. Chairman, I would like to
16 show Hannah a document that I believe it's been
17 previously admitted as Joint Exhibit 41B. These are
18 the JE exhibits, and this is specifically -- well,
19 maybe I'll let Hannah describe it.

20 And, Hannah, it is in that binder next to
21 you. It should be the first document. If you could
22 maybe for the record say what you're seeing.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1227

1 CHAIRMAN OBERMAN: Before you look at it,
2 can you identify it, Matt, so we can see if there's
3 any objection?

4 MR. WARREN: Yes. It is Joint Exhibit
5 41B. I believe it's been previously admitted.

6 CHAIRMAN OBERMAN: B as in boy?

7 MR. WARREN: B as in boy. Rebuttal RTC --

8 CHAIRMAN OBERMAN: It's what, the rebuttal
9 RTC report?

10 MR. WARREN: It is the rebuttal RTC
11 modeling report.

12 CHAIRMAN OBERMAN: Any objection?

13 All right. Proceed.

14 MR. WARREN: Thank you.

15 BY MR. WARREN:

16 Q Hannah, looking at Joint Exhibit 41B, can
17 you say -- tell us what this is?

18 A Sorry. Which page?

19 Q Just in general, could you describe what
20 the document is?

21 A Yes, of course.

22 CHAIRMAN OBERMAN: You know, Matt -- okay.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1228

1 I'm sorry. I think this was previously identified
2 as 40B because that's what I wrote on the exhibit.

3 MR. WARREN: Yes.

4 CHAIRMAN OBERMAN: If that is the case,
5 the record should be corrected for whenever you used
6 it before.

7 MR. WARREN: Yes, I can clarify that. So,
8 Mr. Chairman, our exhibits have both the public
9 version and the highly confidential version. So I
10 believe the highly confidential version is 40B.
11 This is 41B. We did this -- I'm trying to keep it
12 in the public session. But it's the same, this is
13 just a public version that was filed.

14 CHAIRMAN OBERMAN: I've got it, okay. I
15 just wanted to make sure we were clear about the
16 exhibit numbers. Thank you.

17 MR. WARREN: Yes, yes, yes, that's right.

18 BY MR. WARREN:

19 Q So, Hannah, are you familiar with this
20 document?

21 A Yes, this is the rebuttal RTC report by
22 HNTB and R.L. Banks.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1229

1 Q Did you contribute any information to this
2 report?

3 A I did. I supplied the data inputs and
4 assisted with some of the subsequent analysis in
5 here.

6 Q Okay. Did any of that analysis relate to
7 this train count issue?

8 A Yes. I was the one that identified
9 Amtrak's experts used an incorrect data source and
10 misunderstood freight operations and railroad data.

11 Q Thank you. Why don't we -- did you talk
12 about -- did you discuss that input you had
13 somewhere in the record? Let me know if that was --
14 that was a poorly phrased question, so let me know
15 if you don't understand it.

16 A I'm sorry, I don't understand it.

17 Q So did you previously submit testimony in
18 this proceeding about these issues?

19 A Yes, in my rebuttal verified statement.

20 Q And for the record, Mr. Chairman, that
21 rebuttal verified statement is Joint Exhibit 40D.
22 It's already in the record.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1230

1 So turning back to this rebuttal RTC
2 report, I'd like to direct your attention to page 15
3 of the report. It's the page that has figure 1.

4 A It's page 16 in mine.

5 Q Yes, unfortunately we've had a bit dealing
6 with the page number issue. So it's 15, and it's
7 the same numbering says 15 and 16 on the same page.

8 CHAIRMAN OBERMAN: Matt, I'm sorry. My
9 Zoom is fading in and out.

10 MR. WARREN: Mr. Chairman, let me know
11 when you are with us. We're looking at figure 1 of
12 the rebuttal RTC report.

13 CHAIRMAN OBERMAN: Matt, I have to
14 interrupt just for a second. I am sorry. My Zoom
15 went out just as you were identifying and it
16 rebooted itself.

17 The rebuttal verified statement is Exhibit
18 what?

19 MR. WARREN: So the rebuttal verified
20 statement is Joint Exhibit 40D, I believe, but we
21 are actually looking at the rebuttal RTC report.
22 And we are sharing the screen from it now if it's

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1231

1 helpful.

2 CHAIRMAN OBERMAN: I understand. The
3 statement is 40D, as in David? Is that what you
4 said?

5 MR. WARREN: Yes. The rebuttal verified
6 statement of Hannah Rosse and Holly Sinkkanen
7 is 40D.

8 CHAIRMAN OBERMAN: All right. Hopefully
9 my Zoom will stay on and I can follow this.

10 MR. WARREN: So, Mr. Chairman, I'm not
11 hearing you well. We'd be happy to take a recess if
12 you need it for technical reasons, or we're happy to
13 keep going.

14 CHAIRMAN OBERMAN: You know what, let me
15 see if I can -- let me see if I can get onto this on
16 my phone and at least get the audio. So bear with
17 me for a minute.

18 MR. WARREN: Okay. Just let us know.

19 CHAIRMAN OBERMAN: You know, that's not
20 going to work. So let's just do the best we can. I
21 may have to reboot my modem or something. I'm not
22 sure why this is a problem right now. But can you

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1232

1 hear me now, Matt?

2 MR. WARREN: Yes, I can, Mr. Chairman. We
3 will keep going if you would like. Let us know if
4 you would like us to pause.

5 CHAIRMAN OBERMAN: Let's keep going.

6 BY MR. WARREN:

7 Q So, Hannah, do you see figure 1 on this
8 page?

9 A Yes, I do. This is the waterfall chart of
10 the source of difference between RTC and actual
11 train counts.

12 Q Can you tell us what this figure, figure
13 1, is depicting?

14 A Sure. It's breaking down and categorizing
15 the number of analytical mistakes that Amtrak's
16 experts made.

17 Q And did you participate in the analysis
18 that led to the development of figure 1?

19 A Yes, I did. I contributed to the
20 incorrect data source categorization, the inclusion
21 of trains that would not be in the data, as well as
22 the counting yard train symbols, not movements

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1233

1 categories.

2 Q Good. So I'm going to ask you about those
3 three categories, and we will leave the other two
4 for other witnesses.

5 So let's walk through the categories one
6 at a time. That first column, 295 trains that
7 you've got categorized under "incorrect data
8 source."

9 Could you please explain why you believe,
10 you know, Amtrak's witnesses used an incorrect data
11 source?

12 A Sure. So the 295 is actually two separate
13 mistakes that Amtrak's experts made during their
14 analysis. The first mistake was that they
15 inexplicably used a subset of the train profile data
16 when performing their train counts. That subset of
17 data excluded portions of the network.

18 So that accounts for 173 of those trains.

19 And then the other 122 is again, for
20 whatever reason, Amtrak's experts failed to consider
21 the other data sources supplied to them, such as the
22 OS data or the dispatch data. And had they done so,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1234

1 they would have seen another additional 122. So the
2 122 plus the 173 gets you to 295.

3 Q So is this explanation that you just
4 summarized, is that in the record already?

5 A I believe so.

6 CHAIRMAN OBERMAN: Matt, I think it's a
7 little confusing when you ask this witness what's in
8 the record. Why don't you identify a document if
9 that's where you're heading.

10 MR. WARREN: I'll be more specific.

11 BY MR. WARREN:

12 Q Hannah, did you discuss this in your
13 rebuttal verified statement?

14 A Yes, I did.

15 MR. WARREN: And so to keep things
16 moving -- I was not going to go into the details of
17 the rebuttal verified statement, Mr. Chairman, to
18 keep things moving. I was just going to have
19 Ms. Rosse refer to it.

20 CHAIRMAN OBERMAN: Understood. Proceed as
21 you see fit. We understand the points there, I
22 think we do.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1235

1 MR. WARREN: Okay.

2 BY MR. WARREN:

3 Q So, Hannah, let's move to the next
4 category, 582 trains that are categorized as
5 inclusion of trains that would not be in data.

6 What does that represent?

7 A Sure. So at a high level, there is a
8 number of train and nontrain activities that are
9 simply not going to be captured in the data. High
10 rail vehicles are one example of those. Light
11 engine movements, blocks of cars, foreign train
12 cross traffic and -- sorry, and yard movements as
13 well.

14 Q So let's sort of go through those
15 categories one at a time. If you could turn to
16 page -- I believe it is page 18 and 19 of the
17 rebuttal reports, it's the break over table 6.

18 And we actually on the screen, we have
19 that up on the screen now, Mr. Chairman, and we're
20 actually -- I think we can put it together so we can
21 see table 6 together.

22 So, Hannah, what does table 6 represent?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1236

1 A This is breaking down the trains that
2 would not appear in the electronically collected
3 sources.

4 MR. WARREN: Mr. Chairman, I would like to
5 show the witness a demonstrative exhibit that has
6 been marked as CSX/NS-150.

7 CHAIRMAN OBERMAN: This page we're looking
8 at now is in the rebuttal report?

9 MR. WARREN: Yes, it is. This is
10 actually -- there's a table that breaks across
11 pages, pages 18 and 19, and we just put it together
12 to make it a little bit easier to read.

13 BY MR. PRIMUS:

14 Q So if I could real quickly just a point of
15 clarification, so, Ms. Rosse, when I asked you
16 earlier about how you defined trains. So I see here
17 it says "train type." But this is not necessarily
18 your definition of trains as you said. These are
19 just the types of, I guess, movements. Would that
20 be more accurate?

21 A That is accurate. Amtrak's experts
22 claimed that these movements were trains, which is

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1237

1 why we put it in quotations.

2 BOARD MEMBER PRIMUS: Okay.

3 BY MR. WARREN:

4 Q And I might have a clarifying question.

5 So, Hannah, is it fair to say -- I mean, I believe
6 when you answered Member Primus's question earlier,
7 you said something along the lines of a train, a
8 locomotive with a crew and cars.

9 When you were defining train that way,
10 what did you mean? Did you mean train, sort of a
11 conventional understanding of the term, or train for
12 the purposes of the .train file in the RTC model?

13 A The conventional understanding of a train.
14 The .train file contains nontrain activities as
15 well.

16 MR. WARREN: Does that clarify things,
17 Member Primus?

18 BOARD MEMBER PRIMUS: Yes. And the
19 .train file, it also -- it identifies those nontrain
20 as such; correct?

21 THE WITNESS: Yes, sir.

22 BOARD MEMBER PRIMUS: Okay. Thank you.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1238

1 MR. WARREN: So, Mr. Chairman, I would
2 like to show Hannah a demonstrative that's been
3 marked as CSX/NS-150.

4 CHAIRMAN OBERMAN: Have you shown this to
5 counsel?

6 MR. WARREN: It was exchanged, yes.

7 CHAIRMAN OBERMAN: Any objection? None?
8 Proceed.

9 BY MR. WARREN:

10 Q Hannah, looking at Exhibit CSX/NS-150, can
11 you tell us what this is?

12 A Yes, it's a demonstrative that I put
13 together breaking down the high-level categories of
14 trains and movements that are not captured in the
15 data.

16 Q Okay. Would it be fair to say that this
17 effectively illustrates what we were just looking at
18 in table 6?

19 A Yes, it does.

20 Q Thanks. So let's walk through each of
21 these subcategories.

22 Actually, while we're on this screen, at

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1239

1 the top of this graphic that you prepared it says
2 CSX472, NS110 equals 582. Can you explain what that
3 means?

4 A Yes. So 472 of these trains or movements
5 are CSX, and then the other remaining 110 are NS.
6 And the two together get you to the 582 that you saw
7 in the waterfall.

8 Q And I am only going to be asking about the
9 CSX side of things. We'll let Ms. Sinkkanen talk
10 about the Norfolk Southern side of things.

11 So let's turn to the next page and start
12 walking through this next set of categories.

13 CHAIRMAN OBERMAN: Matt, is this the same
14 demonstrative?

15 MR. WARREN: Yes, Mr. Chairman, it's a
16 multipage demonstrative. So yes, this is the next
17 page of it.

18 BOARD MEMBER PRIMUS: Matt, real quick,
19 just a clarification on a previous slide.

20 MR. WARREN: Let's go back, please.

21 BOARD MEMBER PRIMUS: So the foreign 129,
22 who is that assigned to?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1240

1 THE WITNESS: We'll get to that.

2 MR. WARREN: Answer the best you can,
3 Hannah.

4 BOARD MEMBER PRIMUS: That's okay. If
5 you're getting to it, I'll let you go through it.
6 I'm sorry, I thought that was part of the numbers.

7 MR. WARREN: We are going to go through
8 each of these categories. Hannah is going to talk
9 about the CSX -- most of these movements and
10 capacity-consuming activities of various forms are
11 on the CSX side, so she's going to talk through the
12 CSX categories. And then when we get Ms. Sinkkanen
13 up, hopefully later today, she will talk about the
14 Norfolk Southern side of things. We will be getting
15 to the foreign category.

16 BY MR. WARREN:

17 Q So this slide you've identified 126 bridge
18 tender movements. Could you explain the bridge
19 tender movements?

20 A Sure. So there are four -- let me back
21 up.

22 During 2019, there were four movable

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1241

1 bridges that required high rail vehicle movements to
2 transport bridge tenders to and from the bridges.
3 Two of those movable bridges actually share the same
4 high rail vehicle, so there is going to be three
5 high rail vehicles that would be occupying track for
6 three shifts each day, morning, noon and night
7 shifts there.

8 So the three movable -- or the three high
9 rail movements times the three shifts over the 14
10 day simulation equals the 126 movements.

11 Q Okay. So would those bridge tender high
12 rail movements, would they show up in the train
13 profile data?

14 A No, they will not show up in any of the
15 sources that I mentioned other than coming from the
16 field.

17 Q So just to be clear, they wouldn't show up
18 in the train profile data and wouldn't show up in
19 the OS data or dispatch data?

20 A That's correct.

21 CHAIRMAN OBERMAN: Do you mind if I ask a
22 question about the bridge tenders before you leave

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1242

1 this subject?

2 MR. WARREN: Not at all, Mr. Chairman.

3 CHAIRMAN OBERMAN: Well, when you're done.

4 Were you done?

5 MR. WARREN: Maybe two more questions

6 about the bridge tenders.

7 BY MR. WARREN:

8 Q They don't show up in the data, but in the
9 real world, do these bridge tender movements consume
10 capacity on the line?

11 A Yes, they do.

12 Q I believe you testified earlier, but I'll
13 ask you again, does the bridge tender movements in
14 the RTC model take up the same kind of capacity as a
15 full merchandise train?

16 A No, it does not. The model knows that
17 this high rail movement is only going to be on the
18 track for a short period of time, for a short
19 distance. And, you know, it's short lived in the
20 model, versus a road train, which is going to have
21 to meet and pass lots of other trains along its
22 route.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1243

1 MR. WARREN: And those are all my
2 questions about bridge tender, so if any members
3 have questions, go ahead.

4 EXAMINATION

5 BY CHAIRMAN OBERMAN:

6 Q Just a couple of questions, Ms. Rosse.
7 There are three high rail movements per day in each
8 shift change?

9 A Yes, three high rail movements per day,
10 and there's three shifts per day.

11 Q Right. So it's nine high rail movements
12 per day?

13 A That's correct, sir.

14 Q All right. Times 14. Is that how we got
15 here?

16 A Yes, sir.

17 Q Okay. And you said that you took into
18 account the four movable bridges on the line that
19 still require high rail movement?

20 A Yes, sir. I'm sorry.

21 Q There's been discussion in this case about
22 potential for making other bridges on the line, I

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1244

1 think there are four others, two or four, I don't
2 remember, whatever the record shows, that are being
3 considered to be made remote over the next few
4 years.

5 Are you aware of that?

6 A Those discussions and decisions would have
7 happened after my employment with CSX, so I'm only
8 slightly aware.

9 Q So you -- it would be possible, would it
10 not, to, on a hypothetical basis, take into account,
11 one or two or three years down the road, a reduction
12 in the number of high rail movements if the others
13 become remote and then this number 126 would be
14 less; right?

15 A That's correct.

16 Q And I gather that's not part of the way
17 the study was done, to look to the future to see
18 what happens if you have more remote bridges and
19 fewer high rail movements?

20 A No, sir. At the time the high rail
21 vehicles were out there, and there was no kind of
22 end in sight for those movements from a legal

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1245

1 perspective.

2 CHAIRMAN OBERMAN: Well, I don't know if
3 it's your authority on legal perspective. I'm just
4 trying to understand how this study was done. We'll
5 leave that to the lawyers to argue. But thank you,
6 I just wanted to be clear on how this works. Thank
7 you much.

8 Go ahead, Matt, unless other Board members
9 have any questions.

10 Matt, go ahead.

11 MR. WARREN: And I will have one more
12 question on the bridge tender issue.

13 DIRECT EXAMINATION (Continued)

14 BY MR. WARREN:

15 Q Hannah, how hard would it be for an RTC
16 modeler to rerun the 2021 RTC model, assuming that
17 some of the bridges were no longer high rail
18 movements?

19 A It's very easy. You would just remove
20 those trains from the .train file and click run.

21 Q Thank you.

22 Let's move to the next slide. And these

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1246

1 are the foreign trains that Member Primus was asking
2 about.

3 BOARD MEMBER SCHULTZ: Actually, could I
4 ask a follow-up question there?

5 MR. WARREN: Certainly.

6 BOARD MEMBER SCHULTZ: How difficult would
7 it be to basically change any of the inputs on the
8 RTC model? In other words, pick various categories.
9 Is that -- and I know that's very broad and very
10 vague. But if there would be changes to the model,
11 is it a course of process or is it something that's
12 so complicated that it would take an enormous amount
13 of time?

14 THE WITNESS: So depending on the changes
15 for consideration, if you're talking about simple
16 removals of trains or movements, that's fairly easy
17 to do.

18 If you're talking about large-scale
19 scheduling changes, the process is actually more --
20 it's not difficult from an RTC perspective, I should
21 say. That would be more of a decision-making
22 standpoint from a service design question.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1247

1 Does that answer your question, ma'am?

2 BOARD MEMBER SCHULTZ: I think so. I
3 guess -- and perhaps changes to infrastructure
4 coupled with service changes.

5 THE WITNESS: Yes. So those two would be
6 fairly easy to change in the model.

7 BOARD MEMBER SCHULTZ: Thank you.

8 EXAMINATION

9 BY BOARD MEMBER FUCHS:

10 Q On Michelle's question, have you run RTC
11 models or contributed to RTC models that changed
12 inputs like -- manually changed inputs like train
13 time or train length based on service design?

14 A So in the internal studies, like
15 directional running for example, yes, we would have
16 changed plan departure times and routes for those
17 trains.

18 Q And so in the real world, sometimes when
19 trains are added to CSX, there are changes to those
20 inputs?

21 A I'm sorry. Can you rephrase the question?

22 Q So sometimes, in the real world, there are

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1248

1 changes to those inputs when trains are added to the
2 CSXT network?

3 A Is your question outside of modeling
4 exercises?

5 Q Well, the modeling exercises that you have
6 contributed to in the past.

7 In other words, I guess what I'm asking
8 is -- maybe another way to think about it is if the
9 Board -- if the Board were to order the additional
10 trains without any infrastructure, does RTC then
11 have a role in how CSX would think about
12 accommodating those trains?

13 A So I -- I think that decision would be
14 kind of outside of my control. I'm not trying to
15 push back on the question.

16 Q No. And let me -- I think you had said
17 earlier that you had worked on other passenger rail
18 additions to the CSX network or instances where
19 passenger trains were put on the CSX network.

20 In those instances, regardless of whether
21 infrastructure was a part, when those trains were
22 added to the CSXT network, was the RTC a component

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1249

1 of what CSXT did after -- you know, to think about
2 how to accommodate those additional passenger
3 trains?

4 A Oh, okay. I understand your question now.
5 No, sir.

6 Q So when additional trains in the past were
7 added to the CSXT network, there was never any use
8 of an RTC model to think about how to accommodate
9 those trains?

10 A The model in those cases was performed
11 prior to the introduction of those passenger trains.
12 So there was no post modeling being done there.

13 Q And in those instances, were there
14 examples where CSXT ran scenarios that adjusted work
15 events, train times, departure times, train lengths
16 or routing?

17 A In the passenger studies --

18 Q Were those various inputs ever varied --
19 are you aware of any instance where those inputs
20 were ever varied in past passenger studies you were
21 describing?

22 A Not to my knowledge.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1250

1 BOARD MEMBER FUCHS: Okay. Thank you.

2 MR. WARREN: Can we put back, if there
3 aren't any further questions --

4 DIRECT EXAMINATION (Continued)

5 BY MR. WARREN:

6 Q Coming back to the foreign trains, Hannah,
7 I see this, and I don't know what this is called,
8 doughnut chart. There are two different colors, and
9 one of them is CN CSXT 17 and the other one is NOPB
10 112.

11 Let's start with the CN 17. Can you
12 describe what that is depicting?

13 A Yes. So in the Mobile area, there is a
14 railroad diamond where CN trains cross CSX mainline
15 traffic, but they don't actually touch CSX mainline,
16 it's a CN owned and operated diamond.

17 And while those CN trains don't operate on
18 CSX track, they block our ability to traverse our
19 own mainline. So those occupancies need to be
20 included in the model.

21 Q Okay. And those CN trains don't -- why
22 don't they show up in CSX's electronic data?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1251

1 A Since they don't operate over any of our
2 track, they're not going to pass any of the control
3 points or track circuits. So they're not going
4 to -- they don't have the opportunity to show up in
5 the data.

6 Q And what about the other category, the
7 NOPB trains?

8 A Sure. So those are -- those are NOPB
9 movements at the south end of Gentilly. Ricky
10 Johnson the other day walked through their movements
11 more specifically.

12 But those NOPB trains pass over yard
13 controlled switches in Gentilly multiple times per
14 day. Those yard controlled switches aren't captured
15 in the dispatcher data or the control point data
16 because there is no opportunity for them to do so.

17 MR. WARREN: Thank you.

18 If there are not any questions, I'll pause
19 for a minute.

20 BOARD MEMBER PRIMUS: I just have a
21 clarification. So the CN trains, you said they
22 crossed a diamond, but they have an opportunity to,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1252

1 you know, obstruct CSX trains, but they're not
2 reported.

3 So there's no mechanism within the model
4 that you would identify that as part of the -- part
5 of the run or the model?

6 THE WITNESS: If your question is about if
7 we have any sources of that information
8 electronically in-house, no, sir, we do not.

9 So as I do with every study, I conduct
10 field interviews, and they instructed me in this
11 case about the CN cross traffic.

12 In this particular case, they told me it
13 was roughly one to two trains per day, heavier
14 towards the weekends. So I took that input and
15 calculated for Mondays, Thursdays, Fridays and
16 Saturdays, it's about a train and a half. Tuesdays
17 and Sundays each received a train. And then
18 Wednesdays were half a train. So over the 14 day
19 simulation, you get to 17.

20 I had the field watch the simulation, and
21 they validated it. So that's how we come to the 17.

22 On the NOPB 112 there, the NOPB eight

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1253

1 times per day is hitting those yard controlled
2 switches in Gentilly. So eight times the 14-day
3 simulation gets you to the 112.

4 BOARD MEMBER PRIMUS: Thank you.

5 BOARD MEMBER HEDLUND: What does NOPB
6 stand for?

7 THE WITNESS: New Orleans -- I'm sorry --
8 I'm forgetting on the full name. I'm sorry, ma'am.

9 BOARD MEMBER HEDLUND: I'm just trying to
10 understand what trains these are.

11 MR. WARREN: I think this is in the record
12 somewhere, so I'll ask this leading question.

13 BY MR. WARREN:

14 Q Hannah, is NOPB, could it be the New
15 Orleans Public Belt Railroad? Does that jog your
16 memory?

17 A Yes.

18 BOARD MEMBER HEDLUND: Thank you.

19 BY MR. WARREN:

20 Q Just to clarify after that exchange, I
21 want to make sure, when you say that the trains
22 aren't in the data that CSX electronically collects,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1254

1 you're not saying that that doesn't mean they show
2 up in the RTC model; right?

3 A No, they wouldn't automatically show up.
4 Through the field interviews, they would as they
5 watched the simulation, they would say oh, you're
6 missing all of these movements. And that's when we
7 got into those conversations about well, how many
8 and what are they doing.

9 And so then that information was turned
10 over to the modelers.

11 Q Right. And I'll ask a question similar to
12 what I asked a little while ago about bridge
13 tenders. The RTC model knows that the difference
14 between a CN train that is crossing the diamonds at
15 Mobile and, you know, impeding the CSX line for the
16 time that the crossing is occupied, and putting a
17 full merchandise train on the line, it knows -- it's
18 able to tell the difference between those events?

19 A Yes, based upon the type and the entry
20 time in the model and the distance it's going to be
21 traveling, the work it's going to be doing. All of
22 that information is there in the .train file for

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1255

1 the simulation to make decisions off of.

2 Q So if there are no more questions about
3 the foreign train category, why don't we switch to
4 the next slide of the demonstrative. And this is an
5 exclusively Norfolk Southern category, so I'm not
6 going to ask you any questions about it, Hannah.
7 We'll let Holly talk about it later.

8 And the next category is blocks of cars,
9 and since we have two different colors of the
10 doughnut now, and I'm not going to ask you to talk
11 about the Norfolk Southern in green.

12 But could you explain to the Board what
13 those 12 local trains identified on the chart are
14 referring to?

15 CHAIRMAN OBERMAN: Matt, I just wanted
16 to -- I'm getting sort of lost in all the charts
17 here. The demonstrative is the way of portraying
18 the numbers that are in the rebuttal?

19 MR. WARREN: Yes.

20 CHAIRMAN OBERMAN: The rebuttal statement.
21 Is that why we're looking at this here, just a way
22 of putting it in a visual?

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Public Evidentiary Hearing - April 8, 2022

Page 1256

1 MR. WARREN: Yes, Mr. Chairman. And I
2 think specifically, it corresponds to the table 6
3 that we put up earlier that's on pages 18 and 19 of
4 the rebuttal report.

5 CHAIRMAN OBERMAN: Got it, thank you.

6 Ms. Rosse, I couldn't catch the name.
7 Thank you.

8 THE WITNESS: Sure. So the 12 movements
9 there, the 12 blocks of cars, there is a local that
10 operates six days a week, Monday through Saturday,
11 on this subdivision. And it's fairly heavy on
12 customer work.

13 At the beginning of its day, it works a
14 rock customer, and then it leaves a block of cars in
15 the Gautier siding for a period of time. And the
16 train then goes on to work the remaining four
17 customers for that day. And then it comes back and
18 picks up that block of cars before it terminates in
19 its yard.

20 So the blocks of cars, they're sitting
21 there occupying the siding during that time.
22 They're not a train, but they are -- so occupancies

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1257

1 that are limiting the ability to utilize that
2 siding. So that's why the blocks of cars are
3 included in this case.

4 The six days a week times two weeks,
5 because it's a 14-day simulation, gets you to 12.

6 BY MR. WARREN:

7 Q And if there aren't any questions, we can
8 go to the next slide. So for light engine
9 movements, again we've got two categories here, one
10 for Norfolk Southern, one for CSX. Why don't we
11 just start by explaining, what is a light engine
12 movement?

13 A Sure. It's movements that are only
14 locomotive.

15 Q Okay. So could you describe what the 42
16 CSX light engine movements refers to?

17 A Yes. So on this line, up in Montgomery,
18 there are three merchandise trains that perform
19 daily engine swaps in Montgomery. So the engine
20 swap movements are captured in the .train file as
21 light engine movements.

22 It's interesting because you actually do

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1258

1 see these movements in the electronically collected
2 data, but they are masked by the road train symbol.
3 And it just looks like you're getting pings over and
4 over again in the same OS point there. But that
5 kind of indicates to the modeler that hey, there is
6 activity going on here.

7 And then you would ask the field, hey, I
8 see these weird and consistent pings in the same
9 location, what's going on here. And that's when I
10 learned that they were light engine movements.

11 And so the three merchandise trains that
12 perform this over the 14-day simulation gets you to
13 the 42.

14 Q After pausing for a moment to see if we
15 have any questions about light engines, we can turn
16 to what I think is the last page I will show you,
17 which is the yards. And here we have a few
18 different colors that are associated with CSX. I'm
19 going to start by asking you about the Transflo
20 category. First, could you just explain what
21 Transflo is?

22 A Transflo is a subsidiary of CSX that

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1259

1 transloads bulk commodities between railcars and
2 truck. And in this case here, there is a Transflo
3 facility in New Orleans that is served by a yard
4 train, and so for the purposes of the model, we
5 treat Transflo as a customer here because there is a
6 train that goes and actually works the facility.

7 The facility itself is located within the
8 terminal, and so the movements aren't seen, if you
9 will, by the dispatching data or the control point
10 data, because it's not passing over these signals,
11 these track circuits that we would have the
12 opportunity to catch them.

13 The facility is worked five days a week,
14 Monday through Friday. So five times the two-week
15 simulation gets you to 10 here.

16 Q Thank you.

17 And now I'm going to ask you about the
18 blue category, first and second shift yard jobs at
19 Mobile. What is that referring to?

20 A Sure. So there's two yard jobs that work
21 every day that are performing multiple head room
22 movements at the south end of Sibert yard. They're

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1260

1 not going as far out to actually pass by a control
2 point, but they are passing these yard-controlled
3 switches that would block the ability for road
4 trains or local trains to enter and exit Sibert
5 yard.

6 So those head room movements are then
7 included in the model. The field supplied me with
8 the number of movements, they are performing these
9 head room movements each roughly four times a day.
10 So the two yard jobs times the four head room
11 movements over the 14-day simulation gets you to
12 112.

13 And I think in this case here the model --
14 the model missed one of those, so only 111.

15 Q So there's actually one fewer train in the
16 model than maybe there should have been?

17 A Yes.

18 Q So do these yard jobs stay in the yard?

19 A They do, but they -- they're coming far
20 out enough to where it's going to block the ability
21 of the road or the local train to get into the yard.

22 Q Thank you. But again, these 111 or 112

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1261

1 trains, it's not -- don't take up the same kind of
2 capacity as a full merchandise train; is that right?

3 A That's correct.

4 Q So the last category I'm going to ask you
5 about is the salmon, I guess, color, yard job at
6 Gentilly.

7 A Yes. So there is a yard job that is
8 performing very similar movements at the south end
9 of Gentilly, head room switching movements multiple
10 times per day, three times in this case here.

11 So the three movements for the one train
12 over the 14-day simulation gets you to 14.

13 Q Thank you.

14 And I think that covers the CSX part of
15 the 582 trains and movements, the kinds of things
16 that don't show up in the data.

17 So I can pause here for a moment before we
18 go to talking about the 174 yard train movements?

19 CHAIRMAN OBERMAN: I would like to ask a
20 couple of questions here, Matt.

21 MR. WARREN: Please.

22 EXAMINATION

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1262

1 BY CHAIRMAN OBERMAN:

2 Q Ms. Rosse, do I understand that for the
3 most part, these 582 trains are ones that the facts
4 about them, the numbers and so forth, were gathered
5 through field interviews?

6 A Yes, sir, that's correct.

7 Q Is that right?

8 And who conducted the field interviews?

9 A Myself or an employee of mine.

10 Q Pardon me? I couldn't hear the answer.

11 A I'm sorry. Myself or an employee of mine.

12 Q Okay. And is that the normal data for RTC
13 inputs to get the field interviews to supplement the
14 electronic data?

15 A Yes. Every time. Otherwise, the model is
16 not going to be accurate.

17 Q So would you say, based on your
18 experience, that anyone familiar with working with
19 RTC modeling would be expected to know that it
20 includes data gathered by these field interviews?

21 A Yes. If they are modeling any freight
22 network, you know, the field needs to be involved to

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1263

1 ensure its accuracy.

2 Q So -- and is the data that you've gathered
3 in the field interviewing -- of the data, at least
4 initially before this discovery began in this case,
5 was in the confidential data that was not the
6 granular aspect of it not provided to Amtrak? We've
7 heard that they couldn't get a lot of this data. Do
8 you know if the data you gathered was marked as
9 confidential or highly confidential?

10 A I can't speak to what was marked highly
11 confidential or confidential. But I am aware that
12 their experts did receive .train files and the
13 data inputs. So they did have this information in
14 some form or fashion.

15 MR. WARREN: If I could, I think I might
16 be able to clarify this, Mr. Chairman.

17 When you say that their experts got this,
18 are you referring to their experts in this
19 particular litigation?

20 THE WITNESS: Yes.

21 BY CHAIRMAN OBERMAN:

22 Q There's been a lot of assertions by the

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1264

1 Amtrak people, and we'll get to their witnesses,
2 that they weren't capable of getting everything they
3 needed to test your assertions and so forth.

4 Did you keep any handwritten notes or any
5 kind of record of your yard interviews? Instead of
6 trying to memorize 582 train movements?

7 A No, sir, I did not maintain any notes on
8 those. Those adjustments were put directly into the
9 .train file or they were supplied to the RTC
10 modelers immediately.

11 Q Well, if Amtrak had taken your deposition
12 in this case sometime along the line before this
13 trial started, would they have found out what you
14 just told us, how you got there and what the basis
15 of your 582 trains was?

16 A I'm sorry, can you rephrase the question?

17 Q Well, if Amtrak had -- I don't know if
18 you're familiar with what a deposition is, but if
19 they had sought to question you under oath before
20 the trial, you could have supplied them what you've
21 supplied to us here today in terms of how you got to
22 these -- ultimately the whole 1265 trains; right?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1265

1 A If I'm understanding the question
2 correctly, if they had deposed me more at the onset
3 of this 2021 RTC modeling effort, is your question
4 would they have received information about these
5 movements? Am I understanding you correctly?

6 Q Yes. You could have given it to them what
7 you gave us here today; correct?

8 A Yes, yes.

9 Q And if they really wanted to challenge
10 your gathering, I suppose they could have asked you
11 tell me the name of a person in in the Gentilly yard
12 that gave you the information, you could have given
13 them the name of the people you interviewed;
14 correct?

15 A Yes.

16 Q And then you don't know the answer to
17 this, but they could have gone out and taken the
18 deposition of those people too and say how did you
19 get to however many yard trains and so forth; right?

20 I mean, anything you have is traceable if
21 a lawyer wanted to trace it down the line?

22 A I believe so. I can't speak legally

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1266

1 though.

2 Q Yes, I understand. But factually,
3 somebody could have retraced your steps and got the
4 same information you've got?

5 A Yes, sir.

6 Q And I take it you never got a request from
7 Amtrak during -- to your knowledge, you're not --
8 you don't know what the lawyers got. But nobody
9 asked you in this litigation to sit down and provide
10 that kind of data to the Amtrak team?

11 A Not that I'm aware of.

12 Q I lost my -- I didn't hear your answer.
13 Can you say that again? My Zoom --

14 A Yes, sir. No, not that I'm aware of.

15 CHAIRMAN OBERMAN: Thank you.

16 That was all I had, Matt. I don't know if
17 any other Board members have any questions.

18 BY MR. WARREN:

19 Q Seeing shaking heads, let's go back, if we
20 could, to Joint Exhibit 40B and to figure 1 on
21 page 16.

22 And earlier, Hannah, you testified that

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1267

1 you were going to talk to us about incorrect data
2 source, we covered that. We just went through the
3 582 inclusion of trains that would not be in data.
4 And I think the last category you were going to talk
5 about that you said you had knowledge about was
6 counting yard train symbols, not movements.

7 So what is your understanding of what that
8 category represents?

9 A Yes. So these trains and movements are
10 visible, actually, to some degree, in the data. But
11 they are -- Amtrak's experts did not count these
12 because they -- they were assuming that the
13 movements are equivalent to a distinct train count,
14 which is not accurate here.

15 Q If you don't mind, could you try to unpack
16 that a little bit?

17 A Yes. So in the case of yard trains in
18 particular here, their movements are so small, and
19 again, like thinking back to what they're doing,
20 they're performing these head room movements. So
21 they're just going back and forth and back and
22 forth.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1268

1 And one yard train, for example, could
2 perform, and I'm making up numbers here, could make
3 10 movements back and forth, back and forth. But
4 it's just one train.

5 Think about you've just gone grocery
6 shopping and you've got this trunkful of groceries,
7 there's only one of you and it may take you four or
8 five trips to unload your car. In this case there
9 was one you, but it took you four or five movements
10 to unload your trunk here. That's effectively what
11 has been done here, is we've taken those movements
12 and broken them up into distinct movements in the
13 model. I know I just used movements twice there.

14 But the sum of those movements equal the
15 one train here. So Amtrak's experts incorrectly
16 counted those movements as trains, but in reality,
17 the parts equal the whole here.

18 Q Was that because they were looking mostly
19 at the yard train symbols?

20 A Yes, I believe so. Again, they showed a
21 complete lack of understanding of railroad data
22 here. They assumed that the one train is equal to

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1269

1 one train regardless of how many times it's going to
2 occupy the mainline here and perform switching
3 movements.

4 Q So if there's one yard train with one yard
5 train symbol, I also don't have a great
6 understanding of how railroad data is collected, but
7 why couldn't you just model the yard train and tell
8 it to go back and forth and back and forth and back
9 and forth in the RTC model?

10 A So as you've alluded to, RTC knows the
11 differences between all of these trains and
12 movements, and it prioritizes and makes decisions
13 accordingly.

14 And in some cases, you can program one
15 train with those 10 distinct movements. And you
16 will have to ask Mark Dingler this, but I think
17 initially, that is what was tried and what we saw
18 the model was doing was not reflecting real world
19 operations, it was because of priority, it was
20 holding back all of those necessary movements until
21 it could find an opportunity to do so, which would
22 be well beyond the bounds of when, you know, these

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1270

1 yard trains would have actually been operating.

2 So in order to reflect reality, we had to
3 break up those movements so that the model would
4 allow those head room movements to occur in the
5 times that they would in reality.

6 Q But Amtrak's experts indicated in their
7 reply verified statement that they think that
8 treating yard train movements this way overstated
9 the number of trains in the RTC model.

10 So what's your response to that?

11 A It's incorrect and again shows a complete
12 lack of understanding.

13 The individual movements sum up to the
14 overall train and the movements that that train
15 would have done.

16 And it's also important to note here that
17 the yard train movements aren't included in any of
18 the output metrics that are reported.

19 Q So in sum, is there any -- from an RTC
20 perspective, is there any difference in how the
21 model would treat modeling the one yard train that
22 goes back and forth and back and forth or modeling

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1271

1 those as discrete movements?

2 A No, it's going to treat them the same. It
3 just allows us to match what was happening in
4 reality.

5 Q So why are there 174 trains in this
6 category?

7 A Sure. So 56 of those are actually the
8 TASD trains in Mobile. There are four trains
9 performing crossover moves every single day. So
10 four times the 14-day simulation gets you to 56.

11 Then down in Gentilly, there's yet another
12 yard job that's performing head room switching
13 movements at the north end of Gentilly. And you
14 actually do see blips of this movement because it
15 sometimes does actually cross that control point.

16 If you remember back to Ricky's testimony,
17 that signal tower that he pointed out, in some
18 cases, you do actually see that in the data, but
19 sometimes it doesn't quite go out that far. But the
20 field is able to tell us that it's doing this
21 movement three times a day.

22 So three times -- or I'm sorry, that train

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1272

1 is doing that once per day over the 14-day
2 simulation, so that gets you to 14.

3 And then flipping back over to Mobile,
4 there is again two more yard jobs that are
5 performing these head room movements multiple times
6 per day, and each of those was 56 over the 14-day
7 simulation, the first shift and the second shift.
8 And this is different than the two yard jobs that I
9 previously talked about.

10 So the 56 plus 56 for the two Mobile, and
11 I apologize, it's probably hard to follow all these
12 numbers here, that gets you to, what, 112. And then
13 the 14 movements from Gentilly plus the additional
14 56 from those TASD gets you to 182.

15 And then Amtrak's experts only gave us
16 credit for eight yard trains in the model, so 182
17 minus eight gets you to the 174.

18 Q That was a lot of numbers for the lawyers
19 to follow.

20 It's fair to say -- some of that analysis
21 is summarized in the RTC rebuttal report?

22 A Yes.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1273

1 Q Thank you. And just to repeat that last
2 thing you said, Amtrak's experts only included eight
3 yard jobs -- let me withdraw that and restate it.

4 According to Amtrak's experts, only eight
5 of the yard trains that were included in the model
6 they thought were appropriate?

7 A Yes.

8 Q And that would be eight yard trains over
9 an entire 14-day period?

10 A Over the entire corridor.

11 Q Thank you.

12 CHAIRMAN OBERMAN: Ms. Rosse, are you --
13 if I could ask, when you are answering what Amtrak's
14 experts did, are you referring to what they said in
15 their verified statements? Or what are you
16 responding to?

17 THE WITNESS: That's a great question,
18 sir.

19 So after I became a consultant, I was able
20 to review Amtrak's work papers to assist in this
21 analysis.

22 CHAIRMAN OBERMAN: So when you say what

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1274

1 Amtrak's experts did, you're saying what -- you're
2 not talking about their verified statement. You're
3 talking about the work papers they produced?

4 THE WITNESS: I apologize. That and what
5 they said in the verified statement. Because they
6 do go into some of that detail there. But in terms
7 of -- I'm sorry, sir.

8 CHAIRMAN OBERMAN: No, I wanted to know
9 what you were referring to. I didn't mean to cut
10 you off. You said in terms of something.

11 THE WITNESS: In terms of, say,
12 understanding that they used an incorrect data
13 source, that's again -- I was able to determine that
14 from the work papers as a consultant.

15 CHAIRMAN OBERMAN: All right. Well, okay.
16 The only reason I ask is I'm trying to trace what
17 they said and what you're saying, it's complicated.
18 And I just wanted to know what you're referring to.
19 Perhaps Amtrak's lawyers will go into that more. If
20 not, maybe we can ask you to identify with more
21 specificity so we can look at what you looked at to
22 say what you just said. That's all.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1275

1 MR. WARREN: And I might be able to
2 clarify a little bit.

3 This chart -- and a lot of the numbers
4 we've been talking about, was this part of CSX and
5 NS's rebuttal evidence?

6 THE WITNESS: Yes.

7 BY MR. WARREN:

8 Q And at that point in the proceeding, when
9 you're talking about responding to Amtrak's experts,
10 what were you responding to?

11 A Their criticisms of the -- their 257
12 percent ghost trains or whatever they called it.

13 Q Yeah. And if you remember, like, do you
14 remember where Amtrak made those criticisms?

15 A In their verified statements.

16 Q So I think -- to the extent, Mr. Chairman,
17 that's what -- obviously, the rebuttal evidence was
18 responding to Amtrak's reply evidence, and we
19 obviously haven't heard from Amtrak's experts yet.
20 But I think that's what Hannah was talking about.

21 CHAIRMAN OBERMAN: It sounds like, Matt,
22 that Ms. Rosse went further and actually looked at

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1276

1 the work papers to see what numbers they were using,
2 and then she concluded the conclusions she just gave
3 us. That's what it sounds like; is that right?

4 MR. WARREN: Yes, I think so. My
5 shorthand, when I say "evidence," I'm including the
6 work papers as well.

7 CHAIRMAN OBERMAN: Okay. Thank you.

8 BOARD MEMBER SCHULTZ: I had a quick
9 clarifying question.

10 CHAIRMAN OBERMAN: Yes. Go ahead,
11 Michelle.

12 BOARD MEMBER SCHULTZ: I think you
13 indicated, for yard train movements, that Amtrak
14 counted those as eight, and I think your model shows
15 174; is that correct?

16 THE WITNESS: Yes, ma'am. And some of
17 those movements are actually also in the 582, but
18 they are -- they are different movements but the
19 same -- same in terms of smaller movements equaling
20 the sum of the whole train.

21 BOARD MEMBER SCHULTZ: Can you speak to
22 the significance of the difference between using

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1277

1 eight versus 174 in the overall outcome, if any?

2 THE WITNESS: So without modeling the
3 eight versus the 174, the differences would be
4 significant, because again, these yard trains are
5 blocking the ability for roads and locals to enter
6 and exit the yard there.

7 So without the presence of those, your
8 model is not reflecting operations in reality.

9 BOARD MEMBER SCHULTZ: Thank you.

10 BY MR. WARREN:

11 Q So, Hannah, going back to some of your
12 prior testimony, you know, how hard would it be for
13 an experienced RTC modeler to model the impact of
14 taking out the yard trains?

15 A Very easy. Just as I described with the
16 high rail movements, they could simply just be
17 removed from the .train file and the modelers
18 could click run.

19 Q But, of course, in the real world, the
20 yard trains are there based on your knowledge?

21 A Yes, absolutely.

22 Q So has there -- Hannah, could you describe

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1278

1 any instance in your career working at CSX where you
2 excluded a train from the RTC model simply because
3 it wasn't in the train profile data or the OS data
4 when you had reason to believe that train existed in
5 the real world?

6 A No. The model would not have been
7 accurate, and it would have been entirely pointless
8 then. The entire purpose is to support internal
9 analysis that lead to potential capital improvements
10 along the line -- I apologize, infrastructure
11 investments along the line.

12 So when it makes sense to submit a model,
13 that wasn't accurate.

14 Q So in this case, for your work here, did
15 you to the best of your ability validate the
16 accuracy of how each CSX train and other train-like
17 movements like blocks of cars and tie rail movements
18 were reflected in the RTC file?

19 A Yes, I did.

20 MS. BRACEY: Object to the form of the
21 question, Chairman Oberman, as a leading question.

22 CHAIRMAN OBERMAN: I'm sorry. Do you want

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1279

1 to rephrase the question, Matt?

2 MR. WARREN: Sure, I'd be happy to
3 rephrase it.

4 BY MR. WARREN:

5 Q Hannah, in this case, to the best of your
6 ability, did you validate the accuracy of how each
7 CSX train and train movement was incorporated into
8 the .train file?

9 MS. BRACEY: Same objection.

10 CHAIRMAN OBERMAN: I'll let her answer
11 that question.

12 THE WITNESS: Yes, I did and I validated
13 the CSX network.

14 MR. WARREN: Okay. And at this point,
15 unless there are any clarifying questions, Hannah,
16 I'm going to ask you about your work on, you know,
17 contributing to the calculation of growth rates for
18 the 2039 RTC models.

19 BOARD MEMBER FUCHS: May I pause here and
20 ask --

21 CHAIRMAN OBERMAN: Go ahead, Patrick.

22 BOARD MEMBER FUCHS: Yes. I want to ask,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1280

1 and I know it's hard to anticipate, but does any
2 party expect us to go into confidential session in
3 order to ask about specific trains?

4 MR. WARREN: I do not plan to. We've
5 tried to structure this so that we will not.

6 CHAIRMAN OBERMAN: Did you want to ask
7 about specific --

8 BOARD MEMBER FUCHS: Amtrak or the Board
9 --

10 MR. WARREN: Yes, I was pausing to let
11 Amtrak or the Board.

12 BOARD MEMBER FUCHS: As was I, Matt. If
13 you can't answer this, then you can't answer it.
14 But does anybody plan for us to go to confidential
15 session with this witness?

16 CHAIRMAN OBERMAN: The court does not.

17 MS. BRACEY: We may but we're not --

18 BOARD MEMBER FUCHS: I will wait until the
19 end of questions to ask my follow-up questions,
20 thank you.

21 CHAIRMAN OBERMAN: I did have one question
22 that I should have asked a few minutes ago, Matt, if

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1281

1 I might.

2 You had mentioned some of the yard trains
3 involved the yard in Montgomery, Ms. Rosse; is that
4 right?

5 THE WITNESS: No, sir, none of the yard
6 trains that I have described here were in
7 Montgomery. And if I said that, I apologize. I
8 meant Mobile and Gentilly.

9 CHAIRMAN OBERMAN: Because Montgomery came
10 up in some context of your testimony, maybe you
11 misspoke. Did you just misspeak? None of this has
12 to do with Montgomery?

13 THE WITNESS: So when I mentioned
14 Montgomery, I was referring to the data source that
15 Amtrak's experts decided to use when calculating
16 their train counts.

17 The data source that they used excluded
18 Montgomery.

19 CHAIRMAN OBERMAN: I was just thinking of
20 a question.

21 THE WITNESS: I'm sorry, I didn't hear
22 your question.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1282

1 CHAIRMAN OBERMAN: Well, I'm going out, I
2 can't hear.

3 Can you hear me? I seem to be frozen.

4 MR. WARREN: Yeah, I'm sorry, I lost you
5 there for a minute.

6 CHAIRMAN OBERMAN: I didn't hear
7 Ms. Rosse's answer about Montgomery. If she gave
8 one, I'm sorry.

9 THE WITNESS: Yes, sir. So when I was
10 referring to Montgomery, I was referring to the
11 analytical error by Amtrak's experts when they were
12 performing their train count calculation, they used
13 a data source that for whatever reason excluded
14 trains in the Montgomery area.

15 BY MR. WARREN:

16 Q And, Hannah, why do you think it was
17 important for them to include a data source that
18 included those trains?

19 A So the -- I apologize. The RTC modeled
20 corridor here goes from New Orleans to Montgomery.

21 CHAIRMAN OBERMAN: What impact does
22 that -- what relationship does that have to the

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1283

1 Amtrak trains on the Mobile New Orleans line?

2 THE WITNESS: That's a great question,
3 sir.

4 So in-house at CSX, we always model one
5 crew change point beyond the immediate area of
6 concern. And so there is a crew leg, as it's kind
7 of called, between Montgomery and Mobile.

8 And so as we're trying to analyze and
9 estimate the impact of passenger service, we need to
10 know how is that service going to impact trains that
11 are trying to enter Mobile and also depart Mobile.

12 CHAIRMAN OBERMAN: I'm frozen here. I
13 heard part of the answer.

14 THE WITNESS: So -- and I don't remember
15 kind of where I started the question here.

16 MR. WARREN: So, Mr. Chairman, would you
17 like Hannah to repeat again or look at the
18 transcript? You know, I think she was -- I don't
19 want to testify for her. She's tried a couple
20 times.

21 CHAIRMAN OBERMAN: Yeah, that's okay.
22 We're good. Let's proceed, because my Zoom is going

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1284

1 in and out, and I don't want to delay it. So go
2 ahead and I'll try to reboot at lunch.

3 BY MR. WARREN:

4 Q Hannah, I'm going to ask you a few
5 questions about the growth rates that were used to
6 forecast freight traffic for the 2039 runs of the
7 RTC model.

8 Did you work on providing an estimated
9 growth rate for the CSX side?

10 A So not a growth rate, but we -- but I did
11 supply the growth for the 2021 RTC model, which was
12 consistent with the 2020 HDR study as well.

13 Q Okay. Could you describe the process --
14 describe your role in the process of developing that
15 growth information?

16 A Certainly. So in like the January --
17 early 2020 time frame, I reached out to customers
18 along the route here between New Orleans and Mobile
19 to ask them about their projected growth over the
20 next 20 years, and I received car load level
21 information from those customers, not specific cars
22 themselves but the volume of cars over the next 20

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1285

1 years.

2 I took that information to CSX's internal
3 commercial department and reviewed it with them in
4 cases where the commercial department didn't feel
5 like some of those volumes may materialize, a
6 smaller number was selected then for the expected
7 car load growth for that particular customer.

8 I then took those volumes to the service
9 design department and asked about would -- is there
10 enough space on existing trains for these cars or
11 would we require additional train starts to support
12 this growth.

13 The service design department advised that
14 there is existing capacity on these trains, so no
15 new trains were needed to accommodate the growth.

16 And then I supplied those forecasted train
17 sizes then to the RTC modelers.

18 Q And you said you did this in 2020.

19 CHAIRMAN OBERMAN: Matt, let me -- I'm
20 sorry. Because of Zoom, I missed the very beginning
21 of Ms. Rosse's answer about where she started in
22 gathering the volume. I heard everything else, but

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1286

1 what was your starting point? I just didn't hear
2 it.

3 MR. WARREN: So I will say, I mean,
4 Mr. Chairman, I know you were asking about growth
5 rates earlier, I mean, if you would like us to pause
6 so that you can reboot, because I would like you to
7 be able to hear Hannah's testimony on these points.

8 CHAIRMAN OBERMAN: I can hear now. I just
9 missed the very beginning of her answer. She said
10 where you started -- you got some volume numbers and
11 then you went internally and asked various parts
12 of the railroad. I heard that part. I just didn't
13 hear what your very first part of your answer was.

14 THE WITNESS: Yes, sir. So I reached out
15 to customers along this route to ask them for their
16 projected growth.

17 CHAIRMAN OBERMAN: Okay. That's what I
18 missed. Thank you.

19 Go ahead, Matt. I think I'm okay for the
20 moment. Whenever we take a lunch break, I'm going
21 to try to fix this problem, but I don't want to stop
22 you.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1287

1 BY MR. WARREN:

2 Q And just to clarify, Hannah, you testified
3 that this was something you did in 2020?

4 A Yes, sir, I did this early 2020.

5 Q So this was in connection with what at the
6 time was the HDR study that CSX and NS and Amtrak
7 were conducting jointly?

8 A Yes.

9 Q And just to clarify, do you know what
10 growth rate is stated in the public RTC reports in
11 this case?

12 A I believe it's 1.5 percent.

13 Q Okay. And just to clarify, I'm not going
14 to ask you anything confidential, but the CSX growth
15 rate, is it lower than 1.5 percent?

16 A Yes, it's lower than 1.5 percent.

17 Q And where is that growth rate found?

18 A In terms of verified statements and
19 reports?

20 Q Yes.

21 A Yes, I believe it's in the 2021 HNTB
22 R.L. Banks report.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1288

1 Q Okay. All right. So did you -- and I'm
2 sorry, one final clarifying question.

3 Did you provide Mr. Dingler and
4 Mr. Guthrie with the exact growth rate for CSX
5 freight traffic?

6 A No, I did not. I believe that was
7 calculated after the fact.

8 Q Okay. So just because I know we had some
9 Zoom problems. What exactly did you provide them
10 with?

11 A The projected 2039 train sizes.

12 MR. WARREN: Okay. Thanks. Thank you.

13 And I just have a few more questions,
14 Mr. Chairman.

15 BOARD MEMBER HEDLUND: I have a clarifying
16 question, a clarification question from something
17 Hannah said.

18 You said for 2039, the growth in car loads
19 would not require any additional trains, or did I
20 mishear that?

21 THE WITNESS: That's correct, ma'am. The
22 existing trains on the line had sufficient capacity.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1289

1 BOARD MEMBER HEDLUND: Would it require
2 the trains' lengths to be extended?

3 THE WITNESS: Yes, ma'am, they grew in
4 length.

5 BOARD MEMBER HEDLUND: Thank you.

6 EXAMINATION

7 BY BOARD MEMBER FUCHS:

8 Q Karen, just to follow up on that question,
9 if I might.

10 Did it require the train lengths to be
11 extended to any point that would make a train that
12 would previously fit in a siding no longer be able
13 to fit in a siding, any siding on the route?

14 A So the train sizes -- I was advised to cap
15 the train sizes at 10,000 feet. So none of the
16 trains grew beyond 10,000 feet.

17 Q Are there sidings that are shorter than
18 10,000 feet?

19 A There are. But I believe Mr. Johnson
20 testified the other day that the way that we handle
21 those long trains is by running the long trains in
22 one direction and the clearing trains, as he called

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1290

1 them, run in the other direction.

2 So there's no -- there's no kind of issue
3 there. The shorter trains are able to take the
4 siding to get out of the way of the long train.

5 Q So as you think about the 2013 -- 2039
6 model, can you think of any instance in which a
7 train that was made to be longer could not fit in a
8 siding that it would need to be in because of
9 Amtrak, but if it were its previous length could fit
10 into that siding?

11 A Without having the data in front of me,
12 it's hard to say.

13 Q Okay. Would Mr. Dingler be able to answer
14 that question?

15 A Perhaps.

16 Q And --

17 BOARD MEMBER HEDLUND: I think what
18 Patrick was saying was, did the addition of car
19 loads turn any clearing trains into a non-clearing
20 train?

21 THE WITNESS: I would have to go back and
22 review the train sizes versus the sidings along the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1291

1 line to say for sure.

2 BY BOARD MEMBER FUCHS:

3 Q And typically, train length -- I think you
4 said that train length decisions are driven by the
5 service design department, and you asked the service
6 design department about train capacity; is that
7 right?

8 A I asked the service design department
9 about train capacity. The train length decision, I
10 can't say for certain what department drives that
11 decision.

12 Q Well, what goes into allocating -- in the
13 real world, what goes into allocating growth by
14 train? How does that work in practice?

15 A Unfortunately, I never worked specifically
16 in those departments so I can't speak for sure.

17 Q Are you able to provide any expert
18 guidance to the Board in terms of how the way you
19 allocated volumes matches up to how CSX allocates
20 volume in the real world?

21 A No, sir. Unfortunately I don't have
22 experience in those departments.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1292

1 Q And are you aware of anybody who does have
2 experience in those departments that contributed
3 insights to the model?

4 A So when I was working with the service
5 design department, I was leaning on their expertise
6 in terms of how that traffic would be handled.

7 Q So the service design department reviewed
8 the allocation of volumes and validated that that's
9 how they would allocate volumes.

10 A Yes.

11 BOARD MEMBER FUCHS: Okay. Thank you.

12 EXAMINATION

13 BY CHAIRMAN OBERMAN:

14 Q I have a couple of questions here I'm a
15 little uncertain about.

16 You said that you started by interviewing
17 customers on this line? Did I understand that
18 right?

19 A Yes, sir, that's correct.

20 Q How many customers did you interview?

21 A I don't -- I don't recall how many, but I
22 covered the major customers.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1293

1 MR. WARREN: And one thing I don't -- I'm
2 sorry to interrupt your flow, Mr. Chairman, but if
3 Hannah were to remember and identify specific
4 customers, that might be something that would
5 require us to go to confidential session. I don't
6 know if you're going there, but that just -- I
7 wanted to --

8 BY CHAIRMAN OBERMAN:

9 Q I actually was just going to ask, I assume
10 you don't want to identify the customers you
11 interviewed on the public session. They probably
12 talked to you in confidence. Would that be fair?

13 MR. WARREN: Yes. Well, that's not a
14 question for me.

15 BY CHAIRMAN OBERMAN:

16 Q Is that fair?

17 A I unfortunately don't have, you know, my
18 work computer since I'm no longer an employee, so I
19 wouldn't be able to say for sure since it was so
20 long ago.

21 Q Well, here's my question. The traffic on
22 this line isn't traffic just for -- we were told, I

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1294

1 think, some customers on this line. Does that sound
2 right?

3 A I unfortunately missed part of your
4 question there, sir.

5 Q I think another witness said there were 56
6 customers on this line. Does that sound right to
7 you?

8 A I don't recall, sir. But that sounds
9 roughly correct.

10 Q But all of the traffic on this line
11 doesn't come from just those customers; right?
12 Doesn't traffic come from outside this line?

13 A That's correct. It would come from our
14 interchange gateways as well.

15 Q So was there any way to measure what the
16 projected growth was on the traffic that is
17 generated by shippers and receivers, you know,
18 beyond either end of this line, I guess is the way I
19 think of it?

20 A I'm sorry, can you rephrase the question
21 again?

22 Q So some portion of the traffic on this

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1295

1 line comes either west of New Orleans or east or
2 north of Mobile; correct?

3 A Yes, that's correct.

4 Q All right. So did you try to measure the
5 growth in whatever component of the traffic on this
6 line comes from those places?

7 A To some extent, yes.

8 Q And how did you do that? What did you do
9 to gather that information?

10 A Some of that might be confidential.

11 MR. WARREN: Well, Hannah, if you remember
12 something that you think might be confidential, we
13 could -- Mr. Chairman, we could do two things. One
14 thing, you know, Hannah could tell me what she
15 thinks might be confidential and I could decide
16 right now, or we could just go to the Zoom room.

17 CHAIRMAN OBERMAN: Well, I don't want to
18 go to the Zoom room now because we're getting close
19 to a lunch break and I don't want to interrupt the
20 flow here, would like to get as much done.

21 We could hold that question, Matt.

22 BY CHAIRMAN OBERMAN:

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1296

1 Q I would be interested in this, a related
2 question which may also be confidential is if you
3 know, Ms. Rosse, in some kind of broad strokes, of
4 all the trains that are modeled and the movements
5 and so forth, how much is from traffic from the 56
6 customers on the line, or whatever that number is,
7 and how much is from traffic that's generated
8 outside of Mobile or New Orleans? Do you know the
9 rough percentage?

10 And if you do, can you answer it here or
11 should we wait for the answer?

12 A I don't -- I wouldn't be able to produce a
13 rough percentage. I would say the road trains
14 coming from -- to and from New Orleans, for example,
15 that's interchange traffic generally there.

16 The locals, that's going to be sourced
17 from the local customers. But that local traffic
18 would be moving also on the road trains ultimately.
19 But I don't have a way to offhand calculate those
20 percentages, sir.

21 CHAIRMAN OBERMAN: Well, if we wanted to
22 know to measure the growth potential for this line,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1297

1 would we not need to know both, however you got your
2 estimates or whatever, from both the customers on
3 the line as well as the freight that's generated
4 outside?

5 A Possibly.

6 Q All right. We'll hold on the mechanism
7 for gathering that, Matt, that we were just talking
8 about until we get into a breakout room.

9 MR. WARREN: Okay. Was there another
10 question? No?

11 BOARD MEMBER PRIMUS: I had a question if
12 Marty is done. He froze on my screen.

13 CHAIRMAN OBERMAN: How much more direct do
14 you have of Ms. Rosse?

15 MR. WARREN: So I probably have less than
16 five minutes of direct.

17 CHAIRMAN OBERMAN: Why don't we finish all
18 the direct and any Board questions and break for
19 lunch, and we'll come back and Amtrak or the Port
20 can begin their cross. Does that sound like a plan?

21 MR. WARREN: Yes, yes.

22 CHAIRMAN OBERMAN: All right. Why don't

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1298

1 you go ahead then, Matt.

2 MR. WARREN: Member Primus, you had a
3 question?

4 BOARD MEMBER PRIMUS: Very quickly.

5 Ms. Rosse, you said that the train lengths
6 were capped at 10,000. Was that your decision, your
7 department's decision to do that, or was that given
8 to you from another department?

9 THE WITNESS: That was given to me by the
10 service design department.

11 BOARD MEMBER PRIMUS: Okay. Did they
12 explain why it was capped at 10,000?

13 THE WITNESS: If they did, I don't recall
14 why.

15 BOARD MEMBER PRIMUS: Thank you.

16 CHAIRMAN OBERMAN: All right, Matt, go
17 ahead.

18 BY MR. WARREN:

19 Q So, Hannah, is it fair to say that if
20 there's traffic growth, they're either going to be
21 longer trains or more trains?

22 A That's right.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1299

1 Q And you might have to model it, but either
2 one of them is going to have an impact on the RTC
3 model; correct?

4 A Yes, that's correct.

5 Q So -- briefly, you testified that you were
6 involved on the CSX side in supporting the HDR model
7 in 2020. Can you explain what your role was in that
8 HDR joint study?

9 A Very similar to the 2021. I supplied the
10 data inputs and validated the CSX network.

11 Q Did you review any parts of the base case
12 or anything else that HDR was developing?

13 A I reviewed the base case and the future or
14 no build scenario, the no build being the future
15 freight operations absent Amtrak service.

16 Q So how did you do that? How did you --
17 specifically, how did you review the base case at
18 the no build case?

19 A I watched the simulations and bounced that
20 up against my own experience and validated it with
21 the field.

22 Q So Amtrak has indicated in some of its

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1300

1 earlier filings that there was some kind of a
2 software bug or glitch in RTC that would have
3 affected HDR's ability to complete the joint study.

4 Do you know anything about that issue?

5 A I do. So that bug is fairly minimal.

6 One of the output metrics, delay in
7 particular here, it was incorrectly calculating
8 planned dwell as part of that delay calculation.
9 When the issue was brought to the RTC developer's
10 attention, he fixed it immediately via, you know, a
11 software patch where the modelers just have to
12 download the latest version. These updates and bug
13 fixes are extremely common.

14 And all HDR would have had to do is just
15 click run again. It wouldn't have had any impact on
16 how the software dispatched the trains differently.
17 It was just on the output metric side.

18 Q In your opinion and based on the reviews
19 you had of the base case and the no build case,
20 after this bug issue got resolved, how long do you
21 think it would have taken HDR to complete the final
22 build phase of the model?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1301

1 A One to two months at most.

2 Q So what's the basis of your one to
3 two-month assessment?

4 A So my own experience with modeling. And
5 also, HDR had gotten over the "hard part of
6 modeling," which is getting a base case stood up and
7 getting a no build case stood up. All they were
8 having to do at that point is layer in the passenger
9 trains and then propose infrastructure solutions for
10 the parties to consider.

11 MR. WARREN: Thank you. I have no further
12 questions at this time.

13 CHAIRMAN OBERMAN: Any questions from the
14 Board?

15 BOARD MEMBER FUCHS: Couple quick ones
16 from me, Marty.

17 CHAIRMAN OBERMAN: Go ahead, Patrick.

18 EXAMINATION

19 BY BOARD MEMBER FUCHS:

20 Q First, is there was some discussion on the
21 first day of our hearing about a two percent
22 estimate pulled from an FRA manual. It doesn't

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1302

1 sound like you relied on that two percent estimate
2 in any way in generating your data; is that correct?

3 A So foreign trains in the model, a two
4 percent CAGR was used for those, but that was really
5 it. But I would like to add, in other studies that
6 I have participated in, the two percent CAGR is
7 standard to use.

8 Q I'm only going to say, though, you didn't
9 get that two percent from the FRA manual; right?

10 A I didn't go to the manual and say let's
11 use this two percent, no, sir.

12 Q And then secondly, is it fair to think
13 about this particular line as being above the norm
14 for growth on the CSXT network?

15 A I wouldn't know for sure. I had never
16 worked in the commercial department.

17 Q Did anybody with knowledge of the
18 historical growth of the line in the last five, 10,
19 15 years look at the projections as a method of
20 validation?

21 A I would say when I took the customer
22 projections to the commercial department, you know,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1303

1 it was discussed with them, and I presume that they
2 have such knowledge.

3 Q No one in the commercial department looked
4 at the forward-going projections and those people
5 presumably would have information about the
6 historical information, and felt that those --
7 nobody raised any concerns that the projected growth
8 rates would be out of line?

9 A No, sir, nobody raised any concerns.

10 I would just say, though, as I stated
11 earlier, if a particular customer's projections were
12 thought to perhaps not materialize, a more
13 conservative growth was selected for that particular
14 customer.

15 Q But no one raised any -- beyond, after
16 that more conservative adjustment was implemented,
17 there was nobody who felt that the growth rates were
18 larger than they expected or exceeded historical
19 norms?

20 A No, nobody said anything to that.

21 BOARD MEMBER FUCHS: I appreciate it.
22 Thank you.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1304

1 CHAIRMAN OBERMAN: I just have one
2 question. You used a word that I just couldn't
3 catch. You said the two percent something, and I
4 didn't hear what the word was you followed.

5 THE WITNESS: I apologize. I believe I
6 said CAGR.

7 CHAIRMAN OBERMAN: Can you spell that?

8 THE WITNESS: C-A-G-R.

9 CHAIRMAN OBERMAN: What does that mean,
10 compounded annual growth rate?

11 THE WITNESS: Yes, sir.

12 CHAIRMAN OBERMAN: Still catching up on
13 the acronyms in this business.

14 BOARD MEMBER FUCHS: Those were just for
15 the local trains; right?

16 THE WITNESS: The foreign trains.

17 BOARD MEMBER FUCHS: Oh, foreign trains.
18 Excuse me. I'm sorry. That's what I meant. I
19 apologize. Thank you.

20 CHAIRMAN OBERMAN: And the growth rates
21 that were used in the study were all compounded, is
22 that right, for the 2039 growth figure?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1305

1 THE WITNESS: For the foreign trains, yes,
2 sir. For the local traffic and then subsequently
3 the road trains, those volumes were applied to the
4 trains themselves. There was no growth calculation
5 that I did there.

6 CHAIRMAN OBERMAN: And, you know, you're
7 using the term "foreign trains." Is that how I
8 should have phrased my question about trains,
9 traffic that doesn't originate from the customers on
10 this line? Is that the same term?

11 THE WITNESS: Yes, sir.

12 CHAIRMAN OBERMAN: Okay. Well, that's I
13 guess the question I wanted to pursue. We'll wait
14 until the breakout room, how did you go about
15 gathering information about the potential growth for
16 the foreign trains, I guess is the pending question.

17 BOARD MEMBER PRIMUS: I have a couple
18 questions if you guys --

19 CHAIRMAN OBERMAN: Okay. Go ahead,
20 Robert.

21 EXAMINATION

22 BY BOARD MEMBER PRIMUS:

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1306

1 Q Ms. Rosse, and this is just again
2 clarification for me. In terms of the working --
3 your working relationship, you said that you worked
4 with Mr. Banks; is that correct?

5 A As -- yes, they were the RTC consultants
6 here.

7 Q How often did you meet or speak to him
8 about -- was it weekly? Was it daily?

9 A I wouldn't say daily, no. There were
10 claim team meetings, and just as he had questions
11 about certain things, we would discuss.

12 Q And how often do you think that was?

13 A With just Mr. Guthrie?

14 Q No, that was Mr. Banks.

15 A Oh, with Mr. Banks. So is your question
16 with just Mr. Banks or with any of the RTC modeling?

17 Q With Banks, if he was in the room or if it
18 was more than one, I mean, how much time did you
19 spend -- did he spend with you going over some of
20 the modeling?

21 A With just me?

22 Q I'm just trying to figure out how the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1307

1 relation -- just clarifying, you said that you
2 worked with the folks, just how often you interacted
3 with them, that's all. Was it a daily interaction
4 with Guthrie and Banks or not? Or weekly?

5 A So the three modelers, it was frequent.
6 That would include Mr. Dingler. With just, like,
7 specifically Mr. Banks, I think maybe once a week
8 roughly.

9 Q Okay.

10 A And something similar for Mr. Guthrie.

11 Q Okay. I just wanted to get an idea of how
12 often they worked.

13 So you worked closer with Mr. Dingler; is
14 that correct?

15 A Yes, since he was the one physically
16 running the model.

17 BOARD MEMBER PRIMUS: Okay. Okay. That's
18 it. Thank you.

19 CHAIRMAN OBERMAN: What was the frequency
20 with Mr. Dingler? Could we just say that again?

21 THE WITNESS: I apologize. What was the
22 question?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1308

1 MR. WARREN: Mr. Chairman, you broke up a
2 little bit. Were you asking Hannah about
3 Mr. Dingler?

4 CHAIRMAN OBERMAN: Yeah, that's the one
5 answer I didn't hear. I was frozen, about your
6 frequency of your interactions with Mr. Dingler.

7 THE WITNESS: More frequent because he was
8 the one actually physically doing the model.

9 EXAMINATION

10 BY CHAIRMAN OBERMAN:

11 Q And Robert didn't ask you about the time
12 frame. Are we talking about sometime from last
13 spring until November 3? Is that the time frame
14 we're talking about these interactions?

15 A For Mr. Guthrie; is that correct?

16 Q For the R.L. Banks study that was
17 submitted on November 3, that work didn't begin, did
18 it, until last spring sometime after this case was
19 filed; is that right?

20 A So the work with R.L. Banks I believe -- I
21 don't recall exactly when they started. Summertime,
22 summertime I believe.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1309

1 Q All right. We can ask them if it's
2 important, we'll find out from them. So thank you.

3 All right. Any other Board members have
4 questions?

5 BOARD MEMBER SCHULTZ: I have one. I
6 think you indicated that the two percent of growth
7 rate from the FRA report --

8 CHAIRMAN OBERMAN: All right. It is
9 12:41. I'm sorry, is there somebody else? I'm
10 frozen here.

11 BOARD MEMBER SCHULTZ: Yeah. I was asking
12 about the two percent growth rate from the FRA
13 report. I believe that you stated that that is, in
14 fact, the industry standard.

15 EXAMINATION

16 BY BOARD MEMBER SCHULTZ:

17 Q Could you say in other models that you've
18 run, I'm presuming during your time at CSX you ran
19 other models.

20 Was the two percent the standard that you
21 typically or always used?

22 A In cases where passenger service was being

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1310

1 studied onto the CSX network, the two percent was
2 generally used, but it wasn't sourced from the FRA.
3 That was sourced from the U.S. FAF data that's
4 publicly available.

5 MR. WARREN: And, Hannah, it might be
6 useful if you explain what FAF stands for.

7 THE WITNESS: The freight analysis
8 framework data.

9 BY BOARD MEMBER SCHULTZ:

10 Q But two percent is the standard with
11 regard to passenger; is that correct?

12 A In cases where passenger service was being
13 studied, because they were being introduced into the
14 freight network, the publicly available FAF data was
15 used.

16 BOARD MEMBER SCHULTZ: Thank you.

17 BOARD MEMBER FUCHS: May I just make -- I
18 wanted to clarify, I want to make sure that I have
19 all the information correct that you've talked about
20 on the growth rate.

21 The growth rate predominantly driven by
22 internal projections from customers validated by the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1311

1 commercial team, provided to the modeler. The
2 modeler may have cited the FRA manual, but that
3 wasn't what was driving the projections.

4 And to the extent that CSX used the FAF
5 data for trains, you used it in rebuttal to further
6 validate the internal projections. Is that
7 basically right?

8 THE WITNESS: I would say yes. Again, the
9 growth on this line is very conservative, and it's
10 under the two percent that has been used in other
11 studies, sir.

12 BOARD MEMBER FUCHS: Got it, thank you.

13 MR. WARREN: And I don't want to add to --
14 I think it might clarify things, if I could just
15 direct the members to Ms. Rosse and Ms. Sinkkanen's
16 rebuttal verified statement, which is JE-40D, from
17 pages 23 through 26. I think that might shed
18 some -- that might provide some clarity here.

19 CHAIRMAN OBERMAN: What pages, Matt?

20 MR. WARREN: So it's at page 23 through 25
21 talks -- you know, talks about the CSX side. And
22 then 25 and 26 talk about the NS side. Again, this

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1312

1 is Ms. Rosse and Ms. Sinkkanen's rebuttal verified
2 statement. This is one of the topics that they
3 address, and it might shed some -- you know, I know
4 some of these are confusing and maybe this statement
5 will help shed some light on things.

6 BOARD MEMBER FUCHS: The reason why I
7 wanted to clarify, Matt, just so -- is that it
8 sounded in response to Michelle's question that the
9 FAF was used on the front end. But, Hannah, are you
10 saying that -- but the FAF wasn't used on the front
11 end, it was used to validate in rebuttal; right?

12 MR. WARREN: And I can represent -- that
13 is what the -- I think the evidence we filed has
14 said.

15 BOARD MEMBER FUCHS: I just wanted to get
16 clarity on that point. So the two percent drawn
17 from FAF, it wasn't drawn from FAF, it might have
18 been drawn from FAF for purposes of validating the
19 prior estimate. But that was the purpose of my
20 clarification.

21 CHAIRMAN OBERMAN: By the way, I just
22 note, Matt, for the record, I'm looking at the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1313

1 rebuttal statement. And in the rebuttal statement,
2 there is reference to train length, but that is
3 parened off in Ms. Rosse's statement as
4 confidential. It sounds like we have put that on
5 the record; is that right? Page 25 at the top?

6 MR. WARREN: Yes, yes, we have.

7 CHAIRMAN OBERMAN: So whatever, page 25 is
8 no longer confidential. Fair enough, just so our
9 record is clear?

10 MR. WARREN: Yes, that's fair.

11 CHAIRMAN OBERMAN: And that's 40D, as in
12 David.

13 MR. WARREN: Yes.

14 CHAIRMAN OBERMAN: Okay. All right. Any
15 further questions before the Port and Amtrak
16 questioning of Ms. Rosse?

17 If not, it is 12:46, and only to try to do
18 everything I can to fix my Zoom, we'll take the
19 lunch break until 1:30, give me a few extra minutes
20 to try to get this straightened out.

21 So with that -- and I believe today is the
22 day, Rob, if I am not mistaken, that we do have to

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1314

1 have a hard stop at 5:00?

2 MR. WIMBISH: I'm unmuting myself here,
3 sir. We can continue beyond 4:00 as long as we
4 understand that our witnesses, that is Mr. Driscoll
5 and Mr. Golden --

6 BOARD MEMBER FUCHS: Rob, I think you said
7 counsel could continue so therefore you were good
8 with an extra hour start?

9 CHAIRMAN OBERMAN: I don't know that we
10 could go an extra hour but we could maybe not have a
11 hard stop. It's Friday night. People have to get
12 places. Let's see where we are when we get there,
13 Rob, and we will consult with you about your
14 clients.

15 MR. WIMBISH: Sure. Like I said, we can
16 be flexible with 5:00 p.m. Eastern.

17 CHAIRMAN OBERMAN: We will recess now
18 until 1:30 Eastern.

19 (Whereupon, at 12:47 p.m., the hearing was
20 recessed, to be reconvened at 1:30 p.m. this same
21 day.)

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REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1316

1 MR. WARREN: Oh, okay. Well, that
2 explains it.

3 So one of them is that we could push it a
4 little bit. We do have a hard stop today at 5:00.
5 I know there was some talk maybe about going past
6 5:00. We do have some folks that have flights
7 scheduled so we could maybe go a little past it and
8 I do have ambitions of maybe getting Ms. Sinkkanen
9 done today. But I wanted to raise that and the
10 other --

11 CHAIRMAN OBERMAN: Let's see where we
12 stand.

13 MR. WARREN: Understood. And the other,
14 we have a bunch of folks that are scrambling with
15 flights and hotels now. It would be good to get
16 some clarity about Monday. I know that we gave the
17 Court until the end of the day, but if it's possible
18 to get an answer sooner than that. It would help us
19 so that we're not -- we're able to kind of make
20 these arrangements before the close of business
21 today.

22 CHAIRMAN OBERMAN: That was actually my

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1317

1 question. I wonder if, Rob, if we have any
2 knowledge about what might happen on Monday at this
3 point more than we had.

4 MR. WIMBISH: I don't have anything more
5 for you, Mr. Oberman, than I had before,
6 Mr. Chairman. So as I said, if you guys -- if you
7 determine that we must continue on the 11th, we ask
8 for some forbearance there. I don't have any
9 additional flexibility beyond what I had offered
10 before.

11 CHAIRMAN OBERMAN: All right. Well, I was
12 just hoping Mr. Helenhouse might have been able to
13 make some progress with his court in Wisconsin, but
14 if he hasn't, the facts haven't changed. So if
15 that's the case, we will not meet on Monday.

16 Is that still where we are?

17 MR. WIMBISH: That's correct, from our
18 perspective, yes.

19 CHAIRMAN OBERMAN: All right. So
20 before -- it's up to staff to get it written, the
21 order will set the hearing, the next session of this
22 hearing at 9:30 a.m. Eastern on Tuesday the 12th,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1318

1 and we will go -- and we will break approximately
2 between 11:00 and 1:00 Eastern, and then we will
3 resume.

4 We will then -- the next session will be
5 Thursday morning the 14th, and we will go all day.
6 The next two sessions will be the 18th and 19th of
7 April. All of those will be virtual.

8 And then the next sessions will be the
9 2nd, 3rd and 4th, which will be in person in
10 Washington, to the extent they're all needed.

11 So we will put that in an order which will
12 be ready to be voted on and issued by the end of the
13 day. But those are the dates.

14 Matt, does that solve that problem?

15 MR. WARREN: Thank you very much for that
16 clarity, Mr. Chairman.

17 CHAIRMAN OBERMAN: All right. I did have
18 one very quick question for Ms. Rosse, if you don't
19 mind, Ms. Bracey, before you begin.

20 MS. BRACEY: I don't mind.

21 CHAIRMAN OBERMAN: Actually, I think if
22 there were any questions, the Port would be next.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1319

1 Do you have any questions, any
2 examination, Rob?

3 MR. WIMBISH: No, we do not have any
4 cross-examination for this witness, sir. Thank you.

5 EXAMINATION

6 BY CHAIRMAN OBERMAN:

7 Q Ms. Rosse, just one question I had. I
8 thought that you said that when in the normal course
9 of business at CSX, when you were doing RTC studies
10 on lines that were going to have passenger added,
11 you normally used a two percent growth rate; is that
12 right? That was the usual approach, for the freight
13 part of the traffic?

14 A Sure. So in other passenger studies, the
15 publicly available FAF data would be pulled from
16 their website and analyzed, and it generally was
17 around the two percent.

18 Q All right. My question is, when you're
19 doing an RTC study at CSX on a line just for
20 freight, when there isn't an issue of passenger
21 service, did you use the same growth rate? Or how
22 did you do it?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1320

1 A In those cases, we would look at -- we're
2 trying to test the robustness of solutions there.
3 And so in some cases, we would look at adding trains
4 in there just to again test the robustness of the
5 solution.

6 Q So are you saying you didn't use a growth
7 rate at all but just sort of added some trains to
8 see what would happen?

9 A I wouldn't characterize it as seeing what
10 would happen. But to test the robustness of the
11 solution, could it stand up against additional train
12 starts.

13 Q But you didn't use an actual growth rate
14 to do projections the way you do with passenger?

15 A Not in the freight-only scenarios.

16 Q Why the difference?

17 A So essentially, so that if the growth was
18 questioned, it could be supported by the FAF data,
19 which is why the publicly available data was used.

20 Q Wouldn't it be useful in terms -- related
21 to CSX to know what the growth rate is if you're
22 modeling just a freight-only line? I just don't

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1321

1 understand why that wouldn't be important for you to
2 know.

3 A Sure. So in the freight-only scenarios,
4 you know, we're looking at congested corridors or
5 changes to operations and really trying to test the
6 robustness of a, say, a new siding or some sort of,
7 you know, infrastructure change in those cases. We
8 would simply just add starts to see how well that
9 infrastructure would handle fluctuations in volume.

10 CHAIRMAN OBERMAN: All right. Thank you.
11 That was all I just wanted to clarify.

12 EXAMINATION

13 BY BOARD MEMBER FUCHS:

14 Q You're adding starts more than you have in
15 kind of the baseline such that there would be more
16 volume? That's what you mean by testing robustness
17 is you would actually be adding volume to the line
18 to test robustness?

19 A In the freight-only cases, yes, we would
20 be adding train starts to test the robustness of the
21 infrastructure solution.

22 Q So in that sense, the added train starts

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1322

1 and volume associated with those trains sort of
2 serve as a quasi-growth rate. It's just that it
3 sort of varies because it's at the train level. Is
4 that maybe a fair way to characterize it?

5 A Yeah, I would say that's fair.

6 BOARD MEMBER FUCHS: Okay. Thank you.

7 CHAIRMAN OBERMAN: All right. Ms. Bracey?

8 BOARD MEMBER HEDLUND: Mr. Chairman, I
9 have a question.

10 CHAIRMAN OBERMAN: I'm sorry, Karen. Go
11 ahead.

12 EXAMINATION

13 BY BOARD MEMBER HEDLUND:

14 Q Yeah, Ms. Rosse, was 2039 modeled without
15 Amtrak trains?

16 A In both the 2020 and the 2021 RTC studies,
17 yes, 2039 was modeled without the addition of
18 passenger trains.

19 Q And in those models, you used a growth
20 rate to determine whether additional infrastructure
21 would be needed just for growth?

22 A Just on the freight side, the procedure

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1323

1 was just as I kind of explained earlier, with the
2 interviews of the customers and the internal
3 feedback. So yes, that 2039, those train sizes were
4 ran in the 2039 case, and any planned and funded
5 infrastructure or solutions that CSX was already
6 looking to do, which there were some on the M&M
7 subdivision between Mobile and Montgomery, those
8 were all built into the 2039 model, and it was run
9 to see if any additional infrastructure would be
10 needed to support the growth on the line, prior to
11 Amtrak starting.

12 Q So that showed that no infrastructure was
13 needed between New Orleans and Mobile for 2039,
14 assuming the 1.2 percent, two percent growth?

15 A Yes, ma'am, that's correct.

16 BOARD MEMBER HEDLUND: Okay. Thank you.

17 MR. WARREN: I'm sorry, one thing if I
18 could do, Hannah is too polite, it's actually
19 Ms. Rosse, not Rosse. The last e is silent.

20 CHAIRMAN OBERMAN: Thank you, Matt. I
21 apologize.

22 BOARD MEMBER HEDLUND: And I apologize.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1324

1 THE WITNESS: That's okay. I get it all
2 the time.

3 BOARD MEMBER HEDLUND: Nobody ever gets my
4 name right.

5 CHAIRMAN OBERMAN: All right.

6 BOARD MEMBER FUCHS: Did we lose Marty?

7 CHAIRMAN OBERMAN: No, I'm here.

8 Ms. Bracey, I'm sorry, proceed.

9 CROSS-EXAMINATION

10 BY MS. BRACEY:

11 Q You used to work for CSX; is that correct?

12 A Yes, ma'am.

13 Q And when you last worked there, your title
14 was Director of Network Modeling and Service
15 Measurements; is that right?

16 A Yes, ma'am.

17 Q And in that position, you were a part of
18 the 2020 RTC study project between Amtrak, NS and
19 CSX; is that right?

20 A Yes, ma'am.

21 Q And that 2020 RTC study was supposed to
22 determine the effect of Amtrak's addition of two

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1325

1 passenger trains on the Gulf Coast route; is that
2 right?

3 A Yes, the two daily round trips on the Gulf
4 Coast.

5 Q Okay. And your role in that process was
6 to advocate on behalf of CSX; is that right?

7 A My role, as I described earlier, was to
8 supply the data inputs and the assumptions for the
9 RTC modelers.

10 Q And as you worked on the model, you also
11 worked with HDR on a heat map; is that right?

12 A The heat map in question, HDR put
13 together.

14 Q But you provided input into the heat map,
15 didn't you?

16 A The original data inputs, yes, ma'am.

17 Q And you rejected versions of the heat map
18 that looked as if CSX had too much capacity; is that
19 right?

20 A What do you mean by "capacity"?

21 MS. BRACEY: Can we go into confidential
22 session? It might be helpful if I showed you a

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1326

1 document. I think we're going to have to go into
2 the Zoom rooms into the confidential session.

3 CHAIRMAN OBERMAN: Let me just ask you
4 this question, Ms. Bracey. Do you anticipate going
5 in and out of the confidential session? Because it
6 would be nice if we could put it all in the same
7 place if that's possible. If it's not, we'll defer
8 to your strategy. I don't want to interrupt it.
9 Just trying to save time.

10 MS. BRACEY: Yes, understood. I think
11 we're only going to confidential session once during
12 my examination.

13 CHAIRMAN OBERMAN: All right. While we're
14 in there, I had that question pending so I may take
15 advantage of asking, if you don't mind, so we can
16 save time.

17 But we will go into -- this is
18 confidential or highly confidential?

19 MS. BRACEY: Confidential, sir.

20 CHAIRMAN OBERMAN: All right. Matt or
21 whoever it is.

22 MR. CROSS: I am ready to go, Marty.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1327

1 CHAIRMAN OBERMAN: All right. Thank you.

2 (Confidential session follows.)

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REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1371

1 OPEN SESSION CONTINUED

2 CHAIRMAN OBERMAN: All right. Thank you,
3 all. Are we back? I just want to say to the
4 members of the public that we had some
5 cross-examination involving matters that had been
6 marked confidential by the parties. And as I think
7 everyone knows by now, it is my intent to have as
8 much of this hearing available to the public as
9 possible, and I have asked counsel and I think they
10 will responsibly reexamine the parts of the
11 transcript both here and in the previous sessions
12 that can eventually be made public. And if and when
13 we get to that point, we will make them public as
14 soon as we can.

15 So with that, Ms. Bracey, I believe you're
16 still proceeding with your cross-examination of
17 Ms. Rosse.

18 MS. BRACEY: Thank you, Chairman Oberman.

19 CROSS-EXAMINATION (Continued)

20 BY MS. BRACEY:

21 Q I have a few questions about
22 infrastructure, Ms. Rosse. So you testified that

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1372

1 lengthening trains will accommodate the projected
2 growth of 2039 traffic; is that right, projected
3 freight growth?

4 A Yes, ma'am, that's correct.

5 Q Okay. And that would require trains that
6 are longer than 10,000 feet?

7 A No, ma'am, the train sizes were capped in
8 the growth projections to 10,000 feet.

9 Q Okay. But there's currently only one
10 siding that is longer than 10,000 feet, is that
11 right, on the Gulf Coast route?

12 A I will take your word for it. I don't
13 have it memorized, I'm sorry.

14 Q So you take issue with the 257 percent
15 more trains that Mr. Crowley and Mr. Fapp write that
16 they have no counterpart in the train data that are
17 used in the model; is that correct?

18 A Yes, as I explained in the direct, there
19 was a number of analytical errors in their analysis.

20 Q Okay. And for example, the rebuttal
21 verified statement of Mr. Banks and Mr. Guthrie
22 states that 582 trains in the RTC model are trains

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1373

1 that would have no counterpart in the train data; is
2 that right?

3 A That's right. High rail movements, as I
4 explained, the light engines, blocks of cars, the
5 foreign cross traffic and the yard movements.

6 Q And those are trains that are based on
7 conversations with field personnel; is that right?

8 A I mean, they're not trains as I kind of
9 explained earlier. High rails are quite literally
10 trucks. But yes, because they are not trains,
11 that's why they don't appear in the data.

12 Q Okay. And they are also not trains --
13 they are also not trains based on direct
14 observations of dispatchers; is that right?

15 A I'm sorry, can you say the question one
16 more time?

17 Q Sure. These non-trains are based on
18 direct observation of the dispatchers; is that
19 right?

20 A No, ma'am, I got them from the field.

21 Q And Mr. Crowley and Mr. Fapp could not
22 replicate data that you got from the field; is that

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1374

1 right?

2 A I don't understand the question.

3 Q Well, you didn't provide -- you didn't
4 take any notes when you interviewed the field
5 personnel; is that right?

6 A Right. So the input I got from the field
7 was put directly into the .train file or it was
8 supplied directly to the RTC modelers. So very
9 simply what you could do is take the electronically
10 collected sources versus the .train file and the
11 differences would be derived from the field
12 providing input.

13 Q But there's no way for Mr. Crowley and
14 Mr. Fapp to replicate the information you got from
15 the field personnel?

16 A Well, as the Chairman mentioned, they
17 could have asked. They could have asked for
18 depositions.

19 Q You didn't provide that data in your
20 opening verified statement; is that correct?
21 Anything about field personnel?

22 A That doesn't sound right. Can I read my

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1375

1 verified statement again, just to be sure?

2 Q I'll withdraw the question.

3 A Okay.

4 Q You testified that you worked on the RTC
5 model in the consumers STB case; is that right?

6 A Long, long time ago, yes.

7 Q And in that case, did you use actual or
8 representative data?

9 A So I was not the modeler in those cases.
10 But I think it is important to talk about the
11 difference between the purpose of rate cases and
12 what the model serves there versus the modeling
13 purpose here in this one.

14 So in rate cases, as I understand it, the
15 objective is about cost of operations and the
16 appropriate revenue. And so the modeling procedure
17 is the shipper will select a subset of the freight
18 railroad's traffic and propose an often reduced or
19 optimized infrastructure solution that can
20 efficiently meet the demands of its peak period.

21 And so that's why an exact replica of a
22 14-day period is done in those cases. That is not

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1376

1 what we're doing here.

2 We're talking baseball versus football.

3 In this case we're trying to estimate the impact to
4 freight with the introduction of passenger service,
5 so it's entirely different.

6 Q So during your direct testimony, you
7 mentioned the need to interview people in the field
8 to complete the RTC model; is that right?

9 A Yes, to get it to align to reality, yes.

10 Q And those interviews provided information
11 that CSX and NS used in preparing the model; is that
12 right?

13 A So are we talking about the 2021 RTC?
14 Because I myself did not do the RTC modeling, but I
15 supplied the data inputs and assumptions to the RTC
16 modelers.

17 Q So we're talking about the 2021 inputs?

18 A I'm sorry, what was your question again?

19 Q Those interviews provided information that
20 CSX and NS used in preparing the RTC model; is that
21 right?

22 A Again, I didn't prepare the RTC model.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1377

1 Q But you provided the inputs from the field
2 interviews; is that right?

3 A Yes, either -- the field inputs would have
4 either already have been in the existing .train
5 file that was supplied to the RTC models or
6 throughout the validation effort. As the field, you
7 know, was supporting me in the validation effort or
8 providing the data input, that information would
9 have been directly supplied to the RTC modelers.

10 Q And precisely how many individuals did you
11 interview?

12 A Oh, goodness. Let me count for a second.
13 Maybe five to six.

14 Q And did you talk to each of those
15 individuals once or more than once?

16 A More than once.

17 Q Okay. How many times did you talk to each
18 of them?

19 A I have no idea. A lot.

20 Q Some of the interviews were conducted by
21 your employees; is that right?

22 A Yes.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1378

1 Q And do you know about how many interviews
2 they conducted?

3 A Just by themselves?

4 Q Yes.

5 A I don't.

6 Q Okay. During what period of time were
7 these interviews conducted?

8 A So I don't know if you heard me mention,
9 but for the 2021 Gulf Coast study, an existing
10 .train file was supplied. And so that .train file
11 was what we had on the shelf already. So any --
12 it's hard to even say. That would have been just
13 what we were maintaining over time.

14 So some of those conversations were baked
15 into that .train file already, and then that was
16 turned over along with the data inputs. And then as
17 we were going through the validation effort, I mean,
18 I have no idea, like probably 50 conversations I
19 would guesstimate.

20 Q Okay. But during what period of time did
21 the interviews occur?

22 A Again, some of those would have already

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1379

1 been baked into the .train file, so I mean, since
2 the inception of the .train file I guess that I
3 supplied, and then, you know, once the 2021 RTC
4 modeling process got kicked off, which again I -- I
5 don't know if it's because I'm nervous on stand or
6 what, I can't remember exactly when that started.
7 But it would have been from that moment on until
8 we -- well, ultimately until any sort of -- yeah,
9 until the report was complete, you know.

10 Q Okay. And how long was the longest
11 interview?

12 A I don't know, maybe like an hour? I don't
13 know.

14 Q Did you identify the name and position of
15 those people in your verified statement?

16 A No, I did not.

17 Q And you testified during direct that you
18 didn't take any notes during those interviews; is
19 that right?

20 A I mean, maybe handwritten notes but
21 nothing consistent.

22 Q What happened to those handwritten notes?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1380

1 A If it wasn't like directly put into the
2 .train file, I would have picked up the phone and
3 called the RTC modelers or sent it in an e-mail. I
4 mean, I would have transmitted the information to
5 them somehow.

6 Q Okay. And the interviews, you didn't
7 record them in any way, did you, besides the notes?

8 A No, ma'am.

9 Q And you didn't transcribe them, have the
10 interviews transcribed?

11 A No, ma'am.

12 Q And so there's no way to replicate the RTC
13 modeling without information obtained from the field
14 interviews; is that right?

15 A Again, as the Chairman had mentioned,
16 Amtrak's experts could have deposed and asked for
17 that information.

18 Q Is it possible to run the RTC model
19 without data or information from the field and
20 obtain the same result?

21 A With which .train file?

22 Q The .train file where you added the

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1381

1 interviews.

2 A So if Amtrak -- if Amtrak's experts
3 received the .train file, sure, they could plug
4 that right in.

5 Q Even without the interview notes?

6 A Right, because it would have already been
7 in the .train file.

8 Q During your work on the RTC model, did you
9 consult the yard master logs?

10 A I don't know what those are.

11 Q Did you consult crew timesheets?

12 A What are those?

13 Q Did you consult switch logs?

14 A I don't know what those are.

15 Q In running the model, did you evaluate how
16 introduction of the passenger service would impact
17 the line if CSX adjusted its schedule?

18 A I'm sorry, can you ask the question one
19 more time?

20 Q Sure. Did you in running the model
21 evaluate how introduction of the Amtrak passenger
22 service would impact the line if CSX adjusted its

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1382

1 schedule?

2 MR. WARREN: I'm going to object. She's
3 testified that she did not run the model.

4 MS. BRACEY: I'm just awaiting a ruling,
5 Chairman Oberman.

6 CHAIRMAN OBERMAN: I'm sorry, I did. I
7 was muted, however, so nobody heard.

8 I'm going to sustain the objection.
9 Can you rephrase the question, please?

10 MS. BRACEY: Sure.

11 BY MS. BRACEY:

12 Q Did you in running -- did you, in
13 providing inputs to the model, evaluate how
14 introduction of the Amtrak service would impact the
15 line if CSX adjusted its schedule?

16 A I wasn't the modeler, so I would have had
17 no way to evaluate that. But I think it's important
18 to add at some point during the modeling process, I
19 asked, I mean, hey, are there any obvious freight
20 trains that are departing at the same time as this
21 Amtrak train that are going to impose significant
22 conflicts? And there weren't any.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1383

1 Q Did you, in providing the input, evaluate
2 how introduction -- the inputs evaluate how
3 introduction of the passenger service would impact
4 the line if Amtrak adjusted its schedule?

5 A Again, I wasn't the modeler here.

6 Q But in providing the inputs, did you
7 evaluate how introduction of the passenger service
8 would impact the line if Amtrak adjusted its
9 schedule?

10 A I don't understand the question.

11 Q Okay. I'll withdraw it.

12 Did you ever -- have you ever worked as a
13 yard master?

14 A No, I have not.

15 Q A trainmaster? Have you ever worked as a
16 trainmaster?

17 A No, ma'am.

18 Q Or a train dispatcher?

19 A No, ma'am.

20 Q And have you ever worked as an assistant
21 transportation superintendent?

22 A No, ma'am.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1384

1 Q So the RTC model has certain default
2 settings; is that correct?

3 A Yes.

4 Q Okay. And these settings are based on the
5 average railroad experience in the real world; is
6 that right?

7 A I have no idea.

8 Q Okay. But the default settings are also
9 adjustable; is that right?

10 A Depending on which ones you're talking
11 about.

12 Q Well, one of the inputs that you can
13 adjust is called crew walking speed; is that right?

14 A Yes, you can adjust the crew walking
15 speed.

16 Q And that's the time it takes to go from
17 the front of the train -- for a crew to go from the
18 front of the train to the back of the train and vice
19 versa; is that right?

20 A It could, or it could be the crew walking
21 to throw a switch.

22 Q Okay. And the setting in the RTC model is

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1385

1 about three miles per hour; is that right?

2 A I mean, I'll take your word that that's a
3 default. But that's not what we use here at CSX.
4 We use two miles per hour at CSX. I don't know if
5 you've ever walked in steel-toed boots on ballast,
6 but three miles per hour is very fast. That's what
7 I do on the treadmill when I'm exercising.

8 Q But the settings, the default settings,
9 are based on the average so it would take into
10 account the steel-toed boots on the ballast; is that
11 right?

12 A I don't know where the three miles per
13 hour default came from.

14 Q Okay. But two miles per hour is about 30
15 minutes a mile; is that right?

16 A Yes.

17 Q Okay. And that has the effect of slowing
18 in the model down the time it takes for the crew to
19 go from the back of the train to the front of the
20 train and vice versa or, as you mentioned, to go
21 throw a switch; is that right?

22 A By adjusting it to two miles per hour, you

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1386

1 are aligning it to reality.

2 Q But it also slows the model down; is that
3 right?

4 A I mean, minimally.

5 Well, let me back up. I don't know what
6 you mean by "slow the model down." It certainly
7 slows down the time that the crew is walking in the
8 model. But again, you're going from -- we're
9 talking about steel-toed boots on ballast. I don't
10 know who can walk that at three miles per hour in
11 all sorts of weather elements.

12 Q So the train file -- or the .train file
13 is an input file into the RTC model; is that right?

14 A Yes, it is.

15 Q And that includes inputs such as train
16 modeled volume; is that right?

17 A It includes the trains and non-trains and
18 how they would move and the times they would move in
19 the model.

20 Q And that would also include the dispatch
21 data switching, the .train file would include
22 dispatch data switching?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1387

1 A I don't know what you mean by "dispatch
2 data switching."

3 Q And the .train file includes departure
4 times?

5 A Yes, it would include departure times.

6 Q And it also -- the .train file also
7 includes dwell times?

8 A Yes, ma'am.

9 Q And so you helped put the .train file
10 together; is that right?

11 A I supplied the existing in-house .train
12 file to the RTC modeler, in addition to the relevant
13 data. And then from there, the RTC modelers made --
14 analyzed the .train file and made adjustments
15 where they saw fit per the data from the
16 electronically collected sources in addition to
17 field input as we were going through the validation
18 effort.

19 Q So we're going to talk about one-to-one
20 matches for a second or minute or two.

21 So you did not provide a one-to-one match
22 between the train in the models and the trains in

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1388

1 the real world; is that right?

2 A I don't understand the question. So if
3 you're asking if I supplied information, like yes, I
4 supplied information from the field interviews about
5 the head room movements. I supplied that to the RTC
6 modelers.

7 Q Okay. Even with a representative sample,
8 there's no counterpart between the trains in the
9 model and the trains in the real world; is that
10 right?

11 A No, ma'am, that's not correct.

12 Q You've stated in your rebuttal verified
13 statement that you provided enough data for
14 Mr. Crowley and Mr. Fapp to create their own pivot
15 tables from the source documents about westbound
16 trains; is that right?

17 A I don't recall that. What are westbound
18 trains here?

19 Q I think westbound is toward Mobile -- no,
20 I'm sorry, toward New Orleans.

21 A And can you ask the question one more
22 time? I just want to make sure I understood it.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1389

1 Q In your rebuttal verified statement, you
2 stated that you provided enough data for Mr. Crowley
3 and Mr. Fapp to create their own pivot tables from
4 the source documents about westbound trains; is that
5 right?

6 A Pivot tables for what?

7 Q So that they can analyze the westbound
8 trains; is that right?

9 A I'm not following the question, I'm so
10 sorry.

11 Q Okay. I'll withdraw the question.

12 So you testified on direct that the models
13 showed a delay increase across the line and in
14 Mobile; is that right?

15 A Can you be a little more specific, please?

16 Q If the passenger trains are added, that
17 the model shows a delay increase across the line and
18 at Mobile; is that correct?

19 A Without having the exact numbers, yes,
20 when passenger trains were introduced, there was a
21 significant increase in delay per hundred
22 train-miles and a decrease in speed.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1390

1 Q Okay. And this leads to an increase in
2 gridlock within 20 years; correct?

3 A An increase in gridlock? I would say what
4 the model showed was with the introduction of
5 passenger trains in 2039 with no infrastructure to
6 mitigate the delays, it leads to gridlock.

7 Q Okay. But that is all based on the inputs
8 we discussed earlier; is that right?

9 A Yes, ma'am.

10 Q And that includes the slowing of the crew
11 speed; is that right?

12 A I didn't slow anything down, ma'am.
13 That's again how fast the crew members walk in
14 reality.

15 Q And that's also based on undisclosed
16 meetings with field personnel; is that right?

17 MR. WARREN: I'm going to object to the
18 statement that these meetings were undisclosed.

19 CHAIRMAN OBERMAN: She can answer.

20 THE WITNESS: So as I've said before, the
21 .train file that I had supplied would have been
22 a -- the existing .train file that we had at the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1391

1 time. And as we went through the validation effort,
2 I supplied the information to the RTC modelers with
3 the field inputs, and Amtrak's experts could have
4 asked for depositions of these people.

5 BY MS. BRACEY:

6 Q What are the people's names that you spoke
7 with?

8 A Goodness. I'm allowed to say?

9 MR. WARREN: Yes. I mean, if you
10 remember, yes.

11 THE WITNESS: Yes. It's been a while.
12 Okay. So Derek Harter, the superintendent over this
13 area, would have been one. Tom Lobello would have
14 been, I think, the former superintendent over the
15 line.

16 Keith Buice, he was the assistant
17 superintendent over the line at the time. I believe
18 Jason Rammell is his name, he would have been a
19 manager of train operations over this line. And
20 then -- how many is that -- that was --

21 MR. WARREN: Four.

22 THE WITNESS: That was four. There may

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1392

1 have been a fifth person in the New Orleans area and
2 I just can't think of what his name is now.

3 BY MS. BRACEY:

4 Q And are those -- those people are not
5 listed in either one of your verified statements; is
6 that right?

7 A No, ma'am, they are not.

8 Q You also provided a spreadsheet in support
9 of your verified statement, in support of your
10 growth projections; is that right?

11 A I don't recall if it was submitted in the
12 verified statement, but I believe all of that
13 information was turned over in discovery.

14 Q Can we just back up for a second?

15 So do you know the names of everyone you
16 spoke with for every existing .train file?

17 A Every -- sorry, just to clarify, every
18 existing .train file ever?

19 Q That you consulted with -- you said there
20 was about -- I can't remember how many names you
21 said, but it was a number of names, of people who
22 were already in the .train file before you added

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1393

1 in the five or six names.

2 A Oh, no, I don't have their names.

3 Q So the spreadsheet you discussed that we
4 just -- I just asked you about does not contain the
5 formulas used to generate future train lengths and
6 tonnages; is that right?

7 A Without looking at it, I don't know.

8 Q You're familiar with Oliver Wyman; is that
9 right?

10 A Vaguely, yes.

11 Q And are you aware that Adriene Bailey of
12 Oliver Wyman recently noted at RailTrend's 2021
13 conference that revenue ton-miles have decreased 11
14 percent, and total train-miles have fallen 23
15 percent, between 2006 and 2019?

16 A I've never heard that, no.

17 Q Okay. The Energy Information
18 Administration, a department of the U.S. Department
19 of Energy, routinely develops rail traffic --

20 BOARD MEMBER FUCHS: Ms. Bracey, I don't
21 want to interrupt your cross, but when you said
22 train-miles have fallen -- and maybe it's not

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1394

1 appropriate to ask you a question, so please tell me
2 that. But can you tell me what you were referring
3 to falling, on what? What geography, et cetera?

4 MS. BRACEY: I believe it was nationwide,
5 but I can get back to you on that.

6 BOARD MEMBER FUCHS: Nationwide for all
7 railroads?

8 MS. BRACEY: I believe so, but I can get
9 back to you on that.

10 BOARD MEMBER FUCHS: Okay. Thank you.

11 MS. BRACEY: You're welcome.

12 BY MS. BRACEY:

13 Q The Energy Information Administration, a
14 department of the U.S. Department of Energy,
15 routinely develops rail traffic forecasts; is that
16 right?

17 A I don't know.

18 Q So the infrastructure projects recommended
19 by the 2021 RTC study are to allow CSX to keep doing
20 exactly what it's already doing; is that right?

21 A No, ma'am, I wouldn't characterize it that
22 way.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1395

1 It's to accommodate the introduction of
2 the twice -- the two daily round trips.

3 Q Did the 2021 RTC model differentiate
4 between projects that would mitigate serious adverse
5 impacts on CSX and projects that would ensure the
6 status quo for CSX?

7 A Those types of questions would be better
8 for Mr. Dingler, but I believe that the set of
9 projects have to be considered as a whole.

10 Q And what does that mean?

11 A That they work together with one another.
12 But again, it would be better for Mr. Dingler to
13 explain that.

14 Q Okay. So I have a few more questions on
15 this topic, and if they're better for Mr. Dinger,
16 you can just tell me that.

17 A Okay.

18 Q So are the projects -- all of the projects
19 are built to help allow CSX to maintain its status
20 quo and not change any of its operations?

21 A Again, as I stated, it's to mitigate the
22 delay to freight trains with the introduction of

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1396

1 passenger trains. But again, feel free to also talk
2 to Mr. Dingler about those.

3 Q And which projects will mitigate the extra
4 18 minutes of delay that the model says will result
5 from introduction of passenger service?

6 A I don't know how the 18 minutes was
7 calculated there, but all of them would be needed to
8 mitigate the delay.

9 Q Every single project?

10 A Yes, ma'am.

11 Q Okay. Which -- okay.

12 If I could just have a couple minutes.

13 CHAIRMAN OBERMAN: Are you nearly done, is
14 that what you're suggesting?

15 MS. BRACEY: I am almost done, yes.

16 CHAIRMAN OBERMAN: Okay, sure. Take a
17 couple minutes.

18 BY MS. BRACEY:

19 Q So CSX has acknowledged there is
20 sufficient theoretical capacity for the Gulf Coast
21 service to operate right now; is that right?

22 A I don't know about theoretical capacity.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1397

1 But in the 2019 model, it didn't gridlock. So yes.
2 But there would be significant delays to the freight
3 and to the communities.

4 MS. BRACEY: I don't have any further
5 questions.

6 EXAMINATION

7 BY CHAIRMAN OBERMAN:

8 Q Ms. Rosse, because this seems to be a
9 matter of some contention in the pleadings and I
10 started the questioning, I'm just trying to grapple
11 with the actual physical gathering of the data from
12 the field interviews.

13 So did you conduct these interviews in
14 person, via telephone, via e-mail? How did you
15 conduct them?

16 A Primarily through Teams, screen sharing
17 and over the phone.

18 Q So you would have oral communications with
19 somebody in the field, and they would provide you
20 with some numbers about the number of yard trains or
21 high rails or some movement of that type; is that
22 right?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1398

1 A Yes. Yes, that's correct.

2 Q And when I was asking you, you said you
3 didn't make notes of the data you were taking down.
4 Was it the case that if somebody on the phone said,
5 well, there are three yard trains here that aren't
6 on the data, I'm just making up a number, did you
7 then just immediately enter it right into the
8 computer data as you were hearing it? I'm trying to
9 figure out how -- there's a lot of data, four or
10 five people, and you have many interviews with them.
11 You're obviously an able person, but I don't know if
12 you have a photographic memory.

13 I'm trying to understand how this data got
14 put into the system, if you could describe it for
15 us.

16 A Sure. So there's kind of like a
17 distinction in time here.

18 So the .train file that I supplied to
19 the 2021 Gulf Coast study, that would have been
20 where I was able to just directly enter in the
21 information into the .train file.

22 Anything after that point where they were

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1399

1 in this validation and, you know, getting the model
2 kind of set up phase, that's where I would have
3 supplied the information directly to the RTC
4 modelers then.

5 Q How did you -- well, but when you said you
6 supplied it, you got it over the phone or on a Teams
7 call. And can you supply it instantly, or how do we
8 know the number of trains you just heard about then
9 got into the model accurately? How did that process
10 work?

11 A Sure. So I would do that either by
12 sending an e-mail with my -- with either trains or
13 the movements themselves, or I would pick up the
14 phone and, you know, call the RTC modeler.

15 Q Do you know whether it's possible -- and I
16 don't know very much about computers or computer
17 programs at all.

18 Is it possible to ask one of these
19 computer databases to spit out all of the data that
20 was added in by this mechanism so that it -- and it
21 would show when, and so you could separate the data
22 that was added from the field interviews from the

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1400

1 other data, if somebody was -- I'm trying to
2 envisage how the discovery in this case would have
3 taken place, had it taken place.

4 So if -- I asked you earlier if Amtrak's
5 lawyers could have taken your deposition, I take it
6 if they had, they would have learned from you that
7 you had numerous phone conversations with, say, you
8 know, Derek -- I have forgotten his last name now,
9 can't read my writing.

10 A Derek Harter.

11 Q Carter, yes. But then they would have had
12 to take Mr. Carter's deposition and ask him what he
13 told you. I'm trying to figure out how they would
14 track it down. Is that the only way it could have
15 been done?

16 A Yeah. You could do that or, you know,
17 again, you could take the 2021 final .train file,
18 and compared it against the electronically collected
19 sources, and the differences there would be due to
20 the field.

21 Q Well, and I'm not asking you to be a
22 lawyer, but in the adversarial process, if one side

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1401

1 wants to challenge the other side, they may want to
2 go back to the original source of the data to say,
3 well, you know, did you make a mistake, did you
4 fudge, and so forth.

5 The question is how would one track it
6 down. It sounds like the only way to track it down
7 would be to actually go depose the people you spoke
8 to and see if they could remember what they told
9 you. Is that a fair understanding?

10 A I suppose that's fair.

11 Q All right. But it could have been done,
12 as far as you can tell? I mean, there's no reason you
13 couldn't go back to these same people today and ask
14 them the same questions; right?

15 A I'm sorry, I don't understand the
16 question.

17 Q Well, if you took Mr. Carter's deposition
18 today, what would you be asking him, what was the
19 number of yard trains back in 2019 that he told you
20 about? If we wanted to check the information that
21 you put into the modeling software?

22 A Yeah, you would ask him or whoever, you

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1402

1 know -- whoever is kind of responsible for that
2 area. But Mr. Harter would be able to answer the
3 questions, yes.

4 Q Well, he may or may not remember. You
5 don't know that. Nobody -- Mr. Carter might not
6 know even, until you asked him the question. But
7 that would be the process one would have to go
8 through to try to measure all of the interview data
9 that you and your team gathered to put into the
10 database? The only way to do it, I gather; is that
11 fair?

12 A I think so.

13 Q I'm just wondering if in your experience,
14 and I'm only going to ask you about your own
15 practice, is that the way you always do it when
16 you're gathering field data, is that you sort of --
17 you go directly from the communication into an
18 e-mail or the database, without keeping a written
19 record in between of what you just learned? Is that
20 standard procedure?

21 A Yes, sir, with every internal project I've
22 ever worked on, the information would just be

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1403

1 directly put into the .train file.

2 CHAIRMAN OBERMAN: All right. That's very
3 helpful, thank you.

4 Patrick, I think you said -- did you have
5 a question?

6 BOARD MEMBER FUCHS: No, I'm good, Marty.
7 I'm good.

8 MS. BRACEY: May I ask one follow-up,
9 sure?

10 CHAIRMAN OBERMAN: Sure.

11 CROSS-EXAMINATION (Continued)

12 BY MS. BRACEY:

13 Q When you mentioned, Ms. Rosse, that you
14 were screen-sharing, what were you screen-sharing
15 with the people you were interviewing?

16 A The simulation, ma'am.

17 Q The RTC simulation?

18 A Yes, ma'am.

19 MS. BRACEY: Thank you.

20 CHAIRMAN OBERMAN: Do you need a break
21 there for a minute, Ms. Bracey, to clear your
22 throat? Take your time.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1404

1 MS. BRACEY: I'm okay. Thank you.

2 CHAIRMAN OBERMAN: All right. So,
3 Ms. Bracey, are you finished with your cross?

4 MS. BRACEY: I am.

5 CHAIRMAN OBERMAN: All right. Matt, any
6 redirect?

7 MR. WARREN: No redirect, Mr. Chairman.

8 CHAIRMAN OBERMAN: All right. This might
9 be a good time for a 10-minute break before we bring
10 on another witness.

11 Do you have the slightest hope that we'll
12 be able to finish Ms. Sinkkanen in an hour and a
13 half?

14 MR. WARREN: We will -- we'll do our best,
15 but being realistic, we certainly don't have that
16 much direct, but --

17 CHAIRMAN OBERMAN: Well, I don't want to
18 cut you short, but it would be great if we could, as
19 you suggest, finish her up.

20 MR. WARREN: We'll confer and talk to you
21 in 10 minutes.

22 CHAIRMAN OBERMAN: All right. We will

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1405

1 reconvene at -- I'm sorry?

2 MR. WIMBISH: Mr. Chairman, this is Rob
3 Wimbish. For purposes of that planning, we do have
4 a limited amount of cross that we intend to present
5 to Ms. Sinkkanen, so I wanted to make sure that we
6 let you know now, for purposes of planning. We
7 don't have lots of it. We do have a little bit.

8 CHAIRMAN OBERMAN: All right. Well, let's
9 try to all be efficient and aim to finish
10 Ms. Sinkkanen today, if possible. But we're not
11 going to artificially restrict eliciting evidence
12 for this case.

13 So we will break until 3:34. 10 minutes.

14 (Recess.)

15 CHAIRMAN OBERMAN: All right. Are all the
16 Board members back?

17 Karen, Michelle, Patrick, Robert?

18 BOARD MEMBER HEDLUND: Mr. Chairman, I'm
19 here.

20 CHAIRMAN OBERMAN: Karen, I see you.

21 Let's wait another moment, they must have
22 stepped away for a second.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1406

1 All right. Let's begin. Matt -- or who
2 is calling this witness, Mr. Donahoe?

3 MR. DONAHOE: Yes, sir.

4 MS. AMUNSON: Mr. Chairman, Jessie Amunson
5 for Amtrak. If I may, Mr. Chairman, just before the
6 next witness is called, just put something on the
7 record that I hope may clarify some of the
8 questioning and issues about the ability to depose
9 witnesses.

10 I just wanted to remind the Board that
11 when Amtrak filed its application in this case
12 Amtrak proposed a procedural schedule under which
13 CSX and NS would file their opening evidence and
14 verified statements, Amtrak would then have an
15 opportunity to take discovery of the witnesses who
16 submitted verified statements, then Amtrak would
17 submit its own rebuttal evidence and verified
18 statements. CSX and NS would then have an
19 opportunity to take discovery of Amtrak's witnesses,
20 and then there would be another round of rebuttal
21 briefing.

22 CSX and NS opposed that proposed schedule

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1407

1 and instead insisted that all discovery be finished
2 prior to their filing of the opening evidence.

3 So at the time that Amtrak received CSX
4 and NS's opening evidence Amtrak had no ability to
5 depose anyone, even had the opening evidence, the
6 verified statement from CSX and NS, revealed that,
7 in fact, much of the data was based on narratives.
8 At that point, discovery was closed. So there was
9 no ability for Amtrak to take discovery at that
10 point. Amtrak had 30 days to file its rebuttal
11 evidence at that point with no -- with discovery
12 being closed.

13 CHAIRMAN OBERMAN: Jessie, let me just
14 respond this way.

15 This is -- the chronology and concerns
16 involving discovery is something that I intend to
17 explore before this case is over. I had anticipated
18 that the appropriate time to get into it from
19 Amtrak's point of view is during your case.

20 And I don't want to divert ourselves into
21 argument between counsel. I'm sure the other side
22 will have something to say to what you just said.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1408

1 But that's very much of an open question, which I
2 think all of us on the Board want to be enlightened
3 on, as to how this case unfolded.

4 At this point, because we've had witnesses
5 who had or could have the facts at hand, I was very
6 interested in exploring just what the physical
7 aspects of such discovery issues might be and not
8 the legal issues and the scheduling.

9 I do think that is something I want to
10 hear about from both sides, but I don't want to do
11 it now in the middle of the evidentiary part, at
12 least until we get to your case-in-chief, and then
13 if you want your witnesses to deal with it or you
14 want to deal with it, it would be appropriate, and
15 we'll get response from the other side.

16 MR. WARREN: And I understand,
17 Mr. Chairman, you want to keep things moving. We
18 have a lot of things on what Amtrak could have
19 gotten in discovery, but I'm sure you want to move
20 things along now.

21 CHAIRMAN OBERMAN: I am sure you do. I'm
22 not going to foreclose anybody from addressing that

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1409

1 aspect of this case. It has been raised, of
2 interest to me, maybe because I spent 50 years of my
3 life doing discovery, so I'm interested in this.
4 But we will deal with it down the road.

5 Mr. Donahoe.

6 MR. DONAHOE: That's fine.

7 CHAIRMAN OBERMAN: Please proceed.

8 MR. DONAHOE: Mr. Chairman, with the
9 Board's permission, Norfolk Southern would like to
10 call Holly Sinkkanen to testify, please.

11 CHAIRMAN OBERMAN: Ms. Sinkkanen, would
12 you raise your right hand, please.

13 Whereupon,

14 HOLLY SINKKANEN

15 was called as a witness and, having first been duly
16 sworn, was examined and testified as follows:

17 CHAIRMAN OBERMAN: And I will say, and I
18 should have said this with all the other witnesses,
19 please state your name.

20 THE WITNESS: Holly Sinkkanen.

21 CHAIRMAN OBERMAN: Mr. Donahoe, please
22 proceed.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1410

1 MR. DONAHOE: Thank you.

2 DIRECT EXAMINATION

3 BY MR. DONAHOE:

4 Q Ms. Sinkkanen, can you tell us a little
5 bit about your educational background.

6 A Sure. I have a bachelor's degree in
7 social sciences with an education concentration from
8 Ashford University.

9 Q Before we go back through a little bit of
10 your history with Norfolk Southern, how are you
11 currently employed by Norfolk Southern?

12 A I am the manager of strategic capacity.

13 Q And what generally does that involve?

14 A We conduct data analysis and RTC
15 simulation studies to recommend infrastructure and
16 process solutions for constraints on our capacity --
17 or on our network.

18 Q Have you ever participated in a proceeding
19 before the Surface Transportation Board?

20 A No, I have not.

21 Q When did you first start at Norfolk
22 Southern?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1411

1 A 2004 as a dispatcher.

2 Q Let's kind of go briefly through your
3 chronology of the jobs you've held at Norfolk
4 Southern, okay?

5 A Okay.

6 Q When you got there in 2004, how were you
7 employed at Norfolk Southern?

8 A I was a dispatcher from 2004 until 2015.

9 Q So for 11 years, you basically held
10 various dispatching positions?

11 A Yes.

12 Q Can you tell the Board a little bit about
13 the dispatching jobs that you held at Norfolk
14 Southern?

15 A Sure. I dispatched in our Harrisburg
16 division, which encompassed our rail lines in New
17 York, New Jersey, Delaware, Pennsylvania and
18 Maryland.

19 Q Can you tell us kind of in layperson's
20 terms what a dispatcher primarily does?

21 A Sure. From a very high level, a
22 dispatcher moves the trains across the network. We

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1412

1 line up the signals and switches and move them from
2 point A to point B.

3 Q During any time during your career as a
4 dispatcher, did you dispatch rail operations
5 involving Amtrak?

6 A Yes, I did. When I worked on the
7 Harrisburg terminal I coordinated with Amtrak for
8 the arrival and departure of their Pennsylvanian
9 service at Harrisburg, Pennsylvania, and ran them on
10 our line between Harrisburg and Glencannon, and then
11 they proceeded along to Pittsburgh.

12 When I worked the mainline desk, I worked
13 again with Amtrak to coordinate the movement of our
14 freight trains over their line between Baltimore,
15 Maryland and Newark, Delaware, over the Northeast
16 Corridor.

17 Q In addition to Amtrak, did you have any
18 experience dispatching other passenger lines on
19 Norfolk lines?

20 A We did have a section in Philly where we
21 ran across SEPTA.

22 Q I want to ask you a couple questions about

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1413

1 recording delays. Are you familiar with that term?

2 A Yes, I am.

3 Q And can you explain to the Board what a
4 recording delay is in relationship to being a
5 dispatcher?

6 A Sure. As a dispatcher, it's -- one of the
7 responsibilities of the position is to record in the
8 dispatch database any delay to any train that occurs
9 along the line.

10 I also was an assistant chief dispatcher,
11 which is a behind-the-scenes dispatching duty. And
12 part of that job was to reconcile the data inputs
13 for delays that the dispatchers input into the
14 system and make sure that all of the information was
15 correct, where the delay occurred, how long it
16 occurred and why it occurred.

17 Q I think you mentioned -- you gave an
18 example of one type of recording delay. Are there
19 any other examples that would register as a
20 recording delay?

21 A Can you ask the question again?

22 Q Sure. I'll ask you directly, if there's a

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1414

1 foreign train delay, is that listed as a recording
2 delay?

3 A By types of delays?

4 Q Yes.

5 A So trains are delayed for various reasons.
6 You could have a mechanical delay like an engine
7 failure, so we have to document that. You could
8 have delays from meet pass moves, train meet train.
9 You could have delays where the yard can't handle
10 the train. You can have delays where we're
11 interchanging to foreign lines, delays where we're
12 holding to make sure Amtrak has a path through to
13 avoid delays to them.

14 Q Do you believe that your experience as a
15 dispatcher gives you kind of a better understanding
16 of delays across a corridor such as the Gulf Coast?

17 A Sure. So I mean, as a dispatcher, you're
18 watching a small section of territory, and you are
19 firsthand dealing with the delays, how to, you know,
20 readjust how you're going to dispatch in order to
21 mitigate how that delay has impacted your line.

22 And as a chief dispatcher, you know,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1415

1 you're looking at the entire division. So you see
2 delay that may happen at one point on a corridor
3 affects something that happens further on down the
4 corridor.

5 Q So after 11 years as a dispatcher, what
6 did you do next at Norfolk Southern?

7 A I was promoted into management, and I
8 started with the industrial engineering group.

9 Q And is that the time you got involved in
10 RTC modeling?

11 A That's correct.

12 Q And how did Norfolk Southern train you or
13 teach you, or how did you become familiar with RTC
14 modeling?

15 A Most of my RTC modeling training was
16 hands-on. I was shown how to pull the data, how to
17 analyze the data, what inputs are necessary for a
18 train file, how to collect inputs that may not show
19 up in the data pulled from the databases. I was
20 shown how to build the network.

21 Once I was comfortable with that, I was
22 given a pretty large-scale RTC network to work with,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1416

1 large-scale in terms of size. I had to update a
2 network from Pittsburgh to Chicago and build the
3 train file for that network, which was roughly 2000
4 trains. We then ran the network, and I pulled the
5 data -- excuse me.

6 I pulled the data out of the output and
7 analyzed it and produced a report.

8 Q As part of your training, so to speak, did
9 Norfolk Southern send you to any RTC conferences?

10 A I did attend one RTC conference to give me
11 a better idea and understanding of the capabilities
12 of RTC.

13 Q Approximately how long did your on-the-job
14 training last for RTC modeling?

15 A Just under a year. I believe I got my
16 first, I'm not going to say solo, but it was my
17 first RTC project in about August of 2016.

18 Q What exactly does Norfolk Southern use RTC
19 modeling for?

20 A We use it for several things. We evaluate
21 growth on a line to ensure that we have the
22 appropriate infrastructure in place to support that

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1417

1 growth. We can use it to test the impacts of
2 operational changes, such as changing a fueling
3 location from one point to another. And we use it
4 to support passenger policy and evaluate the impact
5 of additional passenger service on our lines.

6 Q Can you give the Board kind of a
7 high-level description of the RTC process used at
8 Norfolk Southern?

9 A Sure. From a high level, once we have
10 identified an area of concern that we're going to
11 study, the first thing we'll do is either build the
12 network or update an existing network.

13 After that has started, we poll internal
14 stakeholders to help us get the data that we need,
15 such as growth forecasts or potential infrastructure
16 that we already have planned in place so that we can
17 get that built into the model.

18 Then I do my research. We'll pull the
19 data, we'll start some of the analyzing of that
20 data. I'll sit with dispatch, I'll ask questions of
21 dispatch. I may watch dispatch playback if the
22 dispatchers are unavailable, which is basically a

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1418

1 stored database of real-time dispatching, I can go
2 back seven days and watch seven days' worth of
3 actual dispatching.

4 Once I get all of my research done, we
5 will reach out to the field and make sure that what
6 I'm seeing in the data and what I have seen on the
7 dispatch database doesn't miss anything.

8 Then we will build the .train file,
9 input it into the model and run it. If the model
10 runs, then I will take a first look at the model,
11 make sure the trains are moving as I believe they
12 should be moving.

13 We'll then do a peer review. I will hand
14 over the model to another NS RTC modeler, who will
15 look at it and give us -- give me feedback on things
16 that may look out of place or incorrect. And we'll
17 make those updates.

18 Then we take the model and we take it to
19 the field. And we play the model for the field.
20 They will watch the animation, we will discuss all
21 of the inputs that have been put into the model.
22 We'll get their feedback, see if there's anything

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1419

1 that we've missed. If there is, then we will update
2 the model again.

3 Once we have incorporated everybody's
4 inputs, we run the base case.

5 We then follow a similar process for each
6 subsequent case that may need to be run, such as a
7 future case where we layer on our future train
8 starts, and then again with the infrastructure.

9 Q So as part of the process of RTC modeling
10 that you've been involved in at Norfolk Southern, is
11 there some type of validation process involved with
12 respect to the model that's been run?

13 A Yes, that's pretty much the process we
14 just discussed. There's a lot of validation that
15 goes in behind getting from start to run the base
16 case.

17 Q So you've heard the term "clean team" in
18 this hearing; correct?

19 A That's correct.

20 Q And I realize there's different people
21 involved internally at Norfolk, and we're in the
22 clean team here. Is that an analogous process to

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1420

1 the clean team?

2 A Absolutely, yes. It was a large-scale
3 peer review of the inputs and assumptions into this
4 model.

5 Q How many -- excuse me -- employees at
6 Norfolk Southern do RTC modeling?

7 A I believe right now we have five that are
8 capable of doing RTC modeling.

9 Q And you specifically, can you give the
10 Board an estimate as to how many RTC models that
11 you've been involved in?

12 A Yes. In varying degrees of complexity, 15
13 to 20 maybe.

14 Q And we're not going to go through all
15 those projects. But can you describe to the Board a
16 couple recent projects that you've been involved in
17 that involve passenger service on Norfolk lines?

18 A Yes. I have been involved in two studies
19 recently that involved adding new -- or expanding
20 Amtrak service on our lines.

21 Q Can you briefly describe those projects?

22 A Sure. In 2019, I was asked to analyze the

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1421

1 impact of new and expanded Amtrak service on Norfolk
2 Southern's operations between Manassas and Roanoke,
3 and define the infrastructure necessary to mitigate
4 that impact.

5 And in 2020, I was asked to analyze the
6 impact of expanded and modified Amtrak service on
7 Norfolk Southern's operations between Harrisburg,
8 Pennsylvania, and Pittsburgh, Pennsylvania, and the
9 infrastructure that would be necessary to mitigate
10 that impact.

11 Q And both those projects involved that
12 process that you earlier described; correct?

13 A That's correct, yes.

14 Q Okay. Did both of those projects require
15 infrastructure?

16 A Yes, infrastructure was recommended for
17 both of them.

18 Q Let's talk about the Gulf Coast project
19 for a minute, okay?

20 A Okay.

21 Q Let's turn our attention to that.
22 When did you first get involved?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1422

1 A Early 2020.

2 Q And what did you see your role as in part
3 of the initial Gulf Coast project that you got
4 involved in?

5 A My responsibility was to supply the inputs
6 necessary to develop the Norfolk Southern piece of
7 the model.

8 Q So just so we have our time frame set,
9 we're talking about that original HDR model; is that
10 right?

11 A That's correct.

12 Q When you got involved, you were aware of
13 the various data sharing agreements?

14 A I was aware of them, yes.

15 Q Can you explain to the Board about the
16 range, the data range, that was involved initially
17 in the HDR project?

18 A In regards to the timing, the time range?

19 Q The months that you looked at to obtain
20 your data.

21 A Oh, yes. So originally, Amtrak requested
22 that we provide data for I believe October,

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1423

1 November, December, of 2019. We ended up providing
2 September, October, November, so that we didn't
3 include December, which is a peak month for us.

4 Q And why wouldn't you want to include
5 December as a peak month?

6 A It's not representative of normal
7 operations.

8 Q Would that be typical in other modeling
9 projects you've done for Norfolk Southern, to avoid
10 peak months?

11 A That's correct.

12 Q What was the data that you compiled and
13 supplied to the HDR modelers?

14 A We provided a network file, track charts,
15 timetables, GIS polylines. I provided historical
16 train data, which included on-network times, crew on
17 duty times, historical train consists.

18 I provided a detailed description of my
19 narratives, which is basically my field notes. And
20 I provided as a follow-up request from HDR, I
21 provided a week's worth of foreign train movements
22 across our line.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1424

1 Q Again, is that typical, the data sources
2 that you provided to HDR, is that typical of the
3 data that you have used in other Norfolk modeling
4 projects?

5 A Yes, that would be the data I would use.

6 Q What was the reason for providing in the
7 HDR model, or any model, foreign train movement
8 data?

9 A Well, in this case, they had the
10 historical train movements. But HDR had some
11 questions about the movements across the network.

12 Based on my field observations I had noted
13 that there were some significant delays across the
14 network. They wanted to validate how the model was
15 running.

16 I had taken notes that included a week's
17 worth of the actual movements, where the trains --
18 when the trains came on, where they stopped, how
19 long they stopped, so that HDR could -- well, and
20 then I compiled them for HDR when they asked for the
21 additional information so that they could validate
22 the model.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1425

1 Q Let's spend a minute or two on the field
2 notes, okay?

3 A Okay.

4 Q So that -- if I understand your testimony,
5 you personally go down there and take some notes,
6 observing the operations and talking to various
7 people; is that fair?

8 A I didn't travel there.

9 Q Okay.

10 A I did sit in the -- and watch the dispatch
11 playbacks, I watched 24 hours a day, seven days --
12 or I watched six days of dispatch data. So I
13 watched the actual movements of the trains as they
14 moved across the network.

15 I did speak to dispatch personnel to get
16 an idea of what I was seeing on the screen, if that
17 was typical. And then I also contacted field
18 personnel in New Orleans and discussed their
19 operations with them.

20 Q Okay. So you didn't travel down there,
21 but you spoke to dispatchers and field personnel
22 along that line?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1426

1 A That's correct.

2 Q And you also mentioned, I think,
3 narratives. What are you referring to when you said
4 narratives?

5 A So from my research, watching the dispatch
6 playback, talking to the dispatchers, talking to the
7 field personnel. I compiled a document detailing
8 exactly how the trains should move once they were on
9 the network.

10 Q So when you were compiling this data, did
11 you take notes, if you remember?

12 A I don't -- I don't recall. There probably
13 are some clarifying notes, e-mails perhaps back and
14 forth between me and the field. But regardless, the
15 data was documented in that document.

16 Q I'm sorry I interrupted you.

17 A That's okay.

18 Q And what was done with the narratives once
19 you completed the narratives?

20 A They were given to HDR as part of the data
21 set.

22 Q So if I heard the testimony correctly, CSX

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1427

1 created a train file and gave it to HDR, but you did
2 not do that?

3 A No, I did not. We did not have an
4 existing train file.

5 Q Okay. So the data you collected, you just
6 gave that directly to HDR; is that right?

7 A That's correct. Had I built the train
8 file, they would have received the .train file
9 and they probably would not have received my notes.

10 Q And I assume you're aware of some of the
11 criticisms from Amtrak. Just generally, how do you
12 respond to that?

13 A I think most of their criticisms are
14 completely inaccurate. This model reflects actual
15 operations as they existed in 2019.

16 Q Let me ask you this. Let's drop the HDR
17 model for a second, okay?

18 A Okay.

19 Q I'm just going to call it the Dangler
20 model.

21 A Okay.

22 Q Was that same information that you gave

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1428

1 the HDR -- was that also given to Mr. Dingler?

2 A That's correct.

3 MR. DONAHOE: Mr. Chairman, I would like
4 to briefly go through two documents that were
5 admitted earlier with Ms. Rosse's testimony,
6 specifically it's Exhibit 41B, and I really just
7 want to pay attention to the Norfolk Southern aspect
8 of that, as CSX only talked about their aspect. So
9 with your permission, can we put up Exhibit 41B?

10 CHAIRMAN OBERMAN: Go ahead.

11 BY MR. DONAHOE:

12 Q Now, Holly, the Board has seen this
13 already, and Ms. Rosse discussed certain aspects of
14 this so-called waterfall.

15 I want to ask you about the one thing she
16 wasn't -- and I wouldn't expect her to address, the
17 minus 140. And this is a so-called phantom cars or
18 phantom movements referred to by Amtrak's experts.

19 Can you describe what that 140 is?

20 A Sure. That 140 is the yard and local
21 trains out of Oliver yard in New Orleans. We have
22 three local trains that move, and we have -- based

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1429

1 on my observations and input from the field, we
2 modeled seven yard moves per day, so that's the
3 three locals, the seven yard moves, 10 moves a day,
4 times 14 days, is the 140 trains.

5 MR. DONAHOE: To the Board, before I move
6 on, are there any questions on this exhibit?

7 CHAIRMAN OBERMAN: None.

8 MR. DONAHOE: Thank you. I just didn't
9 want to have to bounce back and forth if we could
10 avoid it.

11 CHAIRMAN OBERMAN: Appreciate it.

12 MR. DONAHOE: Next I would like to
13 introduce again what's already been admitted, CSXNS
14 Joint Exhibit 150. May I show this to the witness?

15 CHAIRMAN OBERMAN: Yes, please do.

16 MR. DONAHOE: Thank you.

17 BY MR. DONAHOE:

18 Q So again, the Board has seen this, and
19 we'll get through it quickly. But I really just
20 want to focus on the Norfolk Southern aspect of
21 this, okay?

22 So can you explain to the Board what this

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1430

1 first slide is, for lack of a better term?

2 A Sure. It's the categories of trains that
3 fit into the 582 from the waterfall chart.

4 Q And if we could go to the next slide,
5 which I believe is the so-called merchandise slide.

6 Again, this hasn't been described to the
7 Board previously. As you can see, CSX is zero.
8 What does a 14 represent there with respect to
9 merchandise?

10 A So NS has a southbound train that comes
11 into New Orleans, and when they arrive at New
12 Orleans they break into two pieces. The head end
13 moves across and interchanges to our interchange
14 partners at East Bridge Junction, and the rear end
15 stays on our mainline. A set of power will come out
16 of the yard, pick up the rear end and take it across
17 to interchange to our interchange partners at East
18 Bridge Junction. This is the rear.

19 Q Is the type of data we're seeing in these
20 slides, is that data that can only be obtained by
21 doing, you know, field interviews or calling people
22 or finding out what's actually going on the line?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1431

1 A You may see these movements and the data,
2 terminal data, is very incomplete and inconsistent.
3 And this is -- New Orleans is a terminal, that's all
4 it is, it's a terminal.

5 Q If we can go to the next slide, please.

6 And this one is titled "block of cars."
7 And we see NS, 38. Can you briefly explain what
8 that is with respect to Norfolk?

9 A Yes, so we have -- it says four trains,
10 and I can explain why it's four on this slide but
11 it's three NS trains that drop blocks of cars while
12 doing work in the yard.

13 Two of those trains run every day, so
14 that's 14 for each of those. That gets you 28. And
15 then one of those runs five times a week.

16 And the reason it's four on here is
17 because that one that runs five days a week has two
18 different moves that it makes, so it's split into
19 two different built trains in the model.

20 Q If we could go to the next slide, which is
21 titled "light engine." And you see on there NS, 30.
22 What does that represent?

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1432

1 A So we have again interchange trains that
2 come into New Orleans with interchange -- with our
3 interchange partners' power on them. So we have to
4 take the power off, put NS power on in order to move
5 the train out.

6 So I've got two of those that run every
7 day. That gives you 28. And then I've got one that
8 runs once a week.

9 Q And lastly, the yard slide.

10 A So this is actually power that spins. It
11 comes in facing one way and we've got to basically
12 do a three-point turn with that engine to turn it
13 around to position it to take the outbound train
14 out. And that happens twice a day.

15 MR. DONAHOE: Okay. Thank you.

16 To the Board again, I'll stop now, and I
17 know I went through it pretty quickly but you've
18 seen it. But if there's any questions, I'll pause
19 here.

20 CHAIRMAN OBERMAN: Any questions from the
21 Board?

22 All right. Proceed.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1433

1 MR. DONAHOE: Thank you.

2 BY MR. DONAHOE:

3 Q So these slides, the data on this slide,
4 these were provided in the narratives?

5 A That's correct.

6 Q Okay. A question about the HDR model, and
7 I'm sorry to go back because we were actually
8 talking about the Dingler model. But how close,
9 based on your experience, was that to being
10 completed before, for lack of a better term, Amtrak
11 did not renew the contract?

12 A I would say it was probably within maybe
13 six weeks to two months.

14 Q To your knowledge, at any time has Amtrak
15 been provided with the data, the Norfolk Southern
16 data, that was used in the HDR and HNTB, the Dingler
17 RTC model? To your knowledge, has Amtrak ever had
18 access to that? If you know. If it was produced in
19 discovery, if you know.

20 A I was going to say I don't know that they
21 necessarily would have had access to it in the HDR
22 model. Their modeler would have. But yes, we did

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1434

1 produce them in discovery.

2 Q That's my question.

3 A Yeah.

4 Q Was it produced in discovery to your
5 knowledge?

6 A Yes, as far as I can recall, the data that
7 I provided to HDR and HNTB was also provided in
8 discovery.

9 Q One other clarifying point, that the
10 Dingler model was based on 2019 traffic data, not
11 2020 traffic data. Why was that?

12 A Well, for two reasons. First, we were
13 trying to replicate the HDR model as close as
14 possible.

15 Second, if we had used 2020 traffic data,
16 it wouldn't have been representative of normal
17 operations because of the pandemic.

18 Q A couple questions of the clean team, and
19 I know I asked this. But you were a member of the
20 clean team; correct?

21 A I was.

22 Q And I know I heard some of the Board's

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1435

1 questions earlier. How many -- I'm going to start
2 with how many conversations during the clean team
3 process did you have with, let's just say,
4 Mr. Guthrie and Mr. Banks, just you and them?

5 A Just me and them? I don't believe that I
6 had any conversations with just me and them. They
7 were all through the clean team.

8 Q When they had the clean team meetings or
9 calls, were they mostly part of those calls or
10 meetings?

11 A Yes, I believe they were involved in every
12 clean team meeting.

13 Q And could you estimate how many times
14 those meetings or calls occurred over the length of
15 this process?

16 A They were weekly for I want to say a
17 couple of months, so probably 15 meetings.

18 Q Just an estimate is fine.

19 A Yeah, I mean, that's as close as I can
20 estimate that.

21 Q So CSX provided data?

22 A Correct.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1436

1 Q NS provided data. Did their data differ
2 in any manner?

3 A Sure. Well, I mean, CSX provided a
4 .train file, I provided data inputs for the train
5 file.

6 Q From my review, I saw something about
7 track patrol.

8 A Oh, yes. So during the clean team, we
9 kind of discussed some of the inputs and assumptions
10 into the model, it was basically a large validation
11 of the model and verification that the model
12 represented reality.

13 NS and CSX, we had slightly different
14 inputs for our track patrol, so we discussed how do
15 we put them into the model so that they accurately
16 represent actual operations.

17 We tested a couple of different scenarios,
18 and we ultimately decided not to include track
19 patrol in the model because we could not get the
20 track patrol to accurately represent actual
21 operations.

22 Q Let me ask you a broad question. Was the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1437

1 process used in the Dingler RTC similar to the
2 modeling you've been involved in 15 or 20 times at
3 Norfolk Southern?

4 A Yes, aside from having CSX involved and
5 having a consultant involved, it was pretty much the
6 same process.

7 Q And finally, Holly, in your position as
8 manager of strategic capacity for Norfolk Southern,
9 and based on your experience in modeling, your
10 experience in dispatching, what would the future
11 hold for you if Amtrak's position is adopted here?

12 A For the NS --

13 MR. MULLINS: Do you mean for her
14 personally or for the railroad?

15 MR. DONAHOE: I'm sorry, her job as
16 strategic capacity, yes.

17 THE WITNESS: So the back belt in New
18 Orleans is a very large interchange area for us.
19 It's already congested. There's a lot of movements.
20 Adding Amtrak without the infrastructure to support
21 it is going to severely impact our interchange
22 partners.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1438

1 We are going to have to hold their traffic
2 off of our network in order for us to run Amtrak,
3 causing them significant delays, and that's going to
4 cascade back down and impact our customers.

5 BY MR. DONAHOE:

6 Q And I think there's already been testimony
7 that Norfolk holds a window open currently, or
8 Norfolk holds a window open currently --

9 A That's correct.

10 Q -- for Amtrak service; correct?

11 A That's correct.

12 MR. DONAHOE: I have no further questions.

13 CHAIRMAN OBERMAN: All right. I think,
14 Rob, you said you had questions for this witness.

15 MR. WIMBISH: Yes, sir, I do. May I
16 proceed with those?

17 CHAIRMAN OBERMAN: Proceed.

18 MR. WIMBISH: Thank you.

19 CROSS-EXAMINATION

20 BY MR. WIMBISH:

21 Q Ms. Sinkkanen, am I correct in
22 understanding from your testimony here today that

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1439

1 you have -- and from your verified statement
2 testimony, that you have past experience with
3 dispatching trains over railroad lines over which
4 both freight trains and Amtrak trains operate?

5 A Yes, that's correct. I was a dispatcher
6 for 11 years.

7 Q Okay. And beyond the testimony you have
8 given in your verified statement, and beyond the
9 testimony you have previously given on direct, is
10 there anything else about the scope of your
11 dispatching experience involving lines over which
12 Amtrak operated regularly scheduled trains that you
13 would like to add to your testimony now?

14 CHAIRMAN OBERMAN: Well, Rob, related to
15 this case? I mean, that's about as open-ended a
16 question as I've ever heard, and Amtrak didn't
17 object, but I find it problematical.

18 MR. WIMBISH: Withdrawn, withdrawn.

19 BY MR. WIMBISH:

20 Q I'm going to read to you, Ms. Sinkkanen,
21 and I can bring up on the screen if you would like,
22 some passages from the past written verified

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1440

1 statements of Robert M. Golden, which was offered in
2 the written testimony phase of this proceeding.

3 Would you like me to bring those passages up on the
4 screen or shall I just read them to you?

5 MR. DONAHOE: Rob, if it's not
6 problematic, could you bring it up on the screen,
7 please?

8 MR. WIMBISH: Of course. Yes, I can do
9 that.

10 CHAIRMAN OBERMAN: This is a verified
11 statement filed in this case?

12 MR. WIMBISH: Yes, it is. It's
13 specifically I'm going to be reading from two
14 different passages, the first passage comes from the
15 reply verified statement of Robert M. Golden, which
16 is Joint Exhibit 33A. And I will be presenting
17 pages 2 and 3 of that particular verified statement.
18 And then also after I read from those passages or
19 introduce those, then there will be some selected
20 passages from the rebuttal verified statement of
21 Robert M. Golden, Joint Exhibit 43, verified
22 statement of Robert M. Golden, pages 4 and 5.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1441

1 Let me bring up -- let me get to the share
2 file here if I can do that. I'm having some issue
3 here with this. Here we go.

4 Can you see a passage on the screen here
5 that begins with the phrase "as such"?

6 THE WITNESS: Yes, I can see it.

7 BY MR. WIMBISH:

8 Q Okay. The passage reads, and it starts
9 with the words "as such," "CSX and NSR appear to
10 assume swifter Amtrak train transit and far less
11 consumption of track capacity than is realistic in
12 the congested Mobile terminal. Further, their
13 traffic modeling does not appear to account for the
14 staging of trains clear of the mainline which would
15 be necessary to clear the interlockings of opposing
16 freight train movements before the transits could be
17 made, and does not account for potential delays at
18 the passenger station." Skip the citation there.

19 "Based on my experience supervising
20 railroad operations at CSXT and T ASD, I think a more
21 likely scenario for the effects of Amtrak trains on
22 freight operations in Mobile would be as follows.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1442

1 "CSXT would need to start staging trains
2 for Amtrak each day between 0500 and 0630 southbound
3 at Mobile, while northbound trains would be staged
4 along their line halfway to New Orleans. CSXT would
5 allow trains that could make their meets, starting
6 as the first southbound trains around 0630, running
7 until around 0930. This means there would be three
8 hours in the morning for meets and passes between
9 Amtrak and freight trains. CSXT would then start
10 staging trains again between 0930 and 1100 for
11 arrival of the first northbound Amtrak train into
12 Mobile. Running time for freight traffic free of
13 opposing Amtrak trains would then run from around
14 1100 to 1500 each day, for a window of four hours.

15 "In the afternoon, the situation would
16 repeat itself, with a second set of Amtrak trains.
17 CSXT would start staging again between 1500 and 1630
18 for the second southbound Amtrak train to New
19 Orleans. CSX would allow southbound to northbounds
20 to make meets to do so beginning around 1630,
21 running until about 1930, with three hours to make
22 meets and passes between Amtrak and freight trains.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1443

1 Staging would begin in the evening around 1930 to
2 2100 for the second northbound Amtrak train. This
3 would leave a window, free of opposing Amtrak
4 trains, between 2100 and 0500 of eight hours."

5 I'm going to pull up now a selected
6 passage from Mr. Golden's rebuttal verified
7 statement.

8 Can you see a passage on the screen,
9 Ms. Sinkkanen, that begins with the phrase "Amtrak
10 further criticizes"?

11 A Yes.

12 CHAIRMAN OBERMAN: What page are you on?

13 BY MR. WIMBISH:

14 Q I'm sorry, let me repeat that again. This
15 is from the rebuttal verified statement of Robert M.
16 Golden. This was tendered on December 23, 2021.
17 This is Joint Exhibit 43, Robert M. Golden's
18 rebuttal verified statement, pages 4 and 5.

19 MS. AMUNSON: Mr. Chairman, Jessie Amunson
20 for Amtrak. I'm going to object to this line of
21 questioning. There's no foundation that the witness
22 has any familiarity with operations in Mobile. And

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1444

1 Mr. -- counsel for the Port appears to be just
2 reading his own witness's testimony into the record,
3 which he will have ample opportunity to do when his
4 witnesses appear.

5 CHAIRMAN OBERMAN: Well, there's no
6 question that's been asked yet other than that he's
7 reading.

8 Rob, where are you going with this?

9 MR. WIMBISH: Mr. Chairman, where I'm
10 going with this is I am asking Ms. Sinkkanen about
11 her experience as a dispatcher, and her general
12 experiences with dispatching, as they could, in her
13 opinion, relate to operations in Mobile. I am not
14 necessarily asking about her specific experience
15 with Mobile itself, but with respect to dispatching
16 preferences when it comes to managing freight trains
17 and passenger trains on the same lines.

18 CHAIRMAN OBERMAN: Well, is it your intent
19 to ask her to comment on whether -- what Mr. Golden
20 has said?

21 MR. WIMBISH: Yes, I am asking her on her
22 opinion about whether or not Mr. Golden's

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1445

1 assessments of the impacts on Mobile, as relate to
2 dispatching experience in the real world, are
3 carried out in her opinion or not.

4 CHAIRMAN OBERMAN: Why don't you lay a
5 foundation first as to whether she has any basis to
6 offer such an opinion, rather than just showing this
7 to her and saying yes or no. I think the objection
8 is well taken, unless you lay some kind of
9 foundation.

10 BY MR. WIMBISH:

11 Q Are you familiar with dispatching railroad
12 operations?

13 A I am.

14 Q Are you familiar with dispatching or
15 railroad operations in Mobile at all?

16 A Not in Mobile.

17 Q Are you familiar with Amtrak operations?

18 A Can you ask that --

19 Q Are you familiar with dispatching -- are
20 you familiar with dispatching trains in territories
21 that involve regularly scheduled Amtrak operations?

22 A Yes, I am.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1446

1 Q Are you familiar with how dispatchers on
2 freight railroads accommodate Amtrak passenger train
3 operations?

4 MS. AMUNSON: Mr. Chairman, Jessie Amunson
5 for Amtrak again. I am going to object.

6 This witness is offered as NS's witness
7 about the RTC modeling, not as a dispatcher.

8 CHAIRMAN OBERMAN: Well, I think this goes
9 into her qualifications. I'm going to let him ask
10 these foundational questions. I'm still not sure
11 where this is going.

12 Go ahead.

13 MR. WIMBISH: Thank you.

14 If you would like me to proceed, we can --
15 you can certainly determine whether or not this line
16 of questioning is appropriate once I get to the
17 question here. And I will try to be as brief as I
18 can be.

19 BY MR. WIMBISH:

20 Q So I was reading again, Ms. Sinkkanen,
21 from the rebuttal verified statement of Robert
22 Golden, Joint Exhibit 43, pages 4 and 5. I asked

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1447

1 you if you could see on your screen the passage
2 beginning "Amtrak further criticizes."

3 Do you see that?

4 A I do.

5 Q Okay. "Amtrak further criticizes" --

6 CHAIRMAN OBERMAN: You know, Rob, she said
7 she's not familiar with dispatching in Mobile. So
8 how are you going to get her to offer an opinion
9 about what Golden says with regard to dispatching in
10 Mobile? She's not familiar with it.

11 MR. WIMBISH: I'm sorry, can you repeat
12 the question, Mr. Chairman?

13 CHAIRMAN OBERMAN: I'm having trouble
14 understanding -- this witness just said she is not
15 familiar with dispatching in Mobile. Now you're
16 asking her to opine on somebody else's opinion about
17 dispatching in Mobile but she's just said she's not
18 familiar with it. If that's the question, then I
19 would sustain the objection.

20 MR. WIMBISH: I'm not asking her
21 specifically about dispatching in Mobile so much as
22 I am asking whether or not the assumptions about how

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1448

1 dispatchers in any situation would accommodate an
2 Amtrak train, whether or not the assumptions of my
3 witness are consistent with her experience, with her
4 dispatching of Amtrak trains, whether in Mobile or
5 in any other place.

6 In other words, my questions do not deal
7 with Mobile specifically, although they are oriented
8 in that direction.

9 What I'm asking about are questions about
10 whether or not dispatchers could accommodate Amtrak
11 trains in certain ways regardless of the location.

12 CHAIRMAN OBERMAN: Well, I think the
13 objection is well taken. This witness is not being
14 offered as an expert on dispatching. It's part of
15 her background. She offered no opinions about
16 dispatching in this case. This is well beyond the
17 scope of the direct examination, and now you're
18 asking her to validate some other witness on another
19 subject.

20 I think it's inappropriate and I'm going
21 to sustain the objection.

22 MR. WIMBISH: Mr. Chairman, you know, the

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1449

1 witness did talk about how dispatchers do handle
2 train operations in other -- on Norfolk Southern
3 lines. I do think that she has experience to
4 address how dispatching handles Amtrak trains, and
5 she has indicated in her testimony that she does
6 have experience as a dispatcher over lines over
7 which Amtrak operates.

8 The rest of my questioning --

9 BOARD MEMBER FUCHS: Marty, would it be
10 possible to hear about what contra Rob is attempting
11 to establish and then make a determination as to
12 whether or not it was appropriate?

13 CHAIRMAN OBERMAN: I think he said what he
14 did, but you can -- Rob, ask a question.

15 This witness was not offered on direct to
16 talk about dispatching on this line. She only gave
17 her dispatching testimony by way of her own
18 background. She's offered for her role in the RTC
19 modeling here.

20 So if you have questions about that, that
21 would be appropriate.

22 BOARD MEMBER FUCHS: She does have

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1450

1 extensive expertise in dispatching, and if there is
2 an inconsistency with dispatching that's documented
3 -- how she does dispatching elsewhere, I would at
4 least like to hear if that's what Rob is probing. I
5 would like to at least hear that, and then maybe
6 make a determination.

7 And, you know, if the comparison is inapt,
8 then we could make the decision at that time. I'm
9 just -- I just want to be sure where he's going.

10 CHAIRMAN OBERMAN: I think the
11 objection -- at your request, Patrick, I will allow
12 the questioning to proceed. But the objection is
13 not whether she might have some knowledge about this
14 subject, but whether it has anything to do with her
15 testimony in this case.

16 But Rob, why don't you proceed at least
17 for the moment and we'll see where this is going.

18 BY MR. WIMBISH:

19 Q Ms. Sinkkanen, in your experience as a
20 dispatcher, do you find that Amtrak operations
21 require significant track time to accommodate
22 relative to freight transportation?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1451

1 A So I think what you're asking, based on
2 what I've read here, is what we consider an Amtrak
3 window.

4 So Amtrak may take 10 minutes to run over
5 my territory, but my freight impact is not limited
6 to that 10 minutes. My freight impact is probably
7 45 minutes or more. In advance of Amtrak, we start
8 holding trains to clear a path to make sure that
9 Amtrak, due to their preference, will not meet
10 delays along the route.

11 Q Thank you.

12 So where Amtrak has posited on the record
13 here that its operations over a given line segment
14 will only occupy 45 minutes of track time, is it the
15 case that dispatchers, for example, would allow for
16 a freight train, for example, on 15-minute
17 headway -- you may have seen, for example, that
18 Amtrak is positing 15-minute headways between a
19 freight train and an Amtrak train?

20 Would dispatchers allow for those
21 15-minute headways, in your experience?

22 MS. AMUNSON: Mr. Chairman, I am going to

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1452

1 renew my objection that this witness was not offered
2 for purposes of dispatching.

3 Counsel even prefaced his questions by
4 saying beyond the scope of your direct testimony and
5 beyond the scope of the verified statements that
6 you've offered in this case, do you want to offer
7 opinions on this.

8 I think this is well beyond what this
9 witness has been offered for.

10 CHAIRMAN OBERMAN: That is my view, and I
11 think the objection is appropriate.

12 Patrick, unless you really want to hear
13 this --

14 BOARD MEMBER FUCHS: I know Rob has
15 already responded. Does Rob want to respond to
16 that?

17 MR. WIMBISH: As I said, I've already
18 started with the proposition that Ms. Sinkkanen has
19 been offered in part because of her dispatching
20 experience. That was discussed at some length in
21 her opening. That was discussed.

22 Obviously she has experience with respect

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1453

1 to handling Amtrak operations, that has been
2 factored into Norfolk Southern and CSX's assessment
3 of how and under what circumstances they would
4 handle Amtrak trains.

5 I am asking about this obviously in
6 connection with her experience with that, and
7 whether or not her experiences are consistent with
8 the experiences of our witness, who also has
9 experience with dispatching Amtrak trains over
10 freight lines.

11 CHAIRMAN OBERMAN: But your witness is not
12 being offered as an RTC modeler, it's for a
13 different subject. This is just beyond the scope of
14 her direct testimony. I just don't think it's
15 appropriate.

16 MR. WIMBISH: Do the rest of the Board
17 members concur with that?

18 BOARD MEMBER FUCHS: I would only note,
19 Marty, that I hear where you're coming from. And to
20 me there are a number of witnesses that were asked
21 questions that drew upon their broader expertise.
22 And, you know, particularly Board member questions

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1454

1 that drew upon witnesses' broader expertise that
2 could be argued beyond the scope of their direct
3 testimony. And I'm sort of grappling with that
4 difference, and whether or not it makes a difference
5 as to whether or not Board member questions are
6 allowed to do that and Mr. Wimbish's aren't. I'm
7 sorry, Marty. That would influence how I view your
8 ruling.

9 CHAIRMAN OBERMAN: The difference here is
10 that there was no objection before but here Amtrak
11 has made an objection. So people can waive the
12 scope questions any time they want, but an objection
13 has been made and the Board needs to rule on it. In
14 my view, the objection is well taken. Patrick, if
15 you really want to hear the answers, then I will
16 defer.

17 BOARD MEMBER FUCHS: Thank you, Marty. I
18 do want to hear the answer and maybe I would like
19 to -- yes, I do want to hear the answer and maybe
20 reflect on the answer and, you know, if there's a
21 way to revisit Amtrak's objection at a later time if
22 we have that opportunity, is that something that's

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1455

1 permissible after hearing the --

2 CHAIRMAN OBERMAN: We could reserve -- we
3 could let the testimony in, reserve ruling and then
4 entertain a motion to strike at a future date.

5 BOARD MEMBER FUCHS: I would appreciate
6 that.

7 CHAIRMAN OBERMAN: Robert?

8 BOARD MEMBER PRIMUS: For the record, I
9 think the objection should be upheld. I do think
10 that it was used for background previously, and I
11 agree with you in terms of how she is being
12 questioned now.

13 CHAIRMAN OBERMAN: Well, I appreciate it.
14 You know, in my attempt to honor every Board
15 member's effort to be informed, we're somewhere in a
16 dispute between what's legally required as an
17 evidentiary ruling and an interest -- a sincere
18 interest in getting some more information.

19 So on that scale, I'm going to defer to
20 Patrick's question, and then we will reserve whether
21 we want to --

22 BOARD MEMBER FUCHS: Likewise, Marty, I

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1456

1 will consider the information that you provided
2 after this, and then revisit it later if necessary.

3 CHAIRMAN OBERMAN: Go ahead.

4 MS. AMUNSON: Mr. Chairman, in the
5 interest of moving things along, let's hear what her
6 answer is. But I can't imagine that she's got an
7 answer that is relevant to dispatching in Mobile.
8 She doesn't know the facts on the ground in Mobile.

9 CHAIRMAN OBERMAN: Well, that was the
10 reason -- one of the reasons, for my suggested
11 ruling.

12 Does anybody remember the question that's
13 pending or should we ask the reporter to read it
14 back?

15 (The reporter read the record as requested
16 as follows: "So where Amtrak has posited
17 on the record here that its operations
18 over a given line segment will only
19 occupy 45 minutes of track time, is it
20 the case that dispatchers, for example,
21 would allow for a freight train, for
22 example, on 15-minute headway -- you may

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1457

1 have seen, for example, that Amtrak is
2 positing 15-minute headways between a
3 freight train and an Amtrak train?

4 Would dispatchers allow for
5 those 15-minute headways, in your
6 experience?")

7 CHAIRMAN OBERMAN: Did you hear that
8 question, Ms. Sinkkanen?

9 THE WITNESS: I heard it. So when we
10 dispatch with Amtrak, like I said, we have an Amtrak
11 window where we will typically start to clear our
12 traffic ahead of Amtrak coming out.

13 This means that, say, Amtrak is 30 minutes
14 from a crossover move of one of my trains, a freight
15 train, and it's going to take that freight train 15
16 minutes to make that move ahead of Amtrak, we would
17 not make that move because there's too much risk
18 that they will get into the way of the Amtrak train.
19 So we will hold our train until Amtrak goes by, even
20 if the move that they make would in theory be done
21 before Amtrak arrives.

22 I think that answers the question.

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1458

1 CHAIRMAN OBERMAN: Ms. Sinkkanen, let me
2 just see if I can clarify here.

3 Are you saying that you can't really
4 answer a 15-minute question in a vacuum for all
5 places in the country, it depends on the facts on
6 the ground whether that's appropriate or not?

7 THE WITNESS: I would agree with that.
8 Based on my experience, I have dispatched a terminal
9 where Amtrak ran through. I have not dispatched
10 Mobile terminal.

11 CHAIRMAN OBERMAN: Anything further, Rob?

12 MR. WIMBISH: No, sir, no further.

13 CHAIRMAN OBERMAN: Jessie, your witness.

14 MS. AMUNSON: Thank you, Mr. Chair.

15 CROSS-EXAMINATION

16 BY MS. AMUNSON:

17 Q Ms. Sinkkanen, in your verified
18 statement -- do you have a copy of your verified
19 statement there with you?

20 MS. AMUNSON: And Mr. Wimbish, could you
21 please take down the screen sharing?

22 MR. DONAHOE: I will give her a copy of

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THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1459

1 her verified statement.

2 BY MS. AMUNSON:

3 Q So for the record, the verified statement
4 is Joint Exhibit 23H. And I'm looking at page 2 of
5 your statement, where you're discussing your
6 experience and qualifications.

7 And you say that you regularly perform RTC
8 modeling to identify and recommend infrastructure
9 and process solutions for the NS network; correct?

10 I apologize, this is not the correct
11 highlight. Do you see that? We can take this down.

12 A Yes.

13 Q And do you see where you say you also use
14 RTC to evaluate the impacts of operational change?

15 A Yes.

16 Q And you were a part of the 2020 RTC study
17 between Amtrak, NS and CSX; correct?

18 A That's correct.

19 Q But that RTC study was specifically
20 designed not to evaluate the impact of NS
21 operational change; correct?

22 A I believe that was in the agreement.

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1460

1 Q In fact, that was one of NS's goals in the
2 2020 RTC study, to refuse to permit any modeling
3 that would consider modifying NS operations instead
4 of having Amtrak build infrastructure; correct?

5 A Again, I believe that was in the
6 agreement.

7 Q And that was one of NS's goals in reaching
8 that agreement?

9 A Again, it was in the agreement.

10 Q And it was one of NS's goals in reaching
11 the agreement?

12 A It was in the agreement.

13 Q And my question is whether it was one of
14 NS's goals in reaching the agreement.

15 A I'm not part of the agreement-making
16 process.

17 Q Were you able to listen to Mr. Hunt's
18 testimony on Wednesday?

19 A Yes.

20 Q And did you have an opportunity to review
21 Amtrak Exhibit 7, which I reviewed with Mr. Hunt on
22 Wednesday?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1461

1 A I was in the room while it was up.

2 Q And that is a confidential exhibit, NS has
3 marked that a confidential exhibit, and so I believe
4 we'll need to go into a confidential session to
5 discuss that.

6 CHAIRMAN OBERMAN: And is this -- will we
7 go in there and not have to go back and forth,
8 Jessie?

9 MS. AMUNSON: We will need to come back,
10 Mr. Chair, but I would like to establish a few
11 things based on confidential documents first.

12 CHAIRMAN OBERMAN: Do you want to go there
13 now then?

14 MS. AMUNSON: I would, Mr. Chair. I would
15 also note that I think -- I know that -- I know we
16 have started the cross-examination. I also know
17 that some parties have expressed an interest in
18 being out of here by 5:00. I think it's unlikely
19 that I will be finished with my cross-examination by
20 5:00, just so you're aware.

21 CHAIRMAN OBERMAN: What is your estimation
22 of what total amount of time you have?

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1462

1 MS. AMUNSON: I would say 45 minutes or
2 so.

3 CHAIRMAN OBERMAN: All right. Plus Board
4 questions and redirect. So I think -- the question
5 of whether Ms. Sinkkanen is going to have to come
6 back, it sounds like she may have to. Why don't we
7 proceed and do the best we can.

8 Matt, do you want to take us into the
9 breakout room?

10 MR. CROSS: Yes, here we go.

11 (Confidential session follows.)

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REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1488

1 OPEN SESSION CONTINUED

2 CHAIRMAN OBERMAN: All right. We are back
3 in public session. For the public's enlightenment,
4 we were again having questions about documents which
5 have been marked confidential, and will remain
6 confidential, this part of the testimony.

7 With that, it appears that there is a
8 meaningful amount of additional time for questioning
9 of Ms. Sinkkanen. We had planned a hard stop at
10 5:00. It's now 5:13.

11 So unless anyone wants to comment further
12 on the scheduling, I'm going to rule that we will
13 recess until 9:30 a.m. Eastern on Tuesday, April 12.

14 MR. DONAHOE: Mr. Chairman, one comment.
15 We will have no contact, any legal contact, with our
16 witness over the interim. Just to make it clear.

17 CHAIRMAN OBERMAN: Well, I appreciate your
18 saying that, and that avoids the necessity of my
19 making the request. So thank you, Mr. Donahoe.

20 And you understand, Ms. Sinkkanen, that
21 you should not discuss your testimony or whatever
22 else the questions may be, with anybody actually,

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1489

1 between now and Tuesday when you resume the stand?

2 THE WITNESS: I understand.

3 CHAIRMAN OBERMAN: All right. Thank you.
4 Patrick?

5 BOARD MEMBER FUCHS: There was kind of a
6 pending idea, I suppose, from the Port of convening
7 a bit earlier, starting at 9:00, and over the four
8 days that gives us an extra two hours.

9 Have we made a determination on whether or
10 not we'll do 9:00, 9:30, formally, or do we want to
11 withhold that determination and just say we will
12 start on Tuesday and then fill people in later on
13 the start time, or is that definitively ruled out?

14 CHAIRMAN OBERMAN: I don't think we've
15 made a decision, but it's late in the day and may
16 affect other people's schedule. Why don't we plan
17 on 9:30 Tuesday, and then between now and then we
18 will discuss earlier starting times.

19 BOARD MEMBER FUCHS: On the other days?

20 CHAIRMAN OBERMAN: For the remaining days.

21 BOARD MEMBER FUCHS: That's fair, thanks.

22 CHAIRMAN OBERMAN: I'm glad you raised it

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1490

1 because I had forgotten about it.

2 All right. Unless there's any other
3 comments, we will recess until 9:30 on Tuesday.

4 Thank you, all. Thanks for your patience. Have a
5 good weekend. I hope everybody makes their planes.

6 (Whereupon, at 5:15 p.m., the hearing was
7 adjourned, to be reconvened at 9:30 a.m., on
8 Tuesday, April 12, 2022.)

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REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1491

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C O N T E N T S

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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HANNAH ROSSE

by Mr. Warren 1205

1225

1245

1250

by Ms. Bracey 1324

1346

1371

1403

by Board Member Fuchs, 1220, 1247, 1289, 1301,

1321, 1352, 1368

by Chairman Oberman, 1243, 1261, 1292, 1319,

1362, 1397

by Board Member Primus, 1305, 1336, 1351

by Board Member Schultz, 1309

by Board Member Hedlund, 1322

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REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1493

1 CERTIFICATE OF NOTARY PUBLIC & REPORTER

2

3 I, CARMEN SMITH, the officer before whom the
4 foregoing deposition was taken, do hereby certify
5 that the witness whose testimony appears in the
6 foregoing deposition was duly sworn; that the
7 testimony of said witness was taken in shorthand and
8 thereafter reduced to typewriting by me or under my
9 direction; that said deposition is a true record of
10 the testimony given by said witness; that I am
11 neither counsel for, related to, nor employed by any
12 of the parties to the action in which this
13 deposition was taken; and, further, that I am not a
14 relative or employee of any attorney or counsel
15 employed by the parties hereto, nor financially or
16 otherwise interested in the outcome of this action.

17

18 CARMEN SMITH

19 Notary Public in and for the

20 District of Columbia

21

22 My Commission Expires: MARCH 31, 2023

<p style="text-align: center;">A</p> <p>a.m 1179:14,18 1187:5 1187:16 1223:13,17,17 1317:22 1354:15 1356:12 1488:13 1490:7</p> <p>ability 1215:7 1250:18 1257:1 1260:3,20 1277:5 1278:15 1279:6 1300:3 1406:8 1407:4,9</p> <p>able 1180:20 1187:14 1191:2 1197:3,4 1198:7 1200:14,17,20 1201:5 1220:18 1254:18 1263:16 1271:20 1273:19 1274:13 1275:1 1286:7 1289:12 1290:3,13 1291:17 1293:19 1296:12 1316:19 1317:12 1341:8 1342:20 1358:15,22 1398:11,20 1402:2 1404:12 1460:17 1464:9</p> <p>above-entitled 1179:17</p> <p>abrupt 1197:11</p> <p>absent 1299:15</p> <p>absolutely 1197:8,19 1205:14 1209:13 1277:21 1330:6 1342:9 1343:3 1359:3 1420:2</p> <p>absorb 1365:10</p> <p>accept 1463:16</p> <p>access 1433:18,21 1468:10</p> <p>accommodate 1192:1 1198:15 1200:4 1249:2 1249:8 1285:15 1372:1 1395:1 1446:2 1448:1 1448:10 1450:21</p> <p>accommodating 1248:12</p> <p>account 1243:18 1244:10 1385:10 1441:13,17</p> <p>accounts 1233:18</p> <p>accuracy 1263:1 1278:16 1279:6</p> <p>accurate 1236:20,21 1262:16 1267:14 1278:7,13</p> <p>accurately 1399:9 1436:15,20</p> <p>achieve 1465:19 1482:6</p> <p>acknowledged 1396:19</p> <p>acronyms 1304:13</p> <p>action 1463:18 1493:12</p>	<p>1493:16</p> <p>activities 1208:19 1209:7 1209:10 1211:8 1213:20 1215:18 1222:15 1235:8 1237:14 1240:10</p> <p>activity 1213:16 1258:6</p> <p>actual 1232:10 1320:13 1343:19 1355:10,10 1367:13 1375:7 1397:11 1418:3 1424:17 1425:13 1427:14 1436:16,20</p> <p>actuals 1221:9</p> <p>add 1302:5 1311:13 1321:8 1359:18 1382:18 1439:13</p> <p>added 1180:18 1247:19 1248:1,22 1249:7 1319:10 1320:7 1321:22 1380:22 1389:16 1392:22 1399:20,22 1465:4 1476:8,16 1478:21 1479:2,17,19,20 1482:15,18 1483:1</p> <p>adding 1320:3 1321:14 1321:17,20 1420:19 1437:20 1475:11 1478:14</p> <p>addition 1188:5 1218:12 1290:18 1322:17 1324:22 1387:12,16 1412:17</p> <p>additional 1234:1 1248:9 1249:2,6 1272:13 1285:11 1288:19 1317:9 1320:11 1322:20 1323:9 1417:5 1424:21 1488:8</p> <p>additions 1248:18</p> <p>address 1312:3 1359:7 1428:16 1449:4</p> <p>addressed 1346:15</p> <p>addressing 1408:22</p> <p>adjourned 1490:7</p> <p>adjournment 1487:14</p> <p>adjust 1192:20 1384:13 1384:14</p> <p>adjustable 1384:9</p> <p>adjusted 1249:14 1381:17,22 1382:15 1383:4,8</p> <p>adjusting 1385:22</p> <p>adjustment 1186:6</p>	<p>1303:16</p> <p>adjustments 1264:8 1387:14</p> <p>Administration 1393:18 1394:13</p> <p>admit 1365:5</p> <p>admitted 1226:17 1227:5 1352:17 1428:5 1429:13 1483:18</p> <p>adopted 1437:11</p> <p>Adriene 1393:11</p> <p>advance 1451:7</p> <p>advantage 1326:15</p> <p>adversarial 1400:22</p> <p>adverse 1395:4</p> <p>advised 1285:13 1289:14</p> <p>advisement 1345:11,15</p> <p>advocate 1325:6</p> <p>affairs 1347:2,4 1351:7 1351:13 1352:2</p> <p>affect 1489:16</p> <p>afternoon 1195:21 1197:5 1198:18 1315:1 1442:15</p> <p>ago 1183:13 1208:4 1254:12 1280:22 1293:20 1375:6 1470:13</p> <p>agree 1192:13 1337:19 1344:12 1347:14 1350:11 1455:11 1458:7 1464:5</p> <p>agreed 1334:13,17 1335:15 1337:22</p> <p>agreement 1335:12,20 1337:10 1347:12 1349:22 1350:8 1459:22 1460:6,8,9,11 1460:12,14 1463:16 1465:17 1466:2,11 1467:21 1468:19 1469:1,2,13 1472:4,5 1486:6</p> <p>agreement-making 1460:15</p> <p>agreements 1334:13 1347:8 1348:22 1422:13</p> <p>ahead 1193:20 1199:10 1243:3 1245:8,10 1276:10 1279:21 1284:2 1286:19 1298:1 1298:17 1301:17 1305:19 1322:11 1336:7,21 1350:22</p>	<p>1352:19 1359:4 1428:10 1446:12 1456:3 1457:12,16 1481:20 1485:12,12</p> <p>aim 1405:9</p> <p>albeit 1180:19</p> <p>align 1223:19 1376:9</p> <p>aligning 1386:1</p> <p>alignment 1221:9</p> <p>allocate 1292:9</p> <p>allocated 1291:19</p> <p>allocates 1291:19</p> <p>allocating 1291:12,13</p> <p>allocation 1292:8</p> <p>allow 1183:11 1189:5 1202:4 1223:20 1224:3 1270:4 1394:19 1395:19 1442:5,19 1450:11 1451:15,20 1456:21 1457:4</p> <p>allowed 1189:4 1391:8 1454:6 1468:19 1469:12</p> <p>allows 1271:3</p> <p>alluded 1269:10</p> <p>alternate 1208:12</p> <p>ambitions 1316:8</p> <p>amount 1210:14 1246:12 1405:4 1461:22 1488:8</p> <p>ample 1444:3</p> <p>Amtrak 1181:20,21 1182:4 1183:20 1216:9 1263:6 1264:1,11,17 1266:7,10 1275:14 1276:13 1280:8,11 1283:1 1287:6 1290:9 1297:19 1299:15,22 1313:15 1322:15 1323:11 1324:18 1332:16 1334:12,18,18 1335:2,6,12,17,20 1337:5,6,12,15,22 1338:6,20,20 1339:2 1344:19 1345:2 1346:7 1347:10 1348:13 1352:13,18 1381:2,21 1382:14,21 1383:4,8 1406:5,11,12,14,16 1407:3,4,9,10 1408:18 1412:5,7,13,17 1414:12 1420:20 1421:1,6 1422:21 1427:11 1433:10,14,17 1437:20 1438:2,10 1439:4,12,16 1441:10,21 1442:2,9,11</p>
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<p>1442:13,16,18,22 1443:2,3,9,20 1445:17 1445:21 1446:2,5 1447:2,5 1448:2,4,10 1449:4,7 1450:20 1451:2,4,7,9,12,18,19 1453:1,4,9 1454:10 1456:16 1457:1,3,10,10 1457:12,13,16,18,19,21 1458:9 1459:17 1460:4 1460:21 1463:3 1466:3 1466:12 1467:10,18 1468:1,5,7,9,15,18 1469:1,7,11,12,15,16 1469:18,22 1470:3,6 1473:19 1474:7,12 1475:11,16 1476:5,21 1477:3,6 1478:14 1479:4,16,20,20 1480:5 1480:20 1481:7,18 1482:1 1483:4,5,13,14 1483:19 1486:2,3,12,17 1486:19,21,22 1487:3 1492:19,20,21 Amtrak's 1180:3 1183:19 1199:22 1225:20 1229:9 1232:15 1233:10,13,20 1236:21 1267:11 1268:15 1270:6 1272:15 1273:2 1273:4,13,20 1274:1,19 1275:9,18,19 1281:15 1282:11 1324:22 1380:16 1381:2 1391:3 1400:4 1406:19 1407:19 1428:18 1437:11 1454:21 1468:21 1475:20 Amunson 1199:21,21 1200:9 1406:4,4 1443:19,19 1446:4,4 1451:22 1456:4 1458:14,16,20 1459:2 1461:9,14 1462:1 1463:2 1464:7,15,20 1465:1,3,9 1467:9,22 1470:2,8,18 1471:2,7 1471:11 1473:2,3 1476:20 1477:5 1480:13,14 1481:21 1483:10 1484:13 1485:4 1492:7 analogous 1419:22 analysis 1206:12,21 1229:4,6 1232:17</p>	<p>1233:14 1272:20 1273:21 1278:9 1310:7 1372:19 1410:14 analyst 1206:12 analytical 1232:15 1282:11 1372:19 analyze 1209:22 1283:8 1389:7 1415:17 1420:22 1421:5 analyzed 1319:16 1387:14 1416:7 analyzing 1417:19 Andy 1332:5 1346:15 1347:3 animation 1418:20 1479:1 annual 1304:10 answer 1222:6,19 1226:11 1240:2 1247:1 1262:10 1265:16 1266:12 1279:10 1280:13,13 1282:7 1283:13 1285:21 1286:9,13 1290:13 1296:10,11 1308:5 1316:18 1334:2 1390:19 1402:2 1454:18,19,20 1456:6,7 1458:4 1474:10 1475:3 1481:10 answered 1237:6 answering 1273:13 answers 1454:15 1457:22 anticipate 1183:19 1280:1 1326:4 1345:21 anticipated 1407:17 anybody 1181:5 1203:19 1280:14 1292:1 1302:17 1408:22 1456:12 1488:22 anyway 1199:10 apologize 1200:14 1272:11 1274:4 1278:10 1281:7 1282:19 1304:5,19 1307:21 1323:21,22 1328:18 1341:13 1347:1 1459:10 apparently 1197:13 1334:13 1337:16 appeal 1199:7 appear 1236:2 1373:11 1441:9,13 1444:4 appears 1359:19 1444:1 1488:7 1493:5</p>	<p>application 1179:4 1180:4 1406:11 applied 1305:3 appreciate 1183:6 1185:1 1189:10 1190:21 1197:16 1224:21 1303:21 1343:8 1345:11,19 1429:11 1455:5,13 1488:17 approach 1194:22 1319:12 1358:21 1363:13,18 approached 1187:22 appropriate 1190:9 1224:19 1273:6 1358:11 1375:16 1394:1 1407:18 1408:14 1416:22 1446:16 1449:12,21 1452:11 1453:15 1458:6 1474:15 1476:4 approximately 1205:21 1318:1 1416:13 April 1179:13 1182:6,9 1188:5,8 1190:5,7,12 1190:14,15 1191:15,17 1192:19 1198:2,3 1203:5,10 1318:7 1465:5,8,10 1473:6 1488:13 1490:8 area 1250:13 1282:14 1283:5 1331:3,5 1365:11 1368:21 1391:13 1392:1 1402:2 1417:10 1437:18 1476:15 1478:7 1482:10 areas 1214:19 1476:11 argue 1245:5 argued 1454:2 argument 1407:21 arrangements 1198:20 1316:20 arrival 1354:11 1355:5 1412:8 1442:11 arrive 1430:11 arrives 1457:21 artificially 1405:11 Ashford 1410:8 aside 1349:16 1437:4 asked 1185:10 1186:13 1186:18 1236:15 1254:12 1265:10 1266:9 1280:22 1285:9 1286:11 1291:5,8</p>	<p>1353:1 1360:15 1371:9 1374:17,17 1380:16 1382:19 1391:4 1393:4 1400:4 1402:6 1420:22 1421:5 1424:20 1434:19 1444:6 1446:22 1453:20 1467:9 1484:6 asking 1192:5,5 1220:14 1239:8 1246:1 1248:7 1258:19 1286:4 1308:2 1309:11 1326:15 1344:11 1345:8 1354:16 1388:3 1398:2 1400:21 1401:18 1444:10,14,21 1447:16 1447:20,22 1448:9,18 1451:1 1453:5 1482:21 1483:11 aspect 1263:6 1409:1 1428:7,8 1429:20 aspects 1408:7 1428:13 assertions 1263:22 1264:3 assessing 1365:3 assessment 1301:3 1453:2 assessments 1445:1 assigned 1239:22 1332:21 assist 1273:20 assistant 1383:20 1391:16 1413:10 assisted 1229:4 associated 1258:18 1322:1 1353:10 1354:1 assume 1293:9 1331:12 1427:10 1441:10 1470:17 1476:2 assumed 1268:22 assuming 1193:18 1194:12 1203:2 1245:16 1267:12 1323:14 assumptions 1218:12 1325:8 1348:6 1376:15 1420:3 1436:9 1447:22 1448:2 ATKINS 1181:6,13 attachments 1336:12 attempt 1192:20 1455:14 attempting 1449:10 attend 1184:20 1416:10 attending 1184:19,21 attention 1230:2 1300:10</p>
---	---	---	---

<p>1347:11 1421:21 1428:7 1473:21 attorney 1493:14 audio 1231:16 August 1416:17 authority 1245:3 automatically 1254:3 availabilities 1187:12 availability 1187:2 1188:10 available 1182:1,9,13,13 1182:18,21 1183:10 1184:13,14 1190:14 1191:16,18 1192:2,4,7 1192:10,18,21,22 1193:4 1196:14 1198:7 1198:17 1200:1,2 1201:7,8 1204:4 1209:8 1212:16 1310:4,14 1319:15 1320:19 1371:8 average 1354:7 1384:5 1385:9 avoid 1203:18 1414:13 1423:9 1429:10 avoided 1466:4 avoids 1488:18 awaiting 1382:4 aware 1182:10 1244:5,8 1249:19 1263:11 1266:11,14 1292:1 1393:11 1422:12,14 1427:10 1461:20 1466:8,10,12 1467:10 1468:1 1469:2</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>B 1227:6,7 1412:2 1492:17 bachelor's 1205:14,19 1410:6 back 1183:12 1185:11 1200:11 1213:10,11 1215:10 1224:11 1230:1 1239:20 1240:20 1248:15 1250:2,6 1256:17 1266:19 1267:19,21,21 1268:3,3 1269:8,8,8,20 1270:22,22 1271:16 1272:3 1277:11 1290:21 1297:19 1315:8 1338:13,13 1339:19 1341:15 1345:12,14,15 1347:9</p>	<p>1349:4,9,18 1350:2 1353:1 1356:22 1358:11 1360:2,10 1363:7 1368:19 1369:16 1370:5 1371:3 1384:18 1385:19 1386:5 1392:14 1394:5 1394:9 1401:2,13,19 1405:16 1410:9 1418:2 1426:13 1429:9 1433:7 1437:17 1438:4 1456:14 1461:7,9 1462:6 1478:7 1481:10 1485:14 1487:13,15 1488:2 background 1205:13 1334:10 1410:5 1448:15 1449:18 1455:10 backs 1217:6 Bailey 1393:11 baked 1378:14 1379:1 ballast 1385:5,10 1386:9 Baltimore 1412:14 band 1342:4 Banks 1218:6,20 1219:5 1225:12,15,16,18 1228:22 1287:22 1306:4,14,15,16,17 1307:4,7 1308:16,20 1372:21 1435:4 base 1299:11,13,17 1300:19 1301:6 1419:4 1419:15 baseball 1376:2 based 1199:3,7 1247:13 1254:19 1262:17 1277:20 1300:18 1342:7 1354:12,21 1356:14 1361:15 1373:6,13,17 1384:4 1385:9 1390:7,15 1407:7 1424:12 1428:22 1433:9 1434:10 1437:9 1441:19 1451:1 1458:8 1461:11 1467:20 1469:1 1479:12 baseline 1321:15 1359:15 basically 1246:7 1311:7 1347:13 1411:9 1417:22 1423:19 1432:11 1436:10 basis 1244:10 1264:14 1301:2 1344:21 1445:5</p>	<p>Bates 1470:3 1477:7 1478:17 1483:13,14 bear 1231:16 began 1263:4 beginning 1182:21 1217:21 1256:13 1285:20 1286:9 1442:20 1447:2 begins 1198:17 1441:5 1443:9 behalf 1196:8 1325:6 behind-the-scenes 1413:11 believe 1181:21,22 1226:16 1227:5 1228:10 1230:20 1233:9 1234:5 1235:16 1237:5 1242:12 1265:22 1268:20 1278:4 1287:12,21 1288:6 1289:19 1304:5 1308:20,22 1309:13 1313:21 1351:8 1357:5 1371:15 1391:17 1392:12 1394:4,8 1395:8 1414:14 1416:15 1418:11 1420:7 1422:22 1430:5 1435:5,11 1459:22 1460:5 1461:3 1465:13 1467:18 1470:4 belt 1253:15 1437:17 1478:7 beneficial 1482:11 benefit 1480:22 best 1197:15 1222:11 1231:20 1240:2 1278:15 1279:5 1333:18 1334:7 1404:14 1462:7 better 1190:1 1340:1 1360:3 1395:7,12,15 1414:15 1416:11 1430:1 1433:10 1472:12 1482:5 beyond 1185:3 1195:15 1269:22 1283:5 1289:16 1294:18 1303:15 1314:3 1317:9 1439:7,8 1448:16 1452:4,5,8 1453:13 1454:2 1479:1 Bill 1181:14 1189:10 1194:11 1197:6,15 binary 1368:12</p>	<p>binder 1226:20 birth 1206:6 birthday 1184:20,22 1185:4 1186:8 birthdays 1185:3 bit 1194:16 1200:15 1208:6 1217:22 1220:9 1220:17 1223:9,18 1230:5 1236:12 1267:16 1275:2 1308:2 1316:4 1334:10 1336:7 1358:6 1366:11 1405:7 1410:5,9 1411:12 1464:16 1489:7 blips 1271:14 blobs 1330:17 block 1183:3 1215:6,15 1250:18 1256:14,18 1260:3,20 1431:6 blocking 1277:5 blocks 1214:3,13 1235:11 1255:8 1256:9,20 1257:2 1278:17 1373:4 1431:11 blue 1259:18 1331:4 board 1179:1 1180:10,12 1182:17 1185:2,13,21 1186:16 1187:11 1190:13 1193:2 1194:7 1194:12 1195:10 1196:5 1197:19 1199:4 1200:4 1202:12,21 1205:5 1216:14,16 1217:4,19 1219:19 1220:7 1221:14 1225:4 1237:2,18,22 1239:18 1239:21 1240:4 1245:8 1246:3,6 1247:2,7,9 1248:9,9 1250:1 1251:20 1253:4,5,9,18 1255:12 1266:17 1276:8,12,21 1277:9 1279:19,22 1280:8,8,11 1280:12,18 1288:15 1289:1,5,7 1290:17 1291:2,18 1292:11 1297:11,18 1298:4,11 1298:15 1301:14,15,19 1303:21 1304:14,17 1305:17,22 1307:17 1309:3,5,11,16 1310:9 1310:16,17 1311:12 1312:6,15 1314:6 1321:13 1322:6,8,13 1323:16,22 1324:3,6</p>
---	--	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1497

<p>1328:6,7,22 1332:18 1333:2,5 1335:6 1336:15 1337:1 1338:10,12,15 1343:6 1346:20 1347:5 1350:18 1351:2 1352:5 1352:8,21 1353:9,13,19 1353:22 1354:2 1359:9 1360:6,10 1367:22 1368:4 1369:18 1370:7 1393:20 1394:6,10 1403:6 1405:16,18 1406:10 1408:2 1410:19 1411:12 1413:3 1417:6 1420:10 1420:15 1422:15 1428:12 1429:5,18,22 1430:7 1432:16,21 1449:9,22 1452:14 1453:16,18,22 1454:5 1454:13,17 1455:5,8,14 1455:22 1462:3 1463:4 1463:15,17 1470:5 1471:9,12,18 1472:3,10 1472:19,21 1476:21 1483:12 1484:7 1485:11,16,18 1487:6,9 1487:11 1489:5,19,21 1491:13,17,18,19 1492:8 Board's 1190:21 1197:22 1409:9 1434:22 boots 1385:5,10 1386:9 boss 1473:11 bottom 1197:18 1198:13 bounce 1429:9 bounced 1299:19 bounds 1269:22 boy 1227:6,7 Bracey 1181:20 1278:20 1279:9 1280:17 1318:19,20 1322:7 1324:8,10 1325:21 1326:4,10,19 1328:5,12 1328:16 1329:2,11,14 1329:19,21 1330:2,3 1331:8,9,10,20 1333:6 1334:5 1335:5,10 1336:9,13,18,20 1337:11 1345:20 1346:1,5,13 1347:6 1350:2,4,6,14 1352:10 1352:11 1370:1,2 1371:15,18,20 1382:4 1382:10,11 1391:5</p>	<p>1392:3 1393:20 1394:4 1394:8,11,12 1396:15 1396:18 1397:4 1403:8 1403:12,19,21 1404:1,3 1404:4 1491:9 break 1199:17,22 1200:20 1204:5 1235:17 1270:3 1286:20 1295:19 1297:18 1313:19 1318:1 1403:20 1404:9 1405:13 1430:12 1485:7,14 breaking 1194:15 1232:14 1236:1 1238:13 breakout 1297:8 1305:14 1369:20 1462:9 breaks 1236:10 bridge 1240:17,18 1241:2 1241:11,22 1242:6,9,13 1243:2 1245:12 1254:12 1430:14,18 1474:1 bridges 1241:1,2,3 1243:18,22 1244:18 1245:17 brief 1446:17 briefing 1406:21 briefly 1206:16 1216:18 1299:5 1367:22 1411:2 1420:21 1428:4 1431:7 bring 1360:2 1404:9 1439:21 1440:3,6 1441:1 broad 1246:9 1296:3 1436:22 broader 1453:21 1454:1 broke 1308:1 broken 1268:12 brought 1300:9 1363:8 1463:12 buffer 1339:13,16,19 1340:5,8,8,9,22 1341:1 1341:9 1342:18,22,22 bug 1300:2,5,12,20 Buice 1391:16 build 1210:14 1299:14,14 1299:18 1300:19,22 1301:7 1415:20 1416:2 1417:11 1418:8 1460:4 1482:2 building 1476:6 built 1323:8 1357:13 1395:19 1417:17</p>	<p>1427:7 1431:19 1483:2 bulk 1259:1 bullet 1473:22 bunch 1316:14 busier 1333:13 1334:22 business 1209:14 1210:5 1210:7 1304:13 1316:20 1319:9 busy 1180:13</p> <hr style="width: 50%; margin: 10px auto;"/> <p style="text-align: center;">C</p> <hr style="width: 50%; margin: 10px auto;"/> <p>C 1180:1 1491:1 1492:1 C-A-G-R 1304:8 CAGR 1302:4,6 1304:6 1361:3 calculate 1296:19 calculated 1252:15 1288:7 1396:7 calculating 1281:15 1300:7 1341:9 calculation 1279:17 1282:12 1300:8 1305:4 1340:11,20 calculations 1217:11 California 1184:18 1197:1 1198:16 call 1180:7 1193:5,5,9 1195:18 1204:15 1220:19 1354:9 1355:9 1356:11 1363:9 1365:16 1399:7,14 1409:10 1427:19 1470:10 called 1192:12 1204:20 1211:2 1212:2 1250:7 1275:12 1283:7 1289:22 1356:1 1357:5 1380:3 1384:13 1406:6 1409:15 calling 1207:21 1406:2 1430:21 calls 1435:9,9,14 CAMPBELL 1370:11,15 cancel 1180:14 cap 1289:14 capabilities 1416:11 capable 1264:2 1420:8 capacity 1242:10,14 1261:2 1285:14 1288:22 1291:6,9 1325:18,20 1333:12 1396:20,22 1410:12,16 1437:8,16 1441:11 capacity-consuming 1240:10</p>	<p>capacity-occupying 1215:18 capital 1278:9 1465:19 1466:4 capped 1298:6,12 1372:7 capture 1214:22 captured 1235:9 1238:14 1251:14 1257:20 car 1268:8 1284:20 1285:7 1288:18 1290:18 1365:18 care 1198:3 1205:20 1333:17 1334:7 1347:11 career 1278:1 1412:3 carefully 1219:20 CARMEN 1493:3,18 carried 1445:3 carrier 1367:1 carriers 1365:21 1366:15 carries 1217:18 cars 1213:11 1214:3,13 1215:15 1217:8,14 1235:11 1237:8 1255:8 1256:9,14,18,20 1257:2 1278:17 1284:21,22 1285:10 1373:4 1428:17 1431:6,11 Carter 1400:11 1402:5 Carter's 1400:12 1401:17 cascade 1438:4 case 1180:3,6,20 1186:22 1191:7,9 1202:14 1216:10 1218:2 1228:4 1243:21 1252:11,12 1257:3 1259:2 1260:13 1261:10 1263:4 1264:12 1267:17 1268:8 1278:14 1279:5 1287:11 1299:11,13,17 1299:18 1300:19,19 1301:6,7 1308:18 1317:15 1323:4 1330:14 1337:14 1360:1,6 1366:20 1369:4 1375:5,7 1376:3 1398:4 1400:2 1405:12 1406:11 1407:17,19 1408:3 1409:1 1419:4,6 1419:7,16 1424:9 1439:15 1440:11 1448:16 1450:15 1451:15 1452:6 1456:20</p>
--	---	---	---

<p>case-in-chief 1408:12 cases 1210:5 1213:3 1249:10 1269:14 1271:18 1285:4 1309:22 1310:12 1320:1,3 1321:7,19 1361:21 1375:9,11,14 1375:22 cast 1199:11 catch 1256:6 1259:12 1304:3 catching 1304:12 categories 1233:1,3,5 1235:15 1238:13 1239:12 1240:8,12 1246:8 1257:9 1430:2 categorization 1232:20 categorized 1233:7 1235:4 categorizing 1232:14 category 1235:4 1240:15 1251:6 1255:3,5,8 1258:20 1259:18 1261:4 1267:4,8 1271:6 caused 1367:11 causes 1222:4 causing 1369:9 1438:3 certain 1198:20 1221:22 1291:10 1306:11 1384:1 1428:13 1448:11 certainly 1183:21 1189:8 1189:11 1201:22 1207:9 1246:5 1284:16 1346:22 1386:6 1404:15 1446:15 1480:13 CERTIFICATE 1493:1 certify 1493:4 cetera 1211:9 1394:3 chain 1465:5,11 Chair 1189:18 1458:14 1461:10,14 1472:18 1473:2 1484:14 Chairman 1179:18 1180:2 1181:6,10,14,19 1181:20 1182:5,11 1183:9,17 1184:9,10,18 1186:1,7 1187:9,19,20 1188:11,15,18,22 1189:10,19,20 1190:1,6 1190:7,13,17,19 1191:6 1191:13,14,22 1192:13 1193:8,13,16 1194:2,16 1194:17 1195:17</p>	<p>1196:12,19,22 1198:6 1199:15 1200:6,10,13 1201:14,15 1202:9,10 1203:8,9 1204:2,11,14 1204:16,22 1217:20 1218:17 1219:3,11,17 1225:3 1226:8,12,15 1227:1,6,8,12,22 1228:4,8,14 1229:20 1230:8,10,13 1231:2,8 1231:10,14,19 1232:2,5 1234:6,17,20 1235:19 1236:4,7 1238:1,4,7 1239:13,15 1241:21 1242:2,3 1243:5 1245:2 1255:15,20 1256:1,5 1261:19 1262:1 1263:16,21 1266:15 1273:12,22 1274:8,15 1275:16,21 1276:7,10 1278:21,22 1279:10,21 1280:6,16,21 1281:9,19 1282:1,6,21 1283:12,16 1283:21 1285:19 1286:4,8,17 1288:14 1292:13 1293:2,8,15 1295:13,17,22 1296:21 1297:13,17,22 1298:16 1301:13,17 1304:1,7,9 1304:12,20 1305:6,12 1305:19 1307:19 1308:1,4,10 1309:8 1311:19 1312:21 1313:7,11,14 1314:9,17 1315:7,15,18,20,22 1316:11,22 1317:6,11 1317:19 1318:16,17,21 1319:6 1321:10 1322:7 1322:8,10 1323:20 1324:5,7 1326:3,13,20 1327:1 1328:2,13,21 1329:21 1330:5,9,18 1331:6,9 1333:20 1334:1 1335:9 1336:18 1336:21 1343:10,15,18 1344:1,3,17 1345:3,10 1345:18 1346:2 1348:15 1350:1,14,16 1350:20 1352:6,12,15 1352:17,19 1353:7,11 1353:17,21 1359:4,18 1360:13 1362:5,8 1367:20 1369:19 1370:2,4,9,13 1371:2 1371:18 1374:16</p>	<p>1380:15 1382:5,6 1390:19 1396:13,16 1397:7 1403:2,10,20 1404:2,5,7,8,17,22 1405:2,8,15,18,20 1406:4,5 1407:13 1408:17,21 1409:7,8,11 1409:17,21 1428:3,10 1429:7,11,15 1432:20 1438:13,17 1439:14 1440:10 1443:12,19 1444:5,9,18 1445:4 1446:4,8 1447:6,12,13 1448:12,22 1449:13 1450:10 1451:22 1452:10 1453:11 1454:9 1455:2,7,13 1456:3,4,9 1457:7 1458:1,11,13 1461:6,12 1461:21 1462:3 1463:8 1463:9,11,19,21 1464:6 1466:21 1467:5,15 1470:2,7,9,12,15,21 1471:6,9,15,22 1472:6 1472:11,19,22 1476:20 1480:11 1481:9,19 1483:11,16,18,20 1484:2,6,21 1485:6,12 1487:8,12 1488:2,14,17 1489:3,14,20,22 1491:15 challenge 1265:9 1401:1 challenging 1344:4 chance 1328:8 1346:8 1471:19 change 1189:9 1197:11 1208:13 1210:2 1211:7 1211:11,12 1222:22,22 1243:8 1246:7 1247:6 1283:5 1321:7 1340:22 1341:2,3 1395:20 1459:14,21 1484:20 changed 1247:11,12,16 1317:14 1359:12 changes 1206:22 1208:12 1246:10,14,19 1247:3,4 1247:19 1248:1 1321:5 1417:2 changing 1341:1,5 1417:2 characterize 1320:9 1322:4 1348:4 1394:21 charge 1487:15 chart 1232:9 1250:8 1255:13 1275:3 1430:3</p>	<p>charts 1255:16 1423:14 check 1185:11 1356:22 1358:11 1370:11 1401:20 Chicago 1416:2 chief 1185:17 1193:2 1413:10 1414:22 child 1206:6 choice 1198:14 choose 1183:4 Chris 1332:13 Christopher 1332:5 chronology 1407:15 1411:3 circle 1369:16 circuit 1212:6 1220:22 1221:5,22 1222:1 1223:1 circuits 1251:3 1259:11 circumstances 1453:3 citation 1441:18 cited 1311:2 civil 1188:7 claim 1219:9 1306:10 1351:15,17 claimed 1236:22 clarification 1236:15 1239:19 1251:21 1288:16 1306:2 1312:20 1332:19 1339:4 1351:18 1354:4 1466:22 clarify 1219:8 1228:7 1237:16 1253:20 1263:16 1275:2 1287:2 1287:9,13 1310:18 1311:14 1312:7 1321:11 1338:17 1342:9 1392:17 1406:7 1458:2 clarifying 1225:7,7 1237:4 1276:9 1279:15 1288:2,15 1307:1 1336:16 1355:15 1426:13 1434:9 1471:13 1472:4 1485:8 clarity 1311:18 1312:16 1316:16 1318:16 1343:7 1484:17 clean 1419:17,22 1420:1 1434:18,20 1435:2,7,8 1435:12 1436:8 clear 1183:3 1194:8 1197:7,21 1200:7 1211:21 1212:18</p>
--	---	---	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1499

<p>1218:2 1225:17 1226:13 1228:15 1241:17 1245:6 1313:9 1343:3 1369:5 1403:21 1441:14,15 1451:8 1457:11 1488:16 clearing 1289:22 1290:19 clearly 1182:12 1209:8 1220:9 1484:3 click 1245:20 1277:18 1300:15 client 1183:12 clients 1184:10 1314:14 close 1214:21 1295:18 1316:20 1354:8 1369:14 1433:8 1434:13 1435:19 closed 1407:8,12 closer 1204:5 1307:13 1331:1 CN 1250:9,11,14,16,17 1250:21 1251:21 1252:11 1254:14 1366:19 co-counsel 1186:11,12 1188:6 1189:1 co-counsel's 1189:17 coal 1367:9 Coast 1180:5 1207:12,12 1207:21 1325:1,4 1337:17 1343:16 1363:8 1372:11 1378:9 1396:20 1398:19 1414:16 1421:18 1422:3 1473:7 1477:14 coincidentally 1361:20 collaborate 1337:21 1339:1 collaboration 1338:19 collect 1224:13 1415:18 collected 1209:1,9 1211:1 1212:10 1236:2 1258:1 1269:6 1374:10 1387:16 1400:18 1427:5 collecting 1209:1 1222:14 1341:22 collective 1366:3,5 collects 1253:22 colloquy 1190:20 color 1261:5 colored 1330:22 colorful 1357:2 colors 1250:8 1255:9 1258:18</p>	<p>Columbia 1493:20 column 1233:6 come 1200:11 1215:8 1252:21 1294:11,12,13 1297:19 1328:10 1347:9 1349:4,9,18 1430:15 1432:2 1461:9 1462:5 comes 1256:17 1295:1,6 1359:8 1430:10 1432:11 1440:14 1444:16 comfortable 1415:21 coming 1241:15 1250:6 1260:19 1296:14 1358:9 1453:19 1457:12 1472:9 commencement 1198:22 comment 1444:19 1488:11,14 comments 1490:3 commercial 1285:3,4 1302:16,22 1303:3 1311:1 1361:16 1366:9 1367:18 Commission 1493:22 commit 1359:6 commitment 1184:22 1185:9 1188:6,7 commitments 1196:16 committed 1188:7 1359:21 commodities 1259:1 commodity 1367:7 common 1300:13 communication 1367:15 1402:17 communications 1397:18 communities 1397:3 Company 1179:7 compare 1358:14 1369:14 compared 1400:18 comparing 1221:12 comparison 1450:7 competitor 1468:15 compiled 1423:12 1424:20 1426:7 compiling 1426:10 complete 1180:11,20 1226:5 1268:21 1270:11 1300:3,21 1376:8 1379:9 completed 1426:19 1433:10</p>	<p>completely 1350:16 1352:9 1427:14 complex 1187:1 1203:11 1208:22 complexity 1420:12 complicated 1246:12 1274:17 component 1248:22 1295:5 compounded 1304:10,21 compromise 1188:4 1192:21 1195:8 1197:9 1463:10 computer 1203:6,9 1218:18 1293:18 1315:9 1398:8 1399:16 1399:19 computers 1399:16 concentrated 1331:3 1369:3 concentration 1410:7 concepts 1224:18 concern 1283:6 1417:10 concerned 1191:16 1193:1 1349:10 concerns 1198:4 1303:7,9 1407:15 concluded 1276:2 conclusions 1276:2 concur 1453:17 conditions 1203:17 conduct 1252:9 1397:13 1397:15 1410:14 conducted 1262:8 1377:20 1378:2,7 conducting 1287:7 confer 1404:20 conference 1355:17 1358:4,22 1393:13 1416:10 conferences 1416:9 confidence 1192:11 1293:12 confidential 1179:10 1220:1,3 1221:18 1228:9,10 1263:5,9,9 1263:11,11 1280:2,14 1287:14 1293:5 1295:10,12,15 1296:2 1313:4,8 1325:21 1326:2,5,11,18,18,19 1327:2 1328:1 1334:14 1337:13,16,20 1339:3 1343:14,17 1344:1 1345:5 1347:14</p>	<p>1348:11 1360:19,20 1362:2 1369:21 1370:17 1371:6 1461:2 1461:3,4,11 1462:11 1463:1 1464:3 1467:20 1468:12,13,14 1469:19 1477:9,10 1483:12 1485:3 1486:1,7 1487:9 1487:16 1488:5,6 1492:12 confidentiality 1344:22 confirm 1199:22 conflict 1185:21 conflicts 1382:22 confusing 1234:7 1312:4 1350:12 congested 1321:4 1437:19 1441:12 connected 1343:16 connecting 1478:6 connection 1287:5 1345:1 1453:6 1479:7 1480:1,8,18 1482:7 conservative 1303:13,16 1311:9 1361:3 consider 1192:8 1201:22 1233:20 1301:10 1345:16 1451:2 1456:1 1460:3 consideration 1202:11 1246:15 considered 1244:3 1395:9 considering 1201:20 1358:8 consistent 1182:20 1223:15 1258:8 1284:12 1356:6 1379:21 1448:3 1453:7 consistently 1223:21 1224:4 1356:13 consists 1423:17 consolidate 1471:5 constrained 1206:21 constraints 1410:16 construct 1212:22 constructed 1357:15 constructing 1209:14 consult 1186:2 1187:11 1194:7 1212:20 1314:13 1381:9,11,13 consultant 1218:15 1219:4 1273:19 1274:14 1335:17 1338:22 1437:5</p>
---	--	---	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1500

<p>consultants 1306:5 consulted 1392:19 consulting 1185:16 consume 1242:9 consumers 1207:18 1375:5 consumption 1441:11 contact 1362:11 1363:3 1363:20 1366:14,18,20 1367:2 1488:15,15 contacted 1367:12 1425:17 contacting 1363:13 contain 1211:6 1213:17 1213:20 1214:3 1393:4 contained 1369:2 contains 1179:10 1211:3 1237:14 contention 1397:9 context 1281:10 1342:10 continue 1195:13 1314:3 1314:7 1317:7 1370:1 continued 1192:8 1194:18 1219:6 1225:8 1245:13 1250:4 1346:4 1371:1,19 1403:11 1488:1 1491:22 1492:1 continues 1194:14 continuing 1198:18 1463:6 contra 1449:10 contract 1433:11 contracted 1218:3 contractor 1218:4 1219:14 contribute 1229:1 contributed 1232:19 1247:11 1248:6 1292:2 contributing 1279:17 control 1213:22 1248:14 1251:2,15 1259:9 1260:1 1271:15 controlled 1214:2 1222:16 1251:13,14 1253:1 controller 1207:3 convene 1187:4 convenient 1485:7 convening 1489:6 conventional 1237:11,13 conversation 1351:20 conversations 1254:7 1373:7 1378:14,18 1400:7 1435:2,6 Cook 1189:11</p>	<p>coordinate 1412:13 coordinated 1412:7 copied 1465:1 copy 1329:7 1331:19 1458:18,22 1464:14 1472:17 1477:1,4 Corporation 1179:5 correct 1207:4 1219:1 1220:16 1226:9,10 1237:20 1241:20 1243:13 1244:15 1261:3 1262:6 1265:7 1265:14 1276:15 1288:21 1292:19 1294:9,13 1295:2,3 1299:3,4 1302:2 1306:4 1307:14 1308:15 1310:11,19 1317:17 1323:15 1324:11 1332:7 1334:8,9 1335:22 1346:16 1347:18,19 1354:16,18 1364:8,8 1372:4,17 1374:20 1384:2 1388:11 1389:18 1390:2 1398:1 1413:15 1415:11 1419:18,19 1421:12,13 1422:11 1423:11 1426:1 1427:7 1428:2 1433:5 1434:20 1435:22 1438:9,10,11 1438:21 1439:5 1459:9 1459:10,17,18,21 1460:4 1465:12,20 1466:5 1468:18,22 1473:9,20 1478:8,9,11 1478:12 1479:8 1480:1 1482:2,7 1485:21 corrected 1228:5 1466:15 1467:13 1468:3 correctly 1213:5 1224:2 1265:2,5 1331:1 1426:22 corresponding 1355:6 corresponds 1256:2 1357:4,8 corridor 1208:19 1211:4 1212:1 1217:2 1273:10 1282:20 1341:19 1412:16 1414:16 1415:2,4 corridors 1206:21 1208:10 1209:22 1216:21 1321:4</p>	<p>cost 1375:15 counsel 1180:9 1181:1 1182:8 1191:16 1192:22 1196:5 1200:1 1202:7 1238:5 1314:7 1328:6 1335:6 1371:9 1407:21 1444:1 1452:3 1464:16 1466:17 1467:7 1470:5 1471:7 1471:20 1476:21 1477:1 1493:11,14 counsel's 1483:21 count 1220:3 1229:7 1267:11,13 1282:12 1377:12 counted 1268:16 1276:14 counterpart 1372:16 1373:1 1388:8 counting 1232:22 1267:6 country 1458:5 counts 1232:11 1233:16 1281:16 County 1189:12 couple 1183:13 1186:8 1191:3 1243:6 1261:20 1283:19 1292:14 1301:15 1305:17 1336:7,16 1355:15 1396:12,17 1412:22 1420:16 1434:18 1435:17 1436:17 coupled 1247:4 course 1227:21 1246:11 1277:19 1319:8 1329:13 1359:20 1440:8 1471:11,11 court 1188:16,17 1189:12 1189:13 1194:21 1280:16 1316:17 1317:13 courts 1194:22 cover 1198:21 covered 1267:2 1292:22 covers 1261:14 CP 1357:6,18 create 1195:5 1208:21 1209:3 1210:11 1388:14 1389:3 1469:2 1478:6 created 1341:5 1427:1 creating 1191:21 1201:3 creative 1197:16 credit 1272:16 crew 1208:12 1210:2 1211:7,11,12 1217:14</p>	<p>1237:8 1283:5,6 1381:11 1384:13,14,17 1384:20 1385:18 1386:7 1390:10,13 1423:16 critical 1184:6 criticism 1226:4 criticisms 1216:9 1225:20 1275:11,14 1427:11,13 criticizes 1443:10 1447:2 1447:5 cross 1215:6 1235:12 1250:14 1252:11 1271:15 1297:20 1315:17 1326:22 1328:9 1345:22 1373:5 1393:21 1404:3 1405:4 1462:10 1483:21 1491:3 1492:3 cross-examination 1319:4 1324:9 1346:4 1371:5,16,19 1403:11 1438:19 1458:15 1461:16,19 crossed 1251:22 crossing 1254:14,16 crossover 1271:9 1457:14 Crowley 1372:15 1373:21 1374:13 1388:14 1389:2 Cruz 1332:5,13 CSX 1179:6 1180:6 1181:11 1196:13 1204:14 1205:8,22 1206:3,5,8,10 1207:1 1207:10,10,11,21 1208:2,5,7 1209:17,17 1212:14 1218:4,9,15,15 1219:2,6,10 1225:22 1239:5,9 1240:9,11,12 1244:7 1247:19 1248:11,18,19 1250:14 1250:15,18 1252:1 1253:22 1254:15 1257:10,16 1258:18,22 1261:14 1275:4 1278:1 1278:16 1279:7,13 1283:4 1284:9 1287:6 1287:14 1288:4 1291:19 1299:6,10 1309:18 1310:1 1311:4 1311:21 1319:9,19 1320:21 1323:5</p>
---	---	--	--

<p>1324:11,19 1325:6,18 1332:8 1334:17 1335:20 1337:12,22 1338:20,21 1343:19 1344:8 1349:17 1353:2 1353:5 1363:14 1368:10,11 1376:11,20 1381:17,22 1382:15 1385:3,4 1394:19 1395:5,6,19 1396:19 1406:13,18,22 1407:3,6 1426:22 1428:8 1430:7 1435:21 1436:3,13 1437:4 1441:9 1442:19 1459:17 1466:13,15 1467:11,12 1468:2,11 1468:16,18 CSX's 1181:7 1183:19 1250:22 1285:2 1453:2 CSX/NS 1196:7 CSX/NS-150 1236:6 1238:3,10 CSX472 1239:2 CSXNS 1429:13 CSXT 1248:2,22 1249:1 1249:7,14 1250:9 1302:14 1441:20 1442:1,4,9,17 culmination 1342:3 currently 1205:8 1372:9 1410:11 1438:7,8 customer 1213:8 1256:12 1256:14 1259:5 1285:7 1302:21 1303:14 1362:3,16 1364:3,7,14 1367:5,13 customer's 1213:10 1303:11 customers 1214:21 1215:2 1256:17 1284:17,21 1286:15 1292:17,20,22 1293:4 1293:10 1294:1,6,11 1296:6,17 1297:2 1305:9 1310:22 1323:2 1361:8,11 1362:11,19 1363:13,15,20 1364:2 1365:7,8 1366:6 1367:16 1438:4 cut 1213:9,11,12 1274:9 1404:18 Cyclone 1205:9 1206:1</p> <hr/> <p style="text-align: center;">D</p> <hr/> <p>D 1180:1</p>	<p>D.C 1207:11 daily 1257:19 1306:8,9 1307:3 1325:3 1395:2 Daly 1332:5 1346:16 1347:3 dark 1364:18 1366:12 data 1207:16 1208:1 1211:2,13,13,14 1212:2 1212:3,3,5,11,19,20,20 1212:21 1214:15,15 1218:5,11,18,20 1220:9 1220:16 1222:11,13 1224:21 1226:6 1229:3 1229:9,10 1232:20,21 1233:7,10,15,17,21,22 1233:22 1235:5,9 1238:15 1241:13,18,19 1241:19 1242:8 1250:22 1251:5,15,15 1253:22 1258:2 1259:9 1259:10 1261:16 1262:12,14,20 1263:2,3 1263:5,7,8,13 1266:10 1267:1,3,10 1268:21 1269:6 1271:18 1274:12 1278:3,3 1281:14,17 1282:13,17 1290:11 1299:10 1302:2 1310:3,8,14 1311:5 1319:15 1320:18,19 1325:8,16 1334:13 1335:12,19 1337:10 1341:3,5 1343:19 1344:11,13 1347:11,13 1348:5 1349:21 1353:3,10 1354:5 1355:11,13,21 1356:4,6,10,15,19 1357:5 1358:7,14 1359:15,22 1360:2 1361:20 1362:9 1368:11,14,17,20,21 1369:2,13,15 1372:16 1373:1,11,22 1374:19 1375:8 1376:15 1377:8 1378:16 1380:19 1386:21,22 1387:2,13 1387:15 1388:13 1389:2 1397:11 1398:3 1398:6,8,9,13 1399:19 1399:21 1400:1 1401:2 1402:8,16 1407:7 1410:14 1413:12 1415:16,17,19 1416:5,6 1417:14,19,20 1418:6</p>	<p>1422:13,16,20,22 1423:12,16 1424:1,3,5 1424:8 1425:12 1426:10,15,20 1427:5 1430:19,20 1431:1,2 1433:3,15,16 1434:6,10 1434:11,15 1435:21 1436:1,1,4 1466:2 1467:19,20 1468:2,10 1468:12,13,17,22 1469:6,11,12,15,16,17 1473:20 1474:1,5,9 1475:4 1481:5,15 database 1402:10,18 1413:8 1418:1,7 databases 1399:19 1415:19 date 1196:3 1455:4 1464:18 dated 1331:21 1332:2 1346:17 1473:6 1477:13 dates 1181:7,9,12,16 1182:3 1183:5,8,13 1187:13,21 1189:3,9 1190:22 1191:1,3,12 1192:4,7,17 1194:19 1195:7,15 1197:10 1200:2,5 1318:13 David 1231:3 1313:12 day 1182:13,13,22,22 1184:20 1185:8,14 1189:22 1192:12,15 1197:8 1198:16 1199:8 1200:7,21 1201:4,9,22 1202:2,19 1203:12 1223:16 1241:6,10 1243:7,9,10,12 1251:10 1251:14 1252:13,18 1253:1 1256:13,17 1259:21 1260:9 1261:10 1271:9,21 1272:1,6 1289:20 1301:21 1313:22 1314:21 1316:17 1318:5,13 1334:17 1341:17 1353:2 1354:21 1425:11 1429:2,3 1431:13 1432:7,14 1442:2,14 1489:15 day-to-day 1208:7 days 1180:15,18,21 1183:13 1191:18 1192:10 1193:14,17,21</p>	<p>1194:18 1201:17 1203:1 1256:10 1257:4 1259:13 1342:4 1354:22,22,22 1360:1 1407:10 1418:2 1425:11,12 1429:4 1431:17 1489:8,19,20 days' 1418:2 de-designated 1345:17 deal 1180:8 1184:12 1207:10 1408:13,14 1409:4 1448:6 1486:8 1487:13 dealing 1230:5 1414:19 December 1423:1,3,5 1443:16 decide 1295:15 decided 1194:5 1281:15 1334:12 1337:15 1436:18 decision 1199:9 1248:13 1291:9,11 1298:6,7 1450:8 1489:15 decision-making 1246:21 decisions 1216:2 1244:6 1255:1 1269:12 1291:4 1466:14 1467:11 1468:11 decrease 1389:22 deceased 1393:13 deemed 1343:17 deeper 1212:5 deeply 1478:20 default 1384:1,8 1385:3,8 1385:13 defer 1186:10 1326:7 1454:16 1455:19 define 1217:10 1330:1,4 1339:13,16 1421:3 defined 1236:16 1483:6 defining 1237:9 definition 1236:18 definitively 1489:13 degree 1205:19 1267:10 1410:6 degrees 1420:12 Delaware 1411:17 1412:15 delay 1200:14 1284:1 1300:6,8 1389:13,17,21 1395:22 1396:4,8 1413:4,8,15,18,20 1414:1,2,6,21 1415:2 1475:11 1476:8,10,11 1476:14,17 1478:13,21</p>
--	--	--	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1502

<p>1479:9,11,14,17,19 1480:21 1481:4,6,8,13 1481:16,22 1482:5,10 1482:12,12,15,18 1483:1,2,7,8 delayed 1414:5 delays 1390:6 1397:2 1413:1,13 1414:3,8,9 1414:10,11,13,16,19 1424:13 1438:3 1441:17 1451:10 delays/lost 1479:3 demand 1375:20 demonstrative 1236:5 1238:2,12 1239:14,16 1255:4,17 density 1330:19 depart 1213:14 1283:11 departing 1223:21 1382:20 department 1285:3,4,9 1285:13 1291:5,6,8,10 1292:5,7 1298:8,10 1302:16,22 1303:3 1332:20 1347:1 1351:9 1361:16 1366:9 1367:18 1393:18,18 1394:14,14 department's 1298:7 departments 1291:16,22 1292:2 departure 1220:19,20 1221:4 1222:22 1223:2 1247:16 1249:15 1354:7,12,14,17 1355:4 1355:7,8,10 1356:12 1357:16,22 1358:1,12 1369:15 1387:3,5 1412:8 depend 1224:8 depending 1203:11 1246:14 1357:17 1384:10 depends 1221:16 1222:8 1224:7 1358:2 1458:5 depict 1330:12 depicting 1232:13 1250:12 depose 1401:7 1406:8 1407:5 deposed 1265:2 1380:16 deposition 1264:11,18 1265:18 1400:5,12 1401:17 1493:4,6,9,13 depositions 1374:18</p>	<p>1391:4 Derek 1391:12 1400:8,10 derived 1353:14 1374:11 describe 1201:10 1205:13 1205:18 1206:16 1226:19 1227:19 1250:12 1257:15 1277:22 1284:13,14 1398:14 1420:15,21 1428:19 described 1277:15 1281:6 1325:7 1356:4 1421:12 1430:6 describing 1203:18 1217:5 1249:21 1339:14 1358:7 1368:6 description 1417:7 1423:18 design 1246:22 1247:13 1285:9,13 1291:5,6,8 1292:5,7 1298:10 designated 1344:4 1477:8 designation 1344:22 designed 1459:20 desire 1190:21,22 1345:12 desired 1475:14,17 1476:3,7 1480:1,2 desk 1412:12 despite 1198:8 destination 1211:7 1217:16 detail 1210:14 1274:6 1362:3 detailed 1365:18 1423:18 detailing 1426:7 details 1207:6 1234:16 determination 1449:11 1450:6 1489:9,11 determine 1274:13 1317:7 1322:20 1324:22 1446:15 1466:14 1467:12 1483:4 determined 1180:11 develop 1206:20 1422:6 developer's 1300:9 developing 1210:4 1222:21 1284:14 1299:12 development 1207:20 1232:18 develops 1393:19 1394:15 diamond 1250:14,16</p>	<p>1251:22 1478:7 diamonds 1254:14 die 1199:10 differ 1220:15 1436:1 difference 1215:17,20 1223:6 1232:10 1254:13,18 1270:20 1276:22 1320:16 1375:11 1454:4,4,9 differences 1269:11 1277:3 1374:11 1400:19 different 1215:17,20 1217:5 1220:11 1250:8 1255:9 1258:18 1272:8 1276:18 1352:9 1376:5 1419:20 1431:18,19 1436:13,17 1440:14 1453:13 1466:18 1476:11 differentiate 1395:3 differently 1300:16 difficult 1197:8 1224:8 1246:6,20 1464:17 difficulties 1197:20 1198:1 difficulty 1195:5 Dinger 1395:15 Dingler 1225:12,14,18 1269:16 1288:3 1290:13 1307:6,13,20 1308:3,6 1358:8,18 1359:6 1360:4 1369:13 1395:8,12 1396:2 1427:19 1428:1 1433:8 1433:16 1434:10 1437:1 direct 1205:2 1225:8 1230:2 1245:13 1250:4 1297:13,16,18 1311:15 1372:18 1373:13,18 1376:6 1379:17 1389:12 1404:16 1410:2 1439:9 1448:17 1449:15 1452:4 1453:14 1454:2 1468:15 1473:21 1478:15 1491:3 1492:3 direction 1289:22 1290:1 1448:8 1493:9 directional 1208:12 1210:1 1247:15 directly 1212:3 1218:4 1264:8 1362:15,17 1366:20 1374:7,8</p>	<p>1377:9 1380:1 1398:20 1399:3 1402:17 1403:1 1413:22 1427:6 director 1205:7,9 1206:13,14 1218:10 1324:14 1347:20 discovery 1263:4 1392:13 1400:2 1406:15,19 1407:1,8,9 1407:11,16 1408:7,19 1409:3 1433:19 1434:1 1434:4,8 discrepancy 1369:9 discrete 1271:1 discretion 1360:7 discuss 1202:12 1229:12 1234:12 1306:11 1358:15 1418:20 1461:5 1475:13 1488:21 1489:18 discussed 1303:1 1366:10 1390:8 1393:3 1419:14 1425:18 1428:13 1436:9,14 1452:20,21 1475:9,12,18 discussing 1459:5 1473:17 1478:5,10 discussion 1181:3 1197:12 1243:21 1301:20 1334:11 1343:20 1358:19 1365:18 1368:1 1478:4 discussions 1188:2 1244:6 1344:18 1345:1 dispatch 1212:3,4,20 1214:15 1222:10,13 1233:22 1241:19 1355:21 1368:11,14,16 1368:17,20 1369:2 1386:20,22 1387:1 1412:4 1413:8 1414:20 1417:20,21,21 1418:7 1425:10,12,15 1426:5 1457:10 dispatched 1300:16 1411:15 1458:8,9 dispatcher 1214:1 1223:3 1251:15 1353:3 1354:5 1355:10 1356:4,6,10,15 1356:18 1358:13 1369:15 1383:18 1411:1,8,20,22 1412:4 1413:5,6,10 1414:15,17 1414:22 1415:5 1439:5 1444:11 1446:7 1449:6</p>
---	--	--	--

<p>1450:20 dispatcher-controlled 1222:14 dispatchers 1373:14,18 1413:13 1417:22 1425:21 1426:6 1446:1 1448:1,10 1449:1 1451:15,20 1456:20 1457:4 dispatching 1216:2 1220:8,12,16,18 1221:12,21 1224:5,21 1259:9 1357:1 1411:10 1411:13 1412:18 1413:11 1418:1,3 1437:10 1439:3,11 1444:12,15 1445:2,11 1445:14,19,20 1447:7,9 1447:15,17,21 1448:4 1448:14,16 1449:4,16 1449:17 1450:1,2,3 1452:2,19 1453:9 1456:7 dispute 1455:16 distance 1216:5 1242:19 1254:20 1339:22 distinct 1267:13 1268:12 1269:15 distinction 1398:17 distracted 1463:14 distribution 1220:20 District 1493:20 divergent 1211:20 divert 1407:20 division 1332:20 1351:4 1411:16 1415:1 divisions 1346:21 document 1179:10 1226:16,21 1227:20 1228:20 1234:8 1326:1 1328:5,14 1329:13 1331:11 1335:5 1336:3 1348:17 1350:5,21 1356:3 1414:7 1426:7 1426:15 1464:8 1471:19 1477:7,17,20 1478:2 documented 1426:15 1450:2 documents 1336:6 1345:21 1348:12 1352:13 1388:15 1389:4 1428:4 1461:11 1463:15,18 1472:2,8,16 1474:9 1485:9 1488:4</p>	<p>doing 1197:15 1209:18 1210:10 1254:8,21 1267:19 1269:18 1271:20 1272:1 1308:8 1319:9,19 1339:18 1340:20 1341:21 1376:1 1394:19,20 1409:3 1420:8 1430:21 1431:12 1466:15 1467:12 1468:2 Donahoe 1189:1 1406:2,3 1409:5,6,8,21 1410:1,3 1428:3,11 1429:5,8,12 1429:16,17 1432:15 1433:1,2 1437:15 1438:5,12 1440:5 1458:22 1463:4 1464:2 1464:5,13,16,22 1465:7 1466:17,21,22 1467:3,7 1470:12 1471:21 1472:14,17 1477:4 1480:9 1483:17,20 1484:5 1488:14,19 1492:5 double-check 1181:22 1188:21 1331:15 doughnut 1250:8 1255:10 download 1300:12 DP100 1479:2 draw 1474:1 drawbridge 1473:20 drawn 1312:16,17,18 drew 1453:21 1454:1 Driscoll 1185:17,20 1191:17 1192:9 1193:1 1193:10 1314:4 driven 1291:4 1310:21 drives 1291:10 driving 1311:3 drop 1427:16 1431:11 due 1208:11 1210:14,18 1400:19 1451:9 duly 1204:20 1315:4 1409:15 1493:6 dust 1210:19 duty 1413:11 1423:17 dwell 1300:8 1387:7</p> <hr/> <p style="text-align: center;">E</p> <hr/> <p>e 1180:1,1 1323:19 1491:1 1492:1,17 e-mail 1328:6,8,10 1329:9,17 1331:11,13 1331:21 1333:8 1335:6</p>	<p>1336:11 1337:2 1339:7 1340:4 1342:7 1346:14 1346:17 1347:7,17 1348:7,9 1349:17 1350:7,10 1351:3,19 1380:3 1397:14 1399:12 1402:18 1464:18,21 1465:2,5,10 1465:14,22 1466:6,18 1467:8,17 1473:5,17 1474:20 1477:12,21 1479:12 1480:12,15 e-mailed 1335:8 1470:4 1470:18 e-mails 1345:14 1426:13 1463:7 1465:11 earlier 1202:2,3,7 1215:5 1236:16 1237:6 1242:12 1248:17 1256:3 1266:22 1286:5 1300:1 1303:11 1323:1 1325:7 1353:2 1355:9 1363:12 1373:9 1390:8 1400:4 1421:12 1428:5 1435:1 1485:19 1489:7 1489:18 early 1191:2 1284:17 1287:4 1355:1 1422:1 easier 1236:12 east 1295:1 1369:8 1430:14,17 Eastern 1187:16 1189:22 1200:18 1314:16,18 1317:22 1318:2 1488:13 easy 1245:19 1246:16 1247:6 1277:15 educated 1359:1 education 1410:7 educational 1205:13 1410:5 Edwards 1465:15,22 1473:5,12 1477:12 1478:5 1480:10 effect 1218:6 1324:22 1385:17 effectively 1238:17 1268:10 effects 1441:21 efficacy 1466:13 1467:10 1468:10 efficiencies 1466:5 efficient 1358:16 1405:9 1472:7 efficiently 1375:20</p>	<p>effort 1265:3 1345:1 1366:14 1377:6,7 1378:17 1387:18 1391:1 1455:15 efforts 1344:14 1468:21 eight 1205:22 1252:22 1253:2 1272:16,17 1273:2,4,8 1276:14 1277:1,3 1443:4 either 1191:18 1193:19 1198:10 1213:4 1294:18 1295:1 1298:20 1299:1 1351:20 1360:18 1377:3,4 1392:5 1399:11,12 1417:11 1482:17 electronic 1212:21 1250:22 1262:14 1368:7 electronically 1209:1,8 1210:22 1212:10 1224:13 1236:2 1252:8 1253:22 1258:1 1374:9 1387:16 1400:18 elements 1386:11 eliciting 1405:11 else's 1184:15 1447:16 employed 1225:13,14,15 1410:11 1411:7 1493:11,15 employee 1218:9,16 1219:13 1262:9,11 1293:18 1332:13 1493:14 employees 1332:9 1377:21 1420:5 employment 1244:7 encompassed 1411:16 endeavored 1185:5 ended 1423:1 Energy 1393:17,19 1394:13,14 engine 1214:7,13 1217:6 1235:11 1257:8,11,16 1257:19,19,21 1258:10 1414:6 1431:21 1432:12 engineering 1415:8 engines 1258:15 1373:4 enlighten 1360:6,21 enlightened 1408:2 enlightenment 1488:3 enormous 1246:12 ensure 1263:1 1395:5</p>
--	---	---	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1504

<p>1416:21 1465:17 1469:15,17 1474:15 1476:11 1479:15 ensuring 1469:6,10 1474:11 enter 1260:4 1277:5 1283:11 1398:7,20 entertain 1455:4 entire 1209:13 1273:9,10 1278:8 1342:1 1364:16 1368:22 1415:1 entirely 1278:7 1376:5 entirety 1216:7 entity 1362:17,21 1363:4 1365:15,17,19 1366:7 entry 1254:19 entry/exit 1211:22 envisage 1400:2 equal 1268:14,17,22 equaling 1276:19 equals 1239:2 1241:10 equivalent 1267:13 error 1282:11 errors 1372:19 essentially 1185:8 1320:17 establish 1449:11 1461:10 estimate 1180:19 1217:3 1283:9 1301:22 1302:1 1312:19 1376:3 1420:10 1435:13,18,20 1484:7,9,22 estimated 1284:8 estimates 1297:2 estimation 1461:21 et 1211:9 1394:3 evaluate 1209:19 1381:15,21 1382:13,17 1383:1,2,7 1416:20 1417:4 1459:14,20 1466:13 1467:10 1468:10 evaluating 1208:13 eve 1196:4 evening 1190:8 1195:22 1443:1 event 1191:1 events 1249:15 1254:18 eventually 1371:12 everybody 1180:13 1184:15 1186:9,22 1201:7 1203:2 1315:7 1328:3 1468:13 1490:5 everybody's 1186:17</p>	<p>1419:3 evidence 1187:14 1207:22 1275:5,17,18 1276:5 1312:13 1348:13 1352:14 1354:1 1368:9 1405:11 1406:13,17 1407:2,4,5 1407:11 1483:15 evidentiary 1179:3 1408:11 1455:17 exact 1288:4 1340:10 1347:1 1375:21 1389:19 exactly 1288:9 1308:21 1339:18 1340:21 1342:17 1351:11 1357:17 1363:10 1367:10 1379:6 1394:20 1416:18 1426:8 examination 1184:5 1205:2 1220:6 1225:8 1243:4 1245:13 1247:8 1250:4 1261:22 1289:6 1292:12 1301:18 1305:21 1308:9 1309:15 1319:2,5 1321:12 1322:12 1326:12 1336:22 1348:14 1351:1 1352:20 1360:12 1362:7 1368:3 1397:6 1410:2 1448:17 1471:17 1485:17 examine 1328:14 examined 1204:21 1315:5 1409:16 example 1199:4 1202:2 1211:10,20 1213:7,8 1216:4 1217:1 1221:15 1222:7 1223:3 1235:10 1247:15 1268:1 1296:14 1354:6 1355:3 1372:20 1413:18 1451:15,16,17 1456:20 1456:22 1457:1 examples 1214:12 1220:10 1249:14 1413:19 exceeded 1303:18 Excel 1368:11,12 exchange 1192:6 1253:20 exchanged 1238:6 exclamation 1474:18,21 excluded 1233:17 1278:2</p>	<p>1281:17 1282:13 exclusively 1255:5 excuse 1304:18 1341:13 1416:5 1420:5 executive 1185:17 1193:3 exercise 1364:16 exercises 1248:4,5 exercising 1385:7 exhibit 1226:17 1227:4 1227:16 1228:2,16 1229:21 1230:17,20 1236:5 1238:10 1266:20 1335:7 1343:13 1344:16 1346:6,7 1353:12,14,20 1368:8 1428:6,9 1429:6 1429:14 1440:16,21 1443:17 1446:22 1459:4 1460:21 1461:2 1461:3 1463:3 1469:4 1470:3,6,7 1471:4 1476:21 1477:3,7,8 1483:13,14 exhibits 1226:18 1228:8 1348:13 1352:13,18 1470:22 1472:20 1483:12,19 1485:2,3 existed 1278:4 1427:15 existing 1285:10,14 1288:22 1377:4 1378:9 1387:11 1390:22 1392:16,18 1417:12 1427:4 exit 1260:4 1277:6 expanded 1421:1,6 expanding 1420:19 expect 1222:5 1280:2 1428:16 1471:4 expectations 1362:22 expected 1262:19 1285:6 1303:18 expedite 1471:3 expeditiously 1180:12 experience 1189:11,16,17 1221:13 1262:18 1291:22 1292:2 1299:20 1301:4 1361:19 1384:5 1402:13 1412:18 1414:14 1433:9 1437:9 1437:10 1439:2,11 1441:19 1444:11,14 1445:2 1448:3 1449:3,6 1450:19 1451:21 1452:20,22 1453:6,9</p>	<p>1457:6 1458:8 1459:6 experienced 1277:13 experiences 1444:12 1453:7,8 expert 1291:17 1448:14 expertise 1292:5 1450:1 1453:21 1454:1 experts 1215:9 1225:20 1229:9 1232:16 1233:13,20 1236:21 1263:12,17,18 1267:11 1268:15 1270:6 1272:15 1273:2,4,14 1274:1 1275:9,19 1281:15 1282:11 1380:16 1381:2 1391:3 1428:18 Expires 1493:22 explain 1185:5 1211:18 1213:8,15 1223:9 1233:9 1239:2 1240:18 1255:12 1258:20 1298:12 1299:7 1310:6 1341:8 1360:3 1369:9 1395:13 1413:3 1422:15 1429:22 1431:7,10 1482:9 explained 1182:12 1183:7 1195:12 1198:1 1323:1 1372:18 1373:4 1373:9 explaining 1257:11 explains 1316:2 explanation 1221:13 1234:3 1355:14 explanations 1183:14 1222:5 explore 1186:15,21 1407:17 exploring 1186:5 1192:1 1195:4 1408:6 express 1469:20 expressed 1461:17 1474:17 extended 1289:2,11 extension 1484:18 extensive 1450:1 extent 1275:16 1295:7 1311:4 1318:10 1359:11 extra 1313:19 1314:8,10 1396:3 1489:8 extraordinarily 1180:13 extraordinary 1191:21 1191:22</p>
--	---	--	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1505

<p>extremely 1210:13 1300:13 eyesight 1464:12</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>faces 1474:21 facility 1213:10 1259:3,6 1259:7,13 facing 1432:11 fact 1288:7 1309:14 1407:7 1460:1 factored 1453:2 facts 1262:3 1317:14 1408:5 1456:8 1458:5 factually 1266:2 fades 1331:4 fading 1230:9 FAF 1310:3,6,14 1311:4 1312:9,10,17,17,18 1319:15 1320:18 1361:20 failed 1233:20 failure 1414:7 fair 1237:5 1238:16 1272:20 1293:12,16 1298:19 1302:12 1313:8,10 1322:4,5 1358:20 1359:2,9 1401:9,10 1402:11 1425:7 1489:21 fairly 1217:2 1246:16 1247:6 1256:11 1300:5 fallen 1393:14,22 falling 1394:3 familiar 1228:19 1262:18 1264:18 1393:8 1413:1 1415:13 1445:11,14,17 1445:19,20 1446:1 1447:7,10,15,18 familiarity 1443:22 Fapp 1200:2,7 1372:15 1373:21 1374:14 1388:14 1389:3 far 1184:7 1191:15 1193:1 1260:1,19 1271:19 1354:20 1368:8,21 1401:12 1434:6 1441:10 fashion 1263:14 fast 1385:6 1390:13 feedback 1323:3 1367:19 1418:15,22 feeding 1223:2 feel 1195:18 1199:7 1285:4 1362:4 1396:1</p>	<p>feet 1289:15,16,18 1372:6,8,10 felt 1303:6,17 1475:19 fewer 1244:19 1260:15 1331:4 field 1209:5 1214:19 1215:8 1223:6,11 1241:16 1252:10,20 1254:4 1258:7 1260:7 1262:5,8,13,20,22 1263:3 1271:20 1299:21 1373:7,20,22 1374:4,6,11,15,21 1376:7 1377:1,3,6 1380:13,19 1387:17 1388:4 1390:16 1391:3 1397:12,19 1399:22 1400:20 1402:16 1418:5,19,19 1423:19 1424:12 1425:1,17,21 1426:7,14 1429:1 1430:21 1475:18 fields 1215:22 fifth 1392:1 figure 1204:8 1230:3,11 1232:7,12,12,18 1266:20 1304:22 1306:22 1337:8 1398:9 1400:13 figuring 1466:19 file 1208:16,17,21 1209:4 1209:11,15 1210:11 1212:22 1215:11,14,19 1216:6,12 1218:13 1237:12,14,19 1245:20 1254:22 1257:20 1264:9 1277:17 1278:18 1279:8 1356:1 1356:2 1368:5,12,12 1369:13 1374:7,10 1377:5 1378:10,10,15 1379:1,2 1380:2,21,22 1381:3,7 1386:12,12,13 1386:21 1387:3,6,9,12 1387:14 1390:21,22 1392:16,18,22 1398:18 1398:21 1400:17 1403:1 1406:13 1407:10 1415:18 1416:3 1418:8 1423:14 1427:1,4,8,8 1436:4,5 1441:2 filed 1228:13 1308:19 1312:13 1406:11 1440:11</p>	<p>files 1208:9,10 1209:17 1210:15,16,17,21 1263:12 filig 1407:2 filings 1300:1 fill 1489:12 final 1288:2 1300:21 1357:10,16 1400:17 finally 1206:14 1437:7 financially 1493:15 find 1181:3 1197:9,10 1198:15 1203:13 1204:6 1214:16 1269:21 1309:2 1334:18 1335:2 1338:1 1347:16 1439:17 1450:20 1476:9,17 1478:22 1479:6,10,12 1479:18,22 1480:7,17 1483:5 finding 1195:7 1203:12 1333:17 1334:7 1430:22 fine 1181:21 1187:6,8 1409:6 1435:18 1471:21 1477:2 finish 1297:17 1404:12 1404:19 1405:9 1472:8 1484:3 finished 1350:2 1404:3 1407:1 1461:19 1483:11 finishes 1471:16 first 1191:9 1204:20 1205:12 1209:3 1211:1 1211:17 1220:22 1226:21 1233:6,14 1258:20 1259:18 1272:7 1286:13 1301:20,21 1344:5 1348:17 1350:12 1355:13,20 1409:15 1410:21 1416:16,17 1417:11 1418:10 1421:22 1430:1 1434:12 1440:14 1442:6,11 1445:5 1461:11 1468:3 firsthand 1414:19 fit 1218:21 1234:21 1289:12,13 1290:7,9 1387:15 1430:3 five 1180:18,22 1259:13 1259:14 1268:8,9 1297:16 1302:18</p>	<p>1377:13 1393:1 1398:10 1420:7 1431:15,17 fix 1286:21 1313:18 fixed 1300:10 fixes 1300:13 flag 1358:17 flagging 1358:10 flexibility 1192:6,6 1203:16 1317:9 flexible 1181:18 1314:16 flights 1316:6,15 Flippin 1346:15,22 1351:6,14 flipping 1272:3 Florida 1205:17 flow 1293:2 1295:20 fluctuations 1321:9 fluidity 1208:11 focus 1429:20 focused 1214:5 folks 1307:2 1316:6,14 1358:10 follow 1231:9 1272:11,19 1289:8 1342:10 1364:10 1365:22 1419:5 follow-up 1246:4 1280:19 1403:8 1423:20 follow-ups 1473:7 followed 1304:4 following 1180:17 1218:19 1389:9 follows 1204:21 1315:6 1327:2 1409:16 1441:22 1456:16 1462:11 1481:12 football 1376:2 forbearance 1317:8 forecast 1284:6 forecasted 1285:16 forecasts 1394:15 1417:15 foreclose 1408:22 foregoing 1493:4,6 foreign 1215:6 1222:9 1224:12 1235:11 1239:21 1240:15 1246:1 1250:6 1255:3 1302:3 1304:16,17 1305:1,7,16 1360:17,22 1361:11,12,14 1362:12 1362:13,17,19,21 1363:17,19 1364:2,2,4</p>
---	--	---	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1506

<p>1365:1,13,16,19,21 1366:7,15 1367:1 1373:5 1414:1,11 1423:21 1424:7 forget 1363:9 forgetting 1253:8 forgotten 1400:8 1490:1 form 1263:14 1278:20 formally 1489:10 former 1205:6 1391:14 forms 1240:10 formulas 1393:5 forth 1262:4 1264:3 1265:19 1267:21,22 1268:3,3 1269:8,8,9 1270:22,22 1296:5 1345:14 1401:4 1426:14 1429:9 1461:7 forward 1203:15 1213:10 1213:11 1337:19,22 1339:3 forward-going 1303:4 forwarded 1470:20 found 1264:13 1287:17 1481:22 1482:4,5 foundation 1443:21 1445:5,9 foundational 1446:10 four 1191:2 1193:17,21 1200:8 1240:20,22 1243:18 1244:1,1 1256:16 1260:9,10 1268:7,9 1271:8,10 1391:21,22 1398:9 1431:9,10,16 1442:14 1489:7 FRA 1301:22 1302:9 1309:7,12 1310:2 1311:2 1335:21 1347:8 1347:15 1349:3,8,17 1351:20 frame 1284:17 1308:12 1308:13 1422:8 framework 1310:8 Frances 1346:16 1347:4 1351:14 free 1362:4 1396:1 1442:12 1443:3 freight 1217:17,18 1229:10 1262:21 1284:6 1288:5 1297:3 1299:15 1310:7,14 1319:12,20 1322:22 1334:20 1335:3 1338:2 1338:4 1339:9,21</p>	<p>1340:2,15 1341:3 1364:22 1372:3 1375:17 1376:4 1382:19 1395:22 1397:2 1412:14 1439:4 1441:16,22 1442:9,12 1442:22 1444:16 1446:2 1450:22 1451:5 1451:6,16,19 1453:10 1456:21 1457:3,14,15 1475:11 1480:5 1484:18 freight-only 1320:15,22 1321:3,19 frequency 1307:19 1308:6 frequent 1307:5 1308:7 frequently 1208:11 1216:22 1474:22 Friday 1179:13 1190:7 1195:20 1196:4,7,11,21 1259:14 1314:11 Fridays 1252:15 front 1290:11 1312:9,10 1329:8 1331:12,13 1384:17,18 1385:19 1472:17 1473:4,8 froze 1297:12 frozen 1282:3 1283:12 1308:5 1309:10 Fuchs 1219:19 1220:7 1247:9 1250:1 1279:19 1279:22 1280:8,12,18 1289:7 1291:2 1292:11 1301:15,19 1303:21 1304:14,17 1310:17 1311:12 1312:6,15 1314:6 1321:13 1322:6 1324:6 1328:22 1338:10 1352:8,21 1353:9,13,19,22 1354:2 1359:9 1367:22 1368:4 1369:18 1393:20 1394:6,10 1403:6 1449:9,22 1452:14 1453:18 1454:17 1455:5,22 1472:21 1487:11 1489:5,19,21 1491:13 fudge 1401:4 fueling 1417:2 fulfilling 1196:17 full 1215:14 1242:15 1253:8 1254:17 1261:2 1364:14 1366:2</p>	<p>full-time 1219:13 fund 1475:16 funded 1323:4 further 1250:3 1275:22 1301:11 1311:5 1313:15 1315:5 1397:4 1415:3 1438:12 1441:12 1443:10 1447:2,5 1458:11,12 1488:11 1493:13 future 1244:17 1299:13 1299:14 1368:1 1393:5 1419:7,7 1437:10 1455:4 1478:20</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>G 1180:1 Garrett 1346:16 1347:4 1351:14 gateways 1294:14 gather 1244:16 1295:9 1361:9 1364:21 1365:20 1402:10 gathered 1262:4,20 1263:2,8 1360:16 1361:10 1363:17 1402:9 gathering 1265:10 1285:22 1297:7 1305:15 1363:16 1366:3,5 1397:11 1402:16 Gautier 1256:15 gears 1225:19 general 1224:17 1227:19 1444:11 generally 1212:7 1217:15 1221:8 1222:5,9 1296:15 1310:2 1319:16 1410:13 1427:11 1485:20 1486:2 generate 1393:5 generated 1294:17 1296:7 1297:3 generating 1302:2 Gentilly 1251:9,13 1253:2 1261:6,9 1265:11 1271:11,13 1272:13 1281:8 1355:2 1355:3,4,8 1358:13 geography 1394:3 getting 1198:16 1240:5 1240:14 1255:16 1258:3 1264:2 1295:18</p>	<p>1301:6,7 1316:8 1330:20 1357:15 1366:6,8 1399:1 1419:15 1455:18 1482:6 ghost 1275:12 GIS 1423:15 gist 1331:6 give 1183:14,16 1197:10 1207:6 1313:19 1329:17 1346:10 1362:2 1370:15 1416:10 1417:6 1418:15,15 1420:9 1458:22 1464:13,17 1471:19 given 1191:4 1197:2 1265:6,12 1298:7,9 1330:13 1359:19 1415:22 1426:20 1428:1 1439:8,9 1451:13 1456:18 1467:20 1469:12 1493:10 gives 1414:15 1432:7 1489:8 giving 1214:13 glad 1315:18 1463:12 1489:22 Glencannon 1412:10 glitch 1300:2 go 1185:8,9 1188:2,19 1191:12 1193:20 1198:3 1199:19 1204:7 1212:15 1221:17 1224:20 1234:16 1235:14 1239:20 1240:5,7 1243:3 1245:8 1245:10 1257:8 1261:18 1266:19 1269:8 1271:19 1274:6 1274:19 1276:10 1279:21 1280:2,14 1284:1 1286:19 1290:21 1293:5 1295:16,18 1298:1,16 1301:17 1302:10 1305:14,19 1314:10 1316:7 1318:1,5 1322:10 1325:21 1326:1,17,22 1329:12 1336:7,21 1341:1 1350:2,22 1352:19,22 1356:22 1358:11 1359:4 1360:10</p>
---	---	--	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1507

<p>1365:13 1368:19 1370:16 1384:16,17 1385:19,20 1401:2,7,13 1402:7,17 1410:9 1411:2 1418:1 1420:14 1425:5 1428:4,10 1430:4 1431:5,20 1433:7 1441:3 1446:12 1456:3 1461:4,7,7,12 1462:10 1470:22 1472:18 1481:20 1485:12,12,14 1487:12 goal 1482:20 goals 1460:1,7,10,14 1465:16 1466:1,8 goes 1210:14 1256:16 1259:6 1270:22 1282:20 1291:12,13 1355:3 1419:15 1446:8 1457:19 going 1183:18,20 1184:21 1187:10 1188:20 1191:1,4,5 1194:6 1197:1,20 1199:9,15,17 1200:10 1202:6,6 1203:10,15 1208:15 1211:15 1213:19 1214:3,8,10 1216:4,7,8 1219:20 1221:3,4 1223:13 1224:11 1225:2,6 1231:13,20 1232:3,5 1233:2 1234:16,18 1235:9 1239:8 1240:7,8 1240:11 1241:4 1242:17,20 1251:2,3 1254:20,21 1255:6,10 1258:6,9,19 1259:17 1260:1,20 1261:4 1262:16 1267:1,4,21 1269:1 1271:2 1277:11 1279:16 1282:1 1283:10,22 1284:4 1286:20 1287:13 1293:6,9 1296:16 1298:20 1299:2 1302:8 1306:19 1316:5 1319:10 1326:1,4,11 1328:14 1352:11 1358:21 1359:5,13 1360:8,19 1364:22 1366:17 1378:17 1382:2,8,21 1386:8 1387:17,19 1390:17 1402:14 1405:11</p>	<p>1408:22 1414:20 1416:16 1417:10 1420:14 1427:19 1430:22 1433:20 1435:1 1437:21 1438:1 1438:3 1439:20 1440:13 1443:5,20 1444:8,10 1446:5,9,11 1447:8 1448:20 1450:9 1450:17 1451:22 1455:19 1457:15 1462:5 1463:20 1468:7 1473:19 1477:21 1484:3,10 1485:2,4 1488:12 Golden 1191:17 1192:9 1193:3,10 1314:5 1440:1,15,21,22 1443:16 1444:19 1446:22 1447:9 Golden's 1443:6,17 1444:22 good 1180:2 1190:7 1195:20 1196:3,11 1200:20 1233:2 1283:22 1314:7 1316:15 1338:11 1403:6,7 1404:9 1464:12 1469:20 1471:6 1472:18 1473:22 1474:5 1478:13 1480:4,20 1490:5 goodness 1377:12 1391:8 gotten 1301:5 1344:15 1408:19 government 1347:2,4 1351:7,13 1352:2 GPS 1212:11 grandmother's 1184:19 1186:8 granular 1263:6 graph 1330:10 1339:22 graphic 1239:1 grapple 1397:10 grappling 1454:3 grateful 1201:13 great 1184:12 1201:6,11 1217:12 1224:22 1269:5 1273:17 1283:2 1355:16 1362:20 1404:18 green 1255:11 grew 1289:3,16 gridlock 1390:2,3,6</p>	<p>1397:1 groceries 1268:6 grocery 1268:5 ground 1456:8 1458:6 group 1364:4 1415:8 growth 1279:17 1284:5,9 1284:10,11,15,19 1285:7,12,15 1286:4,16 1287:10,14,17 1288:4 1288:18 1291:13 1294:16 1295:5 1296:22 1298:20 1302:14,18 1303:7,13 1303:17 1304:10,20,22 1305:4,15 1309:6,12 1310:20,21 1311:9 1319:11,21 1320:6,13 1320:17,21 1322:19,21 1323:10,14 1360:15,16 1361:1,4,7,10 1362:21 1364:14 1365:3 1366:3 1366:5,16 1367:18 1372:2,3,8 1392:10 1416:21 1417:1,15 guess 1224:19 1236:19 1247:3 1248:7 1261:5 1294:18 1305:13,16 1340:6 1354:16 1360:17 1366:11 1368:1 1379:2 1471:19 1473:13 1474:17 1484:15 1487:2 guesstimate 1378:19 guidance 1291:18 1361:15 Gulf 1180:4 1207:12,12 1207:21 1325:1,3 1337:17 1343:16 1363:8 1372:11 1378:9 1396:20 1398:19 1414:16 1421:18 1422:3 1473:7 1477:13 Guthrie 1204:4,12 1225:12,15 1288:4 1306:13 1307:4,10 1308:15 1372:21 1435:4 guys 1305:18 1317:6 1338:13,18</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>H 1492:17 half 1252:16,18 1404:13 halfway 1442:4 hand 1204:17 1408:5</p>	<p>1409:12 1418:13 handle 1197:4 1289:20 1321:9 1414:9 1449:1 1453:4 handled 1292:6 1486:10 handles 1449:4 handling 1453:1 hands 1342:5 hands-on 1415:16 handwritten 1264:4 1379:20,22 Hannah 1204:15,19 1205:4,6 1207:19 1210:9 1216:8 1225:2 1225:19 1226:11,16,19 1226:20 1227:16 1228:19 1231:6 1232:7 1234:12 1235:3,22 1237:5 1238:2,10 1240:3,8 1245:15 1250:6 1253:14 1255:6 1266:22 1275:20 1277:11,22 1279:5,15 1282:16 1283:17 1284:4 1287:2 1288:17 1293:3 1295:11,14 1298:19 1308:2 1310:5 1312:9 1315:3 1323:18 1329:7 1362:1 1491:4 Hannah's 1286:7 happen 1182:3 1317:2 1320:8,10 1415:2 happened 1244:7 1361:21 1379:22 happening 1211:12 1214:17 1271:3 1467:18 1476:15 happens 1244:18 1415:3 1432:14 happily 1198:4 happy 1231:11,12 1279:2 1343:22 1344:20 hard 1191:19 1199:18 1222:19 1245:15 1272:11 1277:12 1280:1 1290:12 1301:5 1314:1,11 1316:4 1354:10 1378:12 1484:10 1488:9 hardship 1191:21,22 1201:6,11 1203:18 hardships 1199:3,4 1201:3 harmful 1344:8 Harrisburg 1411:15</p>
--	---	---	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1508

<p>1412:7,9,10 1421:7 Harter 1391:12 1400:10 1402:2 HDR 1284:12 1287:6 1299:6,8,12 1300:14,21 1301:5 1325:11,12 1338:22 1339:5,17 1344:19 1422:9,17 1423:13,20 1424:2,7,10 1424:19,20 1426:20 1427:1,6,16 1428:1 1433:6,16,21 1434:7,13 1469:21 1473:19 1474:1 1475:6,12,15 1476:6 1477:14 1486:6 HDR's 1300:3 1475:15 1478:11 head 1259:21 1260:6,9 1260:10 1261:9 1267:20 1270:4 1271:12 1272:5 1388:5 1430:12 headed 1195:21 heading 1234:9 heads 1266:19 headway 1451:17 1456:22 headways 1451:18,21 1457:2,5 hear 1196:4 1201:2 1203:6,7 1232:1 1262:10 1266:12 1281:21 1282:2,3,6 1286:1,7,8,13 1304:4 1308:5 1315:20 1408:10 1449:10 1450:4,5 1452:12 1453:19 1454:15,18,19 1456:5 1457:7 1467:1 1481:9 heard 1224:2 1263:7 1275:19 1283:13 1285:22 1286:12 1330:1 1378:8 1382:7 1393:16 1399:8 1419:17 1426:22 1434:22 1439:16 1457:9 1467:1 hearing 1179:3 1180:11 1194:13 1198:11 1231:11 1301:21 1314:19 1317:21,22 1358:17 1371:8 1398:8 1419:18 1455:1 1490:6 hearings 1202:15</p>	<p>1470:19 heat 1325:11,12,14,17 1330:1,4,8,14,18 1333:18 1334:8,11,17 1337:3,3,9,22 1338:5,8 1338:16,18,19 1339:15 1339:21 1341:21 1342:17 1351:21 heavier 1252:13 heavy 1256:11 Hedlund 1253:5,9,18 1288:15 1289:1,5 1290:17 1322:8,13 1323:16,22 1324:3 1405:18 1491:19 held 1411:3,9,13 Helenhouse 1188:6,21 1189:7 1194:20 1197:3 1198:10 1201:5 1317:12 Helenhouse's 1194:9 help 1312:5 1316:18 1334:16 1335:2 1340:6 1356:20 1395:19 1417:14 1478:13 helped 1387:9 helpful 1231:1 1325:22 1329:3 1335:8 1369:6 1403:3 helps 1189:6 1360:5 hereto 1493:15 hey 1258:5,7 1382:19 high 1211:9 1213:17 1215:16 1216:3 1235:7 1235:9 1241:1,4,5,8,11 1242:17 1243:7,9,11,19 1244:12,19,20 1245:17 1277:16 1364:11 1367:12 1373:3,9 1397:21 1411:21 1417:9 1479:5 high-level 1211:3 1238:13 1417:7 higher 1342:18 highlight 1459:11 highly 1228:9,10 1263:9 1263:10 1326:18 1334:14 1337:12,16,19 1339:3 1359:19 hired 1335:17 historical 1302:18 1303:6 1303:18 1423:15,17 1424:10 history 1205:18 1410:10 hit 1220:22 1221:5</p>	<p>1223:1 hits 1211:16 hitting 1221:22 1222:1 1253:1 HNTB 1225:14,18 1228:22 1287:21 1433:16 1434:7 hold 1191:11 1206:9 1295:21 1297:6 1370:11 1437:11 1438:1 1457:19 1471:16,22 1484:10 holding 1201:21 1269:20 1414:12 1451:8 holds 1438:7,8 Holly 1231:6 1255:7 1409:10,14,20 1428:12 1437:7 1466:19 1492:4 honor 1455:14 hope 1201:21 1404:11 1406:7 1490:5 hopefully 1231:8 1240:13 hoping 1204:12 1317:12 hotels 1316:15 hour 1202:5 1314:8,10 1379:12 1385:1,4,6,13 1385:14,22 1386:10 1404:12 hours 1189:21 1197:2 1200:18 1221:12 1222:1 1341:18 1425:11 1442:8,14,21 1443:4 1489:8 huge 1466:16 1467:13 1468:3 hundred 1389:21 Hunt 1349:10 1460:21 1484:19 Hunt's 1460:17 hurt 1347:10 1349:4,9,19 hypothetical 1244:10 hypotheticals 1466:3</p> <hr style="width: 100%;"/> <p style="text-align: center;">I</p> <hr style="width: 100%;"/> <p>idea 1202:17 1307:11 1377:19 1378:18 1384:7 1416:11 1425:16 1483:22 1489:6 identified 1228:1 1229:8 1240:17 1255:13 1417:10 1470:6 1476:1 1477:3 1480:3 1492:18 identifies 1237:19 identify 1215:22 1219:21</p>	<p>1227:2 1234:8 1252:4 1274:20 1293:3,10 1346:20 1379:14 1459:8 identifying 1230:15 1467:8 illustrates 1238:17 imagine 1456:6 immediate 1283:5 immediately 1185:18 1264:10 1300:10 1398:7 impact 1277:13 1282:21 1283:9,10 1299:2 1300:15 1335:3 1338:2 1338:4 1376:3 1381:16 1381:22 1382:14 1383:3,8 1417:4 1421:1 1421:4,6,10 1437:21 1438:4 1451:5,6 1459:20 1475:20 1476:2,5,13 1479:16,20 1480:4,20 1481:7,17 1483:4,5,6 impacted 1414:21 impactful 1339:9 impacts 1395:5 1417:1 1445:1 1459:14 impeding 1254:15 implemented 1303:16 important 1209:11 1270:16 1282:17 1309:2 1321:1 1348:8 1375:10 1382:17 impose 1196:3 1382:21 imposing 1359:21 improvements 1278:9 1466:16 1467:14 1475:7,15 improving 1466:4 in-house 1206:20 1252:8 1283:4 1387:11 inaccurate 1226:5 1427:14 inappropriate 1448:20 inapt 1450:7 inception 1379:2 include 1282:17 1307:6 1386:20,21 1387:5 1423:3,4 1436:18 included 1216:11 1250:20 1257:3 1260:7 1270:17 1273:2,5 1282:18 1423:16 1424:16</p>
--	--	--	--

<p>includes 1198:16 1202:4 1262:20 1386:15,17 1387:3,7 1390:10 1465:14 1478:22 including 1276:5 1335:20 inclusion 1232:20 1235:5 1267:3 incomplete 1222:11 1431:2 inconsistency 1450:2 inconsistent 1431:2 incorporated 1279:7 1419:3 incorrect 1229:9 1232:20 1233:7,10 1267:1 1270:11 1274:12 1347:2 1418:16 incorrectly 1268:15 1300:7 increase 1389:13,17,21 1390:1,3 1483:7,8 increased 1331:2 independent 1468:6 indicated 1270:6 1276:13 1299:22 1309:6 1449:5 indicates 1258:5 1339:7 indicating 1331:2 indicator 1356:9 individual 1270:13 1341:10,13 1361:8 individuals 1196:15 1351:16 1377:10,15 industrial 1415:8 industry 1309:14 inexplicably 1233:15 influence 1454:7 information 1209:7,9 1211:3,6,8,15 1212:7 1213:5 1214:11 1215:3 1215:9 1222:10,14 1224:13,21 1225:10 1229:1 1252:7 1254:9 1254:22 1263:13 1265:4,12 1266:4 1284:15,21 1285:2 1295:9 1303:5,6 1305:15 1310:19 1334:15 1337:13,17,20 1339:3 1349:9,18 1360:16,20 1361:5,10 1363:4,17 1364:3,10,14 1365:12,21 1366:19 1374:14 1376:10,19 1377:8 1380:4,13,17,19 1388:3,4 1391:2</p>	<p>1392:13 1393:17 1394:13 1398:21 1399:3 1401:20 1402:22 1413:14 1424:21 1427:22 1455:18 1456:1 1469:22 1474:2,6,12,14 1474:15,19 1475:2 1486:1,7,16 informed 1189:3 1455:15 infrastructure 1206:22 1208:10,13 1209:20 1210:17 1247:3 1248:10,21 1278:10 1301:9 1321:7,9,21 1322:20 1323:5,9,12 1371:22 1375:19 1390:5 1394:18 1410:15 1416:22 1417:15 1419:8 1421:3 1421:9,15,16 1437:20 1459:8 1460:4 1466:14 1466:16 1467:11,14 1468:4,11 1475:6,9,14 1475:19 1476:7,12 1482:1,4,15,19 1483:1 1483:6,9 initial 1422:3 initially 1263:4 1269:17 1422:16 input 1208:18 1218:11 1223:18 1229:12 1252:14 1325:14 1339:5 1359:14 1367:17 1374:6,12 1377:8 1383:1 1386:13 1387:17 1413:13 1418:9 1429:1 inputs 1207:16 1208:2,17 1219:7,8 1222:22 1229:3 1246:7 1247:12 1247:12,20 1248:1 1249:18,19 1262:13 1263:13 1299:10 1325:8,16 1335:16 1348:5 1368:11 1376:15,17 1377:1,3 1378:16 1382:13 1383:2,6 1384:12 1386:15 1390:7 1391:3 1413:12 1415:17,18 1418:21 1419:4 1420:3 1422:5 1436:4,9,14 inputting 1224:20 insights 1292:3</p>	<p>insisted 1407:1 insistent 1197:19 instance 1249:19 1278:1 1290:6 1341:20 1479:2 instances 1248:18,20 1249:13 instantly 1399:7 instructed 1252:10 1476:8,16 1479:9,11 intend 1405:4 1407:16 intended 1338:5 1463:12 intensity 1330:19 intent 1371:7 1444:18 interacted 1307:2 interaction 1307:3 interactions 1308:6,14 interchange 1294:14 1296:15 1365:6 1430:13,17,17 1432:1,2 1432:3 1437:18,21 interchanges 1430:13 interchanging 1414:11 interest 1182:20 1409:2 1455:17,18 1456:5 1461:17 1471:3 interested 1201:3 1296:1 1364:21 1408:6 1409:3 1493:16 interesting 1257:22 1347:15 interfere 1334:19 interim 1488:16 interject 1343:10 interlockings 1441:15 internal 1210:18 1247:14 1278:8 1285:2 1310:22 1311:6 1323:2 1344:14 1344:22 1363:9 1402:21 1417:13 internally 1286:11 1419:21 1475:13 International 1205:9 interpret 1221:14 interrupt 1190:20 1230:14 1293:2 1295:19 1326:8 1368:18 1393:21 1483:21 interrupted 1426:16 intervene 1186:18,19 interview 1214:19 1292:20 1376:7 1377:11 1379:11 1381:5 1402:8 interviewed 1265:13</p>	<p>1293:11 1374:4 interviewing 1263:3 1292:16 1403:15 interviews 1252:10 1254:4 1262:5,8,13,20 1264:5 1323:2 1376:10 1376:19 1377:2,20 1378:1,7,21 1379:18 1380:6,10,14 1381:1 1388:4 1397:12,13 1398:10 1399:22 1430:21 introduce 1205:4 1429:13 1440:19 1471:4 introduced 1310:13 1389:20 introduction 1249:11 1376:4 1381:16,21 1382:14 1383:2,3,7 1390:4 1395:1,22 1396:5 investments 1209:21 1278:11 involve 1366:4 1410:13 1420:17 1445:21 involved 1202:14,16 1262:22 1281:3 1299:6 1332:14 1345:14 1349:15 1367:1,8 1415:9 1419:10,11,21 1420:11,16,18,19 1421:11,22 1422:4,12 1422:16 1435:11 1437:2,4,5 1486:15 1487:3 involving 1371:5 1407:16 1412:5 1439:11 issue 1189:3 1204:2 1229:7 1230:6 1245:12 1290:2 1300:4,9,20 1319:20 1337:7 1372:14 1441:2 issued 1318:12 issues 1181:9,17 1194:12 1200:16 1229:18 1406:8 1408:7,8 iteration 1478:20 iterative 1209:4 IV 1179:12</p> <hr/> <p style="text-align: center;">J</p> <hr/> <p>January 1206:2 1284:16 1464:20 1465:14 1466:18</p>
---	--	--	---

<p>Jason 1391:18 JE 1226:18 JE-40D 1311:16 Jersey 1411:17 Jessie 1199:21 1406:4 1407:13 1443:19 1446:4 1458:13 1461:8 1470:17 1471:1,16 1472:22 1480:11 1481:20 1484:7,11 Jewish 1195:22 1196:1 Jim 1188:6 1195:3 1198:20 job 1208:7 1261:5,7 1271:12 1348:2 1413:12 1437:15 jobs 1259:18,20 1260:10 1260:18 1272:4,8 1273:3 1411:3,13 jog 1253:15 John 1185:17 1473:5,12 1477:12 1478:5 Johnson 1205:20,20 1251:10 1289:19 joint 1226:17 1227:4,16 1229:21 1230:20 1266:20 1299:8 1300:3 1332:15 1345:1 1429:14 1440:16,21 1443:17 1446:22 1459:4 jointly 1287:7 jot 1486:1 judge 1189:5 judgment 1199:7 jump 1220:3 Junction 1430:14,18 justify 1484:22</p> <hr/> <p style="text-align: center;">K</p> <hr/> <p>Kali 1336:6 1344:16 Karen 1289:8 1322:10 1405:17,20 keep 1204:9 1228:11 1231:13 1232:3,5 1234:15,18 1264:4 1342:5 1394:19 1408:17 keeping 1402:18 Keith 1391:16 kicked 1379:4 kind 1209:3 1213:20 1214:1,6 1217:1,16 1219:9 1221:16 1222:11,19 1242:14</p>	<p>1244:21 1248:14 1258:5 1261:1 1264:5 1266:10 1283:6,15 1290:2 1296:3 1300:1 1316:19 1321:15 1323:1 1330:15 1337:18 1339:7 1340:20 1342:1 1355:19 1357:10 1366:2 1373:8 1398:16 1399:2 1402:1 1411:2 1411:19 1414:15 1417:6 1436:9 1445:8 1485:22 1489:5 kinds 1215:17 1261:15 know 1180:8 1184:3,11 1184:13 1185:3,13 1188:18,19,20 1189:6 1191:19 1193:18 1194:3 1196:19 1201:21 1202:5,13 1209:20 1212:5,15 1214:1 1215:13,16,22 1216:3 1217:3 1222:2 1223:14 1227:22 1229:13,14 1230:10 1231:14,18,19 1232:3 1233:10 1242:19 1245:2 1246:9 1249:1 1250:7 1252:1 1254:15 1262:19,22 1263:8 1264:17 1265:16 1266:8,16 1268:13 1269:22 1274:8,18 1277:12 1279:16 1280:1 1283:10,18 1286:4 1287:9 1288:8 1293:6,17 1294:17 1295:14 1296:3,8,22 1297:1 1300:4,10 1302:15,22 1305:6 1311:21 1312:3,3 1314:9 1316:5,16 1320:21 1321:2,4,7 1328:7 1330:10 1331:1 1331:3 1336:1 1338:3 1339:13 1340:5 1341:16 1342:21 1343:2,3,5,18 1346:7 1348:4 1349:14 1353:18 1354:21 1355:12 1356:3 1357:17 1358:5,18 1359:16 1361:7 1362:19 1363:1,1,14</p>	<p>1365:17 1367:17 1368:8 1369:2 1370:3 1377:7 1378:1,8 1379:3 1379:5,9,12,13 1381:10 1381:14 1385:4,12 1386:5,10 1387:1 1392:15 1393:7 1394:17 1396:6,22 1398:11 1399:1,8,14,15 1399:16 1400:8,16 1401:3 1402:1,5,6 1405:6 1414:19,22 1430:21 1432:17 1433:18,19,20 1434:19 1434:22 1447:6 1448:22 1450:7 1452:14 1453:22 1454:20 1455:14 1456:8 1461:15,15,16 1463:11 1468:7 1471:8 1472:6,12 1475:17 1477:20 1480:2 1484:7 1486:5,5 knowledge 1249:22 1266:7 1267:5 1277:20 1302:17 1303:2 1317:2 1433:14,17 1434:5 1450:13 knows 1215:19 1216:6 1242:16 1254:13,17 1269:10 1371:7</p> <hr/> <p style="text-align: center;">L</p> <hr/> <p>labeled 1355:5 lack 1226:6 1268:21 1270:12 1430:1 1433:10 laptop 1329:8 1331:18 large 1202:13 1340:15 1436:10 1437:18 large-scale 1246:18 1415:22 1416:1 1420:2 larger 1303:18 1340:5,8 1342:18,22 Larry 1225:12 lastly 1206:1 1432:9 late 1489:15 latest 1300:12 lawyer 1184:4 1265:21 1400:22 lawyers 1184:3 1245:5 1266:8 1272:18 1274:19 1400:5 lay 1445:4,8 layer 1212:5 1301:8</p>	<p>1419:7 layperson's 1411:19 lead 1278:9 1484:18 leading 1253:12 1278:21 leads 1213:21 1390:1,6 leaning 1292:5 learned 1204:5 1258:10 1400:6 1402:19 1473:12 leave 1186:18 1199:12 1202:7 1206:3,5 1223:1 1233:3 1241:22 1245:5 1348:11 1360:6 1369:20 1443:3 leaves 1182:5 1223:17 1256:14 leaving 1198:13 1219:2 1220:11 1223:13 1224:4 led 1232:18 left 1185:18 1213:11 1218:14 1219:3 1348:19 1349:2 leg 1283:6 legal 1244:22 1245:3 1408:8 1488:15 legally 1265:22 1455:16 length 1247:13 1289:4 1290:9 1291:3,4,9 1313:2 1435:14 1452:20 lengthening 1372:1 lengths 1249:15 1289:2 1289:10 1298:5 1393:5 let's 1186:4 1191:12 1231:20 1232:5 1233:5 1235:3,14 1238:20 1239:11,20 1245:22 1250:11 1266:19 1283:22 1302:10 1314:12 1316:11 1346:3 1354:6 1363:20 1405:8,21 1406:1 1411:2 1421:18,21 1425:1 1427:16 1435:3 1456:5 1467:1 letting 1204:7 1468:18 level 1211:9 1212:6 1235:7 1284:20 1322:3 1411:21 1417:9 1479:5 libraries 1210:17 life 1409:3 light 1199:3 1214:6,13 1235:10 1257:8,11,16 1257:21 1258:10,15</p>
---	--	--	---

<p>1312:5 1373:4 1431:21 liked 1188:1 Likewise 1455:22 limited 1360:5 1405:4 1451:5 limiting 1257:1 line 1180:5 1197:18 1198:14 1213:12 1215:1 1242:10 1243:18,22 1254:15,17 1257:17 1264:12 1265:21 1278:10,11 1283:1 1288:22 1291:1 1292:17 1293:22 1294:1,6,10,12,18 1295:1,6 1296:6,22 1297:3 1302:13,18 1303:8 1305:10 1311:9 1319:19 1320:22 1321:17 1323:10 1330:9 1341:16 1346:19 1347:17 1348:17 1350:12 1361:7 1363:14 1365:1 1365:8 1366:17 1381:17,22 1382:15 1383:4,8 1389:13,17 1391:15,17,19 1412:1 1412:10,14 1413:9 1414:21 1416:21 1423:22 1425:22 1430:22 1442:4 1443:20 1446:15 1449:16 1451:13 1456:18 1473:6 1477:13 lines 1237:7 1319:10 1330:12,16 1339:20 1341:16 1411:16 1412:18,19 1414:11 1417:5 1420:17,20 1439:3,11 1444:17 1449:3,6 1453:10 link 1368:5 links 1356:18 1357:2,4,8 listed 1392:5 1414:1 listen 1184:11 1460:17 litany 1183:14 literally 1373:9 litigation 1188:3 1210:4 1263:19 1266:9 little 1194:16 1200:15 1208:6 1217:22 1220:9 1220:17 1223:9 1234:7 1236:12 1254:12</p>	<p>1267:16 1275:2 1292:15 1308:2 1316:4 1316:7 1334:10 1358:6 1366:11 1389:15 1405:7 1410:4,9 1411:12 1464:16 1469:6,11,15 1474:6 lived 1242:19 load 1284:20 1285:7 loads 1288:18 1290:19 Lobello 1391:13 local 1213:8,9 1217:6 1255:13 1256:9 1260:4 1260:21 1296:17,17 1304:15 1305:2 1365:7 1428:20,22 locals 1215:2 1277:5 1296:16 1429:3 located 1259:7 location 1258:9 1330:11 1417:3 1448:11 1481:3 1481:13 locations 1208:13 1210:2 1211:7 locomotive 1212:15 1217:14 1237:8 1257:14 logs 1220:12,18 1221:12 1221:21 1223:3 1224:6 1381:9,13 long 1187:2 1289:21,21 1290:4 1293:20 1300:20 1314:3 1375:6 1375:6 1379:10 1413:15 1416:13 1424:19 long-term 1209:21 longer 1200:19 1202:4,5 1202:8 1245:17 1289:12 1290:7 1293:18 1298:21 1313:8 1372:6,10 longest 1379:10 look 1195:15 1212:8 1227:1 1244:17 1274:21 1283:17 1302:19 1320:1,3 1329:12 1333:7 1343:22 1344:20 1346:6 1354:11 1355:18 1356:16 1358:13,14 1368:19 1369:1,14 1418:10,15 1418:16 1465:5 1470:14 1474:20</p>	<p>1475:4 1476:8,10,11,14 1476:16 1478:21 1479:9,11,14,17 looked 1183:2 1190:5 1274:21 1275:22 1303:3 1325:18 1331:14 1333:12 1334:21 1355:4,8 1422:19 looking 1185:19 1210:1 1227:16 1230:11,21 1236:7 1238:10,17 1255:21 1268:18 1312:22 1321:4 1323:6 1340:15 1343:12 1353:5,8,19,22 1355:21 1355:22 1356:1,10,17 1356:18 1357:10,18 1358:3 1368:14 1393:7 1415:1 1459:4 1465:8 1477:21 1479:1 1482:12 looks 1258:3 1328:2 1333:11 1348:18 1354:14 lose 1324:6 1338:9 losing 1194:4 lost 1202:8 1255:16 1266:12 1282:4 lot 1184:1 1195:5 1202:16 1211:3 1212:6 1213:3,20 1214:9 1222:15 1263:7,22 1272:18 1275:3 1377:19 1398:9 1408:18 1419:14 1437:19 1483:22 lots 1242:21 1405:7 love 1358:3 lower 1287:15,16 lunch 1200:20 1284:2 1286:20 1295:19 1297:19 1313:19</p>	<p>1388:11 1390:9,12 1392:7 1394:21 1396:10 1403:16,18 main 1217:16 1225:20 mainline 1213:21 1215:4 1215:7 1250:14,15,19 1269:2 1412:12 1430:15 1441:14 maintain 1210:16 1264:7 1395:19 maintaining 1208:9 1378:13 major 1292:22 making 1186:6 1217:10 1243:22 1268:2 1398:6 1488:19 management 1205:16 1415:7 manager 1206:12,12 1391:19 1410:12 1437:8 managers 1215:1 managing 1444:16 Manassas 1421:2 manner 1436:2 manual 1301:22 1302:9 1302:10 1311:2 1359:14 manually 1223:2 1247:12 1359:12 map 1325:11,12,14,17 1330:1,4,14,18 1333:18 1334:8 1337:4,9 1338:16,18,19 1339:15 maps 1330:8 1334:11,18 1337:22 1338:5,8 1339:21 1341:21 1342:17 1351:21 MARC 1207:13 March 1346:17 1347:7 1493:22 Marco 1332:4 1333:8 1346:14 1351:3 mark 1225:12,14,18 1269:16 1470:3 marked 1236:6 1238:3 1263:8,10 1371:6 1461:3 1476:20 1478:17 1488:5 markedly 1220:11 Martin 1179:19 Marty 1297:12 1301:16 1324:6 1326:22 1353:15 1367:22 1403:6 1449:9 1453:19</p>
--	---	---	--

M

M 1440:1,15,21,22
1443:15,17
M&M 1323:6
ma'am 1247:1 1253:8
1276:16 1288:21
1289:3 1323:15
1324:12,16,20 1325:16
1348:1 1372:4,7
1373:20 1380:8,11
1383:17,19,22 1387:8

<p>1454:7,17 1455:22 1470:20 1471:12 1487:11 Marty's 1339:12 Maryland 1411:18 1412:15 mask 1341:10 masked 1258:2 master 1381:9 1383:13 master's 1205:15 match 1209:15 1271:3 1387:21 matches 1291:19 1387:20 matching 1223:8 material 1487:9 materialize 1285:5 1303:12 1361:2 mathematical 1340:10 Matt 1191:6 1196:12 1220:3 1225:5 1226:8 1227:2,22 1230:8,13 1232:1 1234:6 1239:13 1239:18 1245:8,10 1255:15 1261:20 1266:16 1275:21 1279:1 1280:12,22 1285:19 1286:19 1295:21 1297:7 1298:1 1298:16 1311:19 1312:7,22 1315:11 1318:14 1323:20 1326:20 1333:20 1343:12 1345:5 1359:4 1359:18 1360:18 1362:5 1370:7,8 1404:5 1406:1 1462:8 matter 1179:17 1197:19 1197:22 1397:9 matters 1194:5 1369:21 1371:5 mean 1190:3,16 1207:2 1237:5,10,10 1254:1 1265:20 1274:9 1286:3 1286:5 1304:9 1306:18 1321:16 1325:20 1340:9 1341:10 1342:19 1344:12,13 1349:5 1350:11,11 1352:1,1 1353:11 1366:12 1373:8 1378:17 1379:1,20 1380:4 1382:19 1385:2 1386:4,6 1387:1 1391:9 1395:10 1401:12 1414:17 1435:19</p>	<p>1436:3 1437:13 1439:15 1471:18 1480:19 1482:9 1483:1 1483:20 meaning 1350:13 meaningful 1335:22 1347:9 1349:18 1488:8 means 1239:3 1340:12 1442:7 1457:13 1476:2 meant 1281:8 1304:18 1339:21 1340:6 1349:6 1480:6 measure 1294:15 1295:4 1296:22 1402:8 measurements 1205:8 1206:11,15 1218:11 1324:15 mechanical 1414:6 mechanism 1252:3 1297:6 1399:20 meet 1200:19 1242:21 1306:7 1317:15 1375:20 1414:8,8 1451:9 meeting 1185:13 1193:2 1344:18 1435:12 meetings 1180:15 1182:17 1186:16,17 1306:10 1332:15 1390:16,18 1435:8,10 1435:14,17 meets 1442:5,8,20,22 member 1186:19 1200:16 1216:16 1217:4,19 1219:9,19 1220:7 1237:2,6,17,18,22 1239:18,21 1240:4 1246:1,3,6 1247:2,7,9 1250:1 1251:20 1253:4 1253:5,9,18 1276:8,12 1276:21 1277:9 1279:19,22 1280:8,12 1280:18 1288:15 1289:1,5,7 1290:17 1291:2 1292:11 1297:11 1298:2,4,11,15 1301:15,19 1303:21 1304:14,17 1305:17,22 1307:17 1309:5,11,16 1310:9,16,17 1311:12 1312:6,15 1314:6 1321:13 1322:6,8,13 1323:16,22 1324:3,6 1328:22 1332:18 1333:2,5 1336:15</p>	<p>1337:1 1338:10,12,15 1343:6 1346:20 1347:5 1350:18 1351:2 1352:5 1352:8,21 1353:9,13,19 1353:22 1354:2 1359:9 1367:22 1368:4 1369:18 1370:7 1393:20 1394:6,10 1403:6 1405:18 1434:19 1449:9,22 1452:14 1453:18,22 1454:5,17 1455:5,8,22 1471:12,18 1472:3,10 1472:21 1485:11,16,18 1487:6,11 1489:5,19,21 1491:13,17,18,19 1492:8 member's 1455:15 members 1180:10,12 1182:7 1185:2 1187:11 1190:14 1194:7 1195:11 1196:6 1199:4 1202:12,14 1225:4 1243:2 1245:8 1266:17 1309:3 1311:15 1371:4 1390:13 1405:16 1453:17 1472:20 1487:10 memorize 1264:6 memorized 1372:13 memory 1253:16 1359:22 1398:12 1463:22 mention 1378:8 mentioned 1207:5 1215:5 1241:15 1281:2,13 1335:13 1337:11 1361:18 1363:9 1374:16 1376:7 1380:15 1385:20 1403:13 1413:17 1426:2 merchandise 1215:14 1216:6 1242:15 1254:17 1257:18 1258:11 1261:2 1430:5 1430:9 method 1302:19 methodical 1363:13,18 methodology 1362:10 metric 1300:17 metrics 1270:18 1300:6 1347:21 1479:5 Michael 1473:5,10 1477:12 1478:5 Michelle 1276:11</p>	<p>1405:17 Michelle's 1247:10 1312:8 mid-to-late 1195:21 middle 1180:5 1186:6 1189:14,15 1194:19 1408:11 mile 1385:15 miles 1369:8 1385:1,4,6 1385:12,14,22 1386:10 mind 1241:21 1267:15 1318:19,20 1326:15 1350:19 1369:14 mine 1230:4 1262:9,11 1332:13 minimal 1300:5 1335:3 1338:2 minimally 1386:4 minimum 1202:22 mining 1353:14 minus 1272:17 1428:17 minute 1191:12 1231:17 1251:19 1282:5 1329:17 1343:11 1345:4 1387:20 1403:21 1421:19 1425:1 1470:13,13 1472:1 minutes 1183:16 1186:5 1194:6 1199:16 1280:22 1297:16 1313:19 1336:7 1370:16 1385:15 1396:4,6,12,17 1404:21 1405:13 1451:4,6,7,14 1456:19 1457:13,16 1462:1 1484:15 mishear 1288:20 missed 1260:14 1285:20 1286:9,18 1294:3 1334:4 1419:1 missing 1215:4 1222:17 1254:6 1344:10 misspeak 1281:11 misspoke 1281:11 mistake 1233:14 1401:3 mistaken 1313:22 mistakes 1232:15 1233:13 misunderstanding 1348:21 1355:13 misunderstood 1229:10 mitigate 1390:6 1395:4 1395:21 1396:3,8 1414:21 1421:3,9</p>
--	---	---	--

<p>1475:10,20 1476:1,5 1478:13 1480:4,20 1481:7,17 1482:11 1483:2 mitigated 1482:15,18 mitigates 1476:12 1479:16 Mobile 1211:11,12 1250:13 1254:15 1259:19 1271:8 1272:3 1272:10 1281:8 1283:1 1283:7,11,11 1284:18 1295:2 1296:8 1323:7 1323:13 1365:11 1388:19 1389:14,18 1441:12,22 1442:3,12 1443:22 1444:13,15 1445:1,15,16 1447:7,10 1447:15,17,21 1448:4,7 1456:7,8 1458:10 model 1207:17,21 1208:2 1209:10,14 1211:22 1214:18 1215:11,13 1218:12 1220:10,14 1221:6,10,13 1222:1 1223:19 1224:3 1225:21 1226:2 1237:12 1242:14,16,20 1245:16 1246:8,10 1247:6 1249:8,10 1250:20 1252:3,5 1254:2,13,20 1259:4 1260:7,13,14,16 1262:15 1268:13 1269:7,9,18 1270:3,9 1270:21 1272:16 1273:5 1276:14 1277:8 1277:13 1278:2,6,12 1283:4 1284:7,11 1290:6 1292:3 1299:1,3 1299:6 1300:22 1302:3 1307:16 1308:8 1323:8 1325:10 1335:15 1348:6,8 1351:21,22 1352:1,4 1353:10 1354:1,18,19,21 1372:17,22 1375:5,12 1376:8,11,20,22 1380:18 1381:8,15,20 1382:3,13 1384:1,22 1385:18 1386:2,6,8,13 1386:19 1388:9 1389:17 1390:4 1395:3 1396:4 1397:1 1399:1,9 1417:17 1418:9,9,10,14</p>	<p>1418:18,19,21 1419:2 1419:12 1420:4 1422:7 1422:9 1424:7,7,14,22 1427:14,17,20 1431:19 1433:6,8,17,22 1434:10 1434:13 1436:10,11,11 1436:15,19 1476:18 1479:10,21 1482:1,14 1482:16,17,18,22 model's 1223:4 modeled 1282:19 1296:4 1322:14,17 1386:16 1429:2 modeler 1214:10 1218:5 1245:16 1258:5 1277:13 1311:1,2 1375:9 1382:16 1383:5 1387:12 1399:14 1418:14 1433:22 1453:12 modelers 1225:11 1254:10 1264:10 1277:17 1285:17 1300:11 1307:5 1325:9 1337:14 1374:8 1376:16 1377:9 1380:3 1387:13 1388:6 1391:2 1399:4 1423:13 modeling 1205:7 1206:13 1206:13,14,19 1207:11 1209:16,19 1210:4,10 1216:10 1218:10 1223:20 1227:11 1248:3,5 1249:12 1262:19,21 1265:3 1270:21,22 1277:2 1301:4,6 1306:16,20 1320:22 1324:14 1331:22 1332:14 1335:11 1344:14 1347:21 1348:3 1375:12,16 1376:14 1379:4 1380:13 1382:18 1401:21 1415:10,14,15 1416:14 1416:19 1419:9 1420:6 1420:8 1423:8 1424:3 1437:2,9 1441:13 1446:7 1449:19 1459:8 1460:2 1465:17 1468:6 1476:9 models 1206:20 1210:20 1247:11,11 1279:18 1309:17,19 1322:19 1377:5 1387:22</p>	<p>1389:12 1420:10 1487:3 modem 1231:21 1315:9 modified 1184:15 1421:6 modify 1465:18 modifying 1460:3 moment 1185:22 1208:4 1216:13 1258:14 1261:17 1286:20 1328:7 1360:7 1370:12 1379:7 1405:21 1450:17 1464:13 1465:7 1477:16,19 1478:1 Monday 1180:16,17 1183:21,22 1186:14 1198:22 1201:2,7 1256:10 1259:14 1316:16 1317:2,15 Mondays 1252:15 monitor 1348:3 monitoring 1202:15 1348:5 Montgomery 1257:17,19 1281:3,7,9,12,14,18 1282:7,10,14,20 1283:7 1323:7 month 1186:22 1423:3,5 months 1301:1 1422:19 1423:10 1433:13 1435:17 moot 1464:2 morning 1180:2 1189:21 1194:9 1196:9 1197:3 1241:6 1318:5 1442:8 1463:13 1474:2 motion 1352:12 1455:4 movable 1240:22 1241:3 1241:8 1243:18 move 1191:10 1199:10 1211:19 1235:3 1245:22 1337:19,21 1339:2 1348:12 1352:12 1364:22 1366:17 1368:2 1386:18,18 1408:19 1412:1 1426:8 1428:22 1429:5 1432:4 1457:14 1457:16,17,20 1483:13 1485:2 moved 1370:3,5 1425:14 1466:17 movement 1211:15 1215:16 1242:17 1243:19 1257:12</p>	<p>1271:14,21 1279:7 1330:17 1397:21 1412:13 1424:7 movements 1209:6 1211:22 1212:8 1213:4 1213:18,22 1214:7,13 1214:22 1216:1,3 1232:22 1235:11,12 1236:19,22 1238:14 1239:4 1240:9,18,19 1241:1,9,10,12 1242:9 1242:13 1243:7,9,11 1244:12,19,22 1245:18 1246:16 1251:9,10 1254:6 1256:8 1257:9 1257:13,16,20,21 1258:1,10 1259:8,22 1260:6,8,9,11 1261:8,9 1261:11,15,18 1264:6 1265:5 1267:6,9,13,18 1267:20 1268:3,9,11,12 1268:13,14,16 1269:3 1269:12,15,20 1270:3,4 1270:8,13,14,17 1271:1 1271:13 1272:5,13 1276:13,17,18,19 1277:16 1278:17,17 1296:4 1330:12 1341:11,22 1373:3,5 1388:5 1399:13 1423:21 1424:10,11,17 1425:13 1428:18 1431:1 1437:19 1441:16 moves 1271:9 1411:22 1414:8 1429:2,3,3 1430:13 1431:18 moving 1192:16 1204:9 1234:16,18 1296:18 1408:17 1418:11,12 1456:5 Mullins 1181:14,15 1188:22 1189:16 1194:11 1196:8,22 1437:13 Mullins's 1196:14 multiple 1239:16 1329:9 multiple 1182:7 1251:13 1259:21 1261:9 1272:5 1342:4 1344:19 mute 1185:22 muted 1382:7</p> <hr/> <p style="text-align: center;">N</p>
--	---	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1514

<p>N 1180:1 1491:1,1 1492:1 1492:1 name 1205:6 1253:8 1256:6 1265:11,13 1324:4 1351:8 1357:6,6 1357:17,18 1362:3 1367:5 1379:14 1391:18 1392:2 1400:8 1409:19 names 1356:2 1391:6 1392:15,20,21 1393:1,2 narratives 1407:7 1423:19 1426:3,4,18,19 1433:4 National 1179:4 nationwide 1394:4,6 nature 1359:20 nearly 1396:13 necessarily 1212:12 1236:17 1333:17 1334:7 1433:21 1444:14 1474:8 1482:3 1482:8 necessary 1184:6 1269:20 1358:5 1415:17 1421:3,9 1422:6 1441:15 1456:2 1475:20 necessity 1488:18 need 1181:22 1183:15 1184:10 1191:1,7 1192:18 1194:7 1195:20 1224:15 1231:12 1250:19 1283:9 1290:8 1297:1 1329:4 1346:6 1367:6 1368:19 1369:1 1376:7 1403:20 1417:14 1419:6 1442:1 1461:4,9 1482:18 needed 1186:13 1193:5 1210:18 1264:3 1285:15 1318:10 1322:21 1323:10,13 1359:14 1396:7 1481:7 1481:17 needing 1476:3 needs 1191:9 1209:15 1262:22 1333:8 1345:5 1454:13 1466:22 1482:15 negotiate 1348:22 1349:21 1350:8 negotiated 1347:8 negotiating 1465:16</p>	<p>1466:1 negotiations 1466:9 neither 1192:11 1493:11 nervous 1379:5 network 1205:7 1206:13 1206:13,14,18 1209:21 1218:10 1233:17 1248:2,18,19,22 1249:7 1262:22 1279:13 1299:10 1302:14 1310:1,14 1324:14 1347:21 1410:17 1411:22 1415:20,22 1416:2,3,4 1417:12,12 1423:14 1424:11,14 1425:14 1426:9 1438:2 1459:9 1475:8,12 1481:4,13 never 1249:7 1266:6 1291:15 1302:15 1341:5 1393:16 new 1194:21 1210:10 1223:13 1253:7,14 1259:3 1282:20 1283:1 1284:18 1285:15 1295:1 1296:8,14 1321:6 1323:13 1365:6 1388:20 1392:1 1411:16,17 1420:19 1421:1 1425:18 1428:21 1430:11,11 1431:3 1432:2 1437:17 1442:4,18 1479:4 1484:18 Newark 1412:15 nice 1326:6 night 1241:6 1314:11 nine 1243:11 non-clearing 1290:19 non-trains 1373:17 1386:17 nonconfidential 1347:13 1473:18 1485:5 nontrain 1208:19 1235:8 1237:14,19 nontrains 1215:21 noon 1189:22 1190:4 1241:6 NOPB 1250:9 1251:7,8 1251:12 1252:22,22 1253:5,14 Norfolk 1179:6 1181:15 1181:15 1196:8 1204:15 1239:10 1240:14 1255:5,11</p>	<p>1257:10 1409:9 1410:10,11,21 1411:3,7 1411:13 1412:19 1415:6,12 1416:9,18 1417:8 1419:10,21 1420:6,17 1421:1,7 1422:6 1423:9 1424:3 1428:7 1429:20 1431:8 1433:15 1437:3,8 1438:7,8 1449:2 1453:2 1472:5 1475:5,7,13 1485:20 norm 1302:13 normal 1262:12 1319:8 1423:6 1434:16 normally 1319:11 1479:14 norms 1303:19 north 1205:16 1271:13 1295:2 northbound 1442:3,11 1443:2 northbounds 1442:19 northeast 1412:15 1478:7 1479:6 1480:1,8 1480:18 1482:6 Notary 1493:1,19 note 1270:16 1312:22 1453:18 1461:15 1463:5 noted 1393:12 1424:12 notes 1264:4,7 1344:19 1374:4 1379:18,20,22 1380:7 1381:5 1398:3 1423:19 1424:16 1425:2,5 1426:11,13 1427:9 notice 1179:18 November 1308:13,17 1356:5 1423:1,2 NS 1180:6 1183:21 1207:22 1225:22 1239:5 1287:6 1311:22 1324:18 1332:17 1337:12 1366:18 1368:10 1376:11,20 1406:13,18,22 1407:6 1418:14 1430:10 1431:7,11,21 1432:4 1436:1,13 1437:12 1459:9,17,20 1460:3 1461:2 1465:18 1466:4 1466:13,14 1467:11,12 1468:2,9,10,15,21 1477:8 1482:6 1483:5</p>	<p>NS's 1275:5 1407:4 1446:6 1460:1,7,10,14 1465:16 1466:1,8 1479:22 1482:14 1484:19 NS110 1239:2 NSR 1441:9 NSR-18600 1477:7 1483:15 NSR-966 1470:3 1483:14 number 1202:13 1209:1 1225:22 1230:6 1232:15 1235:8 1244:12,13 1260:8 1270:9 1285:6 1296:6 1331:2 1367:11 1372:19 1392:21 1397:20 1398:6 1399:8 1401:19 1453:20 1492:18 numbering 1230:7 numbers 1228:16 1240:6 1255:18 1262:4 1268:2 1272:12,18 1275:3 1276:1 1286:10 1337:7 1389:19 1397:20 numerous 1400:7</p> <hr/> <p style="text-align: center;">O</p> <p>O 1180:1 1491:1 1492:1 oath 1264:19 1315:13 Oberman 1179:19 1180:2 1181:10,19 1182:5 1183:9,17 1184:10 1186:1,7 1187:9,19 1188:11,15 1188:18 1189:10,19 1190:1,7,13,17 1191:6 1191:14 1192:13 1193:8,13,16 1194:2,17 1195:17 1196:12,19 1199:6,15 1200:6,10,13 1201:15 1202:10 1203:9 1204:11,16,22 1217:20 1218:17 1219:3,11,17 1225:3 1226:8,12 1227:1,6,8 1227:12,22 1228:4,14 1230:8,13 1231:2,8,14 1231:19 1232:5 1234:6 1234:20 1236:7 1238:4 1238:7 1239:13 1241:21 1242:3 1243:5 1245:2 1255:15,20 1256:5 1261:19 1262:1</p>
---	--	---	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1515

<p>1263:21 1266:15 1273:12,22 1274:8,15 1275:21 1276:7,10 1278:21,22 1279:10,21 1280:6,16,21 1281:9,19 1282:1,6,21 1283:12,21 1285:19 1286:8,17 1292:13 1293:8,15 1295:17,22 1296:21 1297:13,17,22 1298:16 1301:13,17 1304:1,7,9 1304:12,20 1305:6,12 1305:19 1307:19 1308:4,10 1309:8 1311:19 1312:21 1313:7,11,14 1314:9,17 1315:7,18,22 1316:11 1316:22 1317:5,11,19 1318:17,21 1319:6 1321:10 1322:7,10 1323:20 1324:5,7 1326:3,13,20 1327:1 1328:2,13,21 1329:21 1330:18 1331:6 1333:20 1334:1 1335:9 1336:18,21 1343:10,18 1344:3,17 1345:3,18 1346:2 1348:15 1350:1 1350:14,16,20 1352:6 1352:12,15,17,19 1353:7,11,17,21 1359:4 1359:18 1360:13 1362:5,8 1367:20 1369:19 1370:2,4,9,13 1371:2,18 1382:5,6 1390:19 1396:13,16 1397:7 1403:2,10,20 1404:2,5,8,17,22 1405:8,15,20 1407:13 1408:21 1409:7,11,17 1409:21 1428:10 1429:7,11,15 1432:20 1438:13,17 1439:14 1440:10 1443:12 1444:5,18 1445:4 1446:8 1447:6,13 1448:12 1449:13 1450:10 1452:10 1453:11 1454:9 1455:2 1455:7,13 1456:3,9 1457:7 1458:1,11,13 1461:6,12,21 1462:3 1463:8,11,21 1464:6 1466:21 1467:5,15 1470:7,9,15,21 1471:6</p>	<p>1471:9,15,22 1472:6,11 1472:19,22 1480:11 1481:9,19 1483:16,18 1484:2,6,21 1485:6,12 1487:8,12 1488:2,17 1489:3,14,20,22 1491:15 object 1278:20 1333:19 1382:2 1390:17 1439:17 1443:20 1446:5 objection 1186:3 1227:3 1227:12 1238:7 1279:9 1329:7,11 1333:21 1352:15,16 1382:8 1445:7 1447:19 1448:13,21 1450:11,12 1452:1,11 1454:10,11 1454:12,14,21 1455:9 1463:5,6 1464:1 1467:3 1467:6 1480:9 1483:16 1483:17 objective 1375:15 obligations 1196:10 observation 1349:13 1373:18 observations 1373:14 1424:12 1429:1 observed 1223:22 observing 1196:1 1425:6 obstruct 1252:1 obtain 1380:20 1422:19 obtained 1380:13 1430:20 obvious 1382:19 obviously 1186:9 1275:17,19 1363:14 1398:11 1452:22 1453:5 occupancies 1215:4 1250:19 1256:22 occupied 1254:16 occupy 1269:2 1451:14 1456:19 occupying 1213:21 1241:5 1256:21 occur 1222:15 1270:4 1359:14 1378:21 1478:14 1481:6,16 occurred 1219:2 1413:15 1413:16,16 1435:14 occurring 1482:10 occurs 1413:8 1479:14,19 1480:21 1481:4,14 October 1422:22 1423:2</p>	<p>1477:13 offer 1189:21 1192:5 1445:6 1447:8 1452:6 offered 1183:5,6 1192:17 1195:9 1317:9 1440:1 1446:6 1448:14,15 1449:15,18 1452:1,6,9 1452:19 1453:12 offhand 1296:19 officer 1493:3 oh 1249:4 1254:5 1304:17 1306:15 1316:1 1338:8,13 1363:3 1364:1,13 1377:12 1393:2 1422:21 1436:8 okay 1181:11,16 1182:3 1184:9 1190:10 1191:14 1212:17 1219:17 1220:4,5 1221:6,19 1226:13 1227:22 1228:14 1229:6 1231:18 1235:1 1237:2,22 1238:16 1240:4 1241:11 1243:17 1249:4 1250:1 1250:21 1257:15 1262:12 1274:15 1276:7 1279:14 1283:21 1284:13 1286:17,19 1287:13 1288:1,8,12 1290:13 1292:11 1297:9 1298:11 1305:12,19 1307:9,11,17,17 1313:14 1316:1 1322:6 1323:16 1324:1 1325:5 1328:3,12 1329:20 1331:16 1332:8,11 1333:5,16 1335:15 1336:3,18,20 1338:13 1343:6 1346:2,12 1348:11 1350:4 1351:10,13,18 1352:5 1352:10 1353:21 1357:4 1362:6 1364:1 1364:17 1367:20 1369:11,17,21 1372:5,9 1372:20 1373:12 1375:3 1377:17 1378:6 1378:20 1379:10 1380:6 1383:11 1384:4 1384:8,22 1385:14,17 1388:7 1389:11 1390:1 1390:7 1391:12</p>	<p>1393:17 1394:10 1395:14,17 1396:11,11 1396:16 1404:1 1411:4 1411:5 1421:14,19,20 1425:2,3,9,20 1426:17 1427:5,17,18,21 1429:21 1432:15 1433:6 1439:7 1441:8 1447:5 1464:15 1470:21 1471:15 1472:11 1477:6 1478:3 1478:3 1482:13 1486:9 1487:2,6 Oliver 1393:8,12 1428:21 1479:3 on-network 1423:16 on-the-job 1416:13 once 1272:1 1307:7 1326:11 1336:3 1377:15,15,16 1379:3 1415:21 1417:9 1418:4 1419:3 1426:8,18 1432:8 1446:16 one-to-one 1387:19,21 ones 1212:11 1262:3 1301:15 1384:10 1486:14 ongoing 1331:22 onset 1218:8 1265:2 open 1182:21 1328:8 1371:1 1408:1 1438:7,8 1488:1 open-ended 1439:15 opening 1180:6 1368:6,9 1374:20 1406:13 1407:2,4,5 1452:21 operate 1180:4 1250:17 1251:1 1396:21 1439:4 operated 1250:16 1439:12 operates 1256:10 1449:7 operating 1270:1 1340:19 operational 1206:22 1208:11 1417:2 1459:14,21 1466:5,13 1467:11 1468:11 operations 1208:3 1209:12 1213:1 1226:7 1229:10 1269:19 1277:8 1299:15 1321:5 1332:22 1333:3 1339:10,22 1340:3,15 1341:3 1342:5 1347:3 1351:5 1375:15</p>
--	---	--	---

<p>1391:19 1395:20 1412:4 1421:2,7 1423:7 1425:6,19 1427:15 1434:17 1436:16,21 1441:20,22 1443:22 1444:13 1445:12,15,17 1445:21 1446:3 1449:2 1450:20 1451:13 1453:1 1456:17 1460:3 1465:18 opine 1447:16 opinion 1300:18 1444:13 1444:22 1445:3,6 1447:8,16 opinions 1448:15 1452:7 opportunity 1251:4,16 1251:22 1259:12 1269:21 1352:22 1406:15,19 1444:3 1454:22 1460:20 opposed 1406:22 opposing 1441:15 1442:13 1443:3 optimistic 1180:19,22 optimized 1375:19 option 1206:8 options 1210:2 oral 1397:18 order 1189:4 1194:12,19 1199:13 1201:12 1202:20 1203:15 1204:7 1248:9 1270:2 1280:3 1317:21 1318:11 1344:2,6 1360:4 1414:20 1432:4 1438:2 1465:19 1476:6 ordering 1345:8 ordinarily 1196:16 organized 1210:17 organizing 1184:12 oriented 1448:7 origin 1217:15 original 1325:16 1401:2 1422:9 originally 1192:3 1422:21 originate 1305:9 origination 1211:7 Orleans 1223:13 1253:7 1253:15 1259:3 1282:20 1283:1 1284:18 1295:1 1296:8 1296:14 1323:13 1365:6 1388:20 1392:1 1425:18 1428:21</p>	<p>1430:11,12 1431:3 1432:2 1437:18 1442:4 1442:19 OS 1211:13,14,15,16,18 1212:4,19 1214:15 1233:22 1241:19 1258:4 1278:3 1333:10 1368:21 ought 1180:19 1484:11 outbound 1432:13 outcome 1277:1 1493:16 output 1270:18 1300:6 1300:17 1416:6 outputs 1358:14 outside 1218:4 1223:22 1224:5 1248:3,14 1294:12 1296:8 1297:4 1479:13 overall 1270:14 1277:1 1364:21 1476:10,14 1479:1 overly 1366:12 oversaw 1218:11 oversee 1206:20 overstated 1270:8 overstates 1225:22 owned 1250:16</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P 1180:1 p.m 1314:16,19,20 1315:1 1490:6 pace 1191:4 package 1364:14 1483:9 page 1227:18 1230:2,3,4 1230:6,7 1232:8 1235:16,16 1236:7 1239:11,17 1258:16 1266:21 1311:20 1313:5,7 1329:15 1443:12 1459:4 1478:2 1478:16 pages 1236:11,11 1256:3 1311:17,19 1329:10 1440:17,22 1443:18 1446:22 1492:12 pandemic 1434:17 paper 1329:6 1331:13,19 papers 1273:20 1274:3 1274:14 1276:1,6 paragraph 1478:15 Pardon 1262:10 parened 1313:3 part 1195:19 1200:21 1222:21 1240:6</p>	<p>1244:16 1248:21 1252:4,4 1261:14 1262:3 1275:4 1283:13 1286:12,13 1294:3 1300:8 1301:5 1319:13 1324:17 1333:7 1351:14 1352:3 1355:16 1364:13 1408:11 1413:12 1416:8 1419:9 1422:2 1426:20 1435:9 1448:14 1452:19 1459:16 1460:15 1488:6 part-time 1206:7 1219:14 participate 1198:8,11,12 1232:17 participated 1207:14 1302:6 1332:15 1410:18 particular 1219:21 1222:3 1252:12 1263:19 1267:18 1285:7 1300:7 1302:13 1303:11,13 1341:17,18 1368:8 1440:17 1464:18 particularly 1197:12 1216:11 1358:11 1453:22 parties 1180:9 1181:8,9 1188:2 1196:11 1200:4 1301:10 1344:20 1345:13 1371:6 1461:17 1493:12,15 partners 1430:14,17 1437:22 partners' 1432:3 parts 1268:17 1286:11 1299:11 1371:10 party 1280:2 pass 1209:3 1242:21 1251:2,12 1260:1 1414:8 passage 1440:14 1441:4,8 1443:6,8 1447:1 passages 1439:22 1440:3 1440:14,18,20 passenger 1179:4 1207:1 1207:6 1248:17,19 1249:2,11,17,20 1283:9 1301:8 1309:22 1310:11,12 1319:10,14 1319:20 1320:14 1322:18 1325:1</p>	<p>1332:22 1333:3,9 1347:3 1351:5 1361:19 1376:4 1381:16,21 1383:3,7 1389:16,20 1390:5 1396:1,5 1412:18 1417:4,5 1420:17 1441:18 1444:17 1446:2 1473:15 passenger-related 1207:7 passes 1442:8,22 passing 1213:22 1259:10 1260:2 Passover 1190:8 1195:20 1195:22 1196:1,4,11 patch 1300:11 path 1414:12 1451:8 patience 1490:4 patiently 1203:21 Patrick 1219:18 1279:21 1290:18 1301:17 1352:6,19 1353:7 1403:4 1405:17 1450:11 1452:12 1454:14 1489:4 Patrick's 1455:20 patrol 1436:7,14,19,20 pause 1208:15 1216:13 1232:4 1251:18 1261:17 1279:19 1286:5 1432:18 pausing 1258:14 1280:10 pay 1428:7 paying 1347:10 peak 1375:20 1423:3,5 1423:10 peer 1418:13 1420:3 pending 1305:16 1326:14 1456:13 1489:6 Pennsylvania 1411:17 1412:9 1421:8,8 Pennsylvanian 1412:8 people 1190:9 1195:18,20 1198:21 1202:16 1264:1 1265:13,18 1303:4 1314:11 1335:20 1376:7 1379:15 1391:4 1392:4 1392:21 1398:10 1401:7,13 1403:15 1419:20 1425:7 1430:21 1454:11 1484:1 1489:12 people's 1391:6 1489:16 percent 1275:12 1287:12</p>
---	--	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1517

<p>1287:15,16 1301:21 1302:1,4,6,9,11 1304:3 1309:6,12,20 1310:1,10 1311:10 1312:16 1319:11,17 1323:14,14 1355:21 1361:3,16,18 1361:21 1366:21,22 1372:14 1393:14,15 percentage 1296:9,13 percentages 1296:20 perfectly 1187:6,7 perform 1257:18 1258:12 1268:2 1269:2 1459:7 performance 1206:12 performed 1249:10 1486:15,18 performing 1233:16 1259:21 1260:8 1261:8 1267:20 1271:9,12 1272:5 1282:12 1466:7 period 1216:5 1226:9 1242:18 1256:15 1273:9 1340:16 1342:1 1356:5,7,12 1375:20,22 1378:6,20 permissible 1455:1 permission 1409:9 1428:9 permit 1460:2 permitted 1465:18 1467:19 persistent 1366:13 person 1218:18 1265:11 1318:9 1360:3 1392:1 1397:14 1398:11 personal 1188:6 personally 1184:19 1425:5 1437:14 1469:5 1469:9 personnel 1352:2 1373:7 1374:5,15,21 1390:16 1425:15,18,21 1426:7 1475:18 perspective 1181:7 1245:1,3 1246:20 1270:20 1317:18 pertinent 1475:10 1485:9 petrochemicals 1207:17 phantom 1428:17,18 phase 1300:22 1399:2 1440:2 Philly 1412:20 phone 1231:16 1328:19 1328:19 1365:16 1380:2 1397:17 1398:4</p>	<p>1399:6,14 1400:7 photographic 1398:12 phrase 1441:5 1443:9 phrased 1229:14 1305:8 physical 1397:11 1408:6 physically 1307:15 1308:8 pick 1183:3 1246:8 1399:13 1430:16 picked 1380:2 picks 1256:18 pickup 1211:8 picture 1211:21 1340:1 1341:22 1364:22 1369:5 pictures 1342:16,19 1343:5 piece 1422:6 pieces 1430:12 ping 1357:14,14,15 pinging 1212:16 pings 1258:3,8 Pittsburgh 1412:11 1416:2 1421:8 pivot 1388:14 1389:3,6 place 1204:8 1326:7 1344:5 1400:3,3 1416:22 1417:16 1418:16 1448:5 1467:3 1479:15 1485:7 1486:6 places 1218:20 1295:6 1314:12 1458:5 plan 1247:16 1280:4,14 1297:20 1489:16 planes 1490:5 planned 1300:8 1323:4 1417:16 1488:9 planning 1405:3,6 1473:15 play 1418:19 playback 1417:21 1426:6 playbacks 1425:11 pleadings 1397:9 please 1204:17 1205:4,13 1221:2 1233:9 1239:20 1261:21 1329:18 1346:21 1382:9 1389:15 1394:1 1409:7 1409:10,12,19,21 1429:15 1431:5 1440:7 1458:21 1463:5 1477:19 1478:1 1481:10 plot 1330:17 plug 1381:3</p>	<p>plus 1234:2 1272:10,13 1462:3 point 1194:11 1211:15,16 1211:18,19 1216:8 1236:14 1251:15 1258:4 1259:9 1260:2 1271:15 1275:8 1279:14 1283:5 1286:1 1289:11 1301:8 1312:16 1317:3 1334:12 1337:15 1339:4 1345:6 1347:20 1360:5,18 1368:7 1371:13 1382:18 1398:22 1407:8,10,11 1407:19 1408:4 1412:2 1412:2 1415:2 1417:3 1434:9 1473:22 1474:18 1484:9 pointed 1271:17 pointless 1278:7 points 1213:22 1234:21 1251:3 1286:7 1315:16 1333:10 1474:22 policy 1417:4 1473:16 polite 1323:18 poll 1417:13 polylines 1423:15 poorly 1229:14 populated 1338:21,22 1339:5 population 1339:6 Port 1182:5,8,17 1184:5 1185:13,17 1186:16,17 1186:18 1191:16 1193:3 1204:7 1297:19 1313:15 1318:22 1444:1 1489:6 Port's 1182:8 portion 1294:22 1345:16 portions 1233:17 portraying 1255:17 posited 1451:12 1456:16 positing 1451:18 1457:2 position 1197:22 1198:2 1324:17 1348:2 1379:14 1413:7 1432:13 1437:7,11 1482:14 positions 1206:9 1411:10 possibility 1186:5 1195:9 possible 1188:20 1203:16 1244:9 1315:16 1316:17 1326:7 1336:6 1371:9 1380:18</p>	<p>1399:15,18 1405:10 1434:14 1449:10 1469:6,11,16 1474:6 possibly 1198:21 1297:5 1479:1 post 1249:12 post-employment 1219:10 potential 1243:22 1278:9 1296:22 1305:15 1334:18 1417:15 1441:17 1475:18 power 1213:9,12 1430:15 1432:3,4,4,10 practice 1291:14 1402:15 1486:14 pre- 1219:10 precisely 1339:15 1377:10 predominantly 1310:21 preexisting 1188:7 prefaced 1452:3 preference 1451:9 preferences 1444:16 prepare 1376:22 prepared 1180:14 1239:1 1359:7 preparing 1376:11,20 prescheduled 1186:9 presence 1277:7 present 1186:12,20 1200:17 1209:8 1328:3 1405:4 presenting 1440:16 presiding 1179:19 press 1367:6 presumably 1303:5 presume 1303:1 presuming 1309:18 pretty 1192:11 1197:7 1354:8 1356:13,14 1415:22 1419:13 1432:17 1437:5 prevent 1466:2 1468:9 previous 1239:19 1290:9 1371:11 previously 1185:1 1226:17 1227:5 1228:1 1229:17 1272:9 1289:12 1315:4 1361:18 1430:7 1439:9 1455:10 1463:6 1486:12 primarily 1206:20 1214:5 1397:16</p>
--	--	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1518

<p>1411:20 primary 1206:19 1208:18 1210:22 1212:9 Primus 1216:16 1217:4 1217:19 1236:13 1237:2,17,18,22 1239:18,21 1240:4 1246:1 1251:20 1253:4 1297:11 1298:2,4,11,15 1305:17,22 1307:17 1332:18 1333:2,5 1336:15 1337:1 1338:12,15 1343:6 1346:20 1347:5 1350:18 1351:2 1352:5 1370:7 1455:8 1471:12 1471:18 1472:3,10 1485:11,16,18 1487:6 1491:17 1492:8 Primus's 1237:6 prior 1219:2 1222:2 1249:11 1277:12 1312:19 1323:10 1407:2 1465:11 1486:21 prioritizes 1269:12 priority 1216:2 1269:19 privately 1196:5 privilege 1463:17 1464:2 probably 1183:22 1185:8 1188:1 1222:8 1272:11 1293:11 1297:15 1358:21 1370:10 1378:18 1426:12 1427:9 1433:12 1435:17 1451:6 1484:15 probe 1478:20 probing 1450:4 problem 1196:20 1231:22 1286:21 1318:14 problematic 1440:6 problematical 1193:22 1439:17 problems 1288:9 procedural 1406:12 procedure 1322:22 1375:16 1402:20 proceed 1203:20 1204:22 1215:7 1225:5 1227:13 1234:20 1238:8 1283:22 1324:8 1328:4 1329:22 1331:8 1335:9 1346:3 1409:7,22</p>	<p>1432:22 1438:16,17 1446:14 1450:12,16 1462:7 1473:1 proceeded 1412:11 proceeding 1188:8,17 1207:15,19 1213:19 1225:21 1229:18 1275:8 1371:16 1410:18 1440:2 proceedings 1198:22 1202:2 process 1209:5 1246:11 1246:19 1284:13,14 1325:5 1329:16 1331:22 1335:11 1348:3 1349:16 1379:4 1382:18 1399:9 1400:22 1402:7 1410:16 1417:7 1419:5 1419:9,11,13,22 1421:12 1435:3,15 1437:1,6 1459:9 1460:16 produce 1296:12 1434:1 produced 1274:3 1416:7 1433:18 1434:4 productivity 1479:3 profile 1211:2 1212:19 1214:14 1233:15 1241:13,18 1278:3 program 1269:14 programs 1399:17 progress 1200:15 1317:13 project 1210:11 1324:18 1396:9 1402:21 1416:17 1421:18 1422:3,17 1475:22 1476:1,4 1478:6,11,13 1479:15 1480:3,3,4,20 1481:6,16 1482:11 projected 1284:19 1286:16 1288:11 1294:16 1303:7 1361:10 1372:1,2 projections 1302:19,22 1303:4,11 1310:22 1311:3,6 1320:14 1360:15,16 1361:1,15 1364:6 1365:3 1366:7,8 1366:16 1372:8 1392:10 projects 1207:7 1394:18 1395:4,5,9,18,18 1396:3 1420:15,16,21</p>	<p>1421:11,14 1423:9 1424:4 1475:9,19 1486:11,16,17,19 1487:5 promises 1315:10 promoted 1415:7 prompted 1364:9 1365:22 properly 1344:4 proposal 1182:11 propose 1209:22 1301:9 1375:18 proposed 1182:19 1195:7 1406:12,22 1478:6 proposition 1452:18 proprietary 1212:14 1344:7 protective 1344:2 provide 1183:3 1214:10 1220:17 1266:9 1288:3 1288:9 1291:17 1311:18 1374:3,19 1387:21 1397:19 1422:22 1473:19 1474:14 1477:1 provided 1225:10 1263:6 1311:1 1325:14 1334:22 1356:7 1367:19 1368:10 1376:10,19 1377:1 1388:13 1389:2 1392:8 1423:14,15,18,20,21 1424:2 1433:4,15 1434:7,7 1435:21 1436:1,3,4 1456:1 providing 1182:20 1284:8 1374:12 1377:8 1382:13 1383:1,6 1423:1 1424:6 public 1179:3 1228:8,12 1228:13 1253:15 1287:10 1293:11 1344:9 1345:6,7,12 1350:3 1360:10 1369:22 1370:6 1371:4 1371:8,12,13 1463:18 1485:14 1487:13 1488:3 1493:1,19 public's 1488:3 publicly 1310:4,14 1319:15 1320:19 1347:15 pull 1211:1,13,21 1212:2 1212:12,12 1213:9,9,11 1328:16 1369:8</p>	<p>1415:16 1417:18 1443:5 1463:2 pulled 1301:22 1319:15 1415:19 1416:4,6 pulling 1219:8 1353:9 purpose 1209:13 1223:5 1278:8 1312:19 1358:17 1375:11,13 1483:3 purposely 1347:11 purposes 1210:5,6,7 1237:12 1259:4 1312:18 1405:3,6 1452:2 pursuant 1179:18 pursue 1202:18,18 1305:13 push 1248:15 1316:3 pushing 1191:19 put 1181:2 1191:5 1204:3 1204:9 1207:22 1235:20 1236:11 1237:1 1238:12 1248:19 1250:2 1256:3 1264:8 1313:4 1318:11 1325:12 1326:6 1329:2 1329:7 1339:17 1374:7 1380:1 1387:9 1398:14 1401:21 1402:9 1403:1 1406:6 1418:21 1428:9 1432:4 1436:15 1479:15 putting 1186:21 1254:16 1255:22</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>Q520 1353:5 1354:7 Q602 1353:5 qualifications 1446:9 1459:6 quasi-growth 1322:2 question 1184:16 1193:9 1195:18 1216:17 1217:1,12,20 1219:18 1220:14 1222:6,20 1224:1,22 1225:7 1229:14 1237:4,6 1241:22 1245:12 1246:4,22 1247:1,10,21 1248:3,15 1249:4 1252:6 1253:12 1254:11 1264:16,19 1265:1,3 1273:17 1276:9 1278:21,21 1279:1,11 1280:21</p>
--	---	--	---

1281:20,22 1283:2,15 1288:2,16,16 1289:8 1290:14 1293:14,21 1294:4,20 1295:21 1296:2 1297:10,11 1298:3 1304:2 1305:8 1305:13,16 1306:15 1307:22 1312:8 1317:1 1318:18 1319:7,18 1322:9 1325:12 1326:4 1326:14 1334:3 1339:13 1344:11 1348:16 1350:1,4,9,15 1350:18 1352:7 1353:1 1353:15 1355:20 1356:21 1359:6,20 1360:5 1362:20 1364:10 1368:15 1373:15 1374:2 1375:2 1376:18 1381:18 1382:9 1383:10 1388:2 1388:21 1389:9,11 1394:1 1401:5,16 1402:6 1403:5 1408:1 1413:21 1433:6 1434:2 1436:22 1439:16 1444:6 1446:17 1447:12,18 1449:14 1455:20 1456:12 1457:8,22 1458:4 1460:13 1462:4 1467:16 1469:8 1471:13,20 1472:1 1474:10 1485:1,8 1487:7 questionable 1361:2 questioned 1320:18 1455:12 questioning 1313:16 1397:10 1406:8 1443:21 1446:16 1449:8 1450:12 1488:8 questions 1186:13 1208:11 1216:14 1225:4,7 1242:5 1243:2 1243:3,6 1245:9 1250:3 1251:18 1255:2,6 1257:7 1258:15 1261:20 1266:17 1279:15 1280:19,19 1284:5 1288:13 1292:14 1297:18 1301:12,13 1305:18 1306:10 1309:4 1313:15 1318:22	1319:1 1335:7 1336:17 1355:15 1360:9 1369:20 1371:21 1395:7,14 1397:5 1401:14 1402:3 1412:22 1417:20 1424:11 1429:6 1432:18,20 1434:18 1435:1 1438:12,14 1446:10 1448:6,9 1449:20 1452:3 1453:21,22 1454:5,12 1462:4 1484:8 1485:13 1487:10 1488:4,22 quick 1216:16 1239:18 1276:8 1301:15 1315:16 1318:18 quicker 1336:8 quickly 1236:14 1298:4 1429:19 1432:17 1472:13 QUINN 1470:20 quite 1203:10 1208:22 1216:22 1223:18 1271:19 1373:9 1468:5 1474:22 quo 1395:6,20 quotations 1237:1 <hr/> <p style="text-align:center">R</p> <hr/> R 1180:1 R.L 1218:6,20 1219:4 1225:16,18 1228:22 1287:22 1308:16,20 Rachel 1370:13 radar 1475:15 1478:11 Radnor 1355:3 rail 1207:2 1213:18 1215:16 1235:10 1241:1,4,5,9,12 1242:17 1243:7,9,11,19 1244:12,19,20 1245:17 1248:17 1277:16 1278:17 1373:3 1393:19 1394:15 1411:16 1412:4 railcars 1259:1 railroad 1179:4 1184:7 1226:6 1229:10 1250:14 1253:15 1268:21 1269:6 1286:12 1364:5 1384:5 1437:14 1439:3 1441:20 1445:11,15 railroad's 1375:18	railroads 1364:2 1394:7 1446:2 rails 1216:3 1373:9 1397:21 RailTrend's 1393:12 Railway 1179:7 raise 1189:1 1204:2,17 1316:9 1358:10 1409:12 raised 1194:12 1217:1 1225:20 1303:7,9,15 1315:19 1409:1 1489:22 Rammell 1391:18 ran 1249:14 1309:18 1323:4 1412:9,21 1416:4 1458:9 range 1422:16,16,18 1470:3 rate 1284:9,10 1287:10 1287:15,17 1288:4 1304:10 1309:7,12 1310:20,21 1319:11,21 1320:7,13,21 1322:2,20 1361:4 1375:11,14 rates 1279:17 1284:5 1286:5 1303:8,17 1304:20 Raycross 1358:13 re-ask 1334:3 reach 1192:14 1200:7 1364:1 1418:5 reached 1284:17 1286:14 reaching 1366:6 1460:7 1460:10,14 reacts 1347:16 read 1236:12 1340:4 1349:1 1350:7,9,11 1374:22 1400:9 1439:20 1440:4,18 1451:2 1456:13,15 1465:21 1471:19 1472:15,15 1477:18 1480:19 1481:10,11 reading 1328:19 1329:17 1340:7 1354:17,18 1440:13 1444:2,7 1446:20 1471:20 readjust 1414:20 reads 1441:8 ready 1204:13 1315:11 1318:12 1326:22 1329:20 1344:16 1346:12 1471:8,10 1477:20	real 1209:12 1213:1 1236:14 1239:18 1242:9 1247:18,22 1269:18 1277:19 1278:5 1291:13,20 1384:5 1388:1,9 1445:2 real-time 1418:1 realistic 1404:15 1441:11 reality 1209:15 1223:5,8 1268:16 1270:2,5 1271:4 1277:8 1376:9 1386:1 1390:14 1436:12 realize 1419:20 1484:10 really 1184:13 1187:14 1198:9 1216:22 1217:7 1217:7,9 1222:11,13,18 1223:17 1224:7,16 1265:9 1302:4 1321:5 1334:16 1337:17 1341:8 1345:5 1355:19 1365:6 1367:6 1428:6 1429:19 1452:12 1454:15 1458:3 1468:7 realm 1464:4 rear 1430:14,16,18 rearrange 1182:2 rearranged 1180:14 reason 1185:9 1233:20 1274:16 1278:4 1282:13 1312:6 1401:12 1424:6 1431:16 1456:10 reasonable 1186:15 1202:17 reasons 1214:4 1231:12 1414:5 1434:12 1456:10 reboot 1231:21 1284:2 1286:6 rebooted 1230:16 1315:9 1315:9,9 rebuttal 1227:7,8,10 1228:21 1229:19,21 1230:1,12,17,19,21 1231:5 1234:13,17 1235:17 1236:8 1255:18,20 1256:4 1272:21 1275:5,17 1311:5,16 1312:1,11 1313:1,1 1372:20 1388:12 1389:1 1406:17,20 1407:10 1440:20 1443:6,15,18 1446:21
--	--	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1520

<p>recall 1223:4 1292:21 1294:8 1298:13 1308:21 1331:1 1342:17 1351:19 1352:2 1367:10 1388:17 1392:11 1426:12 1434:6 1470:1 1476:19 receive 1263:12 1363:5 1365:17 received 1252:17 1265:4 1284:20 1352:18 1361:15 1362:9,14 1363:3 1364:15,17 1365:12 1381:3 1407:3 1427:8,9 1465:10,11 1480:15 1483:19 1492:18 receiver 1367:13 receivers 1294:17 receiving 1205:19 1365:14 1469:18 recess 1186:2,4 1187:16 1187:18 1200:11,12 1231:11 1314:17 1405:14 1487:14 1488:13 1490:3 recessed 1314:20 recipient 1346:18 recipients 1332:8 recollection 1356:15 1368:13 recommend 1410:15 1459:8 1475:6,16 1476:6 recommended 1339:10 1394:18 1421:16 reconcile 1413:12 reconsider 1345:8 reconvene 1405:1 reconvened 1314:20 1490:7 reconvening 1180:3 record 1204:3,10 1212:18 1226:13,22 1228:5 1229:13,20,22 1234:4,8 1244:2 1253:11 1264:5 1312:22 1313:5,9 1344:15 1353:8,18 1380:7 1402:19 1406:7 1413:7 1444:2 1451:12 1455:8 1456:15,17 1459:3 1477:6 1481:11 1493:9</p>	<p>recording 1413:1,4,18,20 1414:1 RECROSS 1491:3 1492:3 rectify 1336:13 red 1331:1 redirect 1404:6,7 1462:4 1484:8 1491:3 1492:3 reduce 1475:10 reduced 1375:18 1493:8 reduction 1244:11 reexamine 1371:10 refer 1234:19 reference 1313:2 referred 1428:18 referring 1225:11 1226:12 1255:14 1259:19 1263:18 1273:14 1274:9,18 1281:14 1282:10,10 1336:1 1337:4 1394:2 1426:3 1464:18 1467:8 refers 1257:16 reflect 1209:12 1223:5 1270:2 1454:20 reflected 1278:18 reflecting 1269:18 1277:8 reflects 1212:22 1427:14 refresh 1478:1 refuse 1460:2 refusing 1339:2 regard 1310:11 1447:9 regarding 1351:20 1473:20 regardless 1182:14 1248:20 1269:1 1426:14 1448:11 regards 1206:18 1208:18 1422:18 regenerated 1333:9 register 1195:3 1413:19 regularly 1217:2 1439:12 1445:21 1459:7 rejected 1325:17 relate 1229:6 1444:13 1445:1 related 1296:1 1320:20 1350:19 1439:14 1472:9 1493:11 relation 1307:1 relationship 1218:6 1282:22 1306:3 1413:4 relative 1359:14 1450:22 1493:14</p>	<p>relevant 1387:12 1456:7 reliable 1224:14 1361:6 relied 1302:1 relieve 1194:20 religious 1196:10,15 reluctant 1367:5 rely 1463:22 remain 1488:5 remained 1218:15 1219:13 remaining 1181:17 1239:5 1256:16 1489:20 remember 1244:2 1271:16 1275:13,14 1283:14 1293:3 1295:11 1339:18 1343:1 1357:12 1379:6 1391:10 1392:20 1401:8 1402:4 1426:11 1456:12 remind 1406:10 1473:13 remote 1179:3 1244:3,13 1244:18 remotely 1184:11 1198:12 1199:19 removals 1246:16 remove 1245:19 removed 1277:17 renew 1433:11 1452:1 repeat 1273:1 1283:17 1442:16 1443:14 1447:11 rephrase 1247:21 1264:16 1279:1,3 1294:20 1382:9 1469:8 replica 1375:21 replicate 1373:22 1374:14 1380:12 1434:13 reply 1270:7 1275:18 1440:15 report 1227:9,11 1228:21 1229:2 1230:2,3,12,21 1236:8 1256:4 1272:21 1287:22 1309:7,13 1368:10 1379:9 1416:7 reported 1252:2 1270:18 reporter 1456:13,15 1481:11 1493:1 reports 1235:17 1287:10 1287:19 represent 1184:5 1235:6 1235:22 1312:12 1430:8 1431:22</p>	<p>1436:16,20 representative 1375:8 1388:7 1423:6 1434:16 representatives 1182:8 represented 1436:12 represents 1267:8 request 1199:2 1201:4 1266:6 1365:14 1423:20 1450:11 1488:19 requested 1422:21 1456:15 1481:11 requesting 1334:14 require 1190:9 1221:17 1243:19 1285:11 1288:19 1289:1,10 1293:5 1372:5 1421:14 1450:21 required 1189:13 1241:1 1455:16 1482:2 rerun 1245:16 research 1417:18 1418:4 1426:5 reserve 1191:1,7 1455:2 1455:3,20 resistance 1181:2 resisted 1468:21 resolved 1300:20 resonate 1197:14 respect 1186:17 1419:12 1430:8 1431:8 1444:15 1452:22 1475:1 respond 1187:12 1226:4 1407:14 1427:12 1452:15 responded 1452:15 responding 1273:16 1275:9,10,18 response 1270:10 1312:8 1408:15 responsibilities 1206:17 1206:19 1413:7 responsibility 1422:5 1474:13,14 responsible 1208:8 1215:1 1402:1 1469:5,9 1469:14 1474:11 responsibly 1371:10 rest 1203:5,10 1449:8 1453:16 1474:20 restate 1273:3 restrict 1405:11 result 1380:20 1396:4 1469:21 1479:3 1483:9 results 1478:21 1482:22</p>
--	--	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION
Public Evidentiary Hearing - April 8, 2022

Page 1521

<p>resume 1191:19 1192:10 1315:11 1318:3 1489:1 resumed 1315:4 retraced 1266:3 return 1369:22 1485:5 revealed 1344:8 1407:6 revenue 1375:16 1393:13 review 1273:20 1290:22 1299:11,17 1339:8 1418:13 1420:3 1436:6 1460:20 1464:9 1469:17 1473:18 1477:16,19 reviewed 1285:3 1292:7 1299:13 1460:21 reviewing 1360:1 1469:14 1478:22 reviews 1300:18 revisit 1454:21 1456:2 Ricky 1251:9 Ricky's 1271:16 right 1185:18 1186:10 1187:9 1191:7 1195:16 1198:6 1199:15 1200:8 1204:17 1208:15 1217:21 1220:20 1225:5 1227:13 1228:17 1231:8,22 1243:11,14 1244:14 1254:2,11 1261:2 1262:7 1264:22 1265:19 1274:15 1276:3 1281:4 1288:1 1291:7 1292:18 1294:2 1294:6,11 1295:4,16 1297:6,22 1298:16,22 1302:9 1304:15,22 1308:19 1309:1,3,8 1311:7 1312:11 1313:5 1313:14 1317:11,19 1318:17 1319:12,18 1321:10 1322:7 1324:4 1324:5,15,19 1325:2,6 1325:11,19 1326:13,20 1327:1 1328:2,19 1329:14 1330:7 1332:1 1332:6,9 1333:8,18 1334:1 1335:1,12,16 1340:17 1343:6 1344:17 1345:18 1346:2 1347:22 1348:9 1353:17 1356:10,14 1360:17 1362:18 1366:1 1367:17,20 1369:19 1370:13</p>	<p>1371:2 1372:2,11 1373:2,3,7,14,19 1374:1,5,6,22 1375:5 1376:8,12,21 1377:2,21 1379:19 1380:14 1381:4,6 1384:6,9,13 1384:19 1385:1,11,15 1385:21 1386:3,13,16 1387:10 1388:1,10,16 1389:5,8,14 1390:8,11 1390:16 1392:6,10 1393:6,9 1394:16,20 1396:21,21 1397:22 1398:7 1401:11,14 1403:2 1404:2,5,8,22 1405:8,15 1406:1 1409:12 1420:7 1422:10 1427:6 1432:22 1438:13 1462:3 1470:9 1471:1 1472:22 1475:1 1482:3 1484:13 1485:9 1486:13 1488:2 1489:3 1490:2 risk 1457:17 road 1215:14 1224:15 1242:20 1244:11 1258:2 1260:3,21 1296:13,18 1305:3 1357:13,14 1365:8,9 1409:4 roads 1277:5 Roanoke 1421:2 Rob 1187:19 1201:2 1203:18 1313:22 1314:6,13 1317:1 1319:2 1405:2 1438:14 1439:14 1440:5 1444:8 1447:6 1449:10,14 1450:4,16 1452:14,15 1458:11 Robert 1305:20 1308:11 1336:21 1338:10 1339:12 1350:22 1405:17 1440:1,15,21 1440:22 1443:15,17 1446:21 1455:7 1472:1 1472:1,6 1485:8,10,13 Roberta 1370:10 robustness 1320:2,4,10 1321:6,16,18,20 rock 1256:14 role 1181:11 1207:20 1208:5 1218:2,5,17 1219:4,11,12,14</p>	<p>1248:11 1284:14 1299:7 1325:5,7 1347:2 1422:2 1449:18 roles 1206:17 1208:5 room 1259:21 1260:6,9 1260:10 1261:9 1267:20 1270:4 1271:12 1272:5 1295:16,18 1297:8 1305:14 1306:17 1345:12 1369:20 1388:5 1461:1 1462:9 rooms 1326:2 Rosse 1204:15,16,19 1205:6 1216:18 1231:6 1234:19 1236:15 1243:6 1256:6 1262:2 1273:12 1275:22 1281:3 1296:3 1297:14 1298:5 1306:1 1311:15 1312:1 1313:16 1315:3 1315:12 1318:18 1319:7 1322:14 1323:19,19 1328:14 1330:4 1332:18 1334:2 1337:2 1339:13 1348:18 1351:3 1359:2 1359:21 1360:2,14 1366:12 1367:21 1368:6 1371:17,22 1397:8 1403:13 1428:13 1491:4 Rosse's 1216:15 1217:21 1282:7 1285:21 1313:3 1428:5 rough 1296:9,13 roughly 1252:13 1260:9 1294:9 1307:8 1416:3 round 1325:3 1395:2 1406:20 route 1211:3,16 1217:16 1242:22 1284:18 1286:15 1289:13 1325:1 1330:13 1368:22 1372:11 1451:10 1478:14 routes 1247:16 routinely 1393:19 1394:15 routing 1249:16 RTC 1206:20 1207:2,21 1208:5,6,18 1209:16 1210:4,10 1215:11,13 1220:10,14 1221:6,12 1222:1 1224:3 1225:11</p>	<p>1225:21 1227:7,9,10 1228:21 1230:1,12,21 1232:10 1237:12 1242:14 1245:15,16 1246:8,20 1247:10,11 1248:10,22 1249:8 1254:2,13 1262:12,19 1264:9 1265:3 1269:9 1269:10 1270:9,19 1272:21 1277:13 1278:2,18 1279:18 1282:19 1284:7,11 1285:17 1287:10 1299:2 1300:2,9 1306:5 1306:16 1319:9,19 1322:16 1324:18,21 1325:9 1331:22 1332:12 1335:11,17 1337:13 1338:22 1343:17,20 1348:3 1351:15,21,22 1352:1 1353:10 1354:1,17,19 1354:20 1358:14 1369:15 1372:22 1374:8 1375:4 1376:8 1376:13,14,15,20,22 1377:5,9 1379:3 1380:3 1380:12,18 1381:8 1384:1,22 1386:13 1387:12,13 1388:5 1391:2 1394:19 1395:3 1399:3,14 1403:17 1410:14 1415:10,13,15 1415:22 1416:9,10,12 1416:14,17,18 1417:7 1418:14 1419:9 1420:6 1420:8,10 1433:17 1437:1 1446:7 1449:18 1453:12 1459:7,14,16 1459:19 1460:2 1465:16,17 1466:1,2,7 1468:6 1469:10 1475:5 1476:17 1477:14 1478:22 1482:1,14,22 1486:11,16 1487:3 RTP 1368:9 rule 1352:12 1454:13 1463:13 1488:12 ruled 1489:13 ruling 1382:4 1454:8 1455:3,17 1456:11 1463:15 1464:1 run 1202:4,5 1210:19 1245:20 1247:10 1252:5 1277:18 1290:1</p>
---	--	--	--

<p>1300:15 1309:18 1323:8 1380:18 1382:3 1418:9 1419:4,6,12,15 1431:13 1432:6 1438:2 1442:13 1451:4 running 1208:12 1210:2 1247:15 1289:21 1307:16 1381:15,20 1382:12 1424:15 1442:6,12,21 1466:3 runs 1284:6 1418:10 1431:15,17 1432:8 RVA 1207:11</p> <hr/> <p style="text-align: center;">S</p> <p>S 1180:1 1491:1 1492:1 1492:17 salmon 1261:5 sample 1388:7 sampling 1365:2 Saturday 1256:10 Saturdays 1252:16 save 1326:9,16 savings 1465:19 saw 1223:12 1239:6 1269:17 1367:11 1387:15 1436:6 saying 1199:6 1201:3 1254:1 1274:1,17 1290:18 1312:10 1320:6 1342:21 1364:12 1445:7 1452:4 1458:3 1485:21 1487:2 1488:18 says 1230:7 1236:17 1239:1 1347:12 1354:5 1396:4 1431:9 1447:9 scale 1455:19 scenario 1222:3 1223:20 1299:14 1441:21 scenarios 1249:14 1320:15 1321:3 1436:17 schedule 1190:10 1194:10 1197:12 1202:17 1381:17 1382:1,15 1383:4,9 1406:12,22 1489:16 scheduled 1185:1,14 1316:7 1439:12 1445:21 schedules 1180:13,14 1184:14 1187:1 1192:20 1334:19 1338:1 1359:12</p>	<p>scheduling 1194:7 1246:19 1315:16 1408:8 1463:14 1484:1 1488:12 Schultz 1246:3,6 1247:2 1247:7 1276:8,12,21 1277:9 1309:5,11,16 1310:9,16 1491:18 science 1205:15,15 sciences 1410:7 scope 1439:10 1448:17 1452:4,5 1453:13 1454:2,12 scrambling 1316:14 scratch 1210:12 screen 1185:19 1199:20 1230:22 1235:18,19 1238:22 1297:12 1328:17 1329:3 1331:14 1338:13 1357:2 1397:16 1425:16 1439:21 1440:4,6 1441:4 1443:8 1447:1 1458:21 1463:3 1464:11,17 1465:15 screen-sharing 1403:14 1403:14 screens 1355:18 second 1206:6 1230:14 1259:18 1272:7 1342:14 1346:11 1377:12 1387:20 1392:14 1405:22 1427:17 1434:15 1442:16,18 1443:2 secondly 1302:12 section 1179:5 1412:20 1414:18 see 1183:2 1199:5,17 1203:21 1214:6 1216:13 1220:15,18,21 1220:21 1221:8,21 1222:2,10 1223:16 1224:15 1227:2 1231:15,15 1232:7 1234:21 1235:21 1236:16 1244:17 1250:7 1258:1,8,14 1271:14,18 1276:1 1314:12 1316:11 1320:8 1321:8 1323:9 1328:15 1329:5 1330:8 1338:10,12 1340:2 1341:20 1342:2 1343:19,20 1344:11</p>	<p>1345:5 1347:15 1353:21 1359:7 1360:8 1368:20 1369:2 1370:7 1401:8 1405:20 1415:1 1418:22 1422:2 1430:7 1431:1,7,21 1441:4,6 1443:8 1447:1,3 1450:17 1458:2 1459:11,13 1464:17 1468:2,18 1474:3,4,9,9 1474:21 seeing 1221:16 1222:18 1226:22 1266:19 1320:9 1418:6 1425:16 1430:19 seen 1188:2 1234:1 1259:8 1328:9 1330:9 1357:1 1418:6 1428:12 1429:18 1432:18 1451:17 1457:1 1470:10 1479:4 segment 1216:7 1451:13 1456:18 segregate 1466:2 select 1375:17 selected 1285:6 1303:13 1440:19 1443:5 Senate 1332:16 send 1336:6 1416:9 1487:15 sending 1370:5 1399:12 sense 1196:2 1278:12 1321:22 1330:16 1348:20 1349:7,12 1476:3 sent 1328:8 1380:3 1474:1 sentence 1340:7 1349:12 separate 1233:12 1364:15 1399:21 1469:2 separately 1366:2 SEPTA 1412:21 September 1206:4 1218:14 1331:21 1332:3 1333:7 1356:5 1423:2 serious 1395:4 serve 1322:2 served 1214:21 1259:3 serves 1375:12 service 1196:11 1205:7 1206:11,14 1218:10 1246:22 1247:4,13 1283:9,10 1285:8,13</p>	<p>1291:5,5,8 1292:4,7 1298:10 1299:15 1309:22 1310:12 1319:21 1324:14 1347:21 1376:4 1381:16,22 1382:14 1383:3,7 1396:5,21 1412:9 1417:5 1420:17 1420:20 1421:1,6 1438:10 1479:4 1487:1 servicing 1206:21 session 1221:18 1228:12 1280:2,15 1293:5,11 1315:1,8 1317:21 1318:4 1325:22 1326:2 1326:5,11 1327:2 1328:1 1348:12 1350:3 1360:11 1362:2 1369:22 1370:6,17 1371:1 1461:4 1462:11 1463:1 1477:10 1485:14 1487:13,16 1488:1,3 sessions 1179:10 1187:3 1318:6,8 1371:11 1492:12 set 1188:19 1189:3 1194:13,17 1203:1 1212:2 1217:14 1239:12 1317:21 1335:19 1360:22 1361:14 1362:13 1395:8 1399:2 1422:8 1426:21 1430:15 1442:16 1483:6 setoff 1211:8 sets 1475:4 setting 1384:22 settings 1384:2,4,8 1385:8,8 seven 1180:21 1418:2,2 1425:11 1429:2,3 severely 1437:21 shaking 1266:19 share 1190:22 1196:14 1217:15 1241:3 1335:15 1347:12,14 1441:1 1468:13 1486:3 shared 1337:5,5 1468:17 1469:6,11,16,22 1474:2 1474:7,12,16,19 1475:2 sharing 1230:22 1334:13 1335:12,19 1337:10 1347:12 1349:21 1397:16 1422:13</p>
--	--	--	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1523

<p>1458:21 1467:20 1486:1,7 shed 1311:17 1312:3,5 shelf 1378:11 shift 1243:8 1259:18 1272:7,7 shifting 1225:19 shifts 1241:6,7,9 1243:10 shipments 1365:13 shipped 1361:12 1362:11 shipper 1367:2,13 1375:17 shippers 1294:17 ships 1363:19 shopping 1268:6 short 1216:5,5 1242:18 1242:18,19 1329:8 1404:18 shorter 1289:17 1290:3 shorthand 1276:5 1493:7 show 1189:4 1214:12,14 1220:11 1221:6 1224:3 1226:16 1236:5 1238:2 1241:12,14,17,18 1242:8 1250:22 1251:4 1254:1,3 1258:16 1261:16 1330:19 1336:4 1338:5 1339:21 1340:14,18,21 1344:13 1399:21 1415:18 1429:14 1466:3 1481:5 1481:14 showed 1268:20 1323:12 1325:22 1357:3 1389:13 1390:4 showing 1340:1 1341:18 1445:6 shown 1238:4 1330:17 1337:2 1338:4 1415:16 1415:20 shows 1226:5 1244:2 1270:11 1276:14 1389:17 Sibert 1259:22 1260:4 side 1213:13 1239:9,10 1240:11,14 1284:9 1299:6 1300:17 1311:21,22 1322:22 1332:14 1400:22 1401:1 1407:21 1408:15 sides 1408:10 siding 1211:20 1256:15 1256:21 1257:2 1289:12,13,13 1290:4,8</p>	<p>1290:10 1321:6 1372:10 sidings 1289:17 1290:22 sight 1244:22 signal 1271:17 signals 1259:10 1412:1 signed 1337:11 significance 1276:22 1356:21 significant 1203:18 1277:4 1338:4 1382:21 1389:21 1397:2 1424:13 1438:3 1450:21 significantly 1220:15 1355:9 silent 1323:19 similar 1212:4 1254:11 1261:8 1299:9 1307:10 1339:12 1351:11 1419:5 1437:1 1486:14 Similarly 1212:2 simple 1246:15 simplest 1211:19 simply 1188:9 1195:16 1199:2 1213:4,21 1235:9 1277:16 1278:2 1321:8 1374:9 simulate 1213:6 simulated 1342:1 simulation 1223:7,12 1241:10 1252:19,20 1253:3 1254:5 1255:1 1257:5 1258:12 1259:15 1260:11 1261:12 1271:10 1272:2,7 1403:16,17 1410:15 1478:21 simulations 1299:19 sincere 1455:17 single 1223:16 1271:9 1396:9 Sinkkanen 1231:6 1239:9 1240:12 1316:8 1404:12 1405:5,10 1409:10,11,14,20 1410:4 1438:21 1439:20 1443:9 1444:10 1446:20 1450:19 1452:18 1457:8 1458:1,17 1462:5 1464:8 1465:1,4 1471:14 1473:4 1477:11 1484:3 1485:19 1487:10</p>	<p>1488:9,20 1492:4 Sinkkanen's 1311:15 1312:1 sir 1188:17 1219:16 1237:21 1243:13,16,20 1244:20 1249:5 1252:8 1262:6 1264:7 1266:5 1266:14 1273:18 1274:7 1281:5 1282:9 1283:3 1286:14 1287:4 1291:21 1292:19 1294:4,8 1296:20 1302:11 1303:9 1304:11 1305:2,11 1311:11 1314:3 1315:14 1319:4 1326:19 1333:1,4 1349:14 1366:2 1367:15 1402:21 1406:3 1438:15 1458:12 1470:8 1485:4 sit 1266:9 1417:20 1425:10 sitting 1256:20 1331:13 situation 1182:15,16 1336:14 1442:15 1448:1 six 1180:21 1256:10 1257:4 1377:13 1393:1 1425:12 1433:13 size 1211:8 1340:22 1341:2 1416:1 sizes 1285:17 1288:11 1289:14,15 1290:22 1323:3 1372:7 Skip 1441:18 slide 1239:19 1240:17 1245:22 1255:4 1257:8 1430:1,4,5 1431:5,10 1431:20 1432:9 1433:3 slides 1430:20 1433:3 slightest 1404:11 slightly 1244:8 1340:5 1436:13 slot 1182:21 1338:6 slots 1335:2 1339:9 slow 1337:18 1386:6 1390:12 slowing 1385:17 1390:10 slows 1386:2,7 small 1267:18 1414:18 smaller 1212:8 1276:19 1285:6 1340:8 1342:22 smiley 1474:21 SMITH 1493:3,18</p>	<p>snapshot 1341:16 so-called 1428:14,17 1430:5 social 1410:7 software 1300:2,11,16 1401:21 solid 1192:11 solo 1416:16 solution 1320:5,11 1321:21 1375:19 1483:6 solutions 1206:22 1208:14 1209:20,22 1301:9 1320:2 1323:5 1410:16 1459:9 solve 1318:14 somebody 1266:3 1309:9 1363:19 1370:5 1397:19 1398:4 1400:1 1447:16 someplace 1203:12 soon 1190:22 1328:11 1371:14 sooner 1316:18 sorry 1183:20 1185:15,16 1187:7 1188:12 1194:15,17 1224:1 1227:18 1228:1 1229:16 1230:8,14 1235:12 1240:6 1243:20 1247:21 1253:7,8 1262:11 1264:16 1271:22 1274:7 1278:22 1281:21 1282:4,8 1285:20 1288:2 1293:2 1294:20 1304:18 1309:9 1322:10 1323:17 1324:8 1331:7 1332:19 1334:4 1338:14 1342:14 1343:9 1346:10 1357:21 1362:1 1368:17 1372:13 1373:15 1376:18 1381:18 1382:6 1388:20 1389:10 1392:17 1401:15 1405:1 1426:16 1433:7 1437:15 1443:14 1447:11 1454:7 1477:22 1481:9 1482:20 sort 1215:6 1220:19 1235:14 1237:10</p>
--	---	---	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1524

<p>1255:16 1320:7 1321:6 1322:1,3 1337:6,9 1338:8 1339:14 1345:13 1355:17 1359:10,13,16 1364:18 1379:8 1402:16 1454:3 sorts 1386:11 sought 1264:19 sound 1294:1,6 1297:20 1302:1 1356:14 1358:20 1359:2 1374:22 sounded 1312:8 sounds 1193:16,17,21 1203:3 1219:12 1275:21 1276:3 1294:8 1313:4 1363:12 1364:11,12 1365:22 1401:6 1462:6 source 1229:9 1232:10,20 1233:8,11 1267:2 1274:13 1281:14,17 1282:13,17 1358:7 1388:15 1389:4 1401:2 sourced 1212:3 1296:16 1310:2,3 sources 1209:2,2,9 1211:1 1212:10,13,19 1212:21 1213:4,7,15,17 1214:5,9 1233:21 1236:3 1241:15 1252:7 1374:10 1387:16 1400:19 1424:1 south 1251:9 1259:22 1261:8 southbound 1430:10 1442:2,6,18,19 southeast 1217:2 Southern 1179:6 1181:15 1181:15 1196:9 1204:15 1239:10 1240:14 1255:5,11 1257:10 1409:9 1410:10,11,22 1411:4,7 1411:14 1415:6,12 1416:9,18 1417:8 1419:10 1420:6 1422:6 1423:9 1428:7 1429:20 1433:15 1437:3,8 1449:2 1453:2 1475:5,7 1475:13 1485:20 Southern's 1421:2,7 1472:5 space 1285:10 1365:6 speak 1181:5,8 1195:1</p>	<p>1263:10 1265:22 1276:21 1291:16 1306:7 1416:8 1425:15 speaking 1315:22 1362:21 specific 1214:19 1221:15 1222:7 1234:10 1280:3 1280:7 1284:21 1293:3 1330:15 1353:2,20 1356:17 1358:6 1389:15 1444:14 specifically 1224:11,16 1226:1,18 1251:11 1256:2 1291:15 1299:17 1307:7 1420:9 1428:6 1440:13 1447:21 1448:7 1459:19 specificity 1274:21 specifics 1224:18 1352:4 1365:18 spectrum 1331:2 speculate 1349:5 1350:12 speed 1384:13,15 1389:22 1390:11 spell 1304:7 spend 1306:19,19 1425:1 1466:4 spending 1465:19 1466:16 1467:13 1468:3 spent 1409:2 spins 1432:10 spirit 1187:22 1188:4 spit 1399:19 split 1431:18 spoke 1180:8 1183:12 1362:14,16 1391:6 1392:16 1401:7 1425:21 spreadsheet 1392:8 1393:3 spring 1308:13,18 staff 1180:8 1182:12 1183:7 1185:6 1196:20 1197:13 1202:13 1317:20 staffer 1332:16 stage 1344:6 staged 1442:3 staging 1441:14 1442:1 1442:10,17 1443:1 stakeholders 1417:14 stamped 1477:7 1483:14 1483:15</p>	<p>stance 1472:5 stand 1181:3 1184:2 1253:6 1315:4 1316:12 1320:11 1379:5 1467:16 1489:1 standard 1302:7 1309:14 1309:20 1310:10 1402:20 standpoint 1246:22 stands 1211:14 1310:6 start 1184:17 1189:13 1191:8 1194:21 1202:1 1202:3 1208:22 1225:6 1239:11 1250:11 1257:11 1258:19 1314:8 1410:21 1417:19 1419:15 1435:1 1442:1,9,17 1451:7 1457:11 1489:12,13 started 1206:1 1213:18 1264:13 1283:15 1285:21 1286:10 1292:16 1308:21 1315:17 1334:14 1337:18 1379:6 1397:10 1415:8 1417:13 1452:18 1461:16 starting 1190:4 1286:1 1323:11 1329:16 1442:5 1489:7,18 starts 1285:11 1320:12 1321:8,14,20,22 1419:8 1441:8 1478:16 state 1188:17 1207:10 1409:19 state-sponsored 1486:19 1487:1,4 stated 1287:10 1303:10 1309:13 1388:12 1389:2 1395:21 1465:15,22 statement 1229:19,21 1230:17,20 1231:3,6 1234:13,17 1255:20 1270:7 1274:2,5 1311:16 1312:2,4 1313:1,1,3 1333:16 1334:6 1372:21 1374:20 1375:1 1379:15 1388:13 1389:1 1390:18 1392:9 1392:12 1407:6 1439:1 1439:8 1440:11,15,17</p>	<p>1440:20,22 1443:7,15 1443:18 1446:21 1458:18,19 1459:1,3,5 1480:16 1481:1 statements 1273:15 1275:15 1287:18 1392:5 1406:14,16,18 1440:1 1452:5 states 1347:7 1372:22 1478:19 station 1211:14 1441:18 stations 1333:9 statistician 1205:21 statistics 1205:15 status 1201:9 1395:6,19 stay 1231:9 1260:18 1345:5 1464:3 stays 1430:15 STB 1207:14 1375:5 STB.gov 1470:19 steel-toed 1385:5,10 1386:9 step 1215:10 Stephen 1346:15 stepped 1405:22 steps 1266:3 Steven 1351:6,13 stick 1202:8 1350:20 stood 1301:6,7 stop 1286:21 1314:1,11 1316:4 1432:16 1488:9 stopped 1424:18,19 stops 1217:16 stored 1418:1 straightened 1313:20 strategic 1410:12 1437:8 1437:16 1473:15 strategy 1184:7 1326:8 stretch 1479:5 1480:7,17 1481:2 strike 1455:4 string 1330:9,12,16 1339:20 1341:16,16 stringing 1360:1 strokes 1296:3 structure 1280:5 studied 1208:10 1216:22 1310:1,13 studies 1207:1,6 1210:18 1247:14 1249:17,20 1302:5 1311:11 1319:9 1319:14 1322:16 1361:19 1410:15 1420:18 1486:18 study 1207:12,12</p>
--	--	---	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1525

<p>1208:20 1211:4 1218:9 1244:17 1245:4 1252:9 1284:12 1287:6 1299:8 1300:3 1304:21 1308:16 1319:19 1324:18,21 1332:12 1337:17 1338:3 1343:17,20 1356:12 1378:9 1394:19 1398:19 1417:11 1459:16,19 1460:2 1465:17 1466:1,8,9 1469:10 1475:6 1477:14 1483:3 1486:6 subcategories 1238:21 subdivision 1256:11 1323:7 subject 1199:17 1203:16 1203:20 1242:1 1350:17 1448:19 1450:14 1453:13 1473:6 1477:13 submit 1229:17 1278:12 1406:17 submitted 1225:22 1308:17 1354:1 1392:11 1406:16 subsequent 1229:4 1419:6 subsequently 1305:2 subset 1233:15,16 1375:17 subsidiary 1258:22 sufficient 1288:22 1396:20 suggest 1201:19 1220:12 1404:19 suggested 1193:21 1203:17 1456:10 1463:10 suggesting 1396:14 sum 1268:14 1270:13,19 1276:20 summaries 1473:18 summarized 1234:4 1272:21 summary 1356:3 1469:21 summertime 1308:21,22 sums 1466:16 1467:13 1468:3 Sundays 1252:17 superintendent 1383:21 1391:12,14,17 supervising 1441:19 supplement 1262:13</p>	<p>supplied 1207:16 1208:1 1218:13 1229:3 1233:21 1260:7 1264:9 1264:20,21 1285:16 1299:9 1337:13 1348:5 1361:1 1367:18 1374:8 1376:15 1377:5,9 1378:10 1379:3 1387:11 1388:3,4,5 1390:21 1391:2 1398:18 1399:3,6 1423:13 supply 1209:9 1213:5 1215:3 1218:11 1284:11 1325:8 1399:7 1422:5 supplying 1209:6 1212:6 1218:20 1334:17 1366:19 support 1209:5,14 1219:6 1278:8 1285:11 1323:10 1392:8,9 1416:22 1417:4 1437:20 supported 1207:9,11 1320:18 supporting 1207:1 1299:6 1377:7 suppose 1265:10 1401:10 1489:6 supposed 1324:21 sure 1187:8 1191:3 1206:18 1208:8 1214:18 1216:21 1220:13 1223:11 1224:2,22 1225:17 1228:15 1231:22 1232:14 1233:12 1235:7 1240:20 1251:8 1253:21 1256:8 1257:13 1259:20 1271:7 1279:2 1291:1 1291:16 1293:19 1302:15 1310:18 1314:15 1319:14 1321:3 1329:19 1330:2 1330:20 1334:6 1335:21 1336:9 1337:10 1341:4,15 1347:8,10 1349:3,8,17 1353:4 1355:21 1357:1 1357:9 1364:13 1373:17 1375:1 1381:3 1381:20 1382:10 1388:22 1396:16</p>	<p>1398:16 1399:11 1403:9,10 1405:5 1407:21 1408:19,21 1410:6 1411:15,21 1413:6,14,22 1414:12 1414:17 1417:9 1418:5 1418:11 1420:22 1428:20 1430:2 1436:3 1446:10 1450:9 1451:8 1468:5 Surface 1179:1 1410:19 sustain 1382:8 1447:19 1448:21 swap 1257:20 swaps 1257:19 swifter 1441:10 switch 1255:3 1381:13 1384:21 1385:21 switches 1251:13,14 1253:2 1260:3 1412:1 switching 1261:9 1269:2 1271:12 1386:21,22 1387:2 sworn 1204:21 1315:5 1409:16 1493:6 symbol 1258:2 1269:5 1357:14 symbols 1232:22 1267:6 1268:19 system 1212:4 1398:14 1413:14</p> <hr style="width: 20%; margin: 10px auto;"/> <p style="text-align: center;">T</p> <p>T 1491:1,1 1492:1,1,17 table 1235:17,21,22 1236:10 1238:18 1256:2 1346:9 tables 1388:15 1389:3,6 take 1180:21 1181:11 1183:20 1186:2 1187:4 1194:6 1197:3 1199:16 1199:17 1200:10 1223:18 1231:11 1242:14 1244:10 1246:12 1261:1 1266:6 1268:7 1286:20 1290:3 1313:18 1326:14 1328:6 1329:19 1331:18 1343:22 1344:20 1345:11,15 1352:22 1359:6 1372:12,14 1374:4,9 1379:18 1385:2,9 1396:16 1400:5,12,17 1403:22 1406:15,19</p>	<p>1407:9 1418:10,18,18 1425:5 1426:11 1430:16 1432:4,13 1451:4 1457:15 1458:21 1459:11 1462:8 1463:17 1469:4 1470:13 1477:19 1478:1 taken 1264:11 1265:17 1268:11 1300:21 1400:3,3,5 1424:16 1445:8 1448:13 1454:14 1493:4,7,13 takes 1217:6 1384:16 1385:18 talk 1196:5 1208:6 1213:18 1214:20,22 1216:9 1224:16 1229:11 1239:9 1240:8 1240:11,13 1255:7,10 1267:1,4 1311:22 1316:5 1356:21 1361:11 1363:1 1364:7 1375:10 1377:14,17 1387:19 1396:1 1404:20 1421:18 1449:1,16 talked 1196:20 1197:6 1272:9 1293:12 1310:19 1361:8 1428:8 talking 1193:17 1246:15 1246:18 1261:18 1274:2,3 1275:4,9,20 1297:7 1308:12,14 1338:18 1342:13 1343:4 1355:19 1360:14 1376:2,13,17 1384:10 1386:9 1422:9 1425:6 1426:6,6 1433:8 talks 1311:21,21 TASD 1271:8 1272:14 1366:21 1367:3,16 1441:20 teach 1415:13 team 1184:4 1208:1 1219:9 1266:10 1306:10 1311:1 1351:15,15,17 1402:9 1419:17,22 1420:1 1434:18,20 1435:2,7,8 1435:12 1436:8 teams 1210:1 1397:16 1399:6 technical 1231:12 1355:17 1358:3,22</p>
---	--	--	---

<p>1359:20 technology 1205:9 telephone 1397:14 tell 1184:21 1185:20 1194:2,3 1198:2,6,14 1199:13 1211:10,11 1215:16 1221:3,4 1227:17 1232:12 1238:11 1254:18 1265:11 1269:7 1271:20 1295:14 1367:7 1394:1,2 1395:16 1401:12 1410:4 1411:12,19 telling 1188:11,12 1195:16 tender 1240:18,19 1241:11 1242:9,13 1243:2 1245:12 tendered 1443:16 tenders 1241:2,22 1242:6 1254:13 term 1237:11 1305:7,10 1329:8 1330:1,20 1413:1 1419:17 1430:1 1433:10 terminal 1214:20,21 1259:8 1368:21 1412:7 1431:2,3,4 1441:12 1458:8,10 terminals 1369:4 terminates 1256:18 terminology 1360:17 terminus 1357:11 terms 1209:5 1219:7 1264:21 1274:6,10,11 1276:19 1287:18 1291:18 1292:6 1306:2 1320:20 1343:8 1344:2 1344:5 1367:17 1411:20 1416:1 1455:11 1484:11 territories 1445:20 territory 1414:18 1451:5 test 1264:3 1320:2,4,10 1321:5,18,20 1417:1 tested 1436:17 testified 1204:21 1205:10 1208:4 1242:12 1266:22 1287:2 1289:20 1299:5 1315:5 1371:22 1375:4 1379:17 1382:3 1389:12 1409:16 testify 1192:12 1283:19</p>	<p>1409:10 testimony 1191:18 1217:22 1229:17 1271:16 1277:12 1281:10 1286:7 1363:12 1376:6 1425:4 1426:22 1428:5 1438:6 1438:22 1439:2,7,9,13 1440:2 1444:2 1449:5 1449:17 1450:15 1452:4 1453:14 1454:3 1455:3 1460:18 1484:19 1488:6,21 1493:5,7,10 testing 1321:16 thank 1186:4 1187:17 1189:17 1201:14 1204:1,11,22 1205:1 1212:17 1217:19 1219:19 1226:13 1227:14 1228:16 1229:11 1237:22 1245:5,6,21 1247:7 1250:1 1251:17 1253:4 1253:18 1256:5,7 1259:16 1260:22 1261:13 1266:15 1273:1,11 1276:7 1277:9 1280:20 1286:18 1288:12 1289:5 1292:11 1298:15 1301:11 1303:22 1304:19 1307:18 1309:2 1310:16 1311:12 1318:15 1319:4 1321:10 1322:6 1323:16,20 1327:1 1329:1 1331:9 1333:5 1338:7 1339:11 1343:7 1347:5 1352:5 1362:5 1367:21 1369:18 1370:14,16 1371:2,18 1394:10 1403:3,19 1404:1 1410:1 1429:8 1429:16 1432:15 1433:1 1438:18 1446:13 1451:11 1454:17 1458:14 1463:19,20 1464:6,22 1471:21 1473:2 1481:19 1483:10 1485:16 1487:7 1488:19 1489:3 1490:4 thanks 1219:17 1238:20</p>	<p>1288:12 1487:11 1489:21 1490:4 theoretical 1396:20,22 theory 1457:20 thing 1215:2 1273:2 1293:1 1295:14 1323:17 1333:10 1342:8,11 1417:11 1428:15 things 1186:8 1204:9 1212:21 1214:12,14 1234:15,18 1237:16 1239:9,10 1240:14 1261:15 1295:13 1306:11 1311:14 1312:5 1343:16 1354:11 1368:2 1408:17,18,20 1416:20 1418:15 1456:5 1461:11 1471:3 1484:1 think 1181:6 1186:9 1187:20,22 1190:8,11 1190:17,20,22 1192:3 1194:4 1196:9,21 1197:6 1202:22 1213:18 1214:8 1217:13 1219:18 1222:12 1226:1,2 1228:1 1234:6,22 1235:20 1244:1 1247:2 1248:8,11,13,16 1249:1 1249:8 1253:11 1256:2 1258:16 1260:13 1261:14 1263:15 1267:4 1268:5 1269:16 1270:7 1275:16,20 1276:4,12,14 1282:16 1283:18 1286:19 1290:5,6,17 1291:3 1294:1,5,19 1295:12 1300:21 1302:12 1306:12 1307:7 1309:6 1311:14,17 1312:13 1314:6 1318:21 1326:1 1326:10 1331:6 1332:19 1336:9 1339:19 1341:4 1342:9 1343:15,16 1344:1,21 1344:21 1345:4 1353:1 1363:8 1367:12 1368:15 1369:7 1370:4 1370:9 1371:6,9 1375:10 1382:17 1388:19 1391:14 1392:2 1402:12 1403:4</p>	<p>1408:2,9 1413:17 1426:2 1427:13 1438:6 1438:13 1441:20 1445:7 1446:8 1448:12 1448:20 1449:3,13 1450:10 1451:1 1452:8 1452:11 1453:14 1455:9,9 1457:22 1461:15,18 1462:4 1464:1 1466:19 1470:10,21 1472:7,11 1472:18 1480:6 1484:2 1484:14 1485:9,14 1487:12 1489:14 thinking 1215:10 1267:19 1281:19 1341:15 thinks 1295:15 1480:9 third 1212:2 1473:22 third-party 1468:6 thorough 1182:20 thought 1188:22 1240:6 1273:6 1303:12 1319:8 1349:10 1360:19 1361:6 1364:11 1480:10,10 thoughts 1196:7,14 threads 1351:20 three 1191:2 1195:8 1197:2 1201:17 1210:22 1212:19 1233:3 1241:4,6,8,8,9 1243:7,9,10 1244:11 1257:18 1258:11 1261:10,11 1271:21,22 1307:5 1385:1,6,12 1386:10 1398:5 1428:22 1429:3 1431:11 1442:7,21 three-point 1432:12 throat 1403:22 throw 1384:21 1385:21 Thursday 1180:16 1200:22 1318:5 Thursdays 1252:15 tie 1216:1 1278:17 time 1182:18 1183:3,12 1187:2,8 1194:4 1202:9 1205:12 1206:10 1210:7,12 1211:17 1216:5 1218:13 1220:12,19,19 1221:4,5 1221:22 1223:4,14 1224:2,5,19 1233:6 1235:15 1242:18</p>
--	---	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1527

<p>1244:20 1246:13 1247:13 1254:16,20 1256:15,21 1262:15 1284:17 1287:6 1301:12 1306:18 1308:11,13 1309:18 1324:2 1326:9,16 1329:19 1330:11 1336:7 1339:1,22 1340:16 1354:7,9,12,12 1354:17 1355:6,7,8,9 1356:7,11,13 1357:19 1357:21,22 1358:1,19 1373:16 1375:6 1378:6 1378:13,20 1381:19 1382:20 1384:16 1385:18 1386:7 1388:22 1391:1,17 1398:17 1403:22 1404:9 1407:3,18 1412:3 1415:9 1422:8 1422:18 1433:14 1442:12 1450:8,21 1451:14 1454:12,21 1456:19 1461:22 1483:22 1484:22 1488:8 1489:13 time-consuming 1210:13 time/distance 1330:10 times 1211:22 1217:3 1220:20,21 1221:11 1222:22 1241:9 1243:14 1247:16 1249:15,15 1251:13 1253:1,2 1257:4 1259:14 1260:9,10 1261:10,10 1269:1 1270:5 1271:10,21,22 1272:5 1283:20 1354:11,14 1355:4,5,10 1358:12 1369:15 1377:17 1386:18 1387:4,5,7 1423:16,17 1429:4 1431:15 1435:13 1437:2 1489:18 timesheets 1381:11 timetables 1423:15 timing 1422:18 title 1324:13 titled 1431:6,21 today 1180:18 1183:20 1183:21 1202:4,6,19 1203:17 1240:13 1264:21 1265:7</p>	<p>1313:21 1316:4,9,21 1401:13,18 1405:10 1438:22 told 1192:2 1198:8 1223:7 1252:12 1264:14 1293:22 1400:13 1401:8,19 Tom 1391:13 ton-miles 1393:13 tonight 1483:22 1484:4 tonnages 1393:6 tool 1212:14 top 1239:1 1313:5 1332:2 1346:16 1478:16 topic 1352:9 1395:15 topics 1312:2 Tora 1346:15 total 1207:17 1393:14 1461:22 totally 1222:7 touch 1220:2 1250:15 1364:5 1365:6 tower 1271:17 1478:7 1479:6 1480:1,8,18 1482:6 trace 1265:21 1274:16 traceable 1265:20 track 1211:21 1212:6 1216:4 1220:21 1221:5 1222:15 1223:15 1241:5 1242:18 1250:18 1251:2,3 1259:11 1357:6,17 1400:14 1401:5,6 1423:14 1436:7,14,18 1436:20 1441:11 1450:21 1451:14 1456:19 1478:6 trade 1190:16 traffic 1207:2 1215:6 1235:12 1250:15 1252:11 1284:6 1288:5 1292:6 1293:21,22 1294:10,12,16,22 1295:5 1296:5,7,15,17 1298:20 1305:2,9 1319:13 1365:9 1366:16 1372:2 1373:5 1375:18 1393:19 1394:15 1434:10,11,15 1438:1 1441:13 1442:12 1457:12 train 1208:9,16,17,19,21 1209:4,6,11,15,17 1210:11,15,16 1211:2,8</p>	<p>1211:16,19 1212:19,22 1213:14 1214:4,14 1215:1,11,14,15,19 1216:6,6,11 1217:8,9 1217:10,11,13,18 1218:13 1219:22 1220:11 1221:5,21 1222:8,9,9,19,19 1223:1,12,16,21 1224:4 1224:7,9 1229:7 1232:11,22 1233:15,16 1235:8,11 1236:17 1237:7,9,10,11,12,13 1237:14,19 1241:12,18 1242:15,20 1245:20 1247:12,13 1249:15,15 1252:16,17,18 1254:14 1254:17,22 1255:3 1256:16,22 1257:20 1258:2 1259:4,6 1260:15,21 1261:2,11 1261:18 1263:12 1264:6,9 1267:6,13 1268:1,4,15,19,22 1269:1,4,5,7,15 1270:8 1270:14,14,17,21 1271:22 1276:13,20 1277:17 1278:2,3,4,16 1279:7,7,8 1281:16 1282:12 1285:11,16 1288:11 1289:10,11,14 1289:15 1290:4,7,20,22 1291:3,4,6,9,9,14 1298:5 1313:2 1320:11 1321:20,22 1322:3 1323:3 1330:12 1341:10,21 1342:3 1353:5 1356:17 1357:14 1359:11 1372:7,16 1373:1 1374:7,10 1377:4 1378:10,10,15 1379:1,2 1380:2,21,22 1381:3,7 1382:21 1383:18 1384:17,18,18 1385:19 1385:20 1386:12,12,15 1386:21 1387:3,6,9,11 1387:14,22 1390:21,22 1391:19 1392:16,18,22 1393:5 1398:18,21 1400:17 1403:1 1413:8 1414:1,8,8,10 1415:12 1415:18 1416:3 1418:8 1419:7 1423:16,17,21 1424:7,10 1427:1,4,7,8</p>	<p>1430:10 1432:5,13 1436:4,4 1441:10,16 1442:11,18 1443:2 1446:2 1448:2 1449:2 1451:16,19,19 1456:21 1457:3,3,15,15,18,19 train's 1354:17 train-like 1278:16 train-miles 1389:22 1393:14,22 training 1415:15 1416:8 1416:14 trainmaster 1383:15,16 trains 1211:4 1213:4,6 1214:5 1215:20 1216:11,19 1224:12,12 1224:15 1226:1,2 1232:21 1233:6,18 1235:4,5 1236:1,16,18 1236:22 1238:14 1239:4 1242:21 1245:20 1246:1,16 1247:17,19 1248:1,10 1248:12,19,21 1249:3,6 1249:9,11 1250:6,14,17 1250:21 1251:7,12,21 1252:1,13 1253:10,21 1255:13 1257:18 1258:11 1260:4,4 1261:1,15 1262:3 1264:15,22 1265:19 1267:3,9,17 1268:16 1269:11 1270:1,9 1271:5,8,8 1272:16 1273:5,8 1275:12 1277:4,14,20 1280:3 1281:2,6 1282:14,18 1283:1,10 1285:10,14 1285:15 1288:19,22 1289:16,21,21,22 1290:3,19 1296:4,13,18 1298:21,21 1300:16 1301:9 1302:3 1304:15 1304:16,17 1305:1,3,4 1305:7,8,16 1311:5 1320:3,7 1322:1,15,18 1325:1 1331:2,4 1334:20 1335:4 1338:6 1340:19 1341:14 1342:4 1353:2 1357:13 1360:17,22 1361:1,11 1361:12,14 1362:12,14 1362:19 1363:17,19 1364:4 1365:1,8,9,13 1369:7 1372:1,5,15,22</p>
--	---	---	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1528

<p>1372:22 1373:6,8,10,12 1373:13 1382:20 1386:17 1387:22 1388:8,9,16,18 1389:4 1389:8,16,20 1390:5 1395:22 1396:1 1397:20 1398:5 1399:8 1399:12 1401:19 1411:22 1412:14 1414:5 1416:4 1418:11 1424:17,18 1425:13 1426:8 1428:21,22 1429:4 1430:2 1431:9 1431:11,13,19 1432:1 1439:3,4,4,12 1441:14 1441:21 1442:1,3,5,6,9 1442:10,13,16,22 1443:4 1444:16,17 1445:20 1448:4,11 1449:4 1451:8 1453:4,9 1457:14 1479:21 trains' 1289:2 transcribe 1380:9 transcribed 1380:10 transcript 1283:18 1345:16 1371:11 Transflo 1258:19,21,22 1259:2,5 transit 1441:10 transition 1206:7 transits 1441:16 transloads 1259:1 transmitted 1380:4 transparent 1359:10 transport 1241:2 transportation 1179:1,6 1383:21 1410:19 1450:22 travel 1425:8,20 traveling 1254:21 traverse 1216:7 1223:14 1250:18 treadmill 1385:7 treat 1259:5 1270:21 1271:2 treating 1270:8 trial 1180:15,18 1188:7 1188:13,20 1189:2,6,12 1189:13 1190:3,3,10 1194:13,18,20,21 1195:12 1196:3 1198:17 1203:1 1264:13,20 1344:7 trials 1188:19 tried 1189:21 1269:17</p>	<p>1280:5 1283:19 1469:2 1471:2,5 1485:22 trip 1211:3 1354:12 trips 1268:8 1325:3 1395:2 trirail 1207:13 trouble 1343:13 1447:13 1466:19 truck 1259:2 trucks 1373:10 true 1474:8 1493:9 trunk 1268:10 trunkful 1268:6 try 1182:2 1190:21 1198:21 1219:21 1267:15 1284:2 1286:21 1295:4 1313:17,20 1337:21 1338:1 1339:1 1364:20 1364:21 1402:8 1405:9 1446:17 1475:6 1479:22 trying 1195:6 1197:5,9 1197:16 1199:2 1212:8 1218:1,21 1224:8 1228:11 1245:4 1248:14 1253:9 1264:6 1274:16 1283:8,11 1306:22 1320:2 1321:5 1326:9 1329:6 1337:8 1340:14,18,21 1362:10 1363:2,11,21 1364:19 1365:4 1376:3 1397:10 1398:8,13 1400:1,13 1434:13 1467:19 1471:3 1475:14 Tuesday 1200:16,17,19 1317:22 1485:15 1488:13 1489:1,12,17 1490:3,8 Tuesdays 1252:16 turn 1235:15 1239:11 1258:15 1290:19 1421:21 1432:12,12 turned 1254:9 1378:16 1392:13 turning 1230:1 Turra 1332:5 1349:6,8 1350:13 1351:4 twice 1268:13 1395:2 1432:14 two 1193:14 1201:17 1221:11 1233:3,12 1239:6 1241:3 1242:5 1244:1,11 1247:5</p>	<p>1250:8 1252:13 1255:9 1257:4,9 1259:20 1260:10 1272:4,8,10 1295:13 1301:1,21 1302:1,3,6,9,11 1304:3 1309:6,12,20 1310:1,10 1311:10 1312:16 1315:16 1318:6 1319:11,17 1323:14 1324:22 1325:3 1329:10 1332:14,20 1339:8 1345:4 1348:12 1352:13 1361:2,16,17 1361:21 1366:20,21 1385:4,14,22 1387:20 1395:2 1420:18 1425:1 1428:4 1430:12 1431:13,17,19 1432:6 1433:13 1434:12 1440:13 1470:22 1489:8 two-month 1301:3 two-week 1226:9 1259:14 type 1222:2,3,8,18 1224:7,9 1236:17 1254:19 1347:2 1397:21 1413:18 1419:11 1430:19 types 1216:1 1217:5 1222:4,5 1236:19 1395:7 1414:3 typewriting 1493:8 typical 1217:17 1423:8 1424:1,2 1425:17 typically 1209:18 1210:11 1212:21 1291:3 1309:21 1340:19 1341:18 1457:11 typo 1349:12 typographically 1349:2</p> <hr style="width: 100%;"/> <p style="text-align: center;">U</p> <hr style="width: 100%;"/> <p>U.S 1310:3 1393:18 1394:14 U.S.C 1179:5 ultimately 1216:1 1218:20 1264:22 1296:18 1339:20 1365:10 1379:8 1436:18 unavailable 1182:7,17 1417:22 uncertain 1292:15</p>	<p>understand 1181:1,8,10 1181:16 1185:7 1191:20 1199:9 1214:20 1215:2 1218:3 1218:22 1219:15,22 1220:8,13 1222:7 1224:17,20 1229:15,16 1231:2 1234:21 1245:4 1249:4 1253:10 1262:2 1266:2 1292:17 1314:4 1315:12 1321:1 1340:6 1349:1 1354:10,20 1355:2,19 1356:20 1359:13 1363:11,22 1374:2 1375:14 1383:10 1388:2 1398:13 1401:15 1408:16 1425:4 1480:16 1481:1 1482:21 1484:13 1486:9 1488:20 1489:2 understanding 1209:18 1226:6 1237:11,13 1265:1,5 1267:7 1268:21 1269:6 1270:12 1274:12 1343:13 1349:16,19 1356:22 1358:21 1401:9 1414:15 1416:11 1438:22 1447:14 1472:4 understood 1234:20 1316:13 1326:10 1388:22 1480:12 undisclosed 1390:15,18 unfolded 1408:3 unfolds 1201:22 unfortunately 1188:8 1206:8 1213:2 1230:5 1291:15,21 1293:17 1294:3 1330:7 1359:22 1484:14 University 1205:16 1410:8 unload 1268:8,10 unmoved 1198:1 unmuting 1314:2 unpack 1267:15 unreasonable 1190:11 1196:3 unrelated 1350:17 unworkable 1199:8 update 1210:21 1216:19 1416:1 1417:12 1419:1 1477:14</p>
--	---	--	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1529

<p>updates 1210:18 1216:20 1300:12 1418:17 upheld 1455:9 urge 1201:15 use 1249:7 1281:15 1302:7,11 1319:21 1320:6,13 1362:11 1375:7 1385:3,4 1416:18,20 1417:1,3 1424:5 1459:13 1474:21 1475:5 1480:22 useful 1212:7 1310:6 1320:20 usual 1194:22 1319:12 usually 1354:8 utilize 1257:1</p> <hr/> <p style="text-align: center;">V</p> <p>V2 1342:6 vacuum 1458:4 vague 1246:10 Vaguely 1393:10 validate 1278:15 1279:6 1311:6 1312:11 1424:14,21 1448:18 validated 1208:2 1252:21 1279:12 1292:8 1299:10,20 1310:22 1348:6 validating 1209:6 1312:18 1348:8 validation 1302:20 1377:6,7 1378:17 1387:17 1391:1 1399:1 1419:11,14 1436:10 validations 1207:17 1219:7 value 1361:21 1479:6,22 1480:7,17 values 1479:2 variability 1340:2 varied 1249:18,20 1354:21 varies 1223:18 1322:3 various 1208:5 1240:10 1246:8 1249:18 1286:11 1411:10 1414:5 1422:13 1425:6 varying 1420:12 vehicle 1241:1,4 vehicles 1235:10 1241:5 1244:21 verification 1436:11 verified 1229:19,21</p>	<p>1230:17,19 1231:5 1234:13,17 1270:7 1273:15 1274:2,5 1275:15 1287:18 1311:16 1312:1 1372:21 1374:20 1375:1 1379:15 1388:12 1389:1 1392:5 1392:9,12 1406:14,16 1406:17 1407:6 1439:1 1439:8,22 1440:10,15 1440:17,20,21 1443:6 1443:15,18 1446:21 1452:5 1458:17,18 1459:1,3 versa 1384:19 1385:20 version 1228:9,9,10,13 1300:12 1330:15 1333:11,18 1334:8,21 1342:8,9,12,12 1343:3 versions 1325:17 1333:12 1339:8 versus 1242:20 1277:1,3 1290:22 1342:18 1350:11 1367:17 1374:10 1375:12 1376:2 vice 1384:18 1385:20 view 1407:19 1452:10 1454:7,14 Virginia 1207:10 virtual 1318:7 visible 1267:10 Vision 1205:20 visual 1255:22 visually 1212:15 volume 1179:12 1284:22 1285:22 1286:10 1291:20 1321:9,16,17 1322:1 1386:16 volumes 1285:5,8 1291:19 1292:8,9 1305:3 voted 1318:12</p> <hr/> <p style="text-align: center;">W</p> <p>wait 1280:18 1296:11 1305:13 1405:21 1472:10 waiting 1203:21 1336:5 1336:16 1345:6 1472:15 waive 1454:11 waived 1463:17 1464:3 walk 1233:5 1238:20</p>	<p>1386:10 1390:13 walked 1251:10 1385:5 walking 1239:12 1384:13 1384:14,20 1386:7 want 1180:7 1181:5 1184:13 1187:4,12 1190:19 1191:8 1195:12 1198:7 1204:3 1204:9 1218:1 1219:20 1220:8 1224:2 1253:21 1278:22 1279:22 1280:6 1283:19 1284:1 1286:21 1293:10 1295:17,19 1310:18 1311:13 1326:8 1334:21 1338:17 1349:5,8 1352:9,22 1354:4 1357:9 1359:9 1360:2 1361:6 1362:2 1364:9 1371:3 1388:22 1393:21 1401:1 1404:17 1407:20 1408:2,9,10,13,14,17 1408:19 1412:22 1423:4 1428:7,15 1429:9,20 1435:16 1450:9 1452:6,12,15 1454:12,15,18,19 1455:21 1461:12 1462:8 1468:9 1471:9 1471:15,18 1477:1 1478:16,20 1484:17 1489:10 wanted 1181:11 1191:5 1193:4 1206:7 1224:17 1224:20 1225:17 1228:15 1245:6 1255:15 1265:9,21 1274:8,18 1293:7 1296:21 1305:13 1307:11 1310:18 1312:7,15 1316:9 1321:11 1335:21 1337:16 1343:7 1349:17 1369:12 1401:20 1405:5 1406:10 1424:14 1466:12 1467:10 1468:1,5,8 1474:6 1475:7 1484:22 wanting 1476:4 wants 1401:1 1488:11 warranted 1474:18 Warren 1190:19 1196:13 1203:7 1204:1,14</p>	<p>1205:1,3 1220:5 1225:1 1225:6,9 1226:11,15 1227:4,7,10,14,15 1228:3,7,17,18 1230:10 1230:19 1231:5,10,18 1232:2,6 1234:10,11,15 1235:1,2 1236:4,9 1237:3,16 1238:1,6,9 1239:15,20 1240:2,7,16 1242:2,5,7 1243:1 1245:11,14 1246:5 1250:2,5 1251:17 1253:11,13,19 1255:19 1256:1 1257:6 1261:21 1263:15 1266:18 1275:1,7 1276:4 1277:10 1279:2,4,14 1280:4,10 1282:4,15 1283:16 1284:3 1286:3 1287:1 1288:12 1293:1 1293:13 1295:11 1297:9,15,21 1298:2,18 1301:11 1308:1 1310:5 1311:13,20 1312:12 1313:6,10,13 1315:15 1315:20 1316:1,13 1318:15 1323:17 1328:18 1329:1,6,12 1331:18 1333:19,22 1336:5,11 1343:15,22 1344:12,18 1345:10 1346:9 1352:16 1359:5 1362:1 1382:2 1390:17 1391:9,21 1404:7,14,20 1408:16 1463:9,19 1491:5 Washington 1318:10 wasn't 1185:1 1206:8 1223:8,15 1278:3,13 1310:2 1311:3 1312:10 1312:17 1341:4 1364:15,15 1380:1 1382:16 1383:5 1428:16 watch 1212:15 1252:20 1417:21 1418:2,20 1425:10 watched 1254:5 1299:19 1425:11,12,13 watching 1223:7,12 1328:10 1414:18 1426:5 waterfall 1232:9 1239:7 1428:14 1430:3 way 1182:10 1185:12,16</p>
--	--	---	---

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1530

<p>1188:1 1192:14 1198:15 1199:19 1202:9 1204:6,8 1212:12 1213:13 1214:7 1217:13 1219:15 1222:11 1237:9 1244:16 1248:8 1255:17,21 1270:8 1289:20 1290:4 1291:18 1294:15,18 1296:19 1302:2 1312:21 1320:14 1322:4 1334:16 1337:21 1339:1 1355:18 1358:16,20 1365:2 1374:13 1380:7 1380:12 1382:17 1394:22 1400:14 1401:6 1402:10,15 1407:14 1432:11 1449:17 1454:21 1457:18 1470:17,22 ways 1192:1 1195:8 1197:9,10 1448:11 we'll 1187:16 1192:14 1200:7,11,19 1201:22 1214:20,22 1239:9 1240:1 1245:4 1255:7 1264:1 1297:6,19 1305:13 1309:2 1313:18 1326:7 1360:8 1404:11,14,20 1408:15 1417:11,18,19 1418:13 1418:16,22 1429:19 1450:17 1461:4 1485:14 1489:10 we're 1181:17 1182:15 1182:16 1186:5 1191:1 1191:2,3,4 1192:7 1193:17 1194:3 1195:4 1195:6,7 1197:15 1199:9,17 1200:10 1204:8 1212:8 1214:7 1215:4 1230:11 1231:12 1235:19 1236:7 1238:22 1255:21 1280:17 1283:8,22 1295:18 1308:14 1315:11 1316:19,19 1320:1 1321:4 1326:1,11,13 1329:6 1330:20 1336:5 1336:16 1340:15 1343:22 1344:7,20 1355:16,19 1358:21</p>	<p>1360:8 1376:1,2,3,17 1386:8 1387:19 1405:10 1414:10,11 1417:10 1419:21 1420:14 1422:9 1430:19 1455:15 1477:9 1482:12 1484:2 we've 1187:21,22 1192:19 1194:4 1197:6 1197:7 1198:1,8 1207:20 1230:5 1257:9 1263:6 1268:11 1275:4 1280:4 1370:4 1408:4 1419:1 1432:11 1489:14 weak 1463:22 weather 1386:11 website 1319:16 Wednesday 1460:18,22 1473:14 1484:19 Wednesdays 1252:18 weeds 1221:1 week 1189:2 1201:17 1202:21 1256:10 1257:4 1259:13 1307:7 1431:15,17 1432:8 week's 1423:21 1424:16 weekend 1490:5 weekends 1252:14 weekly 1306:8 1307:4 1332:15 1435:16 weeks 1191:3 1257:4 1433:13 weird 1258:8 welcome 1315:7 1394:11 went 1183:21 1230:15 1267:2 1275:22 1286:11 1364:18 1368:21 1391:1 1432:17 1469:15 weren't 1264:2 1382:22 1482:13 1486:18 west 1295:1 westbound 1388:15,17 1388:19 1389:4,7 Williams 1473:6,10 1477:12 1478:5,19 1480:6,10,16 willing 1195:13 1200:3 1202:1 Wimbish 1182:6 1183:9 1183:11 1184:9,17 1186:1,4 1187:6,20 1188:14,16 1189:20 1190:5,12,15 1191:11</p>	<p>1191:15 1192:16 1193:12,15 1194:1,8,15 1195:2 1197:1,4,6 1201:13,19 1314:2,15 1317:4,17 1319:3 1405:2,3 1438:15,18,20 1439:18,19 1440:8,12 1441:7 1443:13 1444:9 1444:21 1445:10 1446:13,19 1447:11,20 1448:22 1450:18 1452:17 1453:16 1458:12,20 1492:6 Wimbish's 1454:6 window 1223:22 1224:5 1340:13 1438:7,8 1442:14 1443:3 1451:3 1457:11 Wisconsin 1188:17 1190:3 1195:1 1317:13 withdraw 1273:3 1333:22 1375:2 1383:11 1389:11 withdrawn 1439:18,18 1482:13 withheld 1486:16 withhold 1489:11 witness 1180:7 1182:1 1186:13 1193:5 1203:21 1204:4,13,20 1216:21 1217:12 1218:8 1219:1,6,16 1226:10 1234:7 1236:5 1237:21 1240:1 1246:14 1247:5 1252:6 1253:7 1256:8 1263:20 1273:17 1274:4,11 1275:6 1276:16 1277:2 1279:12 1280:15 1281:5,13,21 1282:9 1283:2,14 1286:14 1288:21 1289:3 1290:21 1294:5 1298:9 1298:13 1304:5,8,11,16 1305:1,11 1307:21 1308:7 1310:7 1311:8 1315:14 1319:4 1324:1 1329:4,16,20,22 1330:22 1332:22 1333:4 1334:3 1343:9 1346:10,22 1362:6 1390:20 1391:11,22 1404:10 1406:2,6 1409:15,20 1429:14 1437:17 1438:14</p>	<p>1441:6 1443:21 1446:6 1446:6 1447:14 1448:3 1448:13,18 1449:1,15 1452:1,9 1453:8,11 1457:9 1458:7,13 1465:8 1466:22 1467:17 1471:7 1472:15 1477:2,4 1488:16 1489:2 1491:3 1492:3 1493:5,7,10 witness's 1444:2 witnesses 1183:18,19 1184:1,7 1185:7 1192:14,18 1193:18,19 1198:12 1200:1,8 1202:6 1233:4,10 1264:1 1314:4 1406:9 1406:15,19 1408:4,13 1409:18 1444:4 1453:20 witnesses' 1454:1 wonder 1317:1 1485:6 wondering 1186:11 1344:6 1345:3 1355:12 1359:11,17 1402:13 1484:5 word 1304:2,4 1348:18 1349:2 1372:12 1385:2 words 1246:8 1248:7 1441:9 1448:6 work 1181:7 1184:1,22 1188:9 1189:8 1193:13 1195:10,11 1196:10 1197:5,10 1199:18 1200:3,5,22 1201:5,16 1204:2,6 1205:18,22 1206:7 1207:11 1210:3 1213:13 1215:2 1216:15 1219:2 1222:21 1231:20 1249:14 1254:21 1256:12,16 1259:20 1273:20 1274:3,14 1276:1,6 1278:14 1279:16 1284:8 1291:14 1293:18 1308:17,20 1324:11 1338:1 1363:21 1381:8 1395:11 1399:10 1415:22 1431:12 worked 1205:20 1206:11 1207:5,7 1248:17 1259:13 1291:15 1302:16 1306:3 1307:2 1307:12,13 1324:13</p>
--	--	--	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1531

<p>1325:10,11 1332:11,20 1349:20 1361:22 1375:4 1383:12,15,20 1402:22 1412:6,12,12 1486:11 working 1197:11 1205:8 1206:1 1209:16,17 1210:1 1262:18 1278:1 1292:4 1306:2,3 workpaper 1368:7 workpapers 1353:15 1368:10 works 1190:18 1194:9 1196:21 1213:8 1215:11,12 1245:6 1256:13 1259:6 world 1209:12 1213:1 1242:9 1247:18,22 1269:18 1277:19 1278:5 1291:13,20 1384:5 1388:1,9 1445:2 worth 1201:20 1202:10 1315:8 1345:4 1418:2 1423:21 1424:17 wouldn't 1184:1 1194:20 1213:17 1214:14 1241:17,18 1254:3 1293:19 1296:12 1300:15 1302:15 1306:9 1320:9,20 1321:1 1341:8 1357:19 1357:22 1369:13 1394:21 1423:4 1428:16 1434:16 woven 1209:2 write 1348:17 1372:15 writing 1400:9 written 1317:20 1332:4 1402:18 1439:22 1440:2 wrong 1354:4,14 1367:17 1466:15 1467:12 1468:2 1485:21 wrote 1228:2 1333:8,14 1333:15,16 1334:6 Wyman 1393:8,12</p> <hr/> <p style="text-align: center;">X</p> <hr/> <p>X 1492:17 x-axis 1330:11</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>y-axis 1330:11 yard 1213:20,21 1220:11 1222:4,9,16,16 1223:1</p>	<p>1223:21 1224:4,12 1232:22 1235:12 1251:12,14 1253:1 1256:19 1259:3,18,20 1259:22 1260:5,10,18 1260:18,21 1261:5,7,18 1264:5 1265:11,19 1267:6,17 1268:1,19 1269:4,4,7 1270:1,8,17 1270:21 1271:12 1272:4,8,16 1273:3,5,8 1276:13 1277:4,6,14,20 1281:2,3,5 1355:2,3 1373:5 1381:9 1383:13 1397:20 1398:5 1401:19 1414:9 1428:20,21 1429:2,3 1430:16 1431:12 1432:9 1479:3 1480:21 1481:4,14 yard-controlled 1260:2 yards 1258:17 yeah 1275:13 1282:4 1283:21 1308:4 1309:11 1322:5,14 1328:21 1340:17 1341:7 1342:15 1343:9 1344:3,12 1348:22 1351:12 1352:8 1353:17 1357:7,19 1368:19 1369:6 1379:8 1400:16 1401:22 1434:3 1435:19 year 1205:21 1206:1 1217:3 1416:15 years 1205:22 1244:4,11 1284:20 1285:1 1302:19 1365:1 1390:2 1409:2 1411:9 1415:5 1439:6 Yep 1478:18 yesterday 1180:9 1182:11 1183:7 1197:13 1349:11 1473:13 York 1411:17</p> <hr/> <p style="text-align: center;">Z</p> <hr/> <p>zero 1430:7 Zoom 1179:15 1197:4 1217:22 1230:9,14 1231:9 1266:13 1283:22 1285:20 1288:9 1295:16,18 1313:18 1315:10</p>	<p>1326:2 1345:12</p> <hr/> <p style="text-align: center;">0</p> <hr/> <p>0500 1442:2 1443:4 0630 1442:2,6 0930 1442:7,10</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>1 1230:3,11 1232:7,13,18 1266:20 1356:5 1,265 1226:2 1.0 1368:10 1.1 1368:11 1.2 1323:14 1.5 1287:12,15,16 1:00 1200:18 1318:2 1356:13 1:30 1313:19 1314:18,20 1:32 1315:1 10 1194:6 1199:16 1259:15 1268:3 1269:15 1302:18 1335:7 1344:16 1346:6 1346:7 1348:13 1352:13,18 1404:21 1405:13 1429:3 1451:4 1451:6 1492:19 10-minute 1404:9 10,000 1289:15,16,18 1298:6,12 1372:6,8,10 10:00 1187:5,16 1223:17 10:30 1200:11 10:40 1200:13 10:46 1354:22 100 1355:20 102nd 1184:19 1185:4 1186:8 11 1183:6 1188:5,9 1198:2,3 1393:13 1411:9 1415:5 1439:6 1470:3,6,7 1483:13,19 1492:20 11:00 1200:18 1318:2 1354:9,22 1356:12 110 1239:5 1100 1442:10,14 111 1260:14,22 112 1250:10 1252:22 1253:3 1260:12,22 1272:12 11th 1180:16 1181:4,21 1182:6,9 1183:10,18 1184:17,18 1185:5,10 1190:16 1191:11,20 1192:15 1193:22</p>	<p>1194:9,14,18 1195:5 1197:8 1198:8,11 1199:8 1201:21 1203:16 1317:7 12 1190:12,14,15 1255:13 1256:8,9 1257:5 1476:21 1477:3,7 1483:14,19 1488:13 1490:8 1492:21 12:00 1356:13 12:17 1354:7 12:30 1189:22 12:41 1309:9 12:46 1313:17 12:47 1314:19 12:57 1354:15 1205 1491:5 122 1233:19 1234:1,2 1220 1491:13 1225 1491:6 1243 1491:15 1245 1491:7 1247 1491:13 1250 1491:8 126 1240:17 1241:10 1244:13 1261 1491:15 1265 1226:8 1264:22 1289 1491:13 129 1239:21 1292 1491:15 12th 1190:16 1195:9 1199:5 1317:22 13 1346:17 1347:7 1301 1491:13 1305 1491:17 1309 1491:18 1319 1491:15 1321 1491:14 1322 1491:19 1324 1491:9 1328 1492:12 1336 1491:17 1346 1491:10 1351 1491:17 1352 1491:14 1492:19 1362 1491:16 1368 1491:14 1370 1492:12 1371 1491:11 1397 1491:16 14 1183:6 1191:15,17 1241:9 1243:14 1252:18 1261:12 1272:2,13 1429:4</p>
---	---	---	--

REDACTED - PUBLIC VERSION

THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION

Public Evidentiary Hearing - April 8, 2022

Page 1532

<p>1430:8 1431:14 14-day 1253:2 1257:5 1258:12 1260:11 1261:12 1271:10 1272:1,6 1273:9 1375:22 140 1428:17,19,20 1429:4 1403 1491:12 1410 1492:5 1438 1492:6 1458 1492:7 1463 1492:13 1470 1492:20 1477 1492:21 1483 1492:20,21 1485 1492:8 1487 1492:13 14th 1180:16 1181:4,21 1182:15 1183:19,22 1192:8,8,15,21 1193:7 1193:20 1202:3 1318:5 15 1190:6,7 1230:2,6,7 1302:19 1420:12 1435:17 1437:2 1457:15 1486:12 15-minute 1451:16,18,21 1456:22 1457:2,5 1458:4 150 1429:14 1500 1442:14,17 15th 1190:10 1195:13,19 1196:7 16 1230:4,7 1266:21 1630 1442:17,20 17 1250:9,11 1252:19,21 173 1233:18 1234:2 174 1261:18 1271:5 1272:17 1276:15 1277:1,3 18 1183:7 1235:16 1236:11 1256:3 1396:4 1396:6 182 1272:14,16 18600 1478:17 18602 1477:8 18th 1180:17 1181:4 1182:1,16 1185:16 1192:17,19,22 1193:10 1193:19,20 1200:2 1201:1 1202:3 1203:5 1203:11 1204:4 1318:6 19 1183:7 1235:16 1236:11 1256:3 1930 1442:21 1443:1 19th 1180:17 1181:4</p>	<p>1182:2,16,19 1185:12 1185:21 1193:1,4,6,11 1193:20,20 1200:3 1201:1 1202:3 1203:6 1203:12 1318:6</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 1182:22 1183:4 1203:1 1203:14 1331:21 1332:3 1333:7 1440:17 1459:4 20 1182:22 1183:4 1284:20,22 1365:1 1390:2 1420:13 1437:2 1484:15 2000 1416:3 2004 1411:1,6,8 2006 1393:15 2013 1290:5 2015 1411:8 2016 1207:12 1416:17 2019 1240:22 1393:15 1397:1 1401:19 1420:22 1423:1 1427:15 1434:10 2020 1207:12 1284:12,17 1285:18 1287:3,4 1299:7 1322:16 1324:18,21 1331:22 1332:3,12 1335:11 1337:17 1343:16 1348:3 1363:8 1421:5 1422:1 1434:11,15 1459:16 1460:2 1464:21 1465:5,14,16 1466:1,7 1469:10 1473:6 1475:5 1476:17 1477:13 1482:17 1483:3 2021 1206:4 1207:21 1218:9,14 1245:16 1265:3 1284:11 1287:21 1299:9 1322:16 1338:3 1376:13,17 1378:9 1379:3 1393:12 1394:19 1395:3 1398:19 1400:17 1443:16 1482:17 2022 1179:13 1490:8 2023 1493:22 2039 1279:18 1284:6 1288:11,18 1290:5 1304:22 1322:14,17 1323:3,4,8,13 1372:2</p>	<p>1390:5 2100 1443:2,4 22 1477:13 23 1311:17,20 1393:14 1443:16 1464:21 1465:14 1466:18 23H 1459:4 24 1341:18 1425:11 24308(e) 1179:5 1180:4 25 1311:20,22 1313:5,7 257 1275:11 1372:14 26 1311:17,22 28 1431:14 1432:7 1473:6 295 1233:6,12 1234:2 2nd 1318:9</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 1203:1,14 1308:13,17 1440:17 3:34 1405:13 30 1356:5 1385:14 1407:10 1431:21 1457:13 1484:15 31 1493:22 33A 1440:16 38 1431:7 3rd 1318:9</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 1203:1,14 1440:22 1443:18 1446:22 4:00 1314:3 40B 1228:2,10 1266:20 40D 1229:21 1230:20 1231:3,7 1313:11 41B 1226:17 1227:5,16 1228:11 1428:6,9 42 1257:15 1258:13 43 1440:21 1443:17 1446:22 45 1451:7,14 1456:19 1462:1 472 1239:4 49 1179:5 4th 1318:9</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 1440:22 1443:18 1446:22 5:00 1314:1,16 1316:4,6 1461:18,20 1488:10 5:10 1484:12 5:13 1488:10 5:15 1490:6</p>	<p>50 1378:18 1409:2 520 1355:2 1356:11 1358:12 56 1271:7,10 1272:6,10 1272:10,14 1294:5 1296:5 582 1235:4 1239:2,6 1261:15 1262:3 1264:6 1264:15 1267:3 1276:17 1372:22 1430:3</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 1235:17,21,22 1238:18 1256:2 6:00 1223:17 6:30 1198:17 602 1358:12 1483:15</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 1460:21 1463:3</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 1179:13 1465:5,8,10 8:00 1223:13</p> <hr/> <p style="text-align: center;">9</p> <hr/> <p>9 1348:13 1352:13,18 1492:19 9:00 1354:15 1489:7,10 9:30 1189:21 1317:22 1355:1 1488:13 1489:10,17 1490:3,7 9:36 1179:14,18 9:45 1187:4 967 1470:4 1483:14</p>
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