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Office of Proceedings
April 18, 2022
Part of
Public Record

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April 18, 2022

VIA E-FILING

Cynthia T. Brown
Chief of the Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington DC 20423-0001

Re: Application of the National Railroad Passenger Corp. Under 49 U.S.C. § 24308(e) – CSX Transportation, Inc. and Norfolk Southern Railway Company, FD 36496

Dear Ms. Brown:

CSX Transportation, Inc. (“CSXT”) and Norfolk Southern Railway Company (“NSR”) hereby file, via e-filing, this “Supplemental Verified Statement of Larry R. Guthrie.” This filing addresses the issues discussed between the Surface Transportation Board and counsel for NSR regarding Mr. Guthrie's testimony and his review of a prior “draft” of the RTC Model. As I noted in this morning's hearing, Mr. Guthrie's supplemental verified statement should moot any issues surrounding whether NSR and CSXT should produce prior “drafts” reviewed by Mr. Guthrie. The filing is being filed as both a highly confidential and public version. If there are any questions concerning this e-filing, please contact me by telephone at (202) 663-7823 or by e-mail at wmullins@bakerandmiller.com.

Sincerely,

/s/ William A. Mullins

William A. Mullins
Attorney for Norfolk Southern Railway Company

Enclosures

cc: Parties of Record

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**BEFORE THE
SURFACE TRANSPORTATION BOARD
DOCKET NO. FD 36496**

**APPLICATION OF THE NATIONAL RAILROAD PASSENGER
CORPORATION UNDER 49 U.S.C. § 24308(e) – CSX
TRANSPORTATION, INC. AND NORFOLK SOUTHERN
RAILWAY COMPANY**

**SUPPLEMENTAL VERIFIED STATEMENT OF
LARRY R. GUTHRIE**

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INTRODUCTION

I, Larry R. Guthrie, testified before the Surface Transportation Board on Thursday, April 14, 2022, in the above-captioned proceeding. I submit this supplemental verified statement in an effort to resolve any confusion caused by my testimony concerning an example of a correction I proposed to Mark Dingler about the 2021 Gulf Coast RTC Model. That testimony was then the subject of a lengthy discussion between counsel and the Board. I now offer the following written testimony in an effort to clarify the record because I was unable to do so by speaking with counsel while I was still on the witness stand. I recognize that I may be asked to retake the witness stand on this narrow issue.

BACKGROUND

During the portion of my direct examination concerning my contributions to the 2021 Gulf Coast RTC Model, attorney Daniel Donahoe asked me if I could “give the Board an example of a change or suggestion that you made from the initial model to the final model?”¹ I testified that “when Mr. Dingler and I were going through the animation . . . I noticed that there was a backup at the west end or the south end of Gentilly Yard and I pointed that out to him and said what’s going on there, Mark?”² I then testified that Mr. Dingler replied “well I think I’ve got a

¹ Evidentiary Hearing Day 6, *Application of the Nat’l R.R. Passenger Corp. Under 49 U.S.C. § 24308(e)—CSX Transp., Inc. and Norfolk S. Corp.*, STB Docket No. FD 36496 (Apr. 14, 2022), at 5:13:55–5:15:30, available at https://www.youtube.com/watch?v=rr_VO3XTtCM.

² *Id.*

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crossover here that is improperly located and so he fixed that in his model.”³ I further clarified that the crossover should have been in the model and that it was simply “improperly oriented.”⁴

In response to certain follow-up questions from the Board, I restated that I identified this crossover issue while watching the animation of the 2019 Base Case.⁵ The Board requested that counsel confirm whether the version of the model I reviewed when the crossover error was identified was in the record.⁶ Following a mid-afternoon break, the Board asked Mr. Donahoe if he would like to address “this issue of that first report that Mr. Guthrie was testifying about.”⁷ Attorney William A. Mullins responded that “the initial draft that he was referring to and that you were speaking of is not in the record . . . [because] it was a draft.”⁸

Mr. Mullins continued: “When Mr. Guthrie came on he reviewed a draft, one of many many drafts, and it was on the basis of that draft that he reviewed that he saw the fallacy that needed correction and that’s when he corrected it. But the final report, the final study that was put in the record, is obviously the product of many many drafts, one of which Mr. Guthrie saw and added input and corrections.”⁹

³ *Id.*

⁴ *Id.*

⁵ *Id.* at 5:20:01–5:22:10.

⁶ *Id.*

⁷ *Id.* at 5:41:55–5:49:30 (emphasis added).

⁸ *Id.*

⁹ *Id.*

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Counsel and the Board then engaged in a discussion about the propriety of testifying about and producing attorney work product in the form of draft expert reports.¹⁰

CLARIFICATION

On September 29, 2021, I joined Mr. Dingler at the Jacksonville, Florida office of HNTB Corporation to review the 2019 Base Case and the 2039 Base Case as they existed at that time. During that model review, I observed an error in the animation when a train used an alternate node of Gentilly Yard that resulted in incorrect train movements through a set of crossovers located on the south end of the yard. As a train traversed the Industrial Canal bridge, it used the crossovers to move from the Main 2 track (M2 in the schematic below) to the Main 1 track (M1 in the schematic below) and then back to the Main 2 track. This incorrect and unnecessarily, capacity-consuming train movement is illustrated by the jagged purple line in the schematic below. The schematic is a snapshot of the Gentilly Yard infrastructure from the 2019 Base Case with the purple arrow overlayed on top of the snapshot to depict the incorrect train movement I observed last September. In other words, the purple arrow was drawn Friday, April 15, 2022, on a snapshot of the 2019 Base Case infrastructure that was also taken on Friday, April 15, 2022. This is not an image from a previous version of the model.

¹⁰ *Id.*

**RTC Track Infrastructure Schematic Diagram
South End of Gentilly Yard, Industrial Canal**

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Redacted

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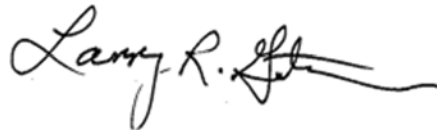
Upon closer examination, we determined this train movement was due to an incorrect penalty on the crossover. This movement only appeared when a train took an alternate node and on its primary routing. Mr. Dingler was able to quickly fix this issue directly in the RTC model. Correction of the penalty resulted in fewer delays to the interchange traffic. This error is not preserved in a prior “draft” of the RTC model. The creation of a RTC model is an iterative process and RTC modelers do not typically save “drafts” in the same way one might save drafts of a Microsoft Word document. Additionally, this error was never reflected in any prior versions or drafts of the 2021 Gulf Coast RTC Report. There is thus no document or RTC file we can produce to the Board that will reflect this error or our correction.

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VERIFICATION

I, Larry R. Guthrie, declare under penalty of perjury that the foregoing information is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 18th day of April 2022.

A handwritten signature in black ink, appearing to read "Larry R. Guthrie", with a stylized flourish extending to the right.

Larry R. Guthrie

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CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of April, 2022, a copy of the foregoing Supplemental Verified Statement of Larry R. Guthrie was served by email or first class mail on the service list to Finance Docket No. 36496.

/s/ William A. Mullins

William A. Mullins

BAKER & MILLER PLLC