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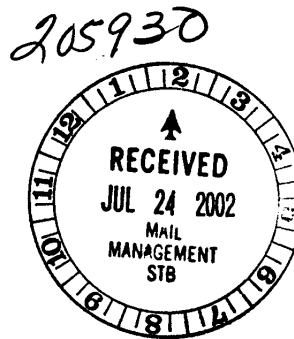
JUL 24 2002

Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO.: 42068

Verified Rebuttal Statement of Jeff Traicoff.
Capital Materials Incorporated.
Bishop Street Facility



My name is Jeff Traicoff. Previously in this proceeding, I have submitted a Verified Statement and a Supplemental Verified statement as part of the initial presentation made by Capital Materials Incorporated.

Since the submission of those Statements, I reviewed the Verified Statements submitted by Norfolk Southern in support of its Reply Statement. My purpose in submitting this Rebuttal Statement is to comment specifically upon those matters of fact advanced by each Affiant of Norfolk Southern, and to submit evidence responsive to those representations.

I have knowledge of the factual matters which I have set forth in this statement and the same are true as stated.

I.

In my Opening Statement, I represented that the demurrage claims which are the subject of this proceeding are not the result of any inability on Capitol's part to timely unload cars but instead are the result of Norfolk Southern's own actions or inactions. I detailed specific examples illustrative of this which are represented in every bill sent to us by Norfolk Southern. These examples, all of which pertain to the period that is the subject matter of this proceeding, include the following:

1. Bunching: The rail transit times of Norfolk Southern are random. There is no consistency in the deliveries from Norfolk Southern and, as a result it is impossible to prepare a reliable ordering or delivery schedule.
2. Missed switches: From time to time, Norfolk Southern simply did not show up at Capitol's rail siding when it was scheduled to either spot loaded rail cars or pull empty rail cars. Missed switches by Norfolk Southern resulted in the interruption of deliveries and the inability of Capitol to accept rail cars for delivery. This failure causes a back-up which effects Capitol not simply for the day on which Norfolk Southern misses a switch, but for many days thereafter. In instances when I have complained to Norfolk Southern about missed switches, or inquired of Norfolk Southern concerning the whereabouts of our rail cars, I was given excuses by Norfolk Southern such as, the crew is "out of hours." Regardless of the excuses offered, Norfolk Southern refused to consider the "domino effect" caused by the missed switches had on the other rail cars intended for delivery to Capitol when it assessed demurrage.
3. Missed spotting of loaded rail cars: During the period that demurrage is being assessed against Capitol rail cars intended for delivery to Capitol would arrive at Norfolk Southern's yard, but are not delivered to Capitol until the second day after their arrival and one day after they have been constructively placed. This arbitrary action was taken by Norfolk Southern despite the fact that Capitol had slots available at its siding for delivery. In other words, this is what can be termed a "half-switch:" one or more empty

rail cars are pulled. However, the loaded rail cars are not spotted at Capitol's siding.

4. Rail cars sitting for days at Norfolk Southern's yard before a Constructive Placement Notice is issued or the rail cars are spotted: Previously, I documented rail cars sitting as many as three days at Norfolk Southern's yard before a Constructive Placement Notice was issued and before the rail cars were spotted, although space was available at Capitol's yard. In its Reply Statement, Norfolk Southern argues that this is not a problem because demurrage does not begin to accrue until a Constructive Placement Notice is issued. Although Capitol agrees that the demurrage clock does not start ticking until a Constructive Placement Notice is issued, the "stacking" of rail cars at Norfolk Southern's yard, which is caused solely by Norfolk Southern's own failure to timely deliver loaded rail cars, creates a back-up which then has a domino effect upon all of the other rail cars in transit and due to arrive at Norfolk Southern's yard. Norfolk Southern refused to consider the effect of stockpiling cars intended for delivery to Capitol when it assessed demurrage upon Capitol.
5. Run-arounds: Run-arounds occur frequently. The effect of run-arounds can was previously demonstrated by using as an example what occurred in May, 1998 at the Atlanta yard. The first actual placement in May, 1998 occurred on May 4th when four rail cars were placed. A rail car had arrived earlier in the month, but it was not actually placed although slots were available at Capitol's yard. The four rail cars placed on May 4th were "run-around" this

rail car, which was actually placed on May 5th. On May 5th Capitol was past the so-called "free time" allotted and this rail car became the subject of demurrage. Norfolk Southern refuses to consider "run-arounds" when it assessed Capitol with demurrage.

Norfolk Southern, in the argument portion of its presentation, alleges that these examples provided by Capitol are "scattered" and "ancient¹." Nothing could be farther from the truth. In fact, examples of bunching, run-arounds, missed and half-switches can be found throughout the outstanding and unpaid billing.

Further, the service of Norfolk Southern was deteriorating over the period of the disputed billings. For example, Norfolk Southern missed switches about once a month in 1997 (10 in number total), more than monthly in 1998 (13 in number) and an average of 1.5 times monthly in 2000 (18 in number). These numbers are exclusive of weekends and holidays. Attached hereto as Exhibits 1, 2 and 3 are "No Activity Reports" for Capitol's Atlanta facility showing the exact dates on which Norfolk Southern failed to make switches. These Exhibits were generated by me after a review of Norfolk Southern's bills for those time periods.

On most of the days that missed switches occurred, rail cars intended for delivery to Capitol were either sitting at Norfolk Southern's yard or had been constructively placed by Norfolk Southern. It is significant that Norfolk Southern has failed to present any Affiant testimony or any evidence whatsoever to support its argument that these conditions are "scattered" or "ancient." Norfolk Southern's practice of assessing demurrage in these

¹ Norfolk Southern Argument, Page 16

circumstances is an improper practice and I believe that such a practice would never be pursued by an entity in a competitive industry.

II.

Norfolk Southern repeatedly refers to the fact that we have not formally filed what it terms a "claim for demurrage relief." However, when Capitol is at fault, we do and have paid demurrage to Norfolk Southern; we have not filed any "claim" for return of these funds.

Further, in the case of the bills which are at issue here, Capitol is free of fault. It is unfair and wrong for Capitol pay Norfolk Southern for problems which Norfolk Southern created and then file a "claim" for the return of these funds. Capitol has given notice to Norfolk Southern of our position on these bills and our constant protests and complaints have fairly and reasonably placed Norfolk Southern on notice of our position and has acknowledged the receipt of the claim for demurrage relief. As Norfolk Southern has admitted, we have had meeting after meeting with its representatives on this subject since Norfolk Southern first started to attempt collection of the 1997 bills. I have had repeated and continual telephone communication with representatives of Norfolk Southern concerning these issues. In response to Capitol's claims for demurrage relief, Norfolk Southern has eliminated some billings to Capitol for demurrage charges.

I note that Norfolk Southern's witness Carolyn Woods has placed in evidence a document which purports to be a Norfolk Southern tariff which came into effect June 15, 1997 (Woods Statement, Exhibit 1). This date is approximately the date Capitol first started receiving documents from Norfolk Southern what we later learned were "Constructive Placement" notices and demurrage bills based upon the use of constructive placement. Although we were in regular contact with our Norfolk Southern sales representative, no

indication was ever given to us of any change in the method of operation of billing, and certainly no explanation of any kind was provided to us concerning either this new policy or an explanation of the Constructive Placement notices. As I indicated in my initial statement, when Capitol complained about this practice we were told by representatives of Norfolk Southern "not to worry" and to disregard these bills. Often these bills simply "went away" and to the best of my recollection, none were re-billed by Norfolk Southern to Capitol.

It was only in 1999, two years later, that Norfolk Southern first advised that it intended to pursue and collect these charges. It was at that point that our discussions with Norfolk Southern management and various of its personnel started on a regular basis.

In each of our meetings and in our various discussions, I repeatedly attempted to bring to Norfolk Southern's attention what I call the "core" problems with Norfolk Southern's service which resulted in the unreasonable assessment of demurrage. Norfolk Southern repeatedly advised that objections based upon these matters would not be considered.

I was never advised by Norfolk Southern that what I was doing by making oral face-to-face or telephonic complaints regarding demurrage was either wrong or that it was not acceptable. The statement by Norfolk Southern that Capitol's failure to submit written claims on these issues is absolutely inconsistent with the position taken by all the Norfolk Southern representatives with whom I met over this period of time.

Additionally, Norfolk Southern consistently advised that written claims for relief regarding demurrage would be useless. For example, Norfolk Southern's standard response to any complaint concerning bunching is that bunching is disallowed as a basis for

eliminating demurrage charges since we are on an average agreement. It would make no difference if Capitol provided Norfolk Southern with one instance or hundreds of such instances, in writing or orally, at meetings or otherwise. Norfolk Southern acknowledged that it was aware of the complaint and protests of Capitol. In response to the notice from Capitol, Ms. Woods has stated that bunching is disallowed for shippers and receivers such as Capitol who are operating under an averaging agreement. Ms. Woods has further stated that consideration of the problems caused by bunching has been permitted in instances where no average agreements were in effect (See Item 1210), but since March 1, 2000, Norfolk Southern, in its tariff 6004-A and 6004-B, eliminated entirely any consideration of the problems caused by bunching despite the absence of an averaging agreement. Capitol should not be penalized each time Norfolk Southern bunches rail cars within its system. It makes no difference whether a so-called averaging agreement was in place or not as the penalty provision still exists without credit.

Norfolk Southern has also been unresponsive to our repeated complaints concerning the long term effect of its missed switches. Prior to 1997, in Tariff ICC RPS 6004-P, to which Norfolk Southern apparently was a participant, the carrier's former rule provided that in instances of railroad error such as missed switches "...demurrage will be charged on the basis of the amount that would have accrued but for such error" (See Exhibit 4 hereto, Item 1435).

However, in Norfolk Southern Tariff 6004, effective June 15, 1997, in Item 287, Norfolk Southern eliminated this language and instead provided that no allowance would be made whatsoever unless (a) all cars actually placed at that point in time were released before the next switch should have been made and (b) Norfolk Southern would extend the

allowance only against cars under constructive placement at that point in time. In other words, Norfolk Southern absolutely refused to give consideration to the domino effect and no "claim" that we filed, whether in writing or otherwise, would have altered this position.

We had meetings on this subject where our position was continuously rejected by Norfolk Southern and we were told it continue to be rejected even if we put it in writing. The change in this rule from "...demurrage will be charged on the basis of the amount that would have accrued but for such error" to an absolute prohibition of any allowance except when two conditions are met, again represents an unreasonable rate practice which can be corrected only through court action or the involvement of this Board. It cannot and will not be resolved through the submission by Capitol of written "claims" or by an analysis by the parties of the conditions which result from missed switches.

Contrary to Norfolk Southern's argument that our complaints arose long after the fact, or were "years late",² our complaints and communications were all directly responsive and immediate to the circumstances occurring. Significantly, no such allegation of a late or "years late" complaint appears in any of the Verified Statements offered by Norfolk Southern.

III.

In the Verified Statement of Stephen B. Marshall, Mr. Marshall states that I asserted that Norfolk Southern' demurrage bills were a "joke." I did state that these bills were a "joke," not simply because the conditions giving rise to the assessment of demurrage were of Norfolk Southern's own making but also because the bills themselves omitted pertinent

² Norfolk Southern Argument , Page 16

dates such as an actual placement dates, a release dates and a pick up dates. Attached hereto as Exhibits 5, 6 and 7 are reports I have generated based on Norfolk Southern's own bills for the periods 1997, 1998, 2000 and 2001 showing missing constructive placement dates, actual placement dates, missing release dates and missing pick-up dates. The repeated errors and omissions in Norfolk Southern's bills, coupled with our continual problems with Norfolk Southern's service as set forth above, prompted my comment that these bills were a "joke." When we first started receiving these bills, particularly after years of no demurrage assessments whatsoever, I was specifically told to "forget" them because Norfolk Southern's records were so poor.

IV.

In March of 2000, Capitol learned that Norfolk Southern had changed the amount of demurrage charges and the basis for the computation of free time. In our opening statement, I indicated the Norfolk Southern had tripled the cost to us at least for the first and second days after free time from \$20 to \$60 per day. This increase is now described by Ms. Woods as having "simplified the terminology" of the demurrage tariff. In fact, Norfolk Southern not only tripled the charges but it also completely changed the method of calculating chargeable days. As an example, under the former method, if a Constructive Placement Notice was issued on Tuesday and the rail car subject to that Notice was actually placed on Wednesday at noon, chargeable time would commence on Thursday at 12:01 a.m. If this rail car was released Monday, the assessment would be for two days, which would be all "free time" with no assessment of demurrage. Applying the procedure which Norfolk Southern initiated in March, 2000 to the same circumstances, Capitol would be assessed for Thursday, Friday, Saturday, and Sunday, and upon release of the rail car, would receive two days credit

resulting in two chargeable days. Consequently, Capitol is not only being assessed \$60 a day but we are also being charged for substantial additional days when Saturdays and Sundays are factored in.

V.

I note that the average agreement which we signed back in 1986 references an agency tariff in which the Southern Railway participated: Tariff PHJ 6004-O H.J. Positano, agent. A copy of this publication has not been placed in evidence by Norfolk Southern and no copy has been furnished to us. However, we have located agency tariff RPS 6004-P, which, by its terms, cancels freight tariff 6004-O pursuant to an effective date of December 6, 1993 from the issuing agent, Railroad Publication Services. This publication, through various supplements, remained in effect with respect to Norfolk Southern until June 2, 2000, when, by Supplement 56 to Freight Tariff RPS 6004-P, the participation of Norfolk Southern was cancelled (See Exhibit 1 hereto).

What remains confusing to us is that Norfolk Southern apparently independently published its own series tariff NS6004, effective June 15, 1997 and upon which it relies in this proceeding. This Tariff is neither a supplement nor a re-issuance of agency publication RPS 6004. Stated differently, by 1997, Norfolk Southern had apparently opted out of the agency tariff, and any supplement or re-issuance thereof, which governed our agreement and this date generally corresponds with the time we first started receiving demurrage notices. No change existed in our business at that point which would have prompted these notices, and as stated previously, it was two years before anyone sought collection or informed us of any requirement of the filing of any "claim."

VI.

Norfolk Southern has asserted that at least until the year 2000 we were subject to an average demurrage agreement and to Norfolk Southern tariff provisions as they relate to this average agreement. In its Reply Statement at pages 7 and 8, Norfolk Southern states that under the average demurrage agreement/tariff, demurrage begins to run whenever it placed cars "either actually or constructively." According to Norfolk Southern (Reply at 8), constructive placement as stated in Item 350 occurs:

"Because of a condition attributable to the consignor or consignee such a car will be held at destination...at an available hold point and notice shall be sent or given...that this railroad is unable to effect placement..."

At no point in any statement has Norfolk Southern stated whether the demurrage which is the subject of this proceeding is the result of actual or constructive placement of rail cars. If the demurrage being assessed is the result of constructive placement, Norfolk Southern fails to indicate in either its argument or in its Affiants' testimony that Capitol was unable to receive rail cars at the time the Constructive Placement Notices were issued.

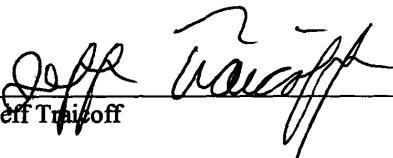
If the demurrage being assessed is the result of actual placement, Norfolk Southern again has failed to indicate in either its argument or in its Affiants' testimony that Capitol did not timely unload the rail cars in question or that the rail cars had not been released by Capitol or were not capable of being picked up by Norfolk Southern. In fact, Norfolk Southern fails to indicate which method of calculating demurrage charges applies here.

I have stated that we routinely receive constructive placement notices on virtually every car, and our other location at Duluth receives constructive placement notices on absolutely every car. It has nothing to do with available space. Constructive placement can be utilized only in instances where, according to the Norfolk Southern tariff, a condition

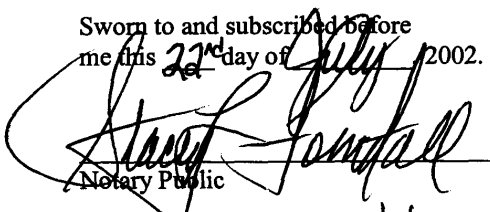
exists attributable to the consignee. Here there is no assertion that we created any condition that triggered constructive placement.

STATE OF GEORGIA
COUNTY OF FULTON

JEFF TRAICOFF, being duly sworn, deposes and says that he has read the foregoing statement, knows the facts asserted there are true and that the same are true as stated.


Jeff Traicoff

Sworn to and subscribed before
me this 22nd day of July 2002.


Notary Public

My Commission Expires: 3/4/04

7/15/02

No Activity Atlanta Yard Report

7/10/97

Thursday, May 15, 1997

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
700077				
1	0	0	0	0

Friday, May 16, 1997

Car Arrivals	3
Cars Constructively Place	1
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118011	700077			
118040				
118054				
3	1	0	0	0

TRAICOFF EXHIBIT 1

7/15/02

No Activity Atlanta Yard Report

1997

Monday, May 19, 1997

Car Arrivals	4
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

Arrivals

118033

118065

1683

603777

Constructively Placed

Actually Placed

Cars Released

Picked-up

4	0	0	0	0
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Tuesday, May 20, 1997

Car Arrivals	0
Cars Constructively Place	7
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

Arrivals

Constructively Placed

Actually Placed

Cars Released

Picked-up

118011

118033

118054

118065

1683

603777

621316

0	7	0	0	0
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7/15/02

No Activity Atlanta Yard Report
1997

Wednesday, May 21, 1997

Car Arrivals	0
Cars Constructively Place	1
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118040				
0	1	0	0	0

Thursday, May 22, 1997

Car Arrivals	5
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
85096				
86356				
86501				
86736				
9054				
5	0	0	0	0

7/15/02

No Activity Atlanta Yard Report

1007

Friday, May 23, 1997

Car Arrivals	0
Cars Constructively Place	5
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
85096				
86356				
86501				
86736				
9054				
0	5	0	0	0

Tuesday, May 27, 1997

Car Arrivals	8
Cars Constructively Place	5
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118021	118021			
118044	118066			
118059	4225			
118066	4317			
4225	84305			
4317				
621140				
9037				
8	5	0	0	0

7/15/02

No Activity Atlanta Yard Report
1997

Wednesday, May 28, 1997

Car Arrivals	1
Cars Constructively Place	5
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

Arrivals
4014

Constructively Placed
118044
118059
4014
621140
9037

Actually Placed

Cars Released

Picked-up

1	5	0	0	0
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Thursday, May 29, 1997

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

Arrivals
118012

Constructively Placed

Actually Placed

Cars Released

Picked-up

1	0	0	0	0
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7/15/02

No Activity Atlanta and Report

199

Tuesday, April 28, 1998

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118040				
1	0	0	0	0

Wednesday, April 29, 1998

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118056				
1	0	0	0	0

TRAICOFF EXHIBIT 2

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report
1998

Friday, May 1, 1998

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
20629				
1	0	0	0	0

Wednesday, May 6, 1998

Car Arrivals	0
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	2
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
			20629	
			86491	
0	0	0	2	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report
1998

Tuesday, May 19, 1998

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
856507				
1	0	0	0	0

Thursday, July 2, 1998

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118032				
1	0	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 1998

Monday, July 27, 1998

Car Arrivals	2
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	2
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
839			830	
856206			621801	
2	0	0	2	0

Wednesday, July 29, 1998

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	2
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
621659			118033	
			862170	
1	0	0	2	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 1998

Thursday, August 6, 1998

Car Arrivals	0
Cars Constructively Place	3
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
	5000			
	621605			
	621833			
0	3	0	0	0

Friday, August 14, 1998

Car Arrivals	0
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	2
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
			621833	
			621474	
0	0	0	2	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 1998

Tuesday, August 18, 1998

Car Arrivals	0
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	2
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
			118065	
			118063*	
0	0	0	2	0

Wednesday, August 19, 1998

Car Arrivals	0
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	1
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
			118041	
0	0	0	1	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 1998

Friday, August 28, 1998

Car Arrivals	0
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	1
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
		118019		
0	0	0	1	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report
2000

Monday, June 12, 2000

Car Arrivals	2
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
861415				
861917				
2	0	0	0	0

Wednesday, June 14, 2000

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
85469				
1	0	0	0	0

TRAICOFF EXHIBIT 3

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 2000

Thursday, June 22, 2000

Car Arrivals	12
Cars Constructively Place	22
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
273331	273331			
545462	545462			
621751	621751			
812	725165			
81419	725412			
81548	725415			
822	812			
856454	81419			
863151	81458			
86363	81547			
864474	81548			
864477	821			
	822			
	85469			
	856454			
	85990			
	861415			
	861917			
	863151			
	86363			
	864474			
	864477			
12	22	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 2000

Monday, June 26, 2000

Car Arrivals	7
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118012				
600657				
621754				
621844				
84312				
856560				
856582				
7	0	0	0	0

Tuesday, June 27, 2000

Car Arrivals	0
Cars Constructively Place	9
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
118012				
600657				
621754				
621844				
84312				
856560				

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 2000

856582

861576

86407

_____0| _____9| _____0| _____0| _____0|

Wednesday, June 28, 2000

Car Arrivals	_____1
Cars Constructively Place	_____0
Cars Actually Placed	_____0
Cars Released	_____0
Cars Picked-up	_____0

Arrivals

Constructively Placed

Actually Placed

Cars Released

Picked-up

861766

_____1| _____0| _____0| _____0| _____0|

Friday, June 30, 2000

Car Arrivals	_____1
Cars Constructively Place	_____0
Cars Actually Placed	_____0
Cars Released	_____0
Cars Picked-up	_____0

Arrivals

Constructively Placed

Actually Placed

Cars Released

Picked-up

861411

_____1| _____0| _____0| _____0| _____0|

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report
2000

Monday, July 3, 2000

Car Arrivals	3
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
861576				
86407				
86888				
3	0	0	0	0

Thursday, July 6, 2000

Car Arrivals	0
Cars Constructively Place	5
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
85288				
861411				
861620				
861766				
86888				
0	5	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 2000

Monday, July 10, 2000

Car Arrivals	1
Cars Constructively Place	3
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
54115	74421			
	861106			
	87443			
1	3	0	0	0

Tuesday, July 18, 2000

Car Arrivals	2
Cars Constructively Place	4
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
725395	621750			
861330	725395			
	725411			
	861330			
2	4	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 2000

Monday, August 7, 2000

Car Arrivals	1
Cars Constructively Place	1
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
863045	856661			
1	1	0	0	0

Thursday, August 17, 2000

Car Arrivals	5
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
700022				
725411				
84915				
855057*				
861964*				
5	0	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report 2000

Friday, September 8, 2000

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
861330*				
1	0	0	0	0

Friday, September 15, 2000

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
861737				
1	0	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report
2000

Thursday, October 12, 2000

Car Arrivals	1
Cars Constructively Place	0
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
54106				
1	0	0	0	0

Friday, October 13, 2000

Car Arrivals	0
Cars Constructively Place	1
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
54106				
0	1	0	0	0

*Car appears twice within the year

7/15/02

No Activity Atlanta Yard Report
2000

Friday, October 27, 2000

Car Arrivals	4
Cars Constructively Place	4
Cars Actually Placed	0
Cars Released	0
Cars Picked-up	0

<u>Arrivals</u>	<u>Constructively Placed</u>	<u>Actually Placed</u>	<u>Cars Released</u>	<u>Picked-up</u>
20632	600648			
273050	600701			
855090	861659			
86852	863775			
4	4	0	0	0

*Car appears twice within the year

PART I
GENERAL CAR DEMURRAGE RULES AND CHARGES

SECTION 1400

ITEM 1425 CONT'D
ORDERS OR FORWARDING DIRECTIONS DELAYED IN U.S. MAIL

EXPLANATION OF REFERENCE MARKS

- I Not applicable in connection with Norfolk Southern Railway Company.
 E Applicable only in connection with Norfolk Southern Railway Company.

ITEM 1430
MOVEMENT FROM HOLD POINT TO DESTINATION

When cars are held at an available hold point short of destination and constructive placement notice is sent or given, the time of movement between hold point and destination and any other time for which the railroad is responsible, will not be computed against the consignor or consignee.

No allowance will be made for time of movement when:

- (a) Cars are constructively placed on the basis that free time will begin at the same time it would have begun had the cars moved normally to destination, and
 (b) Cars are subsequently brought to destination prior to being ordered for actual placement.

ITEM 1435
RAILROAD ERROR

In event of error by any railroad named in the bill of lading contract or participating in the transportation transaction which prevents acceptance, proper tender or delivery including the demand of payment of transportation charges in excess of tariff authority, demurrage will be charged on basis of the amount that would have accrued but for such error.

When cars are inaccessible for loading or unloading, allowance will be made for detention directly chargeable thereto, subject to conditions set forth below:

- (1) On other-than-public-delivery tracks when there is disability of this railroad.
 (2) On public delivery tracks only when an obstruction is on the premises of this railroad.

No allowance will be made for delay in placing nor for interruption in loading or unloading cars consigned or ordered to a track, other than a public delivery track, used by two or more shippers or consignees, when such delay or interruption is attributable to such joint use of such track, except that due allowance will be made if a car displaced in switching is not replaced when the switching is completed.

Demurrage charges assessed and billed will not be relieved under this item unless claim is presented in writing to this railroad within ninety (90) calendar days after date on which demurrage bill is rendered, stating the conditions for which relief is claimed.

ITEM 1440
RELIEF DUE TO FIRE HAZARD, IN SAW MILLING, LOGGING, OR THE OPERATION OF A LOGGING RAILROAD
(NOT APPLICABLE IN CONNECTION WITH THE NORFOLK SOUTHERN RAILWAY COMPANY)

When the use of power-driven machinery in saw milling, logging or the operation of a logging railroad, is prohibited because of fire hazard, and such prohibition results in the inability of a consignor or a consignee to load or unload cars, or when the employees of a consignor or consignee are commandeered to fight forest fire, the detention of cars, due to such causes, will be eliminated in computation of free time and demurrage, provided the consignor or consignee presents claim in writing, supported by written confirmation of such interference from a duly constituted authority to this railroad within thirty (30) days, exclusive of Saturdays, Sundays and holidays, after the date of such interference, stating the date and time interference began and ceased.

TRAICOFF EXHIBIT 4

7/22/02

Missing Actual Placement Dates 10/1/97

Car Number	Yard	Arrival Date	Constructive Place Date	Release Date	Pickup Date	Demurrage
9054	A	22-May-1997	23-May-1997	12-Jun-1997	12-Jun-1997	18
86736	A	22-May-1997	23-May-1997	11-Jun-1997	11-Jun-1997	17
4225	A	27-May-1997	27-May-1997	12-Jun-1997	12-Jun-1997	14
4317	A	27-May-1997	27-May-1997	10-Jun-1997	10-Jun-1997	12
118021	A	27-May-1997	27-May-1997	11-Jun-1997	11-Jun-1997	13
118066	A	27-May-1997	27-May-1997	11-Jun-1997	11-Jun-1997	13
4014	A	28-May-1997	28-May-1997	09-Jun-1997	09-Jun-1997	10
118017	A	08-Jun-1997	09-Jun-1997	16-Jun-1997	16-Jun-1997	5
603901	A	08-Jun-1997	09-Jun-1997	13-Jun-1997	13-Jun-1997	2

TRAICOFF EXHIBIT 5

* A = Atlanta Yard and D = Duluth Yard

7/22/02

Missing Release Dates for 1997

Car Number	Yard	Arrival Date	Constructive Place Date	Actual Date	Pickup Date	Demurrage
700077	A	15-May-1997	16-May-1997	12-Jun-1997	13-Jun-1997	0
9037	A	27-May-1997	28-May-1997	18-Jun-1997	18-Jun-1997	0

* A = Atlanta Yard and D = Duluth Yard

Missing Constitutive Placement Data 1998

Car Number	Yard	Arrival Date	Actual Date	Release Date	Pickup Date	Demurrage
118040	A	28-Apr-1998	30-Apr-1998	04-May-1998	04-May-1998	0
118056	A	29-Apr-1998	30-Apr-1998	04-May-1998	04-May-1998	0
20629	A	01-May-1998	05-May-1998	06-May-1998	08-May-1998	0
621440	A	02-May-1998	04-May-1998	05-May-1998	05-May-1998	0
771	A	04-May-1998	04-May-1998	11-May-1998	11-May-1998	0
86491	A	04-May-1998	04-May-1998	06-May-1998	08-May-1998	0
87227	A	04-May-1998	04-May-1998	05-May-1998	05-May-1998	0
114357	A	08-May-1998	11-May-1998	12-May-1998	14-May-1998	0
118069	A	11-May-1998	12-May-1998	13-May-1998	14-May-1998	0
120050	A	11-May-1998	12-May-1998	13-May-1998	14-May-1998	0
621849	A	11-May-1998	12-May-1998	14-May-1998	14-May-1998	0
856587	A	11-May-1998	13-May-1998	18-May-1998	20-May-1998	0
114230	A	14-May-1998	18-May-1998	20-May-1998	20-May-1998	0
114230	A	18-May-1998	18-May-1998	20-May-1998	20-May-1998	0
856507	A	19-May-1998	20-May-1998	21-May-1998	22-May-1998	0
20261	A	25-May-1998	26-May-1998	27-May-1998	27-May-1998	0
118073	A	25-May-1998	26-May-1998	27-May-1998	27-May-1998	0
118032	A	02-Jul-1998	03-Jul-1998	07-Jul-1998	07-Jul-1998	0
62205	A	03-Jul-1998	06-Jul-1998	08-Jul-1998	08-Jul-1998	0
85144	A	03-Jul-1998	06-Jul-1998	07-Jul-1998	07-Jul-1998	0
861278	A	03-Jul-1998	06-Jul-1998	07-Jul-1998	07-Jul-1998	0
118045	A	06-Jul-1998	07-Jul-1998	09-Jul-1998	09-Jul-1998	0
120050	A	06-Jul-1998	07-Jul-1998	08-Jul-1998	08-Jul-1998	0
114398	A	14-Jul-1998	16-Jul-1998	22-Jul-1998	22-Jul-1998	0
700062	A	24-Jul-1998	24-Jul-1998			0

TRAICOFF EXHIBIT 6

* A = Atlanta Yard and D = Duluth Yard

7/22/02

Missing Actual Placement Dates for 1998

Car Number	Yard	Arrival Date	Constructive Place Date	Release Date	Pickup Date	Demurrage
118000	A	12-May-1998	13-May-1998	20-May-1998	20-May-1998	5
3805	A	13-Jul-1998	13-Jul-1998	15-Jul-1998	15-Jul-1998	0
4320	A	13-Jul-1998	13-Jul-1998	16-Jul-1998	16-Jul-1998	1
4190	A	19-Jul-1998	20-Jul-1998	30-Jul-1998	30-Jul-1998	8
839	A	27-Jul-1998	28-Jul-1998	10-Aug-1998	10-Aug-1998	11
621659	A	29-Jul-1998	30-Jul-1998	10-Aug-1998	10-Aug-1998	0
120050	A	01-Aug-1998	03-Aug-1998	05-Aug-1998	05-Aug-1998	0

* A = Atlanta Yard and D = Duluth Yard

7/22/02

Missing Release Dates for 1998

Car Number	Yard	Arrival Date	Constructive Place Date	Actual Date	Pickup Date	Demurrage
700055	A	08-Jul-1998	09-Jul-1998	09-Jul-1998	10-Jul-1998	0
87425	A	13-Jul-1998	13-Jul-1998	15-Jul-1998		0
700062	A	24-Jul-1998		24-Jul-1998		0

* A = Atlanta Yard and D = Duluth Yard

7/22/02

Missing Constructive Placement Dates

Car Number	Yard	Arrival Date	Actual Date	Release Date	Pickup Date	Demurrage
801	A	07-Jul-2000	07-Jul-2000	11-Jul-2000	11-Jul-2000	
863442	A	13-Jul-2000	13-Jul-2000	19-Jul-2000	19-Jul-2000	
863539	A	13-Jul-2000	13-Jul-2000	17-Jul-2000	17-Jul-2000	
863280	A	13-Jul-2000	14-Jul-2000	14-Jul-2000	14-Jul-2000	
621373	A	14-Jul-2000	14-Jul-2000	26-Jul-2000	26-Jul-2000	
862022	A	14-Jul-2000	22-Aug-2000	22-Aug-2000		
273331	A	09-Aug-2000	10-Aug-2000	10-Aug-2000	10-Aug-2000	
856454	A	14-Aug-2000	15-Aug-2000	15-Aug-2000	15-Aug-2000	
862006	A	15-Aug-2000	15-Aug-2000	15-Aug-2000	16-Aug-2000	
855057	A	17-Aug-2000	18-Aug-2000	18-Aug-2000	18-Aug-2000	
861964	A	17-Aug-2000	18-Aug-2000	18-Aug-2000	18-Aug-2000	
85515	A	25-Aug-2000	25-Aug-2000	28-Aug-2000	28-Aug-2000	
862063	A	01-Nov-2000	01-Nov-2000	02-Nov-2000	02-Nov-2000	
861309	A	03-Nov-2000	03-Nov-2000	03-Nov-2000	03-Nov-2000	
87256	A	08-Nov-2000	08-Nov-2000	10-Nov-2000	10-Nov-2000	
9558	A	29-Nov-2000	29-Nov-2000	30-Nov-2000	30-Nov-2000	

TRAICOFF EXHIBIT 7

* A = Atlanta Yard and D = Duluth Yard

7/22/02

Missing Actual Placement Dates for 4000

Car Number	Yard	Arrival Date	Constructive Place Date	Release Date	Pickup Date	Demurrage
821	A	18-Jun-2000	22-Jun-2000	14-Jul-2000	14-Jul-2000	
812	A	22-Jun-2000	22-Jun-2000	05-Jul-2000	05-Jul-2000	
822	A	22-Jun-2000	22-Jun-2000	05-Jul-2000	05-Jul-2000	
863175	A	01-Aug-2000	02-Aug-2000	10-Aug-2000	10-Aug-2000	
861330	A	08-Sep-2000	11-Sep-2000	14-Sep-2000	14-Sep-2000	
809	A	25-Oct-2000	26-Oct-2000	30-Oct-2000	30-Oct-2000	
837	A	02-Nov-2000	03-Nov-2000	06-Nov-2000	06-Nov-2000	

* A = Atlanta Yard and D = Duluth Yard

7/22/02

Missing Release Dates for 2000

Car Number	Yard	Arrival Date	Constructive Place Date	Actual Date	Pickup Date	Demurrage
54141	A	07-Jul-2000	08-Jul-2000	11-Jul-2000		
725395	A	18-Jul-2000	18-Jul-2000	18-Aug-2000		
725411	A	17-Aug-2000	18-Jul-2000	18-Aug-2000		
700038	A	24-Aug-2000	15-Aug-2000	24-Aug-2000		
54101	A	20-Nov-2000	20-Nov-2000	28-Nov-2000		

* A = Atlanta Yard and D = Duluth Yard