

THE SENATE
STATE OF NEW YORK



KATHLEEN A. MARCHIONE
SENATOR, 43RD DISTRICT

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Senate Task Force on
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The Honorable Daniel R. Elliott III
Chairman
United States Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Ann D. Begeman
Vice Chairman
United States Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

The Honorable Debra Miller
United States Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

January 12, 2016

Dear Chairman Elliott and Surface Transportation Board Members:

[We] write to share our concerns regarding Canadian Pacific Railway's proposal to acquire and implement its business model at Norfolk Southern Corporation. We believe that the proposal, if allowed to proceed, would potentially have very negative impacts for the rail shippers, communities, and freight rail installations across the State of New York.

The State of New York has been working over the past fifteen years to reinvigorate rail competition in the Northeast. The Surface Transportation Board's final decision to split control of Conrail between CSX and NS was predicated on bringing two strong Class I railroads with broad network reach into the Northeast. Since that decision, the State of New York has supported over a half billion dollars for public and private rail investments to help increase rail competition in our state for the benefit of our local shippers and industries.

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Such investments have provided local shippers and industries with rail access to markets in 22 states encompassing 200 million people, and international ports supporting the global economy. Norfolk Southern in particular has spent billions of dollars in infrastructure improvements to seamlessly connect its network, in the years since the divestiture of Conrail. Such long-term investments will serve our economy well for at least the next half century, and serve the needs of thousands of New Yorkers, including the 21,300 rail retirees, spouses, and survivors who rely on a healthy and robust rail industry for benefits.

The State of New York has also supported small-scale line acquisitions to help increase rail competition in our state. The most recent transaction, which the State of New York proactively supported, was the sale by Canadian Pacific to Norfolk Southern of approximately 280 miles of line from Schenectady, NY to Sunbury, PA. This transaction, which only closed in September 2015, is already enhancing rail competition. This transaction strengthens Norfolk Southern's network reach in the Northeast, allowing it to compete more effectively against other major rail companies; and, it connects Norfolk Southern with existing intermodal investments in the Northeast, allowing NS to provide better service for intermodal shippers. This collaborative relationship among transportation modes achieves our shared public interest goals of reducing highway truck congestion and a host of pollutants. Unlike the previous owner, Norfolk Southern is prudently expending capital and restoring service levels to address shipper needs and providing stable job opportunities for employees on the former Canadian Pacific line.

The State also has recently entered into a partnership with Norfolk Southern to build a new rail bridge on the Southern Tier Line near the village of Portageville, NY. Replacing the 140-year old existing rail bridge will cost approximately \$70 million over the next three years. Without this major piece of infrastructure, manufacturers and consumers along the Southern Tier Line, which connects Buffalo, NY with the ports in New York City, would continue to face major inefficiencies as a result of the functional obsolescence of a 140-year old bridge. Norfolk Southern has been a committed partner on this front, and is supporting economic growth along this important rail line for New York manufacturers and New York shortline railroads alike.

We fear that the Canadian Pacific proposal to acquire Norfolk Southern would jeopardize these ongoing public interest investments and projects. The history we have witnessed at Canadian Pacific, along with recent public statements made by Canadian Pacific leadership, make clear that its business model is about cutting costs and reducing investments, with potentially negative consequences to customer service and New York jobs. Thus, implementing the Canadian Pacific business model at Norfolk Southern could have devastating negative impacts on numerous local economies, industries, and citizens across New York.

After reviewing public comments made by Canadian Pacific, and the presence of Canadian Pacific in the State of New York, we are absent in our search to find that Canadian Pacific's acquisition of Norfolk Southern would be in the public interest of the State of New York – or the United States for that matter. In particular, the Surface Transportation Board should view the Canadian Pacific claims regarding Chicago traffic flows and unilateral open access with skepticism. We also emphasize our belief that Canadian Pacific should not be allowed to control Norfolk Southern, by any means, without a thorough review by the Surface Transportation Board of the significant anticipated public interest harms.

We will closely follow future developments regarding this subject matter, and we urge the Surface Transportation Board to do the same.

Thank you for your careful consideration of this matter.

Respectfully yours,



Kathleen A. Marchione
Senator
43rd Senate District