



BORDER CHEMICAL
COMPANY LIMITED

301940

April 12, 2021

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

ENTERED
Office of Proceedings
April 13, 2021
Part of
Public Record

Re: Finance Docket No. 36500 - Reply to Objections to KCS Waiver

Our company name is Border Chemical Company Limited (BCCL) and our business address is 595 Gunn Road, Sunnyside, Manitoba R5R 0E2 (Mailing address: Box 62037, 104 Regent Avenue, Winnipeg, Manitoba R2C 5G2). I am the General Manager for Border Chemical Company Limited. In my role, I am responsible for all segments of our business.

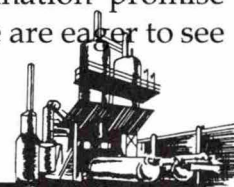
BCCL has previously submitted to the Board a letter supporting approval of the proposed CP-KCS combination, and I have attached a copy of that letter for the Board's convenience. As expressed in our previous letter, BCCL supports swift approval of the CP-KCS combination because of the significant benefits we expect to realize from this transaction.

BCCL is aware that several parties have filed objections to the application of the pre-2001 merger rules to the CP-KCS transaction under the "waiver" issued in 2001 for transactions involving KCS. BCCL wishes to reply to those objections by urging the Board not to revoke the KCS waiver. The pre-2001 rules provide the Board and all interested parties all the tools that are needed to fully evaluate the proposed transaction.

We are fully cognizant of the Board's mandate to ensure that Class I mergers are in the public interest, and do not risk significant disruptions in the railway system. From our perspective, the unique nature of the CP-KCS transaction alleviates the concerns that motivated the new rules adopted in 2001. Reviewing the CP-KCS combination under the tried and true pre-2001 merger standards will prevent undue delay, while still allowing for a thorough public interest assessment by the Board.

As we have mentioned in our March 30, 2021 letter, the end-to-end CP-KCS transaction will improve service options, with new single-line hauls and broader access to markets across North America. Our experience shows us that single-line rail service options are far superior to public and private fleets. The unique synergies of a CP-KCS combination promise significant public benefits to BCCL and similarly situated shippers, which we are eager to see

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realized as soon as possible, without the delays and additional burdens that would result from applying the 2001 rules for the first time ever to this transaction.

Nothing about the CP-KCS transaction raises the kinds of concerns that would flow from a merger of the much larger Class I railroads. The issues should be simple – the transaction improves competitive options and service – and any concerns any party has should be easy to address under the pre-2000 rules. The 2001 rules were designed for much more complex transactions raised much more serious issues, and they should not be tested out in this case.

BCCL and our shipping partners are looking forward to a stronger CPKC network that will increase our access to diversified market opportunities. As such, we urge the Board to apply the KCS waiver provision it thoughtfully included in its 2001 Major Merger Rules. An elongated period of review will delay and potentially reduce the positive synergies this merger promises. The KCS waiver will allow the Board to conduct a thorough but efficient and fair review and allow for the benefits of the new CPKC network to come to fruition more quickly.

BCCL is additionally concerned that applying the 2001 Major Merger Rules to the CP-KCS merger, a transaction the rules were not designed for, would lead to precedent with unintended consequences and might also create an easier path for some other Class I merger proposals that would be problematic in ways CP-KCS is not. The CP-KCS merger is unlike other Class I merger combinations, in that it is a straightforward transaction between the two smallest U.S. Class I railroads, and it promises substantially more benefits than risks to the public interest. We also know that this transaction, among all possible Class I mergers, is unique in not posing any serious concerns about lost competition, service disruption, or other harms. Interpreting and applying the 2001 rules to this transaction could encourage other Class I railroads to see an easier path for their own Class I merger proposals without the same unique benefits of the CP-KCS transaction.

For these reasons, BCCL urges the Board to maintain the KCS waiver and reject calls to revoke it, and to proceed to review and approve the CP-KCS proposed combination as expeditiously as possible. We look forward to seeing CPKC as a stronger competitor in the industry.

Yours sincerely,



Dennis B. Smerchanski, P. Eng.,
General Manager

CC: Parties of Record



March 30, 2021

**STB Finance Docket No. 36500
CP-KCS Proposed Combination**

Attention: Surface Transportation Board

Border Chemical Company Limited (BCCL) is a shipper of sulphuric acid railcars into Canadian and American destinations. We also receive railcars of raw materials shipped by rail from both countries. We have a long-standing history of working with CP Railway and support the CP/KCS combination.

The merger of these two firms will improve logistical options for Border Chemical and assist in the cost-efficient movement of our raw materials from Louisiana and our finished goods into various USA destinations.

As the general manager of BCCL, I have challenged our team for the past 35 years, to identify improved service options, and find better rail competition within the markets we service. There will be a noticeable improvement to our service levels out of Louisiana by the creation of better competition. As a side benefit during rail labour disputes, we will have access by both major Canadian rail service providers into the southern USA.

For these reasons, BCCL is very supportive for the combination of CP and KCS, because it will enhance competition and improve our access to raw materials in a timely fashion. There will be additional benefit as the demand for our ultra-low mercury grade sulphuric acid is more sought after by USA based customers looking to be more environmentally focused.

BCCL urges STB to approve CP's acquisition of KCS as swiftly as possible so that these systems can be integrated and create logistical benefits for companies doing business on both sides of the border.

Regards,
Border Chemical Company Limited

A handwritten signature in blue ink, appearing to read 'Dennis Smerchanski', is written over the printed name.

Dennis Smerchanski, P. Eng.
General Manager