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August 25, 2025

VIA ELECTRONIC MAIL

The Honorable Jenifer Soulikias
Administrative Law Judge
U.S. Department of Health and Human Services,
Office of Medicare Hearings and Appeals
alj.soulikias.inbox@stb.gov

Re: *Kansas & Oklahoma Railroad, LLC—Lease and Operation Exemption with Interchange Commitment—Union Pacific Railroad Company,*
FD 36849

Dear Judge Soulikias:

Kansas & Oklahoma Railroad, LLC (K&O) offers this letter to apprise you of the status of discovery with Weskan Grain LLC (“Weskan”), and, relatedly, to address Weskan’s August 4, 2025 Motion to Compel (the “Motion”). We appreciate the Board’s August 8th Order assigning you to entertain and resolve discovery matters, and we are grateful for the efficiency it provides to this proceeding.

K&O submits that the Motion was filed prematurely. While K&O had served its objections and responses to Weskan’s discovery requests at the time the Motion was filed, the parties had not yet engaged in the informal meet-and-confer process required by the Board’s rules of procedure and as directed by the Board in a prior order in this proceeding. The initial K&O-Weskan meet-and-confer commenced roughly 30 minutes after the STB issued its August 8th Order.

The parties have made significant progress in narrowing the scope of the discovery dispute, and many of the issues raised in Weskan’s Motion have been, or are in the process of being, resolved. As such, the Motion addresses discovery requests and responses that are no longer in dispute between the parties.

Under strict application of the STB’s rules of procedure, K&O’s reply to Weskan’s Motion would have been due within 20 days of its filing—in this case, by August 25, 2025. However, we believe that the STB’s intervening referral order supersedes the

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need for a full, substantive response to the Motion at this time. The parties are committed to continuing an informal resolution process, and K&O is confident that this will yield a far smaller universe of issues, if any, for you to adjudicate. Resorting to a formal motion practice before this process is completed would be unproductive, unnecessary, and inconsistent with the STB's directive as set forth in the agency's June 25, 2025-issued Order at page 2, footnote 2 ("To the extent any party wishes to raise a discovery dispute with the Board, it must first make a good faith effort to meet and confer with the person or party failing to answer discovery.").

K&O remains committed to working constructively with Weskan to resolve our differences on discovery matters, and to providing Weskan with relevant information where reasonably possible consistent with our obligations and the STB's rules. K&O intends to engage in further dialogue with Weskan's counsel next week. We hope collectively to update you on progress or areas of impasse as we continue our dialogue. We will seek your assistance in resolving any remaining issues only after this process has played out. We believe this approach will best serve the interests of all parties and the efficient administration of this proceeding.

Finally, note that K&O is in the process of arranging to supply you with the required materials from the record as directed by the Board's August 8, 2025 order.

Respectfully submitted,

/s/ *R. A. Wimbish*

Robert A. Wimbish
Counsel for Kansas & Oklahoma Railroad, LLC

cc: Surface Transportation Board, Chief, Section of Case Administration
All parties of record