

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

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FINANCE DOCKET NO. 32760 (Sub-No. 52)

**BNSF RAILWAY COMPANY
– PETITION FOR REVIEW –
UP/SP MERGER CONDITIONS**

CPKC’S REPLY TO BNSF PETITION

CANADIAN PACIFIC RAILWAY COMPANY

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January 7, 2026

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Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City, on behalf of itself and its U.S. rail carrier subsidiaries (collectively “CPKC”),¹ supports the exercise of oversight authority proposed by BNSF in its Petition for Review, Enforcement, and Modification of the UP/SP Merger Conditions, filed on November 28, 2025.

BNSF’s Petition points to a pattern of behavior by Union Pacific aimed at undermining the effectiveness of the conditions imposed on UP’s long series of mergers.² BNSF’s examples understandably focus on the many rights that BNSF was granted in the *UP/SP* proceeding to preserve competition. CPKC-affiliated railroads received rights imposed on UP as competition-preserving conditions in connection with previous UP mergers, including *UP/SP*, and CPKC has had somewhat analogous experiences that demonstrate both UP’s pattern of resisting the full

¹ CPKC’s U.S. rail carrier subsidiaries include Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware & Hudson Railway Company, Inc.; The Kansas City Southern Railway Company; Gateway Eastern Railway Company; and The Texas Mexican Railway Company.

² CPKC takes no position on the specific merits relating to the examples of alleged UP misconduct recited in the BNSF Petition.

measure of competition that the conditions were intended to protect and the inherent difficulty enforcing those conditions against UP in a timely and effective manner.

CPKC offers four illustrative examples:

Resisting Capacity Expanding Investments. In the *UP/SP* proceeding, the Board granted CPKC subsidiary The Texas Mexican Railway Company (“Tex Mex”) trackage rights over UP between Beaumont, TX and Robstown, TX to “ensure the continuation of an effective competitive alternative to UP’s routing into the border crossing at Laredo.” *UP/SP*, Decision No. 44, 1 S.T.B. 233, 422, 424 (1996).³ The trackage rights agreement that implemented these rights required UP to add sufficient capacity to support the traffic of all users. As KCS’s Laredo traffic grew, KCS sought to enforce UP’s obligation to add capacity (in the form of CTC and new and extended sidings) to support that growth. UP disavowed its obligations and consistently deprioritized capacity work on this segment in preference to projects elsewhere on UP’s network. After many years of delay, KCS entered a series of agreements largely coerced by UP that created separate mechanisms for KCS to fund many of the capacity projects, which have benefitted UP. Some of KCS’s difficulties adding capacity on this route—which CPKC witness Stephen D. Simmons described as “part of a pattern of resistance by UP to meeting its obligations under the provisions of the STB-approved trackage rights agreements”—were previously outlined in Finance Docket No. 36500.⁴

Imposing Arbitrary Train-Length Restrictions. In October 2023 UP (under the leadership of UP’s current CEO, Jim Vena) imposed an arbitrary 8,000-foot train length

³ Tex Mex’s rights were subsequently assigned to KCS.

⁴ See *CP/KCS*, Finance Docket No. 36500, Applicants’ Response to Comments and Requests for Conditions, Opposition to Responsive Applications, and Rebuttal in Support of the Application, Volume 2 (CP-53/KCS-39), Rebuttal Verified Statement of Stephen D. Simmons (filed July 12 2022) at 12-20. Excerpts are Exhibit A hereto.

restriction on its Brownsville Subdivision, which is a portion of the UP route over which Tex Mex was granted rights in the *UP/SP* proceeding. CPKC depends on this segment to reach the Laredo gateway. The implementing trackage rights agreement requires that UP's operating rules be "reasonable" and "non-discriminatory." UP's action was patently unreasonable, as demonstrated by the facts that: (a) CPKC had funded additional and longer sidings to support the operation of 10,000-foot trains on this route, (b) UP's own system train length diagram indicates that the route supports 12,000-foot trains, and (c) UP routinely operates 10,000-foot trains on its own route to Laredo via San Antonio. Nonetheless, because of the imperative need to continue running its trains to and from Mexico, CPKC had little practical choice but to accede to UP's demands on other commercial issues in order to obtain prompt relief from UP's arbitrary restriction, because the only available alternatives were the prospect of a protracted arbitration or an emergency petition to the Board. CPKC has previously described this episode in Finance Docket No. 36500 (Sub-No. 6).⁵

Refusing Traffic Within the Scope of Board-Granted Rights. Third, shortly after CP's acquisition of control of KCS in April 2023, UP refused to honor the haulage rights over UP between Beaumont and Houston that were granted to KCS to implement a competition-preserving condition imposed by the ICC on UP's acquisition of the Missouri-Kansas-Texas Railroad in 1988. In the face of active customer demand for shipments of grain to the Port of Houston using CPKC haulage rights, UP's refusal to honor those rights compelled CPKC to seek relief from the Board. The Board confirmed the availability of these haulage rights in July 2025, but not until nearly two years—and two missed grain shipping seasons—had elapsed during

⁵ See *CP/KCS Oversight*, Finance Docket No. 36500 (Sub-No. 6), CPKC Reply to UP and NS Correspondence Regarding Meridian Speedway (filed Nov. 13, 2025) at 27-32. Excerpts are Exhibit B hereto.

which UP was insulated from CPKC's competition. *See Union Pacific Corp., Union Pacific R.R. & Missouri Pacific R.R. – Control – Missouri-Kansas-Texas R.R.*, Finance Docket No. 30800 (STB served July 7, 2025) (granting Petition filed in August 2023).

Pattern of Reckless Overbilling of Charges Related to UP Trackage Over Which CPKC Operates Pursuant to Board-Imposed Rights. UP has repeatedly abused the cost-sharing provisions of the trackage rights agreements imposed as conditions to the *UP/SP* merger. UP has billed KCSR and CPKC for work done for UP's benefit and work done that was UP's sole responsibility; has refused to provide information supporting invoices so CPKC could determine what it is being billed for, instead insisting on payment of unexplained charges; and has attempted to collect invoices that were so defective that UP simply canceled them when pressed for justification. UP's pattern of erroneous billing practices is so extensive that CPKC currently is in arbitration with UP about well over \$10 million in contested charges. UP's approach is either designed to extract unearned payments under the trackage rights agreements imposed by the Board or reflects a reckless disregard for proper billing practices.

* * *

The pattern illustrated by these examples reinforces the concerns raised in BNSF's Petition that Board-imposed conditions may not be effective at reining in the conduct of a railroad intent upon exploiting its market power. CPKC believes that the range of experiences with conditions imposed on UP in its prior transactions—especially *UP/SP*—provides a valuable opportunity for the Board to assess the potential for a dominant railroad to manipulate available processes to delay, diminish, or defeat efforts to enforce Board-granted rights aimed at safeguarding competition. Such an examination may well reveal ways that conditions—or the processes used to enforce them—could be improved to increase incentives for fuller and more

timely compliance. If the Board does conduct such an examination, CPKC urges it to expand the scope of the proceeding to encompass *all* competition-preserving conditions imposed in *UP/SP*, not just those relating to rights granted to BNSF.

CONCLUSION

For the foregoing reasons, CPKC urges the Board to grant the relief requested by BNSF and confirm that examination of UP's compliance with its UP/SP merger conditions may encompass all of the conditions imposed to safeguard competition, not merely those relating to rights granted to BNSF.

Respectfully submitted,



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Dated: January 7, 2025

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**BNSF RAILWAY COMPANY
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UP/SP MERGER CONDITIONS**

EXHIBIT A

**APPLICANTS' RESPONSE TO COMMENTS AND REQUESTS FOR CONDITIONS, OPPOSITION TO
RESPONSIVE APPLICATIONS, AND REBUTTAL IN SUPPORT
OF THE APPLICATION, VOLUME 2 (CP-53/KCS-39),
REBUTTAL VERIFIED STATEMENT OF STEPHEN D. SIMMONS
IN *CP/KCS*, FINANCE DOCKET NO. 36500 (FILED JULY 12 2022)
(EXCERPTS)**

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36500

CANADIAN PACIFIC RAILWAY LIMITED, *ET AL.* – CONTROL – KANSAS CITY SOUTHERN, *ET AL.*

REPLY VERIFIED STATEMENT OF STEPHEN D. SIMMONS

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EXHIBITS

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EXHIBIT 2:	TERMS FOR TEXAS MEXICAN RAILWAY COMPANY TRACKAGE RIGHTS, EXECUTED DEC. 12, 1996 (MP/SP-TM), AND

REDACTED PUBLIC RECORD VERSION

- EXHIBIT 3: TERMS FOR TEXAS MEXICAN RAILWAY COMPANY TRACKAGE RIGHTS, EXECUTED JAN. 28, 1997 (HBT-TM)
- EXHIBIT 4: HOUSTON TO BEAUMONT, TEXAS TRACKAGE RIGHTS AGREEMENT (SP-TM)
- EXHIBIT 5: EXCERPTS FROM UP-BNSF RESTATED AND AMENDED SETTLEMENT AGREEMENT, MARCH 2001
- EXHIBIT 6: LETTER FROM ONE OF OUR ATTORNEYS TO AN ATTORNEY AT UP
- EXHIBIT 7: KCS-UP CAPACITY PROJECT MAP, OCTOBER 2018
- EXHIBIT 8: NECHES RIVER BRIDGE FEASIBILITY STUDY, FINAL REPORT – JUNE 2013, RAIL DIVISION, TEXAS DEPARTMENT OF TRANSPORTATION
- EXHIBIT 9(C): NECHES RIVER BRIDGE PROCESS IMPROVEMENT PROJECT, 1/22/2019
- EXHIBIT 10(HC): DALLAS TERMINAL MARKETING AGREEMENT
- EXHIBIT 11(HC): NORFOLK SOUTHERN RAILWAY COMPANY, THE KANSAS CITY SOUTHERN RAILWAY COMPANY, WESTERN HAULAGE AGREEMENT
- EXHIBIT 12(HC): NORFOLK SOUTHERN RAILWAY COMPANY-MERIDIAN SPEEDWAY LLC JOINT USE AGREEMENT, MAY 1, 2006
- EXHIBIT 13(HC): LIMITED LIABILITY COMPANY AGREEMENT
- EXHIBIT 14(HC): MSLLC MEETING PRESENTATION BY NS REGARDING SIDING LENGTHS DALLAS TO ATLANTA (INCLUDING MSLLC) AND DESIRED SIDING EXTENSIONS ON MSLLC (WITH COST ESTIMATES)
- EXHIBIT 15(HC): KCS-CSX NEW ORLEANS INTERCHANGE ALLOWANCE AGREEMENT
- EXHIBIT 16(HC): THE KANSAS CITY SOUTHERN RAILWAY COMPANY – MERIDIAN SPEEDWAY LLC JOINT USE AGREEMENT, MAY 1, 2006

1. My name is Steve Simmons. I have been the Director of Border and Interline Operations for The Kansas City Southern Railway Company (KCS) since 2013. Prior to that, I served as Senior Manager of Network Planning for KCS from when I joined the company in 2010 until I assumed my current position. I report to Mike Walczak, the Vice President of Network Planning, who reports to John Orr, Executive Vice President - Operations.

2. My job entails being familiar with the various interline operating agreements that are most important to KCS's daily operations. Those include the trackage rights agreements for use of track owned by Union Pacific Railroad Company (UP), by Houston Belt & Terminal Railway Company (HBT),¹ or jointly by UP and BNSF Railway Company (BNSF)² between Beaumont and Robstown, Texas, and the Meridian Speedway, LLC (MSLLC) agreements with Norfolk Southern Railway Company and its subsidiary The Alabama Great Southern Railroad Company (together, NS).

3. I interface daily with personnel at other carriers on interline service and operations matters. Since 2011 I have attended and taken part in meetings of the MSLLC Management Committee, the executive committee that oversees MSLLC, and the MSLLC Joint Operations Committee, which handles more routine issues for MSLLC and serves as the day-to-day interface between KCS and NS on MSLLC matters.

4. At KCS, I also lead a team that manages all aspects of import/export compliance through the Laredo/Nuevo Laredo Gateway, the largest rail crossing between the United States and Mexico.

¹ HBT is jointly owned by UP and BNSF, and its lines are operated by them under trackage rights.

² This includes the Beaumont – Houston portion of the Dawes, TX to Avondale, LA track owned jointly by UP and BNSF.

5. In addition to my work at KCS, I serve as an appointed member of the 16th Commercial Operations Advisory Committee (COAC) of U.S. Customs and Border Protection (CBP). COAC advises the Secretary of the Treasury and the Department of Homeland Security on all matters involving the commercial operations of CBP, including advising with respect to significant changes that are proposed concerning regulations, policies, or practices of CBP. I am the Co-Chair of COAC's Secure Trade Lanes Subcommittee. I co-created the Secure Corridor Initiative with CBP and Mexican customs which included implementing the first Unified Processing Center for rail.

6. Prior to joining KCS, I held various transportation supply chain and operations management positions with Consolidated Freightways, Con-Way and Yellow Roadway Corp. I also served in the U.S. Army, and am a veteran of Operations Desert Shield and Desert Storm. I hold a Bachelor of Business Administration from the University of Missouri – Kansas City and am a member of the Council of Supply Chain Management Professionals.

7. The purpose of my statement is to provide context and clarity regarding KCS's operations, specifically relating to the rights and obligations of KCS and other railroads under various agreements. This statement provides further detail and context addressing –

- Assertions by UP and BNSF concerning the adequacy of rail infrastructure owned by UP or jointly owned by UP and BNSF between Beaumont and Robstown, TX that is utilized by KCS under existing trackage rights agreements;
- Comments by UP and BNSF about the capacity and operations of the KCS-owned Neches River Bridge in Beaumont, Texas;
- NS's request for springing trackage rights over 200 miles of KCS track between Shreveport, Louisiana and Wylie, Texas, as well as BNSF's request to reserve the right to seek trackage rights over the same tracks;
- CSX's comments concerning interchange with KCS at New Orleans; and
- LyondellBasell's comments on access issues that are unrelated to the merger.

15. *Existing, STB-Approved Trackage Rights Agreements Provide for Adding Capacity.* KCS operates between Beaumont and Robstown, TX over a combination of track owned by UP and BNSF, HBT, and KCS. As a condition of the merger of UP with Southern Pacific Transportation Company (SP) in 1996, the STB granted The Texas Mexican Railway Company (Tex Mex) trackage rights between Beaumont and Robstown over track of UP (including Missouri Pacific Railroad Company (MP)⁴), SP and HBT to connect to KCS in order to supply a competitive alternative to the merged UP-SP.⁵ Initially those trackage rights were embodied in two agreements, one granting Tex Mex access over certain SP and MP lines and the other granting Tex Mex rights on specified HBT tracks.⁶ As directed by the STB, Tex Mex, UP and HBT submitted the agreements to the agency to settle certain disputes over the terms. In Finance Docket No. 32760, Decision No. 47, the STB resolved the disputes and approved the agreements.

16. Generally stated, the agreements allowed Tex Mex to operate over a combination of MP and SP tracks between the Neches River Bridge and GCL Junction in Beaumont and to the connection with HBT at Quitman Street in Houston; over the HBT East Belt and a series of SP and MP tracks to West Junction in the southwest corner of the Houston area; over SP's line

⁴ MP was, at the time immediately prior to the UP-SP merger, a wholly-owned subsidiary of Union Pacific Corporation.

⁵ Finance Docket No. 32760, Sub Nos. 13 and 14.

⁶ Terms for Texas Mexican Railway Company Trackage Rights, executed Dec. 12, 1996 (MP/SP-TM) (excerpts are Exhibit 2 hereto), and Terms for Texas Mexican Railway Company Trackage Rights, executed Jan. 28, 1997 (HBT-TM) (excerpts are Exhibit 3 hereto) ("GLC Junction" corrected to "GCL Junction" per UP System Timetable No. 2, effective 0001 Sunday October 29, 1995, page 41 (Beaumont Subdivision)).

from West Junction to Flatonia, Texas and from Flatonia to Placedo, Texas via Victoria, Texas; and via MP lines from Placedo, Texas to Robstown and from Odem to Corpus Christi, Texas.⁷

17. Subsequently, UP chose to implement directional running on its two lines between Houston and Beaumont, and SP granted Tex Mex rights on what is now UP's Beaumont Subdivision.⁸ Together with the MP/SP-Tex Mex agreement, this allowed Tex Mex to operate with UP's directional flow, using UP's Lafayette Subdivision for traffic westbound from Beaumont to Houston, while using the Beaumont Subdivision for traffic from Houston to Beaumont.

18. In late 1997, UP, SP, and BNSF sought exemptions from the STB to operate under trackage rights on specified portions of HBT's lines, supplanting HBT's operation of those lines. Those exemptions were affirmed by the STB a year later.

19. Also in 1997, UP operations in the Houston area were severely crippled by congestion that spread through much of the western U.S. rail network. After a series of hearings, written submissions and decisions, in December 1998 the Board, despite concluding that Houston was again "fluid," imposed a so-called "clear route" condition, saying,

⁷ In November 2007, KCS and UP clarified that the Odem-Corpus Christi trackage rights allowed KCS to connect from its yard in Corpus Christi and the Port of Corpus Christi's (POCC's) Savage Lane to POCC's Joe Fulton Corridor via UP's line, following POCC's removal of the Tule Lake Lift Bridge access from Savage Lane to POCC's track.

⁸ Houston to Beaumont, Texas Trackage Rights Agreement, dated June 16, 1997 (SP-TM) Exhibit 4 hereto.

“Among other things, we have decided to adopt a so-called “clear route” condition to enhance efficiency and facilitate the smooth movement of railcars through the Houston Terminal. Under the “clear route” condition, the neutral and highly efficient joint Union Pacific Railroad Company (UP)/Burlington Northern Santa Fe Railway Company (BNSF) dispatching center at Spring, TX, will have the authority through its Joint Director to route traffic through Houston over any available route, even a route over which the owner of the train does not have operating authority. Thus, as a result of the Board’s decision, a BNSF train may be permitted to operate over track of UP; a UP train may be permitted to operate over track of BNSF; and a Texas Mexican Railway Company (Tex Mex) train may be permitted to operate over track of either UP or BNSF....

“We will impose a “clear route through Houston” condition to enhance efficiency and facilitate the smooth movement of traffic through the Houston Terminal, a condition that was sought by both BNSF and the Consensus Plan Parties. We believe that the Joint Dispatching Center in Spring, Texas, has the authority to exercise discretion in choosing the most efficient routing for traffic moving through the Houston Terminal. To ensure, however, that the Joint Center staff do not feel constrained from making decisions necessary to efficient operations in the Houston Terminal due to trackage rights or other operational limitations, we are imposing a condition directing the Joint Center carrier-participants to authorize the Joint Director to use the best judgment in selecting alternative routings for train operations by UP, BNSF, and Tex Mex through the terminal, particularly when customary routings are unavailable or congested.⁹

20. In 1998, the STB approved UP and BNSF joint ownership of UP’s Lafayette Subdivision from Dawes, TX, on the east side of Houston, to Iowa Junction, LA, and BNSF’s line from Iowa Junction to Avondale, LA. Together with UP and BNSF’s access over approximately 1.8 miles of KCS track between KCS MPs 764.9 and 766.7, including the Neches River Bridge, brought the line from Houston to New Orleans under UP-BNSF joint ownership.

⁹ *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company--Control and Merger--Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railway Company [Houston/Gulf Coast Oversight]*, STB Finance Docket No. 32760 (Sub-No. 26), 3 S.T.B. 1030, 1038 (1998) at *1 and *6.

21. In 1999, Tex Mex reached agreement with UP to acquire 84.5 miles of the former SP Wharton Branch, along with trackage rights over the adjoining UP-owned 2.5 miles on the north end at Rosenberg and over the adjoining 3.8 miles at Victoria to connect to the lines over which Tex Mex was granted trackage rights in 1996. The STB approved the transaction in December 2000.¹⁰

22. In March 2001, Tex Mex and UP modified their trackage rights agreements to provide that when Tex Mex or KCS rebuilt the Rosenberg-Victoria line, traffic moving to or from shipper facilities on the line could also move over Tex Mex's trackage rights on UP. Also, the parties agreed that within three months after the Rosenberg-Victoria line was put in service, Tex Mex would stop using the 157-mile portion of UP's trackage rights from Rosenberg to Victoria via Flatonia, except on an emergency or detour basis subject to UP's approval.

23. In 2006, following KCS's acquisition of control of Tex Mex, Tex Mex assigned its trackage rights for operation between Beaumont and Robstown to KCS.¹¹

24. In 2008-2009, despite the advent of the Great Recession, KCS rebuilt the Rosenberg-Victoria line at a cost of approximately \$173.5 million and put it back in service. As a result, KCS shortly thereafter ceased operating between Rosenberg and Victoria via Flatonia, removing KCS traffic from UP's busy Glidden Subdivision.

25. As stated in the accompanying verified statement of John Orr, current Houston area rail infrastructure is capable of supporting not only current traffic levels but also growth in

¹⁰ *Texas Mexican Railway Company – Purchase Exemption – Union Pacific Railroad Company*, STB Finance Docket No. 33914 (served Dec. 11, 2000)

¹¹ *Kansas City Southern, The Kansas City Southern Railway Company, and The Texas Mexican Railway Company – Exemption for Transactions Within a Corporate Family*, Finance Docket No. 34849, 71 Fed. Reg. 19784-85 (Apr. 17, 2006).

traffic, if that infrastructure is well managed. Currently, management of that infrastructure needs improvement.

26. If additional capacity were needed, however, the STB-approved trackage rights agreements covering KCS's operations on lines owned by UP and jointly by UP and BNSF assign responsibility and provide procedures for providing the capacity needed to accommodate traffic of CPKC, UP and BNSF.

27. Each of the STB-approved trackage rights agreements by which KCS operates over UP and UP-BNSF track between Beaumont and Robstown contain a rate stated in mills per gross ton-mile, known as the GTM Rate. The GTM Rate was established by the STB in its Decision No. 47 in the UP/SP merger, along with resolution of other disputed terms of the trackage rights agreements. KCS currently pays UP approximately \$39 million in trackage rights fees under this GTM Rate for the Beaumont-Rosenberg and Victoria-Robstown segments each year, in addition to sharing in the cost of infrastructure projects on track where KCS operates.

28. The STB-approved trackage rights agreements setting the GTM rate that KCS pays for the trackage rights from Beaumont through Houston to Robstown call for UP to use the GTM Rate to maintain adequate capacity to handle the CPKC traffic on those lines. Both the MP/SP-TM and the HBT-TM agreement state in Section 3(a) of the Terms (that is, the portion of the agreement prior to the exhibits) that the GTM Rate "shall be deemed to include ordinary and programmed maintenance of the Joint Trackage, Changes in and/or Additions to the Joint

Trackage (to the extent required by the first sentence of Section 2.2 of the General Conditions),
operating expenses, interest rental, depreciation and taxes.”^{12, 13} (Underlining added.)

29. The first sentence of Section 2.2 of the General Conditions, Exhibit B to the agreements, provides that “Unless otherwise mutually agreed to by the parties in writing, Owner shall ... (iii) be responsible for any Changes in and/or Additions to the Joint Trackage as shall be necessary to accommodate the traffic of Owner and User while maintaining existing service standards (including transit times) in effect on the date of the Terms.”¹⁴

30. Section 1.3 of the General Conditions identifies “Changes in and/or Additions to” as being capital projects: “‘Changes in and/or Additions to’ shall mean work projects and retirements, the cost of which is chargeable in whole or in part to Property Accounts during the term of the Terms.”¹⁵

31. UP’s position that CPKC should enter agreements to improve UP’s lines before being allowed to move new traffic is part of a pattern of resistance by UP to meeting its obligations under the provisions of the STB-approved trackage rights agreements quoted above. Historically, UP has refused to acknowledge its responsibilities under Section 3(a) of the Terms to maintain adequate capacity of the trackage rights lines to accommodate traffic of KCS. Accompanying this statement as Exhibit 6 is a letter from one of our attorneys to an attorney at

¹² See Exhibit 2, pages 5-6.

¹³ Section 3(a) of the June 16, 1997, SP-TM agreement for Tex Mex use of UP’s Beaumont Sub under directional running, Exhibit 4 hereto, in describing what is included in the GTM Rate, does not include the phrase “Changes in and/or Additions to the Joint Trackage (to the extent required by the first sentence of Section 2.2 of the General Conditions)”, indicating that inclusion in, or exclusion of, those costs in the GTM Rate was deliberate. See Exhibit 4 hereto, page 3.

¹⁴ See Exhibit 2, page 16.

¹⁵ See Exhibit 2, page 15.

UP, replying to UP's assertion that UP is not obligated to maintain adequate capacity of the trackage rights lines to accommodate KCS traffic except at additional cost to KCS above the GTM Rate. From the letter, it appears that UP's position is that because it and BNSF agreed that capital projects were not included in the GTM rate, that interpretation also applied to the MP/SP-TM and HBT-TM agreements.

32. I am aware that BNSF has a trackage rights agreement with UP dated June 1, 1996 for access between Houston and Beaumont that provides that "Changes in and/or Additions to" are covered in the GTM rate that BNSF was to pay UP under the agreement. But there are differences between BNSF's agreement and ours. As discussed in UP-SP Decision No. 47, BNSF pays a lower GTM rate than KCS pays. Also, Section 2.2 of both Exhibit B to BNSF's agreement and our MP/SP-TM and HBT-TM agreements begin with the phrase "Unless otherwise mutually agreed to by the parties in writing, Owner shall..." be responsible for capital projects needed to maintain capacity. In Section 9(c) of their Restated and Amended Settlement Agreement, filed with the STB March 4, 2002, UP and BNSF did just that – agreed in writing that the GTM rate would not cover capital projects other than those necessary to implement the UP-SP merger:

“(c) Capital expenditures on the Trackage Rights Lines and on lines over which BNSF is granted Overhead Trackage Rights will be handled as follows:

(i) UP/SP shall bear the cost of all capacity improvements that are necessary to achieve the benefits of its merger as outlined in the application filed with the ICC for authority for UP to control SP. The operating plan filed by UP/SP in support of the application shall be given presumptive weight in determining what capacity improvements are necessary to achieve these benefits.

(ii) **Any capacity improvements other than those covered by subparagraph (i) above shall be shared by the parties based upon their respective usage of the line in question, except as otherwise provided in subparagraph (iii) below.** That respective usage shall be determined by the 12 month period prior to the making of the improvement on a gross ton mile basis.

(iii) For 18 months following UP's acquisition of control of SP, BNSF shall not be required to share in the cost of any capital improvements under the provision of subparagraph (ii) above.

(Emphasis added.)¹⁶

33. KCS does not have any such agreement with UP waiving UP's responsibility to perform capital projects needed to maintain adequate capacity on the lines covered by the MP/SP-TM and HBT-TM agreements. Accordingly, under the MP/SP-TM and HBT-TM agreements with KCS, UP is required to perform capital projects on the trackage rights lines needed to maintain capacity without added payment by KCS. If UP cannot operate the Beaumont-Robstown infrastructure properly to maintain capacity for CPKC trains, UP is required to add capacity. It is not CPKC's responsibility to add capacity for UP or BNSF, as they contend.

¹⁶ See excerpts of Joint Submission of Restated and Amended BNSF Settlement Agreement, UP/SP-393; BNSF-100, filed March 4, 2001 in STB Finance Docket No. 32760, Section 9(c) (Exhibit 5, page 17).

34. KCS also has the contractual right under the trackage rights agreements to require UP to add needed infrastructure on the trackage rights lines. In addition to UP's responsibility under the MP/SP-TM and HBT-TM agreements with KCS to perform capital projects on the trackage rights lines needed to maintain capacity, the trackage rights agreements require KCS and UP to share the cost of mutually-beneficial upgrades to the UP-owned trackage rights track beyond those for which UP is responsible under paragraph 3(a) of those agreements, and require UP to add infrastructure requested by KCS at KCS's sole cost if the project is for KCS's sole benefit.¹⁷ As an example of mutually-beneficial upgrades, KCS contributed several million dollars to the cost of UP's installation of Positive Train Control infrastructure on portions of the trackage rights lines. As an example of KCS's ability to require infrastructure upgrades deemed by the parties to be for KCS's sole benefit, KCS paid approximately \$7 million to upgrade two bridges at Mileposts 184.8 and 207.0 on UP's Brownsville Sub from 263,000 pound load rating to 286,000 pound load rating so KCS could move fully-loaded grain cars, and other traffic, over those bridges. After those upgrades were completed, UP exercised the right under the agreements¹⁸ to pay 50% of the cost of those upgrades in order to be able to move UP and BNSF cars loaded to 286,000 pounds over those bridges.

35. In summary, the STB-approved trackage rights agreements under which KCS operates between Beaumont and Robstown, Texas provide for UP to make the capital investments needed to maintain the capacity to accommodate traffic growth of CPKC. Any

¹⁷ Section 5(b) of the MP/SP-TM and HBT-TM agreements; Section 4(a) of the SP-TM agreement. See Exhibit 2, page 8, Exhibit 3, page 5 and Exhibit 4, page 4. Under these provisions, use of the joint track by BNSF is attributed to UP for purposes of cost allocation.

¹⁸ Section 5(b) of the MP/SP-TM and HBT-TM agreements; Section 4(b) of the SP-TM agreement. See Exhibit 2, page 8, Exhibit 3, page 5 and Exhibit 4, page 4.

shortage of infrastructure capacity now or in the future is UP's responsibility to remedy as part of what KCS has paid UP tens of millions of dollars in trackage rights fees for each year. In addition, KCS has the ability to compel UP to add infrastructure if that infrastructure is for CPKC's sole benefit.

36. Despite disagreement with UP over its responsibility to maintain sufficient capacity to keep pace with traffic growth, KCS and UP have worked together successfully to spend well over \$100 million on improvements to UP lines over which KCS has trackage rights. For instance, under agreements executed in 2012 and 2015, KCS and UP agreed on funding and installation of a number of important upgrades to improve capacity and traffic fluidity, including:

- Installing Centralized Traffic Control between Inari and Sinton on UP's Brownsville Subdivision;
- Building a new 10,000 foot siding with #15 power-operated turnouts at Cranell on UP's Brownsville Subdivision;
- Upgrading to power-operated #15 turnouts on the Placedo Siding on UP's Angleton Subdivision;
- Building a new 10,100-foot siding at Placedo (Benavides) on UP's Cuero Subdivision where the Cuero Subdivision joins the Angleton Subdivision;
- Installing Centralized Traffic Control between Victoria and Placedo on UP's Cuero Subdivision;
- Powering the switch to the Victoria Industrial Lead from UP's Brownsville Subdivision at Bloomington;
- Installing a crossing diamond at the intersection of the Victoria Industrial Lead, the Cuero Subdivision and the south end of UP's Rosenberg Subdivision connection to KCS's Rosenberg Subdivision;
- Installing Centralized Traffic Control between South Odem and Robstown on UP's Brownsville Subdivision;
- Building a runaround track at Sinton on UP's Brownsville Subdivision;
- Extending the siding at Greta on UP's Brownsville Subdivision to 14,044 feet;

- Extending the siding at Inari on UP's Brownsville Subdivision to 10,000 feet; and
- Building a 10,037-foot siding near Rosenberg, TX on UP's Rosenberg Subdivision.

37. For each of these projects, KCS and UP were able to develop an approach to funding that recognized both carriers' use of the facilities. Together, these and other improvements that KCS and UP have cooperated to install have significantly improved the efficiency and capacity of operations over the portions of UP's Brownsville and Angleton Subdivisions and elsewhere southwest of Houston where KCS has trackage rights on UP lines. A map indicating these projects is attached as Exhibit 7.

38. Unfortunately, since 2018-2019, UP's willingness to cooperate with KCS's efforts to increase capacity have faded. The 2015 agreement mentioned above called for UP and KCS to consider implementation of a set of additional projects after the first set. These included additional CTC installation; powering and providing remote control for certain switches; another runaround track and realignment of a section of main line to improve operational fluidity. UP has not engaged with KCS on moving forward with these projects. Perhaps that is due to UP's general withdrawal from providing KCS information about UP's capacity plans in the Beaumont-Robstown area. Obviously KCS is not well positioned to plan for capacity modifications on UP track without UP's information and input. UP's having gone quiet on that information in the past few years has stymied further efficiency improvements on some of the trackage rights lines. Nonetheless, KCS and, I expect, the future CPKC will be willing to pursue capacity work according to these established agreements at such time that additional capacity becomes necessary.

39. As can be seen from the list above, almost all of these cooperative projects occurred on UP's Brownsville Subdivision, the south end of KCS's trackage rights. UP has

engaged in considerable capacity expansion work on its lines closer to Houston (between Rosenberg and Houston, in the Houston terminal, and east of Houston to Beaumont), but UP almost never involves KCS in planning or advises KCS significantly in advance of those capacity projects. Instead, KCS generally just gets a bill for a project and has to investigate what the bill is for. KCS has asked to be more involved and more informed, but UP chooses not to share information, particularly since beginning implementation of UP's version of Precision Scheduled Railroading, UP's Unified Plan 2020, in 2018. To the extent that UP is critical of CP and KCS not providing in the Operating Plan a specific analysis of recent infrastructure upgrades in and north of Houston, UP has itself to blame due to its refusal to share capacity planning information, despite KCS's repeated requests.

40. With respect to BNSF's implication that the addition of CPKC's projected growth would cause problems similar to the conditions that disrupted Houston in 1997-1998,¹⁹ nothing could be further from the truth. First, neither KCS nor CPKC would have any desire or incentive to create operating problems that contributed to congestion in Houston. Unlike UP and BNSF, KCS does not have any way to get from Mexico to the rest of the KCS network unless Houston is fluid.²⁰

41. Second, there are many crucial differences between now and the situation in 1997-1998, as reflected in the various STB decisions. For one thing, substantial infrastructure

¹⁹ BNSF-9 at 51-57.

²⁰ BNSF, unlike KCS, has access to routes that can bypass Houston. UP's and BNSF's routes from Mexico to Chicago bypass Houston completely. And for other traffic, if BNSF were concerned about congestion on the lines that CPKC will use between Houston and Beaumont, it already has trackage rights over UP from Houston on UP's line to Fair Oaks, AR via Shreveport, LA and Pine Bluff, AR, and UP's line between Houston and Valley Junction, IL via Palestine, TX.

has been added. KCS alone has spent over \$100 million on capital investments in the trackage rights lines just since 2014. UP's Executive Vice President Operations testified on April 27 at the STB's recent Ex Parte 770 that UP had invested a quarter billion dollars in Englewood and Settegast Yards during just the last 3 years.²¹ So the inadequate infrastructure referenced in STB decisions of 1997-1998 is no longer the case. There also have been operational changes like the clear route protocol imposed by the STB as a permanent relief measure as a result of the 1997-1998 service crisis; the Spring Center was established and KCS, BNSF and UP all participate, providing greater opportunities for operational coordination than before the service meltdown; UP promised as the 1997-1998 service crisis abated to invest \$1.4 billion in Houston area infrastructure; and directional running was implemented on UP's lines between Houston and Beaumont.²²

42. Furthermore, current KCS trains and future CPKC trains do not provide local service on UP and UP-BNSF track in Houston – the trackage rights agreements prohibit that except for traffic destined to Mexico (and other points on Tex Mex's original Corpus Christi-Laredo line). So KCS and future CPKC trains can be added to Houston infrastructure with much less operational impact than either UP or BNSF who maintain major yards and provide local service in the Houston complex.

²¹ Testimony of Eric Gehringer, Executive Vice President, Operations, Union Pacific Railroad Company at Ex Parte No. 770, Apr. 27, 2022 Public Hearing, Transcript STB Document ID 304765, posted June 15, 2022, page 906, line 13 through page 907, line 9.

²² See *UP/SP [Houston/Gulf Coast Oversight]*, STB Finance Docket No. 32760 (Sub-No. 26) (served Dec. 21, 1998) (explaining why structural changes during the service crisis remedied the conditions that brought on the service problems in 1997).

REDACTED PUBLIC RECORD VERSION

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36500

CANADIAN PACIFIC RAILWAY LIMITED, *ET AL.* – CONTROL – KANSAS CITY SOUTHERN, *ET AL.*

SIMMONS R.V.S. EXHIBIT 6

LETTER FROM ONE OF OUR ATTORNEYS TO AN ATTORNEY AT UP

KANSAS CITY SOUTHERN

MAILING ADDRESS: P.O. BOX 219335 • KANSAS CITY, MO 64121-9335



FOUNDED 1887

OFFICE AND EXPRESS DELIVERY ADDRESS:
427 WEST 12TH STREET
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DAVID C. REEVES
ASSOCIATE GENERAL COUNSEL
(816) 983-1387
FAX (816) 983-1227
E-MAIL: DREEVES@kcsouthern.com

July 23, 2012

Lawrence E. Wzorek, Esquire
AVP – Law
Union Pacific Railroad
1400 Douglas Street STOP 1580
Omaha, NE 68179 – 1580

Re: MP/SP Trackage Rights Agreement
HBT Trackage Rights Agreement

Larry –

I was reminded when we met in Omaha recently that I had promised you last Fall a letter to follow up on our discussion about whether KCS continues to view the GTM rate paid under the above-referenced trackage rights agreements as covering the costs of capacity improvements on the trackage rights lines needed to keep up with traffic growth. Yes, KCS continues to hold that view.

During the discussions that you and I had last Fall with Gayla, Mike and Jim, I expressed KCS's view that the GTM rate under the referenced agreements specifically covers capital improvements required to maintain the service standards, including transit times, that were in effect when the agreements were entered. You stated several reasons why UP believes that the GTM rate does not include the cost of maintaining those standards, citing language in an STB decision in UP/SP referring to the *SSW Compensation* decisions and UP's understanding with BNSF about the meaning of a similar UP-BNSF trackage rights agreement.

KCS believes that the clear language of the referenced trackage rights agreements governs, calling for UP to maintain the capacity and transit times of the trackage rights lines despite traffic growth. The agreements specifically state, "[T]he total amount of 3.84 mills per GTM ... shall be deemed to include ordinary and programmed maintenance of the Joint Trackage, Changes in and/or Additions to the Joint Trackage (to the extent required by the first sentence of Section 2.2 of the General Conditions...)". The referenced first sentence of Section 2.2 of the General Conditions states,

Owner shall, (i) keep and maintain the Joint Trackage on a consistent basis at no less than the track standard designated in the timetable in effect on the date of the Terms, including special instructions for the Joint Trackage as of the date of the Terms, ... and (iii) be responsible for any Changes in and/or Additions to the Joint Trackage as shall be necessary to accommodate the traffic of Owner and User while maintaining existing service standards (including transit times) in effect on the date of the Terms.

(Underlining added.)

Lawrence E. Wzorek, Esquire
July 23, 2012
Page 2

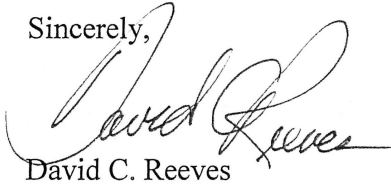
This quoted language plainly provides that UP, as the Owner, is responsible to make capacity improvements needed to continually maintain service standards, including transit times.

Our understanding of that plain language is not altered by the other matters that you referred to in our discussions. The Board's decisions in the UP/SP case did not analyze UP's duty to maintain capacity of the trackage rights lines in relation to the *SSW Compensation* decisions. Accordingly, we do not find the Board's passing reference to those decisions controlling. Moreover, we are not convinced that even if the *SSW Compensation* decisions were relevant that they would overrule or contradict the plain language of the UP-KCS trackage rights agreements.

Likewise, the fact that BNSF and UP have settled on an interpretation of the UP-BNSF trackage rights agreement that they find mutually satisfactory does not change what the language of the UP-KCS agreements actually says. Moreover, there are several important differences between the UP-BNSF agreement and the referenced agreements, not the least of which is that BNSF pays a significantly lower trackage rights fee than does KCS. It therefore does not seem that whatever UP and BNSF may have agreed to among themselves as to the interpretation of their agreement has any relevance to what the plain language of the UP-KCS agreements means.

Again, KCS believes that the language of the trackage rights agreements is clear, and that it requires UP to make capacity improvements necessary to maintain service standards and transit times in effect when the agreements were entered, regardless of the growth of traffic on those lines, without additional compensation from KCS. As the chokepoints between Robstown and Victoria, in particular, become more limiting, the need for capacity improvements to preserve the competition that the STB sought to preserve by granting the trackage rights become more pronounced.

Sincerely,

A handwritten signature in black ink, appearing to read "David C. Reeves", written in a cursive style.

David C. Reeves

cc: Gayla Thal, Esquire

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 52)

**BNSF RAILWAY COMPANY
– PETITION FOR REVIEW –
UP/SP MERGER CONDITIONS**

EXHIBIT B

**CPKC REPLY TO UP AND NS CORRESPONDENCE
REGARDING MERIDIAN SPEEDWAY
IN *CP/KCS OVERSIGHT*, FINANCE DOCKET NO. 36500 (SUB-NO. 6) (FILED NOV. 13, 2025)
(EXCERPTS)**

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36500 (SUB-NO. 6)

310198

CPKC-48

ENTERED

Office of Chief Counsel

November 13, 2025

Part of

Public Record

**CANADIAN PACIFIC RAILWAY LIMITED, ET AL. – CONTROL – KANSAS CITY SOUTHERN, ET AL.
(GENERAL OVERSIGHT)**

CPKC REPLY TO UP AND NS CORRESPONDENCE REGARDING MERIDIAN SPEEDWAY

Canadian Pacific Kansas City Limited, on behalf of its U.S. rail carrier subsidiaries (collectively “CPKC”),¹ submits this reply to the separate letters filed by Norfolk Southern Railway Company (“NS”) and Union Pacific Railroad Company (“UP”) on September 30, 2025.²

The issues raised by NS and UP in their separate but seemingly-coordinated submissions are not matters that fall within the ambit of Board oversight, and, in any event, their submissions lack merit as a matter of fact. Aware that CPKC is not remotely in breach of its contractual obligations to NS under the agreements governing the Meridian Speedway joint venture, particularly the 2006 Norfolk Southern Railway-Meridian Speedway LLC Joint Use Agreement, NS and UP attempt to convert their dispute into a merger condition enforcement matter that UP’s CEO has suggested (perhaps for collateral purposes) demonstrates that “cooperation agreements”

¹ CPKC’s U.S. rail carrier subsidiaries include Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware & Hudson Railway Company, Inc. (collectively “CP” or “CP/Soo”); The Kansas City Southern Railway Company, Gateway Eastern Railway Company, and The Texas Mexican Railway Company (collectively, “KCSR”).

² Replies to these submissions would have been due on October 20, but deadlines for all submissions to the Board were tolled during the federal government shutdown. *See Materials Due to Be Submitted During the Federal Government Shutdown*, Ex Parte No. 751 (STB served Oct. 1, 2025). CPKC is filing this Reply on the earliest practical opportunity following the Board’s notice that it is again accepting filings.

limitation on the Speedway. Between August 25 and October 1, CPKC operated seven additional eastbound haulage trains to accommodate the traffic removed from trains when UP down-sized them at Hollywood Yard.

CPKC is working with NS in other ways as well. On September 16, 2025, NS formally requested that CPKC support a pair of additional daily haulage trains (one eastbound and one westbound), and CPKC is accommodating that request by training the crews needed to support that service. CPKC informed NS that it expected the new daily train pair to commence operating on November 17. In the meantime, at a September 30, 2025 meeting of the MSLLC JOC CPKC offered to allow a continued exception from the train length limitation for one daily eastbound departure from Shreveport, provided that NS compensated CPKC for a portion of the added costs associated with the impact of running that train on the other trains operating on the Speedway. On October 1, NS agreed to the terms offered by CPKC,²² and the first over-length eastbound train ran on October 3. UP's concerns accordingly are now moot—the single daily eastbound overlength train that had operated prior to August 25 will continue to operate until the additional train pair requested by NS begins operating, which will happen within a matter of days from now.

C. UP's Insistence on Delivering 11,000-Foot Trains at Shreveport Disregards the Needs of Others

Notwithstanding the ample justification for CPKC's decision to limit train length to 8,500 feet, recent public comments of UP's CEO Jim Vena suggest that UP is not willing to tolerate having neutral operating rules limit its freedom of action, and may retaliate against CPKC using

²² See Exhibit 4 hereto.

its control of the UP trackage over which CPKC must operate to reach Mexico. Speaking at a conference in Chicago on September 30, Mr. Vena reportedly said the following:

“I think we’d have a different outcome with CPKC because we operate a lot of their trains and we allowed them to run on our railroad to get to Mexico. We need to have a coming to Jesus moment. All of a sudden you wake up and then you tell me that you’re short of crews. Well, you’re short of crews because you decided not to run this 11,000 foot train that you always used to be able to run. There it is. I’m not happy with it. Hopefully, they wake up and change their mind and go back to operating the trains the way they were supposed to. That’s why cooperation agreements don’t work.”²³

Mr. Vena, of course, is wrong in suggesting that trains were “supposed to” operate in the over-length configuration that Mr. Vena desires. That configuration may benefit UP, but as shown above it inflicts pain on all of the other rail customers using the Meridian Speedway.

More troubling still is Mr. Vena’s apparent desire to force the outcome UP desires through coercive retaliation. CPKC is not sure what Mr. Vena means by a “coming to Jesus moment,” but CPKC does understand Mr. Vena’s remarks to be threatening to use UP’s control over CPKC’s trackage rights route to Mexico to coerce an outcome UP prefers on the Meridian Speedway. Mr. Vena has done that before, in October 2023. Mr. Vena’s view of “cooperation agreements” appears to be that other railroads give UP whatever UP wants or UP won’t cooperate. If that is what UP expects, it is no surprise that Mr. Vena feels compelled to acquire other railroads as a means of bending them and the customers they serve to UP’s will.

²³ These remarks were reported in a Journal of Commerce article published on October 2, 2025. See Journal of Commerce, Michael Angell, “*CPKC pushes back on NS complaint over Meridian track access*” (Oct. 12, 2025). That article quotes Mr. Vena’s remarks in part and reports on them more fully. CPKC understands the quotation in text to accurately reflect Mr. Vena’s oral remarks on October 1 at the Journal of Commerce Inland Distribution Conference in Chicago.

CPKC initially established the 8,500-foot train length limit for trains on the Meridian Speedway in May 2023, and that limit became effective in June 2023.²⁴ Not coincidentally, Mr. Vena returned to UP as CEO in August 2023, and by October he had decided to retaliate for the Meridian Speedway limitation by imposing an arbitrary 8,000-foot limit on trains using UP's Brownsville Subdivision, a key link in CPKC's route to and from Mexico, despite knowing that CPKC's trains were readily accommodated by the frequent long sidings in that corridor.²⁵ There was no justification for this, particularly since KCS had recently spent tens of millions of dollars to add or lengthen the sidings there to support train lengths of 12,000 feet (as shown on UP's train length diagram map, which is Exhibit 6 hereto). An excerpt of that map showing the "12k" train length limit on the portion of the Brownsville Sub used by CPKC trains (*i.e.*, between

²⁴ Writing to UP in October 2023, CPKC explained why it had limited train lengths to 8,500 on the Meridian Speedway:

"Our experience – backed up by observations during the period when exceptions were allowed – shows that running even one overlength eastbound train causes extensive delays to other trains by forcing all opposing trains to take sidings to let that train pass, which in turn impacts the performance of other eastbound trains as well. Those service impacts are not consistent with our obligations to meet service assurances to our customers and otherwise run a railroad efficiently. Indeed, the re-imposition of an 8,500-foot limit in late May led to improvement in the reliability of train operations on the Meridian Speedway. Accordingly, it would not be reasonable or responsible for us to remove the 8,500-foot limit at this time."

Email from Raymond Elphick (CPKC) to Rick Lichtas (UP) (Oct. 24, 2023) (Exhibit 5 hereto).

²⁵ CPKC uses UP's Brownsville Subdivision between Bloomington, TX and Robstown, TX as part of its route between Houston and the Laredo gateway.

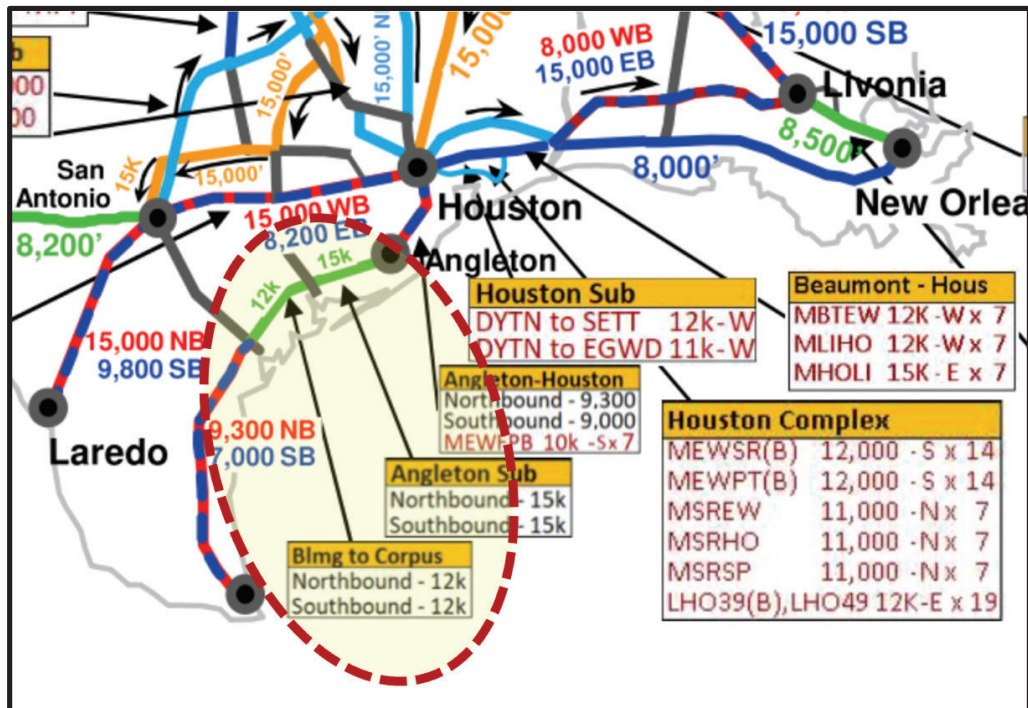
Bloomington and Corpus Christi) is Figure 11 below.²⁶ NS, by contrast, has not been willing to spend the money necessary to lengthen sidings on the Meridian Speedway.²⁷

²⁶ Between 2011 and 2019, KCS helped fund four new long sidings or siding extensions on or adjacent to the portion of the Brownsville Subdivision between Bloomington and Robstown to support the movement of long trains, as shown in the Table below. UP's trains on that line tend to be shorter because they also traverse UP lines north or south of the Bloomington-Robstown segment where UP has not made investments in longer sidings.

SIDING BUILT OR LENGTHENED WITH KCS FUNDS	STATE IN 2011	CURRENT STATE
Benavides Siding (at Placedo, TX)	Did Not Exist	10,400 ft. siding
Inari Siding	7,667 ft. siding	10,000 ft. siding
Greta Siding	7,270 ft. siding	14,000 ft. siding
Cranell Siding	Did Not Exist	10,500 ft. siding

²⁷ Mr. Elphick's October 2023 email to Mr. Lichtas at UP explained that "CPKC would like to be able to support the operation of longer trains, and we would be willing to enter into tri-party discussions (among CPKC, UP and NS) to identify the infrastructure needs associated with such trains and how costs could be allocated in a manner that is fair to all parties. (As you may be aware, KCSR and NS have had extensive discussion about the investments needed to support longer trains, and NS has elected not to fund those investments.) Until infrastructure is added to support long trains on this line, it would be irresponsible for CPKC to allow those operations to proceed." *See* Exhibit 5 hereto.

FIGURE 11
EXCERPT FROM UP TRAIN LENGTH MAP



When CPKC's CEO Keith Creel asked Mr. Vena why he had imposed an 8,000-foot length limit on the Brownsville Sub, Mr. Vena answered unabashedly: "because you restricted my trains." It apparently did not matter to UP that the Meridian Speedway was designed for 8,500-foot trains, whereas the portion of the Brownsville Subdivision used by CPKC was designed for 12,000 foot trains. Mr. Vena retaliated using whatever leverage was at hand.

The UP train length limit immediately and severely affected CPKC's operations between the United States and Mexico, forcing unwarranted delays to more than a dozen trains during the first days of UP's edict. This leverage compelled CPKC to agree to an arrangement permitting the continued operation on the Meridian Speedway of a single eastbound UP-NS haulage train of up to 11,000 feet in length from Shreveport to Meridian in exchange for UP's lifting the Brownsville Subdivision limit and cooperating on other commercial matters. One of those matters involved the sale of a sliver of real property that CPKC needed to support double-

tracking its mainline in Blue Valley, Missouri, near Kansas City (one of the projects for which CPKC sought Board approval in the *CP/KCS* proceeding).²⁸

In the intervening period after CPKC agreed to accommodate UP's insistence on delivering an overlength train for movement across the Meridian Speedway, UP's real estate department was processing the Blue Valley land sale agreement without issue, but Mr. Vena intervened to block that deal, apparently for no reason other than to obtain still more leverage over CPKC. Mr. Vena's repudiation of his promised cooperation at Blue Valley removed a key underpinning of CPKC's October 2023 acquiescence in the continued operation of the UP-NS 11,000-foot train. UP was well aware that CPKC would not continue to accede to that operation despite its consequences for the rail customers served by all of the other operations on the Speedway.

CONCLUSION

For the reasons discussed above, the concerns raised in the UP and NS letters lack merit and warrant no further action by the Board.

²⁸ See *CP/KCS*, Decision No. 35 at 153; Final EIS at 2-15.

Respectfully submitted,



David L. Meyer
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**THE KANSAS CITY SOUTHERN RAILWAY
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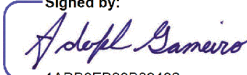
Attorneys for CPKC

November 13, 2025

VERIFICATION

I, Adolph Gameiro, declare under penalty of perjury under the laws of the United States of America that the factual content of the foregoing document is true and correct. Further, I certify that I am qualified and authorized to execute this Verification.

Executed this 11/13/2025 day of November, 2025

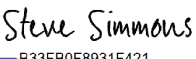
Signed by:

1ADB0EB90B89482...

Adolph Gameiro
Managing Director, Interline & Network
Strategy

VERIFICATION

I, Stephen Simmons, declare under penalty of perjury under the laws of the United States of America that the factual content of the foregoing document is true and correct. Further, I certify that I am qualified and authorized to execute this Verification.

Executed this 11/13/2025 day of November, 2025

Signed by:

B33FB0F8931F421...

Stephen Simmons
Director of Border and Interline Operations]

BEFORE THE SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36500 (SUB-NO. 6)

**CANADIAN PACIFIC RAILWAY LIMITED, ET AL. – CONTROL – KANSAS CITY SOUTHERN, ET AL.
(GENERAL OVERSIGHT)**

CPKC REPLY TO UP AND NS CORRESPONDENCE REGARDING MERIDIAN SPEEDWAY

EXHIBIT 6

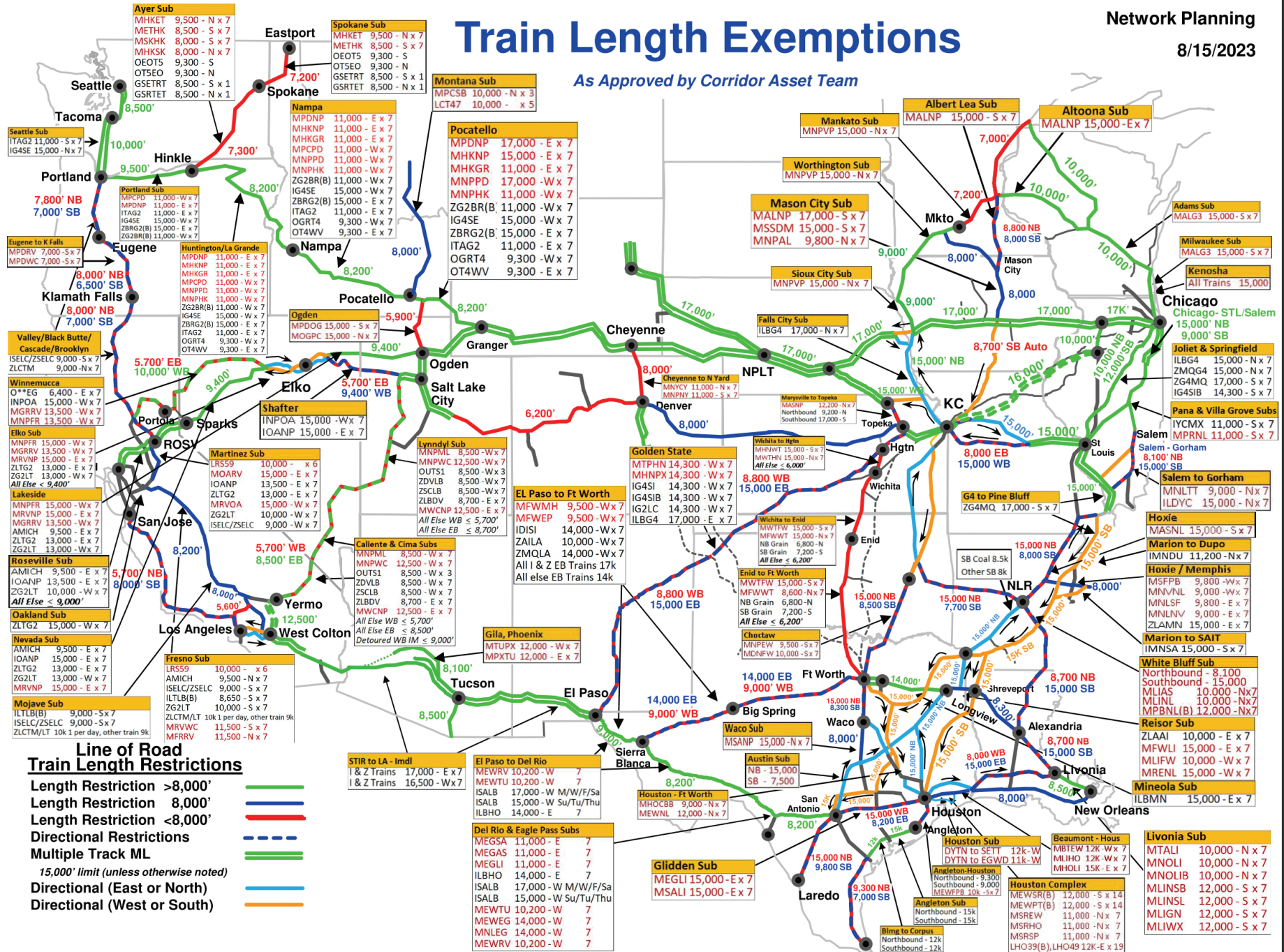
UP SYSTEM TRAIN LENGTH DIAGRAM MAP

Train Length Exemptions

As Approved by Corridor Asset Team

Network Planning

8/15/2023



CERTIFICATE OF SERVICE

I hereby certify that, on this 7th day of January, 2026, a true and correct copy of the foregoing CPKC's Reply to BNSF Petition was served by first-class mail or email on all parties of record in this proceeding.

/s/ *David L. Meyer*
David L. Meyer