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ENTERED
Office of Chief Counsel
January 21, 2026
Part of
Public Record

January 21, 2026

VIA E-FILING

Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: **STB Docket No. FD 36854, Union Pacific Railroad Company—
Construction and Operation Exemption—In Matagorda County,
Texas**

Dear Chief of Case Administration:

Pursuant to the Surface Transportation Board (“Board”) decision served on December 22, 2025 in the above-referenced proceeding, BNSF Railway Company (“BNSF”) submits this response to the Petition for Exemption filed by Union Pacific Railroad Company (“UP”) on September 24, 2025. As discussed below, BNSF cannot properly comment on the merits of UP’s Petition until UP provides details regarding the impacts of UP’s proposal on BNSF’s property and operations and on other shippers in the area.

UP is seeking an exemption under 49 U.S.C. § 10502 from the prior approval requirements of 49 U.S.C. § 10901 to construct and operate approximately five miles of rail line in Matagorda County, near Wadsworth and Bay City, Texas. (Pet. 2.) In its Petition, UP states that it plans to connect the proposed line to its network via existing track referred to as the Celanese Industrial Lead and the Cities Service Track. (*Id.* at 3.) UP states that “[t]he Celanese Industrial Lead consists of: (1) track that is solely owned by [UP] that runs south from the Angleton Subdivision to the Celanese facility; and (2) track that is partly jointly owned and partly jointly used by [UP and BNSF] that runs east-west between the Celanese facility and a connection to BNSF’s network near [FM] 2668.” (*Id.*) UP further states that UP and BNSF “jointly own . . . the Cities Service Track that runs north-south parallel to FM 2668 between the Celanese Industrial Lead and Gilmore Road.” (*Id.*)

UP also notes that: “The joint track segments are governed by joint facility agreements between [UP’s] and BNSF’s predecessors. One of those agreements contemplates the construction of the new west wye connection track described in this paragraph. [UP] has had preliminary discussions with BNSF regarding the proposed project.” (*Id.* at 3-4 n.2.)

To be clear, no such discussions have occurred. On June 5, 2025, BNSF reached out to UP asking for details regarding the proposed construction. No response was received. On November 20, 2025, BNSF filed a letter in this proceeding, stating that it was not clear to BNSF what UP means by “preliminary discussions” and noting that UP had not responded to a BNSF inquiry regarding this matter. BNSF sent UP another inquiry on December 16, 2025. This correspondence is attached here as Exhibit A. To this day, UP still has not responded to BNSF’s inquiries.

The Petition does not provide any details regarding the planned construction, nor does it include a track schematic or specific details regarding the proposed operations, such as the amount of joint trackage that will be used or the planned route. Independently, BNSF accessed UP’s draft Alternatives Analysis that UP apparently filed in the environmental docket of this proceeding on December 3, 2025. The draft Alternatives Analysis lays out three potential routes, each of which could have different impacts to BNSF’s property and operations and to other shippers in the area. BNSF cannot comment on the merits of UP’s Petition until BNSF better understands the impacts of the proposed line.

Please contact me with any questions.

Respectfully submitted,

/s/ Peter W. Denton

Peter W. Denton

Attorney for BNSF Railway Company

EXHIBIT A

From: Hamilton, Eric <Eric.Hamilton@BNSF.com>
Sent: Tuesday, December 16, 2025 3:59 PM
To: Derek Hinds <dehinds@up.com>
Cc: Hamilton, Eric <Eric.Hamilton@BNSF.com>
Subject: RE: Intent to Construct Track

Good Afternoon Derek,

I wanted to follow up with you on recent conversation regarding Bay City. BNSF's understanding from our recent conversations is that UP continues to believe it still has rights under the 1981 Agreement. However, we need UP to provide a written explanation of its position, including the basis for asserting that the 1981 Agreement remains applicable.

As noted in my February 19 email, the agreement terminated when Cities Services Company failed to build the facility south of Bay City, and any license to construct a connection track on BNSF property expired with that agreement. Please clarify in writing how UPRR believes the 1981 Agreement still applies and confirm the exact location where UPRR intends to build so that we can evaluate and respond appropriately.

Thanks,

Eric Hamilton | Director – Contracts & Joint Facilities | UP/SP, RDV, KAN, HLA, and PWR Divisions | BNSF Railway | Eric.Hamilton@BNSF.com | Office 817-352-4928 | iPhone 913-267-1369

From: Hamilton, Eric <Eric.Hamilton@BNSF.com>
Sent: Thursday, June 5, 2025 4:25 PM
To: Derek Hinds <dehinds@up.com>
Cc: Hamilton, Eric <Eric.Hamilton@BNSF.com>
Subject: RE: Intent to Construct Track

Good Afternoon Derek,

I am in receipt of your email dated February 19, 2025 regarding UPRR's intent to build additional track off of track jointly owned by the parties near Bay City, Texas. We are unclear as to precisely where UPRR intends to build. The 1981 Agreement between ATSF and MP pertaining to the Cities Services Company facility that was never constructed south of Bay City terminated when Cities Services Company failed to build there. Furthermore, MP never built the connection track leading from jointly-owned track near the Celanese facility to the jointly-owned Santa Fe-MP Lead Track and any license to do so on BNSF property expired with the 1981 Agreement. Can you please clarify the exact location where UPRR intends to build so that we can discuss further?

Thanks,

Eric Hamilton | Director – Contracts & Joint Facilities | UP/SP, RDV, KAN, HLA, and PWR Divisions | BNSF Railway | Eric.Hamilton@BNSF.com | Office 817-352-4928 | iPhone 913-267-1369

From: Derek Hinds <DEHINDS@UP.COM>
Sent: Wednesday, February 19, 2025 4:59 PM
To: Hamilton, Eric <Eric.Hamilton@BNSF.com>
Subject: Intent to Construct Track

EXTERNAL EMAIL

Good evening Eric,

In accordance with Section 1(d) of the parties' October 1, 1981 agreement pertaining to jointly owned property located near Bay City, Texas, Union Pacific provides notice of its intent to construct and place into service, at its sole cost and expense and which it shall thereafter own, track which shall connect to trackage jointly owned by the parties. Additionally, Union Pacific intends to construct track to the joint trackage.

Respectfully,

Derek Hinds – Director Joint Facilities

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CERTIFICATE OF SERVICE

I hereby certify that I have caused this Response in Docket No. FD 36854 to be served electronically or by first class mail, postage pre-paid, on all parties of record in this proceeding.

/s/ Sally Mordi

Sally Mordi

Attorney for BNSF Railway Company

January 21, 2026