

# FLETCHER & SIPPEL LLC

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May 4, 2026

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CN-14

## VIA ELECTRONIC FILING

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

ENTERED  
Office of Chief Counsel  
May 4, 2026  
Part of  
Public Record

Re: **Docket No. FD 36873**  
**Union Pacific Corporation and Union Pacific**  
**Railroad Company – Control – Norfolk Southern**  
**Corporation and Norfolk Southern Railway Company**

Dear Chief of Case Administration:

Grand Trunk Corporation, on behalf of itself and its U.S. rail operating subsidiaries<sup>1</sup> (collectively “CN”), writes to flag for the Surface Transportation Board (“Board”) that access to certain workpaper databases for Applicants’<sup>2</sup> April 30, 2026 Amended Application (“Application”) were unavailable until Sunday, May 3, 2026. As such, CN requests the Board to consider the next business day, today, May 4, 2026, to be the filing date of the Application and adjust the deadline for comments on completeness of the Application to account for the time lost.

CN first realized on April 30 that certain Highly Confidential and Confidential SQL databases from the Hunt Verified Statement were encrypted and thus inaccessible. CN counsel promptly contacted Union Pacific’s counsel on the same day to request either the information required to access the databases or updated, accessible versions. The next day, May 1, 2026, CN discovered two more databases, this time Highly Confidential and Confidential databases related

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<sup>1</sup> Bessemer and Lake Erie Railroad Company, Cedar River Railroad Company, Chicago, Central & Pacific Railroad Company, Grand Trunk Western Railroad Company, Illinois Central Railroad Company, Iowa Northern Railway Company, The Pittsburgh & Conneaut Dock Company, and Wisconsin Central Ltd.

<sup>2</sup> “Applicants” refers collectively to Union Pacific Corporation and Union Pacific Railroad Company (together, “Union Pacific”) with Norfolk Southern Corporation and Norfolk Southern Railway Company.

# FLETCHER & SIPPEN LLC

Chief of Case Administration  
May 4, 2026  
Page 2

CN-14

to Applicants' Operating Plan and the Gehringer/Orr Verified Statement, were also inaccessible, and promptly notified Union Pacific's counsel. After sending two additional emails to Union Pacific counsel inquiring about the status of the issue, access to the unencrypted files was finally provided on May 3.

CN, the Board, and other parties have been prejudiced by the inability to access the entire Application, including workpapers, during this limited window for assessing whether the Application is complete. To be clear about the extent of the issue – which was not apparent until access to the files was received – the databases contain 762 objects, including, but not limited to, input data tables required for running code and code procedures. Prior to gaining access, CN's consultants were unable to run most of the Hunt and Gehringer/Orr code and none of Hunt's code relating to diversion modeling or market shares.

CN notes that Applicants' encryption runs afoul of the Board's directive in Decision No. 3, that "[s]ubmissions may include a password protected filing (e.g., a protected ZIP archive transmitted via Secure File Transfer Protocol), but **no files contained within the filing should be restricted or password protected**. All files and data should be fully accessible and modifiable by anyone authorized to view the evidence of the case."<sup>3</sup> By providing individually encrypted files, Applicants were not in compliance with the Board's clear instructions.

In *Bessemer & Lake Erie Railroad Co. – Acquisition & Operation – Certain Rail Lines of CSX Transportation, Inc. in Onondaga, Oswego, Jefferson, Saint Lawrence, & Franklin Counties, N.Y.*, FD 36347, slip op. at 1 n.1 (STB served Nov. 8, 2019) ("*B&LE*"), the Board deemed the filing date of the application to be the date on which the applicant provided a signature page that was inadvertently left blank in the original submission. Consistent with that decision, and considering that the missing components of the Application here are far more consequential than a missing signature, CN requests the Board consider today, May 4, 2026, to be the filing date of the Application and to adjust the deadlines set forth in Decision No. 17 (STB served Apr. 30, 2026), and all other deadlines calculated from the filing date of the Application, to account for the Application not being fully submitted in accordance with the Board's requirements until today.<sup>4</sup>

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<sup>3</sup> Decision No. 3, FD 36873, App. ¶ 14 (STB served Aug. 28, 2025) (emphasis added).

<sup>4</sup> Decision No. 8 (STB served Jan. 2, 2026) directed Applicants to notify the Board of any future workpaper changes by filing in the docket a detailed description, as outlined in that decision, of such changes and any replacement files. Applicants provided such notice this afternoon. Consistent with *B&LE*, the Board should consider the Application as filed upon the provision of that notice to the Board and all parties of record.

# FLETCHER & SIPPEN LLC

Chief of Case Administration  
May 4, 2026  
Page 3

CN-14

I certify that a copy of this filing has been served by electronic mail on all parties of record in this proceeding.

Respectfully submitted,

*/s/ Valerie O. Quinn*

Valerie O. Quinn  
Attorney for CN

VOQ/tjl

cc: Parties of Record  
ALJ Jennifer J. Soulikias  
U.S. Secretary of Transportation  
Attorney General of the United States  
Kathryn J. Gainey, CN  
Christopher K. Diamond, CN