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ENTERED
Office of Chief Counsel
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May 14, 2026

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

BNSF-27

Re: STB Docket No. FD 36873, Union Pacific Corporation, et al. – Control – Norfolk Southern Corporation, et al.

Dear Chief of Case Administration:

BNSF Railway joins the Applicants' request for a conference with the ALJ to address discovery issues. *See* UP-53/NS-51. In addition to the competing positions on the discovery guidelines, there are several crystallized discovery disputes that are already or will soon be the subject of motions practice. There are disputes regarding (i) Applicants' Decision No. 13 productions, (ii) the lack of an agreed custodial search protocol, and (iii) various other line-level discovery disputes on key information that UP and NS have not produced (such as pricing strategy and documents about integration). BNSF understands that UP and NS may have additional crystallized discovery disputes with other Class Is, too. The ALJ's guidance on all these issues will help advance the process.

More generally, a conference will help get the discovery process on track. UP and NS are not moving discovery as they should. UP and NS have not addressed more than 100 outstanding discovery requests, despite the efforts of the other Class Is to consolidate and coordinate their requests. Despite the benefit of a nine-month window to get ahead of their obligations, UP has produced only 1,932 documents and just 5 emails; NS has produced only 1,068 documents and just 11 emails. UP and NS have not made document productions since their Board-ordered HSR productions on April 8.

Sincerely,

/s/ Daniel T. Donovan, P.C.

Daniel T. Donovan, P.C.

cc: Counsel of Record

CERTIFICATE OF SERVICE

I certify that I caused the foregoing to be served electronically or by first-class mail, postage pre-paid, on the Secretary of Transportation, the Attorney General of the United States, Applicants' representatives, Administrative Law Judge Jenifer Soulikias, and all parties of record in this proceeding.

/s/ Onika K. Williams

Attorney for BNSF Railway Company

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