

Peter W. Denton
202 429 6445
pdenton@steptoe.com

Steptoe

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoec.com

311483

ENTERED
Office of Chief Counsel
May 26, 2026
Part of
Public Record

May 26, 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 April 14, 2026 in the above-referenced proceeding, BNSF Railway Company (“BNSF”) submits this response to the Supplemental Brief filed by Union Pacific Railroad Company (“UP”) on May 4, 2026. BNSF appreciates the Board’s invitation to submit this response.

In BNSF’s view, UP’s Supplemental Brief provides some helpful information, but it indicates that UP has still not developed or shared with BNSF important details related to its proposal.

For example, the Board directed UP to address how it “will coordinate operations of the joint track segments with BNSF.” Decision, slip op. at 3. In its Supplemental Brief, UP states that it “intends to engage in discussions with BNSF to agree on joint operating protocols, to the extent they are not already covered by the existing joint facilities arrangements. This will include discussions regarding overhead movements, switch operations, and any additional operating concerns between the parties.” (Br. 6.) BNSF agrees that such discussions would be helpful but, to date, UP has not engaged with BNSF to discuss what changes to the operating protocols may be necessary to ensure both carriers may continue to meet the service needs of such other impacted customers along the existing lines.

Additionally, UP indicates that some of the alternative routings for the proposed line would require a portion of the BNSF east wye track “to be shifted east slightly to accommodate the tie-in of the new west wye at Station 19+31.98 (west wye) and Station 18+62.86 (Cities Service Track).” (*Id.* at 3-4.) UP further states that, in recent discussions with the Texas Department of Transportation (“Texas DOT”), UP and Texas DOT have identified potential solutions that would require certain other realignments of track. (*Id.* at 5.) UP states that it “intends to discuss these alignment options with BNSF.” (*Id.*) To be clear, the referenced east wye track is BNSF’s track, not joint track. UP would need to reach an agreement with BNSF to accomplish any realignment of that track. To date, BNSF has not received any additional information regarding the proposed realignment.

BNSF notes that, on May 18, 2026, the Board’s Office of Environmental Analysis requested that UP provide additional information about its proposal by June 5, 2026. BNSF looks forward to reviewing that information and any further details provided by UP regarding the project, and BNSF will continue to follow this proceeding closely.

Please contact me with any questions.

Respectfully submitted,

/s/ Peter W. Denton

Peter W. Denton

Attorney for BNSF Railway Company

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

May 26, 2026