

ENTERED
Office of Chief Counsel
July 1, 2026
Part of
Public Record

Surface Transportation Board
Washington, D.C. 20423-0001

Office of Economics

June 30, 2026

Brian G. Liegel
Weil, Gotshal & Manges LLP
1395 Brickell Avenue, Suite 1200
Miami, FL 33131-3368

Re: Waybill Request WB26-26 & FD 32760 (Sub-No. 52)

Dear Mr. Liegel:

The Surface Transportation Board (STB) has received your request under 49 C.F.R. § 1244.9(b)(4) of June 3, 2026 for permission to access the confidential Carload Waybill Sample (CCWS) with unmasked revenues in connection with FD 32760 (Sub-No. 52), BNSF Railway Company – Petition for Review – UP/SP Merger Conditions on behalf of BNSF Railway Company. Specifically, you requested 1990 through 2024 (including all records, all fields, and confidential unmasked revenues) for all traffic. You also requested access to comparable data for 2025 when it becomes available. Your request explained that the purpose of this request is to allow BNSF's counsel and consultants to supplement BNSF's Petition to clarify the scope of the proposed proceeding and the exact nature of the relief requested, and to prepare verified statements in formal proceedings before the Board on behalf of BNSF.

Based on the complete and sufficiently detailed explanations and justifications contained in your request, you will be authorized to access the requested data. Specifically, you will have access to 1990 through 2024 including all records, all fields, and confidential unmasked revenues for all traffic. The 2025 CCWS data is not available at this time and may be requested at a later date. This data may only be used for purposes of proceeding FD 32760 (Sub-No. 52). ***This approval becomes effective when signed agreements from the individuals listed below are received by the STB:***

- a) *Peter W. Denton – Steptoe LLP*
- b) *Onika K. Williams – Steptoe LLP*
- c) *Andrew S. Tulumello – Weil, Gotshal & Manges LLP*
- d) *Chantale Fiebig – Weil, Gotshal & Manges LLP*
- e) *Brian G. Liegel – Weil, Gotshal & Manges LLP*
- f) *Liam J. Timmons – Weil, Gotshal & Manges LLP*
- g) *Daniel Baquet – Weil, Gotshal & Manges LLP*
- h) *Sebastian Laguna – Weil, Gotshal & Manges LLP*
- i) *Adrian Steel – outside counsel for BNSF*
- j) *Michael Baranowski – FTI Consulting*

- k) Nathaniel Zebrowski – FTI Consulting*
- l) Prabakaran Ponnuthurai – FTI Consulting*
- m) Shane Vyskocil – FTI Consulting*
- n) Ranna Okeil – FTI Consulting*
- o) Christopher Kaylor – FTI Consulting*
- p) Timothy Rempe – FTI Consulting*
- q) Chloe Gern – Bates White Economic Consulting*
- r) Nicholas Hill – Bates White Economic Consulting*
- s) Egor Malkov – Bates White Economic Consulting*
- t) Harriet Martin – Bates White Economic Consulting*
- u) Mico Mao – Bates White Economic Consulting*

The expiration date for this agreement is June 30, 2027. Unless you seek and obtain a renewal from the STB, this agreement upon expiration obligates you to return or destroy copies of the data as described in item 7 of the agreement.

Several aspects of the CCWS limit the conclusions that may be drawn from analysis of the CCWS: 1) the CCWS is a sample, and 2) the CCWS is based on terminating shipments from relatively large carriers. Only those railroads with more than 4,500 annual terminating carloads are included in the sample. The limited sampling of small railroads may have a substantial effect on studies covering areas served predominately by non-sampled railroads. For additional information on the CCWS, see *Reference Guide* @ <https://www.stb.gov/reports-data/economic-data/> on the Board's website.

The rules for release of waybill data are codified at 49 C.F.R. § 1244.9. The CCWS contains confidential shipper and railroad data. As a result, the CCWS is commercially sensitive and has the potential to cause competitive harm to shippers and railroads if disclosed. Therefore, the following agreement must be signed, and a copy of the signature pages returned to the STB, before any waybill data can be used.

Your signature acknowledges your agreement to comply with the following:

1. You will use the CCWS data released to you solely for purposes of the proceeding identified above. Such purposes include any judicial review arising from that proceeding.

Waybill Agreement WB26-26

2. Absent permission from the STB, you shall make the information contained in the CCWS (including work product and analyses derived from the CCWS) available only to the individuals identified above. The STB may approve access for additional individuals for purposes of the proceeding. In general, such individuals must be outside counsel in this proceeding, transportation practitioners, and those individuals working with or assisting such counsel or practitioners who are not regular employees of the party represented, who have a need to know, review, or handle the CCWS for purposes of the proceeding, including testifying and consulting experts. Each such additional individual must review and sign this agreement, and a copy of the signature page must be returned to the STB, before access may be granted.
3. Pleadings and evidence filed with the Board in the proceeding may contain CCWS data (including work product and analyses derived from the CCWS). Unless data in the pleadings and evidence are aggregated to the level of at least three shippers and will prevent the identification of an individual railroad, the pleadings and evidence must be filed with the Board under confidential filing procedures (both in e-filing and paper submissions). Such pleadings and evidence should be appropriately marked to indicate that they contain confidential Waybill data and, if submitted in paper or on physical media, be in a package clearly marked on the outside "Highly Confidential Material: Contains Waybill Data." Such pleadings will not be posted in the publicly available docket. A public version of the pleading and evidence that redacts unaggregated CCWS data should also be filed for posting in the public docket.
4. Pleadings and evidence (and underlying workpapers) containing CCWS data (including work product and analyses derived from the CCWS) may be disclosed only to outside counsel or other independent representatives for other parties to the proceeding who have signed an agreement with the Board that grants them access to the underlying CCWS data.
5. CCWS data may be disclosed to the reviewing court in briefs filed or oral argument made in connection with judicial review arising from the proceeding, but the party making such disclosure must take adequate steps to maintain the confidentiality of the data by filing pleadings under seal and seeking confidential treatment of the data at oral argument (and in any transcripts). Counsel who wish to access CCWS data for purposes of participating in judicial review arising from the proceeding must have signed an agreement with the Board that grants access to the data, and may be added pursuant to paragraph 2 above.
6. Except as provided in paragraph 4 above, you will refer any requests for CCWS data in your possession (including work product and analyses derived from the CCWS) to the STB for processing and will inform the requesting party of such referral to the STB. If you are compelled by law or order of a governmental or

Waybill Agreement WB26-26

judicial body to release CCWS data, you shall notify the Board in writing within three days of any determination that CCWS data must be released, and in no event later than five days before the CCWS data is scheduled to be released.

7. In order to retain access to the CCWS beyond the expiration date specified above, you must submit a written request for an annual extension of the agreement no later than thirty days prior to the expiration date and the renewal request must be approved by the Office of Economics. **If an annual agreement is not signed and approved, you must certify by no later than the expiration date that all CCWS data (including all work product and analyses derived from the CCWS) obtained under this agreement has been destroyed or returned to the STB.** Notwithstanding the foregoing, outside counsel (but not outside consultants or transportation practitioners) for each party may retain file copies of all pleadings and evidence filed with the Board and file copies of all work product. The non-disclosure requirements of this agreement shall continue to apply to such file copies for as long as they are retained.
8. Failure to request an extension (if necessary), or destroy or return CCWS data when required, may prevent any future release of CCWS data to you. Violations of this agreement may subject you to sanctions by the Board.

After all parties have signed and returned this agreement, please contact waybill@stb.gov to make the necessary arrangements to have a copy of the data sent to you. The STB will provide the data by email through file transfer protocol. Prior payment of processing and mailing cost of **\$1712** (\$200 for processing plus \$72 per signature) is required and received.

Sincerely,

**MARTIN
SCHLENKER** Digitally signed by
MARTIN SCHLENKER
Date: 2026.06.30
16:15:56 -04'00'

Martin Schlenker
Acting Director
Office of Economics

Waybill Agreement WB26-26

I have read and understand the conditions for release of the CCWS data. I agree to comply fully with these conditions and the provisions of this confidentiality agreement. No later than thirty days before the agreement expires, I will request an extension of this agreement, if necessary. If no extension is requested, I will return or destroy all CCWS data and certify that I have done so. I have the authority to sign this agreement.

By: Peter W. Denton

/s/ Peter W. Denton

Signature

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By: Onika K. Williams

/s/ Onika K. Williams

Signature

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By: Andrew S. Tulumello

/s/ Andrew S. Tulumello

Signature

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By: Chantale Fiebig

/s/ Chantale Fiebig

Signature

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By: Brian G. Liegel

/s/ Brian G. Liegel

Signature

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By: Liam J. Timmons

/s/ Liam J. Timmons

Signature

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By: Daniel Baquet

/s/ Daniel Baquet

Signature

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By: Sebastian Laguna

/s/ Sebastian Laguna

Signature

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By: Adrian Steel

/s/ Adrian Steel

Signature

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By: Michael Baranowski

/s/ Michael Baranowski

Signature

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By: Nathaniel Zebrowski

/s/ Nathaniel Zebrowski

Signature

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By: Prabaharan Ponnuthurai

/s/ Prabaharan Ponnuthurai

Signature

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By: Shane Vyskocil

/s/ Shane Vyskocil

Signature

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By: Ranna Okeil

/s/ Ranna Okeil

Signature

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By: Christopher Kaylor

/s/ Christopher Kaylor

Signature

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By: Timothy Rempe

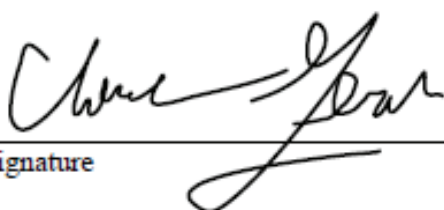
/s/ Timothy Rempe

Signature

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By: Chloe Gern


Signature

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By: Nicholas Hill



Signature

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By: Egor Malkov

Egor Malkov

Signature

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By: Harriet Martin

Harriet Martin

Signature

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By: Mico Mao



Signature

Weil, Gotshal & Manges LLP

1395 Brickell Avenue, Suite 1200
Miami, FL 33131-3368
+1 305 577 3180 tel
+1 305 374 7159 fax

Brian Liegel
Partner
+1 305 577 3180
Brian.liegel@weil.com

June 3, 2026

VIA E-MAIL

Director Francis O'Connor
Acting Director, Office of Economics
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423
francis.o'connor@stb.gov

Re: Request for Waybill Data, STB Docket No. FD 32760 (Sub-No. 52), BNSF Railway Company – Petition for Review – UP/SP Merger Conditions

Dear Director O'Connor:

We write on behalf of BNSF Railway Company ("BNSF"), which filed a Petition in this proceeding on November 28, 2025.

Pursuant to 49 C.F.R. § 1244.9(b)(4), we respectfully request that BNSF's outside counsel and consultants be authorized to obtain and use certain confidential Surface Transportation Board ("STB" or "Board") Confidential Carload Waybill Sample data. Those outside counsel and consultants, none of whom is a regular employee of BNSF, are the following:

Steptoe LLP and its employees:

1. Peter W. Denton
2. Onika K. Williams

Weil, Gotshal & Manges LLP and its employees:

1. Andrew S. Tulumello
2. Chantale Fiebig
3. Brian G. Liegel
4. Liam J. Timmons
5. Daniel Baquet
6. Sebastian Laguna

Additional outside counsel for BNSF:

1. Adrian Steel

FTI Consulting and its employees:

1. Michael Baranowski
2. Nathaniel Zebrowski
3. Prabakaran Ponnuthurai
4. Shane Vyskocil
5. Ranna Okeil
6. Christopher Kaylor
7. Timothy Rempe

Bates White Economic Consulting and its employees:

1. Chloe Gern
2. Nicholas Hill
3. Egor Malkov
4. Harriet Martin
5. Mico Mao

We respectfully request access to carload waybill data covering the period 1990 through 2024 (including all records, all fields, and confidential unmasked revenues) for all traffic. We also request access to comparable data for 2025 when it becomes available.

The purpose of this request is to allow BNSF's counsel and consultants to supplement BNSF's Petition to clarify the scope of the proposed proceeding and the exact nature of the relief requested, and to prepare verified statements in formal proceedings before the Board on behalf of BNSF. The access BNSF seeks is the same as the access granted to other parties in this proceeding.

We understand that access to these data will be granted pursuant to the terms of a protective order, solely for the purposes of this proceeding and any related litigation, and only after the execution of appropriate confidentiality undertakings. In accordance with 49 C.F.R. § 1244.9(b)(1), any evidence drawn from the STB Waybill Sample will remain confidential and will be submitted only to the Board unless the evidence is aggregated to the level of at least three shippers and will prevent the identification of an individual railroad.

At this time, access is being requested for the parties listed above. If additional consultants or counsel are retained, we will amend our request to add such individuals. Any strategic reports generated by outside counsel or consultants will not be disclosed to any party unless aggregated to at least the three FSAC rule in accordance with 49 C.F.R. § 1244.9(f).

Director Francis O'Connor

June 3, 2026

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The required fee of \$1,712.00, which includes a fixed fee of \$200.00 plus \$72.00 per person for each individual (a total of 21 outside counsel and consultants) has been paid on pay.gov per 49 C.F.R. § 1002.2(f)(98)(i).

Please contact me with any questions.

Respectfully submitted,

/s/ Brian G. Liegel

Brian G. Liegel

Attorney for BNSF Railway Company