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VIA ELECTRONIC FILING

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

CSXT-16
ENTERED
Office of Chief Counsel
July 22, 2026
Part of
Public Record

Re: Docket No. FD 36873 – Union Pacific Corp. et al.—Control—Norfolk Southern Corp. et al.

Dear Ms. Brown:

I write on behalf of CSX Transportation, Inc. (“CSXT”) regarding Applicants’ request that the Board adopt a “procedural schedule for a public review of ... alternatives” for addressing Applicants’ control of the Terminal Railroad Association of St. Louis (“TRRA”). Applicants’ First Submission in Response to Decision No. 21, UP-68/NS-66, *Union Pac. Corp.—Control—Norfolk S. Corp.*, FD 36873 (July 7, 2026) at 1. For the reasons already well stated by CN, CPKC, and BNSF, the Board should reject that request. A parallel TRRA mini-proceeding would be inefficient, prejudicial, and inconsistent with the Board’s need to evaluate the transaction’s effects on TRRA and the St. Louis gateway as part of its overall public-interest review. *See* CN-23 (July 16, 2026) at 3-6; CPKC-33 (July 17, 2026); BNSF-41 (July 20, 2026) at 3-5.

CSXT files separately to emphasize one point: Applicants’ proposed process would answer the wrong question. The issue is not the appropriate mechanism by which UP/NS can adjust ownership or voting rights to avoid formal legal control of TRRA. The more important question is whether that post-merger structure would give UP/NS the ability, even without formal control, to harm TRRA’s competitive gateway function and disadvantage its other owners, users, and shippers.

Applicants’ own submission confirms why that question cannot be resolved in a rushed procedural sideshow. UP/NS propose alternatives directed at ownership percentages and board seats, but none addresses the competitive effects created by the merger itself: reduced UP/NS reliance on TRRA;¹ reduced usage-fee support for a critical shared terminal; potential cost-shifting

¹ Applicants’ submission confirms that they plan to dramatically withdraw from TRRA, once they have the ability to bypass it. They say UP/NS would “still be a significant consumer” of TRRA, omitting that

to remaining owners and users;² and retention of rights that could be used differently once UP/NS is no longer similarly dependent on TRRA as an interline gateway.³ A divestiture structure that avoids formal “control” does not necessarily preserve TRRA’s ability to operate as a competitive, adequately funded gateway for all users and shippers.

That is precisely why Applicants’ request is harmful. A 20-day comment process focused on the “sufficiency” of five alternative control proposals would risk prematurely blessing a formal control solution before the Board and parties have a complete record on the broader competitive consequences for TRRA, the St. Louis gateway, and potential merger conditions that may implicate the gateway. *See* CPKC-33 at 3. It would also allow Applicants to preserve optionality while compelling other parties to evaluate hypothetical structures that Applicants have not selected and may not implement.

* * *

Applicants have now had three opportunities to make their case about their proposed merger’s competitive effects on TRRA. That case, such as it is, has been presented. There is no need or basis for a separate schedule narrowly focused on formal TRRA “control.” The parties can comment on UP’s alternatives alongside all other issues in their comments on the Amended Application.⁴ UP/NS can respond, and the Board can then address all of these issues together, on the same schedule, with the benefit of all of the evidence submitted.

For these reasons, and those identified by CN, CPKC, and BNSF, the Board should reject Applicants’ request for a separate expedited TRRA process.

Sincerely,



Kent A. Gardiner
Attorney for CSX Transportation, Inc.

this reflects a dramatic reduction of TRRA intermediate switching services. UP-68/NS-66 at 35 & n. 66; *see* Workpapers “TRRA Financial Statements December 2023.pdf” at 10.

² With Applicants’ decreased reliance on TRRA will come decreased usage fees and incentive to financially support this critical joint asset, leaving those costs to be borne by other railroads and other shippers.

³ UP is clear it intends to retain its rights to prevent investment or changes to TRRA’s rates and fees, and thereby its ability to stymie its competition. *See* UP-68/NS-66 at 9, 37 & n. 70. It tries to wave this off as irrelevant because it has those rights today. *Id.* But this conveniently ignores that its combination with NS would fundamentally change its incentives to use those rights.

⁴ Applicants’ latest submission also fails to engage with the real competitive issues their proposed merger would pose for TTX and KCT, but does not propose a separate proceeding as it does for TRRA. CSXT will address the proposed merger’s impacts on all three critical joint assets, if and when the Board moves this proceeding to the merits phase.

CERTIFICATE OF SERVICE

I hereby certify that, on this 22nd day of July, 2026, I caused a true and correct copy of the foregoing to be served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.



Kent A. Gardiner
Attorney for CSX Transportation, Inc.