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July 30, 2026

Via Electronic Submission

Surface Transportation Board
Hon. Jenifer J. Soulikias
Administrative Law Judge
395 E Street SW
Washington, DC 20423

ENTERED
Office of Chief Counsel
July 30, 2026
Part of
Public Record

Re: Docket No. FD 36873 – Comments of Sustainable Englewood Initiatives on Pending Procedural Matters

Dear Chairman Fuchs, Vice Chair Schultz, Members Hedlund and Kloster, and Judge Soulikias,

Sustainable Englewood Initiatives (SEI) appreciates the Board’s commitment to robust public participation as it reviews the proposed merger of Union Pacific and Norfolk Southern (Applicants).¹ Meaningful opportunity to comment in this proceeding is particularly important for SEI, a community-based organization in the Englewood neighborhood of Chicago, where Norfolk Southern’s 47th Street Yard is located. In the information available to date, Applicants identified this yard as one that will experience a significant increase in railyard, truck, and train activity, including hazardous material shipping, if the transaction proceeds.² SEI writes with four procedural requests for the Board and Judge Soulikias to consider as they set schedules and lift the abeyance, resuming the environmental review process.

After over a century of being crisscrossed by rail lines and displaced by expanding intermodal facilities, the Englewood community would have to grapple with the impacts of the increased intermodal traffic that the proposed merger will bring to it, including more diesel emissions, noise, vibrations, blocked crossings, and risks of derailments and spills. To robustly evaluate the proposed merger’s potential impacts on the people of Englewood, SEI has engaged a team of experts from Northwestern University, including transportation engineers, data scientists, and air quality modelers, to review the Revised Application and supporting information,

¹ See *Union Pac. Corp.—Control—Norfolk S. Corp.*, (Decision No. 21), FD 36873 et al., slip op. at 39 (STB served May 28, 2026) (“Public participation is an integral part of the Board’s EIS process, and meetings, including several virtual meetings, will be planned as appropriate to facilitate public involvement in areas of the country that may be impacted.”); see also *id.* (Decision No. 28), slip op. at 4 (emphasizing Board’s “commit[ment] to ensuring . . . meaningful participation by all interested persons”).

² See UP Resp. to OEA Info. Request No. 3, Master Data Tables, Apr. 30, 2026; UP Resp. to OEA Request No. 1, Master Segment Tables, Dec. 18, 2025.

including information only just submitted by Applicants on July 27, 2026. The team will independently assess anticipated traffic changes, effects on health, safety, and quality of life in Englewood, and implications for regional rail development and planning (such as the Chicago Region Environmental and Transportation Efficiency Program), as well as appropriate measures to mitigate those impacts. Additionally, to inform its positions on the merger, SEI is engaging with local agencies on issues related to intermodal freight activity in the region. While SEI looks forward to presenting, in future submissions to the Board, the findings of these experts and specific information regarding the proposed merger’s potential impacts on Englewood, SEI writes at this time to respectfully request that the Board and Judge Soulikias:

- (1) Ensure that, when setting the procedural schedule,³ there is opportunity for public engagement and input on the merits of the proposed merger before the Board’s final decision, but after the Environmental Impact Statement (EIS) is available to the public;
- (2) Manage discovery to facilitate participation by impacted communities, transportation agencies, municipalities, and other parties beyond the Applicants and non-applicant railroads,⁴ including by refraining from setting a deadline for discovery requests until after a reasonable period for parties to review supplemental information and application revisions responsive to *Decision No. 21*⁵;
- (3) Direct the Office of Environmental Analysis (OEA) to host at least one in-person public meeting in Chicago, at a time, place, and manner accessible to the Englewood community⁶; and

³ SEI recognizes that the Board solicited comments on its initial proposed procedural schedule last fall. *See Union Pac. Corp.—Control—Norfolk S. Corp.*, (*Decision No. 5*), FD 36873 et al. (STB served November 14, 2025). Since that time, however, both the Board and Judge Soulikias have issued numerous orders, Applicants have made several supplemental filings, and rolling discovery productions have introduced new information. These orders and the shifting universe of information have required interested parties to be nimble and work rapidly, carefully, and diligently to analyze this voluminous record and grasp the implications of this proposal. In light of how this matter has proceeded thus far, SEI presents the views in this letter for consideration as the Board proceeds toward lifting the abeyance and setting the procedural schedule.

⁴ *See Union Pac. Corp.—Control—Norfolk S. Corp.*, (*Decision No. 21*), FD 36873 et al., slip op. at 19 (STB served May 28, 2026) (“Continued discovery is essential to developing a record that allows for full consideration of this unprecedented proposed Transaction.”).

⁵ *See Union Pac. Corp.—Control—Norfolk S. Corp.* (*Decision No. 21*), FD 36873 et al., slip op. at 18–19 (STB served May 28, 2026).

⁶ *See id.* at 19 (providing for at least 12 in-person public meetings).

- (4) Incorporate practices to facilitate broad and inclusive public engagement in the environmental review process, such as ensuring translation services are available, scheduling public meetings at accessible times and locations, and coordinating with SEI and other local organizations to maximize community awareness of, and participation at, specific meetings.⁷

As the Board has rightly recognized in its decisions in this matter, the importance of community input and engagement is especially critical in this proceeding—the first under the new major merger rules,⁸ which “strengthened consideration of the merger’s impacts on communities.”⁹ The Board has already taken some helpful actions to advance careful consideration of community impacts. For example, it required Applicants to supplement their Revised Application to address deficiencies that limited stakeholders’ ability assess the merger’s effects and meaningfully comment on the merits.¹⁰ The Board noted that public comments based on a complete application are essential to its assessment of the public interest, which has “greater emphasis” under the new major merger rules.¹¹

SEI’s four requests above will support the Board in fulfilling its duty to thoroughly review community impacts of the proposed merger. The reasons for requests No. 2, 3, and 4 are relatively straightforward. For request No. 2, the Board has required Applicants to supplement the information needed to support their application¹² and Applicants have only just days ago provided information that purports to meet that requirement. It would be unfair to all non-Applicant parties to set a discovery request deadline within days of that supplemental filing, as proposed by Applicants. All parties need time to work with their experts to evaluate this information and determine what follow-up questions may be warranted. Requests No. 3 and 4 simply suggest means by which the Board can carry out its laudable intention to ensure the environmental review process is accessible and also generates a complete and useful assessment of the proposed merger’s environmental impacts at both the national and local levels.

⁷ On this point, SEI supports the Board using the types of practices to facilitate robust public participation in these hearings, as identified by the Moving Forward Network, et al. (Moving Forward Network Comments 4–6, July 27, 2026.).

⁸ See 49 C.F.R. § 1180.1; See *Major Rail Consol. Procs. (Major Merger Rules)*, 5 S.T.B. 539, 546 (2001) (establishing a “heavier burden” for applicants to show that a major merger is “consistent with the public interest” and “plac[ing] greater emphasis in the public interest assessment”).

⁹ See *Union Pac. Corp.—Control—Norfolk S. Corp.*, (Decision No. 21), FD 36873 et al., slip op. at 18 (STB Served May 28, 2026).

¹⁰ See *id.* at 18–19.

¹¹ See *Major Merger Rules*, 5 S.T.B. at 546.

¹² See *supra* n.9.

Request No. 1—to ensure all environmental review information is available for participants to draw upon in their final merits positions—is necessary to provide the Board with a clear and comprehensive view of how the proposed merger is likely to affect the public.

Detailed information regarding the merger’s effects on Englewood and other rail adjacent communities will be developed primarily in the environmental review process before the Board’s Office of Environmental Analysis (OEA).¹³ Providing parties an opportunity to assert their positions on the merger after that review is complete would be an important measure to ensure the Board has an adequate record on environmental and community impacts to support its public interest assessment. Developing that aspect of the record is particularly important in this proceeding, because the new merger rules “strengthened consideration of the merger’s impacts on communities.”¹⁴ The deadline for merits comments and requests for conditions typically arises early in the proceeding, when the environmental review is still pending and information regarding how the transaction may impact a community is still very high-level.¹⁵ Once the environmental review process has concluded, culminating in an EIS with location-specific and in-depth analyses, communities and the Board will have a more complete picture of local impacts. This may shape parties’ positions on the proposed merger or reveal to Applicants, impacted parties, or the Board itself that there is a need for specific, locally-focused conditions on any merger approval.

Indeed, in prior proceedings, parties had opportunities to present positions based on a more developed environmental review. OEA would release a draft EIS prior to a public hearing on the merits of a merger,¹⁶ and therefore analysis in the draft could inform communities’ participation in those hearings. Additionally, as “encourage[d]” by Board regulations, during the environmental review process, municipalities and rail-impacted communities would negotiate mitigation of anticipated environmental and safety effects of the transaction.¹⁷ Those commitments would then be incorporated into the final EIS as recommended mitigation

¹³ See *Union Pac. Corp.—Control—Norfolk S. Corp.*, (Decision No. 21), FD 36873 et al., slip op. at 12 n.12 (STB Served May 28, 2026) (noting environmental concerns will be addressed in the environmental review proceeding before OEA).

¹⁴ See *id.* at 18.

¹⁵ See *id.* at 18 (observing merits comments are a “limited opportunity, early in a proceeding” for parties to articulate their positions on the merger). In the recent Canadian Pacific—Kansas City Southern merger, for example, the deadline for comments and requests for conditions was February 28, 2022, and OEA issued a draft EIS on August 5, 2022, and a final EIS on January 27, 2023. See *Canadian Pac. Ry.—Control—Kan. City S.*, (Decision No. 35), FD 36500, slip op. at 10, 151–52 (STB served Mar. 15, 2023).

¹⁶ See 49 C.F.R. § 1105.10(a)(4).

¹⁷ See 49 C.F.R. § 1180.1(f) (noting such agreements are “extremely helpful and effective in addressing local and regional environmental and safety concerns”).

measures and eventually, conditions of a merger approval decision.¹⁸ Finally, communities could comment on the draft EIS to request further study in certain locations. The Board would then have the benefit of a more robust analysis in a final EIS to inform its public interest assessment of the proposed merger's merits and all stakeholders would have more opportunity to resolve local issues to improve the final transaction subject to Board approval.

In this proceeding, the Board's waiver of the draft EIS comment period¹⁹ has left some ambiguity regarding opportunities for parties to refine their positions regarding the merger once a fuller picture of local impacts is available through environmental review. Measures such as deferring the merits comment deadline or allowing parties to supplement their positions once OEA issues the final EIS would provide a more comprehensive record for the Board's public interest assessment, which receives more weight under the new merger rules and includes consideration of environmental impacts.²⁰

In sum, SEI supports the Board's efforts to structure this proceeding in a way that enables broad community engagement during environmental review and makes the requests above to allow rail-adjacent communities to most meaningfully contribute perspectives on the merger, particularly using information from the environmental review process. Together, these measures can ensure that the Board's public interest assessment rests on a record that includes a thorough analysis of potential impacts for Englewood and other rail-adjacent communities.

SEI appreciates consideration of these comments.

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¹⁸ See *id.* (stating “the Board will generally impose these negotiated agreements as conditions to approved mergers”); see also *Decision No. 35*, FD 36500, slip op. at 11.

¹⁹ See *Union Pac. Corp.—Control—Norfolk S. Corp.*, (*Decision No. 21*), FD 36873 et al., slip op. at 39 (STB Served May 28, 2026).

²⁰ See 49 C.F.R. § 1180.1(b).

CERTIFICATE OF SERVICE

I hereby certify that on this date, July 30, 2026, a copy of the foregoing letter was served on all parties of record on the service list for Docket No. FD 36873 by electronic mail.

/s/ Purba Mukerjee

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