

August 19, 2026

ENTERED
Office of Chief Counsel
August 19, 2026
CPKC-42 / BNSF-48 / CSXT-21 Part of
Public Record

Hon. Jenifer J. Soulikias
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: STB Docket No. FC 36873 – Issue for Resolution at August 21 Conference

Dear Judge Soulikias:

CPKC, BNSF, and CSXT write regarding the agenda for the upcoming August 21, 2026 discovery conference.

MATTER GOING FORWARD

Applicants’ Motion for Entry of Proposed Order Regarding Clawback Procedures (UP-90/NS-88). On August 13, Applicants filed a proposed clawback order that, as drafted by Applicants, would permit parties to intentionally and selectively waive privilege thereby allowing them to use privilege claims and clawback procedures as both sword and shield. CSXT, BNSF, and CPKC oppose Applicants’ proposed clawback order only insofar as the clawback protections would extend to intentional waivers. (CPKC-41 / BNSF-47 / CSXT-20)

ADJOURNED MATTER

BNSF’s Third Motion to Compel (Growth-Related Board Materials) (BNSF-40)

OTHER MATTER

CPKC, BNSF, and CSXT respectfully seek Your Honor’s guidance regarding the extent to which the Court would like to be copied on correspondence between Applicants and the other parties. We recognize that the volume of these communications is substantial but also want to ensure that we are keeping the Court appropriately informed.

LIST OF ATTENDEES

A. CPKC

1. Joseph J. Matelis
2. David L. Meyer
3. Noah P. M. Stern

B. BNSF

1. Daniel Donovan
2. Grace Brier
3. Tim Strafford

C. CSXT

1. Eric Enson
2. John Scheib

Based on most recent hearing:

A. Union Pacific

1. Michael Rosenthal
2. Laura Flahive Wu
3. Kevin Kelly

B. Norfolk Southern

1. Matthew Warren
2. Carrie Mahan
3. Stephen Laudone
4. William Mullins
5. Spencer Naake

Respectfully submitted,

/s/ Joseph J. Matelis

Joseph J. Matelis
SULLIVAN & CROMWELL LLP
Counsel for CPKC

/s/ Daniel T. Donovan

Daniel T. Donovan, P.C.
KIRKLAND & ELLIS LLP
Counsel for BNSF Railway Company

/s/ Eric Enson

Eric Enson
CROWELL & MORING LLP
Counsel for CSXT

cc: Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that, on this 19th day of August 2026, a true and correct copy of the foregoing was 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 J. Soulikias.

/s/ Andrea L. R. Pillai
Andrea L. R. Pillai