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BEIJING BOSTON BRUSSELS DUBAI FRANKFURT
JOHANNESBURG LONDON LOS ANGELES NEW YORK
PALO ALTO SAN FRANCISCO SEOUL SHANGHAI WASHINGTON

Covington & Burling LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 6000

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August 19, 2026

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Part of

Public Record

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

**Re: Docket No. FD 36873, *Union Pacific Corp., et al. -
Control - Norfolk Southern Corp., et al.***

Dear Judge Soulikias:

Applicants submit the following brief description of the issues to be resolved at the August 21, 2026, discovery conference, as well as a list of known attendees for each party.

I. Issues to be Resolved

A. Applicants' Motion for the Entry of [Proposed] Order Regarding Clawback Procedures (UP-90/NS-88)

On August 13, 2026, Applicants proposed a set of comprehensive clawback procedures, and moved for their adoption. (UP-90/NS-88). Applicants' proposed clawback procedures are consistent with Federal Rule of Evidence 502(d). Applicants proposed these procedures to streamline the discovery process and to provide a uniform framework governing the treatment of privileged or work-product protected material produced during discovery, particularly given that multiple parties to the proceeding, in addition to the Applicants, will be making document productions. In response, on August 18, 2026, some of the non-Applicant Class I railroad parties filed a competing motion seeking adoption of their proposed clawback procedures. (BNSF-47/CSXT-20/CPKC-41).

The parties seek guidance on the following disputed issues concerning the proposed clawback procedures:

1. Whether Applicants' proposed clawback procedures, which are no broader than the protections afforded under Federal Rule of Evidence 502(d), should apply to the production of privileged or work-product protected documents or information, whether inadvertent or otherwise.

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II. Issues Held in Abeyance

A. Remainder of Applicants' Motion to Compel Non-Applicant Railroads to Make Reciprocal Productions of Data (UP-75/NS-73)

As noted in prior agenda, Applicants continue to make progress toward resolving this dispute with the other Class I railroads. (UP-87/NS-85). Accordingly, Applicants respectfully request that the remainder of this motion continue to be held in abeyance.

III. List of Attendees

A. Union Pacific

1. Michael Rosenthal

B. Norfolk Southern

1. Matthew J. Warren
2. Stephen S. Laudone

C. BNSF

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

D. CPKC

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

E. CSX

1. Eric Enson
2. John Scheib

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Sincerely,

/s/ Matthew J. Warren
Matthew J. Warren
Stephen S. Laudone
William A. Mullins
Spencer M. Naake
Carrie Mahan
*Attorneys for Norfolk Southern
Corporation and Norfolk
Southern Railway Company*

/s/ Laura Flahive Wu
Laura Flahive Wu
Kevin M. Kelly
*Attorneys for Union Pacific
Corporation and Union
Pacific Railroad Company*

cc: All Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that, on this 19th day of August, 2026, the foregoing document 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 Soulikias.

/s/ Charlotte Krovoza