

September 2, 2026

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

BNSF-51/CPKC-44/CSXT-23

Re: STB Docket No. FD 36873 – Issues for Resolution at September 4 Conference

Dear Judge Soulikias:

BNSF, CPKC, and CSXT (“Non-Applicant Railroads”) write regarding the agenda for the upcoming September 4, 2026 discovery conference.

I. UP and NS’s Motion to Compel a Deadline for BNSF to Provide Supplemental Discovery Responses (UP-95/NS-94)

UP and NS moved to set a September 4 deadline for BNSF to supplement its responses to a set of discovery requests. *See* UP-95/NS-94 at 1. BNSF responded that it has no issue supplementing its responses to that set of discovery requests next week and by no later than September 11. *See* BNSF-49.

II. UP and NS’s Motion for Discovery Deadlines (UP-96/NS-95)

On August 27, UP and NS requested entry of various discovery deadlines that UP and NS had proposed on July 22. *See* UP-96/NS-95; UP-77/NS-75. Applicants’ motion is opposed by:

- Allied Rail Unions (*see* Aug. 28, 2026 Letter from R. Edelman).
- Sustainable Englewood Initiatives (*see* Sept. 1, 2026 Letter from R. Weinstock).
- Non-Applicant Railroads (*see* BNSF-50/CPKC-43/CSXT-22).

Non-Applicant Railroads opposed the motion because UP and NS’s proposals are mostly already-out-of-date, would impose inappropriate substantive limitations on discovery, and are divorced from the realities of the Board’s procedural schedule. Nonetheless, Non-Applicant Railroads support deposition-related milestones as outlined in Part IV of their letter.

While this motion was being briefed, the Board extended the deadlines for notices of intent to participate in the proceeding to September 30, 2026. *See* Decision No. 35.

LIST OF ATTENDEES

A. BNSF

1. Daniel Donovan
2. McClain Thompson
3. Tim Strafford

B. CSXT

1. Eric Enson
2. John Scheib
3. Rachel Lesser

C. CPKC

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

Based on recent hearings:

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

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Respectfully,

/s/ Dan Donovan

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

/s/ Joseph J. Matelis

Joseph J. Matelis
SULLIVAN & CROMWELL LLP
Counsel for CPKC

/s/ Eric Enson

Eric Enson
CROWELL & MORING LLP
Counsel for CSXT

cc: Counsel of Record

CERTIFICATE OF SERVICE

I certify that I caused the foregoing to be served electronically or by first-class mail, postage pre-paid, on the Secretary of Transportation, the Attorney General of the United States, Applicants' representatives, Administrative Law Judge Jenifer Soulikias, and all parties of record in this proceeding.

/s/ Onika Williams

Attorney for BNSF Railway Company
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