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By E-Filing

September 2, 2026

312184

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

ENTERED
Office of Chief Counsel
September 2, 2026
Part of
Public Record

**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 September 4, 2026, discovery conference, as well as a list of known attendees for each party.

I. Issues to be Resolved

A. Applicants' Motion Requesting Entry of Discovery Deadlines (UP-96/NS-95)

On August 27, 2026, Applicants moved for entry of the discovery deadlines previously proposed on July 22, 2026 in UP-77/NS-75. (UP-96/NS-95). Applicants submitted those proposed deadlines in response to Your Honor's directive in Decision No. 26 that the parties confer and propose interim discovery deadlines. No participant offered a counterproposal then, and none has offered an alternative schedule since. Given the Board's recent adoption of a procedural schedule in Decision No. 30, the issue is ripe. On September 1, 2026, Non-Applicant Railroads filed an opposition to Applicants' motion. BNSF-50/CPKC-43/CSXT-22.

Applicants respectfully request that Your Honor enter Applicants' previously proposed deadlines, which will ensure an orderly discovery process that aligns with the procedural schedule entered by the Board.

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)

Applicants respectfully request that the remainder of this motion continue to be held in abeyance.

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B. Applicants' Motion to Compel BNSF to Comply with Decision No. 29 (UP-95/NS-94)

On August 27, 2026, Applicants moved to compel BNSF to comply with Decision No. 29, which ordered BNSF to supplement its responses and objections to Applicants' Request Numbers 1–4 to substantiate its claims of privilege. (UP-95/NS-94). In Decision No. 29, Your Honor held that BNSF's "broad privilege assertions are not sufficient to assess the privilege it asserts" and that "[a]dditional specificity is required." On September 1, 2026, BNSF indicated that it will be supplementing its responses to Applicants' First Set of Discovery Requests by no later than September 11, 2026. (BNSF-49). Applicants respectfully request that this motion be held in abeyance.

III. List of Attendees

A. Union Pacific

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

B. Norfolk Southern

1. Matthew J. Warren
2. William Mullins
3. Marc Korman
4. Spencer Naake
5. 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

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1. Eric Enson
2. John Scheib

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 2nd day of September, 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 R. Krovoza