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BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, L.L.C.

**KANSAS & OKLAHOMA RAILROAD, L.L.C.'S ANSWER TO
THE COMPLAINT OF WESKAN GRAIN LLC**

Robert A. Wimbish
Valerie O. Quinn
Colleen Konicek
Elizabeth O. Bryant
Fletcher & Sippel LLC
29 North Wacker Drive, Suite 800
Chicago, Illinois 60606-3208
rwimbish@fletcher-sippel.com
(312) 252-1500

**ATTORNEYS FOR KANSAS &
OKLAHOMA RAILROAD, L.L.C.**

Dated: September 9, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, L.L.C.

**KANSAS & OKLAHOMA RAILROAD, L.L.C.'S ANSWER AND
AFFIRMATIVE DEFENSES TO
THE COMPLAINT OF WESKAN GRAIN LLC**

Defendant Kansas & Oklahoma Railroad, L.L.C. (“K&O”) for its answers and affirmative defenses to the Complaint filed by Weskan Grain LLC (“Weskan”) on August 21, 2026, states as follows. To the extent K&O does not specifically admit a factual allegation set forth in the Complaint, that allegation is denied.

IDENTITY OF THE PARTIES

1. K&O lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 1 and therefore denies them.

2. K&O admits that Weskan operates a facility at 701 N Taos Rd, Scott City, KS. K&O lacks knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations and therefore denies the same and demands strict proof thereof.

3. K&O admits that a facility connected to the Colorado Pacific Railroad, LLC (“CXR”) exists at Stockton Siding. K&O lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore denies the same and demands strict proof thereof.

4. Admitted.

5. K&O admits that it owns the mainline railroad track adjacent to the Scott City East facility. K&O further admits that it leases and operates a segment of track owned by Union Pacific Railroad Company (“UP”) that extends from milepost 682.5, just east of the Scott City East facility, to milepost 752.5 near Towner, Colorado, where the K&O system ends and physically connects to CXR. K&O denies the allegation that the tracks over which it operates for the issue movement are owned exclusively by UP. K&O denies the remaining allegations and/or characterizations contained in Paragraph 5 of the Complaint.

6. K&O admits it can physically transport commodities from Scott City East to the CXR connection, that it currently possesses terminable rights over CXR to deliver inbound grain and retrieve outbound empties directly to and from Weskan at the Stockton Facility, and that it is the origin and destination carrier.

7. K&O admits that it is the sole line haul carrier currently involved in the issue movement from origin to destination. K&O denies the remaining allegations and/or characterizations contained in Paragraph 7 of the Complaint.

WESKAN'S EFFORTS TO OBTAIN REASONABLE RATES AND SERVICE TERMS

8. K&O admits that correspondence occurred between 2023 and 2025.

K&O denies Weskan's characterizations of those discussions.

9. K&O admits receiving the November 12, 2025, request. The document speaks for itself. K&O denies any further characterizations, but notes that Weskan's November 12, 2025, rate request was itself unreasonable because it requested rates in connection with service that Weskan's Scott City East facility could not accommodate.

10. K&O admits providing the December 5, 2025, response. K&O further admits that the December 5, 2025, response contains the quoted language set forth in Paragraph 10. K&O denies the characterization set forth in Paragraph 10 and denies any allegation inconsistent with the full text of the December 5, 2025, response which document is the best evidence of its own contents, and denies each remaining allegation of Paragraph 10 not expressly admitted.

11. Admitted.

12. Admitted.

13. K&O admits that between January 15, 2026, and March 5, 2026, K&O and Weskan participated in mediation with Board-appointed mediators, that K&O engaged in mediation in good faith, and that the mediation did not result in agreement on rates and service terms that would apply to the transportation of

corn, wheat and sorghum to Scott City East.. K&O is without knowledge or information sufficient to admit or deny the remaining characterizations contained in Paragraph 13 of the Complaint, noting that any such characterizations would necessarily reference conduct and communications occurring during a mediation that is confidential and protected from disclosure under 49 C.F.R. § 1109.4(e), and K&O therefore denies the same and demands strict proof thereof. K&O denies each remaining allegation in Paragraph 13 not expressly admitted.

14. K&O admits receiving the March 5, 2026, service and rate request. K&O further admits that the December 5, 2025, request contained the quoted language set forth in Paragraph 14. K&O is without knowledge or information sufficient to admit or deny the remaining characterizations set forth in Paragraph 14 concerning the mediation discussions, noting that any such characterizations would necessarily reference conduct and communications occurring during a mediation that is confidential and protected from disclosure under 49 C.F.R. § 1109.4(e), and K&O therefore denies the same and demands strict proof thereof. K&O denies each remaining allegation in Paragraph 14 not expressly admitted.

15. Admitted.

16. K&O denies the characterization that it “did not supply rates and service terms for the transportation requested by Weskan,” denies the characterization “once again” to the extent it is meant to imply a pattern of conduct,

and denies each remaining allegation of in Paragraph 16 of the Complaint not expressly admitted.

17. K&O admits that on March 25, 2026, Weskan informed K&O that it would begin shipping under the rate supplied by K&O for transportation of K&O supplied railcars from Scott City East to Stockton Siding. K&O admits that Weskan shipped a block of traffic, specifically, a 48-car block of cars loaded with milo, on April 22, 2026. K&O denies the remaining characterizations of Paragraph 17 of the Complaint.

18. Admitted.

**K&O HAS MARKET DOMINANCE OVER THE TRANSPORTATION
COVERED BY THE CHALLENGED RATES**

19. This paragraph states legal conclusions regarding market dominance within the meaning of 49 U.S.C. § 10707, to which no response is required; to the extent a response is deemed required, K&O denies the same and demands strict proof thereof. Further answering, K&O specifically denies that there is no economically feasible transportation alternative to K&O rail service for the transportation of grain from Scott City East to the Stockton Facility, denies that K&O possesses qualitative market dominance over the transportation at issue, and denies each remaining allegation of this paragraph.

20. K&O denies that there is “no effective intramodal competition for the rail transportation subject to the challenged rate.” K&O admits that it is the only

rail carrier with physical access to Scott City East, and denies each remaining allegation of in Paragraph 20 of the Complaint not expressly admitted.

21. Denied.

22. Admitted.

23. K&O admits that the calculations of the revenue-to-variable cost (R/VC) ratios for the challenged movements exceed the 180% jurisdictional threshold set forth in 49 U.S.C. § 10707(d)(1)(A). However, pursuant to 49 U.S.C. § 10707(d)(2), K&O affirmatively denies that exceeding this statutory threshold establishes “quantitative market dominance” or creates any presumption of market dominance generally, and K&O denies the remaining allegations in Paragraph 23.

24. Paragraph 24 states legal conclusions regarding market dominance and the Board’s jurisdiction under 49 U.S.C. § 10707(d)(1), to which no response is required. To the extent a response is deemed required, K&O denies the same and demands strict proof thereof. Further answering, K&O expressly denies that it possesses market dominance—qualitative, quantitative, or otherwise—over the transportation at issue, and denies each remaining allegation of Paragraph 24 of the Complaint.

**THE COMMON CARRIER RATES ESTABLISHED BY
K&O ARE UNREASONABLE**

25. Denied.

26. Paragraph 26 states a legal conclusion to which no response is required. To the extent a response is required, K&O denies the same and demands strict proof thereof.

27. Paragraph 27 states a request for relief to which no response is required. To the extent a response is required, K&O denies the same and demands strict proof thereof.

28. Paragraph 28 states a legal conclusion to which no response is required. To the extent a response is required, K&O denies the same and demands strict proof thereof.

AFFIRMATIVE DEFENSES

1. The Board lacks jurisdiction because K&O is not market dominant over the traffic at issue.

2. The Complaint constitutes an abuse of process and a corresponding, otherwise-avoidable drain of the Board's resources in the furtherance of Weskan's parent company's larger strategic and commercial objectives.

3. K&O reserves the right to assert additional affirmative defenses as discovery progresses.

Respectfully submitted,

By: /s/ *R. A. Wimbish*

Robert A. Wimbish

Valerie O. Quinn

Colleen Konicek

Elizabeth O. Bryant

Fletcher & Sippel LLC

29 North Wacker Drive, Suite 800

Chicago, Illinois 60606-2832

rwimbish@fletcher-sippel.com

(312) 252-1500

**ATTORNEYS FOR KANSAS &
OKLAHOMA RAILROAD, L.L.C.**

Dated: September 9, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have, this 9th day of September, 2026, served a copy of the foregoing answer via electronic mail to all parties of record in this docket.

/s/ *R. A. Wimbish*

Robert A. Wimbish

**Counsel for Kansas & Oklahoma
Railroad, L.L.C.**