

BEFORE THE
SURFACE TRANSPORTATION BOARD

ENTERED
Office of Chief Counsel
September 15, 2026
Part of
Public Record

NOR 42185

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

Kansas & Oklahoma Railroad, LLC (“K&O”), pursuant to 49 U.S.C. § 1321(c) and 49 C.F.R. § 1113.2, files this petition (the “Petition”) requesting the Board issue *subpoenas duces tecum* to non-parties the Soloviev Group; Crossroads Agriculture (“Crossroads”); Colorado Pacific Railroad, LLC (“CXR”); and Marienthal Grain LLC; D&A Farms, GP; Hineman Land & Cattle, Inc.; Hineman Ranch, L.L.C.; Circle C Farms, Inc.; Steven Compton; Mark Sanders; and JLD Partnership (collectively referred to as the “Non-Party Farmers”), directing them to respond fully and in good faith to the attached requests to be served upon them by K&O.¹ In support of its Petition, K&O states as follows:

¹ The individual subpoenas and discovery requests are attached as Exhibit A for Soloviev Group, Exhibit B for Crossroads, Exhibit C for CXR, and Exhibit D for the Non-Party Farmers.

BACKGROUND & CASE STATUS

On April 17, 2026, Weskan Grain LLC (“Weskan”) filed an Amended Petition for waiver, asking the Board to waive the pre-filing procedures for Stand-Alone Cost (“SAC”) cases set forth in 49 C.F.R. § 1111.1, to which Weskan attached a copy of its Complaint against K&O, alleging unreasonable common carrier rates under 49 U.S.C. §§ 10701 and 10704. Specifically, Weskan alleges K&O established unreasonable rates for transportation of agricultural commodities from Scott City, Kan., to Stockton Siding (near Sheridan Lake), Colo., in specified car blocks, and, in so doing, claims that there is no economically feasible transportation alternative to K&O rail service for the movements at issue.

On June 17, 2026, K&O filed a Motion to Reject the Complaint or, In the Alternative, For Expedited Determination of Jurisdiction and Bifurcation of the Proceeding (“Motion to Reject”), requesting the Board either reject the Complaint outright as an abuse of process, or to bifurcate the matter to separately determine the threshold jurisdictional issue of K&O’s alleged market dominance before proceeding, if necessary, to the rate reasonableness phase.

On July 9, 2026, the Board granted Weskan’s Amended Petition in part, accepting the Complaint attached to the Amended Petition as the pre-filing notice requirement and shortening the mediation period from sixty to thirty days. The Parties’ mediation session was unsuccessful, and Weskan thereafter filed its Complaint on August 21, 2026. To date, the Board has issued no procedural orders since the filing of Weskan’s Complaint and K&O’s Motion to Reject, the latter of

which may bear heavily on the future unfolding of this proceeding. Should the Board elect to allow this proceeding to go forward, K&O understands both parties anticipate the prompt appointment of an Administrative Law Judge. Given the voluminous discovery this matter has already engendered and will continue to generate, and given the compressed discovery time frames unique to Board practice, K&O urges the Board to act swiftly in making this appointment to efficiently administer and adjudicate all discovery issues.

In this Petition, K&O requests the Board issue subpoenas to multiple non-party entities who possess unique, highly relevant information bearing on whether Weskan can meet its burden to prove that K&O possesses market dominance over the issue traffic, and whether the challenged rates are reasonable under the Board's exacting stand-alone cost standards.

In its Complaint, Weskan alleges, among other things, that: (1) K&O is the only rail carrier with physical access to Weskan's Scott City, Kan. facility ("Scott City East"); (2) K&O controls the mainline tracks between Scott City East and the western end of the K&O system at Towner, Colo.; (3) K&O controls the rates and service from Scott City East to Weskan's Stockton Siding facility (the "Stockton Facility"), including operations over the portion of operations over CXR's line from Towner west to the Stockton Facility; and (4) there are no effective intermodal or water alternatives for the railcar volumes Weskan seeks to ship along that route. The Non-Parties from whom K&O seeks discovery, including Weskan affiliates CXR and Crossroads and their parent corporation, the Soloviev Group; and the Non-

Party Farmers who ship grain within the Relevant Market,² are reasonably believed to have documents and information concerning, among other items: (1) access to and use of competitive transportation alternatives to K&O service; (2) grain origin to destination flows; (3) grain elevator storage and handling arrangements; (4) transportation pricing and contracts; and (5) coordination among affiliated entities on grain destination markets and routing options, all of which bears directly upon the issues Weskan has placed before the Board. Without access to the information that K&O believes is uniquely available from the subject third parties, K&O would be unfairly restricted in defending itself against Weskan's threshold market dominance accusation.

ARGUMENT

The Board has the clear authority to issue the requested subpoenas and to compel the production of the documentary evidence K&O seeks in this matter. This authority is explicitly granted by Section 1321(c), empowering the Board to issue subpoenas to compel the production of documents from "any person."

As a threshold issue to this rate case, Weskan bears the burden to establish that K&O possesses both qualitative and quantitative market dominance. The first part of this inquiry turns on whether intramodal or intermodal competition (among other market factors) impose sufficient competitive constraints to support the proposition that K&O lacks market dominance, and, in turn, that

² According to Weskan, the "Relevant Market" includes westward shipments from Lane, Scott, Wichita, and Greeley Counties in Kansas, and/or from Kiowa County, Colorado.

Board intervention on the issue of K&O's rates is unnecessary. Subpoenas to the non-parties identified herein are warranted because these entities possess uniquely probative information on the availability, cost, and use of competitive options that bear directly on the market dominance issue. The third-party discovery sought goes to the heart of that inquiry by illuminating actual shipper choice and behavior, available trucking capacity and costs, corporate logistics decisions, and routing choices affecting origin supply competition in western Kansas and eastern Colorado.

A. The Soloviev Group, Crossroads, and CXR

Weskan, CXR, and Crossroads are closely-affiliated companies under the private control of the Soloviev Group. The companies work closely in tandem to expand market share in the shipping of grain from sources in western Kansas and eastern Colorado via CXR and competitive CXR connections to Union Pacific Railroad Company ("UP") and BNSF Railway Company ("BNSF") to markets along the west coast and to foreign markets accessed via Pacific Coast ocean ports. These three entities all have information and documents relevant to the issues of market dominance raised in Weskan's Complaint.

1. The Soloviev Group

As Weskan's corporate parent, the Soloviev Group dictates the broader strategy for Weskan, CXR, and Crossroads. As K&O has laid out in its Motion to Reject, which K&O incorporates herein, the Soloviev Group, together with its affiliates and wholly-owned subsidiaries, is executing a broader strategy of vertical integration across the agricultural supply chain—a strategy that specifically

includes the aggressive pursuit of railroad assets. Indeed, the Soloviev Group owner Stefan Soloviev has explicitly stated that his overarching business strategy in the agricultural sector is to “cut out the middleman.” *See* Betsy Barnett, Stefan Soloviev Says First Unit Train Sent on CoPac Railroad from Weskan Grain His Biggest Achievement, *Kiowa County Independent* (May 10, 2023), attached hereto as Exhibit E.

The Soloviev Group has affirmatively inserted itself into this proceeding by, among other things, having its Chief Executive Officer participate in both rounds of mediation,³ clearly demonstrating the Soloviev Group’s intent to use this litigation to effectuate the aforementioned broader vertical integration rather than resolve the claims of Weskan’s Complaint. K&O believes documents and information from the Soloviev Group are likely to be relevant here.

Soloviev has further confirmed his sense of a personal mandate to integrate his agricultural operations completely. *See* Lisa Martin, *Stefan Soloviev Goes Against the Grain*, *The Land Report* (Jan. 1, 2025), attached hereto as Exhibit F. This strategy relies on purposely linking Crossroads’ farming output directly to Weskan’s elevators and CXR’s rail lines to maximize internal profits, rather than relying on independent third parties. In western Kansas, an

³ To avoid any suggestion that K&O improperly disclosed confidential information, it must be noted that the identities of mediation participants are not protected. Nothing in 5 U.S.C. § 574, 49 C.F.R. §§ 1109.3, 1109.4, or the operative mediation agreements prohibits disclosing who participated in the mediation sessions.

independent K&O is an obstacle to the Soloviev Group's vertical integration ambitions.

In accessing the Soloviev Group's strategic plans, board meeting minutes, and any internal valuations or purchase offers regarding all or portions of K&O's network via Board-ordered, third-party discovery, K&O seeks to substantiate its Affirmative Defense No. 2: that Weskan's Complaint is a rent-seeking abuse of process designed to force a corporate acquisition. Furthermore, the Soloviev Group leadership has publicly suggested that a volume equivalent to roughly 25,000 truckloads of grain is currently moving by highway to the Stockton Facility—volume they would shift to rail only if K&O were to capitulate to their non-remunerative rate demands or to surrender its line. Subpoenaing the records underlying these 25,000 truckloads of existing highway traffic is essential to proving that motor carriage is an actively utilized, highly effective substitute, destroying Weskan's claim of market captivity. As such, the Board should permit K&O to seek discovery from the Soloviev Group.

2. Crossroads

Crossroads is Weskan's affiliated farming enterprise within the Soloviev Group. Crossroads' role and capabilities are central to whether Weskan's grain routing preferences are shaped by external market constraints imposed (allegedly) by K&O or are instead the product of purely internal logistics preferences. Upon information and belief, Crossroads operates a large commercial-grade truck fleet. If Crossroads uses its own exempt farm trucks to bypass local

K&O-served elevators and funnel grain directly to Weskan's Stockton Facility, Weskan's alleged K&O routing imperative may reflect a corporate vertical integration mandate, not a short line-driven rail service monopoly. Also, as an agricultural producer, Crossroads is legally empowered by the federal MAP-21 agricultural exemption (49 C.F.R. § 395.1(k)) to operate its farm fleets without standard commercial logging and hours-of-service restrictions within a 150-mile radius. Thus, Crossroads' fleet data, internal invoices, dispatch records, and corporate directives are relevant to whether substantial trucking capacity exists within the Weskan/Crossroads system that regularly substitutes for rail over economically relevant distances. Such capacity and actual use patterns would directly inform the assessment of intermodal competition and may undermine Weskan's market dominance allegations. As such, the Board should permit K&O to seek information from Crossroads relevant to its market dominance defense.

3. CXR

CXR is the sole third-party railroad physically serving Weskan's Stockton Facility and it possesses the only rail route connecting the K&O system at Towner to CXR's Stockton Siding. Furthermore, CXR provides the exclusive rail link from Weskan's Stockton shuttle elevator to the Class I network (UP and BNSF) at NA Junction, Colo. As a Weskan affiliate, CXR operates as an integral partner in determining the downstream routing, pricing, and logistics for grain originating in the "Relevant Market" as Weskan has defined it.

Because the issue of K&O's alleged market dominance hinges on the question of effective transportation alternatives, CXR's internal records are relevant to K&O's defense. Specifically, CXR likely possesses documents regarding the end-to-end economics of moving this grain, the internal allocation of revenues between the affiliated entities, and any coordinated corporate efforts to utilize—or purposefully ignore—truck-to-rail transloading options that bypass K&O entirely. CXR's pricing and logistical data are essential to determine whether K&O truly exercises market dominance or if the Soloviev Group affiliates are artificially constraining their own routing choices to prop up a hollow captivity claim.

Beyond the threshold issue of market dominance, CXR data may be critical to Weskan's SAC case, and, thus, to K&O's reply. In a SAC presentation, Weskan will design a hypothetical stand-alone railroad ("SARR") to serve the issue traffic. Given the seamless operational connection between K&O and CXR at Towner, it is quite possible that Weskan will design a SARR that incorporates some or all of the existing CXR system into a single unified whole. If Weskan's posited SARR were to replicate some or all of CXR's line, K&O must have access to CXR's actual baseline data—including its localized operating costs, track maintenance expenditures, traffic densities, and revenue figures—to effectively evaluate and, where appropriate, rebut Weskan's SAC modeling. Without a subpoena compelling CXR to produce such economic and operational data, K&O would be handicapped in its ability to defend against a SAC presentation that co-opts the CXR network.

Given CXR's direct relationship to the interline service and its critical role in both the market dominance and SAC phases of this proceeding, the issuance of a subpoena to CXR is appropriate and necessary.

B. Non-Party Farmers

The Non-Party Farmers from whom K&O seeks discovery are plaintiffs—along with Weskan and CXR—in a pending antitrust case filed by Weskan against K&O and UP in the United States District Court for the District of Kansas (Case No. 2:26-cv-02053-JWL-GEB). In their complaint (the “Antitrust Complaint”), the Non-Party Farmers allege that K&O and UP violated antitrust laws stemming from an “interchange commitment” incorporated into a K&O-UP railroad line lease. Significantly, they allege that farmers in the Relevant Market “ship their grain by truck to the Stockton Facility or alternative rail lines to bypass the Interchange Fee.” Antitrust Complaint, attached hereto as Exhibit G, at ¶¶ 37, 58).

While the premise of this claim is patently false—the *complained-of* “Interchange Fee” categorically does not apply to traffic moving to or from points on K&O lines where the Scott City East facility is located—the underlying admission contradicts Weskan’s market dominance argument. The farmers explicitly concede they are currently utilizing truck transportation in place of rail service, excusing their choice on a trumped-up interchange commitment scandal. This admission strongly suggests that motor carriage for these farmers is an *effective* competitive alternative. Furthermore, the Antitrust Complaint alleges that “trucks are not a

reasonable substitute for shipping grain any distance over 200 miles.” Id. at ¶ 57. By their own admission, therefore, trucking remains a viable substitute for farmers who, in this case, are likely using trucks to reach the Stockton Facility and other rail-served shuttle elevators on BNSF or UP that are all far less than 200 miles distant. These truck routes are likely also comfortably within the 150-mile radius where the federal MAP-21 agricultural exemption, 49 C.F.R. §§ 383.3(h), 390.5, and 395.1(k), relieves farmers of commercial trucking regulations, making trucks a feasible and practical alternative to an intermediate, 78-mile K&O haul to the Stockton Facility.

Discovery from these same shippers, drawing from their own claims in another legal forum, likely would elicit evidence bearing squarely on the issue of intermodal competition between K&O and trucks. Ordered discovery would reveal the extent to which these farmers truck grain to Weskan’s truck-friendly Stockton Siding elevator, and the extent to which they and other farmers elect to truck grain to rail-served shuttle elevators located on other railroads in the area.

Because the grain Weskan seeks to attract to the Stockton Facility originates on the farm rather than at Weskan’s Scott City East elevator, actual “load-out” optionality exists at the farm gate, not Scott City East—and it is at the farm gate where transportation choices begin. Consequently, K&O requires discovery of the Non-Party Farmers’ trucking logs, fuel costs, scale tickets, and delivery manifests to confirm their actual deployment of trucks to haul grain within this optimal range. If these farmers are routinely utilizing heavy commercial or

exempt farm fleets to transport grain to the Stockton Facility or alternative elevators, Weskan's claim that they constitute a captive supply base forced to use K&O rail service fails entirely. Therefore, the Board should issue the requested subpoenas compelling the Non-Party Farmers to respond to the attached discovery requests. The proposed subpoenas are narrowly calibrated to the Relevant Market and timeframe identified by Weskan, seeking only the core transportation documents necessary to test these critical admissions.

CONCLUSION

Issuing the requested subpoenas will provide the Board with contemporaneous, third-party evidence on actual truck substitution, affiliate trucking capacity and deployment, and corporate routing strategy—facts that are central to K&O's defense against Weskan's market dominance allegations. The discovery is targeted, proportionate, and necessary to resolve Weskan's vague but central allegations about elevator draw radii, effective truck transportation distance thresholds, load-out optionality, and availability of practical alternatives to K&O service to Weskan's rail and truck-oriented Stockton Facility. The Petition to issue the subpoenas should be granted.

WHEREFORE, for the foregoing reasons, K&O respectfully requests that the Board:

- Grant the Petition and issue the requested subpoenas to the Soloviev Group; Crossroads Agriculture; Colorado Pacific Railroad, LLC; and the Non-Party Farmers identified herein, with instruction to respond fully and in good faith to the attached requests to be served on them;

- Direct compliance within thirty (30) days of service or on such schedule as the Board deems appropriate;
- As a related discovery matter, promptly appoint an Administrative Law Judge to adjudicate and resolve discovery issues going forward (if the Board were to determine that this case should move ahead under the unique circumstances); and
- Grant such other and further relief as the Board deems just and proper.

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, LLC**

Dated: September 15, 2026

CERTIFICATE OF SERVICE

I hereby certify that I have, this 15th day of September 2026, served a copy of the foregoing motion via electronic mail to all parties of record in this docket.

/s/ *R. A Wimbish*

Robert A. Wimbish
**Counsel for Kansas & Oklahoma
Railroad, LLC**

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

EXHIBIT A

**SOLOVIEV GROUP
SUBPOENA AND DISCOVERY REQUESTS**

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Soloviev Group, LLC
9 West 57th St., 45th Floor, New York, NY 10019

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO SOLOVIEV GROUP, LLC

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
DISCOVERY REQUESTS TO
NON-PARTY SOLOVIEV GROUP**

Pursuant to 49 U.S.C. § 1321(c) and 49 C.F.R. Part 1114, Kansas & Oklahoma Railroad, LLC ("K&O") hereby requests Soloviev Group ("Soloviev") to respond to and produce all information and documents responsive to the following discovery requests to Fletcher & Sippel LLC, 29 North Wacker Dr, Suite 800, Chicago, IL 60606, or via electronic delivery means, in accordance with the Definitions and Instructions below and within thirty (30) days from the date hereof, or such other time as agreed by the parties or ordered by the Surface Transportation Board.

DEFINITIONS

A. As used herein, "you," "your," or "Soloviev" shall mean Soloviev Group and all divisions, predecessors, successors, and assigns of Soloviev Group and all its officers, directors, employees, and managing agents of Soloviev Group.

B. As used herein, “K&O” shall mean Kansas & Oklahoma Railroad, LLC and all divisions, predecessors, successors, and assigns of K&O and all its officers, directors, employees, and managing agents of K&O.

C. As used herein, “Weskan” shall mean Weskan Grain LLC and all divisions, predecessors, successors, and assigns of Weskan and all its officers, directors, employees, and managing agents of Weskan.

D. As used herein, “CXR” shall mean Colorado Pacific Railroad, L.L.C. and all divisions, predecessors, successors, and assigns of CXR and all its officers, directors, employees, and managing agents of CXR.

E. As used herein, “Crossroads” shall mean Crossroads Agriculture and all divisions, predecessors, successors, and assigns of Crossroads and all its officers, directors, employees, and managing agents of Crossroads.

F. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with Soloviev, including Crossroads Agriculture, Colorado Pacific Railroad, L.L.C., and any Soloviev Group-affiliated farming, grain-handling, trucking, railroad, or logistics entity.

G. As used herein, “Western Kansas” means the area of Kansas between approximately U.S. Highway 183 to the east and the Colorado border to the west.

H. As used herein, “Eastern Colorado” means the area of Colorado between approximately U.S. Interstate Highway 25 to the west and the Kansas border to the east.

I. As used herein, the “Stockton Facility” means Weskan’s Stockton grain elevator complex, located at approximately MP 752.5 of the tracks of the CXR near Sheridan Lake, Colorado.

J. As used herein, “Scott City East” means Weskan’s Scott City East facility located at 701 N Taos Rd, Scott City, KS.

K. As used herein, “Alternative Transportation” means transportation that does not include K&O moving railcars directly from Scott City East over K&O’s track to the Stockton Facility.

L. As used herein, the word “documents” means any writing, graphic matter and/or other object and/or tangible thing whether written, produced by hand, printed, recorded, produced by photographic or made tangible by any other process including, but not limited to: letters, reports, other written communications, correspondence, telegrams, memoranda, summaries, records of oral conversations, original or preliminary notes, diaries, calendars, travel records or itineraries, forecasts, analyses, projections, work papers, photographs, slides, motion pictures, tape recordings, models, statistical statements, graphs, laboratory and engineering reports and notebooks, charts, plans, drawings, minutes or records of meetings, minutes or records of conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultants, appraisals, evaluations, records, summaries of negotiations, contracts, agreements, leases, loan agreements, checks, bank statements, income tax withholding statements, income tax returns, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, including preliminary drafts or revisions or copies of any of the foregoing if the copy is in any way different from the original.

M. As used herein, “person” shall mean an individual, firm, partnership, corporation, proprietorship, joint venture, association, or any other organization or entity.

N. As used herein, “identify” shall mean to give the full name, address and telephone number of any individual or entity and/or the title and date of documents.

O. As used herein, “and” and “or” shall be construed conjunctively and disjunctively so as to acquire the broadest meaning possible.

P. As used herein, the “Relevant Time Period” is January 1, 2023 through the present.

INSTRUCTIONS

A. These requests shall be deemed to include any and all relevant documents within the possession, custody or control of Soloviev.

B. Documents from any single file should be produced in the same order as they were found in such file. If copies of documents are produced in lieu of the originals, such copies should be legible and bound or stapled in the same manner as the original.

C. If any document responsive to these requests has been destroyed, describe the content of said document, the location of any copies of said document, the date of such destruction and the name of the person who ordered or authorized such destruction.

D. If the production of any documents responsive to these requests is objected to on the ground of privilege or work product, or for any other reasons, with respect to each such document, state:

1. the date appearing on such document, or if no date appears, the date on which such document was prepared;
2. the name of each person to whom such document was addressed;
3. the name of each person, other than the addressee(s) identified in subparagraph (2) above to whom such document or copy thereof was sent, or with whom such document was discussed;
4. the name of each person who signed such document or, if not signed, the name of each person who prepared it;

5. the name of each person making any contribution to the authorship of such document;
6. the job title or position of each person identified in subparagraphs (2), (3), (4) and (5);
7. the date such document was received or discussed by each person identified in subparagraph (2) or (3) above;
8. the general nature or description of such document, and the number of pages of which it consists;
9. the name of each person who currently has custody of such document; and
10. the specific ground(s) upon which the claim of privilege rests.

E. In producing the documents requested, indicate the specific request(s) pursuant to which each document or group of documents is being produced.

F. If Soloviev is not in possession of documents responsive to these requests but believes that a third party may be in possession of such documents, identify such third party in your response.

G. For structured or database information, produce the information in its native or reasonably usable electronic form, including CSV, XLSX, database-export, or comparable delimited format. Preserve original field names and unique identifiers and produce all data dictionaries, code tables, lookup tables, field definitions, and documentation necessary to interpret the information. A PDF image, printout, or summary report shall not substitute for available structured data.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all strategic plans, board meeting materials, executive communications, presentations, studies, analyses, or other documents concerning Soloviev Group's vertical-integration strategy in the Western Kansas and the Eastern Colorado grain

markets, including the strategy Soloviev has described publicly as “cutting out the middleman,” and involving the ownership, acquisition, development, or coordinated operation of grain-production, grain-handling, trucking, or railroad transportation assets during the Relevant Time Period.

RESPONSE:

REQUEST NO. 2: Produce all investment valuations, property appraisals, and formal or informal purchase offers generated by or for the Soloviev Group concerning the potential acquisition of K&O’s leased lines or railroad network during the Relevant Time Period.

RESPONSE:

REQUEST NO. 3: Produce all studies, analyses, and reports Soloviev relied upon in evaluating the acquisition of CXR.

RESPONSE:

REQUEST NO. 4: Produce all communications, emails, and text messages between Soloviev leadership and Weskan executives concerning the preparation, drafting, or filing of any Weskan filings in STB Docket No. NOR 42185.

RESPONSE:

REQUEST NO. 5: Produce any lists, spreadsheets, tables, or other documents that reflect the identities of the individual members of the executive board and leadership team who authorized, reviewed, or provided management direction concerning Weskan’s initiation of Docket No. NOR 42185 against K&O before the Surface Transportation Board.

RESPONSE:

REQUEST NO. 6: Produce any lists, spreadsheets, tables, or other documents sufficient to identify the consultants, economists, and legal advisors who prepared reports or corporate assessments concerning K&O's track density, rate structure, or market dominance.

RESPONSE:

REQUEST NO. 7: Produce all strategic plans, studies, analyses, presentations, communications, or other documents concerning the coordinated operation of Weskan, Crossroads, CXR, the Stockton Facility, or other Soloviev Affiliates in the production, procurement, storage, transportation, or marketing of grain, including documents concerning (a) the routing of grain among affiliated facilities; (b) the use of truck or rail transportation; (c) the geographic areas from which grain is expected to be procured; (d) anticipated truck or rail volumes; (e) the sourcing and development of the Stockton Facility; and (f) the relative costs or economic advantages of Alternative Transportation for grain.

RESPONSE:

Respectfully submitted,

/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, LLC**

Dated: September 15, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

EXHIBIT B

**CROSSROADS AGRICULTURE
SUBPOENA AND DISCOVERY REQUESTS**

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Crossroads Agriculture
9 West 57th St., 45th Floor, New York, NY 10019

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO CROSSROAD AGRICULTURE

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
DISCOVERY REQUESTS TO NON-PARTY
CROSSROADS AGRICULTURE**

Pursuant to 49 U.S.C. § 1321(c) and 49 C.F.R. Part 1114, Kansas & Oklahoma Railroad, LLC hereby requests Crossroads Agriculture (“Crossroads”) to respond to and produce all information and documents responsive to the following discovery requests to Fletcher & Sippel LLC, 29 North Wacker Dr, Suite 800, Chicago, IL 60606, or via electronic delivery means, in accordance with the Definitions and Instructions below and within thirty (30) days from the date hereof, or such other time as agreed by the parties or ordered by the Surface Transportation Board.

DEFINITIONS

A. As used herein, “you,” “your,” or “Crossroads” shall mean Crossroads Agriculture and all divisions, predecessors, successors, and assigns of Crossroads and all its officers, directors, employees, and/or managing agents of Crossroads.

B. As used herein, “Weskan” shall mean Weskan Grain LLC and all divisions, predecessors, successors, and assigns of Weskan and all its officers, directors, employees, and/or managing agents of Weskan.

C. As used herein, “Soloviev” shall mean Soloviev Group and all divisions, predecessors, successors, and assigns of Soloviev and all its officers, directors, employees, and/or managing agents of Soloviev.

D. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with Weskan, including Crossroads Agriculture, Colorado Pacific Railroad, L.L.C., and any Soloviev-affiliated farming, grain-handling, trucking, railroad, or logistics entity.

E. As used herein, “Weskan Facility” and/or “Weskan Facilities” means all grain elevator, storage, and handling facilities that Weskan owns, leases, or operates, including, but not limited to, the Issue Origin and the Issue Destination.

F. As used herein, the “Issue Origin” and “Scott City East” mean Weskan’s Scott City East facility located at 701 N Taos Rd, Scott City, KS.

G. As used herein, the “Issue Destination” means Weskan’s Stockton grain elevator complex, located at approximately MP 752.5 of the tracks of the Colorado Pacific Railroad, L.L.C. near Sheridan Lake, Colorado.

H. As used herein, the word “documents” means any writing, graphic matter and/or other object and/or tangible thing whether written, produced by hand, printed, recorded, produced by photographic or made tangible by any other process including, but not limited to: letters, reports, other written communications, correspondence, telegrams, memoranda, summaries, records of oral conversations, original or preliminary notes, diaries, calendars, travel

records or itineraries, forecasts, analyses, projections, work papers, photographs, slides, motion pictures, tape recordings, models, statistical statements, graphs, laboratory and engineering reports and notebooks, charts, plans, drawings, minutes or records of meetings, minutes or records of conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultants, appraisals, evaluations, records, summaries of negotiations, contracts, agreements, leases, loan agreements, checks, bank statements, income tax withholding statements, income tax returns, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, including preliminary drafts or revisions or copies of any of the foregoing if the copy is in any way different from the original.

I. As used herein, “person” shall mean an individual, firm, partnership, corporation, proprietorship, joint venture, association, or any other organization or entity.

J. As used herein, “identify” shall mean to give the full name, address and telephone number of any individual or entity and/or the title and date of documents.

K. As used herein, “and” and “or” shall be construed conjunctively and disjunctively so as to acquire the broadest meaning possible.

L. As used herein, the “Relevant Time Period” is January 1, 2023 through the present.

INSTRUCTIONS

A. These requests shall be deemed to include any and all relevant documents within the possession, custody or control of Crossroads.

B. Documents from any single file should be produced in the same order as they were found in such file. If copies of documents are produced in lieu of the originals, such copies should be legible and bound or stapled in the same manner as the original.

C. If any document responsive to these requests has been destroyed, describe the content of said document, the location of any copies of said document, the date of such destruction and the name of the person who ordered or authorized such destruction.

D. If the production of any documents responsive to these requests is objected to on the ground of privilege or work product, or for any other reasons, with respect to each such document, state:

1. the date appearing on such document, or if no date appears, the date on which such document was prepared;
2. the name of each person to whom such document was addressed;
3. the name of each person, other than the addressee(s) identified in subparagraph (2) above to whom such document or copy thereof was sent, or with whom such document was discussed;
4. the name of each person who signed such document or, if not signed, the name of each person who prepared it;
5. the name of each person making any contribution to the authorship of such document;
6. the job title or position of each person identified in subparagraphs (2), (3), (4) and (5);
7. the date such document was received or discussed by each person identified in subparagraph (2) or (3) above;
8. the general nature or description of such document, and the number of pages of which it consists;
9. the name of each person who currently has custody of such document; and
10. the specific ground(s) upon which the claim of privilege rests.

E. In producing the documents requested, indicate the specific request(s) pursuant to which each document or group of documents is being produced.

F. If Crossroads is not in possession of documents responsive to these requests but believes that a third party may be in possession of such documents, identify such third party in Crossroad's response.

G. For structured or database information, produce the information in its native or reasonably usable electronic form, including CSV, XLSX, database-export, or comparable delimited format. Preserve original field names and unique identifiers and produce all data dictionaries, code tables, lookup tables, field definitions, and documentation necessary to interpret the information. A PDF image, printout, or summary report shall not substitute for available structured data.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all directives, policies, instructions, communications, analyses, or other documents concerning the selection of delivery, storage, or sale destinations for the grain produced, owned, stored, marketed, or transported by Crossroads, including documents concerning whether grain should be delivered to a Weskan Facility, another Affiliate, or any unaffiliated elevator, shuttle facility, feedlot, mill, processor, storage facility, or other grain purchaser during the Relevant Time Period.

RESPONSE:

REQUEST NO. 2: Produce all contract specifications, internal invoices, and financial ledgers showing the transfer pricing or accounting credits exchanged between Crossroads and Weskan for deliveries of the grain during the Relevant Time Period.

RESPONSE:

REQUEST NO. 3: Produce all transportation logs, field manifests, dispatch records, fuel logs, GPS or telematics records, bills of lading, and other records reflecting the transportation of grain produced, owned, stored, marketed, or transported by Crossroads, including the Origin Location, destination, date, quantity, truck or carrier used, mileage if maintained, and transportation cost if maintained during the Relevant Time Period.

RESPONSE:

REQUEST NO. 4: Produce all studies, calculations, spreadsheets, cost-benefit analyses, or other documents comparing the costs or economic returns associated with alternative destinations or methods of transporting the grain produced, owned, stored, marketed, or transported by Crossroads, including comparisons involving truck transportation, rail transportation, different delivery facilities, or different grain purchasers during the Relevant Time Period.

RESPONSE:

REQUEST NO. 5: Produce a load-level electronic extract covering all grain produced, owned, stored, marketed, or transported by Crossroads, including the originating farm, field, or storage location; harvest year; commodity; quantity; load date; delivery destination; price or transfer credit; transportation cost; truck or carrier used; mileage if maintained; and the person or entity determining the destination during the Relevant Time Period.

RESPONSE:

REQUEST NO. 6: Produce all equipment lists, registration records, lease records, driver lists, dispatch records, GPS or telematics data, fuel records, maintenance records, payroll records, and

cost-accounting analyses for trucks and grain trailers owned, leased, operated, dispatched, or regularly used by Weskan, Crossroads, or any Affiliate to transport grain.

RESPONSE:

REQUEST NO. 7: Produce any lists, spreadsheets, tables, other documents that identify by name, location, and/or total acreage the farms, plots, or parcels owned, leased, or operated by Crossroads in the states of Kansas and Colorado during the Relevant Time Period.

RESPONSE:

REQUEST NO. 8: Produce any lists, spreadsheets, tables, or other documents that identify the specific producer or manager responsible for determining the daily delivery destinations for grain harvested from Crossroads properties during the Relevant Time Period.

RESPONSE:

REQUEST NO. 9: Produce any lists, spreadsheets, tables, or other documents that identify the total count and specific configurations (including axle counts, trailer types, and maximum legal weight thresholds) of all farm-exempt or corporate-owned trucks, tractors, and grain trailers operated by Crossroads in Kansas and Colorado during the Relevant Time Period.

RESPONSE:

REQUEST NO. 10: Produce any lists, spreadsheets, tables, or other documents that identify the maximum one-way highway mileage that Crossroads has historically transported its own grain using its private truck fleet directly from the field or on-farm storage to an elevator terminal.

RESPONSE:

REQUEST NO. 11: Produce all truck and rail contracts or agreements for purchasing grain from Scott City East and the Stockon Facility that are in place or scheduled to take effect in the next two years.

RESPONSE:

Respectfully submitted,

/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, LLC**

Dated: September 15, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

EXHIBIT C

**COLORADO PACIFIC RAILROAD, LLC
SUBPOENA AND DISCOVERY REQUESTS**

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Colorado Pacific Railroad, LLC c/o Corporation Service Company
1900 W Littleton Blvd, Littleton, CO 80120

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO COLORADO PACIFIC RAILROAD, LLC

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC’S
DISCOVERY REQUESTS TO NON-PARTY
COLORADO PACIFIC RAILROAD, LLC**

Pursuant to 49 U.S.C. § 1321(c) and 49 C.F.R. Part 1114, Kansas & Oklahoma Railroad, LLC (“K&O”) hereby requests Colorado Pacific Railroad, L.L.C. (“CXR”), to respond to and produce all information and documents responsive to the following discovery requests to Fletcher & Sippel LLC, 29 North Wacker Dr, Suite 800, Chicago, IL 60606, or via electronic delivery means, in accordance with the Definitions and Instructions below and within thirty (30) days from the date hereof, or such other time as agreed by the parties or ordered by the Surface Transportation Board.

DEFINITIONS

A. As used herein, “you,” ”your,” or “CXR” shall mean Colorado Pacific Railroad, L.L.C., and all divisions, predecessors, successors, and assigns of CXR and all its officers, directors, employees, and/or managing agents of CXR.

B. As used herein, “K&O” shall mean Kansas & Oklahoma Railroad, LLC and all divisions, predecessors, successors, and assigns of K&O and all its officers, directors, employees, and/or managing agents of K&O.

C. As used herein, “Weskan” shall mean Weskan Grain LLC and all divisions, predecessors, successors, and assigns of Weskan and all its officers, directors, employees, and/or managing agents of Weskan.

D. As used herein, “Crossroads” shall mean Crossroads Agriculture and all divisions, predecessors, successors, and assigns of Crossroads and all its officers, directors, employees, and/or managing agents of Crossroads.

E. As used herein, “Soloviev” shall mean Soloviev Group and all divisions, predecessors, successors, and assigns of Soloviev and all its officers, directors, employees, and/or managing agents of Soloviev.

F. As used herein, “BNSF” shall mean BNSF Railway Company.

G. As used herein, “UP” shall mean Union Pacific Railroad Company.

H. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with Weskan, including Crossroads Agriculture, Colorado Pacific Railroad, L.L.C., and any Soloviev-affiliated farming, grain-handling, trucking, railroad, or logistics entity.

L. As used herein, the “Stockton Siding” means the interchange track(s) owned and/or operated by CXR at or near the Issue Destination (approximately MP 752.5) at which K&O and CXR interchange railcars.

O. As used herein, the “Issue Route” means the rail route over which Issue Commodities move, or would move, from the Issue Origin to the Issue Destination, including the segment of that route operated by CXR.

P. As used herein, the “Issue Commodities” means Sorghum (STCC 01136), Wheat (STCC 01137), and Corn (STCC 01132).

Q. As used herein, the “Issue Origin” and “Scott City East” mean Weskan’s Scott City East facility located at 701 N Taos Rd, Scott City, KS.

R. As used herein, the “Issue Destination” and “Stockton Facility” mean Weskan’s Stockton grain elevator complex, located at approximately MP 752.5 of the tracks of the Colorado Pacific Railroad near Sheridan Lake, Colorado.

S. As used herein, “Alternative Transportation” means transportation that does not include K&O moving railcars directly from Scott City East over K&O’s track to the Stockton Facility.

U. As used herein, the word “documents” means any writing, graphic matter and/or other object and/or tangible thing whether written, produced by hand, printed, recorded, produced by photographic or made tangible by any other process including, but not limited to: letters, reports, other written communications, correspondence, emails, memoranda, summaries, records of oral conversations, original or preliminary notes, diaries, calendars, travel records or itineraries, forecasts, analyses, projections, work papers, photographs, slides, motion pictures, tape recordings, models, statistical statements, graphs, laboratory and engineering reports and notebooks, charts, plans, drawings, minutes or records of meetings, minutes or records of conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultants,

appraisals, evaluations, records, summaries of negotiations, contracts, agreements, leases, loan agreements, checks, bank statements, income tax withholding statements, income tax returns, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, including preliminary drafts or revisions or copies of any of the foregoing if the copy is in any way different from the original.

V. As used herein, “person” shall mean an individual, firm, partnership, corporation, proprietorship, joint venture, association, or any other organization or entity.

W. Documents “relating” or “related” to any given subject shall mean, without limitation, any document that constitutes, contains, embodies, reflects, identifies, states, refers directly or indirectly to, or is in any way relevant to the particular subject matter identified.

X. As used herein, “identify” shall mean to give the full name, address and telephone number of any individual or entity and/or the title and date of documents.

Y. As used herein, “and” and “or” shall be construed conjunctively and disjunctively so as to acquire the broadest meaning possible.

Z. As used herein, the “Relevant Time Period” is January 1, 2023 through the present.

INSTRUCTIONS

A. These requests shall be deemed to include any and all relevant documents within the possession, custody or control of CXR.

B. Documents from any single file should be produced in the same order as they were found in such file. If copies of documents are produced in lieu of the originals, such copies should be legible and bound or stapled in the same manner as the original.

C. If any document responsive to these requests has been destroyed, describe the content of said document, the location of any copies of said document, the date of such destruction and the name of the person who ordered or authorized such destruction.

D. If the production of any documents responsive to these requests is objected to on the ground of privilege or work product, or for any other reasons, with respect to each such document, state:

1. the date appearing on such document, or if no date appears, the date on which such document was prepared;
2. the name of each person to whom such document was addressed;
3. the name of each person, other than the addressee(s) identified in subparagraph (2) above to whom such document or copy thereof was sent, or with whom such document was discussed;
4. the name of each person who signed such document or, if not signed, the name of each person who prepared it;
5. the name of each person making any contribution to the authorship of such document;
6. the job title or position of each person identified in subparagraphs (2), (3), (4) and (5);
7. the date such document was received or discussed by each person identified in subparagraph (2) or (3) above;
8. the general nature or description of such document, and the number of pages of which it consists;
9. the name of each person who currently has custody or such document; and
10. the specific ground(s) upon which the claim of privilege rests.

E. In producing the documents requested, indicate the specific request(s) pursuant to which each document or group of documents is being produced.

F. If CXR is not in possession of documents responsive to these requests, but believes that a third party may be in possession of such documents, identify such third party in CXR's response.

G. For structured or database information, produce the information in its native or reasonably usable electronic form, including CSV, XLSX, database-export, or comparable delimited format. Preserve original field names and unique identifiers and produce all data dictionaries, code tables, lookup tables, field definitions, and documentation necessary to interpret the information. A PDF image, printout, or summary report shall not substitute for available structured data.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all written rate quotes, service contracts, and interline agreements between CXR and BNSF or UP concerning outbound shuttle train movements from Stockton Siding during the Relevant Time Period.

RESPONSE:

REQUEST NO. 2: Produce all economic analyses, market studies, presentations, spreadsheets, or other documents prepared by or for CXR comparing or evaluating the relative economics of alternative destinations, routes, or rail carriers for grain transported from Stockton Siding, including analyses of transportation costs, rates, revenues, profitability, or other economic considerations associated with Pacific Coast export markets, Gulf Coast markets, eastern or domestic markets, or transportation via BNSF or UP during the Relevant Time Period.

RESPONSE:

REQUEST NO. 3: Produce all track division agreements, joint facility agreements, equipment pooling agreements, haulage contracts, and maintenance-of-way cost-sharing documentation

between CXR and any affiliate within the Soloviev corporate family during the Relevant Time Period.

RESPONSE:

REQUEST NO. 4: Produce all documents referring to any sale or acquisition of land (improved or unimproved) or any interest in land (including easements or licenses) completed by CXR in Kansas and Colorado during the Relevant Time Period including documents showing the location of the parcel, size of the parcel, sale or acquisition price, a description of any improvements to the parcel, date of sale, and any characteristics of the parcel such as land use, utilities, access and topography.

RESPONSE:

REQUEST NO. 5: Produce all appraisals or other land valuations prepared by or for you, or in CXR's possession, custody or control, at any time during the Relevant Time Period, for any real property or real estate parcels located in Kansas and Colorado.

RESPONSE:

REQUEST NO. 6: Produce any lists, spreadsheets, tables, or other documents that identify the commercial marketing personnel and executives who negotiated outbound rail service terms or volume allowances with BNSF and UP for movements originating at Stockton Siding during the Relevant Time Period.

RESPONSE:

REQUEST NO. 7: Produce any lists, spreadsheets, tables, or other documents that identify the destination markets (e.g., Pacific Coast export terminals, Gulf Coast ports, domestic feedlots) for

Issue Commodities transported outbound from the Stockton Siding facility during the Relevant Time Period.

RESPONSE:

REQUEST NO. 8: Produce documents that reflect or indicate whether CXR markets its grain transportation services to customers that originate shuttle trains at K&O-served origination points for through movement over CXR for subsequent line-haul service via BNSF or UP, bypassing loading, unloading or switching at Stockton Siding during the Relevant Time Period.

RESPONSE:

REQUEST NO. 9: Produce documents that identify or otherwise reference the land ownership and surface easement rights held by you during the Relevant Time Period in the area within a 10-mile radius of the destination and interchange.

RESPONSE:

REQUEST NO. 10: Produce documents that identify and/or quantify Track Lease Costs from the Relevant Time Period.

RESPONSE:

REQUEST NO. 11: Please produce all documents related to CXR's rates, rules, or practices governing the transportation of Issue Commodities interchanged with K&O at or near the Stockton Siding, including, but not limited to, all documents used and/or relied upon in determining any formula or other methodology used for calculating or otherwise developing such rates, rules, or practices.

RESPONSE:

REQUEST NO. 12: Please produce any studies, analyses, and other documents in CXR's possession from the Relevant Time Period regarding the transportation of grain to Issue Destination from Issue Origin: (a) by a rail carrier(s) other than CXR; and (b) by any mode of transportation other than rail. If no such documents exist, please confirm the same in the response to this Request.

RESPONSE:

REQUEST NO. 13: Please provide the density and operating statistics information described below for CXR's rail system during the Relevant Time Period in a computer-readable database or electronic spreadsheet, including all record layouts, all field descriptions, data definitions and data dictionaries/decoders required to utilize the data. To the extent available, please provide the following data for each segment and for all traffic by commodity:

- a. Identification of the unique railroad divisions, subdivisions, and individual line segments for each unique density segment;
- b. Station name and Standard Point Location Code ("SPLC") at the beginning of a unique density segment and at the end of a unique density segment;
- c. Beginning and ending milepost for each unique density segment;
- d. Rail and track mileage for each unique density segment;
- e. Total density (both directions, including empty and loaded trains) by segment expressed in
 - i. net ton-miles;
 - ii. gross ton-miles plus appropriate factors that can be used to convert gross ton-miles to net ton-miles (including and excluding locomotives); and
 - iii. car-miles.
- f. Density information
 - i. for segments that CXR utilizes via trackage rights (or other joint facility or joint use agreements) on another railroad;
 - ii. for segments where another railroad(s) operates by trackage rights (or other joint facility or joint use agreements) over CXR segments; and
 - iii. an identification of such densities in (i) and (ii) that are included in the total densities provided in response to subpart e. above.
- g. Operating statistics
 - i. Train miles
 - ii. Train hours
 - iii. Locomotive unit miles
 - iv. Loaded car-miles

- v. Empty car-miles
- vi. Number of trains

RESPONSE:

REQUEST NO. 14: Please produce density charts and/or maps for the CXR system for the period the Relevant Time Period, corresponding to the data provided in response to REQUEST NO. 13 above.

RESPONSE:

REQUEST NO. 15: Please produce the following for all joint ownership, joint facility or joint use agreements including, but not limited to, trackage rights agreements, joint or common ownership agreements and lease agreements, between CXR and another rail carrier or other entity applicable to any of the railroad lines and/or facilities in Kansas and Colorado, and that were in effect during all or any portion of the period during the Relevant Time Period:

- a. Copies of all agreements (including amendments and supplements);
- b. Copies of all bills and/or payments during the Relevant Time Period (including all supporting documents and data), for each month, quarter, and/or annual period during the Relevant Time Period; and
- c. Density data and operating statistics (including but not limited to train miles, train hours, locomotive unit miles, loaded car-miles, empty car- miles, net ton-miles, gross ton-miles (both including and excluding locomotives), and number of trains) separately for CXR and all other carriers using the facility for each year or partial year for the period during the Relevant Time Period.

RESPONSE:

REQUEST NO. 16: Please produce all transportation contracts including amendments and supplements thereto (or letters of understanding with appendices or attachments), and all tariffs, common carrier pricing authorities or other documents containing common carrier rate and service terms (collectively “pricing authorities”), entered into, agreed to or established or provided by CXR which govern or governed shipments handled by CXR as originating, terminating, overhead or single-line carrier on the Issue Route during the Relevant Time Period. For each pricing

authority, please provide the traffic volumes and revenues associated with the movement of traffic under each pricing authority by traffic group (e.g., coal, agriculture, intermodal, etc.) during the Relevant Time Period.

RESPONSE:

REQUEST NO. 17: Produce copies of all documents, including agreements and/or understandings and all amendments and supplements thereto between CXR and each Class I Railroad and/or Short Line Railroad with which CXR interchanges or has interchanged traffic during the Relevant Time Period, that refer or relate to the pricing and handling of all commodities, including but not limited to:

- a. Agreements or understandings pertaining to CXR's payments to any identified Class I Railroad and/or Short Line Railroad of a revenue factor, division, flat rate, or other type of compensation for the Class I Railroad and/or Short Line Railroad's portion of a movement;
- b. Locomotive run-through power or power sharing agreements or arrangements;
- c. Train crew run-through or train crew sharing agreements or arrangements;
- d. Any other agreements or arrangements pertaining to rates, surcharges, revenue sharing, or operations, including handling agreements;
- e. Any operating timetables (including special instructions and/or operating rule books), station lists, station books, track charts, and "condensed profiles" for any of the identified Class I Railroad and/or Short Line Railroads; and
- f. Copies of all bills or invoices during the Relevant Time Period (including all supporting documents and data) rendered between CXR and any identified Class I Railroad and/or Short Line Railroad pursuant to each of the agreements and/or understandings produced in response to this REQUEST NO. 17.

RESPONSE:

REQUEST NO. 18: Please identify all agreements pertaining to CXR operations in Kansas and Colorado to which CXR is a party with other rail carriers, and supplements thereto, under which CXR purchases the services of and/or compensates such other carrier(s) for the use of locomotives, crews, dispatching services, trackage, or other facilities. Provide a copy of each agreement, including all supplements.

RESPONSE:

REQUEST NO. 19: For each train operating over the CXR, please produce documents sufficient to show:

- a. CXR's train identifier or designation and/or symbol of each identified train and the beginning and end points served by each of the identified trains;
- b. Whether the crews are assigned or in pool service;
- c. The home and away-from-home terminals for each crew district;
- d. The scheduled on-duty and off-duty locations for each crew assigned to the identified trains;
- e. The number of crew members assigned per shift to each of the identified trains;
- f. The number and type of locomotives assigned to each of the trains;
- g. The number and type of loaded and empty cars assigned to each of the trains;
- h. The trailing length for each of the identified trains;
- i. The trailing weight for each of the identified trains;
- j. The scheduled frequency of service for each identified train; and
- k. The scheduled time of departure and arrival at stations served by each of the identified trains.

RESPONSE:

REQUEST NO. 20: Please produce the databases, data warehouses, and computer programs (with all documentation related to these databases and computer programs and associated selection criteria), in a computer-readable format, that include the information listed below for each movement handled by CXR as originating, terminating, overhead or single-line carrier during the Relevant Time Period. To the extent this data is contained in separate tables, please provide the appropriate fields to correctly link the separate tables. Please also include appropriate fields required to correctly link this data to the car event and/or train event data discussed in REQUEST NO. 21 and REQUEST NO. 22, including any “foreign key(s)” CXR uses in the normal course of business to link the data sets.

- a. The name of the consignee, shipper, sold to party, payer party, customer, and if a third party has contracted for the service (e.g., steamship line), their name for each shipment record;
- b. Commodity (seven-digit Standard Transportation Commodity Code “STCC”);

- c. Toxic Inhalation Hazard/Poisonous Inhalation Hazard (“TIH/PIH”) Commodity Identifier;
- d. Physical origin Standard Carrier Alpha Code (“SCAC”), Freight Station Accounting Code (“FSAC”), Standard Point Location Code (“SPLC”), station name, and state/province;
- e. Physical destination SCAC, FSAC, SPLC, station name, and state/province;
- f. For shipments that originated on CXR's system(s), the date and time the shipment was originated;
- g. For shipments CXR received in interchange, the on-junction location station, state, SPLC, FSAC, and milepost;
- h. For shipments CXR received in interchange, the road received from;
- i. For shipments CXR received in interchange, the date and time the shipment was interchanged;
- j. For shipments given in interchange, off-junction location station, state, SPLC, FSAC, and milepost;
- k. For shipments given in interchange, the railroad given to;
- l. For shipments given in interchange, the date and time the shipment was interchanged;
- m. For shipments terminated on CXR's system, the date and time the shipment was terminated;
- n. Number of rail cars;
- o. Number of intermodal containers or trailers;
- p. Tons (Net);
- q. Rail car tare weight;
- r. Intermodal container or trailer tare weight;
- s. Total freight revenues from origin to destination, or CXR's share of the total freight revenues in the event that CXR was not the sole carrier for a particular movement, including any adjustments thereto, along with a description of the adjustment (i.e., add to or subtract from gross revenue);
- t. Total revenues from surcharges (including, but not limited to, fuel surcharges), and whether such revenue from surcharges is included in the total freight revenues and CXR's division thereof provided in response to Subpart s. above;
- u. The contract, agreement, tariff, or other pricing authority that the shipment is billed under, including the amendment and item numbers;
- v. Unique Waybill number and date;
- w. Trailer on Flat Car/Container on Flat Car (“TOFC/COFC”) plan code;
- x. Car/trailer/container initial for each car/trailer/container used to move the shipment (for intermodal movements, provide both the railcar and container/trailer initial);
- y. Car/trailer/container number for each car/trailer/container used to move the shipment (for intermodal movements, provide both the railcar and container/trailer number);
- z. The unique train identification initial and number of all trains used to move the shipment;
- aa. The station, state, and SPLC where the traffic was interchanged between trains;
- bb. Total loaded movement miles;
- cc. Total loaded miles on CXR's system;

- dd. The predominant route of movement for each shipment on CXR's system that is associated with the loaded movement miles;
- ee. AAR car-type code;
- ff. Provider of car and container/trailer (CXR-owned, CXR-leased, shipper or foreign road);
- gg. Total empty movement miles;
- hh. Total empty miles on CXR's system;
- ii. Miles used to derive applicable fuel surcharges;
- jj. Applicable fuel surcharge rate;
- kk. Applicable fuel surcharge basis fuel price (e.g., No. 2 Diesel Retail Sales by All Sellers, On-Highway Diesel, Highway Diesel Field);
- ll. Intermodal service plan code and the intermodal line of business code for each intermodal shipment;
- mm. Length, width, and height for each car/container/trailer used to move the shipment; and
- nn. Number of articulated wells included (where applicable) in an individual railcar used to move an intermodal (or other) shipment.

RESPONSE:

REQUEST NO. 21: Please produce documents, in a computer-readable format to the extent available, which contain complete information (including all events) tracking and describing car, trailer/container, and locomotive movements (including yard and hub operations) from origin to destination for each car, trailer/container, and locomotive moving on the CXR system during the Relevant Time Period. Please include appropriate fields required to correctly link this data to the waybill data discussed in REQUEST NO. 20 and the train event data discussed in REQUEST NO. 22, including any “foreign key(s)” CXR uses in the normal course of business to link the data sets. The car event information provided should include, but not be limited to, the following information:

- a. Equipment Initial;
- b. Equipment Number;
- c. Equipment Owner (System, Foreign, Private);
- d. Tare weight;
- e. Lading weight;
- f. Number of intermodal units on flat cars;
- g. Event Sequence Number;
- h. Year;

- i. Month;
- j. Day;
- k. Unique Train Identification Symbol and/or Number;
- l. Train Date;
- m. Unique Waybill Number;
- n. Waybill Date;
- o. Load/Empty Indicator;
- p. Unique Shipment Identification Number;
- q. Actual event date/time stamp for nodal events (if movement link data are provided, provide timestamps for both car departure from line segment begin node and car arrival at line segment end node);
- r. Time zone indicator (of the Event date/time stamp);
- s. Event type indicator specifying if the event was an arrival, a departure, an intermediate switching/handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);
- t. Unique System/Network Location Identifier (if movement link data are provided, provide for both line segment begin and end nodes). Include the following:
 - i. Station name;
 - ii. City or metropolitan name;
 - iii. State / Province name;
 - iv. SPLC;
 - v. Engineering milepost; and,
 - vi. Transportation milepost.
- u. Trackage Rights Indicator;
- v. Switching Type indicator (specifying if the event is classifying a car onto a train, classifying the car off a train, or intermediate switching);
- w. Line segment name (for movement link data);
- x. Direction of travel (for movement link data please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);
- y. Interchange Indicator specifying if the car was received or delivered in interchange;
- z. Identification of interchange railroad;
- aa. Industry Handling Indicator specifying if the car was pulled from origin or placed at destination;
- bb. Time elapsed at event location;
- cc. Time elapsed between event locations;
- dd. Miles between event locations; and

RESPONSE:

REQUEST NO. 22: Please provide documents that record complete train movement data (including all events and intermediate stations) in a computer-readable format to the extent available, from origin to destination, for all CXR train movements (including yard and hub

operations) during the Relevant Time Period. Please include the appropriate fields required to correctly link this data to the car event data discussed in REQUEST NO. 21, including any “foreign key(s)” CXR uses in the normal course of business to link the data sets. The train movement information provided should include, but not be limited to, the following information:

- a. Unique Train Identification Symbol and/or Number;
- b. Train Date;
- c. Train Type (intermodal, unit, merchandise, foreign, etc.);
- d. Event Sequence Number;
- e. Year;
- f. Month;
- g. Day;
- h. Event date/time stamp;
- i. Time zone indicator (of the Event date/time stamp);
- j. Event type indicator specifying if the event was an arrival, a departure, an intermediate handling event, or an instantaneous time as in the case of a non-dwell event (e.g., passing a scanner);
- k. Unique System/Network Location Identifier (if for movement data, provide for both line segment begin and end nodes). Include the following:
 - i. Station name;
 - ii. City or metropolitan name;
 - iii. State / Province name;
 - iv. SPLC;
 - v. Engineering milepost; and,
 - vi. Transportation milepost.
- l. Trackage Rights Indicator;
- m. Number of loaded cars arriving at station;
- n. Number of loaded cars departing from station;
- o. Number of loaded intermodal units arriving at station;
- p. Number of loaded intermodal units departing from station;
- q. Number of empty cars arriving at station;
- r. Number of empty cars departing from station;
- s. Number of empty intermodal units arriving at station;
- t. Number of empty intermodal units departing from station;
- u. Trailing net tons arriving at station;
- v. Trailing net tons departing from station;
- w. Trailing gross tons arriving at station;
- x. Trailing gross tons departing from station;
- y. Length of train arriving at station;
- z. Length of train departing from station;
- aa. Number of active locomotives arriving at station;
- bb. Number of active locomotives departing from station; cc. Horsepower of active locomotives arriving at station;

- dd. Horsepower of active locomotives departing from station; ee. A flag indicating if the location was turn station;
- ff. Unit Train Loading/Unloading Indicator (for unit trains, indicate if the cars were loaded or unloaded at station);
- gg. Switching Indicator (indicate if the train was picking up or dropping off cars);
- hh. Number of cars switched onto train;
- ii. Number of cars switched out of train;
- jj. Number of cars repositioned on train;
- kk. Train Crew Change Indicator;
- ll. Train Fueling Indicator; mm. Meet/Pass Indicator;
- nn. Line segment name;
- oo. Direction of travel (for movement link data, please also indicate whether the car movement was from line segment begin node-to-end node or end node-to-begin node);
- pp. Interchange Indicator specifying if the train was received or delivered in interchange;
- qq. Identification of Interchange Railroad;
- rr. Industry Handling Indicator specifying if the train pulled cars from origin or placed cars at destination;
- ss. Time elapsed at event location;
- tt. Time elapsed between event locations;
- uu. Miles between event locations; and

RESPONSE:

REQUEST NO. 23: Please provide all documents including computer programs, definitions, decoders, and instructions, necessary to utilize, evaluate and link the data produced in response to REQUEST NO. 20, REQUEST NO. 21, and REQUEST NO. 22. Please include with this production a description of the relationship between the databases (e.g., whether there is a 1:1 ratio between databases, or whether one can expect to link 100% of the records in one file to another file). Please also indicate which data fields are common (and may be used to link) to the provided databases.

RESPONSE:

REQUEST NO. 24: Please produce documents sufficient to show the relationship(s) among, and scope of, all databases used to record, monitor, track, and invoice trains and/or cars on CXR's system, including, but not limited to, graphical representations of such systems.

RESPONSE:

REQUEST NO. 25: For each database identified in response to REQUEST NO. 24, please produce documents sufficient to show the fields in each database and the type of data in each field (i.e., a detailed field description and decoder for each unique entry in each field).

RESPONSE:

REQUEST NO. 26: For each database identified in response to REQUEST NO. 24, please produce documents sufficient to show the standard reports (including a description of the report) that are produced from data contained in the databases, including reports that rely on multiple databases. “Standard reports” include regularly scheduled recurring reports and commonly requested ad-hoc reports.

RESPONSE:

REQUEST NO. 27: Please provide the following CXR Geographic/Geospatial Information System (“GIS”) data for the states of Kansas and Colorado. The GIS data should be viewable, readable, and writable with no access limitations. The GIS data should be able to be read using current off-the-shelf (COTS) software, using either ESRI ArcGIS Pro (ArcGIS) or Precisely MapInfo Pro (MapInfo):

- a. Map Projections defined per layer;
- b. GIS files associated with and/or created by the GIS software system, to include:
 1. In their original vector, or other, file format, to include file types such as:
- c. For ESRI application software:
- d. .shp (shape files, feature geometry)
- e. .shx (shape file indexes)
- f. .dbf (attribute format)
- g. .prj (projection format)
- h. .sbn, .sbx (spatial indexes of features)
- i. .fbn, .fbx (spatial index of features)
- j. .ixs (geocoding indexes)
- k. .mxs (geocoding indexes)
- l. .atx (attribute index)
- m. .shp.xml (metadata in xml)

- n. .cpg (code page)
- o. For MapInfo application software:
 - a. .dat (attribute data)
 - b. .tab (MapInfo table, stores types of data)
 - c. .id (stores links to graphic and database information)
 - d. .map (stores graphic and geographic information)
 - e. .ind (index files)
- p. For other GIS systems: provide native files.
- q. Map data geocoded to a standard available coordinate system;
- r. Map data associated with latitude and longitude coordinates without limits placed on decimal accuracy; and
- s. Map Layers (either separate object layers, or in layers with each object having attributes defining the item's entity type and attributes)
 - 1. Track detail
 - a. Rail stations and/or nodes (an entity with all attributes)
 - b. Rail segments and/or links between nodes (an entity with all attributes)
 - c. Siding (an entity with all attributes)
 - d. Grade (an entity, or attributes associated to track)
 - e. Curves (an entity, or attributes associated to track)
 - f. Mileposts (an entity, with a unique identifier, milepost name, milepost code, latitude and longitude coordinates with no limits on geocoded coordinate decimal values) that match the mileposts in the transactional "Event" data provided in response to Request for Production Nos. 14, 15, and 16
 - g. Elevation in feet above sea level per rail node/milepost
 - h. Timetables
 - i. Signals
 - 2. Mileage between track nodes;
 - 3. Land parcels; and,
 - 4. Terminals (including, but not limited to, CXR rail yards, Automotive Distribution Facilities, Bulk Transfer Facilities, and intermodal facilities).

RESPONSE:

REQUEST NO. 28: Please identify the miles, by ownership, which make up the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 29: For each bulk transfer or yard facility located on the CXR lines in Kansas and Colorado, please provide the following:

- a. Documents containing descriptions of the existing facilities;

- b. Documents showing the track layout, the length of each track and the ownership of each track;
- c. Copies of all agreements (including amendments and supplements) between CXR and any other entity pertaining to services provided by such entity and charges incurred by CXR for such services during the Relevant Time Period;
- d. Copies of all invoices, bills, etc. (including all supporting documents and data) received by CXR for services provided during the Relevant Time Period;
- e. Document sufficient to show the services that CXR or any other entity provides at each facility;
- f. Documents sufficient to show the components (e.g., land, track, specific buildings, loading or unloading facilities, etc.) that are owned and/or operated by CXR or by any other entity. In the event that an entity other than CXR owns and/or operates any identified facility, please produce documents sufficient to show any applicable charges incurred by CXR for such services; and
- g. Documents sufficient to show the security procedures and measures employed and the entity responsible for providing and paying for security.

RESPONSE:

REQUEST NO. 30: Please produce documents sufficient to show the location, size (including square footage, number and lengths of tracks, capacity, etc.), components (such as equipment and machinery), and original cost of each facility located on the CXR lines in Kansas and Colorado that falls within each of the following categories of facilities:

- a. Roadway maintenance facilities;
- b. Locomotive maintenance facilities;
- c. Locomotive servicing facilities (including fueling facilities);
- d. Administrative facilities;
- e. Rail yards;
- f. Dispatch centers;
- g. Freight car repair and maintenance facilities;
- h. Scales;
- i. Wastewater treatment plants;
- j. Landslide/rockslide detection/protection devices or facilities;
- k. Snowshed facilities; and
- l. Train, yard and engineman facilities.

RESPONSE:

REQUEST NO. 31: For each yard and bulk transfer facility (collectively “yard”) operated by CXR in Kansas and Colorado, please produce documents sufficient to show:

- a. The type of yard, (i.e., flat switch yard);
- b. The number of shifts operated at each yard, and the average number of cars handled over each yard per day;
- c. The yard layout, yard signaling, yard switching, and the yard connection to mainline track;
- d. The average number of hazardous material cars handled at each yard on a daily basis;
- e. The scheduled switch crew assignments on a daily basis (including the name or designation of each assignment) and the respective duties of each assignment (e.g., switching job, bowl job, hump job, industrial job, etc.);
- f. For each of the switch assignments identified in response to subpart e above, the typical number of switch crew members and the number and type of locomotives assigned to each switch service; and the typical number of hours worked by switch crews in performing their assigned tasks;
- g. For each individual industrial switch job identified in response to part (e), above:
 - i. The name or designation of each individual industrial switch job;
 - ii. The number of crew members assigned to each identified industrial switch job;
 - iii. Number and type of locomotives assigned to each identified industrial switch job;
 - iv. The industries served by each identified industrial switch job; and
 - v. The frequency of service of each identified industrial switch job.
- h. For each train, that originates or terminates in each of the yards:
 - i. CXR's train identification or designation of each train;
 - ii. The number of crew members assigned to each identified train;
 - iii. The number of loaded and empty cars assigned to each train;
 - iv. The trailing length of each identified train;
 - v. The trailing weight of each identified train;
 - vi. The number and type of locomotives assigned to each train;
 - vii. The route of service for each identified train, and if the train is a turn crew or straight-away crew;
 - viii. The industries served by each identified train; and
 - ix. The frequency of service of each train.

RESPONSE:

REQUEST NO. 32: For each CXR rail yard and bulk transfer facility in Kansas and Colorado, please produce documents sufficient to identify switch crew assignments, yard crew assignments, train assignments, and the number of cars handled in each yard per day, including but not limited to copies of all crew agreements currently in effect, which contain provisions dealing with CXR switching operations in Kansas and Colorado.

RESPONSE:

REQUEST NO. 33: Please provide any studies or databases showing dwell times in yards for shipper-provided and foreign cars.

RESPONSE:

REQUEST NO. 34: For all locations on the CXR lines in Kansas and Colorado where CXR interchanges railcars and/or trains with another railroad, please provide documents that:

- a. Identify the location of the interchange (by milepost and/or yard name);
- b. Describe the interchange procedures at each location;
- c. Identify the tracks (and length of each track) used for interchange purposes; and
- d. Identify the ownership of each track used for interchange purposes.

RESPONSE:

REQUEST NO. 35: Please produce current operating timetables (including special instructions and/or operating rule books), station lists, station books, and track charts (including a legend for the track chart markings) covering CXR's rail system. Please provide the requested documents in their native format to the extent available (including all necessary documentation). If current versions of any of the requested documents are not available, please produce the most recent versions that are available.

RESPONSE:

REQUEST NO. 36: To the extent such information is not produced in response to REQUEST NO. 35 please produce track charts and “condensed profiles” (including schematics which provide the number, length, and ownership status (i.e., whether railroad- owned or privately-owned) of the tracks at the origins and destinations), which are applicable to all the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 37: Please produce detailed track diagrams of CXR all tracks on the CXR lines in Kansas and Colorado including, but not limited to, the track layout, the length of each track, the ownership of each track and descriptions of the existing facilities.

RESPONSE:

REQUEST NO. 38: Please produce documents (in computer-readable format to the extent available) that depict individual tracks, connections to the main line, turnouts, communications, signals, and elevations for all yards on the CXR system which are located on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 39: Please produce documents, in a computer-readable format to the extent available, that show the following for the CXR lines in Kansas and Colorado:

- a. The gradient or grade profile for each line segment;
- b. The elevation and elevation changes (in feet above sea level) for each line segment; and
- c. The locations of all curves on each line segment and all information maintained by CXR pertaining to such curves including, but not limited to, the beginning milepost, ending milepost, and degree of curvature.

RESPONSE:

REQUEST NO. 40: Please produce documents which provide the following information for all CXR helper services operated on the CXR lines in Kansas and Colorado, separately for each helper service location, during the Relevant Time Period:

- a. "From" and "To" stations and mileposts where trains are actually helped;
- b. Number and type of locomotives (model and horsepower) involved per help;
- c. Round-trip mileage each locomotive travels per help;
- d. Number of total trains helped per crew assignment;
- e. Minimum train size/weight requiring helper service; and
- f. Crew size per crew assignment.

RESPONSE:

REQUEST NO. 41: Please provide a copy of any CXR operating rules related to the special handling of hazardous materials (provide the requested information by class of hazardous material), including, but not limited to, rules related to:

- a. Placement of cars containing hazardous materials in a train;
- b. The number and location of buffer cars required, if any, when handling hazardous materials in trains; and
- c. Special routing instructions for trains containing hazardous materials.

RESPONSE:

REQUEST NO. 42: Please produce documents sufficient to show the transaction costs incurred by CXR, by service unit, for electronic data interchange services with Railinc (or other applicable service providers) during the Relevant Time Period for traffic on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 43: Please produce all forecasts and all documents related to forecasts or projections prepared by or for CXR from the Relevant Time Period, or in CXR's possession and relate to that time period, of future traffic volumes and/or revenues for all freight traffic by traffic group (including any breakdown of any such forecasts or projections whether by commodity classification, geographic regions, line segment, or any other category) including, but not limited to, traffic projections prepared in connection with engineering studies, authorizations for expenditures or other road property investments, marketing studies, operating expense budgets, capital budgets, human resource planning, or mergers with or acquisition of other carriers.

RESPONSE:

REQUEST NO. 44: To the extent such documents are not produced in response to REQUEST NO. 29, please produce copies of all computer programs and databases used by CXR from the

Relevant Time Period to forecast or project volumes and/or revenues for all traffic moving over any portion of the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 45: Please produce the train list(s) and train profile(s) showing the scheduled horsepower per ton (“HPT”) for all CXR trains operating on the Issue Route. If the train list(s) or train profile(s) are not available, please provide other documents sufficient to show the scheduled HPT for the trains identified above.

RESPONSE:

REQUEST NO. 46: Please produce any studies or analyses conducted by CXR, or an outside entity working for CXR, during the Relevant Time Period, which model and evaluate rail operations over all or any part of the CXR lines in Kansas and Colorado using the Rail Traffic Controller (“RTC”) computer model. In addition to the results of such studies or analyses, please produce documents sufficient to show the following information for each study or analysis:

- a. The version of the RTC model utilized in each study or analysis;
- b. All electronic files input into the RTC model, including track input files, train input files, Form A and Form B files (or similar files showing track, operating, or other outages or failures that affected train operations); and
- c. All electronic files generated as output from the RTC model for each study or analysis.

RESPONSE:

REQUEST NO. 47: Please produce documents, in a computer-readable format to the extent available, sufficient to show the dispatch priority given by CXR to each train type (e.g., intermodal, general freight, grain shuttle, local, etc.) and, to the extent applicable, special dispatch priority given to any train within a grouping based on train type.

RESPONSE:

REQUEST NO. 48: Please produce documents sufficient to show unplanned track-related and operating-related incidents or outages that affected CXR train operations on the CXR lines in Kansas and Colorado in the Relevant Time Period, including the cause of the incidents or outages, the duration of the incidents or outages, the location of the incidents or outages, and the train IDs of any trains impacted by the incidents or outages.

RESPONSE:

REQUEST NO. 49: Produce for each CXR territory or division located in Kansas or Colorado organization charts which show each CXR management and/or supervisory position, the number of personnel in each position, and the relationship or reporting authority and relative rank of each position. Please include organizational charts which include, but are not limited to, positions related to train operations, yard operations, maintenance of way, maintenance of equipment, engineering, and general and administrative functions. Also, include the relationship and reporting authority from each CXR territory or division to CXR senior management.

RESPONSE:

REQUEST NO. 50: Please produce during the Relevant Time Period documents (in a computer-readable format) which show for each CXR individual locomotive trainmaster, assistant trainmaster, engineer, conductor, dispatcher and equipment inspector, the number of shifts worked per year, their length of employment, and their annual compensation.

RESPONSE:

REQUEST NO. 51: Please produce documents sufficient to show the applicable wage rates for CXR's maintenance of way employees by job classification for each year during the Relevant Time Period.

RESPONSE:

REQUEST NO. 52: Please produce documents sufficient to show the applicable wage rates for CXR and or CXR's Transportation Train and Engine employees by job classification for each year during the Relevant Time Period.

RESPONSE:

REQUEST NO. 53: Please produce documents or data, in a computer-readable format to the extent available, which provide the following information for each CXR crew district in Kansas and Colorado:

- a. Each crew district identified by "from" and "to" stations;
- b. The route miles in each such crew district; and
- c. The number of locomotive units per train by train type (i.e., coal, general freight, automotive, intermodal, etc.) and the extent to which the locomotive units are in a distributed power train configuration.

RESPONSE:

REQUEST NO. 54: Provide documents sufficient to show the amounts paid by CXR for training employees and the number of employees trained, including but not limited to training employees hired for the following positions, during the Relevant Time Period:

- a. Experienced locomotive engineers;
- b. Experienced locomotive conductors;
- c. Locomotive conductors training to become engineers;
- d. Novice conductors;
- e. Train dispatchers;
- f. Crew callers;
- g. Information technology programmers;
- h. Supervisors of maintenance operations;
- i. Maintenance of way employees; and
- j. Equipment inspectors.
- k. The training information requested includes, but is not limited to, wages paid during classroom training, wages paid during field or on the job training, fringe benefits paid during classroom training, fringe benefits paid during field or on the job training, costs for classroom training, costs for on the job training or field training, expenses for room and board during classroom training and during field training, the number of weeks of classroom training required for each type of employee, and the number of weeks of on the job or field training required for each type of employee.

RESPONSE:

REQUEST NO. 55: Produce during the Relevant Time Period documents (in a computer-readable format) which show for CXR employees by position the amount spent for travel, including but not limited to transportation, meals, entertainment, lodging, and the corresponding number of travelers.

RESPONSE:

REQUEST NO. 56: Produce during the Relevant Time Period, documents (in a computer-readable format) which show CXR contracts with lodging companies for use of CXR personnel when traveling.

RESPONSE:

REQUEST NO. 57: Produce during the Relevant Time Period documents (in a computer-readable format) which show the actual attrition rate for CXR employees by position, including age group and years of service.

RESPONSE:

REQUEST NO. 58: Please produce documents sufficient to show all donated rights of way and/or land grants (including easements) obtained by CXR and/or CXR's predecessors in connection with the construction of any rail lines or facilities located on the Issue Route.

RESPONSE:

REQUEST NO. 59: Please produce all documents related to any sale, appraisal, abandonment or acquisition of land (improved and unimproved) that CXR completed for CXR lines in Kansas and Colorado during the Relevant Time Period including, but not limited to, documents showing the location of the parcel, size of the parcel, the valuation of the parcel by CXR, the sale or acquisition

price, CXR land transaction cost, a description of any improvements to the parcel, the date of sale, and any characteristics of the parcel such as land use, utilities, access and topography.

RESPONSE:

REQUEST NO. 60: Please produce all data, analyses, and other documents in CXR's possession relating to any sales of CXR railroad lines in the past 10 years.

RESPONSE:

REQUEST NO. 61: Please produce all documents relating to any contribution by any governmental or quasi-governmental entity to construction, upgrading, maintenance and/or operating expenses on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 62: Please produce all documents relating to any contribution by any governmental or quasi-governmental entity to the construction or maintenance of at-grade or grade-separated crossings of the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 63: Please produce documents sufficient to show the following for each construction and rehabilitation project completed by CXR, or an outside contractor acting on CXR's behalf, during the Relevant Time Period:

- a. The date the project was started;
- b. The date the project was completed;
- c. Whether the project was new construction or rehabilitation;
- d. Whether or not the project was performed "under traffic", i.e., traffic continued to move through the construction area;
- e. A complete copy of the Authorization For Expenditure ("AFE") and description of all columns and data contained with the AFEs;
- f. A complete copy of the Roadway Completion Report or any successor document;
- g. All invoices underlying each AFE and/or Roadway Completion Report;
- h. Engineering and/or construction plans;
- i. Progress reports;
- j. Photographs, if available, and

k. Construction contracts.

RESPONSE:

REQUEST NO. 64: Please produce documents, including, but not limited to, AFEs, construction plans, engineering estimates, bid tabs, contractor invoices, and construction specifications, for any projects that a carrier other than CXR has undertaken on the CXR lines in Kansas and Colorado for which CXR paid for some or all of the project cost during the Relevant Time Period.

RESPONSE:

REQUEST NO. 65: Please produce documents sufficient to show the maximum permissible gross weight on rail (“GWR”) per railcar for all the CXR lines in Kansas and Colorado, and for all segments having a GWR less than 286,000 lbs. per railcar, please produce documents sufficient to show the items and factors that limit the GWR for the identified segments.

RESPONSE:

REQUEST NO. 66: Please provide documents sufficient to show CXR's existing maintenance-of-way plan and staffing in Kansas and Colorado including maintenance-of-way districts and/or crews employed by CXR to maintain the (a) track, (b) signals and communications facilities, and (c) bridges and (d) all other facilities on the CXR lines in Kansas and Colorado, the number of CXR employees by job classification presently assigned to each maintenance-of-way district or crew on both a permanent and a seasonal basis, and any changes in the maintenance districts, crews, and number and classification of employees that have occurred during the Relevant Time Period.

RESPONSE:

REQUEST NO. 67: Please produce documents sufficient to show the maintenance-of-way equipment owned or leased by CXR, and how such equipment is assigned to the respective

maintenance-of-way districts identified in response to REQUEST NO. 66. In addition, please provide documents sufficient to show the unit costs for such equipment, if purchased, or the annual lease cost if leased, and the annual cost of ownership including information on maintenance and fueling costs during each year or partial year during the Relevant Time Period.

RESPONSE:

REQUEST NO. 68: For maintenance of way and/or construction for the CXR lines in Kansas and Colorado performed by contractors for the period during the Relevant Time Period, please produce copies of all bills for services, documents which contain a description of the line location of the contract repairs and/or construction, and the details of the work performed, including labor and materials. If CXR does not maintain copies of these documents, produce whatever documents CXR does maintain or have available to it describing the costs incurred by CXR and the details of the work performed, in a computer-readable form if available (including all necessary decoders or other explanatory documentation).

RESPONSE:

REQUEST NO. 69: Please produce copies of the most current land valuation maps for the Issue Route, and all documents (including but not limited to deeds or other instruments of grant or conveyance) related to the parcels identified on those maps.

RESPONSE:

REQUEST NO. 70: Please produce documents sufficient to show the following with respect to grading construction activities undertaken or proposed at any time by CXR or its predecessors, or currently ongoing, on the CXR lines in Kansas and Colorado:

- a. Number of cubic yards of excavation of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and

- iv. Unclassified material.
- b. Number of cubic yards of embankment of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- c. Number of cubic yards of borrow of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- d. Grading construction data for each construction specification measured by CXR including without limitation, roadbed width, side slope ratio, track center distance, presence of access roads, impact of grading activities on right-of-way width, use of geotextiles, use of water, soil stabilization, and width and depth of side ditches;
- e. Number of route miles, separated between single track main, double track main, triple track main, etc., corresponding to the cubic yard information described in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- f. Number of track-miles corresponding to the cubic yards in paragraphs (i) through (iv) of Subparts (a), (b) and (c) of this Request;
- g. All of the different types of equipment (and the associated tasks) used to:
 - i. Excavate common earth;
 - ii. Excavate loose rock;
 - iii. Excavate solid rock;
 - iv. Excavate unclassified material; and
 - v. Obtain borrow material.
- h. Linear feet of pipe installed for lateral drainage;
- i. Number of cubic yards of rip-rap placed for the protection of the roadway;
- j. Location, type and quantity of retaining walls;
- k. Construction method including, but not limited to, the number of cubic yards of masonry or other similar material used for retaining walls;
- l. Number of acres cleared;
- m. Number of acres grubbed; and
- n. Number of acres seeded.

RESPONSE:

REQUEST NO. 71: Please produce documents sufficient to show the costs that CXR incurred during each year during the Relevant Time Period for the following:

- a. Cost per cubic yard of excavation for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.

- b. Number of cubic yards of embankment of:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- c. Cost per cubic yard of borrow for:
 - i. Common earth;
 - ii. Loose rock;
 - iii. Solid rock; and
 - iv. Unclassified material.
- d. Cost per cubic yard of rip-rap (installed), separated between material and labor;
- e. Cost for each material used for retaining walls, separated between material and labor;
- f. Gross cost per acre for clearing timber and any credits reflecting the sale of timber;
- g. Cost per acre for grubbing;
- h. Cost per acre for seeding;
- i. Cost per acre for weed spray (including necessary chemicals);
- j. Cost per hour or per mile for brush cutting;
- k. Cost per square yard for geotextile fabric; and
- l. Cost per linear foot for yard drainage facilities.

RESPONSE:

REQUEST NO. 72: Please produce documents sufficient to show culvert/drainage pipe locations (i.e., railroad milepost), size (diameter), length, height of cover, number of tracks crossed, type, and cost of material and installation for each, for the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 73: Please produce documents sufficient to show the following for construction projects that CXR has undertaken during the Relevant Time Period:

- a. Standard construction project specifications including but not limited to: track structures and designs; bridges; culverts; yard and roadway buildings; fueling facilities; maintenance facilities and wastewater treatment facilities;
- b. Whether or not the project was performed “under traffic”, i.e., traffic continued to move through the construction area;
- c. Standard estimating procedures for track construction projects; and
- d. Standard estimating procedures for non-track construction projects.

RESPONSE:

REQUEST NO. 74: Please produce all of CXR's price list books governing prices for construction and maintenance materials (including but not limited to weights of rail from 90 to 141 pounds per yard, turnouts, ties, fasteners, lubricators, plant and field welds, fencing, roadway signs, track geometry cars, hot bearing and dragging equipment detectors, and related tools), or other documents utilized by CXR's engineering personnel for estimating costs of maintenance and construction projects during the Relevant Time Period. To the extent that the charges for transportation and delivery of materials are not included in the prices shown, please produce documents sufficient to show such charges for all materials.

RESPONSE:

REQUEST NO. 75: Please produce documents sufficient to show the following information with respect to rail purchased by CXR and used on the CXR lines in Kansas and Colorado during the Relevant Time Period:

- a. The average cost per linear foot and/or ton by weight of rail for both new and relay rail;
- b. The source of the rail;
- c. The average cost per ton-mile to transport the rail on CXR;
- d. The average cost per ton to handle the rail, categorized by the length of and weight of rail including the cost for a specialized rail train if applicable, on CXR;
- e. The average cost per ton-mile, by carrier, to transport the rail on a foreign carrier by carrier;
- f. The average cost per ton to handle the rail, categorized by length and weight of rail including the cost for a specialized rail train if applicable, on a foreign carrier by carrier; and
- g. Any haulage agreements between CXR and a foreign carrier that applied or could apply to the transportation of rail over either carriers rail lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 76: Please produce documents sufficient to show the following information with respect to ballast or sub-ballast used on the CXR lines in Kansas and Colorado during the Relevant Time Period:

- a. The average cost per cubic yard for ballast, by type;
- b. The average cost per cubic yard for the transportation and handling of ballast;
- c. The average length of haul represented by the value(s) in (b) above;
- d. The average cost per cubic yard for sub-ballast, by type;
- e. The average cost per cubic yard for transportation and handling of sub-ballast;
- f. The average length of haul represented by the value(s) in Subpart (e) above;
- g. The names and locations of all quarries supplying such ballast or sub- ballast; and
- h. The unit prices from all quarries listed in response to Subpart (g).

RESPONSE:

REQUEST NO. 77: Please produce bridge lists or other documents detailing location (milepost, division and subdivision), number of spans, type(s) of spans, length of each span, load rating, a description of what is being crossed (e.g., name of body of water, highway or road (including name or number), navigable waterway etc.), whether or not it is a movable bridge, whether or not it is in service, type, length, number of tracks, clearance, height, curvature and skew (if any) for all bridges located on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 78: For each of the types of bridges identified in the documents produced in response to REQUEST NO. 77, please produce documents sufficient to show the standard design for the bridge type and the unit costs (e.g., cost per foot or other appropriate measure), for single track open deck and ballast deck construction and double track open deck and ballast deck construction, during the Relevant Time Period.

RESPONSE:

REQUEST NO. 79: Please produce documents sufficient to show the following information related to the construction or replacement, in part or in whole, of each bridge on the CXR lines in Kansas and Colorado during the Relevant Time Period:

- a. The location of the bridge, by line segment and milepost;
- b. An itemized listing of the bridge components being constructed or replaced (including quantities);

- c. The estimated cost, by component, for each of the components (identified in response to Subpart (b) above) being constructed or replaced;
- d. The actual cost, by component, for each of the components (identified in response to Subpart (b) above) being constructed or replaced;
- e. The design for each bridge;
- f. The total cost of the bridge;
- g. The total length of the bridge;
- h. Whether the project was new construction or rehabilitation;
- i. Whether or not the project was performed “under traffic”, i.e. traffic continued to move through the construction area;
- j. All costs incurred as a function of performing the project under traffic, e.g., flagging costs, temporary signal costs, realignments, delays and all other costs that would not be incurred if the bridge was new construction;
- k. The construction documents and contracts for the construction and/or rehabilitation; and
- l. Any cost sharing between CXR and another entity.

RESPONSE:

REQUEST NO. 80: Please provide a copy of CXR's technical specifications for the construction and/or maintenance of industrial trackage.

RESPONSE:

REQUEST NO. 81: Please produce documents sufficient to show all revenues, fees, rents or other compensation received by CXR in the Relevant Time Period from any source that was related to a third party's use or exercise of subsurface rights below any CXR right-of- way on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 82: Please produce documents sufficient to show:

- a. The locations and quantities of fiber optic cabling installed on CXR rights-of-way on the CXR lines in Kansas and Colorado;
- b. The bandwidth capacity of the fiber optic cabling identified in Subpart (a);
- c. The entity that owns and operates the fiber optic cabling identified in Subpart (a);
- d. The costs to CXR, if any, for installing the fiber optic cable identified in Subpart (a);
- e. Whether CXR is permitted to use the fiber optic cable identified in Subpart (a);
- f. The amount, if any, that CXR pays the carriers for use of the fiber optic cable identified in Subpart (e); and

- g. The revenues or other payments that CXR receives from the carriers for the use of the railroad's right-of-way for fiber optic cable.

RESPONSE:

REQUEST NO. 83: If CXR utilizes the fiber optic cable(s) identified in response to REQUEST NO. 82, please provide documents sufficient to show:

- a. The total number of CXR route miles on the CXR lines in Kansas and Colorado that are covered by fiber optic communications;
- b. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the fiber optic communications system on the CXR system(s) during the Relevant Time Period; and
- c. The annual spot maintenance costs incurred by CXR for the fiber optic communications system and by device type, on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 84: For each year or partial year during the Relevant Time Period, please produce documents which contain the following information with regard to CXR highway and railroad at-grade crossings:

- a. The various sizes, compositions and costs per linear foot (installed) of a one-lane private road crossing over a single line of track;
- b. The various sizes, compositions and costs per linear foot (installed) of a two-lane public highway crossing over a single line of track;
- c. The various sizes, compositions and costs per linear foot (installed) of a four-lane public highway crossing over a single line of track;
- d. The installed cost of signs for a private road crossing (if necessary);
- e. The installed cost of signs for a public highway crossing;
- f. The installed cost of each of the different types of protective devices identified in the response to Subpart (g) below;
- g. A list identifying each component required for an automatic type interlocking (assuming a diamond crossing);
- h. The cost of each of the components identified in response to Subpart (g) above and the cost of installation during the Relevant Time Period;
- i. I. The costs for a 16-foot and 24-foot cattle guard and the cost of installation during the Relevant Time Period; and
- j. Any additional costs incurred.

RESPONSE:

REQUEST NO. 85: Please produce documents in a computer-readable format, to the extent available, containing the following information for each CXR at-grade and grade-separated road crossing on the CXR lines in Kansas and Colorado:

- a. Geographic location, i.e., city, county and state;
- b. Rail location, i.e., railroad, line name and milepost;
- c. Whether public or private;
- d. Name of road crossed;
- e. Width;
- f. Length;
- g. Type of construction;
- h. Number of tracks;
- i. Type of protective devices;
- j. Date of initial installation at the location;
- k. Total cost of the initial installation and the amount borne by CXR, if any; and
- l. Identification of the party responsible for ongoing maintenance of any such structures.

RESPONSE:

REQUEST NO. 86: For each grade-separated, highway crossing identified in REQUEST NO. 85, please provide documents sufficient to show, separately for each crossing:

- a. The total construction cost of the highway crossing;
- b. The percentage of the total cost incurred by CXR; and
- c. Any monies received by CXR from any other party to compensate CXR for the use of the crossing, including, but not limited to, maintenance and easement payments.

RESPONSE:

REQUEST NO. 87: Please produce documents sufficient to show the location, linear feet, and type of fencing (e.g., snow fence) for all fencing currently in place on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 88: For each track construction project that CXR has undertaken on the CXR Lines in Kansas and Colorado during the Relevant Time Period to the present, provide documents showing the following:

- a. How the disposal of excess excavation quantities was handled; and
- b. All costs associated with the disposal of such excess excavation quantities.

RESPONSE:

REQUEST NO. 89: Please produce documents (in computer-readable format to the extent available) that identify and list the location and type of communications and signals systems/facilities used for train operations by milepost, division, and subdivision on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 90: Please produce documents listing the items, the cost of each item and the quantity of each item installed on CXR's system related to the construction and (during each year or partial year during the Relevant Time Period) operation of the centralized traffic control signal system(s) or any other traffic control system in use on the CXR system (including hot bearing and dragging/failed equipment detectors). Please indicate whether the costs include additional services such as installation, design planning, electrical drops for utilities, and/or transportation. If the costs for additional services are not included, please provide each cost separately for each additional service.

RESPONSE:

REQUEST NO. 91: Please produce documents containing the following information for each CXR communications site (defined as a location with a microwave tower, a land mobile radio ("LMR") tower, a tower used for both purposes, or a location where communications equipment (microwave or LMR) is located that does not include a tower) located on or near the CXR lines in Kansas and Colorado:

- a. The number of microwave towers, LMR towers, combined towers, or other communications equipment location (shown separately for each category);

- b. The latitude and longitude coordinates of each tower or other communications equipment location;
- c. The height of each tower in (i) feet above the ground and (ii) feet above sea level;
- d. The number of microwave antennae on each tower and the status of each antenna (i.e., whether it is operational);
- e. The number of LMR antennae on each tower and the status of each antenna (i.e., whether it is operational);
- f. The latitude and longitude coordinates of other communications sites that can link via microwave or radio from this site or a topological map of the communication system; and
- g. The acres of land owned or leased by CXR for these sites and the cost of purchase or lease.

RESPONSE:

REQUEST NO. 92: Please produce documents sufficient to show:

- a. CXR's specifications for the construction of communications sites (as defined in REQUEST NO. 89 above);
- b. The total number of CXR route miles on the CXR lines in Kansas and Colorado that are covered by microwave communications;
- c. The total number of CXR route miles on the CXR lines in Kansas and Colorado that are not covered by microwave communications;
- d. The cost, manufacturer and model number of each item and the quantities used for the construction and operation of the microwave radio and/or land mobile radio communications system(s) on the CXR system during the Relevant Time Period; and
- e. The annual spot maintenance costs incurred by CXR for the microwave and/or land mobile radio tower communications system per tower and by device type, on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 93: Please produce documents sufficient to describe the specifications, functions, operation and costs, during each year or partial year during the Relevant Time Period, of any communications system equipment other than microwave towers used to transmit data from devices such as mobile two-way radios, portable (hand-held) two-way radios, FEDs, AEI scanners and EOTDs across all or any part of the CXR system(s).

RESPONSE:

REQUEST NO. 94: Please provide documents identifying each electrical connection in Kansas and Colorado that is used to provide power to devices, including, but not limited to, the CTC system and other signal devices, hot box detectors, failed equipment detectors, powered road crossings, warning devices and power switches, and provide the following for each such connection:

- a. The location of the connection by line segment and milepost;
- b. The source of the electricity;
- c. The amount CXR paid for each connection and the date; and
- d. CXR's costs for each billing period during the Relevant Time Period.

RESPONSE:

REQUEST NO. 95: For any company other than CXR that provides the development, implementation and/or maintenance of computer systems, software and associated documentations for the day-to-day operations of CXR, please produce documents sufficient to show the services outsourced, the fees paid for the outsourced services, and the analyses which developed the estimated and/or actual savings realized by CXR and each of its subsidiaries from such outsourcing.

RESPONSE:

REQUEST NO. 96: Please produce documents which contain the following information for CXR during the Relevant Time Period:

- a. The location(s) where car inspectors inspect trains moving on the CXR lines in Kansas and Colorado, and the location(s) where inspections occur on the CXR Lines between Issue Origin and Issue Destination;
- b. A description of the procedures followed by the car inspectors in preparing for and inspecting the trains;
- c. The total number of car inspections per tour of duty (by day of the week) and the total number of trains inspected per tour of duty (by day of the week), separated between grain trains and other than grain trains, for each location identified in response to (a) above;
- d. The number of car inspectors inspecting each train at each location identified in response to (a) above, and the time spent by each inspector during each inspection;

- e. The daily or hourly rates of pay, including all additives for the inspectors identified in response to (d) above;
- f. The number of trains each car inspector identified in response to (a) above inspects during his tour of duty;
- g. The other duties performed by the car inspectors identified in response to (d) above while on duty and not inspecting trains;
- h. The percentage of time the car inspectors identified in response to (d) above spend inspecting trains versus other assignments during their tour of duty;
- i. The materials and supplies used by the car inspectors at each of the locations identified in response to (a) above;
- j. The purchase price of each item identified in response to (i) above; and
- k. The total number of trains and cars inspected at each location identified in response to (a) above.

RESPONSE:

REQUEST NO. 97: Please produce documents during the Relevant Time Period which contain the following, in a computer readable format, for each freight car purchased or leased by CXR (including freight cars currently on order and privately- owned freight cars leased by CXR that maintain the private owner's car initial and number) that CXR has in providing transportation service on the CXR lines in Kansas and Colorado:

- a. Initial and number;
- b. Manufacturer;
- c. Lessor, if leased;
- d. AAR car type;
- e. Tare weight;
- f. Purchase or order date, if purchased;
- g. Lease or order date, if leased;
- h. Total purchase price, if purchased;
- i. If leased, the type of lease (e.g., capital, operating, etc.) and term;
- j. If leased, the amount and frequency of lease payments;
- k. If purchased, the AFE applicable to each purchased freight car; and
- l. If leased, the lease agreement including all supplements, amendments, exhibits and applicable schedules.

RESPONSE:

REQUEST NO. 98: For each year or partial year during the Relevant Time Period, please produce documents which contain the following information (in a computer-readable format, if available)

with respect to each shipper-owned and shipper-leased railcar and each intermodal and automotive railcar provided by a third party moving over any part of the CXR lines in Kansas and Colorado:

- a. Identification number of the car;
- b. The type of the car;
- c. The length and tare weight of the car (for intermodal and automotive cars only);
- d. The cost to CXR for use of the car;
- e. The terms of any mileage allowance agreement covering the car;
- f. Whether the car is subject to a zero-based mileage agreement;
- g. Whether the car hire paid on the car is subject to refund of the payments under certain contractual conditions; and
- h. The year of manufacture of the car.

RESPONSE:

REQUEST NO. 99: Please produce all railcar maintenance agreements with outside contractors including all supplements, attachments, exhibits and schedules, in effect during all or any portion of each year or partial year during the Relevant Time Period, for all the cars on the CXR lines in Kansas and Colorado, and documents providing

- a. the amount paid for each car or by car or by car type total and broken down by each service performed under the agreement, and
- b. the number of car-miles corresponding to the amounts referenced in (a).

RESPONSE:

REQUEST NO. 100: Please produce copies of all contracts/agreements with third parties (including, but not limited to, shippers or receivers) in effect during all or any portion of the period during the Relevant Time Period related to the performance of car inspection functions with respect to (a) CXR grain trains and (b) other trains traversing all or a portion of the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 101: Please produce copies of the following documents:

- a. Documents sufficient to show the locomotive tonnage ratings (e.g., horsepower per trailing ton) by line segment for the CXR lines in Kansas and Colorado; and

- b. Tractive effort tables or other documents sufficient to show the tractive effort produced by the locomotives used to transport trains through all or any portion of the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 102: Please produce all records during the Relevant Time Period related to CXR's use of UP and/or BNSF locomotives in the provision of service between Issue Origin and Issue Destination.

RESPONSE:

REQUEST NO. 103: To the extent such information is not produced in response to REQUEST NO. 102, please produce documents during the Relevant Time Period which list by initial and unit number:

- a. locomotives used in in any grain service between Origins and any destination or used by CXR in providing transportation service including switching services, on CXR Lines and yards and bulk transfer facilities in Kansas and Colorado; and
- b. if such locomotives were drawn from a pool(s), all the locomotives in the pool(s) from which the locomotives used in grain service are drawn.

RESPONSE:

REQUEST NO. 104: Please produce documents, in a computer-readable format to the extent available, which provide the following information for each of the locomotives contained in each of the listings produced in response to REQUEST NO. 103, to the extent that the information is in CXR's possession or is available to CXR upon request:

- a. The locomotive initial and number;
- b. The manufacturer, if purchased;
- c. The lessor, if leased or rented, or provider, if used in run-through service;
- d. Model or type (e.g., SD-40-2);
- e. Horsepower;
- f. Capacity of its fuel tanks (gallons);
- g. Weight;
- h. Date of purchase or lease;
- i. Date first placed into service;
- j. The original cost plus the cost of any additions and betterments;

- k. Financing vehicle (e.g., equipment trust);
- l. Debt rate as a percent;
- m. Financing terms (in years);
- n. Annual depreciation;
- o. Annual depreciation as a percent;
- p. Current salvage value as a percent;
- q. Accrued depreciation;
- r. If leased, the type of lease (i.e., capital, operating, “power by the hour”, etc.);
- s. If a capital lease, the capitalized value of the lease by locomotive or group of locomotives (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- t. If an operating lease, the quarterly, semi-annual, etc., lease payment by locomotive or group of locomotives covering the term of the lease (if a group of locomotives, the number of locomotives (by initial and number) and aggregate dollars);
- u. If leased or rented under a short-term or “power by the hour” agreement, the minimum annual fixed payment and the use payment (e.g., per kilowatt/hour, per diesel unit mile, etc.) per locomotive, the average annual payment per locomotive, and the annual locomotive unit-miles for each such locomotive, stated separately for grain service and other service; and
- v. The diesel unit-miles traveled each year or partial year during the Relevant Time Period in all types of service.

RESPONSE:

REQUEST NO. 105: Please produce all lease or rental agreements, including all supplements and copies of all billings, applicable to each leased or rented locomotive identified in response to REQUEST NO. 103 and REQUEST NO. 104.

RESPONSE:

REQUEST NO. 106: Please produce all locomotive maintenance and repair records and/or reports and related documents during the Relevant Time Period, which provide CXR locomotive maintenance, repair and overhaul expenses by locomotive or locomotive type or series (or by other basis in which records are kept) and the total locomotive unit- miles corresponding to these maintenance, repair and overhaul expenses for the locomotives identified in response to REQUEST NO. 103.

RESPONSE:

REQUEST NO. 107: Please produce all locomotive maintenance agreements including all supplements, attachments, exhibits and schedules, with outside contractors and provide, during the Relevant Time Period for all locomotives in CXR's fleet under such maintenance agreements,

- a. the amount paid for each locomotive or by locomotive type in total and broken down by each service performed under the agreement, and
- b. the number of locomotive unit miles corresponding to the amounts listed above.

RESPONSE:

REQUEST NO. 108: Please produce documents sufficient to show the following information for CXR for the most recent 12 calendar months:

- a. The location(s) where locomotives traversing the CXR lines in Kansas and Colorado are fueled;
- b. The actual amount of fuel used by the locomotives identified in response to REQUEST NO. 103, by individual locomotive;
- c. the total number of diesel unit miles generated by the locomotives for which fuel consumption data was provided in response to (b) above during the same time period used in response to (b) above;
- d. The method by which CXR accounts for or records fuel usage for locomotives;
- e. Computer-readable versions (both compiled and non-compiled), including all supporting databases and necessary documentation, of any and all computer programs in CXR's possession used to estimate the fuel usage of locomotives; and
- f. The same information for all road and switch locomotives on the CXR system in the same format as that given in the responses to (b), (c), and (e) above.

RESPONSE:

REQUEST NO. 109: For the locomotive fueling locations identified in response to REQUEST NO. 108, please produce documents sufficient to show the following information with respect to locomotive fueling at each location:

- a. The source(s) of the fuel including the name and location of the vendor(s) who provide the fuel to CXR and the refinery(ies) or other location from which the fuel is obtained;
- b. The method and cost of transporting and dispensing the fuel from the refinery(ies) or other locations from which the fuel is obtained to the location where the fueling of locomotives is performed;
- c. The method by which fuel is dispensed into locomotives, i.e. from fixed fueling facilities or by direct-to-locomotive (tanker truck) service;

- d. A description of all facilities and equipment (including, but not limited to, fuel storage tanks) at each location where CXR has fixed fueling facilities; and
- e. The cost per gallon paid (including any applicable taxes) on a weekly basis in 2024, and in 2025 to the extent available.

RESPONSE:

REQUEST NO. 110: Please produce copies of all contracts/agreements with third parties related to the performance of locomotive fueling functions for all locomotives that are used on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 111: Produce all studies, analyses and related documents, in a computer-readable format to the extent available, pertaining to the fuel consumption or the measurement of the fuel consumption by CXR's trains (or the locomotives used on CXR's trains) moving over any portion of the CXR Lines in Kansas or Colorado during the period during the Relevant Time Period.

RESPONSE:

REQUEST NO. 112: Please produce documents, in a computer readable format to the extent available, which show locomotive utilization and locomotive performance (e.g., locomotive unit-miles, locomotive hours running, locomotive hours switching, locomotive hours out-of-service for repairs and locomotive hours stored useable) for each locomotive that CXR owned or leased during the Relevant Time Period and that CXR used in providing transportation service on the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 113: Please produce a copy of CXR's rules and instructions pertaining to train handling, including, but not limited to, measures for conserving fuel.

RESPONSE:

REQUEST NO. 114: Please identify all written agreements covering movements on which CXR locomotives are used on trains traversing non-CXR owned lines and/or non-CXR owned locomotives are used on the trains traversing lines of CXR for movements over the CXR lines in Kansas and Colorado. Please provide a copy of all agreements (including supplements and amendments) covering these movements.

RESPONSE:

REQUEST NO. 115: For the sections of the agreements identified in REQUEST NO. 114 that covers compensation between the parties, please provide the amount of compensation or equalization by component, e.g., fuel, maintenance, servicing, etc., and the service units covered by the compensation, e.g., horsepower hours, during the Relevant Time Period and the basis for computing the compensation by component including, but not limited to, studies used in determining the basis of compensation. Please provide a copy of correspondence, bills, etc., relating to each agreement.

RESPONSE:

REQUEST NO. 116: For all agreements covering locomotives owned by one carrier and used on another carrier's lines and not covered by REQUEST NO. 114 agreements, provide the amount and basis including, but not limited to, identification of studies used in determining the basis, of compensation, for the using carrier's compensation to the owning carrier for:

- a. Use of the locomotive;
- b. Fuel consumed while on using carrier's line;
- c. Maintenance of the locomotive(s);
- d. Servicing of the locomotive(s); and
- e. Other.

RESPONSE:

REQUEST NO. 117: Please provide a copy of correspondence, bills, etc., relating to each agreement identified in response REQUEST NO. 116 above.

RESPONSE:

REQUEST NO. 118: Please provide all fuel usage documents, reports, analyses, and estimates (as well as estimation methodologies), including fuel quantities and the associated service units, for any or all of the locomotives used to power CXR trains, during the Relevant Time Period.

RESPONSE:

REQUEST NO. 119: Please produce copies of any locomotive sharing agreements between CXR and any applicable Class I Railroad and/or Short Line Railroad.

RESPONSE:

REQUEST NO. 120: Please produce documents during the Relevant Time Period, which provide CXR's loss and damage costs and annual tonnage separately for each commodity that CXR carries on its system.

RESPONSE:

REQUEST NO. 121: Please produce documents including, but not limited to, tax returns filed with the states and all supporting schedules and attachments, showing the ad valorem taxes that CXR paid to the State of Kansas and Colorado during the Relevant Time Period, together with documents showing the total route-miles and total track- miles CXR owned or owns in the State for each year during the Relevant Time Period. Please also provide the current ad valorem tax rates that the State of Kansas, Colorado, and local governments use to assess CXR property, as well as how these rates are applied.

RESPONSE:

REQUEST NO. 122: Please produce all inflation and/or rail cost adjustment estimates or calculations in CXR's possession or that CXR prepared or caused to be prepared or purchased during the Relevant Time Period, including, but not limited to, any estimates relating to:

- a. The cost of acquiring equity;
- b. The cost of acquiring debt;
- c. General expenses, including, but not limited to, assets, equipment, materials and supplies, fuel, and labor expense;
- d. Railroad productivity, including, but not limited to, commodity- specific productivity, asset productivity, and expense productivity;
- e. The Rail Cost Adjustment Factor Adjusted (RCAF-A);
- f. The Rail Cost Adjustment Factor Unadjusted (RCAF-U);
- g. Gross Domestic Product/Implicit Price Deflator;
- h. Producer Price Index - All Commodities;
- i. The U.S. Department of Energy's U.S. average price of Retail On-Highway Diesel Fuel; and
- j. Land values along or adjacent to CXR's right of way for the CXR lines in Kansas and Colorado.

RESPONSE:

REQUEST NO. 123: Please provide documents related to the amount of Bonus Depreciation claimed by CXR separately for 2021, 2022, 2023, 2024, and 2025 on CXR's Federal Tax Returns in Schedule 4562. The amount should be separated by asset class and include the historical cost recorded for the assets related to the claimed bonus depreciation, including all schedules and worksheets showing the calculation and development of bonus depreciation allowed under the Economic Stimulus Act of 2008, the American Reinvestment and Recovery Act, the American Taxpayer Relief Act, the Tax Increase Prevention Act, Protecting Americans From Tax Hikes Act, Tax Cuts and Jobs Act, and One Big Beautiful Bill Act.

RESPONSE:

REQUEST NO. 124: Please provide documents related to the amount of Railroad Track Maintenance Credit claimed under IRC § 45G CXR separately for 2021, 2022, 2023, 2024, and 2025 on CXR's Federal Tax Returns, including Form 8900 and all associated schedules. The

information should be separated by category of qualified railroad track maintenance expenditures and include the historical cost records to support each expenditure claimed for the credit. Please also provide all schedules and worksheets showing the calculation and development of the § 45G credit, including supporting documentation for qualified track miles, expenditure allocations, and any credit carryforwards or other adjustments, including any tax credits assigned to third-party companies

RESPONSE:

REQUEST NO. 125: Please provide copies of CXR's 2021, 2022, 2023, 2024, and 2025 State income tax returns for Kansas and Colorado, including all State tax credit worksheets.

RESPONSE:

REQUEST NO. 126: Provide the CXR mileage chart and/or table-based mileage matrix and/or routing table that identifies the CXR rail mileage between any two points on the CXR rail system based upon a predominant or expected route of movement.

RESPONSE:

Respectfully submitted,

/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, LLC**

Dated: September 15, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

EXHIBIT D

**NON-PARTY FARMERS
SUBPOENA AND DISCOVERY REQUESTS**

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Marienthal Grain LLC c/o Luke Smith
1303 E. Co. Rd M, Marienthal, KS 67863

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO MARIENTHAL GRAIN LLC

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Donald & Andrew Hineman DBA D&A Farms
1067 N Omaha Rd., Scott City, KS 67871

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO DONALD & ADNREW HINEMAN DBA D&A FARMS

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Hineman Land & Cattle, Inc. c/o Andrew Hineman
1067 N Omaha Rd, Scott City, KS 67871

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO HINEMAN LAND & CATTLE, INC.

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Hineman Ranch, L.L.C. c/o Andrew Hineman
1067 N Omaha Rd, Scott City, KS 67871

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO HINEMAN RANCH, L.L.C.

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Circle C Farms, Inc. c/o Greg Calhoun
233 Cooler Rd., Bainbridge, GA 39817

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO CIRCLE C FARMS, INC.

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Steven Compton
104 WESTVIEW DR, SCOTT CITY, KS 67871-1351

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO STEVE COMPTON

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Mark Sanders
74113 COUNTY RD W # 71, TOWNER, CO 81071-9631

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO MARK SANDERS

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

WESKAN GRAIN LLC v. KANSAS & OKLAHOMA RAILROAD, INC

DOCKET NO. NOR 42185

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: JLD Partnership c/o Destiny D Haase
17100 CR 44.6, Eads, CO 81036

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: SEE ATTACHED DISCOVERY REQUESTS TO JLD PARTNERSHIP

Place: Fletcher & Sippel LLC 29 N. Wacker Drive, Suite 800 Chicago, IL 60606	Date and Time: 30 Days from Issuance of this Subpoena
--	--

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: _____

Administrative Law Judge

The name, address, e-mail address, and telephone number of the attorney representing (name of party) _____
Kansas & Oklahoma Railroad, LLC, who issues or requests this subpoena, are:
Robert A. Wimbish, Fletcher & Sippel LLC, 29 N. Wacker Drive, Suite 800, Chicago, IL 60606
rwimbish@fletcher-sippel.com
(312) 252-1504

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

DOCKET NO. NOR 42185

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

☐ I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

☐ I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC’S
DISCOVERY REQUESTS TO NON-PARTY FARMERS**

Pursuant to 49 U.S.C. § 1321(c) and 49 C.F.R. Part 1114, Kansas & Oklahoma Railroad, LLC hereby requests Marienthal Grain LLC; D&A Farms, GP; Hineman Land & Cattle, Inc.; Hineman Ranch, L.L.C.; Circle C Farms, Inc.; Steven Compton; Mark Sanders; and JLD Partnership (hereinafter collectively referred to as the “Non-Party Farmers”), to respond to and produce all information and documents responsive to the following discovery requests to Fletcher & Sippel LLC, 29 North Wacker Dr, Suite 800, Chicago, IL 60606, or via electronic delivery means, in accordance with the Definitions and Instructions below and within thirty (30) days from the date hereof, or such other time as agreed by the parties or ordered by the Surface Transportation Board.

DEFINITIONS

A. As used herein, “Non-Party Farmers” shall collectively mean Marienthal Grain LLC; D&A Farms, GP; Hineman Land & Cattle, Inc.; Hineman Ranch, L.L.C.; Circle C Farms, Inc.; Steven Compton; Mark Sanders; and JLD Partnership, and all divisions,

predecessors, successors, and assigns of each Non-Party Farmer and each officer, director, employee, and/or managing agent of each of the Non-Party Farmers.

B. As used herein, “Respondent,” “you,” or “your” shall mean the answering Non-Party Farmer to whom the requests are issued and all the officers, directors, employees, and/or managing agents of the answering Non-Party Farmer.

C. As used herein, “BNSF” shall mean BNSF Railway Company.

D. As used herein, “UP” shall mean Union Pacific Railroad Company.

E. “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with Weskan Grain LLC or the Soloviev Group, including Crossroads Agriculture, Colorado Pacific Railroad, L.L.C., and any Soloviev Group-affiliated farming, grain-handling, trucking, railroad, or logistics entity.

F. “Origin Supply Location” means the farm, field, on-farm storage location, elevator, warehouse, collecting facility, or other location from which grain was physically transported to the receiving facility. Where maintained in the ordinary course of business, Origin Supply Location includes the street address, county, ZIP code, latitude and longitude, section-township-range, producer location code, or other geospatial identifier.

G. As used herein, the word “documents” means any writing, graphic matter and/or other object and/or tangible thing whether written, produced by hand, printed, recorded, produced by photographic or made tangible by any other process including, but not limited to: letters, reports, other written communications, correspondence, telegrams, memoranda, summaries, records of oral conversations, original or preliminary notes, diaries, calendars, travel records or itineraries, forecasts, analyses, projections, work papers, photographs, slides, motion pictures, tape recordings, models, statistical statements, graphs, laboratory and engineering

reports and notebooks, charts, plans, drawings, minutes or records of meetings, minutes or records of conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports and/or summaries of investigations, opinions or reports of consultants, appraisals, evaluations, records, summaries of negotiations, contracts, agreements, leases, loan agreements, checks, bank statements, income tax withholding statements, income tax returns, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, including preliminary drafts or revisions or copies of any of the foregoing if the copy is in any way different from the original.

H. As used herein, “person” shall mean an individual, firm, partnership, corporation, proprietorship, joint venture, association, or any other organization or entity.

I. Documents “relating” or “related” to any given subject shall mean, without limitation, any document that constitutes, contains, embodies, reflects, identifies, states, refers directly or indirectly to, or is in any way relevant to the particular subject matter identified.

J. As used herein, “identify” shall mean to give the full name, address and telephone number of any individual or entity and/or the title and date of documents.

K. As used herein, “and” and “or” shall be construed conjunctively and disjunctively so as to acquire the broadest meaning possible.

L. As used herein, the “Relevant Time Period” is January 1, 2023 through the present.

INSTRUCTIONS

A. These requests shall be deemed to include any and all relevant documents within the possession, custody or control of Respondent.

B. Documents from any single file should be produced in the same order as they were found in such file. If copies of documents are produced in lieu of the originals, such copies should be legible and bound or stapled in the same manner as the original.

C. If any document responsive to these requests has been destroyed, describe the content of said document, the location of any copies of said document, the date of such destruction and the name of the person who ordered or authorized such destruction.

D. If the production of any documents responsive to these requests is objected to on the ground of privilege or work product, or for any other reasons, with respect to each such document, state:

1. the date appearing on such document, or if no date appears, the date on which such document was prepared;
2. the name of each person to whom such document was addressed;
3. the name of each person, other than the addressee(s) identified in subparagraph (2) above to whom such document or copy thereof was sent, or with whom such document was discussed;
4. the name of each person who signed such document or, if not signed, the name of each person who prepared it;
5. the name of each person making any contribution to the authorship of such document;
6. the job title or position of each person identified in subparagraphs (2), (3), (4) and (5);
7. the date such document was received or discussed by each person identified in subparagraph (2) or (3) above;
8. the general nature or description of such document, and the number of pages of which it consists;
9. the name of each person who currently has custody of such document; and
10. the specific ground(s) upon which the claim of privilege rests.

E. In producing the documents requested, indicate the specific request(s) pursuant to which each document or group of documents is being produced.

F. If Respondent is not in possession of documents responsive to these requests but believes that a third party may be in possession of such documents, identify such third party in Respondent's response.

G. For structured or database information, produce the information in its native or reasonably usable electronic form, including CSV, XLSX, database-export, or comparable delimited format. Preserve original field names and unique identifiers and produce all data dictionaries, code tables, lookup tables, field definitions, and documentation necessary to interpret the information. A PDF image, printout, or summary report shall not substitute for available structured data.

REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1: Produce all documents, spreadsheets, worksheets, marketing records, bid comparisons, calculations, communications, or other materials used or considered by your operation in deciding where to sell, store, or deliver grain, including materials reflecting cash bids, basis levels, premiums, transportation or self-hauling costs, storage costs, expected net proceeds, or other economic factors associated with alternative delivery locations during the Relevant Time Period.

RESPONSE:

REQUEST NO. 2: Produce all scale tickets, settlement sheets, delivery records, grain-sale records, contracts, invoices, or other documents reflecting grain sold, stored, or delivered by your operation, on behalf of yourself or any Affiliate, to any elevator, shuttle facility, grain terminal,

feedlot, mill, processor, storage facility, or other grain purchaser during the Relevant Time Period, including, to the extent reflected in the documents, the date of delivery, commodity, quantity, price or settlement amount, delivery location, Origin Supply Location, and transportation or self-hauling cost.

RESPONSE:

REQUEST NO. 3: Produce any lists, spreadsheets, tables, or other documents that identify the total number, horsepower, and configuration of any and all heavy commercial-grade trucks (including 5-axle semis and hopper-bottom trailers) owned, leased, or operated directly by your farming business for the purpose of hauling your own harvested crops or those of your Affiliates during the Relevant Time Period.

RESPONSE:

REQUEST NO. 4: Produce documents that reflect the specific operational cost metrics (e.g., cost per mile, driver availability, fuel consumption) your operation utilizes when determining whether to haul grain to a specific Class I-served shuttle elevator versus trucking to an alternative shuttle-train served elevator or to an elevator that is not capable of handling shuttle trains during the Relevant Time Period.

RESPONSE:

REQUEST NO. 5: Produce any lists, spreadsheets, tables, or other documents that identify by legal name and location every grain storage or delivery facility to which you have hauled grain using your own farm fleet or that of your Affiliates during the Relevant Time Period.

RESPONSE:

REQUEST NO. 6: Produce any lists, spreadsheets, tables, or other documents in your possession that identify grain elevators, including shuttle facilities served by BNSF or UP, located within a 60-mile radius of your farming operations, during the Relevant Time Period.

RESPONSE:

REQUEST NO. 7: Produce any lists, spreadsheets, tables, or other documents that identify any or all non-rail-served regional elevators, collecting silos, or third-party intermediate holding facilities where you have delivered and stored grain prior to its final sale during the Relevant Time Period.

RESPONSE:

REQUEST NO. 8: Produce documents that contain, describe, or reflect the specific market factors—including regional elevator storage fees, anticipated geopolitical shifts in export demand, and local basis premiums—that affect your decision to store grain on your farm, deliver it to a regional holding elevator, or truck it directly to a shuttle-loading facility during the Relevant Time Period.

RESPONSE:

Respectfully submitted,

/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, LLC**

Dated: September 15, 2026

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

EXHIBIT E

**KIOWA COUNTY INDEPENDENT ARTICLE
MAY 10, 2023**

[News](#) · Stefan Soloviev Says First Unit Train Sent on CoPac Railroad from Weskan Grain His Biggest Achievement



History was made in Kiowa County on May 3, 2023, when the first unit train was filled with local milo at Weskan Grain and then sent to market along the Colorado Pacific Railroad.

John Sherman

NEWS

Stefan Soloviev Says First Unit Train Sent on CoPac Railroad from Weskan Grain His Biggest Achievement



BY BETSY BARNETT

May 10, 2023

On Wednesday, May 3rd, history was made in Kiowa County and a new economic era may have just opened up for the County as well as far beyond its borders. According to Stefan Soloviev, CEO of Soloviev Group, a multi-billion dollar privately owned conglomerate, “It was my biggest achievement—the goal of my life.”

That statement about a business transaction in Kiowa County, Colorado seems a bit overstated when one considers the type of industries associated with the 8 Regions located across the United States within Soloviev Group’s extensive holdings. The industries are lucrative and quite varied including real estate, art collections, casinos, hospitality, mining, landscaping, vineyards, renewable energy, transportation and railroads, and agricultural businesses.

On that historically significant day last week in Kiowa County crews from Soloviev’s Colorado Pacific Railroad loaded a unit train with 110 full grain cars in 36 hours at the newly built Weskan Grain Elevator, located at Stockton Siding just east of Plainview School on Highway 96 in eastern Kiowa County, and delivered the unit train to the Union Pacific interchange at NA Junction (near Pueblo) to be taken on to a market in the Houston, TX area. The train cars were filled with milo grown by not only Crossroads Ag, owned by the Soloviev Group, but by other local producers, as well.



Ty Lin Williams

To understand the enormous significance of what exactly happened on Wednesday, May 3, 2023, we have to go back to another time in Kiowa County. The railroad line that runs the entire length of the county was first constructed in the late 1880s by the Missouri Pacific Railroad and was the catalyst for the town-building that followed. Each of the towns in the county including Arlington, Haswell, Eads, Chivington, Brandon, Sheridan Lake, and Towner were established next to the railroad. That railroad was the lifeline of the county and a significant connector to the outside world—until one day it wasn't.

It seems powerful men can determine the economic demise of an entire area when they just stopped the train in 1996. One normal day the communities along the line saw 21 trains running through the county, as was usual, and, literally, the next day the tracks had gone silent—and stayed silent for a very long, devastating period of time.

The 122-mile stretch of track known as the Towner line was acquired by the Union Pacific in 1996 as part of its merger with Southern Pacific Railroad. However, the Union Pacific already had one line running across Eastern Colorado, they did not need two. The state of Colorado stepped in and bought the Towner line railroad. The purpose? To keep it intact. The state then, unfortunately, turned around and sold the railroad, a line they had bought to protect from being scrapped, to V&S Railroad, who promised to keep the railroad in service. The thing was—V&S was a railroad scrap and salvage company.



Ty Lin Williams

While Kiowa County was languishing economically looking for a reasonable way to get their grain out of the county without a significant cost in transportation where it is well-known that time means money, Stefan Soloviev was working his way toward Kiowa County, a place that lacked agribusiness infrastructure but had plenty of producers who were being shut out of the markets.

Soloviev grew up in New York City and got into commodities trading, particularly in the grain markets, after leaving New York University without graduating. According to an April 2, 2023 article in Leaders Magazine, Soloviev related the story, “Back around 2000, I realized that some commodities, especially grain prices, were not keeping up with inflation. Even though inflation was historically low at the time, I knew grain was going to become more expensive. You could go back 30 or 40 years on the price of wheat, for example, and there was no real change in price other than select times during specific world events. I quickly shifted from not only wanting to trade grains, but also to own farmland – which at the time was totally out of favor – and produce grains.”

Soloviev then made a major decision uprooting his family to Wichita, Kansas to learn how to be a farmer. He met the local producers, studied the markets more, figured out milo was a crop that held significant importance as it was none-gmo so China would buy it—and buy it at a better price than other markets. Milo was easier to grow and more drought resistant. Then corn seed was also developed into a more drought-resistant crop which opened even more opportunity for an enterprising young farmer.

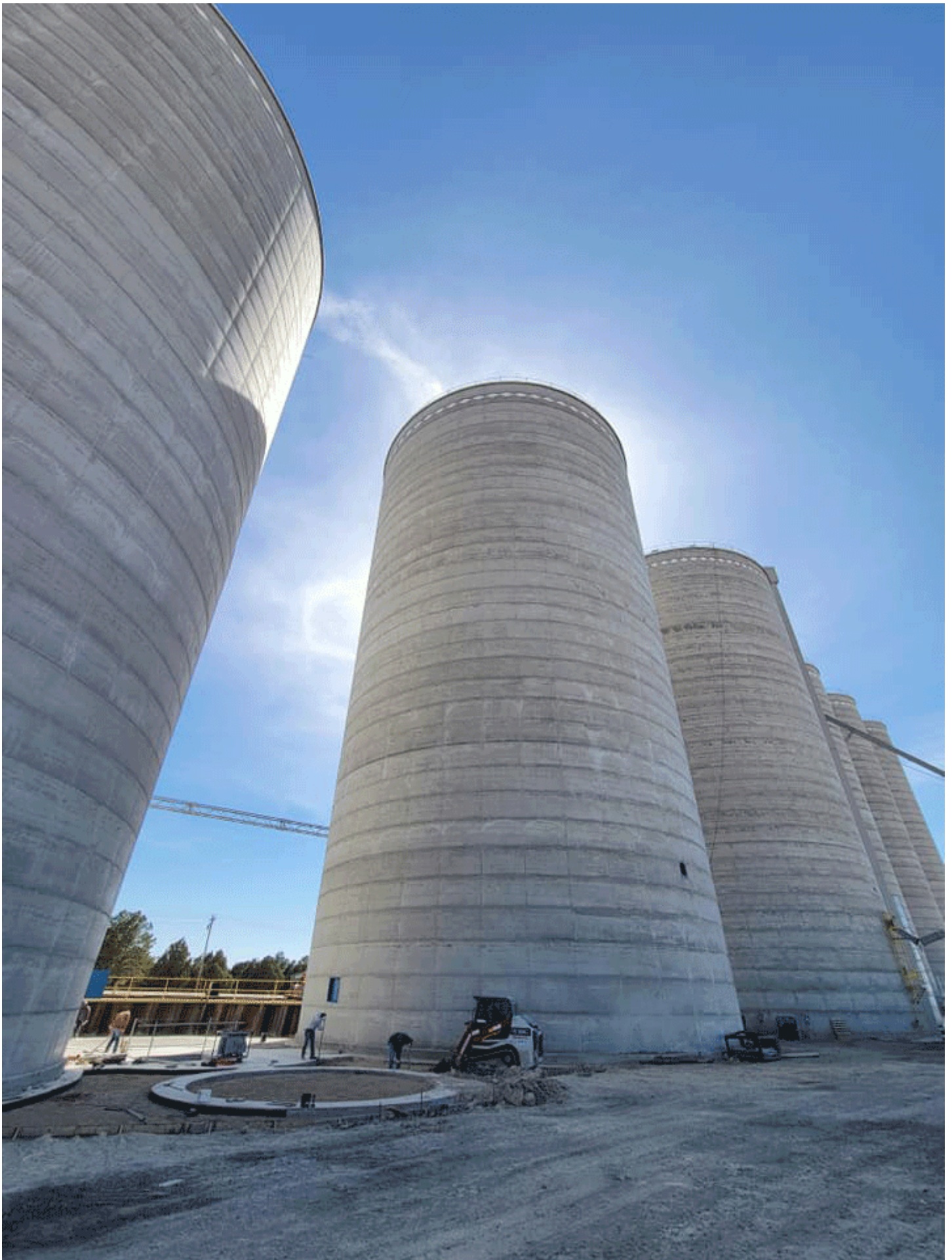


Ty Lin Williams

That's when Soloviev made his move. He formed Crossroads Agriculture and came to an area that most people avoided at all costs. "I finally settled on the Kansas/Colorado border which was a place I felt would be perfect for expansion. It was an area where no one was looking for land. You would barely see anyone from Denver or Iowa looking to take a shot there, much less any investors from the big cities. Less rainfall meant more risk, but also meant much larger fields at cheaper prices than the fields around Wichita. In my mind, it was also a prime area not only for the westward expansion of the drought-resistant corn, but for newer technologies for tomorrow. The plan was simple – leverage as much land as possible through the farm credit banking system. Then, as the grain price started to go the way I thought it would, the price of the acreage – as low as \$200 an acre back then – would follow and allow more equity for more land."

Since that decision to establish Crossroads Ag in 2007, the Soloviev Group is currently listed by The Land Report as the 26th largest landowner in the United States owning approximately 500,000 acres in its holdings in Colorado, Kansas, and New Mexico.

The formation of Crossroads Ag put Soloviev in the area soon after the train stopped running on the Towner line. Soloviev told the Independent in a February 2018 interview, "Whenever I was out there, which was pretty often, I'd drive over those tracks. That line runs straight west, and that always interested me. So, I looked into the situation. I began watching the headlines, talking to some of the locals, just trying to learn what I could."



Ty Lin Williams

By that time, V&S began to make its move to scrap the railroad. They presented their case to the Surface Transportation Board (STB) that the railroad should be abandoned, and the track pulled up and scrapped.

Fortunately, a STB ruling required V&S to wait for 2 years before tearing up the track. Meanwhile, Soloviev says his interest kept growing. "I don't get into anything unless I plan to win, and I knew, if I got into it, it was going to be a fight. If I hadn't stepped in when I did, the railroad would have been gone."

Then began an excruciating legal battle between Soloviev and V&S. In response to Soloviev's application to the STB the scrappers at V&S, in 2014, changed their tactics and brought equipment in pulling up tie spikes and anchors from four out of every five ties, starting at the Western end of the line. Soloviev then forced the sale stopping V&S Railway's destruction of the line.



Ty Lin Williams

Soloviev told the Independent, “It was the first forced sale in the country since the early 1970s.”

Finally, in 2018, the Towner line, 122 miles from Towner to NA Junction just east of Pueblo, was purchased by the Soloviev Group for \$10 million and the Colorado Pacific Railroad was born. Soloviev had saved the railroad, but it took many years and millions of dollars to do it. It was time to put his new railroad to work. First, there was much work to be done on the actual line and for that he brought in CWC Rail, Inc. owned and operated by Matt Prince, an experienced railroad contractor from Tennessee, and Harvey Crouch of Crouch Engineering. Despite fighting their way through a pandemic that Prince estimates put the project back a year, the old Towner line was finished in late 2020 costing an estimated \$3.5 million to rehab.

The final project before the rail line could open was to complete the interchange at NA Junction. The interchange consisted of the construction of two new sidings in a railyard that will afford flexibility for the Towner line. The construction of the new sidings in the interchange at NA Junction will allow the Burlington Northern Sante Fe (BNSF) Railroad or Union Pacific Railroad, and the local Colorado Pacific Railroad to set off and pick up loaded and empty freight cars finally opening rail traffic to the west for farmers in eastern Colorado and western Kansas. The NA Junction project came in on time and was finished just as 2021 rolled in with a price tag of \$3.4 million.

As his railroad was making significant progress and would soon represent a way to move the local grain to markets never before accessible for local producers toward the West, Soloviev was facing another issue—the lack of significant grain storage. With his business sense he knew he needed his own grain storage to help in lowering costs but had been unable to buy or lease the elevators along the Towner line as grain conglomerates Bartlett Grain—now Savage—and Scoular Grain owned or leased the major grain elevators along the rail line in Haswell, Eads, and Towner.



Ty Lin Williams

Soloviev said, “I’ve faced 18 years of hurdles in trying to get the best price I can for not only my products but also for local producers in Kiowa, Prowers, Cheyenne County and western Kansas. I keep trying to cut out the middleman. It was us against the world.”

The decision was made to build his own grain elevator that would not only serve his needs for Crossroads Ag but also improve the economics for the local producers. As of last week, the Soloviev Group owns and operates Weskan Farms, a massive grain elevator located strategically on Highway 96 and along the Colorado Pacific Railroad.

According to Weskan Grain CEO Will Bramblett the Stockton Railroad Siding consists of 7 concrete bin towers and 4 steel bins. “It can currently hold 3 million bushels of differing grains with the ability to expand for future needs.”

Bramblett, a Texas Tech graduate who has been in the grain industry for 20 years in a number of different states says the project cost somewhere in the neighborhood of \$20 million.

According to Randy Williams, owner of R&T Redi Mix, a local company out of Brandon and Lamar, “We poured the first three towers (of the seven) by shuttling cement back and forth from the Lamar plant to the Weskan Grain site. It took us 6 months and a lot of long days to complete the first three towers. Once they decided to build four more towers, we built a portable batch plant right on the site. That project began in September (2022), and we finished up in April.”

It is hard to estimate how much cement went into the project, but Williams says it was in the neighborhood of 13,000 to 14,000 yards of cement. They poured cement in all types of weather. The cement was carried up a belt on the large outside leg and then dumped down a spout. McPherson Concrete out of Kansas was the general contractor on the job.

“The facility is special as Weskan Grain is being dual served by two Class I railroads which should make them very competitive with other grain railroads in the region,” explains Bramblett. He further explained that these trains are heavy

axle meaning there is no limit on the length of cars that can be loaded.

Bramblett indicated that Soloviev has plans to expand Weskan Grain to a new facility at Galatea located between Eads and Haswell. “The Galatea project is located on the Colorado Pacific Railroad right-away property with Highway 96 on the south side and the railroad on the north side for easy access not only for the producers who will unload grain at a high speed but also for the train who will utilize shuttle cars to pick it up.”

In addition, according to Matt Prince, general manager and operator of Colorado Pacific Railroad, “The purpose of the satellite elevator at Galatea is for the grain producers further west to save on time and fuel in getting their grain to a market. We’re buying used hopper cars—65 to 100—to shuttle the grain from Galatea to the Weskan Grain elevator at Stockton Siding.”

Which brings us full circle on the history-making day last week. Prince played a major role in the first unit train going out of Weskan Grain to NA Junction and then on to markets in the Houston area. “We met the inbound Union Pacific unit train with the 110 cars at interchange. They got off and we got on and headed east to Weskan Grain. It takes 6 hours one-way to arrive at Weskan Grain. We had a few bugs that we identified while going through the first experience of loading the cars that had to do with the elevator’s processes. It took us 36 hours total to get the unit train back to interchange and off to market.” Even with the learning curve the train crew met the 48-hour time limit with time to spare.

As for Bramblett, “The sole purpose at Weskan Grain is to offer our services and time to area producers. We are driven to provide a more competitive price, give producers more advantages, and outstanding service.” Will Bramblett says he wants producers to call him. “I don’t want to just say we’re open for business, I want to talk to producers and explain how we can give them a competitive edge. I will answer texts and phone calls so do contact me at 830-328-2028.

Soloviev says, “Weskan Grain at Stockton Siding is the epicenter of Soloviev Group.” He shares the story that he chose the name Weskan Grain because of its significance to him personally, “The first time I heard the word Weskan was when

he watched the great Todd Okeson from the tiny town of Weskan, KS play in the 2004 NCAA Sweet 16 with Nevada. I thought at the time, what a neat name to describe a place in Western Kansas and on the border with Colorado. It struck me how impressive the people from Okeson's hometown must be."

Soloviev says he is doing something special with Weskan Grain and Colorado Pacific Railroad. "We're developing a new way to do agribusiness. I want the local producers to call me so I can come visit with them. I don't care if they have 40 acres or 40,000 acres of farmland, I'd love to talk to them."

Advertisements

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

**KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS**

EXHIBIT F

**THE LAND REPORT ARTICLE
JANUARY 1, 2025**

Home » Stefan Soloviev Goes Against the Grain

Stefan Soloviev Goes Against the Grain

By **Lisa Martin**

Stefan Soloviev Goes Against the Grain

sdsdds

By **Lisa Martin**





THE ICONOCLAST. Stefan Soloviev has bucked convention and built an agricultural powerhouse out west.

Published
January 1, 2025

14.1 min read

TABLE OF CONTENTS

- A Born Tra...
- Learning ...
- Going To N...
- The Neigh...
- The Confid...
- Revitalizin...

Stefan Soloviev moves like an athlete but has a mathlete's mind for numbers. He'll turn 50 in May but looks a decade younger. This native New Yorker, a true son of the city who Rollerbladed through Central Park on his way to high school, feels equally at home on the massive rural tracts he owns in Kansas, Colorado, and New Mexico. Without fanfare or fuss, he's positioned himself to take on the behemoths of corporate agriculture with an eye toward boosting local farmers' bottom lines.

In a culture that rewards oversharing and self-promotion, he is forging his own path as he learns, grows, and makes moves that might surprise anyone outside of his tight-knit circle. Twenty-five years after his first purchase of farmland — 309 acres south of

- Next Steps

SHARE POST



Wichita, Kansas, bought during a stint as a day trader in 1999 — Soloviev has become one of the top landowners in the United States.

In 2024, his holdings swelled to 617,000 acres.

“He’s a very humble guy,” says fellow Land Report 100er Shannon Kizer. “He’s a down-to-earth, good man, but he’s also the kind of guy that if you give him a million dollars, he’s going to try to figure out how to make \$10 million with it instead of worrying about how to spend the million.”

That mindset was undoubtedly influenced by his father. For the first 15 years of his life, Soloviev was the only child and heir apparent of Sheldon Solow (1928–2020), one of Manhattan’s best-known real estate developers. Born in Brooklyn to Russian immigrants, Solow bought his first apartment building in Far Rockaway in 1950. Two decades later, he built 9 West 57th Street. One of the world’s most prestigious addresses, it overlooks the Plaza Hotel and Central Park. Along the way, Solow gained a reputation as being difficult and litigious.

“He’d be up all night reading papers, and I was assuming he was working on the company to make it better, but it actually had to do with his ‘hobby,’ as I call it, of suing people,” says Soloviev, who adopted the original spelling of his family’s last name as a way to distance himself from his dad. “He really was a lawyer at heart.”



SCALE AND EFFICIENCY. Soloviev has spent decades building a pioneering dryland farming and ranching operation in Kansas, Colorado, and New Mexico (shown here).

A Born Trader

Soloviev, meanwhile, is a born trader. Starting around age 10 or 11, he spent hours decoding various stocks and commodities in daily newspapers and determining where to invest. He spent a couple of years at the University of Rhode Island before transferring his junior year to St. John's University, close to where he grew up, to join their Division I-AA football team. After six months and a sports injury, he quit school and joined the Solow Building Corporation full time.

He quickly went from parking cars to running the entire garage operation. Yet he felt a growing frustration with his father's combative approach to business. At 22, Soloviev and his 19-year-old wife, Stacey, moved out west and settled in Phoenix, Arizona.

"I would have stocked shelves at a grocery store," Soloviev says. "I just wanted to get out of New York and be in a place where no one knew who I was."

But Solow's apartment buildings were underperforming. Soloviev went a year without speaking to his father, who continuously lobbied his older son to return to the fold. (At the time, Soloviev's younger brother, Nikolai, was just in elementary school.)

Four years after heading west, Soloviev moved his family back to the East Coast after extracting assurances from his father that he'd have autonomy over the six garages and the residential properties. He quickly boosted occupancy at the 1,500 apartments in the five Solow-owned towers. The young executive also initiated

improvements to the structures themselves, which was always a source of contention with his father.

But the West and the freedom it represented still retained a firm grip on Soloviev's heart and mind, and he began to buy farmland on a large scale under the banner of his company, Crossroads Agriculture. "I've always loved farming," he says, recalling a childhood fascination with the potato farms prevalent on eastern Long Island.

WINDSHIELD TIME. Jarryd Burris, Shannon Kizer, and Stefan Soloviev talk land a dozen years ago outside Causey, New Mexico.

Learning About Land

The learning curve of landownership only fueled his interest. "I had no idea that wheat was planted in November, went dormant in the winter, and then was harvested in June," he says. He credits several farmers in Kansas for graciously helping to educate him.

"It's a lot to learn, but I loved it. I loved the machinery. I couldn't fix anything if my life depended on it, but it always intrigued me that you could produce a commodity that would then equal a contract traded in Chicago," he says.

Railroads are another passion of Soloviev's. The Burlington Northern Santa Fe (BNSF) Southern

Transcon route ran through one of his first farm properties. Even then, he had a premonition that railroads and railways could play a role in furthering his ambitions.

Going To Nebraska

As his complex relationship with his father grew increasingly fraught, Soloviev turned his attention to a new opportunity: Nebraska farmland.

“I wanted land in a windy place where I knew there’d be turbines one day,” he says, anticipating the rise of the clean-energy movement. He used the sale of his Wichita-area properties to finance the purchase of dryland in Kimball County and irrigated land in Scottsbluff 50 miles to the north. Twenty years later, he readily admits the venture was a misstep.

“I thought I knew more than I did, and it didn’t work out or fit the overall picture. I’m not afraid to say I flat out failed in Scottsbluff,” he says.

Fast-forward to 2023: Soloviev’s premonition about renewable energy ultimately paid off when he executed a lucrative wind lease in New Mexico with a renewable-energy company in what is likely the largest deal of its kind to date nationwide. He already has **30-plus wind turbines** constructed and operating on his farmland, with construction pending for many more.

After his Nebraska debacle, Soloviev decided to return to Kansas. He used a 1031 exchange to start acquiring farm acreage in the western part of the state and also in Colorado. An iconoclast through and through, Soloviev abandoned the typical practice of using section numbers to identify tracts and gave his fields familiar names.

“In Greeley County, Kansas, where we picked up a lot of land at first, I used all the streets in my home neighborhood: Apaquogue, Jones, Cottage, Lee, Jericho, Georgica,” he explains. “Every time I say the name of a field, I can picture the plat map and know exactly where the land is.”

Despite his skyrocketing acreage numbers, Soloviev can recite yields on his farms off the top of his head thanks to this unique naming convention.

RIGHT-HAND MAN. In 2005, Soloviev befriended Jarryd Burris, a neighboring rancher in Eastern New Mexico. Today, Burris runs Crossroad Ag’s South Region.

The Neighbor

Jarryd Burris bought his first farm in Eastern New Mexico in 2005. Next thing he knew, some New Yorker had purchased all the land around him. The two began talking cattle, wheat, and weather. Then they created a plan for trading cattle depending on rainfall and grazing. It proved profitable. Burris soon found himself running the entire South Region of Soloviev’s **Crossroads Agriculture**, the company’s largest by acreage.

“He and I are close enough in age, but we come from two extremely different backgrounds,” Burris says. “He never personifies a rich person or an elitist, and he really respects our Southwestern way of life. He is every bit the boss man, but we’ve become extremely close.”

“Our vision is to take the cow from birth to slaughter to the end user. My guys in New Mexico, led by Jarryd, are the absolute best and will get us there,” Soloviev says.

Soloviev spent a decade buying **New Mexico cropland** at an average price of \$300 an acre. He scooped up better bargains at auctions in Colorado and Kansas. He keeps a close eye on the bottom line. “Stefan’s not wasteful, and he’s a very savvy investor,” Kizer says. “When it comes to land, he knows what he wants, and he has the vision to buy sight unseen but never above market value.”

Occasionally, the two partner on ventures. They stay in constant contact. Over dinner, they might talk about a particular property or compare interest rates offered by area bankers. They freely share opinions and rely on each other’s counsel.

“We complement each other,” says Kizer, who owns 431,000 acres, much of it near his hometown of Portales, New Mexico.

Soloviev credits Burris and Kizer with the assembly of the more than 15 parcels that form his Quintin City Ranch, which is named for Soloviev’s closest confidant, one of his adult sons.

NEXT LEVEL. Quintin Soloviev, shown here with one of his drones at Weskan’s Sheridan Lake facility, brings cutting-edge technical expertise to Crossroads Agriculture. Photograph by Chip Sherman.



The Confidant

Quintin Soloviev, 21, became vice chairman of the Soloviev Group in 2022. Five years before that, he started creating content for QFS Aviation, a personal YouTube channel where he documents commercial aviation activity.

“The difference between Quintin and me is that I was brought up specifically to work for my father, and Quintin’s been brought up to do what he wants as long as he’s productive,” says Soloviev.

“Quintin works very hard for me, but he’s also an artist, and I can see that in him. Like all my kids, I want him to feel no pressure to work for me. I want him to pursue whatever he is interested in,” he adds.

The family now makes its home in Delray Beach, Florida; the state’s business-friendly climate has spurred plans to develop agricultural projects there. “I believe in Florida. I’m proud to call it home now,” Soloviev says.

Father and son travel together on a regular basis to Colorado, Kansas, and New Mexico, a long-standing tradition that dates to Quintin’s childhood. Soloviev believes that asking questions and listening to responses drives success, a trait he has instilled in his son.

On their trips together, the two have standing meetings with managers. They review activity. Every effort is made to meet other operators in the area. Currently, the company has more than 50 tenant farmers. Many of them responded to newspaper ads the Soloviev Group took out that invited young farmers to apply for long-term leases on its farmland. Personal visits with their tenants are an integral part of these tours.

Revitalizing Railroads

A decade ago, Soloviev realized that a lack of choices on the western edge of the High Plains was limiting not just his bottom line but the incomes of most other producers too. So he decided to challenge the status quo by banding together with his fellow farmers.

At the time, the Colorado Pacific Railroad (CoPac) was to be demolished. The 120-mile line runs from the Kansas state line across the plains of Eastern Colorado to the foothills of the Rockies. CoPac offers something rare for the region: access to both BNSF and UP connecting services, a boon for smaller farmers. So Soloviev went to court to prevent the demolition. In 2018, he won a lengthy (and costly) legal battle in Washington, D.C., to acquire CoPac's Towner segment.

Five years later, in 2023, Soloviev acquired a second short line, the 150-mile Colorado Pacific Rio Grande Railroad, out of bankruptcy. This line runs from the I-25 corridor over the Front Range of the Rockies to the San Luis Valley, the second-largest potato growing region in the nation.

With the help of COO Jason Jones, Soloviev took the Colorado Pacific Rio Grande Railroad from bankruptcy to profitability in less than two years. He plans to add additional short lines to his western railroad holdings. Soloviev is also challenging the major rail lines in court. He recently filed a complaint about a competing Kansas line's "paper barrier" before that state's Surface Transportation Board in an effort to bring grain marketing costs down for grain growers.

Soloviev's revival of these two key rail lines has led other railroads to lower freight rates for farmers shipping grain to the Texas Gulf Coast, Mexico, or the Pacific Northwest.

To further his quest of connecting the dots at Crossroads Ag, Soloviev opened a new bulk, train-loading grain facility in 2022 near Sheridan Lake, Colorado. **Weskan Grain** now anchors his company's North Division.

"Weskan is personal because I was a farmer there for 15 years, and I know what farmers are going through," Soloviev says. The elevator runs alongside his **Colorado Pacific Railroad**. Once again, Soloviev made personal pitches to farmers, emphasizing how Weskan could help them keep more money in their pockets. Once again, he met with skepticism.

The tide began turning when High Plains farmers who entrusted him with their grain started singing Weskan's praises. Because Weskan ships out unit trains — 110-car trainloads of the same grain — it obtains lower rail tariffs and can share those savings. Thus, it increases the profits of farm shippers.

In March 2024, Soloviev went a step further when he bought Stockholm Grain. This boosted Weskan's capacity to approximately 15 million bushels. "With Weskan Grain, we found a buyer who shares our core values of being customer- and community-focused and being successful when the customer is successful," said Ab Smith, CEO of Stockholm Grain at the time of the deal.

Another recent venture is Soloviev Ag Land Advisors, which capitalizes on Soloviev's considerable expertise investing in agricultural landholdings. The company offers comprehensive advisory services to clients on all aspects of agricultural investments with a strategic focus on deploying capital in the Midwest, the South, and the West Coast. To honor the commitment Soloviev made to farmers, the firm has vowed to avoid transactions in regions served by Weskan Grain.

Meanwhile, in his South Region, Soloviev's cattle operation keeps expanding. Corn and alfalfa grown in Kansas and Colorado now support the new feed yard at Quintin City Ranch where Soloviev maintains about 5,000 head — mostly Black Angus. He and his team have set their sights on raising that number to at least 7,500 head.

"Stefan always maximizes every effort we make," Burris says. Soloviev is inching closer to his vision of consumers one day buying his own branded beef.

At the end of 2024, the Quintin City crew unveiled a state-of-the-art steam flaker that removes the hard shell from the corn to improve a cow's digestion. The investment will help further the goal of finishing the cows at around 1,300 pounds apiece. Soloviev has another herd of about 2,000 head grazing on grassland and milo in Colorado that's being supervised by his longtime farm manager Jacob Fehr.

After Soloviev stopped farming, he rented out his ground to local producers. Fehr became his biggest tenant. He also remains a key adviser. "I have always said in life there's only a few real friends that will ever do anything and everything for you. Stefan has been a real friend to me and my family," Fehr says.

Next Steps

In the meantime, Soloviev juggles the demands of the New York City real estate empire that he inherited from his father in 2020. Thanks to improvements he instituted at 9 West 57th, he tripled occupancy to 97 percent at the landmark property. The foundation he leads has contributed millions of dollars to charitable endeavors that range from child protection to wounded warriors.

In the next five years, Soloviev expects Weskan Grain to compete effectively with the titans of the dryland-grain merchandising business out west. Yet as he discusses the multibillion-dollar future of his conglomerate, he inevitably circles back to his commitment to small farmers. In Soloviev's world, doing well and doing good go hand in hand, even as he owns up to some trial and error along the way.

"I've taken my lumps here and there, but I've never stopped learning from them, and I'll never stop improving my business," Soloviev told *The Land Report* in 2016 — a statement that still rings true today. "I don't have the personality to ever be satisfied, and I honestly don't see how anyone ever can be.

"You get nothing being complacent in life."

QUINTIN CITY FEED YARD. A finishing weight of 1,300 pounds per head is the target.

Published in The Land Report Winter 2024.

STAY IN THE LOOP

Subscribe to our free newsletter

Email Address

SIGN UP

RELATED ARTICLES

Texas Ten: A Roundup Of The Lone Star State's 10 Largest Landowners

July 2, 2026

2025 Timberland Deal Of The Year Weyerhaeuser Acquires Roanoke Timberlands

April 15, 2026



Subscribe to our newsletter

Email Address:

SIGN UP

SIGNATURE STUDIES

Top 100 Landowners

America's Best Brokerages

America's Top Auction Houses

Deals Of The Year

TOP 100 LANDOWNERS

Emmerson Family

Bill Gates

Jeff Bezos

Taylor Sheridan

View Top 100

GEAR GUIDE

2026 Ford Expedition King Ranch

2026 Bell Helicopter 505

2026 Mercedes-AMG G63

2026 Stark Future VARG EX

View Gear Guide

COMPANY

The Magazine

Advertise

Subscribe

Contact

f

X

© 2026 The Land Report

BEFORE THE
SURFACE TRANSPORTATION BOARD

NOR 42185

WESKAN GRAIN LLC V. KANSAS & OKLAHOMA RAILROAD, LLC

KANSAS & OKLAHOMA RAILROAD, LLC'S
PETITION FOR ISSUANCE OF SUBPOENAS

EXHIBIT G

**COMPLAINT FROM ANTITRUST CASE
(CASE NO. 2:26-CV-02053-JWL-GEB,
SOUTHERN DISTRICT OF KANSAS)
JANUARY 27, 2026**

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

WESKAN GRAIN LLC; COLORADO
PACIFIC RAILROAD, L.L.C.; D&L FARMS,
GP; E&D FARMS, GP; D&C FARMS, GP;
L&E FARMS, GP; NORTH FOUR FARMS,
GP; MARIENTHAL GRAIN LLC; D&A
FARMS, GP; HINEMAN LAND & CATTLE,
INC.; HINEMAN RANCH, L.L.C.; CIRCLE C
FARMS, INC.; STEVEN COMPTON; MARK
SANDERS; and JLD PARTNERSHIP;

Plaintiffs,

v.

KANSAS & OKLAHOMA RAILROAD, LLC,
and UNION PACIFIC RAILROAD COMPANY

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs Weskan Grain LLC (“Weskan”); Colorado Pacific Railroad, L.L.C. (“CXR”); D&L Farms, GP; E&D Farms, GP; D&C Farms, GP; L&E Farms, GP; North Four Farms, GP; Marienthal Grain, LLC; D&A Farms, GP; Hineman Land & Cattle, Inc.; Hineman Ranch, L.L.C.; Circle C Farms, Inc.; Steven Compton; Mark Sanders; and JLD Partnership;¹ and, bring this action against Defendants Kansas & Oklahoma Railroad, LLC (“K&O”) and Union Pacific Railroad Company (“UP”) (collectively, “Defendants”) for violations of federal, Kansas, and Colorado antitrust laws stemming from Defendants anticompetitive business practices that have harmed

¹ D&L Farms, GP; E&D Farms, GP; D&C Farms, GP; L&E Farms, GP; North Four Farms, GP; Marienthal Grain, LLC; D&A Farms, GP; Hineman Land & Cattle, Inc.; Hineman Ranch, L.L.C.; Circle C Farms, Inc.; Steven Compton; Mark Sanders; and JLD Partnership shall be collectively referred to as “Farmer Plaintiffs.”

grain farmers in western Kansas and eastern Colorado and prevented the development of other rail lines in the region. For their Complaint, Plaintiffs allege as follows:

INTRODUCTION

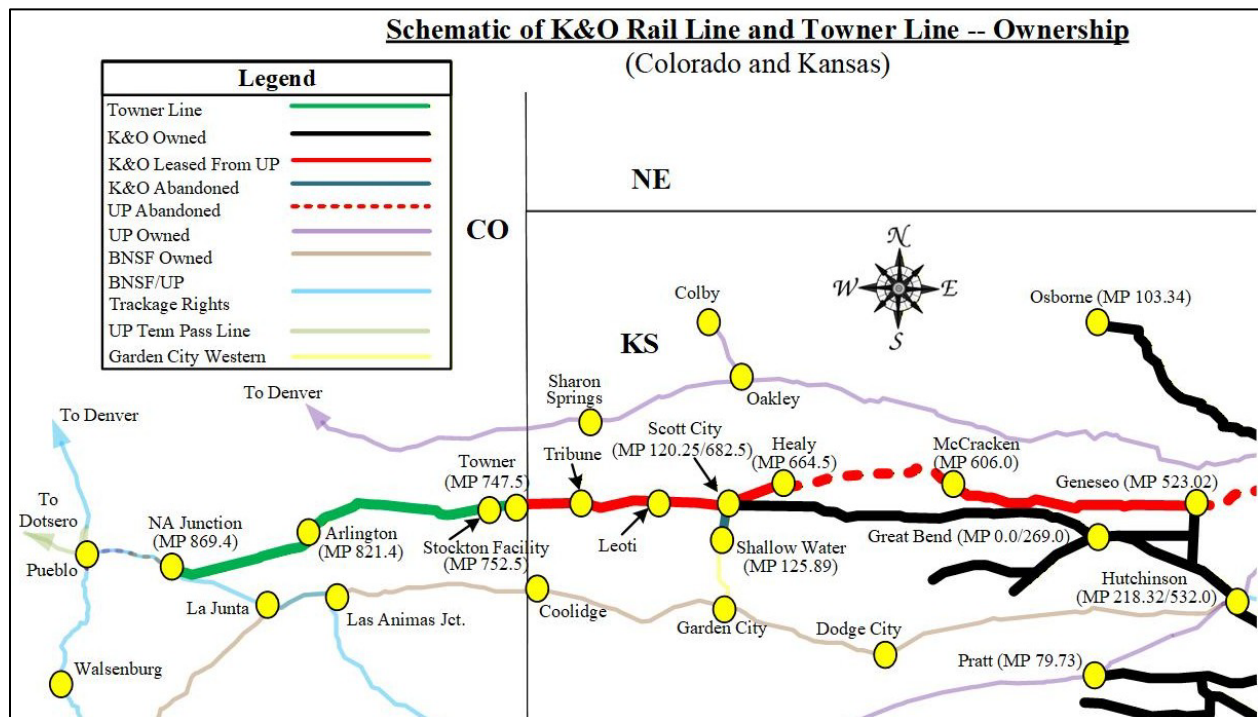
1. This is a case about a multibillion-dollar behemoth in the railroad industry (UP) secretly agreeing and conspiring with a short-line railroad owner-operator (K&O) to stifle competition from a newly rehabilitated rail line and preserve control over westward shipments of grain from Lane, Scott, Wichita, and Greeley Counties in Kansas and in Kiowa County, Colorado (the “Relevant Market”). Through their secret agreement – including a “paper barrier” – and related misconduct, Defendants have (i) fixed, raised, and/or stabilized transportation prices for the westward shipment of grain in the Relevant Market; (ii) allocated markets between themselves; (iii) harmed Plaintiffs through higher prices and lost profits; and (iv) eliminated competition in the Relevant Market. As a result, Defendants violated Sections 1 and 2 of the Sherman Act (15 U.S.C. §§ 1-2), and Kansas and Colorado state competition laws.

2. Grain farmers and shippers in the Relevant Market must access West Coast markets to remain competitive, as these markets contain several of the largest mills and ports. These farmers and shippers must use nearby trains to transport their grain to West Coast markets, as trucks and distant rail lines are too expensive.

3. According to Defendants, Kansas rail represents the “nucleus for all rail transportation in America.”² Defendants own and/or operate much of this “nucleus,” including a common carrier railroad line running through the middle of the Relevant Market (the “UP Lease Track”). UP owns the UP Lease Track and leases it to K&O pursuant to a 1997 lease agreement

² Union Pacific in Kansas, [pdf_kansas_usguide.pdf](#) (last checked January 27, 2026).

(the “1997 Lease”).³ As the diagram below demonstrates, the UP Lease Track connects to the K&O-owned Great Bend Line to the east and the CXR-owned Towner Line to the west.⁴ Accordingly, absent artificial and anticompetitive barriers, freight rail traffic can physically travel west from the UP Lease Track along the Towner Line.



4. Between roughly 1996 and 2018, parties could not transport grain west on the Towner Line due to its condition. This meant that the UP Lease Track did not connect to an active rail line to its west, so all westbound grain shipments using the UP Lease Line had to first travel east to the K&O-owned Great Bend Line and then farther east on a K&O-owned line to Hutchinson, Kansas. Only then could the freight begin traveling west. This was an inefficient and costly process for westbound rail freight. It also ensured that Defendants controlled all such freight because it traveled over Defendant-owned lines until at least Hutchinson, Kansas.

³ UP originally leased the UP Lease Track to Central Kansas Railway, LLC (“CKR”). K&O inherited the lease in 2001 when it acquired the assets of CKR.

⁴ The Great Bend Line runs from Scott City, Kansas to Great Bend, Kansas.

5. CXR attempted to give shippers and farmers in the Relevant Market an alternative and more direct route west by purchasing the Towner Line in early 2018 and rehabilitating it. The line reopened for freight service in 2019.

6. As the diagram above demonstrates, the Towner Line connects to the western terminus of the UP Lease Track, providing a direct line for westbound freight from the Relevant Market. *See also Ex. A* (maps showing (1) railroad ownership in western Kansas and eastern Colorado and (2) a close-up of the UP Lease Track operated by K&O). The Towner Line continues west for approximately 122 rail miles to NA Junction, at which point it connects to a line over which both BNSF Railway Company (“BNSF”) and UP have trackage rights, meaning BNSF and UP must compete for rail traffic continuing west from NA Junction. *Id.* Therefore, by rehabilitating the Towner Line, CXR transformed the westbound shipment of grain from a market completely controlled by Defendants to one in which Defendants and others had to compete at multiple stages. But for Defendants’ misconduct, this increase in competition for rail traffic would have benefitted Plaintiffs and other market participants.

7. Rather than accept this new reality and compete for rail traffic on the merits, Defendants agreed and conspired to eliminate the Towner Line as an option for westbound shipments of commodities altogether. Shortly after CXR acquired the Towner Line in 2018, Defendants secretly and unlawfully amended the 1997 Lease by failing to either disclose the agreement to the Surface Transportation Board (“STB”) or receive permission from the STB for the amendments as required by law.⁵ They did so again shortly after the Towner Line became operational in 2019. As part of the 2019 amendment, Defendants agreed to impose a significant

⁵ *See* 49 U.S.C. § 11323 (granting the STB authority to approve transactions like leases, mergers, etc.); 49 CFR Part 1180 (Railroad Acquisition, Control, Merger, Consolidation Project, Trackage Rights, and Lease Procedures).

interchange fee on any railcar that originated or terminated on the UP Lease Track and interchanged with the Towner Line (the “Interchange Fee”).

8. The Interchange Fee is exorbitant and clearly designed to prevent the westward flow of rail traffic from the UP Lease Track onto the Towner Line. Based on information and belief, the Interchange Fee exceeds \$500 per railcar, making it cost-prohibitive for parties shipping grain west from the Relevant Market to use the Towner Line. In fact, no westbound railcar carrying any commodity has shipped from the Relevant Market and travelled over the Towner Line in the more than six years since the Interchange Fee was adopted. Defendants, therefore, have used the Interchange Fee to unlawfully maintain their dominance over westbound shipments from the Relevant Market.

9. Defendants hid the fact they amended the 1997 Lease because, presumably, they understood the amendments were unlawful and anticompetitive. Defendants were required to obtain STB approval for the amendments, which would have required disclosure of the Interchange Fee. Defendants failed to even request (let alone obtain) approval from the STB.

10. Likewise, multiple parties requested information concerning the amendments from K&O, including Plaintiffs Weskan and CXR. K&O refused to provide this information in every instance. Defendants did not even confirm the existence of the lease amendments until forced to do so after Weskan initiated proceedings with the STB seeking such information. Even then, Defendants refused (and continue to refuse) to disclose the actual amount of the Interchange Fee.

11. As a direct result of their secret agreements and Interchange Fee, Defendants have (i) fixed, raised, and/or stabilized transportation prices for the westward shipment of grain in the Relevant Market (ii) allocated the market for the shipment of westbound grain from the Relevant Market between themselves; and (iii) preserved their monopoly over such shipping. In addition,

by increasing the cost of shipping grain west from the Relevant Market and preventing use of the Towner Line, Defendants have (i) decreased the amount Farmer Plaintiffs receive for their grain, (ii) increased the amount Weskan pays to transport grain west from the Relevant Market, and (iii) significantly reduced the amount of revenue that CXR generates from the Towner Line. Defendants have thereby caused antitrust injury to Plaintiffs in their respective businesses or properties in interstate commerce.

PARTIES

12. Plaintiff Weskan Grain LLC is a Delaware limited liability company with its principal place of business in Sheridan Lake, Colorado. Weskan is an indirect affiliate of CXR. It owns grain storage facilities along both the UP Lease Track in western Kansas and the Towner Line in eastern Colorado, including a state-of-the-art grain elevator complex near Sheridan Lake, Colorado, approximately eight miles west of Towner, Colorado at the Colorado-Kansas state line. Weskan works with grain farmers in western Kansas and eastern Colorado, including Farmer Plaintiffs, to store, sell, and ship grain. The Farmer Plaintiffs are customers of Weskan's grain storage facilities. Weskan ships grain via K&O and UP.

13. Plaintiff Colorado Pacific Railroad, L.L.C. ("CXR") is a Delaware limited liability company and an indirect affiliate of Weskan with its principal place of business in Alamosa, Colorado. CXR is the owner-operator of the Towner Line.

14. Plaintiff D&L Farms, GP ("D&L Farms") is a general partnership with its principal place of business in Scott City, Kansas. D&L Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

15. Plaintiff E&D Farms, GP ("E&D Farms") is a general partnership with its principal place of business in Marienthal, Kansas. E&D Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

16. Plaintiff D&C Farms, GP (“D&C Farms”) is a general partnership with its principal place of business in Marienthal, Kansas. D&C Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

17. Plaintiff L&E Farms, GP (“L&E Farms”) is a general partnership with its principal place of business in Leoti, Kansas. L&E Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

18. Plaintiff North Four Farms, GP (“North Four Farms”) is a general partnership with its principal place of business in Marienthal, Kansas. North Four Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

19. Plaintiff Marienthal Grain LLC (“Marienthal Grain”) is a Kansas limited liability company with its principal place of business in Marienthal, Kansas. Marienthal Grain is an affiliate of Plaintiffs D&L Farms, E&D Farms, D&C Farms, L&E Farms, and North Four Farms who markets and sells grain grown by those five farms. It indirectly purchased rail transportation for grain from Defendants.

20. Plaintiff D&A Farms, GP (“D&A Farms”) is a general partnership with its principal place of business in Dighton, Kansas. D&A Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

21. Plaintiff Hineman Land & Cattle, Inc. (“Hineman Land & Cattle”) is a Kansas corporation with its principal place of business in Dighton, Kansas. Hineman Land & Cattle grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

22. Plaintiff Hineman Ranch, L.L.C. (“Hineman Ranch”) is a Kansas limited liability company with its principal place of business in Dighton, Kansas. Hineman Ranch grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

23. Plaintiff Circle C Farms, Inc. (“Circle C Farms”) is a Kansas corporation with its principal place of business in Scott City, Kansas. Circle C Farms grows and stores grain in western Kansas and indirectly purchased rail transportation for grain from Defendants.

24. Plaintiff Steven Compton (“Compton”) is an individual and a resident of Scott City, Kansas. He is a grain farmer who grows and stores grain in western Kansas and who indirectly purchased rail transportation for grain from Defendants.

25. Plaintiff Mark Sanders (“Sanders”) is an individual and resident of Towner, Colorado. He is a grain farmer who grows and stores grain in eastern Colorado and, until approximately 2023, stored grain in western Kansas and who indirectly purchased rail transportation for grain from Defendants.

26. Plaintiff JLD Partnership (“JLD”) is a general partnership with its principal place of business in Eads, Colorado. JLD grows and stores grain in eastern Colorado. Until approximately 2023, grain harvested and sold by JLD frequently had to be transported through western Kansas. JLD indirectly purchased rail transportation for grain from Defendants.

27. Defendant Kansas & Oklahoma Railroad, LLC (“K&O”) is a Kansas limited liability company with its principal place of business in Pittsburg, Kansas. It is a Class III freight railroad company and a railroad common carrier.

28. Defendant Union Pacific Railroad Company (“UP”) is the operating company of Union Pacific Corporation, a Utah corporation, with its principal place of business in Omaha, Nebraska. UP is a Class I freight railroad and is the largest railroad in the world based on market

capitalization. UP owns and operates thousands of miles of rail lines in the central and western parts of the United States, including Kansas and Colorado, and is a railroad common carrier.

29. The acts alleged to have been done by Defendants were authorized, ordered, or performed by their respective directors, officers, managers, agents, employees, or representatives in the course of their employment and while actively engaged in the management of Defendants' affairs.

30. Each Defendant, through its subsidiaries, divisions, affiliates and agents, operated as a single unified entity with each acting as the agent or joint venturer of or for the others with respect to the acts, violations, and common course of conduct alleged herein and under the authority and apparent authority of parent entities, principals and controlling parties.

31. Various other persons not named as Defendants have participated as co-conspirators or joint venturers with Defendants and have made contracts, performed acts, and made statements in furtherance of Defendants' unlawful acts and conspiracy. The Defendants are jointly and severally liable for the acts of such persons or entities and Plaintiffs are informed and believe, and on that basis allege, that each such entity is responsible in some manner for the occurrences herein alleged, or was acting in concert with, and with the permission, approval, and authorization of, the specifically named Defendants. Plaintiffs will seek leave of the Court to amend this pleading to set forth the true names and capacities of such parties when the same are ascertained.

JURISDICTION AND VENUE

32. The claims in this action arise under the federal antitrust laws, 15 U.S.C. §§ 1, 2, and 15, and Kansas and Colorado law and affect interstate commerce.

33. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 15 U.S.C. § 15. With respect to Kansas and Colorado state-law claims, this Court has supplemental jurisdiction under 28 U.S.C. § 1367.

34. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 15 U.S.C. § 15 because Defendants do business in this District, have significant operations here, and otherwise reside, are found, or have an agent here.

FACTUAL BACKGROUND

I. Background of Operations in the Relevant Market

35. Farmer Plaintiffs are grain farmers in the Relevant Market. Much of their grain is transported to locations west of the Relevant Market, including port cities on the West Coast. Farmer Plaintiffs must transport grain west because (i) several of the largest mills are located on the West Coast, including several in California; and (ii) much of their grain is exported from ports located on the West Coast.

36. Weskan purchases, stores, sells, and ships grain for Farmer Plaintiffs. It owns multiple grain storage facilities along the UP Lease Track and a state-of-the-art grain elevator complex along the Towner Line, approximately eight miles west of Towner, Colorado (the “Stockton Facility”). No other Weskan facility is located west of the Towner Line/UP Lease Track interchange.

37. The Stockton Facility was completed in 2023. Because it is located on the Towner Line (i.e., west of the Towner Line/UP Lease Track interchange), Weskan can ship grain west from this facility without interchanging with the UP Lease Track and, therefore, incurring the Interchange Fee. However, this is immaterial for most farmers in the Relevant Market because they are located a significant distance from the Stockton Facility, making it cost-prohibitive for them to ship their grain by truck to the Stockton Facility to bypass the Interchange Fee. While a small number of farmers in the westernmost part of the Relevant Market can ship their grain by truck to the Stockton Facility or alternative rail lines to bypass the Interchange Fee, they still incur higher transportation costs than would exist but for the Interchange Fee. If the Interchange Fee

were eliminated, then even these farmers would ship much of their westbound grain from the Relevant Market and over the Towner Line.

38. In a typical transaction between Weskan and Farmer Plaintiffs, Weskan purchases the grain from Farmer Plaintiffs and coordinates and pays for transportation of the grain. This includes paying any transportation costs to railroad owners and/or operators like Defendants.

39. The price that Weskan pays to Farmer Plaintiffs for the grain is based, in significant part, on the cost of transporting the grain to its ultimate destination via rail. Therefore, when forced to pay the Interchange Fee or incur additional rail transportation costs to avoid the Interchange Fee, Weskan is forced to pay higher transportation costs and Farmer Plaintiffs receive a lower price for their grain.

40. Farmer Plaintiffs and Weskan must use trains to transport grain any significant distance. Trucks are not a viable alternative. Shipping via trucks is significantly more expensive and, therefore, cost-prohibitive except for short-haul shipments. Trucks are also much less reliable because their supply in the Relevant Market fluctuates, particularly during harvest season. Therefore, by increasing the cost to ship grain by train in the Relevant Market, Defendants' conduct forced Weskan to pay higher prices to transport the grain and Farmer Plaintiffs to accept lower prices for their grain.

41. Defendant UP owns the UP Lease Track and leases it to K&O pursuant to a 1997 Lease.⁶ The UP Lease Track runs uninterrupted from Towner, Colorado, to Scott City, Kansas, and then to Healy, Kansas. *See Ex. A.* At its western terminus, it connects to the Towner Line and, at Scott City, Kansas, it connects to the K&O-owned Great Bend Line. *Id.*

⁶ The 1997 Lease was originally between UP and the Central Kansas Railroad, Inc. ("CKR"). K&O became the leaseholder when it purchased assets of CKR in 2001.

42. Prior to the reopening of the Towner Line, all westbound freight shipped from the UP Lease Track had to first travel east to Hutchinson, Kansas on Defendant-owned lines. Only then could the freight begin moving west. This route was, therefore, inefficient, costly, and ensured all westbound freight originating in the Relevant Market used Defendant-owned lines.

43. CXR acquired the Towner Line in 2018 and reopened it in 2019. The Towner Line provides a direct route west for freight from the Relevant Market. It runs for approximately 122 miles from Towner, Colorado, to NA Junction, Colorado. In NA Junction, the Towner Line connects to a line to which BNSF and UP have tracking rights. Therefore, BNSF and UP must compete to ship this freight farther west.

44. The Towner Line significantly reduces the distance that westward rail freight in the Relevant Market must travel. As a result, upon information and belief, using the Towner Line to ship grain west reduces shipping costs by at least \$500 per rail car.

45. Pursuant to an Operating Agreement with CXR, K&O was the exclusive operator of the Towner Line from 2019 through 2021. Therefore, absent its collusion with UP and associated anticompetitive conduct, it was in K&O's independent economic interest to increase the flow of rail traffic over the Towner Line during that period. Notwithstanding, K&O did not transport a single railcar from the Relevant Market (i.e., originating on the UP Lease Track) over the Towner Line in the three years in which it had exclusive operating rights. It also secretly amended the 1997 Lease and adopted the Interchange Fee during this time. Due to the lack of rail traffic developed by K&O, the parties agreed to allow the operating agreement to expire on its own terms at the end of 2021.

II. Defendants Agreed and Conspired to Unreasonably Restrain Trade in the Relevant Market and Maintain their Monopoly

46. Again, from 1996 to 2018, parties that wanted to ship grain west from the Relevant Market had to use Defendants' rail lines. This should have changed in or after 2019 when CXR reopened the Towner Line, which gave those parties an alternative and more direct westward route for shipping grain. For the first time in decades, Defendants faced the prospect of competition for the westbound shipment of grain from the Relevant Market.

47. Defendants responded to this competitive pressure by secretly amending the 1997 Lease in 2018 and 2019. As part of the 2019 amendment, Defendants adopted the Interchange Fee. An interchange commitment is generally defined as "a provision or agreement that may limit future interchange with a third-party connecting carrier, whether by outright prohibition, per-car penalty, adjustment in the purchase price or rental, positive economic inducement, or other means." 49 C.F.R. § 1180.4(g)(3)(i). Interchange commitments are referred to as "paper barriers" because they effectively erect barriers that prevent interchange with competing railroads, either explicitly or through fees that make it cost-prohibitive to do so (as here).

48. Prior to the secret amendments, the interchange commitment in the 1997 Lease was a rent-based cost that was significantly less punitive than the current Interchange Fee and did not apply to rail freight traveling over the Towner Line. The prior interchange commitment, therefore, would not have prevented the westward flow of traffic from the UP Lease Track once the Towner Line became operational. When amended in 2019, the Interchange Fee became an "asset use fee" that requires payment for every railcar that originates or terminates on the UP Lease Track and interchanges with the Towner Line. Therefore, the fee applies to every railcar that transports grain or any other commodity west from the Relevant Market over the Towner Line.

49. Defendants were required to obtain STB approval for both the 2018 and 2019 amendments to the 1997 Lease and to disclose the existence of the interchange commitment. Yet, in each instance, Defendants kept the amendments secret and did not disclose them to the STB or other market participants.

50. Defendants fraudulently concealed the amendments despite K&O serving as operator of the Towner Line when both amendments were executed. K&O also repeatedly refused requests from CXR and Weskan for information concerning the amendments even though CXR and Weskan needed this information to effectively operate their respective business and were negotiating various arrangements with K&O to increase rail traffic over K&O-owned and/or operated lines.

51. Due to K&O's repeated refusal to provide information concerning the amendments and Interchange Fee, Weskan instituted proceedings with the STB against K&O in 2024, seeking disclosure of the lease amendments and Interchange Fee. Only then did Defendants confirm the amendments existed. However, Defendants continue to refuse to provide the specific lease amendments, including the amount(s) of the Interchange Fee.

52. While the precise amount of the Interchange Fee is unknown, on information and belief Defendants set it high enough to make the westward shipment of grain from the Relevant Market over the Towner Line cost prohibitive. According to calculations based on publicly available data, parties shipping grain west from the Relevant Market would save at least \$500 per railcar by using the Towner Line because it provides a direct line west and significantly reduces rail travel distances compared to shipping west along Defendants' lines. Despite these potential savings, in the more than six years since the Towner Line reopened, all shippers have been required to use Defendants' lines and incur the additional transportation costs due to the Interchange Fee.

53. Because the Interchange Fee effectively precludes parties from transporting grain west from the UP Lease Track to the Towner Line, participants in the Relevant Market must choose between the following costly options: (1) ship the grain along Defendants' lines and incur the additional costs and risks associated with the inefficient route, or (2) use trucks to transport the grain to a loading facility located on an alternative railroad not subject to the Interchange Fee, none of which are located in the Relevant Market. The second option is cost-prohibitive for most grain grown in the Relevant Market because it is not located close enough to an alternative railroad.

54. As discussed in more detail below, both options significantly increase transportation costs for shipping grain west from the Relevant Market. This, in turn, reduces the amount of profit that Farmer Plaintiffs receive for their grain and increases the amount Weskan must pay to transport the grain west and deprives CXR of potential revenues.

III. The Relevant Market

55. The Relevant Market is the market for the westward shipment of grain by train from Lane, Scott, Wichita, and Greeley Counties in Kansas and in Kiowa County, Colorado.

A. Relevant Product Market

56. The relevant product market is the market for the westbound shipment of grain by train. This market includes all reasonable substitutes that parties could turn to if faced with a small but significant non-transitory increase in price ("SSNIP").

57. There is no alternative mode of transportation that parties would turn to if faced with a SSNIP. Again, trucks can physically transport the grain west but are significantly more expensive and less reliable than shipping via train and, therefore, are not a reasonable substitute for shipping grain any distance over 200 miles.

58. Parties would also not use an alternative railroad if faced with a SSNIP. The UP Lease Track is the only railroad in the Relevant Market. Therefore, to access an alternative railroad,

parties must ship their grain long distances by truck to the alternative railroad, which, again, is both costly and unpredictable. While a small number of parties in the Relevant Market have used trucks to ship grain to an alternative railroad to avoid the Interchange Fee, these parties did so in response to the Interchange Fee – a punitive fee that far exceeds a SSNIP.

B. Relevant Geographic Market

59. The geographic market conforms to the economic realities of the grain shipping market. Defendants' challenged conduct impacts the farmers and shippers residing in the counties that comprise the Relevant Market, as the UP Lease Track runs through the middle of these counties. Most farmers and shippers in the Relevant Market cannot turn to alternative rail lines located outside of the Relevant Market because it is too costly to ship their grain to those other rail lines. And none would turn to alternative rail lines if faced with a SSNIP.

C. Market Power

60. Defendants have market power in the Relevant Market. UP owns the UP Lease Track, which is the only rail line in the Relevant Market that parties can use to ship grain. K&O leases and operates the UP Lease Track. UP and K&O also own or operate all rail lines that connect to the UP Lease Track except for the Towner Line. Therefore, before the Towner Line was operational, Defendants controlled all westbound rail shipments of grain from the Relevant Market. Defendants continue to control all such shipments even after the reopening of the Tower Line because the Interchange Fee prevents the flow of any rail traffic from the Relevant Market over the Towner Line.

61. Further demonstrating Defendants' market power in the Relevant Market, upon information and belief, the Interchange Fee increases the price to ship grain west from the Relevant Market by at least \$500 per railcar. Despite this sizeable increase in price, Defendants have not lost significant market share or control of westbound grain shipments from the Relevant Market.

62. The Relevant Market has significant barriers to entry and expansion. It would take a company several years and tens of millions or hundreds of millions of dollars to obtain approval for and construct a competing railroad.

IV. Defendants' Anticompetitive Conduct Injures Plaintiffs and Competition

63. As explained above, by agreeing to the secret and unauthorized Interchange Fee, Defendants eliminated the Towner Line as a competitive option for the westward shipment of grain from the Relevant Market. In doing so, Defendants also harmed competition between UP and BNSF for shipment of grain west from NA Junction – the western terminus of the Towner Line. **Ex. A.** Therefore, the Interchange Fee turned the westward shipment of grain from the Relevant Market from a market in which parties potentially compete at multiple stages into one in which Defendants operate without competitive restraints.

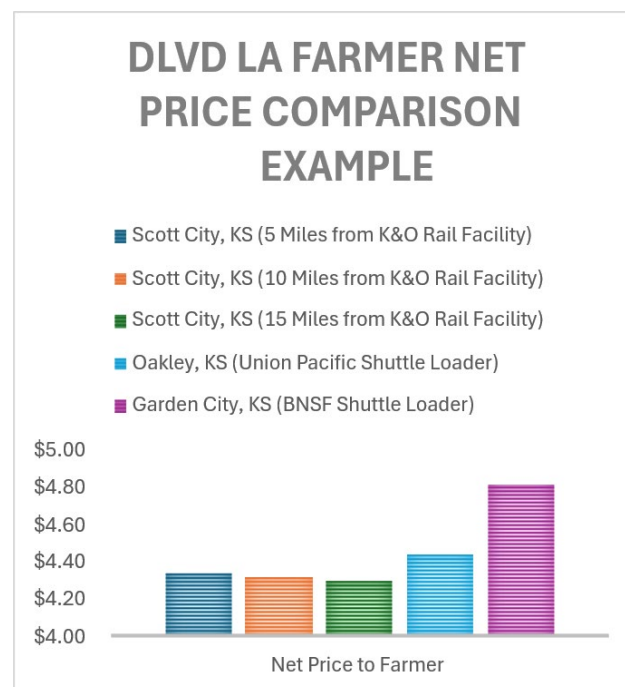
64. Defendants have injured Farmer Plaintiffs and Weskan by adopting the Interchange Fee. Again, the amount Farmer Plaintiffs receive for their grain is based, in part, on the cost to transport the grain. And Weskan pays Defendants to transport the grain. Therefore, by increasing the cost to transport grain west from the Relevant Market through the Interchange Fee, Defendants have harmed Farmer Plaintiffs by reducing profits they receive for their grain and have harmed Weskan by artificially increasing the prices it pays for transportation.

65. Demonstrating this, during the week of December 1, 2025, Weskan sold wheat from the Stockton Facility (not subject to the Interchange Fee) and the Scott City Facility (subject to the Interchange Fee) for shipment to Tolleson, Arizona. The wheat was the same type and quality, and the price of wheat did not materially fluctuate between the sales. Therefore, the price paid for the wheat should have been roughly the same.

66. Yet, the farmers received 41 cents more per bushel for the wheat from the Stockton Facility than the wheat from Scott City Facility. Assuming typical profit margins on wheat, farmers

shipping from Scott City earned 66% less profit than those shipping from the Stockton Facility. This difference in price-per-bushel was due to the difference in transportation costs caused by the Interchange Fee. The grain from Stockton Facility was not subject to the Interchange Fee and was shipped directly west along the Towner Line. The grain from the Scott City Facility was subject to the Interchange Fee and, therefore, was shipped on Defendant-owned lines to avoid the fee, which increased the length of the trip and cost of transportation.

67. Likewise, the following diagram shows the per-bushel amount received by farmers for wheat delivered to Los Angeles (referred to as “DLVD LA” in the title of the chart) from Scott City using Defendants’ lines and from comparable locations in Kansas using non-Defendant lines. The Y-axis in the diagram represents the amount per bushel that farmers receive for their grain. The diagram demonstrates that farmers shipping from the Relevant Market receive significantly less for each bushel of wheat than those shipping from comparable markets on other railroads. This is entirely or almost entirely due to the Interchange Fee and increases in transportation costs caused therefrom.



68. Defendants have also reduced the supply of westbound grain from the Relevant Market by adopting the Interchange Fee. By artificially increasing transportation costs, Defendants restrict the number of western markets to which Farmer Plaintiffs and Weskan can profitably ship. As a result, less grain is shipped westward from the Relevant Market.

69. Finally, by adopting the Interchange Fee and eliminating the flow of rail traffic from the Relevant Market over the Towner Line, Defendants have significantly reduced the revenue CXR generates from operating the Towner Line.

V. Fraudulent Concealment Tolls any Statute of Limitations

70. Plaintiffs did not discover, and could not have discovered through reasonable diligence, Defendants' illegal conduct until 2024 when Defendants admitted they amended the 1997 Lease and the interchange commitment contained therein in 2018 and 2019. Even now, Defendants refuse to disclose the actual Interchange Fee, meaning the full extent of Plaintiffs' injuries remain unknown.

71. Defendants intentionally concealed the unlawful conduct alleged herein in a manner designed to prevent detection. As described above, Defendants were required to seek approval of the amendments to the 1997 Lease from the STB and disclose the existence of the interchange commitment. Defendants knew this and chose to ignore their legal obligation to keep the amendments secret.

72. In addition, Plaintiffs CXR, Weskan, and others have requested information from Defendants concerning the amendments to the 1997 Lease on several occasions. Defendants have refused to provide this information in every instance outside of litigation.

73. Accordingly, to the extent that tolling is necessary to advance some or all of the claims alleged by Plaintiffs, the statutes of limitations governing claims under the Sherman Act

and state competition laws were tolled at least until 2024 pursuant to the injury-discovery rule and/or the doctrine of fraudulent concealment.

CLAIMS FOR RELIEF

COUNT I

Violation of Section 1 of the Sherman Act for Unlawful Price Fixing (Against All Defendants) (Injunctive Relief for all Plaintiffs; Damages for Weskan and CXR)

74. Plaintiffs incorporate and reallege every allegation set forth in the preceding paragraphs of this Complaint as though fully set forth herein.

75. Beginning no later than December 2019, Defendants have engaged in an ongoing agreement, contract, combination, or conspiracy to unreasonably restrain interstate trade and commerce in violation of Section 1 of the Sherman Act.

76. Defendants' agreement, contract, and/or combination has had the effect of fixing, raising, and/or stabilizing prices for the westward shipment of grain by train from the Relevant Market.

77. Defendants' combination or conspiracy has harmed competition in the Relevant Market and caused anticompetitive effects. These include: (i) causing Plaintiffs to pay super-competitive prices for the transportation of grain west from the Relevant Market; (ii) losing competition at multiple locations for grain traveling west from the Relevant Market; (iii) reducing the supply of grain shipped to western markets from the Relevant Market; and (iv) reducing the total number of western markets to which grain shipped from the Relevant Market can be cost-effectively delivered.

78. As a direct and proximate result of Defendants' unlawful agreement and conspiracy, Plaintiffs have been injured and will continue to be injured. Specifically, Farmer Plaintiffs have received less for their grain due to Defendants' misconduct; Weskan has overpaid for transportation

services due to Defendants' misconduct; and CXR has lost significant revenue from the elimination of traffic over the Towner Line caused by Defendants' misconduct. Such economic harm suffered by Plaintiffs constitutes antitrust injury.

79. Plaintiffs CXR and Weskan are entitled to treble damages for their overpayments and lost profits caused by Defendants' unlawful agreement, combination, and/or conspiracy. All Plaintiffs are entitled to attorneys' fees and costs, and injunctive relief.

COUNT II

Violation of Section 1 of the Sherman Act for Unlawful Market Allocation **(Against All Defendants)** **(Injunctive Relief for all Plaintiffs; Damages for Weskan and CXR)**

80. Plaintiffs incorporate and reallege every allegation set forth in the preceding paragraphs of this Complaint as though fully set forth herein.

81. At least since December 2019, Defendants have engaged in an ongoing agreement, contract, combination, or conspiracy to unreasonably restrain interstate trade and commerce in violation of Section 1 of the Sherman Act.

82. Defendants' agreement, contract, and/or combination has had the effect of allocating the market for the westward shipment of grain from the Relevant Market between themselves and excluding competition.

83. Defendants' combination or conspiracy has harmed competition in the Relevant Market and caused anticompetitive effects. These include: (i) causing Plaintiffs to pay super-competitive prices for the transportation of grain west from the Relevant Market; (ii) losing competition at multiple locations for grain traveling west from the Relevant Market; (iii) reducing the supply of grain shipped to western markets from the Relevant Market; and (iv) reducing the total number of western markets to which grain shipped from the Relevant Market can be cost-effectively delivered.

84. As a direct and proximate result of Defendants' unlawful agreement and conspiracy, Plaintiffs have been injured and will continue to be injured. Specifically, Farmer Plaintiffs have received less for their grain due to Defendants' agreement; Weskan has overpaid for transportation services due to Defendants' agreement; and CXR has lost significant revenue from the elimination of traffic over the Towner Line caused by Defendants' agreement. Such economic harm suffered by Plaintiffs constitutes antitrust injury.

85. Plaintiffs CXR and Weskan are entitled to treble damages for their overpayments and lost profits caused by Defendants' unlawful agreement, combination, and/or conspiracy. All Plaintiffs are entitled to attorneys' fees and costs, and injunctive relief.

COUNT III

Unlawful Monopoly Maintenance in Violation of Section 2 of the Sherman Act **(Against Defendant UP)** **(Injunctive Relief for all Plaintiffs; Damages for Weskan and CXR)**

86. Plaintiffs incorporate and reallege every allegation set forth in the preceding paragraphs of this Complaint as though fully set forth herein.

87. Defendant UP has monopoly power in the Relevant Market. It owns the only railroad in the Relevant Market that can ship grain west – the UP Lease Track.

88. UP unlawfully maintained monopoly power in the Relevant Market by adopting the Interchange Fee, which eliminated the Towner Line as a competitive threat and preserved Defendants' monopoly power over westbound shipments of grain from the Relevant Market.

89. As a direct and proximate result of UP's conduct, Plaintiffs have been injured and will continue to be injured. Specifically, Farmer Plaintiffs have received less for their grain, Weskan has overpaid for transportation services, and CXR has lost significant revenue from the elimination of traffic over the Towner Line due to Defendants' misconduct. Such economic harm suffered by Plaintiffs constitutes antitrust injury.

90. Plaintiffs CXR and Weskan are entitled to treble damages for their overpayments and lost profits caused by UP's misconduct. All Plaintiffs are entitled to attorneys' fees and costs, and injunctive relief.

COUNT IV

Conspiracy to Monopolize in Violation of Section 2 of the Sherman Act **(Against All Defendants)** **(Injunctive Relief for all Plaintiffs; Damages for Weskan and CXR)**

91. Plaintiffs incorporate and reallege every allegation set forth in the preceding paragraphs of this Complaint as though fully set forth herein. Plaintiffs seek equitable and injunctive relief on behalf as described herein.

92. For purposes of the conspiracy, Defendant UP, on the one hand, and Defendant K&O, on the other hand, have combined, conspired, and agreed among themselves to monopolize the Relevant Market in violation of Section 2 of the Sherman Act, 15 U.S.C. § 2.

93. Defendants conspired to monopolize the Relevant Market by secretly agreeing to implement the Interchange Fee.

94. Defendants intended to monopolize the Relevant Market through their adoption of the Interchange Fee, as they set it high enough to eliminate the Towner Line as a competitive threat and did so shortly after the Towner Line became operational.

95. Defendants maintained monopoly power through its adoption of the Interchange Fee, as this eliminated the Towner Line and other lines as a competitive threat and ensured Defendants maintained complete control over the westward shipment of grain from the Relevant Market.

96. As a direct and proximate result of Defendants' conduct, Plaintiffs have been injured and will continue to be injured. Specifically, Farmer Plaintiffs have received less for their grain, Weskan has overpaid for transportation services, and CXR has lost significant revenue from

the elimination of traffic over the Towner Line. Such economic harm suffered by Plaintiffs constitutes antitrust injury.

97. Plaintiffs CXR and Weskan are entitled to treble damages for their overpayments and lost profits caused by UP's misconduct. All Plaintiffs are entitled to attorneys' fees and costs, and injunctive relief.

COUNT V

Conspiring to Monopolize a Line of Business in Violation of the Kansas Restraint of Trade Act (K.S.A. 50-101, *et seq.*) (Against All Defendants)

98. Plaintiffs incorporate and reallege every allegation set forth in the preceding paragraphs of this Complaint as though fully set forth herein.

99. The Kansas Restraint of Trade Act ("KRTA") aims to prohibit practices that, among other things, "create or carry out restrictions in trade or commerce, or to carry out restrictions in the full and free pursuit of any business authorized or permitted by the laws of this state" and "prevent competition in the...transportation of...commodities." K.S.A. 50-101.

100. The KRTA forbids anyone doing business within the state of Kansas from conspiring or combining "with any other persons, within or without the state for the purpose of monopolizing any line of business" K.S.A 50-132.

101. Defendants conspired and combined when secretly amending the 1997 Lease, including adopting the Interchange Fee. Defendants entered into their agreement for the purpose of monopolizing the westward shipment of grain from the Relevant Market and restricting and preventing competition in the transport of grain, as it precluded competition from the Towner Line and other rail lines by making it prohibitively expensive to use them.

102. Through their agreement, Defendants achieved and/or maintained monopoly power in the Relevant Market.

103. But for Defendants' conduct set forth, Farmer Plaintiffs would have received more for their grain, Weskan would have paid less to transport the grain, and CXR would have received additional profits from the use of the Towner Line, in an amount to be determined at trial.

104. As a direct result of Defendants' conduct, Plaintiffs suffered significant and continuing damages, including overpayment, lost profits, increased operating costs, and attorneys' fees.

105. Under the KRTA, indirect purchasers or persons injured indirectly, have standing to maintain an action for damages based on the facts alleged in this Complaint. K.S.A. 50-161(b).

106. Plaintiffs are entitled to treble damages caused by Defendants' misconduct. Plaintiffs are also entitled to attorneys' fees and costs, and injunctive relief.

COUNT VI

Conspiring to Restrain Trade in Violation of the Kansas Restraint of Trade Act **(K.S.A. 50-101, et seq.)** **(Against All Defendants)**

107. The KRTA prohibits "all arrangements, contracts, agreements, trusts, or combinations between persons made with a view or which tend to prevent full and free competition in the importation, transportation or sale of articles imported into this state, or in the product, manufacture or sale of articles of domestic growth . . . , and all arrangements, contracts, agreements, trusts or combinations between persons, designed or which tend to advance, reduce or control the price or the cost to the producer or to the consumer of any such products or articles" K.S.A. 50-112.

108. Plaintiffs harvested and sold grain within the State of Kansas, were involved in the importation, transportation or sale of goods imported into Kansas, were involved in the sales of

articles of domestic growth, and/or were harmed by Defendants' price fixing concerning the transportation of grain west over rail from the Relevant Market.

109. Through the actions discussed above, Defendants contracted, conspired, and/or combined to prevent the full and free competition for the westward shipment of grain from the Relevant Market and sought to control prices associated with such transportation in violation of K.S.A. 50-101 *et seq.*

110. But for Defendants' anticompetitive conduct, the price Farmer Plaintiffs received for their grain would have been higher, the amount Weskan paid to transport that grain would have been lower, and the revenue received by CXR from the operation of the Towner Line would have been higher.

111. As a direct result of Defendants' conduct, Plaintiffs suffered significant and continuing damages, including overpayment, lost profits, increased operating costs, and attorneys' fees.

112. Under the KRTA, indirect purchasers or persons injured indirectly have standing to maintain an action based on the facts alleged in this Complaint. K.S.A. 50-161(b).

113. Plaintiffs are entitled to treble damages caused by Defendants' misconduct. Plaintiffs are also entitled to attorneys' fees and costs, and injunctive relief.

COUNT VII

Conspiracy to Restrain Trade in Violation of the Colorado Antitrust Act **(Colo. Rev. Stat. Ann. § 6-4-101, *et seq.*)** **(Against All Defendants)**

114. Plaintiffs incorporate and reallege every allegation set forth in the preceding paragraphs of this Complaint as though fully set forth herein.

115. Plaintiffs Sanders, JLD, and Weskan harvested and sold grain within Colorado. Plaintiff CXR owned and operated the Towner Line, which is a rail line capable of transporting grain.

116. Defendants contracted, combined or conspired to act in restraint of trade within Colorado in violation of C.R.S. § 6-4-101, *et seq.*

117. But for Defendants' conduct set forth, the profits Plaintiffs received for their grain would have been higher, in an amount to be determined at trial.

118. The Colorado State Antitrust Act of 2023 specifically allows a private act of recovery for "[a]ny person injured, either directly or indirectly" from violations of the Colorado antitrust law. *See* C.R.S. § 6-4-115 (emphasis added).

119. Plaintiffs were injured with respect to the sale of their grain and are entitled to all forms of relief, including actual damages, treble damages, as well as interest and reasonable attorneys' fees and costs. C.R.S. § 6-4-115.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request judgment against Defendants and the following relief:

A. A finding that Defendants violated Sections 1 of the Sherman Act by engaging in the contract, combination and conspiracy alleged herein;

B. A finding that Defendant UP violated Section 2 of the Sherman Act by unlawfully maintaining its monopoly in the Relevant Market through the actions alleged herein;

C. A finding that Defendants violated Section 2 of the Sherman Act by conspiring to maintain their monopoly in the Relevant Market through the actions alleged herein;

D. A finding that Defendants violated § 50-101, *et seq.*, of the Kansas Restraint of Trade Act through the actions alleged herein;

E. A finding that Defendants violated § 6-4-101, *et seq.*, of the Colorado Antitrust Act through the actions alleged herein;

F. An award of damages to Plaintiffs, including statutory treble damages, compensatory damages, punitive damages, and pre- and post-judgment interest to the extent permitted by law;

G. An Order enjoining Defendants from engaging in the anticompetitive practices alleged herein; and

H. An Order awarding Plaintiffs attorneys' fees, expenses, and taxable costs to the extent permitted by law.

JURY DEMAND

Plaintiffs demand trial by jury of all issues so triable as of right.

Dated: January 27, 2026.

Respectfully submitted,

/s/ Rex A. Sharp

Rex A. Sharp, KS #12350
Isaac L. Diel, KS #14376
Hammons P. Hepner, KS #29138
SHARP LAW LLP
4820 W. 75th Street
Prairie Village, KS 66208
Telephone: (913) 901-0505
rsharp@midwest-law.com
idiel@midwest-law.com
hhepner@midwest-law.com

--and--

Thomas R. Ajamie*
John S. "Jack" Edwards, Jr.*
Courtney D. Scobie*
AJAMIE LLP
Pennzoil Place - South Tower
711 Louisiana, Suite 1600
Houston, TX 77002
Telephone: (713) 860-1600
Facsimile: (713) 860-1699
tajamie@ajamie.com
jedwards@ajamie.com
cscobie@ajamie.com

Counsel for Plaintiffs

**Pro hac vice motions forthcoming*

EXHIBIT A

Schematic of K&O Rail Line and Towner Line -- Ownership (Colorado and Kansas)

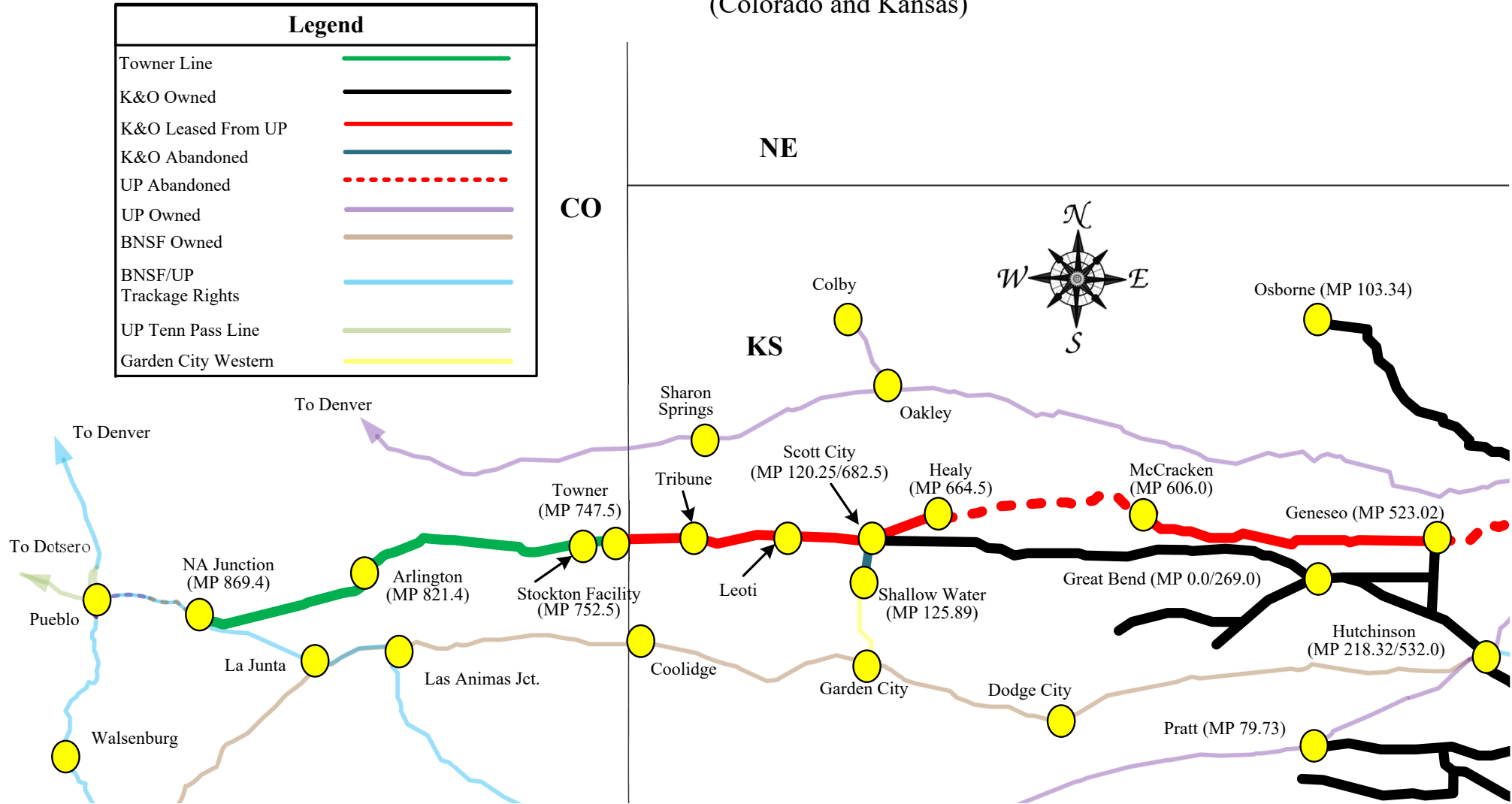


Exhibit A
Page 2 of 2

