

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

ENTERED
Office of Chief Counsel
September 16, 2026
Part of
Public Record

Finance Docket No. 36873

**UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD
COMPANY
-- CONTROL --
NORFOLK SOUTHERN CORPORATION AND NORFOLK
SOUTHERN RAILWAY COMPANY**

**DESCRIPTION OF ANTICIPATED RESPONSIVE APPLICATION
AND REQUEST FOR LEAVE TO FILE
BY GREAT BASIN & NORTHERN RAILWAY, INC.**

Jason D. Tutrone
Benjamin Idzik
Thompson Hine LLP
1999 K Street, N.W., Suite 600
Washington, DC 20006
(202) 263-4143

Jason.Tutrone@ThompsonHine.com
Ben.Idzik@ThompsonHine.com

*Attorneys for the Great Basin &
Northern Railway, Inc.*

September 16, 2026

The Great Basin & Northern Railway, Inc. (“GBNY”) hereby submits this Description of Anticipated Responsive Application. GBNY anticipates that it may file a Responsive Application that would ask the Board to condition any approval of the proposed acquisition of Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, “NS”) by Union Pacific Corporation and Union Pacific Railroad Company (collectively, “UP”) upon the granting of the trackage rights described herein. Any Responsive Application that may be filed by GBNY seeking certain trackage rights would enhance rail-to-rail competition and serve the public interest.

GBNY also requests leave to file this description after the September 9, 2026 deadline. As explained below, good cause exists for accepting this submission since it will not prejudice Applicants given the limited trackage rights sought, it promotes a complete record, and the due date for notices of intent to participate has not passed.

I. Background

GBNY is a Class III rail carrier operating approximately 156.6 miles of track in Elko and White Pine Counties, Nevada. GBNY’s main line runs from Cobre, NV to Keystone, NV, where it branches to McGill, NV, and Adverse, NV. The main line includes a connection to UP at Shafter, NV.

In 2001, the Board fundamentally revised its merger rules imposing a “heavier burden” on merger applicants to show that their proposed transaction is

“consistent with the public interest.”¹ The Board has broad authority under 49 U.S.C. § 11324(c) to incorporate conditions on approval of major railroad consolidations, including the granting of trackage rights, “to mitigate or offset harm to the public interest.”² Under its 2001 Merger Rules, “[t]he Board seeks to enhance competition in ways that strengthen and sustain the rail network as a whole (including that portion of the network operated by Class II and III carriers).”³

II. Trackage Rights Description

The trackage rights that GBNY may seek consist of:

1. Shafter, NV – Salt Lake City, UT: Trackage rights on current UP track between GBNY’s connection with UP at Shafter, NV and Salt Lake City, Utah gateways with BNSF Railway and/or Patriot Rail.
2. Shafter, NV – Fernley, NV: Trackage rights on current UP track between GBNY’s connection with UP at Shafter, NV and the Port of Nevada in Fernley, NV.
3. Salt Lake City, UT – Fernley, NV: Trackage rights on the current UP track between the Port of Nevada in Fernley, NV, and Salt Lake City, Utah gateways with BNSF Railway and/or Patriot Rail. This track runs through Shafter, NV, where GBNY connects with UP.

¹ *Major Rail Consolidation Procedures*, 5 S.T.B. 539, 546 (2001).

² 49 C.F.R. § 1180.1(d).

³ 49 C.F.R. § 1180.1(d).

III. Request for Leave to File Out of Time

GBNY respectfully requests that the Board accept this description out of time. The Board has accepted filings out of time for good cause.⁴ It has found good cause where accepting a filing would promote a complete record that embodies the full spectrum of interests involved⁵ or does not prejudice other parties.⁶

Here, accepting GBNY's description would promote a complete record without prejudicing any party. First, it enables the Board to consider the position of an interested party concerning the impacts of the proposed transaction on transportation in Northern Nevada. Given the significant impact of this transaction on the rail industry, the Board's interest in a complete record for this proceeding is strong.⁷ Second, the one week delay in the filing does not prejudice any party because GBNY would be seeking competitive access in any responsive application it files, this filing merely provides notice of a potential responsive application, and parties have five months to develop a response. Third, since notices of intent are not due for another two weeks, many interested parties—including those who may

⁴ *E.g., Colo. Landowners—Adverse Abandonment—Great W. Ry. in Weld Cnty. Colo.*, AB 857 (Sub-No.2), slip op. at 3 (STB served Aug 15, 2024). *See* 49 C.F.R. § 1104.7 (stating that the Board may extend time periods for good cause).

⁵ *Colo. Landowners*, slip op. at 3; *Norfolk S. Ry.—Acquis. & Operation—Certain Rail Lines of the Del. & Hudson Ry.*, FD 35873, slip op. at 10, 25 (STB served May 15, 2015).

⁶ *Colo. Landowners*, slip op. at 3

⁷ *See Wis. Cent., Ltd.—Petition for Declaratory Order—Interchange with Soo Line R.R.*, FD 36397, slip op. at 5 (STB served Oct. 19, 2022) (providing an opportunity to comment on an issue that could have a “significant impact on the rail industry at large”).

benefit from GBNY's responsive application—likely have not begun actively participating in this proceeding.

IV. Conclusion

Accepting this description will promote a more complete record without prejudicing any parties. For these reasons, GBNY respectfully requests that the Board accept this description.

Respectfully submitted,

/s/ Jason D. Tutrone

Jason D. Tutrone
Benjamin Idzik
Thompson Hine LLP
1999 K Street, N.W., Suite 600
Washington, DC 20006
(202) 263-4143

Jason.Tutrone@ThompsonHine.com
Ben.Idzik@ThompsonHine.com

*Attorneys for the Great Basin & Northern
Railway, Inc.*

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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of September, 2026, a copy of the foregoing “Description of Anticipated Responsive Application” was served by electronic mail or first class mail on the service list for Finance Docket No. 36873.

/s/ Kimberly Murray
Kimberly Murray