



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Pacific Southwest Region
2800 Cottage Way, Ste 2606
Sacramento, CA 95825



In Reply Refer To:
2026-0146144

September 15, 2026

Elizabeth Webster
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Subject: Response to preliminary consultation letter for the Union Pacific acquisition of Norfolk Southern (Docket No. FD 36873)

Dear Elizabeth Webster,

Thank you for your preliminary consultation letter, dated August 19, 2026, regarding the Surface Transportation Board's proposed authorization of the acquisition of Norfolk Southern by Union Pacific. This response letter provides guidance for your agency on consulting with the U.S. Fish and Wildlife Service (Service) pursuant to section 7(a)(2) of the Endangered Species Act of 1973, as amended (16 United States Code 1531 *et seq.*) (Act).

Section 7(a)(2) of the Act requires Federal agencies to ensure, in consultation with the Service, that any activities or programs (actions) they authorize, fund, or carry out, in whole or in part, are not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7(a)(2) defines the consultation process, which is further developed in regulations promulgated at 50 Code of Federal Regulations (CFR) part 402.

Consultation with the Service is required for any Federal action that may affect listed species or designated critical habitats. To initiate consultation, Federal agencies must provide the Service with a biological assessment, prepared by or under the direction of the Federal agency, using the best scientific and commercial data available (or which can be obtained during the consultation) for an adequate review of the effects that an action may have upon listed species or designated critical habitat (see 50 CFR 402.12).

Before requesting consultation, Federal agencies must evaluate the potential *effects of the action*, including any *cumulative effects*, on listed species and designated critical habitat in the proposed

action area. Effects of the action, and other regulatory terms, are defined at 50 CFR 402.02. Action area and cumulative effects are also defined below:

Action area means all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action.

Cumulative effects are those effects of future State or private activities, not involving Federal activities, that are reasonably certain to occur within the action area of the Federal action subject to consultation.

To initiate consultation, agencies must submit to the Service a written request that includes:

1. A description of the proposed action, including any measures intended to avoid, minimize, or offset effects of the action. Consistent with the nature and scope of the proposed action, the description must provide sufficient detail to assess the effects of the action on listed species and critical habitat, including:
 - a. The purpose of the action;
 - b. The duration and timing of the action;
 - c. The location of the action;
 - d. The specific components of the action and how they will be carried out;
 - e. Maps, drawings, blueprints, or similar schematics of the action; and
 - f. Any other available information related to the nature and scope of the proposed action relevant to its effects on listed species or designated critical habitat.
2. A map or description of all areas to be affected directly or indirectly by the Federal action, and not merely the immediate area involved in the action (i.e., the action area as defined at 50 CFR 402.02).
3. Information obtained by or in the possession of the Federal agency and any applicant on the listed species and designated critical habitat in the action area, including available information such as the presence, abundance, density, or periodic occurrence of listed species and the condition and location of the species' habitat, including any critical habitat.
4. A description of the effects of the action and an analysis of any cumulative effects.
5. A summary of any relevant information provided by the applicant, if available.
6. Any other relevant available information on the effects of the proposed action on listed species or designated critical habitat, including any relevant reports such as environmental impact statements and environmental assessments.

The Act requires Federal action agencies to request from the Service a list of species and critical habitats that may be present in the action area prior to initiating consultation. We recommend that you use the Service's Information for Planning and Consultation (IPaC) tool (<https://ipac.ecosphere.fws.gov>) to define your action area, request an official species list, and

begin evaluating potential effects of your proposed action on each listed species and each designated critical habitat.

We appreciate your coordination. Additional information about the section 7(a)(2) consultation process can be found on our website (<https://www.fws.gov/program/pacific-southwest-region-section-7-consultation>) and on the IPaC homepage. If you have any questions about this letter, please contact David Sherer at david_sherer@fws.gov.

Sincerely,

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Stephanie Leja
Acting Regional Consultation Coordinator