



September 21st, 2026

Danielle Gosselin, Director
Office of Environmental Analysis
Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Preliminary Consultation Comments of Air Alliance Houston — Finance Docket No. 36873, Union Pacific Corporation and Union Pacific Railroad Company — Control — Norfolk Southern Corporation and Norfolk Southern Railway Company

Dear Director Gosselin:

Air Alliance Houston submits these preliminary comments in response to the Office of Environmental Analysis's August 19, 2026 consultation letters. We are a party of record in this proceeding. We also commented on the Draft Environmental Impact Statement in Finance Docket No. 36500, *Canadian Pacific Railway — Control — Kansas City Southern (CP-KCS)*, and we write now largely because of what we learned from the answer we received there.

In our comment on that Draft EIS, we asked the Office of Environmental Analysis (OEA) to account for air quality impacts in Houston. OEA's response, at Appendix S of the Final EIS (Comment 454-1, at S-341), was that *"NOx emissions contributing to ozone formation is a regional issue and would not directly impact localities immediately adjacent to the rail line, but instead contribute to regional ozone concentrations."* In a related response to the Environmental Defense Fund (EDF) (Comment 461-19, at S-286), OEA explained that emissions would be *"spread out along several different rail lines"* and that the applicant *"would not utilize rail yards in Houston, as these facilities are owned by competing railroad companies. Therefore, NOx emissions from CPKC traffic would likely not be concentrated near rail yards."*

That reasoning was tied to a specific fact about a specific applicant. **It does not survive the change of applicant.** Union Pacific owns the Houston terminal complex. The yards at Englewood, Settegast, Strang, Booth, Basin, Congress, and New and Old South are its own. Norfolk Southern traffic would not merely pass through Houston; it would be received, classified, built, and dispatched here, and it would be lifted onto trucks here. Emissions from yard switching, locomotive idling, train building and air-brake testing, and drayage are point-concentrated by definition. They are not regional ozone precursors dispersing across a twelve-county airshed. They are burning at a fence line, next to homes and schools.

We ask that OEA build that distinction into the scope of study at the outset, rather than reach it in a response to comments after the analysis is complete. Our specific requests follow.

I. Interest and qualifications of Air Alliance Houston (AAH)

Air Alliance Houston (AAH) is a nonprofit organization working to reduce the public health impacts of air pollution in the Houston region. We offer the following, not as credentials per se, but because each represents data or capacity we are prepared to place at OEA's disposal in this review:.

- **Community air monitoring network.** We operate the Community Air Monitoring Program, a network of more than one-hundred resident-hosted monitors measuring NO_x, VOCs, ozone, and PM_{2.5}, along with wind speed, wind direction, temperature, and humidity, and reporting to a public real-time dashboard. Monitoring sites include East Houston/Settegast, Kashmere Gardens, Galena Park and Jacinto City, Near Northside/Northline, Channelview, Pasadena, Deer Park, Baytown, Cloverleaf, and Third Ward/EADO. Since 2020, we have also conducted mobile monitoring in the East End, Fifth Ward, Sunnyside, and OST-South Union neighborhoods.
- **Health impact assessment of a federal transportation project.** We prepared a Health Impact Assessment of the North Houston Highway Improvement Project (2019) and a health-benefit assessment of the University Corridor Bus Rapid Transit project (2025).
- **Assessment of a federal agency's required monitoring program.** Our 2024 assessment of the air monitoring required of the Texas Department of Transportation under its Federal Highway Administration Voluntary Resolution Agreement for the North Houston Highway Improvement Project evaluated whether a federally mandated monitoring commitment was adequate as designed and as executed.
- **Goods-movement and Ship Channel work.** We lead the following local projects: *Widening and Deepening of the Houston Ship Channel: Air Quality and Health Impacts* (2021), with the Houston Advanced Research Center and Texas A&M University; *Evaluation of Air Quality Impacts of Clean Combustion Technologies and Fleet Electrification* (2018), with the University of Houston; and successful anti-idling ordinance campaigns in Houston, Galena Park, and Jacinto City. We also co-facilitate the Healthy Port Communities Coalition (HPCC).
- **Exposure mapping.** We maintain published geospatial analyses of the nine-county region, including a monitor-coverage analysis identifying which populations fall outside the resolution of the existing regulatory monitoring network.

II. The Houston study area, as currently drawn, excludes the population most exposed

The interactive map OEA published on August 19, 2026 is backed by a public feature service that exposes the underlying scoping records. Queried directly, those records show the following, which we state as fact and invite OEA to verify against its own dataset:

- **The Houston corridor analysis ends at Tower 87, milepost 356.8.** Thirteen public at-grade crossings inside the City of Houston are scoped in. All thirteen lie between latitude 29.799 and 29.875 — the Sheldon, North Shore, and Liberty Road corridor on the far northeast edge of the city. A query for every scoped Texas crossing west of longitude -95.29 returns fifty-five records, and not one is in Houston.
- **No Houston rail yard appears in the yard layer,** while Union Pacific's own Appendix Q to the application identifies Englewood Yard among manifest yards with a twenty percent increase, at 2,044 to 2,456 cars per day (+20.1%).

- **Settegast is excluded from corridor analysis and simultaneously included as a funded capital expansion** — 558 paved parking stalls and automated gate technology reaching 270,000 lifts annually, at \$34.4 million, with Year 2 completion.
- **The merger-added truck figure for Settegast in OEA's environmental data is +491 trucks per day, reaching 750, an increase of 189.6 percent.** This is the fourth published figure for the same measurement, and it is higher than the two figures filed immediately before it. The baseline also reverts from 242 to 246 trucks per day. We ask OEA to require reconciliation of these four vintages on the record, with a change log.

The excluded segments are the ones the community actually experiences. Federal Railroad Administration blocked-crossing incident reports for Union Pacific crossings in the nine-county Houston region from January 2021 through June 2026 total 25,196 across 652 distinct crossings. Only 371 of those reports — 1.5 percent — occurred at any of the sixty-eight crossings included in the applicants' environmental review. **Of the twenty most-reported crossings in the region, zero are in the review.** All twenty are in the East End and Fifth Ward, on segments the applicants assign increases of +1.88 to +2.29 trains per day — immediately below the three-train threshold at 49 C.F.R. § 1105.7(e)(5)(ii)(A). Among those reports, 10,985 cite blocked or delayed first responders, and 11,634 cite pedestrians climbing on, under, or through stopped trains.

We are not asking OEA to abandon its thresholds, and we recognize that OEA declined to do so in FD 36500. We are asking OEA to exercise the same discretion it has already exercised once, in Houston, in this exact posture. In the CP-KCS Final EIS, OEA extended analysis to rail line segment U-BEAU-01, which passes through the Houston area, where the projected increase was 7.57 trains per day. The footnote to Table 3.6 states: *"Although this projected increase is below the threshold for noise analysis, OEA modeled train noise for this segment in response to public comments on the Draft EIS."* (Final EIS at 3.6-19 n.3.) The Board's decision confirms the expansion reached noise and vibration, grade crossing safety, grade crossing delay and emergency response, and freight rail safety. (Decision served March 15, 2023, at 156.) The applicant there did not own the Houston track. Union Pacific does.

In declining EDF's broader request, OEA wrote that it *"did not find any basis to depart from the regulatory thresholds in this proceeding and commenters have identified none."* (Final EIS App. S at S-289.) We identify one here: *a documented record of 24,825 blocked-crossing reports at crossings the thresholds exclude, on segments falling between 0.71 and 1.12 trains per day short of the trigger, in a Clean Air Act nonattainment area, adjacent to a rail yard the applicant owns and is expanding with \$34.4 million of its own capital.*

- **Request 1.** Include within the scope of study, on the discretionary authority available under 49 C.F.R. §§ 1105.6(d) and 1105.7(f), the Houston East Belt, West Belt, Galveston, Terminal, Lufkin, and Glidden segments west and south of Tower 87, together with Englewood Yard and Settegast Yard, for air quality, public health, grade crossing delay, and emergency response analysis.

III. Addressing three specific methodological requests on air quality

A. Report diesel particulate matter as its own quantity.

Appendix K of the CP-KCS Final EIS, at K-5, lists nine mobile source air toxics OEA said it considered, and diesel particulate matter is the fifth. Every hazardous air pollutant table in that Final EIS reports eight species. Diesel PM appears in no table in Chapter 3.7 and in no emissions total. It was absorbed into PM2.5 and never surfaced.

Diesel PM is the pollutant of concern at a rail yard boundary. It is the metric on which Fifth Ward and Kashmere Gardens block groups were shown to sit at the 95th national percentile. Reporting it inside a PM2.5 aggregate makes the specific harm of a diesel-fired terminal complex invisible in the document.

- **Request 2.** Quantify and report diesel particulate matter as a separate line item, disaggregated by source category — line-haul locomotives, yard switching, intermodal lift equipment and hostlers, and on-road drayage — for each Houston-area facility and segment analyzed.

B. Analyze concentrations near the source, not only a county emissions inventory.

The CP-KCS air quality analysis was a county-level emissions inventory compared against de minimis thresholds and metropolitan planning organization mobile-source budgets. There was no dispersion modeling, no near-source concentration estimate, and no health-incidence analysis anywhere in that EIS. During scoping, we requested a hot-spot analysis at yards, intermodal terminals, and grade crossings, and the EIS neither adopted it nor individually denied it.

An emissions inventory answers how many tons enter an airshed. It does not answer what a person breathes at a property line four hundred feet from a switching lead. In a proceeding where the applicant owns and is expanding the terminal complex, the surrounding population is asking that second question, and it is answerable with standard, agency-accepted tools.

- **Request 3.** Include in the scope a near-source concentration analysis for the Houston terminal complex, using AERMOD or an equivalent EPA-preferred dispersion model, with discrete receptors at schools, childcare centers, parks, and residences within 1,000 feet of Englewood and Settegast Yards and of the segments identified in Request 1. We note that 1,000 feet is the buffer distance the California Air Resources Board's Air Quality and Land Use Handbook recommends for major rail yards, and that this distance is already on the record in this docket.

C. Analyze drayage on the roads the trucks will actually use.

In CP-KCS, on-road truck emissions at intermodal facilities were modeled as a fixed 34-minute idle per visit using MOVES county defaults. That approach captures the terminal gate and nothing beyond it. A 189.6 percent increase in truck traffic at Settegast is not a gate phenomenon; it is a sustained increase in heavy-duty diesel traffic on identifiable residential and school-adjacent streets between the terminal and the interstate system.

- **Request 4.** Analyze drayage emissions along assigned truck routes to and from Settegast and Westfield, with route-level assignment rather than facility-gate assumptions, and disclose whether drayage associated with intermodal traffic interchanged to or from other carriers is included or excluded from the analysis.

IV. Cumulative exposure, and why the emissions-budget comparison cannot carry the analysis

In CP-KCS, OEA found that NO_x emissions in the Houston-Galveston-Brazoria ozone nonattainment area would exceed the de minimis threshold — 93.3 tons per year against a 25-ton threshold — and then resolved the issue by observing that the increase was *"less than one percent of the current emissions budget."* (Final EIS App. S at S-288.) OEA further explained that it *"looked at the emissions inventories of State Implementation Plans to capture the cumulative nature of potential emissions impacts from multiple sources."* (Final EIS at 3.14-14.) The State Implementation Plan budget was, in effect, the cumulative impacts analysis. There was no cumulative air quality analysis for Houston at all — no refineries, no Ship Channel, no Port, no petrochemical sources were considered.

We said at the time, in our February 2023 assessment of that Final EIS, that the Texas State Implementation Plan *"has been repeatedly rejected in recent years because of its inefficacy"* and that OEA had therefore *"delegated the onus of reducing emissions"* to a plan that was not delivering. That objection is stronger now than it was then. On December 23, 2024, EPA disapproved the attainment demonstrations for both the Dallas-Fort Worth and Houston-Galveston-Brazoria nonattainment areas. The HGB area was reclassified from Moderate to Serious for the 2015 ozone standard effective July 22, 2024, with an attainment date of January 1, 2026, which has now passed. The area remains classified as severely in nonattainment under the 2008 standard.

A budget drawn from a plan EPA has disapproved, in an area that has missed its attainment date, cannot bear the analytical weight of disposing of an exceedance. We ask OEA to state plainly in the scope which classification and which budget it intends to apply, and as of what date, given that the classification is reasonably likely to change during the pendency of this review.

- **Request 5.** Include in the scope a cumulative exposure analysis for the Houston terminal area that assesses merger-attributable emissions against existing stationary and mobile source burden in the same census geography — including Ship Channel and Port sources, refining and petrochemical facilities, concrete batch plants, metal recycling operations, and the I-10, I-45, and I-610 corridors — rather than against a statewide planning budget. State expressly which nonattainment classification and emissions budget the analysis applies to.

V. Establish a measured baseline, and use ours

We understand that OEA has previously preferred modeling to monitoring, on the ground that modeling offers greater spatial and temporal coverage. We are not asking OEA to substitute measurement for modeling. We are asking for measured data to establish existing conditions and validate the model—which is ordinary practice, and the only way to know whether a projection of a small increment over a large baseline describes the same airshed the residents live in.

Pending a standard data sharing agreement, AAH offers the data from our Community Air Monitoring Program to OEA and its third-party contractor for this purpose, without any expectation of a particular analytical outcome except to make public the results of any analysis using AAH data. This would include historical and ongoing measurements from our low-cost sensors in East Houston/Settegast, Kashmere Gardens, Galena Park and Jacinto City, and any other sites listed previously, together with the associated meteorological data, our siting methodology, our quality assurance procedures, and our documentation of the coverage gaps in the existing regulatory monitoring network. We will also make our staff available to OEA and its contractor.

- **Request 6.** Provide in the scope of study for a measured baseline of existing air quality conditions in the Houston terminal area, drawing on available community and regulatory monitoring data, and describe how measured data will be used to characterize existing conditions and to check modeled results.

VI. Analyze effects on public health under the Board's own regulation

We are aware that the federal environmental justice framework OEA relied upon in FD 36500 has been withdrawn. Executive Order 12898 was revoked by Executive Order 14173 § 3(a)(i), and Executive Orders 14096, 14008, and 13985 were revoked by Executive Order 14148. The Council on Environmental Quality withdrew its 1997 guidance, *Environmental Justice: Guidance Under the National Environmental Policy Act*, on June 29, 2026, and rescinded its NEPA implementing regulations at 40 C.F.R. Parts 1500 through 1508. We do not ask OEA to apply revoked authority.

Instead, we ask for what the Board's own regulation independently requires. 49 C.F.R. § 1105.7(e)(7)(i) directs that the environmental documentation "[d]escribe any effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings)." That is a freestanding regulatory duty. It is not derived from any executive order; it has not been withdrawn, and the Board has proposed to carry it forward in Docket EP 779. NEPA itself likewise requires analysis of effects on the human environment, which has always encompassed human health.

A description of effects on public health means describing effects on the health of the people who are affected. Where a population already carries elevated acute and chronic disease burden, an increment of diesel exhaust does not produce the same health effect it would produce elsewhere, with non-exposed populations. That is a matter of exposure science, not policy preference, and it belongs in the analysis on the strength of § 1105.7(e)(7)(i) alone.

- **Request 7.** Include in the scope an analysis of effects on public health under 49 C.F.R. § 1105.7(e)(7)(i) that characterizes the health status and existing pollution burden of populations near the Houston terminal complex, and that assesses the incremental health effect of merger-attributable emissions against that baseline rather than in isolation.

VII. Public participation

- **Hold at least one in-person public meeting in Houston,** in the affected neighborhoods, in the evening. In FD 36500, the request for a Harris County meeting was denied on the ground that OEA did not anticipate high and adverse impacts there—a determination the meeting itself might have informed. The nearest meeting was held in Vidor, roughly ninety miles from the East End of Houston where merger traffic would occur.
- **Provide materials and interpretation in Spanish,** and allow additional speaking time for commenters using interpretation so that translation does not consume the comment period.
- **Add Houston community and environmental organizations to the consultation distribution list.** The published August 19 distribution list contains no nongovernmental organizations and no Texas municipal governments. AAH is a party of record and was not consulted. We ask to be added for the remainder of the review, along with the East End Super Neighborhood organizations that have also filed in this docket.

- **Preserve a meaningful mid-review comment opportunity.** If no Draft EIS will be circulated for comment, we ask that OEA provide an equivalent opportunity to technically review the air quality and public health methodology before the analysis is final. Scoping comments cannot anticipate methodological choices not yet made.

We also support the pending motion of the Natural Resources Defense Council to make the applicants' Railroad Emission Data Inventory public. The applicants' claimed air quality benefits are the basis on which this transaction is being presented as environmentally favorable. Those claims cannot be evaluated by the public, by OEA's contractor, or by this organization while the underlying inventory is sealed.

VIII. Conclusion

OEA's own scoping practice demonstrates why these requests are made now rather than later. In FD 36500, five resource areas were excluded from the Draft EIS on the express ground that "*no comments were received*" on them. What is raised at this stage defines what is studied, and what is studied defines what can be mitigated. OEA has stated that it does not recommend mitigation for impacts it has not identified. The scope is therefore the whole of the matter.

We appreciate OEA's consideration and are glad to meet with you or your contractor at any point in this review. Please direct any questions to the undersigned.

Respectfully submitted,

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