

OLSON & OLSON LLP
ATTORNEYS AT LAW

September 21, 2026
VIA ELECTRONIC FILING

Elizabeth Webster
Surface Transportation Board (Docket No. FD 36873)
Office of Environmental Analysis
395 E Street SW
Washington, DC 20423

**Re: Docket No. FD 36873, Union Pacific Corporation and Union Pacific Company – Control – Norfolk Southern Corporation and Norfolk Southern Railway Company;
Preliminary Environmental Consultation Comments of the City of Dayton, Texas**

Dear Ms. Webster:

On behalf of the City of Dayton, Texas (“City”), this firm submits these preliminary environmental consultation comments in response to the Office of Environmental Analysis’s (“OEA”) letter dated August 19, 2026, soliciting comments on environmental issues and concerns associated with the above-referenced transaction, Docket No. FD 36873 (“Proposed Transaction”). These comments are timely filed in advance of the September 21, 2026 deadline.

The City of Dayton is a municipality with an estimated current population exceeding 10,000, located in Liberty County, Texas, along the Union Pacific mainline. The City’s residents, emergency services, schools, and businesses are profoundly and directly affected by rail operations on this corridor. The City is gravely concerned that the Proposed Transaction will substantially worsen already-severe environmental and public safety impacts that the community endures daily.

I. The Board’s Own Data Identifies the Rail Segment Through Dayton as Environmentally Significant

The OEA’s own interactive map for this proceeding (<https://www.stb.gov/upns-eis-fd36873/maps/>) identifies the rail segment through Dayton, Texas as:

- (a) A **“Segment with Transaction-Related Growth of 1 or more Hazardous Material Carload per Day,”** depicted as a black dashed line on the Board’s map; and
- (b) A segment on a line that **“Exceeds the Board’s Thresholds for Air Quality Analysis,”** depicted as a yellow line on the Board’s map, triggering analysis under 49 C.F.R. § 1105.7(e)(5)(i)(A) and (ii)(A).

The Board’s own data thus confirms that the Proposed Transaction will result in increased hazardous materials traffic through the heart of Dayton and that the rail segment already

OLSON & OLSON LLP

ATTORNEYS AT LAW

exceeds the Board's regulatory thresholds for air quality impacts. These facts are not in dispute—they are the Board's own findings. The City respectfully submits that the Environmental Impact Statement ("EIS") must rigorously examine the specific, localized impacts of these increases on the City of Dayton and its residents.

II. Existing Conditions: The City's Critical Infrastructure Limitations

To understand the severity of the environmental and safety concerns described herein, the OEA must appreciate the City of Dayton's existing infrastructure constraints, which make the community uniquely vulnerable to the impacts of increased rail traffic:

- **Multiple at-grade crossings in the central part of the city can be—and regularly are—blocked simultaneously** by a single train, effectively bisecting the populated core of the community and isolating neighborhoods from emergency services, schools, and commercial areas.
- **The City has only one underpass** that can serve as an alternative route when crossings are blocked. This single underpass is subject to flooding during heavy rain events, which eliminates even this sole alternative during severe weather—precisely when emergency access is most critical.
- **The City currently has only one dedicated ambulance.** When that ambulance is on one side of a blocked crossing and a medical emergency occurs on the other, the response delay can be measured in tens of minutes—delays that can be fatal in cardiac, stroke, or trauma situations.

These are not hypothetical concerns. They are the daily reality for the residents of Dayton, Texas.

III. Documented Incidents Demonstrating Current Impacts

The following recent incidents, documented by Mayor Andy Conner of the City of Dayton, illustrate the severity and frequency of the disruptions that the City already endures—and that the Proposed Transaction will exacerbate:

Incident 1 — Monday, September 14, 2026 (School Pickup Hours):

At approximately 3:05 p.m., an eastbound train stopped on the tracks and blocked multiple crossings in the central part of Dayton. The train remained stopped, blocking crossings throughout the central part of the city, for over one hour. At 4:05 p.m.—a full sixty minutes later—Mayor Andy Conner, who had picked up his child at Richter Elementary School, reported that the train was still blocking crossings throughout the central part of town. The train did not clear until approximately 4:15 p.m. For over seventy minutes during afternoon school dismissal, the central part of the city was effectively bisected, with emergency vehicles, school buses, and parents unable to cross the tracks through normal routes.

Incident 2 — Friday, September 18, 2026 (School Drop-off Hours):

At approximately 7:40 a.m., a westbound train entered the City of Dayton. By 7:44 a.m., the train stopped on the tracks, blocking crossings in the central part of the city during morning school drop-off. The train did not clear until approximately 8:00 a.m. However, by 8:06 a.m.—just six minutes after the first train cleared—an eastbound train entered the city, causing renewed blockage. By 8:10 a.m., even after the second train passed without stopping, traffic remained backed up throughout the central part of the city, with gridlock conditions arguably worse than during the initial blockage. This cascading sequence of blockages during the peak of morning school transportation demonstrates the compounding nature of these disruptions.

These incidents are not anomalies; they are representative of conditions that the City of Dayton experiences on a regular basis. Both occurred during school transportation hours, placing children and families at heightened risk. The Proposed Transaction, by increasing train volume and frequency on this corridor, will inevitably increase the frequency and duration of such blockages.

IV. Air Quality Impacts

As noted above, the Board's own data identifies this rail segment as one that exceeds the Board's thresholds for air quality analysis under 49 C.F.R. § 1105.7(e)(5). The City requests that the EIS specifically address the following air quality concerns:

- **Locomotive idling emissions.** When trains stop on the tracks within the City for extended periods—as documented in the incidents above—idling diesel locomotives emit nitrogen oxides (NOx), fine particulate matter (PM_{2.5}), and diesel particulate matter in a populated area with residential neighborhoods, schools, and businesses in close proximity to the rail corridor. These are not brief, transient exposures; they are sustained emissions lasting thirty minutes to over one hour at a time, in close proximity to homes, schools, and businesses.
- **Secondary vehicle emissions.** Prolonged crossing blockages cause hundreds of motor vehicles to idle at and near blocked crossings, producing additional tailpipe emissions of carbon monoxide, NOx, volatile organic compounds, and particulate matter. As demonstrated by the September 18 incident, traffic congestion and associated vehicle idling persist well after trains have cleared, compounding the air quality impact.
- **Increased train frequency.** The merger is projected to increase train traffic on this corridor. More trains mean more locomotive exhaust, more crossing blockages, more vehicle idling, and a cumulative increase in criteria pollutant and hazardous air pollutant emissions in the Dayton community. The EIS must model the cumulative and localized air quality impacts of increased train frequency, including the effects of idling during extended blockages.

V. Hazardous Materials Transportation Risks

The Board's data confirms that the Proposed Transaction will result in growth of one or more hazardous material carloads per day through Dayton. This increase in hazardous materials traffic through a small, infrastructure-constrained city raises serious environmental and public safety concerns:

- **Prolonged stationary hazmat exposure.** As the documented incidents demonstrate, trains routinely stop within the City for extended periods. When those trains are carrying hazardous materials, the City's residents are exposed to elevated risks from a stationary hazmat source in a populated area for thirty minutes to over one hour at a time.
- **Impaired emergency response to hazmat incidents.** In the event of a hazardous materials release—whether from a train derailment, valve failure, or other incident—the City's ability to respond is severely compromised by the same infrastructure limitations described above. With only one ambulance, one flood-prone underpass, and all at-grade crossings potentially blocked by the very train involved in the incident, the City would face extraordinary challenges in mounting an effective emergency response or conducting an evacuation.
- **Cumulative risk from increased frequency.** More hazardous material carloads per day means a proportional increase in the probability of an incident and a proportional increase in daily exposure risk for the City's residents. The EIS must quantify this increased risk and evaluate its environmental and public health consequences specific to the Dayton community.

VI. Emergency Response and Public Safety

The environmental dimensions of the City's emergency response concerns cannot be overstated. The City of Dayton's police, fire, and emergency medical services are all affected when rail crossings are blocked:

- **Delayed emergency medical response.** With only one ambulance serving the City, a blocked crossing can mean that the ambulance simply cannot reach a patient on the opposite side of the tracks. During the September 14 incident, this condition persisted for over seventy minutes. In time-sensitive medical emergencies, minutes matter—and delays of this magnitude can have life-or-death consequences. The Proposed Transaction's increase in train frequency will increase the probability and duration of such delays.
- **Impaired fire response.** Fire apparatus face the same crossing blockage obstacles. A structure fire on the opposite side of a blocked crossing could escalate from a containable incident to a total loss—or a fatality—due to response delays caused by rail operations.

- **Severely constrained evacuation routes.** In a hazardous materials incident requiring evacuation, the City's residents on the side of the tracks adjacent to the incident would be forced to evacuate away from the tracks rather than across them, as the at-grade crossings in the central part of town would likely be blocked by the involved train. While evacuation remains possible in the opposite direction, this severely limits evacuation options and may direct residents into less safe areas. If the sole underpass is simultaneously flooded or congested, even this constrained routing is further compromised. The EIS must evaluate evacuation scenarios specific to Dayton's constrained infrastructure.

VII. Additional Environmental Concerns

A. Traffic Congestion and Vehicle Emissions. Prolonged crossing blockages cause citywide traffic gridlock. Hundreds of vehicles idle at blocked crossings and on surrounding streets, producing significant additional emissions. As the September 18 incident demonstrates, traffic congestion and associated emissions persist well after trains have cleared—the backup at 8:10 a.m. was described as “possibly even worse” than during the blockage itself. Increased train frequency under the Proposed Transaction will increase the frequency and severity of these traffic-related environmental impacts.

B. Flooding and Stormwater. The City's sole underpass in the central part of town—the only grade-separated alternative route when at-grade crossings are blocked—is subject to flooding during heavy rain events. Southeast Texas experiences frequent severe weather events, and this underpass regularly becomes impassable during such events. The EIS must evaluate the interaction between rail infrastructure, stormwater management, and the City's limited transportation alternatives. Any increase in rail traffic that exacerbates crossing blockages will compound the City's vulnerability during flood events.

C. Hurricane Evacuation. Highway 321, which passes through the City of Dayton, is designated by the Texas Department of Transportation as a Major Evacuation Route. Highway 321 crosses beneath the Union Pacific rail corridor at the City's sole underpass — the same underpass identified above as being subject to flooding during heavy rain events. During hurricane and tropical storm evacuations — which are a regular occurrence in this region of Southeast Texas — this creates a compounding vulnerability: the at-grade crossings may be blocked by increased rail traffic while the only grade-separated alternative on this state-designated evacuation route is simultaneously flooded. The EIS must evaluate the impact of increased rail traffic on the City's hurricane evacuation capacity and the risk that crossing blockages, combined with underpass flooding, could effectively shut down a TxDOT-designated Major Evacuation Route during a mandatory evacuation.

D. Noise Impacts. Extended train stops with idling locomotives, horn blowing at crossings, and the associated traffic congestion create sustained noise impacts in the

OLSON & OLSON LLP
ATTORNEYS AT LAW

populated areas near the rail corridor, including nearby residential neighborhoods. These are not momentary disruptions from a passing train; they are prolonged noise events lasting thirty minutes to over one hour, occurring during early morning, school hours, and evening periods. Increased train frequency will proportionally increase the frequency and duration of these noise impacts.

E. School Safety. Both documented incidents occurred during school transportation hours—the September 14 incident during afternoon school pickup and the September 18 incident during morning school drop-off. Blocked crossings during these periods create safety risks for children who may be stranded on school buses or in vehicles unable to reach their destinations. The EIS must evaluate the impacts of increased train frequency on school transportation safety in the Dayton community.

VIII. Requested Actions

In light of the foregoing, the City of Dayton respectfully requests that the OEA take the following actions in connection with the EIS for Docket No. FD 36873:

- 1. Conduct a site-specific environmental analysis of the impacts of the Proposed Transaction on the City of Dayton, Texas,** including localized air quality modeling, hazardous materials risk assessment, noise impact analysis, and evaluation of the interaction between rail operations, stormwater/flooding, and the City's transportation infrastructure.
- 2. Evaluate emergency response capabilities and evacuation scenarios** specific to Dayton's infrastructure constraints (single ambulance, single flood-prone underpass, simultaneous blockage of at-grade crossings in the central part of the city) under current and projected post-merger rail traffic volumes.
- 3. Quantify the projected increase in crossing blockage frequency and duration** at Dayton's at-grade crossings as a result of the Proposed Transaction, including analysis of the cascading effects of consecutive trains as demonstrated by the September 18 incident.
- 4. Recommend and impose mitigation conditions** as part of any approval of the Proposed Transaction to address the environmental and safety impacts identified herein, including but not limited to infrastructure improvements, crossing blockage time limits, emergency response protocols, and hazardous materials routing alternatives.
- 5. Provide public notice and an opportunity for a public hearing** in or near Dayton, Texas, so that the City's residents may present testimony regarding the environmental and safety impacts they experience.

OLSON & OLSON LLP
ATTORNEYS AT LAW

IX. Reservation of Rights and Continued Participation

The City of Dayton reserves the right to supplement these preliminary environmental consultation comments with additional information, data, expert analysis, and legal argument as this proceeding progresses. The City intends to participate fully in the merits phase of this proceeding and anticipates filing comments on or before the November 18, 2026 deadline for merits submissions. Nothing in this letter should be construed as a waiver of any rights, claims, or arguments that the City may raise in subsequent filings.

The City of Dayton respectfully urges the Office of Environmental Analysis to thoroughly examine each of the concerns raised herein when evaluating whether to recommend approval of the Proposed Transaction, and to ensure that the Environmental Impact Statement fully addresses the environmental, public health, and safety impacts on the Dayton community. The City appreciates the opportunity to provide these preliminary comments and looks forward to continued participation in this proceeding. Should you have any questions or require additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,



Brandon S. Davis
State Bar Number: 24069574
OLSON & OLSON LLP
1517 Trinity St.
Liberty, TX 77575
(936) 336-4115
bdavis@olsonllp.com
City Attorney for the City of Dayton, Texas

cc: *Honorable Andy Conner, Mayor, City of Dayton, Texas*
Dayton City Council
Derek Woods, City Manager