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 Office of Chief Counsel
 September 24, 2026
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September 24, 2026

BY ELECTRONIC FILING**PUBLIC REDACTED VERSION**

Hon. Jenifer J. Soulikias
 Administrative Law Judge
 Surface Transportation Board
 395 E Street S.W.
 Washington, D.C. 20423-0001

**Re: Finance Docket No. 36873 – Motion for a Subpoena to John Orr for
 Deposition Testimony**

Dear Judge Soulikias:

Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries (“CPKC”),¹ writes concerning the deposition of John Orr, NS’s former EVP and Chief Operating Officer (“COO”). Mr. Orr signed the Operating Plan that was submitted to the Board in this proceeding, but subsequently departed NS on May 31, 2026. After discussions with Mr. Orr’s counsel, CPKC respectfully requests that Your Honor issue a subpoena for the deposition of Mr. Orr.

Mr. Orr possesses information relevant to this proceeding. As COO of NS, Mr. Orr reported to Mark George, CEO of NS. Since his departure from NS, Mr. Orr has been an advisor to NS to support closing of the merger.² Before leaving his post at the end of May, Mr. Orr submitted a joint verified statement in this proceeding with Eric Gehringer regarding the Applicants’ post-merger Operating Plan. The Operating Plan is one of the most important documents in this case. It explains “how a unified UP/NS system will operate” and “grow.” Rev. App. 2-612 to -13 (Gehringer-Orr V.S. ¶ 4). The Operating Plan tells the Board how the UP/NS

¹ CPKC’s U.S. rail carrier subsidiaries include Soo Line Railroad Company; Central Maine & Quebec Railway US Inc.; Dakota, Minnesota & Eastern Railroad Corporation; Delaware & Hudson Railway Company, Inc.; The Kansas City Southern Railway Company; Gateway Eastern Railway Company; and The Texas Mexican Railway Company.

² See Norfolk S. Corp., Current Report (Form 8-K) (May 31, 2026) (available at <https://www.sec.gov/Archives/edgar/data/702165/000119312526250020/d91653d8k.htm>).

would integrate, operate its network, increase “competition to trucks and other rail carriers,” achieve “gains in safety, service, operating efficiencies, and other benefits,” and more. *Id.* at ¶¶ 1, 4. Although Brian Barr has since “adopted” Mr. Orr’s report, Mr. Barr testified that he has {{[REDACTED]}} See, e.g., Ex. 1, B. Barr Dep. Tr. at 115:4 – 130:10. Mr. Orr is therefore one of the two principal signatories of one of the most important documents the Board will evaluate and is the only NS signatory with meaningful personal knowledge of its contents. Finally, Mr. Orr is a designated document custodian for whom Applicants have produced approximately 10,000 documents (including family materials) on which Mr. Orr’s name appears.

Accordingly, on August 4, 2026, counsel for BNSF asked Applicants’ counsel to confirm whether they represented Mr. Orr for the purpose of noticing his deposition. BNSF reiterated this request on August 17. Applicants responded on August 20 to note that Sidley Austin LLP (counsel for NS) did not represent Mr. Orr. On August 26, Applicants’ counsel informed non-applicants that Mr. Orr was represented by separate counsel and provided that counsel’s information.

Counsel for CPKC promptly contacted Mr. Orr’s counsel concerning whether Mr. Orr would voluntarily sit for a deposition in this matter and discussed a potential deposition of Mr. Orr multiple times between September 3, 2026, and September 23, 2026. On September 23, 2026, Mr. Orr’s counsel represented that Mr. Orr would not sit for a deposition absent a subpoena for his deposition and confirmed that he would accept service of such subpoena.

For the reasons listed above, under 49 C.F.R. §§ 1113.2(b) and 1114 *et seq.*, and the authority conferred by the Surface Transportation Board to rule upon discovery matters, *see* Decision No. 3, at 2, CPKC respectfully requests that Your Honor issue the proposed subpoena for the deposition of John Orr attached hereto as Exhibit A. We have noted a specific time and date in the subpoena, but will work in good faith with Mr. Orr’s counsel to find a time and place that minimizes any disruption to Mr. Orr.

Respectfully submitted,

/s/ Joseph J. Matelis

Joseph J. Matelis

Attorney for CPKC

cc: All Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that, on this 24th day of September 2026, a true and correct copy of the foregoing was served by first-class mail or email on counsel for John Orr, all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer J. Soulikias.

/s/ Noah P.M. Stern
Noah P.M. Stern

EXHIBIT A

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 36873

UNION PACIFIC CORPORATION AND
UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND
NORFOLK SOUTHERN RAILWAY COMPANY

SUBPOENA TO JOHN ORR FOR DEPOSITION TESTIMONY

To: John Orr
c/o Cody Reaves
Torridon Law
801 17th St NW
Suite 1100
Washington, DC 20006

Pursuant to the rules of the Surface Transportation Board governing discovery, 49 C.F.R. § 1114, *et seq.*; 49 C.F.R. § 1113.2, and by Order of the Board:

YOU ARE HEREBY COMMANDED to appear, unless otherwise agreed by the parties, at the offices of 1700 New York Avenue, N.W., Washington D.C. 20006 at 9:00 AM prevailing Eastern Time October 22, 2026, to provide testimony by oral deposition at the request of Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries, in the above-captioned proceeding. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths. The deposition is anticipated to be completed within seven hours. The reason why the deposition will

be taken are set forth in the Motion for a Subpoena to John Orr for Deposition Testimony filed in the above-captioned proceeding on September 24, 2026, *see* CPKC-53, which was concurrently served on counsel for the deponent.

DATED:

Administrative Law Judge Jenifer J. Soulikias: _____

EXHIBIT B
HC - Redacted