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September 29, 2026

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BY ELECTRONIC FILING

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

ENTERED
Office of Chief Counsel
September 29, 2026
Part of
Public Record

Re: Finance Docket No. 36873, *Union Pac. Corp.* – *Control* – *Norfolk S. Corp.*

Dear Judge Soulikias:

Applicants' Motion to Compel (the "Motion") (UP-110/NS-111) should be denied. During the meet-and-confer process, CPKC committed to work in good faith to provide search-term hit counts by October 16. This dispute boils down to Applicants' insistence that CPKC's commitment is insufficient and that instead Applicants are entitled to a court order imposing an October 5 deadline, just three days from the date of the hearing at which their Motion will be heard. Applicants are wrong that a court-mandated deadline for search term hit counts is reasonable or appropriate. CPKC has diligently engaged with Applicants in good faith meet and confer about the discovery Applicants are seeking to support their February 2027 response to yet-to-be-filed comments; has already committed to work toward providing search terms hit counts by October 16; and remains willing to continue working with Applicants through the meet-and-confer process. It is not reasonable for Applicants to demand hard deadlines on interim production steps, especially in view of CPKC's upcoming Board-imposed deadlines for submitting comments.

BACKGROUND

Applicants served their First and Second Sets of Discovery Requests on CPKC on May 29 and June 1, 2026. (*See* Ex. A, B.) CPKC timely served responses and objections on June 15 and 16, 2026. Subject to its objections, CPKC agreed to conduct reasonable searches for and produce certain responsive, non-privileged documents. (*See* Exs. C, D.) CPKC has since been working to identify, collect, review, and prepare responsive documents for production through both a targeted collection effort and a broader custodial collection. CPKC has informed Applicants that it would provide updates to Applicants on the parameters of that search as they became available.

On September 9, Applicants demanded that CPKC complete its production of “documents [it] previously agreed to produce no later than September 25.” (Ex. E.) CPKC responded that it was in the process of establishing its custodial production process and it intended to make an initial production of documents from its non-custodial collections in the near future. (See Ex. F.) A few hours later, Applicants filed a Motion to Compel requesting an order requiring immediate completion of discovery CPKC had previously agreed to provide by September 25, 2026. (UP-102/NS-101). On September 11, 2026, Applicants emailed CPKC demanding a variety of information about CPKC’s search parameters and identifying proposed custodians. (See Ex. G.) CPKC opposed Applicants’ motion (CPKC-49) and Your Honor denied it at the September 18, 2026, Discovery Conference. Since that time, CPKC has made two additional productions and will submit the bi-weekly status report as ordered by Your Honor in advance of the next discovery conference.

The parties met and conferred regarding Applicants’ request on search parameters on September 22, 2026. Following the meet and confer, Applicants requested that CPKC “confirm that it will provide its [custodial search] proposal by October 5, 2026, and that the proposal will” identify (i) the RFPs on which CPKC intends to conduct custodial searches, (ii) CPKC’s proposed search terms, (iii) CPKC’s proposed date cutoffs, (iv) CPKC’s proposed custodians, (v) whether CPKC possesses electronically-stored information (“ESI”) for certain identified custodians, and (vi) provide hit reports. (Ex. H.)

CPKC responded to those requests on September 24, 2026, confirming that it expects to provide by October 5, 2026 a proposal regarding the RFPs in response to which it will propose to conduct custodial searches, the date ranges for said searches, and whether CPKC possesses ESI for certain proposed custodians. (Ex. I.) CPKC went on to tell Applicants that it would “endeavor to provide [search terms and hit reports] as soon as [that information] is available” and informed Applicants about CPKC’s current view about likely custodians. (*Id.*) In response, Applicants asked CPKC to “agree to provide [search terms and hit reports] by October 9” to “avoid a motion on this.” (Ex. J.) In an attempt to further demonstrate CPKC’s efforts to move forward, CPKC replied that it “anticipate[s] being able to provide the information [Applicants were] requesting by October 16 and will let [Applicants] know if [CPKC is] not on track to meet that date as we get closer to it.” (Ex. K.) Rather than engage with that timeline, Applicants filed the instant motion.

DISCUSSION

CPKC has told Applicants that it is conducting a custodial search. As Applicants’ own production timeline confirms (their custodial responses have overwhelmingly been made only in the last few weeks, *nine months* after receiving CPKC’s December 2025 discovery requests), setting up a custodial search does not happen overnight. CPKC has already made productions and will continue to produce documents on a rolling basis and submit status reports, as directed by Your Honor during the last conference. There is no demonstrated basis for Applicants’ demand for anything further at this time. Applicants’ Motion should be denied.

First, Applicants have failed to demonstrate imposition of a court-enforced deadline is necessary. CPKC has agreed to provide half of the items Applicants requested (RFPs, date cutoffs, and custodians with ESI) by October 5 in accord with Applicants’ demands. CPKC has also told

Applicants about its tentative list of custodians, and CPKC has said it will endeavor to provide all the information Applicants seek in their Motion by October 16. (Exs. H-K.) Applicants have offered no reason to believe they will not receive discovery from CPKC with adequate time to prepare their next submission, due February 16, 2027, nor have they provided an explanation as to why court intervention on interim production milestones is necessary. As was the case with Applicants' prior motion to compel, Applicants do not, and cannot, explain what urgency requires a court-ordered deadline for CPKC to provide this specific information by October 5. Applicants' own conduct confirms the arbitrariness of the requested deadline. Just hours before filing this Motion, Applicants themselves offered to accept a deadline of October 9. (Ex. J.)

Second, Applicants seek to impose discovery deadlines that are unreasonable when compared to the timeline Applicants themselves have followed. While CPKC served its first discovery requests on December 18, 2025, UP and NS did not send custodial search proposals for six months. (Exs. L-N.) It then took Applicants approximately two months to even begin producing documents as part of their custodial search process, and even now Applicants have not completed their custodial document productions, over nine months later. (See UP-92/NS-91 at 4, 9.)

Applicants' request, advanced for the first time in their Motion, that CPKC be required to provide "iterative hit reports" "within five days for new custodians and within three days for agreed-upon custodians" is untethered to their own conduct in this case. (UP-110/NS-111 at 3.) Applicants waited almost a full month to provide a hit report on CPKC's search term proposal, waited a further 10 days to even provide a counter-proposal, and repeatedly ignored CPKC's request for either information about Applicants process or for a response by a specific date. (Exs. O-P.)

Third, imposition of rigid deadlines is not only unnecessary but affirmatively inefficient. In seeking such deadlines, Applicants seek to circumvent the ordinary meet-and-confer process to resolve discovery disputes without judicial intervention and in response to the circumstances of each issue as they arise. Further, CPKC repeatedly sought, throughout the meet-and-confer process, to confirm whether Applicants intended to submit future, additional discovery requests. Applicants have refused to disclose whether or when they intend to propound such requests. Applicants' own refusal to engage in meaningful disclosure of their own plans to avoid imposing unnecessary expense on CPKC is in itself reason to deny Applicants' motion.

Fourth, a deadline would impose an unnecessary burden during the most intensive period for non-applicants. As CPKC noted in response to Applicants' prior motion, CPKC is currently reviewing Applicants' belated productions of hundreds of thousands of documents, taking depositions, and preparing its comments and considering potential responsive applications due November 18. CPKC has also made multiple productions over the past weeks. Even with these competing obligations, CPKC is providing Applicants the information about its custodial search process on a rolling basis. And yet, without any identified urgency, Applicants seek to impose an arbitrary deadline to provide information two weeks sooner than when CPKC offered to provide it, and on a date that coincides directly with the deadline for non-applicants such as CPKC to file their petitions for waiver or clarification of responsive applications. See Decision No. 30 at 1.

CONCLUSION

CPKC is actively engaged with its custodial production process. Requiring anything further at this time would unnecessarily impose accelerated timelines and burdens on CPKC that are wholly divorced from Applicants' deadlines in this proceeding. Accordingly, CPKC respectfully requests that Your Honor deny Applicants' Motion.

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 29th day of September 2026, a true and correct copy of the foregoing was served by first-class mail or email on 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/ Rachel P. Clyburn
Rachel P. Clyburn

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

**APPLICANTS' FIRST SET OF DISCOVERY REQUESTS
TO CANADIAN PACIFIC KANSAS CITY**

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May 29, 2026

Pursuant to 49 C.F.R. §§ 1114.21-.31, Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company (collectively “Applicants”) request that Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City (“CPKC”) respond to and produce Documents responsive to the following discovery requests in accordance with the Surface Transportation Board’s rules and the definitions and instructions set forth below.

Responses should be served as soon as possible, and in no event later than June 15, 2026, unless otherwise agreed to by the parties. Please contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously.

DEFINITIONS

1. “Applicants” means Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company.

2. “Communication” means any transmission or receipt of information by one or more persons or between two or more persons by means including but not limited to telephone conversations, letters, telegrams, teletypes, telexes, telecopies, electronic mail, text messages, instant messages, other computer linkups, written memoranda, and in-person conversations.

3. “Document” has the broadest meaning permissible under 49 C.F.R. § 1114.30, including but not limited to electronically stored information and any writing, drawing, graph, chart, photograph, sound recording, image, and other data or data compilation stored in any medium from which information can be obtained.

4. “Produce” means to make legible, complete, and exact copies of responsive Documents and send them by expedited delivery to the undersigned counsel.

5. “Proposed Transaction” means the proposed combination of NS and UP for which NS and UP are seeking STB approval in Finance Docket No. 36873.

6. “You” and “Your” refer to CPKC and its predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates, divisions, area offices, and regional offices, as well as all persons acting or purporting to act on its behalf.

INSTRUCTIONS

1. References to railroads, shippers, consultants, or companies (including Applicants) include affiliates, subsidiaries, predecessors, successors, officers, directors, employees, attorneys, agents, and representatives thereof.

2. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

3. If any information or Document is withheld on the ground that it is privileged or otherwise not discoverable: (a) identify the type of Document (*e.g.*,

letter, memorandum, report, chart); identify the author, each addressee and each recipient; state the number of pages, title and date of the Document, and (b) state the basis for the claim that it is privileged or otherwise not discoverable.

4. To the extent materials called for herein are confidential, Applicants will treat them in accordance with the Protective Order entered in this proceeding in the Decision served August 5, 2025.

5. Unless otherwise specified, these requests cover the period January 1, 2019 and to the present.

6. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

REQUESTS

1. Describe all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

2. Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

3. Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving

Class I railroads, including but not limited to any mergers You have considered executing with any other Class I railroads.

4. Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented, or are considering or are implementing, as a result of the Proposed Transaction.

Respectfully submitted,

/s/ Raymond A. Atkins
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May 29, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May, 2026, the foregoing document was served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.

/s/ Molly Brown

EXHIBIT B

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD
COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN
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**APPLICANTS' SECOND SET OF DISCOVERY REQUESTS
TO CANADIAN PACIFIC KANSAS CITY**

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June 1, 2026

Pursuant to 49 C.F.R. §§ 1114.21-.31, Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company (collectively “Applicants”) request that Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City (“CPKC”) respond to and produce Documents responsive to the following discovery requests in accordance with the Surface Transportation Board’s rules and the definitions and instructions set forth below.

Responses should be served as soon as possible, and in no event later than June 16, 2026, unless otherwise agreed to by the parties. Please contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously.

DEFINITIONS

1. “Applicants” means Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company.
2. “BNSF” means BNSF Railway Company.
3. “Communication” means any transmission or receipt of information by one or more persons or between two or more persons by means including but not limited to telephone conversations, letters, telegrams, teletypes, telexes, telecopies, electronic mail, text messages, instant messages, other computer linkups, written memoranda, and in-person conversations.

4. “CSXT” or “CSX” means CSX Transportation Inc.
5. “Document” has the broadest meaning permissible under 49 C.F.R. § 1114.30, including but not limited to electronically stored information and any writing, drawing, graph, chart, photograph, sound recording, image, and other data or data compilation stored in any medium from which information can be obtained.
6. “KCT” means Kansas City Terminal Railway.
7. “Norfolk Southern” or “NS” means Norfolk Southern Corporation and Norfolk Southern Railway Company.
8. “PPU” means Peoria and Pekin Union Railway Company.
9. “Produce” means to make legible, complete, and exact copies of responsive Documents and send them by expedited delivery to the undersigned counsel.
10. “Proposed Transaction” means the proposed combination of NS and UP for which NS and UP are seeking STB approval in Finance Docket No. 36873.
11. “TRRA” means Terminal Railroad Association of St. Louis.
12. “TTX” means TTX Company.
13. “Union Pacific” or “UP” means Union Pacific Corporation and Union Pacific Railroad Company.
14. “You” and “Your” refer to CPKC and its predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates,

divisions, area offices, and regional offices, as well as all persons acting or purporting to act on its behalf.

INSTRUCTIONS

1. References to railroads, shippers, consultants, or companies (including Applicants) include affiliates, subsidiaries, predecessors, successors, officers, directors, employees, attorneys, agents, and representatives thereof.

2. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

3. If any information or Document is withheld on the ground that it is privileged or otherwise not discoverable: (a) identify the type of Document (*e.g.*, letter, memorandum, report, chart); identify the author, each addressee and each recipient; state the number of pages, title and date of the Document, and (b) state the basis for the claim that it is privileged or otherwise not discoverable.

4. To the extent materials called for herein are confidential, Applicants will treat them in accordance with the Protective Order entered in this proceeding in the Decision served August 5, 2025.

5. Unless otherwise specified, these requests cover the period January 1, 2019 and to the present.

6. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

REQUESTS¹

5. Produce all Documents and information that You produce or have previously produced in response to discovery requests submitted by other participants in this proceeding.

6. Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

7. Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the

¹ The numbering of Applicants' discovery requests is continuous across sets of discovery requests served on the same party.

Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

8. Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.

9. Produce all Documents and Communications relating to any discounts, contract extensions, or any other economic value or concession requested or offered in connection with or related to any discussion with a customer or stakeholder related to its opposition to or non-support for the Proposed Transaction.

10. Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, “mergers”) involving BNSF, CSX, NS or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered executing with BNSF, CSX, NS, or UP.

11. Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, Your position in the railroad industry, UP’s or NS’s position in the railroad industry, Your growth or strategies for growth, and UP’s or NS’s growth or strategies for growth.

12. Produce all Documents and Communications relating to the Proposed Transaction’s potential impacts on Your, the Applicants’, or any other rail carrier’s

rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.

13. Produce all Documents and Communications relating to the Potential Transaction's potential impacts on Class II or Class III railroads, including but not limited to KCT, PPU, TRRA, or TTX.

14. Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.

15. Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.

16. Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between You and any other Class I railroad, regardless of whether such arrangements were implemented.

17. Produce all Documents and Communications relating to the Proposed Transaction's impact or potential impact on interchange arrangements; interline or

joint line rates, services, or routes; interline or joint line routing options;, or cooperation with UP, NS, or other rail carriers, including but not limited to potential changes in interchange volumes, gateway usage, or service offerings.

18. Produce system-wide car and, where applicable, container, movement event data for all Your traffic. Car event data should be sufficient to identify all events and the sequence of cars within a train for each applicable event. Container event data should be sufficient to identify the car conveying the container for each applicable event and all events, including in-gate, out-gate, ramp, and deramp events.

19. Produce system-wide train event data for all Your trains.

20. Produce data relating to reciprocal switching for the period from January 1, 2019, through December 31, 2025, including but not limited to car-level movement records, switch lists, interchange logs, line-segment level usage data, and any other records or communications reflecting reciprocal switching arrangements or traffic. To the extent not otherwise encompassed by this request, Your response should include: (1) waybill date, number, and identifiers associated with the switch operation; (2) the switching locations where the actual car switching between roads occur (FSAC, SPLC, Rule 260 junction code, station name, and state/province); (3) local customer information where the switched cars are picked-up or delivered in the switching terminal area (CIF, Parent Customer Name, FSAC, SPLC, station name, and state/province); (4) payment information for that switch; and (5) date of operation.

21. Produce data sufficient to show all interchange volumes with other rail carriers, broken down by line, location, and counterparty, together with any associated payments, settlements, or charges between carriers for haulage, switching, or other car handling (including waybill identifiers, car initials and numbers, dates and times, service type, payment types, and amounts), for the period from January 1, 2019, through December 31, 2025.

22. Produce Documents sufficient to show how You determine the rates that You establish for rail transportation for each route, commodity, and customer, including but not limited to any pricing models, pricing systems, or internal pricing formulas You have utilized.

23. Produce all Documents relating to Your calculations of movement-related costs for the rail transportation services You provide, including detailed breakdowns of cost (such as by route, commodity, car type, and customer) in documents and/or a computer-readable database or electronic spreadsheet.

24. Produce all Documents and Communications relating to Your policies or strategies for the pricing of Your rail transportation services, including without limitation the level of returns that You require when pricing rail traffic.

25. Produce all Documents and Communications relating to Your strategies for growing Your rail traffic.

26. Produce all Documents and Communications relating to Your strategies for obtaining or maintaining business from customers with multiple facilities on Your rail lines, including with respect to pricing, bundling, tying, or

linking rates or services, and providing discounts or otherwise reducing fees for customers that have multiple facilities.

27. Produce all Documents and Communications relating to Your changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.

28. Produce all Documents and Communications relating to instances in which You made offers (such as bids on Request for Proposals) to customers opening new facilities that could be served by a rail carrier.

29. Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from rail customers (whether by growing traffic, increasing prices, or otherwise).

Respectfully submitted,

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June 1, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2026, the foregoing document was served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.

/s/ Molly Brown

EXHIBIT C

REDACTED PUBLIC VERSION

**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

CPKC’S RESPONSES AND OBJECTIONS TO APPLICANTS’ FIRST SET OF DISCOVERY REQUESTS

Pursuant to 49 C.F.R. Part 1114, Subpart B, Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries (collectively “CPKC”),¹ hereby responds and objects as follows to Applicants’ First Set of Discovery Requests to CPKC (referred to herein as the “Requests”) served on May 29, 2026 in connection with the above-captioned proceeding. Pursuant to the terms of the Protective Order in this proceeding, this Response is designated as Highly Confidential.

The following enumerated objections apply to the Requests collectively and to each Definition, Instruction, and individual Request, and, unless otherwise stated, shall have the same force and effect as if set forth in full in response to each individual Request. These general objections are not exhaustive and are not exclusive to specific objections that CPKC may raise. Any objection to a Definition shall also apply equally to any other Definition, Instruction, or Request that incorporates that Definition. CPKC’s objections shall not waive, limit, or prejudice

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.

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any objections that it may later assert. Without waiving any objection herein, CPKC is willing to meet and confer with Applicants regarding the Requests and CPKC's responses and objections to resolve any matters in dispute with respect to the Requests.

GENERAL OBJECTIONS

All of CPKC's responses are subject to and without waiver of the following General Objections:

1. CPKC's investigation related to the Requests is ongoing, and, as a result, this response is based on information presently available to CPKC. CPKC reserves the right to rely upon facts, documents, or other evidence that it may develop or that may subsequently come to its attention; to assert additional objections; and to supplement or amend these responses at any time as this proceeding continues. A statement in this response to the effect that CPKC may produce non-privileged, responsive documents or information located after a reasonable search in response to a Request shall not be construed as a representation that such documents or information exist. To the extent CPKC produces documents or information responsive to the Requests, CPKC will produce relevant, responsive, non-privileged documents or information only to the extent they may be found following a reasonable search and only subject to CPKC's other objections.

2. CPKC objects to the Requests to the extent they purport to impose upon CPKC burdens or duties that are greater than, or otherwise conflict with, the requirements or the permissible scope of discovery under 49 C.F.R. Part 1114, Subpart B, or under other Surface Transportation Board (the "Board"), rules, precedents, or orders in the above-captioned proceeding (collectively, the "Applicable Rules") or are otherwise not proportional to the needs of the above-captioned proceeding and imposes an undue burden on CPKC.

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3. CPKC objects to the Requests to the extent that they are not proportional to the needs of the above-captioned proceeding and impose an undue burden or duty on CPKC, particularly in light of CPKC's status as a non-applicant participant in the above-captioned proceeding.

4. CPKC objects to the Requests to the extent that they purport to require CPKC to conduct anything beyond a reasonable search for documents and information that are reasonably available to CPKC from CPKC sources in which responsive, non-privileged documents would likely be found. Where CPKC produces (or agrees to produce) documents, or states that it does not have responsive documents, CPKC is stating that conclusion based upon the reasonable search it conducted.

5. CPKC objects to the Requests to the extent they purport to seek information and/or documents that are not relevant to the issues raised in the above-captioned proceeding.

6. CPKC objects to the Requests to the extent they purport to seek information and/or documents on subjects that are not yet at issue in the above-captioned proceeding.

7. CPKC objects to the Requests to the extent that they are premature, including because they call for documents or information relating to potential future responsive application(s) that CPKC may or may not file in the above-captioned proceeding. CPKC will produce documents and information concerning any responsive application(s) CPKC may file consistent with a procedural schedule to be set by the Board.

8. CPKC objects to the Requests to the extent that they seek, or may be construed to seek, information protected from disclosure by the attorney-client privilege, attorney work product doctrine, joint defense or common interest privilege, and/or any other applicable privilege, protection, immunity, doctrine, statute, regulation, agreement, or protective order (each

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a “Privilege”). CPKC hereby asserts all applicable privileges and protections and excludes privileged and protected information from its responses. Nothing contained herein is a waiver of any Privilege. In the event that CPKC produces a privileged document, such production is inadvertent and will not constitute a waiver of any Privilege. CPKC reserves all rights under applicable law to demand and/or require the return of all copies thereof and non-use by Applicants or any other person or entity in this or any other proceeding.

9. CPKC objects to the Requests to the extent that they seek the production of documents prepared in connection with, or information relating to, possible settlement or mediation of this or any other proceeding.

10. CPKC objects to the Requests to the extent they call for information or documents that are confidential, proprietary, or commercially or competitively sensitive. Consistent with its responses and objections, CPKC will make available information and documents subject to the Board’s Protective Order issued in this proceeding on August 5, 2025, and all responses and documents should be treated in accordance with that Order.

11. CPKC objects to the Requests to the extent that they purport to seek documents or information not in CPKC’s possession, custody or control.

12. CPKC objects to the Requests to the extent they purport to seek the production of documents that are unreasonably cumulative or duplicative of documents already in Applicants’ possession, custody or control, or that are publicly available or otherwise readily accessible to Applicants, or that are otherwise obtainable in a more convenient, less burdensome or less expensive manner than from CPKC.

13. CPKC objects to the Requests as unduly burdensome and oppressive, particularly in light of CPKC’s status as a non-applicant, to the extent that they purport to require CPKC to

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create, generate, compile, or develop documents, data, or other materials not kept, or in a form not kept, in the ordinary course of CPKC's business, or to undertake anything more than a reasonable search for responsive information.

14. CPKC objects to the Requests to the extent that they are unduly burdensome in failing to allow for a reasonable time for compliance. CPKC also objects to Applicants' demand to the extent that they purport to require CPKC to complete production of records in response to Applicants' Requests by June 15, 2026 on the basis that the request is unduly burdensome and fails to allow for a reasonable time for compliance. CPKC is providing the below written responses and objections and, to the extent that it agrees to conduct a reasonable search for records, will produce responsive documents or information as it is able to locate or identify through a reasonable search and which are not otherwise subject to an applicable privilege or other protection without undue burden.

15. CPKC reserves the right to provide responsive materials on a rolling basis.

16. CPKC objects to the Requests to the extent they call for categories of documents or information Applicants themselves have failed or refused to Produce in response to any discovery request to which such documents or information are responsive. As the parties that initiated this proceeding and are seeking approval of the proposed transaction from the Board, Applicants are subject to substantially greater discovery obligations than a non-applicant such as CPKC.

17. CPKC objects to the Requests to the extent they purport to prohibit CPKC from redacting information that might reveal its commercially sensitive or long-term corporate strategies, is not relevant to this proceeding, or is non-responsive to the Request. CPKC

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accordingly reserves the right to redact non-responsive material from any document provided in response to the Requests.

18. CPKC reserves the right to challenge the competency, relevance, materiality, authenticity, or admissibility of, or to object on any ground to, the use of information requested in the Requests and in any responses CPKC may provide thereto, in any subsequent proceeding, or further proceedings in this matter. To the extent that CPKC produces responsive information or documents, CPKC does not concede that such information is relevant, material, or admissible into evidence, and any such production is not intended to waive any of CPKC's objections to any of the Requests.

19. CPKC objects to the Requests to the extent that they purport to require CPKC to produce "all" or "any" responsive documents, communications, or information as unduly burdensome to the extent it requests that CPKC conduct an unreasonably broad collection and review of records to identify each and every document that may possibly be responsive, where a subset of documents would be sufficient to provide the pertinent information. CPKC objects to the Requests as unduly burdensome to the extent it seeks production from the files of all current and former CPKC employees, including those who are not reasonably likely to possess non-duplicative relevant documents.

20. CPKC objects to the Requests to the extent it seeks or may result in the use, disclosure, or dissemination of any confidential, proprietary, or commercially or competitively sensitive information produced in response to the Requests for the purpose of training, fine-tuning, evaluating, or otherwise interacting with artificial intelligence (AI) models or systems in a manner that violates the terms of the Protective Order entered in this case. This objection includes, but is not limited to, any use of such materials in connection with large language

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models (LLMs), machine learning algorithms, or generative AI tools, regardless of whether such use is direct or indirect, manual or automated, or anonymized or de-identified. CPKC does not consent to the use of any of its discovery materials for purposes unrelated to this proceeding, including but not limited to AI training.

OBJECTIONS TO DEFINITIONS

21. CPKC objects to the Definitions as unduly burdensome and disproportionate to the needs of the above-captioned proceeding to the extent the Definitions seek to impose obligations on CPKC that are greater than or otherwise inconsistent with those Applicants have agreed to undertake in discovery in the above-captioned proceeding.

22. CPKC objects to Definition No. 2 (“Communication”) to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CPKC objects to Definition No. 2 as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding to the extent that it seeks production of information on “telephone conversations” or “in-person conversations.” CPKC further objects to Definition No. 2 as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding to the extent it would require production of information from sources that are not reasonably accessible and to the extent that it purports to require production of material that was not reduced to writing. CPKC will not search for or produce these categories of “Communications.”

23. CPKC objects to Definition No. 3 (“Document”) to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CPKC further objects to Definition No. 3 as unduly burdensome and as seeking information that is not proportional to

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the probative value the information sought may have in this proceeding to the extent that it would require production of draft electronic communications, electronic meeting invites, meeting change or cancellation notices, and Communications to the extent addressed in General Objection 22. CPKC will not search for or produce these categories of “Documents.”

24. CPKC objects to Definition No. 9 (“Produce”), to the extent it purports to impose obligations inconsistent with the Applicable Rules, or to specify a form, manner or method of production that is unreasonable and unduly burdensome.

25. CPKC objects to Definition No. 14 (“You” and “Your”), on the grounds that (i) it is unduly burdensome to the extent that it purports to impose on CPKC burdens and obligations that exceed those imposed by the Applicable Rules, and (ii) it is overbroad, disproportionate to the needs of this case, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it purports to include entities other than CPKC and calls for information or documents that are neither relevant to the claims, defenses, or subject matter of, nor proportional to the needs of, the above-captioned proceeding.

OBJECTIONS TO INSTRUCTIONS

26. CPKC objects to the Instructions as unduly burdensome to the extent the Instructions seek to impose obligations on CPKC that are greater than or otherwise inconsistent with those Applicants have agreed to undertake in discovery in the above-captioned proceeding.

27. CPKC objects to Instruction No. 1 on the grounds that it is overly broad and unduly burdensome, in particular because it seeks discovery of information from “agents,” “attorneys,” and “representatives.”

28. CPKC objects to Instruction No. 5 on the grounds that it references a time period that extends beyond the scope of reasonable discovery, and is overly broad, unduly burdensome,

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and disproportionate to the needs of the proceeding. Where CPKC agrees to conduct a search in response to any particular Request, CPKC will meet and confer with Applicants regarding the appropriate date range of such search.

RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS

Subject to the General Objections, CPKC responds to the Requests as follows. To the extent that objections are specifically set forth in response to an individual Request, it is because they are believed to be particularly appropriate to that Request, and they do not constitute a waiver or limitation of any General Objection or other objection applicable to that or any other Request.

Request No. 1:

Describe all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

Response to Request No. 1:

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as it fails to define the terms “considering” or “considered.” CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as the term “You” is defined to include every agent and employee of CPKC; any number of low-level employees or agents may, in theory, have given thought to (*i.e.*, “considered”) a potential transaction, even if such individuals lacked any authority or responsibility with respect to CPKC pursuing any such transaction. CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as it fails to define the term “other control transaction,” which could include routine trackage rights,

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leases and other similar arrangements. CPKC will construe this Request as limited to discussions within the last 12 months among CPKC Officers or Directors concerning potential mergers, acquisitions, or other forms of combinations that CPKC might propose or enter into with another Class I railroad.

Subject to and without waiver of any of the foregoing objections, CPKC states that, in response to the Proposed Transaction, [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Request No. 2:

Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

Response to Request No. 2:

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as it fails to define the terms “considering” or “considered.” CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as the term “You” is defined to include every agent and employee of CPKC; any number of low-level employees or agents may, in theory, have given thought to (*i.e.*, “considered”) a potential transaction, even if such individuals lacked any authority or responsibility with respect to CPKC pursuing any such transaction. CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as it fails to define the term “other control transaction,” which could include routine trackage rights,

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leases and other similar arrangements. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates to potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction.

Subject to and without waiver of any of the foregoing objections, CPKC will produce any non-privileged Documents and Communications exchanged between CPKC's executives and the CPKC Board of Directors concerning potential combinations between CPKC and other Class I railroads, that can be located based on a reasonable search of executive-level custodial files.

Request No. 3:

Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, including but not limited to any mergers You have considered executing with any other Class I railroads.

Response to Request No. 3:

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, in light of CPKC's non-applicant status, because it calls for all Documents and Communications about the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad in that the term "You" is defined to include every agent and employee of CPKC; any number of low-level employees or agents may, in theory, have given thought to (*i.e.*, "considered") the potential impacts of the Proposed Transaction and potential responsive mergers a potential transaction, even if such individuals lacked any authority or responsibility with respect to CPKC

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pursuing any such transaction. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates to potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents and Communications exchanged between CPKC's executives and the CPKC Board of Directors analyzing the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, that can be located based on a reasonable search of executive-level custodial files.

Request No. 4:

Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented, or are considering or are implementing, as a result of the Proposed Transaction.

Response to Request No. 4:

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, in light of CPKC's non-applicant status, because it calls for all Documents and Communications relating in any way to CPKC's actual or potential response to the Proposed Transaction, without regard to their relevance to these proceedings. CPKC further objects that the terms "transaction," "initiative," and "other strategic response" are vague and ambiguous, as it is unclear whether these terms are meant to include only joint-initiatives or responses with other railroads, consistent with the other terms in the list, or instead are meant to encompass actions that might be taken by CPKC alone. CPKC further objects to this Request on the

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grounds that it is vague, ambiguous, and overbroad in that the term “You” is defined to include every agent and employee of CPKC; any number of low-level employees or agents may have given thought to (i.e., “considered”) potential transactions, combinations, joint ventures, alliances, partnerships, initiatives, other forms of cooperative arrangements or other strategic responses, even if such individuals lacked any authority or responsibility with respect to CPKC doing so. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates to potential forthcoming responsive application(s) or comments in the above-captioned proceeding. CPKC will construe the Request as encompassing only potential strategic responses to the Proposed Transaction that involve some form of collaboration with other Class I railroads.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents and Communications created or received since July 29, 2025 regarding new strategic collaborations with other Class 1 railroads that CPKC has analyzed or taken steps to implement in response to the Proposed Transaction, that can be located based on a reasonable search of executive-level custodial files.

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Respectfully submitted,



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Attorneys for CPKC

Dated: June 15, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of June 2026, I caused a copy of the foregoing response to be served by email or by first-class mail, postage prepaid, on all parties of record in this proceeding.

/s/ Noah P.M. Stern

Noah P.M. Stern

EXHIBIT D

**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

**CPKC’S RESPONSES AND OBJECTIONS TO APPLICANTS’ SECOND SET OF DISCOVERY
REQUESTS**

Pursuant to 49 C.F.R. Part 1114, Subpart B, Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries (collectively “CPKC”),¹ hereby respond and object as follows to Applicants’ Second Set of Discovery Requests to CPKC (referred to herein as the “Requests”) served on June 1, 2026 in connection with the above-captioned proceeding. Pursuant to the terms of the Protective Order in this proceeding, this Response is designated as Confidential.

The following enumerated objections apply to the Requests collectively and to each Definition, Instruction, and individual Request, and, unless otherwise stated, shall have the same force and effect as if set forth in full in response to each individual Request. These general objections are not exhaustive and are not exclusive to specific objections that CPKC may raise. Any objection to a Definition shall also apply equally to any other Definition, Instruction, or Request that incorporates that Definition. CPKC’s objections shall not waive, limit, or prejudice

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.

any objections that it may later assert. Without waiving any objection herein, CPKC is willing to meet and confer with Applicants regarding the Requests and CPKC's responses and objections to resolve any matters in dispute with respect to the Requests.

GENERAL OBJECTIONS

All of CPKC's responses are subject to and without waiver of the following General Objections:

1. CPKC's investigation related to the Requests is ongoing, and, as a result, this response is based on information presently available to CPKC. CPKC reserves the right to rely upon facts, documents, or other evidence that it may develop or that may subsequently come to its attention; to assert additional objections; and to supplement or amend these responses at any time as this proceeding continues. A statement in this response to the effect that CPKC may produce non-privileged, responsive documents or information located after a reasonable search in response to a Request shall not be construed as a representation that such documents or information exist. To the extent CPKC produces documents or information responsive to the Requests, CPKC will produce relevant, responsive, non-privileged documents or information only to the extent they may be found following a reasonable search and only subject to CPKC's other objections.

2. CPKC objects to the Requests to the extent they purport to impose upon CPKC burdens or duties that are greater than, or otherwise conflict with, the requirements or the permissible scope of discovery under 49 C.F.R. Part 1114, Subpart B, or under other Surface Transportation Board (the "Board"), rules, precedents, or orders in the above-captioned proceeding (collectively, the "Applicable Rules") or are otherwise not proportional to the needs of the above-captioned proceeding and imposes an undue burden on CPKC.

3. CPKC objects to the Requests to the extent that they are not proportional to the needs of the above-captioned proceeding and impose an undue burden or duty on CPKC, particularly in light of CPKC's status as a non-applicant participant in the above-captioned proceeding.

4. CPKC objects to the Requests to the extent that they purport to require CPKC to conduct anything beyond a reasonable search for documents and information that are reasonably available to CPKC from CPKC sources in which responsive, non-privileged documents would likely be found. Where CPKC produces (or agrees to produce) documents, or states that it does not have responsive documents, CPKC is stating that conclusion based upon the reasonable search it conducted.

5. CPKC objects to the Requests to the extent they purport to seek information and/or documents that are not relevant to the issues raised in the above-captioned proceeding.

6. CPKC objects to the Requests to the extent they purport to seek information and/or documents on subjects that are not yet at issue in the above-captioned proceeding.

7. CPKC objects to the Requests to the extent that they are premature, including because they call for documents or information relating to potential future responsive application(s) that CPKC may or may not file in the above-captioned proceeding. CPKC will produce documents and information concerning any responsive application(s) CPKC may file consistent with a procedural schedule to be set by the Board.

8. CPKC objects to the Requests to the extent that they seek, or may be construed to seek, information protected from disclosure by the attorney-client privilege, attorney work product doctrine, joint defense or common interest privilege, and/or any other applicable privilege, protection, immunity, doctrine, statute, regulation, agreement, or protective order (each

a “Privilege”). CPKC hereby asserts all applicable privileges and protections and excludes privileged and protected information from its responses. Nothing contained herein is a waiver of any Privilege. In the event that CPKC produces a privileged document, such production is inadvertent and will not constitute a waiver of any Privilege. CPKC reserves all rights under applicable law to demand and/or require the return of all copies thereof and non-use by Applicants or any other person or entity in this or any other proceeding.

9. CPKC objects to the Requests to the extent that they seek the production of documents prepared in connection with, or information relating to, possible settlement or mediation of this or any other proceeding.

10. CPKC objects to the Requests to the extent they call for information or documents that are confidential, proprietary, or commercially or competitively sensitive. Consistent with its responses and objections, CPKC will make available information and documents subject to the Board’s Protective Order issued in this proceeding on August 5, 2025, and all responses and documents should be treated in accordance with that Order.

11. CPKC objects to the Requests to the extent that they purport to seek documents or information not in CPKC’s possession, custody or control.

12. CPKC objects to the Requests to the extent they purport to seek the production of documents that are unreasonably cumulative or duplicative of documents already in Applicants’ possession, custody or control, or that are publicly available or otherwise readily accessible to Applicants, or that are otherwise obtainable in a more convenient, less burdensome or less expensive manner than from CPKC.

13. CPKC objects to the Requests as unduly burdensome and oppressive, particularly in light of CPKC’s status as a non-applicant, to the extent that they purport to require CPKC to

create, generate, compile, or develop documents, data, or other materials not kept, or in a form not kept, in the ordinary course of CPKC's business, or to undertake anything more than a reasonable search for responsive information.

14. CPKC objects to the Requests to the extent that they are unduly burdensome in failing to allow for a reasonable time for compliance. CPKC also objects to Applicants' demand to the extent that they purport to require CPKC to complete production of records in response to Applicants' Requests by June 16, 2026 on the basis that the request is unduly burdensome and fails to allow for a reasonable time for compliance. CPKC is providing the below written responses and objections and, to the extent that it agrees to conduct a reasonable search for records, will produce responsive documents or information as it is able to locate or identify through a reasonable search and which are not otherwise subject to an applicable privilege or other protection without undue burden.

15. CPKC reserves the right to provide responsive materials on a rolling basis.

16. CPKC objects to the Requests to the extent they call for categories of documents or information Applicants themselves have failed or refused to produce in response to any discovery request to which such documents or information are responsive. As the parties that initiated this proceeding and are seeking approval of the proposed transaction from the Board, Applicants are subject to substantially greater discovery obligations than a non-applicant such as CPKC. CPKC reserves the right to withhold the production of any such categories of documents or information until such time as Applicants comply with their discovery obligations with respect to the same.

17. CPKC objects to the Requests to the extent they purport to prohibit CPKC from redacting information that might reveal its commercially sensitive or long-term corporate

strategies, is not relevant to this proceeding, or is non-responsive to the Request. CPKC accordingly reserves the right to redact non-relevant and non-responsive material from any document provided in response to the Requests.

18. CPKC reserves the right to challenge the competency, relevance, materiality, authenticity, or admissibility of, or to object on any ground to, the use of information requested in the Requests and in any responses CPKC may provide thereto, in any subsequent proceeding, or further proceedings in this matter. To the extent that CPKC produces responsive information or documents, CPKC does not concede that such information is relevant, material, or admissible into evidence, and any such production is not intended to waive any of CPKC's objections to any of the Requests.

19. CPKC objects to the Requests to the extent that they purport to require CPKC to produce "all" or "any" responsive documents, communications, or information as unduly burdensome to the extent it requests that CPKC conduct an unreasonably broad collection and review of records to identify each and every document that may possibly be responsive, where a subset of documents would be sufficient to provide the pertinent information.

20. CPKC objects to the Requests as unduly burdensome to the extent they seek production from the files of all current and former CPKC employees, including those who are not reasonably likely to possess non-duplicative relevant documents. CPKC objects to the Requests to the extent it seeks or may result in the use, disclosure, or dissemination of any confidential, proprietary, or commercially or competitively sensitive information produced in response to the Requests for the purpose of training, fine-tuning, evaluating, or otherwise interacting with artificial intelligence (AI) models or systems in a manner that violates the terms of the Protective Order entered in this case. This objection includes, but is not limited to, any

use of such materials in connection with large language models (LLMs), machine learning algorithms, or generative AI tools, regardless of whether such use is direct or indirect, manual or automated, or anonymized or de-identified. CPKC does not consent to the use of any of its discovery materials for purposes unrelated to this proceeding, including but not limited to AI training.

OBJECTIONS TO DEFINITIONS

21. CPKC objects to the Definitions as unduly burdensome and disproportionate to the needs of the above-captioned proceeding to the extent the Definitions seek to impose obligations on CPKC that are greater than or otherwise inconsistent with those Applicants have agreed to undertake in discovery in the above-captioned proceeding.

22. CPKC objects to Definition No. 3 (“Communication”) to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CPKC objects to Definition No. 3 as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding to the extent that it seeks production of information on “telephone conversations” or “in-person conversations.” CPKC further objects to Definition No. 3 as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding to the extent it would require production of information from sources that are not reasonably accessible and to the extent that it purports to require production of material that was not reduced to writing. CPKC will not search for or produce these categories of “Communications.”

23. CPKC objects to Definition No. 5 (“Document”) to the extent this Definition seeks to expand upon and conflicts with 49 C.F.R. Part 1114, Subpart B. CPKC further objects

to Definition No. 5 as unduly burdensome and as seeking information that is not proportional to the probative value the information sought may have in this proceeding to the extent that it would require production of draft electronic communications, electronic meeting invites, meeting change or cancellation notices, and Communications to the extent addressed in General Objection 22. CPKC will not search for or produce these categories of “Documents.”

24. CPKC objects to Definition No. 9 (“Produce”), to the extent it purports to impose obligations inconsistent with the Applicable Rules, or to specifying a form, manner or method of production that is unreasonable and unduly burdensome.

25. CPKC objects to Definition No. 14 (“You” and “Your”), on the grounds that (i) it is unduly burdensome to the extent that it purports to impose on CPKC burdens and obligations that exceed those imposed by the Applicable Rules, and (ii) it is overbroad, disproportionate to the needs of this case, and not reasonably calculated to lead to the discovery of admissible evidence to the extent that it purports to include entities other than CPKC and calls for information or documents that are neither relevant to the claims, defenses, or subject matter of, nor proportional to the needs of, the above-captioned proceeding.

OBJECTIONS TO INSTRUCTIONS

26. CPKC objects to the Instructions as unduly burdensome to the extent the Instructions seek to impose obligations on CPKC that are greater than or otherwise inconsistent with those Applicants have agreed to undertake in discovery in the above-captioned proceeding.

27. CPKC objects to Instruction No. 1 on the grounds that it is overly broad and unduly burdensome, in particular because it seeks discovery of information from “agents,” “attorneys,” and “representatives.”

28. CPKC objects to Instruction No. 5 on the grounds that it references a time period that extends beyond the scope of reasonable discovery, and is overly broad, unduly burdensome, and disproportionate to the needs of the proceeding. Where CPKC agrees to conduct a search in response to any particular Request, unless otherwise indicated, CPKC will meet and confer with Applicants regarding the appropriate date range of such search.

RESPONSES AND OBJECTIONS TO SPECIFIC REQUESTS

Subject to the General Objections, CPKC responds to the Requests as follows. To the extent that objections are specifically set forth in response to an individual Request, it is because they are believed to be particularly appropriate to that Request, and they do not constitute a waiver or limitation of any General Objection or other objection applicable to that or any other Request.

Request No. 5.

Produce all Documents and information that You produce or have previously produced in response to discovery requests submitted by other participants in this proceeding.

Response to Request No 5.

Subject to and without waiver of any of the foregoing objections, CPKC states that it does not currently possess any documents or information responsive to this Request that has not already been produced to Applicants. CPKC will provide Applicants with a copy of or access to the records CPKC produces in response to discovery requests in this proceeding.

Request No. 6.

Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials,

government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

Response to Request No 6.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents and Communications about the Proposed Transaction, including by all agents and employees of CPKC, regardless of their relevance to these proceedings. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and potentially overbroad. CPKC further objects to the extent that the Request purports to call for information that is publicly available. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged (1) form letters relating to the Proposed Transaction that were sent by CPKC to third parties and (2) materials provided as part of any formal presentations relating to the Proposed Transaction to government entities, and produce records responsive to this Request, that can be located based on a reasonable search. CPKC otherwise refers Applicants to CPKC's filings on the docket in the above-referenced proceeding and its public website, including <https://www.cpkcr.com/en/media/Rail-Consolidation-Updates>.

Request No. 7.

Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

Response to Request No 7.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents concerning or consisting of talking points or prepared messaging relating to the Proposed Transaction, including by all agents and employees of CPKC, regardless of their relevance to these proceedings. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and potentially overbroad. CPKC further objects to this Request on the grounds that the phrase "prepared messaging" is vague and ambiguous, as it is unclear who must have "prepared" the messaging or for what purpose. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

Subject to and without waiver of any of the foregoing objections, CPKC will produce Documents sufficient to show prepared messaging for use by CPKC executives for third-party outreach regarding the merits of the Proposed Transaction, that can be located based on a reasonable search of executive-level custodial files.

Request No. 8.

Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.

Response to Request No 8.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that this Request is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings insofar as it calls for a list of any individual any agent of CPKC has “discussed” any “comment, letter, or statement” relating to the Proposed Transaction with, without regard to the discussion or the nature of the letter or comment. CPKC further objects that the undefined phrase “relating to” is vague, ambiguous and potentially overbroad. CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as the term “You” is defined to include every agent and employee of CPKC; any number of low-level employees or agents may have “discussed” the Proposed Transaction with parties outside of CPKC, even if such individuals lacked any authority or responsibility with respect to CPKC’s response to the Proposed Transaction. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

Subject to and without waiver of any of the foregoing objections, CPKC will investigate whether there is a centralized tracker reflecting CPKC outreach to third parties soliciting filing of a comment, letter, or statement of opposition relating to the Proposed Transaction.

Request No. 9.

Produce all Documents and Communications relating to any discounts, contract extensions, or any other economic value or concession requested or offered in connection with or related to any discussion with a customer or stakeholder related to its opposition to or non-support for the Proposed Transaction.

Response to Request No 9.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is vague and ambiguous, including because it uses the phrases “relating to” and “related to.” CPKC further objects to this Request to the extent it calls for information concerning discounts, contract extensions, or any other economic value or concession requested from or offered by Applicants, as such information is already in Applicants’ possession, custody or control, or may be obtained from a more convenient source than CPKC. CPKC will construe this request as seeking Documents and Communications reflecting a request submitted to CPKC for, or an offer by CPKC to, provide a discount, contract extensions, or any other economic value or concession to a customer or stakeholder to induce that customer or stakeholder to oppose or refrain from supporting the Proposed Transaction.

Subject to and without waiver of any of the foregoing objections, CPKC will conduct a reasonable search for and produce non-privileged Documents and Communications reflecting any instance in which an individual authorized to speak on behalf of CPKC has received a request, or made an offer, to provide a discount, contract extension, or any other offer of economic value or concession to a customer or stakeholder to induce that customer or

stakeholder to oppose or refrain from supporting the Proposed Transaction, to the extent any such Documents and Communications exist.

Request No. 10.

Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, “mergers”) involving BNSF, CSX, NS or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered executing with BNSF, CSX, NS, or UP.

Response to Request No 10.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that, is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC’s non-applicant status, because it seeks all Documents and Communications “discussing railroad mergers or alternatives to railroad mergers” in any way, without limitation or qualification from a more than seven-year period, regardless of their relevance to these proceedings. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request on the grounds that it is vague and ambiguous whether this Request, and in particular the phrase “discussing railroad mergers or

alternatives to railroad mergers generally,” encompasses Documents and Communications relating to the combination of CP and KCS or CN’s proposed acquisition of KCS. CPKC will construe this request as not seeking Documents or Communications relating to the CP/KCS transaction or CN’s proposed acquisition of KCS.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents and Communications created since the announcement of the Proposed Transaction presented to the CPKC Board of Directors discussing potential specific mergers or combinations involving BNSF, CSX, NS, or UP, as well as combinations involving those railroads generally that can be located based on a reasonable search of executive-level custodial files. Additionally, CPKC refers Applicants to the records and information it has produced, or intends to produce, in response to Requests 1 through 4.

Request No. 11.

Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, Your position in the railroad industry, UP’s or NS’s position in the railroad industry, Your growth or strategies for growth, and UP’s or NS’s growth or strategies for growth.

Response to Request No 11.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings to the extent that it calls for “all” Documents and Communications from a more than seven-year period related to the sweeping topics identified in this Request, as virtually any Document or Communication in CPKC’s possession could be construed as responsive to this Request (*e.g.*, because the document “relat[es] to competition in the railroad industry” or “relat[es] to . . . [CPKC’s] position in the railroad industry”). CPKC further objects that the

undefined phrase “relating to” is vague, ambiguous and further compounds the extreme overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC’s business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding.

Subject to and without waiver of any of the foregoing objections, CPKC refers Applicants to its Responses to the other, more particularized, Requests Applicants have propounded in this proceeding, but CPKC otherwise stands on its objections to this Request.

Request No. 12.

Produce all Documents and Communications relating to the Proposed Transaction’s potential impacts on Your, the Applicants’, or any other rail carrier’s rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.

Response to Request No 12.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of

these proceedings, particularly in light of CPKC's non-applicant status, because it calls for CPKC to identify and produce all Documents and Communications that relate in any way to the impact of the Proposed Transaction. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, who have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents and Communications analyzing the potential impact of the Proposed Transaction on CPKC's business and operations that can be located based on a reasonable search of executive-level custodial files. Additionally, CPKC refers Applicants to the records and information it has produced, or intends to produce, in response to Requests 1 through 4.

Request No. 13.

Produce all Documents and Communications relating to the Potential Transaction's potential impacts on Class II or Class III railroads, including but not limited to KCT, PPU, TRRA, or TTX.

Response to Request No 13.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that this Request is vague and ambiguous because it uses the capitalized but undefined term "Potential Transaction." CPKC will construe this Request as seeking Documents and Communications discussing the Proposed Transaction's potential impacts on Class II or Class III railroads. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and potentially overbroad. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction. CPKC further objects to this Request to the extent it suggests TTX is a Class II or Class III railroad.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents and Communications analyzing the impact of the Proposed Transaction on TTX or Class II and Class III railroads, including KCT, PPU, and TRRA, that can be located based on a reasonable search of executive-level custodial files.

Request No. 14.

Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on

railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.

Response to Request No 14.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for CPKC to identify and produce all Documents and Communications that relate in any way to the impact of the Proposed Transaction. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents and Communications analyzing the potential impact of the Proposed

Transaction on CPKC's business and operations and on rail and truck competition more generally, that can be located based on a reasonable search of executive-level custodial files. Additionally, CPKC refers Applicants to the records and information it has produced, or intends to produce, in response to Requests 1 through 4.

Request No. 15.

Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.

Response to Request No 15.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds prematurely calls for all Documents and Communications relating to any potential requests for conditions or responsive application(s) that may be filed but that are not yet at issue in the above-captioned proceeding. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction.

CPKC stands on its objections to this Request. CPKC will consider a new set and appropriately tailored of discovery requests at the appropriate time concerning matters that may be relevant as a result of potential responsive application(s) or comments CPKC may choose to file in this proceeding, consistent with the procedural schedule to be set by the Board.

Request No. 16.

Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between You and any other Class I railroad, regardless of whether such arrangements were implemented.

Response to Request No 16.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it seeks all Documents and Communications about all CPKC interline services and potential interline services dating back over seven years, without limitation or qualification and without regard to their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects that the term "initiative" is vague and ambiguous, as it is unclear whether this term is meant to include only joint-initiatives or responses with other railroads, consistent with the other terms in the list, or instead is meant to encompass responses by CPKC alone. CPKC will construe this Request as encompassing only strategic responses to the Proposed Transaction that involve some form of collaboration with other railroads or interline initiatives with other Class I railroads implemented since January 1, 2023. CPKC further objects to this Request on the grounds that it is unreasonably cumulative or duplicative, and not proportional, insofar as it seeks information already in Applicants' possession, custody or control (including as it relates to the Meridian Speedway LLC arrangements with NS), or that is publicly available, or that Applicants could obtain through a more convenient source.

Subject to and without waiver of any of the foregoing objections, CPKC will produce non-privileged Documents sufficient to show (1) potential or actual new strategic collaborations with other Class I railroads that CPKC has analyzed or taken steps to implement in response to the Proposed Transaction or (2) strategic interline collaborations with other Class I railroads implemented since January 1, 2023, that can be located based on a reasonable search of executive-level custodial files.

Request No. 17.

Produce all Documents and Communications relating to the Proposed Transaction's impact or potential impact on interchange arrangements; interline or joint line rates, services, or routes; interline or joint line routing options; or cooperation with UP, NS, or other rail carriers, including but not limited to potential changes in interchange volumes, gateway usage, or service offerings.

Response to Request No 17.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for CPKC to identify and produce all Documents and Communications that relate in any way to the impact of the Proposed Transaction. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the

undefined phrase “relating to” is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent that it calls for records that are privileged, protected attorney work product, or otherwise protected from disclosure as it relates potential forthcoming responsive application(s) or comments on the application for the Proposed Transaction.

Subject to and without waiver of any of the foregoing objections, CPKC will produce Documents sufficient to show CPKC’s non-privileged analysis of the potential impacts of the Proposed Transaction on CPKC’s business and operations that can be located based on a reasonable search of executive-level custodial files.

Request No. 18.

Produce system-wide car and, where applicable, container, movement event data for all Your traffic. Car event data should be sufficient to identify all events and the sequence of cars within a train for each applicable event. Container event data should be sufficient to identify the car conveying the container for each applicable event and all events, including in-gate, out-gate, ramp, and deramp events.

Response to Request No 18.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC’s non-applicant status. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC’s business that CPKC, as a non-

Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. The Request is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings because it calls for CPKC to produce substantial additional data from a more than seven-year period, even though CPKC has already produced 100% traffic tapes, consistent with 49 CFR § 1180.4(b)(iii). CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent it seeks information in a form not maintained by CPKC in the ordinary course of business.

CPKC stands on its objections to this Request.

Request No. 19.

Produce system-wide train event data for all Your trains.

Response to Request No 19.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for CPKC to produce substantial additional data from a more than seven-year period, even though CPKC has already produced 100% traffic tapes, consistent with 49 CFR § 1180.4(b)(iii). CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC,

as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent it seeks information in a form not maintained by CPKC in the ordinary course of business.

CPKC stands on its objections to this Request.

Request No. 20.

Produce data relating to reciprocal switching for the period from January 1, 2019, through December 31, 2025, including but not limited to car-level movement records, switch lists, interchange logs, line-segment level usage data, and any other records or communications reflecting reciprocal switching arrangements or traffic. To the extent not otherwise encompassed by this request, Your response should include: (1) waybill date, number, and identifiers associated with the switch operation; (2) the switching locations where the actual car switching between roads occur (FSAC, SPLC, Rule 260 junction code, station name, and state/province); (3) local customer information where the switched cars are picked-up or delivered in the switching terminal area (CIF, Parent Customer Name, FSAC, SPLC, station name, and state/province); (4) payment information for that switch; and (5) date of operation.

Response to Request No 20.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for CPKC to produce substantial additional data from a more than seven-year period, even though CPKC has already produced 100% traffic tapes, consistent with 49 CFR § 1180.4(b)(iii). CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent it seeks information in a form not maintained by CPKC in the ordinary course of business.

CPKC stands on its objections to this Request.

Request No. 21.

Produce data sufficient to show all interchange volumes with other rail carriers, broken down by line, location, and counterparty, together with any associated payments, settlements, or charges between carriers for haulage, switching, or other car handling (including waybill

identifiers, car initials and numbers, dates and times, service type, payment types, and amounts), for the period from January 1, 2019, through December 31, 2025.

Response to Request No 21.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for CPKC to produce substantial additional data from a more than seven-year period, even though CPKC has already produced 100% traffic tapes, consistent with 49 CFR § 1180.4(b)(iii). CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request to the extent it seeks information in a form not maintained by CPKC in the ordinary course of business.

Subject to and without waiver of any of the foregoing objections, CPKC refers Applicants to the previously produced waybill data, but otherwise CPKC stands on its objections to this Request.

Request No. 22.

Produce Documents sufficient to show how You determine the rates that You establish for rail transportation for each route, commodity, and customer, including but not limited to any pricing models, pricing systems, or internal pricing formulas You have utilized.

Response to Request No 22.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for highly sensitive information about CPKC's pricing decisions dating back over seven years for every single route, commodity and customer combination, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Request No. 23.

Produce all Documents relating to Your calculations of movement-related costs for the rail transportation services You provide, including detailed breakdowns of cost (such as by route, commodity, car type, and customer) in documents and/or a computer-readable database or electronic spreadsheet.

Response to Request No 23.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents dating back over seven years relating to the highly competitively sensitive topic of CPKC's cost calculations, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests. CPKC further objects to this Request on the grounds that it is vague, ambiguous, and overbroad insofar as the term "Your" is defined to include every

agent and employee of CPKC, without regard to whether they possess meaningful decision-making authority or relevant information. CPKC further objects to this Request to the extent it seeks information in a form not maintained by CPKC in the ordinary course of business.

CPKC stands on its objections to this Request.

Request No. 24.

Produce all Documents and Communications relating to Your policies or strategies for the pricing of Your rail transportation services, including without limitation the level of returns that You require when pricing rail traffic.

Response to Request No 24.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents and Communications dating back over seven years relating to the highly competitively sensitive topic of CPKC's policies or strategies for the pricing, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to

request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Request No. 25.

Produce all Documents and Communications relating to Your strategies for growing Your rail traffic.

Response to Request No 25.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents and Communications dating back over seven years relating to the highly competitively sensitive topic of CPKC's strategies for growth, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Request No. 26.

Produce all Documents and Communications relating to Your strategies for obtaining or maintaining business from customers with multiple facilities on Your rail lines, including with respect to pricing, bundling, tying, or linking rates or services, and providing discounts or otherwise reducing fees for customers that have multiple facilities.

Response to Request No 26.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents and Communications dating back over seven years relating to CPKC's treatment of multi-facility customers, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Request No. 27.

Produce all Documents and Communications relating to Your changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.

Response to Request No 27.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents and Communications dating back over seven years relating to changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request on the grounds that the capitalized, but undefined, phrase "Precision Scheduled Railroading" is vague and ambiguous. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to request that CPKC produce records or categories of records that

Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Request No. 28.

Produce all Documents and Communications relating to instances in which You made offers (such as bids on Request for Proposals) to customers opening new facilities that could be served by a rail carrier.

Response to Request No 28.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents and Communications relating to the highly competitively sensitive topic of CPKC's offers to customers opening new facilities over a more than seven-year period, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request on the grounds that the "offers" is vague and ambiguous. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to

request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Request No. 29.

Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from rail customers (whether by growing traffic, increasing prices, or otherwise).

Response to Request No 29.

In addition to the General Objections set forth above, CPKC objects to this Request on the grounds that it is overly broad, unduly burdensome, and not proportionate to the needs of these proceedings, particularly in light of CPKC's non-applicant status, because it calls for all Documents prepared on a periodic basis over a more than seven-year period that discuss the highly competitively sensitive topic of CPKC's growth plans or strategies, regardless of their relevance to these proceedings. CPKC further objects to this Request as overbroad, unduly burdensome, not proportional to the needs of the above-captioned proceeding, insofar as it seeks information about CPKC's business that CPKC, as a non-Applicant, has not put in issue in this proceeding, and which Applicants, which have framed the issues in this proceeding, did not require in order to submit the April 30, 2026 Application that they chose to put forward in support of their Proposed Transaction; such requests are at minimum premature unless and until CPKC puts facts regarding its business in issue in this proceeding. CPKC further objects that the undefined phrase "relating to" is vague, ambiguous and further compounds the overbreadth of this Request. CPKC further objects to this Request as overbroad, unduly burdensome, and not proportional to the needs of the above-captioned proceeding, to the extent that it purports to

request that CPKC produce records or categories of records that Applicants themselves have not yet produced or agreed to produce in response to substantively similar requests.

CPKC stands on its objections to this Request.

Respectfully submitted,



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Attorneys for CPKC

Dated: June 16, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of June 2026, I caused a copy of the foregoing response to be served by email or by first-class mail, postage prepaid, on all parties of record in this proceeding.

/s/ Noah P.M. Stern

Noah P.M. Stern

EXHIBIT E

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Wednesday, September 9, 2026 1:01 PM

To: Thompson, McClain <mcclain.thompson@kirkland.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Enson, Eric <EEnson@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Gardiner, Kent <KGardiner@crowell.com>; Golden, Nathan H. <goldenn@sullcrom.com>; David Meyer <david@meyerlawdc.com>; Scheib, John M. <scheib@gentrylocke.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Brier, Grace C. <grace.brier@kirkland.com>; sara.razi@stblaw.com <sara.razi@stblaw.com>; zzExt-aellis <aellis@stblaw.com>; lindsey.bohl@stblaw.com <lindsey.bohl@stblaw.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>

Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; zzExt-dludwin <dludwin@cov.com>; Maya, Michael <mmaya@cov.com>; OpalDisco <OpalDisco@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Mahan, Carrie <carrie.mahan@sidley.com>; ratkins <ratkins@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Subject: [EXTERNAL] FD 36873 - Productions in Response to Applicants' Requests

Counsel,

We write regarding BNSF, CPKC, and CSX's failure to produce documents in response to Applicants' First and Second Sets of Discovery Requests, which were served on May 29 and June 1, and which non-Applicants railroads responded to on June 15 and June 16. In their responses, each non-Applicant railroad committed to producing a subset of the documents requested by Applicants, but more than twelve weeks later, BNSF, CPKC, and CSX have failed to produce any of the documents promised in their responses. CPKC and CSX have produced zero documents in response to Applicants' discovery requests, and BNSF has only produced datasets that were not among the items it committed to producing back in June.

BNSF, CPKC, and CSX's failure to live up to their discovery obligations is unacceptable. **Please confirm that BNSF, CPKC, and CSX will begin rolling productions of responsive documents no later than September 11 and complete production of the documents they previously agreed to produce no later than September 25.** Without a firm production commitment by Thursday at 1 PM ET, Applicants intend to raise this issue with Judge Soulikias.

Beyond the narrow subset of documents that non-Applicant railroads previously agreed to produce, Applicants have also raised disputes with BNSF, CPKC, and CSX regarding additional documents that must be produced in discovery and each railroad's obligation to undertake diligent searches of custodial and non-custodial sources for responsive documents. While BNSF, CPKC, and CSX have indicated a willingness to address some of these concerns, they have failed to provide any substantive updates regarding the status of their production efforts, including the custodial parameters being applied (if any), the sources being searched, the expected date of production, or any other information that would allow Applicants to assess the scope of the searches purportedly underway. The absence of any such update—combined with the lack of production to date—raises serious

concerns regarding BNSF, CPKC, and CSX's compliance with their discovery obligations. We will be in touch separately with each railroad to further address these concerns.

Best,

Kevin

Kevin Kelly

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EXHIBIT F

From: Stern, Noah P. M.

Sent: Thursday, September 10, 2026 1:05 PM

To: 'Kelly, Kevin' <Kkelly@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; zzExt-dludwin <dludwin@cov.com>; Maya, Michael <mmaya@cov.com>; OpalDisco <OpalDisco@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Mahan, Carrie <carrie.mahan@sidley.com>; ratkins <ratkins@sidley.com>
Cc: William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>; Thompson, McClain <mcclain.thompson@kirkland.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Enson, Eric <EEEnson@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Gardiner, Kent <KGardiner@crowell.com>; Golden, Nathan H. <goldenn@sullcrom.com>; David Meyer <david@meyerlawdc.com>; Scheib, John M. <scheib@gentrylocke.com>; Brier, Grace C. <grace.brier@kirkland.com>; sara.razi@stblaw.com <sara.razi@stblaw.com>; zzExt-aellis <aellis@stblaw.com>; lindsey.bohl@stblaw.com <lindsey.bohl@stblaw.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>
Subject: RE: FD 36873 - Productions in Response to Applicants' Requests

Kevin,

As we told you the last time we spoke, CPKC is working on a custodial collection. As Applicants are no doubt aware, this is a time-consuming process: CPKC served its requests on Applicants almost ten months ago and Applicants have not completed their production. Indeed, a substantial majority of Applicants' custodial production was made in the last month, and we understand substantial additional productions are still due in advance of the upcoming depositions. We are working diligently on our own production and expect to produce documents on a more timely schedule than Applicants.

In terms of the targeted productions, CPKC anticipates making a production early next week that will include certain items identified through its targeted collection effort.

In addition, CPKC has been working diligently to collect data responsive to UP Requests 18 to 21 in order to produce those data consistent with the September 18 deadline. CPKC has already collected about 700 GB of event and interchange data that it intends to produce as soon as it is fully processed, along with an accompanying data dictionary.

Best,

Noah

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Wednesday, September 9, 2026 10:01 AM

To: Thompson, McClain <mcclain.thompson@kirkland.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; *pdenton@steptoe.com <pdenton@steptoe.com>

<pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Enson, Eric <EEnson@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Gardiner, Kent <KGardiner@crowell.com>; Golden, Nathan H. <goldenn@sullcrom.com>; David Meyer <david@meyerlawdc.com>; Scheib, John M. <scheib@gentrylocke.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Brier, Grace C. <grace.brier@kirkland.com>; sara.razi@stblaw.com; zzExt-aellis <aellis@stblaw.com>; lindsey.bohl@stblaw.com; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>

Cc: Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; zzExt-dludwin <dludwin@cov.com>; Maya, Michael <mmaya@cov.com>; OpalDisco <OpalDisco@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Mahan, Carrie <carrie.mahan@sidley.com>; ratkins <ratkins@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Subject: [EXTERNAL] FD 36873 - Productions in Response to Applicants' Requests

Counsel,

We write regarding BNSF, CPKC, and CSX's failure to produce documents in response to Applicants' First and Second Sets of Discovery Requests, which were served on May 29 and June 1, and which non-Applicants railroads responded to on June 15 and June 16. In their responses, each non-Applicant railroad committed to producing a subset of the documents requested by Applicants, but more than twelve weeks later, BNSF, CPKC, and CSX have failed to produce **any** of the documents promised in their responses. CPKC and CSX have produced **zero** documents in response to Applicants' discovery requests, and BNSF has only produced datasets that were not among the items it committed to producing back in June.

BNSF, CPKC, and CSX's failure to live up to their discovery obligations is unacceptable. **Please confirm that BNSF, CPKC, and CSX will begin rolling productions of responsive documents no later than September 11 and complete production of the documents they previously agreed to produce no later than September 25.** Without a firm production commitment by Thursday at 1 PM ET, Applicants intend to raise this issue with Judge Soulikias.

Beyond the narrow subset of documents that non-Applicant railroads previously agreed to produce, Applicants have also raised disputes with BNSF, CPKC, and CSX regarding additional documents that must be produced in discovery and each railroad's obligation to undertake diligent searches of custodial and non-custodial sources for responsive documents. While BNSF, CPKC, and CSX have indicated a willingness to address some of these concerns, they have failed to provide any substantive updates regarding the status of their production efforts, including the custodial parameters being applied (if any), the sources being searched, the expected date of production, or any other information that would allow Applicants to assess the scope of the searches purportedly underway. The absence of any such update—combined with the lack of production to date—raises serious concerns regarding BNSF, CPKC, and CSX's compliance with their discovery obligations. We will be in touch separately with each railroad to further address these concerns.

Best,

Kevin

Kevin Kelly

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EXHIBIT G

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, 11 September 2026 17:02:19

To: Matelis, Joseph J. <Matelisi@sullcrom.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

Cc: Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: [EXTERNAL] FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

On August 24, you indicated that CPKC would be conducting searches for additional documents in response to Applicants' discovery requests by collecting and searching custodial ESI. You further stated that CPKC would provide a proposal regarding the custodians and search parameters that CPKC intended to use. Since you provided that update, CPKC has provided no additional information regarding its search parameters.

Please provide no later than Wednesday, September 16, information regarding the search parameters that CPKC intends to use to identify documents responsive to Applicants' discovery requests. At a minimum, please:

1. Explain whether you are conducting custodial and/or non-custodial searches to identify responsive documents for each of Applicants' RFPs.
2. Explain whether you are limiting your searches to a subset of the documents requested by each RFP. If so, explain what limitations you are applying for each RFP.
3. Identify the custodians whose ESI you are collecting and processing to search.
4. Disclose the search terms you are using.
5. Disclose the date cutoffs you are using.
6. Explain whether you are employing TAR. If so, explain how you are employing TAR.

Although CPKC has an independent obligation to identify custodians to search for responsive documents, Applicants have identified the following individuals likely to possess responsive documents who should be included as custodians. For the former employees that are listed, please confirm whether CPKC still possesses custodial ESI for these employees. To the extent CPKC no longer possesses custodial ESI for the former employees, we will need to identify other individuals to cover the relevant time periods and subject matter. Please let us know promptly if you are refusing to search these custodians' files for responsive documents.

- Keith Creel
- Nadeem Velani
- Mark Redd
- John Brooks
- James Clements

- Larry Lloyd
- Patrick Ottensmeyer
- Michael Upchurch
- Jeffrey Songer
- Michael Naatz

Best,

Kevin

Kevin Kelly

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Washington, DC 20001-4956
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****This is an external message from: kkelly@cov.com ****

EXHIBIT H

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Wednesday, 23 September 2026 15:26:30

To: Matelis, Joseph J. <Matelisi@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

Thank you for speaking yesterday. We write to follow up on our request that CPKC commit to providing its proposal for custodial document searches in response to Applicants' First and Second Discovery Requests by a date certain. To move this process along, we request that CPKC confirm that it will provide its proposal by October 5, 2026, and that the proposal will do the following:

1. Identify the RFPs in response to which you do and do not propose to conduct custodial searches (as well as any buckets or categories of otherwise responsive documents for which you do not intend to perform custodial searches);
2. Identify the search terms that you propose to use to search for responsive custodial documents;
3. Identify the date ranges that you propose to apply to your proposed searches;
4. Identify the custodians whose documents you propose to search;
5. Identify any custodians that we identified in our September 11, 2026 email for whom you do not possess ESI; and
6. Provide hit reports for the proposed search terms, dates, and custodians that you propose to use for your custodial searches.

We ask that you please provide the requested confirmation by 10 am Eastern tomorrow in light of the 6 pm Eastern filing deadline for the next round of discovery motions.

Best,

Kevin

Kevin Kelly

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5613 | kkelly@cov.com
www.cov.com [cov.com]

COVINGTON

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Sent: Monday, September 21, 2026 6:15 PM

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We can also discuss the Orr documents at that time.

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Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

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With regard to the questions raised in your email, we have already told you that CPKC intends to conduct a custodial search and will provide Applicants additional details about that process. And we will of course be providing a report in response to the Judge's order. As a preview, we intend to complete our responses on a quicker schedule than Applicants, whose productions are still not done ten months after CPKC's December 2025 requests and four+ months after Applicants' filing of the amended application.

Nonetheless, if Applicants are now choosing to insist on meeting and conferring before Friday, we are available for a discussion on Tuesday morning between 9:30 and 11. Your offered window does not work because I am travelling starting Tuesday afternoon and don't get back to DC until late Thursday.

Finally, please let us know what limits you had in mind when you asked the Judge for a meet and confer respecting our request relating to Mr. Orr. In our view, that request is the more time sensitive one given the upcoming deadline to file comments.

Joe

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Sent: Friday, September 18, 2026 4:52 PM

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Noah,

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Best,

Kevin

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COVINGTON

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Sent: Thursday, September 17, 2026 7:53 PM

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Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

We are not available on the dates you proposed. We are available to meet and confer on September 25 at any time after 2:30 PM (ET). Please let us know if a time in that window works for you.

Best,

Noah

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, September 17, 2026 10:42 AM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

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Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

We have not received a response to the email below. Please let us know when you are available to meet and confer about this between mid-day on Tuesday and the end of the day on Wednesday.

On the same call, in addition to discussing the information we requested in our September 11 email, we also would like to discuss a schedule for (1) search term hit reports, (2) search term and custodian negotiations, (3) briefing and hearing of any disputes relating to the foregoing, (4) the commencement of custodial productions, and (5) substantial completion of custodial productions.

We look forward to receiving your availability for next Tuesday and Wednesday.

Best,

Kevin

Kevin Kelly

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Washington, DC 20001-4956
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www.cov.com [cov.com]

COVINGTON

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, September 11, 2026 5:02 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluisse, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

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Subject: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

On August 24, you indicated that CPKC would be conducting searches for additional documents in response to Applicants' discovery requests by collecting and searching custodial ESI. You further stated that CPKC would provide a proposal regarding the custodians and search parameters that CPKC intended to use. Since you provided that update, CPKC has provided no additional information regarding its search parameters.

Please provide no later than Wednesday, September 16, information regarding the search parameters that CPKC intends to use to identify documents responsive to Applicants' discovery requests. At a minimum, please:

1. Explain whether you are conducting custodial and/or non-custodial searches to identify responsive documents for each of Applicants' RFPs.
2. Explain whether you are limiting your searches to a subset of the documents requested by each RFP. If so, explain what limitations you are applying for each RFP.
3. Identify the custodians whose ESI you are collecting and processing to search.
4. Disclose the search terms you are using.
5. Disclose the date cutoffs you are using.
6. Explain whether you are employing TAR. If so, explain how you are employing TAR.

Although CPKC has an independent obligation to identify custodians to search for responsive documents, Applicants have identified the following individuals likely to possess responsive documents who should be included as custodians. For the former employees that are listed, please confirm whether CPKC still possesses custodial ESI for these employees. To the extent CPKC no longer possesses custodial ESI for the former employees, we will need to identify other individuals to cover the relevant time periods and subject matter. Please let us know promptly if you are refusing to search these custodians' files for responsive documents.

- Keith Creel
- Nadeem Velani
- Mark Redd
- John Brooks
- James Clements
- Larry Lloyd
- Patrick Ottensmeyer
- Michael Upchurch
- Jeffrey Songer
- Michael Naatz

Best,

Kevin

Kevin Kelly

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****This is an external message from: kkelly@cov.com ****

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EXHIBIT I

From: Judge, Kiera S. <judgeks@sullcrom.com>

Sent: Thursday, September 24, 2026 2:28 PM

To: Kelly, Kevin <Kkelly@cov.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

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Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

CPKC expects to provide a proposal regarding items 1, 3, and 5, by October 5.

While CPKC can't commit that it will be in a position to fully respond to items 2 and 6 by October 5, we will endeavor to provide you this information as soon as it is available. As we have told you previously, CPKC is working diligently to process the custodial data necessary to provide a meaningful search term proposal with hit counts. We anticipate utilizing search terms and a review process similar to Applicants' process.

CPKC's custodial search will include Keith Creel, Mark Redd, John Brooks, and James Clements. We will provide you our view about other potential custodians as our assessment of your requests continues.

Please let us know when you have an update on the questions we raised, including about additional discovery.

Best,

Kiera S. Judge

(202) 956-7611 (Office) | (732) 648-5426 (Cell)

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Sent: Wednesday, September 23, 2026 4:27 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

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Best,

Noah

From: Kelly, Kevin <Kkelly@cov.com>
Sent: Thursday, September 17, 2026 10:42 AM
To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>
Cc: Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>
Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

We have not received a response to the email below. Please let us know when you are available to meet and confer about this between mid-day on Tuesday and the end of the day on Wednesday.

On the same call, in addition to discussing the information we requested in our September 11 email, we also would like to discuss a schedule for (1) search term hit reports, (2) search term and custodian negotiations, (3) briefing and hearing of any disputes relating to the foregoing, (4) the commencement of custodial productions, and (5) substantial completion of custodial productions.

We look forward to receiving your availability for next Tuesday and Wednesday.

Best,

Kevin

Kevin Kelly

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One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5613 | kkelly@cov.com
www.cov.com [cov.com]

COVINGTON

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, September 11, 2026 5:02 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

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Subject: FD 36873 - Applicants' Discovery Requests to CPKC

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2. Explain whether you are limiting your searches to a subset of the documents requested by each RFP. If so, explain what limitations you are applying for each RFP.
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5. Disclose the date cutoffs you are using.
6. Explain whether you are employing TAR. If so, explain how you are employing TAR.

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- Keith Creel
- Nadeem Velani

- Mark Redd
- John Brooks
- James Clements
- Larry Lloyd
- Patrick Ottensmeyer
- Michael Upchurch
- Jeffrey Songer
- Michael Naatz

Best,

Kevin

Kevin Kelly

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www.cov.com [cov.com]

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****This is an external message from: kkelly@cov.com ****

This e-mail is sent by a law firm and contains information that may be privileged and confidential. If you are not the intended recipient, please delete the e-mail and notify us immediately.

EXHIBIT J

From: Kelly, Kevin <Kkelly@cov.com>
Sent: Thursday, September 24, 2026 2:39 PM
To: Judge, Kiera S. <judgeks@sullcrom.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>
Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Kiera,

Can CPKC agree to provide items 2 and 6 by October 9? Please let us know within the next 90 minutes so that we hopefully can avoid a motion on this.

Best,

Kevin

Kevin Kelly

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COVINGTON

From: Judge, Kiera S. <judgeks@sullcrom.com>
Sent: Thursday, September 24, 2026 2:28 PM
To: Kelly, Kevin <Kkelly@cov.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>
Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

CPKC expects to provide a proposal regarding items 1, 3, and 5, by October 5.

While CPKC can't commit that it will be in a position to fully respond to items 2 and 6 by October 5, we will endeavor to provide you this information as soon as it is available. As we have told you previously, CPKC is working diligently to process the custodial data necessary to provide a meaningful search term proposal with hit counts. We anticipate utilizing search terms and a review process similar to Applicants' process.

CPKC's custodial search will include Keith Creel, Mark Redd, John Brooks, and James Clements. We will provide you our view about other potential custodians as our assessment of your requests continues.

Please let us know when you have an update on the questions we raised, including about additional discovery.

Best,

Kiera S. Judge

(202) 956-7611 (Office) | (732) 648-5426 (Cell)

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Wednesday, September 23, 2026 4:27 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

Thank you for speaking yesterday. We write to follow up on our request that CPKC commit to providing its proposal for custodial document searches in response to Applicants' First and Second Discovery Requests by a date certain. To move this process along, we request that CPKC confirm that it will provide its proposal by October 5, 2026, and that the proposal will do the following:

1. Identify the RFPs in response to which you do and do not propose to conduct custodial searches (as well as any buckets or categories of otherwise responsive documents for which you do not intend to perform custodial searches);
2. Identify the search terms that you propose to use to search for responsive custodial documents;
3. Identify the date ranges that you propose to apply to your proposed searches;
4. Identify the custodians whose documents you propose to search;
5. Identify any custodians that we identified in our September 11, 2026 email for whom you do not possess ESI; and
6. Provide hit reports for the proposed search terms, dates, and custodians that you propose to use for your custodial searches.

We ask that you please provide the requested confirmation by 10 am Eastern tomorrow in light of the 6 pm Eastern filing deadline for the next round of discovery motions.

Best,

Kevin

Kevin Kelly

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One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5613 | kkelly@cov.com
www.cov.com [cov.com]

COVINGTON

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Monday, September 21, 2026 6:15 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

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Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

We will send an invite to meet and confer tomorrow morning at 10 ET. Please provide the information we have requested ahead of that call. It will help to narrow the scope of any disputes, including with respect to the specific custodians that we have requested.

We can also discuss the Orr documents at that time.

Best,

Kevin

Kevin Kelly

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5613 | kkelly@cov.com
www.cov.com [cov.com]

COVINGTON

From: Matelis, Joseph J. <Matelisj@sullcrom.com>

Sent: Monday, September 21, 2026 11:47 AM

To: Kelly, Kevin <Kkelly@cov.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

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<judgeks@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

We are mindful of the discovery guidelines and what they say about attempting to meet within four days of requests for meet-and-confer sessions. Despite them, CPKC has sought to accommodate Applicants' scheduling requests when we raised questions about Applicants' progress on responses CPKC's discovery requests, which are of course more time sensitive given the upcoming November deadline. For instance, just last month, CPKC requested Applicants to provide availability for a meet and confer about CPKC's discovery requests. We asked for your availability on August 12. Applicants waited 7 days to even offer dates, and then the only date that was offered was August 24. And I am sure you recall that Applicants often took markedly longer to respond to our requests to meet and confer over the course of the previous ten months during which CPKC's requests for discovery have been outstanding.

With regard to the questions raised in your email, we have already told you that CPKC intends to conduct a custodial search and will provide Applicants additional details about that process. And we will of course be providing a report in response to the Judge's order. As a preview, we intend to complete our responses on a quicker schedule than Applicants, whose productions are still not done ten months after CPKC's December 2025 requests and four+ months after Applicants' filing of the amended application.

Nonetheless, if Applicants are now choosing to insist on meeting and conferring before Friday, we are available for a discussion on Tuesday morning between 9:30 and 11. Your offered window does not work because I am travelling starting Tuesday afternoon and don't get back to DC until late Thursday.

Finally, please let us know what limits you had in mind when you asked the Judge for a meet and confer respecting our request relating to Mr. Orr. In our view, that request is the more time sensitive one given the upcoming deadline to file comments.

Joe

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, September 18, 2026 4:52 PM

To: Stern, Noah P. M. <sternn@sullcrom.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

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Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Noah,

The Discovery Guidelines call for meet and confers to take place within 4 days. Because you are not agreeing to meet with us within that timeframe, we reserve the right to seek appropriate relief from the ALJ. We would prefer, however, not to have to take that step without speaking; we therefore reiterate our request that you provide times when someone on your team can be available on Tuesday or Wednesday. If there is truly no one who can speak with us either day, please let us know if you can speak on 9/24.

Best,

Kevin

Kevin Kelly

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One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5613 | kkelly@cov.com
www.cov.com [cov.com]

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From: Stern, Noah P. M. <sternn@sullcrom.com>

Sent: Thursday, September 17, 2026 7:53 PM

To: Kelly, Kevin <Kkelly@cov.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

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Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

We are not available on the dates you proposed. We are available to meet and confer on September 25 at any time after 2:30 PM (ET). Please let us know if a time in that window works for you.

Best,

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Sent: Thursday, September 17, 2026 10:42 AM
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- Nadeem Velani
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- Larry Lloyd
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- Michael Upchurch
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- Michael Naatz

Best,

Kevin

Kevin Kelly

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EXHIBIT K

From: Judge, Kiera S. <judgeks@sullcrom.com>

Sent: Thursday, September 24, 2026 3:38 PM

To: Kelly, Kevin <Kkelly@cov.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

Kevin,

We anticipate being able to provide the information you're requesting by October 16 and will let you know if we're not on track to meet that date as we get closer to it. But we cannot commit to that date given the complexities involved in custodial productions. If you want to file a motion, that's fine and we will explain the same thing to Judge Soulikias.

Thanks,

Kiera S. Judge

(202) 956-7611 (Office) | (732) 648-5426 (Cell)

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, September 24, 2026 2:39 PM

To: Judge, Kiera S. <judgeks@sullcrom.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

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Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

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Best,

Kevin

Kevin Kelly

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COVINGTON

From: Judge, Kiera S. <judgeks@sullcrom.com>

Sent: Thursday, September 24, 2026 2:28 PM

To: Kelly, Kevin <Kkelly@cov.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

CPKC expects to provide a proposal regarding items 1, 3, and 5, by October 5.

While CPKC can't commit that it will be in a position to fully respond to items 2 and 6 by October 5, we will endeavor to provide you this information as soon as it is available. As we have told you previously, CPKC is working diligently to process the custodial data necessary to provide a meaningful search term proposal with hit counts. We anticipate utilizing search terms and a review process similar to Applicants' process.

CPKC's custodial search will include Keith Creel, Mark Redd, John Brooks, and James Clements. We will provide you our view about other potential custodians as our assessment of your requests continues.

Please let us know when you have an update on the questions we raised, including about additional discovery.

Best,

Kiera S. Judge

(202) 956-7611 (Office) | (732) 648-5426 (Cell)

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Wednesday, September 23, 2026 4:27 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura

<lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>
Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

Thank you for speaking yesterday. We write to follow up on our request that CPKC commit to providing its proposal for custodial document searches in response to Applicants' First and Second Discovery Requests by a date certain. To move this process along, we request that CPKC confirm that it will provide its proposal by October 5, 2026, and that the proposal will do the following:

1. Identify the RFPs in response to which you do and do not propose to conduct custodial searches (as well as any buckets or categories of otherwise responsive documents for which you do not intend to perform custodial searches);
2. Identify the search terms that you propose to use to search for responsive custodial documents;
3. Identify the date ranges that you propose to apply to your proposed searches;
4. Identify the custodians whose documents you propose to search;
5. Identify any custodians that we identified in our September 11, 2026 email for whom you do not possess ESI; and
6. Provide hit reports for the proposed search terms, dates, and custodians that you propose to use for your custodial searches.

We ask that you please provide the requested confirmation by 10 am Eastern tomorrow in light of the 6 pm Eastern filing deadline for the next round of discovery motions.

Best,

Kevin

Kevin Kelly

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
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COVINGTON

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Monday, September 21, 2026 6:15 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>;

Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

We will send an invite to meet and confer tomorrow morning at 10 ET. Please provide the information we have requested ahead of that call. It will help to narrow the scope of any disputes, including with respect to the specific custodians that we have requested.

We can also discuss the Orr documents at that time.

Best,

Kevin

Kevin Kelly

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www.cov.com [cov.com]

COVINGTON

From: Matelis, Joseph J. <Matelisj@sullcrom.com>

Sent: Monday, September 21, 2026 11:47 AM

To: Kelly, Kevin <Kkelly@cov.com>; Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>

Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

We are mindful of the discovery guidelines and what they say about attempting to meet within four days of requests for meet-and-confer sessions. Despite them, CPKC has sought to accommodate Applicants' scheduling requests when we raised questions about Applicants' progress on responses CPKC's discovery requests, which are of course more time sensitive given the upcoming November deadline. For instance, just last month, CPKC requested Applicants to provide availability for a meet and confer about CPKC's discovery requests. We asked for your availability on August 12. Applicants waited 7 days to even offer dates, and then the only date that was offered was August 24. And I am sure you recall that

Applicants often took markedly longer to respond to our requests to meet and confer over the course of the previous ten months during which CPKC's requests for discovery have been outstanding.

With regard to the questions raised in your email, we have already told you that CPKC intends to conduct a custodial search and will provide Applicants additional details about that process. And we will of course be providing a report in response to the Judge's order. As a preview, we intend to complete our responses on a quicker schedule than Applicants, whose productions are still not done ten months after CPKC's December 2025 requests and four+ months after Applicants' filing of the amended application.

Nonetheless, if Applicants are now choosing to insist on meeting and conferring before Friday, we are available for a discussion on Tuesday morning between 9:30 and 11. Your offered window does not work because I am travelling starting Tuesday afternoon and don't get back to DC until late Thursday.

Finally, please let us know what limits you had in mind when you asked the Judge for a meet and confer respecting our request relating to Mr. Orr. In our view, that request is the more time sensitive one given the upcoming deadline to file comments.

Joe

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, September 18, 2026 4:52 PM

To: Stern, Noah P. M. <sternn@sullcrom.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

Cc: Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Noah,

The Discovery Guidelines call for meet and confers to take place within 4 days. Because you are not agreeing to meet with us within that timeframe, we reserve the right to seek appropriate relief from the ALJ. We would prefer, however, not to have to take that step without speaking; we therefore reiterate our request that you provide times when someone on your team can be available on Tuesday or Wednesday. If there is truly no one who can speak with us either day, please let us know if you can speak on 9/24.

Best,

Kevin

Kevin Kelly

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COVINGTON

From: Stern, Noah P. M. <sternn@sullcrom.com>

Sent: Thursday, September 17, 2026 7:53 PM

To: Kelly, Kevin <Kkelly@cov.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

Cc: Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <flahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: RE: FD 36873 - Applicants' Discovery Requests to CPKC

[EXTERNAL]

Kevin,

We are not available on the dates you proposed. We are available to meet and confer on September 25 at any time after 2:30 PM (ET). Please let us know if a time in that window works for you.

Best,

Noah

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, September 17, 2026 10:42 AM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

Cc: Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <flahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; zzExt-dludwin <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: [EXTERNAL] RE: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

We have not received a response to the email below. Please let us know when you are available to meet and confer about this between mid-day on Tuesday and the end of the day on Wednesday.

On the same call, in addition to discussing the information we requested in our September 11 email, we also would like to discuss a schedule for (1) search term hit reports, (2) search term and custodian negotiations, (3) briefing and hearing of any disputes relating to the foregoing, (4) the commencement of custodial productions, and (5) substantial completion of custodial productions.

We look forward to receiving your availability for next Tuesday and Wednesday.

Best,

Kevin

Kevin Kelly

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COVINGTON

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, September 11, 2026 5:02 PM

To: Matelis, Joseph J. <Matelisj@sullcrom.com>; Stern, Noah P. M. <sternnn@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>; Clyburn, Rachel P. <clyburnr@sullcrom.com>; David Meyer <david@meyerlawdc.com>

Cc: Maya, Michael <mmaya@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Rosenthal, Michael <mrosenthal@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Magcale, Jamie Dominique U <JMagcale@cov.com>; Ludwin, Derek <dludwin@cov.com>; Korman, Marc <mkorman@sidley.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; ratkins <ratkins@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Spencer Naake <snaake@mullinslawgroup.net>; OpalDisco <OpalDisco@cov.com>

Subject: FD 36873 - Applicants' Discovery Requests to CPKC

Joe,

On August 24, you indicated that CPKC would be conducting searches for additional documents in response to Applicants' discovery requests by collecting and searching custodial ESI. You further stated that CPKC would provide a proposal regarding the custodians and search parameters that CPKC intended to use. Since you provided that update, CPKC has provided no additional information regarding its search parameters.

Please provide no later than Wednesday, September 16, information regarding the search parameters that CPKC intends to use to identify documents responsive to Applicants' discovery requests. At a minimum, please:

1. Explain whether you are conducting custodial and/or non-custodial searches to identify responsive documents for each of Applicants' RFPs.
2. Explain whether you are limiting your searches to a subset of the documents requested by each RFP. If so, explain what limitations you are applying for each RFP.
3. Identify the custodians whose ESI you are collecting and processing to search.
4. Disclose the search terms you are using.
5. Disclose the date cutoffs you are using.
6. Explain whether you are employing TAR. If so, explain how you are employing TAR.

Although CPKC has an independent obligation to identify custodians to search for responsive documents, Applicants have identified the following individuals likely to possess responsive documents who should be included as custodians. For the former employees that are listed, please confirm whether CPKC still possesses

custodial ESI for these employees. To the extent CPKC no longer possesses custodial ESI for the former employees, we will need to identify other individuals to cover the relevant time periods and subject matter. Please let us know promptly if you are refusing to search these custodians' files for responsive documents.

- Keith Creel
- Nadeem Velani
- Mark Redd
- John Brooks
- James Clements
- Larry Lloyd
- Patrick Ottensmeyer
- Michael Upchurch
- Jeffrey Songer
- Michael Naatz

Best,

Kevin

Kevin Kelly

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****This is an external message from: kkelly@cov.com ****

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EXHIBIT L

**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**

CPKC’S FIRST SET OF DISCOVERY REQUESTS TO APPLICANTS

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries (collectively “CPKC”),¹ requests that Union Pacific Corporation and Union Pacific Railroad Company and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively “Applicants”), respond to no later than December 26, 2025, and produce documents responsive to the following discovery requests no later than January 2, 2026, unless otherwise agreed to by the parties. Applicants are requested to contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously.

DEFINITIONS

1. “Applicants” means Union Pacific and Norfolk Southern.

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. “BNSF” means BNSF Railway Company; its parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

3. “Communication” means any transmission or receipt of information by one or more persons or between two or more persons by means including but not limited to telephone conversations, letters, telegrams, teletypes, telexes, telecopies, electronic mail, text messages, instant messages, messages on other messaging applications (such as Signal, Slack, Salesforce, Telegram, WhatsApp, WeChat, Teams, or Zoom) other computer linkups, written memoranda, and in-person conversations.

4. “Concerning” means relating to, referring to, describing, reflecting, evidencing, constituting, or comprising.

5. “CSX” means CSX Transportation, Inc.; its parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

6. “Document” has the broadest meaning permissible under 49 C.F.R. § 1114.30, including but not limited to electronically stored information and any Communication, writing, drawing, graph, chart, photograph, sound recording, image, and other data or data compilation stored in any medium from which information can be obtained.

7. “East-West Freight Movements” means intercity freight movements between locations served by or via UP that are west of a MidContinent Gateway and locations served by or via NS that are east of a MidContinent Gateway, regardless of whether such freight traffic moves by rail, truck, barge, steamship, or some combination thereof.

8. “Including” means including without limitation.

9. “Merger Agreement” means the “Agreement and Plan of Merger dated as of July 28, 2025” referenced in Applicants’ Notice of Intent to File Application for Approval of Transaction Subject to 49 U.S.C. §§ 11323-25 (UP-1/NS-1), filed in this docket on July 30, 2025.

10. “Midcontinent Gateway” means Chicago, Kansas City, Omaha/Council Bluffs, Kansas City, St. Louis/East St. Louis, Memphis/West Memphis, Shreveport, Meridian, Myrtlewood, Birmingham, and New Orleans.

11. “NS Executive Level Documents” means Documents prepared by, prepared for, or received by, (a) the Board of Directors of Norfolk Southern, (b) officers of Norfolk Southern; (c) Norfolk Southern management personnel in the Operations, Marketing & Sales, and Strategic Planning areas at the level of Assistant Vice President and above; and (d) any predecessors or successors of the persons who currently hold each of the above positions listed in parts (a)-(c) above.

12. “NSC” means Norfolk Southern Corporation.

13. “NSR” means Norfolk Southern Railway Company.

14. “Norfolk Southern” or “NS” means NSC, NSR, and their respective parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

15. “Person” or “Persons” means any natural person or any entity including, but not limited to: any corporation, partnership, association, company, estate, business, governmental entity, or agency (public or private), having a separate identification, which is recognized either in law or in fact.

16. “Proposed Transaction” means the proposed “acquisition of control by UPC, through its wholly owned subsidiary Ruby Merger Sub 1 Corporation, of NSC, and through it of NS, and for the resulting common control by UPC of UP and NS” described in Applicants’ Notice of Intent to File Application for Approval of Transaction Subject to 49 U.S.C. §§ 11323-25 (UP-1/NS-1), filed in this docket on July 30, 2025.

17. “Relating to” means mentioning, discussing, reflecting, containing, concerning, embodying, stating, dealing with, or making reference to or relating to in any way.

18. “Standard Point Location Code” or “SPLC” means the numeric code used to specify the physical location of a station.

19. “Transcontinental Rail Merger” means any potential combination of Class 1 railroads that includes UP and NS; UP and CSX; BNSF and NS; or BNSF and CSX (or multiple of such combinations).

20. “U.S.” means the United States of America.

21. “UP Draft S-4” means the form S-4 registration statement filed by Union Pacific Corporation with the U.S. Securities and Exchange Commission on September 16, 2025.

22. “UP Executive Level Documents” means Documents prepared by, prepared for, or received by, (a) the Board of Directors of Union Pacific; (b) officers of Union Pacific; (c) Union Pacific management personnel in the Operations, Marketing & Sales, and Strategic Planning areas at the level of Assistant Vice President and above; and (d) any predecessors or successors of the persons who currently hold each of the above positions listed in parts (a)-(c) above.

23. “UPC” means Union Pacific Corporation.

24. “UPRR” means Union Pacific Railroad Company

25. “Union Pacific” or “UP” means UPC, UPRR, and their respective parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

26. The “White House” means President Donald J. Trump, Vice President JD Vance, the Cabinet, and the Executive Office of the President.

INSTRUCTIONS

1. Unless otherwise specified, the time period for these requests is from January 1, 2019, through the date of the response.

2. Documents in Microsoft Excel, Access, and PowerPoint, should be produced in native format.

3. Data files should be submitted in electronic format, specifically Microsoft Excel spreadsheets or delimited text formats, with all underlying data un-redacted and all underlying formulas and algorithms intact. Data files should be produced with the information necessary to read and interpret the data (*e.g.*, record layout, field names and definitions, definitions of terms or abbreviations used in the fields).

4. Applicants include affiliates, subsidiaries, predecessors, successors, officers, directors, employees, attorneys, agents, and representatives thereof.

5. For purposes of these requests, so as to provide the broadest possible construction of a request: the singular shall be read to include the plural and vice versa, the present tense shall be read to include the past tense and vice versa, the term “each” shall be read to include the term “every” and vice versa, the term “any” shall be read to include the term “all” and vice versa, and the term “and” shall be read to include the term “or” and vice versa.

6. To the extent materials called for herein contain Confidential Information under the Protective Order entered in the Decision served August 5, 2025 in this proceeding, CPKC will treat them in accordance with this Protective Order.

7. If an Applicant objects to any portion of any Request, it should identify the portion to which it objects, state the basis for the objection, and respond to the remainder. If an Applicant has objections, that Applicant's counsel is requested to promptly confer with undersigned counsel for CPKC so that Applicant's objections can be promptly addressed and resolved. Please contact Dylan Aluisse or Nathan Golden (contact information below) in the first instance with any questions or concerns or to set up a meet and confer regarding these Requests.

8. If an Applicant withholds any information or Document on the ground that it is privileged, subject to the work product doctrine, or otherwise not discoverable: (a) identify the type of Document (*e.g.*, letter, memorandum, report, chart); identify the author, each addressee and each recipient; state the number of pages, title and date of the Document, and (b) state the basis for the claim that it is privileged or otherwise not discoverable. Such information should be supplied in sufficient detail to permit CPKC to assess the applicability of the privilege claimed.

9. If any of the requested Documents was but is no longer in an Applicant's possession or subject to its control, state what disposition was made of it and when, and explain the reasons for such disposition.

10. If there are no Documents responsive to a particular Request, Applicants should so state in writing.

11. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

12. These Requests are continuing in nature. If, after making an initial response hereto (and up until the time of a hearing by the Surface Transportation Board in this proceeding), Applicants or their attorneys, agents, or representatives, obtain or become aware of any further Documents responsive to these Requests that were unavailable at the time of the initial response, Applicants are requested to produce such Documents within a reasonable time.

REQUESTS

1. Produce all information and Documents that Applicants or their representatives produce in response to discovery requests submitted by other participants in this proceeding.

CPKC repeats this request on a continuing basis during the pendency of the proceeding.

2. Produce all information and Documents that Applicants or their representatives receive in response to discovery requests they submit to other participants in this proceeding.

CPKC repeats this request on a continuing basis during the pendency of the proceeding.

3. Produce Communications sufficient to show any agreements or understandings reached with other participants in this proceeding, or any positions asserted by Applicants to the extent not reflected in Documents served on all parties of record in this proceeding, regarding the scope of Applicants' responses to discovery requests submitted by other parties in this

proceeding. CPKC repeats this request on a continuing basis during the pendency of the proceeding.

4. Produce all Documents that Applicants have provided to third parties, including but not limited to shippers, smaller railroads, public officials, ports, and rail industry suppliers, regarding the Proposed Transaction.

5. Produce all Documents prepared or reviewed by Union Pacific CEO James Vena in preparation for his September 2025 meeting with President Donald J. Trump.

6. Produce all Documents reflecting Communications between Union Pacific and any member of the White House since January 20, 2025.
7. Produce all Documents summarizing, describing, referencing, or discussing the September 2025 meeting between Union Pacific CEO James Vena and President Donald J. Trump.
8. Produce density charts and/or maps for the UP and NS systems for the period January 1, 2019 to the present.
9. Produce maps, charts, or diagrams prepared in the ordinary course by Applicants showing the capacity (maximum, fluid, and available) of rail lines comprising UP's and NS's networks for the period January 1, 2019 to the present.
10. Produce all UP Executive Level Documents since January 1, 2000 studying, analyzing, or discussing potential railroad combinations involving UP, BNSF, CSX, or NS, or discussing Transcontinental Rail Mergers generally.
11. Produce all NS Executive Level Documents since January 1, 2000 studying, analyzing, or discussing potential railroad combinations involving UP, BNSF, CSX, or NS, or discussing Transcontinental Rail Mergers generally.
12. Produce all NS Executive Level Documents relating to the "[l]ane [r]ationalization" referenced in the NS Press Release dated April 4, 2024, entitled "Norfolk Southern announces new initiatives to drive further productivity and accountability."
13. Produce all UP Executive Level Documents relating to the initiative described in the UP Press Release dated September 12, 2023, entitled "Union Pacific's Newest Offering Removes Full Day of Transit Between the U.S., Mexico and Canada, Creating Unmatched Service for Customers."

14. Produce all UP Executive Level Documents relating to the initiative described in the UP Press Release dated September 15, 2025, entitled “New Union Pacific and Norfolk Southern Intermodal Gateway Expands Market Access.”

15. Produce all NS Executive Level Documents relating to the initiative described in the UP Press Release dated September 15, 2025, entitled “New Union Pacific and Norfolk Southern Intermodal Gateway Expands Market Access.”

16. Produce all UP Executive Level Documents relating to strategies for growing UP’s rail traffic.

17. Produce all NS Executive Level Documents relating to strategies for growing NS’s rail traffic.

18. Produce all UP Executive Level Documents relating to forecasts prepared in the ordinary course of future traffic levels on the UP rail network.

19. Produce all NS Executive Level Documents relating to forecasts prepared in the ordinary course of future traffic levels on the NS rail network.

20. Produce all UP Executive Level Documents relating to policies or strategies for the pricing of UP’s rail transportation services, including without limitation the level of returns that UP requires when pricing rail traffic, including but not limited to the approaches referenced by UP’s then CFO Rob Knight in 2018 (“As you know, and you followed us for many years, for many years we’ve been willing to walk away from business if it doesn’t have the right returning characteristics”) (Remarks at Credit Suisse Industrials Conference (Nov. 19, 2018)); and UP’s current CPO Jennifer Hamann in 2019 (“We have done I would say a very good job over the last several years of really focusing on that profitability of each piece of our business and where it

didn't make sense for us to move it, we had moved away from some of this.") (Remarks at Stephens Nashville Investment Conference (Nov. 15, 2019)).

21. Produce all NS Executive Level Documents relating to policies or strategies for the pricing of NS's rail transportation services, including without limitation the level of returns that NS requires when pricing rail traffic.

22. Produce all UP Executive Level Documents relating to UP's changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.

23. Produce all NS Executive Level Documents relating to NS's changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.

24. Produce all UP Executive Level Documents discussing, analyzing, studying, or referring to UP's ability or potential ability to negotiate, insist upon, or obtain more favorable terms for UP transportation services, or obtain additional business, by linking, bundling, tying, or otherwise including in a negotiation or offer other rail transportation service that NS is uniquely or advantageously situated to perform (including without limitation where NS is the sole rail carrier serving a particular shipper facility or providing an efficient rail route).

25. Produce all NS Executive Level Documents discussing, analyzing, studying, or referring to NS's ability or potential ability to negotiate, insist upon, or obtain more favorable terms for NS transportation services, or obtain additional business, by linking, bundling, tying, or otherwise including in a negotiation or offer other rail transportation service that NS is uniquely or advantageously situated to perform (including without limitation where NS is the sole rail carrier serving a particular shipper facility or providing an efficient rail route).

26. Produce all Documents prepared by personnel in the marketing department and presented to managers recommending, reviewing, or discussing strategies for contracting with customers that have multiple facilities served by UP, including without limitations documents in the form of emails, strategy decks, playbooks, or any other form.

27. Produce all Documents prepared by personnel in the marketing department and presented to managers recommending, reviewing, or discussing strategies for contracting with customers that have multiple facilities served by NS, including without limitations documents in the form of emails, strategy decks, playbooks, or any other form.

28. Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss UP's plans or strategies for retaining or increasing the revenues obtained by UP from rail customers (whether by growing traffic, increasing prices, or otherwise).

29. Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss NS's plans or strategies for retaining or increasing the revenues obtained by UP from rail customers (whether by growing traffic, increasing prices, or otherwise).

CANADIAN PACIFIC RAILWAY COMPANY
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Respectfully submitted,



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Attorneys for CPKC

Dated: December 18, 2025

CERTIFICATE OF SERVICE

I hereby certify that, on this 18th day of December, 2025, a true and correct copy of the foregoing CPKC's First Set of Discovery Requests to Applicants was served by first-class mail or email on all parties of record in this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.



Nathan H. Golden

EXHIBIT M

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, May 7, 2026 9:19 PM

To: Golden, Nathan H. <goldenn@sullcrom.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; David Meyer <david@meyerlawdc.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Reilly, Matt <matt.reilly@kirkland.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Gardiner, Kent <KGardiner@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>

Cc: Rosenthal, Michael <mrosenthal@cov.com>; zzExt-dludwin <dludwin@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Brown, Molly <MBrown@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; ratkins <ratkins@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Subject: [EXTERNAL] STB FD 36873 - Custodial Email Searches

Counsel,

Applicants have prepared proposals regarding the parameters for custodial email searches that each Applicant will conduct to resolve various document requests issued by the other Class I railroads. I am attaching Union Pacific's proposal here. Norfolk Southern will send its proposal separately.

UP's attached proposal identifies the relevant requests for production, the scope of responsive material that Union Pacific is agreeing to search for in response to the request, the time period and search terms that will be used to identify documents for review, the custodians whose documents will be searched, and the hit count for each search (reflecting the total number of document families containing the search terms during the time period).

As you will see, Applicants proposed searches for merger-related terms (as well as other terms) for time periods that extend beyond the announcement of the merger and overlap with the period when Applicants were working under the direction of counsel to prepare their Application. Given the extraordinary volume of documents both pre- and post-merger announcement that will be reviewed pursuant to Applicants' proposals, Applicants do not intend to individually log privileged responsive documents identified through their searches. Instead, Applicants will provide a categorical log for pre-merger announcement documents that are responsive and privileged. Requiring Applicants to log post-merger announcement communications responsive to the incredibly broad topics identified in the document requests is unduly burdensome and disproportional to the needs of this proceeding.

If you have suggestions for modifications to the search terms that Applicants are employing, we are happy to consider those.

Best,

Kevin

Kevin Kelly

Covington & Burling LLP
One CityCenter, 850 Tenth Street, NW
Washington, DC 20001-4956
T +1 202 662 5613 | kkelly@cov.com
www.cov.com [cov.com]

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****This is an external message from: kkelly@cov.com ****

EXHIBIT N

From: Laudone, Stephen S. <slaudone@sidley.com>

Sent: Friday, May 8, 2026 12:58 PM

To: Kelly, Kevin <Kkelly@cov.com>; Golden, Nathan H. <goldenn@sullcrom.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Judge, Kiera S. <judgeks@sullcrom.com>; David Meyer <david@meyerlawdc.com>; Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; *pdenton@steptoe.com <pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Reilly, Matt <matt.reilly@kirkland.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M. <scheib@gentrylocke.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Gardiner, Kent <KGardiner@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>

Cc: Rosenthal, Michael <mrosenthal@cov.com>; zzExt-dludwin <dludwin@cov.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Brown, Molly <MBrown@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Korman, Marc <mkorman@sidley.com>; Atkins, Raymond <ratkins@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Subject: [EXTERNAL] RE: STB FD 36873 - Custodial Email Searches

Counsel,

Please find attached Norfolk Southern's proposal regarding the parameters for custodial email searches to resolve a number of document requests issued by the other Class I railroads. The parameters outlined in Kevin's email below apply equally to Norfolk Southern's proposal. The Norfolk Southern custodians to be searched are those individuals who submitted verified statements as part of the Amended Application filed on April 30, 2026.

We are happy to consider any suggestions you may have for modifications to the search terms that Applicants are employing.

Best,
Stephen

STEPHEN S. LAUDONE
Senior Managing Associate

SIDLEY AUSTIN LLP
+1 202 736 8384
slaudone@sidley.com

This e-mail is sent by a law firm and may contain information that is privileged or confidential.
If you are not the intended recipient, please delete the e-mail and any attachments and notify us

immediately.

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, May 7, 2026 9:19 PM

To: Golden, Nathan H. <goldenn@sullcrom.com>; Thompson, McClain <mcclain.thompson@kirkland.com>;

Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Judge, Kiera S.

<judgeks@sullcrom.com>; David Meyer <david@meyerlawdc.com>; Donovan, Daniel T.

<ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>;

Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; *pdenton@steptoe.com

<pdenton@steptoe.com>; *tstrafford@steptoe.com <tstrafford@steptoe.com>; Reilly, Matt

<matt.reilly@kirkland.com>; Cunningham, Rich <rich.cunningham@kirkland.com>; Scheib, John M.

<scheib@gentrylocke.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Gardiner, Kent

<KGardiner@crowell.com>; Aluise, Dylan M. <aluised@sullcrom.com>; van Houwelingen, Luke

<LVanHouwelingen@crowell.com>; *Avia.Gridi@stblaw.com <Avia.Gridi@stblaw.com>

Cc: Rosenthal, Michael <mrosenthal@cov.com>; Ludwin, Derek <dludwin@cov.com>; Flahive Wu, Laura

<lflahivewu@cov.com>; Damitio, Daniel <DDamitio@cov.com>; Brown, Molly <MBrown@cov.com>; Harrison,

Caroline <CHarrison@cov.com>; Warren, Matthew J. <mjwarren@sidley.com>; Laudone, Stephen S.

<slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Atkins, Raymond <ratkins@sidley.com>;

William Mullins <wmullins@mullinslawgroup.net>; Spencer Naake <snaake@mullinslawgroup.net>

Subject: STB FD 36873 - Custodial Email Searches

Counsel,

Applicants have prepared proposals regarding the parameters for custodial email searches that each Applicant will conduct to resolve various document requests issued by the other Class I railroads. I am attaching Union Pacific's proposal here. Norfolk Southern will send its proposal separately.

UP's attached proposal identifies the relevant requests for production, the scope of responsive material that Union Pacific is agreeing to search for in response to the request, the time period and search terms that will be used to identify documents for review, the custodians whose documents will be searched, and the hit count for each search (reflecting the total number of document families containing the search terms during the time period).

As you will see, Applicants proposed searches for merger-related terms (as well as other terms) for time periods that extend beyond the announcement of the merger and overlap with the period when Applicants were working under the direction of counsel to prepare their Application. Given the extraordinary volume of documents both pre- and post-merger announcement that will be reviewed pursuant to Applicants' proposals, Applicants do not intend to individually log privileged responsive documents identified through their searches. Instead, Applicants will provide a categorical log for pre-merger announcement documents that are responsive and privileged. Requiring Applicants to log post-merger announcement communications responsive to the incredibly broad topics identified in the document requests is unduly burdensome and disproportional to the needs of this proceeding.

If you have suggestions for modifications to the search terms that Applicants are employing, we are happy to consider those.

Best,

Kevin

Kevin Kelly

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****This is an external message from:** prvs=0588866750=slaudone@sidley.com ******

EXHIBIT O

From: Laudone, Stephen S. <slaudone@sidley.com>
Sent: Wednesday, July 22, 2026 4:53 PM
To: Kelly, Kevin; Stern, Noah P. M.; Georges, Maria; Korman, Marc; Enson, Eric; Gridi, Avia; Thompson, McClain; Fanchiang, Eric; Rosenthal, Michael; Cc: Donovan, Daniel T.; McCarrick, T.J.; zzExt-aellis; Razi, Sara Y.; Bohl, Lindsey C.; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich; Damitio, Daniel; Scheib, John M.; Gardiner, Kent; van Houwelingen, Luke; Warren, Matthew J.; William Mullins; zzExt-dludwin; Harrison, Caroline; Atkins, Raymond; Krovoza, Charlotte; Joseph, Neil; Flahive Wu, Laura; Benov, Matthew; Volbrecht, Tate D.; Brown, Molly; Korman, Marc; OpalDisco
Cc: David Meyer; Matelis, Joseph J.; Hynes, Samantha F.; Aluise, Dylan M.
Subject: [EXTERNAL] RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal
Categories: CPKC

Noah,

We disagree with the premise that the size of the proposed transaction justifies overbroad search terms that produce an unreasonable number of hits for just half of Norfolk Southern's custodians. The potential benefit of CPKC obtaining the material sought in these discovery requests is clearly outweighed by the burden of running the search terms proposed by CPKC on June 17. Moreover, the burden CPKC's search term counterproposal would impose is unreasonable in light of the collection and production of non-custodial materials Norfolk Southern is undertaking to respond to CPKC's requests.

We address your questions below:

Norfolk Southern's July 17 Proposal: We provided a set of updated terms that Norfolk Southern intends to run against all custodians for the relevant date ranges. Norfolk Southern intends to run CPKC's search terms without modification for Request 12. Norfolk Southern intends to run CPKC's search terms for Requests 11, 15, and 23, with modifications only to the structure of the terms. In the case of Request 23, Norfolk Southern will run several NS-specific terms beyond those proposed by CPKC.

Please let us know if CPKC has objections to some or all of the revised terms. To the extent CPKC objects to any of the revised terms, please identify which ones and the basis for those objections so Norfolk Southern can evaluate potential solutions.

Hit Data: We are working to see whether we can provide unique hit counts for the disjunctive parts of the terms CPKC proposed for Requests 11, 25, 27, and 29. We hope to have an answer on this tomorrow. Norfolk Southern is not providing the requested hit percentage for the CPKC discovery requests because there is no "correct" hit percentage for any given discovery request. Norfolk Southern has

proposed reasonable search terms tailored to the subject matter of CPKC's specific requests and the materials they seek and that reduce the burden of CPKC's overbroad terms proposed on June 17.

Overlap With Other Search Terms: We determined how many additional documents the CPKC counterproposal terms added to the review population by taking the difference between (1) the deduplicated total hits resulting from the search terms negotiated with BNSF and CSX and NS's original set of terms proposed for the CPKC requests and (2) the deduplicated total hits resulting from the search terms negotiated with BNSF and CSX and CPKC's counterproposal terms for the CPKC requests.

"Modern Attachments": Our review platform does not treat so-called "modern attachments" hyperlinked in emails as family members. For Teams messages, our review platform does treat hyperlinked documents as attachments to the message, but as noted in our July 17 communications, the hit counts provided for CPKC's counterproposal terms did not include Teams messages which we are still processing for review.

Best,
Stephen

STEPHEN S. LAUDONE
Senior Managing Associate

SIDLEY AUSTIN LLP
+1 202 736 8384
slaudone@sidley.com

From: Kelly, Kevin <Kkelly@cov.com>
Sent: Wednesday, July 22, 2026 3:20 PM
To: Stren, Noah (NON-SIDLEY @SULLCROM.COM) <sternnn@sullcrom.com>; Laudone, Stephen S. <slaudone@sidley.com>; Georges, Maria <mgeorges@cov.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Atkins, Raymond <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>;

Benov, Matthew <mbevov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Noah,

The search terms CPKC proposed were not reasonable because they were not tailored to return the discovery sought in your requests or to produce a reasonable number of hits considering the discovery sought. The potential benefits of using the terms proposed by CPKC to identify documents responsive to the specific requests at issue are outweighed by the burdens of using them. This is particularly true where CPKC has sought extensive non-custodial collections and productions regarding the same topics. The size of the proposed transaction does not justify the use of overbroad and unnecessary search terms that return an unreasonable number of hits.

Addressing the various bullets in your email:

- **Union Pacific's Terms.** We shared the updated terms that Union Pacific will be using in my July 17 email. Please let us know if CPKC is claiming that any of these terms are unreasonable, identify the specific terms to which CPCK objects, and the basis for those objections.
- **Additional Hit Statistics.** We do not intend to provide this information because there is no "correct" hit percentage for any of the discovery requests you have issued. As the producing party, UP is best positioned to know how to find potentially responsive documents. We have proposed reasonable searches considering the specific discovery requests and the benefits and burdens of using sprawling terms versus tailored terms.
- **Overlap with Agreed Search Terms.** We have confirmed with our vendor that the correct document count in the July 7th email should have been 312,730 hits (713,086, including families). Of those ~713,000 documents, 629,712 documents, including families, hit on CPKC's proposed original terms. In addition, CPKC's original proposed terms hit on an additional 1.4 million hits, 2.1 million hits with families that were not included in the ~713,000 documents.
- **Date Range.** We clarified the date ranges that we will be using in my July 17 email. For the July 7 hit report that we provided, the searches were not run across the 16 original custodians' 2019-2021 data on UP's legacy lotus notes system given the difficulties we've addressed in prior correspondence.

Best,

Kevin

Kevin Kelly

Covington & Burling LLP
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Washington, DC 20001-4956
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COVINGTON

From: Stern, Noah P. M. <sternn@sullcrom.com>

Sent: Monday, July 20, 2026 5:02 PM

To: Laudone, Stephen S. <slaudone@sidley.com>; Kelly, Kevin <Kkelly@cov.com>; Georges, Maria <mgeorges@cov.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEenson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mccclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; ratkins <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

[EXTERNAL]

Counsel,

Thank you for providing UP's and NS's search term counterproposals. While we review them, can you please address the remaining questions I sent on July 9 about the UP/NS hit reports—both for the prior hit reports and the ones concerning Applicants' counterproposals—as soon as possible?

Best,
Noah

From: Laudone, Stephen S. <slaudone@sidley.com>

Sent: Friday, July 17, 2026 9:24 PM

To: Kelly, Kevin <Kkelly@cov.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Georges, Maria <mgeorges@cov.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEenson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; zzExt-dludwin <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Atkins, Raymond <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Benov, Matthew <mabenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>
Subject: [EXTERNAL] RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Noah,

Please find attached Norfolk Southern's revisions to CPKC's search term proposal of June 17. The report provides hit counts for each request when the search terms are run across the custodial files (emails and OneDrive) of the original 16 NS custodians. The hit report also provides the deduplicated total number of hits for all CPKC requests combined. When the results of these revised search terms for CPKC requests are included with the results of the other parties' search terms, the revised CPKC terms add 99,472 hits (190,266 with families) to the review process for the initial 16 NS custodians.

Note that these hit counts do not reflect Teams materials for the initial 16 NS custodians to facilitate a one-to-one comparison against CPKC's June 17 proposal, but Norfolk Southern will run all search terms across custodial Teams materials as well.

Best,
Stephen

STEPHEN S. LAUDONE
Senior Managing Associate

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slaudone@sidley.com

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Friday, July 17, 2026 11:50 PM

To: Stren, Noah (NON-SIDLEY @SULLCROM.COM) <sternn@sullcrom.com>; Laudone, Stephen S. <slaudone@sidley.com>; Georges, Maria <mgeorges@cov.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Atkins, Raymond <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <flahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisi@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Noah,

Attached is a report showing an updated set of search terms that Union Pacific will use to identify custodial documents potentially responsive to CPKC's requests. We have also included hit counts showing the additional, de-duplicated documents returned by each search term when run across the original 16 custodians' 2022-2026 data. In other words, the hit report shows the additional documents pulled into the review process by these terms. Of course, these search terms also appear in documents returned by the previously agreed search terms, and it is our expectation that documents responsive to CPKC's requests will also be found in that set.

Please note that while we will use these search terms across all custodians, we will only be applying these terms to the custodians' data for 2022-2026 given the burden of exporting data from Union Pacific's legacy system. As we are still collecting and processing the data of the additional custodians, we reserve the right to make additional modifications if it turns out the overall volume across those custodians is unduly burdensome to review.

Best,

Kevin

Kevin Kelly

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Washington, DC 20001-4956

COVINGTON

From: Stern, Noah P. M. <sternn@sullcrom.com>

Sent: Friday, July 10, 2026 2:40 PM

To: Laudone, Stephen S. <slaudone@sidley.com>; Georges, Maria <mgeorges@cov.com>; Kelly, Kevin <Kkelly@cov.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mccclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; ratkins <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

[EXTERNAL]

Maria, Stephen,

In light of Judge Soulikias's guidance during today's discovery conference, please let us know which of CPKC's proposed search terms, sent on June 17, UP and NS want to change, why, and in what way, in the hopes of resolving this issue by early next week.

Best,
Noah

From: Stern, Noah P. M.

Sent: Thursday, July 9, 2026 4:17 PM

To: 'Laudone, Stephen S.' <slaudone@sidley.com>; Georges, Maria <mgeorges@cov.com>; Kelly, Kevin <Kkelly@cov.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mccclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y.

<Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; zzExt-dludwin <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Atkins, Raymond <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Stephen,

While we appreciate the hit counts you have provided, we disagree that the information NS has shared demonstrates CPKC's search terms are disproportionate or unreasonable. There is nothing facially unreasonable about an approximate hit count of 1.5 million documents for 16 custodians over a seven-year period given the breadth of the relevant issues. This is an \$85 billion transaction and the burden is minimal by comparison. This is particularly true if NS intends to use TAR to conduct responsiveness review and further cull the population.

To help us understand these issues, and to facilitate further discussions, please provide the following information and clarification.

- If you believe "CPKC's broad terms and complex syntax are likely capturing many non-responsive documents," NS should provide counterproposals for any such term. NS is in the best position to evaluate the source of any overbreadth, assuming there is any, and refine the terms to address the issue. Further, this will help us understand which portions of CPKC's search term proposal NS finds objectionable (for example, we assume NS does not object to our proposal for Request 12, which generated just 7,177 hits).
 - CPKC has consistently requested additional information about NS's internal operations and terminology to craft tailored search terms. NS has refused to provide that information. NS cannot now object that the terms CPKC has proposed are too broad, decline to provide the means to correct the alleged overbreadth, and also refuse to provide any counterproposal.
- Please provide the hit percentage for each term, and the denominator of the total documents included in the population searched. Without this information, we are unable to determine whether the terms are, in fact, too broad, or the hit counts are simply being driven by a large volume of responsive material that exists.

- The spreadsheet you shared does not provide unique hits for certain requests “[d]ue to character limitations.” What is the program’s character limit for searches? Can you at least provide unique hit counts for disjunctive parts of these terms?
 - Relatedly, you claim in your email that CPKC’s proposed search terms “account for more than two-thirds of all document hits.” How was NS able to determine this if it was unable to determine the unique hit count for certain of CPKC’s proposed terms?
- You have indicated that the hit counts include emails and OneDrive data. Did your search treat modern attachments (i.e. hyperlinked documents) as family members of emails that hit on search terms? Relatedly, does NS intend to link modern attachments in its subsequent productions? We have identified at least one instance in NS’s prior productions where a modern attachment was used but apparently not produced. See NS_00095608.

Best,
Noah

Noah P. M. Stern
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From: Laudone, Stephen S. <slaudone@sidley.com>

Sent: Tuesday, July 7, 2026 1:46 PM

To: Georges, Maria <mgeorges@cov.com>; Kelly, Kevin <Kkelly@cov.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; zzExt-dludwin <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Atkins, Raymond <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: [EXTERNAL] RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Counsel:

Please find attached an updated hit report for the custodial searches Norfolk Southern has agreed to undertake in response to certain discovery requests served in this proceeding. The updated hit report consists of two tabs.

The “Agreed To Search Parameters” tab reflects hit counts for search terms and date ranges that Norfolk Southern previously agreed to for various discovery requests and merger-related topics identified by non-applicant parties. These hit counts have been updated to reflect the application of those search parameters to the custodial files of all 16 original custodians whereas Norfolk Southern had previously agreed to run non-application related search terms against only five of those 16 original custodians. With the expansion of all searches to the 16 original custodians, there are now **564,138 hits and 962,654 hits with families**. These hit counts include emails and OneDrive data, but do not yet reflect Teams materials for these 16 custodians which we are still processing for review.

The “Parameters with CPKC Terms” tab is identical to the “Agreed To Search Parameters” tab except that it contains hit counts for CPKC’s search term counterproposal from June 17 rather than Norfolk Southern’s original set of proposed search terms for the CPKC discovery requests. Substituting in CPKC’s search terms results in **1,545,199 hits and 2,281,542 hits with families**. Again, these hit counts include emails and OneDrive data, but do not yet reflect Teams materials for these 16 custodians.

The hit counts provided in these two tabs do not include hits across the custodial materials for the 14 additional custodians requested by non-applicant parties that Norfolk Southern previously agreed to collect and search.

CPKC’s proposed search terms triple the number of document hits across the 16 original custodians and more than double the total universe of documents subject to review and production. And CPKC’s proposed terms, which represent less than 15% of the total number of searches requested by non-applicant parties, account for more than two-thirds of all document hits. As counsel for UP noted, CPKC’s broad terms and complex syntax are likely capturing many non-responsive documents and are therefore unreasonable, disproportionate to the needs of this proceeding, and are unlikely to lead to the discovery of relevant information. While Norfolk Southern cannot agree to these terms as currently presented, Norfolk Southern remains willing to work with CPKC to identify material responsive to its discovery requests. Norfolk Southern also stands ready to evaluate any reasonable modifications CPKC is willing to propose to its requested search terms.

Best,
Stephen

STEPHEN S. LAUDONE

Senior Managing Associate

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From: Georges, Maria <mgeorges@cov.com>

Sent: Tuesday, July 7, 2026 9:55 AM

To: Kelly, Kevin <Kkelly@cov.com>; Stren, Noah (NON-SIDLEY @SULLCROM.COM) <sternn@sullcrom.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; Atkins, Raymond <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph (NON-SIDLEY @SULLCROM.COM) <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Dear Counsel,

Attached please find an updated hit report for the previously agreed-upon search terms for the 16 original custodians across custodial data from 2019–2026.

Please note that the numbers have increased since the last hit report was circulated because UP has continued processing custodial data, including Teams and OneDrive data. In addition, UP is now running all search terms across all 16 custodians. This population of 312,726 hits (713,082 hits with families) now represents the documents hitting on the agreed-upon search terms for the 16 custodians using the referenced time periods across the custodians' 2019-2026 data. These numbers do not include hits across the data of the 20 additional custodians that UP is collecting and processing consistent with the ALJ's recent decision, but assuming similar hit rates across the other custodians, UP estimates a search term hit population of ~1.2 million documents.

Additionally, attached is a hit report for CPKC's proposed additional search terms, which shows hits across the 16 original custodians' data from 2021–2026. While collection and processing of additional custodial data remain ongoing, specifically the 16 original custodians' 2019-2021 Lotus Notes data hitting on the CPKC terms, this population of 1,453,011 documents (2,183,240 with families) represents documents above and beyond the 713,082 hits with families returned by the agreed-upon search terms. In other words, CPKC's additional terms more than triple the volume of documents (just across the 16 original custodians). Assuming similar hit rates across the other 20 custodians, UP estimates that CPKC's terms would result in ~5.4 million documents on top of the ~1.2 million documents from the agreed terms referenced above for the 36 custodians. The disproportional number of hits appears to be driven by CPKC's selection of broad terms likely to appear in many non-responsive documents, instead of using terms tailored to the specific requests CPKC has served. While UP remains committed to working with CPKC to conduct a reasonable search for responsive documents, whether using custodial searches or other targeted collections, CPKC's proposed terms are neither reasonable nor proportional to the needs of this proceeding.

UP can also confirm that there is already significant overlap between CPKC's proposed terms and the agreed-upon terms, with 629,712 overlapping hits between the two sets. As a result, UP believes the agreed-upon terms are already reasonably tailored to provide CPKC with the documents it needs and that additional CPKC search terms are unnecessary. Nonetheless, to the extent you provide modified search terms that you would like us to test, we are willing to address reasonable requests.

All the best,
Maria

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From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, June 25, 2026 9:10 PM

To: Stern, Noah P. M. <sternn@sullcrom.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham,

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Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>
Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Noah,

Union Pacific is continuing to analyze CPKC's proposed search terms, including comparing CPKC's terms against the terms proposed by the other railroads and previously accepted by Applicants, and expects to provide an update on whether it can agree to these new terms next week. To the extent certain terms return a disproportionate number of additional unique documents and Union Pacific cannot agree to one or more of CPKC's new terms, Union Pacific will provide CPKC with updated hit reports, including unique hit counts.

Best,

Kevin

Kevin Kelly

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From: Stern, Noah P. M. <sternn@sullcrom.com>

Sent: Wednesday, June 17, 2026 6:01 PM

To: Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C.

<Lindsey.Bohl@stblaw.com>; pdenton@step toe.com; tstratford@step toe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; ratkins <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Georges, Maria <mgeorges@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; Kelly, Kevin <Kkelly@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework

[EXTERNAL]

Counsel,

Below, please find CPKC's counterproposal regarding search terms concerning CPKC's First Set of Discovery Requests to Applicants. We'll follow up separately regarding the remaining points discussed yesterday.

Best,
Noah

Request No.	Request Text	Search Term Counterproposal
10/11	Produce all UP/NS Executive Level Documents since January 1, 2000 studying, analyzing, or discussing potential railroad combinations involving UP, BNSF, CSX, or NS, or discussing Transcontinental Rail Mergers generally.	(((BNSF or Basalt or "Union Pacific" or UP or Ruby OR UNP OR UPRR) AND (CSX or Cobalt OR "Norfolk Southern" OR NS OR Nickel OR norfolksouthern)) w/30 (merg* or transaction or comb* or acqui* OR control or consolid* OR "single-line" OR "end-to-end" OR "coast-to-coast" OR "east-west")) OR (("transcon*" OR (east* w/10 west*) OR "end-to-end" OR

		"duopoly" OR "coast-to-coast" OR "first-mover" OR "downstream") w/30 (merg* or transaction or comb* or acqui* or control or consolid* OR "single-line"))
12	Produce all NS Executive Level Documents relating to the lane rationalization referenced in the NS Press Release dated April 4, 2024, entitled Norfolk Southern Announces new initiatives to drive further productivity and accountability."	("lane rationalization" OR (lane w/5 ration*)) OR ((("Intermodal" OR "OD pair*") w/10 (review OR optimiz*)) OR ((("OD pair*" OR lane* OR corridor* OR route* OR market*) w/10 (eliminat* OR remov* OR discontinu* OR exit* OR consolidat* OR rationaliz* OR optimiz* OR suspend*)) OR ((low-volume OR "low volume" OR density OR "limited growth" OR "growth prospects" OR profit* OR complex*) w/10 ("OD pair*" OR lane* OR corridor* OR route*))

13	Produce all UP Executive Level Documents relating to the initiative described in the UP Press Release dated September 12, 2023, entitled “Union Pacific’s Newest Offering Removes Full Day of Transit Between the U.S., Mexico and Canada, Creating Unmatched Service for Customers.”	(falcon OR eagle OR "Mexico-US-Canada" OR "Mexico U.S. Canada") OR (("CN" OR "Canadian National" OR CNR OR CNI) AND ("UP" OR "Union Pacific" OR UNP OR UPRR) AND (GMXT OR "Grupo Mexico" OR "Grupo México" OR Ferromex OR FXE) AND (intermodal OR "rail service" OR "joint service" OR "new service" OR "service connection" OR "seamless connection" OR interchange OR interline OR "commercial product" OR "new product"))
14/15	Produce all UP/NS Executive Level Documents relating to the initiative described in the UP Press Release dated September 15, 2025, entitled “New Union Pacific and Norfolk Southern Intermodal Gateway Expands Market Access.”	[For UP] (Louisville OR "Kansas City" OR KCIT OR "Kansas City Intermodal Terminal" OR KC) AND (intermodal OR gateway OR interchange OR interline OR "joint service" OR "new service" OR "domestic intermodal" OR "truck-competitive" OR "market access") AND ("Norfolk Southern" OR NS OR NSC OR norfolksouthern) ***** [For NS] (Louisville OR "Kansas City" OR KCIT OR "Kansas City Intermodal Terminal" OR KC)

		AND (intermodal OR gateway OR interchange OR interline OR "joint service" OR "new service" OR "domestic intermodal" OR "truck-competitive" OR "market access") AND ("Union Pacific" OR UP OR UNP OR UPRR)
16/17	Produce all UP/NS Executive Level Documents relating to strategies for growing UP's rail traffic.	(plan* OR strateg* OR project* OR initiative* OR playbook OR develop* OR roadmap OR campaign* OR AOP) w/20 (grow* OR increas* OR retain* OR enhanc* OR boost* or driv* OR expan* OR conver* OR captur*) w/15 (volume OR traffic OR revenue* OR shipper* OR customer* OR account* OR carload* OR intermodal OR share OR truck* OR modal OR price)

18/19	Produce all UP/NS Executive Level Documents relating to forecasts prepared in the ordinary course of future traffic levels on the UP/NS rail network.	(traffic OR volume* OR capacity OR network OR carload* OR demand) w/20 (forecast* OR project* OR outlook OR plan* OR budget OR expect* OR anticipat* OR future OR playbook)
20/21	Produce all UP/NS Executive Level Documents relating to policies of strategies for the pricing or UP's/NS's rail transportation services, including without limitation the level of returns that UP/NS requires when pricing rail traffic	(pric* OR profit* OR margin* OR tariff* OR contract* OR yield* OR rate* OR "ROR" OR "PI" OR hurdle OR return* OR contrib* OR AOP) w/50 (formula OR model* OR polic* OR strateg* OR playbook OR system* OR commodity OR region* OR customer* OR account* OR campaign*)

22/23	Produce all UP/NS Executive Level Documents relating to UP's/NS's changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.	[For UP] (PSR OR (Precision w/2 Schedul* w/2 Rail*) OR "Unified Plan 2020" OR "UP 2020" OR "UP2020") AND (service OR frequency OR schedul* OR delay* OR interrupt* OR reduc* OR capacity) ***** [For NS] (PSR OR (Precision w/2 Schedul* w/2 Rail*) OR "TOP21" OR "TOP 21" OR "TOP 2021" OR "TOP2021" OR "Thoroughbred Operat*") AND (service OR frequency OR schedul* OR delay* OR interrupt* OR reduc* OR capacity OR TPM)
24/25	Produce all UP/NS Executive Level Documents discussing, analyzing, studying, or referring to UP's/NS's ability or potential ability to negotiate, insist upon, or obtain more favorable terms for UP/NS transportation services, or obtain additional business, by linking, bundling, tying, or otherwise including in a negotiation or offer other rail transportation service that UP/NS is uniquely or advantageously situated to perform (including without limitation where UP/NS is the sole rail carrier serving a particular shipper facility or providing an efficient rail route).	(negotiat* OR deal* OR strateg* OR formula OR model* OR contract* OR offer* OR propos* OR pric* OR profit* OR margin* OR rate* OR "ROR" OR "PI" OR hurdle* OR return* OR playbook OR AOP OR campaign*) AND (bundl* OR tying OR tie* OR link* OR leverag* OR provid* OR offer* OR efficien* OR advantage* OR package* OR portfolio OR "sole-served" OR "solely-served" OR "single served" OR captive) AND (facilit* OR plant* OR site* OR origin* OR destination* OR lane* OR route* OR shipper* OR customer* OR account)

26/27	Produce all Documents prepared by personnel in the marketing department and presented to managers recommending, reviewing, or discussing strategies for contracting with customers that have multiple facilities served by UP/NS, including without limitations documents in the form of emails, strategy decks, playbooks, or any other form.	(negotiat* OR deal* OR strateg* OR formula OR model* OR contract* OR offer* OR propos* OR pric* OR profit* OR margin* OR rate* OR "ROR" OR "PI" OR hurdle* OR return* OR playbook) AND (bundl* OR tying OR tie* OR link* OR leverag* OR provid* OR offer* OR efficien* OR advantage* OR package* OR portfolio OR "sole-served" OR "solely-served" OR "single served" OR captive OR multiple) AND (facilit* OR plant* OR site OR origin* OR destination* OR lane* OR route* OR shipper* OR customer* OR account)
28/29	Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss UP's/NS's plans or strategies for retaining or increasing the revenues obtained by UP/NS from rail customers (whether by growing traffic, increasing prices, or otherwise).	(negotiat* OR strateg* OR formula OR model* OR contract* OR pric* OR profit* OR margin* or rate* OR "ROR" OR "PI" OR hurdle* OR return* OR playbook OR report) AND (retain* OR increas* OR grow* OR win* OR expand* OR renew* OR capture*) w/20 (revenue* OR traffic OR volume* OR pric* OR rate* OR contract* OR customer* OR shipper* OR account* OR facilit*)

EXHIBIT P

From: Stern, Noah P. M.
Sent: Thursday, July 9, 2026 7:15 PM
To: 'Georges, Maria'; Kelly, Kevin; Laudone, Stephen S.; Korman, Marc; Enson, Eric; Gridi, Avia; Thompson, McClain; Fanchiang, Eric; Rosenthal, Michael; Cc: Donovan, Daniel T.; McCarrick, T.J.; zzExt-aellis; Razi, Sara Y.; Bohl, Lindsey C.; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich; Damitio, Daniel; Scheib, John M.; Gardiner, Kent; van Houwelingen, Luke; Warren, Matthew J.; William Mullins; zzExt-dludwin; Harrison, Caroline; ratkins; Krovoza, Charlotte; Joseph, Neil; Flahive Wu, Laura; Benov, Matthew; Volbrecht, Tate D.; Brown, Molly; Korman, Marc; OpalDisco
Cc: David Meyer; Matelis, Joseph J.; Hynes, Samantha F.; Aluise, Dylan M.
Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Maria,

While we appreciate the hit counts you have provided, we disagree that the information UP has shared demonstrates CPKC's search terms are disproportionate or unreasonable. There is nothing facially unreasonable about an approximate family hit count of 5.4 million documents for 36 custodians over a seven-year period given the breadth of the relevant issues. This is an \$85 billion transaction and the burden is minimal by comparison. This is particularly true if UP intends to use TAR to conduct responsiveness review and further cull the population.

To help us understand these issues, and to facilitate further discussions, please provide the following information and clarification.

- If you believe CPKC has used "broad terms likely to appear in many non-responsive documents," UP should provide counterproposals for any such term. UP is in the best position to evaluate the source of any overbreadth, assuming there is any, and refine the terms to address the issue. Further, this will help us understand which portions of CPKC's search term proposal UP finds objectionable (for example, we assume UP does not object to our proposal for Requests 14/15, which generated just 92 hits).
 - CPKC has consistently requested additional information about UP's internal operations and terminology to craft tailored search terms. UP has refused to provide that information. UP cannot now object that the terms CPKC has proposed are too broad, decline to provide the means to correct the alleged overbreadth, and also refuse to provide any counterproposal.
- Please provide the hit percentage for each term, and the denominator of the total documents included in the search. Without this information, we are unable to determine whether the terms are, in fact, too broad, or the hit counts are simply being driven by a large volume of responsive material that exists.

- You claim that “this population of 1,453,011 documents (2,183,240 with families) represents documents above and beyond the 713,082 hits with families returned by” UP’s narrower terms. But later, you claim there were “629,712 overlapping hits between the two sets.” These two statements appear contradictory, so we would appreciate if you could clarify.
 - Relatedly, the hit counts on UP’s narrower search terms (312,726 hits, 713,082 hits with families) do not line up with the total hits listed in the top row of the corresponding spreadsheet (313,153 hits, 713,620 hits with families). Please clarify which is correct.
- Your email suggests UP ran CPKC’s search terms exclusively for the period 2021–2026, but the hit count spreadsheet you shared states the terms were run for 2019-2026. Further, we do not understand why CPKC’s terms were run on a different date range than UP’s narrower terms. Please clarify the date range used for CPKC’s terms and the reasoning behind that decision.

Best,
Noah

Noah P. M. Stern
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 +1 310 712 8846 (T) | +1 323 219 5824 (M)
sternn@sullcrom.com | www.sullcrom.com

From: Georges, Maria <mgeorges@cov.com>
Sent: Tuesday, July 7, 2026 6:55 AM
To: Kelly, Kevin <Kkelly@cov.com>; Stern, Noah P. M. <sternn@sullcrom.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; zzExt-dludwin <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; ratkins <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <flahivewu@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>
Subject: [EXTERNAL] RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Dear Counsel,

Attached please find an updated hit report for the previously agreed-upon search terms for the 16 original custodians across custodial data from 2019–2026.

Please note that the numbers have increased since the last hit report was circulated because UP has continued processing custodial data, including Teams and OneDrive data. In addition, UP is now running all search terms across all 16 custodians. This population of 312,726 hits (713,082 hits with families) now represents the documents hitting on the agreed-upon search terms for the 16 custodians using the referenced time periods across the custodians' 2019-2026 data. These numbers do not include hits across the data of the 20 additional custodians that UP is collecting and processing consistent with the ALJ's recent decision, but assuming similar hit rates across the other custodians, UP estimates a search term hit population of ~1.2 million documents.

Additionally, attached is a hit report for CPKC's proposed additional search terms, which shows hits across the 16 original custodians' data from 2021–2026. While collection and processing of additional custodial data remain ongoing, specifically the 16 original custodians' 2019-2021 Lotus Notes data hitting on the CPKC terms, this population of 1,453,011 documents (2,183,240 with families) represents documents above and beyond the 713,082 hits with families returned by the agreed-upon search terms. In other words, CPKC's additional terms more than triple the volume of documents (just across the 16 original custodians). Assuming similar hit rates across the other 20 custodians, UP estimates that CPKC's terms would result in ~5.4 million documents on top of the ~1.2 million documents from the agreed terms referenced above for the 36 custodians. The disproportional number of hits appears to be driven by CPKC's selection of broad terms likely to appear in many non-responsive documents, instead of using terms tailored to the specific requests CPKC has served. While UP remains committed to working with CPKC to conduct a reasonable search for responsive documents, whether using custodial searches or other targeted collections, CPKC's proposed terms are neither reasonable nor proportional to the needs of this proceeding.

UP can also confirm that there is already significant overlap between CPKC's proposed terms and the agreed-upon terms, with 629,712 overlapping hits between the two sets. As a result, UP believes the agreed-upon terms are already reasonably tailored to provide CPKC with the documents it needs and that additional CPKC search terms are unnecessary. Nonetheless, to the extent you provide modified search terms that you would like us to test, we are willing to address reasonable requests.

All the best,
Maria

Maria Georges

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Washington, DC 20001-4956
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COVINGTON

From: Kelly, Kevin <Kkelly@cov.com>

Sent: Thursday, June 25, 2026 9:10 PM

To: Stern, Noah P. M. <sternn@sullcrom.com>; Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; ratkins <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Georges, Maria <mgeorges@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; OpalDisco <OpalDisco@cov.com>

Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>

Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework - CPKC Search Term Proposal

Noah,

Union Pacific is continuing to analyze CPKC's proposed search terms, including comparing CPKC's terms against the terms proposed by the other railroads and previously accepted by Applicants, and expects to provide an update on whether it can agree to these new terms next week. To the extent certain terms return a disproportionate number of additional unique documents and Union Pacific cannot agree to one or more of CPKC's new terms, Union Pacific will provide CPKC with updated hit reports, including unique hit counts.

Best,

Kevin

Kevin Kelly

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Washington, DC 20001-4956
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www.cov.com [cov.com]

COVINGTON

From: Stern, Noah P. M. <sternn@sullcrom.com>
Sent: Wednesday, June 17, 2026 6:01 PM
To: Laudone, Stephen S. <slaudone@sidley.com>; Korman, Marc <mkorman@sidley.com>; Enson, Eric <EEnson@crowell.com>; Gridi, Avia <Avia.Gridi@stblaw.com>; Thompson, McClain <mcclain.thompson@kirkland.com>; Fanchiang, Eric <EFanchiang@crowell.com>; Rosenthal, Michael <mrosenthal@cov.com>; Cc: Donovan, Daniel T. <ddonovan@kirkland.com>; McCarrick, T.J. <tj.mccarrick@kirkland.com>; zzExt-aellis <aellis@stblaw.com>; Razi, Sara Y. <Sara.Razi@stblaw.com>; Bohl, Lindsey C. <Lindsey.Bohl@stblaw.com>; pdenton@steptoe.com; tstratford@steptoe.com; Cunningham, Rich <rich.cunningham@kirkland.com>; Damitio, Daniel <DDamitio@cov.com>; Scheib, John M. <scheib@gentrylocke.com>; Gardiner, Kent <KGardiner@crowell.com>; van Houwelingen, Luke <LVanHouwelingen@crowell.com>; Warren, Matthew J. <mjwarren@sidley.com>; William Mullins <wmullins@mullinslawgroup.net>; Ludwin, Derek <dludwin@cov.com>; Harrison, Caroline <CHarrison@cov.com>; ratkins <ratkins@sidley.com>; Krovoza, Charlotte <CKrovoza@cov.com>; Joseph, Neil <neil.joseph@kirkland.com>; Flahive Wu, Laura <lflahivewu@cov.com>; Georges, Maria <mgeorges@cov.com>; Benov, Matthew <mbenov@cov.com>; Volbrecht, Tate D. <tate.volbrecht@kirkland.com>; Brown, Molly <MBrown@cov.com>; Korman, Marc <mkorman@sidley.com>; Kelly, Kevin <Kkelly@cov.com>
Cc: David Meyer <david@meyerlawdc.com>; Matelis, Joseph J. <Matelisj@sullcrom.com>; Hynes, Samantha F. <hyness@sullcrom.com>; Aluise, Dylan M. <aluised@sullcrom.com>
Subject: RE: FD 36873 - Meet & Confer re Custodial Search Framework

[EXTERNAL]

Counsel,

Below, please find CPKC's counterproposal regarding search terms concerning CPKC's First Set of Discovery Requests to Applicants. We'll follow up separately regarding the remaining points discussed yesterday.

Best,
Noah

Request No.	Request Text	Search Term Counterproposal
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10/11	Produce all UP/NS Executive Level Documents since January 1, 2000 studying, analyzing, or discussing potential railroad combinations involving UP, BNSF, CSX, or NS, or discussing Transcontinental Rail Mergers generally.	((BNSF or Basalt or "Union Pacific" or UP or Ruby OR UNP OR UPRR) AND (CSX or Cobalt OR "Norfolk Southern" OR NS OR Nickel OR norfolksouthern)) w/30 (merg* or transaction or comb* or acqui* OR control or consolid* OR "single-line" OR "end-to-end" OR "coast-to-coast" OR "east-west")) OR ((("transcon*" OR (east* w/10 west*) OR "end-to-end" OR "duopoly" OR "coast-to-coast" OR "first-mover" OR "downstream")) w/30 (merg* or transaction or comb* or acqui* or control or consolid* OR "single-line"))
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12	Produce all NS Executive Level Documents relating to the lane rationalization referenced in the NS Press Release dated April 4, 2024, entitled Norfolk Southern Announces new initiatives to drive further productivity and accountability.”	("lane rationalization" OR (lane w/5 ration*)) OR (("Intermodal" OR "OD pair*") w/10 (review OR optimiz*)) OR (("OD pair*" OR lane* OR corridor* OR route* OR market*) w/10 (eliminat* OR remov* OR discontinu* OR exit* OR consolidat* OR rationaliz* OR optimiz* OR suspend*)) OR ((low-volume OR "low volume" OR density OR "limited growth" OR "growth prospects" OR profit* OR complex*) w/10 ("OD pair*" OR lane* OR corridor* OR route*))
13	Produce all UP Executive Level Documents relating to the initiative described in the UP Press Release dated September 12, 2023, entitled “Union Pacific’s Newest Offering Removes Full Day of Transit Between the U.S., Mexico and Canada, Creating Unmatched Service for Customers.”	(falcon OR eagle OR "Mexico-US-Canada" OR "Mexico U.S. Canada") OR (("CN" OR "Canadian National" OR CNR OR CNI) AND ("UP" OR "Union Pacific" OR UNP OR UPRR) AND (GMXT OR "Grupo Mexico" OR "Grupo México" OR Ferromex OR FXE) AND (intermodal OR "rail service" OR "joint service" OR "new service" OR "service connection" OR "seamless connection"

		OR interchange OR interline OR "commercial product" OR "new product"))
14/15	Produce all UP/NS Executive Level Documents relating to the initiative described in the UP Press Release dated September 15, 2025, entitled “New Union Pacific and Norfolk Southern Intermodal Gateway Expands Market Access.”	[For UP] (Louisville OR "Kansas City" OR KCIT OR "Kansas City Intermodal Terminal" OR KC) AND (intermodal OR gateway OR interchange OR interline OR "joint service" OR "new service" OR "domestic intermodal" OR "truck-competitive" OR "market access") AND ("Norfolk Southern" OR NS OR NSC OR norfolksouthern) ***** [For NS] (Louisville OR "Kansas City" OR KCIT OR "Kansas City Intermodal Terminal" OR KC) AND (intermodal OR gateway OR interchange OR interline OR "joint service" OR "new service" OR "domestic intermodal" OR "truck-competitive" OR "market access") AND

		("Union Pacific" OR UP OR UNP OR UPRR)
16/17	Produce all UP/NS Executive Level Documents relating to strategies for growing UP's rail traffic.	(plan* OR strateg* OR project* OR initiative* OR playbook OR develop* OR roadmap OR campaign* OR AOP) w/20 (grow* OR increas* OR retain* OR enhanc* OR boost* or driv* OR expan* OR conver* OR captur*) w/15 (volume OR traffic OR revenue* OR shipper* OR customer* OR account* OR carload* OR intermodal OR share OR truck* OR modal OR price)

18/19	Produce all UP/NS Executive Level Documents relating to forecasts prepared in the ordinary course of future traffic levels on the UP/NS rail network.	(traffic OR volume* OR capacity OR network OR carload* OR demand) w/20 (forecast* OR project* OR outlook OR plan* OR budget OR expect* OR anticipat* OR future OR playbook)
20/21	Produce all UP/NS Executive Level Documents relating to policies of strategies for the pricing or UP's/NS's rail transportation services, including without limitation the level of returns that UP/NS requires when pricing rail traffic	(pric* OR profit* OR margin* OR tariff* OR contract* OR yield* OR rate* OR "ROR" OR "PI" OR hurdle OR return* OR contrib* OR AOP) w/50 (formula OR model* OR polic* OR strateg* OR playbook OR system* OR commodity OR region* OR customer* OR account* OR campaign*)

22/23	Produce all UP/NS Executive Level Documents relating to UP's/NS's changes (including without limitation reductions) in service or service frequency occasioned by implementation of Precision Scheduled Railroading.	[For UP] (PSR OR (Precision w/2 Schedul* w/2 Rail*) OR "Unified Plan 2020" OR "UP 2020" OR "UP2020") AND (service OR frequency OR schedul* OR delay* OR interrupt* OR reduc* OR capacity) ***** [For NS] (PSR OR (Precision w/2 Schedul* w/2 Rail*) OR "TOP21" OR "TOP 21" OR "TOP 2021" OR "TOP2021" OR "Thoroughbred Operat*") AND (service OR frequency OR schedul* OR delay* OR interrupt* OR reduc* OR capacity OR TPM)
24/25	Produce all UP/NS Executive Level Documents discussing, analyzing, studying, or referring to UP's/NS's ability or potential ability to negotiate, insist upon, or obtain more favorable terms for UP/NS transportation services, or obtain additional business, by linking, bundling, tying, or otherwise including in a negotiation or offer other rail transportation service that UP/NS is uniquely or advantageously situated to perform (including without limitation where UP/NS is the sole rail carrier serving a particular shipper facility or providing an efficient rail route).	(negotiat* OR deal* OR strateg* OR formula OR model* OR contract* OR offer* OR propos* OR pric* OR profit* OR margin* OR rate* OR "ROR" OR "PI" OR hurdle* OR return* OR playbook OR AOP OR campaign*) AND (bundl* OR tying OR tie* OR link* OR leverag* OR provid* OR offer* OR efficien* OR advantage* OR package* OR portfolio OR "sole-served" OR "solely-served" OR "single served" OR captive) AND (facilit* OR plant* OR site* OR origin* OR destination* OR lane* OR route* OR shipper* OR customer* OR account)

26/27	Produce all Documents prepared by personnel in the marketing department and presented to managers recommending, reviewing, or discussing strategies for contracting with customers that have multiple facilities served by UP/NS, including without limitations documents in the form of emails, strategy decks, playbooks, or any other form.	(negotiat* OR deal* OR strateg* OR formula OR model* OR contract* OR offer* OR propos* OR pric* OR profit* OR margin* OR rate* OR "ROR" OR "PI" OR hurdle* OR return* OR playbook) AND (bundl* OR tying OR tie* OR link* OR leverag* OR provid* OR offer* OR efficien* OR advantage* OR package* OR portfolio OR "sole-served" OR "solely-served" OR "single served" OR captive OR multiple) AND (facilit* OR plant* OR site OR origin* OR destination* OR lane* OR route* OR shipper* OR customer* OR account)
28/29	Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss UP's/NS's plans or strategies for retaining or increasing the revenues obtained by UP/NS from rail customers (whether by growing traffic, increasing prices, or otherwise).	(negotiat* OR strateg* OR formula OR model* OR contract* OR pric* OR profit* OR margin* or rate* OR "ROR" OR "PI" OR hurdle* OR return* OR playbook OR report) AND (retain* OR increas* OR grow* OR win* OR expand* OR renew* OR capture*) w/20 (revenue* OR traffic OR volume* OR pric* OR rate* OR contract* OR customer* OR shipper* OR account* OR facilit*)