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By E-Filing

September 30, 2026

312608

Hon. Jenifer J. Soulikias
Administrative Law Judge
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

ENTERED
Office of Chief Counsel
September 30, 2026
Part of
Public Record

**Re: Docket No. FD 36873, *Union Pacific Corp., et al.* –
*Control – Norfolk Southern Corp., et al.***

Dear Judge Soulikias:

Applicants submit the following brief description of the issues to be resolved at the October 2, 2026, discovery conference, as well as a list of known attendees for each party.

I. Issues to be Resolved

A. Applicants' Motion to Compel CPKC and CSX to Disclose Custodial Search Parameters (UP-110/NS-111)

On September 24, 2026, Applicants moved to compel CPKC and CSX to disclose by October 5, 2026, their proposed parameters for the custodial document searches they propose to conduct to identify documents responsive to Applicants' First and Second Sets of Discovery Requests. UP-110; NS-111. On September 29, 2026, CPKC and CSX each filed an opposition to Applicants' motion. CPKC-54; CSXT-31. To ensure that discovery proceeds efficiently and to facilitate the completion of document productions in advance of depositions, Applicants respectfully request that Your Honor grant the motion and order CPKC and CSX to provide their proposed custodial search parameters by October 5, 2026.

B. Non-Applicant Railroads' Motion to Compel UP Depositions (BNSF-52/CPKC-45/CSXT-24) and CPKC's Alternative Request to Subpoena Lance Fritz for Deposition (CPKC-52)

At the September 18, 2026, discovery conference, Your Honor instructed the parties to provide supplemental briefing on the issue of whether a subpoena is required to compel the deposition of Lance Fritz as a nonparty. On September 22, 2026, CPKC filed its supplemental brief. CPKC-52. On September 24, 2026, Applicants filed a reply brief explaining why (1) a

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subpoena is required to compel Mr. Fritz's appearance at a deposition and (2) CPKC's alternative request for the issuance of a subpoena should be denied. UP-109. Applicants respectfully request that Your Honor deny CPKC's request.

C. Motion for a Subpoena to John Orr for Deposition Testimony (CPKC-53)

On September 24, 2026, CPKC filed a motion requesting that a subpoena be issued for the deposition of nonparty John Orr, NS's former Chief Operating Officer. No replies to the motion were filed. Applicants do not oppose the motion.

D. Non-Applicant Railroads' Motion Challenging NS's Privilege Assertion (BNSF-57/CPKC-51/CSXT-29)

On September 21, 2026, BNSF, CPKC, and CSX challenged NS's clawback of a document that NS inadvertently produced and then withdrew as privileged work product. On September 24, 2026, NS filed an opposition to that motion, arguing that the document was work product prepared for the purpose of supporting Applicants' application to the STB. NS-109. NS respectfully requests that Your Honor deny the motion.

II. List of Attendees

A. Union Pacific

1. Laura Flahive Wu
2. Kevin M. Kelly
3. Michael L. Rosenthal
4. Michael M. Maya

B. Norfolk Southern

1. Matthew J. Warren
2. Carrie Mahan
3. William Mullins
4. Marc Korman
5. Spencer Naake
6. Stephen S. Laudone

C. BNSF

1. Daniel Donovan
2. Grace Brier
3. Tim Strafford

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D. CPKC

1. Joseph J. Matelis
2. David L. Meyer
3. Noah P. M. Stern

E. CSX

1. Eric Enson
2. John Scheib

Sincerely,

/s/ Matthew J. Warren

Matthew J. Warren
Stephen S. Laudone
William A. Mullins
Spencer M. Naake
Carrie Mahan

*Attorneys for Norfolk Southern
Corporation and Norfolk
Southern Railway Company*

/s/ Laura Flahive Wu

Laura Flahive Wu
Kevin M. Kelly

*Attorneys for Union Pacific
Corporation and Union
Pacific Railroad Company*

cc: All Parties of Record

CERTIFICATE OF SERVICE

I hereby certify that, on this 30th day of September, 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/ Jamie Dominique U. Magcale
Jamie Dominique U. Magcale