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 Public Record

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October 6, 2026

BY ELECTRONIC FILING

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

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

Dear Judge Soulikias:

In March 2026, UP's Chief Executive Officer addressed the Southwest Association of Rail Shippers ("SWARS") at its annual conference. That address has attracted the attention of both Congress—"It has come to my attention that UP CEO Jim Vena has made remarks at conferences and closed-door meetings threatening to retaliate against stakeholders"¹—and the Board—"The Board is aware of reported statements alleged to have been made by UP CEO Mr. Jim Vena" and "will not tolerate retaliation," Decision No. 28 at 4 (STB served July 22, 2026).

In July, CPKC² asked UP to produce a video of the address. UP objected, asserting among other things that the address was not "relevant." (Ex. A at 2.) Following weeks of meeting and conferring that resulted in CPKC moving to compel, UP agreed on September 15 to produce the video. On October 1, UP produced the video but designated the entirety of it "Confidential Information." CPKC asked UP to reconsider the designation the next day. UP did not respond.

"Confidential Information" is "traffic data (including but not limited to waybills, abstracts, study movement sheets, and any documents or computer tapes containing data derived from waybills, abstracts, study movement sheets, or other data bases, and cost workpapers), the

¹ [Letter to Surface Transportation Board on UP Retaliation](#) (filed July 17, 2026) at 1.

² Canadian Pacific Railway Company d/b/a Canadian Pacific Kansas City and CPKC, on behalf of itself and its U.S. rail carrier subsidiaries ("CPKC"). 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.

identification of shippers and receivers in conjunction with shipper-specific or other traffic data, the confidential terms of contracts with shippers, confidential financial and cost data, and other confidential or proprietary business information.” Decision No. 1 at 3 (STB served Aug. 5, 2025). The purpose of confidentiality designations is to govern disclosure of information that “could cause serious competitive injury to the parties.” *Id.* at 2.

The SWARS address contains no Confidential Information. The conference was a public event. SWARS describes itself as “an open forum for railroads, shippers and others to meet and discuss matters of mutual interest,” and its conferences are “open to everyone involved in rail transportation including but not limited to rail shippers and receivers, railroads, vendors, 3rd parties, regulators and others.”³ The conference drew about 900 attendees, representing a broad cross-section of railroad industry stakeholders.⁴ No part of the address, especially its closing statement, contains anything close to qualifying as Confidential Information.⁵

Even if there were a valid confidentiality concern, it would need to be weighed against the public’s interest in disclosure. Facts relating to potential influence on “stakeholder participation” are relevant: “Rail labor, shippers, suppliers, carriers, and other stakeholders provide information that is important to the Board’s analysis and must be able to do so without concerns that their commercial relationships—including, as applicable, rates and service—will be negatively affected because of their participation.” Decision No. 28 at 4.

For the foregoing reasons, CPKC respectfully requests Your Honor to direct UP to redesignate the video as public. Both Your Honor and the Board may hear redesignation motions. Decision No. 1 at 5. CPKC brings this motion to Your Honor in view of CPKC’s previous motion to compel respecting the SWARS video. *See* CPKC-47. CPKC notes, however, that the Board has already heard two redesignation motions. *See* Decision No. 17 at 2 (STB served April 30, 2026); Decision No. 28 at 2-5. Moreover, the Board has also already addressed the SWARS closing statement. Decision No. 28 at 4. CPKC therefore respectfully requests in the alternative that the Board rule on the redesignation issue if that were deemed appropriate.

Respectfully submitted,

/s/ Joseph J. Matelis

Joseph J. Matelis

Attorney for CPKC

cc: All Parties of Record

³ [Southwest Association of Rail Shippers - SWARS](#), Sw. Ass’n of Rail Shippers, (last visited Oct. 6, 2026).

⁴ [Attendee List - Southwest Association of Rail Shippers 2026 Annual Conference](#), Sw. Ass’n of Rail Shippers, (last visited Oct. 6, 2026).

⁵ Exhibit B is an excerpt of the video providing the address’s closing statement. Exhibit C is the entire address. CPKC is providing Exhibit B by email and Exhibit C by file transfer (because of its size). Parties that have executed the requisite confidentiality undertaking may also request from CPKC either the excerpt or the entire address.

CERTIFICATE OF SERVICE

I hereby certify that, on this 6th day of October 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/ Noah P.M. Stern
Noah P.M. Stern

EXHIBIT A

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

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

**UNION PACIFIC'S RESPONSES AND OBJECTIONS
TO CANADIAN PACIFIC KANSAS CITY'S
SECOND SET OF DISCOVERY REQUESTS TO UNION PACIFIC**

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August 7, 2026

REQUEST NO. 43

Produce all Documents and Communications since July 28, 2025, including audio or video recordings, presentations, talking points or other records, reflecting or memorializing any remarks, comments or presentations by Union Pacific CEO Jim Vena at conferences, industry events, shipper meetings, or closed-door meetings, including but not limited to remarks Vena made at the Southwest Association of Rail Shippers 2026 Annual Meeting held from March 16-17 in Houston, TX. *See* Letter from Tammy Baldwin, U.S. Sen., to S.T.B. 1 (July 16, 2026).

Union Pacific Response

Union Pacific objects to this Request because it is overly broad, unduly burdensome, disproportionate to the needs of this proceeding, and seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. The Request seeks “all Documents and Communications” reflecting “any remarks, comments or presentations” by Union Pacific’s CEO at “conferences, industry events, shipper meetings, or closed-door meetings” over a period of more than one year, without any limitation to specific topics relevant to this proceeding. Union Pacific further objects to the Request because it would impose an unreasonable burden to locate, review, and produce the requested audio or video recordings. Union Pacific further objects to this Request to the extent it seeks materials that are publicly available or otherwise readily available or accessible to CPKC from other sources or otherwise obtainable in a more convenient, less burdensome, or less expensive manner than from Union Pacific. Union Pacific further objects to this Request to the extent it seeks materials protected from disclosure by the attorney-client privilege, the attorney work-product doctrine, or any other applicable privileges or immunities.

EXHIBIT B

Confidential Attachment

Filed under seal pursuant to Protective Order

EXHIBIT C

Confidential Attachment

Filed under seal pursuant to Protective Order