Abbie Kamin
COUNTY ATTORNEY

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Via Electronic Filing
Chair Patrick Fuchs
Surface Transportation Board
395 E. Street, SW
Washington, D.C. 20423

Re: Surface Transportation Board Finance Docket No. 36873, Union Pacific Corporation and Norfolk Southern Corporation, Control and Merger, Harris County Comments

Dear Chair Fuchs:

On behalf of Harris County, Texas, the Harris County Attorney's Office respectfully submits our concerns regarding the proposed merger of Union Pacific ("UP") and Norfolk Southern ("NS") into a single corporate railway ("the Merger"). The Merger would put more than 40% of all U.S. freight rail traffic under one corporate roof and would be a disaster for Harris County and its residents. Harris County is concerned that the Merger will result in inevitable price increases for shippers and consumers (which include Harris County), increase pollution for our overburdened airshed, and compound the already devastating problem of stalled and stopped trains. For these reasons further described below, Harris County requests that the Surface Transportation Board ("STB") reject the Merger.

I. The Railroad Industry Stands at the Heart of Harris County's Identity as a Commercial Powerhouse.

With a population of over 4.7 million residents, Harris County is the largest county in Texas and the third largest county in the U.S. It is home to the City of Houston, the nation's fourth largest city and the largest U.S. city with no traditional single-use zoning laws. The County contains a wide variety of land uses, including dense urban, suburban, rural, and a diverse concentration of industrial uses.

Houston owes its status as an economic capital of the world in part to the development of the American railway system. Founded by land speculators in the 1830s, Houston initially had a population of about a dozen people. Although dwarfed in population by the nearby port city of Galveston, Houston's access to a network of bayous turned it into an export hub for the Texas farming and timber industries. From the 1850s through the Gilded Age, industrialists built sophisticated railway networks fanning out through Texas and terminating in Houston. Its status

as an early railway and logistics hub is stamped on the identity of the city—Houston became known as "Where Seventeen Railroads Meet the Sea,"[1] and to this day features a locomotive on its crest. Rail isn't just a historical factoid to residents of Harris County, either. The rise of global hydrocarbon and chemicals markets has ensured the rail system remains important to the economic activity of Harris County. To this day, approximately 2,200 trains move through the Houston regional rail network per week.[2]

II. Further Consolidation of Class I Railroads Will Hurt Harris County Businesses.

The free market system, as checked by governmental antitrust regulators, is supposed to reward competition, innovation, and better service. It is not intended to allow corporations to consolidate so much economic power they can squeeze out competition and pressure suppliers, weaken worker bargaining power, and leave customers with fewer choices and higher costs. Yet, that is precisely the outcome Harris County fears from the Merger application UP and NS have submitted to the STB.

"Captive shippers" describes rail customers that have little or no economically viable alternative to using a particular rail company to transport their goods. Commodity producers are often reliant on the railroads' track, which is a geographically fixed, capital-intensive asset. These commodity producers are often economically or legally constrained from shipping their products by other means (like by truck). Unlike consumers shopping for the best deal at the supermarket, chemical plants, grain elevators, and factories cannot easily move their operation to a competing rail line just because shipping costs become unreasonable. They are "captive" in the sense there is no other economical means of getting their goods to market. Accordingly, the owners of the desired rail become localized monopolies, with customers dependent on one carrier's rates and schedules.

The Rail Customer Coalition,[3] an industry advocacy group, estimates over 78% of all freight rail stations in the United States are captive to a major railroad,[4] and the STB's own estimate is that around 34% of annual rail traffic by weight in the United States pays captive rates.[5] When sections of track previously operated by two competing companies is suddenly operated by one, competition can go down and the market power of the new conglomerate will increase. By UP and NS's own estimates, the companies' combined freight account for between 40% and 50% of current U.S. freight rail traffic, depending whether you measure by rail ton-miles or carloads. The

[1] JEROME H. FARBAR, HOUSTON (H.H. Tammen Co., 1st ed., 1913).
[2] HNTB Corp. and Texas Department of Transportation, Houston Region Freight Study 5 – 4 (2007).
[3] Rail Customer Coalition, *About Us*, https://www.freightrailreform.com/about/ (last visited Nov. 13, 2026) (listing members of the RCC).
[4] Daniel Elliott, III, *Boosting Rail Competition*, Reg. Rev., Oct. 10, 2022. Mr. Elliott is a former Chair of the STB.
[5] Laurits R. Christensen Assocs., Inc., A Study of Competition in the U.S. Freight Railroad Industry and Analysis of Proposals That Might Enhance Competition ES-10–ES-11 (Nov. 2009). The study cautions that underlying issues with the data used in this analysis may undermine the reliability of the final figures. Harris County includes this figure because of the paucity of authoritative analysis of captivity within the railroad industry.

merger will ultimately leave shippers with even less choice and limited options to negotiate on terms or price.

That captive shippers are often forced to accept the rail companies' pricing and terms is well known in the industry. The Rail Customer Coalition warned in September that past railroad mergers have raised prices, and that consolidation leaves captive shippers with fewer choices.[6] UP management is also very familiar with forcing arbitrary or punitive price increases on captive shippers. The CEO of UP threatened in March to raise rates for their captive customers if they did not support the Merger, well aware that some shippers will not be able to switch rail companies.[7] If the Merger goes through, shippers will be forced to pay more, and the number of captive freight rail stations will go up, further increasing prices for both Harris County and its residents.

Allowing this merger to go through is a free pass to the rail industry to raise prices on their immediate customers.

III. The Consolidation Will Reverberate Throughout the Economy and Ultimately Hurt Consumers.

Although shippers have been the loudest voice against this merger, and will likely experience the most direct effects, the merger's resultant price increases will affect everyone. Increased freight transportation costs will ripple thoughout the supply chain, ultimately impacting businesses and consumers. Harris County and its residents, already struggling from interest rate increases and inflation, simply can't afford this merger.

Given the concentration of heavy industry within Harris County, industrial cargo (hydrocarbons, chemicals, bulk commodities like coal, grain, and rock) account for more than 84% of Harris County's rail activity.[8] These goods are ultimately used as inputs in the goods and services that everybody consumes. When prices of the inputs go up, the companies buying heavy industrial cargo (e.g., manufacturers and wholesalers) will similarly have to raise their prices on the end consumer.

Despite pre-merger promises to regulators, economies of scale and synergies created by industry consolidation are rarely passed on to customers. When the prices go up for heavy industrial goods transported by railway, the increases are passed on down from company to company until the final product reaches the final customer—the American consumer.

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[6] Stuart Chirls, *Rail merger warning: Higher costs, worse service ahead*, YAHOO! FINANCE (Sept. 16, 2026).

[7] In a March 2026 address to the Southwest Association of Rail Shippers, UP CEO Jim Vena told the assembled shippers that "we're going to get this done . . . . If we don't do that, Union Pacific will still be there. And if I stick around, which I probably will, I'll probably increase rates for everybody that said they didn't want a seamless railroad by three or four extra percent to teach you a lesson." Glenn Taylor, *Union Pacific CEO's Rate Remark May Have Silenced Merger Opponents, STB Says*, YAHOO! FINANCE (Nov. 9, 2026).

[8] HNTB Corporation and Texas Department of Transportation, Houston Region Freight Study 5 – 6 (2007).

Ultimately, these costs work their way through the supply chain until Harris County and its residents end up getting the bill, even if they never directly interact with the railroad.

IV. UP and NS's False Promises of Lower Prices for All are Belied by Their Actions and Statements.

UP and NS have tried to assure the public that raising prices is not an intended consequent of the Merger. They instead argue that competition will be unaffected, and the resulting corporate conglomerate will be able to use its size to lower prices for everyone. Their management and investors already know that's not the truth.

In November 2025, 99.5% of UP shareholders and nearly 99% of NS shareholders voted in favor of the merger. Harris County is skeptical that these almost unanimous margins reflect investors' exuberance about creating synergies and passing on savings to workers and customers. Rather, investors already understand the end game of the Merger: increased market power and greater price control over captive shippers. The new consolidated rail company will have significantly more market power than either UP or NS would have had as separate companies. Investors recognize the opportunity to raise rates to boost their bottom line at the expense of customers.

Importantly, UP CEO Jim Vena has threatened to retaliate against shippers who oppose their merger application, including with higher prices for unsupportive customers.[9] This statement undermines the companies' assurances that the Merger will benefit consumers. Rather, these actions reveal what UP and NS already know—the resulting corporate behemoth will have market power to crush dissenters for voicing good faith objections to this power grab.

V. The Merger Threatens to Exacerbate Harris County's Air Pollution Problems.

Harris County has long experienced poor air quality, the effects of which are amplified due to the proximity of industry to residential areas and the lack of zoning laws in many areas, including Houston. Ozone and particulate matter pollution have been of particular concern in the County. Harris County is the largest county in the Houston-Galveston-Brazoria ("HGB") ozone nonattainment area. The HGB nonattainment area is currently designated as serious nonattainment for the 2015 eight-hour ozone National Ambient Air Quality Standards ("NAAQS") and as severe nonattainment for the 2008 eight-hour ozone NAAQS. Harris County's certified 2023 annual $PM_{2.5}$ design value is 12.5 µg/m3, higher than both the 2012 and 2024 $PM_{2.5}$ annual standard, which are 12.0 µg/m3 and 9.0 µg/m3, respectively. Harris County anticipates that it will be

[9] Glenn Taylor, *Union Pacific CEO's Rate Remark May Have Silenced Merger Opponents, STB Says*, YAHOO! FINANCE (Nov. 9, 2026).

designated as nonattainment for the 2024 annual $PM_{2.5}$ NAAQS once EPA makes proper designations. Against this backdrop, Harris County is concerned that the Merger, which will increase the number of trains traveling per day through Harris County, will further worsen existing air quality conditions, especially in neighborhoods where trains frequently idle.

Harris County has never met any of the ozone standards at the time of their initial implementation, and the effects of our air pollution problem are felt throughout Harris County. Harris County's ozone seasons are the longest in the state, and the Environmental Protection Agency has noted that communities residing and working near violating ozone monitors in the Houston area and the Houston Ship Channel are exposed to "a significant and disproportionate burden of ozone pollution and other sources of pollution (e.g., vehicle traffic and particulate matter emissions) compared to the greater Houston area and the U.S. as a whole."[10]

For example, Settegast, a neighborhood in northeast Houston, illustrates the disproportionate environmental burdens that rail operations can impose on residential communities. The neighborhood is bordered by a UP railroad-switching yard, the Interstate 610 Loop, and Old Beaumont Highway. Community members have long voiced concern regarding air pollution in the area, and a $PM_{2.5}$ monitor was deployed in the Settegast neighborhood in summer 2021 on North Wayside Drive (Wayside Monitor). The Wayside Monitor has continuously recorded elevated pollution levels, with a 2022-2024 design value of 12.7 µg/m3. UP is currently planning a capital improvement project related to the Merger in Settegast. Harris County is concerned that the additional rail activity and emissions will further degrade the air quality in the area, compounding the environmental and public health challenges for nearby residents.

As discussed below, Harris County residents frequently experience stopped trains. When locomotives idle, they can emit fuel exhaust that degrades air quality and can affect local populations. Communities living near railyards, ports, and other major rail operations are disproportionately burdened by the health harms of diesel emissions.[11] For example, one study found a link between freight-railyard pollution and asthma-related emergency room visits in Children in California.[12]

Houston has the highest number of railroad crossings on Union Pacific's 32,000-mile network.[13]Harris County is concerned that Harris County residents, and especially those neighborhoods with a rail presence like those of East End, Fifth Ward, and Settegast, will bear the disproportional brunt of air pollution brought about by the Merger.

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[10] Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Areas Classified as Serious for the 2008 Ozone National Ambient Air Quality Standards, 87 Fed. Reg. 60,926, 60,929 (2022).

[11] American Lung Association, Getting Health on Track: Cleaner Locomotives for Healthy Air 5 (2025).

[12] Spencer-Hwang et. al., *Association of major California freight railyards with asthma-related pediatric emergency department hospital visits*, Volume No. 13 Preventative Medicine Reports 73, 73 (2019).

[13] Lisa Lawson Stark, Union Pacific is Taking Action and Working with Communities on Blocked Crossings, INSIDETRACK, https://www.up.com/aboutup/community/inside_track/blocked-crossings-houston-it241218.htm (Dec. 18, 2024)

Harris County urges STB to take Harris County's current air pollution problem into account as it assesses the Merger, which cannot truly be in the public interest if it exacerbates the pollution problems Harris County residents face every day.

VI. The Merger will Compound Harris County's Already Pressing Problem of Stopped, Stalled, and Monster Trains.

Houston experiences more train blockages than any other city in the United States.[14] These blockages are more than just an inconvenience. They harm our community by holding up commuters, halting emergency services, and even killing Harris County pedestrians who try to cross because they simply cannot wait for the train to start running again.

In Harris County, these conditions have tragic consequences. Pedestrians are killed by stopped and stalled trains in Harris County with shocking regularity. On September 24, 2024, a pedestrian in a wheelchair was killed in the Fifth Ward while trying to get around a stopped train.[15] On December 9, 2024, 15 year-old student Sergio Rodriguez was killed trying to pass a stopped train to get to class at Milby High School.[16] On August 24, 2026, a senior citizen was killed in northern Harris County while trying to drive around a stalled train.[17] Local authorities had to walk along an alternate route to retrieve his body because the train was still blocking the road.[18]

The harm caused by stopped and long trains goes beyond killing and maiming pedestrians. By bisecting major thoroughfares, these trains can essentially isolate certain areas of the city for hours at a time and prevent the provision of emergency medical services, impede fire and police response, and prevent residents from accessing essential services. In an emergency, even a short delay can have tragic consequences.

UP is the biggest offender, having received the most complaints for blocked crossings in Houston and throughout the United States. The average train length for UP is 1.8 miles, although they can reach around 3.8. Notably, UP CEO Jim Vena has expressed ambivalence about the major issues caused by these trains. "Vena said that for his customers to beat competitors, he must maximize efficiency. 'That's the way I look at it,' he said. 'It's business.'"[19]

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[14] Esther Fung, *Railroads Love 'Monster' Trains. Texans Don't.*, WALL ST. J., Sept. 15, 2024.
[15] Chaz Miller and Lileana Pearson, *Leaders discuss road and train safety in light of accidents in Harris County*, ABC13 EYEWITNESS NEWS (July 23, 2025), https://abc13.com/post/lawmakers-union-pacific-meeting-discuss-railway-safety-wake-recent-deadly-incidents-harris-county/17259500/.
[16] Bill Barajas, *Dangerous railroad tracks in SE Houston where student was killed by train have always been a problem*, CLICK2HOUSTON (Dec. 10, 2024), https://www.click2houston.com/news/local/2024/12/10/dangerous-railroad-tracks-in-se-houston-where-student-was-killed-by-train-have-always-been-a-problem/.
[17] *Driver hit, dies after trying to go around train crossing rails near Kuykendahl Road*, ABC13 EYEWITNESS NEWS (Aug. 24, 2026), https://abc13.com/post/deputies-investigating-deadly-crash-involving-car-kuykendahl-road-where-train-is-stalled-tracks-monday-morning/19727347/.
[18] *Id.*
[19] Esther Fung, *Railroads Love 'Monster' Trains. Texans Don't.*, Wall St. J., Sept. 15, 2024.

The creation and rise of these "monster" trains and the problems they create in urban areas is encouraged by the economic realities of consolidation within the rail industry. Longer trains allow companies to collect more profits by hauling goods with fewer locomotives and fewer crew.

Allowing two major Class I railroads to merge will only exacerbate the problem. The profit motive will demand even longer trains on more powerful locomotives, ultimately blocking more crossings for longer in Harris County.

VII. Conclusion: the Proposed Merger Will be a Disaster and the STB Should Reject the Application.

Harris County is not unfamiliar with or hostile to the rail industry, but this merger cannot be allowed to pass. The super conglomerate proposed by the merger application will have market power to raise prices and demand concessions from shippers. The shippers will then pass these costs off to their buyers, with the ultimate burden landing on the consumer. At the same time, increased rail activity and operational conditions that encourage longer trains could exacerbate Harris County's existing challenge with air pollution, blocked corssings, and public safety. There are not hypothetical concerns—they are issues that directly affect Harirs Couny and its many businesses and residents. STB must carefully consider all these impacts and evaluate whether this serves the public interest. For these reasons, Harris County requests that the Merger application be rejected.

Respectfully,

ABBIE KAMIN
Harris County Attorney

NEAL SARKAR
First Assistant County Attorney

SARAH J. UTLEY
Managing Counsel,
Affirmative & Special Litigation and Environmental

CHRISTOPHER GARZA
Division Director,
Affirmative & Special Litigation Division

/s/ Chuck Matula
CHUCK MATULA
Assistant County Attorney
State Bar No. 24121583
Chuck.Matula@harriscountytx.gov
1010 Lamar, 11th Floor
Houston, Texas 77002
Tel: (713) 274-5185

/s/ Elizabeth Hidalgo
ELIZABETH HIDALGO
Assistant County Attorney
State Bar No. 24133308
Elizabeth.Hidalgo@harriscountytx.gov
1010 Lamar, 11th Floor
Houston, Texas 77002
Tel: (713) 274-5394

CERTIFICATE OF SERVICE

I hereby certify that on this 18th day of November 2026, a copy of the foregoing comment letter was served by electronic mail or first-class mail upon all Parties of Record in this proceeding, as required by the Surface Transportation Board in Docket No. FD 36873.

/s/ Chuck Matula
Chuck Matula

November 18, 2026