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11-18-26

BEFORE THE U.S. SURFACE TRANSPORTATION BOARD
WASHINGTON, DC
Docket No. FD 36873
UNION PACIFIC CORPORATION – CONTROL – NORFOLK SOUTHERN CORPORATION
THIRD & FINAL LETTER OF COMMENT OF DANIEL A. (ALEX) NAGEL
U.S. Surface Transportation Board
395 E Street SW
Washington, DC 20423

Re: Docket No. FD 36873 – Third & Final Letter of Comment
Union Pacific Corporation – Control – Norfolk Southern Corporation

Dear Members of the Board,

I would like to respectfully submit this third and final letter of comment in Docket No. FD 36873 regarding Decision No. 45 issued by the Board on 11-4-26. I am an experienced railroad professional who retired on 8-1-25 after a 32-year career with CPRS/CPKC (1995-2025) and IAIS (1987-89). In addition to being an avid and dedicated student of the railroad industry since my youth, I have also been active in membership roles with the Minnesota Freight Advisory Committee and am in the beginning stages of starting my own freelance railroad consulting business. I was also elected to the Board of Directors at All Aboard Minnesota; a passenger rail advocacy group in the summer of 2025 where I not only handle treasury duties but also provide a wealth of knowledge of the industry and its practices and operations that can have an impact on current passenger train operations not only in Minnesota but the upper Midwest as well. I am also active in a number of other rail-related projects and participate regularly in industry-related conferences and webinars to stay abreast of the latest trends and developments within the industry. I am a 1993 graduate of the University of Iowa with a degree in General Studies with an emphasis in Marketing and Transportation. The views expressed in this letter are strictly my own.

This particular proceeding before the Board took a rather unexpected and dramatic turn when the Board ultimately denied Union Pacific's appeal of attempting to keep the

confidential shield of the video of the SWARS keynote address that was given by Union Pacific CEO Jim Vena on 3-17-26 in Houston, TX before an audience of some 900 people that included numerous shippers, stakeholders and individuals from the railroad industry. At the end of this particular keynote address as is clearly demonstrated on the (now) public video, Mr. Vena essentially threatens shippers who dare oppose the proposed transaction between Union Pacific and Norfolk Southern by saying, "We're willing to make deals with customers.....So, come and see us, talk about what you need to move ahead with us and how we put this thing forward. 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 everybody's rates that said they didn't want a seamless railroad by three or four extra per cent to teach you a lesson. Thank you very much."

In all my years of watching the industry, being around railroad property and actually working in the industry, I've seen a lot of things. I watched as a traumatized 11-year old in the fourth grade in April 1971 as the great passenger trains of the Class Is made their final runs on the eve of Amtrak as it assumed operations of passenger trains on 5-1-71. I saw with my own eyes how many railroads in the upper Midwest struggled in a highly-regulated environment that helped plunge both Milwaukee Road and Rock Island into bankruptcy. I watched with utter shock how Rock Island was liquidated by a Federal Judge in 1980 but rejoiced in February 1985 when another Federal Judge awarded the core system of the Milwaukee Road to Soo Line. I've seen the mergers of the 1980s and the 1990s – both the ones that should have happened and the ones that shouldn't have happened. I've heard the legendary tales of how one top operating official of an unnamed railroad reportedly urinated into a turntable pit in Montana upon his arrival at the facility and how that one operating official's protégé – E. Hunter Harrison – made his mark during his time as CEO at a number of railroads (including my employer, Canadian Pacific) as someone who regularly berated and mistreated subordinates and also wrecked the careers of thousands of hard-working railroaders with massive job cuts wherever he was at. But never have I seen or encountered a CEO of a Class I railroad essentially threaten shippers and customers with possible rate increases and likely service reductions and who knows what else.

Yet, this is the new reality in which we are dealing with today and it's incredulous to me how we arrived at this spot in the first place. It is precisely why I am in full support of the submission filed by Canadian Pacific Kansas City on 10-30-26 to urge the Surface Transportation Board to terminate this merger proceeding. In light of the blatant threat offered by Mr. Vena this last March along with other alleged incidents of intimidation and threats of retaliation made to other shippers and stakeholders, it is simply incomprehensible to me how the Board can, in all seriousness, allow this proceeding to continue as if nothing ever happened. The fact of the matter is that this proceeding has been poisoned beyond repair because of these incidents and even though the board has taken the action to further investigate these allegations and has given shippers and other stakeholders an avenue to submit any incidents of threatened retaliation in confidential fashion, the damage has already been done. Market dominance – which UP is seeking with its proposed acquisition of NS - is one thing but when that is coupled with a clear pattern of

intimidation and threats of commercial retaliation as UP has clearly shown, a line needs to be drawn by the Board. Should the Board fail to address this issue properly, it would send a clear message to shippers and other stakeholders as well as the general public that intimidation and threats of commercial retaliation from UP and other Class I railroads that this type of conduct is an acceptable method of business. I would hope the Board clearly recognizes this and I urge the Board to accept the submission by CPKC and have this merger proceeding promptly terminated.

I appreciate the ALJ's and Board's consideration of my comments in this letter. Please feel free to contact me anytime if you have any questions or concerns.

Sincerely,

Daniel A. (Alex) Nagel
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Member – Board of Directors – All Aboard Minnesota
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing Third & Final Letter of Comment to be served electronically or by first-class mail, postage prepaid, to everyone formally involved in this case, as required in Finance Docket No. 36873.

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Dated: November 18, 2026