Louis Dreyfus Company LLC
40 Danbury Road
PO Box 810
Wilton, Connecticut
06897-0810
United States

Law Department

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LDC-2

**VIA E-FILING**
Ms. Cynthia T. Brown
Chief of Case Administration
Office of Chief Counsel
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: FD 36873, *Union Pacific Corporation and Union Pacific Railroad Company – Control – Norfolk Southern Corporation and Norfolk Southern Railway Company*

Dear Ms. Brown:

Louis Dreyfus Company LLC (LDC) submits these comments on the application of Union Pacific Corporation, Union Pacific Railroad Company (UP), Norfolk Southern Corporation, and Norfolk Southern Railway Company (NS) (collectively, Applicants) for approval of UP's acquisition of control of NS and the consolidation of their rail operations (the Transaction).

LDC is a leading worldwide merchant and processor of agricultural goods. Its North American operations include oilseed crushing, biofuels, grain merchandising, and other agricultural businesses that depend on reliable and competitively priced rail transportation. LDC has invested tens of millions of dollars in rail-served facilities and related infrastructure and maintains a substantial private railcar fleet. Among these operations is LDC's major soybean processing complex at Claypool, Indiana (the Claypool Facility), which is served exclusively by NS and depends heavily on rail transportation for moving agricultural products. For agricultural processing facilities such as Claypool, these substantial investments and dependence on rail make reliable service and meaningful competitive rail options particularly important.

The Claypool Facility is a substantial operation that historically has handled as many as approximately 1,000 railcars per month. Because NS is the facility's only serving railroad, LDC depends on NS for line-haul transportation and for the timely placement and delivery of cars needed to sustain plant operations and move finished products. Delayed or irregular service can disrupt production, increase private-car cycle times, and result in substantial additional costs that LDC, as a captive shipper, has limited ability to avoid.

LDC's prior experience illustrates the practical consequences of that dependence. NS has in the past changed its car-ordering and storage practices at Claypool in ways that significantly increased LDC's potential cost exposure, often when LDC had little practicable ability to avoid the charges. LDC also has had no comparable remedy when the railroad's

own service fell short. These experiences show the lack of leverage a captive shipper has, and why a competitive alternative matters.

The statutory question is not whether the Transaction benefits UP and NS, but whether it is consistent with the public interest. Applicants must demonstrate substantial and demonstrable public benefits sufficient to outweigh the Transaction's competitive, service, and other harms, and the rules place particular emphasis on enhanced competition and reliable service. 49 U.S.C. § 11324; 49 C.F.R. § 1180.1.

Applicants claim that the Transaction will generate substantial cost savings, improved single-line service, and other operating efficiencies. There is substantial uncertainty, however, whether those claimed benefits will be realized and, even if they are, whether they will benefit LDC and other rail customers. Some of the claimed efficiencies appear capable of being achieved without a merger, and Applicants have not demonstrated that any resulting cost savings will be passed through to customers through lower rates, improved service, or other meaningful benefits. LDC is particularly concerned that the principal economic benefits may accrue to the merged railroad and its investors, while shippers bear the risks associated with reduced competition and a larger, more integrated network. Moreover, while Applicants' claimed benefits remain projections, the elimination of NS as an independent Class I railroad would be permanent.

Applicants' gateway and interchange commitments do not adequately address these concerns. They are limited in scope and duration, create few if any new routing options, and may leave the combined railroad with greater ability and incentive to favor its own single-line routes. Maintaining a gateway in form does not necessarily preserve it as a commercially viable competitive option if rates, routing, interchange, or service practices disadvantage competing routes. For LDC, competitive routing and interchange options are particularly important because they provide essential competitive discipline on rates and service. A reduction or deterioration of those options could result in higher rates, diminished competitive rate spreads, and less favorable service terms.

The operational integration of two large networks also creates substantial execution risk. A major outage, terminal disruption, or interchange failure on the combined system could affect multiple points of LDC's supply chain. Because substantial volumes of agricultural commodities cannot readily be shifted from rail to trucks or other transportation alternatives, service reliability is particularly important to LDC, and where LDC is captive to a single railroad, it has little practical recourse when service deteriorates.

For LDC, these concerns are not theoretical. The Claypool Facility is captive to NS today, and the Transaction would combine NS with UP without providing LDC any additional competitive rail option. LDC's prior experience at Claypool demonstrates the practical consequences of dependence on a single railroad, including unilateral changes in car-ordering and storage practices and continuing exposure to irregular service that can increase railcar cycle times and costs. The Transaction therefore would further concentrate control over LDC's rail service at Claypool in a single railroad without providing any corresponding competitive benefits. Appropriate relief should enhance competition rather than simply preserve Claypool's existing captivity. Providing an additional rail alternative at Claypool would accomplish that objective while directly addressing the additional concentration resulting from the Transaction.

If the Board nevertheless determines that the Transaction satisfies the governing approval standards, any approval should include appropriate competitive enhancements consistent with enhanced competition and the public interest.

The Board has express authority to condition approval on trackage rights or other access that mitigates merger-related competitive harm, is operationally feasible, produces net public benefits, and does not create unreasonable operating or financial problems for the combined carrier. 49 U.S.C. § 11324(c); 49 C.F.R. § 1180.1(d). Those standards authorize targeted conditions that create or preserve meaningful competitive alternatives where necessary to address competitive concerns arising from an otherwise approvable transaction.

The requested Claypool condition satisfies these standards. A competitive alternative would introduce additional discipline over rates and service and directly address the merger-related concerns arising from LDC's exclusive dependence on NS described above. Such relief is also operationally practical because an existing connection is located only a short distance from the Claypool Facility.

Specifically, the Board should require trackage rights, haulage rights, or other appropriate operating authority permitting service to the Claypool Facility by the Chicago, Fort Wayne & Eastern Railroad (CFE), the Toledo, Peoria & Western Railway (TPW), and the Indiana & Ohio Railway (IORY), three Midwest freight railroads owned or operated by Genesee & Wyoming Inc. At a minimum, the Board should provide for CFE service between Claypool and its existing connection at Warsaw, Indiana, requiring only approximately 7.8 miles of trackage rights over track capable of handling 286,000-pound railcars. That access would provide LDC with an alternative route toward Chicago interchanges and CSX at Lima, Ohio, as well as LDC's facility at Upper Sandusky, Ohio. Appropriate TPW and IORY rights should be provided to the extent necessary to make the requested competitive enhancement

effective. The requested access rights should be permanent and survive any sale, lease, assignment, transfer, change in control, or change in ownership or operation of the relevant rail lines.

LDC's request is consistent with UP's own recognition that additional railroad access can enhance competition. In July 2026, UP's CEO Jim Vena stated that UP's agreement to provide CN expanded access and operating rights "reinforces" Applicants' commitment to "preserve and enhance competitive options." That same principle supports LDC's targeted request at Claypool.

This is a narrow, practical condition tailored to a concrete merger-related concern. It would not eliminate the broader risks presented by the Transaction, but it would provide meaningful new competition at an otherwise captive facility and directly address LDC's concerns regarding service, rates, routing, and competition at Claypool.

LDC also recognizes the practical reality that a captive shipper seeking competitive relief may face adverse consequences from a railroad on which it must continue to depend for service. That concern is heightened where, as at Claypool, there is no competitive alternative. LDC continues discussions with UP and NS and remains open to a negotiated resolution. Based on the Transaction and protections presently before the Board, however, LDC cannot support approval without appropriate measures addressing its competitive and service concerns, including meaningful competitive enhancements at Claypool.

LDC appreciates the opportunity to submit these comments and respectfully requests that, should the parties be unable to resolve LDC's concerns, the Board condition any approval of the Transaction on the relief requested above.

Sincerely,



Gordon Russell
Executive Vice President
Louis Dreyfus Company LLC

**CERTIFICATE OF SERVICE**

I hereby certify that on this 18th day of November, 2026, I caused copies of the foregoing to be served by email or by first-class mail, postage prepaid, upon all parties of record in this proceeding and upon the other individuals that the Board has identified for service.

*/s/ Peter A. Pfohl*