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By E-Filing

October 14, 2026

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ENTERED
Office of Chief Counsel
October 14, 2026
Part of
Public Record

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

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 16, 2026, discovery conference, as well as a list of known attendees for each party.

I. Issues to be Resolved

A. Union Pacific's Request for Subpoenas for Berkshire Hathaway, Gregory Abel, and Warren Buffett (UP-115)

On October 8, 2026, Union Pacific requested that Your Honor issue subpoenas to Berkshire Hathaway to produce documents relevant to the competitive and downstream effects of the proposed merger, and to require Gregory Abel and Warren Buffett to provide deposition testimony. UP-115. Berkshire Hathaway is the parent company of BNSF, and Mr. Abel and Mr. Buffett are the CEO and former chairman, respectively, of Berkshire Hathaway. On October 13, 2026, Berkshire Hathaway filed its response, opposing the request for subpoenas. BNSF also filed a letter supporting Berkshire Hathaway's opposition to the request. BNSF-63. Because Berkshire Hathaway, Mr. Abel, and Mr. Buffett possess relevant information, Union Pacific respectfully requests that Your Honor issue subpoenas compelling the production of documents and deposition testimony.

B. CPKC's Filing of Subpoenas (CPKC-59)

On October 8, 2026, CPKC filed proposed subpoenas for the depositions of John Orr and Lance Fritz. CPKC-59. On October 13, 2026, CPKC filed an amended proposed subpoena for Lance Fritz. CPKC-60. Applicants do not oppose CPKC's request as modified by their most recent filing.

C. Motion to Recall Katherine Novak for Additional Deposition Testimony (IAIS-4/FSC-2/METRA-2)

On October 8, 2026, Iowa Interstate Railroad, Foresight Energy, and Metra moved to recall Union Pacific witness Katherine Novak to provide additional deposition testimony. IAIS-4/FSC-2/METRA-2. On October 13, 2026, Union Pacific responded in opposition to the motion because Ms. Novak has already provided 7 hours of deposition testimony in accordance with the Discovery Guidelines, and the motion provides no sufficient reason to require Ms. Novak to sit for additional time. UP-117. On October 14, 2026, CN filed a letter in response to the motion to recall, seeking declaratory relief regarding the allocation of time to examine witnesses. CN-33. Union Pacific respectfully requests that Your Honor deny the motion to recall.

D. Motion to Redesignate Video of Union Pacific CEO at SWARS Conference (CPKC-58)

On October 6, 2026, CPKC moved to redesignate Union Pacific's proprietary recording of a speech by Union Pacific CEO at the Southwest Association of Rail Shippers conference from Confidential to Public. CPKC-58. On October 9, 2026, the Alliance for Chemical Distribution, American Chemistry Council, American Fuel & Petrochemical Manufacturers, The National Industrial Transportation League, and the Fertilizer Institute filed a letter in support of CPKC's motion. ACC-8/ACD-8/AFPM-8/NITL-5/TFI-8. On October 13, 2026, Union Pacific responded in opposition to CPKC's motion. UP-116. Union Pacific's opposition explains why Union Pacific's proprietary recording is properly designated as Confidential, as well as why the designation imposes no meaningful burden on any party's ability to use the video in this proceeding and there is no legitimate need to disseminate the recording beyond the parties to this case. UP-116. Union Pacific respectfully requests that Your Honor deny the request to redesignate.

II. List of Attendees

A. Union Pacific

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

B. Norfolk Southern

1. Carrie Mahan
2. Matthew J. Warren
3. William Mullins

4. Marc Korman
5. Spencer Naake
6. Stephen S. Laudone

C. BNSF

1. Daniel Donovan
2. McClain Thompson
3. T.J. McCarrick
4. Tim Strafford

D. CPKC

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

E. CSX

1. Eric Enson
2. John Scheib
3. Luke van Houwelingen
4. Eric Fanchiang

F. IAIS, Foresight and Metra

1. Kelvin J. Dowd
2. Frank J. Pergolizzi

G. Berkshire Hathaway

1. David Elsberg
2. Nic Martin

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 14th day of October, 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/ Molly Brown