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By E-Filing

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, S.W.
Washington, DC 20423

ENTERED
Office of Proceedings
June 14, 2023
Part of
Public Record

June 14, 2023

**Re: STB Docket No. EP 772, Oversight Pertaining to Union
Pacific Railroad Company's Embargoes**

Dear Ms. Brown:

In accordance with the Board's order in the referenced matter served on May 15, 2023, Union Pacific will be submitting the documents and information described in Appendix 1 of the order today. Union Pacific will submit the materials using a file transfer protocol (FTP) process. More specifically, Union Pacific will email a link to an FTP server containing the documents and information and, separately, password information, to two individuals in the Board's Office of Proceedings who have been identified by the Board's Office of Public Assistance, Government Affairs, and Compliance. Using the link and the password, those individuals will be able to download the material from the FTP server.

The material on the FTP server has been placed within a folder that itself contains nine sub-folders. In addition to the sub-folders, the top level folder contains: (i) a copy of this letter; (ii) an index describing the documents being produced; and (iii) a privilege log.

Under the circumstances here, Union Pacific is not asking the Board to treat any of the material specifically described in items (i) through (iii) above as confidential.

The nine subfolders correspond to the nine requests in Appendix 1 to the Board's order served May 15, 2023. Material responsive to each of the numbered requests has been placed into the corresponding subfolder. In a few instances, the subfolders also contain additional information about the nature of the material that is being produced.

Material designated as "Confidential Commercial Information," "Highly Confidential," "Confidential" or "Public" under the Protective Order entered in this proceeding is identified on the index. Also, documents in folders have been individually labeled to identify the appropriate level of confidentiality. For documents produced only in a computer-readable format, the document name itself identifies the appropriate level of confidentiality.

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Most documents Union Pacific is producing in response to the numbered requests are being produced in at least two versions—a confidential version and a public version. However, Union Pacific believes that internal emails responsive to Request No. 5 qualify under Exemption 4 of FOIA and has designated them, in their entirety, as “Confidential Commercial Information.” Union Pacific would have applied the same treatment to internal emails responsive to Request No. 7, but Union Pacific has not identified any non-privileged documents responsive to Request No. 7. Union Pacific is willing to discuss its treatment of email with designated representatives of the Board, but Union Pacific reserves its right to redact non-responsive information from any documents in the event it subsequently produces portions of those emails without the protections of Exemption 4 of FOIA.

Additionally, if the Board’s staff or the Board itself has other questions about Union Pacific’s production or the production process, including its search for responsive documents and information, confidentiality designations, and information provided in the privilege log, please contact me so we can make arrangements to address those questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael L. Rosenthal".

Michael L. Rosenthal
*Counsel for Union Pacific
Railroad Company*

cc: Craig V. Richardson, Esq.