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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:

We write on behalf of non-party Berkshire Hathaway Inc. ("Berkshire") in response to Union Pacific Corporation and Union Pacific Railroad Company's (together, "UP") letter dated October 8, 2026, requesting that Your Honor approve subpoenas against Berkshire, its Chief Executive Officer, Greg Abel, and its 96-year-old retired Chairman, Warren Buffett (the "Letter").

UP improperly pursues burdensome non-party discovery—two apex executive depositions, fifteen overbroad document requests, and two written discovery demands—to seek information that is either flatly irrelevant or already available (and already requested) from a party.

The Letter incorrectly assumes Berkshire must have information that would assist the Board in answering whether BNSF intends to pursue a future railroad merger. But discovery is unnecessary on that point because the answer is already in the public record: in response to news of the Proposed Transaction, Berkshire publicly stated, including in an SEC filing, that it "is not interested" in acquiring another railroad. In any event, discovery on this issue is irrelevant. UP must satisfy the Board that the public interest is safeguarded ***assuming*** that additional mergers ***are*** proposed—it must help the Board "develop a consistent set of principles for analyzing ***all*** of the applications that ***could*** be brought to [the Board] in such a final round of mergers." *Major Rail Consol. Procs.*, 5 S.T.B. 539, 582 (2001). It is not relevant for UP to seek non-party Berkshire's speculation on whether BNSF might in fact merge with another railroad in the future, because UP is required to show that its Proposed Transaction is in the public interest ***assuming*** that the Proposed Transaction ***does*** lead to further major railroad merger proposals.

The Letter also incorrectly assumes that Berkshire must have information that would materially assist the Board simply because one of the many companies Berkshire owns is BNSF. That assumption disregards a defining and uncommon feature of Berkshire's corporate structure. Berkshire has stated, for decades, that one of its core tenets is that its operating businesses are "managed on an unusually decentralized basis." Berkshire Hathaway Inc., 2025 Annual Report, at K-1 (Feb. 28, 2026). That tenet was reaffirmed by Mr. Abel, Berkshire's CEO, in his first Annual Letter to Shareholders earlier this year: "We operate a decentralized model with autonomy grounded in deserved trust. We minimize bureaucracy to provide our managers the independence to focus relentlessly on their business." *Id*. at 4.

Berkshire is ***not a railroad company***. It is a holding company with more than ***60 distinct operating businesses*** in diverse industries including insurance and reinsurance, electric utilities and natural gas pipelines, manufacturing, services, and retailing. Its manufacturing businesses alone span industrial, building, and consumer products from aerospace components and chemicals to manufactured homes, batteries, and apparel.[1] Berkshire's corporate office in Omaha, Nebraska, does not direct the day-to-day management of businesses of that number and variety. Instead, Mr. Abel, as Berkshire's CEO, focuses on risk, capital allocation, and the performance of its operating businesses' CEOs. The corporate office of fewer than 30 employees mostly focuses on complying with Berkshire's consolidated financial and tax reporting obligations.

BNSF, headquartered in Fort Worth, Texas, represents only about 7% of Berkshire's shareholders' equity. BNSF has its own Board of Directors (which does not include Mr. Abel, Mr. Buffett, or any Berkshire corporate office employee), its own CEO, its own management team, and roughly 35,000 of its own employees. Those are the individuals who live and breathe BNSF's business and whose mission is to ensure that BNSF serves its customers well in a competitive industry with evolving market dynamics. And UP has already served extensive party discovery on BNSF (30 document requests, along with deposition notices for seven BNSF executives, including its CEO, CFO, CMO, and COO).

When UP served Berkshire, it did little more than copy and paste the discovery requests it had served on BNSF three months earlier, swapping in "Berkshire" for "BNSF." As Appendix 1 shows, 15 of UP's 17 discovery requests served on Berkshire are substantially the same as its requests to BNSF, and five are word-for-word identical. The "cause[s] or reason[s]" stated by UP in its deposition notices to Mr. Abel and Mr. Buffett likewise parrot the topics which UP had already noticed to BNSF executives. *See* Appendix 2.

UP's failure to even attempt to tailor its requests to a reasonable scope is further illustrated by its demand to depose both Berkshire's current CEO and its ***former*** CEO, ***96-year-old*** Mr. Buffett, on "Berkshire's long-term vision for BNSF"—a vague topic encompassing matters that have nothing to do with UP's merger application. Letter at 4. This is precisely the type of burden and harassment that the apex doctrine is designed to prevent. Courts routinely recognize that "depositions of high-level officers severely burden[ ] those officers and the entities they represent, and that adversaries might use this severe burden to their unfair advantage." *Harapeti v. CBS Television Stations Inc.*, 2021 WL 8316391, at *2 (D.N.J. Dec. 1, 2021), *report and recommendation adopted*, 2021 WL 8316385 (D.N.J. Dec. 17, 2021). Accordingly, "unless the executive has unique evidence, personal knowledge of the claims at issue, and other witnesses are incapable of providing testimony about the conduct alleged, executives are safeguarded from depositions." *Harapeti v. CBS Television Stations Inc.*, 2021 WL 3932424, at *2 (S.D.N.Y. Sept. 2, 2021) (cleaned up). Whether applied directly or under the *Coal Dust* balancing test (*see infra* at 3), the apex principle applies with full force here. If Mr. Abel and Mr. Buffett could be readily dragged into depositions in connection with the myriad legal issues that may arise involving any of Berkshire's numerous operating businesses, they would have time for nothing else.

UP's request for the non-party subpoenas should be entirely rejected. In the event any

[1] Just one of Berkshire's operating businesses, Marmon Holdings, Inc., itself owns more than 120 autonomous manufacturing and service businesses.

discovery is compelled (none should be), the scope should be narrow and tailored to avoid unnecessary burden and harassment.

I. THE DEPOSITION SUBPOENA REQUESTS SHOULD BE DENIED

Issuing the deposition subpoenas would (1) impose unwarranted burdens on Berkshire, Mr. Abel, and Mr. Buffett and (2) not lead to the discovery of any "information [that] might be able to affect the outcome" of these proceedings and that UP cannot already get from a party or the public domain. *BNSF Ry. Co. Coal Dust Mitigation Tariff Provisions*, FD 35557, slip op. at 3 (STB served June 25, 2012) ("Coal Dust"); *see also Appl. of the Nat'l R.R. Passenger Corp. Under 49 U.S.C. 24308(a)—Springfield Terminal Ry. Co., Bos. & Me. Corp., and Portland Terminal Co.*, FD 33381, slip op. at 2–4 (STB served May 6, 1997) ("Amtrak") (denying subpoena request because information was "available in the public domain or from [a party]").

While the burden of non-party discovery is always given substantial weight, *Coal Dust*, slip op. at 4,[2] UP here aims to impose the maximum level of burden and harassment by deposing Berkshire's current and former highest-ranking executives. UP comes nowhere close to showing that either Mr. Abel or Mr. Buffett has ***relevant***, ***unique*** knowledge that ***cannot otherwise be obtained***. To the contrary, the information UP seeks from Berkshire is irrelevant and available from parties, including BNSF's executive witnesses. *See* Appendix 2.

First, UP says it wants to depose Mr. Abel and Mr. Buffett on whether and how Berkshire might cause BNSF to merge, or enter another form of strategic transaction, with another railroad. *See* Letter at 4 (seeking testimony on "the strategic direction of Berkshire's rail holdings" and "any contingency planning … in response to the Proposed Transaction," and to "test" Mr. Buffett's statement that Berkshire "is not in the market to buy a train company right now"). Information on that topic is not uniquely within Mr. Abel's or Mr. Buffett's mind. Rather, it is "***in the public domain***," and therefore not subject to non-party discovery. *Amtrak*, slip op. at 3. Berkshire's public statements, including in an SEC filing, squarely address the point: "Berkshire has been clear that it is not interested in acquiring one of the other Class I railroads, since the current economics would not work in our shareholders' favor." 2025 Annual Report, at 12. Indeed, ***UP itself*** has taken the position before the Board—based on Berkshire's and BNSF's statements—that BNSF has no interest in a major merger. Applicants' Response Regarding Their Prima Facie Case, UP-94, at 36 (filed Aug. 26, 2026). Notably, Berkshire made these statements ***after*** the August 3, 2025 meeting with CSX, during which UP assumes a merger or "cooperative arrangement[]" must have been discussed. *See* Letter at 3.

Even if Berkshire had not already stated, in response to the Proposed Transaction, that it did not intend to buy another railroad, the discovery UP seeks would still be irrelevant. When it comes to "downstream effects," UP's job is to grapple with the range of industry changes (including consolidation) that ***could*** result from approval of its Proposed Transaction, and to show the Board that those ***hypothetical*** consequences are consistent with the public interest. UP must present reasoned analysis and evidence—to which rival carriers may respond—explaining why the

[2] Berkshire's interest in these proceedings is purely "derivative" of BNSF's direct interest, so a "strong foundation" for relevance is required. *Coal Dust*, slip op. at 4–5. But regardless of how one characterizes Berkshire's non-party status, the balance tilts decisively against discovery.

public interest is safe ***even if*** the Proposed Transaction leads to "***a final round of mergers***," resulting in "only two or three competing transcontinental carriers." *Major Rail Consol. Procs.*, 5 S.T.B. 539, 582 (2001). The relevant question is not whether the Proposed Transaction will in fact lead to further major railroad mergers. It is whether the Proposed Transaction is in the public interest ***assuming that it does***. In answering that question, the Board is not aided by speculation from Berkshire executives about hypothetical transactions in unknowable future circumstances.

Second, UP says it wants to depose Mr. Abel on "communications between Berkshire leadership and BNSF management concerning the Proposed Transaction." Letter at 4. UP does not say why this is relevant, but in any event, any non-privileged, relevant communications between Berkshire and BNSF are discoverable through BNSF (a party).

Third, UP seeks information from Mr. Abel on "Berkshire's assessment of the competitive effects of the Proposed Transaction on [BNSF]." *Id*. But BNSF—the railroad operator—is best positioned to assess the Proposed Transaction's impact on BNSF, and any such assessment would necessarily depend on BNSF's own information. Indeed, UP noticed BNSF's CEO, Katie Farmer, to testify on "the competitive and operational impact of the Proposed Transaction on BNSF's railroad." Ex. D at 2.

Fourth, UP's interest in Mr. Abel's or Mr. Buffett's general "knowledge of the railroad industry's competitive dynamics and the impact of further consolidation" (Ex. A at 3; Ex. B at 5) is no justification for a non-party apex deposition. There are countless industry experts UP can call upon without imposing on a current CEO and a 96-year-old former CEO. Further, UP has already served deposition notices on many party executives with industry expertise. *See, e.g.*, Ex. D at 4 (Farmer notice).

If Your Honor does not reject the deposition requests outright (they should be rejected), then Your Honor should postpone the determination as to whether to compel any testimony until after UP has taken its party depositions, which may further obviate any need for the apex depositions UP seeks. *Lake Providence Port Commission—Feeder Line Appl.—Line of Delta S. R.R. Located in E. Carroll & Madison Pars., La.*, FD 36447, slip op. at 4 (ALJ served Jan. 16, 2026). If at that juncture Your Honor believes testimony is necessary, then it should be procured through less burdensome means. 49 C.F.R. § 1114.21(c)(4) (discovery may be ordered "by a method other than that selected by the party seeking discovery"). Less burdensome alternatives include: (1) written testimony from a Berkshire-designated corporate representative; or (2) at most, a brief deposition in Omaha of a Berkshire-selected non-apex designee on any narrow topics that Your Honor might find uniquely relevant. Finally, in all events, Mr. Buffett—a 96-year-old man who is no longer the CEO or Chairman—certainly should not be dragged into this proceeding.

II. THE DOCUMENT SUBPOENA REQUESTS SHOULD BE DENIED

UP's arguments for document subpoenas (and two interrogatory-style requests) are the same as its deposition-subpoena arguments and fail for the same reasons, and because UP's requests to Berkshire are almost identical to those it served on BNSF. *See* Appendix 1.

UP wants documents on Berkshire/BNSF's "consideration of mergers, acquisitions, consolidation, or other transactions with other railroads," Letter at 2–3; the "basis for" Mr. Buffett's prior statement that Berkshire is "not in the market" for another Class I carrier, *id*. at 3;

and "Berkshire's long-term investment strategy for BNSF," *id*.; *see also* Ex. C, Request Nos. 1–4, 8, 13, 17. These matters are not legally relevant, *supra* at 3–4, and Berkshire's position and rationale ("the current economics would not work in our shareholders' favor") are publicly known, *supra* at 3. UP also wants documents on "Berkshire's communications with third parties," specifically BNSF and CSX. Letter at 3; *see also* Ex. C, Request No. 16. Those documents are discoverable from BNSF and CSX—parties to the proceedings. *Supra* at 4.[3]

While UP's letter does not address the full breadth of its proposed requests, which are reproduced at Ex. C, none justifies non-party discovery against Berkshire:

- BNSF's pricing, revenues, operations, and industry position (Req. Nos. 9, 10, 14–15). Such documents are irrelevant and, by definition, would reside with BNSF.

- Any opposition to the Proposed Transaction by Berkshire or communications about the Proposed Transaction with third parties (Req. Nos. 5–7, 12). These vague requests are not relevant. In any event, it is BNSF—not Berkshire—that has filed an opposition and will provide any discoverable information related to it.

- Berkshire's general assessment of "public benefits" and "impacts" of the Proposed Transaction (Req. No. 11). Any such assessment would depend on information from BNSF and be no more valuable than "anybody else's opinions." *Amtrak*, slip op. at 3.

If Your Honor were to conclude that Berkshire must produce some documents, UP's requests should not be approved as drafted. The categories sought are overbroad and so are the general definitions and instructions. For example, "You" includes Berkshire's "present and former directors, officers, employees, agents, … parents, subsidiaries, [and] affiliates," sweeping in ***BNSF itself*** and every other Berkshire business. Ex. C at 3. Berkshire should be given an opportunity to serve responses and objections and then negotiate on scope before any subpoena issues. *Lake Providence*, slip op. at 3–4 (stating that the parties should "confer … in an attempt to resolve any disputed issues," before subpoena issues); *accord Coal Dust*, slip op. at 6–7 (deferring subpoenas "to permit the resolution of these issues by agreement").

III. CONCLUSION

Your Honor should deny the subpoena requests entirely. If any discovery from Berkshire is warranted, it should be limited to the least burdensome means necessary to obtain the categories of information Your Honor finds relevant and unobtainable from a party.

Respectfully submitted,

/s/ David Elsberg
David Elsberg

cc: All counsel of record.

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[3] UP misplaces reliance on the Board's ruling in Decision No. 13, Letter at 3, which says ***nothing*** about the relevance of non-Applicant or non-party documents, but rather, directed "***Applicants*** [to] submit the 'ordinary course' documents that DOJ and FTC request from parties as a matter of course when reviewing proposed mergers under the HSR Act." Decision No. 13 at 5.

APPENDIX 1

STB Finance Docket No. 36873

Comparison of Union Pacific's First Set of Discovery Requests to Berkshire Hathaway Inc. (Sept. 14, 2026) with Applicants' First and Second Sets of Discovery Requests to BNSF Railway Company (May 29 and June 1, 2026)

The right column shows each request to Berkshire Hathaway (*see* Ex. C) as a redline against the corresponding request to BNSF (*see* Ex. E). ~~Deleted text~~ appears in red strikethrough. Added text appears in blue underline. Unmarked text is identical in both requests.

Applicants' Discovery Requests to BNSF Railway Company	**Union Pacific's Discovery Requests to Berkshire Hathaway Inc.** *(redlined against the corresponding request to BNSF)*
First Set No. 1 Describe all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.	**No. 1** Describe all railroad mergers, acquisitions, or other control transactions involving ~~You~~BNSF and any other Class I railroad that You are considering or have considered within the last ~~12~~18 months, whether in response to the Proposed Transaction or otherwise.
First Set No. 2 Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.	**No. 2** Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving ~~You~~BNSF and any other Class I railroad that You are considering or have considered within the last ~~12~~18 months, whether in response to the Proposed Transaction or otherwise.
First Set No. 3 Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, including but not limited to any mergers You have considered executing with any other Class I railroads.	**No. 3** Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, including but not limited to any mergers You have considered executing ~~with~~between BNSF and any other Class I railroads.
First Set No. 4 Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented, or are considering or are implementing, as a result of the Proposed Transaction.	**No. 4** Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented on behalf of BNSF, or are considering or are implementing on behalf of BNSF, as a result of the Proposed Transaction.

Applicants' Discovery Requests to BNSF Railway Company	Union Pacific's Discovery Requests to Berkshire Hathaway Inc. *(redlined against the corresponding request to BNSF)*
Second Set No. 6 Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.	**No. 5** Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.
Second Set No. 7 Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.	**No. 6** Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.
Second Set No. 8 Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.	**No. 7** Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.

Applicants' Discovery Requests to BNSF Railway Company	Union Pacific's Discovery Requests to Berkshire Hathaway Inc. *(redlined against the corresponding request to BNSF)*
Second Set No. 10 Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, "mergers") involving BNSF, CSX, NS or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered executing with BNSF, CSX, NS, or UP.	**No. 8** Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, "mergers") involving BNSF, CSX, NS, or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered ~~executing with~~involving BNSF, CSX, NS, or UP.
Second Set No. 11 Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, Your position in the railroad industry, UP's or NS's position in the railroad industry, Your growth or strategies for growth, and UP's or NS's growth or strategies for growth.	**No. 9** Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, ~~Your~~BNSF's position in the railroad industry, and UP's or NS's position in the railroad industry~~, Your growth or strategies for growth, and UP's or NS's growth or strategies for growth~~.
Second Set No. 12 Produce all Documents and Communications relating to the Proposed Transaction's potential impacts on Your, the Applicants', or any other rail carrier's rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.	**No. 10** Produce all Documents and Communications relating to the Proposed Transaction's potential impacts on ~~Your~~BNSF's, the Applicants', or any other rail carrier's rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.
Second Set No. 14 Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.	**No. 11** Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.

Applicants' Discovery Requests to BNSF Railway Company	**Union Pacific's Discovery Requests to Berkshire Hathaway Inc.** *(redlined against the corresponding request to BNSF)*
Second Set No. 15 Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.	**No. 12** Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.
Second Set No. 16 Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between You and any other Class I railroad, regardless of whether such arrangements were implemented.	**No. 13** Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between ~~You~~BNSF and any other Class I railroad, regardless of whether such arrangements were implemented.
Second Set No. 25 Produce all Documents and Communications relating to Your policies or strategies for the pricing of Your rail transportation services, including without limitation the level of returns that You require when pricing rail traffic.	**No. 14** Produce all Documents and Communications relating to Your policies or strategies for the pricing of ~~Your~~BNSF's rail transportation services, including without limitation ~~the~~any pricing targets, goals, or level of returns that You ~~require when pricing rail traffic~~provide, recommend, or otherwise communicate to BNSF.
Second Set No. 29 Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from rail customers (whether by growing traffic, increasing prices, or otherwise).	**No. 15** Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from BNSF's rail customers (whether by growing traffic, increasing prices, or otherwise).
No corresponding request.	**No. 16** Produce all Documents and Communications relating to the August 3, 2026 meeting in Omaha, Nebraska between Berkshire executives Warren Buffett and Greg Abel and CSX CEO Joseph Hinrichs.

Applicants' Discovery Requests to BNSF Railway Company	Union Pacific's Discovery Requests to Berkshire Hathaway Inc. *(redlined against the corresponding request to BNSF)*
No directly corresponding request.	**No. 17** Produce all Documents and Communications that concern, discuss, or support any aspect of Your claims in the following publications: a) "Buffett to CNBC: We won't be acquiring CSX, or any other railroad," available at https://link.cnbc.com/public/41356995; b) "Alongside BNSF's own improvements, there is also potential consolidation in the rail industry with the proposed Union Pacific–Norfolk Southern merger. Berkshire has been clear that it is not interested in acquiring one of the other Class I railroads, since the current economics would not work in our shareholders' favor. BNSF's focus on the proposed merger has been to ensure BNSF can continue to offer customers a compelling value proposition, including full and competitive access to Eastern rail markets." Greg Abel, 2025 Letter to Shareholders, available at https://www.berkshirehathaway.com/letters/2025ltr.pdf.

APPENDIX 2

STB Finance Docket No. 36873

Comparison of Union Pacific's Deposition Notices to Berkshire Hathaway Inc. (Sept. 14, 2026)
with Applicants' Deposition Notices to BNSF Railway Co. (Sept. 11, 2026)

On September 11, 2026, Applicants served notices of deposition on seven BNSF Railway Co. executives: CEO, Katie Farmer (Ex. D); Group Vice President, Agriculture & Energy Products, Angela Caddell (Ex. F); Executive Vice President and Chief Operations Officer, Craig Morehouse (Ex. G); Group Vice President, Consumer Products, Jon Gabriel (Ex. H); Group Vice President, Industrial Products, Katie Hower (Ex. I); Executive Vice President and Chief Financial Officer, Paul Bischler (Ex. J); and Executive Vice President and Chief Marketing Officer, Tom Williams (Ex. K). On September 14, 2026, Union Pacific served notices of deposition on Gregory Abel (Ex. A) and Warren Buffett (Ex. B) of Berkshire Hathaway Inc. This Appendix compares the two sets of notices.

Buffett/Abel Topic	BNSF Employees Noticed on Same or Similar Subject	Quotes from BNSF Notices
1. "Berkshire Hathaway's response to the proposed merger." Buffett Notice at 5; Abel Notice at 3.	Farmer, Caddell, Morehouse, Gabriel, Hower, Bischler, Williams	**Farmer, Caddell, Morehouse, Bischler, Williams:** "BNSF's response to the proposed merger." Farmer Notice at 4; Caddell Notice at 3; Morehouse Notice at 3; Bischler Notice at 3; Williams Notice at 4. **Gabriel:** "BNSF's response to the proposed merger as it relates to intermodal and consumer products traffic." Gabriel Notice at 4. **Hower:** "BNSF's commercial response to the proposed merger as it relates to industrial products traffic." Hower Notice at 4.
2. "[Mr. Abel/Mr. Buffett]'s knowledge of the railroad industry's competitive dynamics and the impact of further consolidation." Buffett Notice at 5; Abel Notice at 3.	Farmer, Gabriel, Morehouse, Hower, Bischler, Williams	**Farmer:** "Ms. Farmer's knowledge of BNSF's . . . competitive position." Farmer Notice at 4. **Gabriel:** "Mr. Gabriel's knowledge of BNSF's intermodal operations and competitive position." Gabriel Notice at 4. **Morehouse:** "Mr. Morehouse's knowledge of BNSF's assessment of the merger's competitive effects on rail operations and service." Morehouse Notice at 3. "[T]he factual basis for BNSF's claims regarding competitive harms." Morehouse Notice at 3. **Hower:** "Ms. Hower's involvement in BNSF's evaluation of the merger's competitive effects on the industrial segments she oversees." Hower Notice at 5. **Bischler:** "Mr. Bischler's involvement in evaluating the public benefits of the proposed transaction." Bischler Notice at 3. **Williams:** "Mr. Williams' knowledge of BNSF's assessment of the merger's competitive effects on BNSF's markets and customer base." Williams Notice at 4.

Buffett/Abel Topic	BNSF Employees Noticed on Same or Similar Subject	Quotes from BNSF Notices
3. "Berkshire Hathaway's consideration of alternative mergers or strategic transactions involving BNSF." Buffett Notice at 5; Abel Notice at 3.	Farmer, Caddell, Morehouse, Gabriel, Hower, Williams	**Farmer:** "BNSF's consideration of alternative mergers or strategic transactions." Farmer Notice at 4. **Caddell, Williams:** "potential alternatives for achieving benefits short of a merger." Caddell Notice at 4; Williams Notice at 4. **Morehouse:** "alternatives for achieving benefits short of a merger." Morehouse Notice at 3. **Gabriel:** "interline arrangements as alternatives to mergers." Gabriel Notice at 4. **Hower:** "potential alternatives short of a merger." Hower Notice at 4.
4. "Berkshire Hathaway's assessment of competitive conditions in the rail industry." Buffett Notice at 5; Abel Notice at 3–4.	Farmer, Morehouse, Gabriel, Hower, Bischler, Williams	**Farmer:** "Ms. Farmer's knowledge of BNSF's . . . competitive position." Farmer Notice at 4. **Morehouse:** "Mr. Morehouse's knowledge of BNSF's assessment of the merger's competitive effects on rail operations and service." Morehouse Notice at 3. **Gabriel:** "Mr. Gabriel's knowledge of BNSF's intermodal operations and competitive position." Gabriel Notice at 4. **Hower:** "BNSF's assessment of the merger's impact on industrial shippers." Hower Notice at 4. **Bischler:** "BNSF's assessment of the merger's competitive impact." Bischler Notice at 3. **Williams:** "BNSF's alleged concerns regarding Union Pacific's pricing strategies and market power." Williams Notice at 4.
5. "[Deponent]'s involvement in discussions and other communications concerning the proposed merger and its anticipated impact on BNSF and rail competition." Buffett Notice at 5; Abel Notice at 4.	Farmer, Bischler, Williams, Caddell, Hower	**Farmer:** "Ms. Farmer's involvement in discussions and other communications concerning the proposed merger and its anticipated impact on BNSF." Farmer Notice at 4. **Bischler:** "Mr. Bischler's role in discussions and other communications concerning BNSF's proposed competitive conditions and responsive applications." Bischler Notice at 3. **Williams:** "BNSF's communications with customers and industry stakeholders regarding the merger." Williams Notice at 4. **Caddell:** "BNSF's communications with agricultural customers and industry groups regarding the merger." Caddell Notice at 4. **Hower:** "Ms. Hower's involvement in BNSF's evaluation of the merger's competitive effects on the industrial segments she oversees." Hower Notice at 5.

EXHIBIT A

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

UNION PACIFIC'S NOTICE OF DEPOSITION OF GREGORY ABEL

Counsel for Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific"), pursuant to 49 C.F.R. § 1114.22, will take the deposition of **GREGORY ABEL**, Chief Executive Officer, Berkshire Hathaway Inc., 3555 Farnam Street, Omaha, NE 68131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Mr. Abel is the current Chief Executive Officer of Berkshire Hathaway Inc. and has served in that role since January 1, 2026, having previously served as Vice Chairman overseeing Berkshire Hathaway's non-insurance operations. Berkshire Hathaway is the sole owner of BNSF Railway Company, having acquired the railroad in 2010. In his role as CEO, Mr. Abel exercises direct oversight of Berkshire Hathaway's major subsidiaries, including BNSF, and has publicly spoken about BNSF's competitive position and the proposed Union Pacific–Norfolk Southern

merger. Mr. Abel has knowledge of Berkshire Hathaway's assessment of and response to the proposed Union Pacific–Norfolk Southern merger. He thus possesses information relevant to this proceeding.

Indeed, Mr. Abel has made public statements demonstrating his direct knowledge of Berkshire Hathaway's analysis of the proposed merger and rail competition. In his first annual letter to Berkshire Hathaway shareholders, Mr. Abel stated that "[a]longside BNSF's own improvements, there is also potential consolidation in the rail industry with the proposed Union Pacific–Norfolk Southern merger" and that "Berkshire has been clear that it is not interested in acquiring one of the other Class I railroads, since the current economics would not work in our shareholders' favor."[1] He further stated that "BNSF's focus on the proposed merger has been to ensure BNSF can continue to offer customers a compelling value proposition, including full and competitive access to Eastern rail markets."[2] On August 3, 2025, Mr. Abel and Berkshire Hathaway Chairman Warren Buffett met with CSX CEO Joseph Hinrichs to discuss increased cooperation between the two railroads that could achieve some of the same benefits that would come from a merger.[3]

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[1] Gregory E. Abel, Berkshire Hathaway Inc., CEO's Letter to Shareholders at 12 (Feb. 28, 2026), https://www.berkshirehathaway.com/letters/2025ltr.pdf.

[2] *Id.*

[3] Spencer Kimball, *Warren Buffett Just Told CNBC His Plan for Trains. The Stocks are Moving,* CNBC (Aug. 26, 2025), https://www.cnbc.com/2025/08/25/warren-buffett-is-not-in-market-to-buy-another-railroad-but-he-met-with-csx-ceo-about-greater-cooperation.html.

Mr. Abel has further spoken about BNSF's competitive standing within the railroad industry, observing in 2026 that BNSF must improve its profitability.[4] He wrote that "[t]he gap to the industry's best remains too wide" and that "closing it will require continued improvements in efficiency and service."[5] At the 2026 Berkshire Hathaway Annual Shareholder Meeting, Mr. Abel discussed BNSF's operations in detail, including an operating-margin comparison showing that "BNSF ranked fifth out of six railroads in profitability" but moved up to the fourth in the first quarter of 2026.[6]

These statements reflect Mr. Abel's direct knowledge of the analyses and competitive concerns underlying Berkshire Hathaway's opposition to the proposed transaction, as well as his knowledge of BNSF's competitive position and the potential impact of further consolidation on the railroad industry.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore Berkshire Hathaway's response to the proposed merger, Mr. Abel's knowledge of the railroad industry's competitive dynamics and the impact of further consolidation, Berkshire Hathaway's consideration of alternative mergers or strategic transactions involving BNSF, Berkshire Hathaway's assessment of

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[4] *New Berkshire CEO: BNSF Needs to Improve Its Profitability,* FreightWaves (March 2, 2026), https://www.freightwaves.com/news/new-berkshire-ceo-bnsf-needs-to-improve-its-profitability.

[5] Abel, *supra* note 2, at 12.

[6] Bill Stone, *Key Takeaways From Berkshire Hathaway's Annual Meeting,* Forbes (May 3, 2026), https://www.forbes.com/sites/bill_stone/2026/05/03/berkshire-hathaway-annual-meeting-2026-key-takeaways/.

competitive conditions in the rail industry, and Mr. Abel's involvement in discussions and other communications concerning the proposed merger and its anticipated impact on BNSF and rail competition.

For the foregoing reasons, the deposition of Mr. Abel complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

/s/ Laura Flahive Wu

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September 14, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding.

/s/ Daniel Damitio

EXHIBIT B

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

UNION PACIFIC'S NOTICE OF DEPOSITION OF WARREN BUFFETT

Counsel for Counsel for Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") pursuant to 49 C.F.R. § 1114.22, will take the deposition of **WARREN BUFFETT**, Chairman, Berkshire Hathaway Inc., 3555 Farnam Street, Omaha, NE 68131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Mr. Buffett is the current Chairman of Berkshire Hathaway Inc. and has served in that role since 1970. In addition, he served as the company's Chief Executive Officer ("CEO") through December 31, 2025.

Berkshire Hathaway is the sole owner of BNSF Railway Company, having acquired the railroad in 2010. As a result, when Union Pacific and Norfolk Southern announced their proposed merger on July 28, 2025, Mr. Buffett was both Chairman and CEO of BNSF's owner. He likewise served in both roles when BNSF formulated

and implemented its strategy of opposition to the merger even before Applicants filed their initial merger application with the Surface Transportation Board on December 19, 2025.

In his role as Chairman, Mr. Buffett exercises oversight of Berkshire Hathaway's major subsidiaries, including BNSF, and has publicly spoken about the strategic importance of BNSF to Berkshire Hathaway's business. Berkshire Hathaway's annual reports, which Mr. Buffett signed when he served as CEO, likewise discuss BNSF's financial performance and the competitive conditions it faces, including identifying Union Pacific as BNSF's "primary rail competitor in the Western region of the U.S."[1] Mr. Buffett thus possesses information relevant to this proceeding.

Indeed, Mr. Buffett has made public statements demonstrating his direct knowledge of Berkshire Hathaway's analysis of the proposed merger and rail competition. He publicly stated, after the proposed merger was announced, that Berkshire Hathaway does not have plans to acquire another railroad.[2] In addition, on August 3, 2025, Mr. Buffett and Berkshire Hathaway CEO Greg Abel met with CSX CEO Joseph Hinrichs to discuss increased cooperation between the two railroads that could achieve some of the same benefits that would come from a merger.[3] Shortly

[1] Berkshire Hathaway Inc., 2024 Annual Report K-7, K-123 (2025), https://www.berkshirehathaway.com/2024ar/2024ar.pdf.

[2] Spencer Kimball, *Warren Buffett Just Told CNBC His Plan for Trains. The Stocks are Moving,* CNBC (Aug. 26, 2025), https://www.cnbc.com/2025/08/25/warren-buffett-is-not-in-market-to-buy-another-railroad-but-he-met-with-csx-ceo-about-greater-cooperation.html.

[3] *Id.*

thereafter, BNSF and CSX announced new coast-to-coast intermodal rail services, which BNSF has presented to the industry as a competitive alternative to consolidation.[4]

Statements by BNSF Railway CEO Katie Farmer additionally make clear that the decision to not pursue a merger between BNSF Railway and another railroad rests solely with Berkshire Hathaway: Ms. Farmer has stated that "our owner has been very clear that we have no interest in acquiring another railroad."[5] BNSF Railway's "owner" is Berkshire Hathaway, of which Mr. Buffett is the Chairman. The current Berkshire Hathaway CEO, Greg Abel, echoed that position in a 2026 letter to shareholders, stating that "Berkshire has been clear that it is not interested in acquiring one of the other Class I railroads, since the current economics would not work in our shareholders' favor."[6] Ms. Farmer's attribution of BNSF's position to its owner, together with Mr. Abel's statement, confirms that the decision not to pursue a merger originated with Berkshire Hathaway's senior leadership during Mr. Buffett's tenure as CEO.

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[4] *BNSF, CSX Announce New Intermodal Services, Offering Seamless Coast-to-Coast Rail Solutions*, BNSF Ry. (Aug. 22, 2025), https://www.bnsf.com/news-media/news-releases/newsrelease.page?relId=bnsf-csx-announce-new-intermodal-services-offering-seamless-coast-to-coast-rail-solutions. *See also* BNSF Ry. Co.'s Description of Responsive Application at 4, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53] ("Of course, a merger is not required in order to convert truck containers to rail. Both UP and NS (and other railroads) have worked together for decades to offer services with minimal dwell/interchange time (when sufficient demand exists), and railroads have invested in better intermodal service capabilities.").

[5] David Lassen, *Farmer Reiterates That BNSF Has 'No Interest' in Merger*, TrainsPro (Jan. 14, 2026), https://www.trains.com/pro/freight/class-i/farmer-reiterates-that-bnsf-has-no-interest-in-merger/.

[6] Gregory E. Abel, Berkshire Hathaway Inc., CEO's Letter to Shareholders at 12 (Feb. 28, 2026), https://www.berkshirehathaway.com/letters/2025ltr.pdf.

Mr. Buffett also has a documented history of personal engagement with BNSF's competitive performance compared to its railroad peers. In his 2023 and 2024 shareholder letters, Mr. Buffett wrote that BNSF's "profit margins have slipped relative to all five" of the other major North American railroads "since our purchase" and that BNSF had "much left to accomplish."[7] Mr. Abel echoed this theme in his 2026 letter, writing that "[t]he gap to the industry's best remains too wide."[8] At Berkshire Hathaway's May 2, 2026 annual shareholders meeting, Mr. Abel similarly told shareholders that BNSF ranked "fifth out of six railroads" on operating margin but moved up to fourth in the first quarter of 2026.[9] Any assessment of BNSF's ability to compete against a combined Union Pacific–Norfolk Southern necessarily builds on these analyses, which Mr. Buffett oversaw during his tenure as CEO. The statements above reflect Mr. Buffet's knowledge of those analyses, as well as alleged competitive concerns underlying Berkshire Hathaway's opposition to the proposed transaction, along with his knowledge of the competitive dynamics of the railroad industry, interline partnerships, and the potential impact of further consolidation.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the

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[7] Warren E. Buffett, Berkshire Hathaway Inc., Chairman's Letter to Shareholders at 13 (Feb. 24, 2024), https://www.berkshirehathaway.com/letters/2023ltr.pdf; Warren E. Buffett, Berkshire Hathaway Inc., Chairman's Letter to Shareholders at 4 (Feb. 22, 2025), https://www.berkshirehathaway.com/letters/2024ltr.pdf.

[8] Abel, *supra* note 7, at 12.

[9] Bill Stone, *Key Takeaways From Berkshire Hathaway's Annual Meeting*, Forbes (May 3, 2026), https://www.forbes.com/sites/bill_stone/2026/05/03/berkshire-hathaway-annual-meeting-2026-key-takeaways/.

deposition—to explore Berkshire Hathaway's response to the proposed merger, Mr. Buffett's knowledge of the railroad industry's competitive dynamics and the impact of further consolidation, Berkshire Hathaway's consideration of alternative mergers or strategic transactions involving BNSF, Berkshire Hathaway's assessment of competitive conditions in the rail industry, and Mr. Buffett's involvement in discussions and other communications concerning the proposed merger and its anticipated impact on BNSF and rail competition.

For the foregoing reasons, the deposition of Mr. Buffett complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

/s/ Laura Flahive Wu

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September 14, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding, the Secretary of Transportation, the Attorney General of the United States, and Administrative Law Judge Jenifer Soulikias.

/s/ Daniel Damitio

EXHIBIT C

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

UNION PACIFIC'S FIRST SET OF DISCOVERY REQUESTS TO BERKSHIRE HATHAWAY INC.

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September 14, 2026

Pursuant to 49 C.F.R. §§ 1114.21-.31, Union Pacific Railroad Company and Union Pacific Corporation (collectively "Union Pacific") request that Berkshire Hathaway, Inc. ("Berkshire Hathaway") respond to and produce Documents responsive to the following discovery requests in accordance with the Surface Transportation Board's rules and the definitions and instructions set forth below.

Responses should be served as soon as possible, and in no event later than October 5, 2026, unless otherwise agreed to by the parties. Please contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously.

DEFINITIONS

1. "Applicants" means Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company.

2. "BNSF" means BNSF Railway Company.

3. "Communication" means any transmission or receipt of information by one or more persons or between two or more persons by means including but not limited to telephone conversations, letters, telegrams, teletypes, telexes, telecopies, electronic mail, text messages, instant messages, other computer linkups, written memoranda, and in-person conversations.

4. "CSXT" or "CSX" means CSX Transportation Inc.

5. "Document" has the broadest meaning permissible under 49 C.F.R. § 1114.30, including but not limited to electronically stored information and any writing, drawing, graph, chart, photograph, sound recording, image, and other data or data compilation stored in any medium from which information can be obtained.

6. "KCT" means Kansas City Terminal Railway.

7. "Norfolk Southern" or "NS" means Norfolk Southern Corporation and Norfolk Southern Railway Company.

8. "PPU" means Peoria and Pekin Union Railway Company.

9. "Produce" means to make legible, complete, and exact copies of responsive Documents and send them by expedited delivery to the undersigned counsel.

10. "Proposed Transaction" means the proposed combination of NS and UP for which NS and UP are seeking STB approval in Finance Docket No. 36873.

11. "TRRA" means Terminal Railroad Association of St. Louis.

12. "TTX" means TTX Company.

13. "Union Pacific" or "UP" means Union Pacific Corporation and Union Pacific Railroad Company.

14. "You" and "Your" refer to Berkshire Hathaway Inc. and its predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates, divisions, area offices, and regional offices, as well as all persons acting or purporting to act on its behalf.

INSTRUCTIONS

1. References to railroads, shippers, consultants, or companies (including Applicants) include affiliates, subsidiaries, predecessors, successors, officers, directors, employees, attorneys, agents, and representatives thereof.

2. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

3. If any information or Document is withheld on the ground that it is privileged or otherwise not discoverable: (a) identify the type of Document (*e.g.*, letter, memorandum, report, chart); identify the author, each addressee and each recipient; state the number of pages, title and date of the Document, and (b) state the basis for the claim that it is privileged or otherwise not discoverable.

4. To the extent materials called for herein are confidential, Union Pacific will treat them in accordance with the Protective Order entered in this proceeding in the Decision served August 5, 2025.

5. Unless otherwise specified, these requests cover the period January 1, 2019 to the present.

6. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

REQUESTS

1. Describe all railroad mergers, acquisitions, or other control transactions involving BNSF and any other Class I railroad that You are

considering or have considered within the last 18 months, whether in response to the Proposed Transaction or otherwise.

2. Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving BNSF and any other Class I railroad that You are considering or have considered within the last 18 months, whether in response to the Proposed Transaction or otherwise.

3. Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, including but not limited to any mergers You have considered executing between BNSF and any other Class I railroads.

4. Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented on behalf of BNSF, or are considering or are implementing on behalf of BNSF, as a result of the Proposed Transaction.

5. Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the

attorney general of any state, the White House, or any other federal or state government agency.

6. Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

7. Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.

8. Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, "mergers") involving BNSF, CSX, NS, or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered involving BNSF, CSX, NS, or UP.

9. Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, BNSF's position in the railroad industry, and UP's or NS's position in the railroad industry.

10. Produce all Documents and Communications relating to the Proposed Transaction's potential impacts on BNSF's, the Applicants', or any other rail carrier's rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.

11. Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.

12. Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.

13. Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between BNSF and any other Class I railroad, regardless of whether such arrangements were implemented.

14. Produce all Documents and Communications relating to Your policies or strategies for the pricing of BNSF's rail transportation services, including without limitation any pricing targets, goals, or level of returns that You provide, recommend, or otherwise communicate to BNSF.

15. Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from BNSF's rail customers (whether by growing traffic, increasing prices, or otherwise).

16. Produce all Documents and Communications relating to the August 3, 2026 meeting in Omaha, Nebraska between Berkshire executives Warren Buffett and Greg Abel and CSX CEO Joseph Hinrichs.

17. Produce all Documents and Communications that concern, discuss, or support any aspect of Your claims in the following publications:

a) "Buffett to CNBC: We won't be acquiring CSX, or any other railroad," available at https://link.cnbc.com/public/41356995;

b) "Alongside BNSF's own improvements, there is also potential consolidation in the rail industry with the proposed Union Pacific–Norfolk Southern merger. Berkshire has been clear that it is not interested in acquiring one of the other Class I railroads, since the current economics would not work in our shareholders' favor. BNSF's focus on the proposed merger has been to ensure BNSF can continue to offer customers a compelling value proposition, including full and competitive access to Eastern rail markets." Greg Abel, 2025 Letter to Shareholders, available at https://www.berkshirehathaway.com/letters/2025ltr.pdf.

Respectfully submitted,

/s/ Laura Flahive Wu

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September 14, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of September, 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/ Daniel Damitio

EXHIBIT D

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF KATIE FARMER

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **KATIE FARMER**, President and Chief Executive Officer, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Ms. Farmer is the current President and Chief Executive Officer of BNSF Railway Company and previously served as BNSF's Chief Operating Officer. In these roles, Ms. Farmer has had direct oversight of the operations of BNSF's railroad network, including how the railroad is managed and run on a day-to-day basis. Ms. Farmer has knowledge of BNSF's assessment of and response to the proposed Union

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

Pacific–Norfolk Southern merger, BNSF's consideration of alternative merger transactions or strategic combinations, internal discussions regarding the competitive and operational impact of the Proposed Transaction on BNSF's railroad, BNSF's development of competitive conditions and responsive applications, including proposed trackage rights and access arrangements to mitigate competitive harm,[2] and BNSF's evaluation of the public benefits and alleged harms of the proposed merger.[3] She thus possesses information relevant to this proceeding.

Indeed, Ms. Farmer has made public statements demonstrating her direct knowledge of BNSF's analysis of the proposed merger and the merger's alleged competitive and pricing implications for BNSF. She has publicly stated that "[t]he transaction poses a significant threat to the U.S. economy and the American consumer through its long-term competitive harms" and "would leave shippers with fewer options—driving higher rates and ultimately higher prices for consumers."[4] She has further warned that the Proposed Transaction represents "a consolidation of almost 50% of all the rail volume . . . to one road"[5] and that Applicants' proposal does "nothing meaningful to mitigate the massive anticompetitive impact of 50% market

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[2] *See* BNSF Ry. Co.'s Description of Responsive Application at 7–10, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53].

[3] *Id.* at 3–6.

[4] Press Release, BNSF Ry. Co., *BNSF CEO Katie Farmer Statement on UP Merger Application Filing* (Dec. 19, 2025), https://www.bnsf.com/news-media/news-releases/newsrelease.page?relId=bnsf-ceo-katie-farmer-statement-on-up-merger-application-filing.

[5] Stuart Chirls, *Merged UP-NS Would Control Half of All Rail Freight: BNSF CEO*, FreightWaves (Apr. 14, 2026), https://www.freightwaves.com/news/merged-up-ns-would-control-half-of-all-rail-freight-bnsf-ceo.

share held by one company."[6] With respect to Applicants' Committed Gateway Pricing proposal, she has stated that "if I go through all of the exclusions, by our calculations, it's about four tenths of a percent of all current rail shippers that can use this committed gateway pricing."[7] Ms. Farmer has also spoken to the ineffectiveness of gateway commitments in past mergers, stating that "[p]rior to the CP-KCS merger, we handled 10,000 units a month over Laredo for our customers. Today, we don't handle a single unit over Laredo."[8] Ms. Farmer has further described BNSF's own efforts to convert freight from truck to rail without a merger, stating that BNSF "expect[s] intermodal volumes to be one of our largest long-term drivers of growth, and we've made the investments to facilitate that growth as we continue to push to convert trucks to rail," including more than $17 billion in network investment over five years.[9]

These statements reflect Ms. Farmer's direct knowledge of the analyses and alleged competitive concerns underlying BNSF's opposition to the Proposed

[6] Stuart Chirls, *BNSF CEO Assails New Rail Merger Filing, Says Transcon Will Raise Rates, Prices*, FreightWaves (July 29, 2026), https://www.freightwaves.com/news/bnsf-ceo-assails-new-rail-merger-filing-says-transcon-will-raise-rates-prices.

[7] Oleksandr Batrak, *BNSF Challenges Union Pacific Norfolk Southern Merger*, Railway Supply (Mar. 27, 2026), https://www.railway.supply/bnsf-challenges-union-pacific-norfolk-southern-merger/.

[8] Jeff Stagl, *UP-NS Merger Dissected at MARS Event Near Chicago*, Progressive Railroading (Jan. 20, 2026), https://www.progressiverailroading.com/RailPrime/details/UP-NS-merger-dissected-at-MARS-event-near-Chicago--76181.

[9] Jeff Stagl, *Class I Outlook 2026: Class I Leaders Keep the Faith That Business Will Be Slightly Better Next Year*, Progressive Railroading (Dec. 10, 2025), https://www.progressiverailroading.com/class_is/article/Outlook-2026-Class-I-leaders-keep-the-faith-that-business-will-be-slightly-better-next-year--75915.

Transaction, as well as her knowledge of the viability of potential alternatives to the merger for achieving the public benefits Applicants claim.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's response to the proposed merger, Ms. Farmer's knowledge of BNSF's railroad operations and competitive position, BNSF's consideration of alternative mergers or strategic transactions, BNSF's experience with gateway commitments, and Ms. Farmer's involvement in discussions and other communications concerning the proposed merger and its anticipated impact on BNSF, including BNSF's proposed competitive conditions and responsive applications.

For the foregoing reasons, the deposition of Ms. Farmer complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

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September 11, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding.

/s/ Travis F. Cabbell

EXHIBIT E

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' FIRST SET OF DISCOVERY REQUESTS TO BNSF RAILWAY COMPANY

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May 29, 2026

Pursuant to 49 C.F.R. §§ 1114.21-.31, Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company (collectively "Applicants") request that BNSF Railway Company ("BNSF") respond to and produce Documents responsive to the following discovery requests in accordance with the Surface Transportation Board's rules and the definitions and instructions set forth below.

Responses should be served as soon as possible, and in no event later than June 15, 2026, unless otherwise agreed to by the parties. Please contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously.

DEFINITIONS

1. "Applicants" means Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company.

2. "Communication" means any transmission or receipt of information by one or more persons or between two or more persons by means including but not limited to telephone conversations, letters, telegrams, teletypes, telexes, telecopies, electronic mail, text messages, instant messages, other computer linkups, written memoranda, and in-person conversations.

3. "Document" has the broadest meaning permissible under 49 C.F.R. § 1114.30, including but not limited to electronically stored information and any

writing, drawing, graph, chart, photograph, sound recording, image, and other data or data compilation stored in any medium from which information can be obtained.

4. "Produce" means to make legible, complete, and exact copies of responsive Documents and send them by expedited delivery to the undersigned counsel.

5. "Proposed Transaction" means the proposed combination of NS and UP for which NS and UP are seeking STB approval in Finance Docket No. 36873.

6. "You" and "Your" refer to BNSF and its predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates, divisions, area offices, and regional offices, as well as all persons acting or purporting to act on its behalf.

INSTRUCTIONS

1. References to railroads, shippers, consultants, or companies (including Applicants) include affiliates, subsidiaries, predecessors, successors, officers, directors, employees, attorneys, agents, and representatives thereof.

2. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

3. If any information or Document is withheld on the ground that it is privileged or otherwise not discoverable: (a) identify the type of Document (*e.g.*, letter, memorandum, report, chart); identify the author, each addressee and each

recipient; state the number of pages, title and date of the Document, and (b) state the basis for the claim that it is privileged or otherwise not discoverable.

4. To the extent materials called for herein are confidential, Applicants will treat them in accordance with the Protective Order entered in this proceeding in the Decision served August 5, 2025.

5. Unless otherwise specified, these requests cover the period January 1, 2019 and to the present.

6. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

REQUESTS

1. Describe all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

2. Produce all Documents and Communications relating to all railroad mergers, acquisitions, or other control transactions involving You and any other Class I railroad that You are considering or have considered within the last 12 months, whether in response to the Proposed Transaction or otherwise.

3. Produce all Documents and Communications relating to the Proposed Transaction's impacts or potential impacts on potential future mergers involving Class I railroads, including but not limited to any mergers You have considered executing with any other Class I railroads.

4. Produce all Documents and Communications relating to any potential or actual transaction, combination, joint venture, alliance, partnership, initiative, other form of cooperative arrangement or other strategic response that You have considered or implemented, or are considering or are implementing, as a result of the Proposed Transaction.

Respectfully submitted,

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May 29, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of May, 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

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' SECOND SET OF DISCOVERY REQUESTS TO BNSF RAILWAY COMPANY

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Attorneys for Union Pacific Corporation and Union Pacific Railroad Company

June 1, 2026

Pursuant to 49 C.F.R. §§ 1114.21-.31, Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company (collectively "Applicants") request that BNSF Railway Company ("BNSF") respond to and produce Documents responsive to the following discovery requests in accordance with the Surface Transportation Board's rules and the definitions and instructions set forth below.

Responses should be served as soon as possible, and in no event later than June 16, 2026, unless otherwise agreed to by the parties. Please contact the undersigned promptly to discuss any objections or questions regarding these requests with a view to resolving any disputes or issues of interpretation informally and expeditiously.

DEFINITIONS

1. "Applicants" means Union Pacific Railroad Company, Union Pacific Corporation, Norfolk Southern Corporation, and Norfolk Southern Railway Company.

2. "BNSF" means BNSF Railway Company.

3. "Communication" means any transmission or receipt of information by one or more persons or between two or more persons by means including but not limited to telephone conversations, letters, telegrams, teletypes, telexes, telecopies, electronic mail, text messages, instant messages, other computer linkups, written memoranda, and in-person conversations.

4. "CSXT" or "CSX" means CSX Transportation Inc.

5. "Document" has the broadest meaning permissible under 49 C.F.R. § 1114.30, including but not limited to electronically stored information and any writing, drawing, graph, chart, photograph, sound recording, image, and other data or data compilation stored in any medium from which information can be obtained.

6. "KCT" means Kansas City Terminal Railway.

7. "Norfolk Southern" or "NS" means Norfolk Southern Corporation and Norfolk Southern Railway Company.

8. "PPU" means Peoria and Pekin Union Railway Company.

9. "Produce" means to make legible, complete, and exact copies of responsive Documents and send them by expedited delivery to the undersigned counsel.

10. "Proposed Transaction" means the proposed combination of NS and UP for which NS and UP are seeking STB approval in Finance Docket No. 36873.

11. "TRRA" means Terminal Railroad Association of St. Louis.

12. "TTX" means TTX Company.

13. "Union Pacific" or "UP" means Union Pacific Corporation and Union Pacific Railroad Company.

14. "You" and "Your" refer to BNSF and its predecessors and successors in interest, as well as its present and former directors, officers, employees, agents, managing agents, representatives, attorneys, parents, subsidiaries, affiliates, divisions, area offices, and regional offices, as well as all persons acting or purporting to act on its behalf.

INSTRUCTIONS

1. References to railroads, shippers, consultants, or companies (including Applicants) include affiliates, subsidiaries, predecessors, successors, officers, directors, employees, attorneys, agents, and representatives thereof.

2. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

3. If any information or Document is withheld on the ground that it is privileged or otherwise not discoverable: (a) identify the type of Document (*e.g.*, letter, memorandum, report, chart); identify the author, each addressee and each recipient; state the number of pages, title and date of the Document, and (b) state the basis for the claim that it is privileged or otherwise not discoverable.

4. To the extent materials called for herein are confidential, Applicants will treat them in accordance with the Protective Order entered in this proceeding in the Decision served August 5, 2025.

5. Unless otherwise specified, these requests cover the period January 1, 2019 and to the present.

6. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

REQUESTS[1]

5. Produce all Documents and information that You produce or have previously produced in response to discovery requests submitted by other participants in this proceeding.

6. Produce all Documents and Communications relating to the Proposed Transaction that You have sent to, received from, or submitted to any persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

7. Produce all Documents concerning or consisting of any talking points or prepared messaging relating to the Proposed Transaction that You used for communications to persons other than Applicants, including but not limited to customers, shippers, industry groups, labor organizations, labor officials, government agencies or officials, other rail carriers, public officials, ports, rail industry suppliers, the Surface Transportation Board, the United States Department of Justice, the United States Department of Transportation, the

[1] The numbering of Applicants' discovery requests is continuous across sets of discovery requests served on the same party.

Federal Railroad Administration, the governor of any state, the attorney general of any state, the White House, or any other federal or state government agency.

8. Identify all individuals and/or entities from whom You have sought, solicited, or discussed a potential comment, letter, or statement of opposition relating to the Proposed Transaction.

9. Produce all Documents and Communications relating to any discounts, contract extensions, or any other economic value or concession requested or offered in connection with or related to any discussion with a customer or stakeholder related to its opposition to or non-support for the Proposed Transaction.

10. Produce all Documents and Communications that You have created or received from January 1, 2019, to the present relating to potential railroad mergers, acquisitions, or other control transactions (collectively, "mergers") involving BNSF, CSX, NS or UP, or discussing railroad mergers or alternatives to railroad mergers generally, including any mergers between BNSF, CSX, NS, or UP and any other Class I railroads and any mergers You have considered executing with BNSF, CSX, NS, or UP.

11. Produce all Documents and Communications relating to competition in the railroad industry, consolidation in the railroad industry, Your position in the railroad industry, UP's or NS's position in the railroad industry, Your growth or strategies for growth, and UP's or NS's growth or strategies for growth.

12. Produce all Documents and Communications relating to the Proposed Transaction's potential impacts on Your, the Applicants', or any other rail carrier's

rates, routes, services, revenues, costs, expenses, operations, investments, traffic volumes, service offerings, markets, market shares, growth, financial viability, competitive position, relationships with other railroads, or relationships with customers.

13. Produce all Documents and Communications relating to the Potential Transaction's potential impacts on Class II or Class III railroads, including but not limited to KCT, PPU, TRRA, or TTX.

14. Produce all Documents and Communications relating to the Proposed Transaction's potential or projected public benefits, diversions of railroad or truck traffic, operating efficiencies, or cost savings; the Proposed Transaction's potential or projected impacts on railroad or truck competition, You or other Class I railroads, short line railroads, or ports; and the potential or projected impacts of the Applicants' proposed Committed Gateway Pricing program.

15. Produce all Documents and Communications relating to potential requests for conditions or responsive applications relating to the Proposed Transaction.

16. Produce all Documents and Communications relating to any actual or potential joint ventures, alliances, partnerships, initiatives, or other forms of cooperative arrangements between You and any other Class I railroad, regardless of whether such arrangements were implemented.

17. Produce all Documents and Communications relating to the Proposed Transaction's impact or potential impact on interchange arrangements; interline or

joint line rates, services, or routes; interline or joint line routing options;, or cooperation with UP, NS, or other rail carriers, including but not limited to potential changes in interchange volumes, gateway usage, or service offerings.

18. Produce system-wide car and, where applicable, container, movement event data for all Your traffic. Car event data should be sufficient to identify all events and the sequence of cars within a train for each applicable event. Container event data should be sufficient to identify the car conveying the container for each applicable event and all events, including in-gate, out-gate, ramp, and deramp events.

19. Produce system-wide train event data for all Your trains.

20. Produce data relating to reciprocal switching for the period from January 1, 2019, through December 31, 2025, including but not limited to car-level movement records, switch lists, interchange logs, line-segment level usage data, and any other records or communications reflecting reciprocal switching arrangements or traffic. To the extent not otherwise encompassed by this request, Your response should include: (1) waybill date, number, and identifiers associated with the switch operation; (2) the switching locations where the actual car switching between roads occur (FSAC, SPLC, Rule 260 junction code, station name, and state/province); (3) local customer information where the switched cars are picked-up or delivered in the switching terminal area (CIF, Parent Customer Name, FSAC, SPLC, station name, and state/province); (4) payment information for that switch; and (5) date of operation.

21. Produce data sufficient to show all interchange volumes with other rail carriers, broken down by line, location, and counterparty, together with any associated payments, settlements, or charges between carriers for haulage, switching, or other car handling (including waybill identifiers, car initials and numbers, dates and times, service type, payment types, and amounts), for the period from January 1, 2019, through December 31, 2025.

22. Produce all studies, analyses, or presentations from the past ten years created by You relating to the 1997 I-5 Proportional Rate Agreement, including but not limited to any studies or analyses relating to competition in the geographic areas covered by the 1997 I-5 Proportional Rate Agreement after the agreement was entered into, any studies or analyses relating to your profits or losses on routes in the geographic areas covered by the 1997 I-5 Proportional Rate Agreement, and any studies or analyses relating to Your compliance with the terms of the 1997 I-5 Proportional Rate Agreement.

23. Produce Documents sufficient to show how You determine the rates that You establish for rail transportation for each route, commodity, and customer, including but not limited to any pricing models, pricing systems, or internal pricing formulas You have utilized.

24. Produce all Documents relating to Your calculations of movement-related costs for the rail transportation services You provide, including detailed breakdowns of cost (such as by route, commodity, car type, and customer) in documents and/or a computer-readable database or electronic spreadsheet.

25. Produce all Documents and Communications relating to Your policies or strategies for the pricing of Your rail transportation services, including without limitation the level of returns that You require when pricing rail traffic.

26. Produce all Documents and Communications relating to Your strategies for growing Your rail traffic.

27. Produce all Documents and Communications relating to Your strategies for obtaining or maintaining business from customers with multiple facilities on Your rail lines, including with respect to pricing, bundling, tying, or linking rates or services, and providing discounts or otherwise reducing fees for customers that have multiple facilities.

28. Produce all Documents and Communications relating to instances in which You made offers (such as bids on Request for Proposals) to customers opening new facilities that could be served by a rail carrier.

29. Produce all Documents prepared on a weekly, monthly, quarterly, annual, or other regular basis that discuss Your plans or strategies for retaining or increasing the revenues obtained from rail customers (whether by growing traffic, increasing prices, or otherwise).

30. Produce all Documents and Communications that concern, discuss, or support any aspect of Your claims in the following publications:

a. "The UP-NS Merger: Still a Monopoly in the Making," available at https://www.bnsf.com/ship-with-bnsf/preserve-rail-competition/bnsf-flyer-the-up-ns-merger-a-monoply-in-the-making.pdf;

b. "The Case Against the UP-NS Merger: Preserve Competition," available at https://www.bnsf.com/ship-with-bnsf/preserve-rail-competition/index.html#preserve-competition;

c. "The Case Against the UP-NS Merger: Protect the Supply Chain," available at https://www.bnsf.com/ship-with-bnsf/preserve-rail-competition/index.html#protect-supply-chain;

d. "Opposing the UP-NS Merger How to Make Your Voice Heard," available at https://www.bnsf.com/ship-with-bnsf/preserve-rail-competition/page2.html, including the section regarding "What to Include in Your Letter"; and

e. "Costly, Unnecessary, Anti-Competitive and Bad for the U.S. Economy," available at https://www.bnsf.com/bnsf-resources/news-media/customer-notifications/pdf/2025-09-29%20BNSF%20Merger%20Position.pdf.

Respectfully submitted,

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Attorneys for Union Pacific Corporation and Union Pacific Railroad Company

June 1, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 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

EXHIBIT F

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF ANGELA CADDELL

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **ANGELA CADDELL**, Group Vice President, Agriculture & Energy Products, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Ms. Caddell is the current Group Vice President, Agriculture & Energy Products of BNSF Railway Company. In this role, Ms. Caddell has had direct oversight of BNSF's agricultural and energy products business, including BNSF's commercial relationships with U.S. agricultural producers and shippers. Prior to her current role, Ms. Caddell served as BNSF's Group Vice President, Agricultural

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

Products; Vice President, Industrial Products; General Director, Fertilizer and Oilseeds; Director of Freight Equipment; Director of Coal Marketing; and Market Manager. Ms. Caddell has knowledge of BNSF's assessment of, response to, and alleged competitive concerns regarding the proposed Union Pacific–Norfolk Southern merger as it relates to the agricultural community. She thus possesses information relevant to this proceeding.

Indeed, Ms. Caddell has made public statements demonstrating her direct knowledge of BNSF's analysis of the proposed merger and the merger's alleged implications for the agricultural community.[2] For example, in a press release, Ms. Caddell wrote that "the proposed merger will harm competition" and that "the agricultural community itself is making that case in opposing the proposed merger."[3] Ms. Caddell has further stated that "faster service come[s] from investment and railroad-to-railroad collaboration that already happens today" and "[a] faster lane on paper is not the same as real competition at your elevator."[4] She additionally stated that market concentration will "likely mean fewer competitive choices and less flexibility over time" for agricultural shippers.[5]

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[2] *See* Angela Caddell, *Why Leading Ag Voices Are Urging the STB to Reject the UP-NS Merger*, BNSF Ry. Co. (Aug. 21, 2026), https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=why-leading-ag-voices-are-urging-the-stb-to-reject-the-up-ns-merger.

[3] *Id.*

[4] *Id.*

[5] *Id.*

These statements reflect Ms. Caddell's knowledge of BNSF's analysis of alleged competitive harms of the proposed merger, the alleged impact of the proposed merger on agricultural customers, and the viability of potential alternatives to the merger for achieving the public benefits Applicants claim.

Ms. Caddell's knowledge also goes to statements BNSF has made about the proposed merger. For example, BNSF has stated that the merger "is bad for shippers, bad for the industry, bad for American businesses, and bad for American consumers" and "does not come close to satisfying the strict public interest standard the law requires for proposed major rail mergers."[6] BNSF has asserted that the merger would create a dominant railroad controlling "50% of all rail shipments originating on Class I railroads in the United States"[7] and would result in "increased shipping costs, a less resilient freight-rail network, and fewer competitive options."[8] Given Ms. Caddell's role overseeing BNSF's agricultural and energy products business, she likely possesses knowledge regarding these assessments as they relate to alleged impacts on agricultural shippers.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's response to the proposed merger, Ms. Caddell's

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[6] *See* BNSF Ry. Co.'s Description of Responsive Application at 2, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53].

[7] BNSF Ry. Co., *Merger Market Share Facts*, available at https://www.bnsf.com/ship-with-bnsf/preserve-rail-competition/Merger-Market-Share-Facts.pdf (last accessed Sept. 11, 2026).

[8] BNSF-53 at 3.

knowledge of BNSF's assessment of the merger's competitive effects on the agricultural sector, BNSF's communications with agricultural customers and industry groups regarding the merger, BNSF's analysis of Union Pacific's proposed mitigation measures, BNSF's alleged concerns regarding UP's pricing strategies and market power, and potential alternatives for achieving benefits short of a merger.

For the foregoing reasons, the deposition of Ms. Caddell complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

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September 11, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding.

/s/ Travis F. Cabbell

EXHIBIT G

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF CRAIG MOREHOUSE

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **CRAIG MOREHOUSE**, Executive Vice President and Chief Operations Officer, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Mr. Morehouse is the current Executive Vice President and Chief Operations Officer of BNSF Railway Company. In this role, Mr. Morehouse has direct oversight of BNSF's network operations and service design, giving him knowledge of BNSF's operational capabilities and competitive position. Mr. Morehouse joined BNSF in 2006 and, since then, has held various field supervisory and operations leadership

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

roles with increasing responsibility, including Vice President, North Region Operations; Vice President, South Region Operations; General Manager, Northwest Division; and Senior Vice President, Network Operations and Service Design. Through these roles, Mr. Morehouse has obtained direct knowledge of BNSF's railroad network, its operational capabilities, and how the railroad is managed and run on a day-to-day basis.

Mr. Morehouse has knowledge of BNSF's operational assessment of and response to the proposed Union Pacific–Norfolk Southern merger, including BNSF's internal analyses of the merger's anticipated impact on BNSF's network operations, service performance, and competitive position. As Chief Operations Officer, Mr. Morehouse possesses information concerning BNSF's evaluation of the merger's impact on BNSF's rail service, interchange traffic, interline service arrangements, and competitive conditions. Mr. Morehouse thus possesses information relevant to this proceeding.

Mr. Morehouse's knowledge also goes to statements BNSF has made about the proposed merger. For example, BNSF has stated that the proposed merger "is bad for shippers, bad for the industry, bad for American businesses, and bad for American consumers" and "does not come close to satisfying the strict public interest standard the law requires for proposed major rail mergers."[2] BNSF has alleged that the merger would create a dominant railroad controlling "50% of all rail shipments originating

[2] *See* BNSF Ry. Co.'s Description of Responsive Application at 2, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53].

on Class I railroads in the United States"[3] and would result in "increased shipping costs, a less resilient freight-rail network, and fewer competitive options."[4] BNSF's responsive application further states that it will seek relief in the form of overhead trackage rights to address competitive harms.[5] Mr. Morehouse, as the executive with direct oversight of BNSF's network operations and service design, was likely involved in the operational judgments and analyses underlying these filings. He thus possesses information relevant to the proceeding, including with respect to operational analyses, competitive assessments, and strategic considerations underlying BNSF's opposition to the merger and its proposed conditions.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's response to the proposed merger; Mr. Morehouse's knowledge of BNSF's assessment of the merger's competitive effects on rail operations and service; BNSF's operational capabilities, network infrastructure, and capacity constraints; the factual basis for BNSF's claims regarding competitive harms; BNSF's analysis of the merger's proposed mitigation measures and their adequacy; BNSF's alleged concerns regarding operational impacts, service quality, and potential service disruptions; alternatives for achieving benefits short of a merger; and the factual foundation for BNSF's responsive application seeking

[3] BNSF Ry. Co., *Merger Market Share Facts*, available at https://www.bnsf.com/ship-with-bnsf/preserve-rail-competition/Merger-Market-Share-Facts.pdf (last accessed Sept. 11, 2026).

[4] BNSF-53 at 3.

[5] *Id.* at 9 n.9.

conditions, including the operational feasibility and scope of the overhead trackage rights BNSF has requested as a condition.

For the foregoing reasons, the deposition of Mr. Morehouse complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

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September 11, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding.

/s/ Travis F. Cabbell

EXHIBIT H

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF JON GABRIEL

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **JON GABRIEL**, Group Vice President, Consumer Products, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Mr. Gabriel is the current Group Vice President, Consumer Products, at BNSF Railway Company and has served in that role since September 2024. In this position, Mr. Gabriel oversees BNSF's intermodal and automotive business units, which together represent a significant share of BNSF's traffic volume and revenue. Mr. Gabriel began his career at BNSF in 2006 in Consumer Products Marketing and has

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

held progressively senior positions with the railroad, including Vice President, Network Strategy, Design and Innovation—where he had responsibilities for service design, network strategy, capacity planning, operations research, and intermodal hub strategy and innovation.[2] He thus possesses firsthand knowledge of BNSF's intermodal operations, customer relationships, and competitive position in the freight rail market.

Mr. Gabriel has knowledge of BNSF's commercial assessment of and response to the proposed Union Pacific–Norfolk Southern merger as it relates to intermodal traffic and consumer products. This includes BNSF's commercial analysis supporting its responsive applications, such as proposed trackage rights and access arrangements to mitigate alleged competitive harm, and BNSF's evaluation of the merger's anticipated impact on intermodal service options, shipper choices, and competitive conditions for intermodal and automotive traffic across BNSF's network.[3] As the executive responsible for BNSF's intermodal business, Mr. Gabriel also possesses information concerning BNSF's assessment of the merger's effects on its intermodal customers and BNSF's evaluation of Applicants' public benefits.[4] Mr. Gabriel thus possesses information relevant to this proceeding.

Indeed, Mr. Gabriel has made public statements demonstrating his direct knowledge of the merger's implications for intermodal competition. In an interview

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[2] Jon Gabriel, LinkedIn, https://www.linkedin.com/in/jon-gabriel/ (last accessed Sept. 11, 2026).

[3] *See* BNSF Ry. Co.'s Description of Responsive Application at 7–10, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53].

[4] *See id.* at 3–6.

with Trains magazine, Mr. Gabriel stated that the BNSF-CSX haulage agreement "is almost like being one railroad" and that "[n]othing magical comes out of being a merged entity," adding that "[p]artnerships help to expand our network."[5] When BNSF and CSX announced their expanded joint intermodal partnership in October 2025—just weeks after UP and NS unveiled their merger plans—Mr. Gabriel characterized the collaboration as "demonstrat[ing] the power of partnership, delivering greater flexibility, efficiency, and value for our customers."[6] Mr. Gabriel has also publicly discussed BNSF's capacity investments in anticipation of competitive challenges, noting that BNSF "began [its] capacity expansion in anticipation of the current truckload capacity squeeze."[7] Based on a separate interview with Mr. Gabriel, it was also reported that BNSF has added more than "8,000 parking spaces at intermodal ramps across its network" and has made significant capital investments, including "100 miles of new main track on its transcontinental route between Los Angeles and Chicago."[8]

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[5] Rip Watson, *Can Interline Agreements Bring Intermodal Growth?*, TrainsPRO (June 1, 2026), https://www.trains.com/pro/freight/intermodal/can-rail-alliances-bring-intermodal-growth/. *See also* Jon Gabriel, Journal of Commerce, https://tpm.joc.com/en/speakers/jon-gabriel-1067-27522 (publicizing Mr. Gabriel's March 3, 2026 session that suggested the merger could "raise costs, reduce competitive choice, and make the supply chain more vulnerable during disruptions").

[6] *BNSF and CSX Announce New Joint Domestic and International Intermodal Service*, FreightWaves (August 22, 2025), https://www.freightwaves.com/news/bnsf-and-csx-announce-new-joint-domestic-and-international-intermodal-service.

[7] Rip Watson, *Can Interline Agreements Bring Intermodal Growth?*, TrainsPRO (June 1, 2026), https://www.trains.com/pro/freight/intermodal/can-rail-alliances-bring-intermodal-growth/.

[8] Stuart Chirls, *This Railroad Has 100 Extra Locomotives Ready to Handle a Container Surge,* FreightWaves (May 29, 2025), (continued…)

These public statements reflect Mr. Gabriel's direct knowledge of the analyses and alleged competitive concerns underlying BNSF's opposition to the proposed transaction, as well as his knowledge of the viability of interline partnerships and other potential alternatives short of a merger for achieving the Applicants' public benefits.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's response to the proposed merger as it relates to intermodal and consumer products traffic, Mr. Gabriel's knowledge of BNSF's intermodal operations and competitive position, BNSF's assessment of the merger's impact on intermodal service options and shipper choices, Mr. Gabriel's involvement in developing BNSF's intermodal partnership strategy as a competitive response to the proposed transaction, and interline arrangements as alternatives to mergers.

For the foregoing reasons, the deposition of Mr. Gabriel complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

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https://www.freightwaves.com/news/this-railroad-has-100-extra-locomotives-ready-to-handle-a-container-surge.

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CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding.

/s/ Travis F. Cabbell

EXHIBIT I

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF KATIE HOWER

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **KATIE HOWER**, Group Vice President, Industrial Products, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Ms. Hower is the Group Vice President, Industrial Products, at BNSF Railway Company and has served in that role since April 2025.[2] In this position, Ms. Hower oversees sales and marketing responsibilities for BNSF's industrial segments,

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

[2] Katie Hower, LinkedIn, https://www.linkedin.com/in/katie-hower-17bb641a0/ (last accessed Sept. 10, 2026).

including chemicals, building products, construction products, beverages, perishables, and canned goods.[3] Ms. Hower joined BNSF in 2006 as a Marketing management trainee and has held progressively senior positions with the railroad, including Vice President, Coal and Petroleum Products, Vice President, Domestic Intermodal, and Vice President, Network Strategy, Service Design & Innovation. In the latter position, she was responsible for BNSF's business unit operations, capital planning, operations research, and intermodal innovation.[4] Ms. Hower also serves as a member of the Surface Transportation Board's Railroad-Shipper Transportation Advisory Council (RSTAC).[5] She thus possesses firsthand knowledge of BNSF's industrial marketing operations, shipper relationships in key commodity segments, and the competitive dynamics of the freight rail market.

Ms. Hower has knowledge of BNSF's commercial assessment of and response to the proposed Union Pacific–Norfolk Southern merger as it relates to industrial products traffic, including BNSF's internal analyses of the merger's anticipated impact on shipper choices, rail pricing, and competitive conditions for industrial traffic across BNSF's network. As the executive responsible for BNSF's industrial products business, Ms. Hower also possesses information concerning BNSF's

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[3] Marybeth Luczak, *People News: BNSF, Port NOLA, OCTA, Cummins, ASLRRA*, Railway Age (April 3, 2025), https://www.railwayage.com/news/people-news-bnsf-port-nola-octa-cummins-aslrra/.

[4] BNSF Ry., *BNSF Announces Leadership Changes in Transportation, Service Design and Marketing* (June 3, 2024), https://www.bnsf.com/news-media/news-releases/newsrelease.page?relId=bnsf-announces-leadership-changes-in-transportation-service-design-and-marketing.

[5] 2026 Members, *Railroad-Shipper Transportation Advisory Council*, https://www.stb.gov/resources/stakeholder-committees/rstac/.

assessment of the merger's effects on industrial shippers—including chemical producers and energy companies in the Gulf Coast region, where BNSF has identified a lack of effective rail competition and the risk that the merger would exacerbate captive shipper exposure to higher rates.[6] She thus possesses information relevant to this proceeding.

Ms. Hower has also made public statements demonstrating her knowledge of the competitive dynamics relevant to this proceeding. For example, at the Intermodal Association of North American Expo Conference in 2023, Ms. Hower stated, "We need to highlight what we've put into our operations to make the experience better for our customers; how we're making intermodal more reliable, more consistent and show we're now in a different place today[.]"[7] This statement reflects Ms. Hower's direct knowledge of BNSF's efforts to improve rail service without a merger, which is directly relevant to evaluating the merger's benefits. Ms. Hower's knowledge also goes to statements BNSF has made about the proposed merger. For example, BNSF has stated that the proposed merger "is bad for shippers, bad for the industry, bad for American businesses, and bad for American consumers" and that the merged entity would leverage its increased market power to "maximize prices on shippers to generate even higher profits."[8] With respect to the industrial segments Ms. Hower oversees, BNSF has specifically identified the Gulf Coast territory—from Corpus

[6] BNSF Ry. Co.'s Description of Responsive Application at 9, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53].

[7] Transport Topics, *Freight Railroads Vow to Improve Service to Growth Intermodal* (Sept. 19, 2023), https://www.ttnews.com/articles/freight-railroads-service.

[8] BNSF-53 at 2.

Christi, Texas to the west bank of the Mississippi River—as a region where "[m]any Gulf Coast shippers are dependent on the UP network without competitive rail alternatives" and where the merger "would exacerbate these harms because Gulf customers ship significant volumes to eastern markets where CSX and NS compete today."[9] BNSF has also warned that forty chemical company CEOs have cautioned regulators that the merger "would harm competition and leave them with fewer choices, higher costs and less reliable service."[10] As the senior executive responsible for BNSF's relationships with industrial shippers in these segments, Ms. Hower is likely to have been directly involved in the analyses underlying these assessments. She thus possesses information relevant to this proceeding, including with respect to potential alternatives short of a merger and BNSF's competitive responses to the proposed merger.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's commercial response to the proposed merger as it relates to industrial products traffic, Ms. Hower's knowledge of BNSF's industrial marketing operations and shipper relationships, BNSF's assessment of the merger's impact on industrial shippers—including chemical producers and energy companies

[9] *Id.* at 9.

[10] BNSF Ry., *Customer Notification, Important Update on UP-NS Merger and What it Means for You* (Nov. 12, 2025), https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=important-update-on-up-ns-merger-and-what-it-means-for-you.

in the Gulf Coast region—and Ms. Hower's involvement in BNSF's evaluation of the merger's competitive effects on the industrial segments she oversees.

For the foregoing reasons, the deposition of Ms. Hower complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

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September 11, 2026

CERTIFICATE OF SERVICE

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/s/ Travis F. Cabbell

EXHIBIT J

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF PAUL BISCHLER

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **PAUL BISCHLER**, Executive Vice President and Chief Financial Officer, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Mr. Bischler is the current Executive Vice President and Chief Financial Officer of BNSF Railway Company and has served in that role since 2021.[2] As CFO, Mr. Bischler has direct oversight of BNSF's financial operations, including the

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

[2] Paul Bischler, LinkedIn, https://www.linkedin.com/in/paul-bischler-9a6962a3/ (last accessed Sept. 10, 2026).

railroad's pricing strategy, revenue performance, cost structure, capital allocation, and financial projections. He is responsible for BNSF's financial planning, reporting, and analysis, and is intimately involved in evaluating the financial and competitive implications of industry developments affecting BNSF's business.

Mr. Bischler has knowledge of BNSF's financial assessment of and response to the proposed Union Pacific–Norfolk Southern merger, including BNSF's internal financial analyses of the merger's anticipated impact on BNSF's revenues, pricing, and competitive position. As the executive responsible for BNSF's financial strategy, Mr. Bischler possesses information concerning BNSF's evaluation of the merger's effects on rail pricing and shipper costs, BNSF's financial modeling of competitive harm scenarios, BNSF's assessment of the public benefits of the proposed transaction—including Applicants' truck-to-rail conversion projections[3]—and BNSF's financial analysis supporting its development of competitive conditions and responsive applications.[4] Mr. Bischler thus possesses information relevant to this proceeding.

Mr. Bischler's knowledge also goes to statements BNSF has made about the proposed merger. For example, BNSF has publicly stated that the proposed merger is "a plan to create a railroad far larger than its rivals that will exert market power and leverage to maximize prices on shippers to generate even higher profits" and that

[3] BNSF Ry. Co.'s Description of Responsive Application at 3–4, Finance Docket No. 36873 (STB filed Sept. 9, 2026) [BNSF-53].

[4] *Id.* at 7–10.

"[i]t is not in the public interest."[5] BNSF has since characterized the merger as "bad for shippers, bad for the industry, bad for American businesses, and bad for the American consumers"[6] and has further warned that a combined UP/NS "would control 50% of all rail shipments originating in the United States on Class I railroads" and that UP's own statements reveal a strategy to "maximize price" on the merged network.[7] As the senior executive responsible for BNSF's financial performance, Mr. Bischler is likely to have been involved in the analyses underlying these assessments, including BNSF's evaluation of the merger's impact on BNSF's competitive position in key corridors—such as the Northeast intermodal market and the Gulf Coast—where BNSF has identified alleged risks of competitive foreclosure and pricing harm.[8]

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's response to the proposed merger, Mr. Bischler's knowledge of BNSF's financial operations and pricing strategy, BNSF's assessment of the merger's competitive impact, Mr. Bischler's involvement in evaluating the public benefits of the proposed transaction, and Mr. Bischler's role in discussions and other communications concerning BNSF's proposed competitive conditions and responsive applications.

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[5] *Id.* at 2.

[6] *Id.*

[7] BNSF-53 at 7; *see also id.* at 6 (compiling UP statements regarding pricing strategy).

[8] *Id.* at 8–10.

For the foregoing reasons, the deposition of Mr. Bischler complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

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/s/ Travis F. Cabbell

EXHIBIT K

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY
—CONTROL—
NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

APPLICANTS' NOTICE OF DEPOSITION OF TOM WILLIAMS

Counsel for Applicants,[1] pursuant to 49 C.F.R. § 1114.22, will take the deposition of **TOM WILLIAMS**, Executive Vice President and Chief Marketing Officer, BNSF Railway Company, 2500 Lou Menk Drive, Fort Worth, TX 76131. The deposition will occur at a mutually agreeable date and location in December 2026. The deposition will be in person and recorded by stenographic means and videotape. The deposition will be taken before a Notary Public or other officer authorized by law to administer oaths.

Mr. Williams is the current Executive Vice President and Chief Marketing Officer of BNSF Railway Company. Prior to his current role, Mr. Williams has held a series of senior leadership positions, including Vice President, Domestic Intermodal

[1] "Applicants" are Union Pacific Corporation and Union Pacific Railroad Company (collectively, "Union Pacific") and Norfolk Southern Corporation and Norfolk Southern Railway Company (collectively, "Norfolk Southern").

Business Unit and Group Vice President, Consumer Products.[2] In these roles, Mr. Williams has been responsible for BNSF's commercial strategy, customer relationships, intermodal and consumer products business lines, and competitive positioning within the rail industry.

Mr. Williams has knowledge of BNSF's commercial assessment of and response to the proposed Union Pacific–Norfolk Southern merger, including BNSF's internal analyses of the merger's anticipated impact on BNSF's competitive position, shipper options, pricing and service quality. As the Executive Vice President and Chief Marketing Officer, Mr. Williams also possesses information concerning BNSF's customer-facing communications and outreach regarding the proposed merger, BNSF's evaluation of the merger's impact on its markets and customer base, and the factual bases for BNSF's public statements opposing the transaction. He thus possesses information relevant to this proceeding.

Indeed, Mr. Williams has served as one of BNSF's public spokespersons regarding the proposed merger, issuing numerous communications to BNSF customers and other stakeholders expressing BNSF's views on the transaction, including letters and public statements dating from January 6, 2026[3] through

[2] Tom Williams, LinkedIn, https://www.linkedin.com/in/tom-g-williams/ (last accessed Sept. 10, 2026).

[3] Tom G. Williams, *UP-NS Merger Application Filed: What it Means for You*, BNSF Ry. Co. (Jan. 6, 2026), https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=up-ns-merger-application-filed-what-it-means-for-you.

September 10, 2026.[4] In those communications, Mr. Williams articulated BNSF's views regarding the competitive and operational consequences of the proposed merger and the bases for BNSF's opposition to the transaction. For example, in his most recent communication to BNSF customers, Mr. Williams described the proposed merger as "bad for shippers, bad for businesses and bad for the American economy," and asserted that "[n]othing the Board could do, including adopting these conditions, would adequately address the serious and irreversible harms this merger will cause."[5] In prior letters to customers from Mr. Williams, which are posted publicly to BNSF's website, he has stated that the "competitive commitments proposed by UP and NS neither protect existing competitive options nor create meaningful new rail options for most customers,"[6] referred to Applicants' claims of truck-to-rail diversions and shipper savings as "inflated,"[7] and asserted that "BNSF's customers have learned firsthand that CPKC gateway conditions are not effective."[8]

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[4] Tom G. Williams, *Our Latest Filing on the UP-NS Merger - and What It Means*, BNSF Ry. Co. (Sept. 10, 2026), https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=our-latest-filing-on-the-up-ns-merger-and-what-it-means.

[5] *Id.*

[6] Tom G. Williams, *Update: Broad Opposition Calls for STB to Reject UP-NS Application*, BNSF Ry. Co. (Aug. 14, 2026), https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=update-broad-opposition-calls-for-stb-to-reject-up-ns-application.

[7] Tom G. Williams, *UP and NS Complete Fourth Merger Filing - Make Sure Your Voice is Heard*, BNSF Ry. Co. (Jul. 28, 2026), https://www.bnsf.com/news-media/customer-notifications/notification.page?notId=up-and-ns-complete-fourth-merger-filing-make-sure-your-voice-is-heard.

[8] *See* note 3, supra.

These public statements reflect Mr. Williams' direct knowledge of the analyses, strategy discussions, and competitive assessments underlying BNSF's opposition to the proposed transaction, as well as his knowledge of the factual bases underlying those positions.

Pursuant to 49 C.F.R. § 1114.22(b)(2), the cause or reason why the deposition will be taken is—among other things, and without limiting the scope of the deposition—to explore BNSF's response to the proposed merger, Mr. Williams' knowledge of BNSF's assessment of the merger's competitive effects on BNSF's markets and customer base, BNSF's communications with customers and industry stakeholders regarding the merger, BNSF's analysis of Union Pacific's proposed mitigation measures, BNSF's alleged concerns regarding Union Pacific's pricing strategies and market power, and potential alternatives for achieving benefits short of a merger.

For the foregoing reasons, the deposition of Mr. Williams complies with the discovery rules that govern STB proceedings, which state that "[p]arties may obtain discovery under this subpart regarding any matter, not privileged, which is relevant to the subject matter involved in a proceeding other than an informal proceeding." 49 C.F.R. § 1114.21.

Respectfully submitted,

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September 11, 2026

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of September, 2026, the foregoing document was served by first-class mail or email on all parties of record to this proceeding.

/s/ Travis F. Cabbell

CERTIFICATE OF SERVICE

I hereby certify that, on this 13th day of October, 2026, I have caused this document to be 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 Nicholas Martin

Nicholas Martin