

51428
DO

SERVICE DATE – SEPTEMBER 27, 2022

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36500¹

CANADIAN PACIFIC RAILWAY LIMITED; CANADIAN PACIFIC RAILWAY
COMPANY; SOO LINE RAILROAD COMPANY; CENTRAL MAINE & QUEBEC
RAILWAY US INC.; DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION;
AND DELAWARE & HUDSON RAILWAY COMPANY, INC.

—CONTROL—

KANSAS CITY SOUTHERN; THE KANSAS CITY SOUTHERN RAILWAY COMPANY;
GATEWAY EASTERN RAILWAY COMPANY; AND
THE TEXAS MEXICAN RAILWAY COMPANY

Decision No. 27

Decided: September 27, 2022

By notice served on July 22, 2022, the Board announced that it will hold a public hearing in these dockets on September 28, 29, and 30, 2022. On September 21, 2022, an order was served providing hearing instructions and a list of speakers.

On September 21, 2022, the Board received a request to participate at the hearing from the Honorable Ron Reynolds. Subsequently, the Board received notices of intent to participate at the hearing from the Honorable Michael Echols, Amy Koch, Michael LaRoque on behalf of the White Earth Reservation, and Jackie Baumann of the City of Gonzales, Louisiana. Additionally, Dead River Company LLC seeks to add a presenter and Honor the Earth seeks a substitution. The Coalition to Stop CPKC has also advised agency staff that one of its listed speakers will not be participating, and Archer Daniels Midland Company has withdrawn its notice of intent to participate at the hearing.

¹ This decision embraces: Docket No. FD 36500 (Sub-No. 1), Illinois Central Railroad—Acquisition of a Line of Railroad Between Kansas City, Mo., & Springfield & East St. Louis, Ill.—Kansas City Southern Railway; Docket No. FD 36500 (Sub-No. 2), Illinois Central Railroad—Trackage Rights Between Airline Junction, Mo., & Grandview, Mo.—Kansas City Southern Railway; Docket No. FD 36500 (Sub-No. 3), Canadian National Railway—Control—Gateway Eastern Railway; Docket No. FD 36500 (Sub-No. 4), Illinois Central Railroad—Assignment of KCS Trackage Rights Between Rock Creek Junction, Mo., & Airline Junction, Mo.—Union Pacific Railroad; and Docket No. FD 36500 (Sub-No. 5), Norfolk Southern Railway—Trackage Rights—Kansas City Southern.

The late-filed requests to participate will be granted. The schedule of appearances will be updated to reflect the additional panelists and the modifications mentioned above. A revised schedule of appearances is set forth in the Appendix to this decision. No additional requests to participate in the hearing will be granted.

It is ordered:

1. The late-filed notices of intent described above are accepted.
2. Time for presenting at the hearing is allotted as reflected in the Appendix to this decision.
3. This decision is effective on its service date.

By the Board, Mai T. Dinh, Director, Office of Proceedings.

APPENDIX
SCHEDULE OF APPEARANCES

<u>Party</u>	<u>Time Allotted</u>
---------------------	-----------------------------

Day 1 – September 28, 2022

Panel I

Honorable Raja Krishnamoorthi, United States House of Representatives

Panel II

Commissioner Carl W. Bentzel, Federal Maritime Commission

Panel III

Applicants	90 minutes ²
------------	-------------------------

- Keith Creel, President and CEO of Canadian Pacific Railway Company (Canadian Pacific Railway)
- Patrick J. Ottensmeyer, President and CEO of Kansas City Southern (KCS)
- John Brooks, Canadian Pacific Railway's Executive Vice President and Chief Marketing Officer
- James Clements, Canadian Pacific Railway's Senior Vice-President Strategic Planning and Technology Transformation
- Raymond A. Elphick, Canadian Pacific Railway's Assistant Vice President Service and Product Design
- John F. Orr, KCS's Executive Vice President, Operations
- W. Robert Majure, Vice President, Cornerstone Research
- David L. Meyer of the Law Office of David L. Meyer, counsel for Applicants
- William A. Mullins of Baker & Miller PLLC, counsel for Applicants

² Applicants request 180 minutes but state that they anticipate dividing this time equally between their opening and closing presentations. Therefore, Applicants will be allotted 90 minutes for their opening presentation and 90 minutes for their closing statement.

Panel IV

Southern Rail Commission	5 minutes
• Knox Ross, Chairman	
Progressive Rail Incorporated	5 minutes
• Dave Fellon, President	
Canpotex Limited	5 minutes
• Vidyadher Kachroo, Snr-VP Operations	
Supply Chain of SSAB Americas	5 minutes
• Sean Keenan, Vice President, Supply Chain	
Americold	5 minutes
• Mathew Moore, Vice President of Global Market Strategy	
Unifor	5 minutes
• Joel Kennedy, National Representative	

Panel V

Michael Echols, Louisiana State Representative for District 14	5 minutes
City of Monroe, Louisiana	5 minutes
• Friday Ellis, Mayor	
City of Gonzales, Louisiana	5 minutes
• Jackie Baumann, Chief Engineer	

Panel VI

William E. Gluba, former Mayor of the City of Davenport, Iowa	5 minutes
Amy Koch, former Majority Leader, Minnesota State Senate	5 minutes
Hennepin County, Minn., and the Hennepin County Regional Railroad Authority	5 minutes
• Benedict J. Schweigert, Senior Assistant County Attorney	
Honor the Earth	5 minutes
• Eugene Tibbetts, on behalf of Winona LaDuke	
Russell Group	5 minutes
• Michelle Solis Russell, Partner	

White Earth Reservation 5 minutes

- Michael LaRoque, Secretary/Treasurer

Panel VII

The Coalition to Stop CPKC 30 minutes

- Carie Anne Ergo, Village Administrator of the Village of Itasca, Ill.
- Rodney S. Craig, President of the Village of Hanover Park, Ill.
- Christopher C. Snyder, Director of Transportation/County Engineer, DuPage County, Ill.
- James Burke, Chief, Wood Dale Fire Protection District
- Thomas W. Wilcox of the Law Office of Thomas W. Wilcox, LLC, counsel

The Commuter Rail Division of the Regional Transportation Authority 45 minutes
d/b/a Metra

- Jim Derwinski, CEO
- W. Eric Pilsk of Kaplan Kirsch & Rockwell LLP
- Robert D. Mulholland of L.E. Peabody & Associates, Inc.
- Greg Godfrey, Director, Consolidated Control Center
- Steven Cork, Director, Interline Operations

Panel VIII

Allied Rail Unions³ 15 minutes

- Richard S. Edelman of Mooney, Green, Saindon, Murphy & Welch, P.C., counsel

Joint Associations⁴ 10 minutes

- Jeff Moreno of Thompson Hine LLP, counsel

The Chlorine Institute 7 minutes

- Michael F. McBride of Van Ness Feldman LLP, counsel

³ The Allied Rail Unions include the Brotherhood of Maintenance of Way Employees Division/IBT; Brotherhood of Railroad Signalmen; International Association of Sheet Metal, Air, Rail and Transportation Workers Mechanical Division; and National Conference of Firemen and Oilers, 32BJ/SEIU.

⁴ The Joint Associations include the American Chemistry Council, The Fertilizer Institute, and The National Industrial Transportation League.

Day 2 – September 29, 2022

Panel IX

Ron Reynolds, Texas State Representative for District 27	5 minutes
Rodney Ellis, Harris County Commissioner for Precinct One	5 minutes
Robert Gallegos, Council Member for Houston City Council District I	5 minutes

Panel X

Canadian National Railway Company and its rail operating subsidiaries	90 minutes
• Robert Reilly, Executive Vice President and Chief Operating Officer	
• Doug MacDonald, Chief Marketing Officer	
• Daniel Bresolin, Vice President, Intermodal	
• Derek Taylor, Vice President, Transportation, Southern Region	
• Sarah Slazinski, Assistant Vice President, Automotive	
• Kathryn Gainey, Deputy General Counsel	
• Raymond Atkins of Sidley Austin LLP	
• Matthew Warren of Sidley Austin LLP	

Panel XI

Baton Rouge Area Foundation	5 minutes
• John Spain, Executive Vice President	
Pacific Northwest Waterways Association	5 minutes
• Heather Stebbings, Executive Director	
California Association of Port Authorities	5 minutes
• Martha Miller, Executive Director	

Panel XII

USD Group	5 minutes
• Dan Borgen, Chairman, President, and CEO	
Hapag-Lloyd (America) LLC	5 minutes
• Uffe Ostergaard, President	
J.D. Irving, Limited	5 minutes
• James D. Irving, Co-Chief Executive Officer	
CHS Inc.	5 minutes

- Justin A. Cauley, Senior Director of Transportation

Panel XIII

The North Dakota Grain Dealers Association (NDGDA) and
Fessenden Co-op Association (FCA) 5 minutes

- Mark Hovland, NDGDA Immediate Past President
and FCA General Manager

Ray-Carroll County Grain Growers, Inc. 5 minutes

- Beau Hepler, General Manager

Mastronardi Produce Limited 5 minutes

- Gerardo Magno, Vice President, Logistics

Canadian Forest Products Ltd. 5 minutes

- David Trent, SVP, Supply Chain and Digital

Richardson International Limited 5 minutes

- Jean-Marc Ruest, Senior Vice-President, Corporate Affairs
and General Counsel
- Robert Bielik, Vice-President, Transportation

Panel XIV

Savage 5 minutes

- Kirk Aubry, President and CEO

Bartlett, a Savage Company 5 minutes

- Bob Knief, President

Panel XV

Runyowa Law 5 minutes

- Tavengwa Runyowa

The Sierra Club 5 minutes

- Katherine J. García, Director, Clean Transportation for All

Nahant Marsh Education Center 5 minutes

- Brian Ritter, Executive Director

Panel XVI

Norfolk Southern Railway Company 60 minutes

- Claude E. “Ed” Elkins, Executive Vice President and Chief Marketing Officer
- Michael R. McClellan, Senior Vice President and Chief Strategy Officer
- John Mayo, Elsa Carlson McDonough Chair of Business Administration and Professor of Economics, Business and Public Policy at Georgetown University’s McDonough School of Business
- Carrie C. Mahan, counsel

BNSF Railway Company 60 minutes

- Roger P. Nober, Executive Vice President, Law and Corporate Affairs, Chief Legal Officer
- Courtney B. Estes, Assistant Vice President and Associate General Counsel
- Jon Gabriel, Vice President, Service Design and Performance
- Paul Hirsch, Assistant Vice President of the Mexico Business Unit
- Peter W. Denton of Steptoe & Johnson LLP, outside counsel
- David Reishus, Executive Vice President at Compass Lexecon, outside consultant

Day 3 – September 30, 2022

Panel XVII

CSX Transportation, Inc. 90 minutes

- Paul A. Cunningham of Harkins Cunningham LLP, counsel
- Maryclare Kenney, Vice President of Intermodal Services
- Robert Girardot, Director of Rail Relations and Port Development
- Ryan C. Tisch of Crowell & Moring LLP, counsel
- Ramsey Shehadeh, Managing Director at NERA Economic Consulting
- Julie Carey, Managing Director at NERA Economic Consulting

Union Pacific Railroad Company 60 minutes

- John Turner, Senior Vice President of the Harriman Dispatch Center and Network Planning
- Michael L. Rosenthal of Covington & Burling LLP, counsel

Panel XVIII

Kelly Misselwitz, Legislative Director for U.S. Representative Ilhan Omar

Panel XIX

Ingredion Incorporated 5 minutes

- Rob Ritchie, Regional President—Mexico, U.S./Canada

NFI Industries 5 minutes

- Mark McKendry, Senior Vice President

Southeast Louisiana Super Region 3 minutes

- Michael Hecht, President and CEO of Greater New Orleans, Inc.

Dead River Company, LLC (Dead River) 5 minutes

- Alan Dorr, Vice President, Wholesale and Procurement
- Sandy Brown of Thompson Hine LLP, counsel

Panel XX

Applicants

90 minutes

- Keith Creel, President and CEO of Canadian Pacific Railway Company (Canadian Pacific Railway)
- Patrick J. Ottensmeyer, President and CEO of Kansas City Southern (KCS)
- John Brooks, Canadian Pacific Railway's Executive Vice President and Chief Marketing Officer
- James Clements, Canadian Pacific Railway's Senior Vice-President Strategic Planning and Technology Transformation
- Raymond A. Elphick, Canadian Pacific Railway's Assistant Vice President Service and Product Design
- John F. Orr, KCS's Executive Vice President, Operations
- W. Robert Majure, Vice President, Cornerstone Research
- David L. Meyer of the Law Office of David L. Meyer, counsel for Applicants
- William A. Mullins of Baker & Miller PLLC, counsel for Applicants