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BNSF-66

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

Re: STB Docket No. FD 36873 – Status of BNSF's Discovery Responses

Dear Judge Soulikias:

Consistent with Decision No. 39, BNSF writes to provide an update regarding its responses to discovery requests in this proceeding.

To date, BNSF has received 34 discovery requests from Applicants. BNSF continues to confer with Applicants regarding the scope of materials responsive to those requests, including what is necessary and appropriate in light of BNSF's role as a non-applicant in this proceeding. To facilitate an efficient discovery process, BNSF provided Applicants a proposed set of e-discovery custodians, a date range for BNSF searches, and a set of responsiveness criteria to guide BNSF's review. On October 9, BNSF notified Applicants that it intends to use technology assisted review in lieu of search terms, and BNSF will disclose details about that program to Applicants.

BNSF has made five rolling productions and will continue to make rolling productions until BNSF's productions are complete. On top of the 2019-2025 traffic tape and waybill data BNSF exchanged with Applicants last fall, BNSF has produced over 17,000 pages of document discovery and 572 GB of data to date. BNSF has also offered UP and NS three witnesses to sit for depositions in January 2027 so that depositions will be complete in advance of Applicants' February filing deadline.

The chart below summarizes the material BNSF has produced to date.

BNSF Prod. Vol.	BNSF Prod. Date	Description of BNSF Production
1	Aug. 5, 2026	• Train Event Data for 2019-2025 containing event dates and times, locations and states, event/event-status codes, train operating information, direction, train identifiers/symbols, scheduled departure information, and other attributes associated with train movements across the BNSF network. • Intermodal/Container Event Data for 2019-2025 including equipment/container and chassis identifiers; attached railcar information where applicable; event date, time, and event code; station/location and state; loaded/empty status; TOFC/COFC indicator; train ID, symbol, type, priority, section, and scheduled departure date; and associated waybill and cycle identifiers.
2	Aug. 6, 2026	• Railcar Event Data and Movement Records for 2019-2025, including car initial and number; event date, time, and event type/status; station/location and state; direction; loaded/empty status; associated train symbol, train date, priority, section, and sequence; and waybill identifiers and versions. • Reciprocal Switching Data for 2019-2025, including date and time of switching events; total switch rates for interline switching and rate number used to calculate amount due for a switch; and car and equipment number.
3	Oct. 1, 2026	• Correspondence from BNSF to its customers concerning the Proposed Transaction. • Joint facilities and interline agreements.
4	Oct. 8, 2026	• Joint facilities and interline agreements.
5	Oct. 15, 2026	• Joint facilities and interline agreements.

Respectfully,

/s/ McClain Thompson
McClain Thompson

cc: Counsel of Record

CERTIFICATE OF SERVICE

I certify that I caused the foregoing to be served electronically or by first-class mail, postage pre-paid, on the Secretary of Transportation, the Attorney General of the United States, Applicants' representatives, Administrative Law Judge Jenifer Soulikias, and all parties of record in this proceeding.

/s/ Onika Williams
Attorney for BNSF Railway Company
October 15, 2026