

Surface Transportation Board
Washington, D.C. 20423-0001

Office of Economics

ENTERED
Office of Chief Counsel
September 1, 2026
Part of
Public Record

August 12, 2026

Peter Denton
Steptoe LLP
1300 Connecticut
Washington, DC 20036-1795

Re: Waybill Request WB26-33 & FD 36873

Dear Mr. Denton:

The Surface Transportation Board (STB) has received your request under 49 C.F.R. § 1244.9(b)(4) of July 29, 2026, for permission for continued access to the confidential Carload Waybill Sample (CCWS) with unmasked revenues in connection with FD 36873, Union Pacific Corporation, et al. – Control – Norfolk Southern Corporation, et al. on behalf of BNSF Railway Company (BNSF). Specifically, you request that your access to data granted pursuant to WB25-44 be renewed. WB25-44 granted access to the 2019 - 2024 unmasked costed waybill samples (including all records, all fields, and confidential unmasked revenues) for all traffic. Your request will allow BNSF's counsel and consultants to accurately analyze the impacts of the transaction proposed in FD 36873, including traffic patterns, and to prepare verified statements in formal proceedings before the Board on behalf of BNSF.

Based on the complete and sufficiently detailed explanations and justifications contained in your request, you will be authorized to access the requested data. Specifically, you will have continued access to the data already in your possession under WB25-44. This data may only be used for purposes of this proceeding. ***This approval becomes effective when signed agreements from the individuals listed below are received by the STB:***

- a) *Peter W. Denton – Steptoe LLP*
 - b) *Anthony J. LaRocca – Steptoe LLP*
 - c) *Timothy J. Strafford – Steptoe LLP*
 - d) *Molly Bruder Fox – Steptoe LLP*
 - e) *Joshua H. Runyan – Steptoe LLP*
 - f) *Onika K. Williams – Steptoe LLP*
 - g) *Sally Mordi – Steptoe LLP*
 - h) *Tara Woods – Steptoe LLP*
 - i) *Jensen Matsuda – Steptoe LLP*
 - j) *Kim Hooks – Steptoe LLP*
 - k) *Matthew Reilly – Kirkland & Ellis LLP*
 - l) *Daniel Donovan – Kirkland & Ellis LLP*
 - m) *Richard Cunningham – Kirkland & Ellis LLP*
- continued*

- n) *Jeffrey Ayer – Kirkland & Ellis LLP*
- o) *T.J. McCarrick – Kirkland & Ellis LLP*
- p) *McClain Thompson – Kirkland & Ellis LLP*
- q) *John Smaltz – Kirkland & Ellis LLP*
- r) *Tate Volbrecht – Kirkland & Ellis LLP*
- s) *Neil Joseph – Kirkland & Ellis LLP*
- t) *Grace Brier – Kirkland & Ellis LLP*
- u) *Natalie Simmons – Kirkland & Ellis LLP*
- v) *Michael Baranowski – FTI Consulting*
- w) *Nathaniel Zebrowski – FTI Consulting*
- x) *Shane Vyskocil – FTI Consulting*
- y) *Ranna Okeil – FTI Consulting*
- z) *Jude Prabakaran – FTI Consulting*
- aa) *Connor Rempe – FTI Consulting*
- bb) *Jonathan Tweedy – FTI Consulting*
- cc) *Brendan Casey – FTI Consulting*
- dd) *Daniel Goodwin – FTI Consulting*
- ee) *Alexander Yee – FTI Consulting*
- ff) *Mitch DeRubis – FTI Consulting*
- gg) *Maggie Hu – FTI Consulting*
- hh) *Richard Brown – FTI Consulting*
- ii) *Dennis W. Carlton – Compass Lexecon*
- jj) *Matias Escudero – Compass Lexecon*
- kk) *Benjamin A. Spulber – Compass Lexecon*
- ll) *Ron Laschever – Compass Lexecon*
- mm) *Khuong Ba Thien Do – Compass Lexecon*
- nn) *Jerry Wang – Compass Lexecon*
- oo) *Aarushi Kataria – Compass Lexecon*
- pp) *Madeline Heyler – Compass Lexecon*
- qq) *Samuel Carless – Compass Lexecon*
- rr) *Hao Nguyen – Compass Lexecon*
- ss) *Yuchen (Cindy) Yang – Compass Lexecon*
- tt) *Dr. William W. Wilson – North Dakota State University*
- uu) *Dr. David W. Bullock – North Dakota State University*
- vv) *Courtney B. Estes – Solo Practitioner*

The expiration date for this agreement is August 31, 2027. Unless you seek and obtain a renewal from the STB, this agreement upon expiration obligates you to return or destroy copies of the data as described in item 7 of the agreement.

Several aspects of the CCWS limit the conclusions that may be drawn from analysis of the CCWS: 1) the CCWS is a sample, and 2) the CCWS is based on terminating shipments from relatively large carriers. Only those railroads with more than 4,500 annual terminating carloads are included in the sample. The limited sampling of small railroads may have a substantial effect on studies covering areas served predominately by non-sampled railroads. For additional

information on the CCWS, *see Reference Guide* @ <https://www.stb.gov/reports-data/waybill> on the Board's website.

The rules for release of waybill data are codified at 49 C.F.R. § 1244.9. The CCWS contains confidential shipper and railroad data. As a result, the CCWS is commercially sensitive and has the potential to cause competitive harm to shippers and railroads if disclosed. Therefore, the following agreement must be signed, and a copy of the signature pages returned to the STB, before any waybill data can be used.

Your signature acknowledges your agreement to comply with the following:

1. You will use the CCWS data released to you solely for purposes of the proceeding identified above. Such purposes include any judicial review arising from that proceeding.
2. Absent permission from the STB, you shall make the information contained in the CCWS (including work product and analyses derived from the CCWS) available only to the individuals identified above. The STB may approve access for additional individuals for purposes of the proceeding. In general, such individuals must be outside counsel in this proceeding, transportation practitioners, and those individuals working with or assisting such counsel or practitioners who are not regular employees of the party represented, who have a need to know, review, or handle the CCWS for purposes of the proceeding, including testifying and consulting experts. Each such additional individual must review and sign this agreement, and a copy of the signature page must be returned to the STB, before access may be granted.
3. Pleadings and evidence filed with the Board in the proceeding may contain CCWS data (including work product and analyses derived from the CCWS). Unless data in the pleadings and evidence are aggregated to the level of at least three shippers and will prevent the identification of an individual railroad, the pleadings and evidence must be filed with the Board under confidential filing procedures (both in e-filing and paper submissions). Such pleadings and evidence should be appropriately marked to indicate that they contain confidential Waybill data and, if submitted in paper or on physical media, be in a package clearly marked on the outside "Highly Confidential Material: Contains Waybill Data." Such pleadings will not be posted in the publicly available docket. A public version of the pleading and evidence that redacts unaggregated CCWS data should also be filed for posting in the public docket.
4. Pleadings and evidence (and underlying workpapers) containing CCWS data (including work product and analyses derived from the CCWS) may be disclosed only to outside counsel or other independent representatives for other parties to

Waybill Agreement WB26-33

the proceeding who have signed an agreement with the Board that grants them access to the underlying CCWS data.

5. CCWS data may be disclosed to the reviewing court in briefs filed or oral argument made in connection with judicial review arising from the proceeding, but the party making such disclosure must take adequate steps to maintain the confidentiality of the data by filing pleadings under seal and seeking confidential treatment of the data at oral argument (and in any transcripts). Counsel who wish to access CCWS data for purposes of participating in judicial review arising from the proceeding must have signed an agreement with the Board that grants access to the data, and may be added pursuant to paragraph 2 above.
6. Except as provided in paragraph 4 above, you will refer any requests for CCWS data in your possession (including work product and analyses derived from the CCWS) to the STB for processing and will inform the requesting party of such referral to the STB. If you are compelled by law or order of a governmental or judicial body to release CCWS data, you shall notify the Board in writing within three days of any determination that CCWS data must be released, and in no event later than five days before the CCWS data is scheduled to be released.
7. In order to retain access to the CCWS beyond the expiration date specified above, you must submit a written request for an annual extension of the agreement no later than thirty days prior to the expiration date and the renewal request must be approved by the Office of Economics. **If an annual agreement is not signed and approved, you must certify by no later than the expiration date that all CCWS data (including all work product and analyses derived from the CCWS) obtained under this agreement has been destroyed or returned to the STB.** Notwithstanding the foregoing, outside counsel (but not outside consultants or transportation practitioners) for each party may retain file copies of all pleadings and evidence filed with the Board and file copies of all work product. The non-disclosure requirements of this agreement shall continue to apply to such file copies for as long as they are retained.
8. Failure to request an extension (if necessary), or destroy or return CCWS data when required, may prevent any future release of CCWS data to you. Violations of this agreement may subject you to sanctions by the Board.

Waybill Agreement WB26-33

After all parties have signed and returned this agreement, the extension is granted.

Sincerely,

MARTIN
SCHLENKER

Digitally signed by
MARTIN SCHLENKER
Date: 2026.08.12
12:23:59 -04'00'

Martin L. Schlenker
Acting Director
Office of Economics

Waybill Agreement WB26-33

I have read and understand the conditions for release of the CCWS data. I agree to comply fully with these conditions and the provisions of this confidentiality agreement. No later than thirty days before the agreement expires, I will request an extension of this agreement, if necessary. If no extension is requested, I will return or destroy all CCWS data and certify that I have done so. I have the authority to sign this agreement.

By: Peter W. Denton

/s/ Peter W. Denton

Signature

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By: Anthony J. LaRocca

/s/ Anthony J. LaRocca

Signature

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By: Timothy J. Strafford

/s/ Timothy Strafford

Signature

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By: Molly Bruder Fox

/s/ Molly Bruder Fox

Signature

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By: Joshua H. Runyan

/s/ Joshua Runyan

Signature

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By: Onika K. Williams

/s/ Onika K. Williams

Signature

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By: Sally Mordi

/s/ Sally Mordi

Signature

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By: Tara Woods

/s/ Tara Woods

Signature

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By: Jensen Matsuda

/s/ Jensen Matsuda

Signature

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By: Kim Hooks

/s/ Kim Hooks

Signature

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By: Matthew Reilly

/s/ Matthew Reilly

Signature

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By: Daniel Donovan

/s/ Daniel Donovan

Signature

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By: Richard Cunningham

/s/ Richard Cunningham

Signature

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By: Jeffrey Ayer

/s/ Jeffrey Ayer

Signature

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By: T.J. McCarrick

/s/ T.J. McCarrick

Signature

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By McClain Thompson

/s/ McClain Thompson

Signature

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By: John Smaltz

/s/ John Smaltz

Signature

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By: Tate Volbrecht

/s/ Tate Volbrecht

Signature

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By: Neil Joseph

/s/ Neil Joseph

Signature

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By: Grace Brier

/s/ Grace Brier

Signature

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By: Natalie Simmons

/s/ Natalie Simmons

Signature

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By: Michael Baranowski

/s/ Michael Baranowski

Signature

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By: Nathaniel Zebrowski

/s/ Nathaniel Zebrowski

Signature

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By: Shane Vyskocil

/s/ Shane Vyskocil

Signature

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By: Ranna Okeil

/s/ Ranna Okeil

Signature

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By: Jude Prabakaran

/s/ Jude Prabakaran

Signature

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By: Connor Rempe

/s/ Connor Rempe

Signature

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By: Jonathan Tweedy

/s/ Jonathan Tweedy

Signature

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By: Brendan Casey

/s/ Brendan Casey

Signature

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By: Daniel Goodwin

/s/ Daniel Goodwin

Signature

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By: Mitch DeRubis

/s/ Mitch DeRubis

Signature

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By: Maggie Hu

Maggie Hu

Digitally signed by Maggie Hu
Date: 2026.06.17 09:16:12
+04'00'

Signature

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By: Dennis W. Carlton

/s/ Dennis W. Carlton

Signature

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By: Matias Escudero

/s/ Matias Escudero

Signature

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By: Benjamin A. Spulber

/s/ Benjamin A. Spulber

Signature

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By Ron Laschever

/s/ Ron Laschever

Signature

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By: Khuong Ba Thien Do

/s/ Khuong Ba Thien Do

Signature

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By: Jerry Wang

/s/ Jerry Wang

Signature

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By: Aarushi Kataria

/s/ Aarushi Kataria

Signature

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By: Madeline Heyler

/s/ Madeline Heyler

Signature

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By: Samuel Carless

/s/ Samuel Carless

Signature

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By: Hao Nguyen

/s/ Hao Nguyen

Signature

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By: Yuchen (Cindy) Yang

/s/ Yuchen Yang

Signature

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By: Dr. William W. Wilson

/s/ William S. Wilson

Signature

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By: Dr. David W. Bullock

/s/ David W. Bullock

Signature

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By: Courtney B. Estes

/s/ Courtney B. Estes

Signature

Peter W. Denton
202 429 6445
pdenton@steptoe.com

Steptoe

1330 Connecticut Avenue, NW
Washington, DC 20036-1795
202 429 3000 main
www.steptoe.com

July 29, 2026

VIA E-MAIL

Director Francis O'Connor
Acting Director, Office of Economics
Surface Transportation Board
395 E Street, SW
Washington, D.C. 20423
waybill@stb.gov

Re: **Request for Waybill Data, STB Docket No. FD 36873, Union Pacific Corporation, et al.—Control—Norfolk Southern Corporation, et al.**

Dear Director O'Connor:

On August 7, 2025, we submitted a request, on behalf of BNSF Railway Company ("BNSF"), that BNSF's outside counsel and consultants in the above-referenced proceeding be granted permission to access the confidential Carload Waybill Sample (CCWS) with unmasked revenues for 2019 through 2024 (Waybill Request WB25-44). The request was granted on August 12, 2025. On September 24, 2025, we requested additional access to CCWS data for 1990 through 2018 (Waybill Request WB25-56). The request was granted on September 30, 2025.

Pursuant to 49 CFR § 1244.9(b)(4), we hereby request renewal of access to the 1990-2024 CCWS unmasked revenues for the following individuals, none of whom is a regular employee of BNSF, for the duration of the above-referenced proceeding:

Steptoe LLP and its employees:

1. Peter W. Denton
2. Anthony J. LaRocca
3. Timothy J. Strafford
4. Molly Bruder Fox
5. Joshua H. Runyan
6. Onika K. Williams
7. Sally Mordi
8. Tara Woods
9. Jensen Matsuda
10. Kim Hooks

Kirkland & Ellis LLP and its employees:

1. Matthew Reilly
2. Daniel Donovan
3. Richard Cunningham
4. Jeffrey Ayer
5. T.J. McCarrick
6. McClain Thompson
7. John Smaltz
8. Tate Volbrecht
9. Neil Joseph

FTI Consulting and its employees:

1. Michael Baranowski
2. Nathaniel Zebrowski
3. Shane Vyskocil
4. Ranna Okeil
5. Jude Prabakaran
6. Connor Rempe
7. Jonathan Tweedy
8. Brendan Casey
9. Daniel Goodwin
10. Alexander Yee
11. Mitch DeRubis
12. Maggie Hu
13. Richard Brown

Compass Lexecon and its employees:

1. Dennis W. Carlton
2. Matias Escudero
3. Benjamin A. Spulber
4. Ron Laschever
5. Khuong Ba Thien Do
6. Jerry Wang
7. Aarushi Kataria
8. Madeline Heyler
9. Samuel Carless
10. Hao Nguyen
11. Yuchen (Cindy) Yang

North Dakota State University:

1. Dr. William W. Wilson

Director Francis O'Connor

July 28, 2026

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Pursuant to 49 C.F.R. § 1244.9(b)(4), we also hereby request that the following counsel and consultants of BNSF in the above-referenced proceeding, none of whom is a regular employee of BNSF, be granted permission to access the confidential CCWS with unmasked revenues in this proceeding for 1990 through 2024:

1. Courtney B. Estes, Solo Practitioner

Kirkland & Ellis LLP and its employees:

1. Grace Brier
2. Natalie Simmons

North Dakota State University:

1. Dr. David W. Bullock

The required fee of \$576.00 (\$72.00 per four (4) individuals for WB25-44 and \$72.00 per four (4) individuals for WB25-56) has been paid on pay.gov per 49 C.F.R. § 1002.2(f)(98)(i).

Please contact me with any questions.

Respectfully submitted,

/s/ Peter W. Denton

Peter W. Denton
Attorney for BNSF Railway Company