312680

ENTERED
Office of Chief Counsel
October 13, 2026
Part of
Public Record

KIRKLAND & ELLIS LLP

1301 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
United States

+1 202 389 5000

www.kirkland.com

Facsimile:
+1 202 389 5200

Daniel T. Donovan, P.C.
To Call Writer Directly:
+1 202 389 5174
daniel.donovan@kirkland.com

October 13, 2026

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

BNSF-63

Re: STB Docket No. FD 36873 – BNSF Statement Regarding UP's Motion to Compel Discovery from Berkshire Hathaway (UP-115)

Dear Judge Soulikias:

BNSF writes to briefly address two points for Your Honor's consideration regarding UP's request for discovery from Berkshire Hathaway, BNSF's corporate parent.

First, UP has served and is actively taking discovery from BNSF and other non-applicant railroads. UP has served 30 document requests on BNSF, plus another 87 document requests on other non-applicant railroads. BNSF has responded to the document requests; other non-applicant railroads have responded too. Productions are underway. Combined, BNSF, CSXT, and CPKC have already produced tens of thousands of pages. Rolling productions continue.

Second, UP will depose executives of BNSF and other railroads. BNSF has agreed to make its Chief Executive Officer, Chief Marketing Officer, and Chief Operating Officer available for depositions and is in discussions related to other requested BNSF deponents. To the extent that BNSF has relevant, non-privileged information regarding the competitive effects, downstream effects, and other impacts of UP's merger, those witnesses are the senior-most personnel who would speak for BNSF on those topics. We understand that UP is also seeking depositions from the other Class I Railroads, including CPKC and CSX, including depositions of their senior-most executives.

/s/ Dan Donovan
Daniel T. Donovan, P.C.

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 13, 2026