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BEFORE THE
SURFACE TRANSPORTATION BOARD

DOCKET NO. FD 36873

UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD COMPANY

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NORFOLK SOUTHERN CORPORATION AND NORFOLK SOUTHERN RAILWAY COMPANY

OPENING COMMENTS OF THE AGRICULTURAL TRANSPORTATION WORKING GROUP

On behalf of our collective food and agricultural memberships, the undersigned organizations write to express our concerns with the proposed merger of the Union Pacific Railroad (UP) and the Norfolk Southern Railway (NS). We believe the merger would cause harm to rail-on-rail competition and create more rail service risk for agricultural shippers. We request the Surface Transportation Board (STB) to deny the Amended Railroad Control Application.

If the merger was allowed, the combined UP/NS would create longer single-line hauls, but there are no definitive statements that the cost savings would be passed on to the merged railroad's customers. Moreover, the creation of a combined railroad with significantly greater market power and market reach would place other Class I railroads at a competitive disadvantage and create pressure for additional consolidation. Additional Class I mergers would further concentrate market power among the Class I railroads, reducing competition and meaningful rail alternatives and

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leaving shippers with fewer options to address rate and service concerns. Increased rail rates and service problems are usually reflected in lower agricultural commodity prices and higher input costs.

We see a merged UP/NS as negative for supply chain risk management. Coming out of the Covid pandemic period, several rail carriers had major, prolonged service disruptions. Having access to other rail carriers enabled some rail customers to shift freight to another carrier's tracks and lessen the damage to agricultural supply chains. Further consolidating the rail carriers would make it less possible to shift freight when service disruptions occur again. The seasonality of agriculture makes service disruptions particularly significant.

Based on UP/NS filings and public statements, the railroad's proposed operating model would prioritize west-to-east intermodal traffic. These corridors largely bypass many of the nation's key agricultural production regions, focusing instead on connecting ports and major population centers. Moreover, the UP/NS's emphasis on so-called premium intermodal lanes raises concerns that equipment, crews, and other operating resources could be reallocated away from agricultural service. Such a shift risks undermining the efficient and reliable service that agricultural shippers depend upon, particularly for critical first-mile and last-mile movements.

The merger regulations at 49 C.F.R. Part 1180 require merger applicants to demonstrate their transaction would enhance competition, which the Board strongly suggested meant primarily enhancing rail-to-rail competition. The Amended Application contains no proposed measures or actions that would enhance rail-to-rail competition. Given the absence of competition enhancements in the Amended Application, we urge STB to reject the Amended Application rather than attempt to fashion competition enhancements without the required input from the merger applicants. Unfortunately, we do not believe a regulatory scheme exists that can enhance rail-to-

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rail competition in an industry where the small number of major railroads would be even further reduced pursuant to a merger.

Many of our members are unlikely to participate in the UP/NS proceeding to avoid retaliation. In fact, UP's CEO Jim Vena threatened increased rates for customers that do not support the merger. In our judgement, if the merger was in the best interest of shippers and the public, threats of retaliation would be unnecessary.

In conclusion, if UP and NS are allowed to merge, we believe decreased competition and increased rail service risk would lead to higher rail transportation costs and inflation for the U.S. economy. We strongly urge STB to issue a decision denying the Amended Application and keeping UP and NS as separate railroads.

Respectfully,

AmericanHort
American Malting Barley Association
Council of Producers & Distributors of Agrotechnology
Midwest Dry Bean Coalition
National Association of Wheat Growers
National Barley Growers Association
National Corn Growers Association
National Grain and Feed Association
National Sorghum Producers
Northarvest Bean Growers Association
Pacific Northwest Waterways Association
Pet Food Institute
Southwest Council of Agribusiness
United Egg Producers
U.S. Wheat Associates

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