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April 12, 2021  
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Before the  
SURFACE TRANSPORTATION BOARD

\_\_\_\_\_  
Docket No. FD 36500

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

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REPLY  
\_\_\_\_\_

GORDON P. MacDOUGALL  
1025 Connecticut Ave. N.W.  
Washington DC 20036

Attorney for Samuel J. Nasca

April 12, 2021

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REPLY

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Samuel J. Nasca, for and on behalf of SMART/Transportation Division, New York State Legislative Board (SMART/TD-NY), submits this reply in support of the comments suggested by various opponents to the proposed waiver of the current regulation governing STB regulation of the captioned proceeding, 49 CFR §1180.0(b), with substitution by those regulations in effect some 20 years earlier in 49 CFR §1180.1000-1199, prior to October 1, 2000.

SMART/TD-NY, at this time, takes no position on either support or opposition on the merits of the proposed CPR-KCS merger, and will await examination when the record is more complete. However, SMART/TD-NY supports the position of rail carrier commentators, in their opposition to waiver of the current STB regulations, rather than reimpose former regulations.

SMART/TD-NY will not repeat the anti-waiver arguments put forth on this issue by the major carriers (Norfolk Southern; Union Pacific; Canadian National; BNFSF) , or by the shippers/receivers (Cargill; American Chemistry Council; Corn Refiners Association;The Fertilizer Institute; National Grain and Feed Association; National Industrial Transportation League; US Wheat Association; Freight Rail Customer Alliance; National Coal Transportation Alliance; Private Railcar Food and Beverage Association).

SMART/TD-NY calls attention to the major and lengthy rulemaking which established the current rules, covering more than 600 printed pages. Major Rail Consolidation Procedures, 5 S.T.B. 1-282 (2000), 539-842 (2001). Railroad employees actively participated in the proceeding, including the SMART predecessor, United Transportation Union, and its subordinate units.

Waiver of the current consolidation rules would be adverse to employee interests and protection.

Respectfully submitted,

GORDON P. MacDOUGALL  
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Washington DC 20036

April 12, 2021

Attorney for Samuel J. Nasca

Certificate of Service

I hereby certify I have served a copy of the foregoing upon all parties by first class mail postage-prepaid.

Washington, DC

Gordon P. MacDougall