

28710
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SERVICE DATE - LATE RELEASE DECEMBER 12, 1997

SURFACE TRANSPORTATION BOARD

DECISION

Finance Docket No. 32760

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND MISSOURI PACIFIC RAILROAD COMPANY—CONTROL AND MERGER—SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP., AND THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

[Decision No. 76]

Decided: December 11, 1997

In Decision No. 44 (served August 12, 1996), we approved the common control and merger of the rail carriers controlled by Union Pacific Corporation (Union Pacific Railroad Company and Missouri Pacific Railroad Company) and the rail carriers controlled by Southern Pacific Rail Corporation (Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and the Denver and Rio Grande Western Railroad company)(collectively UP/SP), subject to various conditions including numerous environmental mitigation conditions. As pertinent here, the environmental conditions imposed in Decision No. 44 called for further, more focused mitigation studies to arrive at specifically tailored mitigation plans for Wichita, KS, and Reno, NV, in addition to the environmental mitigation already imposed, to assure that localized environmental issues unique to those communities are effectively addressed. The mitigation studies were to be completed within 18 months of the consummation of the merger.

On September 15, 1997, the Board's Section of Environmental Analysis (SEA), issued the Preliminary Mitigation Plan (PMP) for Wichita, KS. Comments on the PMP were due October 15, 1997. SEA then began preparation of a Final Mitigation Plan (FMP) for Wichita, Kansas/Sedgwick County, Kansas (Wichita/Sedgwick), as contemplated by Decision No. 44.

By a letter dated November 25, 1997, however, counsel for Union Pacific Railroad Company (UP) and Wichita/Sedgwick jointly requested that we toll all proceedings in the on-going 18-month mitigation study for Wichita/Sedgwick. In support of their request, UP and Wichita/Sedgwick state that they are engaged in good faith negotiations concerning the matters to be addressed by the Wichita/Sedgwick mitigation study and that such negotiations, while not complete, may obviate the need for SEA to issue an FMP.

In addition, to maintain the status quo during the pendency of the negotiations, UP states that it will adhere to the train count limitations set forth in paragraph 23a of Appendix G of Decision No.

44 until we either (1) issue a decision imposing final localized mitigation for Wichita/Sedgwick, as contemplated by paragraph 23a of Appendix G, or (2) take other action as contemplated by paragraph 23d.

We will grant UP and Wichita/Sedgwick's joint request and toll the time for undertaking further proceedings in the mitigation study being conducted for Wichita/Sedgwick. Should UP and Wichita/Sedgwick reach agreement on a final mitigation plan, both parties shall immediately notify SEA, as required by paragraph 23d of Appendix G to Decision 44. In addition, should either UP or Wichita/Sedgwick believe that a continuation of the tolling period is no longer appropriate, it shall inform us. SEA would then resume preparation of the FMP, and the mitigation study process for Wichita/Sedgwick outlined in Decision No. 44 would proceed under the schedule originally established, as extended by the period during which further proceedings have been tolled.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

It is ordered:

1. Further proceedings on the 18-month mitigation study ordered for Wichita/Sedgwick in Decision No. 44, Appendix G, 23a-23d, are tolled.
2. This decision is effective on the date of its service.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams
Secretary

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