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SERVICE DATE - JUNE 1, 1998

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FR-4915-00-P

DEPARTMENT OF TRANSPORTATION

[STB Finance Docket No. 32760 (Sub-No. 26)]

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

[HOUSTON/GULF COAST OVERSIGHT]

AGENCY: Surface Transportation Board

ACTION: Decision No. 5; Notice of Extension to File Requests for Additional Conditions to the UP/SP Merger for the Houston, Texas/Gulf Coast Area, and Revisions to Procedural Schedule.

SUMMARY: The Board is granting a motion filed May 20, 1998, by the Texas Mexican Railway Company, the Kansas City Southern Railway Company, the Chemical Manufacturers Association, the Society of the Plastics Industry, Inc., the Texas Chemical Council, and the Railroad Commission of Texas, collectively requesting an extension until July 8, 1998, to file requests and supporting evidence for additional remedial conditions to the UP/SP merger<sup>1</sup> as they pertain to rail service in the Houston, Texas/Gulf Coast region.

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<sup>1</sup> *Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company—Control and Merger—Southern Pacific Rail Corporation,*

As a result, the Board is issuing the revised procedural schedule set forth at the end of this decision.

**DATES:** Under the revised schedule, the proceeding will now commence on July 8, 1998.

On that date, all interested parties must file requests for new remedial conditions to the UP/SP merger regarding the Houston/Gulf Coast area, along with all supporting evidence.

The Board will publish a notice of acceptance of requests for new conditions in the Federal Register by August 7, 1998. Notices of intent to participate in the oversight proceeding are due August 28, 1998. All comments, evidence, and argument opposing the requested new conditions are due September 18, 1998. Rebuttal in support of the requested conditions is due October 16, 1998.

**ADDRESSES:** An original plus 25 copies of all documents, referring to STB Finance Docket No. 32760 (Sub-No. 26), must be sent to the Office of the Secretary, Case Control Unit, ATTN: STB Finance Docket No. 32760 (Sub-No. 26), Surface Transportation Board, 1925 K Street, N.W., Washington, DC 20423-0001.

**FOR FURTHER INFORMATION CONTACT:** Joseph H. Dettmar, (202) 565-1600.

[TDD for the hearing impaired: (202) 565-1695.]

**SUPPLEMENTARY INFORMATION:** On March 31, 1998, the Board instituted an oversight proceeding to consider requests for additional conditions to the UP/SP Merger for the Houston/Gulf Coast area, including those that seek divestiture of certain of the merged

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*Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SCPSL Corp., and The Denver and Rio Grande Western Railroad Company, Finance Docket No. 32760 (UP/SP Merger), Decision No. 44 (STB served Aug. 12, 1996).*

carriers' property.<sup>2</sup> All interested persons were directed to file their requests, along with all supporting evidence, by June 8, 1998.

On May 20, 1998, the above-named parties moved for a 30-day extension of that date to July 8, 1998. They state that they are working toward a consensus with respect to conditions that they may request, and that additional time is needed to coordinate their proposal and prepare all supporting evidence. The Burlington Northern and Santa Fe Railway Company (BNSF) and the National Industrial Transportation League filed letters stating that they do not oppose the extension. If the Board grants the motion, however, BNSF urges that the revised due date for filing requests for conditions, and other adjustments to the procedural schedule, be made applicable for all interested persons. UP has asked the Board to adhere to the present schedule.

We do not believe that a 30-day extension for filing requested conditions will unduly burden UP or delay our disposition of these matters. Accordingly, we will extend the deadline for filing requested conditions, make other related adjustments to the procedural schedule, and make them applicable for all other interested persons.

As set forth in the revised procedural schedule, parties that wish to request new remedial conditions to the UP/SP merger as they pertain to the Houston/Gulf Coast region

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<sup>2</sup> The Board instituted this proceeding in Finance Docket No. 32760 (Sub-No. 21), Decision No. 12 (published in the Federal Register on April 3, 1998 (63 FR 16628)), pursuant to the 5-year oversight condition that it imposed upon its approval of the UP/SP Merger. By decision served May 19, 1998, the Board corrected the March 31 decision by designating the docket number for the Houston/Gulf Coast Oversight proceeding as Finance Docket No. 32760 (Sub-No. 26) rather than (Sub-No. 21), and designating Decision No. 12 in Sub-No. 21 as Decision No. 1 in Sub-No. 26.

STB Finance Docket No. 32760 (Sub-No. 26)

must file them, along with their supporting evidence, by July 8, 1998; the remainder of the procedural schedule is adjusted accordingly. In all other respects, the March 31 decision instituting this proceeding (as corrected on May 19) remains essentially the same.<sup>3</sup>

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

Decided: May 29, 1998

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams  
Secretary

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<sup>3</sup> The only change in the timing of the presentations is that comments in opposition to requests for conditions will be due approximately six weeks after the Board's notice of acceptance of such requests is published in the Federal Register, rather than the approximately five weeks afforded in the initial schedule. That is because the oral argument in No. 96-1373, Western Coal Traffic League v. STB (D.C. Cir.), the proceeding reviewing the Board's UP/SP merger decision, will be held on September 11, 1998.

**REVISED PROCEDURAL SCHEDULE**

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| July 8, 1998       | Requests for new remedial conditions (with supporting evidence) filed.  |
| August 7, 1998     | Board notice of acceptance of requests for new conditions published in the Federal Register.  |
| August 28, 1998    | Notice of intent to participate in proceeding due.  |
| September 18, 1998 | All comments, evidence, and argument opposing requests for new remedial conditions to the merger due. Comments by U.S. Department of Justice and U.S. Department of Transportation due. |
| October 16, 1998   | Rebuttal evidence and argument in support of requests for new conditions due.   |

The necessity of briefing, oral argument, and voting conference will be determined after the Board's review of the pleadings.