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SERVICE DATE - LATE RELEASE MARCH 2, 1998

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. 79]

Decided: February 27, 1998

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 Reno, NV, and Wichita, KS, 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 Reno, NV, and Washoe County.<sup>1</sup> After comments on the PMP were received, a Final Mitigation Plan (FMP) for Reno was issued February 11, 1998, as contemplated by Decision No. 44. Comments on the FMP are due to be filed March 12, 1998.

By a letter dated February 24, 1998, however, counsel for Reno requests that we toll all proceedings in the ongoing Reno mitigation study for a period of 8 months. Specifically, Reno asks that we toll both the current comment period on the FMP and completion of the ongoing mitigation study process (i.e., the preparation of SEA's final recommendations and the issuance of a final

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<sup>1</sup> SEA also issued a PMP for Wichita and Sedgwick County. In Decision No. 76 (served December 12, 1997), however, the Board granted a joint request that further proceedings on the 18-month mitigation study ordered for Wichita and Sedgwick County be tolled.

decision imposing additional localized mitigation measures we find appropriate, based on our consideration of the PMP, FMP, all public comments, and SEA's final recommendations). In support of its request, Reno states that it is actively pursuing a funding plan to implement a depressed trainway project through downtown Reno and is also engaged in good faith negotiations with UP/SP. By letter dated February 25, 1998, the Union Pacific Railroad Company (UP) has advised us that it concurs with Reno's tolling request. UP also agrees to adhere to the train count limitations and reporting requirements set forth in paragraph 22a and 22b of Appendix G of Decision No. 44 during the period that the Reno mitigation study process is tolled.

We will grant Reno's request and toll for an 8-month period the time for filing comments on the FMP and the undertaking of further proceedings in the Reno mitigation study.<sup>2</sup> Should UP and Reno reach agreement on a final mitigation plan, both parties shall immediately notify SEA, as required by paragraph 22d of Appendix G to Decision 44. Otherwise, a new 30-day comment period on the FMP will commence at the expiration of the 8-month period during which 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 Reno in Decision No. 44, Appendix G, 22a-22d, are tolled for 8 months from the date of service of this decision.
2. This decision is effective on the date served.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams  
Secretary

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<sup>2</sup> The Board will accept and file in the public record any comments on the FMP that are filed by the preexisting March 12, 1998 deadline. SEA, however, will defer consideration of any such comments during the period that the Reno mitigation study is tolled.