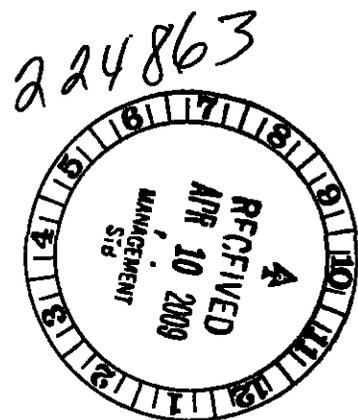


Scott A King
Vice President and General Counsel

April 9, 2009



VIA FEDERAL EXPRESS OVER-NIGHT PRIORITY

The Honorable Anne K Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20024

**Re: STB Finance Docket No. 35219, Union Pacific Railroad Company –
Petition for a Declaratory Order**

Dear Ms Quinlan

Enclosed for filing in the above-captioned case, please find the original and ten (10) copies of Occidental Chemical Corporation's Comments on the Petition for a Declaratory Order filed by Union Pacific Railroad Company. An additional copy is included for date-stamping and return via enclosed envelope.

Please feel free to contact me with any questions.

Sincerely,

Scott A King
Vice President and General Counsel
Occidental Chemical Corporation

SAK jar
Enclosures

cc Paul M Donovan, Esq (w/ enc)
LaRoe, Winn, Moerman & Donovan
4135 Parkglenn Court NW
Washington, DC 20007

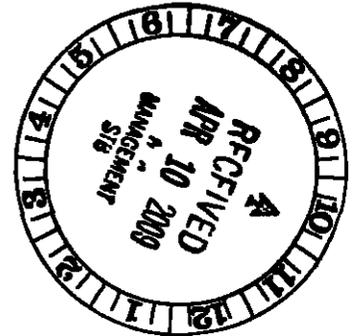
Robin Burns (w/ enc)
Robert Peterson (w/enc)

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BEFORE THE
SURFACE TRANSPORTATION BOARD

224863

STB Finance Docket No. 35219



COMMENTS OF OCCIDENTAL CHEMICAL CORPORATION, SUPPLEMENTING
REPLY OF THE CHLORINE INSTITUTE INC. TO
THE PETITION OF THE UNION PACIFIC RAILROAD
COMPANY FOR A DECLARATORY ORDER

Prepared by:

Robin Burns
Vice President –Supply Chain
Telephone: (972) 404-3305
and
Scott A. King
Vice President and General Counsel
Telephone: (972) 404-3840

Occidental Chemical Corporation
5005 LBJ Freeway
Dallas, Texas 75244

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Occidental Chemical Corporation (together with its affiliates, "OxyChem")
is a leading North American manufacturer of basic chemicals and vinyl resins,
including chlorine, caustic soda and polyvinyl chloride (PVC) – the building

blocks for a range of products. OxyChem employs approximately 3,000 people at 21 domestic locations spread throughout the central to eastern United States. Our products, which are used in water purification, medical supplies, pharmaceuticals, construction materials and agricultural chemicals, are vital to the economy of the United States.

It is essential that OxyChem have access to an effective rail transportation network throughout the United States. This is why OxyChem views the Petition for Declaratory Order proposed by Union Pacific as a troubling attempt to effect indirectly what the Board and the Congress have already fought directly. Railroads must continue to be required, as common carriers, to carry hazardous materials (as defined by regulation) that are necessary for many of the industrial applications essential to our economy. The common carrier doctrine is a bedrock of remaining rail regulation, and may reduce public discomfort with rail industry consolidation (although the rail industry antitrust exemption is currently facing significant legislative challenge)

Our various business units make over 70,000 rail shipments per year, of these, approximately 48,000 involve hazardous materials. While approximately 20% of these 48,000 shipments are chlorine, more than 2.4 million tons of chlorine are transmitted to bulk customers by pipeline every year. However, due to the locations and needs of our many customers and users across the United States, rail

transportation is essential for this critical building block. Pipeline transportation is not feasible for small or geographically distant customers. Generally, trucks are not cost effective and are inherently riskier, considering the number of trucks required and distance required to handle the volume.

Although our preference is to supply customers that are in close proximity to our facilities, it is not always possible to do so. There is simply not sufficient supply of chlorine in TX and LA to meet demand in the Gulf Coast region, and some of the demand must be satisfied from existing assets outside of those states, particularly in the Northeast. UP is well aware of this fact, as it participates in some of the movements outside of the 300 mile radius alleged by UP. OxyChem is the largest merchant marketer of chlorine and, based on actual 2008 sales data, nearly seventy five percent (75%) of all of its chlorine shipments not made by pipeline fall outside of this hypothetical radius.

In fact, one of the ways that OxyChem seeks to differentiate itself from competitors is based on its reliable and geographically diverse production. As recent tragic events have demonstrated, the Gulf Coast can be severely impacted by inclement weather, and the broad geographic reach of OxyChem provides strategic advantages in meeting customer needs, regardless of supply interruptions in one region. This reliability strategy can only be pursued through continued broad rail access. Moreover, when product supplies are "tight" regionally, it is

essential for OxyChem to have the safety valve of additional production outside of the Gulf Coast in order to meet peak requirements of its largest customers in that region.

In addition, the UP's request to be relieved of their common carrier obligation when a lane has not been used, would, if granted, cripple a manufacturer's ability to use back up rail. Optimizing a ship point may not always be feasible, in the event of a production problem, hurricane or planned outage. In those cases, it may become necessary to move chlorine longer distances via rail to cover a customer's requirements.

Moreover, there are problems with UP's suggestion from a competition law perspective. Consumers of chlorine, including numerous state and governmental entities, have an economic interest in reasonable competitive prices, which reflect access to reasonably priced shipping. The effect of UP's proposal would be to force allocation of product supply to certain customers, in circumstance where most shippers are already "captive" (that is, have access to only one carrier) at a majority of origin or destination points. For example, OxyChem estimates that it is captive at three quarters of its origin or destination points already. This rationing would interfere with market forces in a way that would not be helpful to consumers facing supply and demand based pricing, and could have the effects of segmenting markets. Recently, a concerned shipper group was informed by the Department of

Justice that it was not appropriate to exchange information that would have facilitated the optimization of swaps and exchanges to minimize ton-miles, because of competitive concerns very similar to this. In addition, at the same time UP's proposal would limit the Board's ability to remedy anticompetitive abuses by the rail carriers.

The changes sought by UP would more appropriately be sought from Congress, not the Board, as our trade group CI has argued in its reply brief. For purposes of its reply and because the issue raised by UP is already before the Board, OxyChem hereby adopts by reference and incorporates.

1. Reply of the Chlorine Institute filed in this matter on March 12, 2009
2. Reply of Olin Corporation filed in this matter on March 25, 2009

OxyChem is grateful for the opportunity to comment on the need to maintain the current common carrier obligation. Chlorine and its derivative products are vital to the way we live. It is imperative that the Board reject UP's petition, in

order to assure the continued safe transport of PIH products (including chlorine).

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott A. King", is written over a horizontal line.

Scott A. King
Vice President and General Counsel
Telephone: (972) 404-3840
Attorney for
Occidental Chemical Corporation