

Supplemental Order No. 1 to
STB SERVICE ORDER NO. 1518

JOINT PETITION FOR SERVICE ORDER

Decided December 12, 1997

The Board denies a request by a regional agricultural association, whose members' transportation needs had already been largely met, asking the Board to rescind the service order in *Joint Petition For Service Order*, 2 S.T.B. 744 (1997) (*December 4 Order*), requiring western railroads to meet with agricultural interests and prioritize their transportation of grain.

BY THE BOARD:

In our *December 4 order*, we found that a transportation emergency in the western part of the United States continues to exist, and, as a result, we extended, and modified in certain respects, the service order in *Joint Petition For Service Order*, 2 S.T.B. 725 (1997). As here pertinent, the supplement to the service order required the Union Pacific Railroad Company and the Southern Pacific Transportation Corporation (UP/SP) and Burlington Northern and Santa Fe Railway Company (BNSF) to meet with agricultural organizations and to prioritize their transportation of grain.

In a letter dated December 11, 1997, and sent to the Board by facsimile well after the close of business on that date, the Pacific Northwest Grain and Feed Association, Inc. (the Association), asks us to rescind our *December 4 order* "on or before December 12." The Association raises a variety of issues concerning our *December 4 order*, but in essence, its position is that, by focusing the attention of UP/SP and BNSF on grain that is about to spoil, we will *a priori* disadvantage other agricultural shippers in general, and, in particular, the Association's shippers, whose grain on the ground has already been transported. The Association states that grain shippers that do not "accurately predict and prepare for the transportation needs of their operations" should not "be rewarded with priority allocation of available rail service."

The Association's request that we rescind our *December 4 order* will be denied. As our order found, there continues to be a transportation emergency affecting a large region of the United States, and so, it is appropriate that we act to help relieve the emergency. All of our actions in this proceeding have been designed to provide the broadest possible relief with the least dislocation possible. To that end, and given our view that we cannot run railroads as well as railroads can run themselves, we have promoted an environment in which railroads can provide improved service without seeking to micromanage railroad operations ourselves. Thus, our order did not itself set priorities for grain transportation; rather, it directed UP/SP and BNSF to meet with interested agricultural groups and prioritize grain transportation themselves. The Association's members may be disadvantaged by the fact that the Association elected not to meet with the carriers as to the priorities to be set, but they are not disadvantaged by our order; to the contrary, our order explicitly directed UP/SP and BNSF to work with interested organizations so that third parties would not be unfairly disadvantaged.

We are pleased that agricultural shippers in the Pacific Northwest appear to be receiving better service, but the recovery in other parts of the West and Midwest has continued to proceed slowly. Our *December 4 order* was designed to facilitate the overall recovery to the maximum extent possible. We understand the Association's concerns, but they do not provide a basis on which we can rescind our order.

It is ordered:

1. The Association's request that we rescind our *December 4 order* is denied.
2. This decision is effective on December 15, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.