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1 (Discussion off the record.)

2 JUDGE HOPKINS: We will take a fifteen minute
3 recess.

4 (A brief recess was taken.)

5 JUDGE HOPKINS: Let's get back on the record.
6 Go ahead.

7 MR. HYMSON: Good afternoon, Your Honor.

8 The Applicants have requested cross
9 examination of Conrail witness Ralph von dem Hagen, who
10 is present.

11 Whereupon,

12 RALPH VON DEM HAGEN

13 was called as a witness by counsel for Conrail and,
14 having been duly sworn by the Administrative Law Judge,
15 was examined and testified as follows:

16 DIRECT EXAMINATION

17 BY MR. HYMSON:

18 Q Please state your name and place of business.

19 A My name is Ralph von dem Hagen. I am
20 Assistant Vice President, Car Management, with Conrail
21 at 6 Penn Center in Philadelphia.

22 Q Did you prepare a verified statement which was
23 submitted in this proceeding?

24 A Yes, I did.

25 Q And is that a copy of the statement that has

1 been served on the parties in front of you?

2 A Yes, it is.

3 Q Have you any corrections to make to the
4 statement?

5 A I have four corrections.

6 On the first page, in the third paragraph,
7 second line, following the words "Atchison, Topeka &
8 Santa Fe," and after the closed paren, please write in
9 the words "Santa Fe."

10 Next, on page 9 of the statement, fourth line
11 from the top, between the words "leave" and "Texas,"
12 please add the word "some," s-o-m-e.

13 Then on page 15, second paragraph, fourth
14 line, you will see a typo, the word "merfer," which
15 should be "merger."

16 Finally, on Exhibit 2, on the title where it
17 says "1981," that should be "1983."

18 MR. HYMSON: I might add for the record that
19 some copies did not have the exhibits of Mr. vom dem
20 Hagen's statement when originally served. They were
21 served subsequently by mail. I have additional copies
22 if parties need them.

23 BY MR. HYMSON: (Resuming)

24 Q Mr. vom dem Hagen, subsequent to preparation
25 of your statement, did you find one point that needed,

1 one statistical point that needed clarification?

2 A Yes, we did. On the bottom of page 10, the
3 very last line, you will see a statement that SP and
4 Santa Fe account for 57 percent of TOFC originations and
5 73 percent of carload originations to Conrail
6 destinations. Those figures are referred to in Exhibit
7 2.

8 What we have found in subsequent inspection of
9 the records is that this exhibit, it is only the through
10 billed TOFC traffic and is heavily influenced by
11 minilani-bridge traffic. What we find, if you look at
12 domestic traffic, traffic that actually originates or
13 terminates in California and someplace on the Conrail
14 system, that the Union Pacific share is something less
15 than 15 percent by contrast to the 43 percent indicated
16 in this table.

17 Q And with those corrections, is your statement
18 true and correct to the best of your belief?

19 A Yes, it is.

20 MR. HYMSON: Your Honor, the witness is
21 tendered for cross examination.

22 JUDGE HOPKINS: Who is going to handle it?

23 MR. MOATES: Counsel for the "merfer"
24 applicants in this case will be Mr. Flagg.

25 CROSS EXAMINATION

1 BY MR. FLAGG:

2 Q Good afternoon, Mr. vom den Hagen, my name is
3 Ron Flagg, and I represent the primary applicants in
4 this case.

5 Mr. vom den Hagen, I would like to begin by
6 asking you to turn to Exhibit 1 of your testimony.

7 Am I right that what Exhibit 1 shows is that
8 in 1983, Conrail originated \$118.9 million of carload
9 traffic terminating in California on either Santa Fe or
10 Southern Pacific?

11 A Yes, that's correct.

12 Q And that Conrail terminated \$92.1 million in
13 traffic originating in California on either Santa Fe or
14 Southern Pacific in 1983.

15 A The \$92.1 million is traffic from California
16 terminating on Conrail, yes.

17 Q Could you turn to Exhibit 2, please?

18 Now, am I right that this exhibit shows that
19 in 1981 Conrail terminated \$48.3 million in TOFC traffic
20 originating -- from 1983, rather. You have corrected
21 that -- that this exhibit shows that in 1983, Conrail
22 terminated \$48.3 million in TOFC traffic originating in
23 California on either Santa Fe or Southern Pacific?

24 A Well, Exhibit 2 indicates a gross revenue of
25 \$48.3 million on TOFC traffic or container on flat car

1 traffic originating on SP or San a Fe, terminating on
2 Conrail. It is only the traffic which was billed
3 through as opposed to much of the traffic which is
4 rebilled at Chicago.

5 Q I understand.

6 Now, is it fair to say, taking these two
7 exhibits together, that the traffic reflected in these
8 exhibits represents a significant amount of traffic to
9 Conrail?

10 A Yes, it does.

11 Q Could you turn to page 11 of your statement,
12 please, at the top, the carryover paragraph, the second
13 to the last sentence of that carryover paragraph where
14 you say Conrail remains in those markets, I take it the
15 markets referred to in Exhibits 1 and 2.

16 A Yes.

17 Q Conrail remains in those markets only as long
18 as rail rates make it attractive to continue
19 transcontinental shipment, is that correct?

20 A That is correct.

21 Q Now, as I understand it from your testimony,
22 one of Conrail's primary concerns in this case is that
23 the merged carrier, SPSF, will act in such a way such as
24 by raising prices that Conrail might lose some portion
25 of the traffic referred to in Exhibits 1 and 2.

1 A That is correct.

2 Q In that regard, could you turn to page 3 of
3 your statement, please?

4 If you look at the first full paragraph, do
5 you see the sentence that begins "The increased market
6 power?" It is about four or five lines down.

7 A Yes.

8 Q In that sentence you say, do you not, that as
9 a result of the merger, SPSF might reduce the quality of
10 its service or increase its rates, and then as a result
11 of these sorts of actions, some traffic now moving by
12 rail would move to other modes, is that correct?

13 A That is correct.

14 Q What other modes are you speaking of in this
15 context, Mr. vom dem Hagen?

16 A Well, our observation of the transcontinental
17 markets has been that SP and Santa Fe have really led
18 the way in setting the price, setting the service,
19 setting the standards for competition. When that price
20 has become too high or when in the past prior to
21 deregulation the service had slipped, trucks were
22 attracted to the market. So as such, you have the
23 potential for competition.

24 In addition to that, if the rates, for
25 example, become too high to where it becomes uneconomic

1 to move produce from California to the east coast, that
2 produce may be replaced on the east coast from other
3 origins, what is generally referred to as geographic
4 competition. To the extent that that takes place,
5 Conrail probably would not participate in the traffic in
6 that those shorter hauls to, say, the New York
7 metropolitan area would probably move by truck.

8 Q Could you give us some examples, please of
9 commodities, the transport of which might realistically
10 switch to, say, truck or any other mode as a result of a
11 price increase by SFSP?

12 A Oh, any number of the canned vegetables or
13 canned fruit products, for example, which are coming to
14 the east coast from California conceivably could switch
15 or could come from an alternate origin.

16 Q They would switch to truck in your view?

17 A Well, if they were to come from Ohio or if
18 more product from New Jersey were to be sold locally, or
19 if they were to come even from Florida, Conrail has a
20 very low participation in that traffic.

21 Q With respect to perishables, could a price
22 increase by SFSP cause the transportation of perishables
23 to switch to truck?

24 A Clearly it could, yes. Truck participation in
25 perishables to Conrail's major terminating markets, the

1 north Jersey area, for example, the New York City area,
2 or the Boston area, we think that rail participation
3 there is perhaps two-thirds today, something like
4 one-third of the traffic coming by truck, and clearly
5 that market is sensitive to actions by the applicants.
6 Should they raise price, should the service deteriorate,
7 and given a lack of rail competition following the
8 merger, shippers would have no choice if they intend to
9 stay in those markets but in some cases to switch that
10 business to truck.

11 Q How about with respect to IOFC traffic
12 generally, do you see a competitive threat from trucks
13 of that traffic moving off of rail to trucks?

14 A Again, the standards for service and the
15 standards for price are set by the rail carriers. Today
16 there is vigorous competition. Should that competition
17 decline, as it would decline as a result of the merger,
18 should rates then go up, should service then decline,
19 trucks now in a position to get additional money for the
20 transportation may be attracted to this transportation,
21 and to the extent that the product can still be sold
22 with a higher delivered cost in the east coast market,
23 some of that traffic might switch to truck.

24 Q Now, with respect to your testimony concerning
25 the competitive alternative offered by trucks, I would

1 like to ask you a couple of additional questions.

2 You state in your testimony here, you
3 mentioned that you testified in the recent case
4 involving the potential acquisition of the Milwaukee by
5 Chicago and North Western, Soo Line or the Grand Trunk,
6 is that correct?

7 A I did testify there, yes.

8 Q And in that case you stated, did you not, that
9 the 1977 Census of Transportation generally understates
10 the current market share of trucks because it fails to
11 reflect the impact of larger, heavier trucks authorized
12 by the Surface Transportation Act of 1982, is that
13 correct?

14 A Well, to the extent that one looks at truck
15 market shares in 1977 and with no other data tries to
16 make a statement from that as to what truck market
17 shares are in 1983 or 1984, I would agree with your
18 statement. Trucks have become larger, they have had
19 legislation passed which has lowered their operating
20 costs. At 1000 miles, for example, a typical haul we
21 considered when we looked at the midwest to the east
22 transportation relevant to the acquisition of the
23 Milwaukee, we have seen truck cost reductions in the
24 range of 7 to 19 percent, and clearly that has had an
25 impact on rail market share at, say, the 1000 mile

1 distance.

2 Q Mr. vom dem Hagen, you mentioned in one of
3 your prior answers as well as at the bottom of page 7
4 and the top of page 8 of your statement, you mentioned
5 geographic competition. You cite at the top of page 8,
6 I believe, as an example, where rates charged by a
7 carrier for Shipper A are constrained by the fact that
8 other carriers can transport the goods of other shippers
9 to the customers of Shipper A.

10 Q Would you agree that this sort of geographic
11 or source competition is important in assessing the
12 market impact of a merger?

13 A I would certainly agree that to the extent
14 today you will find shippers who are local to one or the
15 other of two carriers who are merging, and where today,
16 let's say, Southern Pacific hypothetically may be
17 concerned about the ability of their local shipper to
18 stay in the market, to compete with a shipper who
19 perhaps is at a common point or perhaps who is local to
20 Santa Fe, that Southern Pacific, if their marketing
21 people are sharp, takes care to watch that the prices
22 charged their local shipper are such that the shipper
23 can stay in the market.

24 Q Now, to the extent that you merge these two
25 rail carriers, the attention of the marketing people may

1 move away from that, my move toward the question of,
2 well, now we have got these two people on the same
3 railroad, what level of price can we move this traffic
4 up to and maximize profit.

5 Now, to the extent that takes place, the
6 overall total rail movement may fall and a connecting or
7 participating carrier like Conrail might find its market
8 share reduced.

9 Well, would it not be in the interest of a
10 merged carrier, SFSP, to also consider the competition
11 its shippers will find when their goods reach the
12 eastern half of the United States?

13 A It is clearly in the interest of any rail
14 carrier, whether merging or not, to watch out for the
15 competition that shippers on its line face and to price
16 accordingly.

17 Q Now, in that regard, in the middle of page 8
18 you state that a merged SFSP could raise its rates and
19 cause Conrail's traffic "to dry up," or cause Conrail's
20 shippers "to look to local markets for sale and local
21 suppliers for purchase."

22 For what commodities could Conrail's traffic
23 "dry up" if a price increase was implemented by the
24 merged carrier?

25 A Well, to go back to where we were a few

1 moments ago, the perishable market which you mentioned,
2 for example, perishable transportation is highly subject
3 to the delivered cost as well as the condition of the
4 product on arrival. Hence, following the merger, if the
5 price of perishable traffic were to rise, or if the
6 service standards for the perishable traffic were to
7 decline, if the merged carrier were to let the condition
8 of their equipment to decline, if the condition of the
9 equipment of freight forwarders that the merged carrier
10 may be working with but which they may now not be giving
11 us favorable rate transportation package, and as a
12 result of that, the freight forwarder's equipment
13 condition might decline, the impact of that may be that
14 the California produce would be less attractive on the
15 east coast, and in the New York metropolitan area you
16 might find a substitution of product from another
17 origin, Florida or some other location.

18 Q Do you find the competition for that commodity
19 on the east coast highly competitive?

20 A Certainly there is competition for these
21 products on the east coast, geographic competition, as I
22 have mentioned. When we look at Conrail's perishable
23 traffic, where that perishable traffic comes from, we
24 see substantial competition between the carriers who are
25 now proposing to merge, and we see the possibility,

1 obviously that competition is going to cease, and
2 cessation of that competition, if not matched by some
3 condition such as we propose here, putting Union Pacific
4 in the market, the result of that loss of competition
5 may well be that the California produce would become
6 less attractive and volumes could drop.

7 Q And Santa Fe/Southern Pacific would lose that
8 traffic, is that right?

9 A They could lose some of it, but someone may
10 have figured out that 10 or 15 percent less traffic
11 moving at 10 or 15 percent higher rates is in Santa
12 Fe/Southern Pacific's best interests.

13 Q Are you suggesting that is the case? Have you
14 made a study to that effect?

15 A I am certainly not suggesting that that is the
16 case. I have not made, not personally made a study of
17 the elasticity of the traffic, but there certainly is
18 the possibility, given that the rail competition for
19 this traffic from the Central Valley really sets the
20 pace in the market, that if the two major railroads
21 competing for that traffic today, SP and Santa Fe,
22 merge, and no longer have head-on-head competition, that
23 they may choose to raise the rates and may successfully
24 increase their revenues.

25 Q Well, let's discuss that for a moment.

1 At page 12 of your statement, you discuss
2 perishables as to which you state, "Deregulation of
3 perishables by this Commission has led to a resurgence
4 in the ability of the rail industry to compete for
5 product traffic," is that correct?

6 A I agree, yes.

7 Q Prior to deregulation, trucks carried the
8 great majority of transcontinental perishable traffic?

9 A That is my impression as, let's say, prior to
10 1980, yes.

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1 Q It is true, is it not, that trucks still
2 represent strong competition for the transcontinental
3 transportation of perishables provided on a joint line
4 basis by Santa Fe or Southern Pacific in the West and
5 Conrail in the East?

6 A Again, trucks are in the market to the major
7 East Coast terminating points. We think trucks are
8 handling perhaps a third of the business. And if prices
9 were to rise or if rail service were to decline, it is
10 our impression that trucks may well be attracted to the
11 market and may increase their participation.

12 Q Did you also testify in the boxcar exemption
13 proceeding at the ICC?

14 A Yes, I have.

15 Q Did you and other Conrail witnesses not state
16 in that proceeding that Conrail faces vigorous truck
17 competition for most commodities which move in boxcars?

18 A I did, and we do. Yes.

19 Q Mr. von dem Hagen, again referring to your
20 testimony with respect to perishables on page 13, you
21 make reference on page 13 in the second full
22 paragraph, to the fact that shippers in 1983 shifted
23 some of their perishable traffic from Conrail to "other
24 terminating carriers."

25 Do you see that reference?

1 A Yes, I do.

2 Q What were the other terminating carriers to
3 which you were referring there?

4 A In the case of the 1983 market switch, we saw
5 traffic switch over from Conrail to the Chessie System.

6 Q Turning now to page 14 where you begin to
7 address a different set of commodities, namely, canned
8 goods and wine, you testify on that page that with
9 respect to canned goods and wine, California shippers
10 face competition from European winemakers, canned good
11 sources in the Midwest and Florida.

12 With respect to these commodities, you state:
13 "For Conrail to participate in these markets, it must
14 keep western canned goods and California wine
15 competitive."

16 I take it from your testimony that it is your
17 belief that if the merged carrier raises its raise,
18 these alternative source of supply could gain some or
19 even most of the market share now enjoyed by California
20 suppliers of these commodities?

21 A I think that may be true were transportation
22 prices for these commodities to rise substantially.
23 With a more modest price increase of 5 to 10 percent
24 increase, I would expect to see some of the traffic,
25 perhaps not a lot, but some of the traffic switched to

1 other modes.

2 Q Mr. von Iem Hagen, I want to switch to a
3 slightly different topic at this point. At page 3 of
4 your statement, you state that: "Applicants' market
5 power within their own territory will increase as a
6 result of reduced intermodal competition."

7 That's the third line of the first paragraph.
8 And at page 4, the last line of the paragraph above the
9 caption, you say that granting of Union Pacific's
10 trackage rights request in California will "permit
11 Applicants to enjoy all benefits of consolidation other
12 than those derived from increased market power."

13 You use the term "market power" in those two
14 passages. And I'd like to understand what you mean by
15 that term. Is it fair to say that in a purely
16 competitive or effectively competitive market, that
17 prices equal incremental costs, that they will be driven
18 to that level?

19 A Well, first of all, let me respond this way.
20 I'm not certain I understand how you use the term
21 "incremental cost."

22 Q Okay. Is it fair to say that in a purely
23 competitive market, prices will be driven toward the
24 cost of providing the service, some definition of
25 variable cost? You can provide your own if you wish.

1 A Well, thinking of the rail market, thinking of
2 the rail markets we're talking about here, which perhaps
3 don't fit your definition of purely competitive --

4 Q I'm asking you for the moment to talk about a
5 purely competitive market. Now --

6 MR. HYMSON: Your Honor, I think I would
7 object at this point on the grounds that if you're
8 getting into abstract economic theory, Mr. van dem hagen
9 wasn't tendered as an economic theoretician.

10 JUDGE HOPKINS: You don't get into purely
11 economic theory, do you?

12 MR. FLAGG: I'm trying to find out what he
13 means by the use of the word "market power."

14 JUDGE HOPKINS: Why don't you ask him that?

15 MR. FLAGG: I was going to, Your Honor.

16 JUDGE HOPKINS: Why don't you ask him now?

17 BY MR. FLAGG: (Resuming)

18 Q Okay. What do you mean by market power, Mr.
19 van dem Hagen?

20 A Well, the market power that we see taking
21 place here is a market power to modify price, to modify
22 service standards, to cut back on efforts to innovate,
23 because in the absence of the intramodal competition
24 which has taken place up until this point, the carriers
25 no longer are under the same pressures.

1 Q Okay. With respect to the ability of the
2 carrier that has market power to raise prices, raise
3 prices above what is my question.

4 A Well, the carrier is clearly seeking to raise
5 prices to a point where he can earn a competitive return
6 in the marketplace. So when you say above what, at
7 Conrail we use a term, long-term variable cost. We get
8 that level of cost from a Form A type costing system in
9 which we attempt to adjust the Form A type cost for the
10 specific units of service that take place on a
11 carload-by-carload basis.

12 It is our objective at Conrail, and I am
13 certain it is the objective of each of Southern Pacific
14 and Santa Fe today and SPSF following a merger, if it is
15 approved, to charge something greater than long-term
16 variable cost. If you fail to do so, I don't think the
17 railroad can be viable in the long run.

18 Q You would agree, would you not, that where a
19 market is purely competitive, it is difficult to charge
20 much if anything above those long-run variable costs
21 that you were speaking about?

22 A Well, in a purely competitive market, in an
23 economic sense, we are talking about all the farmers who
24 are trying to sell corn or something like that, some
25 undifferentiated product where you have a very large

1 number of sellers. The price will settle at some
2 equilibrium of supply and demand.

3 That may or may not be -- let's say the
4 marginal cost equals marginal revenue point. I mean
5 those are points of economic theory.

6 Q Mr. van dem Hagen, if you would turn to
7 Exhibit 2, please. Two points of clarification.

8 Does the Western Pacific-Union Pacific entry
9 on Exhibit 2 include all Union Pacific routings,
10 including joint line routings such as Union Pacific to
11 Fremont, Chicago North Western to Streator, or just
12 Union Pacific System hauls, single system hauls?

13 A This entry here in Exhibit 2 includes all
14 intermodal carloads billed by the
15 Western Pacific-Union Pacific, regardless of the route
16 over which they actually came to Conrail, provided that
17 they were billed through to the Conrail destination.

18 Q Also with respect to Exhibit 2, the reference
19 to carloads at the top. Does carloads mean units? That
20 is, are individual trailers counted as cars?

21 A No. Carloads means carloads. I guess you
22 could multiply that number of carloads by a number like
23 1.75 or 1.8 to get units, what you refer to as units.

24 Q What is the multiplier as far as you are
25 concerned?

1 A I don't know specifically in the case of this
2 traffic. I could tell you, for example, that this same
3 number just in the month of December 1984 was 11,000
4 trailers or containers.

5 Q Just in one month?

6 A Just in one month; yes. To the extent that
7 traffic has not risen from year to year, that would give
8 you a multiplier of something like 1.9 in this case.

9 MR. FLAGG: Mr. van dem Hagen, thank you very
10 much. I have no further questions.

11 JUDGE HOPKINS: Any redirect?

12 MR. HYMSON: A few questions on redirect, Your
13 Honor.

14 REDIRECT EXAMINATION

15 BY MR. HYMSON:

16 Q First, Mr. van dem Hagen, can you explain what
17 you mean by a through movement versus a rebilled
18 movement for TOFC?

19 A Well, a through movement would be a movement
20 where, first of all, the billing is from the origin. So
21 let's say perhaps Long Beach to a destination such as
22 Elizabethport, New Jersey. Whereas, a rebilled movement
23 would be a movement that might have originated, say, at
24 the Oakland Southern Pacific TOFC ramp, billed to East
25 St. Louis, and then rebilled at East St. Louis as a

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1 local Conrail move from East St. Louis to South Carney,
2 with the domestic terminal in North Jersey.

3 Q To the extent that traffic exists, is it
4 reflected in any of your data?

5 A It is not reflected in Exhibit 1 here or 1.
6 It may or may not be reflected in Exhibit 3 which
7 reflects data put together by the Southern Pacific
8 System.

9 I would guesstimate that it is reflected in
10 Exhibit 3.

11 Q You indicated in response to a question by Mr.
12 Flagg, that if rail rates for transcontinental traffic
13 rise, trucks will enter the market.

14 Did you mean to imply that there is no loss in
15 competition available to shippers in that situation?

16 A Well, certainly not. The shipper is going to
17 wind up paying a higher freight rate. The shipper is
18 going to make a decision as to whether he can afford to
19 pay that higher freight rate or whether he would rather
20 sell his product in some other market.

21 If the transportation is inelastic, if the
22 shipper finds himself facing an adequate number of
23 competitive choices for the movement, he may in fact
24 elect to pay that higher freight rate.

25 Q Are you saying that competition is reduced in

1 that situation?

2 A Well, competition would have been reduced as a
3 result of the proposed merger, and as a result of there
4 being less competition, the shipper would have less
5 choices and might be inclined to in fact hire a truck at
6 a higher cost

7 Q Mr. van Iam Hagen, you suggested that prior to
8 -- or it was suggested that prior to 1980, trucks
9 carried most produce, and I believe you agreed with
10 that.

11 Was there a regulatory reason why that
12 occurred?

13 A Prior to 1980, the market, the transportation
14 market that we saw sitting on the Conrail system was one
15 where the railroad price for handling produce was at a
16 level, and that level didn't change from season to
17 season.

18 Truck prices, by contrast, were low during the
19 off season and high during the peaks of the season. The
20 result of that was that rail participation was largely
21 limited to the peak periods. When it was limited to the
22 peak periods, railroads did handle some traffic, but in
23 terms of the utilization of their equipment per year,
24 the utilization was inadequate to justify the kind of
25 repair programs that were needed on that equipment.

1 So over a period of time, the condition of the
2 rail equipment fell.

3 Also, as a result of the volume of traffic
4 being inconsistent, the service tended to have fallen,
5 and as a result, prior to 1980, truck had taken
6 increasing shares of the perishable transportation
7 market.

8 Q Was that because railroads simply couldn't
9 match prices?

10 A Railroads did not have the pricing freedom to
11 match truck prices as they do today. In fact, railroads
12 today lead in the pricing competition in the perishable
13 markets on the West Coast.

14 Q In answer to a question, you indicated that if
15 railroads' rates rose too high, foreign suppliers could
16 replace California wines and other East Coast suppliers
17 could replace California canned goods.

18 Would there be any harm to any shippers if
19 that occurred?

20 A Well, clearly, there would be harm to
21 California shippers who would now, in all likelihood,
22 sell less total product.

23 Q And would that be because of a reduction in
24 transportation competition occasioned by the merger?

25 MR. FLAGG: Your Honor, I'm going to object to

1 that. That is leading.

2 JUDGE HOPKINS: It is very leading. He is
3 trying to get through, I suppose, but it is a very
4 leading question. I will sustain the objection.

5 MR. FLAGG: May I ask the question differently?

6 JUDGE HOPKINS: You can try.

7 BY MR. FLAGG: (Resuming)

8 Q How does geographic competition, how
9 effectively does geographic competition substitute for
10 the existing competition today?

11 A Well, geographic competition will clearly be a
12 constraint on the marketplace, which in terms of
13 intramrial competition between railroads will be less
14 competitive following the proposed merger, unless some
15 condition authorizing another railroad to enter the
16 service is in fact approved.

17 Geographic competition at some point, if rates
18 increase beyond some level, geographic competition will
19 begin to play a role simply because at the consumer
20 marketplace, the consumer will see a higher price on the
21 California product and will resist the purchase.

22 Q Finally, do you know what the rate variable
23 cost ratio on the canned goods and produce that you talk
24 about is today?

25 A Well, again -- now, thinking of it in terms of

1 the Conrail long-term variable cost figure, those ratios
2 are in the range of 1.2 to 1.25. They have been
3 increasing as Conrail has lowered its cost over the last
4 several years. They are still below fully allocated
5 cost.

6 Q Did competition in the -- what effect did
7 competition in the West have on the direction of
8 movement of that contribution?

9 A Well, competition in the West has really
10 spurred movement of these commodities. Volume has
11 increased as a result of service competition in the
12 West.

13 In terms of the price itself, the price has
14 alternatively risen and fallen as the seasons have
15 changed and as the competition between the western
16 carriers has risen and fallen.

17 I would say that Conrail, which essentially
18 participates in this market on a revenue requirements
19 basis, in which we indicate a revenue requirement, the
20 western roads actually determine the price at which the
21 product moves -- I would say that the revenue levels
22 Conrail has received have been relatively unaffected by
23 the price competition in the West, except at certain
24 seasonal levels.

25 MR. HYMSON: I have no further on redirect.

1 MR. FLAGG: Nothing further.

2 JUDGE HOPKINS: You are excused.

3 (Witness excused.)

4 MR HYMSON: Your Honor, may I move the
5 admission of Mr. van dem Hagen's statement.

6 JUDGE HOPKINS: I think you might as well move
7 the admission of all of Conrail's.

8 MR. HYMSON: I was going to do that, Your
9 Honor. However, there were some computational errors
10 that have no major effect on the general tenor of the
11 statements of Mr. Wilke and Mr. Blaze. They were
12 previously served on the Applicants, who were aware of
13 them.

14 JUDGE HOPKINS: Why don't you give the copies
15 to the reporter and they will be included as errata on
16 the matter.

17 MR. HYMSON: Thank you, Your Honor.

18 JUDGE HOPKINS: So any objection to receipt in
19 evidence? Conrail's evidence will be received into
20 evidence with the errata.

21 JUDGE HOPKINS: On the record. Is Amtrak
22 next?

23 MR. MOATES: Milwaukee Road.

24 MS. KIRSCHENBAUM: Your Honor, I am Ellen
25 Kirschenbaum, appearing on behalf of the Milwaukee Road

1 today. Accompanying me is William L. Phillips and
2 Witness White.

3 Whereupon,

4 PETER C. WHITE

5 was called as a witness in the above-entitled matter by
6 counsel for Milwaukee Road and, having first been duly
7 sworn by the Administrative Law Judge, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MS. KIRSCHENBAUM:

11 Q Mr. White, would you please state your full
12 name and business address for the record?

13 A My name is Peter C. White. The address is 516
14 West Jackson Boulevard, Chicago 60606.

15 Q What is your position at the Milwaukee Road?

16 A Vice President, Marketing

17 Q Do you have before you the document entitled
18 "Verified Statement of Peter C. White," which has been
19 filed in this proceeding?

20 A Yes, I do.

21 Q Do you have any additions, corrections, or
22 changes to that statement?

23 A I have a correction. In the Exhibit marked
24 PCS-2A, dated 11/16/84, that exhibit was based upon
25 three months' actual data and nine months extrapolated,

1 to come up with annualized '84 data.

2 When we were asked for working papers, my
3 people were unable to exactly duplicate that data, and
4 they had not kept the work papers. I asked them to use
5 nine months' actual data, extrapolated through the rest
6 of the year, which they did.

7 We found out that the numbers were not
8 significantly different.

9 Q Mr. White, has the exhibit been prepared with
10 those revised figures?

11 A Yes, it has.

12 MS. KIRSCHENBAUM: Your Honor, I would like to
13 have the exhibit marked for identification as Exhibit
14 PCW-2 and substitute it for the original exhibit and Mr.
15 White's verified statement.

16 JUDGE HOPKINS: Why don't we mark it as
17 PCS-C-2 so that we have it as a counsel's exhibit?
18 That's the easiest way to handle it.

19 (The document referred to
20 was marked Exhibit PCW-C-2
21 for identification.)

22 BY MS. KIRSCHENBAUM: (Resuming)

23 Q Mr. White, is the verified statement with
24 these changes, true and correct to the best of your
25 knowledge and belief?

1 A Yes, it is.

2 MS. KIRSCHENPAUM: I tender Mr. White for
3 cross-examination

4 CROSS EXAMINATION

5 BY MR. HYNES:

6 Q Good afternoon, Your Honor; good afternoon,
7 Mr. White. My name is Terry Hynes, and I'm here on
8 behalf of the primary Applicants. I'd like to direct
9 your attention to page 1 of your verified statement,
10 please.

11 Specifically, I'd like to direct your
12 attention to the second paragraph, first sentence, which
13 states that: "I submit this statement in support of our
14 request for protective conditions that will allow
15 Milwaukee Road to compete for traffic with the Santa Fe
16 Southern Pacific between the Kansas City Gateway and
17 Chicago."

18 Am I correct that the geographic area of
19 concern for the Milwaukee Road in this proceeding is the
20 Chicago- Kansas City Corridor?

21 A Yes, it is.

22 Q Can you tell me how many carriers currently
23 serve that corridor?

24 A I believe the number is five.

25 Q Would you disagree with me if I told you it

1 was seven?

2 A There may be some good circuitry involved. The
3 viable carriers are Santa Fe, BN, and Milwaukee.

4 Q In any event, you believe the number is five?
5 It could be seven, but you have named at least three
6 viable carriers?

7 A Yes. The ICG has circuitry, North Western has
8 circuitry.

9 Q Does the Southern Pacific serve the
10 Chicago-Kansas City Corridor today?

11 A No.

12 Q Would you agree with me, Mr. White, that the
13 proposed merger would not leave shippers in the
14 Chicago-Kansas City Corridor without a choice of rail
15 routings for movements within that corridor?

16 A That depends upon what Santa Fe-SP do.

17 Q Well, let's assume that Santa Fe and SP were
18 to completely close the Kansas City Gateway. Wouldn't
19 there still be a routing possible, let's say, for a
20 movement from Chicago to the West Coast via ICG and then
21 the Union Pacific System at Kansas City?

22 A Yes.

23 Q BN could also handle some movements to the
24 West Coast directly, couldn't they?

25 A Yes.

1 Q Norfolk & Western could participate with a
2 connection at Kansas City for movements westward,
3 couldn't they?

4 A They could.

5 Q And all of these routings would also apply on
6 eastbound movements, would they not?

7 A If it was stated that way, yes.

8 Q Looking at that second paragraph on page 1,
9 I'd like to direct your attention to the second sentence
10 there, specifically: "Milwaukee Road is seeking
11 modified DT&I traffic conditions that will ensure
12 maintenance of competitive rates and routes via the
13 Kansas City Gateway for both existing traffic and new
14 traffic opportunities."

15 - And on page 10 of your verified statement, you
16 state that: "Milwaukee Road's goal in seeking these
17 traffic conditions is the protection of our ability to
18 remain competitive over the Kansas City Gateway."

19 An I correct, then, Mr. White, that the reason
20 why Milwaukee seeks the conditions which you filed for
21 in this case is to protect Milwaukee's ability to
22 compete in this corridor, as opposed to protecting the
23 existence of the last competitive alternative to a Santa
24 Fe system in the corridor?

25 A We are interested in the Milwaukee's interest,

1 of course.

2 Q Are you familiar, Mr. White, with the
3 Commission's requirement that conditions will not be
4 imposed unless they threaten a carrier's ability to
5 render essential services?

6 A I've heard that said; yes.

7 Q Could you tell us, please, what essential
8 services of Milwaukee Road you feel are threatened by
9 this transaction?

10 A Well, essential services also involve
11 efficiency, for one thing, and the Milwaukee happens to
12 be one carrier that has three-man crews and nobody else
13 does. I think we can price with anybody between Kansas
14 City and Chicago and, as a matter of fact, we have done
15 it.

16 Traffic volumes will bear that out.

17 Q Mr. White, you are no doubt aware of the
18 reorganization proceedings that are currently pending
19 involving the Milwaukee Road?

20 A Oh, yes sir; I am.

21 Q As a result of the Commission's action in that
22 case, who are the potential buyers for the Milwaukee
23 Road?

24 A Chicago North Western and the Soo Line.

25 Q Are you aware, Mr. White, that the Chicago

1 North Western has withdrawn its opposition to the merger
2 proposal in this case?

3 A I was informed of that a couple of hours ago;
4 yes.

5 Q And is it also correct, sir, that the Soo Line
6 has not participated or taken a position in this case?

7 A I don't know that.

8 Q Am I also correct that the Reorganization
9 Court is expected to render a decision concerning which
10 of these potential purchasers will be allowed to acquire
11 the Milwaukee in the near future?

12 A Counsel is predicting sometime in the last
13 half of February.

14 Q And once either the Chicago North Western or
15 the Soo Line were to acquire the Milwaukee Road,
16 Milwaukee Road's core rail assets, the Milwaukee Road
17 will cease to exist as an independent operating carrier,
18 won't it?

19 A In the case of the North Western, yes. In the
20 case of the Soo Line, maybe.

21 Q Well, in the case of the Soo Line, it would
22 not be an independent carrier. It would become part of
23 the Soo Line System, would it not?

24 A There were differing plans.

25 Q Am I also correct that the Trustee has taken a

1 position in that case in support of the Chicago North
2 Western's bid?

3 A Yes, he has.

4 Q Let's assume for the moment, then, that the
5 Trustee's recommendation is followed and that the
6 Chicago North Western acquires the Milwaukee.

7 I believe you stated a moment ago that in that
8 eventuality, there is no question that the Milwaukee
9 ceases to exist as a separate operating entity. Is that
10 right?

11 A That's correct. The egg would be scrambled,
12 if you will.

13 Q Is it also correct, Mr. White, that the North
14 Western currently offers service on transcontinental
15 movements in connection with the Union Pacific via the
16 Fremont Gateway?

17 A Oh, yes, they do.

18 Q And that is Chicago North Western's preferred
19 routing for transcontinental traffic, is it not?

20 A They have strong tendencies that way.

21 Q In fact, a Chicago-Fremont movement in both
22 directions is by far the largest movement on the Chicago
23 North Western System today; isn't that right?

24 A Yes.

25 Q And would you expect that if North Western

1 were to acquire Milwaukee, that its inclination on
2 movements, let's say currently Milwaukee handles, via
3 the Rio Grande over Kansas City, would be shifted to the
4 extent North Western had control over the traffic at the
5 Fremont connection and UP?

6 A I don't think they do much with the Rio Grande
7 over Kansas City. I don't know the relevancy of your
8 question. You would have to differentiate south coast
9 and north coast in California to really have any
10 meaning.

11 Q Well, let's take any movement for which a
12 Milwaukee-Rio Grande routing -- well, let's take a
13 Milwaukee-SP routing -- currently competes with a
14 CNW-Fremont-UP routing today. For any movements that
15 fall into that category, North Western's inclination
16 would be to work with the UP over Fremont, rather than
17 the Rio Grande, would it not?

18 A That's possible. But divisions could be
19 different and negotiations could be different.

20 Q Can I direct your attention to page 4 of your
21 verified statement? Specifically, I'd like to direct
22 your attention to the first paragraph, about halfway
23 through the paragraph, where you state: "Milwaukee
24 Road's diversion study reports substantially higher
25 diversion figures, as shown in Exhibit PCW-2, attached

1 hereto and made a part hereof. Milwaukee Road
2 ultimately stands to lose approximately 25,518 units of
3 traffic and \$14,900,000 in associated annual revenues
4 from traffic diversion resulting from the proposed
5 merger."

6 I take it, in light of the revised exhibit
7 which has been tendered today, that we should change the
8 reference there from PCW-2 to PCW-C-2, a counsel's
9 exhibit?

10 A Yes, sir.

11 Q And I believe you stated that the numbers
12 won't change substantially in light of the new exhibit.

13 A That's right. It's still about \$14.9 million.

14 Q Are you familiar with the voluntary
15 coordination agreement which the Milwaukee Road and the
16 CN-Grand Trunk System entered into some time ago?

17 A It was not CN. It was Grand Trunk.

18 Q When did Grand Trunk and Milwaukee enter into
19 that agreement?

20 A It's approximately two years ago. It was
21 terminated on January 3, 1985.

22 Q And could you describe for us, from a
23 marketing standpoint, what the two carriers did for each
24 other in terms of marketing efforts under the
25 agreement?

1 A Well, one can say that there were
2 corroborative marketing agreements between the two
3 carriers.

4 Q Let's take a movement from somewhere in
5 eastern Canada going to the West Coast, or down into the
6 Southwest. Under that agreement, would the
7 CN-Grand Trunk family not exercise the influence that
8 they had as an originating carrier to see that Milwaukee
9 got a haul between Chicago and Kansas City?

10 A It took a while, but yes, they did.

11 Q And after it took a while and was implemented,
12 am I correct that the implementation and agreement was
13 ultimately quite successful, was it not?

14 A Yes. We think it was.

15 Q Did Milwaukee, in fact, not handle more than
16 50,000 cars in conjunction with the CN-GTW in 1983 under
17 that agreement?

18 A In 1983 -- I will accept your figure.

19 Q Would you also accept the figure of about
20 25,000 cars as the approximate increase which Milwaukee
21 enjoyed in the Chicago-Kansas City Corridor?

22 A Yes.

23 Q Was a portion of that 25,000 cars which
24 Milwaukee under the VCA diverted from Santa Fe?

25 A Some was; yes.

1 Q Can you tell me how many cars?

2 A From Santa Fe itself, no, I cannot.

3 Q Can you tell me if it was more than half of
4 that 25,000 or less than half?

5 A No, I cannot.

6 Q Am I also correct that this voluntary
7 coordination agreement between Grand Trunk and Milwaukee
8 has now expired?

9 A Yes.

10 Q And is it also correct that the Grand Trunk
11 System has now entered into an alternative arrangement
12 with the Burlington Northern?

13 A They have.

14 MR. HYNES: Your Honor, at this time, I'd like
15 to have marked as SFSP-C-132, a document which is the
16 rebuttal verified statement submitted by Mr. White in
17 the Milwaukee Road remand proceeding in November.

18 JUDGE HOPKINS: It will be marked for
19 identification.

20 (The document referred to
21 was marked Exhibit
22 SFSP-C-132 for
23 identification.)

24 BY MR. HYNES: (Resuming)

25 Q Mr. White, do you now have before you the

1 document which we have marked as counsel's exhibit 132?

2 A Yes, I have.

3 Q And is that not the rebuttal verified
4 statement which you submitted in November in the
5 Milwaukee reorganization proceeding?

6 A It is.

7 Q Am I correct that this rebuttal verified
8 statement generally sets forth rebuttal to certain
9 statements made by Grand Trunk concerning the traffic
10 levels which the CNW-Milwaukee system could expect to be
11 handling in the future?

12 A Yes, that's what it does.

13 Q Would you turn, please, to page 8 of this
14 exhibit? And I would ask you, please, to direct your
15 attention to the footnote on that page, and if you
16 would, please, read that footnote into the record.

17 A You want me to read it into the record? It's
18 in the record.

19 Q Well, it's not in the record at this time. It
20 might become part of the record.

21 A All right.

22 "Mr. Walker," -- Mr. Walker is a Grand Trunk
23 witness whose statement I am rebutting -- "cites to
24 Southern Pacific Santa Fe studies which, according to
25 Mr. Walker, predict large traffic diversions from

1 Milwaukee and CNW. Aside from being speculative at this
2 point, such estimates of future merger diversions cannot
3 simply be deducted, as Mr. Walker seems to suggest, from
4 the projected revenues of a consolidated
5 C&NW-Milwaukee. To do so would be to engage in serious
6 double-counting.

7 "We estimate that 50 percent of the \$14
8 million in annual gross revenues Milwaukee estimates may
9 be lost as a result of diversions to an SP-Santa Fe
10 system if traffic interchanged with GTW/DWP that we
11 project is susceptible to loss as a result of termination
12 of the VCA.

13 "Thus, mere subtraction of the diversion
14 estimate from projected revenues could seriously
15 overstate the impact of that merger on the CNW-Milwaukee
16 system. Moreover, the SP-Santa Fe merger, if approved
17 at all, is not likely to be consummated until late 1985
18 or early 1986.

19 "Absent immediate gateway closings, diversions
20 of traffic would not be likely to be felt until some time
21 thereafter. Thus, there would be little impact expected
22 from that merger on the Milwaukee in the 1985-86
23 period."

24 Q Thank you.

25 Could I direct your attention back to page 4

1 of your verified statement? In the second paragraph,
2 the second sentence, you state: "As shown in Exhibit
3 PCW-1, in 1983 approximately 25 percent of Milwaukee
4 Road's entire system traffic volume flowed via the
5 Kansas City Gateway."

6 Am I correct that the reference in that
7 sentence to Exhibit PCW-1 refers specifically to the
8 first set of figures in Exhibit 1?

9 A Yes.

10 Q Could I direct your attention to those,
11 please?

12 A Are you referring to our diversion analysis?

13 Q No, sir. Exhibit 1. I don't believe that one
14 was changed.

15 A I don't know if I have the exhibit. I don't
16 have anything here marked Exhibit 1, I'm sorry.

17 (Pause.)

18 Q Do you now have before you Exhibit 1?

19 A Yes.

20 Q I take it your reference on page 4 to Exhibit
21 PCW- was intended to refer specifically to the figure
22 on the upper part of the page?

23 A Yes.

24 Q Which are labeled "Units Interchanged by
25 Milwaukee Road by Junction"?

1 A Yes.

2 Q Am I correct that the 25 percent figure on
3 page 4 was derived by comparing the figure of 127,596
4 units under Kansas City with a figure of 516,261?

5 A Right.

6 Q Now, am I correct that this figure of 516,261
7 units represents the units that were interchanged by
8 Milwaukee Road in 1983?

9 A True.

10 Q It doesn't include any local traffic, does
11 it?

12 A Purely local would not be here.

13 Q What percentage of Milwaukee's total traffic
14 base consists of local system traffic?

15 A Less than 20 percent. I think right now we're
16 speaking in bigger horizons. We are about half joint
17 and half forwarded. Milwaukee is not a big local
18 carrier.

19 Q Was your local system traffic greater than 20
20 percent in years prior to 1984?

21 A No.

22 Q In any event, directing your attention back to
23 page 4, you have agreed with me that the figures shown
24 in Exhibit 1 do not include your local traffic; is that
25 right?

1 A To the best of my knowledge, yes.

2 Q So that your statement that 25 percent of
3 Milwaukee Road's entire system traffic flowed via the
4 Kansas City Gateway ought to be adjusted downward
5 somewhat, should it not?

6 A Using that logic, yes.

7 Q In fact, what Exhibit 1 demonstrates is that
8 25 percent of Milwaukee's interline traffic flowed
9 through that gateway; is that right?

10 A Yes.

11 Q Mr. White, you mentioned in response to one of
12 my questions a few moments ago the fact that Milwaukee
13 currently uses three-man crews.

14 A Yes.

15 Q As opposed to the norm of four-man crews with
16 other carriers; is that right?

17 A Some even have five.

18 Q Can you quantify for us the cost efficiencies
19 that this achieves for Milwaukee as compared to a
20 competitor like the Burlington or the Santa Fe that
21 uses a four-man crew in the Kansas City-Chicago
22 Corridor?

23 A We have 25 percent less labor on train crews.
24 It's as simple as that. We have an engineer and a
25 conductor and a brakeman, and everybody else has

1 engineer, conductor, and two brakemen, and sometimes a
2 fireman. That's in all freight service -- switch, road,
3 everything.

4 MR. HYNES: Thank you, Mr. White. I have no
5 further questions.

6 JUDGE HOPKINS: Ms. Kirschenbaum, any redirect?

7 MS. KIRSCHENBAUM: I have a couple of
8 questions.

9 REDIRECT EXAMINATION

10 BY MS. KIRSCHENBAUM:

11 Q Mr. White, does the termination of the VCA
12 between the Milwaukee Road and Grand Trunk necessarily
13 lessen the \$14 million diversion figure estimated in
14 this proceeding?

15 A We did each study on a mutually exclusive
16 basis and if the Grand Trunk-BN-CN triumverate is
17 successful to the extent we estimate, then there is
18 duplication in the two studies to the extent of about
19 half, as the testimony establishes, mostly grounded in
20 automotive traffic.

21 Q How would the diversion of even \$7 million in
22 traffic affect the Milwaukee Road?

23 A Well, for the Santa Fe-SP, that's not a very
24 big number. But we would expect to report an ROI of
25 about \$14 million in '84 and \$7 million more gets to be

1 a big number.

2 MS. KIRSCHENBAUM: That's all the questions I
3 have.

4 JUDGE HOPKINS: Any recross?

5 MR. HYNES: No, Your Honor.

6 JUDGE HOPKINS: You're excused.

7 MW. KIRSCHENBAUM: Your Honor, I'd like to
8 move for admission into the record the verified
9 statement of Peter C. White, as well as Exhibit
10 PCW-C-2.

11 JUDGE HOPKINS: Any objection?

12 MR. HYNES: No, Your Honor. And at this time,
13 I'd also move the admission of SFSP-C-132.

14 JUDGE HOPKINS: Any objection?

15 They all will be received into evidence.

16 (The documents referred to,
17 previously marked Exhibits
18 PCW-C-2 and SFSP-C-132 for
19 identification, were
20 received in evidence.)

21 JUDGE HOPKINS: You're excused.

22 (Witness excused.)

23 (Discussion off the record.)

24 JUDGE HOPKINS: Back on the record.

25 Ms. Kooperstein?

1 MS. KOOPERSTEIN: In November, the Department
2 of Justice submitted questionnaires to 61 of
3 Applicant-supporting witnesses. These shippers were
4 required to respond in lieu of cross-examination.

5 We have received at this time responses from
6 53 of those shippers, and would like to have them marked
7 for identification as DOJ-C-1 through DOJ-C-53.

8 I would note that DOJ-C-52 is subject to a
9 protective order. This is a response by Kennecott
10 Corporation, and it is our understanding that DOJ-C-53,
11 Asarco is going to be applying for a protective order.

12 JUDGE HOPKINS: Give those directly to me, 52
13 and 53, and I will -- especially if I receive 53 as
14 request for a protective order, both of them will be put
15 in the confidential docket.

16 Otherwise, there's no objection to these,
17 otherwise they all will be received into evidence.

18 (The documents referred to
19 were marked Exhibits DOJ-C-1
20 through 53 for
21 identification, and were
22 received in evidence.)

23 JUDGE HOPKINS: Mr. Moates, you weren't here.
24 We just received the 53 --

25 MR. MOATES: I did review this protective

1 order with respect to Kennecott, Your Honor. It might
2 be worth noting, just for the record, that it's a little
3 confusing because it does make reference to Kennecott as
4 an Applicant.

5 JUDGE HOPKINS: I think he's referred to as an
6 Applicant -- I noticed that -- as an Applicant in the
7 protective order. That's the way I took it.

8 MR. MOATES: So any party that wants that data
9 should understand they have to make application to
10 Kennecott and not to SPSF.

11 JUDGE HOPKINS: That's right.

12 MS. KIRSCHENBAUM: We will take care of that.

13 JUDGE HOPKINS: Off the record.

14 (Discussion off the record.)
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1 MR. MURRAY: Your Honor, my name is Steven
2 Murray, on behalf of the International Brotherhood of
3 Teamsters, and I would like to make a brief, to point
4 out for the record three brief typographical errors in
5 the verified statement of Vince Aloise at this time.

6 On the second page in the last sentence of the
7 first full paragraph, the sentence should read "In light
8 of the above, I believe that SPSF," as opposed to
9 "SFSP," as it now reads.

10 On the next page, page 3, the sentence
11 beginning "In response," it would be the sixth line
12 down, should read, "In response, trailer transfer the
13 ramping and deramping work as well as the rental and
14 maintenance of trailers to its new subsidiary, terminal
15 services, and agree with the IRS." "IRS" should be
16 substituted for "IBT."

17 On page 4 at the top of the page, the initial
18 phrase that reads "Betweer ATSF and PMT," "PMT" should
19 be changed to read "SPT."

20 Thank you, Your Honor.

21 JUDGE HOPKINS: Thank you.

22 Call your witness, then.

23 MR. MURRAY: Mr. Vince Aloise.

24 Whereupon,

25 VINCE ALOISE

1 was called as a witness by counsel for International
2 Brotherhood of Teamsters and, having been duly sworn by
3 the Administrative Law Judge, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. MURRAY:

7 Q Mr. Aloise, have you prepared a verified
8 statement in this proceeding?

9 A Yes, I have.

10 Q Is it true and correct to the best of your
11 knowledge?

12 A Yes.

13 MR. MURRAY: I have no further questions.

14 CROSS EXAMINATION

15 BY MR. LANE:

16 Q Good afternoon, Mr. Aloise, my name is Ronald
17 Lane. I am attorney for the applicants here this
18 afternoon.19 Have you got a copy of your verified statement
20 there with you?

21 A Right here.

22 Q Your verified statement indicates at the
23 beginning that you were Secretary-Treasurer of Local
24 Union No. 315.

25 Would you explain the geographic jurisdiction

880688228

1 of that local?

2 A It is in North Bay of the San Francisco Bay
3 area. It covers all of Contra Costa County.

4 Q Does that include Richmond, California?

5 A Richmond, California.

6 Q Does that include Oakland?

7 A No, it doesn't.

8 Q During what period of time did you serve in
9 that office?

10 A As Secretary-Treasurer?

11 Q Yes.

12 A Four years, approximately four years.

13 Q And what are the responsibilities of the
14 Secretary-Treasurer?

15 A Well, it is administrator, your chief
16 executive officer, administrator.

17 Q All right, and you were a full time -- you
18 received a salary from the union for that work, is that
19 right?

20 A Yes, I did.

21 Q And you are presently the Coordinator of the
22 Freight Division of the Western Conference, is that
23 correct?

24 A Yes.

25 Q What responsibilities does that entail?

1 A Well, basically coordinator of freight and
2 United Parcel. It is getting meetings together, get
3 grievances set up, grievance hearings set up, sit on
4 panels, help locals when they need it.

5 Q And what geographic area do you have
6 jurisdiction over?

7 A Eleven states.

8 Q Eleven western states?

9 A Right.

10 Q And is that also a full time union position?

11 A Yes, it is.

12 Q Your salary is paid for by the union?

13 A Yes, it is.

14 Q Have you ever worked for Santa Fe Trail
15 Transportation Company?

16 A No.

17 Q Have you ever worked for Santa Fe Terminal
18 Services Company?

19 A No.

20 Q Have you ever worked for Pacific Motor
21 Transport Company?

22 A No.

23 Q Or Pacific Motor Trucking Company?

24 A No.

25 Q Now, you have testified at some length in your

1 verified statement about those companies.

2 What is the source of your knowledge of those
3 companies' operations?

4 A Records, personal knowledge, meetings with
5 company officials, company people, with rank and file.

6 Q Could you turn for a moment to page 2 of your
7 verified statement? The last paragraph, starting at the
8 bottom of the page, begins "For many years, Trail
9 handled substantially all of the container and piggyback
10 operations for ATSF."

11 Do you see that?

12 During what period of time are you referring
13 to there?

14 A As far back as they handled containers in
15 piggyback. I believe the Teamsters had a working
16 agreement with the Santa Fe going back 1938, I believe.

17 Q Does that apply to today's operations?

18 A Pardon me?

19 Q Does that apply to today's operations?

20 A No. I think then it was a freight, total
21 freight operation. Then it went into the piggyback
22 container type of operation, I think probably in the
23 early '50s.

24 Q Trail does not now handle substantially all of
25 ATSF's container and piggyback operations for ATSF, does

1 it?

2 A Right now they don't handle any of it in
3 Richmond.

4 Q And similarly, if you look at the top of page
5 3, the sentence that starts at the top of the page
6 there, it says "Trail was at all times material hereto
7 owned and controlled by the carrier."

8 Are you referring to the Atchison, Topeka &
9 Santa Fe there?

10 A Correct.

11 Q Well, you know, don't you, that Trail has been
12 sold effective this July.

13 A Now, yes.

14 Q So you are not saying any longer that Trail is
15 owned and controlled by Atchison, Topeka & Santa Fe?

16 A I couldn't answer that. I still say they are
17 responsible, the railroad is responsible for them
18 drivers. I'm still contending that.

19 Q Are you contending that Trail is owned by
20 Atchison today?

21 A I would have to say yes.

22 Q Okay, what is the basis for your contention?

23 A Well, they control the movement of freight
24 with the trucking companies.

25 Q What does that have to do with the ownership

1 of the company?

2 A I just contend they still own them.

3 Q Do other trucking companies handle freight for
4 the Atchison, Topeka & Santa Fe Railway Company?

5 A I imagine they do, contracted by the
6 railroad.

7 Q Do you also contend, then, that the railroad
8 controls those other companies?

9 A Yes.

10 Q So the control that Atchison exerts over Trail
11 is the same control it exerts over other trucking
12 companies?

13 A Yes.

14 Q Who was Santa Fe Trail sold to in July of
15 1984?

16 A Rail Services, I believe.

17 Q And Rail Services was not a carrier, was it?

18 A No, they used another trucking company.

19 Q Are you familiar with the current operations
20 of Santa Fe Trail Transportation Company?

21 A I don't believe there is one in Richmond.

22 Q Well, your jurisdiction as freight coordinator
23 of the Western Conference includes all eleven western
24 states, doesn't it?

25 A Yes.

1 Q Does Santa Fe Trail Transportation have any
2 operations in any of those eleven western states?

3 A I believe they still have one in Denver, if
4 that hasn't been subcontracted out yet. There have been
5 some movements in the last two and three months.

6 Q So you are not aware of the current operations
7 of Santa Fe Trail Transportation?

8 A No, not right at this moment, no.

9 Q Are you aware that the Santa Fe Trail
10 Transportaton Company also purchased the BN Transport
11 Company?

12 A Yes, I know that.

13 Q That's another trucking company?

14 A Yes.

15 Q Are you familiar with the current operations
16 of Santa Fe Terminal Services Company?

17 A In Richmond?

18 Q Anywhere.

19 A Mostly in Richmond.

20 Q Would you describe what those operations are?

21 A It is a ramping and deramping operation.

22 Q Would that include hostling of trailers within
23 the terminal?

24 A Correct.

25 Q Lifting the trailers physically onto the flat

1 cars or containers onto flatcars and unloading them?

2 A Correct, and vice versa.

3 Q Maintenance of some of the equipment that is
4 used for that?

5 A I don't know if we do that anymore either.

6 Q Is there any other kind of operation that
7 Santa Fe Terminal Service engages in?

8 A Well, that is all we handle.

9 Q And the operation is confined to the terminal
10 area?

11 A I believe so.

12 Q And the work is performed for the Atchison,
13 Topeka & Santa Fe Railway exclusively, is that correct?

14 A Correct.

15 Q Santa Fe Terminal Services doesn't provide any
16 trucking services to any shippers, does it?

17 A Ask that again, please?

18 Q Santa Fe Terminal Services does not provide
19 any shipping service to any shippers, the common carrier
20 service?

21 A I don't know.

22 Q Have you ever known any Santa Fe Terminal
23 Service employee to work providing any kind of carriage,
24 common carriage to anyone?

25 A Well, the Santa Fe Trails and Santa Fe Service

1 worked closely together for years.

2 Q I am asking you about Santa Fe Terminal
3 Services right now.

4 A Well, they directed Santa Fe Trails, told them
5 when the trains were going to be in in order to come in
6 and pick up the pigs or the chassis.

7 Q And Santa Fe Trail Transportation Company, the
8 trucking company, would perform drayage work or cartage
9 work or some kind of common carrier work, is that
10 right?

11 A Well, our employees were interchangeable
12 between both companies, so yes.

13 Q And you are aware that there are independent
14 contractors at locations other than Richmond that
15 perform the same ramp service work that Terminal
16 Services does at Richmond, is that right?

17 A I am aware of that, yes.

18 Q And those independent companies have no
19 affiliation with any of the Santa Fe or Southern
20 Pacific --

21 A I wouldn't know that.

22 Q Are you familiar with the Pacific Motor
23 Trucking operations?

24 A Not as well as I am with the Santa Fe.

25 Q Do you have any familiarity with them at all?

1 A Yes, I know quite a few of the people that
2 work there and used to work there.

3 Q Would you describe the kind of operation that
4 PMT engages in?

5 A Well, basically they did the same thing as
6 Santa Fe Trails did. Their motor trucking, haul pigs
7 and chassis, and containers, and they also ramp and
8 deramp as the Santa Fe people do.

9 Q Are you familiar with the truckaway operations
10 of PMT?

11 A No, I am not.

12 Q Are you familiar with the --

13 A You mean the car haulers?

14 Q Yes.

15 A No, I just know that they do it, PMT does it
16 in Local 70.

17 Q And are you familiar with the National Auto
18 Transporters Association contract with the IBT?

19 A I am not familiar with it. I know if it, but
20 I am not familiar with it.

21 Q Would you turn to page 4 of your verified
22 statement, please?

23 Do you see the sentence six lines from the top
24 that reads "At present, SPT's container and piggyback
25 operations are performed by its subsidiary Pacific Motor

1 Trucking Company."

2 A Yes.

3 Q How do you know that?

4 A Talking to the employees that work there.

5 Q You just said you were not familiar with the
6 operations.

7 A No, but I said I knew the employees, and that
8 is how I gather most of my information.

9 Q Isn't it true that there are scores of other
10 trucking companies that provide drayage for SPT just
11 like there are scores of other companies that provide
12 drayage for ATSF?

13 A Yes, there is.

14 Q Would you turn to page 2 of your verified
15 statement, please?

16 The second sentence in the first full
17 paragraph reads, "In anticipation of the merger and to
18 avoid the obligation of providing protective conditions
19 to employees of Trail, SFI sold Trail to a company known
20 as Rail Services, Inc."

21 What do you mean by "In anticipation of the
22 merger and to avoid" protection?

23 A Well, under the Railway Labor Act, the
24 protection, if a rail company merges or there is some
25 way that the employees are laid off, there are laws that

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1 read that they have to protect the employees as far as
2 wages, conditions, fringes, etc., for I believe up to
3 six years. That is what I mean.

4 Q Well, is it your contention that the sale of
5 Santa Fe Trail Transportation company was for the
6 purpose of avoiding protection to its employees?

7 A That's my contention, correct.

8 Q And what is the basis for your contention?

9 A Well, the way things have been going in the
10 last two or three years, they just have been slowly --
11 we have done approximately 70 to 80 percent of their
12 container work in Richmond, to my knowledge, for the
13 last 15 to 16 years, following the extension of the
14 railroad track to San Jose, to San Francisco, to
15 Oakland, to wherever we were directed to, as an
16 extension of that railroad traffic, and then all of a
17 sudden, over the years, it has just been peeling back
18 and peeling back. We have been losing drivers. And as
19 of January 1, we don't have one driver doing it anymore,
20 and two days prior to that we had 80 drivers doing it.

21 And so what I assumed came true.

22 Q So it is your supposition that that was the
23 reason for the sale, is that right?

24 A Yes, okay, you can call it that.

25 Q The fact that the employment at Santa Fe

1 Trailwand Santa Fe Terminal Services has declined over
2 the year leads you to conclude that the trucking company
3 was sold to avoid employee protection?

4 A Correct.

5 Q Isn't it true that Santa Fe Trail and
6 Transportation Company was losing a substantial amount
7 of money in its trucking operations?

8 A No, I don't think so.

9 Q Why not? Why don't you think so?

10 A Because they used to hang a report on the
11 walls at the terminal on what each individual made, and
12 every week there was a plus on the total work force.

13 Q What do you mean what each individual made?

14 A His earnings, you know, if he earned his wages
15 that day and that week.

16 Q Are you aware that efforts were under way to
17 sell the trucking company in the spring of 1983?

18 A I think there was mention of it.

19 Q And yet this merger was announced a year
20 later, in the spring of 1984?

21 A The dates I don't remember, but I know there
22 was.

23 Q Did your local file a lawsuit in San Francisco
24 to attempt to stop the sale of the trucking company?

25 A Yes, I think we did.

1 Q What was the outcome of that suit?

2 A I think it was dropped, wasn't it? I am not
3 sure. Our attorney --

4 Q In that lawsuit did you contend that the sale
5 of the trucking company was a sham of some sort?

6 A Yes.

7 Q What was the basis of that claim that this was
8 a sham sale?

9 A Well, the sham was to get rid of the employees
10 before the merger so that there would be no protective
11 rights for the employees working there.

12 Q You never contended that RSI was really a
13 carrier, did you?

14 A I don't know.

15 Q Is that part of the sham that you thought was
16 going on?

17 A Well, RSI in turn operated under Santa Fe
18 Trail's logo, so you talk about a sham, you know --

19 Q On page 2 of your verified statement, you also
20 refer to "petitioned for a broker's license." You say
21 that in a related Interstate Commerce Commission
22 proceeding, SFSP's petition for truck broker rights.

23 How is that proceeding related to this one?

24 A Well, we figured that along with the sham,
25 that down the line, when you get rid of all of the

1 trucks, you have got a broker's license. All you have
2 to do is call an owner-operator and put the loads on him
3 or them.

4 Q Are you aware that that application was filed
5 by Pacific Motor Transport Company?

6 A Yes.

7 Q It was not filed by Santa Fe/Southern Pacific,
8 was it?

9 Wasn't that petition filed prior to the merger
10 of Santa Fe and Southern Pacific?

11 A I don't remember the dates on that.

12 Q How would the merger relate at all to the
13 issue of brokering out cartage and drayage work to
14 another company?

15 A Well, once the merger was finished and it was
16 granted, the broker can handle what is being handled by
17 other brokers now.

18 Q Well, isn't right now Atchison contracting
19 with other cartage and drayage companies and Santa Fe
20 Trail Transportation Company?

21 A I believe so.

22 Q And isn't it using other independent
23 contractors at other locations to perform ramp service?

24 A Yes.

25 Q And that is all being done right now years

1 before any change has taken place in any operations as a
2 result of any merger which may be approved by this
3 Commission?

4 A Yes.

5 Q In your verified statement, on page 3, you
6 refer to a master seniority list. In the only full
7 paragraph on the page you say "As a result of this
8 master seniority list, employee interchange between the
9 two companies is frequent," referring to Santa Fe Trail
10 and Santa Fe Terminal Services.

11 Is that master seniority list still in effect
12 today?

13 A I believe parts of it, yes, I believe. I
14 don't know if the whole thing, you know, there is people
15 laid off the Santa Fe Trails that I believe have a right
16 to interchange or go over to -- they have a choice to go
17 over to Santa Fe Service.

18 Q But the master seniority list that you refer
19 to here was abolished as a result of the change of
20 operations this summer, was it not?

21 A I think that was negotiated in 1973 or '74.

22 Q My question is, was not that list abolished
23 this summer as a result of change of operations
24 proceeding?

25 A It wasn't abolished completely until the

1 people made their choice one way or the other.

2 Q And the employees now have a choice to go to
3 work for one company or the other, is that correct?

4 A There is no other.

5 Q Santa Fe Terminal Services --

6 A Trails is -- there is no other. There is no
7 Santa Fe Trails. There is just Santa Fe Service as of
8 the first of the year.

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1 Q Do employees flow back and forth freely
2 between the two companies today?

3 A No. There is no two companies.

4 Q Okay. So when you say that --

5 A I made this thing -- I believe the date was
6 sometime in November.

7 Q So when you say that employee interchange
8 between the two companies is frequent, that statement is
9 no longer true today?

10 A I can't be. You've wiped out 80 jobs as of
11 the first of the year.

12 Q Would you turn to page 4 of your verified
13 statement? The last sentence starts at the very bottom
14 of the page and continues on to the top of page 5.

15 It reads that: "The Trail employees are now
16 operating with a six-month contract with the carrier to
17 perform drayage services."

18 I assume that that is also not true any
19 longer; is that correct?

20 A I went on to say that it is not likely that
21 this agreement will be renewed, and the ink wasn't dried
22 on that contract when the company went out of business
23 -- Rail Services.

24 Q What contract are you referring to?

25 A Wait a minute. I take that back. We had a

1 contract signed with Santa Fe Trails that Rail Services
2 was operating under.

3 Q I take it, just to make sure that the record
4 is clear, that the sentence that reads, "The Trail
5 employees are now operating with a six-month contract
6 with the carrier to perform drayage services," that
7 sentence is no longer true, is that right?

8 A That's right. They're no longer there.

9 Q Mr. Aloise, at various places in your verified
10 statement, you refer to the impact that this merger will
11 have on employees of Santa Fe Trail and Santa Fe
12 Terminal Services and, to some extent, on employees of
13 PMT as well.

14 A Yes.

15 Q When you make those statements, aren't you
16 assuming that Santa Fe Terminal Services and Pacific
17 Motor Trucking will continue to hold the contracts that
18 they presently have with the Atchison, Topeka & Santa Fe
19 with SPT?

20 A Yes, based on that.

21 Q And isn't it true, though, that both PMT and
22 Santa Fe Trail and Santa Fe Terminal Services have lost
23 contracts to perform services for the respective
24 railroad companies?

25 A Yes.

1 Q And they have lost those contracts without
2 regard to anything that has happened in this merger
3 proceeding; isn't that true?

4 A Yes.

5 Q And they could lose those contracts sometime
6 in the futur?

7 A Sure. The railroad could cut them off anytime
8 they want.

9 Q And that could be for any reason that they
10 wanted to?

11 A They control them. I guess the could.

12 Q And it could be for reasons wholly unrelated
13 to this merger?

14 A Well, yes, I guess that could be true.

15 Q On page 6 of your verified statement, the last
16 sentence of the first paragraph reads: "ATSF makes
17 contributions into the various employee benefit trust
18 funds for members of IBT Local 315 and for other IPT
19 Local unions."

20 I'm sorry; that's not the last sentence. It's
21 the next-to-the-last sentence.

22 A Where did you start at?

23 Q "ATSF makes contributions into various
24 employee benefit trust funds for member of IBT Local
25 315."

1 A Yes.

2 Q What contributions are you referring to there?

3 A Pension and health and welfare.

4 Q And do you have any documents that support
5 that?

6 A I believe we had the reporting forms.

7 Q Are those reporting forms that -- are those
8 bills that are sent out by the pension fund to the
9 various employers to collect monies for the Teamsters'
10 pension plan?

11 A Correct.

12 Q Those are bills that are sent by the Fund, are
13 they not?

14 A Yes. But they're sent back by the individual
15 companies, naturally with the addresses -- hopefully
16 with the correct addresses and name of the companies.

17 Q Who provides the address that those bills are
18 sent to?

19 A I'm assuming the company, when they send it
20 back.

21 Q Well, the first time it's sent out, that
22 address comes from somewhere. Does it come from the
23 Union in the first instance?

24 A No. It must come from the company to begin
25 with.

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1 Q Do you know if the companies have ever
2 corrected that situation of addresses, payments being
3 made to the pension funds?

4 A I don't know if they have or not.

5 Q As I understand the request of the Teamsters
6 Union in this proceeding, you are asking that New York
7 Dock Conditions be imposed to protect employees of the
8 various trucking companies, subsidiaries of the
9 railroads?

10 A Yes.

11 Q Have those kinds of protective conditions ever
12 been imposed in the trucking industry before, to your
13 knowledge?

14 A Not to my knowledge, no.

15 Q Would you agree with me that that is
16 unprecedented in the trucking industry?

17 A No, I wouldn't. No.

18 Q But you don't know of any other case, though,
19 where this has happened?

20 A Well, Cosby.

21 Q Aside from the issue with the Frisco Railroad,
22 let's put that to one side, do you know of any other
23 situation?

24 A No, not at this moment.

25 Q So the only precedent for this happening in

1 the trucking industry is the Cosby decision you're
2 referring to with the Frisco employees?

3 A I believe that's the one.

4 Q Why are you seeking that kind of protection
5 here in this case?

6 MR. MURRAY: Objection, Your Honor.

7 JUDGE HOPKINS: Why?

8 MR. MURRAY: I think this calls for a legal
9 conclusion in light of asking the witness to interpret
10 the Cosby decision and interpret New York Dock.

11 JUDGE HOPKINS: I don't think he has to base
12 it on that. He can answer as to why he is, and I think
13 he ought to be given a chance to state that.

14 Go ahead.

15 THE WITNESS: I'll give you a moral answer. I
16 think there's a lot of employees working for the
17 railroad, the PMTs, the Santa Fes, the Trail Services,
18 whatever, that quit excellent jobs from other companies
19 over the years to come to the railroad companies because
20 of the security they offered. It was like a Civil
21 Service job. That type of thing.

22 To have the companies over the years just
23 peel them away -- and you're talking about people 15,
24 20, 30, 35 years of seniority.

25 BY MR. LANE: (Resuming)

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1 Q Do you understand that they work for a
2 different company than the railroad?

3 A Well, lately, yes. But I believe over the
4 years, there was -- I don't know if there was a contract
5 signed with the railroads, with the Teamsters, to get
6 that job done.

7 Q With respect to employees of SFTT and PMT, are
8 those employees subject to the National Master Freight
9 Agreement?

10 A Yes.

11 Q And are they covered by the Western States
12 Pension Fund?

13 A Yes.

14 Q And they are covered by Social Security, is
15 that correct?

16 A I believe so.

17 Q Not Railroad Retirement?

18 A I know the Santa Fe people were
19 interchangeable. You know, they would get, wherever
20 they worked.

21 Q My question was, with respect to Santa Fe
22 Trail Transportation.

23 A Santa Fe Trails is Social Security.

24 Q And Pacific Motor Trucking?

25 A I believe that is Social Security.

1 MR. MOATES: Your Honor, could we go off the
2 record?

3 (Discussion off the record.)

4 JUDGE HOPKINS: Back on the record.

5 BY MR. LANE: (Resuming)

6 Q Are the PMT and SFTT employees covered by
7 California Workers Compensation?

8 A I believe so.

9 Q Not by Federal Employers Liability Act?

10 A Not unless they work at Trails.

11 Q When you bargain with those companies, do you
12 bargain under the National Labor Relations Act or under
13 the Railway Labor Act?

14 A For going back as long as I can remember, it
15 was an NLRB thing, National Labor Relation Act.

16 Q And if your workers are unemployed, do they
17 collect California Unemployment Compensation, or do they
18 collect the Railroad Unemployment?

19 A I believe it is State Cal, State Comp.

20 Q Have any of the employes of PMT ever worked
21 for SPT?

22 A I couldn't answer that

23 Q Does your union ever negotiate with ATSF?

24 A I believe we negotiated with their
25 representatives.

1 Q The representatives of whom?

2 A Of ATSF.

3 Q Is your contract signed by anyone from ATSF?

4 A Yes. We've got an agreement here signed by
5 Mr. Ed Frye, and he was the one that quoted the last
6 rates on the trucking operation. And I believe he works
7 for the railroad.

8 Q Is it your understanding of New York Dock that
9 an affiliated company of a railroad, employees of a
10 railroad affiliate, are covered by New York Dock?

11 MR. MURRAY: Your Honor, I am going to object
12 for the same reason as before.

13 JUDGE HOPKINS: If you know. Do you know?

14 THE WITNESS: No.

15 JUDGE HOPKINS: You don't know?

16 THE WITNESS: That's right.

17 BY MR. LAVE: (Resuming)

18 Q Well, do you think that employees of other
19 corporate affiliates of the railroad are also entitled
20 to protection?

21 A Give me that question again.

22 Q I asked you a few minutes ago why you
23 thought --

24 A Is that the same question?

25 Q Let me rephrase it. I asked you a few minutes

1 ago why you thought your members should be protected by
2 New York Dock, and you talked about their years of
3 service, loyal service.

4 A Correct.

5 Q Other trucking company employees also put in
6 many long years of loyal service for their employers,
7 don't they?

8 A If they had the name of Santa Fe Trails or
9 PMT, I would say that they deserved it, too.

10 Q What's the difference between the employees of
11 other trucking companies and the employees of these two
12 trucking companies?

13 A Because I believe they were working for the
14 railroad. That's the difference.

15 Q And would you also think, then, that employees
16 of the oil and gas companies should --

17 A No. I said if they working for Santa Fe or
18 Pacific Motor, I would say yes.

19 Q Well, you know that Santa Fe has an oil and
20 gas company, don't you?

21 A If that's the name, I say they get it, too.

22 Q Do you think they get it, too?

23 A I hope so.

24 Q And employees of the lumber company as well?

25 A That's right.

1 Q Employees of the mining company as well?

2 A That's correct.

3 Q Employees of the construction company?

4 A That's right; as long as it had Santa Fe on
5 it.

6 Q Employees of the real estate company?

7 A Elevator operators, attorneys.

8 Q Hear, hear.

9 JUDGE HOPKINS: They're all on your side now.

10 THE WITNESS: If they hired as many truck
11 drivers as they did attorneys, we would have been in
12 good shape.

13 JUDGE HOPKINS: You're probably right.

14 THE WITNESS: Do you have any more, Mr.
15 Lane? We've got problems in finishing tonight.

16 MR. LANE: No, I am finished.

17 JUDGE HOPKINS: Good.

18 You are excused, sir.

19 Do you have any redirect? I'm sorry.

20 MR. MURRAY: No, Your Honor.

21 We'd like to call Mr. Marty Frates.

22 Whereupon,

23 MARTY FRATES

24 was called as a witness in the above-entitled matter by
25 counsel for the Teamsters Union and, having been first

1 duly sworn by the Administrative Law Judge, was examined
2 and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MURRAY:

5 Q Mr. Frates, have you submitted a verified
6 statement in this proceeding?

7 A Yes, I have.

8 Q And to the best of your knowledge, is it true
9 and correct?

10 A Yes.

11 CROSS EXAMINATION

12 BY MR. LANE:

13 Q Mr. Frates, do you have a copy of your
14 verified statement with you?

15 A Yes, I do.

16 Q Could you turn to the first page, please?

17 A Yes.

18 Q Do you see, in the last paragraph on that
19 page, the statement, "For many years, PMT has handled
20 substantially all of the container and piggyback
21 operations for SPT's rail system"?

22 A Yes.

23 Q Is that true as of today?

24 A Yes. The loading and unloading of containers
25 and pigs at the Oakland facility; yes. They still do

1 it.

2 Q That is true at Oakland. Are you familiar
3 with PMT's operations at other locations?

4 A No, I'm not.

5 Q So you don't know if anyone else performs that
6 work at any other location?

7 A I'm not that familiar; no.

8 Q Does PMT handle substantially all of the
9 cartage and drayage work at Oakland?

10 A They used to at one time. Now it is all done
11 by owner-operators for work that our people used to
12 perform.

13 Q So as of today, the cartage and drayage work
14 is not handled by PMT employees?

15 A No. Our people are no longer doing it. The
16 railroad has contracted that work out that they used to
17 do. As a result, I have people with 24 and 25 years
18 seniority on layoff status, with no chance of really
19 getting a job.

20 Q So when you talk about substantially all the
21 container in piggyback operations, you are referring
22 only to the terminal service work at Oakland?

23 A When you talk about terminal services, are you
24 talking about ramping and deramping?

25 Q Yes.

1 A Our people -- that is the only thing that is
2 left that we do. The trucking work I was referring to
3 was like the Transbay and rail control freight that was
4 taken to, say, container yards and to customers.

5 Q You just mentioned that you have experienced a
6 marked decline in the number of people working at PMT in
7 the last few years.

8 A Yes.

9 Q Do you know why that happened?

10 A Yes. For one reason, approximately a year
11 ago, I had a call at 6:30 in the morning to go down to
12 the PMT facility, which I did, and to everybody's
13 surprise, they were all told that the company had
14 decided to get out of the trucking business, and that
15 knocked out about 35 of the guys I represented right
16 there.

17 Interesting experience.

18 Q That had nothing to do with the proposed
19 merger that's in front of this Commission today, does
20 it?

21 A In my own personal opinion, yes, it did. I
22 think -- and this is my personal opinion -- it was
23 long-range plan by the railroad. And the reason I say
24 that is when I see PMT's request for the operating
25 authority of the broker operation. I think -- and this

1 is my own personal opinion again -- I think that they
2 are going to go into the trucking business because the
3 work that the people I represent, that they used to do,
4 that was done by brokers who controlled owner-operators,
5 it looks to me as if the railroad says why should we be
6 giving the money to the brokers; let's go make it
7 ourselves -- and therefore put my people out of work.

8 I'd like to make one other point with regards
9 to my people being put out of work. It's a very
10 sensitive issue with me, is that when you are talking
11 about people who are 45 to 50 years old, and maybe
12 that's the only job they've ever had at PMT, or working
13 in the trucking industry, maybe starting at one company
14 and then going to PMT at a later age, you are talking
15 about at that high age level being put out of work with
16 their pensions and their health and welfare retiree
17 programs being jeopardized, and then left with virtually
18 nothing.

19 Q Mr. Frates, I think we all understand and
20 sympathize with the employees who face these
21 conditions.

22 My question is simply this: Do those
23 employment impacts, those effects on those employees,
24 have anything to do with the merger that is proposed in
25 front of this Commission today?

1 A Yes, definitely. Because the proposed merger,
2 as we understand it, and of course we don't receive too
3 much communications from you guys -- as I understand
4 what I read in the paper, is they are going to close the
5 Richmond facility and move it to Oakland. They are
6 going to expand the Oakland facility.

7 Now, whenever there is a merger, I'm going to
8 have more people put out of work. And still the
9 question of even who is going to have the right to do
10 the work. We don't even know how that is being
11 developed, and we think that it's highly unfair. After
12 all, we represent the people, and somebody ought to
13 listen to what the heck is going on.

14 MR. LANE: I have no other questions.

15 JUDGE HOPKINS: Any redirect?

16 MR. MURRAY: No, Your Honor.

17 JUDGE HOPKINS: Do you move the admission of
18 both testimony?

19 MR. MURRAY: Yes, I do.

20 JUDGE HOPKINS: Any objection?

21 MR. LANE: No.

22 JUDGE HOPKINS: They will be received in
23 evidence. Thank you, gentlemen.

24 MS. REED: Your Honor, if I might, I have a
25 procedural matter which I would like to get resolved at

1 this time.

2 Department of Transportation intends to send
3 out interrogatories to shippers who filed statements in
4 support of the various responsive applications. We have
5 discussed this matter with counsel for the supporting
6 railroads and with Applicants.

7 The concern has been raised about the
8 confidentiality of the responses to the interrogatories,
9 and I have the agreement of Applicants and counsel for
10 the supporting railroads that those responses will be
11 kept confidential and should be protected under the
12 Commission's general protective order.

13 So if that procedure is acceptable to Your
14 Honor --

15 JUDGE HOPKINS: You intend to send a letter
16 out, is that right, to each of these, asking them the
17 questions with that as the covering letter?

18 MS. REED: Yes. We would like to be able to
19 assure them that their responses will be kept
20 confidential, subject to the protective order.

21 JUDGE HOPKINS: I will indicate for the record
22 that we will consider them under the original protective
23 order. You can indicate that in your communications if
24 that's agreeable. Is that agreeable?

25 MR. MOATES: That's correct, Your Honor.

1 MS. REED: Thank you.

2 JUDGE HOPKINS: Off the record a minute here.

3 (Discussion off the record.)

4 Whereupon,

5 JAMES L. LARSON

6 was called as witness in the above-entitled matter by
7 counsel for Amtrak, and, having first been duly sworn by
8 the Administrative Law Judge, was examined and testified
9 as follows:

10 DIRECT EXAMINATION

11 BY MR. CRAIG:

12 Q Mr. Larson, do you have AMT-7, the verified
13 statement of James L. Larson, before you?

14 A Yes, sir.

15 Q Are there any corrections to be made on this
16 AMT-7?

17 A Yes, sir. There are corrections on the
18 statistical table on page 3.

19 Q Could you indicate for the record what numbers
20 should be changed on that table?

21 A Yes, sir. For the off and on passenger count
22 at Stockton, those connections should be modified from
23 29,984 to 31,112.

24 In the right-hand column, the total Stockton
25 passengers should be modified from 66,659 to 67,787.

1 And at the bottom of the page, the grand total should be
2 revised from 508,202 to 509,330.

3 Q As corrected, is AMT-7 true and correct to the
4 best of your information and belief?

5 A Yes, sir.

6 MR. CRAIG: The witness is tendered for
7 cross-examination.

8 CROSS EXAMINATION

9 BY MR. BLASZAK:

10 Q Good afternoon, Mr. Larson. I am Mike Blaszak
11 from the Santa Fe. I'd like first to ask you whether
12 you are sponsoring just AMT-7 or whether you can answer
13 questions with respect to the entire Amtrak submission.

14 Maybe I should direct that to counsel.

15 MR. CRAIG: Well, as stated in AMT-3, any
16 factual questions relating to AMT-4, 5, 6, or 7, Mr.
17 Larson should be able to answer. Policy questions
18 should be directed to counsel.

19 BY MR. BLASZAK: (Resuming)

20 Q Why don't we proceed on that basis and if
21 anything I ask is a policy matter, Mr. Larson, why don't
22 you just so indicate, and I will settle the matter with
23 counsel.

24 A All right, sir.

25 Q Let's start out with page 14 of Exhibit AMT-6.

1 which is Amtrak's 1983 Annual Report. Would you turn to
2 that page, page 14.

3 If you look at the upper left-hand corner of
4 this page, Mr. Larson, you see a caption entitled
5 "Amtrak and Partners," and we see a display of 20
6 different railroad heralds. I see both Santa Fe and
7 Southern Pacific in this group of heralds. Do you
8 follow along?

9 A Yes, sir.

10 Q Amtrak describes its relationship with these
11 railroads in this way, and I am going to quote here,
12 about halfway down the caption. "Our relationship with
13 these freight railroads is characterized by a sense of
14 cooperation and goodwill."

15 - Do you agree that this description applies to
16 Amtrak's relationship with Santa Fe and SP?

17 A I believe it does.

18 Q Does this statement mean that when there's a
19 dispute between Amtrak and Santa Fe or between Amtrak
20 and SP, that the parties have a good enough relationship
21 to first sit down and try to resolve it informally?

22 A Yes.

23 Q And when or if such negotiations fail, doesn't
24 Amtrak's contract with the Santa Fe and Amtrak's
25 contract with the SP prescribe arbitration as the sole

1 remedy for the dispute?

2 MR. CRAIG: I beg your pardon. The AMT-3
3 includes an exchange of letters between Amtrak and the
4 Applicants, indicating a desire to work out this matter,
5 which was rebuffed by the Applicants, which is why we're
6 here today seeking a condition.

7 MR. BLASZAK: I appreciate your testimony,
8 counsel.

9 MR. CRAIG: You're asking a legal question,
10 and therefore I am answering.

11 JUDGE HOPKINS: Gentlemen, don't argue. Go
12 ahead and ask him the question.

13 BY MR. BLASZAK: (Resuming)

14 Q This is just a general question, Mr. Larson,
15 if you can answer. In the past, when Amtrak and Santa
16 Fe have had a dispute and they have not been able to
17 resolve it, haven't the two parties submitted the
18 dispute for arbitration?

19 A Yes. On occasion we have had arbitration
20 cases.

21 Q And in such cases when the arbitrator's
22 decision came out, didn't the parties abide by the
23 decision of the arbitrator?

24 A Yes.

25 Q Mr. Larson, in your statement, you discuss the

1 Applicants' plan to abandon Santa Fe's rail line between
2 milepost 1001 and 1007 in and north of the City of
3 Fresno. I believe that is on page 6 of your verified
4 statement. Would you turn to that, please?

5 A Yes, sir.

6 Q Now, on page 6 of your statement, you quote
7 several sections of the Santa Fe/Amtrak agreement. I
8 should say these quotations carry on to page 7, which
9 you say are pertinent to the abandonment plan and you go
10 on in page 7 to state that your position, Amtrak's
11 position is -- and I'm quoting here again -- "amply
12 supported by these provisions."

13 Now, in the event that the parties, the
14 Applicants proceed, following merger, to progress this
15 abandonment, doesn't it follow that if Amtrak thinks
16 there's been a violation of the agreement, that Amtrak
17 would be able to submit this dispute to arbitration,
18 like other disputes?

19 A Yes, I believe it could be submitted to
20 arbitration.

21 Q Wouldn't the merged carrier, Santa Fe's
22 successor, be bound by the arbitrator's decision, just
23 as it has in the past?

24 A I presume that it would.

25 Q Are you familiar with the testimony of Messrs.

1 Pottorff and Lynch in this proceeding? And I might help
2 you by stating that they are the Applicants' engineering
3 witnesses.

4 A No, sir; I'm not familiar.

5 Q Let me put this in the form of a hypothetical
6 then. If it were the fact that it would take the
7 Applicants up to two years to construct the necessary
8 connection and the necessary second track at Fresno to
9 effect this abandonment and rerouting, wouldn't that
10 give Amtrak and the merged carrier ample time to, one,
11 attempt to negotiate a resolution of this dispute and,
12 two, if no resolution was available, to arbitrate the
13 dispute?

14 A Not necessarily. What has been proposed could
15 have a very serious impact upon the operation of
16 Amtrak's trains in the San Joaquin Valley. And Amtrak's
17 feeling with respect to the proposed abandonment of
18 Fresno is that we would not be opposed to the
19 abandonment, provided the carrier agreed to offer a
20 replacement facility for the passenger station which
21 would be eliminated by the track abandonment.

22 Q I understand that, Mr. Larson. But what I'm
23 asking you is, there would be a two-year period when the
24 service will not be disturbed. Don't you think the
25 matter could be brought to arbitration and resolved

1 within that two-year period?

2 A I don't know.

3 Q Do you know of any arbitration case that has
4 gone on for more than two years?

5 A Yes, sir.

6 Q Can you give us some examples?

7 A Yes. Amtrak and the Southern Pacific had a
8 four-year dispute trying to establish service between
9 Los Angeles and Sacramento before it was finally
10 resolved before the National Arbitration Panel.

11 Q Do you know of any others?

12 A I presume there are others. But right off the
13 top of my head, I can't name any.

14 Q Do you happen to know what the average period
15 of arbitration has been?

16 A No, sir.

17 Q You wouldn't have any feeling as to whether it
18 was more or less than two years?

19 A No, sir.

20 Q You are aware of some cases that have been
21 resolved in less than two years, are you not?

22 A Yes. I'm also aware of some cases that have
23 dragged on for a long period of time.

24 Q Now, Mr. Larson, didn't you recently travel to
25 the San Joaquin Valley to inspect the Santa Fe and SP

1 routes?

2 A Yes, sir; I did.

3 Q Could you tell us the dates you traveled and
4 the route you covered?

5 A On January 8th, we traveled on the San Joaquin
6 passenger trains between Oakland and Bakersfield. And
7 on the following day, we traveled the Southern Pacific
8 route from Bakersfield to Fresno to Sacramento and then
9 from Lathrop, south of Stockton, to Martinez.

10 Q So you covered the Santa Fe and the Southern
11 Pacific, up and down the Valley?

12 A Yes, sir.

13 Q Did you inspect the present Amtrak station at
14 Fresno?

15 A Yes, sir.

16 Q Could you give me your impression of that
17 statement?

18 A It's an old building. It's presently in a
19 state of being remodeled to provide a transportation
20 control center for the Santa Fe. And there is
21 renovation work currently in progress. There were
22 temporary walls or partially constructed walls within
23 the facility.

24 Q Is that renovation work on behalf of Santa Fe
25 or Amtrak?

1 A The renovation work, as I understand it, is on
2 behalf of both parties.

3 Q Did you discuss the conditions of the facility
4 with Southern Pacific's or Santa Fe's employee
5 representatives at that time?

6 A Yes, I did.

7 Q Would it be fair to say that you characterized
8 this facility at one point as a dump?

9 A No, I don't recall specifically, but it
10 certainly isn't a modern passenger station.

11 Q Okay. Our people may be misquoting you, Mr.
12 Larson. Do you think Amtrak would benefit from a new
13 passenger station at Fresno?

14 A I think it would be -- I think that the
15 existing facility is adequate for handling the ridership
16 at Fresno. Whether Amtrak would benefit by relocation,
17 I think is questionable.

18 Certainly, a new facility, a new building,
19 would be desirable. I think the significant question
20 here is whether relocation to another part of Fresno
21 would have a positive or negative effect upon the
22 ridership on the trains, and that's really the critical
23 question.

24 Q Well, let's pursue that a little bit. I take
25 it you had an opportunity to inspect Santa Fe's present.

1 line through Fresno?

2 A Yes.

3 Q Doesn't that line run down the middle of a
4 city street at one point?

5 A Yes, it does.

6 Q Doesn't it cross many other streets at grade?

7 A Yes.

8 Q Do you happen to know whether Amtrak trains
9 have experienced any grade crossing accidents in this
10 trackage?

11 A Well, Amtrak trains have experienced grade
12 crossing accidents throughout the United States, but I
13 don't have any specific knowledge of this location.

14 Q Would you expect that this area would be
15 something of a high-risk area for grade crossing
16 accidents?

17 A Not really. The operation of the train is
18 very slow in that location, and I don't think it is any
19 more serious than any other metropolitan area where we
20 operate under similar conditions.

21 Q Do you know any other locations where Amtrak
22 operates down the middle of the street?

23 A Oh, yes. There's a number of them throughout
24 the United States.

25 Q Did you notice whether the Southern Pacific

1 main line through Fresno runs down any streets?

2 A It doesn't run down through the center of the
3 street; no.

4 Q Did you notice the relative number of grade
5 crossings on the Southern Pacific as compared to the
6 Santa Fe?

7 A No, sir. I did not.

8 Q Let's turn to some exhibits to your verified
9 statements, specifically Exhibit C, C-1 and C-2, which
10 discuss the -- or which set forth excerpts from the
11 employee timetables of the Applicants.

12 Pardon me. Also I would like to talk about
13 C-3 and C-4. Looking at C-2, page 1 of 2, you see that
14 Fresno is at milepost 988.1 on the Santa Fe, Mr.
15 LaFson?

16 A Yes.

17 Q And that Fig Garden, which is one of the
18 limits of the abandonment, is at milepost 1005?

19 A Yes.

20 Q Turning to page 2 of 2, you see that the speed
21 limit between milepost 996.8 and 1002.0 is presently 20
22 miles an hour on the Santa Fe?

23 A That's correct.

24 Q Now, I'd like to have you turn to Exhibit
25 C-5. Do you have that?

1 A Yes.

2 Q Do you see that Fresno, on the Southern
3 Pacific, is milepost 205.5?

4 A Yes.

5 Q Do you see that, looking further down the
6 page, do you see that the speed limit between milepost
7 202 and 209 is 35 miles an hour?

8 A Yes.

9 Q Do you think that -- strike that.

10 Would it follow from that, that the Amtrak
11 train probably would be able to operate faster on the
12 Southern Pacific side than on the Santa Fe side?

13 A Through Fresno, yes.

14 Q Don't you think that would have a positive
15 impact on Amtrak's ridership and operations?

16 A Well, you're talking here basically about a
17 two-mile stretch on a route that's 312 miles long. And
18 I don't think that the impact of two miles on the
19 schedule would have a significant impact on a train
20 operating for 312 miles.

21 Q Okay, Mr. Larson. Let's go on to your
22 discussion of the Stockton -- what you call the Stockton
23 proposal and we have called our discontinuance of
24 freight service between Gillis and Oakley, or more
25 generally, between Stockton and Antioch, California.

1 That's on page 8 of your statement. First of
2 all, maybe we should clear up a minor point. Footnote
3 on this page states that the Sacramento Railroad
4 reimburses Santa Fe for a portion of these costs.

5 First of all, I wanted to ask you if you don't
6 mean the Sacramento Northern Railroad.

7 A Yes, Sacramento Northern.

8 Q Secondly, I'd like to know what the source is
9 of your statement.

10 A It is my understanding from talking to the
11 officers that are in charge of that operation of that
12 territory.

13 Q It's not based on any contractual or other
14 relationship between Amtrak and Sacramento Northern?

15 A No. Just information given to me by the
16 carrier's officers.

17 Q Fine. Mr. Larson, as you know, the
18 Applicants' plan is to discontinue freight service over
19 this particular line, but to leave it in place for
20 possible use by Amtrak trains.

21 Is that your understanding of our plan?

22 A Yes, sir.

23 Q The line then would remain available for
24 Amtrak's use.

25 A Yes.

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1 Q Pursuant to the Santa Fe/Amtrak agreement or
2 whatever subsequent agreement is negotiated by the
3 Applicants?

4 A I don't know that I agree with that. I think
5 the real question is not whether or not the line
6 physically would be in place for the continued operation
7 of the Amtrak trains, but it would be who would bear the
8 cost of maintaining the track for the operation of those
9 trains if the line is preserved. And that is a very
10 significant question because it really impacts upon the
11 ability of the San Joaquin trains to survive.

12 Q But that really doesn't answer my question,
13 Mr. Larson. The question was, the line will still be
14 available for Amtrak's use. Is that right?

15 A I assume it would be.

16 Q And such use would be subject to the existing
17 Amtrak/Santa Fe agreement or whatever subsequent
18 agreement is negotiated by the parties?

19 A I don't agree that this situation is covered
20 by the existing agreement.

21 Q In other words, your understanding of the
22 agreement is that after the merger, because of the
23 discontinuance of freight service, you don't think that
24 Santa Fe and Amtrak would have any agreement at all
25 involving the use of this line?

1 A No. I think that after the merger the
2 question is who has to pay for the cost of maintaining
3 the line in the absence of freight trains.

4 Q But doesn't the agreement between Santa Fe and
5 Amtrak presently divide up those costs?

6 A I don't believe the existing agreement between
7 Amtrak and Santa Fe contemplated main line abandonments,
8 which is what we're talking about here.

9 Q Again, Mr. Larson, you're not answering my
10 question. What I'm saying is we have an agreement in
11 effect now, don't we?

12 A Yes.

13 Q Under that agreement Amtrak runs trains on
14 that line, doesn't it?

15 A Yes.

16 Q And on day one after the merger, that
17 agreement will still be there and Amtrak presumably will
18 still be running trains on it, will they not?

19 A That's correct?

20 Q Now, in the event Santa Fe Southern Pacific,
21 or I should say Southern Pacific and Santa Fe, following
22 the merger, implements this plan to reroute these
23 trains, and Amtrak feels that such rerouting is not in
24 accordance with the agreement, wouldn't that create the
25 sort of question that could be arbitrated under the

1 existing agreement?

2 A I don't know that it could.

3 Q Why not?

4 A I would have to ask counsel for an opinion on
5 that.

6 Q Well, you said earlier that all disputes
7 between the Applicants and Amtrak would be -- the sole
8 remedy for those disputes would be arbitration under the
9 agreement, didn't you?

10 A I don't recall saying that.

11 MR. CRAIG: I'd like to interject here, and
12 maybe this could shorten things. The reason why Amtrak
13 is here is because there is no agreement as to what the
14 agreements provide, as was developed on
15 cross-examination of your witnesses.

16 Therefore, we are asking as a condition of
17 this merger that these very serious matters to Amtrak be
18 resolved first.

19 JUDGE HOPKINS: Thank you.

20 MR. BLASZAK: Again, thanks for your
21 statement, counsel.

22 BY MR. BLASZAK: (Resuming)

23 Q Why don't we go on a little bit and discuss
24 alternatives, should Amtrak decide not to operate over
25 the line between Stockton and Antioch, whatever the

1 circumstances might be.

2 One alternative you discussed on page 10 would
3 be to continue operation of the San Joaquins on Santa
4 Fe's track between Bakersfield and Stockton and
5 switching over to Southern Pacific at Stockton.

6 I presume that alternative contemplates using
7 the Southern Pacific from Stockton to Lathrop and then
8 using what we have called at this proceeding the Mocado
9 Line into Oakland. Isn't that right?

10 A That's correct.

11 Q You state that such an option adds 20 miles
12 and an estimated additional 30-40 minutes to present
13 schedules, thereby increasing cost and destroying the
14 marketability of the San Joaquins.

15 You also point out that a backup move would be
16 required. Hasn't Amtrak made similar adjustments in its
17 schedules and similar lengthening of its schedules in
18 order to achieve other goals in other locations of the
19 country?

20 A Not normally. There is a rather significant
21 difference between lengthening the schedule of a long
22 haul train which is on a road for 2,000 miles and two
23 days, and lengthening the schedule on a short haul train
24 which is generally a train of under 500 miles.

25 The impact on lengthening the schedule of a

1 short haul train is very, very significant, where it is
2 not nearly as significant when people intend to be on a
3 train for two days.

4 Q Okay, I'll accept that, Mr. Larson.

5 This may predate your seniority with Amtrak,
6 but I believe you are familiar with the Amtrak
7 operations in and around Chicago, aren't you?

8 A Yes, sir.

9 Q Do you know that when Amtrak first started up,
10 the trains on the Illinois Central Line ran into the
11 Illinois Central Station on the lakefront?

12 A That's correct.

13 Q And following Amtrak's startup, Amtrak moved
14 those trains over to Union Station?

15 A That's correct.

16 Q Doesn't that movement require a backup move in
17 and out of Union Station?

18 A It does.

19 Q Didn't that add 30 to 40 minutes to the
20 schedule of those trains?

21 A I don't believe it added 30 to 40 minutes,
22 because I subsequently studied that. I believe the
23 addition was, say, 15 to 20 minutes.

24 But, yes, it was done as a matter of necessity
25 to consolidate the station operations in Chicago.

1 Q That's all very good. Can you tell us the
2 distances that the trains, or the total length of the
3 runs of the trains that are affected by this backup
4 move?

5 A 312 miles.

6 Q Okay. Can you tell us -- well, maybe I can
7 state it as a question. Aren't the trains that are
8 involved -- what do you call, the City of New Orleans
9 which runs 900 miles to New Orleans, the Shawnee which
10 runs 300 miles to Cabondale, Illinois, and the Allini
11 which runs 120 mile to Champagne?

12 A Yes.

13 Q Wouldn't the latter two trains be considered
14 short distance trains?

15 A Yes.

16 Q But Amtrak proceeded to add the backup
17 movement and add the time to those schedules, despite
18 the fact that they were short distance trains?

19 A That's correct.

20 Q Have you made any studies -- I believe I asked
21 this in the interrogatories, but I'll ask you directly
22 -- have you made any studies as to what sort of
23 operation Amtrak -- what sort of operating improvements
24 Amtrak could expect following upgrading of the Moccoco
25 Line, as proposed by the Applicants in this proceeding?

1 A I have not done a detailed study. However,
2 having evaluated the line, I have an opinion as to what
3 the impact would be.

4 Q And what is that opinion?

5 A The opinion is that it is likely that if the
6 Southern Pacific route was upgraded, the schedule
7 between, shall we say Oakland and Fresno, would probably
8 not be materially different if the train ran over the
9 Southern Pacific Line, as opposed to running over the
10 Santa Fe Line.

11 There is one very significant difference,
12 though. Running over the Southern Pacific Line
13 eliminates service to Stockton, which is one of the
14 major points served by the San Joaquin trains. And the
15 trains would bypass the City of Stockton.

16 Q Well, I'm glad you brought that up because it
17 gets into my next area of questions. You stated in your
18 opinion that the backup movement in Stockton is not
19 practical, even though Amtrak has done such things in
20 other areas of the country.

21 One alternative that I don't see in your
22 verified statement is the possibility of constructing a
23 station or a platform at Lathrop to serve the Stockton
24 area.

25 Have you considered such an alternative?

1 A Yes. And the significant question with respect
2 to Lathrop is whether or not moving a station 12 miles
3 from downtown Stockton to another point outside of
4 Stockton, the unknown question is what impact would that
5 have on the ridership and what impact would that have on
6 the revenues.

7 Q Well, let me ask you this, Mr. Larson. Page
8 3, you put forth some passenger totals and rather
9 helpfully change the total people coming off bus
10 connections at Stockton by 2,000 in your corrections to
11 your statement.

12 As for those 31,112 people who are connecting
13 from bus to train at Stockton, do you think those people
14 necessarily care whether they got off at Lathrop or got
15 off at Stockton?

16 A I don't know. It would lengthen the bus
17 trip.

18 Q It would shorten the train trip, though,
19 presumably.

20 A Not really, no.

21 Q What if you were going to Sacramento? It
22 would shorten it for that, wouldn't it -- if you were
23 going to Sacramento instead of to Oakland and you were
24 getting on and off at Stockton, wouldn't that shorten
25 your train trip?

1 A Oh, yes. Yes.

2 Q And have you taken a look at the area around
3 Lathrop to determine whether there's enough land there
4 for a passenger station?

5 A Yes.

6 Q Do you know whether there is adequate highway
7 access at Lathrop for a passenger station?

8 A There is highway access.

9 MR. BLASZAK: I think that's about all I have,
10 Your Honor. Thank you.

11 JUDGE HOPKINS: Any redirect?

12 MR. CRAIG: No redirect.

13 JUDGE HOPKINS: You are excused, sir.

14 (Witness excused.)

15 JUDGE HOPKINS: Do you move the admission?

16 MR. CRAIG: I move the admission of AMT-3
17 through AMT-7.

18 MR. BLASZAK: No objection.

19 JUDGE HOPKINS: They will be received in
20 evidence.

21 Off the record.

22 (Discussion off the record.)

23 JUDGE HOPKINS: We will be in recess until
24 9:00 o'clock tomorrow morning.

25 (Whereupon, at 5:10 o'clock p.m. the hearing

1 was recessed, to reconvene at 9:00 o'clock a.m. the
2 following morning, Thursday, January 31, 1985.)

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