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(Sub 22)

6-24-97

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180304

CHARLES L. LITTLE
International President

BYRON A. BOYD, JR.
Assistant President

ROGER D. GRIFFETH
General Secretary and Treasurer

**united
transportation
union**



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LEGAL DEPARTMENT

CLINTON J. MILLER, III
General Counsel

• KEVIN C. BRODAR
Associate General Counsel

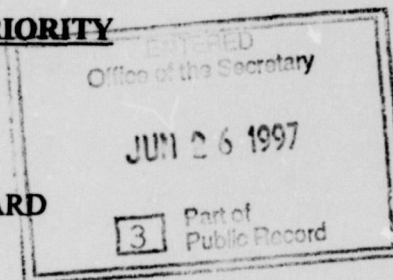
• ROBERT L. McCARTY
Associate General Counsel

• DANIEL R. ELLIOTT, III
Assistant General Counsel

June 20, 1997

FAX AND FEDERAL EXPRESS PRIORITY

Mr. Vernon A. Williams
Executive Secretary
SURFACE TRANSPORTATION BOARD
1925 K Street, N.W.
Washington, D.C. 20423-0001
(202) 565-1674
FAX (202) 565-9003



Re: Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control and Merger -- Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company (Arbitration Review)
STB Finance Docket No. 32760 (Sub-No. 22)

Dear Mr. Williams:

Enclosed for filing with the Express Delivery of this letter in the above case are the original and ten (10) copies of the United Transportation Union's Response to Union Pacific's Emergency Petition To Vacate Stay and Objections of the Brotherhood of Locomotive Engineers To Further Stays. Service has been made as indicated on the certificate attached to that document.

Very truly yours,

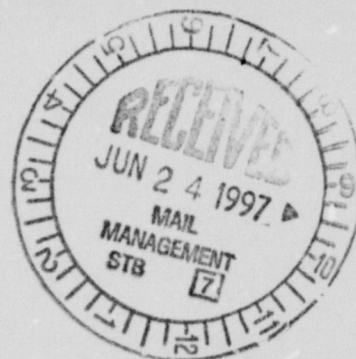
Clinton J. Miller, III
General Counsel

Enclosures

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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32760 (Sub-No. 22)

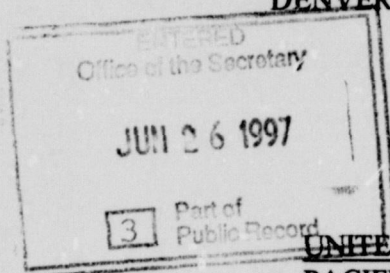


**UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY**

--CONTROL AND MERGER--

**SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP. AND THE
DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY**

(Arbitration Review)



**UNITED TRANSPORTATION UNION'S RESPONSE TO UNION
PACIFIC'S EMERGENCY PETITION TO VACATE STAY AND
BROTHERHOOD OF LOCOMOTIVE ENGINEER'S
OBJECTIONS TO FURTHER STAYS**

This is in brief response to the Union Pacific Railroad Company's ("UP") Emergency Petition To Vacate Stay. The recently filed Objections Of The Brotherhood of Locomotive Engineers ("BLE") To Further Stays do not really fall into the same category, although the remarks below are also intended to be responsive to the concerns expressed therein.

Contrary to the implications of UP, the success of this merger does not rise or fall on the continuation of the stay requested by UTU herein. UP's concerns are essentially monetary and administrative, and its breathless efforts to paint them as service-related only highlight their fundamental character as management problems that managers must attend to in light of existing circumstances. Workers are paid to perform assigned tasks, and managers are paid to manage within existing parameters. UP's proverbial "ripples on a pond" can be calmed by effective management.

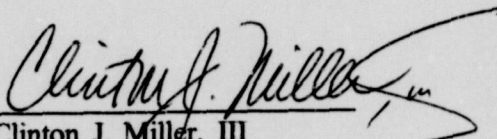
The stays issued herein on May 30, 1997 (until June 11, 1997) and June 6, 1997 (until July 1, 1997) were appropriately intended to give the Board an opportunity to analyze the very serious issues raised by UTU, particularly those related to seniority, which, to borrow from UP's metaphor, will ripple throughout the system creating hardship and uncertainty for employees represented by UTU, which the Board acknowledged in its August 12, 1996 Decision (No. 44) is the largest rail union.

The fact that other unions make their own agreements is an inappropriate consideration for the Board in the background of the issues raised by UTU. Other unions are charged with the knowledge that transactions cannot be implemented until implementing agreements are finalized, and that stays are a definite possibility. BLE in particular knows this because it obtained a stay along with UTU in the UP-CNW merger implementation process. See Union Pacific -- Contr - Chicago and Northwestern, Finance Docket No. 31233 (Sub-No. 4) et al. (5/6/96-Service Date). Moreover, the stays issued in that docket led to the involved parties coming to agreed-upon interpretations of the arbitration award at issue that led to the dismissal of the petition(s) dissolving the stay(s) before any Board decision was required. The parties should be given the same opportunity here. Indeed, the problems described by UP in its overwrought "Emergency Petition," while insufficient for the relief requested, are an impetus to such a resolution here. Granting UP's petition would only serve to prolong the struggle, whereas denying it would provide a basis for a potential early resolution by the parties as occurred in the UP-CNW Merger.

CONCLUSION

For the foregoing reasons, and for those stated in UTU's petition for review and request for stay, the Board should deny UP's Emergency Petition To Vacate Stay and BLE's Objections To Further Stays.

Respectfully submitted,


Clinton J. Miller, III
General Counsel
United Transportation Union
14600 Detroit Avenue
Cleveland, Ohio 44107
(216) 228-9400
FAX (216) 228-0937

Attorney for United
Transportation Union


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of June, 1997, copies of the foregoing UTU's Response to UP's Emergency Petition to Vacate Stay and BLE's Objections To Further Stays were delivered by facsimile and UPS Next Day Air to:

Arvid E. Roach, II, Esquire
Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20044
(202) 562-6000
FAX (202) 662-6291
(202) 737-0528

Eugenia Langan, Esquire
Shea & Gardner
1800 Massachusetts Ave., N.W.
Washington, D.C. 20036
(202) 828-2000
FAX (202) 828-2195

Harold A. Ross, Gen. Coun.-BLE
Ross & Kraushaar, L.P.A.
1548 Standard Building
1370 Ontario Street
Cleveland, Ohio 44113
(216) 861-1313
FAX (216) 696-4163


C. J. Miller, III

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(Sub

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6-20-97

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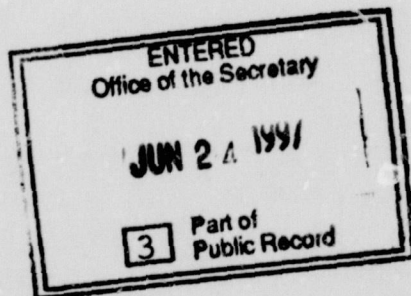
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Enclosures



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32760 (Sub-No. 22)

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY

-CONTROL AND MERGER-

SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP. AND THE
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(Arbitration Review)

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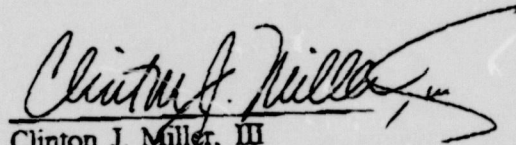
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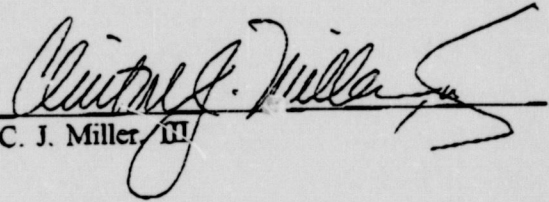

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TELECOPIER COVER LETTER

TO: Mr. V. A. Williams, Executive Secretary, STB

Telecopier Number: (202) 565-9003

Date: 6/20/97

FROM: C. J. Miller, III

UNITED TRANSPORTATION UNION

Telecopier Number: (216) 228-0937

TOTAL NUMBER OF PAGES (INCLUDING COVER LETTER) 6

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STB FD 32760 (Sub 22) 5-23-97 D 179896

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BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760 (SUB-NO. ~~11~~ 22)

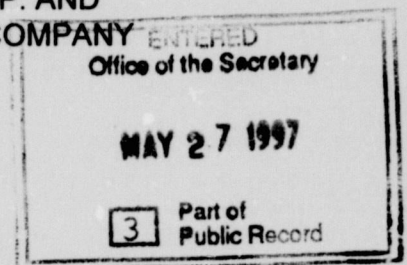


179896

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY --- CONTROL AND MERGER
SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP. AND
THE DENVER & RIO GRANDE WESTERN RAILROAD COMPANY

(Arbitration Review)

**RESPONSE BY UNION PACIFIC RAILROAD
TO UTU'S MOTION TO SUPPLEMENT**



The United Transportation Union ("UTU") has moved to supplement its Petition for Review of an arbitration award and combined request for a stay of the operational "hub" consolidations the award would implement as part of the Union Pacific ("UP")/Southern Pacific merger approved in this docket. Specifically, the UTU seeks to include in the record the two notices by Union Pacific Railroad ("UP") of the scheduled implementation of the award, which were sent to UTU representatives on May 1, 1997, the day before the UTU says it filed its Petition. The UTU also seeks to "discuss the continuing necessity for a stay in light" of the notices. Motion at 2.

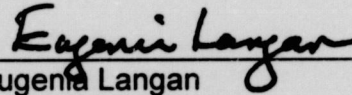
UP does not object to the inclusion in the record of the May 1, 1997 notices. We do not see, however, why notices sent to the union more than twenty days ago should entitle the union to file yet another brief on the merits, particularly a brief that does not

contain any argument couched "in light of the notices" and does not even discuss the contents of the notices. UP therefore opposes the filing of the UTU's "Supplementation" brief.

UP was served with the UTU's Petition on May 5, 1997 and will file a full opposition this coming Tuesday, May 27 (May 25 being a Sunday and May 26 a federal holiday). Among other things, we will show in that opposition that, as the Supreme Court has twice recognized, "'consolidations in the public interest will 'result in wholesale dismissals and extensive transfers, involving expense to employees,' as well as 'the loss of seniority rights,'" and the purpose of labor protection under the Interstate Commerce Act is not to prohibit these inevitable effects or to subject them to protracted delay but rather to provide affected employees with make-whole compensation. Norfolk & W. R. Co. v. Train Dispatchers, 499 U.S. 117, 132-33 (1991), quoting United States v. Lowden, 308 U.S. 225, 233 (1939); see also Maintenance Employees v. United States, 366 U.S. 169 (1961). Effects of this kind are as inevitable, although not as drastic, in the consolidations at issue in this case as in any other consolidations, but these effects are not untoward and they result from changes that are necessary to the carrying out of the approved merger, as we will demonstrate.

As we will also demonstrate, there is no reason to believe that affected employees could not be made whole in this unlikely event that this proves to be a unique case in which the inevitable consequences of merger are inappropriate, while if implementation is delayed UP and the public can never be made whole for the loss of the transportation benefits the consolidations otherwise would have yielded during the

period of delay. In any event, no changes are scheduled to take place before UP's opposition will be filed and can be considered by the Board.

A handwritten signature in cursive script, reading "Eugenia Langan", written over a horizontal line.

Eugenia Langan
SHEA & GARDNER
1800 Massachusetts Avenue, N.W.
Washington, D.C. 20036
(202) 828-2000

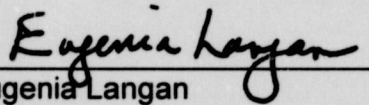
May 23, 1997

Attorney for Union Pacific
Railroad Company

CERTIFICATE OF SERVICE

I certify that I have this 23d day of May, 1997 served the foregoing
Response by Union Pacific Railroad to UTU's Motion to Supplement by causing copies
thereof to be delivered by United States mail, first class postage pre-paid, to counsel for
petitioner.

Clinton J. Miller, III
General Counsel
United Transportation Union
14600 Detroit Avenue
Cleveland, Ohio 44107


Eugenia Langan