

STB

FD-32760 (SUB 31)

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July 9, 2003

Honorable Vernon A. Williams
Office of the Secretary
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001



RE: Change of Counsel/Change of Address

Dear Secretary Williams:

Effective Monday, July 14, 2003, William A. Mullins and David C. Reeves will join the law firm of:

Baker & Miller PLLC
915 Fifteenth Street, NW
Suite 1000
Washington, DC 20005-2318
TEL: (202) 637-9499
FAX: (202) 637-9394
wmullins@bakerandmiller.com
dreeves@bakerandmiller.com

ENTERED
Office of Proceedings
JUL 09 2003
Part of
Public Record

Please update the Board's records to substitute Baker & Miller PLLC as counsel of record for all proceedings included on the enclosed list, and to reflect that Troutman Sanders LLP will no longer be counsel of record for clients represented by Messrs. Mullins and Reeves as noted on the enclosed list of proceedings in which either or both have entered an appearance. However, with respect to Finance Docket No. 33388 and 33388 (Sub No. 91), Baker and Miller should be shown as counsel of record for Gateway Western Railway Company and Troutman Sanders LLP should remain as counsel of record for New York State Electric and Gas.

Copies of any STB notices, pleadings or other correspondence related to these proceedings after July 11, 2003 should be sent to the attention of Messrs. Mullins or Reeves at Baker & Miller PLLC (at the address listed above).

All known parties of record in the proceedings listed on the enclosure have been sent a copy of this change of counsel/change of address notification.

Sincerely yours,

William A. Mullins

and

David C. Reeves

Enclosure

**Change of Counsel/Change of Address Notification
for**

William A. Mullins and David C. Reeves

Effective Monday, July 14, 2003

**Baker & Miller PLLC
915 Fifteenth Street, NW
Suite 1000
Washington, DC 20005-2318**

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Docket No. Ex Parte No. or Finance Docket No.	List of Proceedings Before the STB
Docket No. AB-468 (Sub-No. 5X)	Paducah & Louisville Railway, Inc. - Abandonment Exemption - In McCracken County, KY
F.D. No. 34342	Kansas City Southern - Control - The Kansas City Southern Railway Company, Gateway Eastern Railway Company, And The Texas Mexican Railway Company
F.D. No. 34335	Keokuk Junction Railway Company - Feeder Railroad Development Application - Line Of Toledo, Peoria & Western Railway Corporation Between La Harpe And Hollis, IL
F.D. No. 34178	Dakota, Minnesota & Eastern Railroad Corporation And Cedar American Rail Holdings, Inc. - Control - Iowa, Chicago & Eastern Railroad Company
F.D. No. 34177	Iowa, Chicago & Eastern Railroad Company - Acquisition And Operation Exemption - Lines Of I&M Rail Link, LLC
F.D. No. 34015	Waterloo Railway Company - Acquisition Exemption - Bangor and Aroostook Railroad Company and Van Buren Bridge Company
F.D. No. 34014	Canadian National Railway Company - Trackage Rights Exemption - Bangor and Aroostook Railroad Company and Van Buren Bridge Company
F.D. No. 33740 and F.D. No. 33740 (Sub-No. 1)	The Burlington Northern and Santa Fe Railway Company - Petition For Declaration Or Prescription Of Crossing, Trackage Or Joint Use Rights and For Determination Of Compensation and Other Terms
F.D. No. 33388	CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation
F.D. No. 33388 (Sub-No. 91)	CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company - Control and Operating Leases/Agreements - Conrail Inc. and Consolidated Rail Corporation (General Oversight)
F.D. No. 32760	Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company - Control and Merger - Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company
F.D. No. 32760 (Sub-No. 21)	Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company - Control and Merger - Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company - Oversight
F.D. No. 32760 (Sub-Nos. 26 - 32)	Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company - Control and Merger - Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company

STB

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(Sub 31)

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ARVID E. ROACH II

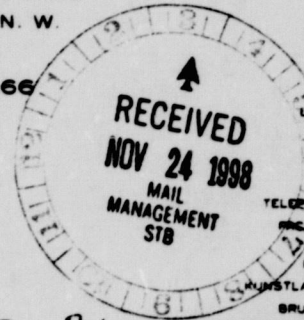
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November 24, 1998



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BY HAND

Hon. Vernon A. Williams

Secretary

Surface Transportation Board

Room 700

1925 K Street, N.W.

Washington, D.C. 20423-0001

Office of the Secretary

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Part of
Public Record

FD 32760 26 192386
" 27 192387
" 28 192388
" 29 192389
" 30 192390
" 31 192391
31 32 192392

Re: Finance Docket No. 32760 (Sub-No. 26), Union Pacific Corp. -- Control
& Merger -- Southern Pacific Rail Corp. -- Houston/Gulf Oversight

Dear Secretary Williams:

We have received the motion to strike and sur-rebuttal filed by the KCS/Tex Mex on November 10, 1998 in response to UP's October 27, 1998 letter to the Board. This letter will serve as our reply.

In its October 27 letter, UP noted that two items of evidence contained in the rebuttal submitted in support of the "Consensus Plan" were not proper rebuttal testimony. UP thus requested that if the Board considered those points, it also consider UP's brief reply. In their November 10 pleading, KCS/Tex Mex claim that the evidence to which UP responded was proper rebuttal, and thus UP's response should be ignored. We strongly disagree. The new evidence, including the further sur-rebuttal submitted with the November 10 filing, should be stricken, or at the very least the Board should also consider UP's reply.

I.

KCS/Tex Mex say that evidence offered by Messrs. Grimm and Plaistow in the form of a study purporting to calculate UP and BNSF shares of "2-to-1" traffic in the Houston BEA was permissible rebuttal because UP witnesses pointed out in their testimony that KCS/Tex Mex had improperly treated as a homogenous lump the traffic involved in their studies of the Houston "market." See, e.g., Barber V.S., pp. 22-25; Peterson V.S., pp. 19-22. This new study cannot be considered permissible rebuttal. KCS/Tex Mex could have and should have presented in their opening evidence any study taking account of the differing competitive circumstances

○ Including related sub-dockets.

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November 24, 1998
Page 2

affecting Houston-area traffic. Their failure to do so constituted a severe flaw in their case, as UP's witnesses pointed out. The fact that UP witnesses pointed out this fundamental flaw cannot transform KCS/Tex Mex's new study into "rebuttal." KCS/Tex Mex's position -- that a party is entitled to fill, through purported "rebuttal," basic gaps in its affirmative case if its opponent points out those gaps -- makes a mockery of the rules regarding proper rebuttal testimony, and would encourage improper strategic behavior.

Moreover, the new Grimm/Plastow study cannot be considered permissible rebuttal because it did not in fact respond to the criticisms raised by UP's witnesses in their testimony. The original Grimm/Plastow "studies" involved a misguided effort to compare pre- and post-merger shares of traffic that BNSF moved from the Houston area to various regions of the country. UP criticized those studies because it is misleading to lump together in a single so-called "market" categories of traffic having radically different competitive characteristics ("1-to-1," "2-to-1," and "3-to-2"). The new Grimm/Plastow testimony did not counter this point; it simply offered a belated (and fundamentally flawed) study of "2-to-1" shipments alone.

The present situation is thus far different from the case that KCS/Tex Mex rely on to argue that the new Grimm/Plastow study is proper rebuttal. In that case, in the main UP/SP merger proceeding, the Board rejected KCS' motion to strike various portions of UP's rebuttal testimony because UP was able to demonstrate that the testimony at issue responded to specific claims that could not have been anticipated and that other parties had raised in their testimony. See Decision No. 37, served May 22, 1996. Here, as explained above, the new study does not respond to any evidence -- UP did not offer a study of Houston "2-to-1" traffic in isolation -- and KCS/Tex Mex should and could have performed this type of analysis as part of their affirmative case.

In their November 10 pleading, the Consensus Parties not only attempt to justify the new Grimm/Plastow study as proper rebuttal, but they also attempt to answer the criticisms contained in UP's October 27 letter by correcting their study and presenting yet another new study. Again, UP believes all of this should be stricken, but offers a few short points in response should the Board elect to consider this still further study. These points are verified by Richard B. Peterson, UP's Senior Director-Interline Marketing and the individual at UP who is principally responsible for the identification of "2-to-1" traffic.

1. KCS/Tex Mex have no answer at all to UP's most basic criticism of the Grimm/Plastow purported Houston "2-to-1" study: the evidence demonstrates that there has been vigorous competition between UP and BNSF for "2 to-1" traffic, and that all of the major "2-to-1" shippers in the Houston area have benefitted from new competition, though they have elected, after vigorous UP-BNSF competition, to leave most of their traffic with UP. See UP/SP-345. Confidential Appendix C. No "2-to-1" shipper has come forward in this proceeding to claim that there is not effective competition, and many have said there is.

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2. KCS/Tex Mex respond to UP's criticism that their data included not only shippers that are not "2-to-1" shippers but also shippers that do not even have facilities at the locations described by explaining that they constructed their list of "2-to-1" shippers using data that UP placed in its merger depository in late 1995. KCS/Tex Mex apparently used computer files relating to very early UP efforts to identify "2-to-1" shippers as part of the traffic diversion study for the merger application. However, those data were highly preliminary and inexact, given time and information constraints, as Mr. Peterson explained when he was deposed by KCS, Tex Mex and others during the merger proceeding concerning the ongoing process of arriving at a precise listing of "2-to-1" facilities. KCS/Tex Mex state that they have now corrected the new Grimm/Plaistow study to account for UP's criticisms, but we did not attempt to provide an exhaustive list of shippers that were improperly included or excluded, and thus efforts to correct the study based on the information provided in our October 27 letter were unsuccessful (as we note further below).¹ KCS/Tex Mex also try to avoid the systemic flaws in the Grimm/Plaistow study by arguing (p. 8) that UP should be "estopped" from saying that shippers appearing in UP's early, unrefined data are not "2-to-1" shippers. This is a truly bizarre proposition, because many of the facilities simply do not exist at all and the facility list used by Grimm and Plaistow bears no resemblance to the list that is actually governing, in the real world, BNSF's access to "2-to-1" traffic.²

¹ KCS/Tex Mex also attempt to respond to our criticism that the study was not representative by expanding their study to include the entire Western United States. This newer study, like the earlier version, pervasively misidentifies "2-to-1" shippers. It includes shippers that UP identified in its October 27 letter as non-existent, and it also includes an unexplained further addition of 1.2 million tons to UP's LCRA volumes, see Exhibit E, Terminating Traffic, p. 4, none of which should have been in the study in the first place. (The LCRA traffic accounts for nearly 25% of the UP terminated traffic in the new, purported Western U.S. study). In addition, the new study incorrectly includes traffic originating and terminating at Laredo, Shreveport, Sparks, Reno, Texarkana and West Lake Charles, despite the fact that there are no "2-to-1" facilities at those locations. The study also includes thousands of cars of intermodal and auto traffic that is not "2-to-1." Finally, the expanded study -- a further attempt to bootstrap new and untested evidence into this proceeding long after the record has closed -- ignores the overall traffic data that show that, by BNSF's own calculations of the available market for its trackage rights, BNSF's share is approaching 50%.

² KCS/Tex Mex's misunderstanding of the data they are using provides an excellent example of why this type of study is not appropriate rebuttal -- it would allow presentation of new "evidence" without allowing other parties the opportunity to point out its fundamental flaws. The basic problem appears to be that KCS/Tex Mex have gathered data by first identifying "2-to-1" points and then including all traffic of shippers that moved traffic to and from those points. This process creates two types of errors. First, not all facilities at "2-to-1" points are "2-to-1" facilities -- it depends on whether they had access to both UP and SP prior to the merger. Second, the party listed as the consignee in connection with a particular origination or

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3. KCS/Tex Mex respond to UP's observation that none of the "2-to-1" shippers identified in the Grimm/Plaistow study filed a statement supporting the Consensus Plan by arguing that they have received shipper support from some of the shippers listed in the study. But the shippers to which they refer -- Solvay and Lyondell-Citgo Refining -- are not shippers with "2-to-1" facilities at the locations listed, and never should have been on the list in the first place.

II.

KCS/Tex Mex claim that the data submitted by SPI's Larry Thomas regarding transit times were permissible rebuttal because they were "essentially the same" data that Mr. Thomas had previously submitted, but then explain two ways in which the data were different -- the more important of which is that Mr. Thomas added four months of new data in order to make the new claim that UP's service remains far below pre-merger levels (KCS Sur-Rebuttal, p. 13). As we explained in our October 27 letter, those data are so flawed as to be meaningless. Even after UP pointed out these flaws, however, KCS/Tex Mex continue in their sur-rebuttal to misrepresent the facts surrounding the data. We simply ask that if the Board considers these matters, it also consider the following facts:

UP invited the Board to view KCS/Tex Mex's use of charts purportedly comparing UP's pre-merger and post-merger performance on plastics shipments as a test of KCS/Tex Mex's credibility and commitment to honest dealing with the Board. Letter dated October 27, 1998 from A. Roach to V. Williams. KCS/Tex Mex's sur-rebuttal shows that they have failed that test.

KCS/Tex Mex now admit that the charts, prepared by SPI on the basis of data from fewer than a half dozen shippers, measure transit times for a traffic mix that very significantly changed at least three times during the comparison period. From one period to the next, the origins changed, the routings changed, and the number of shippers expanded. This is like complaining that United Airlines' service from its Chicago hub deteriorated because United's average flight time increased as it added flights to international designations such as Paris and Hong Kong. Statistically, this is a meaningless exercise. KCS/Tex Mex presented these charts to the Board, to numerous Congressional offices, and to state and local officials without disclosing any of the inconsistencies and defects that render the charts worthless. Undaunted, KCS/Tex Mex continue to ask the Board to rely on them.

All factual statements below are verified by Douglas J. Glass, UP's Assistant Vice President/Business Director, who communicated with SPI for the last year.

termination is not always the party with the facility at that point, and including all of that consignee's traffic compounds the error.

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The SPI charts purport to compare UP's pre-merger service with its post-merger service. In fact, they are useless for that purpose. KCS/Tex Mex concede that they filed SPI charts containing at least the following flaws. We suspect there are others, but UP does not have underlying workpapers that would allow us to identify the additional errors.

- KCS/Tex Mex admit that the mix of shipments and routes measured for the pre-merger periods of 1995 and 1996 differ from the mix of shipments and routes measured for the post-merger periods of 1997 and 1998. KCS/Tex Mex admit that the five shippers who provided data to SPI have differing abilities to provide historical information and thus that "participation for 1995 and 1996 is less extensive than for 1997 and 1998." (P. 15.) In fact, the data for 1995 pertain to shipments by only two shippers; the 1996 data are for four shippers; the 1997 data are for five shippers; and KCS/Tex Mex now admit that additional shipments and routes were added at the end of 1997. (P. 15.) As a result, the SPI charts compare a small set of shipments in 1995 with a larger set of shipments from different origins to different destinations in 1996 with a still larger set of shipments from different origins to different destinations in 1997 and still a larger set of shipments in 1998.
- KCS/Tex Mex also acknowledge that the SPI charts include shipments from points not on the Texas Gulf Coast, a fact they did not voluntarily disclose to the Board or other public officials when they presented these charts. They include, for example, shipments from an Iowa origin that represents 7% of the total production capacity reflected in the data. (P. 15.) Significantly, KCS/Tex Mex also acknowledge that these Iowa shipments were not included in the SPI data for pre-merger years, but were added only after December 1997, again skewing the data unpredictably. (*Id.*) KCS/Tex Mex argue that it is reasonable to look at shipments that originate outside the Gulf Coast area, but it certainly is not reasonable to (a) include those shipments only in the post-merger half of the comparison, or (b) claim that the resulting charts reflect the quality of UP service in Texas.
- KCS/Tex Mex acknowledge that they presented to the Board charts labelled "UP Only" even though the transit times are not "UP only" data. The transit times are origin-to-destination transit times over all railroads for whatever traffic mix was being measured at a particular moment. In other words, delays could have occurred anywhere in the United States on any railroad. KCS/Tex Mex counsel, on the basis of no data or other information, assert that all delays must have occurred on UP and that delays on "on the lines of other carriers . . . were of short duration." (*Id.* at 17.) The Board has no reason to believe this self-serving assertion, which ignores events such as a major hurricane that wiped out CSX

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operations east of New Orleans and chronic service problems on CSX in the Southeast this year.³

KCS/Tex Mex essentially claim that UP forced KCS/Tex Mex to publish these charts by refusing to provide better data. In itself, this is an admission that the charts are inferior. The notion that UP made KCS/Tex Mex give illegitimate comparisons to the Board, Congress and other officials needs no response.

The assertion that UP "declined" to provide transit time information from UP's data files is simply false. When SPI and UP began meeting in December 1997, SPI said it wanted to gather complete transit times from origin to destination and back regardless of carrier. UP did not then compile origin-to-destination transit time data that included transit times on connecting carriers. A few SPI members did. Moreover, some SPI members indicated that they would feel more comfortable relying on shipper data. The official notes of the first UP-SPI meeting, prepared and distributed by SPI executive director (and KCS/Tex Mex witness) Maureen Healey, state that the parties "agreed" that SPI members were to compile the transit time information, not UP. Had SPI members wanted to use UP's more limited "UP only" data, they already had it. UP was then providing, and continues to provide, on-line transit data to many SPI members showing UP service on all their major shipping corridors. SPI chose not to use UP data.

KCS/Tex Mex also claim that UP failed to point out to SPI the defects in the SPI data. (P. 14.) This is highly misleading. SPI members repeatedly told UP that they were gathering data only to show "directional trends" for all railroads. UP repeatedly stressed that the SPI data could not be used to measure "UP only" performance. SPI members told UP "not to worry" about such misuse of the data. KCS/Tex Mex then reneged on that assurance.

Once UP learned that SPI's charts were being circulated publicly, and that KCS/Tex Mex were using them improperly for the purpose of describing UP on-line performance, it objected strongly. It particularly objected to SPI's labelling of the charts as "UP Only" when the transit times included service over all connecting lines throughout the United States.

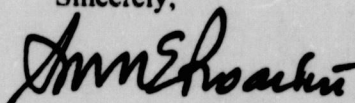
Undeterred by the fact that the SPI charts are unreliable, misleading and mislabelled, KCS/Tex Mex nevertheless urge the Board to use them. KCS/Tex Mex baldly assert, based on the charts, that UP "service levels today are grossly inferior compared to pre-merger levels." (P. 17.) Particularly as applied to chemical shipments from the Texas Gulf Coast, this is a false and irresponsible statement. While UP reports incidents beyond control that

³ We cannot make sense of the 1995 transit times in the SPI charts. The average transit time was as low as only 6 days, well below any average that could include transit times over connecting carriers to the Northeast and Southeast.

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affect service for these shipments, such as recent Texas floods that affected shipments to California and continuing congestion on CSX via New Orleans, UP's service for Texas chemical shippers has otherwise been reliable, consistent, and equal to or better than pre-merger service. For example, UP service for Dow Chemical and Exxon is demonstrably better today than before the merger.

Sincerely,

A handwritten signature in dark ink, appearing to read "Arvid E. Roach II". The signature is fluid and cursive, with the first name "Arvid" being more prominent.

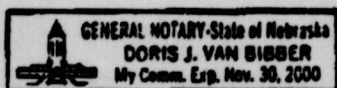
Arvid E. Roach II

cc: All Parties of Record

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

I, Richard B. Peterson, Senior Director-Interline Marketing of Union Pacific Railroad Company, state that the factual information contained in Part I of the foregoing document was compiled by me or individuals under my supervision, that I know its contents, and that to the best of my knowledge and belief those contents are true as stated.



Richard B. Peterson
RICHARD B. PETERSON

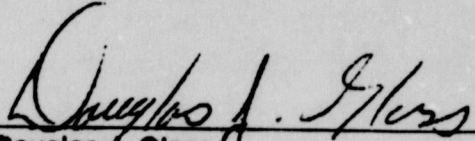
Subscribed and sworn to before me
this 24th day of November, 1998

Doris J. Van Bibber
Notary Public

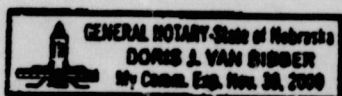
VERIFICATION

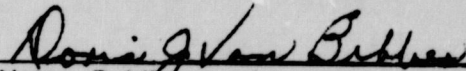
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Douglas J. Glass, being first duly sworn, deposes and says that he is Assistant Vice President /Business Director in the Marketing & Sales Department of Union Pacific Railroad in Omaha, Nebraska, and that he has read Part 2 of the foregoing document, knows the facts asserted therein, and that the same are true as stated.


Douglas J. Glass

Subscribed and sworn to before me this 18th day of November, 1998.




Notary Public

My Commission Expires:

Nov. 30, 2000

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(Sub 31)

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TROUTMAN SANDERS LLP

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Office of the Secretary

William A. Mullins NOV 24 1998

Part of
Public Record

November 24, 1998



HAND DELIVERY:

Honorable Vernon A. Williams
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Room 700
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Washington, D.C. 20006

FD 32760 - 26-192378
FD 32760 - 27-192379
FD 32760 - 28-192380
FD 32760 - 29-192381
FD 32760 - 30-192382
FD 32760 - 31-192383
FD 32760 - 32-192384

RE: Finance Docket No. 32760 (Sub-No. 26)*
*Union Pacific Corp., et al. - Control & Merger - Southern Pacific Rail Corp.,
et al. - Houston/Gulf Coast Oversight*

Dear Secretary Williams:

Enclosed for filing in above captioned proceeding are an original and twenty-six copies of CMA-11/RCT-10/TM-27/SPI-11/TCC-11/KCS-18, Notice of Intent to Participate in Oral Argument.

Please date and time stamp one copy of the Petition enclosed herewith for return to our offices. Included with this filing is a 3.5-inch Word Perfect, Version 5.1 diskette with the text of the pleading.

ENTERED
Office of the Secretary

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Public Record

Sincerely,

William A. Mullins
Attorney for the Kansas City
Southern Railway Company

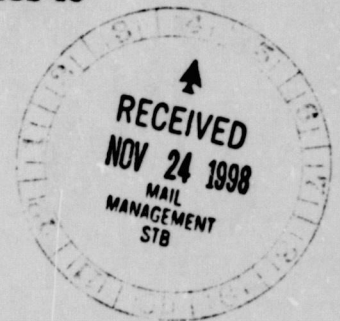
cc: Parties of Record

* and embraced sub-dockets

CMA-11 SPI-11
RCT-10 TCC-11
TM-27 KCS-18

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 26)*



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

HOUSTON/GULF COAST OVERSIGHT PROCEEDING

NOTICE OF INTENT TO PARTICIPATE IN ORAL ARGUMENT

**THE CHEMICAL MANUFACTURERS
ASSOCIATION**

**THE SOCIETY OF THE PLASTICS INDUSTRY,
INC.**

THE RAILROAD COMMISSION OF TEXAS

THE TEXAS CHEMICAL COUNCIL

THE TEXAS MEXICAN RAILWAY COMPANY

**THE KANSAS CITY SOUTHERN RAILWAY
COMPANY**

November 24, 1998

(* and embraced sub-dockets)

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 26)*


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

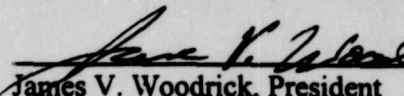
HOUSTON/GULF COAST OVERSIGHT PROCEEDING

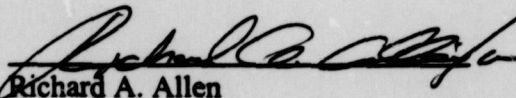
NOTICE OF INTENT TO PARTICIPATE IN ORAL ARGUMENT

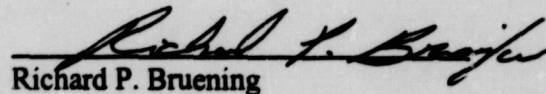
Pursuant to Decision No. 7 in Finance Docket No. 32760 (Sub-No. 26), STB served November 23, 1998, the Consensus Parties hereby give notice of their intent to participate in the oral argument scheduled for December 15, 1998 in this proceeding. On the day of the oral argument, the Consensus Parties will inform the Secretary of the identities of the speakers and the portion of the thirty (30) minutes of time allotted to each speaker. In addition, the Consensus Parties will file a summary of their oral argument, pursuant to Decision No. 7, by 2:00 p.m. on December 11, 1998.

Respectfully submitted and signed on each party's behalf with express permission,

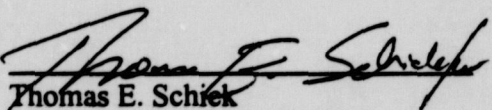

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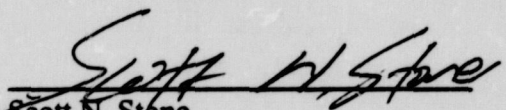

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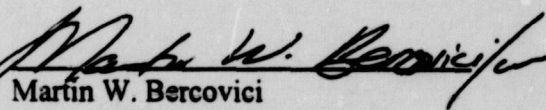

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ATTORNEYS FOR THE SOCIETY OF PLASTICS
INDUSTRY, INC.

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the **NOTICE OF INTENT** was served this 24th day of November, 1998, by first class mail upon all parties of record in the Sub-No. 26 oversight proceedings.



William A. Mullins
Attorney for The Kansas City Southern
Railway Company

STB

FD

32760

(Sub 31)

10-16-98

D

191673

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

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INTERNET: william.mullins@troutmansanders.com



William A. Mullins

October 16, 1998

HAND DELIVERY

Honorable Vernon A. Williams
Case Control Unit
Attn: STB FD 32760 (Sub-Nos. 26-32)
Surface Transportation Board
Room 700
1925 K Street, N.W.
Washington, D.C. 20006

ENTERED
Office of the Secretary

OCT 19 1998

Part of
Public Record

Handwritten 'D' and '31' next to the stamp.

RE: Finance Docket No. 32760 (Sub-Nos. 26 - 32),
*Union Pacific Corp., et al. - Control & Merger - Southern Pacific Rail Corp.,
et al. - Houston/Gulf Coast Oversight*

191655 191659 191670 191671 191672 191673 191674

Dear Secretary Williams:

Enclosed for filing in above captioned proceeding are an original and twenty-six copies of the Rebuttal Evidence And Argument In Support Of The Consensus Plan, Volumes 1 - 3 ("Consensus Rebuttal"), filed on behalf of The Chemical Manufacturers Association, The Society of Plastics Industry, Inc., The Railroad Commission of Texas, The Texas Chemical Council, The Texas Mexican Railway, and The Kansas City Southern Railway Company (collectively, the "Consensus Parties"). Please note that Volume 3 enclosed herewith contains material designated by the parties as Highly Confidential, and is being submitted under seal pursuant to the protective order issued by the Board in this proceeding. Also, included with this filing are a set of 3.5-inch diskettes containing the text of the pleading in WordPerfect format and containing tables in Microsoft Excel format.

Please date and time stamp one copy of the Consensus Rebuttal for return to our offices.

Sincerely,

William A. Mullins
Attorney for The Kansas City
Southern Railway Company

cc: Parties of Record
Honorable Stephen J. Grossman

STB FD 32760 (Sub 31) 10-16-98 D 191630

191630

ENTERED
Office of the Secretary

OCT 16 1998

Part of
Public Record

ENTERED
Office of the Secretary

OCT 16 1998

**HOUSTON AND GULF COAST RAILROAD
3203 AREBA
HOUSTON, TEXAS 77091**



Honorable ^{part of} Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N. W.
Washington, D.C. 20423-0001

RE: STB Finance Docket No. 32760 (Sub No. 31)

**UNION PACIFIC CORPORATION, et. al.
-----CONTROL AND MERGER-----
SOUTHERN PACIFIC RAIL CORPORATION, et. al.

HOUSTON/GULF COAST OVERSIGHT**

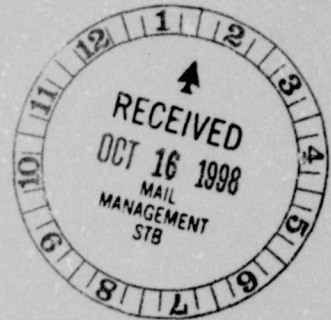
Dear Secretary Williams:

Enclosed is the rebuttal of statements made by Kansas City Southern Railway Company, Texas Mexican Railway Company, and the Union Pacific Railroad Company regarding the responsive application filed by the Houston and Gulf Coast Railroad.

You will find an original plus twenty-five copies. If you have any questions, do not hesitate to call me at 713-682-8458.

Sincerely,

Kenneth B. Cotton



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO.32760 (Sub- No.31)

UNION PACIFIC CORPORATION,et. al.

---- CONTROL AND MERGER----

SOUTHERN PACIFIC RAIL CORPORATION,et. al.

HOUSTON/GULF COAST OVERSIGHT PROCEEDING

**REBUTTALS OF COMMENTS MADE BY KANSAS CITY SOUTHERN
RAILWAY COMPANY, TEXAS MEXICAN RAILWAY COMPANY, AND THE
UNION PACIFIC RAILROAD CONCERNING THE RESPONSIVE
APPLICATION FILED BY THE HOUSTON AND GULF COAST RAILROAD**

These rebuttals are in response to the statements made by the KCS/Tex Mex and the Union Pacific's attempts to have the Board disallow the application of the H&GC.

These attacks by large, powerful Class One railroads against a small business owner who is simply trying to survive under the boot of Union Pacific's domination, and the vulture-like attacks of KCS/Tex Mex will be shown to be unwarranted, racist, mean-spirited, hypocritical, and plainly barbaristic in its scope and implementation, and the Board should see these actions for what they are; an attempt to squeeze out anyone who truly has the interests of the shippers and the public at heart, and will be truly responsive to the needs of the Gulf Coast area.

Only the Board has the ability to see through the smoke and mirrors of the KCS/Tex Mex and Union Pacific and allow the H&GC a real opportunity to compete on an even playing field and to provide services of the highest caliber.

Contrary to what KCS/Tex Mex and UP tell the Board, there is room for the H&GC to become a competitor in the Houston/Gulf Coast area. Perhaps this is what they fear most. Perhaps, this is what they fear most. Perhaps it is their brand of racism, which has stifled any African-American from top-level management in either organization, and their desire to destroy this one African-American railroad that drives them. Regardless of their intent, the H&GC will present the truth, and, based on truth alone, the Board should grant the relief requested to the H&GC.

REBUTTAL
KCS/TEX MEX

In its comment to the Board concerning the relief sought by the H&GC, KCS/Tex Mex expresses doubt that H&GC could operate "approximately 250 miles of track, handling over 45,000 cars per year, and having over 40 employees" (Page 4, comments dated Sept. 18, 1998). While this total is ambitious, it is not quite true.

In H&GC's application, totals were given for about 40,000 cars per year or an average of 109.5 cars per day, or two trains per day. Perhaps the accountants for Tex Mex and KCS are so used to inflating their own numbers, they inflated H&GC's as well.

If KCS/Tex Mex figure of 45,000 cars per year were used, it still amounts to 123 cars per day, still two trains per day.

KCS/Tex Mex don't seem to have much faith in the ability of H&GC to grow to a larger size. It would seem they have a short memory. In its merger decision, the Board granted 370 miles of trackage rights to Tex Mex to connect with its partner KCS and to provide two-railroad competition at Laredo in conjunction with the BNSF; the Board then granted Tex Mex additional, temporary powers under the ESO. The KCS/Tex Mex opposition to H&GC's proposal is hypocritical, predatory, and not in the best interests of anyone but themselves. An old warrior's creed states, "There is no honor in defeating a weak foe". Perhaps KCS/Tex Mex should concentrate themselves on providing good service on what they already control instead of attempting to destroy the H&GC.

Should the H&GC be given the relief it seeks, it would operate its properties to the benefits of its customers, and be more than ready to operate its line in 90 days.

The KCS/Tex Mex opposition also states that "it would work with the H&GC and Mr. Cotton to develop and expand its business" (pg. 4 opposition filed 9-18-98). That statement lacks any elements of fact.

In late 1997 and early 1998, Mr. Cotton made several attempts to meet with Tex Mex personnel to discuss mutual opportunities. A meeting was finally scheduled with Pat Watts on February 16, 1998 (see Exhibit A). There was one problem: Pat Watts never showed up for the meeting, and it was never rescheduled. If Tex Mex was really interested in forming a good working relationship with Mr. Cotton and the H&GC, a meeting of some sort would have taken place in the intervening months. Also, if KCS/Tex Mex really wanted to form a cooperative unit, why are they in opposition to H&GC's application?

KCS/Tex Mex also feel that the GCV of UP's Galveston Subdivision, quoted from public figures received from the Harris County and Galveston County tax offices is not a justifiable figure (pg. 5, opp.); perhaps they should find out how much they are overpaying for the Rosenberg-Victoria segment and are now screaming sour grapes that they did not know how to access such information. Certainly, this should be considered valid as fair market value, considering this is what it has been appraised for. At any rate, this is not a KCS/Tex Mex, as Union Pacific does not oppose this figure.

KCS/Tex Mex also asserts that the H&GC has not provided the Board with any evidence proving that it has the capital to execute its plan. The H&GC will give such evidence to the Board in the event H&GC's application is approved within 30 days of approval.

In its own Consensus Plan, presented to the Board, KCS/Tex Mex does not identify its source of funding for its capital prospects, or its purchase of the Rosenberg-Victoria line. This is clearly hypocrisy in motion.

Once again, KCS/Tex Mex is proving itself as "*Speaking with a forked tongue*". They state in their opposition plan, that, at 3.84 mills per car mile, that it would cost about 10 cents, to move a car from Rosenberg to Wharton. The figure should have been 3.84 mills per gross ten mile; to move a car from Wharton to Rosenberg, it would cost 99.84; this is the same compensation the Tex Mex pays the UP for trackage rights on its main lines. Their argument that this would not cover the costs associated with this operation is simply hogwash, and once again, if this is a fair rate for Tex Mex, why isn't it for H&GC?

In another example of KCS/Tex Mex's hypocrisy, they attack BNSF's application for trackage rights over UP from San Antonio to Laredo, saying it would force Tex Mex out of business. With thirty active shippers on 167 miles of track, they would be affected, but they could survive as a short line. However, at least Tex Mex could survive a re-routing of BNSF traffic. The H&CG could not.

In conclusion, KCS/Tex Mex have shown that they are masters of hypocrisy, willing to bend the rules, or hide the true facts of the situation. They pledged to work with Mr. Cotton and the H&CG, yet they have refused to make good on their pledge.

H&GC believes the KCS/Tex Mex is seeking to further damage the H&GC's ability to survive and thrive. And yet; at the same time, they can't seem to work with BNSF to make the Laredo gateway work. The KCS/Tex Mex should work harder to foster a better working relationship with BNSF, rather than the attempted destruction of H&GC.

REBUTTAL
UNION PACIFIC RAILROAD

In UP's rebuttals to the conditions sought by the H&GC, UP wrongly states that they have no connection with the H&GC; (page 247, volume 1). They are incorrect. H&GC has an interchange track in Wharton which connects with UP's Rosenberg line. Perhaps they failed to talk to their operating people in the area, who are very much aware of the interchange track at Wharton. Although the track has never been used, making it ready will not be difficult.

Union Pacific also states that in the H&GC proposal, H&GC stated that BNSF "was experiencing severe difficulties serving its customers south of Bay City, as well as providing cars for the H&GC." What UP fails to say is that UP traffic on the Algoa-Brownsville main, and gridlock in the Angleton yard, is the reason, for the difficulties for the BNSF, not the BNSF itself. This attempt to point the finger at BNSF, would not bear up to the light of the truth. The UP will not take responsibility for their own disasters, preferring instead to blame others for their problems.

The Union Pacific also states that "No evidence is offered of H&GC's financial capabilities, operating experience, or safety record, yet it nevertheless asks the Board to grant it a sweeping license to operate trains throughout the Houston terminal. There can be no serious doubt that H&GC's proposals would wreak havoc in the Houston terminal, by disrupting operating patterns (especially between Houston and Galveston) and introducing a new railroad and train movements on heavily used trackage and yard facilities"(Volume 1, page 247-248). Within the next few paragraphs, I will destroy the UP argument and explain fully what is happening.

First of all, the Union Pacific insults the integrity and experience of Mr. Cotton, and the H&GC. Mr. Cotton has been involved in the railroad industry since the age of 18, and has worked in various capacities from switchman, to general manager, to business owner (see Exhibit B). In order to obtain this information, all UP has to do was file a discovery request, which KSC/Tex Mex did. Obviously Mr. Cotton has demonstrated his knowledge of railroad operations and railroad operations in Houston in particular. Instead of real facts, UP chooses to slander Mr. Cotton, and H&GC, further proof that the UP is only interested in the destruction of H&GC. In all of their oppositions to KCS/Tex Mex and BNSF, never is the argument used that they do not have the financial wherewithal or experience to operate over UP tracks; however, they feel they can attack with impunity, a small African American company without fear of repercussions; and or no penalty. This is simply, a racist and wrongful act.

Union Pacific also attacks H&GC's safety record. This is hypocrisy, since the H&GC has suffered no derailments or injuries to its employees in the three years that it has been in operation. On the other hand, the Union Pacific has destroyed more equipment, and more

importantly; killed more employees in 1997 than any other railroad. As a result of all these accidents, the FRA has conducted several safety audits, and found them to be deficient in several areas (VS Harlan Ritter, pg. 89, Consensus Plan). The Union Pacific is grasping at straws in its attempt to devil H&GC with these petty accusations.

The Union Pacific does allow short lines to operate over their busy mainlines in many parts of the country. The Louisiana & Delta connects its branchlines by operating over the Sunset Route in Louisiana; the Rio Valley operates over the UP between Harlingen and San Benito, on the Brownsville Subdivision. There are other examples, to be sure, but the bottom line is this--no short line carrier has ever had a serious incident while operating over UP track. It would seem that the Union Pacific poses a more serious threat to the lives of personnel and the destruction of equipment than short lines would. Also, these crews are qualified on UP rules and timetables, and are subject to UP jurisdiction while operating over their tracks. The argument that H&GC's trains would "*wreak havoc*" in the Houston terminal, simply stinks as much as the rotted grain that UP left on the ground last fall.

Much of H&GC's traffic would not move through any of the yards in Houston as the map indicates (Exhibit C), only Congress Yard would be the primary yard used by the H&GC in the Houston area, with rights to pick up and set out cars in Englewood, Sattegast, and PTRR; Manchester Yard.

H&GC would not significantly disrupt traffic on any UP line should the Board grant H&GC the relief it seeks; neither has BNSF or Tex Mex. UP is simply opposed because it has no wish to work with the H&GC.

Union Pacific does not dispute the fact that SIT capacity is tight in the Houston area; in fact, they admit to plans to build more SIT capacity in the area. UP also does not dispute H&GC's claim that UP has stored cars or switched cars on every short line except H&GC in the Houston area. Their reasoning was that the location was remote from Houston (although Rosenberg could hardly be considered remote from the Houston area), and not connected to active rail line (UP's Wharton-Rosenberg is inactive and intact), and operationally untenable. That is not what UP operating personnel had informed H&GC. Additionally, UP has no storage capacity in that area to serve industries in Angleton, or other points on the Brownsville Subdivision; SIT cars from this area must go to Spring, Texas; a considerable distance, and must go through the heart of the Houston terminal to get there. The failure of the Union Pacific to take advantage of an already available site much closer to the industries it serves is inexplicable.

If Union Pacific can store cars on a short line in Oklahoma (see Exhibit D) over three hundred miles from Houston, then it could be reasoned that they could store cars much closer to Houston on the H&GC.

Union Pacific does not dispute the fact that the majority of SIT sites are controlled by the UP; Tex Mex has none; BNSF has one site, and access to one other at Dayton. A neutral SIT site is needed in the Houston/Gulf Coast area to provide much needed room for all carriers in the Houston area; a facility that only the H&GC could, and would

provide. If left to their own devices, Union Pacific would never offer such a facility; preferring to sew it all up for themselves. Thus keeping a hammer lock on this important traffic.

- Union Pacific, in its Infrastructure Report on page 29, states that it plans to construct a major SIT yard in the Strang area; however, that yard would not be built if the Strang area is opened to competitive access. This lends even more credence to the argument for establishing a neutral SIT site in the Houston/Gulf Coast area.

Union Pacific is continuing to prove that they cannot live up to its motto "We can handle it". In a recent newspaper article, the UP plans to "ration" its service (Exhibit E). This is an ominous sign that Union Pacific does not have a handle on its troubles, and it would seem they are willing to drive off some traffic to the detriment of the public at large, and the economy as a whole.

Is this the way the Board expects a public common carrier to behave? I don't believe this to be true. How many businesses, farms, and small railroads will this policy damage? How many will it destroy? No one truly knows the answer to that question, but the results will be catastrophic to those affected.

This gap can be filled by allowing competition in the Houston/Gulf Coast area, and perhaps other areas as well.

In Union Pacific's four volume opposition to Condition Applications, UP failed to oppose several aspects in H&GC's application, and was erroneous in one of its verified statements.

In Mr. Handley's verified statement (pgs. 19-20, Volume 3, Section 7), he states the GH&H (UP's Galveston Subdivision), is secured by a daily train from Englewood to Galveston, plus a local between Houston, and Texas City, and its mirror image northbound. He did not describe extra move that sugar from Galveston to Sugarland has to make through Settegast Yard, adding a day to transit time. H&GC's operating plan calls for running a dedicated daily train to Sugarland from Galveston, clearly a more efficient move.

- Union Pacific also stores SIT cars in Galveston and Texas City.

It also may be interesting to note in the Union Pacific's verified statements, not one of them comes from a shipper on the Galveston Subdivision, although the Galveston Chamber of Commerce endorsed the UP plan.

Farmland Industries, which owns and operates a large export grain elevator at the Port of Galveston, and perhaps the biggest shipper on the Galveston Sub, offers no endorsement of the UP.

In fact, no shipper physically located on the Galveston Subdivision gave statements in support of the Union Pacific.

Union Pacific does not oppose the Going Concern Value (GCV) of the Galveston Sub of \$7,000,000.00 (pg. 14 H&GC application)

Union Pacific does not oppose the terms of the sale, nor the trackage rights compensation in the application.

Union Pacific also does not oppose the operating plan submitted by H&GC, and is totally silent on Bay City-Algoa trackage rights.

Union Pacific does not oppose using Congress Yard, or a point facility with the H&GC, nor does it seem to oppose access to Settegast and Englewood Yard.

Union Pacific also does not dispute the fact, that by the Board approving H&GC's application, UP would only be losing one-third of one percent of its total US traffic, and most of that traffic originates on Union Pacific trackage; hence, the financial impact of the approval of this application is barely a ripple in the water, a single piece of ballast in a mile of well maintained railroad.

CONCLUSION

In conclusion, the KCS/Tex Mex and the Union Pacific have engaged in strategies and tactics designed to destroy the H&GC. It is up to the Board to prevent the death of the H&GC, and to give it the ability to compete for, and to provide an alternative to the Tex Mex and the Union Pacific.

Without this relief, rail shippers, particularly farmers, would lose their last rail link within a 60-mile radius, being focused to rely on more expensive truck transportation to deliver their goods to market.

Failure to provide this relief will deprive the community of Wharton, the ability to grow, and expand its economic base, permanently stunting its growth forever.

If this relief is not granted, plastic shippers will remain captive to the Union Pacific's SIT capacity, unable to move their cars over the most expeditious of routes, nor will they have a say over which carrier they would use.

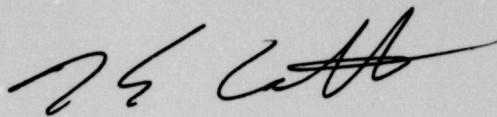
- If this relief is not granted, you will be condemning to death one of the only two African American operated railroads in the United States.

If this relief is not granted, the ability to take short-haul traffic off congested highways, and crowded sea lanes will be forever lost.

In H&GC's application, page 13, the H&GC stated that the Port of Houston had leased the container terminals at the Port of Galveston. This resulted in a shipping line calling it Galveston, with a resultant 30,000 containers a year (see article, *Exhibit F*). These containers could be shipped by rail and help remove congestion from our highways.

In this rebuttal, the H&GC has shown that its absolute survival rests in the relief requested from the Board. Only God and the Board can save the H&GC. Thank you for this opportunity.

Sincerely,

A handwritten signature in black ink, appearing to read "KB Cotton", is positioned at the top center of the page.

**Kenneth B. Cotton-President
Houston Gulf Coast Railroad**

EXHIBIT A

january

march

sunday

monday

tuesday

wednesday

thursday

friday

saturday

1

2

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Lake Houston YMCA;
Bridge Fest

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14 Valentine's Day

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16 President's Day

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january

march

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18	19	20	21	22	23	24	22	23	24	25	26	27	28
25	26	27	28	29	30	31	29	30	31				



Seniors are a big part of the YMCA family. All over town, water exercise, fitness classes, day trips and pot luck lunches are popular gatherings. While sharing common interests, seniors develop friendships, get exercise and have fun!



YMCA

We build strong kids,
strong families, strong communities.

Registration begins now for **Spring Youth Baseball**

EXHIBIT B

RESUME

NAME: KENNETH B. COTTON

ADDRESS: 3203 AREBA,HOUSTON,TEXAS 77091

PHONE: 713-682-8458

EDUCATION: Graduated Eisenhower High School,Houston,Texas; attended Stephen F. Austin State University 1981-1983; Attended University of Houston 1983-1984; graduated 1985 North Harris County College with degrees in Business Management and Accounting

WORK HISTORY

1981-1984: Texas State Railroad,P.O. Box 39,Rusk,Texas Contact: Blair Lavell
Position: Brakeman,hostler(1981-1983 volunteer): Promoted conductor in 1983;responsible for rules compliance,and the safe operation of trains and engines on excursion railroad.

1984-1987: Galveston Wharves Railroad,Galveston,Texas Contact: Mike Burke 409-762-5227

Position: Switchman(promoted to engineer 1985); responsible for switching cars and operating locomotives on terminal railroad trackage;also trained student engineers.

1987-1990: Anbel Incorporated,Houston,Texas Contact: Gary Johnson 713 977-9737
Position: Operations Manager; responsible for shipping locomotives domestically for industrial uses and for overseas shipping; scheduling inspections and repairs on locomotives and other rolling stock.

1990-1993: Galveston Railway,Galveston,Texas

Position: Locomotive engineer;operated locomotives in train service over several railroads in the Galveston area,also trained student engineers.

1993-1994: Rio Valley Railroad,McAllen,Texas

Contact:Gary Cundiff,P.O. Box 99,103 N.Oak Street,O'Fallon,Ill 62269 1-800-753-9891

Position: Operations Manager;responsible for the supervision of railroad trains over 50 miles of railroad;also responsible for scheduling switching,calling crews,federal compliance on crews and equipment,customer and railroad relations.Also served as DSLE(Designated Supervisor of Locomotive Engineers).Also participated in start-up of Lone Star Railroad in Abilene,Texas and served as mechanical officer and engineer,and was also involved in the hiring and discipline of employees

1993-Present: Austin and Texas Central Railroad,Austin,Texas (volunteer)

Contact Robert Crossman,P.O. Box 1632,Austin,Texas 78767 512-477-8468

Position: Locomotive fireman and student engineer; responsible for the operation of steam-powered excursion train in the Austin area; also perform maintenance and inspections as required. Will be qualified steam locomotive engineer by December 1998.

1994-1995: Texas North Orient and the Gulf, Colorado, and San Saba Railroads, Sweetwater and Brady, Texas

Contact: David Enquist, 17525 Cottonwood, Grays Lake, Ill. 60030 847-367-6953

Position: General Manager; responsible for the operation of a combined total of 90 miles of railroad 175 miles apart and the supervision of 10 employees; rules compliance and federal compliance, crew training and scheduling inspections and repairs to a combined fleet of eight locomotives; served as DSLE for both lines. Also responsible for railroad relations, customer relations, and other duties as required. Also briefly served as train dispatcher.

195-Present: Houston and Gulf Coast Railroad, Houston, Texas

Contact: Gary Kerley 830-372-4900

Position: Chief Operating Officer; operates the South East International Railroad in Wharton, Texas. Responsible for all phases of railroad operation including federal compliance, customer service, railroad and public relations, crew management, motive power leases and marketing.

EXHIBIT C



EXHIBIT D



ARKANSAS-OKLAHOMA RAILROAD CO.

103 SOUTH CENTRAL P.O. BOX 485 WILBURTON, OK 74578

VERIFIED STATEMENT OF B.D. DONOLEY ARKANSAS-OKLAHOMA RAILROAD CO., INC.

I am B.D. Donoley, President and C.E.O. of the Arkansas - Oklahoma Railroad Co. Inc., The "A-OK". We are a short-line railroad Operating a rail line 70 miles long, between Howe, Oklahoma and McAlester, Oklahoma. Our connections are with the Kansas City Southern, "KCS", at Howe, and the Union Pacific, "UP" at McAlester.

The Arkansas-Oklahoma Railroad is opposed to the request to impose new conditions on UP'S operations around Houston and in the Gulf Coast area. Effective rail competition depends on strong UP competing against a strong BNSF, KCS, and TexMex. These new conditions would go in the wrong direction by weakening the UP at a time when it has already suffered large financial and traffic losses over the last year, due to its service problems.

Services problems in the Houston and Gulf Cost area are nothing new to the rail industry. The best answer for years has been to let carriers work out their own problems. Weakening UP with further conditions is a mistake. We are concerned that further conditions will undermine UP's ability to invest in services and infrastructure in Houston/Gulf Cost and throughout the rest of its system. Reduced investment in infrastructure will hurt our services and degrade our rail options. Currently, UP operations are improving daily on the Choctaw subdivision and south into this area. Plastic is flowing from this area right on schedule to our customers with no delay just as before the merger. **A-OK Railroad is continually working with the Union Pacific storing plastics cars to avoid congestion.** UP has worked hard to solve its problems. New conditions would interfere with its efforts, and should be rejected. I am confident the UP did not start railroading yesterday. They have years of experience and are dedicated to the railroad industry and solving these problems.

The Conditions already imposed by the STB on the UP/SP merger have worked well. We have seen aggressive competition against UP by BNSF, KCS, and TexMex since the merger. While these railroads may still want more opportunities granting trackage right and access to UP customers on congested UP track, that is not going to solve the problem. The true solution to the problem of the UP congestion would be to allow UP trackage rights over KCS, BNSF, and TexMex lines, to flow their carloads from UP customers.

The railroad industry is in one of its greatest times of abundant business. Not in the past 50 years have all the railroads seen carloads as high, and the economy moving so much product by rail. The requested conditions will hurt the rail industry and its customers.

EXHIBIT E

Union Pacific plans service changes

New York Times

DALLAS — The Union Pacific Corp., still recovering from some of the worst congestion in the industry's history, announced a plan Monday to improve and, in some cases, ration its service.

Even as the railroad makes extensive investments for expansion, executives acknowledged that the company would not be able to reliably, or profitably, accommodate all who want to use its tracks.

Richard K. Davidson, the rail-

road's chairman, stressed his primary goal was to recover the 10 percent of its traffic lost in the last year — not chase customers away.

"Rationing the business really isn't the main underpinning of what we're getting at here," he said in an interview. "It's how can we best satisfy our customers and maximize the potential for revenue growth."

But Union Pacific is beginning to study what sort of traffic might be dispensable, or whether to charge more for shipments through crowded corridors at peak seasons,

just as airlines would charge the most for a last-minute seat before Christmas.

The railroad plans to organize a new department to make sure eager marketers do not sign up business and make commitments train operators cannot reliably fill. "It's a more educated approach than we've ever taken before," Davidson said.

"In the old days, when the marketing guys brought business in, whichever wheel squeaked the loudest would get attention."

EXHIBIT F

Galveston docks to handle containers

Port of Houston's leased space to see 30,000 yearly, create 300 jobs

By KEVIN MORAN
Houston Chronicle

GALVESTON — The Port of Houston has announced plans to bring 30,000 containers a year through this island city's port, a year after it leased dock space in Galveston to handle overflow business.

The new traffic is expected to create up to 300 jobs and pump \$42 million through the Galveston-area economy, Galveston port board Chairman Fred Wichlep said.

To get the new business, Galveston port officials have agreed to a reduction in the \$1 million annual fee the Houston Port pays to lease container docks here. That will subsidize truck-

ing the containers an extra 50 miles or so from the island port. The Galveston port board will announce the terms when it meets next week, Wichlep said.

The board earlier authorized General Manager Ron Surovik to negotiate a subsidy arrangement to make the Houston Port's bid for new container business competitive with bids from other ports.

The container business results from a recent alliance of China Ocean Shipping Co., the "K" Line and Yang Ming Line, Surovik said. The three firms are adding five ships to the four they have been operating between Europe and the United States.

The first ship is expected to arrive at the Galveston port on Oct. 24,

Surovik said.

Word of the container shipments to Galveston, the first in in three years there, was great news to local longshoremen.

"It's great," said Javier Zapata, business agent for International Longshoremen's Association Local 20. "It the best thing that could happen."

The new container business is expected to produce about 82,000 hours of work for longshoremen annually, Zapata said. Depending on the number of containers, between 25 and 100 union members will get work during the weekly container ship visits, he said.

"This new business is expected to be the first of many successful efforts

between the Port of Houston Authority and the Port of Galveston to attract new business to the Gulf Coast region," Port of Houston Executive Director Tom Kornegay said in a joint statement issued by the ports. "Our partnership allows Houston to relieve Barbour's Cut Container Terminal's congestion, generate revenue and create jobs."

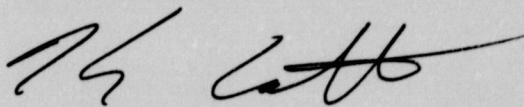
Galveston officials cheered the revival of the container terminal, which the Port of Houston has improved and maintained idle since July 1987.

"I'm very pleased with how people on the board and staff stayed on top of this to make it happen," said City Councilman David Bowers, council representative on the board of the city-owned port.

CERTIFICATE OF SERVICE

I verify that to the best of my knowledge and belief that the facts presented herein are true to the best of my knowledge and belief.

Kenneth B. Cotton

A handwritten signature in black ink, appearing to read 'K. B. Cotton', with a long horizontal flourish extending to the right.

October 15, 1998

STB FD • 32760 (Sub 31) 10-16-98 D 191628

October 15, 1998

The Honorable Vernon Williams
Case Control Unit

Attn: STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Surface Transportation Board
1925 K. Street, N.W.
Washington, DC 20423-0001



RE:

STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Union Pacific Corporation, et. al.
-- Control and Merger --
Southern Pacific Rail Corporation, et. al.

HOUSTON/GULF COAST OVERSIGHT

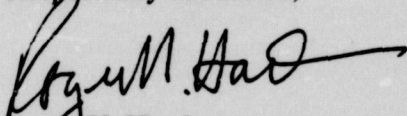
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Dear Secretary Williams:

Enclosed is the statement of the Greater Houston Partnership presenting its rebuttal comments relating to statements by the Union Pacific Railroad dated September 18, 1998 opposing all condition applications filed in this proceeding requesting additional conditions to the merger of the Union Pacific and Southern Pacific.

An original and 25 copies are enclosed, together with a 3.5 inch computer disk containing a copy of the statement in WordPerfect format.

Respectfully submitted,


Roger H. Hord
713-844-3625

RECEIVED
Office of the Secretary

OCT 16 1998

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Public Record

October 15, 1998

The Honorable Vernon Williams
Case Control Unit

Attn: STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Surface Transportation Board
1925 K. Street, N.W.
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RE:

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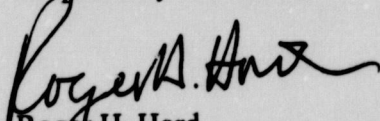
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Respectfully submitted,


Roger H. Hord
713-844-3625

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



**STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Union Pacific Corporation, et. al.
-- Control and Merger --
Southern Pacific Rail Corporation, et. al.**

HOUSTON/GULF COAST OVERSIGHT

**REBUTTAL COMMENTS OF
THE GREATER HOUSTON PARTNERSHIP
ON
COMMENTS OF UNION PACIFIC RAILROAD**

This statement presents the comments of the Greater Houston Partnership (GHP) regarding statements by the Union Pacific Railroad dated September 18, 1998 opposing all condition applications filed in this proceeding requesting additional conditions to the merger of the Union Pacific and Southern Pacific. Because the GHP recommendations were among those accepted for consideration by the Surface Transportation Board (STB), the GHP is filing these rebuttal comments.

The Greater Houston Partnership

The Greater Houston Partnership is Houston's principal business organization and is dedicated to building prosperity in the Houston region. The Partnership has 2,400 members from virtually every industry sector throughout the eight-county Houston region. The Partnership's Board of Directors is composed of 112 corporate CEO's of organizations in the Houston region.

Partnership members employ almost 600,000 people, which is one out of every three employees in the region.

GHP Maintains Position

The GHP maintains the view stated in our July 8, 1998 filing that we "must seek incremental changes in rail service to help secure a competitive Port and industrial sector." With this filing we reconfirm our principles and recommendations contained in that filing.

We believe rail service and rail competition for shippers served by one railroad in a community served by three or more carriers is superior to service and competition afforded a captive shipper in a community served by only two railroads where one of those railroads has an 80% market share. We note the apparent similarities in Houston's request for additional rail competition and issues in Conrail merger in the New York-New Jersey area. In this case, the STB applied lessons learned in the Houston-Gulf Coast merger of UP-SP by assuring shippers of competition from two rail carriers where before the merger, only one carrier existed. We believe the STB should revisit the Houston decision via this case to seek equitable means of injecting what is missing in the original merger formula, greater competition for shippers served by a single carrier. If the Union Pacific truly believes, as it states in UP-1 on page 155, that competition in this market would be so devastating that they would rather consider the "least drastic means" by divesting itself of the entire franchise, it reveals the extent of the dilemma we face in Houston in seeking additional competition and improved service.

The GHP restates the following recommendations:

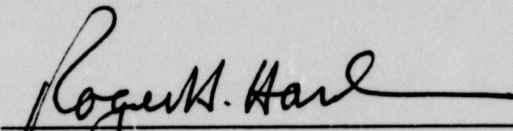
- 1) The STB should provide a mechanism for all railroads serving Houston to buy trackage rights and access rights at an equitable price to the following areas to provide greater competition for Houston area shippers:

- a) The trackage currently owned by the Port of Houston and operated by the Port Terminal Railroad Association (PRTA),
 - b) The trackage historically owned by the Houston Belt and Terminal RR prior to it dissolution; and
 - c) Additional trackage as determined by the governing body of the neutral switch and shippers as allowed by financial considerations.
- 2) Operation of a neutral dispatching, switching, and car movement system should be undertaken by a single third party. The operator should be the reconstituted PTRAs as described below serving as the governing authority over the trackage accumulated as recommended above.
 - 3) The Union Pacific should be encouraged to reach an agreement with other long haul carriers to arrange the sale or lease of abandoned trackage and underutilized rights of way and switching yards which might allow shippers and the Port of Houston additional rail system competitiveness, capacity, flexibility and geographic access. The STB should mediate the negotiations of the parties involved.
 - 4) The STB should order the reconstituted PTRAs to develop a regional master plan of added facilities and operations needed to provide system capacity in excess of demand for the foreseeable future.
 - 5) The Port of Houston, owner of the PTRAs, and all long haul railroads serving Houston should be full and equal voting members of the PTRAs Board.
 - 6) The STB should provide a mechanism for the railroad [which had] temporary rights to buy permanent rights at an equitable price from the owning railroad if an investigation indicates actual or expected improvement in performance and competitiveness in the Houston-Gulf Coast freight rail system.

These recommendations are contained in the GHP Board of Directors' resolution on *Competition in Houston Freight Rail Service*. The GHP Board's resolution emphasizes that Houston's rail system performance must be "in the top tier of United States cities," which means that service and rates must be truly competitive in order for Houston's port and its local industries to compete effectively in domestic and international markets. The GHP Board stated a preference that the private sector rectify noncompetitive situations through equitable compensation, but it realizes that federal statutes and regulations constitute a fundamental roadblock in some cases and should be modified.

CERTIFICATE OF SERVICE

I, Roger H. Hord, certify that, on this 15th day of October, 1998, caused a copy of the attached document to be served by first-class main, postage prepaid, on all parties of record in Finance Docket No. 32760 (Sub-No. 26-32).



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713 844-3625

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PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICES: 111 EAST LOOP NORTH • HOUSTON, TEXAS 77029-4327
MAILING ADDRESS: P.O. BOX 2562 • HOUSTON, TEXAS 77252-2562
TELEPHONE: (713) 670-2400 • FAX: (713) 670-2429



September 17, 1998

Honorable Vernon Williams
Case Control Unit

Attn: STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Surface Transportation Board
1225 K Street, N.W.
Washington, DC 20423-0001



Re:

STB FINANCE DOCKET NO. 32760 (SUB-NOS. 26-32)
UNION PACIFIC CORPORATION, et. al.
-- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORPORATION, et. al.

HOUSTON/GULF COAST OVERSIGHT

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Dear Secretary Williams:

Enclosed is the statement of the Port of Houston Authority presenting its comments relating to the requests for new conditions on the UP/SP merger that were accepted for consideration by the Board.

An original and 25 copies are enclosed, together with a 3.5-inch computer disk containing a copy of the statement in WordPerfect format.

Respectfully submitted,

Richard J. Schiefelbein
817-236-6841

ENTERED
Office of the Secretary

SEP 18 1998

Part of
Public Record

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

**STB FINANCE DOCKET NO. 32760 (SUB-NOS. 25-32)
UNION PACIFIC CORPORATION, *et. al.*
-- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORPORATION, *et. al.***



HOUSTON/GULF COAST OVERSIGHT

**COMMENTS OF
THE PORT OF HOUSTON AUTHORITY
ON
REQUESTS FOR ADDITIONAL CONDITIONS
TO THE UNION PACIFIC/SOUTHERN PACIFIC MERGER**

The purpose of this statement is to present the comments of the Port of Houston Authority (Port Authority) regarding those requests for additional conditions to the merger of the Union Pacific and Southern Pacific railroads which were accepted by the Board in Decision No. 6 in this proceeding.

The Port of Houston Authority

The Port of Houston Authority is an autonomous governmental entity which owns the public facilities along the 50-mile Houston Ship Channel and is the Channel's official sponsor. The Port of Houston Authority owns 43 general cargo wharves, owns and operates the Barbours Cut Container Terminal, the Container Terminal at Galveston, and Houston Public Grain Elevator No. 2, which are available for public use. It also owns a bulk materials handling plant,

a bagging and loading facility, a refrigerated facility, two liquid cargo wharves, and other facilities which are leased to private operators. The Port of Houston complex also includes numerous privately-owned terminals. The Port Authority also operates the Malcolm Baldrige Foreign Trade Zone.

The Port Authority's facilities handle approximately 15 percent of the approximately 150 million tons of cargo moving through the Port of Houston. The Port of Houston ranks first in the United States in total foreign water-borne commerce handled and second in total tonnage. It is the seventh busiest port in the world. Last year, the Port of Houston handled over 6,400 ships, 50,000 barges and 935,000 TEU's (twenty-foot equivalent container units).

The Port of Houston is home to a \$15 billion petrochemical complex, the largest in the nation. The Port generates approximately 196,000 jobs and \$5.5 billion in economic activity annually.

Summary

The Port Authority supports certain of the requests for additional conditions made in the Consensus Plan and in the Burlington Northern Santa Fe (BNSF) filing. The following listing summarizes those requests and the portions of each which the Port Authority supports. Details of the Port Authority's reasons for supporting each request are presented in the following sections of this statement:

- That the Board should make permanent the provisions of Emergency Service Order No. 1518 that: (a) temporarily suspended the restriction the Tex Mex's trackage rights could be used only for shipments having a prior or subsequent movement on Tex Mex; and (b)

temporarily granted Tex Mex trackage rights over UP's "Algoa route" between Placedo, TX and Algoa, TX and over BNSF from Algoa to Alvin, TX and to T&NO Junction, TX.

- That the Port Terminal Railroad Association (PTRA), or its successor organization if PTRA is dissolved, should provide neutral switching over the trackage formerly operated by the Houston Belt & Terminal Railroad (HB&T).
- That the neutral switching area in and around Houston be expanded to include shippers located on UP's line between the junction with PTRA immediately north of Bridge 5A to Morgan's Point on the south side of the Houston Ship Channel, including Harrisburg, Manchester, Sinco, Pasadena, Deer Park, Strang, La Porte, and Morgan's Point, with PTRA, or its successor, designated as the neutral switching operator. The Port Authority specifically does not support or endorse any change to the rail service provided to shippers located on the Bayport Loop or on UP's line at or south of Strang Yard.
- That neutral dispatching be performed by PTRA, or its successor, on the trackage formerly operated by HB&T and on the UP line between Bridge 5A and Morgan's Point described above in addition to the lines currently operated by PTRA.
- That Tex Mex be acknowledged as a full voting member of PTRA and that the Port Authority's voting status on the PTRA Board be restored.
- That a yard adequate to satisfy Tex Mex's switching needs in Houston be made available to Tex Mex at a reasonable price or lease rate.
- That the KCS/Tex Mex proposal to construct an additional track between Houston and Beaumont, increasing rail capacity in that corridor and adding an additional carrier to the Houston market, be authorized by the Board.

- That the UP's Clinton Branch be controlled and operated by the PTR, or its successor.

Emergency Service Order Provisions

Emergency Service Order No. 1518 temporarily suspended the restriction that the Tex Mex's trackage rights to Houston and Beaumont could be used only for shipments having a prior or subsequent movement on Tex Mex.

Suspending that restriction has provided an additional competitive choice to shippers located on the trackage operated by PTR and on the trackage formerly operated by HB&T. In addition to UP and BNSF, shippers have been able to choose Tex Mex as their line-haul carrier for shipments to Beaumont and beyond. This has increased Houston-area shippers' routing choices and has made additional capacity available in the form of Kansas City Southern's lines for movements beyond Beaumont.

If the restriction on Tex Mex's trackage rights is reinstated, the additional capacity provided by KCS beyond Beaumont will not be available to shippers because neither UP nor BNSF will short-haul themselves by handing over traffic to KCS at Beaumont. Thus, both the competitive choices available to Houston-area shippers and the rail infrastructure available to handle Houston-area shipments will be reduced if the restriction on Tex Mex's trackage rights is reinstated.

The Port Authority supports making the temporary suspension of Tex Mex's trackage rights restriction permanent.

Emergency Service Order No. 1518 also granted Tex Mex temporary trackage rights over UP's "Algoa route" and over BNSF from Algoa into Houston. These rights have facilitated

directional running by UP, BNSF, and Tex Mex between Houston and Placedo, TX, improving the flow of trains into and out of the Houston terminal and contributing to the reduction in rail congestion in Houston. Operating northbound on the Algoa route and southbound on the Flatonia, TX to Placedo route has benefited shippers in Houston. The Port Authority supports making these overhead trackage rights permanent.

Neutral Switching on HB&T by PTRA

For at least 20 years, plans were developed to combine the operations of HB&T and PTRA. Both railroads performed a similar "belt railroad/neutral switching function" in geographic areas directly adjacent to one another.

For many recent years, Southern Pacific's objections kept the combination from being implemented. Southern Pacific was a member of PTRA, but was not an owner of HB&T. With the consummation of the UP/SP Merger, SP's concerns were no longer an issue because UP was both a member of PTRA and an owner of HB&T.

However, instead of finally seeing the combination become a reality, HB&T was dissolved by UP and BNSF, its owners. Today, UP and BNSF each switch a portion of the former HB&T on a reciprocal switching basis and must exchange cars routed over the other railroad. Cars must also be switched by each railroad to Tex Mex on those shipments routed over Tex Mex. This is precisely the function PTRA performs for UP, BNSF, and Tex Mex. Having UP and BNSF make interchange runs between their respective yards just a few miles from PTRA's North Yard, where PTRA assembles cuts of cars destined for each railroad seems to make little sense.

PTRA could perform the same function with no duplication in interchange deliveries to the railroads. It appears that this change alone would reduce the number of interchange movements competing to use the congested trackage along the East Belt and the West Belt lines.

The Port Authority supports having PTRA, or its successor organization should PTRA ever be dissolved, provide neutral switching services on the trackage formerly operated by HB&T.

Expansion of Neutral Switching Area

The Consensus Plan calls for an expansion of the neutral switching provided by PTRA over various lines in the Houston/Gulf Coast area. The BNSF filing calls for PTRA operation of the Clinton Branch. The Port Authority supports the expansion of PTRA's neutral switching over some, but not all of the lines requested by the Consensus Plan and supports PTRA operation of the Clinton Branch.

In particular, the Port Authority supports expansion of area in which PTRA, or its successor if PTRA is ever dissolved, would provide neutral switching to include: (1) shippers located on UP's line between the junction with PTRA immediately north of Bridge 5A to Morgan's Point on the south side of the Houston Ship Channel, including Harrisburg, Manchester, Sinco, Pasadena, Deer Park, Strang, La Porte, and Morgan's Point, and (2) UP's Clinton Branch. This expanded area of neutral switching is in addition to the trackage currently operated by PTRA and the trackage formerly operated by HB&T.

In November 1995, the Port Authority and UP and SP entered into an agreement in which the Port Authority agreed to support the then-proposed UP/SP Merger and UP and SP agreed, among other provisions, to permit the Port Authority to build its own track on SP rights-of-way

between Deer Park Junction and Barbours Cut and between Strang and the Port Authority's planned terminal at Bayport. Regarding the latter line, the Port Authority agreed:

that any attempt by PHA [Port Authority] to establish rail service to others springing from New Track 2 [Strang to Bayport] shall void all other rights granted herein including the right to operate over the right-of-way of Primary Applicants [UP and SP] and any operating rights which may be granted to PTRRA or PHA by subsequent agreements whose purpose is to implement this letter agreement.

As a result, the Port Authority does not support or endorse any change to the rail service provided to shippers located on the Bayport Loop or on UP's line at or south of Strang Yard.

The following paragraphs discuss expansion of PTRRA neutral switching operations on the line from Bridge 5A to Morgan's Point; the Clinton Branch is discussed in a separate section below.

The industrial complex located along the Houston Ship Channel is one of the primary economic engines for the Houston region. The Port of Houston and the economic activity associated with the Port generate over \$5.5 billion of economic activity annually and generate over 196,000 jobs.

Assuring that this economic engine runs as efficiently as possible is important to the Houston economy. The operational delays inherent in having two railroads operate over the same trackage can be reduced by having one of those railroads perform the work in the area. Reducing the delays in operations along the south side of the Houston Ship Channel will translate into better service for the area's rail shippers, making them more competitive in their

marketplaces and preserving or expanding the level of economic activity in the Houston area. Neutral switching will also offer competitive transportation choices to those shippers which do not have a choice of line-haul carrier today.

Neutral Dispatching Performed by PTR A

The Port Authority supports neutral dispatching of the trackage recommended for neutral switching.

Neutral dispatching is so important to the efficient operation of the Houston terminal area that the Port Authority supports neutral dispatching on this trackage whether or not neutral switching is implemented as recommended above.

In addition, the Port Authority strongly believes that the neutral dispatching function for this territory should be performed by PTR A, not by a joint operation of the line-haul railroads.

In the Houston terminal area, there is extensive joint trackage over which both UP and PTR A operate. All of this jointly-operated trackage is dispatched by the joint dispatching center in Spring, regardless of track ownership; the non-signalled segments (Deer Park Junction to Barbours Cut and the HL&P Lead) are under the control of the UP yardmaster at Strang Yard.

Although UP and BNSF are both members of PTR A, the dispatching that is performed by the joint dispatcher often delays PTR A movements. It was reported to the Port Authority that a PTR A train was delayed for 16 hours in a move from Manchester to North Yard, a distance of about 5 miles, while other trains in the area were given dispatching preference; this route is over Port Authority-owned tracks except for a short segment at Bridge 5A.

The Port Authority believes that joint dispatching of the Houston terminal by PTR A is the best way to assure non-preferential dispatching of trains. Despite the fact that PTR A handled

247,000 loaded cars between the plants along the Ship Channel and the line-haul railroads in 1997, PTR A is not a participant in the joint dispatching center at Spring, TX, and does not even have an observer at the joint dispatching center.

By its charter, PTR A is a neutral entity; employees of PTR A are more likely to make non-preferential dispatching decisions than are employees of one of the line haul carriers, even if the line-haul employee is supervised by a joint employee of the line-haul railroads. Having the dispatcher report to a joint employee reasonably assures that the dispatcher will not give preference to one line-haul carrier over the other, but it does not assure that the switching carrier's movements will be dispatched without disadvantage relative to the line-haul railroads' trains.

The Port Authority believes that only by having the dispatching performed by PTR A, or its successor organization in the event PTR A is ever dissolved, will dispatching in the Houston area be performed on a non-preferential basis. It is not necessary for the joint dispatching center at Spring to be controlled by PTR A, but only the dispatching territory known as STO-2, which controls the area in which PTR A operates.

Tex Mex Membership in PTR A; Port Authority Voting Status Restored

PTR A is an unincorporated association formed by a 1924 agreement between the Port Authority and the railroads operating in Houston. In that agreement, the Port Authority made its railroad property available and the railroads agreed to operate that property in a neutral, non-preferential manner to serve industries located along the Houston Ship Channel. For the first 50 years of the agreement, the Port Commissioners, who are unpaid appointees, also served as PTR A Board members. During this period, the Port Authority made all capital improvements

and the Port Authority had the same number of votes as there were railroad members of PTR A, assuring a balance between the public and private interests served by PTR A.

In 1974, the Board was split into a Board of Investment and a Board of Operation, with the Port Authority maintaining a role on the Board of Investment, but not being involved in the day-to-day railroad operating decisions of the PTR A.

In 1984, the parties reached an agreement under which the railroads would make future capital improvements on PTR A and the basis of the railroads' payment for use of the Port Authority's property was changed from an interest rental basis to a flat monthly fee; the Board of Investment was abolished and the Port Authority was made a non-voting member of the surviving Board of Operation.

Because of its non-voting status, the Port Authority has not been able to provide the needed balance between the public and private interests served by the Port Authority's railroad assets. Restoring the Port Authority's vote on the PTR A Board would assure that the public interest would be effectively served by the operations conducted on the publicly-owned rail infrastructure adjacent to the Houston Ship Channel.

The 1924 PTR A agreement also clearly states that all railroads entering the City of Houston are members of PTR A. Tex Mex gained access to Houston under the terms of Decision No. 44 in this proceeding; Tex Mex should be a member of PTR A.

Tex Mex Yard in Houston

In Decision No. 44 in this proceeding, the Board granted the rights requested by Tex Mex in the Sub-No.14 Terminal Trackage Rights filing by Tex Mex. In the Sub-No.14 application, Tex Mex had requested access to HB&T's New South Yard. With the dissolution of HB&T, it is

no longer operationally feasible for Tex Mex to have access to New South Yard, as BNSF utilizes that yard to support its switching operations in Houston related to the trackage rights lines granted to it in Decision No. 44.

The Port Authority supports Tex Mex's request that a yard be made available to it in Houston, at a reasonable price or lease rate, to facilitate its operations in Houston and on its trackage rights to Beaumont and to Robstown, TX.

Additional Track between Houston and Beaumont

The Port Authority supports the proposal to construct an additional track between Houston and Beaumont, thereby increasing rail capacity in that corridor and adding an additional competitive railroad to the Houston market. The congestion which Houston has suffered in the last year has demonstrated that additional rail capacity in the Houston area would be beneficial to those industries which depend on the railroads to handle their outbound products and their inbound production materials.

In addition, the Port Authority continues to support greater competition in the Houston rail market. The industries which comprise the economic strength of Houston depend in large measure on the railroads to move their products to market. With greater competition in rail transportation, these industries are less likely to be at a competitive disadvantage in their more distant markets. The Port Authority believes that additional rail competition would be beneficial to the Houston industrial community and to the economy of the Houston area.

For these reasons, the Port Authority supports the proposed increase in rail infrastructure and the addition of another line-haul railroad to the Houston market.

PTRA Operation of the Clinton Branch

The Port Authority has two facilities located on the Clinton Branch and served by UP. The first is Houston Public Grain Elevator No. 2 (Elevator). The Elevator, which is owned and operated by the Port Authority, has a capacity of 6 million bushels and its throughput is expected to exceed 40 million bushels in 1998. The second facility is Woodhouse Terminal (Woodhouse). Located adjacent to the Elevator, Woodhouse is owned by the Port Authority and is leased to a firm which operates the terminal, handling cargoes through the Woodhouse warehouses and loading and unloading ships.

Together, the Elevator and Woodhouse occupy 91 acres on the north side of the Houston Ship Channel. The complex has 1,200 feet of wharf on the Ship Channel and a 1,200-foot x 250-foot boat slip equipped to handle roll-on/roll-off cargoes in addition to break bulk cargoes. The combined facility also has 14 tracks for receiving railroad cars, each approximately 2,600 feet long.

The Port Authority supports the Consensus Plan's and BNSF's requests that the Clinton Branch be controlled by PTRA or its successor organization if PTRA is dissolved. The Port Authority believes that PTRA operation would be beneficial because it would resolve operating deficiencies that the Port Authority has experienced on the Clinton Branch and would do so without changing the railroads' access to shippers on the branch because the shippers' locations are open to reciprocal switching today.

No Change in Competitive Access

Changing the operating responsibility for the Clinton Branch to PTRA will not change the current competitive access to shippers on the branch. The shippers located along the Clinton

Branch, with the exception of UP's own automobile unloading facility, already are open to reciprocal switch, and thus have access to railroads other than UP. Tariff ICC SP 9500-D, issued by Southern Pacific Transportation Company on September 11, 1996 lists in Item 5090 the industries on the Clinton Branch (listed under station name Galena Park - 35070) which are open to reciprocal switch. These include American Plant Food Company, Arrow Terminal Company, Delta Steel Incorporated, Exxon Energy Chemical, GATX Terminal, Holnam Incorporated, City of Houston, Houston Public Grain Elevator No. 2, Stevedoring Service of America (at that time the lessee and operator of Woodhouse Terminal), Texaco Lubricants Company, and United States Gypsum Company.

Service to the Elevator

PTRA provides rail service to most of the industries located along the Houston Ship Channel. The exceptions are those industries located on the Clinton Branch, Exxon in Baytown, and three industries located on the HL&P Lead in La Porte.

PTRA provides effective, non-preferential service switching service to shippers along both sides of the Ship Channel, all of whom have access to BNSF, UP, or The Texas Mexican Railway for line-haul service, by virtue of PTRAs neutral switching status.

PTRA makes its operating decisions for the benefit of the Houston terminal area overall, and does not base its decisions on the operating preferences of any one line-haul railroad. This is precisely the type of service which is needed at the Elevator, but has not been provided in the past. An example occurred during UP's recent congestion problems, when UP stored cars for other customers on the Port Authority's tracks at the Elevator, which prevented the Elevator

from receiving grain shipments consigned to it, despite the Port Authority's requests that UP remove the cars from its tracks.

Service to Woodhouse Terminal

Shipments destined to the Clinton Branch are handled in UP's Englewood Yard. In January 1997, the Port Authority was made aware of extensive delays in shipments destined to Woodhouse reaching Woodhouse once they had arrived in Houston on BNSF. Reviewing car movement records confirmed that cars were taking between 4 and 8 days to be moved from BNSF's Pearland Yard (near Houston's Hobby Airport) to Woodhouse, a distance of approximately 13 miles.

To resolve these delays, the Port Authority developed with the railroads an informal routing in which the cars for Woodhouse were delivered to PTR A, which switched them and placed them at a crossover switch connecting with the Clinton Branch. The UP switch crew then pulled the cars from the PTR A and delivered them to Woodhouse. In effect, this route substituted PTR A switching and transfer to the Clinton Branch for UP switching at Englewood and UP transfer to the Clinton Branch. The results were effective, with cars placed at the crossover the day after arrival in Houston and being delivered by UP either later that day or on the next day.

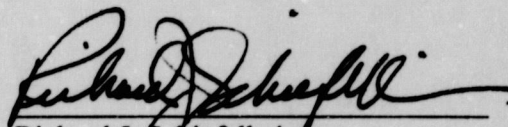
This example demonstrates the efficiency of using PTR A's North Yard, which is adjacent to the Clinton Branch, to handle traffic for the Clinton Branch rather than using UP's Englewood Yard, which is more distant.

The Port of Houston Authority supports the Consensus Plan's and BNSF's request that operation of the Clinton Branch be performed by PTR A. As described above, PTR A operation

of the Clinton Branch could improve service to shippers located on the branch without changing the existing competitive access for shippers located on the branch.

CERTIFICATE OF SERVICE

I, Richard J. Schiefelbein, certify that , on this 17th day of September , 1998, I caused a copy of the attached document to be served by first-class main, postage prepaid, on all parties of record in Finance Docket No. 32760 (Sub-No. 26).



Richard J. Schiefelbein

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STB FD • 32760 (Sub 31) 9-18-98 D 191198



GREATER HOUSTON PARTNERSHIP
Chamber of Commerce • Economic Development • World Trade

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Office of the Secretary

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Part of
Public Record

September 17, 1998

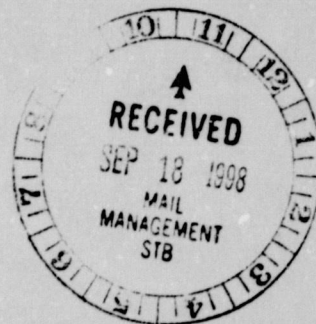
Honorable Vernon Williams
Case Control Unit

Attn: STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Surface Transportation Board
1925 K. Street, N.W.
Washington, DC 20423-0001

Re:

STB FINANCE DOCKET NO. 32760 (SUB-NOS. 25-32)
UNION PACIFIC CORPORATION, et. al.
-- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORPORATION, et. al.

HOUSTON/GULF COAST OVERSIGHT



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Dear Secretary Williams:

Enclosed is the statement of the Port of Houston Authority presenting its comments relating to the requests for new conditions on the UP/SP merger that were accepted for consideration by the Board.

An original and 25 copies are enclosed, together with a 3.5-inch computer disk containing a copy of the statement in WordPerfect format.

Respectfully submitted,

Roger H. Hord
713 844-3625

1 9/11/93

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



**STB Finance Docket No. 32760 (Sub-Nos. 26-32)
Union Pacific Corporation, et. al.
-- Control and Merger --
Southern Pacific Rail Corporation, et. al.**

HOUSTON/GULF COAST OVERSIGHT

**COMMENTS OF
THE GREATER HOUSTON PARTNERSHIP
ON
REQUESTS FOR ADDITIONAL CONDITIONS
TO THE MERGER**

**ENTERED
Office of the Secretary**

SEP 18 1998

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Public Record**

This statement presents the comments of the Greater Houston Partnership (GHP) regarding those requests for additional conditions to the merger of the Union Pacific and Southern Pacific railroads which were accepted by the Board in Decision No. 6 in this proceeding. Because the GHP recommendations were among those accepted for consideration by the Board, the GHP intends to file rebuttal evidence and argument on October 16 in addition to the comments presented here related to requests made by other parties.

The Greater Houston Partnership

The Greater Houston Partnership is Houston's principal business organization and is dedicated to building prosperity in the Houston region. The Partnership has 2,400 members from virtually every industry sector throughout the eight-county Houston region. The Partnership's Board of Directors is composed of 112 corporate CEO's of organizations in the Houston region.

Partnership members employ almost 600,000 people, which is one out of every three employees in the region.

The GHP considers the following requests made in the Consensus Plan proposal to be largely similar to our own requests filed in this proceeding:

- That the Board should make permanent the provisions of Emergency Service Order No. 1518 that: (a) temporarily suspended the restriction the Tex Mex's trackage rights could be used only for shipments having a prior or subsequent movement on Tex Mex; and (b) temporarily granted Tex Mex trackage rights over UP's "Algoa route" between Placedo, TX and Algoa, TX and over BNSF from Algoa to Alvin, TX and to T&NO Junction, TX. The GHP supports making these rights permanent if data indicate improvement or if improvement can be expected.
- That the Port Terminal Railroad Association (PTRA), or its successor organization if the PTRA is dissolved, should provide neutral switching over the trackage formerly operated by the Houston Belt & Terminal Railroad (HB&T). The GHP supports the PTRA, or its successor organization, as the provider of neutral switching over the former HB&T and in an additional area determined to be financially feasible.
- That Tex Mex be acknowledged as a full voting member of PTRA and that the Port Authority's voting status on the PTRA Board be restored. The GHP supports for full PTRA Board membership the Port of Houston and all long haul railroads serving Houston.
- That a yard adequate to satisfy Tex Mex's switching needs in Houston be made available to Tex Mex at a reasonable price or lease rate; and that the KCS proposal to construct an additional track between Houston and Beaumont, increasing rail capacity in that corridor and adding an additional carrier to the Houston market, be authorized by the Board. The GHP supports a process mediated by the STB involving the Union Pacific and other long haul railroads which

would facilitate an agreement to sell or lease abandoned trackage and underutilized rights of way and switching yards for the purpose of adding rail system competitiveness, capacity, flexibility and geographic access.

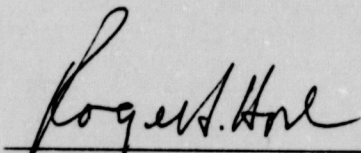
The conditions described above, which have been requested in the Consensus Plan, are similar to the GHP Board of Directors' resolution on *Competition in Houston Freight Rail Service*. The GHP Board's resolution emphasize that Houston's rail system performance must be "in the top tier of United States cities," which means that service and rates must be truly competitive in order for Houston's port and its local industries to compete effectively in domestic and international markets. The GHP Board prefers that the private sector rectify noncompetitive situations through equitable compensation, but it realizes that federal statutes and regulations constitute a fundamental roadblock in some cases and should be modified.

Many Houston shippers have expressed concerns related to this year's service difficulties and the growing difficulty in obtaining competitive service and rates. Their concern is for the level of rail service needed for a competitive Gulf Coast economy and the degree of rail industry competition needed to achieve that goal. Railroad consolidation in Houston has resulted in six Class 1 railroads being reduced to two, with an 80 percent market share dominance by one railroad. These issues are adversely affecting local shippers and the Houston economy. Unless some corrective action is taken, over the long term the cost of operating in a large portion of the Houston area may well become competitively disadvantageous.

September 17, 1998

CERTIFICATE OF SERVICE

I, Roger H. Hord, certify that, on this 17th day of September, 1998, I caused a copy of the attached document to be served by first-class main, postage prepaid, on all parties of record in Finance Docket No. 32760 (Sub-No. 26).

A handwritten signature in cursive script, reading "Roger H. Hord", is written over a horizontal line.

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September 18, 1998

VIA HAND DELIVERY

Honorable Vernon A. Williams
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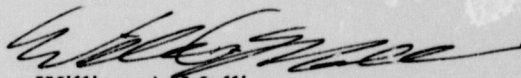
RE: *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company - Control and Merger - Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Transportation Company, SPCSL Corp. And The Denver and Rio Grande Western Railroad Company, Houston/Gulf Coast Oversight Proceeding*
Federal Docket No. 32760 (Sub No. 31)

Dear Secretary Williams:

Enclosed for filing in the above captioned matter, please find an original plus twenty five (26) copies of the Comments of the Kansas City Southern Railway Company and the Texas Mexican Railway Company on the Responsive Application filed by Houston and Gulf Coast Railroad. Also enclosed is a diskette containing the text of the pleading in Word Perfect 5.1 format.

Please date stamp the enclosed extra copy and return them to the messenger for our files. If you have any questions please do not hesitate to contact me at (202) 274-2953.

Sincerely,



William A. Mullins

Enclosures

cc: Parties of Record

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Office of the Secretary

SEP 18 1998

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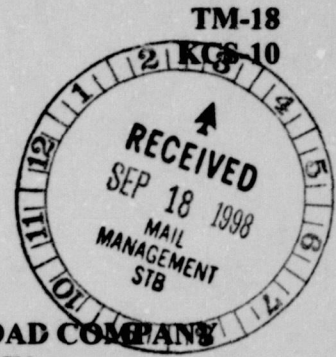
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**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 31)



**UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
--CONTROL AND MERGER--**

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

HOUSTON/GULF COAST OVERSIGHT PROCEEDING

**COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY AND THE
TEXAS MEXICAN RAILWAY COMPANY ON THE RESPONSIVE APPLICATION
FILED BY THE HOUSTON AND GULF COAST RAILROAD**

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Railway Company**

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

FINANCE DOCKET NO. 32760 (Sub-No. 31)

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

HOUSTON/GULF COAST OVERSIGHT PROCEEDING

**COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY AND THE
TEXAS MEXICAN RAILWAY COMPANY ON THE RESPONSIVE APPLICATION
FILED BY THE HOUSTON AND GULF COAST RAILROAD**

BACKGROUND

On February 12, 1998, Tex Mex and KCS jointly petitioned the Surface Transportation Board ("STB" or "Board") to invoke the oversight authority that the Board reserved in its *UPSP Decision*¹ to impose additional remedial conditions as necessary to solidify and strengthen the competition-preserving conditions imposed by the Board in the Houston/Gulf Coast area, particularly for international traffic moving to Mexico. In that filing, Tex Mex and KCS advised the Board that they intended to file by March 30 "a complete evidentiary filing, consisting of a market impact study, an operating plan, and other evidentiary exhibits and verified statements, that will set forth the justification for the imposition of the remedial conditions and provide the

¹ *Union Pacific Corporation, et al. - Control and Merger - Southern Pacific Rail Corporation, et al.*, STB Finance Docket No. 32760, Decision No. 44, served August 12, 1996 ("UPSP Decision").

Board with a full and complete analysis of the impact of the plan, both on shippers and other carriers," consistent with the Board's prior decisions. On March 30, Tex Mex and KCS made the promised filing. The next day, the Board issued a decision opening the proceeding requested by Tex Mex and KCS² and setting a procedural schedule which, as subsequently amended,³ called for the filing of other remedial proposals by July 8, 1998.

On August 3, 1998, H&GC, a small Class III carrier, late-filed a letter, termed an "application," requesting the Board to order that UP sell H&GC 65 miles of UP's Galveston Subdivision and that H&GC be granted trackage rights over approximately 190 additional miles of line. The H&GC's letter listed its requests for additional remedial conditions, but contained virtually nothing else. The next day, the Board accepted H&GC's filing, along with others filed in the proceeding, including the "Consensus Plan" filed by the Consensus Parties. *Union Pacific Corporation, et al. - Control and Merger - Southern Pacific Rail Corporation, et al.*, STB Finance Docket No. 32760 (Sub-No. 26, *et al.*), Decision No. 6, served August 4, 1998 ("August 4 Decision"). In accepting the H&GC filing, however, the Board noted that H&GC "filed no evidence in support of H&GC's requests." . *Id.*

² *Union Pacific Corporation, et al. - Control and Merger - Southern Pacific Rail Corporation, et al.*, STB Finance Docket No. 32760 (Sub-No. 21), Decision No. 12, served March 31, 1998. In a decision served May 21, 1998, the Board essentially reissued its March 31 decision, designating this proceeding as the "Houston/Gulf Coast Oversight" proceeding, redesignating the docket number as Finance Docket No. 32760 (Sub-No. 26), and identifying the decision as Decision No. 1 in that proceeding.

³ A 30-day extension of the original June 8 deadline was granted by the Board upon petition submitted by Tex Mex, KCS and their consensus partners The Chemical Manufacturers Association ("CMA"), the Society of the Plastics Industry, Inc. ("SPI"), the Texas Chemical Council ("TCC") and the Railroad Commission of Texas ("RCT") (Tex Mex, KCS, CMA, SPI, TCC and RCT are referred to collectively herein as "Consensus Parties"). See *Union Pacific Corporation, et al. - Control and Merger - Southern Pacific Rail Corporation, et al., Houston/Gulf Coast Oversight*, STB Finance Docket No. 32760 (Sub-No. 26), Decision No. 5, served June 1, 1998.

Agreeing with the Board's conclusions regarding the H&GC proposal, on August 17, 1998, Tex Mex and KCS petitioned for reconsideration of the *August 4 Decision* accepting H&GC's request as an "application" and moved to dismiss H&GC's application. Without repeating those arguments here, Tex Mex and KCS hereby renew their August 17 motion to reconsider the *August 4 Decision* accepting H&GC's application and the motion to dismiss that application. However, as the Board has not yet ruled on that petition and motion, KCS and Tex Mex hereby offer these further comments on the H&GC request.

ARGUMENT

H&GC conducts limited railroad operations in the Wharton, TX area.⁴ H&GC is a sole proprietorship of Kenneth Cotton,⁵ who describes himself as "a small businessman." See Exhibit 1 at 3. H&GC began operations in July 1995 after acquiring a 12-mile stretch of track running between Wharton and its connection with The Burlington Northern and Santa Fe Railway Company ("BNSF") at Cane Junction, TX. *Id.* at 28.⁶ Its operations apparently have consisted of moving cars between grain elevators at Wharton and BNSF. To conduct this operation, it has employed two train service employees part time (it is not clear whether Mr. Cotton is one of these) and has leased a locomotive on an as-needed basis. *Id.* at 28.⁷ It apparently provides satisfactory service to two grain elevators that serve the Wharton area.⁸ By its August 3

⁴ H&GC's discovery responses actually state that "[T]he Houston and Gulf Coast Railroad, [. . .] operates the South East International Railroad, which operates twelve miles of track between Wharton, Texas and a junction with the BNSF on a disconnected branch line near Bay City, Texas." See Exhibit 1 at 3.

⁵ See Exhibit 1 at 28.

⁶ KCS and Tex Mex have been unable to locate any ICC or STB decision or *Federal Register* notice that authorized Mr. Cotton, H&GC, or the South East International Railroad to acquire and operate this line.

⁷ Track work has been contracted out. *Id.*

⁸ See Exhibit 1 at 19 - 21 and 24 - 26, witness statements on behalf of Farmers Cooperative of El Campo and Coastal Warehouse, Ltd.

application, H&GC proposes to grow, within 90 days, to operate approximately 250 miles of track, handling over 45,000 cars per year, and having over 40 employees.

KCS and Tex Mex appreciate the entrepreneurial spirit of H&GC, and if the Consensus Plan is adopted, pledge to work with Mr. Cotton to develop and expand his business. Tex Mex and KCS, along with the other Consensus Parties, have proposed that Tex Mex will acquire and reconstruct the Rosenberg-Victoria line. That line runs directly through Wharton and Tex Mex would, of course, look forward to developing commercial relationships with new and existing customers in the Wharton area, including H&GC. However, as a matter of law, H&GC has not provided any evidence on this record showing that it has either the financial or operational capacity to acquire the additional track, personnel and equipment needed to conduct its proposed operation and accordingly, the Board cannot grant H&GC's application.

The company's traffic levels and gross revenue figures since 1995 shown in H&GC's discovery responses are as follows:

	CARS HANDLED⁹	GROSS REVENUES¹⁰
1995 (part year ¹¹)	232	\$12,000
1996	642	\$42,000
1997	97	\$9,000
1998 (part year ¹²)	0	\$4,000 ¹³

⁹ See Exhibit 1 at 17.

¹⁰ Unaudited. See Exhibit 1 at 29. No indication of net railroad operating revenues is given.

¹¹ From July 1995 to December 1995.

¹² To approximately September 1, 1998.

¹³ H&GC's discovery response do not indicate the source of these revenues, though apparently they did not result from movement of revenue freight. Also, H&GC indicates that Union Pacific Railroad Company ("UP") declined its offer to provide switching assistance to UP during the rail service crisis, Exhibit 1 at 3, eliminating that also as a possible revenue source.

For purchase of the approximately 65 miles of UP's Galveston Subdivision requested, H&GC proposes to pay "the GCV (Going Concern Value) [. . .] estimated at \$7,000,000.00; this figure was obtained from the Harris County and Galveston County tax offices." Exhibit 1 at 14. No justification is offered for this price.

H&GC presents no substantive financing plan or financing arrangement to support its proposal. Although Tex Mex and KCS requested that H&GC provide financial statements or tax returns covering its operations, it did not. Instead, H&GC provided only the gross revenue figures¹⁴ stated in the preceding chart. Accordingly, H&GC has provided the Board with no evidence that it has assets available to support any of its proposed expansion. Instead, with respect to financing its acquisition of UP properties, H&GC stated only "[f]inancing will be obtained through a financing arrangement with a leading financial institution. Upon approval of the plan, the H&GC will provide financial documentation to the STB." Exhibit 1 at 14. Altogether, H&GC proposes a vast expansion of its rail operations without providing any evidence that it has the financial ability to carry out that expansion.

Additionally, allowing H&GC to actualize its proposals could have severe adverse effects on other involved parties. For example, for all the trackage rights which it proposes, including those allowing local service,¹⁵ H&GC proposes to pay a trackage rights fee of 3.84 mills per car-mile, *see* Exhibit 1 at 6, 33, and 35.¹⁶ (We assume H&GC meant "per ton mile", because its proposal of 3.84 mills "per car mile" proposal, taken literally, would equate to

¹⁴ Revenues net of railroad operating expenses were not provided.

¹⁵ H&GC requests the right to serve present and future local shippers between Victoria and Rosenberg, *see* Exhibit 1 at 35, and requests "switching rights" over the Bay City-Algoa route. Exhibit 1 at 33.

¹⁶ No additional compensation is suggested for the request that UP be ordered to repair the Rosenberg-Wharton segment to FRA Class 2 standards.

approximately 10 cents to move a car from Wharton to Rosenberg).¹⁷ However, even a trackage rights fee of 3.84 mills per ton mile would not sufficiently cover the fixed or variable costs associated with allowing H&GC to operate over the rebuilt Wharton to Rosenberg track.

H&GC also requests local access over the Rosenberg-Victoria line, if that line is sold to Tex Mex. (Ironically, however, H&GC offers Tex Mex only overhead trackage rights or haulage on any line which it might operate. *See Exhibit 1 at 28.*) Without knowing either the volume or scheduling of H&GC's planned operations under its various trackage rights requests, H&GC has provided the Board no means by which it can determine that H&GC's proposed operations would not interfere with ongoing operations of other carriers on those lines, such as Tex Mex, BNSF and UP

CONCLUSION

H&GC's proposal, while obviously well-intentioned, cannot be accepted, as a matter of law, because H&GC has been unable to provide the many types of information required by the Board to consider applications of H&GC's type. The Board should grant the Tex Mex/KCS August 17, 1998, motion to reconsider the Board's August 4 decision accepting H&GC's application, or should dismiss that application. If, however, the Board chooses to consider H&GC's application, the Board should deny the application because it does not present a feasible, documented plan showing that H&GC could carry out its proposals and that those proposals would not harm shippers and railroad operations in the Houston/Gulf Coast area. As the Board said of a previous proposal seeking somewhat similar relief, it "presented a kind of a theory, but no clear demonstration of how that theory could be put into operation."¹⁸ Neither

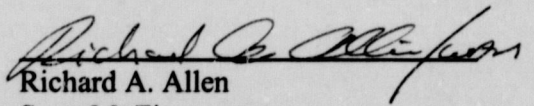
¹⁷ \$0.00384/car-mile x 25.8 miles = \$0.099.

¹⁸ *STB Service Order No. 1518, Joint Petition for Service Order* (STB served Feb. 17, 1998) at 14.

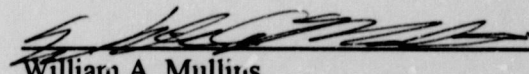
Tex Mex nor KCS are indifferent to H&GC's needs and, consistent with their own operational requirements, pledge themselves to work with H&GC in addressing its needs for continued access to trunk line rail carriers in the Wharton area.

Respectfully submitted this 18th day of September, 1998.

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing "Comments Of The Kansas City Southern Railway Company And The Texas Mexican Railway Company On The Responsive Application of The Houston And Gulf Coast Railroad" was served this 18th day of September, 1998, by overnight delivery service addressed to Kenneth B. Cotton and Houston & Gulf Coast Railroad, 3203 Areba, Houston, TX 77091, by hand delivery to counsel for UP and BNSF and The Honorable Stephen Grossman, and by first class mail upon all other parties of record to the Sub-No. 26 and 31 proceedings.



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Attorney for The Kansas City Southern
Railway Company

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 32760(Sub-No. 31)

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

--- CONTROL AND MERGER---

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

(HOUSTON/GULF COAST OVERSIGHT)

PROPOSAL FOR TRACKAGE RIGHTS AND FORCED LINE SALES

KENNETH B. COTTON/HOUSTON AND GULF COAST RAILROAD

INTRODUCTION

Mr. Kenneth Cotton, a small businessman, owns the Houston and Gulf Coast Railroad, a company which operates the South East International Railroad, which operates twelve miles of track between Wharton, Texas and a junction with the BNSF on a disconnected branch line near Bay City, Texas. BNSF reaches Bay City via trackage rights on the Union Pacific between Bay City and Algoa, Texas. The BNSF also serves several chemical plants south of Bay City.

As early as 1996, the BNSF was experiencing severe difficulties in serving their customers south of Bay City, as well as providing cars for the H&GC. This situation had become so severe that the two crews assigned by the BNSF regularly "hog law" (work the maximum 12 hours mandated by Federal law), and continued to do so today.

This has created a dire circumstance for the H&GC; through no fault of its own, it has been caught in the implosion of the Union Pacific service meltdown, and threatens the very survival of the H&GC. This situation has become so severe that if the conditions proposed in this application are not granted, the H&GC will cease to exist, and the citizen of Wharton County will lose their last rail link with the outside world.

The H&GC is unique in the railroad industry; it is one of only two African-American railroad operating companies in the United States, the first west of the Mississippi River, and the first in Texas.

Carloadings have been decimated due to these actions; revenue is almost non-existent. (see Exhibit A). Without subsequent relief from the STB, this railroad will become history, totally depriving this heavily agricultural area of rail service, possibly forever.

During the height of the rail crisis, the H&GC recognized that there was an opportunity to provide switching and SIT storage capacity to the Union Pacific. These opportunities were confirmed by operating managers and operating personnel of the Union Pacific. In fact, every short line within 70 miles of Houston was engaged in switching and/or storage for the Union Pacific. These include the Moscow, Camden, and St. Augustine, on UP's Shreveport Line; Texas City Terminal Railroad in Texas City on the Galveston Subdivision. The Union Pacific even engaged the Georgetown Railroad, more than 100 miles from Houston, to switch cars.

The H&GC contacted UP upper management several times in an attempt to help remedy this situation, and was rebuffed in each case, when there was clearly a need for this service. This action clearly violated the instructions of the STB to "work with all available means" to help solve the service problem.

The Union Pacific is clearly in a monopoly situation, controlling 9 of 11 rail lines out of Houston; they also control all but one SIT site in the Houston area; clearly, this is a situation that is ripe for abuse, denying customers the options to deal with other carriers and attempting to squeeze smaller railroads out of the picture.

The H&GC, as a short line, would provide competition in the Houston area by providing a lower cost, shipper-responsive short line in the Houston area, working with the PTR and other railroads in the Houston-Galveston area to:

- a. Offer badly needed SIT space for plastic and chemical manufacturers, allowing UP to free up valuable yard space to classify its traffic, as well as provide this SIT space for all railroads operating in Houston:

- b. To function as a grain conduit to provide faster service to the ports of Houston, Texas City, and Galveston, Texas:
- c. To provide truck-competitive and cost-competitive short-haul service to customers in Wharton, Houston, El Campo, Texas City, Galveston and Victoria:
- d. To maintain links between all railroads serving the Houston area:
- e. To offer expanded service to all customers in the Houston-Galveston area.

The customer service of short line railroads is the reason for their proliferation and success since 1980. Their ability to perform is legendary. Should the STB grant the conditions sought here;

- a. Car cycle times would be reduced, making cars available sooner, increasing the capacity for all railroads:
- b. The re-allocation of badly needed locomotives and personnel to more productive duties:
- c. Ability to quickly adapt and respond to shipper requests:
- d. Reduce truck and barge traffic in the Houston-Galveston area.

The STB, at this juncture, has the ability to effectively promote needed competition in the Houston area. The introduction of a customer-responsive short line, in conjunction with neutral switching performed by PTRC in the Houston area, forms a one-two punch that provides capacity and promotes competition, increasing the ability of all shippers to have access to all railroads, as well as provide short-haul shippers with a viable alternative.

TRACKAGE RIGHTS:

**WHARTON-ROSENBERG
ROSENBERG-HARRISBURG JUNCTION
BAY CITY-ALGOA
VICTORIA-WHARTON**

For the H&GC to become a competitive component in the Houston-Galveston area, as well as provide low-cost rail service to grain farmers wishing to market their grain in Houston or Galveston and to have an open, unrestrictive interchange with the BNSF, the H&GC is requesting trackage rights on the Union Pacific on the following lines:

A. Wharton- Rosenberg(25.8 miles)

This line, though unused, is not considered abandoned by the Union Pacific, even though UP has removed all ties and rail south of the Colorado River at Wharton and onn switch in Wharton. No freight trains have operated on this line in several years; however, the line is kept marginally passable by Mo/W forces and all automatic crossings have been left active. This line would provide a logical connection with the BNSF at Rosenberg, and allow unmolested service between BNSF and H&GC.

In Decision 44, the Board recognized that BNSF service over UP/SP lines was subject to discrimination, and that it was relying on assurances by the UP that dispatching would be conducted without discrimination. These same discrimination problems are at the root of the H&GC's problems at Bay City. BNSF crews regularly "hog law" between Bay City and Algoa, degrading BNSF's service to its customers while destroying H&GC's link to the outside world. The degradation of this link wrecks any attempt by the H&GC to provide reliable service to its customers.

In this application, H&GC is requesting that it is allowed to serve any present and future customers between Wharton and Rosenberg, and that the compensation rate for usage be set at 3.84 mills per car-mile.

Interchange with the BNSF will take place at the current yard in Rosenberg; however, the H&GC, recognizing the limited yard space available, will build an interchange track near M.P. 2.0 for BNSF, as well as Galveston-bound grain trains from UP.

Houston and Gulf Coast also requests that the STB require that UP replace all missing trackage and the teack be repaired to FRA Class Two standards.

H&GC anticipates operating one train each way per day, five days per week. These trains would handle local traffic and SIT traffic to outlying points.

Rosenberg is served by one BNSF local from Alvin. H&GC's trains would be timed to provide a "seamless interchange" to keep cars moving.

The H&GC has room on its line to store approximately 300 SIT cars in addition to its customers along the line.

B. Rosenberg-West Jct.-Harrisburg Junction(35 miles)

This line represents an important conduit to the H&GC to compete in Houston. This route would directly connect the SIT site in Wharton with the PTR A in Houston, as well as give H&GC traffic entrance to Houston and access to the H&GC's proposed Galveston main line at Tower 30 in Houston. The SIT traffic would go directly from Wharton to whichever yard PTR A selects on its system. The most logical place would be Manchester Yard, just a short distance from Harrisburg Junction. PTR A would the make final delivery.

The H&GC also requests the right to serve the Imperial Holly facility at Sugarland, Texas. This facility receives raw sugar from Galveston via the Union

Pacific. Currently, these cars move from Galveston to Settegast Yard, then through New South Yard, then west on the Harrisburg Line, then on to Sugarland.

The H&GC would operate these cars as a unit train from Galveston through to Sugar Land, and return. The H&GC's routing would avoid entering all yards in the Houston area and would speed up delivery times, improve car utilization, and provide better service than what is currently provided by the Union Pacific.

This service is anticipated to make a round trip in nine hours, requiring only one three-man crew to provide the service, compared to the two or three crews used by the Union Pacific.

The equipment needed to operate this service will be two locomotives and one caboose to facilitate lining hand-throw switches at Tower 30 and at Sugar Land.

FORCED LINE SALES

**M.P. 185.O-233.2 (UP'S GALVESTON LINE)
M.P.**

In this proposal, the H&GC is petitioning the STB to require the sale of trackage to the H&GC to promote competition and to provide adequate service to shippers. The trackage is as follows:

- a. The Union Pacific(former MP) Galveston Subdivision from M.P. 185.0 to M.P. 233.2 in Galveston, Texas; this line was formerly known as the Galveston, Houston, and Henderson Railroad (See Exhibit B)
- b. The Union Pacific(former SP) Galveston Subdivision from M.P. 38.8 to M.P. 55.6 in Galveston, Texas (see Exhibit C)

These lines operate in Harris and Galveston County, Texas

The sale of this line is crucial to provide competition in the Gulf Coast area.

The H&GC is also requesting access to the Katy Neck, PTR, and Texas City Terminal Railway at Texas City, Texas for purposes of interchange of local traffic.

The GH&H runs from Congress Yard, on the West Belt, in Houston, Texas to Galveston, Texas. This line crosses the East Belt at Tower 85, crosses the Harrisburg Line at Tower 30 and continues south to Galveston. This line operates through no yards in the Houston area, creating a clear lane to the ports of Texas City and Galveston (see Exhibit D).

The former SP route was the through route for the Southern Pacific to Galveston. The line was abandoned between M.P. 32.0 and M.P. 38.8, severing the route. North of M.P. 32.0, this line is jointly used by the UP and PTR between Bridge 5A and Strang; the line is heavily congested and serves the petrochemical industry along the south side of the Houston Ship Channel. This line has several yards along its route.

South of M.P. 38.8, the former SP serves a couple of plants and operates to Galveston. In Galveston, the line serves local industries and terminates there.

The GH&H serves several rock shippers along its route south, as well as a couple of small chemical plants at Dickinson and South Houston.

This line also serves as a grain conduit to the Port of Galveston, which is reached over the Galveston Wharves Railway.

According to the STB, the Board may require the sale of a line if it meets the following conditions:

1. The rail carrier operating the line refuses within a reasonable time to make the necessary efforts to provide adequate service to shippers;
2. The sale of the line would not have an undue adverse effect on the carrier's operations;
3. That the sale would result in improved service over the line.

A fourth would be to provide competition in the Houston/Gulf Coast area. Each of these points will now be covered.

Union Pacific has failed in its responsibility to provide service to its customers.

This is evidenced by the several Emergency Service Orders the Board has had to issue, and the continuing congestion of the railroad. For almost two years, shippers have lost hundreds of millions of dollars due to Union Pacific's collapse; many of these shippers, particularly plastic shippers, have been forced to use the Union Pacific, because they control the majority of SIT sites and are their only option for service. Other chemical shippers have had to shut down of ship by other, more expensive means, meaning truck, to make maritime schedules or to keep production lines open. The Union Pacific refuses to remedy this situation, particularly in regards to the SIT dilemma, in a reasonable time frame.

Shippers are not pleased. The Union Pacific merger was, and is, a disaster for Texas industry. The lifting of the ESO was, to many, a step in the wrong direction.

Union Pacific has had long enough to mitigate their problems; they have behaved in an arrogant, uncaring manner and the Board has the power to remedy this emergency as quickly as possible.

2. The sale of the line would not have an undue adverse effect on the carrier's operations.

The sale of the GH&H and the former SP Galveston Subdivision would involve two lines with relatively light traffic density.

In 1997, Union Pacific moved approximately 11,000 cars into and out of Texas City and, according to the Port of Galveston, moved 20,727 cars into the port for a total of 31,727 cars. Add in local traffic (an approximation), this would be around 40,000 cars per year. According to the Association of American Railroads, the Union Pacific handled 8,435,147 cars in 1997. This figure is only .376% of the total traffic on the Union Pacific. Clearly, selling this line would not constitute a threat to the UP's operations; selling them to the H&GC would allow them to concentrate on the long haul, while giving shippers the freedom of choosing the best carrier for their traffic in the Gulf Coast region.

The sale of this line would also free up locomotives, crews, and equipment that should receive better utilization, operating longer distances, and helping to keep Englewood and Settegast yards fluid.

Selling these lines would also allow shippers to have closer contact with their shipments; with small-tiered management, shippers would have their questions answered much more quickly, fostering a good relationship between H&GC and the connecting railroads.

3. The sale would result in improved service over the line.

Service is the life blood of short line railroads. Without it, these railroads would die the deaths that Class Ones intended. Class Ones cannot deliver the service on a local basis the way a short line can. Innovation on short lines may take only phone call to the railroad manager from the shipper; implementation may occur in hours. On Class Ones, innovation has to make its way through an onerous chain of command, making implementation an enormous difficulty, and in some cases, opportunities by both shipper and railroad are missed.

Short lines are much more flexible in setting rates over their lines; to get the traffic, they offer lower rates that are lower than the prevailing rail rate, but higher than the truck rate. Shipping costs are lower, which in lower consumer costs.

As a result of short line and regional railroads focusing on providing excellent service instead of just running trains, they have grown into an important cog in the nation's transportation system, providing responsive low-cost services that continue to grow in importance and are staking their place in the railroad industry.

Customers benefit immensely being located on a short line that connects with several carriers; no more will he or she will receive service that day; they will. They don't have to agonize over seeing their car sit in a yard for days or weeks before being placed in their facility. Waiting costs money, and short lines save time and money.

Short lines like the H&GC recognize acutely that sitting cars cost money. Empties need to be returned back to the originating carrier as fast as possible. Loads need to be interchanged and moved quickly. The H&GC is committed to make the efforts required for such a task. We demand it of ourselves; why should shippers demand any less. The H&GC sets a high bar, and we will achieve our goals.

4.

To provide competition.

The Union Pacific has enjoyed near-monopoly status in the Houston/Gulf Coast area. The result of this market dominance has been the near-total destruction of rail service in the area. As recently as 1980, Houston was served by 5 railroads; today, there are only two. Nine of the eleven rail route into Houston belong to the Union Pacific; they have erected a steel rope around the throats of shippers and other railroads forced to deal with them on Union Pacific's terms.

Lack of competition has emboldened the Union Pacific into an attitude of arrogance, superiority, and utter barbarism. The barbarians are not at the gate; they have the city, and some parts of the nation under siege, a condition that can only be remedied by storming the city with competition-competition that can only an aggressive, service-oriented railroad such as the H&GC can provide.

Each day, somewhere along the Gulf Coast, a plant manager prays that his cars will be picked up or delivered by the Union Pacific. Each day, he or she requests locations of their cars. They listen to a computer-generated that informs them that their cars are still in Houston, several days after leaving the facility.

Each day, they will order billed SIT cars to be shipped; they know that it will be at two days before they even leave the SIT yard.

Each day, they must plan mediocracy into their shipping schedule, because it is the best that they can do.

In UP's accompanying letter for Week 41, Union Pacific brags about moving 96% of Dow Chemicals' shipments on time. I would guess anyone would perform that way for a shipper which sued because of the shoddy service: UP chose to settle out of court. The question is- who are they overlooking to provide such sterling service?

There is no reason to accept such horrible treatment. Lack of competitive access to other carriers guarantees it. True competition keeps everyone on their toes, providing the best possible product for the price. Customers need that ability to pick and choose the best

service platform for their business, and expect that service to be exemplary in all conditions.

The H&GC is poised to provide the competition in the Houston/Gulf Coast area, making itself available to deliver traffic from Texas City and Galveston by providing its services as a neutral and connection to all railroads. These services will benefit the besieged shippers in the Houston area, and assist in keeping cars rolling toward customers.

This part of the application will focus on the operating plan and track layouts of the GH&H and how service would be improved.

The proposed purchase of the GH&H would start at Congress Yard, near downtown Houston on the West Belt; it connects with the West Belt on the north end and extends itself into a switching lead to serve a food processing plant. A switch would need to be installed on the south end of the lead to allow H&GC trains to enter the yard without fouling GH&H Junction.

This interlocking at one time provided access to the now abandoned UP rails to Eureka Yard; now it is the location of Congress Yard and where the HB&T Passenger and Freight Mains diverge.

Congress Yard is an underutilized facility with about a 200 car capacity, used for car storage and industry support. The H&GC proposes that this become a joint facility for interchange and H&GC's Houston yard. This yard has sufficient room to add at least three more tracks should the situation demand.

This yard can be switched from the south without blocking the West Belt, an important consideration to reducing congestion.

This railroad is used between Congress Yard and Tower 30 by other railroads to bypass congestion and to reach the PTRC at Harrisburg Junction. Should the STB grant H&GC's request, those trackage rights would remain in effect for all railroads serving Houston. This line is equipped with automatic block signals from Congress Yard to South Houston.

To expedite movement between the Harrisburg Line and H&GC trains heading to Galveston, a connection would be built to make these moves; this connection is already in UP's plans for this facility; however, H&GC would build the track to connect the two lines.

H&GC is also requesting access to the former HB&T locomotive facility at Milby Street to maintain H&GC locomotives.

At Texas City, this line connects with the former SP Galveston line via a crossover; this crossover was installed after the SP abandoned its through route to move its traffic into Englewood.

The line has a top speed of 35 miles an hour, and is dispatched by track warrant.

Galvez Yard is the termination point for the GH&H in Galveston. This underutilized yard would be home for H&GC's local switchers and SIT storage.

Currently under UP's control, this yard has two yard jobs to cover both the traditional switching and the former SP to the end of its track at M.P. 38.8.

The former SP yard is used to store cars and to hold industry cars.

UP also stations a switch engine at Webster to switch customers between Harrisburg and Texas City.

Road service is provided by a train out of Englewood that works to Texas City, and a train that operates to Galveston.

Due to the congestion present in Englewood and Settegast Yards, these trains frequently die on Hours of Service and require relief crews to finish the runs.

Grain trains arrive off the BNSF at the Galveston Causeway and terminate at Galvez. These crews either lay over at Galveston or are ferried back to Smithville. The locomotives lay over at Galveston.

The H&GC would change the operating patterns to enhance service to this line. The H&GC would operate a local originating at Congress Yard five to six days per week serving all points between Congress Yard and Galveston, round trip. The train would leave early morning and return late afternoon.

A night train would also operate round trip between Congress Yard and Galveston, handling cars interchanged during the day and making a stop at Texas City to handle any business not picked up by the day train.

The H&GC would operate two trains out of Galveston; one would operate round trip to Sugar Land to handle Imperial Sugar.

The second train originated from Galveston would be devoted to handling solely SIT traffic moving to the PTR, or to the appropriate connecting railroad. This service would place cars on the connecting railroad on the same day as requested.

Opportunities exist to provide service between industries located on PTR and industries located in Texas City and Galveston. This traffic is usually handled by barge because the Union Pacific cannot effectively compete for short-haul service, nor can any Class One. These opportunities could create an additional 5,000 cars per year for the H&GC.

Another opportunity for the H&GC would be to handle containers between the Port of Houston and the Port of Galveston.

Recently, the Port of Houston, running out of space in its Barbours Cut terminal, leased the container terminal at the Port of Galveston. The railroad could serve as a conveyor between the two ports, keeping trucks off clogged freeways.

Short-haul grain service from Wharton to the elevators at Houston and Galveston would allow farmers to have access to world markets, at a cheaper rate than trucks, and the ability to competitively offer their goods domestically or globally.

To effectively operate this combined system, nine six-axle locomotives, six four-axle locomotives, plus five cabooses. Cabooses are an anachronism for Class Ones; however, they provide the ability to watch the rear of trains and line the many hand-throw switches the H&GC will use.

The H&GC will use three-man crews exclusively.

Employment will break down as follows:

- a. Operating-15
- b. Management-3
- c. Clerical-3
- d. M of W-15
- e. Mechanical-2

Should the STB approve this proposal, implementation would occur within 90 days of approval.

The H&GC requests that the STB set the purchase price of these lines at the GCV(Going Concern Value);this value is estimated at \$ 7,000,000.00; this figure was obtained from the Harris County and Galveston County tax offices.

The H&GC request the following conditions for the sale of this trackage:

- a. The total price of the sale to be paid out over 10 years at 10% interest:
- b. The per-car charge for traffic interchanged with Union Pacific at Congress Yard or Rosenberg be set at three-hundred-fifty dollars per car:
- c. That Union Pacific not divert traffic,nor cause traffic to be diverted,from the H&GC at any interchange point:
- d. That Union Pacific not penalize traffic moving to,nor moving from,the H&GC:
- e. That Union Pacific sell the trackage and asociates property by quitclaim deed:
- f. The Union Pacific consummate the necessary repairs and paperwork within ninety (90) days of the STB's decisions.

Financing will be obtained through a financing arrangement with a leading financial institution.

Upon approval of this plan,the H&GC will provide financial documentation to the STB.

CONCLUSION

In conclusion, the Houston and Gulf Coast Railroad has shown what can be done to provide competition on the Gulf Coast, and provide an important niche service to the plastics industry by establishing neutral SIT facilities closer to points that are readily accessible to all carriers.

As a viable short line, the H&GC would offer unparalleled service in an unbiased manner to all carriers in the Houston area.

Working with the PTRRA, the H&GC could work to link the ports of Houston with Texas City and Galveston.


The H&GC would provide lower-cost rail service for farmers in the Wharton area, providing access to world markets for their goods.

The H&GC would work to move cars through the Houston area without going into congested yards, shaving off as many as three days transit time through Houston.

The H&GC's very survival is tied to bringing a competitive balance into the Gulf Coast area, giving shippers an even footing, making choice the rule of the day.

Thank you for the opportunity, and God bless you.

Sincerely,

A handwritten signature in dark ink, appearing to read 'K. Cotton', written in a cursive style.

KENNETH B. COTTON
HOUSTON AND GULF COAST RAILROAD

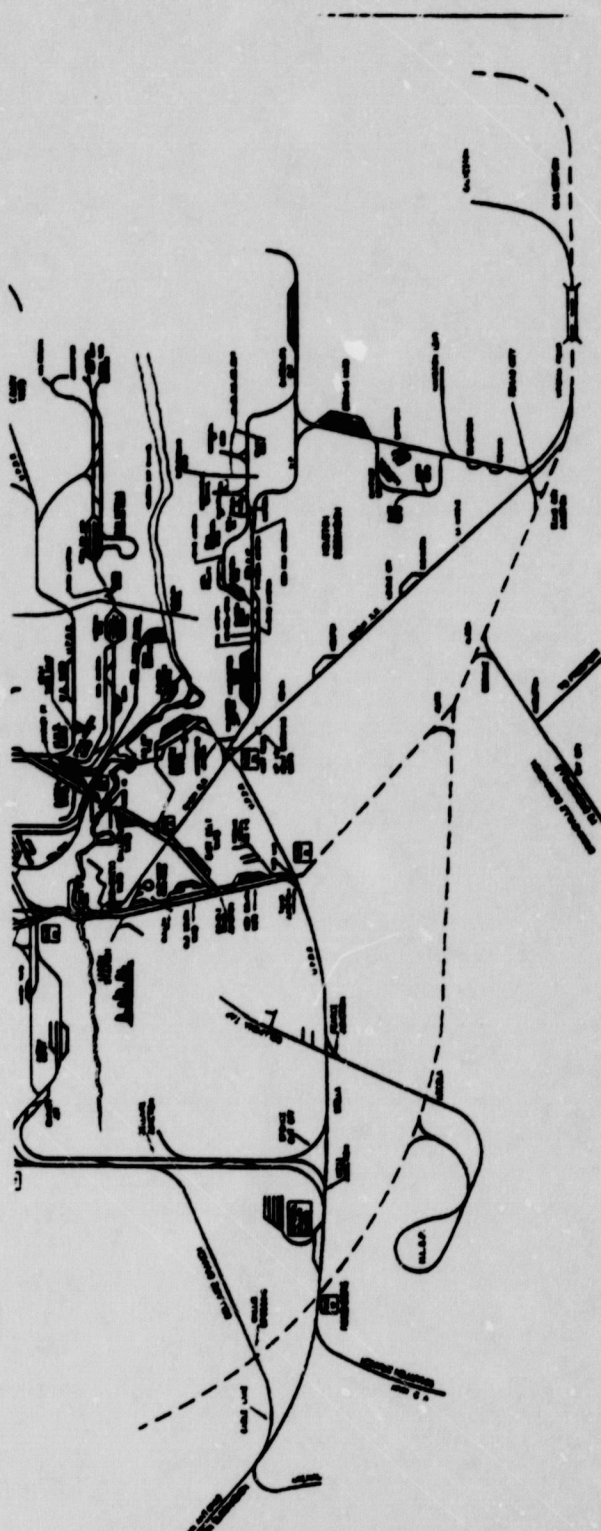
**HOUSTON AND GULF COAST RAILROAD
CARLOADINGS**

1995-232

1996-642

1997-97

1998-0





FARMERS COOPERATIVE OF EL CAMPO

P. O. BOX 826
EL CAMPO, TEXAS 77437
Phone 409-543-6284
Fax 409-543-9004

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 32760 (Sub-No. 31)

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

--CONTROL AND MERGER--

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

(HOUSTON/GULF COAST OVERSIGHT)

VERIFIED STATEMENT

OF

JIMMY N. ROPPOLO

VERIFIED STATEMENT

OF

JIMMY N. ROPPOLO

My name is Jimmy N. Roppolo and I am the General Manager of Farmers Cooperative of El Campo. My business address is 911 South Wharton Street, El Campo, Texas 77437.

Position of Farmers Cooperative of El Campo

Farmers Cooperative of El Campo is submitting this statement in support of the Houston and Gulf Coast Railroad's application for a direct connection via trackage rights on Union Pacific to connect directly with the BNSF at Rosenberg. We also support the H&GC receiving trackage rights to Houston and the H&GC's purchase of UP's line to Galveston.

Importance of Rail Service to Agriculture Interest

Farmers Cooperative of El Campo has operated three elevators with the total capacity of 2,000,000 bushels. The Wharton location is the only rail within a 60 mile radius of Wharton that originates corn, grain sorghum, and soybeans from farmers and other country elevators in Wharton, Matagorda, Ft. Bend, Jackson, and Colorado Counties (Map 1). This grain can move by rail to Mexico, U.S. Ports, and a variety of destinations in the United States. Farmers on the Texas Gulf Coast must have rail ability to move large amounts of grain during harvest since adequate storage is not available and trucks present problems of availability, safety, and rates. The five counties have maintained a five year average of 659,417 acres of farm land in production. Not only is rail needed to move large quantities of grain and cotton, but rail opens other markets for agriculture products not available by truck, the most recent market being the interior Mexico via the North American Free Trade Agreement (NATFA).

Our proximity to the port of Houston and Galveston make it important that we have reliable rail service to maintain access to world markets. When the distances are relatively short, the truck rate is often lower than the rail rate; however the reverse is true on longer distances. Negotiations of rate division between two railroads is often difficult and usually results in a higher tariff, which make short moves more expensive by rail. This circumstance has often resulted in shipping our grain to Houston and Galveston by truck which we would rather not do. Rail is the most effective way to move bulk agriculture commodity in a short period of time and serves to reduce highway congestion in the already congested Houston/Galveston area.


Should the H&GC be permitted to serve the ports of Houston, Galveston, and Texas City, we believe the short-line structure would allow the H&GC to effectively compete with

trucks and also offer the ability to service other customers at a lower rate and better service than currently provided by the UP.

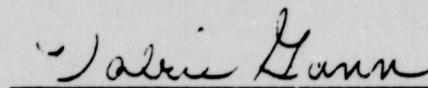
Conclusion

Mr. Kenneth Cotton's company the H&GC has done an excellent job providing us with rail service since 1995. The H&GC has shown an uncanny ability to solve a variety of problems and has the flexibility to provide us with rail service better than before 1995. In conclusion the H&GC should be permitted permanent access to the Houston/Galveston area providing lower freight rates and access to markets worldwide.

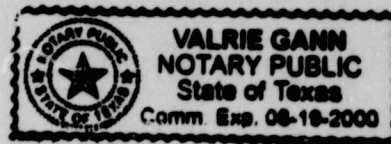
Sincerely,


Jimmy N. Roppolo
General Manager
Farmers Cooperative of El Campo

Subscribed and sworn to before me this 26 day of August, 1998


Notary Public

Commission Expires: 6-19-2000



BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 32760 (Sub-No. 31)

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

-- CONTROL AND MERGER --

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

[HOUSTON/GULF COAST OVERSIGHT]

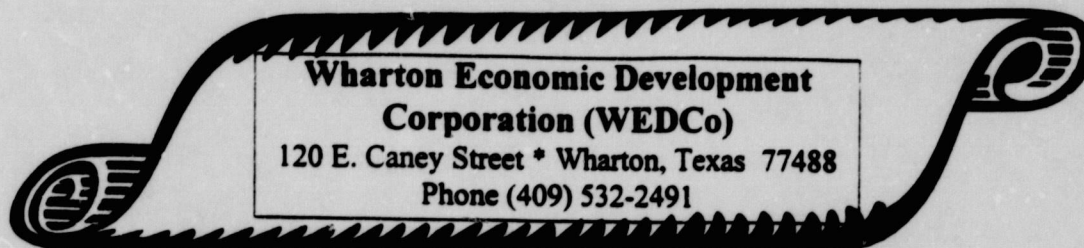
VERIFIED STATEMENT

OF

KENT HILL

President

Wharton Economic Development Corp.



August 21, 1998

To: Members, Surface Transportation Board

Dear Gentlemen:

Wharton Economic Development Corporation strongly supports Houston and Gulf Coast Railroads application for a direct connection via trackage rights on Union Pacific to connect directly with the BNSF at Rosenberg, Texas. We also urge favorable action on H & GC's request for trackage rights to Houston and Galveston.

Rail service is vital to the economic health of agriculture in Wharton County.

We need to expand availability of rail transportation if we are to grow economically.

Within the last 60 days, I have received four (4) inquires from manufacturing firms, located in the Northeastern U.S. who are interested in relocating to Wharton County.

Each of these firms needs rail for raw material shipments to their plants and for transporting finished goods.

Our board is dedicated to bringing new jobs and new industry to Wharton County. We desperately need adequate rail service. Thank you for your help in this matter.

Sincerely,

Kent Hill
President

Wharton Economic Development Corporation

Phone (409) 532-8550
Fax (409) 532-8948
Email wloocke@fbtc.com

BEFORE THE SURFACE TRANSPORTATION BOARD

STB Finance Docket No. 32760 (Sub-No. 31)

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

-- CONTROL AND MERGER --

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

[HOUSTON/GULF COAST OVERSIGHT]

VERIFIED STATEMENT

OF

LAURANCE H. ARMOUR, III

AND

WILLIAM E. LOOCKE

AND

RONALD D. WITTIG

VERIFIED STATEMENT

OF

LAURANCE H. ARMOUR, III

AND

WILLIAM E. LOOCKE

AND

RONALD D. WITTIG

Our names are Laurance Armour, III., William E. Loocke, and Ronald D. Wittig. We are, respectively, Presidents of B.U. International, Inc., Grain Belt, Inc., and Karuss, Inc. which are the General Partners of Coastal Warehouse, Ltd. Our business address is 602 N. Sunset Street, Wharton, Texas 77488.

Position of Coastal Warehouse, Ltd.

Coastal Warehouse, Ltd. is submitting this statement in support of the Houston and Gulf Coast Railroad's application for a direct connection via trackage rights on Union Pacific to connect directly with the BNSF at Rosenberg. We also support the H&GC receiving trackage rights to Houston and the H&GC's purchase of UP's line to Galveston.

Importance of Rail Service to Agriculture Interest

Coastal Warehouse, Ltd. has operated a 1.8 million bushel capacity country elevator since 1986 Which was under prior ownership since 1956. Coastal Warehouse, Ltd. is the only country elevator on rail within a 60 mile radius of Wharton that originates corn, grain sorghum, and soybeans from farmers and other country elevators in Wharton, Matagorda, Ft. Bend, Jackson, and Colorado Counties (Map1). This grain can move by rail to Mexico, U.S. Ports, and a variety of destinations in the United States. Farmers on the Texas Gulf Coast must have rail ability to move large amounts of grain during harvest since adequate storage is not available and trucks present problems of availability, safety, and rates. The five counties have maintained a five year average of 659,417 acres of farm land in production. Not only is rail needed to move large quantities of grain and cotton, but rail opens other markets for agriculture products not available by truck, the most recent market being the interior Mexico via the North American Free Trade Agreement (NATFA).

Our proximity to the port of Houston and Galveston make it important that we have reliable rail service to maintain access to world markets. When the distances are relatively short, the truck rate is often lower than the rail rate; however the reverse is true on longer distances. Negotiations of rate division between two railroads is often difficult and usually results in a higher tariff, which make short moves more expensive by rail. This circumstance has often resulted in shipping our grain to Houston and Galveston by truck


which we would rather not do. Rail is the most effective way to move bulk agriculture commodity in a short period of time and serves to reduce highway congestion in the already congested Houston/Galveston area.

Should the H&GC be permitted to serve the ports of Houston, Galveston, and Texas City, we believe the short-line structure would allow the H&GC to effectively compete with trucks and also offer the ability to service other customers at a lower rate and better service than currently provided by the UP.

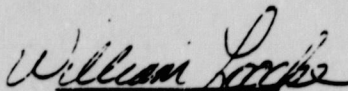
Conclusion

Mr. Kenneth Cotton's company the H&GC has done an excellent job providing us with rail service since 1995. The H&GC has shown an uncanny ability to solve a variety of problems and has the flexibility to provide us with rail service better than before 1995. In conclusion the H&GC should be permitted permanent access to the Houston/Galveston area providing lower freight rates and access to markets worldwide.

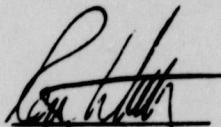
Sincerely,



Laurance H. Armour, III
President
B.U. International, Inc.

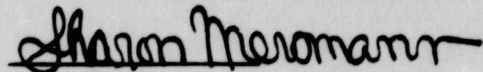


William E. Looke
President
Grain Belt, Inc.



Ronald D. Wittig.
President
Karuss, Inc.

Subscribed and sworn to before me this 17 day of August, 1998

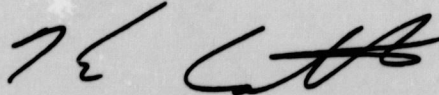


Notary Public

Commission Expires: 2-25-00

CERTIFICATE OF SERVICE

I verify that to the best of my knowledge and belief that the facts presented herein are true to the best of my knowledge and belief.

A handwritten signature in black ink, appearing to read 'KE COTTON', written in a cursive style.

KENNETH B. COTTON

HOUSTON AND GULF COAST RAILROAD
3203 AREBA
HOUSTON, TEXAS 77091

Sandra Brown
Troutman Sanders LLP
1300 I Street N.W.
Washington, D.C. 20005-3314

Re: Finance Docket No. 32760(sub-No. 31)

Sept. 4, 1998

Dear Ms. Brown:

By now you have received the majority of the operating plans for the application mentioned above.

Enclosed in this packet are:

- A. Resume of Kenneth B. Cotton:
- B. Financial information-un-audited
- C. Remainder of operating plan.

I hope you have all the information you need.

The H&GC is a proprietorship, with one owner, Kenneth B. Cotton.

The H&GC operates the South East International Railroad, which owns track from Wharton, Texas to a junction with the BNSF at Cane Junction, Texas.

H&GC currently leases a locomotive on an as needed basis from a locomotive leasing company.

H&GC had two part-time employees in train service. Track work was contracted out. Operations commenced July 1995 until present.

As I stated to you via phone conversation on September 2, 1998, I am willing to work with KCS/Tex Mex on helping to bring competition to the Houston area. If the STB grants my application, I am willing to allow Tex Mex/KCS freights overhead trackage rights, or will handle your traffic under a haulage agreement. I believe this is a good arrangement for both parties to make this work. This offer is extended until September 18, 1998.

Should you have any questions, please let me know.

Sincerely,



Kenneth B. Cotton

HOUSTON AND GULF COAST RAILROAD
INCOME STATEMENT (GROSS REVENUES)

1995- \$12,000
1996- \$42,000
1997- \$9,000.00
1998- \$4,000.00

RESUME

NAME: KENNETH B.COTTON

ADDRESS: 3203AREBA,HOUSTON,TEXAS 77091

EDUCATION: Graduated Eisenhower High School,Houston Texas; Attended Stephen F. Austin State University 1981-1983;Attended University of Houston 1983-1984 Graduated 1984 with degrees in Business Management and Accounting

WORK HISTORY

1981-1984; Texas State Railroad,Rusk Texas

Position: Brakeman- promoted to conductor 1983; responsible for safe operation of trains and engines on excursion railroad.

1984-1987: Galveston Wharves Railroad,Galveston Texas

Position: Switchman(promoted to engineer 1985) ;Responsible for switching of cars and operating locomotives

1987-1990: Anbel Incorporated, Houston Texas

Position: Operations Manager; Scheduled locomotives for routine maintenance and repair;responsible for federal compliance and rules instruction

1990-1993: Galveston Railway,Galveston Texas

Position: Locomotive Engineer;Operated locomotives in train service over several area railroads in and near Galveston, and also trained student engineers

1993-1994: Rio Valley Railroad,McAllen,Texas

Position: Operations Manager; Responsible for the supervision of railroad train employee training and discipline and customer relations; also responsible for locomotive maintenance and federal compliance

1994-1995: Texas North Orient Railroad and the Gulf,Colorado, and San Saba Railroads, Sweetwater and Brady,Texas

Position: Operations and General Manager; Responsible for the operation of 90 miles of railroad ; rules compliance and federal compliance,crew training, and

RESUME CONT.

scheduled maintenance of eight locomotives.

1995-Present: Houston and Gulf Coast Railroad, Houston Texas

Position: Chief Operatinf Officer

Operates South East International Railroad in Wharton, Texas. Duties include customer relations, operating trains, scheduling any needed maintenance along the right-of-way.

BAY CITY - ALGOA TRACKAGE RIGHTS

The H & GC requests trackage and switching rights over the Union Pacific to give the H&GC a "back door Connection to the BNSF at Algoa,as well as provide SIT shippers in Angleton and Freeport with a more cost- effective option to store their cars than the Union Pacific can currently provide.Angleton Yard continues to be beyond capacity,impeding through traffic on this line.Union Pacific's nearest storage site is at Lloyd Yard in Spring,potentially a two to three day trip over the Union Pacific. Those same cars would be clear of the U.P. yards and stored the same day.Once the cars have been released by the shipper after being stored in Wharton, the cars will be enroute within eight hours after being requested by the shipper to the connecting railroad of their choice.

The H&GC requests that the STB to set the trackage rights fees at 3.84 mills per car-mile.

This line is run,with the exception of locals,run directionally northbound; the H&GC would seek to operate with the current of traffic,and operating against it when necessary.

The H&GC anticipates operating one round trip per day Bay City- Algoa.

With these trackage rights in place.SIT traffic is moved to storage quicker,and available sooner to any railroad the shipper wishes to route his traffic.These are options currently not available under the oppressive boot of the Union Pacific.

VICTORIA-ROSENBERG (CONDITIONAL)

Should the STB force the UP to sell its Victoria-Rosenberg line, the H&GC requests trackage rights on this line, with the ability to serve all local customers.

This line is of interest to Tex Mex primarily to route its through traffic from Houston and points east down to Mexico. Currently, there is no track on the right-of-way south of Wharton, and it must be reconstructed to provide service there.

Local traffic will be the focus of the H&GC, and providing short-haul service to shippers to Houston and Galveston, as well as provide SIT capacity for UP customers at Bloomington and Seadrift by taking these cars from Victoria and storing them at Wharton.

One round trip per day would operate Victoria-Rosenberg; as traffic grows, a Victoria to Houston train would be added that would terminate at PTR's Manchester Yard. This would provide a lower-cost competitor to bring traffic between Victoria and Houston, and to provide necessary options for all rail customers.

The H&GC also requests that the STB set trackage rights compensation at 3.84 mills per car-mile

SIT STORAGE AND TRANSPORTATION

The Gulf Coast plastics and chemicals industry rely heavily on the ability to "warehouse" its products before they are sold; this ability allows them to maintain full production while having enough product to sell to its clients.

Storage-in-transit(SIT) facilities allow companies to keep products,usually plastic resins and some chemicals,ready to go as soon as the shipment is billed to its destination.

This system under the UP/SP merger has suffered from its inability to move loaded cars out to storage or destination,and spot the facilities with empty cars.These resultant failures have forced the plastic and chemical manufacturers to shut down and have cost the plastics industry hundreds of millions of dollars since the merger.

To add insult to injury,the UP controls all but one of the major SIT storage yards in the Houston/Gulf Coast area.During the implosion,moving plastic cars from plants to storage was measured in weeks,not days.The system congealed and collapsed under the weight.

In UP's week 40 report,the railroad admitted that there were more than 1,500 cars on its system destined for storage that they had no room for at its facilities.These cars are thereby taking up valuable yard space,causing delays to customers and setting up the recipe for continued disaster for its customers.

Also,plastic shipper are restricted from using what may be their carrier of choice because of a lack of neutral SIT facilities and the lack of room at rail-owned facilities.

The H&GC proposes a solution to this problem.The H&GC proposes to set up two sites for SIT storage: one near Bay City,Texas,to serve customers in the Bloomington,Angleton,and Victoria areas and one in Galveston to serve the Houston/Texas City area.The H&GC would pick up cars from the Class Ones at Victoria,Algoa,Rosenberg,and the PTRS in Houston and store them at the nearest facility.Plastic shippers could then bill and route their traffic on the carrier of their choice and not be bound by UP restraints on routing of cars.H&GC's neutral SIT yards would provide needed capacity in the Gulf Coast area,while providing plastic companies latitude in routing and pricing their products,while while providing accessibility to all rail carriers in the area.

Also with the institution of this plan,Tex Mex has no need to build its own storage and classification yard between Rosenberg and El Campo:it is already in existence and ready to serve in its described function.

Should the STB adopt the H&GC's plan,H&GC would immediately provide room for 300 cars near Bay City,and another 500 in Galveston,Texas.The Galveston and Bay City yards have the room to expand to cover another 2,000 cars,reaching a capacity of more than 3,000 cars.

The cost of providing these cars these extra two thousand cars of room in estimated at \$2.5 million dollars.In contrast,the UP wishes to construct a new SIT yard with 1,000 car capacity for \$23 million.This yard would be constructed in the already woefully congested Strang/Bayport area.This would cause wo other readily apparent problems;one,the yard would still be under UP control,and two,this enourmous cost would be passed on to the shipper,then down to the customer.

Providing a smooth link between producers and consumers is what a railroad is supposed to be about,and the H&GC is committed to that end.

To make that smooth link happen,the H&GC would make up the cars released by the customers and block them in the manner requested by the customer.Since much of this traffic moves to eastern connections,the H&GC would move cars to either Congress Yard

or PTRAs Manchester Yard to be picked up by the Class Ones. Occasionally, these trains may operate to other PTRAs yards or to the Class One facility. This would be determined by yard capacity and traffic patterns.

In using H&GC's operating plan, these cars stay out of Houston's busy yards and congestion, while providing a neutral facility so that shippers have a choice in the carrier that they use, and faster car cycle times to return empty cars faster and move loads through to their respective destinations..

STB fd 32760 (Sub 31) 8-28-98 D 190807

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Office of the Secretary

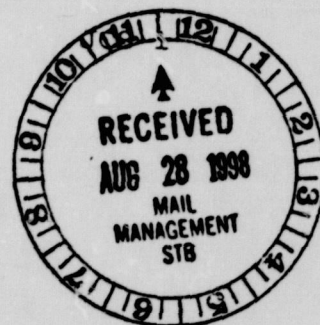
AUG 28 1998

Part of
Public Record

Before the

SURFACE TRANSPORTATION BOARD

ORIGINAL



Finance Docket No. 32760 (Sub-No. 26)^{1/}

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND
MISSOURI PACIFIC RAILROAD COMPANY--CONTROL AND MERGER--SOUTHERN
PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC TRANSPORTATION
COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP.,
AND THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY
[HOUSTON/GULF COAST OVERSIGHT]

NOTICE OF INTENT TO PARTICIPATE

Joseph C. Szabo,^{2/} for and on behalf of United Transporta-
tion Union-Illinois Legislative Board, gives notice of intent to
participate. 63 Fed. Reg. 42482-86. (August 7, 1998).

Gordon P. MacDougal
GORDON P. MacDOUGAL
1025 Connecticut Ave., N.W.
Washington DC 20036

Attorney for Joseph C. Szabo

August 28, 1998

^{1/}Embraces also Finance Docket No. 32760 (Sub-Nos. 27 thru 32).

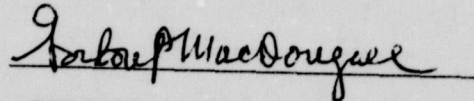
^{2/}Illinois Legislative Director for United Transportation Union,
with offices at 8 So. Michigan Avenue, Chicago, IL 60603.

CERTIFICATE OF SERVICE

I hereby certify I have served a copy of the foregoing upon the following in accordance with the decision served August 4, 1998 by first class mail postage-prepaid:

Arvid E. Roach II
Covington & Burling
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington DC 20044

Stephen Grossman, ALJ
Federal Energy Regulatory Comm.
888 First St., N.E.-#11F
Washington DC 20426



GORDON P. MacDOUGALL

Dated at
Washington DC
August 28, 1998

STB FD 32760 (Sub 31) 8-27-98 D 190765

AUG 28 1998

ARU-1

BEFORE THE
SURFACE TRANSPORTATION BOARD **Part of
Public Record**

Finance Docket No. 32760 (Sub-No. 26)
[and Sub. Nos. 27-31]

UNION PACIFIC CORP. et al.
--Control and Merger--
SOUTHERN PACIFIC RAIL CORP. et al.
[HOUSTON/GULF COAST OVERSIGHT]



NOTICE OF INTENT TO PARTICIPATE

Pursuant to the Board's Decision No. 6 in these proceedings, the Brotherhood of Railroad Signalmen; International Brotherhood of Boilermakers, Blacksmiths, Iron Ship Builders Blacksmiths Forgers and Helpers; National Council of Firemen and Oilers/SEIU; and Sheet Metal Workers International Association, give notice of their intention to participate in these proceedings through their counsel O'Donnell, Schwartz & Anderson. These organizations will participate together in this proceeding and they will be referred to collectively herein as the "Allied Rail Unions" or "ARU". Service of filings in this case on the ARU should be provided to Richard S. Edelman, Of Counsel, O'Donnell, Schwartz & Anderson, as counsel for the ARU.

Respectfully submitted,


Richard S. Edelman
Of Counsel
O'Donnell, Schwartz & Anderson
1900 L Street, N.W.
Suite 707
Washington, D.C. 20036
(202) 898-1824

August 27, 1998

CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served one copy of the foregoing Notice of Intent To Participate, by first-class mail, postage prepaid, to the offices of the parties on the official service list in this proceeding.

Dated at Washington, D.C. this 27th day of August, 1998.


Richard S. Edelman

STB FD-32760 (SUB31) 8-19-98 D ID-190598

LAW OFFICES
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1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
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FACSIMILE (202) 434-4646

25 RUE BLANCHE
B-1060 BRUSSELS
TELEPHONE 32(2) 541 05 70
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WILLIAM H. BORGHESANI, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELWRED
RICHARD J. LEIGHTON
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ROBBIE S. PITT
ELIZABETH N. HARRISON
JOHN S. RODGERS
CAROL MOORS TOTH
JOAN C. SYLVAIN
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NICOLE S. DONATH
DEBORAH ROSEN WHITE
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TODD A. HARRISON
JOHN F. FOLEY
ONYE RUSSELL EPPS
THOMAS C. BERGER
RACHIDA SEMAL
JOHN F.C. LUEZAE
KOMAL J. KERSHBERG
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MICHAEL C. HOCHMAN
JOHN B. O'LOUGHLIN JR.
JENNIFER A. GOLDSTEIN
DEVON WM. HILL
DANIEL QUINTART
DAVID CM. LASHWAY
TASHIR J. LEE
AMY E. FORTENBERRY

*NOT ADMITTED IN D.C.
*RESIDENT BRUSSELS

SCIENTIFIC STAFF

DANIEL S. DIXLER, Ph. D.
CHARLES V. BREDER, Ph. D.
ROBERT A. MATHEWS, Ph. D. D.A.B.T.
JOHN P. MODDERMAN, Ph. D.
(1944-1998)
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JANETTE HOUK, Ph. D.
LESTER BORODINSKY, Ph. D.
THOMAS C. BROWN
MICHAEL T. FLOOD, Ph. D.
ANDREW P. JOVANOVIICH, Ph. D.
ANNA GERGELY, Ph. D.
STEPHANIE M. CORBITT
JUSTIN J. FREDERICO, Ph. D.
RACHEL F. JOYNER
TELECOMMUNICATIONS
ENGINEER
RANDALL D. YOUNG
WRITERS DIRECT ACCESS

August 19, 1998

Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, NW, Room 700
Washington, DC 20423-0001

Re: Union Pacific Corp. — Control and Merger — Southern Pacific Rail Corp.
STB Finance Docket No. 32760 (Sub-Nos. 26-32)

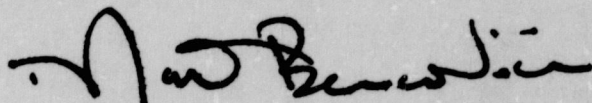
Dear Secretary Williams:

Pursuant to Decision No. 6 issued in the above-referenced matter, The Society of the Plastics Industry, Inc., hereby submits its Notice of Intent to Participate. Please include the undersigned on the service list in this proceeding, as follows:

Martin W. Bercovici
Keller and Heckman, LLP
1001 G Street, NW
Suite 500 West
Washington, DC 20001
Attorney for The Society of the Plastics Industry, Inc.

Copies of this letter are being served upon all parties on the service list to the Board's oversight proceeding.

Respectfully submitted,



Martin W. Bercovici
Attorney for The Society of the Plastics Industry, Inc.

AUG 19 1998

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(202) 434-4144
Bercovici@khlaw.com

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STB FD-32760 (SUB31) 8-13-98 D ID-190512

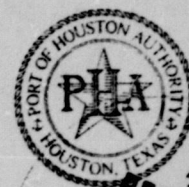
PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICES: 111 EAST LOOP NORTH • HOUSTON, TEXAS 77029-4327
MAILING ADDRESS: P.O. BOX 2562 • HOUSTON, TEXAS 77252-2562
TELEPHONE: (713) 670-2400 • FAX: (713) 670-2429

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August 10, 1998

Office of the Secretary
Case Control Unit

ATTN: STB Finance Docket No. 32760 (Sub-Nos. 27, 28, 29, 30, 31, 32)
Surface Transportation Board
1925 K Street, N.W.
Washington, DC 20423-0001

Dear Secretary Williams:

Sub 31

RE:

STB Finance Docket 32760 (Sub-No. 27) - 190508
Texas Mexican Railway Company & Kansas City Southern Railway
-- Construction Exemption --
Rail Line between Rosenberg and Victoria, TX

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 28) - 190509
Burlington Northern and Santa Fe Railway Company
-- Terminal Trackage Rights --
Texas Mexican Railway Company

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 29) - 190510
Burlington Northern and Santa Fe Railway Company
Application for Additional Remedial Conditions Regarding Houston/Gulf Coast Area

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 30) -190511
Texas Mexican Railway Company, et al.
Request for Adoption of Consensus Plan

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 31) -190512
Houston & Gulf Coast Railroad
Application for Trackage Rights and Forced Line Sales

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 32) -190513
Capital Metropolitan Transportation Authority
-- Responsive Application --
Interchange Rights

Notice of Intent to Participate

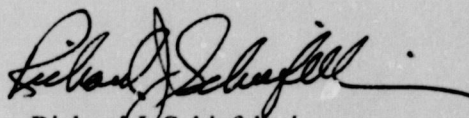
The Port of Houston Authority intends to participate in the above-captioned proceedings. Please include Richard J. Schiefelbein on the service list as a party of record representing the Port of Houston Authority, at the following address:

Richard J. Schiefelbein
Woodharbor Associates
7801 Woodharbor Drive
Fort Worth, Texas 76179-3047
Represents: Port of Houston Authority

Phone: 817-236-6841
Fax: 817-236-6842

An original and 20 copies of this filing are enclosed.

Respectfully submitted,


Richard J. Schiefelbein
For: Port of Houston Authority

STB FD-32760 (SUB31) 8-11-98 D ID-190470



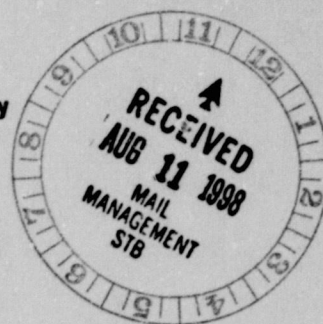
GREATER HOUSTON PARTNERSHIP
Chamber of Commerce • Economic Development • World Trade

August 10, 1998

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Office of the Secretary
Case Control Unit

ATTN: STB Finance Docket No. 32760 (Sub-Nos. 27,28,29,30, 32, 32)
Surface Transportation Board
1925 K. Street N.W.
Washington, DC 20423-0001

Dear Secretary Williams:

RE:

D

STB Finance Docket 32760 (Sub-No. 27)
Texas Mexican Railway Company & Kansas City Southern Railway
-- Construction Exemption --
Rail Line between Rosenberg and Victoria, TX.

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 28) - 190467
Burlington Northern and Santa Fe Railway Company
-- Terminal Trackage Rights --
Texas Mexican Railway Company

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 29)
Burlington Northern and Santa Fe Railway Company
Application for Additional Remedial Conditions Regarding Houston/Gulf Coast Area

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 30)
Texas Mexican Railway Company, et al.
Request for Adoption of Consensus Plan

Notice of Intent to Participate

August 10, 1998
Page 2

STB Finance Docket 32760 (Sub-No. 31)
Houston & Gulf Coast Railroad
Application for Trackage Rights and Forced Line Sales

Notice of Intent to Participate

STB Finance Docket 32760 (Sub-No. 32)
Capital Metropolitan Transportation Authority
-- Responsive Application --
Interchange Rights

Notice of Intent to Participate

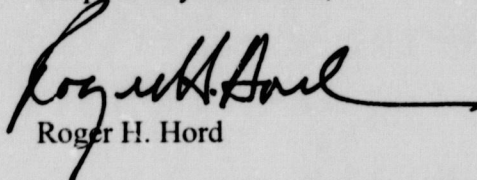
The Greater Houston Partnership intends to participate in the above-captioned proceedings. Please include Roger H. Hord on the service list as a party of record representing the Greater Houston Partnership at the following address:

Roger H. Hord
Greater Houston Partnership
1200 Smith, 7th Floor
Houston, Texas 77002

Phone: 713.844.3625
Fax: 713.844.0225

An original and 25 copies of this filing are enclosed.

Respectfully submitted,


Roger H. Hord

cc: Arvid E. Roach II, Esq., Covington & Burling
Judge Stephen Grossman, Federal Energy Regulatory Commission
Richard Allen, Zuckert, Scoutt & Rasenberger, L.L.P.

STB FD-32760 (SUB31) 8-11-98 D ID-190464

TROUTMAN SANDERS LLP

ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

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1300 I STREET, N.W.
SUITE 500 EAST

WASHINGTON, D.C. 20005-3314

TELEPHONE: 202-274-2950

FACSIMILE: 202-274-2994

william.mullins@troutmansanders.com

William A. Mullins

August 11, 1998

VIA HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Room 711
Washington, D.C. 20423

202-274-2953

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RE: STB Finance Docket No. 32760 (Sub-Nos. 26-32)

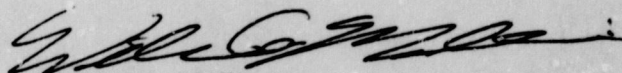
Dear Secretary Williams:

Pursuant to Decision No. 6 in the above-referenced docket, The Kansas City Southern Railway Company ("KCS") hereby submits its notice of intent to participate. Please place the following representatives of KCS on the official service list in this proceeding:

William A. Mullins
David C. Reeves
Sandra L. Brown
Ivor Heyman
Samantha J. Friedlander
Troutman Sanders, L.L.P.
1300 I Street, N.W., Suite 500 East
Washington, DC 20005-3314
Phone: (202) 274-2950
Fax: (202) 274-2994

Enclosed with this original are twenty-six additional copies. Please date and time stamp one copy for return to our office. Also included is a 3.5 inch diskette containing the text of this document.

Sincerely yours,



William A. Mullins
Attorney for The Kansas City
Southern Railway Company

cc: Robert K. Dreiling
Richard A. Allen
Parties of Record

STB FD-32760 (SUB31) 8-5-98 D ID-190395

LAW OFFICES

ZUCKERT, SCOUTT & RASENBERGER, L.L.P.

888 SEVENTEENTH STREET, N.W.
WASHINGTON, D.C. 20006-3939
TELEPHONE: (202) 298-8660
FACSIMILES: (202) 342-0683
(202) 342-1316



RICHARD A. ALLEN

August 4, 1998

VIA HAND DELIVERY

Vernon A. Williams
Secretary
Surface Transportation Board
Case Control Unit
1925 K Street, N.W.
Washington, D.C. 20423-0001

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**Re: Union Pacific Corp. -- Control and Merger - Southern Pacific Rail Corp.,
STB Finance Docket No. 32760 (Sub-Nos. 26 - 32)**

Dear Secretary Williams:

Sub 31

Pursuant to Decision No. 6 issued in the above-referenced docket, The Texas Mexican Railway Company ("Tex Mex") hereby submits its notice of intent to participate. Please place the following representatives of Tex Mex on the official service list in this proceeding:

Richard A. Allen
Scott M. Zimmerman
Zuckert, Scoutt & Rasenberger, L.L.P.
888 Seventeenth Street, N.W., Suite 600
Washington, DC 20006-3939

Copies of this letter are being served on all the representatives of all persons who have filed appearances in this proceeding, including UP's representatives.

Sincerely,

Richard A. Allen
Counsel to The Texas Mexican Railway
Company