STB FD 32760 4-2-96 D 62535

Item No. ________
Page Count 2
Apr #164

62535

STATE OF SOUTH DAKOTA
WILLIAM J. JANKLOW, GOVERNOR

RECEIVED
APR 2 1996
MAIL MANAGEMENT
I.C.C.

March 26, 1996

Mr. Vernon A. Williams
Surface Transportation Board
1201 Constitution Avenue NW, Room 1324
Washington, DC 20423

RE: Finance Docket No. 32760 - Union Pacific - Control Merger - Southern Pacific

Dear Secretary Williams:

Enclosed please find an original and 10 copies of my statement in support of the Union Pacific's application, made by the State of South Dakota.

Sincerely,

William J. Janklow

WJJ:jrr

Enclosures

ENTERED
Office of the Secretary
APR 4 1996
5 Part of Public Record

EXECUTIVE OFFICE
STATE CAPITOL
500 EAST CAPITOL
PIERRE, SOUTH DAKOTA
57501-5070
605-773-3212

STATE OF SOUTH DAKOTA
WILLIAM J. JANKLOW, GOVERNOR

RECEIVED APR 2 1996 MAIL MANAGEMENT I.C.C.

March 26, 1996

The Honorable Linda Morgan
Chairman, Surface Transportation Board
12th Street and Constitution Avenue NW
Washington, DC 20423

RE: Finance Docket No. 32760 - Union Pacific - Control Merger - Southern Pacific

Dear Chairman Morgan:

The State of South Dakota supports the merger application pending before the Surface Transportation Board that was filed by the Union Pacific and Southern Pacific Railroads.

Access to southern and western markets is critical to the success of South Dakota's agricultural, mining and timber industries. A revitalized railroad industry to serve these markets is of great importance to our state's economic development efforts.

The Union Pacific/Southern Pacific merger, coupled with the Union Pacific's proposed sale of the Colony Line to the Dakota, Minnesota and Eastern Railroad (DM&E) will expand DM&E's system and improve its efficiency. With the approval of both of these transactions, DM&E will have effective connections with Burlington Northern/Santa Fe at Crawford, Nebraska, and with the Union Pacific/Southern Pacific at Mason City, Iowa and Winona and Mankato, Minnesota. This opens up new markets for South Dakota businesses. Therefore, we believe this merger will have positive economic effects for the State of South Dakota.

The State of South Dakota urges the Board to approve the proposed merger of the Union Pacific and the Southern Pacific. Thank you for your consideration of our views and position.

Sincerely,

William J. Janklow

WJJ:mrw

EXECUTIVE OFFICE
STATE CAPITOL
500 EAST CAPITOL
PIERRE, SOUTH DAKOTA
57501-5070
605-773-3212

STB FD 32760 4-2-96 D 62532

Item No. ______

Page Count ___1___

Apr #161

[redacted]

62532

STATE of TEXAS
HOUSE of REPRESENTATIVES
AUSTIN

P.O. BOX 2910 AUSTIN, TEXAS 78768-2910 • 512-463-0628

Allen D. Place, Jr.
District 59
Gatesville, Texas

Committees:
Chairman,
Criminal Jurisprudence
Calendars
Ways and Means

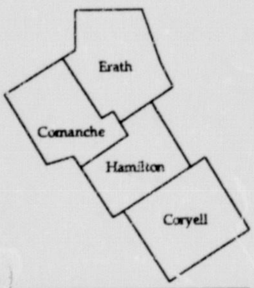
Gatesville:
109 South 7th Street
Gatesville, Texas 76528
817-865-7419

Copperas Cove:
901 South Main St.
Copperas Cove, Texas 76522
817-356-2466

Hamilton:
Hamilton County Courthouse
817-386-3815

Stephenville:
Erath County Courthouse
817-965-1452

Comanche:
Comanche County Courthouse
915-356-2456



DISTRICT 59

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Office of the Secretary
APR 4 1996
3 Part of Public Record

March 27, 1996

Hon. Vernon A. Williams, Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, DC 20423

RE: Finance Docket 32760

Dear Secretary Williams:

I remain concerned that the approval of the merger between the Union Pacific Railroad and Southern Pacific Lines will significantly reduce rail competition in Texas causing loss of employment opportunities, increased rates for Texas businesses, and a negative impact on our state's economy.

The counties that I represent have extensive agricultural interests and it is vital that rural rail service be preserved to insure a positive economic future for these and other rural counties. The proposed merger might result in the abandonment of important rail links that could diminish economic opportunity in rural Texas.

Texas needs another owning railroad, not a merger, to ensure effective rail competition. An owning railroad with control over the quality, timeliness, and reliability of service is the best solution for shippers, communities, and economic development officials. An owning railroad also offers the best opportunity to retain employment for railroad workers who would otherwise be displaced by the proposed merger.

Please consider these and other issues in your review of the proposed merger and I urge the Board to recommend an owning railroad as the only means to ensure adequate rail competition in Texas.

Sincerely,

Allen D. Place

Allen D. Place, Jr.

ADVISE OF ALL PROCEEDINGS

James Lampley, Legislation
Austin • 512-463-0628

Paul Gately, Administration
Gatesville 817-865-7419

STB FD 32760 4-2-96 D 62529

62529

Item No.

Page Count 4

Apr #158

LIQUID SUGARS, INC.

ENTERED
Office of the Secretary

APR 4 1996

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RECEIVED
APR 2 1996
MAIL
MANAGEMENT
I.C.C.

March 22, 1996

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 32760, Union Pacific Corporation, et al. - Control and Merger-Southern Pacific Rail Corporation, et. al.

Dear Sir:

I am writing this letter to express our support for the BN/Santa Fe Agreement with the UP/SP.

My name is Warren Mooney and I am Executive Vice President of Liquid Sugars, Inc. I have been employed with this firm since its conception in 1962.

Liquid Sugars, Inc., is a distributor of sweeteners. We have 14 plants located West of the Mississippi, and we rely almost entirely on rail service for incoming products.

We ship cars of sugar and corn syrup via rail into our plants from suppliers East of the Rockies and in the Northern Tier states.

We feel that this Settlement Agreement would benefit our company by moving our traffic in a more expeditious manner.

We see the Settlement Agreement as being beneficial to the shipping public, and therefore favor and support this agreement.

Very truly yours,

Warren D. Mooney
Executive Vice President

ADVISE OF ALL PROCEEDINGS

WDM/cc

ATTACHMENT II
Suggested Verified Shipper Statement Format

Introduction	**Reason for Letter = Support for BN/Santa Fe Agreement with UP/SP**
Identification/Introduction (Individual)	**Name/Title/Years with Company/Years with Industry/Duties at Company**
Identification/Introduction (Company)	**Name/Address/ Description/Size/Market Range/Common Shipments (type and number)**
Mode of Transport Taken in Past and Future	**Routes/Strictly Rail vs. Rail & Intermodal, Motor, and Water Transit / Volume / Tracks & Company(s) Used in the Past and expected after merger**
Statement of General Support	**Writer as Company Representative States Positive Reception for Settlement Agreement**
Specific Benefit for Company	**Description of Manner in Which Settlement Agreement Will Specifically Benefit the Writer's Company**
Descriptive Story	**Example (using typical company product) of Improvement/Benefit Expected as a Direct Result of the BN/Santa Fe agreement with UP/SP**
Conclusion	**Conclusion/Restatement of Support**
Verification	**Last Page/Verification/Notarized**

The verified statement must be notarized (preferably notarized) or contain the following declaration:

If executed inside the United States, its territories, possessions, or commonwealths:

"I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on this __ day of ______, 1996."

____

Shipper Signature

If executed outside the United States, its territories, possessions, or commonwealths:

"I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this __ day of ______, 1996."

____
Shipper Signature

The verified statement of support should be addressed to and mailed directly to:

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th & Constitution Ave., N.W.
Washington, D.C. 20423

and should reference the merger proceeding as:

Finance Docket No. 32760, Union Pacific Corporation, et. al.--Control and Merger--Southern Pacific Rail Corporation, et. al.

A copy of the verified statement should be sent to:

Roberta R. Lund
Special Project Coordinator
Law & Government Affairs Department
3800 Continental Plaza
777 Main Street
Fort Worth, Texas 76102-5384
817-333-5020 FAX
817-333-6101

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

No. 5907

State of California

County of Alameda

On March 22, 1996 (DATE) before me, Barbara F. Blank (NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"),

personally appeared Warren D. Mooney (NAME(S) OF SIGNER(S)),

☒ personally known to me - **OR** - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

HRE1 BARBARA F. BLANK COMM. # 967278 NOTARY PUBLIC-CALIFORNIA ALAMEDA COUNTY My Comm. Exp. June 29, 1996 HRE1

WITNESS my hand and official seal.

Barbara F. Blank

SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL

☒ CORPORATE OFFICER

Executive Vice President

TITLE(S)

☐ PARTNER(S) ☐ LIMITED ☐ GENERAL

☐ ATTORNEY-IN-FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER: ____________

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

Liquid Sugars, Inc

DESCRIPTION OF ATTACHED DOCUMENT

Letter to Vernon A. Williams Surface Transportation Board

TITLE OR TYPE OF DOCUMENT

1

NUMBER OF PAGES

3-22-96

DATE OF DOCUMENT

____

SIGNER(S) OTHER THAN NAMED ABOVE

STB FD 32760 4-2-96 D 62528

Item. No. ____________

Page Count 1

Apr #157

62528

March 26, 1996

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Office of the Secretary

APR 4 1996

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I.C.C.

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
12th Street & Constitution Avenue
Washington, DC 20423

Re: Proposed Union Pacific & Southern Pacific Railroad merger; Finance Docket 32760

Dear Sirs:

Please accept this letter as my formal objection to the proposed merger of the Union Pacific and Southern Pacific Railroads. The proposed merger effectively eliminates competition in the rail industry, thereby effecting a monopoly for the transportation of goods and materials throughout the State of Texas. Under no circumstances would industry, or the general public be better off if the merger as proposed succeeds.

Our laws and regulations should be formulated to foster and encourage more competition, not less. Please consider this when making your final decisions concerning the proposed merger.

Thank you for your attention to this matter.

Sincerely,

Steven Trent Lovett

Steven Trent Lovett

ADVISE OF ALL PROCEEDINGS

S. T. Lovett & Associates

REAL ESTATE VALUATIONS AND BROKERAGE SERVICES
3600 Lovett Lane, College Station, Texas 77845
Tel: 409/774-4339

STB FD 32760 4-2-96 D 62527

Item No. ______________________

Page Count 2 ______________________
Apr #156

62527

CHARLIE F. HOWARD

P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0710

INTERNET:
CHARLES.HOWARD@CAPITOL.TLC.TEXAS.GOV

THE STATE OF TEXAS

DISTRICT 26:
ONE SUGAR CREEK BLVD., STE. 300
SUGAR LAND, TEXAS 77478
(713) 565-9500

The State of Texas
House of Representatives

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APR 12 1996
MAIL MANAGEMENT
I.C.C.

March 25, 1996

Nº 960325-11

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
12th St & Constitution Ave
Washington, DC 20423

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

RE: Finance Docket 32760

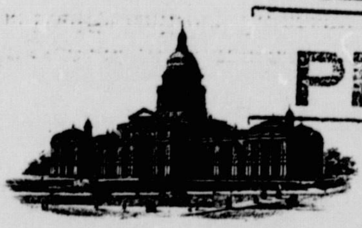
Secretary Williams:

I write to you today regarding the above referenced application which concerns the proposed merger between the Union Pacific Railroad Company and Southern Pacific Lines. I am opposed to the application because of concerns that the merger would significantly reduce rail competition in Texas.

As proposed, the merger would grant UP control over 90% of rail traffic into and out of Mexico 70% of the petrochemical shipments from the Texas Gulf Coast, and 86% of the plastics storage capacity in the Texas/Louisiana Gulf Region. Acknowledging that the merger would greatly reduce rail competition, UP has proposed a trackage rights agreement with Burlington Northern-Santa Fe as the solution. However, for several reasons, a trackage rights agreement simply does not solve the problem.

Texas needs another owning railroad, not another merger to ensure effective rail competition. An owning railroad willing to provide quality service and investment is the best solution for shippers, communities and economic development. An owning railroad also offers the best opportunity to retain employment for railroad workers who would otherwise be displaced.

ADVISE OF ALL PROCEEDINGS



I urge the Board to carefully review the proposed UP/SP merger and to recommend an owning railroad as the only means to ensure adequate rail competition in Texas.

Serving you,

Charlie Howard

Charlie F. Howard
State Representative, District 26
CFH/pmp

cc: Carole Keeton Rylander, Chairman
Railroad Commission of Texas
1701 North Congress Ave.
Austin, TX 78711-2967

STB FD 32760 4-2-96 D 62526

Item No. ______

Page Count 2

Apr #155

CC2524

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APR 4 1996
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I.C.C.

March 27, 1996

The Honorable Vernon Williams
Office of the Secretary
Surface Transportation Board
Room 2215
Washington, DC 20423

RE: Union Pacific / Southern Pacific proposed merger
Finance Docket #32760

ADVISE OF ALL PROCEEDINGS

Dear Secretary Williams:

I have a strong interest in maintaining the best transportation options for our growing area and it has been called to my attention that our local transportation authority, Capital Metro, is planning passenger rail service that would intersect with the applicant's freight service at the McNeil interchange. I understand that Capital Metro is seeking to reach an agreement with the applicants for conditions that would ensure safe & efficient passenger service at this interchange, as well as a relevent segment of the Giddings to Llano line.

Though the outcome of these negotiations is not clear, and without taking a position on the proposed merger itself, I urge you take whatever actions are necessary to help ensure safe & efficient passenger service in these locations.

I understand that this rather unusual issue may require some unusual actions for a speedy and beneficial resolution. I assure you you and your Board's efforts will be greatfully appreciated.

Thank you,

Ben Heimsath

Chair, Citizen's Planning Committee

605 Brazos, Suite 100
Austin, Texas 78751

cc: Michael Bolton, Capital Metro

STB FD 32760 4-2-96 D 62525

Item No.: ___
Page Count 1
Apr #.154

62525

TINA M. KARKOSKA
2467 SUNDANCE ROAD
NAVASOTA, TEXAS 77868

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MAIL MANAGEMENT
I.C.C.

March 26, 1996

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, DC 20423

Re: Finance Docket 32760

Honorable Williams:

I am opposed to the Union Pacific/Southern Pacific merger. I feel that Texas will suffer, not only with rising prices in our chemical, food and agricultural products, but many hard working Texans will loose their jobs.

This monopoly on rail traffic will do more harm than good. Texas is a great place to live and work and it should always be. **Don't mess with Texas!**

Sincerely,

Tina M. Karkoska

Tina M. Karkoska

tmk

cc: Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

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Office of the Secretary
APR 4 1996
3 Part of Public Record

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62524

62524

Item No.

BRIA

Page Count 1

Apr #153

DISTRICT OFFICE:
4145 Falling Water Drive
Reno, Nevada 89509
Office: (702) 746-5209
Fax No.: (702) 746-2557

LEGISLATIVE BUILDING:
401 S. Carson Street
Carson City, Nevada 89710
Office: (702) 687-3587 or 687-5739
Fax No.: (702) 687-5952

COMMITTEES:
Vice Chairman
Judiciary
Member
Taxation
Natural Resources
Labor and Management

State of Nevada
Assembly
Sixty-Eighth Session

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APR 4 1996
3 Part of Public Record

March 28, 1996

Mr. Vernon Williams
Secretary
Surface Transportation Board
12th & Constitution Avenue, NW
Washington, D.C. 20423

Dear Secretary Williams:

Previously, on December 19, 1995, I sent you a letter expressing my support for the proposed merger of the Union Pacific and Southern Pacific railroads. I continue to support the merger, but with some qualifications.

Since my letter of support, I have become aware of concerns expressed by citizens and local government should the merger gain approval. These concerns include: 1) a daily increase in the number of trains through Reno; 2) the potential increase of hazardous materials transported through the city; 3) the increase in surface traffic delays throughout the city; and 4) potential delays in public safety response time if rail traffic increases.

Please keep these concerns in mind in your decision-making regarding the proposed merger. Thank you for your attention and consideration.

Very truly yours,

B Sandoval

Brian Sandoval

BES\jc

ADVISE OF ALL
PR... ...NGS

STB FD 32760 4-2-96 D 62522

Item No. ______

62522

Page Count 1 .
Apr # 151.

LEIGH E. HERINGTON
28th District

Ohio Senate
Senate Building
Columbus, Ohio 43215
(614) 466-7041
1-800-282-0253

District Office
1495 Lake Martin Drive
Kent, Ohio 44240
(216) 677-4771

Committees
Energy Natural Resources and Environment
Ranking Minority Member
Education and Retirement
Ways and Means

F-D 32760

March 7, 1996

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Office of the Secretary
APR 4 1996
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APR 12 1996
MAIL MANAGEMENT
I.C.C.

The Honorable Vernon Williams
ICC Secretary
12th Street & Constitution Avenue
Washington, D.C., 20423

Dear Secretary Williams:

As someone who represents working families and consumers, I am concerned about the proposed Union Pacific-Southern Pacific merger. I do not believe it is in the public interest for the following reasons:

1. I believe it would result in unnecessary layoffs and job losses among the affected railroad workers;

2. It would weaken Northeast Ohio's economy by weakening eastern and midwestern railroads, and threatening industrial jobs here;

3. By concentrating so many resources, it could negatively affect prices and service-potentially hurting area families at the market and in the workplace;

We therefore find that the merger is not in the public interest, and ask that it be disallowed by the Surface Transportation Board.

Sincerely,

Leigh E Herington

LEIGH E. HERINGTON
State Senator-28th District

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62521

Item No. ____________

Page Count 1

Apr #150

62521

Springfield, Illinois 62706
217/782-0491

District Office:
3331 Chicago Road
Steger, Illinois 60475
708/754-2609
FAX: 708/754-5801

Flora Ciarlo
STATE REPRESENTATIVE • 80TH DISTRICT

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Office of the Secretary
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Public Record

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APR 2 1996
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MANAGEMENT
I.C.C.

March 26, 1996

Mr. Vernon Williams
Secretary
Surface Transportation Board
12th Street and Constitution Avenue, NW
Washington, DC 20423

RE: Finance Docket 32760 - Union Pacific/Southern Pacific

Dear Mr. Williams:

My name is Flora Ciarlo. I am a member of the Illinois General Assembly.

The purpose of this letter is to formally advise you that I support the Union Pacific and Southern Pacific merger.

Sincerely,

Flora Ciarlo
State Representative
80th District

FC:cc

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62520

Item No. ____________.

62520

Page Count 2

Apr # 149

The State of Texas
House of Representatives
Austin, Texas

Mary Denny
State Representative
District 63

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Capitol Office:
P.O. Box 2910
Austin TX 78768-2910
512-463-0688
District Office:
416 W. University Drive
Suite 200
Denton, TX 76201
817-565-0083
1-800-371-6179

March 28, 1996

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, DC 20423

RE:Finance Docket 32760

Dear Secretary Williams:

I am writing in regard to an application pending before you that seeks approval of a merger between the Union Pacific Railroad Company (UP) and Southern Pacific Lines (SP). I am very concerned that the merger of these two railroads will significantly reduce rail competition in Texas, seriously impacting Texas businesses and our State's economy.

As proposed, the merger would grant UP control over a reported 90% of rail traffic into and out of Mexico, 70% of the petrochemical shipments from the Texas Gulf Coast, and 86% of the plastics storage capacity in the Texas/Louisiana Gulf Region. UP acknowledges that the merger would greatly reduce rail competition and has proposed a tracking rights agreement with the Burlington Northern-Santa Fe (BNSF) as the solution.

A tracking rights agreement, however, simply does not solve the problem. Owners of rail lines have incentives to invest in the track and to work with local communities to attract economic development. Owners have control over the service they provide--its frequency, its reliability, its timeliness. None of these things can be said about railroads that operate on someone else's tracks subject to someone else's control.

Texas needs another owning railroad, not another merger, to ensure effective rail competition. An owning railroad willing to provide quality service and investment is the best solution for shippers, communities and economic development officials. An owning railroad also offers the best opportunity to retain employment for railroad workers who would otherwise be displaced by the proposed merger.

PART OF ALL PROCEEDINGS

For all of these reasons I urge the Board to carefully review the proposed UP/SP merger and to recommend an owning railroad as the only means to ensure adequate rail competition in Texas.

Sincerely,

Mary Denny

Mary Denny

MD/bf

cc: Carole Keeton Rylander, Chairman
Railroad Commission of Texas
1701 North Congress Avenue
P.O. Box 12967
Austin, Texas 78711-2967

STB FD 32760 4-2-96 D 62519

Supports Tex-Mex

Georgia-Pacific Corporation
133 Peachtree Street NE (30303)
P.O. Box 105605
Atlanta, Georgia 30348-5605
Telephone (404) 652-4000

Item No. 62519

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April 148

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March 26, 1996

Mr. Vernon Williams
Surface Transportation Board
Room 3315
12TH and Constitution, N.W.
Washingon, D.C. 20423-001

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Office of the Secretary
APR 4 1996
3 Part of Public Record

Re: Finance Docket No. 32760, Union Pacific Corp., et al.
Control & Merger-- Southern Pacific Rail Corp., et al.

Dear Mr. Williams:

My name is Clark Handy, and I am Sr. Manager-Transportation Negotiations for Georgia-Pacific Corporation. In this capacity, I negotiate rail transportation for G-P's 14 papermills and 39 boxplants. Georgia-Pacific is one of the world's largest forest products companies with annual revenues of over 13 billion dollars. Annually, we ship over one hundred thousand tons of pulp and paper into Mexico by rail through the Eagle Pass and Laredo gateways.

Georgia-Pacific Corporation has a strong interest in competitive rail transportation between the United States and Mexico. The Laredo/Nuevo Laredo gateway is the primary route for shipments between the two countries for the majority of international traffic. This gateway possesses the strongest infrastructure of customs brokers. It also provides the shortest routing between major Mexican industrial and population centers and the Midwest and Eastern United States.

Our company depends on competition to keep prices down and to spur improvements in products and services. For many years Union Pacific and Southern Pacific have competed for our traffic via Laredo, resulting in substantial cost savings and a number of service innovations. TexMex has been Southern Pacific's partner in reaching Laredo in competition with Union Pacific, as Southern Pacific does not reach Laredo directly.

The merger of Union Pacific and Southern Pacific, as currently proposed will reduce, if not eliminate, our competitive alternatives via the Laredo gateway. Although these railroads have recently agreed to give certain trackage rights to the new Burlington Northern Santa Fe Railroad, we do not believe the BNSF, as the only other major rail system remaining in the Western United States, will be a competitive alternative on this important route.

I understand there is an alternative that will preserve effective competition for my traffic. TexMex has indicated a willingness to connect with other carriers via trackage rights to provide efficient competitive routes. Trackage rights operating in such a way as to allow TexMex to be truly competitive are essential to maintain the competition at Laredo that would be lost in the current merger proposal. Thus I urge the Surface Transportation Board to alter the current merger proposal with a grant of trackage rights via efficient routes between Corpus Christi and these connecting railroads.

Economical access to international trade routes should not be jeopardized when the future prosperity of both countries depends so strongly on international trade.

Yours truly,

Clark D. Handy

Clark D. Handy
Senior Manager, Transportation Negotiations
Pulp & Paper Logistics

cc: The Texas Mexican Railway Company

STB FD 32760 4-2-96 D 62518

62518

MO-AG

FD 32760

Item No.________________

Page Count 1

Apr #147

March 28, 1996

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Office of the Secretary
APR 4 1996
3 Part of Public Record

Mr. Vernon A. Williams
Secretary, Surface Transportation Board
Room 1324
1201 Constitution Avenue, NW
Washington, D.C. 20423

Dear Mr. Williams:

The Missouri Ag Industries Council (Mo-Ag) would like to voice its concern over the proposed Union Pacific Railroad merger with Southern Pacific Railroad. Mo-Ag represents over 600 agribusinesses in the state of Missouri, many of whom would be detrimentally affected if this proposed merger were to take place.

Our members, particularly those in the grain business, have expressed deep concern over the loss of competition in the rail shipping industry. A rail merger of this magnitude does nothing but contribute to the unwelcome trend away from time-honored competition. Higher freight costs for our industry will result. Just as important is the documented decline in the quality of service such rail mergers foist on captive customers.

Our members urge the members of the Surface Transportation Board to support healthy market developments and to oppose damaging mergers that hinder competition like the one involving Union Pacific and Southern Pacific. Our members see a third competitive carrier (that has access to the UP-SP areas of operation where competition will cease) as the only viable alternative to the proposed merger. Kansas City Southern is one such acceptable alternative.

We appreciate the Board's attention to this important matter facing Missouri agribusiness.

ADVISE OF ALL PROCEEDINGS

Sincerely,

Rich Coffman
Chairman, Transportation Committee

MISSOURI AG INDUSTRIES COUNCIL, INC.
P.O. Box 1728, Jefferson City, Missouri 65102
Telephone: (573) 636-6130 Fax: (573) 636-3299

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STB FD 32760 4-2-96 D 62517

Item No. ______

Page Count 1

City of Ea Apr #146

62517

P.O. BOX 377 • PHONE AC 903 896-4448
EDGEWOOD, TEXAS 75117

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Office of the Secretary
APR 4 1996
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APR 2 1996
MAIL MANAGEMENT I.C.C.

March 29, 1996

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Room 1324
Twelfth Street & Constitution Avenue N.W.
Washington, D.C. 20423

RE: Finance Docket No. 32760, Union Pacific Corporation, et al -- Control & Merger - Southern Pacific Rail Corporation, et al

Dear Mr. Williams:

The City of Edgewood supports the proposed merger of the Union Pacific and Southern Pacific railroads. This merger will provide several benefits to this area, primarily more reliable rail service to many destinations for our shippers and increased rail competition throughout Texas.

Following the merger, shippers served by UP will have access to new single-line service across the old Texas and Pacific line to El Paso and Southern Pacific's Southern Corridor to California. This new access will give shippers better access to California markets.

Better service access will be made possible to locations served by the Southern Pacific, including points in Louisiana, Arkansas, Colorado, Utah, and Oregon. Service from Texas to Memphis, St. Louis, Chicago, and other northern destinations could also improve due to Union Pacific-Southern Pacific plans to coordinate terminals, the ability to choose either rail line for Northbound traffic, and the ability to pre-block traffic.

The Union Pacific-Southern Pacific merger will complement the Burlington Northern-Santa Fe connection which is already providing additional service options, including interchanges with Mexican railroads and border crossings. Free trade, authorized by NAFTA and other agreements, is made more possible by the transportation infrastructure to move goods and services. This merger will therefore help promote free trade in practice rather than just in theory.

Through greater competition following the merger, Union Pacific will have the opportunity to do a better job serving customers throughout Texas. Many thanks for your approval of the merger.

Sincerely,

Finis Skinner Jr.

Finis Skinner, Jr.
Mayor
The City of Edgewood

ADVISE OF ALL PROCEEDINGS

FS/ts

STB FD 32760 4-2-96 D 62516

Item No. 32260 62516

Page Count 2

Apr #145

Leadville, Colorado & Southern

Railroad Company

The Honorable Vernon A. Williams
Secretary Surface Transportation Board
Case Control Branch
12th St. and Constitution Ave. NW
Washington, DC 20423

To make the decision between the UP and SP the board has been charged to take into consideration Public Policy. Congress views this as something more than what the ICC was doing before and the new board should formulate standards of Public Policy. These standards should be more than economic. This country does stand for more than whatever the traffic will bare and we are only hear for our shareholders.

The United States government first determined Public Policy concerning railroads as establishing railroad corridors. Although full of graft, corruption, fraud and mismanagement the policy itself is unassailable causing to be built a transcontinental railroad network.

Later on with the establishing of the ICC additional Public Policies were made including maintaining rail corridors, providing equal opportunity for shippers and valuing safety. These policies are equally unassailable but did result in bureaucracies in government, railroad corporations and railroad labor that faced competition by running away and closing down departments rather than trying to compete. Thus the railroads gave up postage, passengers, small parcels, than large and now would only like to have large continuous car lots. Government has gone along and encouraged this and heavily subsidized highways and airports, and let the railroads do as they pleased protecting them and rebuilding them in the wartime. Labor has spent its time job classifications and 37 unions rather than worry about doing a good safe job.

In looking at Public Policy other industries should be reviewed When applying for an award of excellence in industry, the UP was told to compare itself to other companies such as UPS, not just other railroads. The deregulation of the communication industry is already resulting in the large companies wanting to cut back unprofitable area and only keep what they want. This is not Public Policy. The major way of stopping this is requiring access by small companies. Large corporations are only interested in large accounts, they loose the ability to provide service. Public Policy must allow access to large networks to small business who can and wish to compete and provide service in smaller lots.

Thus public Policy should require:

1. Maintaining rail corridors for transportation. This still must be foremost in light of the extreme difficulty in expanding our highway or railway corridors.

2. Providing access to shippers of all different sizes.

3. Safety must be addressed but neither the corporations, labor unions or government is doing this.

4. Access must be made available in expanding greatly the idea and availability of track age rights.

P.O. Box 916 • Leadville, CO 80461 • (719) 486-3936

In applying theses standards to the UP-SP merger than the merger should only be allowed if there are no abandonments, and major trackage rights are provided on all railroads.

Stephanie Shaw Olsen
President
Leadville, Colorado & Southern Railroad

STB FD 32760 4-2-96 D 62515

Item No. ____________

Page Count 1

Apr # 144

62515

HOUSE OF REPRESENTATIVES
STATE OF UTAH

Item No.

REP. GRANT D. PROTZMAN
Assistant Minority Whip
7TH DISTRICT
(WEBER COUNTY)
575 EAST 3073 NORTH
NORTH OGDEN, UTAH 84404
RES 782-6616 / BUS 626-6886

HOUSE OF REPRESENTATIVES STATE OF UTAH

COMMITTEES EDUCATION, EXECUTIVE APPROPRIATIONS, GENERAL GOVERNMENT AND CAPITAL FACILITIES APPROPRIATIONS

March 27, 1996

RECEIVED APR 2 1996 MAIL MANAGEMENT I.C.C.

Vernon A. Williams, Secretary
Surface Transportation Board
Room 1324
Twelfth Street & Constitution Avenue NW
Washington, DC 20423

ENTERED
Office of the Secretary
APR 4 1996
Part of Public Record

Re: UP/SP pending merger

Dear Secretary Williams:

Thank you for this opportunity to comment on the above merger. As you know this process has taken years and originally there were many objections to the proposal. Here in Utah those objections were voiced most strongly by Utah shippers fearful of being left with only one class I railroad. There were fears of an inability to negotiate favorable pricing which could so negatively impact our coal export industry and as a result our state's economy.

I feel that there has been a genuine effort to address these vital concerns and that the agreements which emerged subsequent to long negotiations should satisfy most of those involved. As a result of these understandings I now strongly support the proposed merger.

It is important to protect jobs and true competition but it is also vital to acknowledge that many of the changes we are seeing in the railroad industry are necessary to keep it viable in the long run. I believe this merger offers the potential for improvement in Utah's railroad service picture and even offers a potential for enhancement of the mass transit options in our metropolitan area.

Sincerely,

Grant D. Protzman

Grant D. Protzman

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62514

Item No.____________

Page Count___1_____

Apr #143

62514

Ponderosa Products Inc.

P.O. Box 25506 • 1701 Bellamah, N.W. • Albuquerque, NM 87125
800-444-9185 • 505-843-7400 • FAX 505-247-3877

RECEIVED
APR 2 1996
MAIL MANAGEMENT
I.C.C.

March 28, 1996

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th St. & Constitution Ave. NW
Washington, DC 20423

Re: Finance Docket No. 32760, Union Pacific Corp., ET. Al-Control and Merger-Southern Pacific Rail Corp, ET. AL.

We feel that should the merger between the UP and SP Railroad be approved.

The agreement reached between the BN/Santa Fe and the UP/SP must be imposed as a condition of the merger.

"I declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed this ___28th___ day of ___March___ 1996

R H Goodman
Signature

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

Sincerely,

R H Goodman

Richard Goodman
Traffic Manager

cc: Ms. Roberta R. Lund
Special Project Coordinator
Law & Government Affairs Dept.
3800 Continental Plaza
777 Main St. Suite 3800
Fort Worth, TX 76102-5384

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D. 62513

Item No. ____________

Page Count 1

Apr # 142

62513

LAKEWOOD OHIO

CITY OF HOMES
LAKEWOOD OHIO

12650 DETROIT AVENUE • 44107 •••• 216/521-7580

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March 28, 1996

ENTERED
Office of the Secretary
APR 4 1996
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Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th Street & Constitution Avenue
Washington, D.C. 20423

Dear Secretary Williams:

As someone who represents working families and consumers, I am concerned about the proposed Union Pacific-Southern Pacific merger. I do not believe it is in the public interest for the following reasons:

1. I believe it would result in unnecessary layoffs and job losses among the affected railroad workers;

2. It would weaken Northeast Ohio's economy by weakening eastern and midwestern railroads, and threatening industrial jobs here; and

3. By concentrating so many resources, it could negatively affect prices and service - potentially hurting area families at the market and in the workplace.

Therefore, I find that the merger is not in the public interest, and ask that it be disallowed by the Surface Transportation Board.

Sincerely,

Bryan Flannery

Bryan Flannery
Council At Large
City of Lakewood

ADVISE OF ALL PROCEEDINGS

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STB FD 32760 4-2-96 D 62512

Item No: D 72760

Page Count 1

Apr #141.

62512

GLEN MAXEY
HOUSE OF REPRESENTATIVES
DISTRICT 51

RECEIVED APR 2 1996 MAIL MANAGEMENT I.C.C.

March 25, 1996

The Honorable Vernon Williams
Office of the Secretary
Surface Transportation Board
Room 2215
Washington, DC 204423

Re: Union Pacific/Southern Pacific Proposed Merger

ADVISE OF ALL PROCEEDINGS

Dear Secretary Williams:

Regarding the proposed merger of the Union Pacific and Southern Pacific railroads ("the Applicants"), Capital Metropolitan Transportation Authority ("Capital Metro") has brought to my attention that its planned passenger rail service will intersect with the applicant's freight service at the McNeil interchange. Currently, passenger rail service would intersect with Union Pacific at the interchange. I understand that Capital Metro is seeking through a responsive application to the proposed merger, conditions that would help to ensure safe and efficient passenger service at McNeil and over the relevant segment of the Giddings to Llano line. I understand further that Capital Metro, in addition to participating in the merger proceeding, is concurrently seeking to reach an agreement with the Applicants, but that the outcome of such negotiations is unclear.

I urge you to take whatever actions are available to you to help ensure safety and efficiency at those locations where passenger service will intersect or share track with freight service. The proposed merger provides a forum to address this critical issue and I urge you not to allow this opportunity to pass.

Given that Capital Metro has no contracts in place that provide an alternative means for ensuring safety and efficiency where passenger and freight rail will intersect or share tract, Capital Metro's issues regarding the McNeil interchange and passenger service over the Giddings to Llano line present a unique need for whatever assistance the Board can provide to facilitate safe and effective passenger transport.

Sincerely,

Glen Maxey

Glen Maxey
State Representative

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Office of the Secretary
APR 4 1996
3 Part of Public Record

P. O. Box 2910
Austin, TX 78768-2910
(512) 463-0552
Fax # (512) 463-5896

E-mail: Glen.Maxey@Capitol.TLC.Texas.Gov

E2.602
Captol Extension
Austin, Texas 78701

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STB FD 32760 4-2-96 D 62511

Item No. ____________

Page Count 3

Apr #140

62511

Office of the Mayor

J. Mark Lawler

120 East Eighth Street • P.O. Box 2100 • Anderson, IN 46018 • 317 / 646-9600

THE CITY OF
ANDERSON

March 26, 1996

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

RECEIVED
APR 2 1996
MAIL MANAGEMENT
I.C.C.

Honorable Vernon A. Williams, Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue
Washington, D.C. 20423

RE: **Finance Docket 32760**

Dear Secretary Williams:

I am extremely concerned about the competitive aspects on local and regional businesses as a result of the proposed acquisition of the Southern Pacific Lines (SP) by the Union Pacific Railroad (UP). While I am familiar with the proposed agreement between Union Pacific and the Burlington Northern-Santa Fe (BNSF), which is intended to remedy those effects, I am not persuaded that this arrangement will produce effective competition for rail traffic in the Mid-South region of the United States. Specifically, I have grave concerns about recent developments in our community and central Indiana involving industrial parks with rail service which might be negatively impacted by the UP-BNSF proposal.

I have reviewed Conrail's proposal to acquire a significant portion of the eastern lines of SP in connection with the merger, especially the lines running from Chicago and St. Louis, to Arkansas, Texas, and Louisiana. The Conrail proposal is far more appropriate and effective in addressing the above noted concerns, specifically in regard to trade carried over land. The Conrail proposal calls for ownership of the lines, whereas the UP-BNSF agreement mainly involves the granting of trackage right. I believe that trackage rights provide only limited benefits and limited guarantees which can be easily lost if railroads disagree over whose traffic has priority and who is in charge of operations of the line. Further, it is my belief that rail ownership is a far better position than a renter to encourage economic development activities on its lines.

Another reason to look favorably upon the Conrail proposal is the fact that it would provide more efficient service for rail customers in our area for movement of goods and raw materials to and from the Mid-South and Texas Gulf. The Conrail proposal would provide the fastest, one-line service to these markets; it also would be the most direct route involving the fewest car handlings.

I am very worried about the recent trend of rail mergers in the United States. This trend seems to be leading our nation toward a few large railroads, thus further limiting competition and reducing productivity. The further reduction in competition limits our ability to be

ADVISE OF AL
PROCEEDING

competitive economically as a region. For all the reasons stated above, I am actively opposing the Union Pacific-Southern Pacific merger at the ICC unless it is conditioned upon acceptance of the Conrail proposal.

I would like to thank you for consideration of my opinion on this important matter. I look forward to your favorable decision in regard to the Conrail position. Should you have any questions, please do not hesitate to contact me at (317) 646-9600.

Sincerely,

J. Mark Lawler

J. Mark Lawler, Mayor
City of Anderson

cc: David M. Levan, Conrail, President & CEO

Conrail Offers To Acquire Southern Pacific's Eastern Lines From Union Pacific

For some time, Conrail has been in discussions with Union Pacific Corp., with a view to acquiring the eastern lines of Southern Pacific in connection with UP's proposed acquisition of the entire SP system. On Monday morning September 25, Conrail made a written offer to UP for these lines. Conrail's ownership and operation of these lines in the Mid-South and Gulf Coast would overcome concerns raised by customers and the Department of Justice regarding the merger of the two lines in that region.

How do customers benefit from Conrail's proposal to own and operate the eastern lines of Southern Pacific?

It addresses the competitive concerns identified by customers and the Justice Department – and acknowledged by UP-SP – by:

- *Maintaining a competitive rail transportation market in the Mid-South and Gulf Coast through an owning railroad, rather than a tenant (i.e. trackage rights, haulage)*
- *Bringing efficient service to customers*
- *Preserving rail lines, facilities and jobs in the region*
- *Enhancing economic and business development options and opportunities*

What lines would Conrail purchase?

Lines from Chicago, through St. Louis, to Galveston and Brownsville, and lines that run west from New Orleans to El Paso. Points served include: Arkansas: Little Rock, Pine Bluff; Illinois: Chicago, Springfield; Louisiana: Lafayette, Lake Charles, New Orleans; Missouri: St. Louis; Tennessee: Memphis; Texas: Beaumont, Brownsville, Dallas, El Paso, Fort Worth, Galveston, Houston, Port Arthur, San Antonio. Conrail would serve Mexican gateways through ownership (Brownsville and Eagle Pass) and trackage rights (Laredo).

What does Conrail offer shippers?

No railroad has had more success than Conrail in taking congested, inefficient railroads and turning them into a highly efficient, customer-focused operation. Conrail is prepared to invest substantially in track maintenance, new locomotives and other rolling stock. Additional capital investments would be made to rehabilitate shops, build strategically-located locomotive fueling/service facilities, and add storage yard capacity.

Moreover, Conrail would have a long-term commitment and perspective on the market with:

- *Incentives and resources to provide capacity increases*
- *The ability to work with customers and communities on their industrial development decisions and help them pursue new market opportunities*

Why should UP accept Conrail's proposal?

This is a fair offer, responding to what customers have told us they want, and it will succeed with their support.

Would Conrail enter the Mexican market?

If Conrail purchases SP East, it would access Mexico via the Texas-Mexican Railway at Laredo and directly at Brownsville and El Paso.

STB FD 32760 4-2-96 D 62510

Item No. ___
Page Count 1
Apr #139

62510

3-26-96

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

The Honorable
Vernon A. Williams,
I would like to express my opinion on the merger of Union Pacific and Southern Pacific. It will cost jobs and cut down on competition. We hope that you will oppose the merger.

Sincerly
W. J. & Valoris Taylor

ADVISE OF ALL PROCEEDINGS

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STB FD 32760 4-2-96 D 62509

Item No.

Page Count 1

Apt #138

62509

March 30, 1996

Dear Honorable William
Secretary of Surface Transportation Board.

In reference "Finance Docket 32760"
I am for rail competition in Texas. I belive if the Union Pacific and Southern Pacific merge that jobs will be lost. My concern is for jobs first. Please voice my opinion in favor of rail competition in Texas. This is for the best interest for Texas.

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

Thank you,
Ralph J. Savoie
2738-12th St.
Port Neches, Texas 77651

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PROCEEDING

STB FD 32760 4-2-96 D 62508

Item No. ________

Page Count 1

Apr #137

62508

MISSOURI SOYBEAN ASSOCIATION

P.O. Box 104778, Jefferson City, MO 65110-4778
Phone: 314/635-3819 FAX: 314/635-5122

March 29, 1996

FD 32760

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

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MAIL MANAGEMENT
I.C.C.

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
Room 1324
1201 Constitution Ave., NW
Washington, D.C. 20423

Dear Mr. Williams:

The Missouri Soybean Association (MSA) is concerned over the proposed Union Pacific Railroad merger with Southern Pacific Railroad. The MSA is composed of over 1,700 soybean producers and supporters throughout Missouri who would be dramatically impacted if this proposed merger is permitted.

Missouri's soybean industry contributes nearly one billion dollars to the economy each year. We support healthy market developments, but feel mergers like the one proposed by Union Pacific and Southern Pacific limit competition and will be a detriment to our industry. Without the element of competition higher freight costs and lower quality rail service will result.

Competition is a vital force in America's economy. It guarantees we get, and sell, the highest quality products at the most economical rates. If the two railroads are permitted to merge, especially with the current confusion and conflict over the Missouri River's Preferred Master Manual, we are concerned the lack of competition could stifle our industry and Missouri's economy.

Our members urge you to oppose damaging mergers that hinder competition like the one involving Union Pacific and Southern Pacific.

We appreciate your help in resolving this concern to Missouri's soybean industry.

Sincerely,

John Letzig

John Letzig
President

ADVISE OF ALL PROCEEDINGS

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Item No.

Page Count 3

Apr #136

62507

MERCED COUNTY

ADMINISTRATIVE DEPARTMENT

2222 "M" STREET • MERCED, CALIFORNIA 95340 • TELEPHONE (209)385-7637 • FAX (209) 385-7375

MERCED 1855 COUNTY

FD 32760

RECEIVED APR 2 1996 MAIL MANAGEMENT I.C.C.

CLARK G. CHANNING
County Administrator

March 28, 1996

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Office of the Secretary
APR 4 1996
3 Part of Public Record

Honorable Vernon Williams, Chairman
U.S. Surface Transportation Board
1324 - 12th Street and Constitution Avenue NW
Washington, D.C. 20423

Dear Honorable Williams:

Enclosed is a resolution adopted by the Merced County Board of Supervisors on March 26, 1996, endorsing the merger of Union Pacific Railroad and Southern Pacific Railroad. A copy of this letter and resolution has also been provided, as requested, to the California Public Utilities Commission.

Sincerely,

Bev Morse

Beverly Morse,
Deputy County Administrator

mds

ADVISE OF ALL PROCEEDINGS

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF MERCED, STATE OF CALIFORNIA

In the matter of

PROPOSED MERGER OF UNION PACIFIC AND SOUTHERN PACIFIC RAILROADS	***RESOLUTION NO.*** 96-61

WHEREAS, the proposed merger of the Union Pacific and Southern Pacific Railroads enhances transportation capabilities for freight into and out of Merced County; and

WHEREAS, Union Pacific Railroad has pledged to replace rails and make other trackage improvements; and

WHEREAS, upgrading what is now the Southern Pacific main line through Merced County has been a long-sought objective from both the private and public sectors; and

WHEREAS, the combined railroads will substantially improve routing opportunities through the Sierra Nevada range; and

WHEREAS, the Union Pacific Railroad is engaged with the County of San Joaquin in a pioneering effort to provide passenger rail service over Altamont Pass; and

WHEREAS, Stanislaus County has expressed interest in joining into the forthcoming passenger rail link over Altamont Pass to the San Francisco Bay Area; and

WHEREAS, with the advent of such service there is the potential for extension over the years into Merced County through downtown Merced; and

WHEREAS, the potential for such passenger service along the current Southern Pacific tracks would afford an opportunity for rail passenger use of the restored Southern Pacific station in Central Merced; and

WHEREAS, the Union Pacific Railroad has pledged to invest more than $349 million in California's freight and passenger service infrastructure; and

WHEREAS, the Union Pacific Railroad has expressed a major interest in restoring "hot shot" express shipments of Merced County agricultural products to the East Coast; and

WHEREAS, the Union Pacific Railroad has pledged to provide access to tracks over the Tehachapi Pass that would provide linkage on an experimental basis to Los Angeles for some Amtrak trains traveling through Merced County.

NOW THEREFORE BE IT RESOLVED, that the Merced County Board of Supervisors hereby endorses the proposed merger on Union Pacific Railroad with Southern Pacific Railroad, currently pending consideration before the U.S. Surface Transportation Board.

I, CLARK G. CHANNING, Clerk of the Board of Supervisors of the County of Merced, do hereby certify that the foregoing resolution was regularly introduced, passed and adopted by said Board at a regular meeting thereof held on 26th day of March, 1996, by the following vote:

SUPERVISORS:

AYES: Gloria Cortez Keene, Bruce J. Gabriault, Joe Rivero, Deidre F. Kelsey, Jerry O'Banion

NOES: None

ABSENT: None

WITNESS my hand and the seal of this Board this 26th day of March, 1996.

CLARK G. CHANNING, Clerk

By Christine Kelis Bellucomini
Deputy

STB FD 32760 4-2-96 D 62506

Item No. ______________

Page Count 1 32760

Apr #135

62506

MAJORITY FLOOR LEADER

COMMITTEES:

Chairman
Finance

Vice Chairman
Legislative Affairs and Operations

Member
Government Affairs

DISTRICT OFFICE:
P.O. Box 281
Reno, Nevada 89504-0281
Office: (702) 786-5000
Fax No.: (702) 323-8534

LEGISLATIVE BUILDING:
401 S. Carson Street
Carson City, Nevada 89710
Office: 687-5742
Fax No.: (702) 687-8206

State of Nevada
Senate

SENT BY FAX
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I.C.C.

March 28, 1996

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

Vernon Williams, Secretary
Surface Transportation Board
12th & Constitution Ave., NW
Washington, D. C. 20423

Dear Secretary Williams:

I have previously sent you a letter expressing my support for the proposed merger of the Union Pacific and Southern Pacific railroads. I continue to support the merger.

However, since my letter of support, concerns have been expressed about the potential impacts on the City of Reno should the merger be approved. Some of these concerns are: (1) a daily increase in the number of trains through Reno, (2) the potential increase of hazardous materials transport, (3) the increase in surface traffic delays through downtown Reno at numerous grade crossings, and (4) the potential delay in public safety response if rail traffic increases.

Therefore, in analyzing whether to approve this merger, please take these enumerated concerns of the City of Reno into account.

Sincerely,

William J. Raggio
Senate Majority Leader

WJR:lh

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62505

Item No. ____________
Page Count 4
Apr #134

62505

1110 MINEOTA DRIVE
SILT, COLORADO 81652
PHONE/FAX (970) 876-5397
bcollins@csn.net

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Office of the Secretary
APR 4 1996
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March 25, 1996

RE: STB Finance Docket No. 32760, Union Pacific Corporation et. al. -- Control and Merger -- Southern Pacific Corporation et. al.

The Honorable Vernon A. Williams, Secretary
United States Surface Transportation Board
12th & Constitution Ave. NW
Washington, DC 20423

ADVISE OF ALL PROCEEDINGS

Dear Sir:

I am a natural resource consultant in western Colorado, specializing in coal and industrial mineral exploration, development, and transportation. I represent clients in various capacities, not all including transportation, that nevertheless currently ship up to 2,000,000 tons of these materials on the Southern Pacific, and these and other clients with potential future shipping capacity of up to 5,000,000 tons of coal, limestone and processed lime, gypsum-related products, and other mineral commodities. Although several of my clients have expressed concerned about the proposed merger of the Union Pacific and Southern Pacific, I need to stress that the opinions contained herein are my own and not necessarily those of my clients.

I am very concerned about the future of rail service in western Colorado and eastern Utah, and with this service the future of my clients' operations. I can see nothing positive coming out of the proposed acquisition of the Southern Pacific by the Union Pacific for this region, and indeed am convinced that if this transaction is approved as currently proposed there will be no rail service at all in this area within ten years.

My concerns are as follows:

1. Coal production from western and northwestern Colorado and eastern Utah has increased significantly since 1990, in large part because of imaginative rate-making by the Southern Pacific, which has shown an intense interest in this business. Examples are back-haul arrangements, which have benefited both east- and westbound coal (backhauls involving iron ore in the first case, imported coke in the second), transloading agreements on the Mississippi, and so on. Union Pacific ratemaking, on the other hand, has a reputation for being entirely rate-of-return based, with no particular effort by the carrier to encourage either new or existing business that does not meet rate-of-return criteria (this is not criticism, just a statement of apparently-different management philosophies).

Moreover, much of the coal moving east from western and northwestern Colorado and eastern Utah competes directly with coal from the Powder River Basin in Wyoming. The Union Pacific, both by itself and particularly through the recently-acquired Chicago & Northwestern, has a tremendous investment in the Powder River Basin but only a small one in the Denver - Provo route in question (less than 5% of the purchase price on a purely per-mile basis). It only makes sense that UP will not be very interested in aggressive rate-making for coal from western Colorado and eastern Utah in order to compete with itself.

While I fervently hope I am wrong, I believe that as current agreements expire, rate increases will be demanded by the merged UP/SP that will result in the closing or drastic curtailment of virtually all the mines currently served by the Southern Pacific alone. I do not know the details of the recent agreement between UP and the Utah Railway, specifically whether or not it will allow the Utah to compete for business from the North Fork Valley mines of Colorado; at least for eastbound movements, which constitute the vast majority of this business, it doesn't much matter anyway, since interchange would be required at Grand Junction and joint rates with the UP a necessity. There is nothing I've seen in the agreements with the Burlington Northern Santa Fe that would lead me to believe that BNSF will be allowed to compete for any of this business, but in any case the same argument applies only more so: BNSF has a huge investment in the Powder River Basin, and would have little interest in competing with itself.

2. Much the same can be said of coal traffic from northwestern Colorado, on the so-called Moffat line. In addition, there is considerable pressure on Public Service Company of Colorado to convert its Denver-area plants from coal to natural gas. These plants burn approximately 6 million tons of coal a year, most of which comes from northwest Colorado mines. Increased freight rates would erode if not eliminate the price advantage this coal has over natural gas, I understand being one of the main reasons the utility is resisting the proposed change.

3. UP/SP has announced its intention to abandon the Tennessee Pass route of SP's existing Central Corridor. This is the route of most of SP's current eastbound coal traffic (perhaps portending as outlined above the great diminishment if not complete loss of that business), as well as SP's freight traffic to the Midwest and South, including double-stack container traffic from San Francisco - Oakland to these areas; the latter appears to be quite variable and has been non-existent in the last few months, at least during daylight hours.

   UP/SP has also announced the granting of trackage rights to BNSF from Denver to Provo via the "surviving" Moffat Tunnel route, and on to Oakland via the Donner Pass route. However, I cannot conceive of a situation in which BNSF would want to move a single car via this route. Such traffic as currently exists travels almost exclusively via SP, and presumably would travel through Wyoming on the merged railroad, the Wyoming route being faster. The only potential use to BNSF would be for intermodal freight to and from Omaha, Lincoln, and other upper Midwest areas now served by BNSF not directly accessible via BNSF's fast routes through Kansas to California. BUT the Moffat Tunnel route has over 40 tunnels, including the 6.8-mile Moffat Tunnel itself, that lack clearance for double-stack container traffic. Thus, without the ability to compete for on-line traffic, and probably with little interest in doing so anyway, the rights granted to BNSF will probably have little if any impact.

4. UP/SP has stated in merger documents that ultimately it will shift virtually all current through freight from the SP Central Corridor through Utah and Colorado to the UP main line in Wyoming. One through freight (Denver - Grand Junction - Salt Lake City) and whatever local movements that would be required to serve on-line customers (other than coal these are few, with low carloading rates) will remain, in addition to coal traffic. Even with a possible-but-unlikely single BNSF train each way each day, it is likely that the line will be significantly downgraded, with (for example) the removal of every other siding and possibly even signaling. With such probable downgrading the loss of current daily Amtrak service within only a year or two becomes almost certain, as speed limits will as a result be substantially reduced.

It seems clear from the above that with the almost-certain loss of coal traffic over a five- to ten-year period there would be only one or two through train a day each way, plus very light local traffic. It does not take rocket science to figure out that this is insufficient to justify the maintenance of 700 miles of difficult mountain railroad. The result could easily be the complete abandonment of rail service west of Denver and Pueblo and east of Helper, Utah, within ten years.

I do not necessarily oppose the acquisition of the Southern Pacific by the Union Pacific. However I do urge the STB to impose conditions that would preserve rail transportation in the western Colorado - eastern Utah area. This can be accomplished in several ways, among them:

1. Require sale of the lines requested to the Montana Rail Link group. This would appear to result in the best assurance of future rail transportation in this area. It would also create a third major rail system in the West, and in so doing preserve a much wider range of competition. Or,

2. Require sale of the entire Denver & Rio Grande Western portion of the SP Central Corridor, together with the existing line between Pueblo, Colorado, and Herrington, Kansas and trackage rights from Herrington to Kansas City and from Provo to Oakland, to the highest bidder. UP/SP could retain trackage rights over any or all of the D&RGW portion if desired. Or,

3. Require that rate escalation for current shippers on the affected routes not exceed the increase in the CPI for industrial commodities for a period of no less than 25 years.

In addition, the UP/SP should be prohibited from removing any track, signals, or other infrastructure required for continued or resumed operation, from the line between Dotsero and Pueblo, Colorado, and preferably from Pueblo to Herrington, Kansas, as well, for a period of five years from the effective date of the merger, or until the route is sold in its entirety for the purpose of operation, whichever is later. This is a vital rail link in a portion of Colorado that is only now experiencing the beginnings of potentially explosive growth. To sever this artery now without sufficient time to determine that there is indeed no potential for future rail service is ludicrous.

I urge you to take the most aggressive actions legally possible to preserve and enhance railroad competition in the West in general, and in particular to preserve rail service to western Colorado and eastern Utah, which without such action appears to be in grave danger of extinction.

Thank you for the opportunity to comment.

Very truly yours,

Bruce A. Collins, Ph.D.

STB FD 32760 4-2-96 D 62504

Item No.

Page Count 1

Apr #133

62504

UNITED CO-OP, INC.

COOP

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Office of the Secretary
APR 4 1996
3 Part of Public Record

March 27, 1996

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th Str. & Constitution Ave. NW
Washington, D.C. 20423

My name is Jay s. Larson, General Manager of United Coop, Inc., located at Hampton, Nebraska.

United Coop, Inc. is a full service grain marketing and agricultural supply cooperative. We ship grain by rail out of five locations, two on the Burlington Northern and three sites on the Union Pacific Railroad.

United Coop sales volume will amount to approximately twenty million bushels annually with 90% of that by means of rail.

United Coop is also a member of the NIK organization, a group of thirty cooperatives associations in Nebraska, Iowa, and Minnesota that work together coordinating our transportation needs.

United Coop supports the Union Pacific merger, however we are concerned about certain competitive problems, and we feel that BN-Santa Fe is the railroad with the expertise to handle these problems set forth in Finance Docket 32760. Therefore Finance Docket 32760 Union Pacific Corporation and Southern Pacific Rail Corporation merger.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 27th of March, 1996.

Jay S. Larson

Jay S. Larson
General Manager

ADVISE OF ALL PROCEEDINGS

General Offices
at
Hampton, NE
P.O. Box 127,
Hampton, NE
68843-0127
725-3131

Watts
800-245-4430
Fax 725-3231

BRANCHES
IN
Polk, NE
765-2201

Hordville, NE
757-3251

Marquette, NE
854-3379

STB FD 32760 4-2-96 D 62503

62503

Item No. ____________

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Apr # 132

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MAIL MANAGEMENT
I.C.C.

The Senate of The State of Texas

Michael Galloway
District 4

Committees
Health and Human Services
Intergovernmental Relations
State Affairs

P.O. Box 12068
Austin, Texas 78711
512/463-0104
FAX 512/463-6373
TDD: 512/475-3758

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

March 29, 1996

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, DC 20423

RE: Finance Docket 32760

Dear Secretary Williams:

I am writing in regard to an application pending before you that seeks approval of a merger between the Union Pacific Railroad Company (UP) and Southern Pacific Lines (SP). I am very concerned that the merger of these two railroads will significantly reduce rail competition in Texas, seriously impacting Texas businesses and our State's economy.

As proposed, the merger would grant UP control over a reported 90% of rail traffic into and out of Mexico, 70% of the petrochemical shipments from the Texas Gulf Coast, and 86% of the plastics storage capacity in the Texas/Louisiana Gulf Region. UP acknowledges that the merger would greatly reduce rail competition and has proposed a trackage rights agreement with the Burlington Northern-Santa Fe (BNSF) as a solution.

A trackage rights agreement, however, simply does not solve the problem. Owners of rail lines have incentives to invest in the track and to work with local communities to attract economic development. Owners have control over the service they provide--its frequency, its reliability, its timeliness. None of these things can be said about railroads that operate on someone else's tracks, subject to someone else's control.

ADVISE OF ALL PROCEEDINGS

2300 Hwy. 365, Ste. 630
Nederland, Texas 77627
409/724-6726
FAX 409/724-7586

1400 Woodloch Forest Dr., Ste. 530
The Woodlands, Texas 77380
713/363-8673
FAX 713/298-2606

Texas needs another owning railroad, not another merger, to ensure effective rail competition. An owning railroad willing to provide quality service and investment is the best solution for shippers, communities and economic development officials. An owning railroad also offers the best opportunity to retain employment for railroad workers who would otherwise be displaced by the proposed merger.

For all of these reasons I urge the Board to carefully review the proposed UP/SP merger and to recommend an owning railroad as the only means to ensure adequate rail competition in Texas.

Sincerely,

Michael Galloway

MG/drm

cc: Carole Keeton Rylander, Chairman-Railroad Commission of Texas
Barry Williamson, Commissioner-Railroad Commission of Texas
Charles Matthews, Commissioner-Railroad Commission of Texas

STB FD 32760 4-2-96 D 62502

Item No.

Page Count 1

Apr #131

62502

Warren Chisum
STATE REPRESENTATIVE

House of Representatives

DISTRICT OFFICE:
P.O. BOX 2061
PAMPA, TEXAS 79066-2061
(806) 665-3552

AUSTIN OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0736

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Office of the Secretary
APR 4 1996
3 Part of Public Record

March 27, 1996

The Honorable Vernon A. Williams, Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, DC 20423

RE: Finance Docket 32760

Dear Secretary Williams,

Like many Texans, I am concerned over the proposed merger between Union Pacific Railroad Company and the Southern Pacific Lines. I believe that the merger would limit competition and be detrimental to the economic situation of the state of Texas. I trust that by now you have also seen the Weinstein and Perryman Group reports. Both provide statistics that show the harm that will come to Texas' economy in the event of the railroad merger.

Areas of special concern are the severely limited access to Mexico through a single city, and the shipping of oil and gas products from the Gulf Coast. Texas is poised to be a hub of international trade, and limits to our transport capability would be a serious drawback to any trade coming through the state.

I do not see that the issue of competition has been adequately addressed in the proposal. The interests of a healthy economy, business, and the free market are being compromised by this planned merger.

Please take these concerns into account and approve the **request for conditions** that I and my colleagues in the Legislature support.

Sincerely,

Warren Chisum

Warren Chisum,
State Representative

WC/lh

ADVISE OF ALL PROCEEDINGS

District 88: Carson, Childress, Collingsworth, Dallam, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Ochiltree, Roberts, Sherman, Wheeler

STB FD 32760 4-2-96 D 62501

Item No.________

Page Count 1

Apr #130

62501

The State of Texas
House of Representatives

Kyle Janek
DISTRICT 134

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CAPITOL OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0748
800-445-2635
FAX: 512-495-9603

DISTRICT OFFICE:
7737 SOUTHWEST FRWY., SUITE 325
HOUSTON, TEXAS 77074
713-272-8929
FAX: 713-272-8956

March 22, 1996

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
12th Street & Constitution Avenue
Washington, D.C. 20423

re: Finance Docket 32760

Dear Secretary Williams:

I am writing in regards to an application pending before you that seeks approval of a merger between the Union Pacific Railroad Company (UP) and Southern Pacific Lines (SP). I urge the Board to carefully review this proposed merger, as I believe it would have a detrimental effect on rail competition and the economy of the State of Texas.

For the following reasons, I am concerned that the merger of these two railroads will significantly reduce rail competition in Texas. As proposed, the merger would grant UP control over a reported 90% of rail traffic into and out of Mexico, 70% of the petrochemical shipments from the Texas Gulf Coast, and 86% of the plastics storage capacity in the Texas/Louisiana Gulf Region.

UP acknowledges that the merger would reduce rail competition and has proposed a trackage rights agreement with the Burlington Northern-Santa Fe (BNSF) as the solution. A trackage rights agreement, however, simply does not solve the problem. Owners have control over the service they provide -- its frequency, its reliability, its timeliness. None of these things can be said about railroads that operate on someone's tracks, subject to someone else's control.

Texas needs another owning railroad, not another merger, to ensure effective rail competition. An owning railroad willing to provide quality service and investment is the best solution for shippers, workers, and communities.

Sincerely,

Kyle Janek

Kyle Janek

ADVISE OF ALL PROCEEDINGS

COMMITTEES:
PUBLIC HEALTH, BUSINESS & INDUSTRY

STB FD 32760 4-2-96 D 62500

Item No. ____

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Agt # 129

62500

WYO-BEN, INC.

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APR 4 1996
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March 29, 1996

FD 32760

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th & Constitution Ave., N.W.
Washington, D.C. 20423

Dear Sir:

Subject: Finance Docket No. 32760, Union Pacific Corporation, et. al.-Control and Merger Southern Pacific Rail Corporation, et. al.

This letter is being sent for support of the Burlington Northern/Santa Fe Agreement with Union Pacific/Southern Pacific.

My name is Harry R. Funk, Vice-President of Marketing. I have been employed with Wyo-Ben, Inc. for 39 years and am responsible for traffic management. In addition, I initiate all the sales in the drilling mud industry.

Wyo-Ben, Inc. produces bentonite which is shipped worldwide in bulk or sack form. Carloads are shipped daily to our customers within in the United States and Canada, some to ports for export. Shipments originate on the Burlington Northern Railway as our plants are located there. The Burlington Northern/Santa Fe merger allows us direct routes into some customer locations.

In conclusion, this is our support for the Burlington Northern/Santa Fe agreement with Union Pacific/Southern Pacific.

"I declare under penalty of perjury that the foregoing is true and correct. Executed on this 29th day of March, 1996."

Harry R Funk

Harry R. Funk
Vice-President Marketing

ADVISE OF ALL PROCEEDINGS

HRF/dls

cc: Roberta R. Lund, Special Project Coordinator
Law & Government Affairs Department
3800 Continental Plaza 777 Main Street
Fort Worth, Texas 76102-5384

STB FD 32760 4-2-96 D 62499

Item-No. ______________

Page Count 1

Apr #128

62499

RANS
LOAD
LIMITED, INC.

Service is our only business

3433 35TH STREET NORTH • BIRMINGHAM, ALABAMA 35207 • 205-849-6938

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March 27, 1996

ENTERED
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APR 4 1996
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Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th St & Constitution Ave NW
Washington DC 20423

Reference: Finance Docket No. 32760, Union Pacific Corporation, et. al.--Control and Merger--Southern Pacific Rail Corporation, et.al.

If the Board approves the UP/SP merger, Trans Load Limited, Inc. favors and supports the settlement agreement among BN/SF and UP/SP as the complete and sufficient remedy for the loss of competition in the markets that would otherwise lose access to a second rail carrier as a result of the UP/SP merger.

"I declare (or certify, verify or state) under penalty of perjury that the forgoing is true and correct. Executed this 27th day of MARCH, 1996."

[signature]
Your signature

[signature]

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62497

62497

Item No.____________

Page Count 1

Apr #126

1200 Shakespeare
Missoula, Montana 59802
(406) 728-9543

March 27, 1996

The Honorable Vernon A. Williams
Secretary Surface Transportation Board
Case Control Branch
12th St. and Constitution Ave., NW
Washington, D.C. 20423

Dear Secretary Williams,

Our company is one of the largest beer wholesalers in Montana with over $10 million in revenue. All our products are shipped to us from the Seattle/Portland area, Fort Collins, CO, or Southern California and almost 70% is shipped by railroad.

We have just learned that the Union Pacific has petitioned to acquire the Southern Pacific System. We realize that consolidation is happening in many industries, including our own, and believe there are probably several advantages. However, it is our understanding that competition will be virtually eliminated in several areas currently being serviced by the two railroads. This particularly concerns us as we have recently experienced some large rate increases on our main rail freight pattern due to already limited competition.

Therefore, we believe the Surface Transportation Board should give favorable consideration to the application by the majority shareholder of Montana Rail Link to acquire one of the Union Pacific or Southern Pacific routes between California and Kansas City. In our opinion, without the MRL proposal or a comparable solution, the UP/SP proposal eliminates rail competition in the Central Corridor of the United States.

Zip Beverage strongly supports the proposed acquisition of the Union Pacific line between Silver Bow, Montana, and Pocatello, Idaho as a strategic element of the Central Corridor solution. The Silver Bow - Pocatello line ties together the present MRL system with the Central Corridor route at Ogden, Utah, providing important traffic to support the new Central Corridor system and affording the economic synergies of tying both systems together. The ("MRL Proposal") will provide routing options on both Union Pacific and Burlington Northern Santa Fe as well as direct routing via the new MRL proposed system.

In conclusion, our company conditions its support of the UP/ SP merger application on sale of a Central Corridor route as described in the MRL Proposal.

Sincerely,

H.B.W.

Harry B. Watkins
Vice President

STB FD 32760 4-2-96 D 62496

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Apr #124

62496

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Rt 17 Box 6330
Lufkin, Tx 75904

The Hon. Vernon A. William, Secty.
Surface Transportation Board
12th St. + Constitution Ave.
Washington, D.C. 20423

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

Dear Sir:

Re: Finance Docket 32760

As citizens of this great State of Texas, we want you to know that we oppose the proposed rail merger. We feel this would not be in the best interest of business or the working public.

ADVISE OF ALL PROCEEDINGS

Sincerely,
Hubert Turner
Shirley Turner

copy to
Railroad Commission of Texas

STB FD 32760 4-2-96 D 62495

Item No.

Page Count 1

Apr #123

62495

The City of Solon

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34200 Bainbridge Rd.
Solon, OH 44139-2955
Phone: (216) 248-1155
Fax: (216) 349-3080

OFFICE OF THE MAYOR

March 26, 1996

Honorable Vernon Williams
Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, D.C. 20423

Dear Secretary Williams:

As a mayor who represents working families and consumers, I am concerned about the proposed Union Pacific-Southern Pacific merger and its effect on the public for the following reasons:

I believe the merger would result in unnecessary layoffs and job losses among affected railroad workers.

I believe the merger could weaken Northeast Ohio's economy by weakening eastern and midwestern railroads and threatening industrial jobs here.

I believe that by concentrating so many resources, the merger could negatively affect prices and services.

I therefore believe the merger may not be in the best interest of the public and ask that it be disallowed by the Surface Transportation Board.

Sincerely,

Robert A. Paulson
Mayor

RAP/mrg

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APR 4 1996
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STB FD 32760 4-2-96 D 62490

Item No.____________

Page Count 1

Apr #118

FI

62498

E. Davidson
505 Oaklawn
Temple, Texas 76502

The Honorable Vernon A. Williams, Secretary
Surface Transporation Board
12th St. & Constitution Ave.
Washington, DC. 20423

Dear Sir

I urge you to reject the merger of the Southern Pacific and Union Pacific Railroads.

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APR 12 1996
MAIL
MANAGEMENT
I.C.C.

Your Truly
R.C. Davidson

cc: Railroad Commission of Texas
P.O. Box 12967
Austin, Texas 78711-2967

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Office of the Secretary
APR 4 1996
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Public Record

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62491

Item No. ____________

Page Count 3

Apr #M9

62491

[C]OUNTY

INDIANA

BOARD OF COUNTY COMMISSIONERS
MADISON COUNTY GOVERNMENT CENTER
16 E. 9TH STREET
ANDERSON, INDIANA 46016

STEPHEN E. RANDOLPH
SANDRA S. HUNTZINGER
LUCILLE BAILEY
317/641-9474
FAX 317/641-9486

March 26, 1996

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ENTERED Office of the Secretary APR 4 1996 3 Part of Public Record

Honorable Vernon A. Williams, Secretary
Interstate Commerce Commission
12th Street and Constitution Avenue
Washington, D.C. 20423

RE: **Finance Docket 32760**

Dear Secretary Williams:

We, the Madison County Commissioners, are very concerned about the competitive aspects on local and regional businesses as a result of the proposed acquisition of the Southern Pacific Lines (SP) by the Union Pacific Railroad (UP). While we are familiar with the proposed agreement between Union Pacific and the Burlington Northern-Santa Fe (BNSF), which is intended to remedy those effects, we are not persuaded that this arrangement will produce effective competition for rail traffic in the Mid-South region of the United States. Specifically, we have serious concerns about recent developments in our county and the greater central Indiana region involving rail service to industrial parks which might be negatively impacted by the UP-BNSF proposal.

We also have reviewed the Conrail proposal to acquire a significant portion of the eastern lines of SP in connection with the merger, especially the lines running from Chicago and St. Louis, to Arkansas, Texas, and Louisiana. The Conrail proposal is far more appropriate and effective in addressing the above noted concerns, specifically in regard to trade carried over land. The Conrail proposal calls for ownership of the lines, whereas the UP-BNSF agreement mainly involves the granting of trackage right. It is our belief that trackage rights provide only limited benefits and limited guarantees which can be easily lost if railroads disagree over whose traffic has priority and who is in charge of operations of the line. Furthermore, it is our opinion that rail ownership offers a far better position than that of renting to encourage economic development activities.

Additionally, the Conrail proposal would provide more efficient service for rail customers in our area for movement of goods and raw materials to and from the Mid-South and Texas Gulf. The Conrail proposal would provide the fastest, one-line service to these markets; it also would be the most direct route involving the fewest car handling movements.

We are extremely worried about the recent trend of rail mergers in the United States. This trend seems to be leading our nation toward a few giant railroads, thus further limiting competition and reducing productivity. The further reduction in competition limits our area's

ADVISE OF AL[L]
PROCEEDINGS

ability to be competitive economically as a region both nationally and internationally. Therefore, we are actively opposing the Union Pacific-Southern Pacific merger at the ICC unless it is conditioned upon acceptance of the Conrail proposal.

We would like to thank you for the opportunity to comment on this matter which directly impacts the greater Central Indiana region. We hope your decision on the proposed merger is denied unless Conrail's proposal is accepted. If you have any questions, please do not hesitate to contact our office at (317) 641-9474.

Sincerely,

Sandra Huntzinger

Sandra Huntzinger, President
Board of County Commissioners

cc: David M. Levan, Conrail, President & CEO

Conrail Offers To Acquire Southern Pacific's Eastern Lines From Union Pacific

For some time, Conrail has been in discussions with Union Pacific Corp., with a view to acquiring the eastern lines of Southern Pacific in connection with UP's proposed acquisition of the entire SP system. On Monday morning September 25, Conrail made a written offer to UP for these lines. Conrail's ownership and operation of these lines in the Mid-South and Gulf Coast would overcome concerns raised by customers and the Department of Justice regarding the merger of the two lines in that region.

How do customers benefit from Conrail's proposal to own and operate the eastern lines of Southern Pacific?

It addresses the competitive concerns identified by customers and the Justice Department – and acknowledged by UP-SP – by:

- *Maintaining a competitive rail transportation market in the Mid-South and Gulf Coast through an owning railroad, rather than a tenant (i.e. trackage rights, haulage)*
- *Bringing efficient service to customers*
- *Preserving rail lines, facilities and jobs in the region*
- *Enhancing economic and business development options and opportunities*

What lines would Conrail purchase?

Lines from Chicago, through St. Louis, to Galveston and Brownsville, and lines that run west from New Orleans to El Paso. Points served include: Arkansas: Little Rock, Pine Bluff; Illinois: Chicago, Springfield; Louisiana: Lafayette, Lake Charles, New Orleans; Missouri: St. Louis; Tennessee: Memphis; Texas: Beaumont, Brownsville, Dallas, El Paso, Fort Worth, Galveston, Houston, Port Arthur, San Antonio. Conrail would serve Mexican gateways through ownership (Brownsville and Eagle Pass) and trackage rights (Laredo).

What does Conrail offer shippers?

No railroad has had more success than Conrail in taking congested, inefficient railroads and turning them into a highly efficient, customer-focused operation. Conrail is prepared to invest substantially in track maintenance, new locomotives and other rolling stock. Additional capital investments would be made to rehabilitate shops, build strategically-located locomotive fueling/service facilities, and add storage yard capacity.

Moreover, Conrail would have a long-term commitment and perspective on the market with:

- *Incentives and resources to provide capacity increases*
- *The ability to work with customers and communities on their industrial development decisions and help them pursue new market opportunities*

Why should UP accept Conrail's proposal?

This is a fair offer, responding to what customers have told us they want, and it will succeed with their support.

Would Conrail enter the Mexican market?

If Conrail purchases SP East, it would access Mexico via the Texas-Mexican Railway at Laredo and directly at Brownsville and El Paso.

STB FD 32760 4-2-96 D 62489

Item No.

Page Count 1

Apr #127

62498

Dear Mr. Secretary,

I'm writing you to tell you not to back the Southern Pacific merger with the Union Pacific Railroad. My father has worked for Southern Pacific Railroad for 18years and now he is in danger of losing his job. I am a freshman at Brighton High School, and I don't want to move if my dad loses his job. My dad has worked hard for 20 years and all he wants is to see my brother and I to get a good education and a good job. My dad has always been there for us he goes to all of our school functions . Thank you for your time and please do not back this merger

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Sincerely,

Mario Montano

Mario Montano

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Office of the Secretary
APR 4 1996
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ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62488

FAX OR MAIL THIS LETTER TODAY

(The deadline for public comments is March 29.)

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th Street and Constitution Avenue
Washington, D.C. 20423
RE: Finance Docket 32760

FAX TO: (501) 734-4061

MAIL TO: P.O. Box 552
Brinkley, AR 72721

Arkansans For
Competitive Rail Service
James B. Sharp, Treasurer

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Office of the Secretary
APR 4 1996
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Public Record

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APR 2 1996

I believe that the UP/SP merger will reduce competition, and believe that an owning railroad is the best choice for Arkansas and for the U.S.

Signature Charles J. Eaton, Retired (formerly employee C of Ga RR and Land N RR)

City Hot Springs, AR 71913

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62488

STB FD 32760 4-2-96 D 62486

Item No. 62486

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Apr #114

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APR 2 1996
MAIL MANAGEMENT
STB

Dear S.T.B.

I am a employee of Southern Pacific Railroad in Tucson, Az. for 28 years

In regards to the U.P.-S.P. merger it cannot come fast enough. I support this 100%.

I am looking forward to a better run railroad for many reasons.

I hear good things about U P and long for change

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Office of the Secretary
APR 4 1996
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Please hurry

ADVISE OF ALL PROCEEDINGS

Paul Christy
3079 S. Maussa DR
Tucson, Az 85730

STB FD 32760 4-2-96 D 62485

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Apr #113

62485

Brotherhood of Locomotive Engineers

1370 ONTARIO STREET
CLEVELAND, OHIO 44113-1702
TELEPHONE: (216) 241-2630
FAX: (216) 241-6516

RECEIVED APR 2 1996 MAIL MANAGEMENT I.C.C.

April 2, 1996

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 32760, Union Pacific Corp. -- Control & Merger -- Southern Pacific Rail Corp.

Dear Secretary Williams:

Enclosed are the completed original and twenty (20) copies of the Comments and Verified Statement of Ronald P. McLaughlin, International President of the Brotherhood of Locomotive Engineers, as promised in our filing on March 29, 1996. These documents have been executed and are appropriate for filing at this time.

Please acknowledge receipt of these documents on the copy of this letter, which may be returned to me in the stamped, self-addressed envelope included for that purpose.

Very truly yours,

Harold A. Ross
General Counsel

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Office of the Secretary
APR 4 1996
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COMMENTS AND VERIFIED STATEMENT
OF
R. P. McLAUGHLIN

My name is R.P. McLaughlin. I am President of the Brotherhood of Locomotive Engineers. I have 38 years of service in the railroad industry of which over 25 have been in the rail labor movement.

My organization represents about 10,000 members of the unionized work force of the Union Pacific and the Southern Pacific. This verified statement is submitted on behalf of the BLE and its membership in support of the proposed merger of UP and SP.

As President of BLE, my chief responsibility is to protect the economic interests of our members, whose work makes possible the efficient functioning of the nation's transportation system. As the Board is aware, labor has been very concerned about, and very critical of, rail mergers because of the significant job loss that they entail. A recent newspaper article stated that no rail merger in the past 25 years has proceeded with major union support.

But BLE supports the proposed UP/SP merger for two key reasons: First, UP has agreed to a number of conditions that will help mitigate the impact of job loss on our members; Second, we are convinced that the combination of SP and UP to form a strong competitor to BN/Santa Fe is in the best interest of rail labor in the future. Union Pacific's commitments, which relate to the application of New York Dock conditions, are attached hereto.

VERIFICATION

I, Ronald P. McLaughlin, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on March 28, 1996.

Ronald P McLaughlin

UNION PACIFIC RAILROAD COMPANY

J. J. MARCHANT
SR. ASST. VICE PRESIDENT/
LABOR RELATIONS

1416 DODGE STREET
OMAHA, NEBRASKA 68179

March 8, 1996

Mr. R. P. McLaughlin
President - Brotherhood of
Locomotive Engineers
Standard Building
1369 Ontario Street
Cleveland OH 44113

Dear Sir:

This refers to our discussions concerning the issues of New York Dock protection and the certification of adversely affected BLE employees.

As you know, Union Pacific, in its SP Merger Application, stipulated to the imposition of the New York Dock conditions. The Labor Impact Study which Union Pacific filed with the Merger Application reported that 251 engineers would transfer and that 772 engineer jobs would be abolished because of the implementation of the Operating Plan.

Within the New York Dock conditions, Section 11 addresses disputes and controversies regarding the interpretation, application or enforcement of the New York Dock conditions (except for Sections 4 and 12). Under Section 11, perhaps the two most serious areas for potential disputes involve whether an employee was adversely affected by a transaction and what will be such employee's protected rate of pay.

In an effort to eliminate as many of these disputes as possible, Union Pacific makes the following commitment regarding the issue of whether an employee was adversely affected by a transaction: Union Pacific will grant automatic certification as adversely affected by the merger to the 1023 engineers projected to be adversely affected in the Labor Impact Study and to all other engineers identifed in any Merger Notice served after Board approval. Union Pacific will supply BLE with the names and TPA's of such employees as soon as possible upon implementation of approved merger. Union Pacific also commits that, in any Merger Notice served after Board approval, it will only seek those changes in existing collective bargaining agreements that are necessary to implement the approved transaction, meaning such changes that produce a public transportation benefit not based solely on savings achieved by agreement changes(s).

Union Pacific commits to the foregoing on the basis of BLE's agreement, after merger approval, to voluntarily reach agreement for implementation of the Operating Plan accompanying the Merger Application.

Even with these commitments, differences of opinion are bound to occur. In order to ensure that any such differences are dealt with promptly and fairly, Union Pacific makes this final commitment: If at any time the affected General Chairman or the assigned International Vice President of the BLE believes Union Pacific's application of the New York Dock conditions is inconsistent with our commitments, BLE and Union Pacific personnel will meet within five (5) days of notice from the General Chairman or the International Vice President to attempt to resolve the dispute. If the matter is not resolved, the parties will agree to expedited arbitration with a written agreement within ten (10) days after the initial meeting. The Agreement will contain, among other things, the full description for neutral selection, timing of hearing, and time for issuance of Award(s).

In view of Union Pacific's position regarding the issues of New York Dock protection and the certification of employees, I understand that the BLE will now support the UP/SP merger.

Sincerely,

UNION PACIFIC RAILROAD COMPANY

J. J. MARCHANT
SR ASST VICE PRESIDENT/
LABOR RELATIONS

1416 DODGE STREET
OMAHA NEBRASKA 68179

March 8, 1996

Mr. R. P. McLaughlin
President - Brotherhood
of Locomotive Engineers
Standard Building
1370 Ontario Street
Cleveland, OH 44113

Dear Sir:

This refers to my letter of March 8, 1996, outlining our respective commitments relative to BLE's support of the UP/SP merger. At an informal meeting regarding this matter there were several other related issues discussed, and this letter confirms the substance of those discussions.

Union Pacific recognizes that implementing a merger of UP and SP will be a complex undertaking which will require planning and cooperation between the parties. Much of our discussions revolved around the process which would best facilitate the implementing agreement negotiation efforts. During our discussions, I agreed to meet with BLE in advance of the serving of New York Dock notices to try to come to consensus on various aspects of the implementing agreement process. Conceptually, it appears the parties are in agreement that our discussion of process should include the following topics:

- A discussion of what will be contained in the notices, whether they will be all-inclusive as to territory or relate to individual regions/corridors, timing of service of notices, etc.

- An effort to separate the focus of negotiations into logical regions/corridors and prioritize those negotiations so they match up in a meaningful way with the operational implementing priorities, territorial boundaries of labor agreements, etc.

- General understandings and/or guidelines regarding size of the respective negotiating teams, where and how often they will meet, administrative support, and other such ground rules for the actual conduct of negotiations.

We also discussed a concern expressed by several committees regarding the potential that Union Pacific might elect to lease the SPT, SSW, SPCSL and/or DRGW to the UP or MP for certain financial reasons. It was the concern of BLE that such an arrangement might create an avenue by which Union Pacific could avoid New York Dock protective obligations on some of the leased entities.

Union Pacific has agreed to accept imposition of New York Dock protective conditions in this proceeding, and by definition that includes SPT, SSW, SPCSL and DRGW, as well as UP and MP. While we have no intention to consummate this merger through such a lease arrangement, Union Pacific commits to the application of New York Dock to such territories even if such a lease arrangement were to occur.

The final issue which was discussed pertained to integration of seniority as a result of post-merger consolidations and implementing agreements. BLE asked if Union Pacific would defer to the interested BLE committees regarding the method of seniority integration where the committees were able to achieve a mutually agreeable method for doing so. In that regard, Union Pacific would give deference to an internally devised BLE seniority integration solution, so long as; 1) it would not be in violation of the law or present undue legal exposure; 2) it would not be administratively burdensome, impractical or costly; and 3) it would not create an impediment to implementing the operating plan.

I trust that the foregoing accurately reflects our discussions.

Sincerely,

0308jjm

UNION PACIFIC RAILROAD COMPANY

J J MARCHANT
SR ASST VICE PRESIDENT/
LABOR RELATIONS

1416 DODGE STREET
OMAHA, NEBRASKA 68179

March 9, 1996

Mr. R. P. McLaughlin
President - Brotherhood
of Locomotive Engineers
Standard Building
1370 Ontario Street
Cleveland, OH 44113

Dear Sir:

This refers to my March 8 letter and to our March 8 meeting in Las Vegas, both of which dealt with the issues of New York Dock protection and the certification of adversely affected BLE employees and our respective commitments relative to BLE's support of the UP/SP merger.

At the March 8 meeting, we reached an understanding that the certification provided for in the March 8 letter will begin at the time of implementation of the particular transaction in question. The following example illustrates this understanding:

> The UP/SP merger is approved on August 1. The implementing agreement with the BLE is reached on October 1 and is implemented on December 1. Certification will begin on December 1.

I trust the foregoing accurately reflects our understanding.

Sincerely,

0308jjm.par

UNION PACIFIC RAILROAD COMPANY

J. J. MARCHANT
SR. ASST. VICE PRESIDENT/
LABOR RELATIONS

1416 DODGE STREET
OMAHA, NEBRASKA 68179

March 22, 1996

R. P. McLaughlin
President, BLE
1370 Ontario Avenue
Cleveland, OH 44113-1702

Dear Sir:

This refers to my letter of March 9, 1996, dealing with when certification begins.

The example in my letter deals with a situation where a single transaction is implemented and indicates that certification begins on the date of implementation. You have asked me to clarify when certification begins in the event the SP Merger results in multiple New York Dock transactions.

In the event the SP Merger leads to multiple transactions with different implementation dates, certification will begin for those employees affected by a particular transaction on the date that transaction is implemented. In other words, multiple transactions with different implementation dates lead to different starting dates for certification.

John J. Marchant

0322ajjm.par

CERTIFICATE OF SERVICE

I hereby certify that I am General Counsel of the Brotherhood of Locomotive Engineers; that I have been authorized to serve the foregoing executed Comments and Verified Statement of Ronald P. McLaughlin (including the signed verification page omitted from the version served on March 29, 1996); and that copies thereof have been served upon all parties of record by first-class mail or by a more expeditious method of delivery on this 2nd day of April 1996.

Harold A. Ross

HAROLD A. ROSS

STB FD 32760 4-2-96 D 62484

Item No. ________________

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Apr #112

62484

Senate

California Legislature

SUBCOMMITTEES:

HEALTH AND HUMAN SERVICES SUBCOMMITTEE ON RURAL HEALTH

SELECT COMMITTEES:

CALIFORNIA'S WINE INDUSTRY

JOINT COMMITTEES:

FAIRS ALLOCATION AND CLASSIFICATION

LEGISLATIVE BUDGET

PRISON CONSTRUCTION AND OPERATIONS

HEALTH AND HUMAN SERVICES

NATURAL RESOURCES AND WILDLIFE

REPUBLICAN ELECTIONS

ENTERED
Office of the Secretary
APR 4 1996
3 Part of Public Record

TIM LESLIE
SENATOR, FIRST DISTRICT

March 28, 1996

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APR 2 1996
MAIL MANAGEMENT
I.C.C.

Surface Transportation Board
12th and Constitution Avenue, Room 3219
Washington, D.C. 29423-0001

SUBJECT: SP/UP Rail Merger - Finance Docket No. 32760
Truckee Impacts

Dear Board members:

A few months ago, I issued a position in support of the Union Pacific/Southern Pacific Rail merger as a project that could greatly benefit the State of California. I have recently become quite concerned, however, as I review the details of that merger and its potential for negative impact on communities within my Senatorial District.

Specifically, the Town of Truckee has gone through a great deal of effort identifying merger related impacts which cannot be resolved by that community alone. They have also received significant community and regional support related to their concerns. I would urge the Surface Transportation Board to consider the issues raised in the Truckee Verified Statements and to provide assurances in the STB final findings that the mitigation measures implemented are adequate to resolve the concerns that have been raised.

I continue to be supportive of the overall concept of the Rail merger -- however, my continued support is predicated on the railroads' continued willingness to address and work through the negative impacts that the merger is going to have on the smaller communities of California and the local communities which I represent. Thank you for your cooperation and consideration.

ADVISE OF ALL PROCEEDINGS

Sincerely,

Tim Leslie

TIM LESLIE
Senator, First District

TL:gg
cc: Drew Lewis
Town of Truckee
Governor Pete Wilson

SACRAMENTO OFFICE • STATE CAPITOL • SACRAMENTO, CA 95814 • (916) 445-5788
ROSEVILLE OFFICE • 1200 MELODY LANE, SUITE 110 • ROSEVILLE, CA 95678 • (916) 969-8232 • (916) 783-8232 • (916) 624-9588 • (800) 772-7296
CHICO OFFICE • CSU, CHICO - SUTTER HALL, ROOM 252 • CHICO, CA 95929-0900 • (916) 899-8420
E-MAIL ADDRESS – senator.leslie@sen.ca.gov

STB FD 32760 4-2-96 D. 62483

Item: No. ______________ FD 32760 62483

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Apr #111

Montana West Lumber, Inc.

3280 RASER DRIVE P.O. BOX 4843
MISSOULA, MONTANA 59806
(406) 721-6724 FAX (406) 721-6728

March 26, 1996

ENTERED
Office of the Secretary
APR 4 1996
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MAIL
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I.C.C.

The Honorable Vernon A. Williams
Secretary Surface Transportation Board
Case Control Branch
12TH St. and Constitution Ave.
WashingtonD.C. 20423

Conditioned Statement of Support for the Proposed Merger of Union Pacific Railroad and Southern Pacific Transportation Company

Montana West Lumber, Inc. has learned that an entity controlled by the majority shareholder of Montana Rail Link will be filing with the Surface Transportation Board an inconsistent or responsive application in which that entity will propose acquiring one of the Union Pacific or Southern Pacific routes between California and Kansas City (the "MRL Proposal"). In our opinion, without the MRL proposal or a comparable solution, the UP/SP proposal eliminates rail competition in the Central Corridor of the United States. The trackage rights UP/SP have agreed to grant to BNSF are unlikely to result in BNSF providing meaningful competition in the Central Corridor. It will cost BNSF nothing if it elects not to use those rights. Competition can only be assured with an independent third party owner/operator acquiring one of the Union Pacific or Southern Pacific routes between California and the Kansas City area. We, therefore, condition our support of the merger on sale of a Central Corridor route to an independent party that would have to provide competitive service in order to justify its investment in that rail line.

Montana West Lumber, Inc. strongly supports the proposed acquisition of the of the Union Pacific line between Silver Bow, Montana and Pocatello, Idaho as a strategic element of the Central Corridor solution. The Silver Bow-Pocatello line ties together the present MRL system with the Central Corridor route at Ogden, Utah, providing important traffic to support the new Central Corridor system and affording the economic synergies of tying both systems together. The ("MRL Proposal") will provide routing options on both Union Pacific and Burlington Northern Santa Fe as well as direct routing via the new MRL proposed system.

Montana West Lumber, Inc. is a lumber reload, and remanufacturing facility located in Missoula, Montana. We provide the lumber industry numerous added value services such as planing, prefinishing, sorting, bar coding, shavings packaging, and lumber reloading.

Montana West Lumber, Inc. ships approximately 200 cars or pig vans a year of lumber and wood products. This traffic originates in Missoula, Montana and travels to all points in the United States. The rail carriers providing service to us are Montana Rail Link, Burlington Northern, and numerous delivering carriers.

There are many benefits to the Union Pacific's proposed merger with Southern Pacific. The MRL proposal maintains the benefits of both the UP/SP merger including the proposed trackage rights agreement with Burlington Northern Santa Fe, and at the same time ensures true competition in the Central Corridor through sale of one of the routes to an independent operator.

Our company conditions its support of the UP/SP merger application on sale of a Central Corridor route as described in the MRL proposal.

Sincerely,

James J. Edinger

James J. Edinger
President, Montana West Lumber, Inc.

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-2-96 D 62482

Item No. 1

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Apr #110

62482

Item No.

FOXLEY GRAIN CO.

28 March, 1996

ENTERED
Office of the Secretary
APR 4 1996
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MAIL MANAGEMENT
I.C.C.

**VERIFIED STATEMENT
OF MICHAEL J. O'DOWD
ON BEHALF OF
FOXLEY GRAIN CO.**

RE: Finance Docket No. 32760, the proposed merger of the Union Pacific & Southern Pacific Railroads, I would submit the following:

Foxley Grain Co. is a wholly-owned subsidiary of Foxley Cattle Co. Its primary business relates to owning and operating grain elevators in Iowa, Nebraska & Colorado. We ship 4-5,000 carloads per year, primarily in covered hoppers. These shipments move westward to the PNW, southward towards the Gulf and to Mexico, eastward to various grain processors as far away as New York. Carriers serving our facilities include the Burlington Northern, Union Pacific, and Chicago Central.

We believe that the BN/Santa Fe - UP/SP Settlement Agreement company, as well as other shippers. We endorse this Agreement without reservation. It appears quite likely that a great many benefits will result from this Agreement, but our firm is primarily interested in only a few of these. The potential for more efficient routings and single line service will benefit Foxley greatly. We will be able to provide better service to our existing customers and will be able to compete for new ones. The prospect of better access to Mexican markets and improved car utilization is exciting, too.

Since our company operates along both the Burlington Northern and Union Pacific systems, we believe that this Agreement enhances the competitive balance between the two carriers. It is in the best interests of shippers to keep that balance intact.

Foxley Grain Co. supports the proposed Agreement because of our belief that it will provide significant benefits to shippers.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 28th day of March, 1996.

Michael J. O'Dowd

Michael J. O'Dowd
President

ADVISE OF ALL PROCEEDINGS

2805 SOUTH 168th STREET • OMAHA, NEBRASKA 68130-2210 • PHONE (402) 333-2727 • FAX (402) 333-1129

STB FD 32760 4-2-96 D 62480

Item No.________

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Apr #108

62480

March 25, 19

Mr Vernon A. Williams, Secretary
Surface Transportation Board
12th Street + Constitution Avenue
Washington, D.C. 20423

RECEIVED APR 2 1996 MAIL MANAGEMENT I.C.C.

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Re: Finance Docket 32760

Dear Secretary Williams:

I am opposed to the Union Pacific and Southern Pacific merger. Certainly I favor sound business - it seems, however that with every merger the nation loses more track, more right-of-way, and more competition.
I've telephoned my U.S. Senator and Representative to ask for their action to stop this consolidation and loss.

ADVISE OF ALL PROCEEDINGS

Sincerely,

Michael B Maginnis (501) 996-2282

3914 Machorney Creek

Greenwood AR 72936-9446

STB FD 32760 4-2-96 D 62479

Item No.

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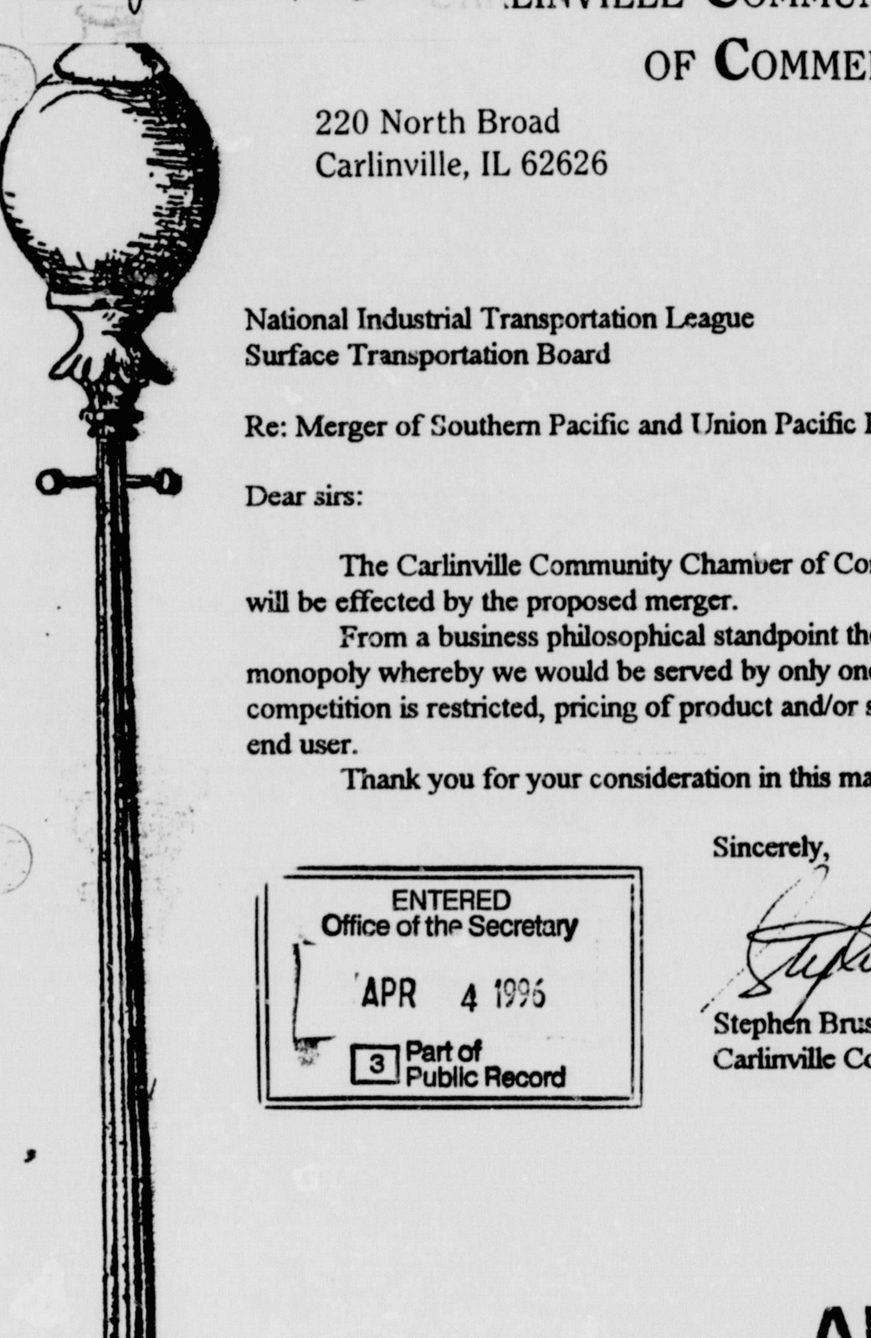
Apr #107

62479

LINVILLE COMMUNITY CHAMBER OF COMMERCE

220 North Broad
Carlinville, IL 62626

217-854-2141
217-854-2545
Fax 217-854-8548



RECEIVED APR 12 1996 MAIL MANAGEMENT I.C.C.

National Industrial Transportation League
Surface Transportation Board

Re: Merger of Southern Pacific and Union Pacific Railways

Dear sirs:

The Carlinville Community Chamber of Commerce is served by a railway that will be effected by the proposed merger.

From a business philosophical standpoint the proposed merger would result in a monopoly whereby we would be served by only one carrier. Of concern is that where competition is restricted, pricing of product and/or service is usually detrimental to the end user.

Thank you for your consideration in this matter.

Sincerely,

Stephen Brush

Stephen Brush, President
Carlinville Community Chamber of Commerce

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APR 4 1996
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ADVISE OF ALL PROCEEDINGS

WORKING TOGETHER FOR COMMUNITY • COOPERATION • COMMUNICATION • COORDINATION

STB FD 32760 4-2-96 D 62478

Item No. ____________________

Page Count 1

Agri #: 106

62478

AGRI CO-OP

310 Logan St. • Holdrege, NE 68949-2795

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March 28, 1996

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th & Constitution Avenue N.W.
Washington, D.C. 20423

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Dear Sir:

I'm Ron Jurgens, C.E.O. of Agri Co-op with headquarters office located in Holdrege, Nebraska 68949-2795.

Agri Co-op is a small agricultural cooperative with rail loading facilities in 10 communities of south central Nebraska. We receive agronomy products in by rail, and we load 5 - 27 - 54 - 75 & 100 car shipments of grain. Our area is 95% irrigated and depends heavily on rail transportation to move our products for agriculture and the farmers of this area.

We participate in rail car pools - lease car programs - ACOS & COT car allocations. We receive and ship on both the U.P. and the B.N. rails and utilize markets both to the south and the west coast corridors that they serve.

The U.P. - S.P. merger as well as the B.N. - Santa Fe merger are of interest and importance to our company and agriculture producers of South Central Nebraska.

Count us as supporters of the Union Pacific Corporation and the Southern Pacific Rail Corporation merger as listed in Finance Docket # 32760.

I believe the above statements to be true and accurate.

Sincerely,

ADVISE OF ALL PROCEEDINGS

Ron Jurgens
Ron Jurgens ceo
Nebraska Shipper

Allan Zumpfe
<witness>

3-27-96
<date>

SERVING AGRICULTURE IN SOUTH CENTRAL NEBRASKA

Grain • Agronomy • Petroleum • Feed

STB FD 32760 4-2-96 D. 62477

Item-No. ____________

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Apr #105.

62477

Louisiana afl·cio

(504) 383-5741 / 429 GOVERNMENT STREET / POST OFFICE BOX 3477 / BATON ROUGE, LOUISIANA 70821-3477 / FAX (504) 383-8847

March 28, 1996

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ENTERED Office of the Secretary APR 4 1996 3 Part of Public Record

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 2215
12th & Constitution Avenue, N.W.
Washington, D. C. 20423

IN RE: Finance Docket No. 32760
Proposed Controlled Merger -
Union Pacific Corporation & Southern Pacific Lines

Dear Secretary Williams:

Please be advised that the Louisiana AFL-CIO is strongly opposed to the proposed merger of the Union Pacific Railroad Corporation and the Southern Pacific Lines.

This proposed merger translates into a huge loss of jobs for Louisiana workers, the closure of working rail yards, a substantial negative financial impact on the economy of Louisiana, not to mention the possible financial destruction of many small businesses that are dependant upon the operations of all existing rail yards throughout Louisiana.

Other proposals have been made to the two railroad lines which would have far less adverse effect on Louisiana and our workers. We urge that you reject the proposed merger and look carefully at the alternatives.

Yours very truly,

Victor Bussie
President

ADVISE OF ALL PROCEEDINGS

VB:sr
afl-cio, opeiu 383

cc: Ed Wytkind, Executive Director
T.T.D., AFL-CIO

STB FD 32760 4-2-96 D 62451

Item No. ______________

Page Count 1.

Apr #109

62481

MISSOURI FARM BUREAU FEDERATION
P.O. Box 658, 701 South Country Club Drive, Jefferson City, MO 65102 / (314) 893-1400

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I.C.C.

March 28, 1996

FD 32760

Mr. Vernon A. Williams
Secretary, Surface Transportation Board
Room 1324
1201 Constitution Avenue, NW
Washington, D.C. 20423

Dear Mr. Williams,

The proposed merger of the Union Pacific (UP) and the Southern Pacific (SP) railroads, currently pending before the Surface Transportation Board, raises serious concerns with agricultural producers in Missouri.

The Missouri Farm Bureau is the largest general farm organization in the state of Missouri with over 80,000 member families. Our members raise a diverse range of agricultural products from corn, soybeans, cattle and hogs to cotton, rice, fruits and vegetables. Agriculture remains an important part of Missouri's economy with total cash receipts of $4.5 billion including almost $1 billion in farm exports.

Transportation is a vital component in the food chain not only in moving farm commodities to various domestic and foreign markets but also in bringing fertilizer and other agricultural inputs to the farm.

Farmers have learned through the years that when transportation options disappear and competition is reduced, they are the ultimate losers in terms of lower prices for their commodities they sell and higher prices for the inputs they buy.

That is our chief concern with the proposed UP/SP merger. We urge the Surface Transportation Board to thoroughly review the impact of the merger on the shipment of bulk commodities. Before the merger is approved, we believe a third viable carrier should be given access to the areas where competition is lost.

We recommend that you oppose the merger unless a third competitive carrier is given access to our important farm markets in Missouri.

We appreciate your attention to this very important matter on behalf of the agricultural producers in Missouri.

Sincerely,

Charles E. Kruse

Charles E. Kruse
President

ADVISE OF ALL PROCEEDINGS

STB FD 32760 4-1-96 D 62487

Item No. 5

Page Count 5

Apr #115

62487

Momence Chamber of Commerce

POST OFFICE BOX 34 • MOMENCE, ILLINOIS 60954

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FD-32760

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I.C.C.

March 28, 1996

The Honorable Vernon A. Williams
Secretary of the Surface Transportation Board
12th Street & Constitution Avenue
Washington, D.C. 20423

We were recently apprised of the proposed merger between Union Pacific and Southern Pacific Railroads. This merger raises some competitive concerns in our area and throughout Illinois.

The Momence Chamber of Commerce desires to go on record as supporting the purchase by Con-Rail of the eastern portion of the Southern Pacific Railroad. (SP-East).

We feel that approval of this purchase offer by Con-Rail is in the best interests of the people of the State of Illinois, which this route currently services.

In a competitive sense, the acquisition will also serve to preserve local jobs in our state (without maintaining duplicative services of any sort).

Most importantly, Conrail's proposal to buy the SP-East would continue the competitive pricing structure in effect between Chicago and St. Louis. Union Pacific's proposal would damage competition since Union Pacific would then control both freight lines.

Union Pacific's long-term plans could easily include selling one of these two routes. The opportunity for another railroad (Con-Rail) to successfully and competitively run this route would assist both rail customers and the employment situation in this state.

Please consider the serious ramifications of the Union Pacific-Southern Pacific merger; particularly in light of preserving competition on the SP-East lines. It will affect many people in the State of Illinois.

Thank you.

ADVISE OF ALL PROCEEDINGS

Sincerely yours,

Michael J. Parish

Michael J. Parish
President

MJP:kl

"HOME OF THE GLADIOLUS FESTIVAL"

STB FD 32760 3-29-96 D 67239

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UNREDACTED NALS-1

BEFORE THE

SURFACE TRANSPORTATION BOARD

WASHINGTON, D.C.

RECEIVED
MAR 29 1996
MAIL MANAGEMENT
I.C.C.

FINANCE DOCKET 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

COMMENTS AND REQUEST FOR CONDITIONS
AND VERIFIED STATEMENT ON BEHALF
OF NORTH AMERICAN LOGISTIC SERVICES,
A DIVISION OF MARS, INCORPORATED

ENTERED
Office of the Secretary
MAR 30 1996
Part of
Public Record

OF COUNSEL:

KELLER AND HECKMAN
1001 G STREET, N.W.
SUITE 500-WEST
WASHINGTON, D.C. 20001

March 29, 1996

TERRENCE D. JONES
LESLIE E. SILVERMAN
1001 G STREET. N.W.
SUITE 500-WEST
WASHINGTON, D.C. 20001
(202) 434-4179

ATTORNEYS FOR NORTH AMERICAN
LOGISTIC SERVICES, A DIVISION
OF MARS, INCORPORATED

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BEFORE THE

SURFACE TRANSPORTATION BOARD

WASHINGTON, D.C.

FINANCE DOCKET 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

COMMENTS AND REQUEST FOR CONDITIONS
AND VERIFIED STATEMENT ON BEHALF
OF NORTH AMERICAN LOGISTIC SERVICES,
A DIVISION OF MARS, INCORPORATED

COMES NOW, North American Logistic Services, a Division of Mars, Incorporated ("NALS"), and submits its Comments and Request for Conditions and accompanying Verified Statement of William R. Thompson in the above-captioned proceeding and, in support thereof, respectfully shows:

I.

STATEMENT OF FACTS

NALS is the logistics arm of the Mars, Incorporated ("Mars") corporate family. It is responsible for arranging for the transportation service received by the various Mars production units, including M&M/Mars, Uncle Ben's Inc., and Kal Kan Foods, Inc. ("Kal Kan"). Verified Statement of William R. Thompson, ¶ 2. (hereinafter referred to as "Thompson Statement"). NALS selects the carriers used to transport the units' traffic and pays the carriers' rates and charges. Id.

Kal Kan will soon complete construction of a dry pet food plant at Wunotoo, Nevada, about 30 miles east of Reno, which will begin operations on or about September 1, 1996. Id. at ¶ 3. When fully operational, it will produce 120,000 metric tonnes of dry pet food annually. Id. This pet food will be shipped by motor carriers to Kal Kan distribution centers and customers in the western United States. Id. at ¶ 5. While motor carriage will be used for the movement outbound from the plant of pet food products, the plant is dependent upon line-haul rail service for the inbound transportation of the grain and animal by-products used in the manufacture of pet food. Id. at ¶ 6. If motor carriage were used for the entire movement of grain from its distant midwestern origins to the plant, the transportation cost would be approximately $11,000,000 more annually than the cost of using rail service. Id at ¶ 7. Utilization of such truck service would so increase the plant's costs that it would not be able to compete in the marketplace, and other sources for the plant's raw materials would have to be found. Id.

The plant is at present a closed point on the main line of the Southern Pacific Transportation Company ("SPT"). The SPT is the only railroad that is able to serve the plant directly, and it owns and operates the only tracks leading into and from the plant. Id. at ¶¶ 3 and 8. NALS has entered into a transportation contract with the SPT for the inbound transportation of grain products and animal by-products from the interchange points of Denver, Colorado, Ogden, Utah, and Kansas City, Missouri. Id at 4. Inbound grain for the plant originating at origins on the Union Pacific Railroad Company ("UP") will move via a UP/SPT routing through Ogden. Id. at ¶ 9. NALS is currently concluding negotiations with the UP for a transportation contract for its portion of the movement. Id. at ¶ 4. Grain originating at origins served by the Burlington Northern Railroad Company ("BN") will compete with the UP grain and will move with the SPT through Denver. Id. at ¶ 13.

Although the SPT is the only railroad that can serve the plant, the UP can serve Reno, a point 30 miles to the west, from which the raw materials used by the Kal Kan plant in the manufacture of pet food can be trucked to the plant. Id. at ¶

10. Grain via the UP can move into Reno in grain hopper cars, where it can be loaded onto motor vehicles for the short trip to the plant. When the Wunotoo plant site was selected, a key factor in that decision was the UP's ability to serve Reno and thereby provide a competitive rail/motor alternative to the SPT service. Id. at ¶ 11. The plant would not have been located such a great distance from its raw material sources -- thereby requiring that rail service for such raw materials be used -- if competition for such service in the form of the UP/motor service from Reno did not exist. Id. NALS's utilization of just such a rail/motor service for the movement of bulk commodities inbound to an M&M/Mars plant in Hackettstown, NJ -- a plant that also receives direct rail service -- proved to it that a rail/motor service could provide a competitive option to an all-rail service. Id.

In negotiating its current contract with the SPT, NALS relied upon the availability of that competitive option and believes that it was a factor in the reasonable rates on inbound traffic it was able to secure from the SPT. Id. at ¶ 12. The merger will destroy this option. When NALS's contract with the SPT expires, the competitive pressure previously exerted on the SPT by this alternative will no longer exist. Id. at 15.

In addition, the availability of the joint BN/SPT service through Denver from BN grain origins provides a competitive option to the UP routing from elevators served by that carrier. Id. at ¶ 13. If this merger is approved without the conditions NALS seeks to protect the plant's inbound traffic, it is very likely that, once NALS's existing contracts expire, the merged UP/SPT will not continue to participate with the BN in a joint rate which would allow the BN to compete with the UP/SPT single-line move to the plant. Id. at ¶ 17.

The proposed merger, if approved by the Board, would reduce NALS's rail options for inbound traffic to the plant from two rail carriers (the SPT and the joint UP/motor service) to just one (the UP/SPT merged entity). Competition between rail carriers at the Kal Kan plant would be eliminated. In addition, competition at the origin points of the plant's grain traffic would disappear because no incentive would exist for UP/SPT to continue to participate in the joint BN/SPT movement of grain through Denver.

The UP/SPT's agreement of September 25, 1995 with the BN and the Atchison, Topeka and Santa Fe Railroad Company ("BNSF"), as amended November 18, 1995 ("the BNSF Agreement") provides, in Section 8(i), that: "It is the intent of the parties that this Agreement result in the preservation of service by two competing railroad companies for all customers listed on Exhibit A to this Agreement presently served by both UP and SP and no other railroad (2-to-1 customers)". Railroad Merger Application, UP/SP-23, Vol. 1, Verified Statement of John H. Rebensdorf, p. 352. However, Kal Kan's Wunotoo plant -- although it is a "2-to-1 customer" -- is not mentioned in Appendix A or anywhere else in the BNSF Agreement as a point for which competing rail service will be preserved after the merger. While Reno is listed in Appendix A, the rights granted to the BNSF at that location will not permit it to provide the rail/motor service required to serve the Kal Kan plant.

In an effort to resolve this matter without having to participate in this proceeding, NALS sought from the UP assurances that -- as a "2-to-1" location -- competition at the plant would be preserved after the merger. Id. at ¶¶ 19 and 20. UP responded by asserting that "the facts do not justify providing additional competitive access to the Wunotoo plant." Id at ¶ 21.

II.

THE CONDITIONS REQUESTED

To preserve the competing rail service which the new Kal Kan plant now has available to it, and for the reasons more fully presented hereinafter, NALS requests that, in any grant of this merger, the Board impose conditions which require the merged UP/SPT entity to grant trackage rights to the BNSF allowing that carrier to serve the Kal Kan plant. Specifically, NALS requests that the Board, pursuant to its authority under 49 U.S.C. § 11344(c), impose the following conditions:

Condition No. 1. The merged carrier should be required to grant the BNSF trackage rights over the existing SPT line serving the plant, along with all necessary "stop-off" and switching rights to provide such service or, in the alternative:

Condition No. 2. The merged carrier should be required to grant the BNSF trackage rights over the present UP line at Reno, Nevada and, if the Kal Kan plant is included within the Reno switching district, the BNSF should be granted reciprocal switching rights into the plant.

III.

ARGUMENT IN SUPPORT OF CONDITIONS

A. Application of the General Merger Standard Requires Imposition of the Sought Conditions

In determining whether or not to approve a control transaction involving two Class I railroads, the Board must decide whether the proposed consolidation is consistent with the public interest. 49 U.S.C. § 11344(c). Missouri-Kansas-Texas R. Co. v. United States, 632 F.2d 392, 395 (5th Cir. 1980), cert. denied, 451 U.S. 1017 (1981); see also Penn Central Merger Cases, 389 U.S. 486, 498-499 (1968). Included in this public interest analysis must be a consideration by the Board of at least the following five factors: (1) the effect of the proposed transaction on the adequacy of transportation to the public; (2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction; (3) the total fixed charges that result from the proposed transaction; (4) the interest of carrier employees affected by the proposed transaction; and (5) whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region. 49 U.S.C. § 11344(b)(1). Control transactions are not favored if the controlling carrier "does not assume full responsibility for carrying out the controlled carrier's common carrier obligation to provide adequate service upon reasonable demand" or if such transactions "substantially reduce the transport alternatives available to shippers . . ." 49 C.F.R. § 1180.1(a).

In addition to these explicit statutory considerations, the Board is also required by the Supreme Court's decision in McLean Trucking Co. v. United States, 321 U.S. 67 (1944) to weigh the policies embodied in the antitrust laws disfavoring diminution in competition resulting from a proposed rail merger.[1] See 49 C.F.R. § 1180.1(c)(2). As the Supreme Court has observed, the

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[1] Under 49 U.S.C. 11341(a), transactions approved by the Board are exempt from the antitrust laws, and all other laws, as necessary to effect the transactions. Northern Lines Merger Cases, 396 U.S. 491, 504 (1970).

antitrust laws give "understandable content to the broad statutory concept of 'the public interest.'" FMC v. Aktiebolaget Svenska Amerika Linien, 390 U.S. 238, 244 (1968). See also, Bowman Transportation v. Arkansas-Best Freight, 419 U.S. 281, 298 (1974); Port of Portland v. United States, 408 U.S. 811, 841 (1972); Northern Lines Merger Cases, supra, 396 U.S. at 514; Denver & R.G.W. R. Co. v. United States, 387 U.S. 485 (1967).

The Board's railroad acquisition procedures, contained in 49 C.F.R. § § 1180.0-1180.9, set forth the numerous elements of the public interest that the Board is to consider in evaluating specific merger proposals by performing a balancing test weighing "the potential benefits to applicants and the public against the potential harm to the public." Id. at § 1180.1(c).[2] The rules specifically note that:

> If two carriers serving the same market consolidate, the result would be the elimination of the competition between the two. . . . [A] lessening of competition

[2] The Board is also guided by the rail transportation policy, 49 U.S.C. § 10101a, added by the Staggers Rail Act of 1980. See Norfolk Southern Corp. --Control--Norfolk & W. Ry Co., 366 I.C.C. 171, 190 (1982). The 15 elements of that policy set forth in Section 10101a, taken as a whole, emphasize reliance on competitive forces to modernize railroad actions and to promote efficiency. H.R. Rep. No. 96-1430, 96th Cong., 2d Sess. 88 (1980), reprinted in 1980 U.S.C.C.A.N. 4110, 4119. Element 5 provides that it is the policy of the United States to "foster sound economic conditions in transportation and to ensure effective competition and coordination between rail carriers". Element 13 prohibits "predatory pricing and practices, to avoid undue concentrations of market power." 49 U.S.C. § 10101a (5) and (13).

> resulting from the elimination of a competitor may be contrary to the public interest.

Id. at § 1180.1(c)(2)(i). Moreover, the Board's predecessor, the Interstate Commerce Commission ("ICC"), emphasized that "the effect of a transaction on competition is a critical factor in our consideration of the public interest. . . ." Santa Fe Southern Pacific Corp. -- Control -- SPT Co., 2 I.C.C. 2d 709, 726 (1986) (Emphasis added).

Under 49 U.S.C.§ 11344(c), the Board has "broad authority to impose conditions on" its grants in railroad control cases in order to ameliorate the competitive harm caused by the merger and to insure that the public interest is protected. Indeed, that authority is unqualified. 49 C.F.R. § 1180.1(d)(1). See also, Milwaukee Reorganization--Acquisition by GTC, 2 I.C.C. 2d 161, 263-264 (1984).

When it is shown that the proposed transaction will have a direct effect on competition, by eliminating competitive alternatives to the public, conditions will be imposed to eliminate the harm threatened by the transaction, assuming such conditions are of greater benefit to the public than they are detrimental to the transaction. See Union Pacific Corp., - Control - Missouri Pacific Corporation, 366 I.C.C. 462, 562, 484 (1982) (UP/MP). (The "overriding concern" in deciding whether to impose conditions is the public interest.) Conditions will also be imposed if the merger will result in a harm to "essential services". Lamoille Valley R. Co. v. I.C.C., 71 F.2d 295, 309 (D.C. Cir.1983). Imposition of this condition addresses the statutory requirement that in rail merger proceedings the Board consider the "adequacy of transportation to the public". Id.; 49 U.S.C. § 11344(b)(1)(A).

Adherence to these principles requires the imposition of the conditions NALS here seeks. Rail competition at the Kal Kan plant will be destroyed by this merger, and applicants have turned a deaf ear -- both in the BNSF Agreement and in direct discussions -- to NALS's efforts to preserve it. Only by imposing the conditions NALS here seeks -- which are directly related to the proposed merger itself -- can the Board insure that such competition is maintained and hold the applicants to their promise that shippers now served only by the UP and SPT will not be harmed by this transaction.

B. The Conditions are Required to Preserve the Competition That Now Exists Between the SPT and UP For the Plant's Inbound Traffic

The proposed merger will eliminate a competitor on inbound traffic to the Kal Kan plant. As the merger between SP and UP now is structured, when NALS's contract with the SPT expires, the plant will not have the option of using the UP/motor routing through Reno as a competitive alternative. The negotiating leverage that the possibility of using that option has, and would have meant in future negotiations with the SPT, will irretrievably be lost. Consequently, after the merger, the Kal Kan plant will be captive to the SPT for all of its inbound transportation needs. At present, the UP/motor option is available to it.

The existence of the UP/motor option is an actual competitive alternative which serves as a constraint upon the SPT's market power. It is thus well-settled that a joint rail/motor operation can provide a competitive alternative to an all-rail service. In Rio Grande Industries, Inc., et. al -- Control -- Southern Pacific Transportation Company, 4 I.C.C. 2d. 834 (1988), the UP/Missouri-Pacific Railroad Company ("UP/MP") had argued that its rail/motor "reload" operations -- pursuant to which shippers up to 150 miles distant were served by truck -- did not allow it to exert a competitive presence in markets also served exclusively by the SPT. Id. at 922.

The ICC disagreed. While rail/truck operations are not identical to direct rail service in all respects, "[t]rucks can extend the competitive reach of rail operations . . ." Id. at 923. Indeed, the UP/MP's own testimony -- submitted by a witness who is also one of applicants' principal witnesses in this case --had conceded that in situations where a commodity can be reloaded and an appropriate reload site is available on a close-enough railroad, then rail-truck handling can offer a shipper an alternative to excessive rates or poor service by the railroad with exclusive access to that shipper. Id. (Citing the testimony of UP/MP witness Richard B. Peterson).

This decision -- which concluded that a rail/motor service 150 miles from a shipper was a competitive option -- a fortiori requires the same conclusion here, where Reno is only 30 miles distant from the plant.[3]

Other decisions, involving so-called "build-out" options, confirm as well that the fact that a shipper is currently served by only a single rail carrier does not automatically mean that the shipper is captive to that carrier. If a second rail carrier operates nearby, that carrier can be just as effective a competitor as if it actually did serve the shipper directly. Union Pacific Corp.-Control-Missouri-Kansas-Texas Railroad Co., 4 I.C.C. 2d 409, 476-77 (1988). See also, BNSF, supra, pp. 68 and 98.

These decisions apply with equal -- if not greater -- force to a situation where the option consists of a delivery by motor carrier from a nearby rail station. A "build-out", which involves the construction of a new rail line could in certain

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[3] And in its decision last year in BN -- Control and Merger -- Santa Fe Pacific Corp., Finance Dkt. No. 32549, (BNSF) the ICC again noted that the short haul for the motor portion of a rail/motor movement "provides an indication of the effectiveness" of that movement as a competitive option. P. 55 (Aug. 16, 1995)

instances pose less of a competitive threat to the directly serving rail carrier than a rail/motor option -- particularly one with a short motor carrier segment.

This ability of a rail/motor routing to act as a competitive restraint on all-rail service is borne out by NALS's own experience. The Hackettstown, NJ plant of M&M/Mars is served directly by rail, yet NALS also uses rail service to a location about 20 miles from the plant, from which inbound bulk raw materials are trucked to the plant. Thompson Statement, ¶ 11. Not only has such a rail/motor service proved to be operationally and economically feasible in meeting the plant's raw material needs, it has acted as a restraint on the rates of those rail carriers able to serve the plant directly.

The SPT has responded to the UP/motor presence at Reno by negotiating reasonable contract rates and terms with NALS for the plant's inbound transportation. Thompson Statement, ¶ 12. In their testimony in this proceeding as well, the applicants acknowledge the ability of rail/truck service to provide competition to all-rail service, and that such competition is the kind that should be preserved after the merger. In his Verified Statement, Mr. Richard B. Peterson, Senior Director - Interline Marketing of UP, testified that in identifying those facilities that are served today by the UP and SPT and no other railroad:

> "We have also carefully considered whether there might be any shippers who have a truck-rail transloading option today because UP and SP are independent railroads, but would have no such option after the merger. We have been able to identify no such shippers; as best we can determine, in all instances where UP or SP have the potential of moving traffic through a transload, BN/Santa Fe will continue to furnish a transloading option after the merger". Railroad Merger Application, UP/SP-23, Vol. 2, P. 164, n.79. (Emphasis added.)

Indeed, Mr. Peterson testified at his deposition that "applicants scoured the map" but could not find any situation where a shipper's ability to utilize a truck transload it now has to the UP or SPT would be precluded by the merger. Deposition of Richard B. Peterson, February 5, 1996, p.88.

Mr. Peterson also confirmed at his deposition that it was applicants' intention that ". . . where there currently are trucking options from points on one railroad over to the other, that those will all be preserved as a result of the [BNSF Agreement]". Deposition of Richard Peterson, February 6, 1996, p. 278. Mr. Peterson added that "all transloading options will be preserved" and that all "2-to-1" locations not shown on Exhibit A to the Settlement Agreement which are "identified subsequent to this time . . . are available for transloading." Id. at 279. That the competitive relief of the BNSF Agreement is not limited to existing shippers, but can include new shippers, such as Kal Kan's Wunotoo plant, is further confirmed by Mr. Peterson at page 222 of his deposition, where he testifies that, under the BNSF Agreement "... BN/Santa Fe can put in . . . bulk transload facilities at any one of those points and serve a shipper . . . that may appear that hasn't existed in the past".

Mr. Peterson obviously overlooked the Kal Kan plant in searching for shippers who "would have no [rail/truck] option after the merger". Nevertheless, his testimony makes it clear that the plant is among the class of shippers for whom the applicants have agreed that competition should be preserved.

Mr. Richard J. Barber, an independent consultant retained by applicants, agreed with Mr. Peterson. He testified that where the UP serves a facility directly and service is available by truck from the facility to a line of the SP, that this is viewed as service by two railroads. Since the merger would produce a "2-to-1" situation, the applicants would agree that, under the BNSF Agreement, the "SP would be replaced by BN/Santa Fe". Deposition of Richard J. Barber, January 24, 1996, p. 71. Mr. Barber explained that such treatment would insure that there were "no reductions in competition" as a result of the merger. Id.

Although the BNSF Agreement does not give the BNSF the right to serve the Wunotoo plant -- despite its status as a "2-to-1" location -- or to provide service at Reno for the plant's traffic, it does treat other locations with a rail-truck option as 2-to-1 points. Id. at 69-72. Thus, the BNSF Agreement preserves independent rail competition for soda ash originating at Green River, Wyoming by making the truck reload terminal facilities in Utah that are presently operated by SP available to BN/Santa Fe. Id. at 72; Barber Testimony, Railroad Merger Application, Vol. 2, p. 495.

Under currently existing competitive conditions, therefore, applicants themselves concede that Kal Kan's inbound traffic is subject to potential competition. Although its plant currently is served exclusively by the SPT, the fact that a feasible rail/motor option exists via Reno, only 30 miles away, exerts competitive pressure on the SPT -- under the ICC's decisions and by the applicants' own admission -- and has thus far prevented the SPT from exercising market power as a monopoly destination carrier at the plant.

However, despite applicant's stated intention to preserve competition at all "2-to-1" locations, the BNSF Agreement does not even mention Wunotoo nor does it allow the BNSF to serve Reno for the plant's traffic. The "2-to-1" situation which will occur at Wunotoo if this merger is granted must be remedied by the Board by imposing a condition on such grant requiring the merged carrier to grant the BNSF trackage rights to serve the Kal Kan plant.

C. The Conditions Sought By NALS Must Be Imposed to Protect the Competition From Grain-Producing Origins That Now Exists

BN and the UP provide rail service from competing midwestern origins for the grain to be utilized by the plant. Both connect with the SPT -- the UP at Ogden, the BN at Denver -- to serve the plant. The BN's ability to serve competing grain origins as the nation's largest grain-carrying railroad has, as noted, provided leverage for NALS in its negotiations with the UP for contract rates for its leg of the movement.

If this merger is approved, however, when the NALS/UP contract expires, the merged UP/SPT cannot be expected to continue to participate with the BN for the grain movement at a competitive level because it will be able to provide a single-line rail service from the UP's origins direct to the Kal Kan plant. The merged UP/SPT would, thus, have no incentive to continue to participate in the move with the BN.

The ICC has recognized as recently as its decision in BN/SF that the competitive harm resulting from a merger can occur from a loss of geographic competition between railroads. BNSF, at p.55. While the instant situation is not the classic one where each of the two merging carriers exclusively serves a different competing origin point, the result will be the same since the UP/SPT is a necessary participant in the BN move. By making that movement non-competitive, the UP/SPT would be able to foreclose the present origin competition just as surely as if the UP and SPT now were able to each serve the competing origins.

With the BN service available to it, if the UP/SPT's rates are too high, NALS can order grain for the plant from the elevators served by the BN. The prospect of losing its segment of the movement to the BN will, presumably, act as a restraint on UP's pricing. After the merger, the UP will be able to provide a single-line service to the plant from UP elevators <u>and</u> participate in the joint-line movement from the BN elevators. It will be in UP's economic interest to encourage utilization of a routing in which it retains all of the revenue as opposed to one in which it must share that revenue with the BN. It will be indifferent to any loss of revenue from the BN/SPT routing, because that revenue would be shifted to its single-line routing which would provide the only source for the plant's grain.

D. <u>The Conditions Requested Herein Are Reasonable And Will Address Problems Directly Created By the Merger</u>

The Kal Kan plant now has available to it the services of the SPT and UP and no other railroad. After the merger, it will have available the services of only the merged UP/SPT. The conditions which NALS here seeks are thus intended to remedy a loss of competitive rail service which will be caused directly by the merger. They do not go beyond the merger's effects. The conditions are not being sought to ameliorate outstanding problems which were not created by the merger nor would they require applicants to protect carriers against circumstances not caused by the merger. See e.g., UP/MP, supra, 366 I.C.C. at 564.

Granting the BNSF trackage rights over the SPT line and direct access to the Kal Kan plant is required because the plant, under the criteria established by applicants themselves, is a "2-to-1" location. Applicants have thus acknowledged in their testimony spread on the public record throughout this case, that a shipper's ability to truck its products to or from a UP or SPT line makes that shipper a "2-to-1" location if its facility is also directly served by the SPT or UP. These admissions are consistent with the ICC's decision in Rio Grande, supra, which held that a joint rail/motor movement -- with a motor leg of up to 150 miles -- served as a competitive option to another carrier's all-rail service, and with NALS's own experience at the M&M/Mars facility in Hackettstown, NJ.

This merger will create the largest railroad in North America. Applicants realize that they are vulnerable to claims that the loss of competition which will result from a control transaction of such gargantuan proportions requires that it be denied. To de-fuse such claims, they have promised to insure that all locations now served by the UP and SPT will continue to be served by two railroads after the merger. Yet the disparity between the applicants' public promises and their cynical treatment of NALS -- a "2-to-1" shipper -- requires the Board to take action in this case to require the applicants to abide by their promises. But even without those promises, the statutes the Board administers require that rail competition lost by this merger be preserved. The conditions NALS here seeks would preserve that competition for the Kal Kan plant.

IV.

CONCLUSION

WHEREFORE, for the foregoing reasons, NALS requests that the Board impose the following conditions on any grant of this merger application:

Condition No. 1. The merged carrier should be required to grant the BNSF trackage rights over the existing SPT line serving the plant, along with all necessary "stop-off" and switching rights to provide such service or, in the alternative:

Condition No. 2. The merged carrier should be required to grant the BNSF trackage rights over the present UP line at Reno, Nevada and, if the Kal Kan plant is included within the Reno switching district, the BNSF should be granted reciprocal switching rights into the plant.

Respectfully submitted,

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March 29, 1996

BEFORE THE

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET 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

VERIFIED STATEMENT OF WILLIAM R. THOMPSON

1. My name is William R. Thompson. I am Group Transportation Manager of North American Logistic Services, a Division of Mars, Incorporated ("NALS"). My business address is 800 High Street, Post Office Box 731, Hackettstown, New Jersey 07840-0731.

2. I have been employed by NALS since its formation as a Division of Mars, Incorporated ("Mars") in 1989. Prior thereto, I was employed since 1982 in various logistics positions with Mars. NALS is responsible for arranging for the transportation service received by the production units of the Mars corporate family, including M&M/Mars, Uncle Ben's, Inc., and Kal Kan Foods, Inc. ("Kal Kan"). NALS selects the carriers used to transport the units' traffic and pays the carriers' rates and charges. NALS enters into transportation contracts with rail and motor carriers when contract carriage is used to serve the Mars units.

3. Kal Kan is a manufacturer of dry and canned pet food. It will shortly complete construction of a dry pet food manufacturing facility at Wunotoo, Nevada. Wunotoo is about 30 miles east of Reno, Nevada and is located on the main line of the Southern Pacific Transportation Company ("SPT") at Milepost A-258.26. The switch into the plant cuts directly off the SPT's main line. The Kal Kan plant is scheduled to begin manufacturing operations on or about September 1, 1996 and, when fully operational, will produce 120,000 tonnes of dry pet food annually. NALS will arrange both the out-bound transportation of the plant's finished pet food products, as well as the movement in-bound to the plant of the raw materials used in the manufacturing process.

4. NALS has entered into a five-year transportation contract with the SPT for the transportation of the plant's inbound traffic, to become effective when the plant begins operations. It is currently negotiating a contract with the Union Pacific Railroad Company ("UP") containing rates on grain from UP origins to its interchange with the SPT at Ogden, Utah. It expects those negotiations to conclude shortly.

5. The plant's products will be shipped by motor carriage from Wunotoo to Kal Kan distribution centers and customers located at points in the western United States generally within 500 to 600 miles of the plant. Unlike other Kal Kan plants --

such as its Matoon, IL facility which is located in the "grain belt" near the sources of its raw materials -- the Wunotoo site was selected because of its proximity to Kal Kan's customers.

6. The principal ingredients used in the manufacture of pet foods are grains, including wheat and corn, and animal by-products. These products originate at midwestern points many hundreds of miles from Wunotoo and, due to the nature of such materials and their distant origin points, the plant is dependent upon rail service for their transportation. Indeed, the choice to locate the plant near the destinations of its finished goods rather than the origins of its raw materials means that Kal Kan and NALS made the considered decision that rail service would be used to bring in those raw materials. And it is this merger's effect on the plant's inbound rail transportation which raises significant concerns for NALS.

7. The plant's production requirements cannot be met by utilizing motor carrier service for the entire movement from the origins of its raw materials. The plant is projected to receive between 1,000 and 1,500 rail cars of raw materials annually. Grain products will move inbound in covered hopper cars. If motor carriage were required to be employed to transport that traffic from its origins to the plant, it would result in estimated increased annual inbound transportation costs of more than $11,000,000, based upon a comparison between existing motor

carrier rates, on the one hand, and, on the other, the rates contained in the NALS/SPT contract and the rates NALS is currently negotiating with the UP. The additional costs resulting from the use of truck transportation for the plant's inbound traffic would place the plant in a non-competitive position in the marketplace, and would force it to seek grain from other origins.

8. Only one rail carrier -- the SPT -- serves the Wunotoo plant. The SPT owns the only rail tracks leading in and out of the plant. Pursuant to its contract with NALS, the SPT will transport grain to the plant from interchange points at Denver, Colorado; Kansas City, Missouri; and Ogden, Utah. Animal by-products will move primarily from the Denver and Ogden interchanges.

9. The SPT is not able to originate traffic in the major grain-producing regions of Iowa, Nebraska, Kansas, Idaho, Montana, Wyoming, and North and South Dakota. That traffic originates at grain elevators on the lines of the UP and the Burlington Northern Railroad Company ("BN"). As noted, UP-originated grain will move through Ogden, Utah, from which it will move via the SPT to the Wunotoo plant.

10. NALS currently has a competitive alternative to the UP/SPT service for the movement of raw materials to the Kal Kan

plant in the form of a joint UP/motor movement through Reno, Nevada. The UP is able to provide a direct single-line service from midwestern grain origins to that point, where the grain then can be transferred to motor carrier equipment for the 30 mile trip to the Kal Kan plant.

11. When the Wunotoo plant site was selected about two years ago, a key factor in that decision was the UP's ability to serve Reno as a competitive alternative to the SPT service, which otherwise made the plant captive to the SPT. The decision to locate the plant at great distances from the sources of its raw materials would not have been made if the plant were captive to one railroad. It was our business judgment that there had to be competition for such traffic. That competition exists in the form of the UP/motor routing through Reno. Moreover, we were convinced that such option was operationally and economically feasible based upon NALS's utilization of rail/truck service at other Mars production facilities. For example, the M&M/Mars confectionery plant in Hackettstown, NJ is served by rail and receives inbound rail shipments of raw materials. As a competitive option to this all-rail service, NALS also chooses to use a rail/truck movement for inbound bulk materials for the plant from a rail-head about 20 miles away. The use of this option has maintained inbound rail rates at Hackettstown at competitive levels.

12. The availability of the joint UP/motor alternative to the SPT was made known to the SPT and relied upon by NALS in its contract rate negotiations with that carrier. The ability of the plant to be served in this fashion through Reno provides competition between the UP and SPT for the transportation of the plant's in-bound traffic, and I believe that this option was a factor in NALS's ability to secure contract rates from the SPT at reasonable levels for such traffic.

13. A source of competition at the origin points of the grain used by the plant is provided by the BN, which serves grain elevators in the States of Iowa, Nebraska, Montana, Wyoming, North Dakota, and South Dakota which cannot be reached by the UP. This BN-originated grain will be routed through Denver, where it will then move over the SPT to Wunotoo. The ability of the plant to secure grain from BN origins in competition with the UP grain elevators was viewed as an important consideration in the planning for the plant, and the contract which NALS has negotiated with the SPT includes rates on grain from Denver originated on the BN.

14. A memorandum prepared by the SPT for a meeting with NALS on March 22, 1994, shortly before the Wunotoo site was selected for the plant, acknowledges that the SPT's marketing program into Nevada "utilize[s] the BN's vast origination base as a source of supply for yellow corn". Although the SPT

participates into Nevada with the UP on corn traffic through the Kansas City and Ogden gateways, "because of the UP's limited equipment supply" the SPT has concentrated its activities with the UP into Central California. A copy of this memorandum is attached hereto as Appendix A.

15. The proposed UP/SPT merger would destroy the competitive transportation options the plant now has, and upon which our decision was based to build the plant at its current site. Thus, the plant is at present a "2-to-1 customer" as defined by the applicants, since it can be served both by the SPT and the UP, via a joint rail/motor routing, and no other railroad. The merger will eliminate the competitive option the plant now has in the form of the UP/motor service through Reno. When the NALS/SPT contract expires in five years, that option will have been lost and the Kal Kan plant will be captive to the UP/SPT for its inbound transportation needs.

16. The merger will also cause the plant to lose the benefits of the competition it now enjoys at the origins of its in-bound grain traffic. The plant's ability to secure grain at BN origins has acted as a constraint on the UP's rates from its origins which are now being negotiated. The availability of the BN service also means that, during the peak season, the plant will not be dependent solely upon the UP and SPT's car supply. The availability of the covered hopper cars operated by the BN --

the nation's largest grain-carrying railroad -- is critical to the plant's ability to receive the grain it needs to manufacture pet food.

17. Once the merger takes place and when its contracts with the SPT and UP expire, NALS is very concerned that a merged UP/SPT will no longer have any incentive to continue to participate in the joint movement with the BN at a rate level which will allow that joint movement to compete with the single-line service the UP/SPT will be able to provide direct to Wunotoo from its elevators. It is not realistic to expect the BN/SPT movement to remain a viable option for the plant once this merger is consummated.

18. The UP/SPT's agreement of September 25, 1995 with the BN and the Atchison, Topeka and Santa Fe Railroad Company ("BNSF"), as amended November 18, 1995 ("the BNSF Agreement"), was intended to preserve service after the merger by two competing railroad companies for those customers now served by both the UP and SPT and no other railroad. Although the Kal Kan plant at Wunotoo is now served both by the SPT and UP, no provision is made in the BNSF Agreement for preserving this competition after the merger. Likewise, although Reno is a point now served by both the UP and SPT, the Agreement does not open Reno up to the BNSF service. In listing in Exhibit A the local points which the BNSF will be allowed to serve under the

grant of "Western Trackage Rights," Reno is named, but with a parenthetical limiting such service to "(intermodal and automotive only -- BNSF must establish its own automotive facility.)" Since the grain the Kal Kan plant is able to receive via Reno will not be in intermodal service but will move in rail hopper cars, from which the grain will be transferred to motor vehicles, the BNSF is not only not granted the right to serve the Kal Kan plant directly but it is also denied the ability to provide service at Reno for the plant's traffic.

19. The BNSF Agreement's failure to remedy the loss of competitive rail service which the plant will suffer because of the merger is confirmed by the appendix to the letter of Mr. Thomas R. Gehl of the UP to NALS, dated December 15, 1995, a copy of which is attached hereto as Appendix B. Mr. Gehl there states that Reno will remain an SP closed point and that, under the BNSF Agreement, "BNSF does not acquire the right to establish a rail transload utilizing trackage rights to handle business to/from this facility."

20. NALS thereafter made a further attempt to resolve with the UP, short of participation in this proceeding, the issue of the loss of competition the Kal Kan plant will suffer because of this merger. In a letter of February 16, 1996 to Mr. Ronald J. Burns, President and Chief Executive Officer of the UP, NALS pointed out that the plant is a "2-to-1" location now served both

by the SPT and UP, that the BNSF Agreement does not provide for the preservation of service at the plant by two railroads after the merger, and thus requested that -- to remedy the loss of competitive rail service -- the UP grant the BNSF access to the plant. A copy of NALS's letter is enclosed as Appendix C.

21. In a letter dated February 29, 1996, Mr. Drew Collier of the UP summarily rejected the NALS request. Characterizing that request as a "legal argument", Mr. Collier stated that "we believe that the facts do not justify providing additional competitive access to the Wunotoo plant." Mr. Collier's letter is attached as Appendix D.

22. To prevent the loss of the competitive rail options upon which NALS and Kal Kan relied in selecting the Wunotoo site for the plant, NALS requests that, in any grant of this application, the Board impose the conditions requested by NALS.

VERIFICATION

STATE OF NEW JERSEY)
) ss
COUNTY OF WARREN   )

William R. Thompson, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true as stated.

William R Thompson

William R. Thompson

Subscribed and sworn to before me this 25th day of March, 1996.

Geraldine M. Weiss
Notary Public

GERALDINE M. WEISS
I.D. #2037...
My Commission Expires ...

My commission expires: ____________

NORTH AMERICAN LOGISTIC SERVICES
SOUTHERN PACIFIC COMPANY
SIGHT SELECTION MEETING
MARCH 22, 1994

Grain Sourcing Options For SP Served Facility.

Corn: SP relies heavily on the BN to supply most all yellow corn demand in Arizona and Southern California. The BN, the largest rail originator of feed grains in the U.S., has a fleet of over 27,000 covered hoppers assuring an ample supply of equipment even during the most critical times. The BN COT program allows shippers and receivers to secure equipment even in the most demanding shipping periods.

Current SP marketing programs into Utah and Nevada also utilize the BN's vast origination base as a source of supply for yellow corn. Along with the Arizona market, the intermountain market draws heavily from Nebraska and Western Iowa corn producing areas.

It should be noted that the SP participates into both Arizona and Nevada in conjunction with the UP over either Kansas City or Ogden gateways. Because of the UP's limited equipment supply we have concentrated our activities with the UP into central California.

It is the position of the BN to market via tariff publication. Currently the BN does not participate in contract rates on whole grains either direct or jointline.

<u>Wheat</u>: SP has an adequate to surplus supply of wheat. Originating points on the SSW include stations in KS., OK. and TX., which would support an Arizona location. Wheat Origination from DRGW stations in Colorado and SP points in Utah would provide an adequate supply of cost competitive Soft White Wheat for a Nevada facility.

The SP participates with both Canadian carriers, CN and CP, on marketing programs to bring in Canadian feed wheat into most Western markets. With the passage of NAFTA, Canada has become a major supplier of feed wheat and barley to the Western U.S.

It should noted that both the Arizona and Utah areas can and are somewhat self sufficient in the production of feed wheat. This would not be the case in the Reno/Sparks area.

Currently, all wheat rates into these markets are in tariff format.

Routes: Corn to Arizona
BN/ Kansas City/SSW-SP
BN/ Dalhart/SSW-SP
UP/ Kansas City/SSW/SP

Corn to Utah/Nevada
BN/ Denver/DRGW-SP
UP/ Ogden/SP (Nevada Only)

Wheat to Arizona
SSW/SP Direct

Wheat to Utah/Nevada
DRGW-SP Direct

Suppliers:

Corn
- Cargill
- Continental Grain
- Peavey Grain, Division of Conagra
- Scoular Grain
- Various Cooperative Associations

Wheat
- Collingwood Grain, Division of ADM
- Bunge Grain
- Union Equity, Division of Farmland
- Continental Grain
- Cargill
- Conagra
- McNabb Grain
- Various Cooperative Associations

UNION PACIFIC RAILROAD COMPANY

THOMAS R. GEHL
ASSISTANT VICE PRESIDENT
FOOD & FOOD PRODUCTS

1416 DODGE STREET
OMAHA, NEBRASKA 68179
402-271-4874

December 15, 1995

Mr. Jim DeVoe
North American Logistic Services
P.O. Box 731
800 High Street
Hackettstown, NJ 07840

Dear Jim:

This refers to our ongoing conversations subsequent to the meeting we held in Kansas City on November 14, 1995. In that meeting, you outlined numerous issues for discussion, and requested resolution on various switching requirements at several points throughout the country.

Union Pacific appreciates the opportunity to provide transportation services to North American Logistic Services. We have evaluated the issues raised in the November 14 meeting, and would like to comment on each below.

NALS has requested that Union Pacific take an active participation in the evaluation of a pocket intermodal terminal in Waco, TX. You indicated that this request was for Union Pacific to provide its expertise in working with the City of Waco in the evaluation of this project, and that no further commitments or financial assistance are required from the railroad at this time. As we indicated, we are interested in further pursuing this study, and are pleased to offer our assistance in its evaluation. Our primary point of contact will be Ken Lueckenhoff, Regional Industrial Development Manager. Ken is located in Houston, TX. Additionally, our Marketing & Sales Department will be involved as required.

The attached exhibit outlines our current thinking on your request for expanded switching status at all Mars locations. We would be happy to discuss any of these particular issues further with you following your review.

NALS has also requested that Union Pacific reenergize its focus on developing joint opportunities to utilize Union Pacific's refrigerated equipment transportation capabilities. As you are undoubtedly aware, there have been numerous attempts to facilitate an active working partnership between our companies utilizing the railroad's network of cars. To a large extent, this effort has been unsuccessful for a variety of reasons. Union Pacific continues to desire to find successful opportunities for NALS to utilize our refrigerated equipment. As such, it will be our intention to move forward with you on this project as we move into 1996, sharing the objective of creating a refrigerated logistics option which is beneficial to both parties.

Finally, I would like to advise you of an organizational change that is being made in the Marketing & Sales department at Union Pacific Railroad. In an effort to provide more responsive handling of our customers' requirements, several structural changes are being made within the Marketing & Sales organization. Handling of food related products will now be merged into our new Agricultural Products Group which will be headed by Drew Collier. Under Drew's organization, he will have full responsibility for the movement of all grain and food products. Drew's organization will include individuals who will be ready to assist in the development of these projects. Further details on this change will be available soon. As a result of this organizational change, Mike Kelly will now assume responsibility for the railroad's industrial products movements, which includes lumber, paper, metals, minerals, and consumer products, and I will be moving into the Automotive group.

Thank you again for the opportunity to meet with you in November in Kansas City. Please give me a call at (402)271-4974 if you would like to discuss these items further. We look forward to moving positively in a direction which more closely aligns the needs and capabilities of our two companies.

Sincerely,

Tom

att.

cc: Ron Paul
Mike Kelly
Steve Nielsen

MARS, INC. SWITCHING STATUS

[illegible]	[illegible]
Vernon, CA - LAJ Open	Inbound product is handled through Pacific Cold Storage. This facility is served by the LAJ Railroad and is open to reciprocal switch.
Aspen Distribution - Utah. UP local point.	This facility is currently a Union Pacific local point. We are agreeable to discussing joint line routing in BNSF equipment into this facility.
Melrose Park, IL. Melrose Distribution Company is a closed point in the CNW. It is, however, currently open for confectionery business moving to/from stations east of the Mississippi River in connection with line haul traffic via CR, CSXT, GTW, IC, NS.	Union Pacific is willing to open this facility (Melrose Distribution Company) for confectionery business only if Union Pacific and NALS are unable to reach agreement on a refrigerated boxcar program that includes this location.
Foster Farms, Modesto, CA. SP closed.	This facility will remain an SP closed point.
Dairymans - Tulare, CA. SP closed.	This facility will remain an SP closed point.
Uncle Ben's - Houston, TX. SP open.	This facility is currently SP open. BNSF currently has access to this facility.
M&M/Mars - Waco, TX. UP open.	Under the BNSF arrangement with Union Pacific, BNSF will gain access to this facility as it is open to reciprocal switching.
TDC - Waco, TX. UP open.	Under the BNSF arrangement with Union Pacific, BNSF will gain access to this facility as it is open to reciprocal switching.
Reno, NV. SP closed.	This facility will remain an SP closed point. Under the BNSF agreement with Union Pacific, BNSF does not acquire the right to establish a rail transload utilizing trackage rights to handle business to/from this facility.

APPENDIX C

NORTH AMERICAN LOGISTIC SERVICES
a division of Mars, Incorporated
800 High Street, P.O. Box 731, Hackettstown, NJ 07840-0731
Telephone: 908-852-8699 / Fax: 908-852-6518

16 February 1996

VIA FEDERAL EXPRESS

Mr. Ronald J. Burns
President and Chief Executive Officer
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

Re: Union Pacific/Southern Pacific Merger

Dear Mr. Burns:

North American Logistic Services, a division of Mars, Incorporated ("NALS"), is responsible for arranging for the transportation service received by the production units of the Mars corporate family, including M&M/Mars, Uncle Ben's, Inc., and Kal Kan Foods, Inc. Several of the origin and destination points for the traffic of these units are at present served both by the Union Pacific Railroad Company ("UP") and its proposed merger partner, the Southern Pacific Rail Corporation ("SP"). Since the merger will eliminate the SP's separate corporate existence, it potentially could have a serious adverse impact on the rail service now available to NALS at those points.

NALS is a participant in the Finance Docket No. 32760 proceeding at the Surface Transportation Board ("the Board") involving the UP/SP merger. To assist it in deciding what position it should take in that case in order to protect its interests and the interests of the other Mars Units, this letter seeks confirmation from you that NALS will be in no worse position at its UP/SP locations -- as far as the availability of competing rail service is concerned -- after the merger than it is at present.

1. Background. The UP/SP's agreement of September 25, 1995 with the Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railroad Company ("BNSF"), as amended November 18, 1995 ("the Agreement"), provides, in Section 8(i), that: "It is the intent of the parties that this Agreement result in the preservation of service by two competing railroad companies for all customers listed on Exhibit A to this Agreement presently served by both UP and SP and no other railroad (2-to-1 customers)". We understand that the UP/SP has requested that the trackage and purchase rights given to BNSF in the Agreement be imposed as conditions in any grant of the merger application by the Board. We are not aware of any other agreements by the UP/SP which are intended to preserve competing rail service upon a grant of the application.

THE FIVE PRINCIPLES

Since NALS is a "2-to-1 customer" as defined by the Agreement at several UP and SP locations, on November 14, 1995 NALS and UP representatives met in Kansas City, MO to discuss the merger's impact on NALS and to insure the "preservation of service by two competing railroads" at its locations where the UP and SP are now able to serve it. Subsequent to that meeting, Mr. Thomas R. Gehl, then UP's Assistant Vice President, Food & Food Products, responded by letter to Mr. Jim DeVoe of NALS and outlined UP's "current thinking" on NALS' request for the maintenance of competitive rail service. A copy of Mr. Gehl's letter of December 15, 1995 is enclosed.

We understand that Mr. Gehl has been assigned to new duties in UP's Automotive Group. Accordingly, we are responding to his December 15 letter directly to you, and seeking clarification of several points therein.

In addition, and in order to expedite such clarification, I am taking the liberty of enclosing a proposed agreement between NALS and UP which addresses the issues I will discuss herein.

2. The NALS Locations Now Served by the UP and SP. The UP/SP locations of particular concern to NALS are the following, which are also among those discussed by Mr. Gehl in the attachment to his letter.

a. The Kal Kan Foods, Inc. Plant at Wunotoo, NV. This point is described in Mr. Gehl's letter as "Reno, NV. SP closed". He adds that this facility will remain an SP closed point, and that, under the Agreement, BNSF "does not acquire the right to establish a rail transload utilizing trackage rights to handle business to/from this facility."

The Kal Kan plant -- which will begin production in several months -- is located on the SP's line at Wunotoo, NV, about 30 miles from Reno. The switch into the plant cuts directly off the SP line. The plant is totally dependent upon rail service for the inbound transportation of grain and animal by-products used in the manufacture of pet food. The plant's production requirements cannot be met by utilizing motor carriage to transport such products from their distant Midwestern origins.

While the UP is not able to serve the plant, it does provide service at Reno. One of the competitive options to the SP service -- and one of the reasons the Wunotoo site was selected -- is the ability of the plant to have grain moved from the Midwest by UP to Reno and then moved the final 30 miles to the plant by truck. The grain will be moved in rail covered hopper cars to Reno, where it will be re-loaded into motor carrier equipment. Trailer-on-flatcar service will not be used. If the UP/SP merger is consummated, this competitive alternative will be lost. The Wunotoo plant is thus a "2-to-1" customer now served both by the SP and UP, with the latter able to provide a joint rail/motor movement to the plant via Reno.

In addition, the merger will cause this plant to lose the benefits of geographic competition which it now enjoys. The decision to build the Kal Kan plant at this site was based on several projections concerning the origins of the raw materials it will use. One of these assumptions was that the plant would be supplied grain from both BN and UP grain elevators in the Midwest. For example, the plant will receive grain via the UP/SP originating at UP elevators and moving through Ogden, UT. The plant will also receive grain from BN elevators in the Midwest, pursuant to a joint movement via the BN/SP through Denver. The BN-sourced grain will compete with the UP-sourced grain. If the UP/SP merger is approved, however, it is not realistic to expect that the UP will continue to participate in the joint movement with the BN from the BN elevators at a level which will allow that movement to compete with the single-line service the UP will be able to provide direct to Wunotoo from its elevators.

What this all means for the Kal Kan plant is that, unless remedial measures are taken, the plant will lose the competitive transportation options upon which Kal Kan and NALS relied in selecting this site and constructing the plant. It will lose the rail/motor option to the SP service which it now has available to it, as well as the ability to purchase grain at BN elevators. We believe that these adverse effects can be prevented if the UP will agree to take the following actions if its merger with the SP is consummated.

First, the plant could be opened up to BNSF service by granting that carrier trackage rights over the present SP line serving the plant. This would be the most direct method of remedying the "two railroads to one" situation which otherwise will occur at the plant because of the merger.

Second, the BNSF could be granted trackage rights over the UP line at Reno and, if the Kal Kan plant is included within the Reno switching district, BNSF could be granted reciprocal switching rights into the plant. Grain moving to Reno via the BNSF could also be transported in motor carrier service to the plant. These actions by the UP would preserve the existing competitive alternative to the SP service.

The BN/ATSF Agreement does not grant the BNSF either of these operating rights. In listing in Exhibit A the local points which the BNSF will be allowed to serve under the grant of "Western Trackage Rights", Reno, NV is named, but with a parenthetical limiting such service to "(intermodal and automotive only --BNSF must establish its own automotive facility)". If by "intermodal service" the Agreement means a TOFC/COFC "piggy-back" intermodal service, then the BNSF is not granted the right in the Agreement to provide service at Reno for the plant's traffic. As noted, when the plant begins receiving grain from Reno via the UP, it will move into Reno in rail hopper cars. TOFC service will not be used. That it is the Agreement's intent to grant BNSF access at Reno for TOFC intermodal service is seen from Section 1.e), p. 3, which gives the BNSF, for Reno area intermodal traffic, access to "SP's intermodal ramp at Sparks with UP/SP providing intermodal terminal services to BNSF for normal and customary charges."

The Agreement's failure to remedy the loss of competitive rail service which the plant will suffer because of the merger is confirmed by the appendix to Mr. Gehl's December 15 letter, in which, as noted, he states that Reno will remain an SP closed point and that, under the Agreement, "BNSF does not acquire the right to establish a rail transload utilizing trackage rights to handle business to/from this facility." We thus request confirmation from you that after the merger, the BNSF will be given access to this plant by the two methods we have proposed.

When this plant site was selected on the SP, it was presented to that railroad as a potential multi-use location, and not solely as a pet food plant. The plant site is 100 acres in size, and is able to accommodate other production facilities of the Mars units, including those for confectionery and rice products. Any rights granted to BNSF to preserve rail competition at this location, therefore, should not be restricted to those commodities used in the manufacture of pet food.

We are aware that the competitive service we have proposed for this location requires the assent of the BNSF. We are prepared -- once we receive your affirmative response -- to work with the UP and BNSF to implement the UP's decision.

b. Uncle Ben's Plant at Houston, Tex. According to Mr. Gehl's letter, this plant "is currently SP open. BNSF currently has access to this facility". The line serving this plant is owned by the SP, and as Mr. Gehl states, is open to other railroads, including the BNSF. The UP also owns track into Houston and is able to provide a competitive service to this facility.

The Uncle Ben's plant does not appear to be a "2-to-1 customer" protected by the Agreement since it is now served by not only the UP and SP, but also by BNSF. NALS, accordingly, requires UP's independent commitment that the Uncle Ben's plant will remain open, as it is now, to the BNSF and other railroads. We are not asking that additional railroads be allowed to serve this facility; we are simply seeking a commitment that the status quo will be maintained. Like the Wunotoo, NV site, this facility is capable of being expanded to include the production of commodities by the other Mars Units. Access to this facility should continue to include all commodities, and not just rice products. The service provided at the plant should continue to consist of one switch a day, five days a week.

c. The M&M/Mars Plant at Waco, TX, and The NALS' Texas Distribution Center at Waco, TX.

These two facilities at Waco are served both by the UP and the SP. As Mr. Gehl states in his letter, both points are "UP open" and, under the Agreement, BNSF will gain access to each facility since they are "2-to-1" locations as defined therein.

We would appreciate UP's confirmation of the current open status of both facilities and that the Agreement will allow the BNSF to serve both facilities through trackage rights and either direct access or reciprocal switching after completion of the merger. We would also appreciate UP's agreement that the BNSF will be provided access on at least the same basis as exists today, which is one switch a day, six days a week, at both facilities. Access to this facility should include all commodities.

In addition, as reflected in the third paragraph of Mr. Gehl's letter, NALS has concluded that there is a significant need for improved intermodal service at Waco. The nearest intermodal facilities are in Dallas/Forth Worth, more than 100 miles away. Intermodal traffic destined to Waco thus comes in by rail to Dallas, and is then trucked to Waco.

NALS is working with the Waco Chamber of Commerce and local and state government authorities to determine the feasibility of building a satellite intermodal facility in Waco. We are requesting that the UP commit to its active participation with NALS in a study to assess the economic benefits of such a facility.

d. The Kal Kan Plant at Vernon, CA. This plant is at present a closed UP location, although it can be served by the UP, SP, and the BNSF. (Mr. Gehl's statement that this facility is served by the LAJ Railroad and is open to reciprocal switching is incorrect; he is referring to the nearby Pacific Cold Storage facility, not the Kal Kan plant).

The inability of this plant to receive competitive rail service has prevented it from using any rail service at all, inbound or outbound. While there are bulk grain products that could be moved by rail into the plant, rail service is not able to be used for such commodities because they do not originate at points the UP can serve. Thus, UP's refusal to open this plant to reciprocal switching to other rail carriers has not provided traffic for the UP; it has instead forced the plant to forgo rail service completely and to use motor carrier service for all of its inbound and outbound traffic. We therefore require that this facility be open to reciprocal switching.

As Mr. Gehl notes, Pacific Cold Storage is now open to reciprocal switching, as are all of the other plants in the vicinity of the Kal Kan facility. It is very important to us that this facility likewise be opened up to reciprocal switching to other railroads so that it can utilize rail service for its traffic. No one -- least of all the UP -- is benefiting from the present situation.

e. The NALS Distribution Centers at Melrose Park (Chicago), IL and Aspen Distribution, Salt Lake City, UT.

Melrose Park is a closed point on the UP (formerly CNW), but is open to confectionery traffic to and from eastern stations. Aspen is currently a UP local point.

These locations are major NALS distribution centers that ship and receive, among other commodities, large volumes of confectionery products manufactured by the M&M/Mars Division of Mars, Incorporated. Those confectionery products must move in rail box cars that will protect them from heat and cold. UP, while maintaining the current closed status of these locations, has in the past failed to provide these facilities with the refrigerated equipment they require. This failure -- coupled with NALS' inability to use other rail carriers to and from all points served by these locations -- has greatly hampered NALS' distribution efforts via carload transportation.

Mr. Gehl acknowledges in his letter the "numerous attempts" by the UP and NALS to develop a refrigerated car program for NALS' traffic. He promises to "move forward" with NALS on this project in 1996, "sharing the objective of creating a refrigerated logistics option which is beneficial to both parties".

We wish to take Mr. Gehl up on his promise. If the UP will agree to commit at Salt Lake City and Melrose Park the number of refrigerated cars that NALS requires, then we would be content with the status quo at those locations. If UP cannot make such commitment, however, then it is not fair for it to continue to maintain the locations' current closed status.

To meet its current needs, NALS requires that UP assign to it -- by April 30, 1996 -- 30 refrigerated rail cars, meeting our quality specifications, at competitive rate levels, for the movement of NALS' commodities from non-UP served factories of the Mars Units to UP-served NALS distribution centers. We believe this request is reasonable, and will be justified by the amount of confectionery traffic that NALS will tender to the UP. Alternatively, if UP is unable to furnish these cars, then we request that UP open both Melrose Park and Salt Lake City fully to BNSF single-line service.

* * *

I appreciate very much the opportunity to raise these important concerns with you. With your resolution and clarification of these issues, NALS believes that it can work closely with the combined UP/SP after the merger to the mutual benefit of both companies.

Nevertheless, in view of the merger's potential adverse impact on the transportation service NALS currently receives, it is imperative that the issues raised in this letter be resolved promptly. In the absence of such resolution, we will be forced to protect the interests of NALS and the other Mars Units by taking an active role at the Board in opposing this merger, or in asking that the Board only grant the merger upon the imposition of the conditions discussed herein. Needless to say, I believe that it is to both parties' benefit to resolve these issues now, rather than have a government agency resolve them for us.

To implement our understanding I am, as noted, enclosing a proposed agreement in which NALS, in exchange for UP'S assent to the points raised herein, agrees not to oppose the merger nor to seek conditions on any grant thereof. While I realize that specific implementing contracts may be required once the merger is approved, the enclosed agreement will provide NALS with the assurance it needs now as to the post-merger rail service that will be available to it.

As you know, the Board is proceeding on an expedited schedule in the merger proceeding: comments and opposition evidence is due by March 29, 1996. Your response to this letter by February 29, 1996 would, accordingly, be appreciated.

With kindest personal regards,

Very truly yours,

Donald R. Klock

Donald R. Klock
Vice President

Enclosures

cc: Mr. D[illegible] Collier
Vice President, Marketing
Union Pacific Railroad

Terry Jones, Esq.
Keller & Heckman

Jim DeVoe - NALS
Ron Paul - NALS
Ron Reed - NALS
Bill Thompson - NALS

UNION PACIFIC RAILROAD COMPANY

DREW R. COLLIER
VICE PRESIDENT & GENERAL MANAGER
AGRICULTURAL PRODUCTS

1416 DODGE STREET
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(402) 271-2321
FAX (402) 271-6016

February 29, 1996

Mr. Donald R. Klock
Vice President
North American Logistic Services
P. O. Box 731
Hackettstown, NJ 07840-0731

Dear Mr. Klock:

We have now had a chance to consider the concerns raised in your letter of February 16 to Ron Burns. I will lay out Union Pacific's views on each of those points. Before doing so, however, I want to emphasize that we are convinced the UP/SP merger offers substantial benefits for Mars (NALS).

At those facilities served by Southern Pacific, the merger will offer the long term assurance of efficient and reliable rail transportation service. By combining the UP and SP systems, it should add much needed capacity for handling increasing volumes of traffic as well as enable the new company to make much better use of the combined equipment fleets of the two carriers. Moreover, it should open new markets for customers of UP and SP. Without the merger, rail competition will be weakened. SP will find it difficult, if not impossible, to compete with BNSF and even UP will be severely disadvantaged given the extensive reach of the BNSF system and the resources available to that new carrier. We think it makes sense and is in your interest to support the merger. With that background, I will address the specific points raised in your letter:

- **Kal Kan Foods at Wunotoo, NV** - I am not sure that it is productive to get involved in what is essentially a legal argument. We simply do not agree that the competitive alternative you referred to, i.e., trucking grain from Reno to Wunotoo was ever a viable proposal. Your letter suggests there were actually some concrete plans between UP and NALS to move grain to Reno in hoppers and then on to Wunotoo via truck. We have no recollection of such a proposal and, in fact, have always focused on a joint line program with the SP. Moreover, the remedy you suggest, granting BN/Santa Fe trackage rights to Wunotoo or opening it to reciprocal switch would go beyond the competitive alternative you suggest existed. However, as I said at the outset, this is essentially a legal argument and we believe that the facts do not justify providing additional competitive access to the Wunotoo plant.

- **Uncle Ben's Plant at Houston, TX** - The status quo will be maintained at the Uncle Ben's plant. In fact, your situation at Houston should improve. As you know, the current SP reciprocal switch charge is $495.00 per car. We have committed in the merger Application (see Richard B. Peterson's verified statement at page 71) to reduce the reciprocal switch charge. Accordingly, BNSF should enjoy improved access to this facility by virtue of a reduced switch charge.

- **Facilities at Waco, TX** - Our agreement with BNSF requires that access be granted to all customers who were served by UP and SP and no other railroad. It is our understanding that your facilities at Waco are served by both UP and SP and no other railroad. Accordingly, they would be open to BNSF service. Our agreement with BNSF contains no restrictions on the commodities that may be handled and, accordingly, access to this facility will include all commodities.

  With regard to intermodal service at Waco, on February 7 six Union Pacific representatives met here in Omaha with the Waco City Manager, the Chamber of Commerce's Senior Vice President of Economic Development and two representatives from M&M Mars, including Ron Paul, to discuss the city's interest in having an intermodal ramp constructed in Waco. The City has agreed to undertake a marketing survey to determine whether there is sufficient freight along with the Mars business in Waco to support an intermodal facility and the level of train service required to make it economically feasible. Curtis Cleveland of the Waco Chamber is working with Ben Shelton of Union Pacific on developing the necessary information.

- **Kal Kan Plant at Vernon, CA** - We are puzzled by the statement that bulk grain products could move into this plant by rail but do not because the origins are on locations not served by UP. We are always ready to work with another carrier to meet a customer's needs, particularly where the other carrier serves an origin not reached by Union Pacific. However, we do not see any competitive rational for opening a closed UP location.

- **Facilities at Melrose Park, IL and Salt Lake City, UT** - We believe that the merger should greatly improve equipment utilization. Improved equipment utilization should also benefit our fleet of mechanical refrigerated cars. We remain committed to providing refrigerated rail cars to you where it makes economic sense and expect that will continue after the merger. However, we see no relationship between the merger and your need for refrigerated cars to handle business to and from Melrose Park and Salt Lake City. There is no competitive rational that we can understand that would justify opening these facilities to BNSF on the basis of concern about the availability of refrigerated cars.

In summary, we feel that the merger will have a very positive impact on transportation services for NALS. At Houston and Waco your competitive access has been preserved. In the other instances you cited, we believe you will enjoy better service, but we see no competition rational that would justify expanding competitive access. Please don't hesitate to give me a call if you would like to discuss any of these issues in greater detail.

Sincerely,

c: Ron Burns
Tony Cardinale

CERTIFICATE OF SERVICE

I hereby certify that I have on this date (1) served two copies of the foregoing document by hand delivery upon:

Arvid E. Roach, II
Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, D. C. 20044-7566

Paul A. Cunningham
Harkins, Cunningham
1300 19th St., N.W.
Washington, D. C. 20036

Erika Z. Jones
Adrian L. Steel, Jr.
Roy T. Englert, Jr.
Kathryn A. Kusske
Mayer, Brown & Platt
2000 Pennsylvania Ave., NW
Washington, D. C. 20006

and (2) served a copy of the foregoing document by first-class mail, postage prepaid, upon all remaining parties of record.

Terrence D. Jones

March 29, 1996
Washington, D. C.

62318 D

RECEIVED
MAR 29 1996

Before the
United States Surface Transportation Board

Finance Docket No. 32760

APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

COMMENTS AND REQUESTS FOR CONDITIONS OF
THE EAST BAY REGIONAL PARK DISTRICT

ENTERED
Office of the Secretary

MAR 30 1996

8 Part of
Public Record

Susan B. Gerson
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Attorneys for the
East Bay Regional Park District

Before the
United States Surface Transportation Board

Finance Docket No. 32760

APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

COMMENTS AND REQUESTS FOR CONDITIONS OF THE EAST BAY REGIONAL PARK DISTRICT

The East Bay Regional Park District ("District") hereby submits comments and proposes conditions which it requests the Surface Transportation Board ("Board") to impose in the event of the Board's approval of the proposed merger of the Union Pacific Railroad companies ("UP") and Southern Pacific Rail companies ("SP").

I. THE DISTRICT'S INTEREST IN THE MERGER

The District is a duly constituted political subdivision of the State of California established pursuant to the California Public Resource Code, Article 3, Division 5, Sections 5500 *et seq.* The District has jurisdiction over the construction, reconstruction, maintenance and operation of a system of parks and trails within Alameda and Contra Costa Counties. The District owns and is responsible for the administration and protection of over 80,000 acres of property, including issues of environmental protection, public access and public safety.

The SP's "Cal-P" double-track main line between Oakland and Martinez passes adjacent to the District's parks known as the San Pablo Bay Regional Shoreline, Carquinez Strait Regional Shoreline, and Martinez Shoreline Park. *See* Exhibit "A".

The District also maintains regional trails and connections adjacent to the Cal-P line, the SP Mococo line which connects Martinez and Stockton, the UP's Niles Canyon line in Southern Alameda County, and in other areas which the merger may impact.

Use of these parks and trails is affected by rail traffic in numerous ways. Passing trains have environmental impacts on these parks, including locomotive and train noise and air pollution from locomotive exhaust emissions, as well as train and cargo emission sources. Of equal significance, the District's shoreline parks are separated from the user population by the Cal-P right-of-way, which must be crossed to gain access. This is especially true of Martinez Shoreline Park, which can only be reached via a single at-grade crossing at Ferry Street in the City of Martinez.

The District will be affected by the projected changes in the density and character of traffic which may be moved over SP and UP rights-of-way adjacent to the District's parks or trails if the proposed merger and/or related transactions proceed. The District is particularly concerned regarding increased obstructions at the congested Ferry Street crossing and other Cal-P and Mococo line crossings which will be caused by increased through freight trains, local trains and switching movements resulting from the UP-SP merger. The District has further serious concerns about obstructions caused by the possible diversion of Burlington Northern-Santa Fe ("BNSF") traffic onto these routes if the proposed Settlement Agreement among BNSF, UP and SP takes effect.

The District also has significant concerns relating to a series of proposed grade-separated or at-grade crossings of both the Cal-P line along the San Pablo Bay and

Carquinez Strait shorelines and the Mococo line, which are needed to provide public access to the District's park lands and regional trail corridors. The California Public Utilities Commission entered a Decision and Order on July 19, 1995, pursuant to Application No. 94-11-007, authorizing the construction of an at-grade crossing of the Cal-P right-of-way at Eckley. The District wishes to assure that this project can proceed without interruption. The increased traffic on the Cal-P line, however, poses public access and safety considerations which may necessitate a grade separation for this crossing and/or others which the District has planned.

The need for a Ferry Street grade separation and additional Cal-P line crossings was established and agreed upon a decade ago in connection with the then-proposed merger of the SP and the Atchison Topeka and Santa Fe Railroad ("SF"). At that time, the District, the City of Martinez, and the railroads entered into an agreement ("1987 Agreement") regarding these crossings. This 1987 Agreement was conditioned upon the ICC's approval of the SP-SF merger, which was not granted, but the Agreement has been performed in substantial part nonetheless. It provided for environmental abatement measures in the form of grade-separated and at-grade crossings of the Cal-P line near the District's parks, grade separations at Ferry Street and several other crossings, utilization of train dispatching procedures which would minimize obstructions at Ferry Street, and other environmental abatements to be provided if traffic reached certain levels.[1]

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[1] In addition to crossing congestion, the increased traffic on the Cal-P line would diminish the beauty and tranquility of the parks. Applicable environmental regulations (continued...)

The Board's approval of the UP-SP merger and the resulting BNSF Settlement Agreement would have the effect of implementing the 1987 SF-SP merger with regard to rail operations on the Cal-P and Mococo lines. Therefore, the District requests that, at a minimum, the conditions to which the railroads agreed in the 1987 Agreement should be imposed if approval of the UP-SP merger is granted. Because additional UP traffic is now proposed, several additional crossings or upgrades, as well as several minor lateral encroachments for trail access, are also necessary.

III. EFFECTS OF THE MERGER

A. Consolidation of UP and SP Operations in the East Bay

As part of the Settlement Agreement conditioned upon the approval of the UP-SP Application, UP, SP, and BNSF agree to operate many rail lines in the East Bay area in concert. They plan to consolidate operations out of the SP yards in Oakland and transform the yard into a joint intermodal terminal.[2] Once the Oakland yards are consolidated, Oakland will be the primary point of departure and arrival for freight on a substantial portion of the track routes in Northern California.[3] The Cal-P and

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[1](...continued)
specifically identify adverse effects on park lands as one criterion for evaluating the significance of an environmental effect. 40 C.F.R. § 1508.27(b)(3). High levels of noise affect not only people but wildlife as well.

[2] *See* Railroad Merger Application, Vol. 2, p. 64; Vol. 3, pp. 81 and 166; Figure 13-8, Vol. 3, p. 275. (Unless otherwise noted, all citations are to Volumes 1-6 of the UP-SP Application in Docket No. 32760.)

[3] *See* Tables 13-1, 13-2, 13-6 and 13-8, Vol. 3, pp. 310-317; Attachments 13-4 and 13-5, Vol. 3, pp. 374 and 378.

Mococo lines will carry much of this increased UP and SP rail volume which the Application contemplates.[4]

The UP-SP Operating Plan contemplates an increase of five trains in and out of Oakland every day via the Cal-P line, from 25 to 29.8.[5] The railroads also project a 39.1% annual increase in gross ton miles of freight running over the Cal-P line between Martinez and Oakland. From this latter figure, it is clear that the character of freight being moved, or the average train length, must be changing dramatically. Additional track construction is planned for Martinez.[6] The origin of local UP train assignments would be relocated from Port Chicago to Ozol Yards in Martinez on the Cal-P line, just west of Ferry Street near the District's parks.[7] Switching activities and the making-up of local freight trains at Ozol Yards will cause numerous additional moves onto the main-line, activating the Ferry Street crossing gate circuits.[8] The UP

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[4] One of the routes into the East Bay is the UP's Niles Canyon route connecting Livermore and Fremont. This route is adjacent to certain of the District's lands and regional trail systems. No traffic increase on this route is shown in the Application, but the District reserves its right to request conditions if this route is affected.

[5] *See* fn. 3, *supra*; Table 1-1, Vol. 6, Part 2, pp. 6-7 (breaks down train traffic increases between Oakland-Martinez, Martinez-Stockton (via Pittsburg), and Oakland-Niles Junction (Oakland-Fremont)); Figure 1-4, Vol. 6, Part 2, p. 13 (identifies same routes as rail line segments with increased rail traffic).

[6] Table 5, Vol. 6, Part 1, p. 18.

[7] Vol. 3, p. 153.

[8] Mr. Neal Owen, BNSF's expert witness in this case, testified in the 1986 SF-SP merger proceeding before the ICC that switching movements from Ozol Yards may enter the Cal-P main line track as many as 50 times per day, activating at-grade crossing gates. ICC Finance Docket No. 30400, Owen Cross-Examination, Tr. 16,554-8. The shift of UP local train assignments from Port Chicago to Ozol Yards will clearly exacerbate this problem.

and SP also intend to add four through freight trains per day on the Mococo line. The predictable result will be vastly increased noise and air quality impacts[9] and crossing delays at Ferry Street in Martinez as well as at other at-grade crossings along the Cal-P and Mococo lines which must be used by persons entering the District's parks or utilizing its trails. UP and SP also acknowledge that these proposed traffic increases would have environmental impacts which far exceed both noise or air quality standards.[10]

B. Effects of the BNSF Settlement Agreement

Adverse environmental impacts on the District -- already significant as a result of the UP-SP merger alone -- would be vastly exacerbated if the BNSF Settlement Agreement is implemented. BNSF would be granted rights, *inter alia*, to operate trains on the Cal-P and Mococo lines. The volume of BNSF traffic to be diverted onto the Cal-P line is not precisely quantified. The railroads indicate that six regular trains, one or more dedicated unit trains, one intermodal pair, and one daily manifest train, *i.e.*, a minimum of ten additional daily BNSF trains, would be redeployed on this line. There also may be additional dedicated unit trains as well as bulk grain and coal trains,

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[9] These switching and local freight activities will produce increased engine, coupling and draft-gear noise and air pollution impacts, regardless of the character of the freight being handled, even assuming no hazardous materials handling increases, and discounting the possibilities for derailments or crossing accidents.

[10] *See* Table 2-4, Vol. 6, Part 2, pp. 30-31. *See also*, Tables 2-22 and 2-23, Vol. 6, Part 2, pp. 82 and 89; Figure 2-4, Vol. 6, Part 2, p. 93; Vol. 6, Part 3, pp. 27, 81-83; Figures 2-5, 2-7 and 3-3, Vol. 6, Part 3, pp. 44, 46 and 99. Table 1, Vol. 6, Part 1, p. 11.

extra trains and local freight trains added at some point.[11] These same ten or more daily trains would also utilize the Mococo line.[12]

Insofar as this region is concerned, the Settlement Agreement would have the *de facto* effect of implementing the SF-SP merger which the ICC rejected in 1987 on competitive grounds. As discussed in the Supplemental Environmental Assessment prepared by the ICC staff in Finance Docket No. 30400 in 1986 ("Supp. EA"),[13] the impact of shifting SF traffic onto the Cal-P line from Martinez to Oakland could be somewhere between a doubling and tripling of the number of freight trains on the route, up to a total of 40 trains per day. Supp. EA, p. 45. These figures do not include switching movements, which were then estimated by the railroads' expert witness at up to 50 per day on the SP line in the Martinez area.[14]

Exacerbating the noise and traffic delay problems resulting from the UP-SP merger and the additional BNSF traffic[15] is Martinez' location at the converging point for trains coming from all directions: East from the San Francisco Bay area, South on

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[11] Verified Statement of Neal D. Owen in Support of BNSF Comments, pp. 7-10, and Verified Statement of Larry M. Lawrence in support of BNSF Comments, pp. 1-3.

[12] *Id.*

[13] Cited portions of the Supp. EA are attached as Exhibit "B".

[14] ICC Docket No. 30400, Owen Cross-Examination, Tr. 16,554. The problem of trains stopping or switching on the crossings has long been a major source of friction between SP and City of Martinez, according to Mr. Owen in 1986. Owen Cross-Examination, Tr. 16,557-8.

[15] A noise study by Harris, Miller & Hanson ("Noise Study") clearly identified the Cal-P line as the area which would have been most severely affected by the increase in railroad noise resulting from the SF-SP merger. Supp. EA, pp. 24-7.

the SP Overland main line route from Sacramento, and West from the Central Valley on both the Mococo and BNSF lines. As a result, the probability of dispatching conflicts between trains coming from different directions appears quite high. Eastbound trains about to switch from the Cal-P line to the SP Mococo line proceeding east from Martinez will have to stop or slow down in Martinez to avoid conflicts with westbound freight and passenger trains coming onto the Cal-P line from the Mococo or BNSF lines. Such dispatching delays create even more noise and air pollution. Locomotives which are decelerating or accelerating emit significantly more noise and air pollutants than those simply passing by at an even speed.[16] Additional disruptive noise impacts will be experienced from the action of couplers and draft-gear as slack runs in and out on accelerating and decelerating trains.

IV. CONDITIONS AND ENVIRONMENTAL ABATEMENT MEASURES NEEDED IN THE DISTRICT'S AREA

A. Ferry Street (Martinez)

The congestion and safety problems at the Ferry Street crossing, which directly affect the District's park users, are much more serious due to the presence of the nearby Martinez Amtrak station and SP's Ozol Yards. Passenger trains stopping at Martinez to discharge and load passengers activate the Ferry Street gates. Even

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[16] The Noise Study in Docket No. 30400 confirmed the fact that noise levels can vary drastically depending on the trains' throttle setting. For each change in throttle setting, the noise level changes approximately three dBA. Hence, going from a throttle setting four to the maximum of eight will increase the noise level by about twelve dBA. *See, generally,* Supp. EA, pp. 28-9.

without the added UP or SF trains, blockage of this crossing has been reported to be 312 minutes per day in the past. Supp. EA, p. 56n. SP's own logs presented in the 1986 ICC proceeding showed that through freights often take five to seven minutes to clear Ferry Street, that individual switching movements may obstruct this crossing for up to 14 minutes, and that movements from Ozol Yards also frequently activate the Ferry Street crossing gates. *Id.* The planned relocation of UP's local freight switching activities to Ozol Yards will make this situation worse.

In the 1986 ICC proceeding, the evidence indicated that the probability of delay at the Ferry Street crossing would be 11.2 percent, which is higher than that at any of the other key intersections in the area. *See*, Tables 13 & 15, Supp. EA, pp. 51 and 55. The probability of delay had SF traffic been diverted onto the Cal-P line would have been increased by up to <u>79 percent</u>. *Id.*

Martinez is the largest community on the Cal-P line corridor and is the county seat for Contra Costa County. There are no grade separations in Martinez. All emergency vehicle stations are located inland and must cross Ferry Street to respond to emergencies in the District's Martinez Shoreline Park and marina area. *See* Exhibit "A". Current statistics show an average of 386,000 persons annually visit Martinez Shoreline Park. Over 5,000 vehicles per day use the Ferry Street crossing on the average, and traffic is much higher on weekends and special event days at the park. Supp. EA, pp. 52-3. Hence, the urgency of the need to relieve the congestion, delay and safety problems at the Ferry Street crossing becomes quite evident.

In the 1987 Agreement, the railroads had contractually acknowledged the necessity of a grade separation at Ferry Street and the implementation of dispatching procedures to reduce obstructions at this crossing if the SF traffic were allowed onto the Cal-P line. Since these changes will now occur, such conditions are obvious requirements.

B. Cal-P Line Crossings

In addition to the situation at Ferry Street, it is of paramount importance to the District that the California PUC-approved at-grade crossing at Eckley be implemented, and that the District's other planned crossings of the Cal-P line along the San Pablo Bay and Carquinez Strait shoreline be implemented. These include overhead crossings at Wilson Point (Pinole), Gately (Pinole), Lone Tree Point (Rodeo), City Cemetery/Nejedly Staging Area (Martinez), and at-grade crossings at White's Resort and Port Costa. *See* Exhibit "A" for the locations of these crossings.

Over 52,000 persons visited the Carquinez Strait Shoreline Park in 1994, and usage increased in 1995 as facilities were expanded. Similar numbers will soon be visiting the newly-developed San Pablo Shoreline Park. The 1987 Agreement -- contingent on the implementation of the SF-SP merger which will now apparently be substantially accomplished under the BNSF Settlement Agreement -- required the Eckley crossing, grade-separated crossings at Wilson Point and Lone Tree Point, an overhead or at-grade crossing at Port Costa/Light, and an at-grade crossing at Port Costa/Carquinez, as well as other conditions. At a minimum, these crossings and the others described above are necessary conditions if the proposed UP-SP merger is approved. Given the substantial additional traffic for the Cal-P line apparently contemplated under the BNSF Settlement Agreement, the District requests that crossings should be grade-separated where physically feasible.

C. Mococo Line Crossings

The railroads indicate that traffic on the Mococo line, which currently has no daily through freight trains, would increase by four UP-SP freight trains under the merger plan, plus an additional ten or more daily BNSF freight trains if the Settlement Agreement is implemented. The District has planned an at-grade trail crossing for Neroly Road (Oakley). At a minimum, this crossing should be required, and a grade separation may be necessary if there are additional traffic increases.

D. Trail Encroachments

More than 3,000,000 persons use the District's 130 miles of paved trails on an annual basis. The District maintains various regional trails systems and connections which are adjacent to or cross the SP, UP and/or BNSF rights-of-way in several parts of Alameda and Contra Costa Counties. Additional trails have been planned. The area in which the greatest number of existing and proposed trails come into contact with the railroads in this proceeding is in southern Alameda County, particularly in the Niles Canyon area. The UP-SP Operating Plan does not indicate any traffic increases on the UP's Niles Canyon right-of-way, connecting Livermore and Niles Junction. However, in the event this area or other portions of the District's trail systems may be affected by the UP-SP merger, the BNSF Settlement Agreement or other actions by the railroads, the District requests that appropriate conditions in the form of crossings (grade-separated or at-grade) and/or lateral encroachments be included by the Board.[17]

In addition, the District has developed certain Master Plan projects involving trails and trail connections between park lands. *See* Exhibit "A". The District desires to construct non-vehicular paved trails in the Niles Canyon (Fremont) area, and in certain locations in Valona (Crockett), Livermore and on several small segments of the Richmond Bypass-Lone Tree Point (Rodeo) right-of-way. These encroachments can all be established and maintained at no cost to the railroads, and will help offset the adverse effects of traffic increases resulting from the merger and Settlement Agreement.

E. Noise Abatements

The 1987 Agreement called for noise abatement structures to be built in the Pinole area if traffic reached predicted "worst case scenario" levels of 28 freight trains per day on the Cal-P line. These conditions should also be included by the Board.

V. REQUEST FOR RELIEF

Based on the foregoing, the District respectfully requests that the Board incorporate these comments and adopt the conditions set forth above. The various crossings, encroachments and other relief sought by the District are necessary for the

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[17] The District will comment separately on these issues in response to the Preliminary Environmental Assessment scheduled to be released in mid-April in this proceeding.

successful and harmonious coexistence of the railroads and the District's parks and trails in light of proposed traffic increases.

Respectfully submitted,
GRAHAM & JAMES LLP

March 29, 1996

By ______________________

Susan B. Gerson
J. Michael Cavanaugh
Attorneys for the
East Bay Regional Park District

2000 M Street N.W., Suite 700
Washington D.C. 20036
Tel. (202) 833-0807
Fax (202) 463-0823

CERTIFICATE OF SERVICE

Pursuant to Decision No. 26 in this Docket Proceeding No. 32760, I certify that I have this day served copies of the foregoing "COMMENTS AND REQUESTS FOR CONDITIONS OF THE EAST BAY REGIONAL PARK DISTRICT" upon all parties of record (POR) in this proceeding, by first-class, postage pre-paid U.S. mail.

Date: March 29, 1996

Signature: ______________________
Susan B. Gerson

EXHIBIT "A"

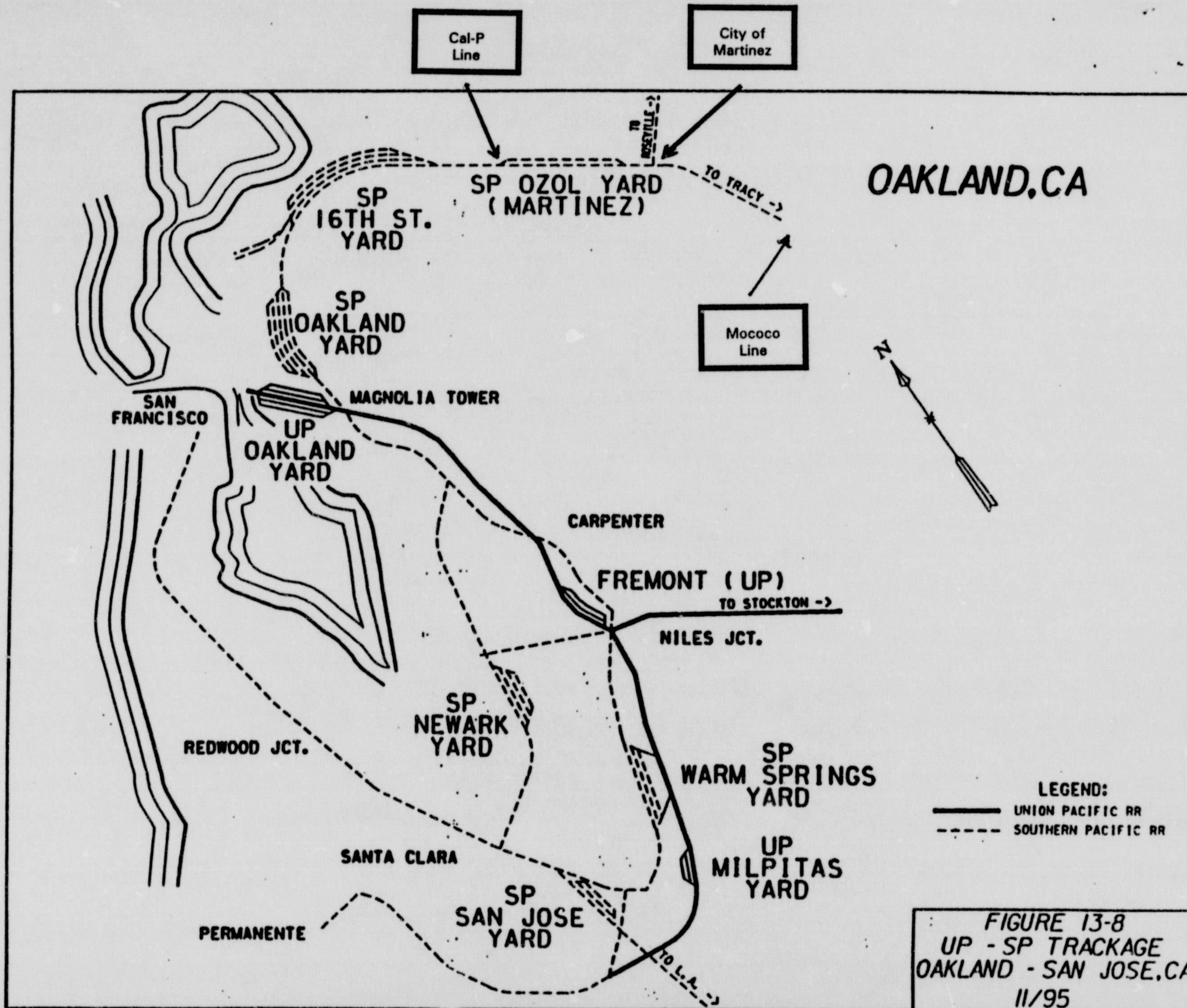
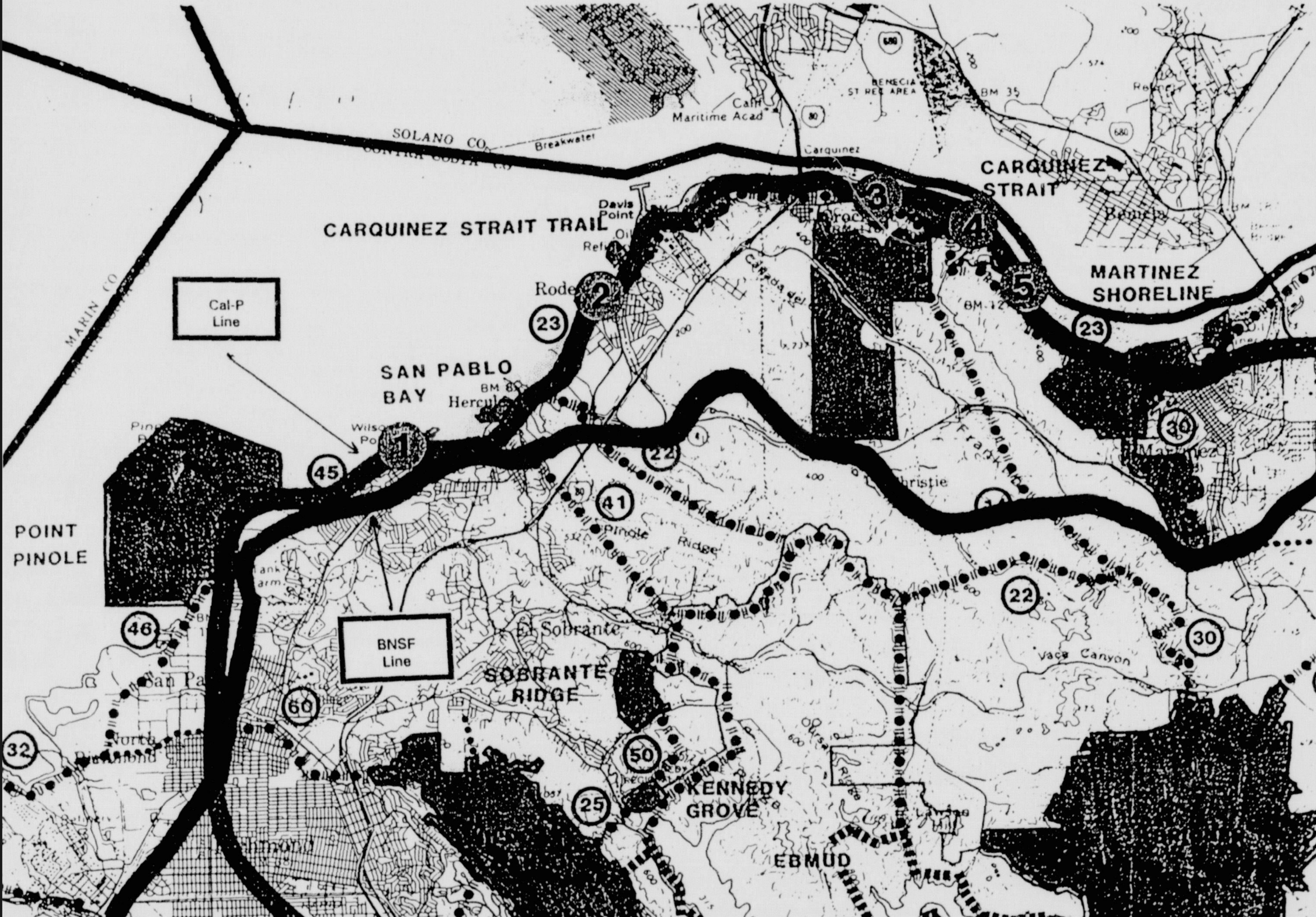


FIGURE 13-8
UP - SP TRACKAGE
OAKLAND - SAN JOSE, CA
11/95



SOLANO CO.
CONTRA COSTA CO.
Breakwater
MARIN CO.
Calif Maritime Acad
BENECIA ST REC AREA
BM 35
Carquinez
CARQUINEZ STRAIT
Benicia
Davis Point
CARQUINEZ STRAIT TRAIL
Oil Refy
Rodeo
MARTINEZ SHORELINE
Cal-P Line
SAN PABLO BAY
BM 80
Hercules
Wilson Point
Christie
Martinez
POINT PINOLE
Pinole Ridge
BNSF Line
El Sobrante
SOBRANTE RIDGE
Vaca Canyon
San Pablo
North Richmond
Richmond
KENNEDY GROVE
EBMUD
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23
45
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41
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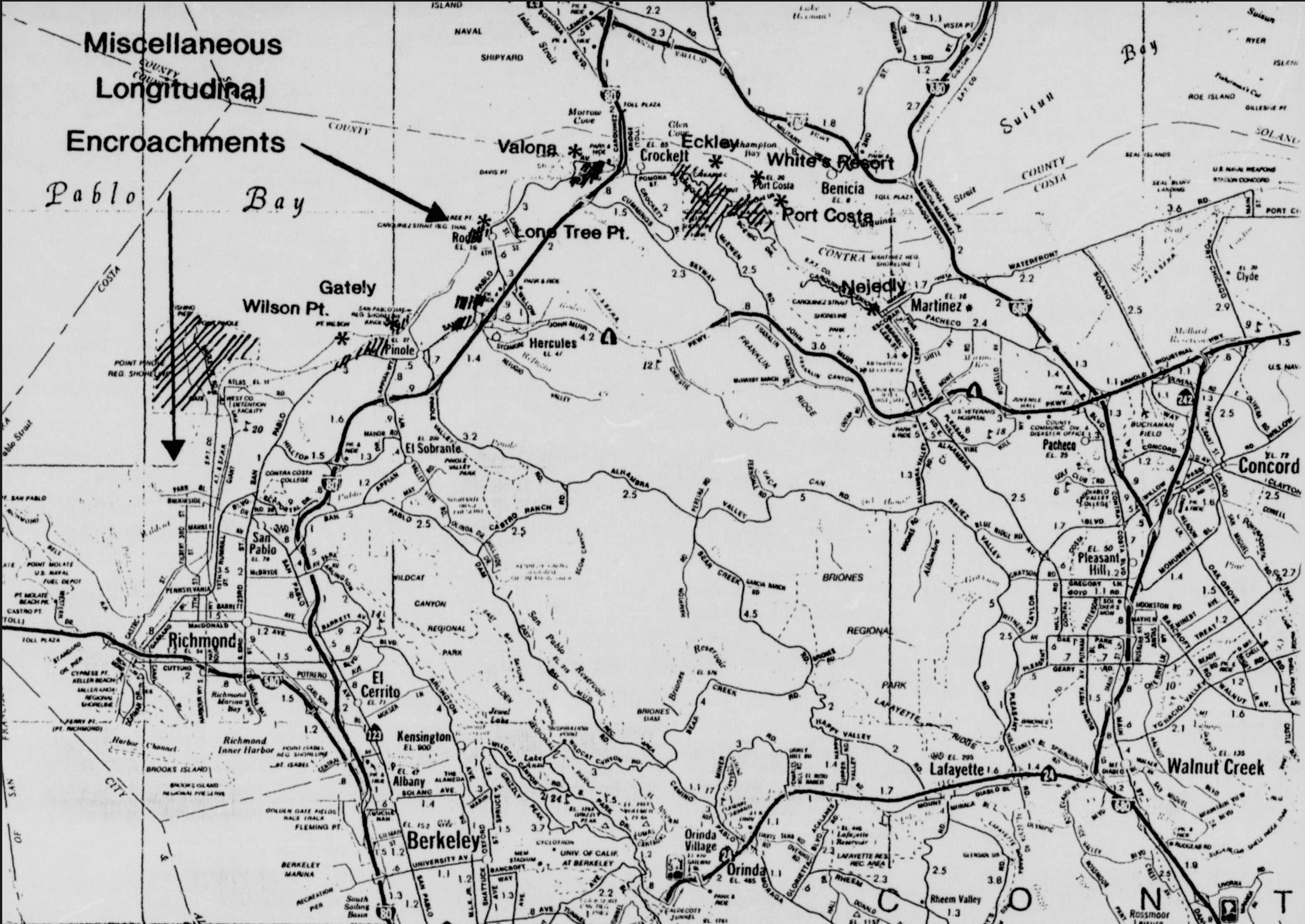
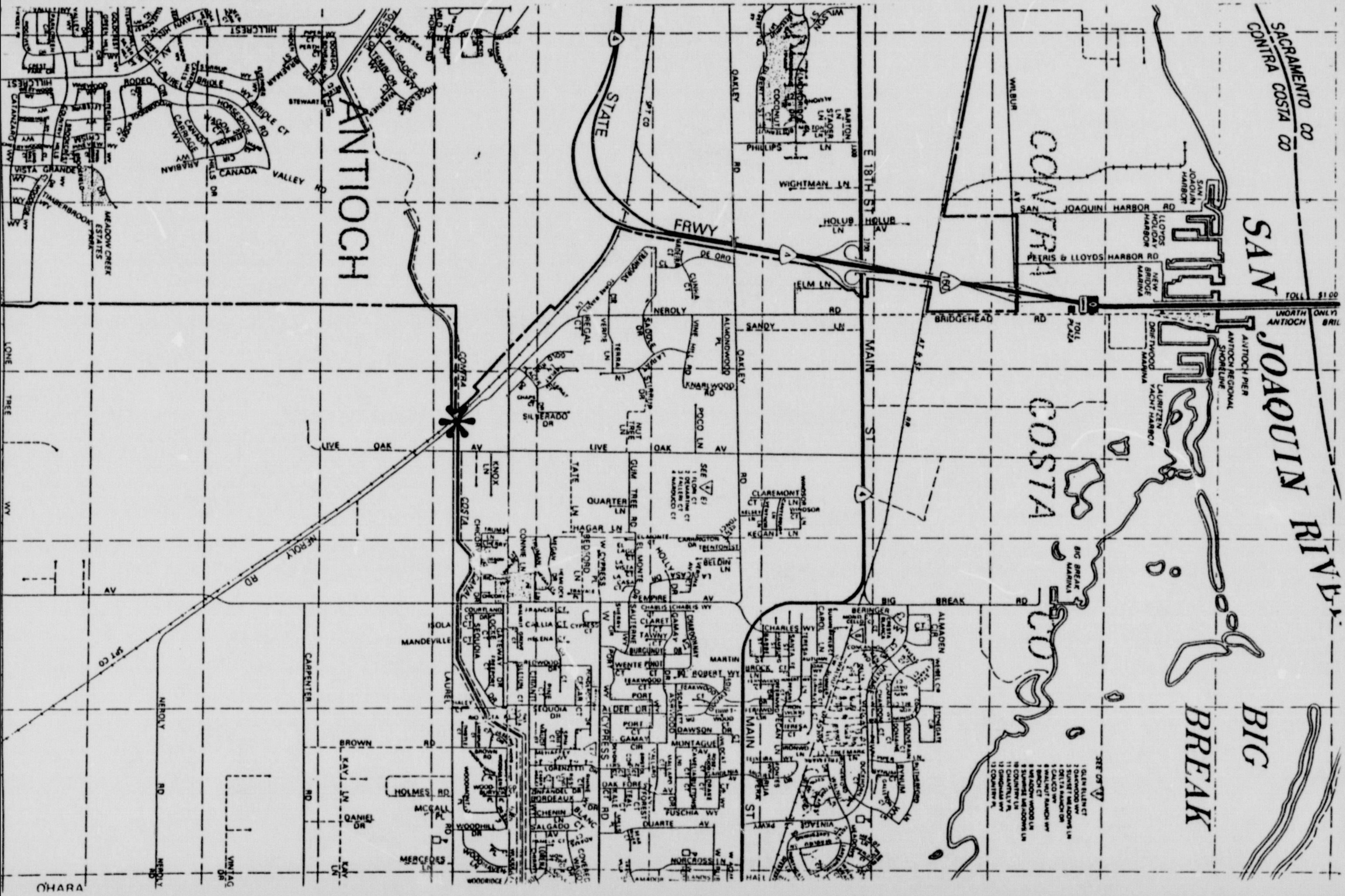
Figure 3 Martinez


Miscellaneous Longitudinal Encroachments
Pablo Bay
Suisun Bay
Valona
Eckley
Crockett
White's Resort
Benicia
Port Costa
Lone Tree Pt.
Rodeo
Gately
Wilson Pt.
Pinole
Hercules
Nejedly
Martinez
El Sobrante
Pacheco
Concord
Pleasant Hill
San Pablo
Richmond
El Cerrito
Kensington
Albany
Berkeley
Orinda Village
Orinda
Lafayette
Walnut Creek
Rheem Valley
Rossmoor Leisure
Briones Regional Park
Wildcat Canyon Regional Park
C O N T

Neroly Road (Oakley)



Niles Canyon (Fremont)

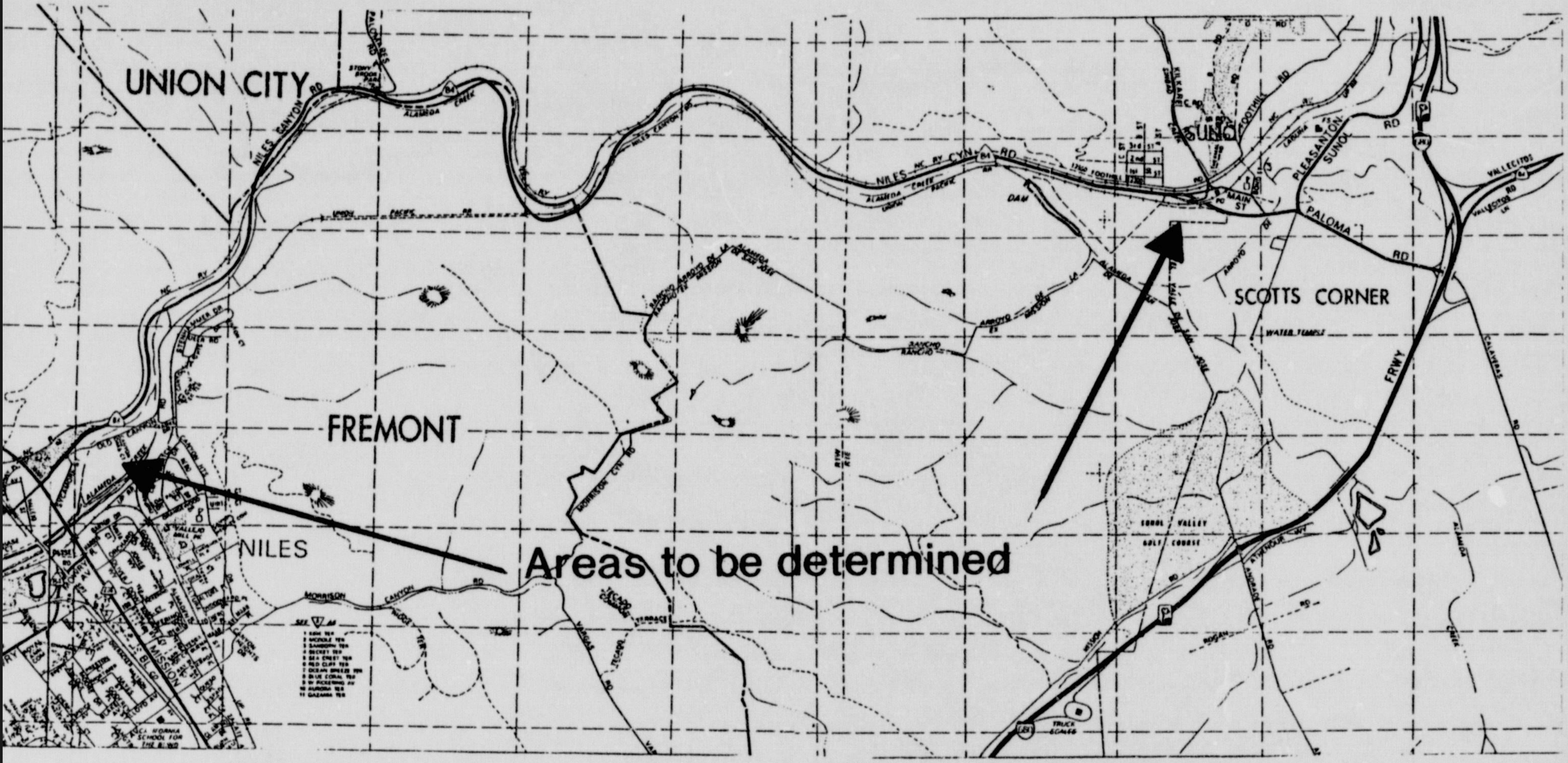


EXHIBIT "B"

Service Date, June 18, 1986

Supplemental Environmental Assessment

Record of the environmental
analysis relating to:

Finance Docket No. 30400

SANTA FE SOUTHERN PACIFIC CORPORATION — CONTROL
SOUTHERN PACIFIC TRANSPORTATION COMPANY: MERGER
THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
AND SOUTHERN PACIFIC TRANSPORTATION COMPANY

Information Contact:

Mr. Paul Mushovic
Office of Transportation Analysis
Section of Energy and Environment
Washington, D.C. 20423
(202) 275-6875

Prepared by:

Interstate Commerce Commissi
Office of Transportation Analys
Section of Energy and Environ

We therefore recommended that following a decision on the merger, a more detailed noise analysis be conducted to determine if the merger induced noise level increase remained significant when viewed in the total accoustical environment, and if so, to adopt appropriate mitigation measures.

The SFSP commented that the initial 1983 analysis failed to take into consideration unanticipated changes in traffic due to business cycles, nor did it consider that traffic levels have decreased substantially since the merger was proposed. They also commented that on one of the lines identified that projected traffic increases were not merger related (Warm Springs - San Jose). On two of the line segments, further analysis indicates that when projected traffic increases are considered against all traffic, the overall increase does not exceed our threshold criteria.*

Applicants stated that recommendations for further study and where necessary appropriate mitigation should be clarified and made more certain for all concerned. See applicants comments pages seven (7) through ten (10).

The City of Martinez and the East Bay Regional Park District commented that the EA clearly shows that Martinez is undoubtedly the community most seriously and widely affected by the disruptive and changerous noise problems raised by the more than doubling of the traffic on the SP waterfront line.** They concurred with the statement in our EA recognizing that the level of study was inadequate and that more detailed study was necessary for this line segment.

Subsequently the United States Environmental Protection Agency commented (letter dated February 7, 1986) that

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*On the Niles Jct. to Tracy segment, a Union Pacific segment over which the SP operates on a TR arrangement, and the Dallas to Wylie segment over which the KCS operates, the merger induced traffic does not exceed the Commissions' threshold criteria.

**Comments of Martinez and EBRPD have cited from page 35 of the EA an expected noise increase of as many as 11.5 decibels for the line segment between Martinez and Tracy. We would note that the actual segment should have been more precisely identified as that rail segment between the Carquinez Straits ("P" Line junction) and Tracy. Expected Impacts from the Ozol yard to the junction of the SP "Cal" P Line" would experience an increase in noise levels but not near the magniture of 11.5 decibels as cited from the EA.

EPA was concerned that the EA "does not fully analyze the potential impacts of the proposed merger so that appropriate mitigation measures can be developed. Further they recommended that: (1) the noise impact section be expanded to provide greater detail on both existing and predicted noise levels; (2) the section on alternatives to avoid impacts be expanded; and (3) additional mitigation measures be investigated.

After consideration of the comments and concerns raised regarding noise issues, it was decided that further noise analysis should be conducted on four of the five segments which were identified in the EA as lines which might (as a result of induced merger related noise) experience an increase of five decibels or more. The detailed noise analysis report has been prepared via a third party contract by the firm of Harris, Miller, Miller & Hanson(HMM&H).*

The analysis included a site investigation of each line segment and a review of existing data including pre-merger and post-merger traffic levels to determine if further analysis was necessary. Subsequently it was determined that the Richmond to Lathrop corridor (SP Mococo line) required detailed investigation. The results of HMM&H report are summarized herein.

Additional noise analysis was conducted along four rail corridors initially identified in the Commission's environmental assessment over which the rail traffic (either in trains or tonnage) was expected to increase significantly as a result of the merger. They included Richmond to Lathrop, CA; Warm Springs to San Jose, CA; Mobest to Phoenix, AZ; and Dallas to Wylie, TX. Site investigations were made of the four corridors. A site investigation by HMM&H noise consultants and Commission environmental staff considered the number of noise sensitive land uses within the noise impacted corridor, and the projected increased in the volume of train traffic. Merger related noise impacts along three of the corridors is expected to be minimal. In contrast, along the Richmond to Lathrop corridor there are a large number of residences affected by railroad noise. Depending on the expected changes in traffic (train levels) the number of residences affected could change dramatically. Existing and future noise impacts in this corridor were studied in detail. See Figure 2.

TRAFFIC LEVEL SCENARIOS

Four different traffic level scenarios were evaluated for the Richmond to Lathrop corridor:

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*Communities and agencies wishing a complete copy of the report should request one in writing from the Section of Energy and Environment.

TABLE 6

TRAFFIC LEVEL SCENARIOS

	Case 1 Existing Conditions 1985 Traffic	Case 2 Most Likely Scenario Post Merger	Case 3 Block Plan 1984 Merger Application	Case 4 Worst Case Case 2 & Trackage Rights
SP LINE				
Richmond to Martinez 1/	8.1 2/ (18.2) 3/ 8.0 P 4/	18.2 (25.6) 8.0 P	22.4 8.0 P	18.2 (25.6) 6.0 UP TR's 5/ 4.0 D&RGW TR's 6/ 8.0 P
Martinez to "P" Line Junction	12.9 (19.2) 8.0 P	23.8 (26.1) 8.0 P	24.8 8.0 P	18.2 10.0 UP TR's 4.0 D&RGW's 8.0 P
"P" Line Junction to Pittsburg	3.6 (3.6) 4.0 P	15.3 (18.8) 4.0 P	14.9 4.0 P	15.3 20 UP TR's 4.0 P
Pittsburg to Tracy	1.9 (3.0)	15.3 (20.6)	14.9	15.3 (20.6) 4.0 P
Tracy to Lathrop	6.2 (4.8)	15.3 (21.6)	16.9	15.3 21.6 4.0 P
SF LINE				
Richmond to Pittsburg	13.3 (12.9)	- 0 -	- 0 -	14.6 (14.2)
Pittsburg to Antioch	16.8 (13.6) 2.0 UP TR's 7/ 4.0 P	3.4 (1.1) 2.0 UP TR's 4.0 P	3.4 2.0 UP-TR's 4.0 P	0 - 0 2.0 UP TR's 4.0 P
Antioch to Stockton	13.3 (14.3) 2.0 UP TR's 4.0 P	2.0 TR's 4.0 P	2.0 TR's 4.0 P	- 0 - 2.0 UP TR's 4.0 P

1/ Richmond to Martinez segment ends at the west end of Ozol Yard.

2/ Number represents average of thru and local freights

3/ (No.) Number in parenthesis indicates tons/mile/year if known

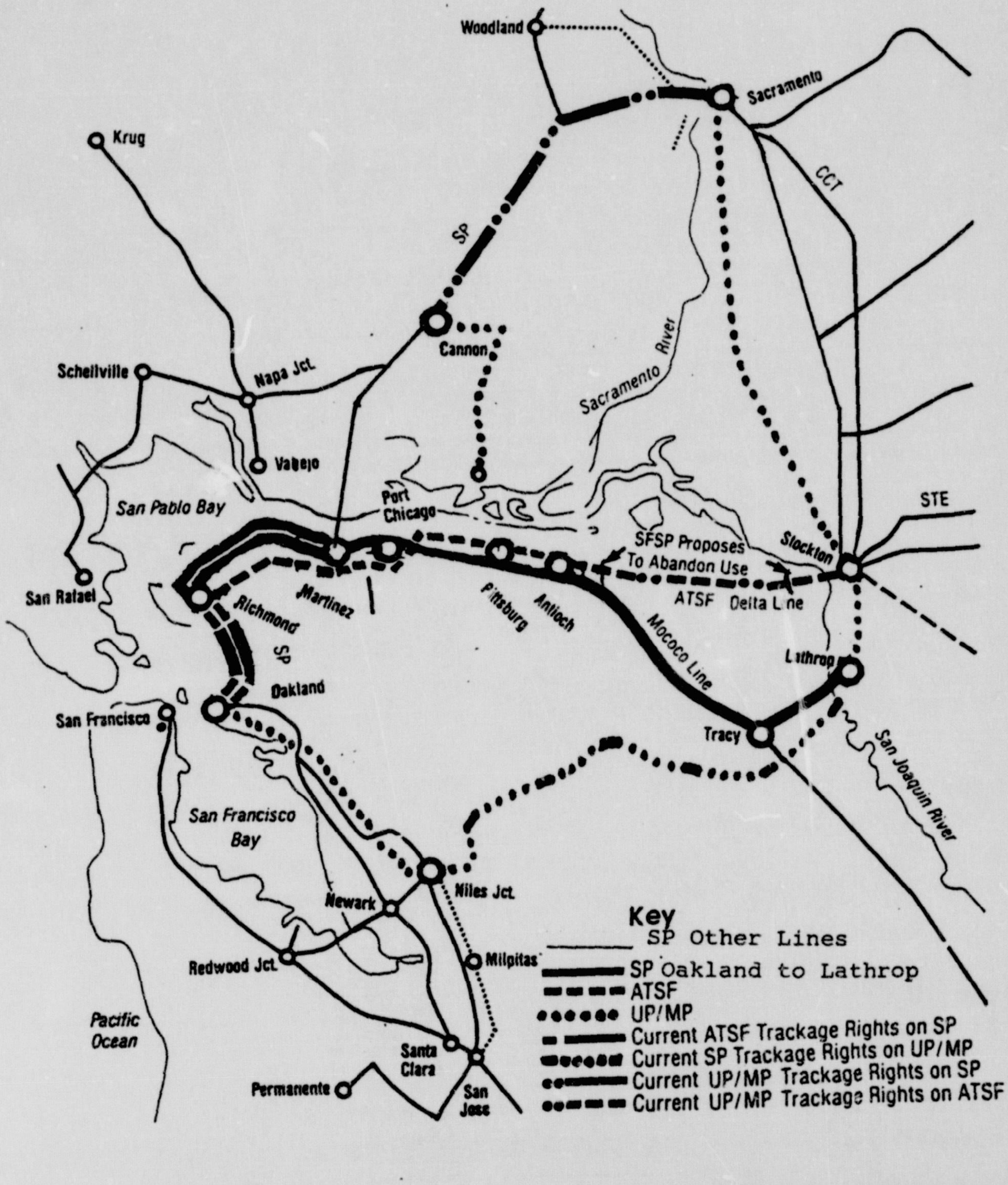
4/ P - represents no. of Amtrak trains

5/ Proposed Union Pacific Trackage Rights.

6/ Proposed (D&RGW) Denver and Rio Grande Western Trackage Rights

7/ This is a roundtrip train every other day which under the proposed operating plan would travel the Cal P line to Martinez (Ozol Yard) and then be routed to Pittsburg.

FIGURE 2
REGIONAL RAIL SYSTEM SCHEMATIC
(OAKLAND TO LATHROP CORRIDOR)



Case 1 1985 average traffic levels

Case 2 Most Likely Scenario - based on current traffic projections at 110 percent of 1985 traffic. Time frame is merger plus one to three years.

Case 3 Traffic projections based on the 1984 block plan (Original Merger Application)

Case 4 Worst Case Scenario - which assumes Most Likely Scenario (Case 2) plus the proposed Trackage Rights Applications of UP and D&RGW.

Table 6 identifies the individual segments and the train traffic expected within the corridor under each scenario.

The analysis focused on determining the number of residential units (single family houses, town houses, apartments, etc.) at which the Community Noise Exposure Level (CNEL) would exceed 65 dBA.* Noise projections are based on standard models of train noise which are calibrated using actual measurements of train noise in the Richmond to Lathrop Corridor. Noise was measured at 21 sites in the study area. Total noise ranged from a low of 58 dB (CNEL) to a high of 72 dB. Without trains, the CNEL is estimated to range between 55 and 72 dB. The results of the field investigations indicate that train noise currently dominates the noise environment at one-third of the sites and that non-railroad sources are dominant at about one third of the sites. At the remaining one-third of the sites, the contribution of rail noise and non-railroad noise is about equal.

Table 7 indicates the number of houses that fall within the 65 dBA CNEL contour along the SPT corridor from Richmond to Lathrop and the ATSF corridor from Richmond to Martinez under the various traffic level scenarios.

TABLE 7

RESIDENCES WITHIN 65 dBA CONTOUR

	SPT	ATSF	Total
Case 1 Existing 1985 Average	286	493	779
Case 2 Most Likely Scenario	756	12	768
Case 3 1984 Merger Plan	887	12	889
Case 4 Worst Case Trackage Rights	892	12	904

* See footnote on next page.

With the proposed changes in distribution of rail traffic, very few trains would use the existing ATSF lines in the Richmond Antioch corridor for Cases 2 , 3 and 4. The analysis shows that for these cases, the number of residences within the CNEL 65 dBA contour will drop from 493 to 12, a 98% reduction. One option that has not been specifically addressed is leaving all of the ATSF trains on the existing ATSF line. With the projected growth in traffic, the number of residences along the ATSF line within the 65 dBA CNEL contour would increase from 493 to 502, an insignificant 2% increase.

The proposed operations plan would dramatically increase the number of residences along the SPT tracks that are within the CNEL 65 dBA contour. The increase is projected to range from 164% to 212% depending on the scenario. This represents an increase of 470 to 606 residences that will be within the CNEL 65 dBA contour. Most of the residences impacted lie within the Pittsburg to Lathrop (SP Mococo Line) SP corridor.

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* Nationwide surveys sponsored by the U.S. Environmental Protection Agency [2.2] and the U.S. Department of Housing and Urban Development [2.1] have identified specific L_{dn} values with public health and welfare effects:

- L_{dn} = 55 dBA: satisfactory residential environment; 4 percent of people highly annoyed.
- L_{dn} = 65 dBA: threshold for normally unacceptable housing environment; 15 percent of people highly annoyed.
- L_{dn} = 75 dBA: unacceptable permanent residential environment; 37 percent of people highly annoyed.

These conclusions are equally applicable to CNEL levels of 55, 65 and 75 dBA. A commonly selected criterion for noise impact is an L_{dn} threshold of 65 dBA. This level is consistent with the noise policy of Federal agencies such as current Federal Aviation Administration regulations [2.3] as well as the EPA National Strategy for reducing noise through rigorous planning action [2.4]. This is also consistent with California Title 25 which requires acoustical studies for any multi-family development in areas where the CNEL exceeds 60 dBA. In practice, the Title 25 requirements usually result in noise control in the form of either sound barrier walls or extra sound insulation for residential exterior walls when the CNEL exceeds 65 dBA. Locations at which a project results in additional people being exposed to L_{dn} greater than 75 dB (an unacceptable residential environment) are generally considered to be severely impacted and high priorty candidates for noise mitigation.

TABLE 13

GRADE CROSSING DELAY, PRE- AND POST-MERGER; OAKLAND TO LATHROP CORRIDOR
(In minutes per train)

	Oakland-Richmond Scenario I	II	III	IV	Richmond-Martinez b/ Scenario I	II	III	IV	Martinez-Pittsburg Scenario I	II	IIII	IV	Pittsburg-Tracy c/ Scenario I	II	III	IV	Tracy-Lathrop Scenario I	II	III	IV
Crossing with Automatic Signalization a/																				
Blockage per train d/																				
Freight	3.27e/	2.59f/	2.59f/	2.59f/	3.27e/	2.59f/	2.59f/	2.59f/	3.27e/	2.59f/	2.59f/	2.59f/	3.27e/	2.59f/	2.59f/	2.59f/	3.27e/	2.59f/	2.59f/	2.59f/
Passenger g/	1.16	1.16	1.16		1.16	1.16	1.16	1.16	1.16	1.16	1.16	1.16				1.16				1.16
Length of Average Delay h/																				
Passenger	1.92	1.6	1.6	1.6	1.92	1.6	1.6	1.6	1.92	1.6	1.6	1.6	1.92	1.6	1.6	1.6	1.92	1.6	1.6	1.6
Switch	.89	.89	.89	.89	.89	.89	.89	.89	.89	.89	.89	.89				.89				.89
Probability of Delay i/	2.9%	3.5%	4.7%	5.7	2.5%	3.9%	4.7%	6.1%	1.1%	3.1%	3.0%	3.4%	2.4%	2.8%	2.7%	3.1%	0.4%	2.8%	3.0%	3.1%
Crossing Without Automatic Signalization j/																				
Blockage per train																				
Passenger	1.40e/	1.15f/	1.15f/	1.15f/	1.40e/	1.15f/	1.15f/	1.15f/	1.40e/	1.15f/	1.15f/	1.15f/	1.40e/	1.15f/	1.15f/	1.15f/	1.40e/	1.15f/	1.15f/	1.15f/
Switch	.55	.55	.55	.55	.55	.55	.55	.55	.55	.55	.55	.55				.55				.55
Length of Average Delay h/																				
Passenger	1.2	.88	.88	.88	1.02	.88	.88	.88	1.02	.88	.88	.88	1.02	.88	.88	.88	1.02	.88	.88	.88
Switch	.58	.58	.58	.58	.58	.58	.58	.58	.58	.58	.58	.58				.58				.58
Probability of Delay i/	1.3%	1.6%	2.1%	2.5%	0.7%	1.4%	1.3%	1.5%	0.7%	1.4%	1.3%	1.5%	0.2%	1.2%	1.2%	1.4%	0.6%	1.2%	1.4%	1.4%

a/ Crossings with automatic signalization are assumed to be in urban areas, and thus to have a 30mph train speed. Although all automatically signalized crossings may not be in urban areas, this is the most conservative assumption for delay analysis, as it assumes the slower speed.

b/ Ferry St. (Martinez) delay information is contained in Table A-III.

c/ Brentwood and Tracy crossing information is contained in Table A-III.

d/ In minutes. Derived by dividing train length in feet by train speed in feet per minute and adding 60 seconds. Circuits for signal activation are generally located at a distance from the crossing which will allow the signal to be activated 32 seconds prior to the train reaching the crossing. This distance is usually calculated based on the prevailing train speed through the crossing. Applying a factor of 60 seconds makes the worst-case assumption that the train is travelling at half the speed on which the signal activation distance is based

e/ Assumes pre-merger freight train length of 5700'.

f/ Assumes post-merger freight train length of 8000'.

g/ Assumes pre- and post-merger passenger train length of 300'.

h/ In minutes. Blockage per train x .5 (assumes the average vehicle queued at a crossing was in the queue for only half the time the crossing was blocked)+ .3 (a constant to allow for the line of waiting vehicles to dissipate).

i/ Probability that any vehicle using the crossing will be delayed. Equals total minutes a day crossing will be blocked divided by total minutes in day. Based on rail traffic scenarios presented in Section __. Scenario I is existing 1995 traffic, II is post-merger 1996 traffic, III 1984 projected post-merger traffic, and IV is worst-case post-merger which assumes that trackage rights will be approved on the Oakland to Martinez segment.

j/ Crossings without automatic signalization are assumed to be in rural areas, and thus to have a 70 mph train speed.

character of Old Martinez. The plan elements include encouraging development of appropriate commercial uses, phasing out of industrial uses, and encouraging the renovation and construction of new housing.

One important element assisting in the restoration of vitality to the northern section of the city has been the development of the Martinez Waterfront area. This is an area of approximately 160 acres which includes community park areas with highly intensive recreational facilities administered by the City of Martinez, and regional park areas administered by the EBRPD as a Regional Shoreline Park. Among the facilities at the Waterfront area are a 400-berth boat marina, public fishing pier, restaurant, city and regional parks, nature study area, as well as baseball, soccer, and other playing fields. The city's master plan for the Marina includes development of additional shops, restaurants, and water-related commercial establishments. There is currently parking space for 600 vehicles in the Waterfront Area.*

The central point of contention at Martinez is the effect of the merger on train movements through the downtown area past the Martinez Waterfront. As shown in Figure 3, the Waterfront is separated from the downtown area by the SPT rail line. The expected effects of the merger are discussed below.

Safety. There are two at-grade public crossings within the area of concern: Ferry St, and Berrillessa. The Berrillessa crossing is protected by a wigwag signal.**/ This crossing provides access to the Ozol Yard as well as a row of occupied dwellings north of the rail line. The Berrillessa crossing is very lightly used by vehicles and the projected increase in freight trains is not expected to have significant safety impacts at this crossing.

The Ferry St. crossing provides the only access into the Martinez Waterfront Park. It is protected with gate arms and a flashing light signal. The November 1985 application to the California Public Utility Commission for funding of a grade-separation at the Ferry Street rail crossing estimated daily traffic volume at that crossing at approximately 5,000 vehicles per day. City

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*Personal communication, Neil Hudson, Martinez Director of Public Services, May 1986.

**Wigwags provide statistically only about half as much safety protection at a given grade crossing as do gates.

officials indicated that this figure is substantially higher on week-ends and on days when special events take place at the park. A one day count on 12/5/81 showed 4,700 vehicles utilized the Ferry St. Crossing.

Table 14 shows the formula developed as part of the National Cooperative Highway Research Program to estimate the potential for accidents at grade crossings. Using this formula, and assuming traffic volume of 5,000 vehicles a day, one vehicle-train accident could be expected at the Ferry Street crossing every 21 years, assuming pre-merger rail traffic levels, and one such incident every 15 years, assuming post-merger rail traffic levels. To the extent that vehicle traffic at the crossing on certain days is higher than the average 5,000 vehicles, there would be an increased potential for grade crossing accidents. For example, if the <u>average</u> vehicle count is increased to 6,000 per day, the expected train-vehicle accident frequency becomes one every 18 years pre-merger and one every 13 years post-merger.

The city reports that since August 1978, there has been one vehicle-train accident at the crossing. In that time period, there have been 25 vehicle-vehicle or vehicle-object accidents at the crossing, most of which occurred when there was no train on the tracks. This would appear to be attributable more to the roadway geometrics as one approaches or leaves the park than it can be attributed to the crossing itself.

The city indicates that the Waterfront has hosted events attracting as many as 20,000 people. Especially on these occasions, and at other times as well, there is a potential for train accidents involving pedestrians to the extent that pedestrians stray onto or attempt to cross the tracks to access the park. When large events are hosted many people will park in downtown Martinez due to the somewhat limited parking places (estimated at 600) within the park.

<u>Delay</u>. It is complained that the Ferry St. crossing is blocked by through freight train movements, by yard switching operations, and by Amtrak trains.

Table 15 shows that the average pre-merger blockage of Ferry Street is currently estimated at 3.23 minutes for a through freight train, 3 to 5 minutes by an Amtrak train, and two minutes

TABLE 14

METHOD FOR ESTIMATING POTENTIAL RAIL - VEHICLE AT-GRADE CROSSING ACCIDENTS[a]/

Potential Accidents at each crossing per year = A x B x Trains per day[b]/

VEHICLES PER DAY		A FACTOR	B FACTOR COMPONENTS (B FACTOR = BASIC VALUE + ADJUSTMENTS)[c]/
250	-------	.000347	BASIC VALUES:
500	-------	.000694	
1000	-------	.001377	A. Crossbucks, highway volume
2000	-------	.002627	less than 500 per day 3.89
3000	-------	.003981	B. Crossbucks, urban 3.06
4000	-------	.005208	C. Crossbucks, rural 3.03
5000	-------	.006516	D. Stop signs, highway volume
6000	-------	.007720	less than 500 per day 4.51
7000	-------	.009005	E. Stop signs 1.15
8000	-------	.010278	F. Wigwags 0.61
9000	-------	.011435	G. Flashing lights, urban 0.32
10000	-------	.012674	H. Flashing lights, rural 0.53
12000	-------	.015012	I. Gates, urban 0.32
14000	-------	.017315	J. Gates, rural 0.19
16000	-------	.019549	
18000	-------	.021736	
20000	-------	.023877	
25000	-------	.029051	
30000	-------	.034757	

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a/ Derived from Highway Research Board, National Research Council, National Academy of Sciences, Factors Influencing Safety at Highway/Rio Grade Crossings, National Cooperative Highway Research Program Report No. 50, Washington, DC 1968.

b/ A is a factor associating traffic volumes with accident frequency; B is a factor representing the relative effectiveness of various types of crossing-warning devices.

c/ "B" factor = basic value + adjustments (adjustment = 0 if protection type other than stop sign with volume less than 500 or wigwag.

TABLE 15

GRADE CROSSING DELAY, PRE- AND POST-MERGER; MARTINEZ, AND TRACY

Traffic Scenario	Martinez (Ferry Street) I	II	III	IV	Tracy Downtown Area[b]/ I A	I B	II A	II B	III A	III B	IV A	IV B
Crossing with Automatic Signalization[a]/												
Blockage per rail movement												
Through Freight[c]/	3.23[d]/	2.59[e]/	2.59[e]/	2.59[e]/	7.6-17.6[f]/	5.3	5.6-15.6[g]/	2.37	5.7-15.6	2.37	5.6-15.6	2.37
Passenger	3-5[h]/	3-5	3-5	3-5							3-5[i]/	
Switch	2	2	2	2								
Length of Average Delay[j]/												
Through Freight	1.92	1.6	1.6	1.6	4.1-9.1	3.0	3.1-8.1	1.5	3.1-8.1	1.5	3.1-8.1	1.5
Passenger	1.8-2.8	1.8-2.8	1.8-2.8	1.8-2.8								1.8-2.8
Switch	1.3	1.3	1.3	1.3								
Probability of Delay[k]/	6.2%-7.3	7.6-8.7	7.6-8.7	10.0-11.2	1.0-2.3	0.7	6.0-16.6	2.5	5.8-16.1	2.5	6.8-18.0	3.4-3.9

a/ All of the crossings in question are protected by gate arms.

b/ Subscenarios A assume that there will be a crew change at Tracy on the freight train movements, with a resulting average speed of 10 mph and a 10-minute stop per freight train. However, the 10-minute stop would affect only those streets close enough to the yard to be blocked by the train when it is stopped. The upper limit under subscenario A applies to those crossings, the lower limit to those far enough away not to be affected. Subscenario B assumes no crew change at Tracy and, thus, no stop and a 35 mph speed through town. It should be noted that the increase in speed also assumes the planned straightening out of the existing -3" curve in Tracy. However, scenario IB assumes elimination of the crew change but only a 15 mph speed, as it is doubtful SP would go to the expense of straightening out the curve under current levels of rail traffic.

c/Derived by dividing train length in feet by train speed in feet per minute and adding 64 seconds. Circuits for signal activation are generally located at a distance from the crossing which will allow the signal to be activated 32 seconds prior to the train reaching the crossing. This distance is usually calculated based on the prevailing train speed through the crossing. Applying a factor of 64 seconds makes the worst-case assumption that the train is travelling at half the speed on which the signal activation distance is based.

d/Assumes train length of 5700' and 30 mph speed.

e Assumes train length of 4000' and 30 mph.

f/Both IA and IB assume 5700' trains.

g/II-IV A and B assume 4000' freight trains.

h/Passenger trains stop at Martinez directly on the Ferry Street crossing. It is estimated that such stoppage blocks the crossing from 3-5 minutes per train.

i/The worst-case assumption of Amtrak trains being routed through Tracy assumes the train would stop at Tracy, possibly directly on crossing, blocking it from 3-5 minutes.

j/In minutes, blockage per rail movement x.5 (assumes the average vehicle delayed at a crossing was in the crossing only half the time the crossing was blocked) x.3 (a constant to allow for the line of waiting vehicles to dissipate).

k/Probability that any vehicle using the crossing will be delayed. Equals total minutes a day crossing will be blocked divided by total minutes in day. Based on rail traffic scenarios presented in the text. The number of trains over the crossing in question at Martinez are those over the Richmond-Martinez segment, while the rail traffic level through Tracy are the scenarios developed on page 26 of this supplemental assessment.

per switch movement.* Length of the average automobile delay for each type of movement is estimated at 1.9 minutes for through freight, 1.8-2.8 minutes for passenger trains, and 1.3 minutes for switch movements. The probability that a vehicle using the crossing will be delayed by a rail movement varies between a low of 6.2 percent pre-merger, and a high of 11.2 percent under scenario 4 (the worst case).

It is estimated that betwen 291 and 343 vehicles a day are currently delayed by rail operations at Ferry Street. Based on 1995 projection of vehicle traffic at the crossing, a maximum of 438 and 522 vehicles a day could be expected to be delayed at the crossing under the current and the most likely post-merger rail traffic levels, respectively. However, under the worst case rail traffic scenario, vehicles delayed could increase to 672 per day by 1995.

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*Our analysis has not attempted to determine the exact amount of delay time at the Ferry Street Crossing. Public officials and local residents complain that the Ferry Street Crossing is blocked by through freight movements, by switching operations occurring at the Ozol yard, and by Amtrak trains. Neither the local community nor the railroad have complete logs of crossing blockage at Ferry St. over extended periods. In the City of Martinez's application for funding of a grade separation (1985) total delay time at the intersection was calculated at 312 minutes per day. This number was apparently arrived at by multiplying the number of movements (estimated at 44) by an average delay time. The average delay time would be approximately seven (7) minutes per operation. Southern Pacific has an incomplete log which indicates that through freights often take five to seven minutes to clear the intersection, and that switching activities have blocked the intersection for more than 14 minutes. SPT officials indicate that it would be very unusual for yard switching movements to physically reach the Ferry Street Crossing; however, they have stated that switching activities might occasionally get close enough to activate the gates. Once the train stopped or retreated from the intersection, activators should open the gates.

The City of Martinez police department has issued citations to the SPT for blockage delays at the Ferry Street intersection. Pursuant to General Order 135, citations may be issued to the Corporation for crossing blockage of public roads which exceeds ten minutes. It is the responsibility for the city's District Attorneys office to prosecute such offenses. It is suggested that prosecution of several such violations might provide some relief from the existing problem.