

STB FD

32760 9-23-96

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LAW OFFICES

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(202) 342-1316

86245

September 23, 1996

Via Hand Delivery

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

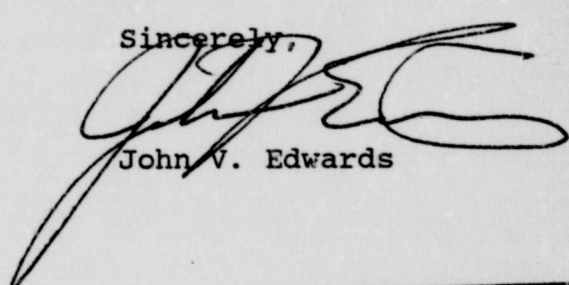


Re: Union Pacific Corp., Union Pacific RR. Co. and Missouri Pacific RR Co. -- Control and Merger -- Southern Pacific Rail Corp., Southern Pacific Transp. Co., St. Louis Southwestern Rw. Co., SPCSL Corp. and The Denver and Rio Grande Western RR Co.,
Finance Docket No. 32760

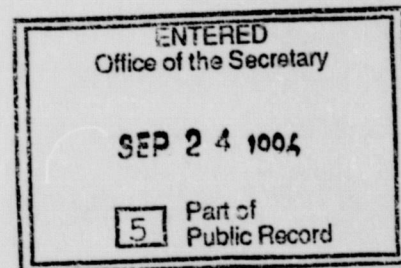
Dear Secretary Williams:

Enclosed for filing are an original and twenty copies of TM-47, Supplemental Comments of Shippers in Support of the Petition of The Texas Mexican Railway Company to Reopen Decision No. 44. Also enclosed is a 3.5" floppy computer disc containing a copy of the filing in Wordperfect 5.1 format.

Sincerely,

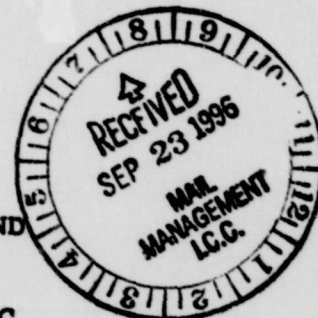

John V. Edwards

Enclosures



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

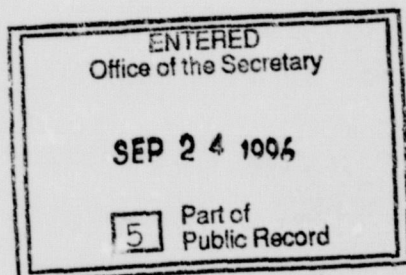


UNION PACIFIC CORP., UNION PACIFIC RR. CO. AND
MISSOURI PACIFIC RR CO.

-- CONTROL AND MERGER --

SOUTHERN PACIFIC RAIL CORP., SOUTHERN PACIFIC
TRANS. CO., ST. LOUIS SOUTHWESTERN RW. CO.,
SPCSL CORP. AND THE DENVER AND RIO GRANDE WESTERN CORP.

SUPPLEMENTAL COMMENTS OF SHIPPERS
IN SUPPORT OF THE PETITION OF
THE TEXAS MEXICAN RAILWAY COMPANY
TO REOPEN DECISION NO. 44



Richard A. Allen
Andrew R. Plump
John V. Edwards
Zuckert, Scoutt & Rasenberger, LLP
888 17th Street, N.W., Suite 600
Washington, D.C. 20006-3939
(202) 298-8660

Attorneys for The Texas
Mexican Railway Company

September 23, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

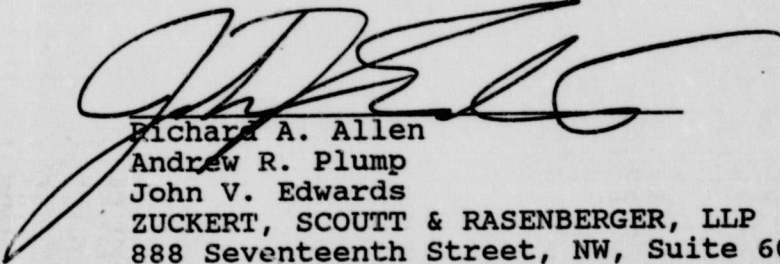
Finance Docket No. 32760

UNION PACIFIC CORP., UNION PACIFIC RR. CO. AND
MISSOURI PACIFIC RR CO.
-- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORP., SOUTHERN PACIFIC
TRANS. CO., ST. LOUIS SOUTHWESTERN RW. CO.,
SPCSL CORP. AND THE DENVER AND RIO GRANDE WESTERN CORP.

SUPPLEMENTAL COMMENTS OF SHIPPERS
IN SUPPORT OF THE PETITION OF
THE TEXAS MEXICAN RAILWAY COMPANY
TO REOPEN DECISION NO. 44

The Texas Mexican Railway Company makes this supplemental filing to submit an additional 35 letters of shippers and public officials supporting Tex Mex's Petition to Reopen Decision No. 44 in order to remove the routing restriction imposed on the trackage rights granted to Tex Mex in Sub-No. 13. These parties urge the Board to give Tex Mex full local service access to the shippers in Houston. The statements, which are in addition to the 83 which Tex Mex submitted on September 20, 1996, are attached. The parties registering their support for the petition are listed on the enclosed table of contents.

Respectfully submitted,



Richard A. Allen
Andrew R. Plump
John V. Edwards
ZUCKERT, SCOUTT & RASENBERGER, LLP
888 Seventeenth Street, NW, Suite 600
Washington, DC 20006-3939
(202) 298-8660

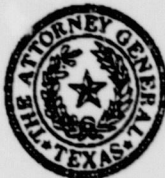
September 23, 1996

Attorneys for The Texas Mexican
Railway Company

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Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 23, 1996

The Honorable Linda J. Morgan
Chairman
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

The Honorable J. J. Simmons, III
Vice Chairman
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

The Honorable Gus A. Owen
Commissioner
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Response in Support of the Petition to Reopen Decision No. 44 filed by the Texas Mexican Railway Company (TM-44) in Finance Docket No. 32760, Union Pacific Corporation, et al.

Dear Commissioners Morgan, Simmons, and Owen:

As you are aware, the Office of the Attorney General, on behalf of the State of Texas, filed with the Surface Transportation Board its opposition to the Union Pacific/Southern Pacific merger because of the anti-competitive impact the merger would have in the State of Texas and elsewhere. The Surface Transportation Board, in Decision No. 44, issued its ruling approving the merger, but granted certain trackage rights to Texas-Mexican Railway (hereinafter referred to as Tex-Mex) to connect to Beaumont, Texas. The grant of these trackage rights contained a restriction that limited Tex-Mex's access rights to "the transportation of freight having a prior or subsequent movement on the Laredo-Robstown-Corpus Christi Line". In essence, this means that Tex-Mex cannot pick-up freight in Houston and deliver it to Beaumont or any other point north of Corpus Christi.

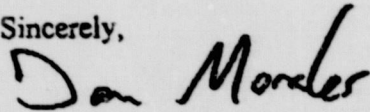
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September 23, 1996

By this letter response we are filing our support for the request by Tex-Mex that the imposed restriction be removed. The removal of the imposed restriction by the Board will assist in preserving three-carrier competition in the Houston area, which is an area of concern for the State of Texas.

Thank you for your consideration. If the Board has any questions or wishes to discuss this matter further, we will be happy to do so.

Sincerely,



Dan Morales
Attorney General

**The State of Texas
House of Representatives**

Capitol Office:
P.O. Box 2910
Austin, Texas 78768-2910
512-463-0462
Fax: 512-463-9545



Committees:
Public Health, Chairman
Calendars
Pensions & Investments

Hugo Berlanga
District 34

September 20, 1996

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th Street and Constitution Avenues
Washington D.C. 20423

Dear Secretary Williams:

This letter is written in regard to the Texas Mexican Railway Company's petition to re-open Decision Number 44. Specifically, I am writing to urge that the Surface Transportation Board remove the limitation imposed on the trackage rights it granted to the Texas Mexican Railway Company into the Houston area.

Removal of the limitation is vital to the Houston area in order to provide adequate competitive choice to the shippers in the area. It is similarly important to Tex Mex as it will enable it to continue to serve the people and businesses that rely on it, especially those in South Texas.

If you have any questions or I can be of additional assistance in any way, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in dark ink, appearing to read "Hugo", written over a circular postmark.

Hugo Berlanga
State Representative

District Office: 1015 Santa Fe • Corpus Christi, Texas 78404 • 512-883-1941

Capitol Office: 512 453-0528
Texas House of Representatives
P.O. Box 2910, Austin, Texas 78768-2910

District Office: 713 558-7018
15118 Memorial, Suite 218
Houston, Texas 77076



John Culberson

State Representative, District 120

September 23, 1996

Mr. Vernon Williams
Secretary, Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423-0001

Dear Mr. Williams:

I understand that the Tex Mex Railroad is petitioning the Surface Transportation Board for reconsideration of certain restrictions on its trackage rights access.

While I am not familiar with the specifics of Tex Mex's proposal to the STB, I do believe that a strong, competitive rail system is important to Houston's economy. I respectfully urge the STB to carefully reconsider the trackage rights access issue.

Thank you for your attention to this request.

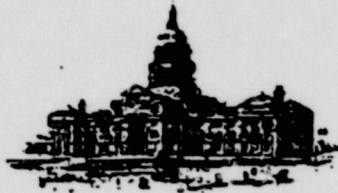
Sincerely yours,

A handwritten signature in dark ink, appearing to read "John Culberson", written in a cursive style.

John Culberson

A034

TEXAS SENATE



CAPITOL ROOM B1.606
BOX 12068
AUSTIN, TEXAS 78711
(512) 463-0106
FAX (512) 463-0346
TDD (512) 475-3758

2205 CLINTON DRIVE
P.O. Box 61
GALENA PARK, TEXAS 77547
(713) 678-8600
FAX (713) 678-7080

MARIO GALLEGOS, JR.

September 18, 1996

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

Dear Secretary Williams:

I am writing to urge the Surface Transportation Board to remove the limitation imposed on the trackage rights granted to the Texas Mexican Railway Company in the Houston area. In my view, the limitation causes a serious competitive disadvantage to businesses in Texas, and most notably to the many shippers located in Houston, one of the largest rail markets in the country.

The routing restrictions that the STB imposed on Tex Mex's trackage rights will effectively reduce from three to two the number of competitive rail outlets for the bulk of Houston's cargo traffic. This will significantly harm the rail industry in Texas and impose a competitive obstacle on industries from the Houston area.

For this reason, I urge you to favorably consider the Texas Mexican Railway Company's petition to remove these limitations. The Houston area needs it in order to provide adequate competitive choice to the shippers in the area, and Tex Mex needs it in order to continue to serve the people and businesses that rely on it. I hope I can count on your support.

Sincerely,

Mario Gallegos, Jr.
State Senator

MVG/egw



COMMITTEES: STATE AFFAIRS ★ INTERGOVERNMENTAL RELATIONS
HEALTH & HUMAN SERVICES ★ INTERNATIONAL RELATIONS, TRADE & TECHNOLOGY
COMMITTEE OF THE WHOLE ON LEGISLATIVE AND CONGRESSIONAL REDISTRICTING
DISTRICT 6

**Texas
House of Representatives**

ROBERT JUNELL

P.O. Box 2910
Austin, Texas 78768-2910
(512) 463-0472



September 18, 1996

District Offices:

P.O. Box 3362
San Angelo, Texas 76902
(915) 657-0197

2135 Hickory Street
Colorado City, Texas 79512
(915) 728-8955

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

RE: Texas Mexican Railway Company's Petition to Reopen Decision No. 44

Dear Secretary Williams:

I am writing to urge the STB to remove the limitation imposed on the trackage rights it granted to the Texas Mexican Railway Company into the Houston area. The Houston area needs it in order to provide adequate competitive choice to the shippers in the area and Tex Mex needs it in order to continue to serve the people and businesses that rely on it, especially in South Texas.

Thank you for your time and consideration of my concerns. If you would like to discuss this issue further or if you have questions, please do not hesitate to contact me.

Yours very truly,

A handwritten signature in black ink that reads "Rob Junell".

Robert Junell
State Representative

RAJ/ms

Chairman, Committee on Appropriations



Printed on Recycled Paper



GERARD TORRES
STATE REPRESENTATIVE
DISTRICT 143

P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0014
FAX: (512) 463-5886

1026 MERCURY
JACINTO CITY, TEXAS 77029
(713) 676-6696

September 20, 1996

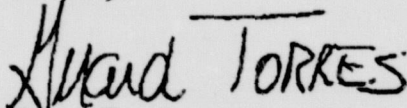
The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th Street and Constitution Avenues
Washington, D.C. 20423

Re: Texas Mexican Railway Company's Petition to Reopen Decision No. 44.

Dear Secretary Williams:

I am writing to urge that the STB remove the limitation imposed on the trackage rights it granted to the Texas Mexican Railway Company into the Houston area. As a legislator from the Houston area I am acutely aware of the adverse economic impact a limitation on trackage rights has on our ability to transport goods through the Houston region. The Houston area needs it in order to provide adequate competitive choice to the shippers in the area and Texas Mexican Railway needs it in order to continue to serve the people and businesses that rely on it, especially in South Texas.

Sincerely,


Gerard Torres
STATE REPRESENTATIVE

GT/mg



RAILROAD COMMISSION OF TEXAS OFFICE OF GENERAL COUNSEL

CAROLE KEETON RYLANDER, CHAIRMAN
BARRY WILLIAMSON, COMMISSIONER
CHARLES R. MATTHEWS, COMMISSIONER

LINDL C. FOWLER, JR.
GENERAL COUNSEL

September 20, 1996

The Honorable Linda J. Morgan
Chairman
Surface Transportation Board
Washington, D.C.

RCT-9

The Honorable J.J. Simmons, III
Vice Chairman
Surface Transportation Board
Washington, D.C.

The Honorable Gus A. Owen
Commissioner
Surface Transportation Board
Washington, D.C.

Re: Response in Support of the Petition to Reopen
Decision No. 44 filed by the Texas Mexican Railway
Company (TM-44) in Finance Docket No. 32760, Union
Pacific Corporation, et al.

Dear Commissioners Morgan, Simmons, and Owen:

By this response, the Railroad Commission of Texas (the "RCT") reaffirms its support of the Texas Mexican Railway Company's ("Tex Mex") need for significant trackage rights between Corpus Christi, Texas and Beaumont, Texas.

On March 26, 1996, the RCT unanimously adopted a suggested condition to the rail merger between the Union Pacific and Southern Pacific railroads, if approved, that the interests of the Tex Mex be protected through trackage rights. The proposed condition was incorporated in the RCT's Comments dated March 29, 1996 (RCT-4) and in the RCT's Brief dated June 3, 1996 (RCT-7). In particular, the RCT recommended that the Tex Mex be granted trackage rights between its Corpus Christi-Laredo line, on the one hand, and Beaumont, Texas, on the other hand. This would permit Tex Mex to interline with its corporate affiliate thereby enhancing competition in the South Texas market.

1701 NORTH CONGRESS AVENUE * POST OFFICE BOX 12967 * AUSTIN, TEXAS 78711-2967 * PHONE: 512/463-6715 FAX: 512/463-6989

TDD 800-755-2889 or TDD 512-463-7284 An Equal Opportunity Employer

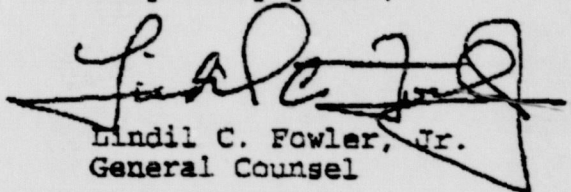
The Honorable Linda J. Morgan
The Honorable J.J. Simmons, III
The Honorable Gus A. Owen
September 20, 1996
Page 2

While Decision No. 44 of the Surface Transportation Board (the "STB") does in fact grant trackage rights to Tex Mex to connect to Beaumont, Texas, it also contains a substantial restriction limiting access to Tex Mex's trackage rights to shipments which are subject to prior or subsequent movement over its Corpus Christi-Laredo line (the "Restriction"). The RCT is concerned that the Restriction will preclude the ability of Tex Mex to achieve sufficient traffic density to remain a viable competitive force.

Rather than imposing the Restriction, the RCT suggests that the STB consider providing the Tex Mex with access to all shippers in the Houston area located on Union Pacific and Southern Pacific trackage, and on trackage operated by the Port Terminal Railroad Association and the Houston Belt & Terminal Railroad Company, and allowing Tex Mex to haul traffic to and from those shippers in Tex Mex trains operating between Houston and Beaumont on Tex Mex's trackage rights over UP/SP lines, with the right to interchange that traffic with Kansas City Southern at Beaumont.

Therefore, the RCT concurs in the request of Tex Mex to remove the Restriction as is more fully set forth in the petition filed by Tex Mex as TM-44.

Very truly yours,



Lindil C. Fowler, Jr.
General Counsel

Certificate of Service

I hereby certify that on this _____ day of September, 1996, a true and correct copy of the foregoing letter from the Railroad Commission of Texas (RCT-9) was served on each party of record in Finance Docket No. 32760 via first class mail postage prepaid.

SEP 23 96 09:25



Bob Lanier, Mayor

CITY OF HOUSTON

Post Office Box 1562 Houston, Texas 77251 713/247-2200

OFFICE OF THE MAYOR

September 23, 1996

Mr. Vernon Williams
Secretary, Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423-0001

Re: Rail Competition in the Houston Area

Dear Mr. Williams:

I understand that the Tex Mex Railroad has filed a petition with the Surface Transportation Board for reconsideration of certain restrictions placed on its trackage rights access. The railway merger issue has been hotly debated locally, and, as you might expect, has generated considerable concern by shippers and industry throughout Houston.

As Mayor of Houston, I can't comment on the specifics of Tex Mex's proposal to the board in detail, except to say that strong competition is important to our community and many of my constituents feel that the STB should avail itself of every opportunity to ensure that all possible competitive enhancements are secured.

I appreciate the difficult job that the STB has as you consider this petition. I trust that you will make the right decisions for our shippers in Houston. We are a growing and vital Port in the international market. Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bob Lanier".

Bob Lanier
Mayor

CC: Joe Bill Watkins

RCL:dw

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICES: 111 FANN LEXIE NORTH • HOUSTON, TEXAS 77029-4927
MAILING ADDRESS: P.O. BOX 2502 • HOUSTON, TEXAS 77252-2502
TELEPHONE: (713) 670-2400 • FAX: (713) 670-2429



GEORGE T. WILLIAMSON
Managing Director
(713) 670-2453

September 23, 1996

Mr. Larry Fields
President
Texas Mexican Railway Company
P.O. Box 419
Laredo, TX 78042-0419

Dear Mr. Fields:

I understand that the Tex Mex Railroad has filed a petition with the Surface Transportation Board for reconsideration of certain restrictions placed on its trackage rights access. The railway merger issue has been hotly debated locally, and, as you might expect, has generated considerable interest by shippers and industry throughout Houston.

The Port of Houston welcomes all rail carriers to our community. We believe competition is healthy for the international business environment we operate in and we look forward to participation by the Tex Mex Railroad in the Houston area.

We are convinced that the continued growth of the Port of Houston is dependent on strong, viable rail service to its customers.

Best regards,

George T. Williamson
Managing Director
Port of Houston Authority

cc: H. Thomas Kornegay
Richard J. Schiefelbein

BAY, INC.

A BERRY Company

P.O. Box 9908
1416 Corn Products Road
Corpus Christi, Texas
78469 - 9908

Bus: (512) 289 - 6600

September 23, 1996

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

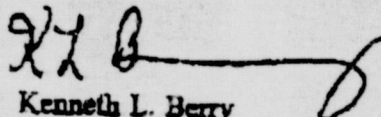
Dear Secretary Williams:

This letter is being written in response to the recent decision by the Surface Transportation Board which approved the Union Pacific and Southern Pacific merger. We are concerned that this recently approved merger will severely impact the service and lower rates brought about by competition between the various railroads.

Bay, Inc. is one of the largest construction companies in South Texas employing some 2500 hundred persons. As part of our construction services we mine and ship rock products and base materials to various project sites. With the expanding construction market we are interested in cement products in the Houston area and would need to transport this product as needs demand. We currently utilize the Texas Mexican Railway Company for our transportation requirements and would hope that Texas Mexican Railway be allowed to continue serving the Houston area with no restrictions.

Your consideration of this request is in the best interest of free enterprise and the various markets of South Texas.

Sincerely,



Kenneth L. Berry
Vice President

hwy/20mrs/11

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BRENNAN

3838 N. Sam Houston Pkwy. East
Suite # 305
Houston, Tx 77032-3415

Phone 713-449-8811
Fax 713-449-8892

September 20, 1996

Mr. Vernon A. Williams
Secretary, Surface Transportation Board
11th Street & Constitution Avenue NW
Washington, D.C.

Dear Secretary Williams:

My company is concerned with the loss of a third rail carrier serving the Greater Houston area. With the UP/SP merger there are currently only two railroads with access to Houston, although I understand that the Texas Mexican Railway Co. was recently granted trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston.

As the (your title) for (your company name), I am responsible for purchasing rail transportation in the Houston area. Serving competitive rail service is essential to our ability to effectively service our customers as well as develop new market opportunities.

I strongly urge the STB to lift all service restrictions on the TexMex giving it full local service access in the Greater Houston area.

Respectfully yours,

Teresa Vicinanza
(Signature)

(Name)
(Title) *General Manager*

CHASE PRODUCTS COMPANY

P.O. BOX 70 • MAYWOOD, ILLINOIS 60153

*Leaders in Aerosol Research and Custom Aerosol Packaging*OFFICE AND PLANT - 19TH STREET AND GARDNER ROAD • BROADVIEW, ILLINOIS 60153
1-(708)-865-1000

FAX - ADMINISTRATIVE OFFICES - 1-(708)-865-0230 • FAX - SALES/SHIPPING - 1-(708)-865-7041

September 20, 1996

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

Re: Texas Mexican Railway Access at Houston Texas

Dear Mr. Williams;

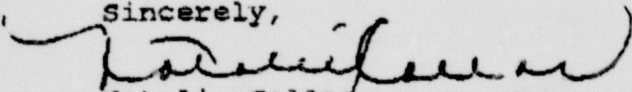
My name is Natalie Callas and I am the person ultimately responsible for the cost of purchased Transportation/Distribution for Chase Products Company. Chase Products Company is a major aerosol manufacturer in the Chicago area. We do on occasion ship to and receive from the Houston, Texas market.

Routing options for shippers using rail service have been declining for years as the rail industry consolidates. The UP/SP merger leaves just two carriers in the West, and it sets the stage for a similar scenario in the East. Just eight years ago, five major carriers served the Houston area. Now there are two.

One of the conditions outlined in the STB's Union Pacific-Southern Pacific design grants the TEXMEX trackage rights between Corpus Christ and Beaumont, but with restricted access at Houston. I urge the STB to lift all restrictions on the TEXMEX, giving it full local service access in the Houston area. Full access would introduce a third rail competitor in Houston with access at Beaumont to the UP, BNSF, and KCS. Chase Products Company would see this as an attractive option on traffic moving to and from Houston and the Midwest.

After all the consolidation we've seen in the rail industry, granting the TEXMEX local access at Houston is a simple, painless way to increase competition and the benefits that follow. I urge the board to take this action.

Sincerely,



Natalie Callas
Manager
Distribution & Transportation

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Commercial Metals Company

P.O. Box 1046

Dallas, Texas 75221-1046

September 19, 1996

Mr. Vernon A. Williams
Secretary
SURFACE TRANSPORTATION BOARD
Room 3315
12th and Constitution N.W.
Washington, D.C. 20423-0001

Dear Secretary Williams:

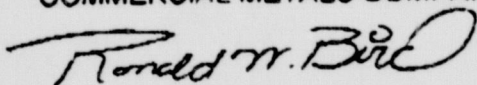
I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific merger. It is the opinion of my company that the decision as written does not provide for adequate competition in the greater Houston area.

As the Corporate Traffic Manager for Commercial Metals Company, I am responsible for purchased rail transportation for the Metals Processing and Trading Divisions of our company. Commercial Metals Company is a major metals processing and rail shipper located on the Houston Belt and Terminal Railway Company in Houston, Texas. It is extremely important that our company have competitive rail service, due to the fact freight accounts for 15-20% of the delivered price of our product (scrap steel).

Of the conditions outlined in the STB's UP-SP decision, the Texas Mexican Railway trackage rights at Houston are the most important to Commercial Metals Company. Our company depends on the Laredo, Texas gateway to Mexico for the export of scrap steel, and import of finished steel products for further resale under NAFTA Agreements. Without a competitive railroad operating between all Houston origins and Laredo, our business will diminish and, in some cases, disappear. We have already experienced significant freight rate increases on scrap steel to Mexico via Laredo, due to the absence of competition. Further, we believe that competition could be greatly enhanced by providing full access at Houston for traffic moving eastbound that could connect with the Union Pacific, BNSF, and Kansas City Southern Railway at Beaumont, Texas. We urge the Surface Transportation Board to move swiftly and decisively to implement these pro-competitive conditions to the UP-SP merger.

Respectfully yours,

COMMERCIAL METALS COMPANY



Ronald W. Bird
Corporate Traffic Manager

RWB:jhm

BCC: Larry Fields, The Texas Mexican Railroad



CURTIS STEEL CORPORATION

P.O. BOX 7469 • HOUSTON, TEXAS 77248-7469
(713) 861-4621 • FAX (713) 861-9718

September 19, 1996

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

Dear Secretary Williams:

I am writing this letter in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific merger. I do not believe the decision provides for adequate competitive rail options in the Houston area.

Curtis Steel is a family owned steel service center based in Houston with additional facilities in Dallas and Harlingen. We have been in business since 1976 and since that time have brought steel into our plant via truck, rail, domestic barges, and import vessels through the port of Houston. Competitive freight services of all kinds are essential to our ability to service our customers and grow our business.

In the last 10 years, the number of rail carriers serving Houston has been reduced to just two carriers. With the recently completed BNSF merger and the UP-SP merger, I am concerned that the lack of competition will not ensure good service levels at competitive prices.

One of the conditions outlined in the UP-SP decision grants the Texas Mexican Railway (Tex Mex) trackage rights between its line in Corpus Christi and Beaumont, but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Tex Mex giving it full local service access in the Houston area. This would provide for another rail competitor in the Houston area that could connect with other carriers in Beaumont including the Union Pacific, BNSF, and the Kansas City Southern Railway.

Sincerely,

Mike Boriack
V.P. - Sales
Curtis Steel Corporation



Member Steel Service Center Institute

John B. Descant
2510 Cobbler's Way
Friendswood, Texas 77546

September 13, 1996

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

Dear Secretary Williams,

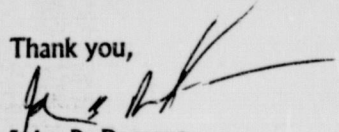
I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific merger. I do not believe that the decision provides for adequate competitive rail options for the Houston area, even with the conditions imposed in the decision.

I am a resident of the Greater Houston area, and am the traffic coordinator at one facility of a major national and international shipper. Due to the fact that we have facilities across the nation that are served by all of the Class 1 railroads, I am not naming my employer to prevent any "hard feelings" toward us. I am also a concerned taxpayer, and since the economy of this area is centered around the Port of Houston and the many industrial ventures in Houston, I feel that I should speak up. Competitive rail service is essential for the industries in this area, both mine and others, to service our customers and to attract more business opportunities.

As a former railway clerk, I am familiar with the workings of the local railway companies. Since the early 80's, the Houston area has lost several rail options to the various mergers. The city of Houston is only served by two carriers since the recent mergers; in the not-too-distant past that number was 5 (MP, Katy, Rock Island, ATSF and SP). At this point, 100 percent of the rail traffic leaving the Houston area is controlled by the two new giant railroads. These two lines do not offer enough competition to keep the rates low and service paramount. I am in the position of being able to ship more of my traffic by tractor-trailer; but the vast majority of large petrochemical industries on the Port of Houston do not have that option.

One of the conditions included in the STB's UP-SP ruling grants the Texas Mexican Railway trackage rights between its line in Corpus Christi and Beaumont. However, the access is restricted at Houston. Should the STB lift service restrictions on the Tex Mex, it would allow a third rail competitor in Houston that would help keep this market competitive. This action would open up another option for north and eastbound traffic via the Kansas City Southern, which would be beneficial to the shippers; which would be good for our economy. The Tex Mex could easily become active in the operation and support of the Houston Belt & Terminal Ry. Co., and the Port Terminal Railway Association; and could easily interchange cars directly with the Belt or PTRR for both delivery and outbound shipment. Access to the various industries on the SP main would allow shippers (for the first time!) a chance to have a choice between two carriers. Therefore, I strongly urge the STB to lift all service restrictions on the Tex-Mex, giving it full local service access in the Houston area.

Thank you,


John B. Descant



September 17, 1996

Honorable Vernon A. Williams
Secretary, Surface Transportation Board
12th Street & Constitution Avenue, NW
Room 2215
Washington, DC 20423

RE: Union Pacific Corp. , et al. - Control and Merger - Southern Pacific Rail Corp. , et al.
Finance Docket 32760

Dear Mr. Williams:

I am writing in response to the written decision of the Surface Transportation Board's approval of the Union Pacific-Southern Pacific merger. Fina Oil and Chemical Company believes that this decision has some points which need clarification concerning the competitive rail access conditions imposed in the decision. Fina insists on protecting the concept of competition and allowing Fina to have options when selecting rail carriers across the entire nation in servicing our customers. We are concerned about the granting of the trackage rights to the Texas Mexican Railway.

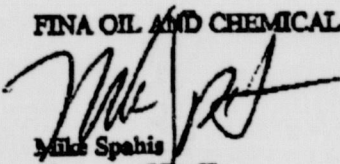
I am the traffic manager for Fina Oil and Chemical Company, an integrated oil and chemical company based in Dallas, Texas. I currently am responsible for the movement of our products produced at our facilities in Texas and Louisiana to our various customers across North America as well as around the globe. Our facilities are located in West Texas, the Baton Rouge area as well as Houston, Texas.

In particular, the SP/UP merger has reduced our options in selected corridors. Our rail options at our polypropylene plant located in Houston have decreased from four mainline carriers (SP, UP, BN, ATSF) to two (UP and BNSF). We are concerned that these limited options can provide a level of service and cost that will meet our demands for the future.

One of the conditions outlined in the Surface Transportation Board's decision grants the Tex Mex trackage rights between its line in Beaumont and Corpus Christi. But the decision restricts access into the Houston area where our facilities are located. Fina urges the Surface Transportation Board to lift service restriction on the Tex Mex to give it full local service access in the Houston area which would maintain competitive options in Houston.

Sincerely,

FINA OIL AND CHEMICAL COMPANY



Mike Spahis
Manager of Traffic



F. W. MYERS & CO., INC.

1408 E. North Belt Drive, Suite 100, Houston, Texas USA 77032
(713) 987-7373 • Fax: (713) 987-7222

September 20, 1996

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

Dear Secretary Williams;

I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific Merger. My company does not believe the decision provides for adequate competitive rail options in the Greater Houston area, even with the conditions imposed in the decision.

As the Branch manager for F.W. Myers & Co., inc., I am responsible for the routing and coordination of import and export consignments arriving and departing from Houston. We broker shipments for several hundred customers nationwide. Securing competitive rail service is essential to our ability to effectively service our customers as well as develop new market opportunities.

We handle many shipments which due to size, and commodity can not be shipped effectively by truck due to the costs involved. We need to ensure that rail rates will remain competitive and feel that increased competition will allow this to happen.

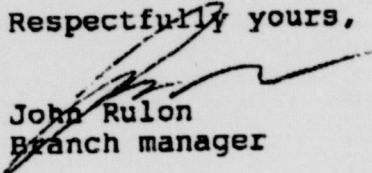
Just eight years ago five rail carriers served the Greater Houston area. In less than 10 years, shipper's competitive options will be reduced to just two carriers. With the recently completed BNSF merger and the upcoming UP-SP merger, these two giant carriers will control 88 percent of the petrochemical rail carloads to and from Texas and 100 per cent of the petrochemical rail carloads originating and terminating in the Houston area. These limited rail options do not provide adequate competition to keep service levels high and rail rates low.

One of the conditions outlined in the STB's UP-SP decision grants the Texas Mexican Railway(Tex-Mex) trackage rights



between its line in Corpus Christi and Beaumont but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Tex Mex giving it full local service access in the Greater Houston area. Full access would provide for a viable third rail competitor in Houston that could connect with other carriers in Beaumont including the Union Pacific, BNSF and the Kansas City Southern Railway.

Respectfully yours,


John Rulon
Branch manager

September 17, 1996

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

Dear Secretary Williams:

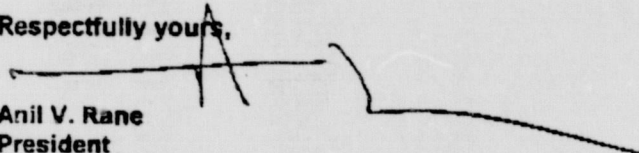
I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific merger. My company does not believe the decision provides for adequate competitive rail options in the Greater Houston area, even the conditions imposed in the decision.

As the president of Great Eastern Shipping, Inc., I am responsible for rail movement for major petro-chemical manufactures and shippers in the Houston area. Securing competitive rail service is essential to our ability to effectively service our customers as well as develop new market opportunities.

Just eight years ago five rail carriers served the Greater Houston area. In less than 10 years, shipper competitive options will be reduced to just two carriers. With the recently completed BNSF merger and the upcoming UP-SP merger, those two giant carriers will control 88 percent of the petro-chemical rail carloads to and from Texas and 100 percent of the petro-chemical rail carloads originating or terminating in Houston area. These limited rail options do not provide adequate competitive to keep service levels high and rates low.

One of the conditions outlined in the STB's UP-SP decision grants the Texas Mexican Railway (Tex Mex) trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Tex Mex giving it full local service access in the Greater Houston area. Full access would provide for a viable third rail competitor in Houston that could connect with other carriers in Beaumont including the Union Pacific, BNSF and the Kansas City Southern Railway.

Respectfully yours,


Anil V. Rane
President
Great Eastern Shipping Inc.
Agents for AAA Nordstar Line, S.A.

TOTAL P.01

September 11, 1996

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

Dear Secretary Williams:

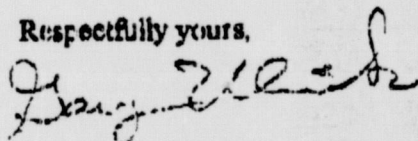
I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific merger. My company does not believe the decision provides for adequate competitive rail options in the greater Houston area, even with the conditions imposed in the decision.

As the Rail Coordinator for the Heritage Group, I am responsible for securing competitive rail rate contracts for the transportation of everything from asphalt to petro-chemicals from various points across the United States, including the greater Houston area. Securing competitive rail service is essential to our ability to effectively service our customers, as well as develop new market opportunities.

With the recently completed BNSF merger and the upcoming UP-SP merger, these two giants will control 88% of the petro-chemical rail carloads to and from Texas and 100% of that originating or terminating in the Houston area. How can these mergers possibly guarantee my ability to secure both competitive rates in this area, as well as keeping service levels high?

One solution to this problem would be to allow the Texas Mexican Railway trackage access to the greater Houston area. At this time, the UP-SP decision will grant them trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston. The Heritage Group strongly urges the STB to lift all service restrictions on the Texas Mexican Railway giving it full local service access in the greater Houston area. Full access would provide for a viable third rail competitor in this area that could connect with other carriers in Beaumont including the UP, BNSF and KCS.

Respectfully yours,



Gary Ulenick
Rail Coordinator

GU/ep

T01d

22 SEP 20 1996

BOSTON 0661-01-035

**ITEL TERMINALS
TRUCKING SERVICES**
11700 Wallisville Road
Houston, Texas 77013

phone: (713) 675-1933
fax: (713) 675-1944

September 19, 1996

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

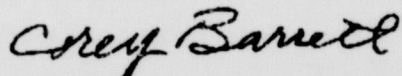
Dear Secretary Williams:

This has reference to the decision by the Surface Transportation Board approving the UP-SP merger. We do not feel that the decision provides for adequate competitive rail options in the Greater Houston area, even with the conditions imposed in the decision.

Itel Terminals is a steamship container depot. Our containers are transported over land by rail and by truck. As recently as eight years ago, the Greater Houston area was served by five rail carriers. Now, in a very short time, the number of serving rail carriers will be reduced to just two. With the BN-SF merger and the upcoming UP-SP merger, rail options will be severely limited and will not provide adequate competition. As a result, rail rates will increase and service will deteriorate.

One of the conditions outlined in the STB's UP-SP decision grants The Texas Mexican Railway (Tex Mex) trackage rights between its line in Corpus Christi and Beaumont, but with restricted access at Houston. We urge the STB to lift all service restrictions on the Tex Mex, allowing them full local service access in the Greater Houston area. This would provide for a viable third rail competitor in Houston that could connect with the UP, BNSF, and KCS in Beaumont.

Sincerely,



Corey Barrett
Account Representative

The logo for KAW Transport Company, featuring the letters "KAW" in a bold, sans-serif font inside an oval border.

KAW TRANSPORT COMPANY

September 19, 1996

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

Dear Secretary Williams:

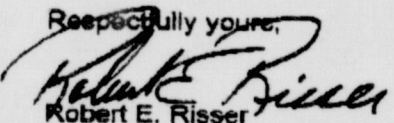
I am writing in response to the decision by the Surface Transportation Board approving the merger of the Union Pacific-Southern Pacific railroads. My company does not believe this decision provides for adequate competitive rail options in the Greater Houston area, even with the conditions imposed in the decision.

As the Vice President for Intermodal Services for Kaw Transport Company, I am responsible for the development and operations of transfer facilities for our company. From our Kansas City facility, our transfer operations consist of the transfer of plastic resins from railcar to truck with subsequent delivery to destinations in the midwest. Since the majority of the plastic resins we transfer and deliver originate in the Greater Houston area, it is imperative that we have competitive rail rates from this origin. Our transfer operation is located on the Kansas City Southern Railroad. Without the ability of the KCS to originate traffic in this area we stand to be restricted in not only our ability to sustain our existing business but to develop new market opportunities as well.

Five rail carriers served the Greater Houston area eight years ago. With the decision of the Surface Transportation Board to allow the merger of the Union Pacific and Southern Pacific the options of shippers in the Greater Houston market will be reduced to two rail carriers. With the recently completed BNSF merger and the UP-SP merger, 88 percent of the petrochemical rail carloads to and from Texas and 100 percent of the petro-chemical rail carloads originating or terminating in the Houston area will be handled by these two giant rail carriers. This is not conducive to high service levels and low rates.

One of the conditions outlined in the Surface Transportation Boards UP-SP decision grants the Texas Mexican Railway trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Texas Mexican Railway giving it full local service access in the Greater Houston area. Full access would provide a viable third rail competitor in Houston that could connect with other carriers in Beaumont including the Union Pacific, BNSF and the Kansas City Southern Railway

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Robert E. Risser".
Robert E. Risser

Vice President Intermodal Services

KEYWELL
L.L.C.

September 20, 1996

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

Dear Secretary Williams:

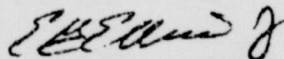
I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific merger. My company does not believe the decision provides for adequate competitive rail options in the Greater Houston area, even with the conditions imposed in the decision.

As the Vice President of Transportation for Keywell L.L.C., I am responsible for purchasing rail transportation in the Houston area. Securing competitive rail service, gondola and/or intermodal, is essential to our ability to effectively service our customers as well as develop new market opportunities.

Just eight years ago five rail carriers served the Greater Houston area. In less than 10 years, shippers' competitive options will be reduced to just two carriers. With the recently completed BNSF merger and the upcoming UP-SP merger, limited rail options do not provide adequate competition to keep service levels high and rates low.

One of the conditions outlined in the STB's UP-SP decision grants The Texas Mexican Railway (Tex Mex) trackage rights between its line in Corpus Christi and Beaumont, but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Tex Mex giving it full local service access in the Greater Houston area. Full access would provide for a viable third rail competitor in Houston that could connect with other carries in Beaumont including the Union Pacific, BNSF and the Kansas City Southern Railway.

Respectfully yours,



E. Gordon Ellicott, Jr.
Vice President - Transportation



Institute
of Scrap
Recycling
Industries, Inc.

KEYWELL L.L.C.

11900 South Cottage Grove Avenue
Chicago, IL 60628
(312) 660-2060
FAX (312) 660-2064

Mobil Oil Corporation

9325 GALLOWAY ROAD
FAIRFAX, VIRGINIA 22037-3001

September 20, 1996

Mr. Vernon A. Williams
Secretary, Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20036-1883

Dear Secretary Williams:

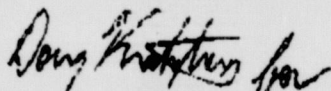
This letter is in response to the recent approval of the Union Pacific/Southern Pacific merger by the Surface Transportation Board. With the conditions imposed in this decision, we do not believe that the decision provides adequate competition in the Houston area.

I am the Rail Transportation Manager for Mobil Oil Corporation, responsible for providing rail transportation services for our petroleum and chemical manufacturing facilities throughout the United States. A significant portion of this responsibility relates to shipments originating and terminating in the Houston area.

Mobil's ability to effectively service our existing customers and develop new business opportunities is contingent upon being able to secure competitive rail service in the Houston area. With the significant reduction of competitive alternatives in this area over the past few years, it is becoming increasingly more difficult to ensure that adequate service levels are provided and rates are low enough to maintain and grow our current business.

As a part of the Surface Transportation Board's decision in the UP/SP merger, the Texas Mexican Railway was granted trackage rights between their line in Corpus Christi and Beaumont, but it restricted their access in the Houston area. We are asking that the STB strongly consider lifting the service restriction to the Tex Mex, giving them complete service access in the Houston area. This would provide an effective competitor in the Houston area that would have the ability to connect with other carriers in Beaumont, including the Union Pacific/Southern Pacific, BNSF, and the Kansas City Southern Railway.

Respectfully yours,



Garret G. Smith
Manager, Rail Transportation

PAUL L. BROUSSARD & ASSOCIATES, INC.

SUITE 401 • UNION STATION BLDG. • 501 CRAWFORD STREET • HOUSTON, TEXAS 77002 • 713/227-8736

September 23, 1996

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

Dear Secretary Williams:

The recent decision by the Surface Transportation Board, approving the Union Pacific - Southern Pacific merger, has contributed to the reduction of effective rail competition along the Texas Gulf Coast, especially in the Greater Houston area. As you are aware, the Surface Transportation Board has given trackage rights to the Texas Mexican Railway Co., however, with the service conditions imposed on the Tex-Mex, they will not be able to provide effective rail competition and they will not be able to develop new market opportunities in Houston.

Our firm was established in 1978 to provide third-party logistics and freight transportation management support for rail shippers, especially in the area of contract negotiations. At this time, we have over a dozen customers who must ship or receive by rail. When our business started, we were able to negotiate with the following rail carriers:

Missouri Pacific
Santa Fe
Ft. Worth & Denver

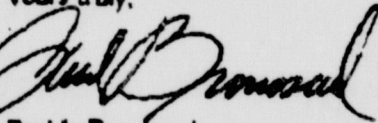
Missouri - Kansas - Texas
Southern Pacific
Rock Island

Our negotiating capabilities with the remaining rail carriers, the Union Pacific - Southern Pacific and the BNSF, will be seriously inhibited if the restrictions you imposed on the Tex-Mex remain in place. As a matter of fact the services we offer will be seriously limited, much like that of the Tex-Mex, if these extreme conditions are not removed.

Now with rail options significantly reduced, we are urging the Surface Transportation Board to reconsider the limitations placed on the Tex-Mex and give the Tex-Mex full local service access in the Greater Houston area. With restrictions removed, the Tex-Mex will become a viable third rail competitor in Houston and, hopefully, we will be able to effectively represent rail shippers/receivers in our contract negotiations.

Thank you for your consideration.

Yours truly,



Paul L. Broussard

cc: Mr. Mike Haverly
Mr. Larry Fields
Mr. Joe Bill Watkins

Prairie Central Cooperative, Inc.
R. R. #1 - Box 230
Chenoa, IL. 61726
(815)945-7866

September 16, 1996

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

Dear Secretary Williams:

I am writing in response to the recent decision by the Surface Transportation Board approving the Union Pacific-Southern Pacific merger. My company does not believe the decision provides for adequate competitive rail options in the Greater Houston area, even with the conditions imposed in the decision.

As the Manager for Prairie Central Cooperative, Inc., I am responsible for purchasing rail transportation in the Houston area. Securing competitive rail service, boxcar and/or intermodal, is essential to our ability to effectively service our customers as well as develop new market opportunities.

Just eight years ago five rail carriers served the Greater Houston area. In less than 10 years, shippers' competitive options will be reduced to just two carriers. With the recently completed BNSF merger and the upcoming UP-SP merger, limited rail options do not provide adequate competition to keep service levels high and rates low.

One of the conditions outlined in the STB's UP-SP decision grants The Texas Mexican Railway (Tex Mex) trackage rights between its line in Corpus Christi and Beaumont, but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Tex Mex giving it full local service access in the Greater Houston area. Full access would provide for a viable third rail competitor in Houston that could connect with other carriers in Beaumont including the Union Pacific, BNSF and the Kansas City Southern Railway.

Respectfully Yours,

Richard West

Richard West
Manager

ROBINSON IRON & METAL CO., INC.

FOUNDED 1928
(713) 227-2376
FAX (713) 227-2910

2735 BROOKS STREET
HOUSTON, TEXAS 77020

I. Robinson
Sam Robinson (1930-1991)
Stephen Robinson
Ralph Robinson
Michael Harberg

September 20, 1996

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

Dear Mr. Williams:

The recent approval of the merger between the Southern Pacific and Union Pacific Railroads will impact Houston area shippers by reducing our rail shipment options. I feel that a viable option for Houston rail shippers would be for the Surface Transportation Board to lift all service restrictions on the Texas Mexican Railway thereby allowing the Tex-Mex full local service access in the Houston area.

Robinson Iron & Metal ships almost all of our product by rail. We ship an average of 500 gondola carloads per year. Our typical consumer destinations are located throughout the State of Texas, the Midwest and the East Coast. We also ship a lot of material to Mexico.

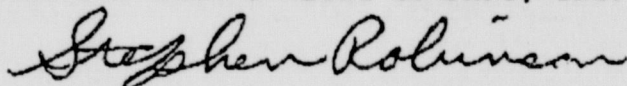
If you do not grant the Tex-Mex full local service access in the Houston area, I can envision a time in the not too distant future when the quality of our rail service will deteriorate and our rates will rise without a competitive marketplace in Houston.

In closing, I again urge the Surface Transportation Board to lift all service restrictions on the Tex-Mex Railway allowing it full local service access in Houston.

Thank you in advance for your cooperation.

Sincerely,

ROBINSON IRON & METAL COMPANY, INC.



Stephen Robinson
President

TRAFFIC MGMT. TEL: 1-713-926-6059 SEP 20 96 16:45 NO.016 P.01

S & S Traffic Management Corporation

**KEGSPEDITER™
SYSTEM**

4600 Gulf Freeway, Suite 660 • Houston, Texas 77023-3551 • (800)987-5347 • Fax (713)926-6059

September 20, 1996

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

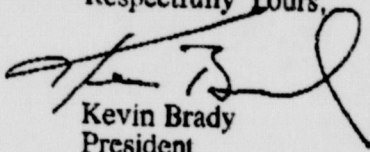
Dear Secretary Williams:

My company is concerned with the loss of a third rail carrier servicing the Greater Houston area. With the UP/SP merger there are currently two railroads with access to Houston, although I understand that the Texas Mexican Railway Co. was recently granted trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston.

As the President for S & S Traffic Management Corp. I am responsible for purchasing rail transportation in the Houston area. Serving competitive rail service is essential to our ability to effectively service our customers as well as develop new market opportunities.

I strongly urge the STB to lift all service restrictions on the TexMex giving it full local service in the Greater Houston area.

Respectfully Yours,



Kevin Brady
President

Stolt Transportation Services Inc.

A subsidiary of
Stolt-Nielsen S.A.

18802 Jacintoport Blvd.
P.O. Box 98438
Houston, TX 77213-8438
U.S.A.

Tel: (713) 457-1080
Fax: (713) 457-8810 Barge
Fax: (713) 457-8882 Rail
Telex: 236917

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

Dear Secretary Williams:

My company is concerned with the loss of a third rail carrier serving the Greater Houston area. With the UP/SF merger there are currently only two railroads with access to Houston, although I understand that the Texas Mexican Railway Co. was recently granted trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston.

As the Rail Transportation Manager for Stolt Transportation Services Inc., I am responsible for purchasing rail transportation in the Houston area. Direct competitive rail service is essential to our ability to effectively service our customers as well as develop new market opportunities, particularly into Mexico.

I strongly urge the STB to lift all service restrictions on the TexMex giving it full local service access in the Greater Houston area.

Sincerely,

Kevin J. Chimento
Manager, Rail and
Truck Services

cc: ARR, JEW

stromberg allen and company

3333 W. 47th St. / Chicago, IL 60632 / 312-847-7131 / fax 312-847-6673

September 23, 1996

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

Re: Texas Mexican Railway Access at Houston, Texas

Dear Mr. Williams:

My name is Peter M. Kruchko and I am the person ultimately responsible for the cost of purchased Transportation/Distribution for Stromberg Allen and Company. Stromberg Allen and Company is a printing business in the Chicago area. We do on occasion ship to and receive from the Houston, Texas market.

Routing options for shippers using rail service have been declining for years as the rail industry consolidates. The UP/SP merger leaves just two carriers in the West, and it sets the stage for a similar scenario in the East. Just eight years ago, five major carriers served the Houston area. Now there are two.

One of the conditions outlined in the STB's Union Pacific-Southern Pacific decision grants the TEXMEX trackage rights between Corpus Christi and Beaumont, but with restricted access at Houston. I urge the STB to lift all restrictions on the TEXMEX, giving it full local service access in the Houston area. Full access would introduce a third rail competitor in Houston with access at Beaumont to the UP, BNSF, and KCS. Stromberg Allen and Company would see this as an attractive option on traffic moving to and from Houston and the Midwest.

After all the consolidation we've seen in the rail industry, granting the TEXMEX local access at Houston is a simple, painless way to increase competition and the benefits that follow. I urge the board to take this action.

Sincerely,

Peter M. Kruchko

Peter M. Kruchko
Executive Vice President

PMK/na

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

Dear Secretary Williams:

As the Transportation Manager for TETRA Technologies, Inc., I am responsible for purchasing rail transportation in the Houston area. Securing competitive rail service, boxcar and/or intermodal, is essential to our ability to effectively service our customers as well as develop new market opportunities.

(One of the conditions outlined in the STB's UP-SP decision grants The Texas Mexican Railway (Tex Mex) trackage rights between its line in Corpus Christi and Beaumont, but with restricted access at Houston. I strongly urge the STB to lift all service restrictions on the Tex Mex giving it full local service access in the Greater Houston area. Full access would provide for a viable third rail competitor in Houston that could connect with other carriers in Beaumont including the Union Pacific, BNSF and the Kansas City Southern Railway.

Respectfully yours,

cc: Mr. Larry Fields, C.E.O. Texas Mexican Railway Co.
Fax: (210) 723-7406

TEXAS MARINE AGENCY, INC

230 WESTCOTT, SUITE 110
HOUSTON, TEXAS 77007

TEL: (713) 861-8545
TLX: 1561698 TEMAAR UT

FAX: (713) 861-7879
CABLE ADDRESS: TMAHOU

September 20, 1996

Mr. Vernon A. Williams
Secretary, Surface Transportation Board
11th Street & Constitution Avenue NW
Washington, D.C.

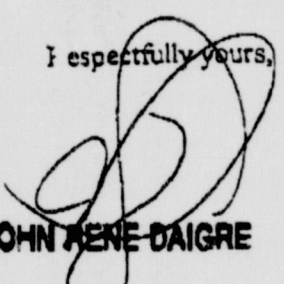
Dear Secretary Williams:

My company is concerned with the loss of a third rail carrier serving the Greater Houston area. With the UP/SP merger there are currently only two railroads with access to Houston, although I understand that the Texas Mexican Railway Co. was recently granted trackage rights between its line in Corpus Christi and Beaumont but with restricted access at Houston.

As the (your title) for (your company name), I am responsible for purchasing rail transportation in the Houston area. Serving competitive rail service is essential to our ability to effectively service our customers as well as develop new market opportunities.

I strongly urge the STB to lift all service restrictions on the TexMex giving it full local service access in the Greater Houston area.

Respectfully yours,



JOHN RENE DAIGRE

TEXAS MARINE AGENCY INC., AS AGENTS ONLY



Trinity Shipping

September 20th, 1996

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

Dear Secretary Williams,


This letter is in regards to the recent decision by the Transportation Board that approves Union Pacific-Southern Pacific merger. Myself and my company are quite concerned about impact this will have on rail service in the Greater Houston/Galveston area. I believe it will impact service greatly.

As General Manager for Trinity Shipping, Inc., I am a shipping agent for many companies doing business in the Port of Houston-Galveston. We import and export hundreds of thousands of cargoes via ship to and from rail cars. We must have competitive rail service to assist all of our clients.

In just the last few years, the rail service here has dropped from several to just two carriers. These limited rail options can not and do not supply adequate rail service to my customers.

I would recommend that the STB grant the Texas Mexican Railway rights between its line in Corpus Christi and Beaumont along with full service to Houston as well. This would give us additional service and would allow us to more fully satisfy our customers needs.

Regards


Jay R. Willows
General Manager
Trinity Shipping, Inc.
Houston, Texas

14615 Cobre Valley Houston, Texas 77062
24 hr. Phone: 713-286-7013
24 hr. Fax: 713-286-0488
Telex: 106-705 Answerback Trinity Houston
Pager: 713-762-7721
Mobile Phone: 713-762-7721

VENYMEX SHIPPING COMPANY, INC.

More Than 20 Years Experience In International Shipping



TMC No. 3783

SEPTEMBER 20, 1996

MR. VERNON A. WILLIAMS
SECRETARY, SURFACE TRANSPORTATION BOARD
12TH STREET & CONSTITUTION AVENUE NW
WASHINGTON, D.C.

DEAR SECRETARY WILLIAMS:

MY COMPANY IS CONCERNED WITH THE LOSS OF A THIRD RAIL CARRIER SERVING THE GREATER HOUSTON AREA. WITH THE UP/SP MERGER THERE ARE CURRENTLY ONLY TWO RAILROADS WITH ACCESS TO HOUSTON, ALTHOUGH I UNDERSTAND THAT THE TEXAS MEXICAN RAILWAY CO. WAS RECENTLY GRANTED TRACKAGE RIGHTS BETWEEN ITS LINE IN CORPUS CHRISTI AND BEAUMONT BUT WITH RESTRICTED ACCESS AT HOUSTON.

AS THE PRESIDENT FOR VENYMEX SHIPPING COMPANY, INC. HAVE THE POTENTIAL TO SHIP IN AND OUT OF HOUSTON OR THE HOUSTON AREA.

I STRONGLY URGE THE STB TO LIFT ALL SERVICE RESTRICTIONS ON THE TEX MEX GIVING IT FULL LOCAL SERVICE ACCESS IN THE GREATER HOUSTON AREA.

RESPECTFULLY YOURS,

VENYMEX SHIPPING COMPANY, INC.,

HECTOR GARZA
PRESIDENT



PMC 7233
DATA NO. 0110041
CMB LICENSE NO. 10888

WTS of HOUSTON, INC.

2723 YALE STREET
HOUSTON, TEXAS 77008

713/861-3638
TELEX 168852, FAX (713) 865-9100

SEPTEMBER 23, 1976

MR. VERNON A. WILLIAMS
SECRETARY, SURFACE TRANSPORTATION BOARD
12TH STREET & CONSTITUTION AVENUE NW
WASHINGTON, D.C.

DEAR SECRETARY WILLIAMS:

MY COMPANY IS CONCERNED WITH THE LOSS OF A THIRD RAIL CARRIER SERVING THE GREATER HOUSTON AREA. WITH THE UP/SP MERGER THERE ARE CURRENTLY ONLY TWO RAILROADS WITH ACCESS TO HOUSTON, ALTHOUGH I UNDERSTAND THAT THE MEXICAN RAILWAY CO., WAS RECENTLY GRANTED TRACKAGE RIGHTS BETWEEN ITS LINE IN CORPUS CHRISTI AND BEAUMONT BUT WITH RESTRICTED ACCESS AT HOUSTON.

AS THE EXPORT SUPERVISOR FOR WTS OF HOUSTON, INC., I AM RESPONSIBLE FOR PURCHASING RAIL TRANSPORTATION IN THE HOUSTON AREA. SERVING COMPETITIVE RAIL SERVICE IS ESSENTIAL TO OUR ABILITY TO EFFECTIVELY SERVICE OUR CUSTOMERS AS WELL AS DEVELOP NEW MARKET OPPORTUNITIES.

I STRONGLY URGE THE STB TO LIFT ALL SERVICE RESTRICTIONS ON THE TEX-MEX GIVING ITS FULL LOCAL SERVICE ACCESS IN THE GREATER HOUSTON AREA.

RESPECTFULLY YOURS,

Janet Mendoza
JANET MENDOZA
WTS OF HOUSTON, INC.
EXPORT SUPERVISOR



180-0000 CERTIFICATED FIRM
CERTIFICATE NUMBER 180-0000



REGISTERED BY
THE U.S. DEPARTMENT OF
COMMERCE
May 20, 74

INTERNATIONAL AIR & OCEAN FREIGHT FORWARDING
37 CUSTOMS BROKERAGE

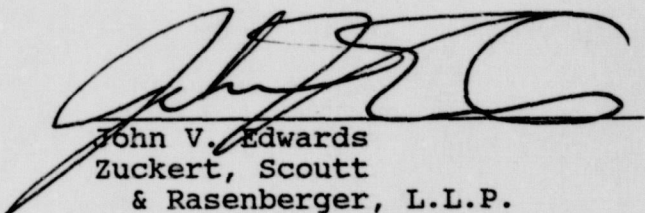
CERTIFICATE OF SERVICE

I hereby certify that, on this 23rd day of September, 1996, I have caused to be served TM-47, Supplemental Comments of Shippers in Support of the Petition of The Texas Mexican Railway Company to Reopen Decision No. 44, by first-class mail, postage pre-paid, or by a more expeditious manner of delivery on the following persons:

Arvid E. Roach II
J. Michael Hemmer
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044-7560

Paul A. Cunningham
Richard B. Herzog
James M. Guinivan
Harkins, Cunningham
Suite 600
1300 Nineteenth Street, N.W.
Washington, D.C. 20036

and on all other parties of record in Finance Docket No. 32760.



John V. Edwards
Zuckert, Scoutt
& Rasenberger, L.L.P.
Brawner Building
888 17th Street, N.W.
Washington, D.C. 20006-3939
(202) 298-8660

Dated: September 23, 1996

STB FD

32760

6-4-96

84004

84004

Collier, Shannon, Rill & Scott, PLLC
Attorneys-at-Law
3050 K Street, N.W.
Suite 400
Washington, D.C. 20007

Virginia R. Metallo
(202) 342-8466
Internet: vrm@colshan.com

Tel.: (202) 342-8400
Fax: (202) 342-8451

10 Barrack Street
Level 12
Sydney, NSW 2000, Australia
Tel.: 61-2-262-6700
Fax: 61-2-262-3268

Item No. _____

June 4, 1996

Page Count 1

JUN 6, 1996 #45

VIA HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Room 2118
Washington, D.C. 20423



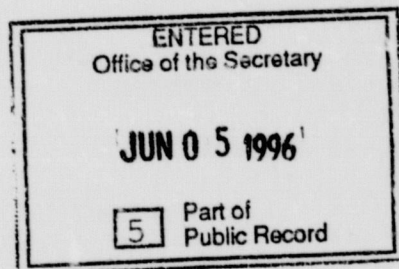
Re: Finance Docket No. 32760, Union Pacific Corp., at al -- Control & Merger -- Southern Pacific Rail Corp., et al.

Dear Mr. Williams:

Kansas City Southern Railway Company ("KCS") has decided to declassify the KCS Appeal (KCS-61) of the May 30, 1996 Order which KCS filed on June 3, 1996. Because Exhibit I to KCS-61 is an extract from the Highly Confidential Version of the Majure Verified Statement, we are enclosing twenty-one (21) copies of a replacement Exhibit I, which constitutes the public version of those pages. With that change, KCS-61 is declassified and is publicly available.

Thank you for your assistance in this matter.

Enclosure



Sincerely,

Virginia R. Metallo
VIRGINIA R. METALLO

cc: Erika Z. Jones
Restricted Service List (via facsimile)
(w/enclosure)

STB

FD

32760

5-14-96

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Item No. _____

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May # 91

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ESI-21

MAY 15 1996

5 Part of
Public Record

REDACTED, PUBLIC VERSION

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

- AND -

RESPONSIVE APPLICATION -- ENTERGY
SERVICES, INC., ARKANSAS POWER &
LIGHT COMPANY, AND GULF STATES
UTILITIES COMPANY

Finance Docket No. 32760

Finance Docket No. 32760
(Sub-No. 12)

**REBUTTAL OF
ENTERGY SERVICES, INC., ARKANSAS POWER &
LIGHT COMPANY AND GULF STATES UTILITIES COMPANY
IN SUPPORT OF RESPONSIVE APPLICATION FOR TRACKAGE RIGHTS**



OF COUNSEL:

Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Dated: May 14, 1996

ENTERGY SERVICES, INC. and its
affiliates ARKANSAS POWER &
LIGHT COMPANY and GULF STATES
UTILITIES COMPANY

By: Wayne Anderson
General Attorney-Regulatory
Entergy Services, Inc.
631 Loyola Avenue
New Orleans, LA 70013

C. Michael Loftus
Christopher A. Mills
Andrew B. Kolesar III
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys and Practitioners

BEFORE THE
SURFACE TRANSPORTATION BOARD

UNION PACIFIC CORPORATION, UNION)	
PACIFIC RAILROAD COMPANY, AND)	
MISSOURI PACIFIC RAILROAD COMPANY)	
-- CONTROL AND MERGER -- SOUTHERN)	
PACIFIC RAIL CORPORATION, SOUTHERN)	Finance Docket No. 32760
PACIFIC TRANSPORTATION COMPANY,)	
ST. LOUIS SOUTHWESTERN RAILWAY)	
COMPANY, SPCSL CORP., AND THE)	
DENVER AND RIO GRANDE WESTERN)	
RAILROAD COMPANY)	
)	
- AND -)	
)	
RESPONSIVE APPLICATION -- ENTERGY)	
SERVICES, INC., ARKANSAS POWER &)	Finance Docket No. 32760
LIGHT COMPANY AND GULF STATES)	(Sub-No. 12)
UTILITIES COMPANY)	
)	

REBUTTAL OF
ENTERGY SERVICES, INC., ARKANSAS POWER &
LIGHT COMPANY AND GULF STATES UTILITIES COMPANY
IN SUPPORT OF RESPONSIVE APPLICATION FOR TRACKAGE RIGHTS

Pursuant to Decision Nos. 9 and 29 in this proceeding, Entergy Services, Inc. ("ESI") and its affiliates Arkansas Power & Light Company ("AP&L") and Gulf States Utilities Company ("GSU") (collectively, "Entergy")¹ hereby submit their rebuttal in support of Entergy's Responsive Application in Finance Docket No. 32760 (Sub-No. 12) (ESI-14).²

¹ AP&L's name was recently changed to Entergy Arkansas, Inc., and GSU's name was recently changed to Entergy Gulf States, Inc. To avoid confusion, the old corporate names and acronyms are being used in Entergy's Rebuttal.

² In Decision No. 29, the Board accepted Entergy's Responsive Application for consideration and ordered it consolidated for disposition with the primary application in Finance Docket No. 32760.

Enterigy's Responsive Application seeks trackage rights on behalf of BNSF³ or another rail carrier not affiliated with Applicants over portions of SP's Memphis-Houston and Houston-New Orleans lines in order to implement the conditions requested by Enterigy in its Comments filed on March 29, 1996, in the lead docket (ESI-12) ("Enterigy Comments"). These conditions are necessary to ameliorate the anti-competitive effects of the proposed UP/SP merger on the rail transportation of southern Powder River Basin ("SPRB") coal to AP&L's White Bluff Station in Arkansas and GSU's Nelson Station in Louisiana.

In their Rebuttal filing on April 29, 1996 (UP/SP 230-234), Applicants have disputed the need for the trackage rights conditions sought by Enterigy. Several of their rebuttal witnesses, in particular Messrs. Hutton, Nock, Sansom and Sharp, present testimony addressing the competitive situation at the White Bluff and Nelson power plants.⁴ Applicants' rebuttal testimony challenges the feasibility of a proposed build-out from the White Bluff plant to a connection with SP's Memphis-Houston line at Pine Bluff, AR. It also challenges Enterigy's showing that Nelson will suffer a significant loss of competition because

³ As used herein, "BNSF" means Burlington Northern Santa Fe Corporation and its rail subsidiaries, including Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company. "UP" means Union Pacific Railroad Company and its rail affiliates. "SP" means Southern Pacific Transportation Company and its rail affiliates. "Applicants" means the parties to the Railroad Merger Application in this proceeding.

⁴ Their verified statements appear in Parts A and C of Volume 2 of Applicants' Rebuttal (UP/SP-231).

the merger would foreclose the most competitive interline route resulting from construction of the Nelson spur build-out, which is scheduled for completion in October of this year.

In response to Applicants' Rebuttal, Entergy presents counsel's summary, together with the Rebuttal Verified Statements of Roy A. Giangrosso, Entergy's Director, Coal Supply; David G. Weishaar, a marketing consultant and former Vice President - Energy Marketing for the Chicago and North Western Railway Company ("CNW"); and Thomas D. Crowley, President of the economic consulting firm of L.E. Peabody & Associates, Inc.

Because the White Bluff and Nelson situations present separate and distinct competitive concerns, we will address them separately.

I. Trackage Rights Over a Portion of SP's Memphis-Houston Line Are Necessary to Preserve a Feasible Build-Out Option for the White Bluff plant.

In their Rebuttal filing, Applicants challenge the feasibility of Entergy's White Bluff build-out. They do not, however, challenge the underlying premise of Entergy's requested condition. This premise is that a build-out from the UP-served White Bluff plant to SP could be used to obtain competitive rail transportation of SPRB coal to the plant via BNSF-SP, and that the build-out would be rendered meaningless by a UP/SP merger.

Applicants' September 25, 1995 "Settlement Agreement" with BNSF essentially acknowledges this premise. Under the Settlement Agreement, shipper facilities located on the lines over which BNSF will receive trackage rights, and that are served

only by UP but that have feasible build-outs to SP (or vice versa), are treated as 2-to-1 facilities that BNSF can serve via these trackage rights. The principle that such shippers should be accorded 2-to-1 protection is also acknowledged in Applicant's Rebuttal filing.⁵

This premise is also consistent with the relief granted to two shippers with build-out options in Finance Docket No. 32549, Burlington Northern Railroad Company -- Control and Merger -- Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company, Decision served August 23, 1995 ("BN/Santa Fe"). There, the Interstate Commerce Commission ("ICC") granted trackage rights conditions in favor of Oklahoma Gas & Electric Company ("OGE") and Phillips Petroleum Company ("PPC"), both of which had facilities that were served by only one of the merging carriers but had potential build-outs to the other merging carrier. The conditions were deemed necessary to preserve the competitive status quo by permitting these shippers to maintain their existing build-out options.⁶

⁵ See Volume 1 (UP/SP-230), at 19, 147-148. The problem is that Applicants concede feasibility only where build-ins are both very short (less than five miles) and "actually in progress and well advanced". Id. at 19. Under this very narrow definition, very few shippers are recognized to have such build-outs (i.e., three petrochemical plants near Mont Belvieu, TX).

⁶ BN/Santa Fe at 37-38, 68, 98. Entergy's proposed White Bluff trackage rights condition has been carefully crafted to meet the standards established by the ICC in granting conditions to preserve OGE's and PPC's build-out options. Trackage rights are sought on behalf of BNSF over SP only to Pine Bluff, AR, which is the point where the build-out would connect with SP. BNSF would not be able to use the trackage rights to access the White Bluff plant unless the build-out is actually constructed.

Although Applicants have conceded Entergy's premise, they attempt to get around it by arguing that the White Bluff build-out is not feasible. Entergy's Witnesses Giangrosso, Weishaar and Crowley respond to Applicants' feasibility arguments in considerable detail in their accompanying Rebuttal Verified Statements. If the Board is interested in the nitty-gritty details of the feasibility dispute, we refer it to this rebuttal testimony.

On a more fundamental level, Entergy submits that the Board does not need to resolve definitively the parties' disagreement over the feasibility of the White Bluff build-out -- and as a matter of policy, should refrain from doing so.

In its March 29 Comments (ESI-12), Entergy made a prima facie showing that the White Bluff build-out is feasible. Given this prima facie showing (and notwithstanding Applicants' self-serving attempt to rebut it), policy considerations dictate that Entergy's proposed trackage rights condition should be granted because this will allow the competitive marketplace, rather than regulation, to make the ultimate determination of feasibility. In other words, if the build-out is feasible it will be constructed. If it is not, it will not be, and BNSF will not gain access to the White Bluff plant.

This approach is fully consistent with the Board's public-interest analysis under 49 U.S.C. § 11344 (b) and (c), as well as the National transportation Policy, which directs the Board to:

Allow, to the maximum extent possible, competition and the demand for services to establish reasonable rates for transportation by rail.

49 U.S.C. § 10101a(1). It is also consistent with the ICC's handling of PPC's request for a trackage rights condition to preserve a disputed build-out option in the BN/Santa Fe merger proceeding. PPC presented evidence in that proceeding that its build-out option was feasible; BN presented evidence that it was not. The ICC did not definitively resolve the feasibility question, but instead held:

Though evidence is conflicting, the build-out option may be feasible. If so, it would have given PPC leverage to negotiate with Santa Fe for lower rates.

BN/Santa Fe at 98 (emphasis supplied); see, also, Id. at 37-38.⁷ The Board went on to impose a trackage rights condition "to maintain PPC's current competitive situation as respects the prospective PNR build-out" (Id. at 98). The condition imposed in favor of PPC was virtually identical to the one requested by Entergy to preserve its White Bluff build-out option.

Entergy has made a similar prima facie showing with respect to the White Bluff build-out, and the Board should similarly resolve Entergy's feasibility dispute with the Applicants in this proceeding by imposing the requested condition. To do otherwise would effectively make UP/SP the final arbiters of build-out feasibility. This would be highly undesirable from a

⁷ We note that PPC's potential build-out was 32.5 miles long, or 11.5 miles longer than the 21-mile White Bluff build-out.

policy standpoint, given UP/SP's extremely narrow definition of feasibility (see footnote 5 on page 4, ante) -- and given that railroads who are prospective merger partners always have a vested interest in defining feasibility as narrowly as possible in order to thwart requests for trackage rights conditions to preserve legitimate build-out options.⁸

As Mr. Giangrosso notes in his rebuttal testimony, the approach suggested by Entergy would allow the market to be the ultimate arbiter of feasibility, and it would not harm the Applicants.⁹ If the requested trackage rights condition is granted, and Applicants really believe the White Bluff build-out is not feasible, the condition would not benefit Entergy unless the build-out were actually constructed. UP would disregard any attempt by Entergy to use the threat of the build-out in future rate negotiations, and Entergy would have to proceed to construct the build-out in order to receive any competitive benefit from the condition because BNSF would not be able to use the trackage rights to access the White Bluff plant except via the build-out. If the build-out is not in fact economically feasible, it will

⁸ This, of course, is exactly what UP/SP are trying to do with respect to the White Bluff build-out option. In particular, their insistence that a build-out is not feasible unless the shipper has used the threat of it in prior rate negotiations completely ignores the relationship between timing and opportunity. See Giangrosso Rebuttal Verified Statement ("Rb.V.S.") at 3-7.

⁹ Giangrosso Rb.V.S. at 13-15.

not be built, BNSF will not gain access to the White Bluff plant, nobody is hurt, and the status quo is maintained.

Denial of the condition, on the other hand, would forever deprive Entergy of the opportunity to pursue the build-out option in order to obtain destination access at White Bluff by a neutral carrier. Thus, a balancing of the benefits and detriments of Entergy's requested White Bluff trackage rights condition clearly favors granting the condition.

In another context, Applicants have conceded that there can be legitimate differences of opinion between shippers and railroads with respect to the feasibility of particular build-outs, and that merging railroads should not have the power to resolve such differences in their own favor. This is demonstrated by Applicants' recent settlement agreement with BNSF and the Chemical Manufacturers Association ("CMA Agreement").¹⁰

Section 13 of the CMA Agreement provides an arbitration remedy to CMA members who have facilities that are served solely by UP (or SP), and who seek, in order to obtain two-railroad service, the right to build out from such facilities to a point on the former SP (or UP), as well as the associated grant to BNSF of trackage rights necessary to enable BNSF to reach the build-out point.

Although this arbitration provision applies to CMA members only, its logic has wider applicability. This is recog-

¹⁰ The CMA Agreement is included as an Attachment in Volume 1 of Applicants' Rebuttal.

nized by Dr. Joseph Kalt, an economic expert whose testimony appears in Volume II of BNSF's Response to Inconsistent and Responsive Applications, etc., filed on April 29, 1996 (BN/SF-55). At pages 8-9 of his Verified Statement, Dr. Kalt describes the CMA Agreement's build-out arbitration provision as "specifying a process . . . to ensure appropriate access by BN/Santa Fe to parties with valid build-in claims." Dr. Kalt goes on to state that the arbitration procedures of the CMA Agreement, combined with the omnibus clause in Section 8(i) of the BNSF Settlement Agreement, "ensure that, however the set of UP/SP [2-to-1] points ultimately is defined, BN/Santa Fe has rights of competitive access to all such points." Finally, Dr. Kalt lauds, from a public-policy perspective, a neutral mechanism to resolve disputes over whether a shipper with a build-out option should be treated as a 2-to-1 shipper and protected with replacement service from BNSF. (Id. at 9.)

The public-policy considerations cited by Dr. Kalt are not limited to CMA members, who alone would benefit from the CMA Agreement's build-out arbitration provision. Applicants themselves appear to recognize this. In their brief discussion of the CMA Agreement's arbitration provision on page 20 of Volume 1 of their Rebuttal, Applicants state: "Should the Board find cause to do so, Applicants are prepared to extend this remedy to other shippers as well."

The arbitration provision of the CMA Agreement, if extended to cover non-CMA members such as Entergy, at least

provides an independent forum for future resolution of disputes concerning build-out feasibility.¹¹ However, because Entergy has already made a prima facie showing that the White Bluff build-out is feasible, as PPC did in the BN/Santa Fe merger proceeding, it should be accorded the same trackage rights relief granted to PPC "to maintain [Entergy's] current competitive situation as respects the [White Bluff] build-out."

BN/Santa Fe, at 98.

At page 149 of Volume 1 of their Rebuttal, Applicants claim that Entergy wants the Board to "freely condition the merger on the preservation of all possible build-in options." That is simply not the case. Entergy believes the Board should grant a trackage rights condition in a build-out situation only where the shipper has made a prima facie case of feasibility.¹² Granting Entergy's requested condition thus will not open the

¹¹ If the Board determines that the CMA Agreement's arbitration provision should be extended to include non-CMA members, it should also require a more specific standard of arbitration than simply "the principles with regard to build-ins articulated by the Interstate Commerce Commission in [BN/Santa Fe]." A more appropriate standard would be simply to require the shipper to make a prima facie showing of feasibility. This standard would minimize the need for an extensive evidentiary proceeding before the Board, involving the presentation of detailed (and likely conflicting) engineering studies and cost-benefit analyses. It would also allow the marketplace to determine ultimate feasibility, because BNSF would not actually obtain access to any facility via the trackage rights provided for in the CMA Agreement until the build-out is actually constructed.

¹² This appears to cover only a few shipper facilities in addition to Entergy's White Bluff plant. See the discussion of potential build-outs at pp. 150-64 of Volume 1 of Applicants' Rebuttal.

door to large numbers of spurious build-out claims, as Applicants apparently fear.

In summary, Entergy's requested trackage rights condition is clearly necessary to preserve its White Bluff build-out option, has been carefully tailored to meet the principles established by the ICC regarding build-outs in BN/Santa Fe, and meets the appropriate criteria for establishing feasibility.

II. A Trackage Rights Condition is Also Necessary to Preserve Entergy's Present Competitive Routing Options for Coal Movements to the Nelson Station.

GSU's Nelson plant, which also burns SPRB coal that can be originated by either UP or BNSF, is presently captive at destination to the Kansas City Southern Railway Company ("KCS"). However, a build-out from the Nelson plant to a connection with SP's Houston-New Orleans line just west of Lake Charles, LA, is presently in progress.¹³

In their April 29 Rebuttal filing, Applicants assert that the proposed merger will not adversely affect the competitive situation at Nelson because it will be served by two rail carriers when the Nelson spur is completed, a situation that will not be affected by the merger. Applicants' witnesses also claim that the merger will benefit Nelson by converting one of the available interline routes to a new single-line route.¹⁴

¹³ Construction of this 4-mile build-out, known as the Nelson spur, began in December of 1995, with completion scheduled for October of 1996.

¹⁴ Nock V.S. at 46-48; Sharp V.S. at 18-19.

Enterger's Witnesses Giangrosso and Weishaar respond in detail to these claims in their rebuttal testimony, and they demonstrate that the competitive routing options for Nelson coal that would otherwise be available upon completion of the Nelson spur would be reduced, to Enterger's detriment, as a result of a UP/SP merger.¹⁵

Applicants' basic premise in challenging the need for a trackage rights condition at Nelson is that if a utility power plant is served by two rail carriers, it has all the intramodal competition it needs and cannot suffer a loss of competition by a merger involving one of these carriers. As demonstrated by Messrs. Giangrosso and Weishaar, this premise is demonstrably false in the case of Nelson.

The situation Enterger expected when it committed substantial capital funds to construction of the Nelson spur was as follows. Two destination carriers would be able to deliver coal to the Nelson plant (KCS and SP), neither of which could control the through movement because two separate carriers (BNSF and UP) would serve the SPRB mine origins. The two destination carriers would serve the plant from different gateway connections with the originating carriers: Kansas City in the case of KCS, and Fort Worth in the case of SP. The two originating carriers each could transport coal from the mines to either Kansas City or Fort Worth, and thus could interchange with either KCS or SP for the destination portion of the movement to Nelson. Since the

¹⁵ Giangrosso Rb.V.S. at 15-19; Weishaar Rb.V.S. at 10-13.

four carriers able to participate in the movement would all be independent of each other, Entergy would thus have the ability to mix and match four competitive routing combinations to obtain the best delivered transportation price.

Based on representations by BNSF marketing officials, Entergy also expected BNSF to be more competitive via the Fort Worth gateway than via the Kansas City gateway, due to its longer haul from the mines to Fort Worth.¹⁶ Entergy also expected SP to be very competitive with KCS for the delivery portion of the movement, regardless of which of the two originating carriers transported the coal from the mines to Fort Worth.¹⁷

The proposed UP/SP merger would change the competitive picture drastically. Nelson's competitive routing options would effectively be reduced from four to two -- the existing BN-KCS route via Kansas City, and a single-line UP route. Moreover, Entergy would lose the benefit of the most competitive route involving BNSF as the originating carrier, which is the BNSF-SP route via Fort Worth.

Applicants' Witness Nock claims that an interline BNSF routing via Fort Worth would not be lost after the merger, because UP would quote Entergy a proportional rate from Fort

¹⁶ Giangrosso V.S. in ESI-12, at 21-23.

¹⁷ In fact, bidding for incremental Nelson coal tonnage in the summer of 1995, predicated on SP's ability to serve the destination via the Nelson spur, indicated that SP was much more aggressive in competing for this tonnage than KCS, and that SP was indifferent as to which originating carrier delivered the coal to it at Fort Worth. Id. at 17-19.

Worth to destination if requested to do so by Entergy. (Nock V.S. at 47.) This claim is disingenuous, however. The issue is not whether UP would offer a rate from Fort Worth, but whether such a rate would be competitive -- that is, whether the rate would be low enough to make an interline BNSF-UP routing via Fort Worth competitive with either UP's single-line route or the existing BNSF-Kansas City-KCS route. Common sense tells that UP would not offer a competitive rate from the Fort Worth gateway, because to do so would be to short-haul itself.¹⁸

UP's actions with respect to another SPRB coal movement where it has a single-line haul confirm that UP would not voluntarily offer BNSF a competitive proportional rate from Fort Worth for the destination portion of the Nelson movement. See No. 41626, MidAmerican Energy Co. v. Union Pacific R. Co., complaint served September 27, 1995 ("MidAmerican"). In that case, UP (which exclusively serves MidAmerican's plant at Sergeant Bluff, IA) refused Mid American's request for a unit-train coal rate applicable to the final 90 miles of the movement between Council Bluffs, IA and the plant that could be used in combination with a BNSF rate from the SPRB mines to Council Bluffs. MidAmerica then filed a complaint challenging the reasonableness of UP's existing local tariff rate of \$72.20 per ton applicable on coal movements between Council Bluff and Sergeant Bluff. UP subsequently moved

¹⁸ UP's length of haul from Fort Worth to Nelson would be only 428 miles, compared to 1,747 miles for its single-line route. Moreover, BNSF's long haul is to Fort Worth, and BNSF would be a much more dangerous competitor (from UP's point of view) via Fort Worth than via Kansas City.

to dismiss MidAmerican's complaint on the ground that the Board cannot require UP to short-haul itself in this manner. (See UP Motion to Dismiss, filed November 15, 1995.)

UP's position in the MidAmerican case demonstrates that it would not offer a rate for the destination portion of the Nelson coal movement at a level low enough to allow another originating carrier to be competitive via an interline route.¹⁹

Applicants also assert that granting the requested trackage rights condition would improve Nelson's competitive situation by giving it two competing single-line routes, compared to none today (and one after the UP/SP merger). However, the proper comparison is with the four competitive routing options that would be available in the absence of the merger. If the merger is approved without the condition, Entergy's routing options would be reduced from four to two (one single-line route via Fort Worth and one interline route via Kansas City), and the most competitive interline route (BN-SP via Fort Worth) would be foreclosed as a practical matter.

The only way to preserve a level playing field between at least two competitive routing options for Nelson coal is to impose a condition granting an independent carrier access to the

¹⁹ See, also, Docket No. 41191, West Texas Utilities Company v. Burlington Northern Railroad Company, Decision served May 3, 1996, where the Board noted at page 11 that a bottleneck carrier can price its portion of a possible interline coal movement at a high enough level to preclude effective competition. Although KCS also serves the Nelson plant, UP's post-merger position with respect to an interline BNSF routing via Fort Worth would be analogous to that of a bottleneck carrier.

Nelson spur via trackage rights over a portion of SP's Houston-New Orleans line. The most obvious candidate for these trackage rights is BN3F, because it is already being granted overhead trackage rights over the same SP line under its Settlement Agreement with Applicants. The result would indeed be the creation of a second single-line route, but this would still leave Nelson with only two competitive routes compared to the four that would be available in the absence of the merger.

Accordingly, Entergy submits that Applicants have failed to rebut Entergy's showing that its proposed Nelson trackage rights condition is necessary to prevent the loss of significant competitive options that Nelson would otherwise have in the absence of the merger.

Respectfully submitted,

ENTERGY SERVICES, INC. and its
affiliates ARKANSAS POWER &
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BEFORE THE
SURFACE TRANSPORTATION BOARD

UNION PACIFIC CORPORATION, UNION)	
PACIFIC RAILROAD COMPANY, AND)	
MISSOURI PACIFIC RAILROAD COMPANY)	
-- CONTROL AND MERGER -- SOUTHERN)	
PACIFIC RAIL CORPORATION, SOUTHERN)	Finance Docket No. 32760
PACIFIC TRANSPORTATION COMPANY,)	
ST. LOUIS SOUTHWESTERN RAILWAY)	
COMPANY, SPCSL CORP., AND THE)	
DENVER AND RIO GRANDE WESTERN)	
RAILROAD COMPANY)	
)	
- AND -)	
)	
RESPONSIVE APPLICATION -- ENTERGY)	
SERVICES, INC., ARKANSAS POWER &)	Finance Docket No. 32760
LIGHT COMPANY, AND GULF STATES)	(Sub-No. 12)
UTILITIES COMPANY)	
)	

REBUTTAL VERIFIED STATEMENT
OF
ROY A. GIANGROSSO

I. Introduction

My name is Roy A. Giangrosso. I am the Director, Coal Supply for Entergy Services, Inc. ("ESI"), with offices at 350 Pine Street, Beaumont, Texas 77701. My background and qualifications are set forth in my Verified Statement submitted with the Comments of ESI and its affiliates Arkansas Power & Light Company ("AP&L") and Gulf States Utilities Company ("GSU") (collectively "Entergy") filed on March 29, 1996 (ESI-12).¹

¹ AP&L's name was recently changed to Entergy Arkansas, Inc., and GSU's name was recently changed to Entergy Gulf States, Inc. For ease of reference, I will continue to use the acronyms indicated in the text.

The purpose of this Rebuttal Verified Statement is to respond to the rebuttal testimony of certain of Applicants' witnesses concerning the trackage rights conditions sought by Entergy in its Responsive Application (ESI-14), the need for which is explained in detail in Entergy's March 29 Comments. Specifically, I will respond to the Verified Statements of Applicants' Witnesses Hutton, Nock, Sansom and Sharp in Volume 2 of Applicants' Rebuttal (UP/SP-231) concerning the effects of the proposed merger on competition for the movement of coal to the White Bluff and Nelson Stations, the alleged non-feasibility of the White Bluff build-out, and the need for a condition to preserve Entergy's present competitive coal delivery options at Nelson.

II. The White Bluff Station

In my earlier Verified Statement in ESI-12, I indicated that AP&L's White Bluff plant is presently captive to UP at destination, and has a potential build-out to the SP² at Pine Bluff, AR, that would be rendered meaningless by the UP/SP merger absent a trackage rights condition preserving access to White Bluff by another rail carrier via the build-out. I also indicated the basis for Entergy's conclusion -- reached before the proposed merger was announced -- that the build-out was a

² In my rebuttal testimony I will refer to Southern Pacific Transportation Company/St. Louis Southwestern Railway Company as "SP", Union Pacific Railroad Company/Missouri Pacific Railroad Company as "UP", and Burlington Northern Santa Fe Corporation and its rail subsidiaries as "BNSF".

feasible option that would be pursued when Entergy's present contractual commitments to UP expire.

A. Feasibility of the White Bluff Build-out

In their April 29 rebuttal testimony, UP/SP's witnesses claim that the White Bluff build-out is not in fact feasible, and that Entergy itself knows (or should know) this. The primary reason asserted for this claim is that Entergy has never used the threat of the build-out in any rate negotiations with UP, and did not discuss the build-out with UP until after the merger announcement last August. This criticism entirely misses the mark. The timing of the first build-out discussions with the railroads is entirely consistent with the timing of Entergy's opportunity to make use of a build-out.

As I explained in my Verified Statement in ESI-12, Entergy's investigation of the White Bluff option was in the early stages when the proposed merger was announced last summer. All of the White Bluff coal tonnage is

, and there was no reason to pursue the build-out option (or attempt to use the threat of this option in negotiations with UP) earlier, because the option cannot be used until at the earliest.

Certainly, a more exhaustive analysis would need to be conducted before Entergy decides to proceed with actual construction of the build-out. However, the point is that we reached our preliminary conclusion that the spur was a feasible option that should be pursued early last summer (before we had

any knowledge that UP and SP intended to merge). This provided ample lead time to conduct a more thorough analysis, and to proceed with the build-out (as well as use the threat of it in negotiations with UP) as the time approaches when tonnage will become available for movement via SP.

UP/SP's witnesses claim that Entergy's timing is suspect in view of the proposed merger. However, the fact is that Entergy does not have the opportunity to use a build-out to provide competition for UP at White Bluff until , after its present contractual commitment

expires. Moreover, Entergy was on record, before it had any inkling of the proposed merger, that the White Bluff build-out was a competitive option that it would pursue when tonnage is available for movement via SP. As I indicated in my earlier Verified Statement in ESI-12, Dan Gray of my staff raised the subject with SP in a telephone call in June of 1995, and it was discussed during the course of a meeting with SP (which Mr. Gray and I both attended) on July 11, 1995. That meeting occurred more than three weeks before the merger announcement on August 4, 1995.³

³ During my deposition in this proceeding, I was asked whether I thought, at the time of the July 11 meeting, that a merger between UP and SP might be in the works. My answer was (and is) that I had no knowledge of the proposed merger at that time. Transcript, p. 63. (Relevant excerpts from the transcript of my deposition testimony are included in the Appendix, and are referred to herein as "Transcript, p. ____").

SP's Witness Hutton, who attended the July 11 meeting on behalf of SP, states at page 30 of his Verified Statement that he has no recollection of any discussion of a White Bluff build-out at that meeting. However, he admits SP has no notes of the meeting. Mr. Gray of my staff did take notes of the meeting, and he also wrote a contemporaneous memorandum of the meeting. Both Mr. Gray's notes and his meeting memorandum clearly show that a rail spur from the White Bluff plant to Pine Bluff, which would provide SP with an opportunity to transport about tons per year beginning in , was discussed. Copies of Mr. Gray's notes and meeting memorandum are attached as My Exhibit RAG-3.

On page 30 of his testimony, Mr. Hutton states that earlier, during the UP/CNW control proceeding, Entergy had been unwilling to support a potential request by SP for access to the White Bluff plant by trackage rights over UP. However, this is not in the least inconsistent with Entergy's desire for competitive access by SP via a build-out.

Before it was approached by SP during the UP/CNW control case, Entergy had concluded that UP's acquisition of CNW would not adversely affect coal movements to the White Bluff and Independence plants. Entergy would still have access to two rail carriers at origin (UP and BNSF), and because CNW was the origin carrier only, its acquisition by UP would not result in any change in the competitive situation at destination. When Entergy was approached by SP, we indicated that we did not see how the UP/CNW control case had anything to do with possible SP access to

White Bluff via trackage rights over UP. Accordingly, we told SP that we did not think Entergy's support for a possible SP request for trackage rights in the UP/SP control proceeding would be either appropriate or credible.

UP's Witness Nock states at pages 43-45 of his Verified Statement that Entergy never used the threat of a build-out in various discussions beginning in 1991 concerning the rates and other contract terms applicable to the movement of coal to AP&L's White Bluff and Independence plants, and that this demonstrates that Entergy did not regard the build-out as viable.⁴ Again, however, this is a matter of timing and opportunity.

Entergy's contractual arrangements with UP are described at pages 6-8 of my Verified Statement in ESI-12. The base contract with UP was signed in 1983. The interim contract, which governs present coal shipments to AP&L's White Bluff and Independence plants, was negotiated in . The subsequent discussions, including in particular those in late 1994 and 1995 referred to by Mr. Nock, did not involve any attempt to lower the rates applicable under the interim contract, as Mr. Nock erroneously suggests. The only issue under negotiation was

. (Entergy was in the process of deciding whether to convert the AP&L coal railcar

⁴ I find interesting that Mr. Nock, who has never had any direct responsibility for the Entergy account to my knowledge, and who did not participate in any of these discussions, is the only in-house UP spokesperson on these issues.

fleet from steel to aluminum.) Since all of the coal requirements of both the White Bluff and Independence plants were committed to UP through under the interim contract, Entergy had no opportunity to seek any rate reductions until that contract expired. Thus, it had no reason to discuss a White Bluff build-out during the 1994-95 discussions referred to by Mr. Nock.

Mr. Nock's assertion on page 44 of his testimony that AP&L did threaten UP with the prospect of bringing in coal by barge to White Bluff during "contract negotiations" is flatly wrong. There were no contract negotiations with UP in which barge deliveries were mentioned, so Mr. Nock's statement that "[w]e took AP&L's threats about barge traffic seriously, and they affected our rate negotiations" is absurd.⁵

The only context in which barge deliveries were ever mentioned to UP occurred in mid-1994, when UP was encountering severe service problems in transporting SPRB coal to AP&L's power plants, which caused coal inventories at the plants to decline to dangerously low levels. At that time, we advised UP and CNW (which had not yet been acquired by UP, and which was the originating carrier) that the White Bluff and Independence plants were running dangerously low on coal due to UP's inability to deliver all the coal these plants needed. We also told UP and

⁵ Again, I note that Mr. Nock was not personally involved in any of these negotiations or discussions. He did not attend any of the meetings in which these kinds of matters were discussed between Entergy and UP.

CNW that, notwithstanding the commitment under the interim contract, we had to look at other options for additional coal deliveries including (i) alternate rail routings involving BNSF as the originating carrier, and (ii) a possible rail-barge routing via BNSF from the mines to the St. Louis area and barge from St. Louis to White Bluff via the Mississippi and Arkansas Rivers. This situation was temporary, and it did not involve any contract or rate negotiations. It was the only occasion on which possible barge deliveries of coal to White Bluff were mentioned to UP.

At page 43 of his testimony, Mr. Nock also refers to what he describes as "discussions and informal consultations" between UP and Entergy during the first half of 1995 over the meaning of the parties' agreement to

. Again, these discussions did not involve any attempt to negotiate any actual rates for application when the interim contract expires.

As I explained during my deposition in this proceeding, in the original interim contract the parties agreed

.⁶ In early 1995, as a part of the amendment to the interim contract to implement the parties' agreement

as to

Entergy proposed that the parties

Specifically, I proposed that the parties

UP refused to
agree to this , which indicated to me
that

.7

Finally, UP/SP's witnesses point to the 10-year gap between initial consideration of a build-out from the Nelson Station and the start of construction of the Nelson spur as somehow proving that the White Bluff build-out is not feasible. However, this gap actually proves my point about the relationship between timing and opportunity. Because the Nelson tonnage was contractually committed through , GSU did not discuss the Nelson spur with any of the railroads involved until -- or four years after initial consideration of the concept, and five years before tonnage would become available. Agreement was reached on a contract extension at reduced rates (due

⁷ UP's refusal to consider confirms that access to White Bluff by another rail carrier would result in a significant reduction from the present rail rates, which average per ton, or about mills per ton-mile. UP/SP have not challenged Entergy's assessment that two-carrier access at destination would result in future rates of per ton-mile.

to the threat of the build-out) in -- or years after the build-out was first considered.

Thus, the timing of the Nelson build-out, far from undermining the feasibility of the White Bluff build-out, actually confirms it. Moreover, the experience gained by Entergy with respect to the Nelson build-out will be useful in connection with the White Bluff build-out. Once a final decision is made to pursue the project -- which will depend largely on whether the UP/SP merger is approved, and if so, whether the trackage rights condition requested by Entergy is granted -- I would expect it to be brought to fruition much more quickly than the Nelson project.

A second reason advanced by UP/SP's witnesses in their attempt to show that the White Bluff build-out is not feasible is that Entergy has underestimated the build-out's construction cost, which casts doubt on its economic viability. The UP/SP witnesses have estimated the construction cost to be between \$45 million (Sansom V.S., pp. 54-55) and \$60 million (Nock V.S., p. 45), compared with Entergy's estimate of approximately \$21 million, or \$1 million per mile.

Entergy's construction cost estimate was a preliminary one, based on information it received from an official in UP's Operating Department, among others, as to general rail line construction costs (see Transcript, p. 49). It was confirmed by a brief inspection of the route by a member of Entergy's engineering department which revealed no major impediments to

construction.⁸ It may well be that the actual construction cost will exceed \$1 million per mile -- just as it may well be that the rate savings resulting from two-carrier access to White Bluff will exceed \$2.00 per ton. However, it is highly unlikely that the construction cost will approach the staggering numbers propounded by UP/SP's witnesses. Their estimates, which themselves differ by \$15 million, were prepared for the specific purpose of rebutting Entergy's March 29 presentation, and for this reason alone are highly suspect.

B. Barge Transportation of Coal to White Bluff.

UP/SP's Witness Sansom suggests at pages 52-56 of his testimony that barge transportation of coal to White Bluff via the Arkansas River is "clearly feasible," and that a rail/barge option would be more economic than the rail build-out option.⁹ Dr. Sansom's testimony contains a chart, at page 56, purporting to demonstrate this.

⁸ See Transcript, Exhibit 2, which is a summary of the engineer's visual inspection of the route. Mr. Nock states at page 45 of his testimony that a major bridge would be required to cross an interstate highway. In fact, the line would have to cross one federal-aid highway, which is not an interstate. We would expect to be able to cross this highway at grade, as is being done with the highway crossings for the Nelson spur.

⁹ Mr. Sharp also states, at pages 19-20 of his rebuttal testimony, that I acknowledged in my deposition that rail-barge service from BNSF origins is feasible and has been rejected only as a short-term option. This is incorrect; I expressly indicated that although this option was initially considered as a remedy for a short-term problem (UP's inability to deliver sufficient coal in the first half of 1994), the analysis conducted by Entergy was based on long-term commitments, and showed that the result would be an increase in the delivered cost of coal to the White Bluff plant. (See Transcript, p. 63.)

Dr. Sansom's numbers underestimate the barge and transfer (onload/offload) costs, and his rail cost is based on erroneous (understated) rail mileage from the SPRB to Mississippi River barge transfer terminals in the St. Louis area (the most likely point of transfer of coal from rail to barges.) In addition, he ignores the practical difficulties of barging significant volumes of western coal to the White Bluff plant. Mississippi River barge tows have to be broken up when entering the mouth of the smaller Arkansas River, which adds to the barging cost. Also, the Arkansas River is not open to barge traffic during certain periods of the year due to high water levels and rapid currents.

Entergy investigated the possibility of moving coal to White Bluff via rail/barge in considerable depth in mid-1994, when UP was failing to meet its contract delivery obligations and AP&L's plants were running low on coal. During this period, Entergy obtained both short and long term rate quotations from several barge companies, as well as from BNSF. I am attaching, as Exhibit RAG-4, a summary of various rail/barge delivered-cost estimates made by Entergy during 1994. These estimates were based on both actual rail and barge rate quotations and on the lowest known rates, and the delivered costs ranged from

. Even the lowest of these estimates exceeds Dr. Sansom's theoretical estimate of the delivered cost for an alternative all-rail routing to White Bluff via BNSF-SP of per ton.

Dr. Sansom states that the lowest price for a rail/barge movement of SPRB coal to White Bluff shown in Entergy's documents is per ton. His use of this number, which is reflected in Exhibit RAG-4, is very misleading. It is simply a "rough estimate" of the cost of rail/barge transportation via Memphis by a BN marketing person during a May, 1994 telephone call to Mr. Gray of my staff. This "rough estimate" includes only for the total cost of barge transportation, which does not consider either transfer costs or the capital cost of constructing barge unloading and conveyor facilities at White Bluff. In fact, when the estimate was received by Mr. Gray, he noted that it was meaningless because there is no barge transfer facility at Memphis capable of handling large-volume coal movements, and that BN's barge cost estimate was out of line with actual rate proposals by several barge companies.¹⁰

In short, Entergy has never viewed the rail/barge "option" as a meaningful one that would provide competitive leverage in any rate negotiations with UP. To my knowledge, this option was not mentioned during the negotiation of the interim contract with CNW/UP in 1989-90.

C. The Market Should Determine Feasibility.

On a more fundamental level, UP/SP appear to believe they alone should be the ones to decide whether Entergy's proposed White Bluff build-out is feasible. To me, this is

¹⁰ A copy of Mr. Gray's contemporaneous note is attached as my Exhibit RAG-5.

highly undesirable from a public policy standpoint. It is also inconsistent with UP/SP's recently-announced position on potential build-outs by other shippers in this proceeding, which acknowledges that there can be legitimate differences of opinion as to the feasibility of particular build-outs.

In their settlement agreement with the Chemical Manufacturers Association ("CMA"), UP/SP have provided an arbitration remedy for chemical shippers where there is a dispute as to whether a particular build-out is feasible.¹¹ The CMA approach is better than allowing the railroads to be the sole arbiters of this question, which is UP/SP's position with respect to White Bluff. The best solution, however, is to let the market make this determination.

If UP/SP are truly convinced that the White Bluff build-out option is not feasible, I fail to see how they would be harmed by imposition of the condition requested by Entergy. The proposed White Bluff trackage rights condition was carefully tailored to be consistent with the conditions designed by the ICC in the BN/Santa Fe merger case to preserve competition for two shippers with build-out options. BNSF would be able to use the requested trackage rights only to the point (Pine Bluff, AR) at which the build-out would connect with SP, and could access the White Bluff plant only via the build-out.

¹¹ The logic of the build-out arbitration remedy, provided only to CMA members, applies to a coal shipper such as Entergy just as much as it does to a chemical shipper.

Thus, if the condition is granted and UP/SP really believe their own rhetoric, any future attempt by Entergy to use the threat of a build-out from the White Bluff plant in rate negotiations would not be believed, and would not influence UP to offer lower rates. This would mean that Entergy would actually have to construct the build-out in order to obtain any competitive benefit from it. However, if UP/SP are correct and the build-out is not in fact economically feasible, it would not be constructed and BNSF would not be able to serve the White Bluff plant in competition with UP. In short, the proposed condition is what UP's coal marketing people like to call a "win/win" proposition.

III. The Nelson Station

The competitive situation at GSU's Nelson Station is somewhat different from that at the White Bluff Station. Nelson is presently captive at destination to the Kansas City Southern Railway ("KCS"), and a build-out, known as the Nelson spur, is already underway between the power plant and a connection with SP's Houston-New Orleans main line near Lake Charles, LA. In its Responsive Application, Entergy seeks a trackage rights condition that would permit BNSF or another independent rail carrier (that is, one unaffiliated with either UP/SP or KCS) to operate over a portion of this SP line in order to access the plant via the Nelson spur. This would preserve the pre-merger competitive

situation at Nelson that would otherwise result from completion of the Nelson spur.

UP/SP Witnesses Nock and Sharp claim that the proposed merger will not have any adverse effect on the competitive situation at Nelson, because two rail carriers will continue to serve the destination (KCS and SP) and two carriers will continue to serve the SPRB coal origins (UP and BNSF). They also state that one of the existing routes will be "upgraded" from an interline route (UP-SP) to a single-line route (UP) as a result of the merger, and that because Entergy's proposed condition would create two single-line routes, it would result in an increase in Nelson's coal transport options.¹²

UP/SP's witnesses either misunderstand or have intentionally obfuscated the competitive situation that Entergy sought to create at Nelson by construction of the Nelson spur, and that would exist after completion of the spur absent the merger. The Nelson spur was intended to introduce destination competition between KC (which serves Nelson from the Kansas City gateway) and SP (which will serve Nelson, via the spur, from the Fort Worth gateway). This would have created a level playing field among four competing interline routes: UP-Kansas City-KCS, BNSF-Kansas City-KCS, UP-Fort Worth-SP, and BNSF-Fort Worth-SP.

If the UP/SP merger is approved unconditionally, Entergy will still have available two competing carriers at

¹² Sharp V.S., pp. 18-19; Nock V.S., pp. 47-48.

destination: KCS and UP. It will also still have available one interline routing: BNSF-Kansas City-KCS. However, it will lose the benefits of an interline routing via BN-Fort Worth-SP. The reason is that UP will not shorthaul its own preferred single-line route by offering a competitive rate for delivery of coal from the Fort Worth interchange with BNSF to the Nelson plant. In the absence of the merger, this would have been an efficient route -- shorter by nearly 100 miles than UP's single-line route after the merger -- and also the route giving BNSF its longest haul. This is the route over which BNSF would be the most competitive according to several statements made by its coal marketing officials both before and after the announcement of the UP/SP merger.¹³

UP/SP's witnesses claim that the interline routing via BNSF/Fort Worth will not actually be lost after the merger, because UP would quote a rate for the service over the SP's portion of the route from Fort Worth to destination if requested to do so by Entergy. (Nock V.S., p. 47.) This misses the point. The question is not whether UP would quote such a rate, but rather whether the rate quoted would be competitive. I do not believe this is likely, because UP would logically prefer to handle the Nelson coal tonnage over its single-line, long-haul route from Wyoming to the destination in southern Louisiana, a distance of more than 1,700 miles. UP is very unlikely to offer

¹³ See my Verified Statement in ESI-12, pp. 21-23.

a proportional rate from Fort Worth to the Nelson plant at a level that would give BNSF any opportunity to beat UP's single-line rate with a lower interline rate.

Given that the merger would make a BNSF-Fort Worth-SP routing unavailable as a practical matter, UP's new single-line route would be of modest benefit to Entergy. UP would merely set its single-line rate at a level just below its estimate of what BNSF-KCS would charge for their less competitive interline route via Kansas City.¹⁴ Thus, while Entergy will receive some measure of benefit from having two-carrier access to Nelson as a result of the build-out, the benefit will not be nearly as great as it would be if SP remained independent of UP.

UP/SP's witnesses assert that Entergy's proposed Nelson trackage rights condition would enhance its competitive position by creating two competing single-line routes (UP and BNSF) in addition to the existing interline route via BNSF and KCS. It is true that Entergy's proposed condition would create two single-line routes (assuming BNSF is the carrier that gets the trackage rights), but this is the only effective way to preserve the kind of level playing field between competing routes that Entergy would have in the absence of the merger.

¹⁴ As indicated at pages 18-20 of my Verified Statement in ESI-12, KCS has never been an aggressive competitor for Entergy's coal traffic. The BNSF-Kansas City-KCS bid for Nelson tonnage submitted last August was the highest of the bids received via the four solicited routing combinations.

Entergy would be perfectly willing to withdraw its requested Nelson trackage rights condition if it could be assured that, after the merger, UP would give it a competitive rate from the Fort Worth gateway to the Nelson plant which it could use in combination with a BNSF rate from the SPRB mines to Fort Worth. For example, if UP/SP would commit to offering the same rate per ton-mile from the Fort Worth gateway to the plant that it offers for its single-line route -- whatever that may be -- this would be acceptable to Entergy.

Entergy would even accept a UP/SP commitment to preserve the rate SP offered from Fort Worth to Nelson in the bidding conducted in the summer of 1995, which was slightly more than 10 mills per ton-mile, subject to a market-based future adjustment mechanism. Entergy suggested such a rate-preservation condition in its March 29 Comments. UP/SP never mentioned that suggestion in their rebuttal filing. I believe their silence is telling.

IV. Conclusion

For the reasons set forth above, Entergy firmly believes that the trackage rights conditions it has requested constitute the best method of preserving the competitive status quo, and will permit market forces to determine the future rates that will be available for transportation of coal to the White Bluff and Nelson Stations.

As indicated in Entergy's March 29 Comments, if the Board approves the merger but imposes the UP/SP-BNSF "Settlement Agreement" as a condition as requested by both carriers, the Settlement Agreement would provide a convenient vehicle for implementation of the trackage rights conditions requested by Entergy since BNSF would already have overhead trackage rights over the very same segments of the Memphis-Houston and Houston-New Orleans lines that BNSF would use in hauling coal to these plants via the build-outs.

However, because other parties have sought inconsistent conditions, including divestiture of the same lines, Entergy does not know whether BNSF will in fact receive trackage rights over the SP lines in question under the Settlement Agreement, or whether the Board will require divestiture of (or trackage rights over) these lines in favor of some other carrier. Regardless of which of these outcomes prevails, Entergy respectfully urges the Board to take steps to preserve its competitive options by imposing the requested trackage rights conditions sought in its Responsive Application.

NOTE:

EXHIBITS RAG-3, RAG-4 AND RAG-5 CONTAIN HIGHLY
CONFIDENTIAL MATERIAL AND HAVE BEEN REDACTED FROM THIS COPY

VERIFICATION

STATE OF TEXAS)
) SS:
COUNTY OF JEFFERSON)

Roy A. Giangrosso, being duly sworn, deposes and says that he has read the foregoing Rebuttal Verified Statement, knows the contents thereof, and that the same are true as stated, except as to those statements made on information and belief, and as to those, that he believes them to be true.

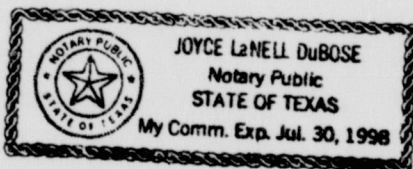
Roy A. Giangrosso

Subscribed and sworn to before me
this 9th day of May, 1996.

Joyce LaNell DuBoise

Notary Public for Jefferson County, Texas

My Commission expires 7-30-98.



UNION PACIFIC CORPORATION, UNION)	
PACIFIC RAILROAD COMPANY, AND)	
MISSOURI PACIFIC RAILROAD COMPANY)	
-- CONTROL AND MERGER -- SOUTHERN)	
PACIFIC RAIL CORPORATION, SOUTHERN)	Finance Docket No. 32760
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ST. LOUIS SOUTHWESTERN RAILWAY)	
COMPANY, SPCSL CORP., AND THE)	
DENVER AND RIO GRANDE WESTERN)	
RAILROAD COMPANY)	
)	
- AND -)	
)	
RESPONSIVE APPLICATION -- ENTERGY)	
SERVICES, INC., ARKANSAS POWER &)	Finance Docket No. 32760
LIGHT COMPANY AND GULF STATES)	(Sub-No. 12)
UTILITIES COMPANY)	
)	
)	

I. INTRODUCTION AND PURPOSE

Entergy has asked me to review and respond, from my perspective as an experienced former railroad coal marketing officer, to the testimony of witnesses Hutton, Nock, Sansom and

Sharp in Volume 2 of Applicants' Rebuttal (UP/SP-231) concerning the trackage rights sought by Entergy in its Responsive Application (ESI-14). These trackage rights would enable the Burlington Northern/Santa Fe ("BNSF") or another independent rail carrier to serve Entergy's White Bluff and Nelson power plants via build-outs.

In particular, I will comment on the testimony of Applicants' witnesses Nock, Hutton and Sansom concerning the feasibility of Entergy's build-out option for the White Bluff plant. I will also respond to the testimony of witnesses Nock and Sharp concerning the effect of the merger on Entergy's competitive options for the movement of coal to the Nelson plant when the Nelson spur build-out is completed later this year.

II. FEASIBILITY OF THE WHITE BLUFF BUILD-OUT

The White Bluff trackage rights condition sought by Entergy is predicated on the need to preserve the viability of a build-out option from the plant to a connection with Southern Pacific's ("SP") Memphis-Houston line at Pine Bluff, AR.¹

Applicants' rebuttal witnesses challenge the feasibility of the White Bluff build-out on, essentially, two

¹ The proposed condition would give BNSF or another carrier unaffiliated with Applicants trackage rights only to the point of connection between the build-out and SP, and BNSF would be able to access the White Bluff plant via the trackage rights only if the build-out is actually constructed. Thus, the condition meets the build-out/trackage rights criteria enunciated by the ICC in the BN/Santa Fe merger case (Finance Docket No. 32549, Decision served August 23, 1995, at pp. 37-38, 68, 98).

grounds. First, they state that Entergy has never used the threat of a build-out in rate negotiations with UP. Second, they claim that Entergy has significantly understated the cost of the build-out. I will respond to each of these points in turn.

A. Use of a Build-out Threat in Rate Negotiations

UP's Witness Nock asserts at pp. 43-44 of his Verified Statement ("V.S.") that if the build-out were feasible, Entergy would have used the threat of it in rate negotiations with UP. In support of this assertion, Mr. Nock claims that Entergy has used the threat of moving coal to White Bluff via rail/barge to obtain rate concessions from UP in the past several years, which demonstrates that rail/barge is a more realistic option. Dr. Sansom finds it "interesting" that, given my "vast experience", I "ignored" water delivery competition at White Bluff in my earlier Verified Statement in ESI-12 (Sansom V.S., p. 93).

Since Dr. Sansom has raised the matter of my experience, it is only fair for me to respond that as the head of Chicago and North Western's ("CNW") Energy Marketing department, I was personally involved in the negotiation of the interim contract in 1989-90 and in subsequent discussions with Entergy concerning service problems and rate matters.²

² CNW was the originating carrier for the movement of SPRB coal to AP&L's White Bluff and Independence plants and, until its acquisition by UP last year, a party to the rail transportation contracts for the movement of SPRB coal to these plants.

Based on my recollection of these negotiations and discussions, I can confirm Mr. Giangrosso's testimony in his Rebuttal Verified Statement that there have been no rate negotiations since the interim contract was negotiated in 1989-90 in which it would have been appropriate for Entergy to try to use the threat of a build-out in view of the

. I can also confirm Mr. Giangrosso's testimony that the only recent contract negotiations of any kind between Entergy and CNW/UP involved

.³ There has been no attempt to renegotiate the underlying contract rates themselves. Finally, I can confirm that, to the best of my recollection, the subject of barge delivery of coal to White Bluff, or a rail/barge option, was never brought up by Entergy during the negotiations that led to the interim contract -- nor was it brought up in any subsequent rate negotiations or discussions between Entergy and CNW/UP.

As far as I am aware, the only time Entergy ever mentioned possible barge delivery of coal to White Bluff was in mid-1994, when CNW/UP were falling behind in their contractual

service/delivery commitments, the stockpiles at the White Bluff and Independence plants were shrinking to unacceptable levels, and Entergy was getting desperate for coal. At that time, Entergy discussed its need for additional coal with CNW and UP, and requested relief the interim contract so that it could obtain supplemental coal deliveries from other carriers. The alternatives mentioned were an all-rail route with BNSF transporting the coal , and a rail-water route via BNSF to the St. Louis area and barge carrier to White Bluff via the Mississippi and Arkansas Rivers. Entergy represented that this was a temporary situation in view of the CNW/UP service problems occasioned by the midwestern flooding in the spring and summer of 1994, and that both options were being considered only until the stockpiles at White Bluff and Independence could be built back to normal levels.

In short, Mr. Nock's statements concerning Entergy's alleged use of the competitive "threat" of barge transportation of coal to White Bluff during negotiations with the railroads are completely inconsistent with my own recollections.

B. Construction Costs

Applicants' witnesses also challenge the feasibility of the White Bluff build-out on the ground that Entergy's estimated construction cost of \$21 million, or \$1 million per mile for a 21-mile rail line, is significantly understated.

Entergy's \$21 million cost estimate was made for purposes of an initial assessment of whether the White Bluff build-out option should be pursued, in anticipation of the date when Entergy's commitment

terminates.⁴ I believe it is a reasonable estimate for a railroad construction project of this kind; obviously, the estimate would need to be refined after a detailed engineering analysis of the route. The ultimate construction cost may well exceed \$1 million per mile, depending on the particular obstacles encountered. However, given the preliminary assessment of the route by Entergy's engineering department,⁵ I strongly doubt that it will exceed this number by any significant amount.

Mr. Nock indicates at page 45 of his testimony that UP's engineers have estimated the construction cost at \$60 million, or nearly \$3 million per mile. This estimate is predicated in large measure on the alleged need for a major bridge across an interstate highway. However, Mr. Giangrosso indicates in his Rebuttal V.S. that the build-out would not need

⁴ That date

⁵ See Exhibit 2 attached to the transcript of Mr. Giangrosso's deposition in this proceeding, which is included in the Appendix. This route investigation did not indicate anything unusual, such as the need for any major bridges.

to cross any interstate highways. In addition, my experience is that railroad engineering departments routinely overstate the capital cost of construction projects in making preliminary cost estimates such as this, and include various additives (as well as unionized rail labor wage rates) that would not actually be incurred by a construction contractor. Mr. Nock's estimate is unrealistic for the kind of project involved here, and I would not give it any credence.

I also note that Dr. Sansom has estimated the construction cost at \$45 to \$50 million. Thus, the estimates of Applicants' own witnesses vary by as much as \$15 million. Such a wide variance is an indication of the preliminary nature of all of the cost estimates.

Applicants' witnesses also argue that the White Bluff build-out is unusually long (21 miles) and is not feasible for this reason. However, this build-out is not significantly longer than other recent build-outs involving utility power plants, as indicated at page 7 of my Verified Statement in ESI-12.⁶ Moreover, it is not length that determines the feasibility of a build-out, but its construction cost in relation to the economic benefits (in the form of reduced competitive rates) likely to

⁶ It is also more than 11 miles shorter than a build-out the ICC determined "may be feasible" in granting a trackage rights condition in favor of Phillips Petroleum Company in the BN/Santa Fe merger case. (Finance Docket No. 32549, Decision served August 23, 1995, at p. 9).

result.⁷ This is exemplified by one of the build-outs referred to by Applicants' witnesses: the Nebraska Public Power District ("NPPD") spur from the Gerald Gentleman Station to the UP in western Nebraska, which was completed in 1994. That build-out was less than ten miles in length, but it was budgeted to cost \$26.8 million due to the need for three major bridges (over an interstate highway, the Platte River, and a multiple-track UP main line).⁸ The coal traffic immediately available for movement via UP was about 1.3 million tons annually; the balance of the plant's total annual requirements were committed by contract to BN.⁹ These tonnages are consistent with those that would be available to SP after expiration of Entergy's interim contract with UP -- and they obviously were sufficient to justify construction of the build-out at a budgeted cost more than \$5 million higher than that estimated by Entergy for the White Bluff build-out.

⁷ In this regard, I note that Applicants' witnesses have not seriously challenged my estimate that the White Bluff rate would be reduced by at least \$2.00 per ton if another rail carrier had access to the plant via a build-out. Mr. Nock makes a half-hearted attempt to challenge this estimate, arguing that the amount of the reduction "is almost surely exaggerated" (Nock V.S., p. 45), but he nonetheless accepts it.

⁸ According to reports in the trade press, the actual construction cost was \$25.8 million, or \$1 million under budget.

⁹ Docket No. 41191, West Texas Utilities Company v. Burlington Northern Railroad Company, Decision served May 3, 1996, at 20 ("WTU decision") (discussing the Gerald Gentleman coal traffic).

* * *

As I explained at pp. 12-13 of my Verified Statement in ESI-12, The only way to determine for sure if the White Bluff build-out is feasible is to grant Entergy's requested trackage rights condition, thus allowing the market to make this determination. If the build-out is not in fact feasible, it will not be built, BNSF will not gain access to the White Bluff plant, and UP will suffer no competitive harm.

Alternatively, the Board should consider requiring UP/SP to amend their September 25, 1995 "Settlement Agreement" with BNSF to provide the same arbitration remedy with respect to the White Bluff build-out that is being provided to chemical shippers under the Chemical Manufacturers Association's ("CMA") recent settlement agreement with Applicants. As I understand it, if the CMA arbitration remedy were extended to cover Entergy's White Bluff plant, and Entergy were to prevail in arbitration, BNSF would be granted access to White Bluff as a "2-to-1" point under its Settlement Agreement with Applicants since that agreement grants BNSF trackage rights over the same SP line with which the White Bluff build-out would connect.

Dr. Kalt, in his Verified Statement on behalf of BNSF in BNSF-55, states that the CMA agreement's arbitration provision ensures "appropriate access by BN/Santa Fe to parties with valid build-in claims," and that the procedures put in place by the CMA agreement help "ensure that, however the set of UP/SP [2-to-1] points ultimately is defined, BN/Santa Fe has rights of

competitive access to all such points." Dr. Kalt concludes that "in the event of disputes, public policy considerations over the protection of competition imply that settings which, economically, satisfy the criteria of a 2-1 location should be protected with replacement service from BN/Santa Fe." (Kalt V.S., pp. 8-9.) Dr. Kalt's statements do not appear to be limited to CMA members, and his "public policy considerations" apply equally to all shippers who have asserted that they have a feasible build-out option, including Entergy.

III. LOSS OF COMPETITIVE OPTIONS AT THE NELSON PLANT

The Nelson plant in Louisiana is presently served only by the Kansas City Southern ("KCS"), but will also be served by SP when the build-out presently in progress (known as the Nelson spur) is completed this fall. Applicants' Witnesses Nock and Sharp dispute Entergy's contention that competition for the movement of SPRB coal to the Nelson plant will be adversely affected by the UP/SP merger. They assert that Entergy will have a new single-line route after the merger, and will retain the current interline route via BNSF-Kansas City-KCS. They note that if Entergy's proposed trackage rights condition is granted, Entergy would enjoy two single-line routes, rather than one.¹⁰

The primary purpose of Entergy's requested condition is to preserve the most competitive route that would be available absent the proposed merger: BNSF-Fort Worth-SP. Although that

¹⁰ Nock V.S., pp. 46-48; Sharp V.S., pp. 18-19.

route is longer than the BNSF-Kansas City-KCS route presently being used to transport SPRB coal to Nelson, it is nearly 100 miles shorter than the UP-SP route via Fort Worth, which would become a single-line UP route after the merger.¹¹ The BNSF-SP route via Fort Worth is also more competitive than the BNSF-KCS route via Kansas City. BNSF has a substantially longer haul to Fort Worth (1,226 miles) than it does to Kansas City (834 miles), and as Mr. Giangrosso indicated at pp. 21-22 of his Verified Statement in ESI-12, BNSF itself has advised Entergy that a Fort Worth Route is more competitive than a Kansas City route.

The results of the July-August, 1995 bidding for incremental tonnage after completion of the Nelson spur confirm that the BNSF-SP route is more competitive than the BNSF-KCS route. SP bid far more aggressively for the haul from Fort Worth to the Nelson plant than KCS did for the haul from Kansas City to the plant, notwithstanding SP's shorter mileage.¹²

Applicants' witnesses claim that a BNSF route to Fort Worth would still be available to Entergy after the merger, because UP would offer a proportional rate from the Fort Worth gateway to the Nelson plant if requested to do so by Entergy.

¹¹ Mr. Nock claims the BNSF-KCS route is the shortest of the interline routes available, and is 100 miles shorter than the BNSF-SP route. Both statements are incorrect. The BNSF-KCS route via Kansas City is 40 miles longer than the UP-KCS route via Kansas City, and the BN-KCS route is only 76 miles shorter than the BNSF-SP route.

¹² The results of this bidding are summarized at pp. 17-19 of Mr. Giangrosso's Verified Statement in ESI-12.

(Nock V.S., p. 47.) This begs the question, however. A BNSF-Fort Worth-UP route simply would not be competitive with the single-line UP route that would be created by an unconditioned UP/SP merger. It is inconceivable to me that UP would short-haul itself by offering a proportional rate from Fort Worth to the Nelson plant that would allow BNSF to compete effectively for the Nelson business. Instead, UP would likely offer a rate from Fort Worth at a high enough level to ensure that the BNSF-Fort Worth-UP route will not be competitive either with UP's single-line route or with the BNSF-Kansas City-KCS route.¹³ UP would thus make sure that its only competition is BNSF-KCS, and as previously indicated, that competition is not nearly as effective as the competition that would be provided by BNSF and an independent SP via Fort Worth.

If the UP/SP merger is approved and Entergy's requested trackage rights condition is granted in favor of BNSF, Entergy would then have two competing single-line routes for the movement of SPRB coal to Nelson. Absent the merger, however, Entergy

¹³ The Board correctly noted in its recent WTU decision that, absent regulatory constraints, a bottleneck carrier can price its portion of an interline move in such a manner as to preclude effective competition. (WTU decision at p. 11 n.24.) Since UP alone would have a single-line route from origin to destination after the merger, its position with respect to an interline routing with BNSF is analogous to that of a bottleneck carrier. Further confirmation that this is how UP would behave is provided by its position in Docket No. 41626, MidAmerican Energy Co. v. Union Pacific R. Co., in which UP has a single-line haul for a SPRB coal movement and has declined to offer a bid to MidAmerican for the destination portion of the movement that MidAmerican could use in conjunction with a BNSF rate for the origin portion of the movement.

would have four routing combinations, which is what it planned for when it committed to building the Nelson spur. The merger would result in one of the four interline routes (UP-Fort Worth-SP) being converted to a single-line UP route, and this would render two of the remaining interline routes (UP-KCS and BNSF-UP) meaningless from a practical standpoint. Short of the kind of rate condition referred to by Mr. Giangrosso in his Rebuttal Verified Statement, the only way to preserve a level playing field between at least two competitive routing options for Nelson coal is to impose a condition granting an independent carrier access to the Nelson spur via trackage rights over a portion of SP's Houston-New Orleans line. If BNSF is the recipient of the trackage rights, a competing single-line route would be created. Even then, however, the result would still be only two effectively competitive routes, compared to the four that would be available in the absence of the merger.

Accordingly, the Nelson trackage rights condition requested by Entergy is necessary to preserve some semblance of the equal competitive options Entergy would have in the absence of the UP/SP merger.

VERIFICATION

STATE OF ILLINOIS)
) SS:
COUNTY OF COOK)

David G. Weishaar, being duly sworn, deposes and says that he has read the foregoing Rebuttal Verified Statement, knows the contents thereof, and that the same are true as stated, except as to those statements made on information and belief, and as to those, that he believes them to be true.

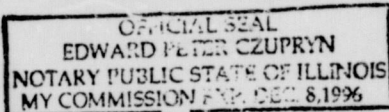
David G. Weishaar

Subscribed and sworn to before me
this 8 day of May, 1996.

Edward Peter Czupryn

Notary Public for Cook County, Illinois

My Commission expires 12-8-96.



PARK FOREST CURRENCY EXCHANGE, INC.

2251 ORCHARD DR. -- ORCHARD PLAZA
PARK FOREST, IL 60166 -- 748-6644

REDACTED

**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**

AND

**Finance Docket No. 32760
(Sub-No. 12)**

**RESPONSIVE APPLICATION -- ENTERGY SERVICES, INC.,
ARKANSAS POWER & LIGHT COMPANY
AID
GULF STATES UTILITIES COMPANY**

**Rebuttal Verified Statement
of
Thomas D. Crowley
President
L. E. Peabody & Associates, Inc.**

**On Behalf of
Entergy Services, Inc.,
Arkansas Power & Light Company
and Gulf State Utilities Company**

Date: May 14, 1996

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I. INTRODUCTION

My name is Thomas D. Crowley. I am an economist and President of the economic consulting firm of L.E. Peabody & Associates, Inc. The firm's offices are located at 1501 Duke Street, Suite 200, Alexandria, Virginia 22314. I am the same Thomas D. Crowley who submitted a Verified Statement as part of the March 29, 1996 of the Comments of Entergy Services, Inc., et al. ("Entergy")^{1/}.

On April 29, 1996, Applicants^{2/} filed their Rebuttal in this proceeding. I have read the verified statements of Applicants' witnesses as they pertain to Entergy and reviewed the workpapers which were furnished in support of their statements.

I have been asked by Entergy to respond to Dr. Sansom's determination that the White Bluff build-out is not feasible and, in particular, to Dr. Sansom's claim that the rail-barge option to White Bluff is a stronger competitor to UP rail service than the potential build-out to SP. In conjunction with this assignment, I have also reviewed the accompanying Rebuttal Verified Statement of Roy A. Giangrosso on behalf of Entergy.

My comments are organized below under the following headings:

II. Sansom Analysis

III. Restatement of Sansom's Costs

IV. Summary

^{1/} Entergy Services, Inc. ("ESI") is the fuel procurement agent for Entergy Corporation's public utility operating subsidiaries, which include Arkansas Power & Light Company ("AP&L"), Gulf States Utilities Company ("GSU"), Louisiana Power & Light Company, New Orleans Public Service, Inc., and Mississippi Power & Light Company. References herein to "Entergy" include AP&L and GSU.

^{2/} "Applicants" refers to Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company ("UP")/Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corporation and The Denver and Rio Grande Western Railroad Company ("SP").

II. SANSOM ANALYSIS

On page 55 and 56 of his testimony, Dr. Sansom puts forth an analysis which purports to show that the rail-barge option from St. Louis (Hall Street) to White Bluff is a better competitive option than the build-out option to the SP. Table 1 below is a portion of Dr. Sansom's Table 11 found on page 56 of his verified statement.

Table 1		
Comparison of Alternative Transportation Options to Entergy's White Bluff Power Plant -- As Shown By Dr. Sansom		
Item (1)	Sansom Analysis	
	Alternative BN/SP Move (2)	Alternative Rail/Barge Move (3)
1. Rail Distance		
2. Rail Rate (mills/ton-mile)		
<u>Transportation Costs (\$/ton)</u>		
3. Rail Rate		
4. Rail Car Cost		
5. Spur Cost		
6. Barge Loading		
7. Barge Cost		
8. Barge Unloader Oper. Cost		
9. Barge Unloader Capital Cost		
10. Total Transportation Cost		
Dr. Sansom's Notes:		
1.	The current cost to haul the 1.3 million tons is	and is assumed to
	continue after the interim contract expires in	
2.	The alternative BN/SP route that Entergy is alleging provides competition to the existing UP single-line haul. This option would require an estimated \$48 million (EVA's estimate) to provide access with the SP, who would then provide a BN/SP two-line competition to the single-line UP haul.	
3.	This is the competitive transportation option of railing the coal to the Mississippi River and barging the coal directly to the plant. This would require the addition of a barge which Entergy estimates would cost	

By Dr. Sansom's calculations, the cost of the rail-barge move (Table 1, Line 10, Column (3)) is equal to per ton versus the BN/SP move via a White Bluff build-out (Table 1, Line 10, Column (2)) equal to per ton.

Dr. Sansom's analysis of the BN/SP rail spur versus the rail-barge option contains a number of errors. In the next section of my rebuttal verified statement, I discuss and correct his errors and restate the costs per ton for the two transportation alternatives that he identified and quantified as shown in Table 1 above.

III. RESTATEMENT OF SANSOM'S COSTS

Dr. Sansom committed three (3) significant errors in his analysis. First, he understated the BN rail miles from the Powder River Basin ("PRB") to St. Louis (where the Hall Street rail to barge transloading facility is located). Second, his development of the cost of constructing a rail spur from the SP at Pine Bluff to the White Bluff plant is overstated. Finally, Dr. Sansom's costs for the proposed barge operations are understated.

Dr. Sansom uses a rail distance of _____ miles when calculating the rail-barge option. The correct rail distance from the _____

Table 2 below illustrates the effect correcting the rail miles from the PRB to St. Louis has on the total transportation cost for the rail-barge option.

Table 2 Comparison of Alternative Transportation Options to Entergy's White Bluff Power Plant -- Based on Corrected Rail Mileage		
<u>Item</u> (1)	<u>Alternative</u> <u>BN/SP</u> <u>Move</u> (2)	<u>Alternative</u> <u>Rail/Barge</u> <u>Move</u> (3)
1. Rail Distance		
2. Rail Rate (mills/ton-mile)		
<u>Transportation Costs (\$/ton)</u>		
3. Rail Rate		
4. Rail Car Cost		
5. Spur Cost		
6. Barge Loading		
7. Barge Cost		
8. Barge Unloader Oper. Cost		
9. Barge Unloader Capital Cost		
10. Total Transportation Cost		

Correcting the miles to _____ increases Dr. Sansom's total rail-barge cost from (Table 1, Line 10, Column (3)) to _____ per ton. (Table 2, Line 10, Column (3)). Increasing the rail-miles causes the rail rate and the rail car costs to increase. This simple mileage adjustment alone disproves Dr. Sansom's conclusion that the rail-barge option is economically better than the BN/SP rail option. However, Dr. Sansom's analysis includes at least two others errors that further widens the gap between a BN/SP alternative and a BN/Barge alternative in favor of the BN/SP alternative.

The second correction I made is to Dr. Sansom's cost of constructing a 21-mile rail line that would connect White Bluff to the SP line at Pine Bluff. On page 55 of his statement, Dr. Sansom states that a cost of \$45-\$50 million would be needed to construct the line to the SP. Based on this aggregate cost, he calculates a per-ton cost of _____ (Table 1, Line 5, Column (2)) which he uses to derive a total per-ton cost of _____ for the BN/SP rail option.

Dr. Sansom's \$45-\$50 million estimate is not supported, although it appears to be based in part on UP Witness Nock's erroneous assumption that the White Bluff build-out would have to cross an interstate highway via an expensive bridge. I believe the _____ construction cost (or slightly more than \$1 million per mile) I used in developing the _____ cost per ton shown in my March 29, 1996 verified statement is a much closer approximation of what it would cost to construct this line. If Dr. Sansom's per-ton cost of _____ is replaced with the _____ cost per ton I developed, the total cost per ton for the BN/SP option decreases to _____ per ton. Table 3 below illustrates this change.

Table 3		
<u>Comparison of Alternative Transportation Options to Entergy's White Bluff Power Plant -- With Corrected Rail Mileage and Spur Construction Costs</u>		
<u>Item</u>	<u>Alternative BN/SP Move</u>	<u>Alternative Rail/Barge Move</u>
(1)	(2)	(3)
1. Rail Distance		
2. Rail Rate (mills/ton-mile)		
<u>Transportation Costs (\$/ton)</u>		
3. Rail Rate		
4. Rail Car Cost		
5. Spur Cost		
6. Barge Loading		
7. Barge Cost		
8. Barge Unloader Oper. Cost		
9. Barge Unloader Capital Cost		
10. Total Transportation Cost		

The decrease in the BN/SP rail option to _____ per ton (Table 3, Line 10, Column (2)) coupled with the increased cost for the rail-barge option of _____ to the correction in rail miles (Tables 2 and 3, Line 10, Column (2)) results in a _____ cost per ton benefit in favor of the BN/SP rail option.

Dr. Sansom's cost estimates for barge operations are understated for each unique barge cost listed in Table 1, Lines 6-9, Column (3). I have restated these barge costs based upon the lower of actual quotes and estimated costs Entergy received from various barge operators during 1994 for long-term coal movements to White Bluff. The impact of these increased barge costs on Dr. Sansom's analysis is displayed in Table 4 below.

Table 4
Comparison of Alternative Transportation Options to Entergy's White Bluff Power Plant -- With Corrected Mileage, Spur Construction Lists, and Barge Costs

<u>Item</u> (1)	<u>Alternative BN/SP Move</u> (2)	<u>Alternative Rail/Barge Move</u> (3)
1. Rail Distance		
2. Rail Rate (mills/ton-mile)		
<u>Transportation Costs (\$/ton)</u>		
3. Rail Rate		
4. Rail Car Cost		
5. Spur Cost		
6. Barge Loading		
7. Barge Cost		
8. Barge Unloader Oper. Cost		
9. Barge Unloader Capital Cost		
10. Total Transportation Cost		

The increase in barge costs coupled with the increase in rail miles to St. Louis, increases the total cost for the rail-barge option to _____ per ton.

I have restated the barge costs based on documents provided by Entergy in discovery and claimed to be used by Dr. Sansom. These documents are provided in Exhibit RAG-4 to Mr. Giangrosso's Rebuttal Verified Statement. For example, Dr. Sansom calculated a _____ cost per ton for Barge Unloader Capital Cost (Sansom Table 11, p. 56) based on Entergy's estimate of _____ to construct a barge offloader facility. However, Dr. Sansom does not include any costs to move the coal from the offloader to the stockpile at the plant. A conveyor system is the best long-term option for this purpose. This requires an additional _____ investment as well as _____

In addition, Dr. Sansom relied on a rail rate of _____ per ton-mile to calculate his rail costs. Although the _____ rate is a fair (but conservative) approximation for a joint BN-SP move, I do not believe it is appropriate to compare this rate with _____

_____ . The BNSF-SP rate would apply starting in _____ , after Entergy's present "interim" contract with UP expires. There is no way of knowing whether the _____

_____ . This will be the starting point for replacement UP rates in _____ , not _____ .

Thus, Dr. Sansom's assumption that the current UP move will continue to result in a total transportation cost of _____ per ton (which is based on _____

_____) is unwarranted. If _____ were substituted for _____ , the result would be a total transportation cost for the UP move of _____ . This is _____ than my estimate of _____ as the total transportation cost for the BN/SP alternative, which demonstrates the competitiveness of the White Bluff build-out option.


IV. SUMMARY

After only three corrections are made to Dr. Sansom's analysis, it is clear the rail-barge option is not competitive with the BN/SP rail option to White Bluff. The costs for the rail-barge option are _____ than the BN/SP rail option (_____ per ton for rail-barge versus _____ per ton for BN/SP rail option). The correction of the three errors also results in the BN/SP rail option becoming superior to the current UP move based

VERIFICATION

COMMONWEALTH OF VIRGINIA)
)
CITY OF ALEXANDRIA)

THOMAS D. CROWLEY, 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.


Thomas D. Crowley

Sworn to and subscribed
before me this 14th day
of May, 1996.

Witness my hand and official seal.

Kimberly D. Cornell / Rep
My Commission Expires July 31, 1996

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APPENDIX

Relevant Excerpts from Deposition Transcripts

Excerpts from the Transcript of the Deposition of
Witness Roy A. Giangrosso on April 10, 1996,
Referenced in Mr. Giangrosso's Rebuttal Verified Statement

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BEFORE THE
SURFACE TRANSPORTATION BOARD
Finance Docket No. 32760
UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD
COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY
-- CONTROL 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

HIGHLY CONFIDENTIAL

Washington, D.C.

Wednesday, April 10, 1996

Deposition of ROY A. GIANGROSSO, a
witness herein, called for examination by counsel
for the Applicants in the above-entitled matter,
pursuant to agreement, the witness being duly
sworn by JAN A. WILLIAMS, a Notary Public in and
for the District of Columbia, taken at the
offices of Slover & Loftus, 1224 Seventeenth
Street, N.W., Washington, D.C., 20036, at
2:05 p.m., Wednesday, April 10, 1996, and the
proceedings being taken down by Stenotype by
JAN A. WILLIAMS, RPR, and transcribed under her
direction.

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REDACTED

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Q. What else was being negotiated?

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A. Well, we were converting the fleet from -- Arkansas's coal car fleet from steel to aluminum. And we were negotiating a change in rates to accommodate that fleet changeout.

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Q. Were there any elements that were being

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1 negotiated?

2 A. I don't think so, not that I recall.

3 Q. Okay. So is it your recollection that
4 both of these points were subject to negotiatio
5 beginning in the latter part of 1994?

6 A. They were the subject of negotiation
7 beginning in the latter part of 1994.

8 Q. And ran through the latter part of '95?

9 A. Yes. We had a fundamental agreement as
10 to the rates I suppose in late '94 I believe. We
11 moved forward on securing the railcars and had
12 them in service by the fourth quarter, sometime
13 the late third or early fourth quarter of 1995.

14 Q. Now, at the time you were having these
15 negotiations over the new rates on the aluminum
16 cars, am I correct in understanding that there
17 wasn't any discussion at that time of the
18 build-out to Pine Bluff?

19 A. Not in the context of the agreement for
20 the aluminum -- of the amendment to accommodate
21 the aluminum cars. I don't think anything was
22 mentioned to the railroad about a build-out until
23 sometime last summer, sometime during the summer
24 of '95.

25 Q. And the first time that the build-out

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1 was mentioned to Union Pacific was after the
2 merger was announced, the merger agreement was
3 announced with SP?

4 A. I think that's true. It was mentioned
5 to the Southern Pacific prior to that, but I
6 think that's probably right about the time it was
7 mentioned to the UP.

8 Q. And that's reflected in your testimony,
9 isn't it, where you say that the first time to
10 your understanding that the Pine Bluff build-out
11 was mentioned to Union Pacific was when
12 Mr. Jensen called to ask for Entergy's support of
13 the merger?

14 A. That's right.

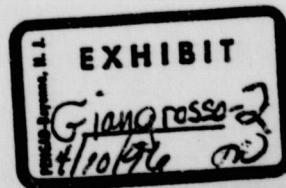
15 Q. So, just to make sure the record is
16 clear, the build-out was not discussed with UP in
17 negotiating over the rates on these aluminum
18 cars?

19 A. No. But there was -- it really would
20 have been premature and there was no point in
21 mentioning it because, through the term of the
22 interim agreement, AP&L had no opportunity to
23 benefit from such a build-out.

24 Q. The build-out also wasn't mentioned to
25 Union Pacific at the time the interim contract

EXHIBIT 2 CONTAINS
CONFIDENTIAL MATERIAL:

REDACTED VERSION



CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of May, 1996, served Highly Confidential copies of the foregoing Rebuttal of Entergy Services, Inc., Arkansas Power & Light Company and Gulf States Utilities Company In Support of Responsive Application for Trackage Rights by hand upon Applicants' counsel:

Arvid E. Roach II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Paul A. Cunningham, Esq.
Harkins Cunningham
1300 Nineteenth Street, N.W.
Washington, D.C. 20036

and by hand upon:

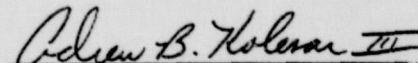
Michael D. Billiel, Esq.
Joan S. Huggler, Esq.
U.S. Department of Justice
Antitrust Division, Suite 500
325 Seventh Street, N.W.
Washington, D.C. 20530

I further certify that copies of a Redacted, Public Version of the foregoing document were served by first class mail, postage prepaid, on

The Honorable Federico Pena
Secretary
U.S. Department of Transportation
400 7th Street, S.W., Suite 10200
Washington, D.C. 20590

The Honorable Janet Reno
Attorney General of the United States
U.S. Department of Justice
10th & Constitution Avenue, N.W., Room 4400
Washington, D.C. 20530

and on all other parties of record in Finance Docket No. 32760.



Andrew B. Kolesar III

1 MR. MILLS: Let me take that under
2 advisement.

3 MR. HESTER: Okay.

4 BY MR. HESTER:

5 Q. Aside from this memo we've been
6 discussing, do you know of any other documents
7 prepared by anybody on the engineering side of
8 your company?

9 A. No. I mean, you know, we looked at the
10 distance of it and we did rule of thumb kinds of
11 estimates for it. I mean that's the kind of
12 thing that's been done for the moment. And, you
13 know, when you compare that to just
14 back-of-the-envelope kind of stuff of the
15 cost-benefit ratio, it fits projects that have
16 been done. So -- of that distance.

17 Q. Tell me the back-of-the-envelope
18 calculations you're thinking of?

19 A. Roughly construction cost of a million
20 dollars a mile and a couple of dollars a ton
21 reduction in transportation cost.

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23 REDACTED
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REDACTED

Q. Now, you had mentioned that the assumption of a million dollars a mile, and that's the assumption that you're applying in looking at this build-out?

A. Yes.

Q. And where does that assumption come from, is that simply a rule of thumb that you apply?

A. That's a rule of thumb that I have been led to believe is reasonable.

Q. You don't have any specific cost on this particular --

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1 A. In relatively the same time period,
2 relatively recently, I don't know exactly when.

3 Q. Okay. Do you know roughly what the
4 distances were?

5 A. No, I don't. We generally got the same
6 sort of information too in discussions with
7 people at UP on construction costs, roughly a
8 million dollars a mile frankly.

9 Q. Who are you --

10 A. Bob Nero in particular I think was one
11 of the people I was talking to.

12 Q. When did you talk to him? Was that
13 recently?

14 A. Within the last year.

15 Q. Do you remember any other discussions
16 with UP about it aside from your discussions --

17 A. To make sure you understand, I wasn't
18 necessarily asking him what it would cost to
19 build a spur at White Bluff, we were simply
20 talking in the context of what it cost to build,
21 to lay rail, lay track.

22 Q. You haven't talked to anybody at UP
23 about specifically what this build-out would
24 cost?

25 A. No.

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1 construct it to take advantage of the competitive
2 situation but that the economics would always
3 determine the benefits of it.

4 I mean that's simply the nature of the
5 ballgame, you identify your opportunities and, at
6 the appropriate time, you take advantage of
7 them. It certainly now is premature to make a
8 commitment because I don't know what -- and I
9 don't think they were willing at the moment to
10 bid -- I don't know that anybody would give me a
11 price today for an event that's going to take
12 place five years thence. Certainly UP was
13 unwilling to do it last year for the year 2000.

14 Q. When you were doing your build-out at
15 Nelson, you asked for bids in 1989 for movements
16 in '95, right?

17 A. GSU did.

18 Q. I take it you certainly didn't tell SP
19 that you were definitely going to do this
20 build-out, you simply described it as an
21 opportunity to be considered?

22 A. We identified it as an opportunity to
23 be considered, that it was an opportunity
24 available, that the marketplace would be the
25 determinant factor as to whether or not it was

1 done, it would be on the basis of economics and
2 what the competitive marketplace would provide.

3 Q. Do you remember any response from SP?

4 A. They said they would certainly be
5 interested in it.

6 Q. You remember that specifically,
7 somebody saying that, one of the SP people at the
8 meeting saying that?

9 A. I think collectively Joe Hutton and
10 Maurice Aranda were receptive to the notion.

11 Q. Do you remember anything specifically
12 that they said?

13 A. Other than we surely are interested in
14 that kind of business.

15 Q. I take it they didn't offer to help you
16 with the financing or anything along those lines?

17 A. I don't recall that they dismissed that
18 idea. But I'm not sure that that was even
19 pursued at the moment, because as I said in my
20 mind that level of detail discussion was
21 premature.

22 Q. At the time of this meeting, were you
23 aware of possible rumors of a merger between UP
24 and SP?

25 A. I don't recall when I became aware of a

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1 possible merger between UP and SP, if you try to
2 pin me down to this July 11 date.

3 Q. I guess what I'm really asking is
4 whether you remember at the time of this meeting
5 with the SP people thinking that a merger with UP
6 might be in the works?

7 A. I don't believe that to be true, no.

8 Q. Let me ask you to look at footnote 15
9 please, page 12 of your testimony. You discuss
10 this consideration of a rail-to-barge option. Do
11 you see that?

12 A. Yes.

13 Q. Could you describe what that option
14 was?

15 A. That was an attempt by AP&L to overcome
16 the Union Pacific's failure to deliver its
17 contractual quantity of coal during 1994. Our
18 inventories were getting dangerously low and we
19 were concerned that we would run out of coal.
20 And we were looking for ways, alternative ways to
21 cause coal to be delivered to the plants in order
22 to meet our burn requirements.

23 Q. And can you tell me what the
24 rail-to-barge routing would have been? I mean
25 first of all what the source of the coal would

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Page Count _____

May # 73

2 Part of
Public Record

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May 13, 1996

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Office of the Secretary

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2 Part of
Public Record

BY HAND

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

Re: 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

Dear Mr. Williams:

Enclosed for filing in the above-referenced proceeding are an original and 20 copies of a document designated as UP/SP-245, Notice of Supplemental Filing of Deposition Transcripts. Also enclosed is a diskette containing the text of this document in WordPerfect 5.1 format.

Accompanying this filing are the redacted deposition transcripts and other materials referred to in the notice. Among those materials are errata pages and signature pages to deposition transcripts that were previously filed with the Board on April 29, 1996, in accordance with Applicants' Notice of Filing of Deposition Transcripts (UP/SP-236, filed April 29, 1996).

Some of these materials being filed under seal, because they contain material designated as "~~Exempt~~ Confidential" or "Confidential" under the protective order in this proceeding (Decision No. 2, served September 1, 1995). In every such

HARKINS CUNNINGHAM

Mr. Vernon A. Williams, Secretary
May 13, 1996
Page 2

instance, applicants are simultaneously filing redacted copies of those materials on the public record.

Very truly yours,

James M. Guinivan

James M. Guinivan
Counsel for Applicants Southern
Pacific Rail Corporation, Southern
Pacific Transportation Company, St.
Louis Southwestern Rail Company,
SPCSL Corp., and The Denver and Rio
Grande Western Railroad Company

Enclosures

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

NOTICE OF SUPPLEMENTAL FILING OF DEPOSITION TRANSCRIPTS

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May 13, 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
RIO GRANDE WESTERN RAILROAD COMPANY

NOTICE OF SUPPLEMENTAL FILING OF DEPOSITION TRANSCRIPTS

For the convenience of the Board and the parties,
Union Pacific Corporation ("UPC"), Union Pacific Railroad
Company ("UPRR"), Missouri Pacific Railroad Company
("MPRR"),^{1/} Southern Pacific Rail Corporation ("SPR"),
Southern Pacific Transportation Company ("SPT"), St. Louis
Southwestern Railway Company ("SSW"), SPCSL Corp. ("SPCSL"),
and The Denver and Rio Grande Western Railroad Company
("DRGW"),^{2/} are filing this day certain transcripts and
associated documents for the depositions taken in this action
since March 29, 1996, as listed below:

^{1/} UPC, UPRR and MPRR are referred to collectively as "Union Pacific." UPRR and MPRR are referred to collectively as "UP."

^{2/} SPR, SPT, SSW, SPCSL and DRGW are referred to collectively as "Southern Pacific." SPT, SSW, SPCSL and DRGW are referred to collectively as "SP."

SUPPLEMENTAL FILING

Date of Deposition	Witness	Nature of Supplemental Filing
4/18/96	Grimm	Errata; signature page
4/18/96	Simpson/Turner	Signed errata; signature page
4/19/96	Hass	Redacted version; errata; signature page
4/19/96	Ploth	Errata; signature page
4/19/96	Skinner	Errata
4/21/96	Hunt/Oderwald	Redacted version
4/22-23/96	Crowley	Redacted version; signed errata; signature page
4/22/96	O'Conner/Darling	Redacted version; errata; signature page
4/23/96	Christensen	Redacted version; errata; signature page
4/24/96	Majure	Redacted version; errata; signature page

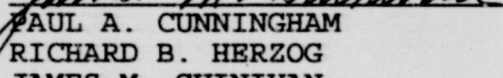
With the exception of certain signature pages and errata that applicants have been unable to obtain from counsel for the deponents, this list corresponds exactly to the Attachment to the Notice of Filing of Deposition Transcripts (UP/SP-236), in which Applicants listed the materials they intended to provide the Board in a supplemental filing.

All every instance in which a redacted version of a deposition transcript is being filed, the unredacted version

has previously been filed under seal, and the redacted version being filed today should be placed on the public record.

Respectfully submitted,

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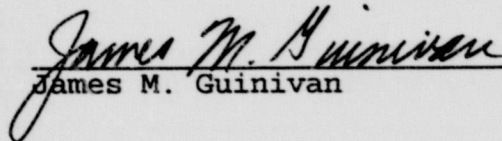
May 13, 1996

CERTIFICATE OF SERVICE

I, James M. Guinivan, certify that, on this 13th day of May, 1996, I caused a copy of the foregoing Notice of Supplemental Filing of Deposition Transcripts (UP/SP-245) to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Suite 500
Department of Justice
Washington, D.C. 20530

Premarmer Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580


James M. Guinivan

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Item No. _____

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May #54

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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

APPLICANTS' RESPONSES TO THE
TEXAS MEXICAN RAILWAY COMPANY'S
FOURTH SET OF INTERROGATORIES TO APPLICANTS

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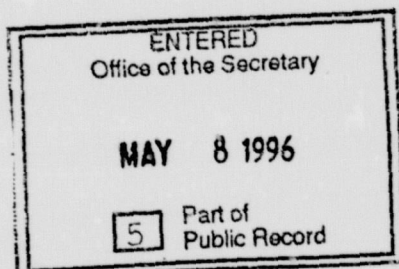
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May 7, 1996

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

APPLICANTS' RESPONSES TO THE
TEXAS MEXICAN RAILWAY COMPANY'S
FOURTH SET OF INTERROGATORIES TO APPLICANTS

UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW,
collectively, "Applicants," hereby respond to Texas Mexican
Railway Company's Fourth Set of Interrogatories to Applicants.^{1/}

GENERAL RESPONSES

The following general responses are made with respect
to all of the interrogatories.

1. Production of information does not necessarily
imply that it is relevant to this proceeding, and is not to be
construed as waiving any objection stated herein.

2. In line with past practice in cases of this
nature, Applicants have not secured verifications for the answers
to interrogatories herein. Applicants are prepared to discuss

^{1/} In these responses, Applicants use acronyms as they
have defined them in the application. However, subject to
General Objection No. 10 below, for purposes of interpreting the
requests, Applicants will attempt to observe Tex Mex's defini-
tions where they differ from Applicants' (for example, Tex Mex's
definitions of "UP" and "SP," unlike Applicants', include UPC and
SPR, respectively).

the matter with Tex Mex if this is of concern with respect to any particular answer.

GENERAL OBJECTIONS

The following objections are made with respect to all of the interrogatories. Any additional specific objections are stated at the beginning of the response to each interrogatory.

1. Applicants object to production of, and are not producing, documents or information subject to the attorney-client privilege.

2. Applicants object to production of, and are not producing, documents or information subject to the work product doctrine.

3. Applicants object to production of, and are not producing, documents prepared in connection with, or information relating to, possible settlement of this or any other proceeding.

4. Applicants object to production of, and are not producing, public documents that are readily available, including but not limited to documents on public file at the Board or the Securities and Exchange Commission or clippings from newspapers or other public media.

5. Applicants object to the production of, and are not producing, draft verified statements and documents related thereto. In prior railroad consolidation proceedings, such documents have been treated by all parties as protected from production.

6. Applicants object to providing information or documents that are as readily obtainable by Tex Mex from its own files.

7. Applicants object to the extent that the interrogatories seek highly confidential or sensitive commercial information (including, inter alia, contracts containing confidentiality clauses prohibiting disclosure of their terms) that is of insufficient relevance to warrant production even under a protective order.

8. Applicants object to the interrogatories to the extent that they call for the preparation of special studies not already in existence.

9. Applicants incorporate by reference their objections to the definitions and instructions set forth in Tex Mex's First Interrogatories to Applicants and Tex Mex's First Request for Production of Documents.

SPECIFIC RESPONSES AND ADDITIONAL OBJECTIONS

Interrogatory No. 1

"On page 109 of UP/SP-231, Applicants' Rebuttal, Volume II, Part B - Statements on Competition and Public Benefits, Mr. Peterson states that 'Second, leaving aside traffic to and from Eastern U.S. and Midwest gateways, grain accounts for 35% of Tex Mex's SP-interchanged traffic.' Identify all the 'Eastern U.S. and Midwest gateways' to which Mr. Peterson refers."

Response

Subject to the General Objections stated above, Applicants respond as follows:

The gateways referred to in the cited testimony are

Chicago, IL; E. St. Louis, IL-St. Louis, MO; Memphis, TN; Baton Rouge, LA; New Orleans, LA; Kansas City, KS/MO; Duluth, MN - Superior, WI; and Joliet, IL. (See the Errata to Mr. Peterson's rebuttal testimony for correction of the percentage figure in the cited testimony.)

Interrogatory No. 2

"Section 11 of the CMA Agreement provides, in part, that 'Section 4b of the BN/Santa Fe Settlement Agreement shall be amended by adding at the end thereof: 'BN/Santa Fe's access and interchange rights at Corpus Christi and Brownsville must be at least as favorable as SP has currently.'" Section 4b of the BN/Santa Fe Settlement Agreement, before it was amended, provides, in part, that 'BNSF shall also have the right to interchange with (i) the Tex-Mex Railway at Corpus Christi and Robstown. . . .' State whether:

a) BN/Santa Fe's access and interchange rights at Corpus Christi under the BN/Santa Fe Settlement Agreement changed from before the CMA Agreement amendment to after the CMA Agreement amendment; and

b) If the answer to subsection a) is 'yes', identify the differences between: (a) the BN/Santa Fe's access and interchange rights before the CMA Agreement amendment and (2) the BN/Santa Fe's access and interchange 'rights' after the CMA Agreement amendment."

Response

Subject to the General Objections stated above, Applicants respond as follows:

The particular terms of BN/Santa Fe's interchange rights at Corpus Christi and Brownsville were not addressed in the BN/Santa Fe settlement agreement. Applicants' intention had been that BN/Santa Fe's rights would be at least as favorable as SP has currently. The CMA Agreement made this explicit.

Respectfully submitted,

CANNON Y. HARVEY
LOUIS P. WARCHOT
CAROL A. HARRIS
Southern Pacific
Transportation Company
One Market Plaza
San Francisco, California 94105
(415) 541-1000

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Southern Pacific Transportation
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Railway Company, SPCSL Corp. and
The Denver and Rio Grande
Western Railroad Company

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Arnold E. Paul Iper

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Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

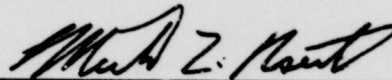
May 7, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 7th day of May, 1996, I caused a copy of the foregoing document to be served by hand on Richard A. Allen, counsel for The Texas Mexican Railway, at Zuckert, Scoutt & Rasenberger, 888 Seventeenth Street, N.W. Suite 600, Washington, D.C. 20006-3939, and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Suite 500
Department of Justice
Washington, D.C. 20530

Premarmer Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580



Michael L. Rosenthal

STB

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32760

5-7-96

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Item No. _____

Page Count 7

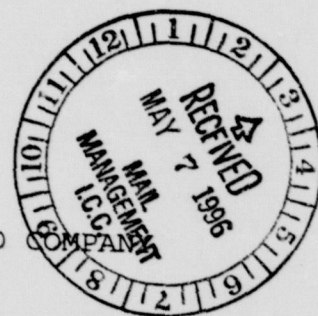
May # 52

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UP/SP-241

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

APPLICANTS' SUBMISSION OF VERIFIED STATEMENT
CONCERNING SETTLEMENT AGREEMENT WITH CSX

CANNON Y. HARVEY
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Pacific Rail Corporation,
Southern Pacific Transportation
Company, St. Louis Southwestern
Railway Company, SPCSL Corp. and
The Denver and Rio Grande
Western Railroad Company

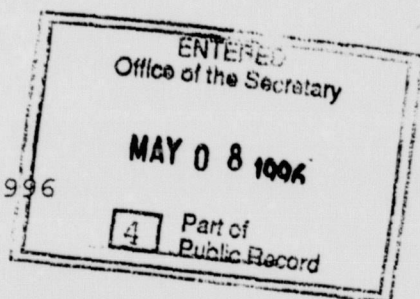
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Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

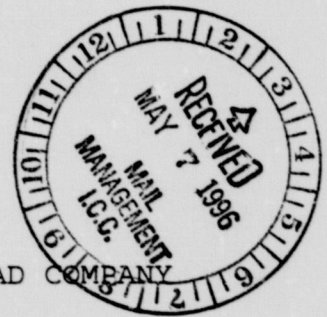
May 7, 1996



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



APPLICANTS' SUBMISSION OF VERIFIED STATEMENT
CONCERNING SETTLEMENT AGREEMENT WITH CSX

Applicants submit herewith the Verified Statement of
Richard B. Peterson concerning Applicants' settlement with CSX
Corporation, CSX Transportation, Inc., CSX Intermodal, Inc. and
Sea-Land Service, Inc.

Respectfully submitted,

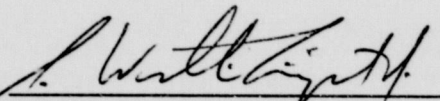
CANNON Y. HARVEY
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Southern Pacific Transportation
Company, St. Louis Southwestern
Railway Company, SPCSL Corp. and
The Denver and Rio Grande
Western Railroad Company

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(202) 662-5388

Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

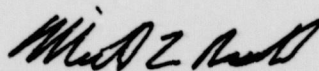
May 7, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 7th day of May, 1996, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Suite 500
Department of Justice
Washington, D.C. 20530

Premarmer Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580



Michael L. Rosenthal

VERIFIED STATEMENT

OF

RICHARD B. PETERSON

My name is Richard B. Peterson. I am Senior Director-Interline Marketing of UP. My educational background and relevant work experience are set forth in my verified statement in Volume 2 of the merger application (UP/SP-23).

This statement is submitted in response to a letter dated March 5, 1996 from the Chief of the Section of Environmental Analysis ("SEA") of the Surface Transportation Board concerning possible environmental effects of executed settlement agreements. The letter states: "[Applicants] may file a Verified Statement [rather than a Preliminary Draft Environmental Assessment ("PDEA")] for a settlement agreement if the agreement involves no substantive operational changes and no abandonment or construction projects. If after reviewing the operating plans for each settlement agreement, you determine that a Verified Statement is appropriate, you must certify that the agreement meets the exemption criteria under 49 CFR 1105.6(c)(2). Each Verified Statement must include supporting operating data."

This statement discusses the settlement agreement that Applicants executed with CSX Corporation, CSX Transportation, Inc., CSX Intermodal, Inc. and Sea-Land Service, Inc. (collectively "CSX"), which was entered into on April 26, 1996 and submitted to the Board on May 1, 1996.

As explained below, the agreement with CSX does not involve substantive operational changes or rail line abandonments or construction projects. Applicants hereby certify that the agreement meets the exemption criteria under 49 C.F.R. § 1105.6(c)(2).

In general, the settlement commits Applicants to negotiate with CSX in the event that they are required to sell or provide access to UP/SP properties and conduct such negotiations with any Eastern carrier. The settlement also modifies the arrangement for allocation of costs for a joint facility agreement in Illinois and contains confidential commercial terms for the handling of traffic of CSX affiliates Sea-Land and CSXI.

The settlement agreement does not provide for or require any rail line abandonments or construction projects, and none is planned as a result of the agreement. We do not anticipate that CSX will acquire trackage as a result of the agreement, and we do not expect the agreement to result in any operational changes or any increases (or decreases) in traffic on UP/SP line segments.

VERIFICATION

DISTRICT OF COLUMBIA) ss:

I, Richard B. Peterson, being duly sworn, state that I have read the foregoing statement, that I know its contents, and that those contents are true as stated:

Richard B. Peterson
Richard B. Peterson

Subscribed and sworn to before me
this 7th day of May, 1996.

Wanda Walker
Notary Public

My Commission expire:

Wanda Walker
Notary Public, District of Columbia
My Commission Expires July 14, 2000

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32760

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Item No. _____

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May # 51

83143

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE, N. W.

P.O. BOX 7566

WASHINGTON, D.C. 20044-7566

(202) 662-6000

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TELEX: 89-593 (COVLING WSH)

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LONDON W1Y 8AS

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TELEFAX: 44-171-495-3101

BRUSSELS CORRESPONDENT OFFICE

44 AVENUE DES ARTS

BRUSSELS 1040 BELGIUM

TELEPHONE: 32-2-512-9890

TELEFAX: 32-2-502-1598

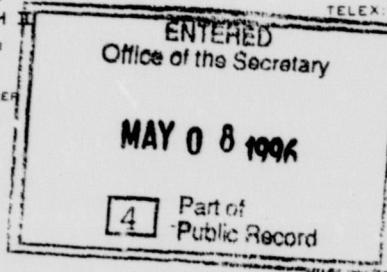
ARVID E. ROACH

DIRECT DIAL NUMBER

(202) 662-5388

DIRECT TELEFAX NUMBER

(202) 778-5388



May 7, 1996



BY HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Twelfth Street and Constitution Avenue, N.W.
Room 2215
Washington, D.C. 20423

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

Dear Secretary Williams:

Enclosed for filing in the above-captioned docket are the original and 20 copies of UP/SP-240, titled "Errata to Applicants' Rebuttal Filing." Please note that Applicants are filing two versions: one is redacted for the public file and the other contains "Highly Confidential" information for filing under seal. Each version is clearly marked. The Board is being provided with 20 copies of both versions. Also enclosed is a copy of the filing on diskette in Wordperfect 5.1 format.

We also have included two additional diskettes. One diskette, in Wordperfect 5.1 format, contains an unredacted version of Mr. Peterson's Rebuttal Verified Statement from UP/SP-231, as well as the revised Exhibit 1 to Mr. Kauders' testimony. The second diskette contains Exhibits 2 and 3 to Mr. Kauders' testimony, in Excel spreadsheet format.

Applicants have served both versions of the Errata on parties who are represented by outside counsel and have advised that they have complied with the terms of the protective order entered in Decision No. 2, served September 1, 1995. Redacted copies of these Errata have been served on all other parties. Applicants will promptly provide "Highly

COVINGTON & BURLING

Honorable Vernon A. Williams
May 7, 1996
Page 2

Confidential" versions of the Errata on request to those individuals who qualify under the terms of the protective order. Copies of the Errata can be obtained by contacting Karen Kramer at Covington & Burling, (202) 662-5167.

Sincerely,

Arvid E. Roach II /cfc
Arvid E. Roach II

Enclosures

cc: All Parties of Record

STB FD

32760

5-6-96

83092

D

Item No. _____

Page Count 4

May # 98

83092

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WILLIAM F. JACKSON, JR.
DAVID C. REEVES
JOHN T. SULLIVAN
JOHN R. C. PLEY

May 6, 1996

GERALD E. JESSUP
(1911-1994)

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
12th & Constitution Ave., N.W.
Washington, DC 20423

HAND-DELIVERED

Re: Union Pacific Corp., Union Pacific
Railroad Co., and Missouri Pacific
Railroad Co.--Control and Merger--
Southern Pacific Rail Corp., Southern
Pacific Transportation Co., St. Louis
Southwestern Railway Co., SPCSL Corp.
and The Denver and Rio Grande Western
Railroad Co.

Finance Docket No. 32760

Dear Mr. Williams:

Enclosed for filing in the referenced proceeding are the original and 20 copies of the Second Set of Interrogatories to Applicants and Second Request for Production of Documents to Applicants of Save the Rock Island Committee, Inc. (STRC-10). The certificate of service indicates service upon the required parties. Also enclosed is a 3.5-inch disk containing the text of the document in WordPerfect 5.1 format.

Please acknowledge the receipt and filing of the enclosed discovery requests by receipt stamping the copy of this letter and the extra copy of the discovery requests enclosed for that purpose and returning them to the undersigned in the enclosed pre-addressed, postage paid envelope.

Very truly yours,

William F. Jackson, Jr.

WPJ/jmb

Enclosures

cc: Mr. Jack Wright
Restricted Service List Parties

ENTERED Office of the Secretary
MAY 7 1996
<input checked="checked" type="checkbox"/> 5 Part of Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C.

ENTERED
Office of the Secretary

MAY 7 1996

5 Part of
Public Record

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

: Finance Docket No. 32760

SECOND SET OF INTERROGATORIES TO APPLICANTS
AND SECOND REQUEST FOR PRODUCTION OF DOCUMENTS
TO APPLICANTS OF SAVE THE ROCK ISLAND COMMITTEE, INC.

Pursuant to 49 C.F.R. Part 1114, Subpart B, and the Order Adopting
Discovery Guidelines served December 7, 1995, in this proceeding as revised,
Save the Rock Island Committee, Inc., hereby submits its Second Set of
Interrogatories and its Second Request for Production of Documents to Union
Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific
Railroad Company, and to Southern Pacific Rail Corporation, Southern Pacific
Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp.,
and the Denver and Rio Grande Western Railroad Company.

DEFINITIONS AND INSTRUCTIONS

The definitions and instructions set forth in the First Set of
Interrogatories to Applicants and First Requests for Production of Documents
to Applicants of Save the Rock Island Committee, Inc. (STRC-7), apply and are
incorporated into each Interrogatory and each Document Production Request as
though fully set forth therein, with the addition of the following definition:

16. The term "Kansas City-Labadie proportional rate agreement" means the "proportional rate agreement between Kansas City and St. Louis" referred to and discussed at page 7 of the Rebuttal Verified Statement of John H. Rebensdorf in UP/SP-231.

INTERROGATORIES

29. State whether under the Kansas City-Labadie proportional rate agreement the Applicants or any other party will be required to use any part of the SSW Kansas City-St. Louis line to reach Labadie from:

- a. Kansas City; or
- b. St. Louis.

30. State why, as stated at page 7 of UP/SP-231, that Applicants "could not reach agreement with BN/Santa Fe on sale of [the former Rock Island line between St. Louis and Owensville]."

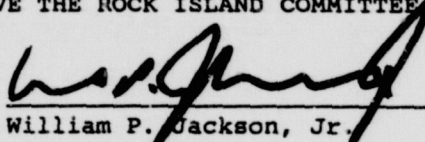
DOCUMENT PRODUCTION REQUEST

19. Produce the Kansas City-Labadie proportional rate agreement.

Respectfully submitted,

SAVE THE ROCK ISLAND COMMITTEE INC.

By


William P. Jackson, Jr.
Its Attorney

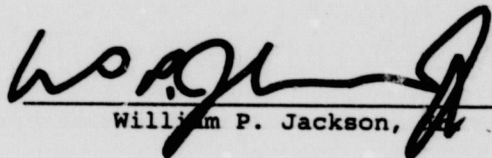
OF COUNSEL:

JACKSON & JESSUP, P.C.
Post Office Box 1240
Arlington, VA 22210
(703) 525-4050

CERTIFICATE OF SERVICE

I, William P. Jackson, Jr., hereby certify that on this 6th day of May, 1996, I have served one copy of the foregoing Second Set of Interrogatories to Applicants and Second Request for Production of Documents to Applicants of Save the Rock Island Committee, Inc., upon: (1) all parties on the Restricted Service List in this proceeding by first class mail, postage prepaid, or by telecopier; (2) upon the following party by hand:

Arvid E. Roach II, Esquire
S. William Livingston, Jr., Esquire
Michael L. Rosenthal, Esquire
Covington & Burling
1201 Pennsylvania Avenue, NW
P.O. Box 7566
Washington, DC 20044



William P. Jackson, Jr.

STB

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32760

5-3-96

83064

D

Item No. _____

Page Count 8

May # 38

83064

FROUTMAN SANDERS LLP
ATTORNEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

1300 I STREET, N.W.
SUITE 500 EAST
WASHINGTON, D.C. 20005-3314
TELEPHONE: 202-274-2950
FACSIMILE: 202-274-2994

WILLIAM A. MULLINS

DIRECT: 202-274-2953

May 3, 1996

HAND DELIVERED

Mr. Vernon A. Williams
Surface Transportation Board
Case Control Branch
Room 2215
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



Re: Finance Docket No. 32760, *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control & 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*

Dear Secretary Williams:

Enclosed please find an original and five copies of The Kansas City Southern Railway Company Inc.'s Supplemental List of Numbered Pleadings filed by The Kansas City Southern Railway Company ("KCS-51").

Also enclosed is a 3.5 inch disk containing the text of KCS-51.

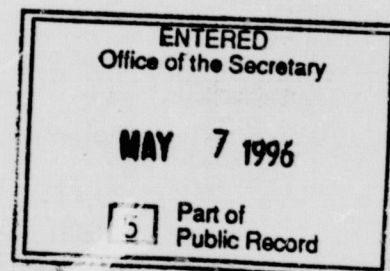
Sincerely yours,

William A. Mullins

William A. Mullins

Enclosures

cc: The Honorable Jerome Nelson
Restricted Service List



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760



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

SUPPLEMENTAL LIST OF NUMBERED PLEADINGS FILED BY
THE KANSAS CITY SOUTHERN RAILWAY COMPANY

Richard P. Bruening
Robert K. Dreiling
The Kansas City Southern
Railway Company
114 West 11th Street
Kansas City, Missouri 64105
Tel: (816) 556-0392
Fax: (816) 556-0227

James F. Rill
Sean F.X. Boland
Virginia R. Metallo
Collier, Shanrion, Rill & Scott
3050 K Street, N.W.
Suite 400
Washington, D.C. 20007
Tel: (202) 342-8400
Fax: (202) 338-5534



John R. Molm
Alan E. Lubel
William A. Mullins
Troutman Sanders LLP
1300 I Street, N.W.
Suite 500 East
Washington, D.C. 20005-3314
Tel: (202) 274-2950
Fax: (202) 274-2994

Attorneys for The Kansas City Southern
Railway Company

May 3, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

-- CONTROL 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

SUPPLEMENTAL LIST OF NUMBERED PLEADINGS FILED BY
THE KANSAS CITY SOUTHERN RAILWAY COMPANY

Pursuant to Surface Transportation Board Decision Nos. 15 and 32 (served 2/16/96 and 4/24/96), notice is hereby given that the following pleadings have been filed by The Kansas City Southern Railway Company ("KCS") in this proceeding. Parties of record may obtain a copy of any or all of these pleadings by directing a written request, specifying the pleadings requested and the name and address of the person to whom such request should be directed, to: William A. Mullins, Troutman Sanders, 1300 I Street, N.W., Suite 500 East, Washington, D.C. 20005. The requested pleadings will be mailed within three days of receipt of the request.

KCS-1--08/14/95--Comments of Kansas City Southern Railway Company on Proposed Procedural Schedules & Opposition to Proposed Protective Order

KCS-2--08/14/95--Opposition of Kansas City Southern Railway Company to Proposed Protective Order

KCS-3--09/18/95--Comments of the Kansas City Southern Railway Company on Proposed Procedural Schedule

KCS-4--10/10/95--Petition of the Kansas City Southern Railway Company for leave to file Additional Comments on Proposed Procedural Schedule

KCS-5--09/05/95--Petition Of the Kansas City Southern Railway Company for a Stay of Decision

KCS-5 (A)--10/10/95--Additional Comments of the Kansas City Southern Railway Company on Proposed Procedural Schedule

KCS-6--09/05/95--Petition of the Kansas City Southern Railway Company to Reopen and Reconsider the Commission's Decision

KCS-7--11/13/95--Kansas City Southern Railway Company's First Interrogatories to Applicants

KCS-8--11/13/95--Kansas City Southern Railway Company's First Requests for Admission to Applicants

KCS-9--11/22/95--Kansas City Southern Railway Company's First Request for Production of Documents to Burlington Northern Santa Fe Corporation and Related Entities

KCS-10--12/14/95--Amendment to Kansas City Southern Railway Company's Request for Admission to Applicants

KCS-11--12/29/95--Kansas City Southern Company's Revised First Interrogatories to Applicants

KCS-12--01/02/96--Kansas City Southern Railway Company's Memorandum of Law in Support of Motion to Compel Applicants to Produce Documents and Information Regarding the Negotiations of the Burlington Northern/Santa Fe Trackage Rights Agreement

KCS-13--01/05/96--Kansas City Southern Railway Company's Second Discovery Requests to Applicants

KCS-14--01/11/96--Kansas City Southern Railway Company's Third Discovery Requests to Applicants

KCS-15--01/11/96--Kansas City Southern Railway Company's Notice of Intent to Participate

KCS-16--01/24/96--The Kansas City Southern Railway Company's Fourth Discovery Requests to Applicants

KCS-17--01/24/96--Comments of the Kansas City Southern Railway Company in Support of the Motion by Western Shippers Coalition for Enlargement of Procedural Schedule

KCS-18--01/29/96--Notice of the Kansas City Southern Railway Company

KCS-19--02/08/96--Kansas City Southern Railway Company's Subpoena to Gerald Grinstein (not issued)

KCS-20--02/21/96--Kansas City Southern Railway Company's Fifth Discovery Requests to Applicants

KCS-21--02/22/96--Kansas City Southern Railway Company's Second Discovery Requests to BNSF Corporation and its Predecessors in Interest

KCS-22--02/23/96--Kansas City Southern Railway Company's Sixth Discovery Requests to Applicants

KCS-23--02/26/96--Kansas City Southern Railway Company's List of Numbered Pleadings Filed to date

KCS-24--03/04/96--Kansas City Southern Railway Company's Objections to Applicants' First Set of Interrogatories and Requests for Production of Documents

KCS-25--03/04/96--Kansas City Southern Railway Company's Objections to Burlington Norther Railroad Company and the Atchison, Topeka and Santa Fe Railway Company's First Set of Interrogatories and Requests for Production of Documents

KCS-27--03/04/96--Kansas City Southern Railway Company's Responses to Applicants' First Set of Interrogatories and Requests for Production of Documents

KCS-28--03/04/96--Kansas City Southern Railway Company's Responses to Burlington Norther Railroad Company and the Atchison, Topeka and Santa Fe Railway Company's First Set of Interrogatories and Requests for Production of Documents

KCS-29--03/18/96--Comments of The Kansas City Southern Railway Company in Opposition to Applicants' Appeal from Administrative Law Judge's Order Restricting Applicants' Discovery

KCS-30--03/21/96--The Kansas City Southern Railway Company's First Supplemental Answers to Applicants' First Set of Interrogatories and Requests for Production of Documents

KCS-31--03/22/96--The Kansas City Southern Railway Company's Motion for an Order Requiring The Submission of a Preliminary Draft Environmental Assessment

KCS-32--03/29/96--Response of the Kansas City Southern Railway Company to Application for Terminal Rights

KCS-33--03/29/96--Comments of The Kansas City Southern Railway Company and Request for Conditions

KCS-34--04/03/96--The Kansas City Southern Railway Company's Second Supplemental Answers to Applicants' First Set of Interrogatories and Requests for Production of Documents

KCS-35--04/10/96--The Kansas City Southern Railway Company's Responses to Applicants' Second Set of Interrogatories and Requests for Production of Documents

KCS-36 --04/10/96--(NITL-13 SPI-14 WSC-14 DOW-15 IP-13 KENN-14 CR-28) Joint Motion of NITL, SPI, WSC, DOW, International Paper, Kennecott Energy Company, KCS and Consolidated Rail Corporation for Clarification of Decision No. 6

KCS-37--04/10/96--The Kansas City Southern Railway Company's Responses to Applicants' Third Set of Interrogatories and Requests for Production of Documents

KCS-38--04/15/96--The Kansas City Southern Railway Company's Responses to Applicants' Fourth Set of Interrogatories and Requests for Production of Documents

KCS-39--04/15/96--The Kansas City Southern Railway Company's Responses to Applicants' Fifth Set of Interrogatories and Requests for Production of Documents

KCS-40--04/15/96--The Kansas City Southern Railway Company's Responses to Applicants' Sixth Set of Interrogatories and Requests for Production of Documents

KCS-41--04/16/96--The Kansas City Southern Railway Company's Responses to Applicants' Seventh Set of Interrogatories and Requests for Production of Documents

KCS-42--04/18/96--Excerpts of Depositions Cited in Comments of The Kansas City Southern Railway Company and Request for Conditions (KCS-33)

KCS-43--04/18/96--The Kansas City Southern Railway Company's Errata to Comments and Request for Conditions (KCS-33)

KCS-44--04/18/96--The Kansas City Southern Railway Company's Seventh Discovery Requests to Applicants

KCS-45--04/19/96--The Kansas City Southern Railway Company's Responses to Applicants' Tenth Set of Interrogatories and Requests for Production of Documents

KCS-46--04/23/96--The Kansas City Southern Railway Company's Supplemental Response to Interrogatory No. 1 of Applicants' Fifth Set of Interrogatories and Document Requests

KCS-47--04/24/96--The Kansas City Southern Railway Company's Supplemental Response to Interrogatory No. 1 of Applicants' Tenth Set of Interrogatories and Document Requests

KCS-48--04/24/96--The Kansas City Southern Railway Company's Responses to Applicants' Fourteenth Set of Interrogatories and Document Requests

KCS-49--04/29/96--The Kansas City Southern Railway Company's Motion to Require Amendment to Application or in the Alternative to Allow Parties to Conduct Discovery and Submit Evidence Relating to Applicants' Settlement Agreement with CMA

This 3rd day of May, 1996.

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Robert K. Dreiling
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Railway Company
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Fax: (816) 556-0227

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Attorneys for The Kansas City Southern
Railway Company

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May # 8

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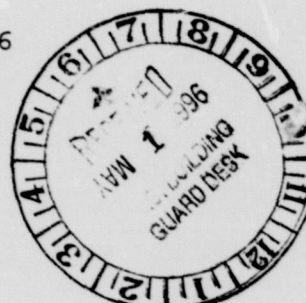
ENTERED

Office of the Secretary

MAY 02 1996

4 Part of
Public Record

May 1, 1996



BY HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Twelfth Street and Constitution Avenue, N.W.
Room 2215
Washington, D.C. 20423

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

Dear Secretary Williams:

Enclosed for filing in the above-captioned docket are the original and twenty copies of Applicants' Submission of Settlement Agreement with CSX (UP/SP-238). Also enclosed is a 3.5-inch disk containing the text of this pleading in WordPerfect 5.1 format.

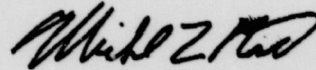
Please note that Applicants' settlement agreement with CSX has two versions: one is redacted for the public file, and the other contains "Highly Confidential" information for filing under seal. The redacted version is included as Exhibit A to this filing, which is being served on all parties. The "Highly Confidential" version is clearly marked and is being separately filed with the Board under seal. The Board is being provided with 20 copies of both versions. The "Highly Confidential" version is also being served on parties that have requested it and have indicated that they will adhere to the restrictions of the protective order.

COVINGTON & BURLING

Honorable Vernon A. Williams
May 1, 1996
Page 2

I would appreciate it if you would date-stamp the enclosed extra copy of the pleading and return it to the messenger for our files.

Sincerely,



Michael L. Rosenthal

Enclosures

cc: Hon. Jerome Nelson
Parties of Record

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

APPLICANTS' SUBMISSION OF SETTLEMENT AGREEMENT WITH CSX

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Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

May 1, 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

APPLICANTS' SUBMISSION OF SETTLEMENT AGREEMENT WITH CSX

Applicants Union Pacific Corporation ("UPC"), Union Pacific Railroad Company ("UPRR"), Missouri Pacific Railroad Company ("MPRR"), Southern Pacific Rail Corporation ("SPR"), Southern Pacific Transportation Company ("SPT"), St. Louis Southwestern Railway Company ("SSW"), SPCSL Corp. ("SPCSL"), and The Denver and Rio Grande Western Railroad Company ("DRGW"),^{1/} hereby submit copies of the settlement agreement that they have reached in this proceeding with CSX Corporation, CSX Transportation, Inc. and Sea-Land Service, Inc. (collectively, "CSX") (Exhibit A hereto).

The agreement commits Applicants to negotiate with CSX in the event that they are required to sell or provide access to UP/SP properties and conduct such negotiations with any Eastern carrier. As explicitly noted in the recitals to

^{1/} UPC, UPRR, and MPRR are referred to collectively as "Union Pacific." UPRR and MPRR are referred to collectively as "UP." SPR, SPT, SSW, SPCSL and DRGW are referred to collectively as "Southern Pacific." SPT, SSW, SPCSL and DRGW are referred to collectively as "SP."

the agreement, Applicants firmly believe that the BN/Santa Fe settlement agreement resolves all legitimate competitive issues, and have no intention to enter voluntarily into any such negotiations with Eastern carriers. The agreement also modifies a joint facility arrangement in Illinois and contains confidential commercial terms for the handling of traffic of CSX affiliates Sea-Land and CSXI.^{2/} CSXI had previously filed a statement in support of the merger. UP/SP-25, Pt. 1, p. 141.

^{2/} Commercially sensitive provisions of the agreement have been redacted from the public version of the agreement, which is attached hereto. A full copy of the agreement, classified "Highly Confidential" pursuant to the protective order in this proceeding, is being served on parties that have requested it and have indicated that they will adhere to the restrictions of the protective order, and is being separately filed with the Board under seal.

Respectfully submitted,

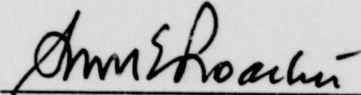
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Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

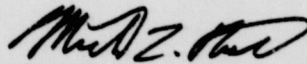
May 1, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 1st day of May, 1996, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Suite 500
Department of Justice
Washington, D.C. 20530

Premarmer Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580



Michael L. Rosenthal

EXHIBIT A

SETTLEMENT AGREEMENT

This Agreement ("Agreement") is entered into as of this 6th day of April 1996, between Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company (collectively referred to as "UP"), on the one hand, and CSX Corporation, CSX Transportation, Inc., CSX Intermodal, Inc. and Sea-Land Service, Inc. (hereinafter separately referred to as "CSXT", CSXI, and "S-L", respectively, and collectively referred to as "CSX"), on the other hand, concerning the proposed acquisition of Southern Pacific Rail Corporation (which with Southern Pacific Transportation Company, The Denver & Rio Grande Western Railroad Company, St. Louis Southwestern Railway Company and SPCSL Corp. are collectively referred to as "SP", with both UP and SP also hereinafter referred to collectively as "UP/SP"), by UP Acquisition Corporation, and the resulting common control of UP and SP pursuant to the application pending before the Surface Transportation Board ("STB") in 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 (hereinafter the "Control Case").

WHEREAS, CSX is participating in the Control Case in order to ensure that its interests are not adversely affected by the merger proposal itself or as a consequence of conditions and divestiture proposals being sought by opponents to the merger proposal;

WHEREAS, UP/SP has advised CSX of its view that (a) the Settlement Agreement dated September 25, 1995 and the Supplemental Agreement dated November 18, 1995 between UP and Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railway Company (the "BN/Santa Fe Agreement") fully addresses all competition issues in the Control Case, (b) no competition issues in the Control Case justify transfer of or a grant of access to any Eastern Carrier, and (c) it does not intend to voluntarily transfer or grant access to its properties to CSX or any other Eastern Carrier in connection with the Control Case; and

WHEREAS, UP and CSX desire to enter into certain understandings with respect to the Control Case as hereinafter set forth.

NOW, THEREFORE, in consideration of their mutual promises, UP and CSX agree as follows:

1. Transfer and Access to Properties.

UP represents and warrants that it will not agree to voluntarily transfer or grant access to UP's or SP's properties to any Eastern Carrier or entity affiliated therewith in connection with the Control Case. In the event that (a) UP/SP is required as a condition to approval of the Control Case to transfer or provide access to its properties, (b) UP/SP decides to proceed with the transactions notwithstanding such requirement, and (c) as a result, UP/SP negotiates for said transfer or access with any Eastern Carrier or

entity affiliated therewith, then UP/SP shall negotiate with CSXT and UP/SP shall furnish CSXT the opportunity to acquire such properties or have access thereto on terms and conditions substantially similar to those offered any other Eastern Carrier or entity affiliated therewith. UP/SP shall (i) provide CSXT information and traffic data in a timely manner; (ii) make such properties or access available to CSXT on terms and conditions substantially similar to those offered any other Eastern Carrier or entity affiliated therewith; and (iii) negotiate with CSXT at arms length on a competitive bid basis with any interested Eastern Carrier; and, subject to STB approval, UP shall select the carrier whose overall offer is, in the reasonable judgment of UP, in the best economic interests of UP/SP. In making such selection however, UP shall use its best efforts to not upset the rail competitive balance in the East. For purpose of the foregoing, "Eastern Carrier" shall mean Conrail, Norfolk Southern, Canadian Pacific or Canadian National. The foregoing shall be enforceable by specific performance. CSXT understands that, under Agreements heretofore filed in the Control Case, UP/SP has also agreed with BN/SF and IC to afford those carriers certain negotiating rights that may require negotiation with those carriers in advance of CSXT.

2. Sea-Land and CSXI

3. Woodland Jct-Chicago

UP and CSXT agree that the relevant sections of the Joint Facility Agreement between Woodland Jct. and Thornton (Zones 1B and 2) which cover the cost of any additions and betterments will be amended to provide for allocating costs of additions and betterments which are used by both parties on the basis of each party's percent of total car miles in the twelve month period preceding commencement of construction of the addition or betterment, with CP Rail car miles included in CSXT's count. The parties shall form a committee of senior operating officials to consider and make recommendations to assure the equitable handling of existing and future traffic based on their analysis of the impact on the joint facility of changes in UP/SP's and CSXT's train movements.

4. Term

This Agreement shall be effective upon execution. This Agreement and all agreements between or among the parties hereto entered into pursuant or in relation hereto shall terminate, and all rights conferred pursuant thereto shall be canceled and deemed

void ab initio, if, in a Final Order, the application for authority for UP to control SP has been denied or has been approved on terms unacceptable to the applicants and not consummated. For purposes of this Section 4, "Final Order" shall mean an order of the STB, any successor agency, or a court with lawful jurisdiction over the matter which is no longer subject to any further direct judicial review (including a petition for writ of certiorari) and has not been stayed or enjoined.

5. Assignability

This Agreement shall be binding upon the parties and their successors and assigns.

6. Government Approvals

The parties agree to cooperate with each other and make whatever filings or applications, if any, are necessary to implement the provisions of this Agreement and whatever filings or applications may be necessary to obtain any approval that may be required by applicable law for the provisions of such agreements. Except as provided in Section 1 hereof and below, CSX agrees not to oppose the primary application or any related applications in Control Case, and not to seek any conditions in the Control Case, not to support any requests for conditions filed by others, and not to assist others in pursuing their requests. CSX has filed a statement on March 29, 1996 with the STB supporting approval of the Control Case as conditioned by the BN/Santa Fe Agreement.

CSX shall remain a party in the Control Case, but shall not further participate other than (a) to support this Agreement, (b) to protect the commercial value of the rights granted to CSX by this Agreement, (c) to oppose requests for conditions by other parties which adversely affect CSX, including any divestiture proposal now or hereafter made by any party, including UP/SP, in the Control Case other than those divestiture proposals heretofore specifically agreed to and made part of the application by UP/SP, and (d) to take any other action in support of CSX's interests except as prohibited by this Agreement. CSX's obligations under this section extend to all contacts of CSX with third parties (including, but not limited to customers; federal, state and local governmental officials and representatives of the media). CSX may, without violating its obligations under this section, respond to criticism, if any, directed at CSX in the Control Case by other parties to the Control Case.

7. Arbitration

Unresolved disputes and controversies concerning any of the terms and provisions of this Agreement or the application of charges hereunder shall be submitted for binding arbitration under Commercial Arbitration Rules of the American Arbitration Association which shall be the exclusive remedy of the parties.

8. Further Assurances

The parties agree to execute such other and further documents and to undertake such acts as shall be reasonable and necessary to carry out the intent and purposes of this Agreement. UP/SP will provide CSX notice of any settlement agreement between it and Conrail, Norfolk Southern and/or Canadian Pacific involving the Control Case, and will offer to CSX comparable, additional terms and conditions that are made available to such other carriers.

9. No Third Party Beneficiaries

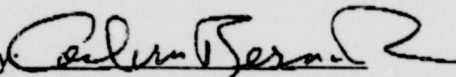
This Agreement is intended for the sole benefit of the signatories to this Agreement. Nothing in this Agreement is intended or may be construed to give any person, firm, corporation or other entity, other than the signatories hereto, their successors and assigns, and their affiliates any legal or equitable right, remedy or claim under this Agreement.

10. Confidentiality

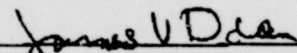
Except as provided below, the parties may make all terms of this Agreement known to the public through a press release previously reviewed and approved by the other parties, and may address it in subsequent communications to the STB or others. The parties agree, however, that the terms of any agreement referred to in Section 2 are confidential and shall not be disclosed, without the consent of the other party, to

individuals not employed by or acting as counsel for or consultants to UP/SP or CSX.
except as required by law, provided the parties may make appropriate disclosure of such
terms to government entities or as required in connection with the process of seeking
government approval of the Control Case, or of this Agreement under applicable STB
confidentiality procedures.

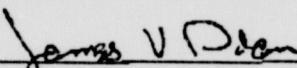
UNION PACIFIC CORPORATION

By: 
Title: Senior Vice President
and General Counsel

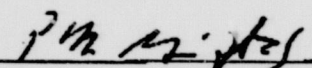
UNION PACIFIC RAILROAD
COMPANY

By: 
Title: Law

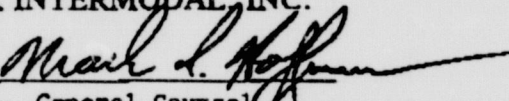
MISSOURI PACIFIC
RAILROAD COMPANY

By: 
Title: Vice President - Law

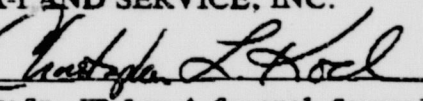
CSX TRANSPORTATION, INC.

By: 
Title: Sr. VP & General Counsel

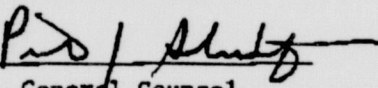
CSX INTERMODAL, INC.

By: 
Title: General Counsel

SEA-I AND SERVICE, INC.

By: 
Title: Sr. VP Law & General Counsel

CSX CORPORATION

By: 
Title: General Counsel

STB

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32760

5-1-96

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82954

SLOVER & LOFTUS

ATTORNEYS AT LAW

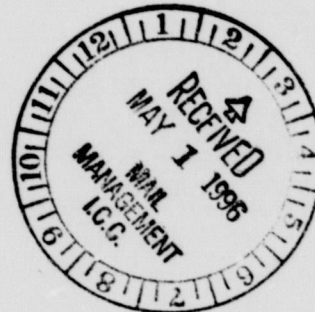
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PATRICIA E. KOLESAR
EDWARD J. McANDREW*

* ADMITTED IN PENNSYLVANIA ONLY

May 1, 1996



202 347-7170

BY HAND DELIVERY

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

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

Dear Mr. Secretary:

Pursuant to Administrative Law Judge Nelson's April 22, 1996 Order in the above-referenced proceeding, the Western Coal Traffic League ("WCTL") hereby encloses five (5) copies of the Appendix to the Comments of the Western Coal Traffic League on the Proposed UP/SP Merger. WCTL is filing a **HIGHLY CONFIDENTIAL VERSION (WCTL-18)** and a **REDACTED VERSION (WCTL-19)** of the deposition transcript pages that were cited in its March 29 Comments. The **HIGHLY CONFIDENTIAL** copies are being **FILED UNDER SEAL** in accordance with the procedure set forth at 49 C.F.R. § 1104.14.

An extra copy of this letter and the Appendix are enclosed. Kindly indicate receipt and filing by time-stamping both and returning them to the bearer of this letter.

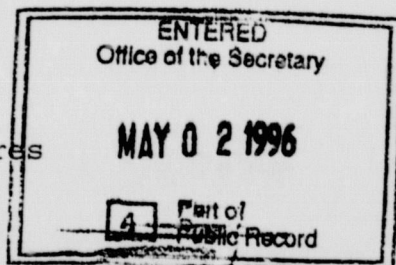
Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus

C. Michael Loftus
An Attorney for the Western
Coal Traffic League

Enclosures



STB

FD

32760

4-29-96

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GALLAND, KHARASCH, MORSE & GARFINKLE, P.C.
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ROBERT D. ROSEMAN
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CHARLES H. WHITE, JR.
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F. WILLIAM CAPLE
ANITA M. MOSNER
MARTIN JACOBS
IRA T. KASDAN
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GEOFFREY P. GITNER
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JOHN P. YOUNG
MICHAEL P. FLEMING*
HELLE R. WEEKE*
REBECCA LONDON TZOU
ELI D. CLARK*
JENNIFER A. COHN
ALEXANDER M.R. VAN DER BELLEN
HOWARD E. KASS
JOHN F.C. LUEDKE*

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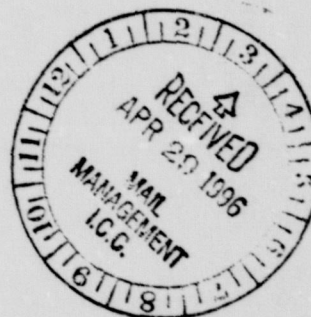
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April 29, 1996

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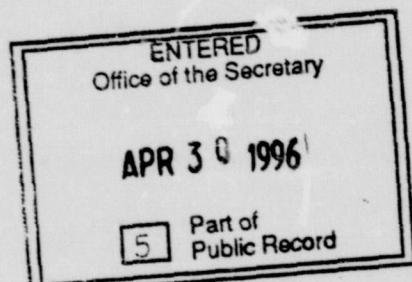


(202) 342-6791

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

Dear Secretary Williams:

Pursuant to Administrative Law Judge Nelson's Order of April 16, 1996, served April 22, 1996, in Finance Docket 32760, The International Paper Company hereby submits five copies of this appendix to its Comments filed on March 29, 1996, in the above referenced docket. This Appendix is designated as document IP-14.



Enclosures

Very truly yours,

John F.C. Luedke

Attorney for The International Paper Company

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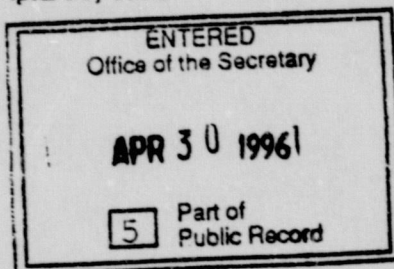
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Re: **Finance Docket No. 32760, Union Pacific Corporation, et al.**
-- Control and Merger -- Southern Pacific Corporation, et al.

Dear Secretary Williams:

Pursuant to a request from your office concerning the confidentiality designation of IP-14, this letter is to verify that all pages of the deposition transcripts contained in IP-14 have been re-designated as non-confidential, despite the "Highly Confidential" initial classification contained on the cover page of each deposition transcript.

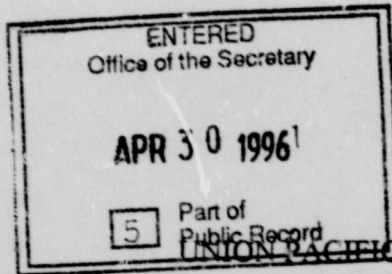
Very truly yours,

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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

APPENDIX TO COMMENTS OF
THE INTERNATIONAL PAPER COMPANY

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April 29, 1996

**APPENDIX TO COMMENTS OF
THE INTERNATIONAL PAPER COMPANY**

Witness

Barber

King/Ongerth

Owen

Ice

Tab

A

B

C

D

1 BEFORE THE
2 SURFACE TRANSPORTATION BOARD
3 Finance Docket No. 32760
4 UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD
5 COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY
6 -- CONTROL MERGER --
7 SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN
8 PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
9 SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP. AND THE
10 DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

11 HIGHLY CONFIDENTIAL

12 Washington, D.C.

13 Thursday, January 25, 1996

14 Continued deposition of RICHARD J.

15 BARBER, a witness herein, called for examination
16 by counsel for the Parties in the above-entitled
17 matter, pursuant to agreement, the witness being
18 duly previously sworn, taken at the offices of
19 Covington & Burling, 1201 Pennsylvania Avenue,
20 N.W., Washington, D.C., 20044, at 10:10 a.m.,
21 Thursday, January 25, 1996, and the proceedings
22 being taken down by Stenotype by JAN A. WILLIAMS,
23 RPR, and transcribed under her direction.

24
25 **ALDERSON REPORTING COMPANY, INC.**

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1 then create enough additional capacity to be able
2 to handle northbound trains, whether they be
3 trackage rights or something moving from a local
4 point, and there will be some of that on a UP
5 line, that they can handle that and without
6 crippling or undermining or counteracting the
7 efficiencies that they can basically get from
8 one-way operations without a lot of extra
9 wasteful capital investment.

10 Q. On page 465 of your testimony, you
11 state at locations where shippers are now
12 served --

13 A. Just a second. I must have gotten the
14 wrong volume. Please proceed.

15 Q. At page 465 of your testimony, you
16 state, at locations where shippers are now served
17 by both UP and SP and by no other railroad,
18 consolidation can clearly be harmful to
19 competition. And you qualify that by using the
20 word could. And then, in a footnote which I
21 understand to be the explanation of your
22 qualification, you state, and this is footnote
23 107, at some locations traffic may be so truck or
24 water competitive that a reduction in the number
25 of railroads from two-to-one might not

1 appreciably affect competition.

2 Did you in your analysis undertake to
3 determine whether there are any such locations
4 where competition from truck or water traffic
5 could mean that the two-to-one location was not
6 necessarily an anticompetitive situation?

7 A. I looked at a number of these
8 situations that I think fit this category and
9 several of them involve chemical movements out of
10 the gulf coast, like out of Bayport or Channel
11 View or Port Neches or Plaquemine, Louisiana, or
12 others, where there is very substantial barge or
13 water close to long-haul competition against
14 long-haul rail. And that would overlap those
15 circumstances.

16 However, I did not come to a conclusion
17 on this point for this reason, first two-to-one
18 points that meet the definition set forth here on
19 page 465 and as specified in the settlement
20 agreement, those are all covered. In other
21 words, if it's a two-to-one point in the sense of
22 a shipper at a location having been served by
23 both UP and SP and no other railroad, if that
24 situation is prevailing, then that is a
25 two-to-one point and access is provided. There's

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1 no qualification in the settlement of that sort I
2 suggest as an economist that I might consider.
3 They give it to them anyway.

4 So that chemical plants, say Bayview,
5 Bayview can ship by water. Some of the other
6 plants in the south could ship certain things,
7 Bayport can ship by water. That's a very strong
8 competition against rail. The shippers for some
9 products play off rail against barge as well as
10 rail against rail. I think that's powerful.

11 But, if it's a two-to-one place down
12 there like Bayview, even a prospective one like
13 Mont Belvieu or Orange or Amelia, the settlement
14 agreement provides without ambiguity for access
15 to and by BN/SF. So that's one reason why I
16 didn't really want -- need to go any further.
17 The settlement agreement may go further than I
18 think might be necessary, but why should I study
19 it because it's already provided for.

20 The second thing is that the settlement
21 agreement I concluded not only takes the
22 two-to-one points as defined and ensures that
23 there will continue to be a rail choice of them,
24 even where there could be -- or would be say
25 truck or water competition, but provides for rail

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1 competition as well. So that in a way, wherever
2 there would be truck or water competition for a
3 location, that comes from a competitive
4 standpoint in addition to the provision in the
5 settlement for continued strong railroad
6 competition at these two-to-one locations.

7 So in a way the issue raised, if you
8 could argue about truck or water, the settlement
9 agreement says, well, we won't argue about it; if
10 it's a two-to-one point, another strong railroad
11 is going to go in there to serve it.

12 Q. I understand. Based on what you've
13 just said then, is it correct that you undertook
14 no study as to whether or not shippers in Pine
15 Bluff or Camden, Arkansas, could receive service
16 by truck or water?

17 A. I did not, I didn't study that. But I
18 would think that they would not be in that
19 category. Water shipments on the West Coast say
20 or chemical shipments out of the gulf or chemical
21 movements to the East Coast, those could be. But
22 I don't see Camden, Arkansas, as in that
23 category.

24 Q. Nor Pine Bluff?

25 A. No, nor Pine Bluff. Some things could

1 be bumped over and moved by barge which isn't
2 very far away. But that would affect only
3 certain products.

4 Q. I want to direct your attention to your
5 testimony in the WC control merger proceeding.
6 I'd like to direct your attention to page 71.
7 And I'll give you a chance to get there. If you
8 could read the only full paragraph that's on that
9 page.

10 A. I've read it. What do you want me to
11 do with it?

12 Q. Is it a correct characterization of
13 that testimony that in that proceeding it was
14 your opinion that shipments of long-haul pulp
15 were economically ill adapted to truck
16 transportation?

17 A. Yes, for long-haul movements here, in
18 this case it was movement from Canada, Alabama,
19 moving to plants in Wisconsin at Green Bay
20 roughly and north of Green Bay and from other
21 distant origins which I think included places in
22 Georgia and Florida and that sort of -- very
23 extended lengths of haul.

24 Q. Would it be your opinion today that
25 long-haul pulp shipments would be economically

1 to say, well, it appeared in the Wisconsin
2 Central case from a lot of discovered testimony.
3 I mean a lot of that seemed to be a problem,
4 probably still is. But I suppose I would ask
5 somebody to try to be current.

6 Q. When you used the phrase long-haul
7 pulp, long-haul pulp in your WC testimony, do you
8 recall what length of shipment you were
9 considering to be long haul?

10 A. I don't recall precisely. It would
11 have been guided by that testimony. But it was
12 at least 750 miles.

13 Q. If you turn to page 72 of your
14 testimony --

15 A. In Wisconsin Central?

16 Q. Yes. Have you had a chance to look at
17 that?

18 A. Yes.

19 Q. Okay. In there you suggest that paper
20 mills in general are geared to the receipt of
21 inputs by rail and that a switch to a rail would
22 not be practical as a matter of logistics.

23 MR. ROACH: A switch to what?

24 BY MR. GOODSON:

25 Q. I'm sorry, a switch to truck. Thank

1 you. A switch to truck would not be practical as
2 a matter of logistics. Is that still your
3 opinion today?

4 A. I think it still remains my opinion and
5 for the same reason as indicated, like this
6 outfit that I quoted from on page 72, it's a
7 fairly good size company. I have no reason to
8 dispute it, I think this makes sense.

9 Again, though, if I was putting
10 together the current information, I would simply
11 ask somebody who runs a large container board or
12 similar type mill like -- whatever it would be,
13 it could be your client, it could be somebody
14 else who would make something out of this, simply
15 to say answer a little question on a postcard
16 which would be, you know, how much of this stuff
17 do you get by truck. And they probably would
18 tell me not much, in which case I wouldn't be
19 surprised. But you never know.

20 Q. Well, you may be hearing from us. Can
21 you turn to figure 42, please. This would be
22 between 79 and 80 of your WC testimony. And that
23 is a figure which depicts what you call rail
24 dominant traffic by STCC code product and
25 particular moves. And in it you indicate that

1 shipments of paperboard and printing paper -- let
2 me take it one at a time.

3 Printing paper in heavy shipments, 65
4 tons or more, and paperboard in heavy shipments,
5 55 tons or more, would be rail dominant traffic.
6 Do you still maintain that opinion today?

7 A. For shipments of that size, yes. With
8 the exception that -- and I was thinking here the
9 text makes this clear because I was dealing with
10 shipments from paper and pulpboard mills in the
11 Wisconsin area and Minnesota and adjoining
12 areas. That, in coastal movements, where a plant
13 was on water, stuff could be moved by water.

14 And in that case I would regard it as
15 subject to inquiries as to how much rail really
16 was moving, how much water was moving. But, for
17 the big shipments in at least inland locations at
18 65 or 55 tons or more, that single movement rail
19 certainly seemed to me to have the edge.

20 Q. Would you consider Camden and Pine
21 Bluff to be inland locations?

22 A. I would put them in that category, I
23 would believe so. And then my question in my
24 mind would be how many shipments do you make,
25 must you make at the 65 or 55 ton and up

1 categories, because obviously there was testimony
2 in Wisconsin Central, there was examples of
3 shipments of say 65 tons that moved rail and none
4 that moved truck, they couldn't move truck
5 because they would be at the weight limit.

6 But some were moving them, like
7 printing paper from Wisconsin mills, were making
8 them by truck, but by simply dividing them into
9 say three portions. And some people said they
10 couldn't do that, some people did it. But my
11 testimony here was limited to the single
12 shipments that has to go by -- in the big tonnage
13 excess truck weight category.

14 Q. Okay. Just so I understand, are you
15 saying then that your statement in the WC
16 proceeding, that printing and paperboard would be
17 rail dominant -- I'm sorry, let me finish my
18 question -- was limited just to the shipments
19 that were involved in that proceeding?

20 A. Yes, which were the 65 and 55 ton
21 shipments.

22 Q. Okay. Do you have any reason to
23 believe that 65 and 55 ton shipments in and out
24 of Arkansas would not be rail dominant?

25 A. No, I wouldn't think so, because of

1 BEFORE THE
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9 SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP. AND THE
10 DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

11 HIGHLY CONFIDENTIAL

12 Washington, D.C.

13 Friday, February 9, 1996

14 Deposition of R.B. (BRAD) KING and
15 MICHAEL D. ONGERTH, witnesses herein, called for
16 examination by counsel for the Parties in the
17 above-entitled matter, pursuant to agreement, the
18 witnesses having been previously duly sworn,
19 taken at the offices of Covington & Burling, 1201
20 Pennsylvania Avenue, N.W., Washington, D.C.,
21 20044, at 9:10 a.m., Friday, February 9, 1996,
22 and the proceedings being taken down by Stenotype
23 by FERNITA R. FINKLEY and CRAIG KNOWLES and
24 transcribed under their direction.

25

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1 against running the SP line northbound?

2 MR. KING: I don't recall exactly what
3 all was in the decision.

4 MR. GOODSON: Mr. Ongerth, did you
5 participate in this process at all?

6 MR. ONGERTH: Yes.

7 MR. GOODSON: Let me ask you, do you
8 recall any specific factor which in your mind was
9 significant in terms of how the SP line would be
10 run?

11 MR. ONGERTH: I can think of two.

12 MR. GOODSON: What are the two?

13 MR. ONGERTH: The first one is that
14 for -- since at least 1972, because of the
15 orientation of the hump at Pine Bluff, we have
16 the capability of coming off the Arkansas River
17 bridge with an inbound train, yarding it on the
18 hump lead, cutting the power off, and immediately
19 shoving it over the hump. Pine Bluff is one of
20 the fastest yards I've ever operated in to get
21 cars from the receiving yard to the hump to the
22 bowl because of that. It works much better as a
23 southbound yard than as a northbound yard, and
24 that would be a factor of some significant.

25 MR. GOODSON: What else?

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1 MR. ONGERTH: The second factor is that
2 a section of the rabbit is nonsignaled, and we
3 felt there was a significant benefit to route
4 loaded trains on the alternative route on the UP
5 as opposed to routing them on the SP.

6 MR. GOODSON: So is it the plan to run
7 only empty trains over the rabbit?

8 MR. ONGERTH: No, it's not the plan to
9 run only empty trains, but the predominant flow
10 would have predominantly loaded trains running
11 via the UP, via Palestine.

12 The profile -- compare the profile of
13 the two lines, the UP profile favors running the
14 heavy trains on the UP side northbound as opposed
15 to on the SP side. Yesterday and -- in the
16 Conrail questions, there was a question about
17 tonnage limitations and that that gives -- that's
18 part of the reason for tonnage limitations, is
19 because of the undulation territory on the
20 rabbit.

21 I don't think you can underestimate the
22 benefit to the system of the ability to use the
23 capability of Pine Bluff as a one-directional
24 hump and the capability of Little Rock as the
25 other directional hump. It does significant

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1 constructive. Do you understand that the
2 southbound flow going to San Antonio will not go
3 down through Shreveport and then turn west
4 through Marshall and Longview; it's going to go
5 straight on south through Big Sandy?

6 MR. GOODSON: Yes, I do. That's
7 irrelevant to my question.

8 MR. HEMMER: I'm lost.

9 MR. GOODSON: Thank you.

10 MR. ONGERTH: Perhaps I can help also.
11 To amplify on what Brad has said, just going
12 through the Shreveport terminal area is about
13 comparable in terms of area where you're going to
14 encounter bidirectional flow as going between
15 Longview and Marshall. That's not a significant
16 impediment or reason.

17 And if you go back to what I said
18 earlier, the weight and the balance, which we
19 did, is much better for us, suits the operation
20 and suits the terrain and suits the existing
21 facilities much better to run the cotton belt as
22 the southbound flow. That's why we reached that
23 decision. It was a decision that a lot of people
24 looked at. A lot of people that had a lot of
25 experience with that territory looked at it.

1 There's always some factors you can
2 come up with and say, well, you know -- if you
3 make a list, say -- on one side, say what would
4 the benefits be of running the cotton belt
5 northbound. Put those down on the list. Say
6 what would the benefits be of running the cotton
7 belt southbound. You put them on the list. You
8 can do this in a fairly scientific fashion.

9 In fact, I think some of these teams
10 did basically this. They'd sit down, brainstorm
11 and they'd use charts and they put stuff on the
12 walls and they'd say, okay, how do we best
13 utilize these capabilities. When you get done
14 with this, it's what I would call a no-brainer to
15 do it the way we did it.

16 MR. GOODSON: So you weren't aware
17 of -- are you aware -- I'll direct this question
18 to you, Mr. Ongerth -- of any factor that would
19 argue in favor of running the SP line
20 directionally northbound?

21 MR. ONGERTH: In the balance I think I
22 have I've said now three times I think it's very
23 strongly in favor of running the SP southbound.

24 MR. GOODSON: Would you agree with
25 that, Mr. King?

1 to exact routes and trains and such as that.

2 MR. GOODSON: When you say going
3 directional, you mean directional in the way the
4 operating plan now proposes or just directional
5 in the general sense?

6 MR. KING: I don't recall. This was a
7 living document, a living process as we went
8 through, and I don't remember exactly when they
9 firmed it up finally.

10 (Recess.)

11 (King-Ongerth Exhibit No. 16
12 was marked for identification.)

13 MR. GOODSON: Mr. Ongerth, I'm going to
14 hand to you what has been marked as King-Ongerth
15 Exhibit 16. I've handed you a copy of figure
16 13-22 of the operating plan which is at page 289,
17 and it purports to show UP-SP trackage at Pine
18 Bluff, Arkansas, and I'd like to return to
19 testimony, Mr. Ongerth, that you gave concerning
20 one of these significant benefits of running the
21 SP trackage southbound directionally when you
22 talked about how the Pine] Bluff yard is set up
23 such that it would be an enormous benefit to do
24 so.

25 And I'm wondering if using this Exhibit

1 16 you can elaborate on those benefits that you
2 were referring to before. And I guess the first
3 thing is you mentioned a bridge over the Arkansas
4 River, and can you tell where that bridge would
5 be on this drawing?

6 MR. ONGERTH: I'll mark the location of
7 the Arkansas River bridge on the diagram, and it
8 is generally north of the cotton belt yard.

9 MR. NORTON: Which is identified as the
10 SSW?

11 MR. ONGERTH: SSW yard.

12 MR. GOODSON: And do you know the
13 distance between the bridge and the yard, the
14 entrance to the yard?

15 MR. ONGERTH: It's between -- I don't
16 recall the exact length, but it is certainly long
17 enough to chamber at least an 8,000-foot train
18 between the switches on the main line -- that
19 come off the main line on the south end of the
20 bridge and the switch to the actual hump lead.

21 In fact, these tracks are used
22 repetitively as -- in the humping process so
23 they lay adjacent to the main track. The main
24 track is actually on the west side of the yard,
25 or in this diagram it would make it look like at

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1 the -- if you look at the north arrow, what I'm
2 calling north would appear to be actually east.

3 MR. GOODSON: Or northeast.

4 MR. ONGERTH: Northeast. So it's on
5 the north -- on the northwest side is where the
6 main line is and the hump leads and the running
7 track coming off the south side of the yard are
8 an arrayed -- as you go to the east from west to
9 east. From west to east you have the main drag
10 and then a couple of hump leads, then another
11 running track. That's on -- that will get you
12 onto the east side of that section of tracks.

13 So there are approximately four tracks
14 in this area between the south end of the bridge
15 and the hump lead. And then in this area where
16 it says SSW yard, there are receiving and
17 departure tracks both on the west side of the
18 yard and on the east side of the yard and the
19 bowl is in the middle.

20 MR. GOODSON: Can you indicate
21 approximately on there where the bowl would be on
22 Exhibit 16?

23 MR. ONGERTH: Recognizing this is still
24 schematic and not an exact in any way engineering
25 diagram, the bowl is in the middle. You have the

1 receiving and departure tracks on the east side.
2 You have receiving and departure tracks on the
3 west side. Now, in addition to this, there is a
4 local yard that's south of that.

5 MR. GOODSON: Is the bowl a fishtail or
6 teardrop style at the pull-out end?

7 MR. ONGERTH: I'm not familiar with
8 either of those terms.

9 MR. GOODSON: Neither am I.

10 MR. NORTON: Perhaps Mr. Carey would
11 wish to explain.

12 MR. CAREY: Would you like me to?

13 MR. HUT: No.

14 MR. GOODSON: Off the record.

15 (Discussion off the record.)

16 MR. GOODSON: Based on some
17 off-the-record colloquy, Mr. Ongerth, can you
18 answer my previous question which is whether the
19 bowl at the Pine Bluff yard is a fishtail or
20 teardrop at the pull-out end?

21 MR. ONGERTH: I can't recall that.

22 MR. GOODSON: Can you further elaborate
23 the reason why you believe southbound directional
24 running is an important benefit at the Pine Bluff
25 yard?

1 MR. ONGERTH: I think the ability to
2 yard a train on one of the hump leads, receive a
3 train on one of the hump leads, and then have a
4 hump engine immediately go against it and push it
5 over the hump without having to take it down to
6 the receiving yard on either side and then later
7 pull it back before you hump it, gives Pine Bluff
8 the capability of being one of the fastest yards
9 I have ever operated in.

10 I'm comparing -- have been
11 responsible for operations at Eugene, West
12 Colton, Houston, Strang. And when I say
13 responsible for, I have supervised shift
14 operations at each of those yards. There's
15 only -- I've only eliminated in our present
16 system Grand Junction, and Roosevelt is currently
17 operating hump yards. And of all the yards I
18 have worked in, Pine Bluff is the fastest, the
19 capability of getting trains the fastest from
20 arrival into the bowl.

21 And if you're working on trying to
22 increase your process -- to decrease your
23 processing time and improve the flow through the
24 yard, this is a big benefit. The yard that comes
25 closest to Pine Bluff in this capability is West

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1 Colton. West Colton's receiving yard is in line
2 with the hump so that it can be used in a similar
3 fashion. In fact, West Colton's design, patent
4 designed feature at West Colton was borrowed from
5 Pine Bluff.

6 MR. GOODSON: So I understand, the Pine
7 Bluff yard is somewhat unique in its ability to
8 quickly flow traffic southbound into the
9 receiving tracks?

10 MR. ONGERTH: Yes. No. Into --
11 from -- using one of these tracks adjacent to --
12 north of the hump as a receiving track allows you
13 to rapidly -- length of time between the time the
14 train arrives in the yard on the receiving track
15 to the time you have it in the bowl is perhaps
16 the shortest at Pine Bluff of all the yards I
17 have worked in, managed.

18 MR. GOODSON: And that is even as it
19 exist today as a bidirectional yard?

20 MR. ONGERTH: This benefit is specific
21 to southbound trains.

22 MR. GOODSON: Is the southbound benefit
23 available if there are northbound trains running
24 through the yard?

25 MR. ONGERTH: Yes.

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1 MR. GOODSON: I take it you -- in your
2 view, it wouldn't be as great a benefit?

3 MR. ONGERTH: Earlier in my in answer
4 to an earlier question I believe you asked, I
5 spoke to the benefits of not having to have the
6 yard be bidirectional. It will take me about
7 five minutes to give you railroading hump yard
8 operations 101. If you want me to do that, I'll
9 do that. I've already described this once.

10 MR. GOODSON: No. I don't want you to
11 repeat anything that you've told me before.
12 That's not necessary. But what I believe my
13 question was, whether -- I will withdraw that
14 question.

15 You spoke of a two- to three-hour delay
16 in processing trains at the yard. Can you
17 elaborate on what that two- to three- hour delay
18 results from?

19 MR. NORTON: Asked and answered.

20 MR. GOODSON: You can answer. I don't
21 think I've asked you this question.

22 MR. ONGERTH: I was referring to the
23 amount of time it took you to change the
24 direction -- the direction that you were using
25 the yard to block in, referring to the time it

1 takes to clean out the bowl, you know, trim the
2 tracks, and reverse -- in essence, reverse the
3 blocking function of the yard from southbound to
4 northbound.

5 And you do this twice a day. When
6 you're operating the yard, at least twice a day,
7 when you're operating the yard bidirectional. If
8 you're operating it in one direction, you now
9 have the ability to just continue to process cars
10 southbound, and you don't have to stop and
11 straighten out the bowl and then go back, change
12 the blocking pattern so that now you're blocking
13 northbound blocks. So you eliminate all of
14 that. What I was referring to is the length of
15 time it takes to basically reverse the direction
16 of the yard.

17 MR. GOODSON: Is there any intent
18 presently to block trains in the Pine Bluff yard
19 northbound?

20 MR. ONGERTH: Not in our operating
21 plan.

22 MR. GOODSON: Would you agree with
23 that, Mr. King?

24 MR. KING: The only northbound
25 blocks -- there are some cars that have to move

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1 between Pine Bluff and north Little Rock, which
2 is, compasswise -- at least the way the timetable
3 reads, is north. So there will be some movements
4 between north Pine Bluff and north Little Rock.

5 MR. ONGERTH: But if you look at the
6 diagram, they'll leave the yard going south to
7 get to the Little Rock branch?

8 MR. GOODSON: That's a good point.
9 Will the BN be blocking any trains at the SSW
10 yard, Mr. Ongerth?

11 MR. ONGERTH: I don't know.

12 MR. GOODSON: Mr. King?

13 MR. KING: We said the details of that
14 hadn't been worked out yet.

15 MR. GOODSON: If, in fact, the BN did
16 block trains at that yard, SSW yard northbound,
17 that would then bring back the delay that would
18 otherwise be avoided by running the trains
19 directionally south through the yard, would it
20 not?

21 MR. ONGERTH: It would depend on how
22 this was organized. There's a UP yard at Pine
23 Bluff, and it's quite possible that Santa Fe
24 would do its work in the UP yard.

25 MR. GOODSON: Are you aware of any

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1 BEFORE THE
2 SURFACE TRANSPORTATION BOARD
3 Finance Docket No. 32760
4 UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD
5 COMPANY AND MISSOURI PACIFIC RAILROAD COMPANY
6 -- CONTROL MERGER --
7 SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN
8 PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
9 SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP. AND THE
10 DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

11 HIGHLY CONFIDENTIAL

12 Washington, D.C.
13 Friday, February 23, 1996

14 Deposition of NEAL D. OWEN, a witness
15 herein, called for examination by counsel for the
16 Parties in the above-entitled matter, pursuant to
17 agreement, the witness being duly sworn by JAN A.
18 WILLIAMS, RPR, a Notary Public in and for the
19 District of Columbia, taken at the offices of
20 Mayer, Brown & Platt, 2000 Pennsylvania Avenue,
21 N.W., Washington, D.C. , 20006-1882, at
22 10:05 a.m., Friday, February 23, 1996, and the
23 proceedings being taken down by Stenotype by JAN
24 A. WILLIAMS, RPR, and transcribed under her
25 direction.

1 says most manifest trains would originate and
2 terminate at HB&T's New South Yard. In this line
3 segment, if I'm right, on Houston-Memphis, with
4 respect to manifest trains, there will be two
5 originating from Houston and two terminating in
6 Houston; is that right?

7 A. Yes.

8 Q. How many is most in that number?

9 A. The schedule plan would originate and
10 terminate trains at New South Yard. There may be
11 days that a train will consist of primarily PTR
12 traffic or exclusively PTR traffic. On such
13 days I'm sure that BN/Santa Fe management would
14 opt to terminate that train on the PTR instead
15 of the HB&T. So there's going to be some
16 exception to that. But most is most.

17 Q. Okay. But you meant in terms of
18 numbers of days rather than trains per day?

19 A. Yes.

20 Q. Okay. On the top of page 21, with
21 respect to the Pine Bluff yard, is there anything
22 in the agreement that obligates UP/SP postmerger
23 to give BN access to the Pine Bluff yard?

24 MS. KUSSKE: Objection to the extent it
25 calls for a legal conclusion.

1 THE WITNESS: I can't answer as to the
2 absolute obligation or lack thereof. Our
3 operating description assumes that we would set
4 out a block of cars that UP/SP would switch for
5 us at Pine Bluff and that they would make a block
6 of cars for us to pick up, certainly one block
7 going east and one block going west, although we
8 have not addressed the detail of the blocking
9 plan pending any implementing agreement.

10 We assumed that BN/SF would set out a
11 block of cars. That block would consist
12 basically of cars destined for Pine Bluff proper
13 and for Little Rock, that UP/SP would switch that
14 block of cars. If it's a Pine Bluff proper car,
15 it would go to the industry. If it were a Little
16 Rock car, it would go into a UP train going to
17 Little Rock.

18 BY MR. HUT:

19 Q. There are three yards at Pine Bluff,
20 are there not?

21 A. I believe that's right, I believe
22 there's -- the main yard is the Southern Pacific
23 hump yard.

24 Q. Is that the yard you're referring to to
25 which you believe -- the classification yard to

1 percentage terms or otherwise of the SP Pine
2 Bluff yard that you expect to have access to
3 will, in fact, be available for BN
4 classification?

5 A. That's a detail that has to be worked
6 out in an implementing agreement for our work in
7 Pine Bluff. I wouldn't expect we would have any
8 multiple 100 car volume a day at Pine Bluff
9 that's going to require extensive trackage room.
10 We would be setting out and picking up blocks of
11 cars.

12 Those blocks of cars would be destined
13 basically as I stated Pine Bluff proper or Little
14 Rock inbound. Outbound we could get by with
15 minimal separation, perhaps only north and south
16 is all we would need. That detail is yet to be
17 worked out in a blocking plan that would be
18 established.

19 Q. In the next paragraph on page 21, you
20 discuss Memphis terminal issues. And you make
21 reference to existing and proposed intermodal
22 facilities at Harvard/West Memphis?

23 A. Yes.

24 Q. Are those proposed intermodal
25 facilities for BN?

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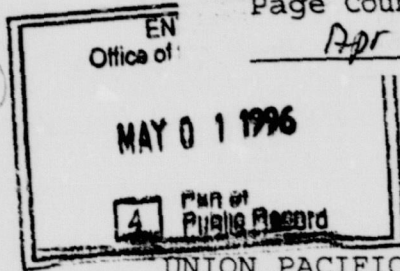
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Item No. _____

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UP/SP-237



Apr # 388

BE 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

APPLICANTS' REPLY TO KCS' MOTION TO REQUIRE
AMENDMENT TO APPLICATION OR ADDITIONAL DISCOVERY

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April 30, 1996

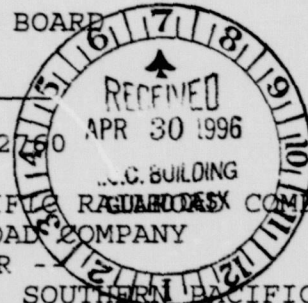
BEFORE THE
SURFACE TRANSPORTATION BOARD

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

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APPLICANTS' REPLY TO KCS' MOTION TO REQUIRE
AMENDMENT TO APPLICATION OR ADDITIONAL DISCOVERY

Union Pacific Corporation ("UPC"), Union Pacific Railroad Company ("UPRR"), Missouri Pacific Railroad Company ("MPRR"),¹ Southern Pacific Rail Corporation ("SPR"), Southern Pacific Transportation Company ("SPT"), St. Louis Southwestern Railway Company ("SSW"), SPCSL Corp. ("SPCSL"), and The Denver and Rio Grande Western Railroad Company ("DRGW"),² collectively, "Applicants," hereby reply to KCS' "Motion to Require Amendment to Application or in the Alternative to Allow Parties to Conduct Discovery and Submit Evidence Relating to Applicants' Settlement Agreement With CMA" (KCS-49).

¹ UPC, UPRR and MPRR are referred to collectively as "Union Pacific." UPRR and MPRR are referred to collectively as "UP."

² SPR, SPT, SSW, SPCSL and DRGW are referred to collectively as "Southern Pacific." SPT, SSW, SPCSL and DRGW are referred to collectively as "SP."

KCS has repeatedly tried, without success, to delay this proceeding, and this is its latest attempt. See KCS-3, filed Sept. 18, 1995, p. 7 (arguing for a two-and-a-half year schedule); KCS-17, filed Jan. 24, 1996 (supporting motion of Western Shippers Coalition to enlarge the procedural schedule); Decision No. 6, served Oct. 19, 1995 (setting procedural schedule); Decision No. 10, served Jan. 25, 1996 (denying request for delay and affirming original procedural schedule). This attempt, like the others, should be rejected.

Unlike KCS and some of the other strident opponents of the merger, the Chemical Manufacturers Association ("CMA") indicated in its March 29, 1996 filing that it would no longer oppose the UP/SP merger if the concerns it laid out in that filing were met. Applicants worked hard to meet those concerns, and succeeded in doing so in a settlement agreement executed on April 18. See UP/SP-219. This mooted a long list of issues put forward not just by CMA, but by opponents like KCS and Conrail.

The mooted of these concerns through settlement may displease KCS, but it does not mean that the Board has been presented with a new "transaction," or that KCS needs more discovery or another round of evidence. Rather, the settlement with CMA addresses the precise issues on which KCS and a variety of other parties had months of discovery and submitted extensive evidence on March 29, 1996. The

settlement raises no new issues for decision by the Board; instead, it eliminates issues.

For example:

- KCS, Conrail and others argued that BN/Santa Fe would be hampered in competing because it would operate "against the flow" of traffic on UP/SP lines to be operated directionally. They deposed many of Applicants' and BN/Santa Fe's witnesses on this issue,³ and they filed evidence addressing it on March 29. The CMA settlement eliminates the issue as a concern by granting BN/Santa Fe the right to operate "with the flow" of traffic, and the additional trackage rights necessary to do so.

- Various opponents of the merger, including Conrail, argued that BN/Santa Fe would be at a disadvantage in competing for Houston-St. Louis traffic because its own line from Memphis to St. Louis is circuitous and does not allow it to reach Eastern carriers at St. Louis as efficiently as UP/SP will. Conrail and other parties deposed Applicants' witnesses on this issue and filed evidence addressing it on March 29. The CMA settlement eliminates the issue as a concern by extending BN/Santa Fe's Houston-Memphis trackage rights to St.

³ KCS' statement that "relatively few depositions were taken" (p. 2) is amusing. No fewer than 30 of Applicants' and BN/Santa Fe's witnesses were deposed, consuming a total of 45 deposition days. Only KCS, which demanded that depositions "grow geometrically" (Letter from A. Lubel to A. Roach, Jan. 25, 1996), could consider this "relatively few."

Louis, and putting BN/Santa Fe on a par with UP/SP at St. Louis.

- Various merger opponents criticized the trackage rights compensation fees provided for in the BN/Santa Fe settlement agreement, arguing that they exceeded UP/SP costs and that the adjustment mechanism (70% of RCAF(U)) would render BN/Santa Fe non-competitive over time. Parties pursued extensive discovery on these issues, including depositions of Applicants' witnesses. The CMA settlement eliminates these issues as concerns by granting BN/Santa Fe the option of using traditional joint facility billing, under which it would pay UP/SP a usage-based share of actual M&O costs, taxes and interest rental (calculated as depreciated book value times the current cost of capital), and by substituting for the prior adjustment mechanism a mechanism based on actual year-to-year changes in the relevant UP/SP cost components.

- Various merger opponents claimed that UP/SP would "discriminate" against BN/Santa Fe in dispatching BN/Santa Fe's trackage rights trains. They pursued extensive discovery on this issue. The CMA settlement eliminates it as a concern by providing for the adoption of a detailed written protocol to govern the dispatching of BN/Santa Fe trains.

These are only examples. Full details of the steps that Applicants agreed to in their settlement with CMA, as well as of other steps that Applicants have taken to address

issues raised by various parties (e.g., extending to BN/Santa Fe the right to build in to a Union Carbide facility at North Seadrift, Texas, thereby addressing the issue raised by Union Carbide in its March 29 comments), and of how these steps address issues raised by merger opponents, are set forth at pages 12-21 of the Narrative portion of Applicants' April 29 Rebuttal (UP/SP-230), and in a number of the verified statements in that Rebuttal filing (see UP/SP-231 and 232, passim). The pertinent point is that parties like KCS have had very extensive discovery on these issues, and have submitted evidence very fully addressing them.

KCS' argument implies that whenever, in the course of a merger proceeding, the applicants arrive at settlements to resolve issues of concern raised by parties to the case, the applicants in effect must submit an entire new application, the clock on the proceeding must be set back, and there must be renewed discovery and additional rounds of evidence. It is hard to imagine a process that would more effectively discourage settlements. The policy of the ICC, and thus of its successor, this Board, is to the contrary. That policy is to "encourage agreements between parties to a consolidation proceeding in order to encourage expeditious resolution of matters of serious concern." Norfolk Southern Corp. -- Control -- Norfolk & Western Ry. & Southern Ry., 366 I.C.C. 171, 240 (1982) ("Norfolk Southern") (emphasis added); Union

Pacific Corp., Pacific Rail System, Inc. & Union Pacific R.R. -- Control -- Missouri Pacific Corp. & Missouri Pacific R.R., 366 I.C.C. 459, 601 (1982), aff'd in part & remanded in part sub nom. Southern Pacific Transportation Co. v. ICC, 736 F.2d 708 (D.C. 1984), cert. denied, 469 U.S. 1208 (1985) ("UP/MP/WP").

KCS does not point to any specific matter in the CMA settlement on which it needs more information, either by way of a substantially amended application or by way of renewed discovery. It simply lists all the topics that are to be addressed in a merger application (pp. 4-5). But every issue treated in the CMA settlement was addressed in the application, and in discovery, and in the March 29 filings. KCS' motion seeks delay for delay's sake.

Certainly there are details of the application that might have been different had the terms of the CMA settlement been in place before the application was prepared. But KCS makes no showing that those details are so fundamental as to require the filing of a completely new or amended application. The thrust of the CMA settlement is to confirm that BN/Santa Fe will be a fully effective competitor using the trackage rights and other rights agreed to in Applicants' settlement with BN/Santa Fe. That is what the application already assumed, so it can hardly be argued that the CMA settlement fundamentally changes the parameters of the application. Any

issues that remain are ones the parties have already addressed in their prior filings.

Moreover, as the Board is aware, a number of parties have had no difficulty in providing comments on the CMA settlement without the need for refiling of the application, pursuit of new discovery, or the opportunity to file a new round of evidence. On April 29, Applicants were served with a number of comments on the CMA settlement, including filings by Dow, SPI, Conrail, and others. See Comments of Arizona Chemical Company, filed Apr. 29, 1996; Further Comments of Consolidated Rail Corporation in Response to the "CMA Settlement Agreement," CR-37; Comments on the Applicants' Settlement Agreement with the Chemical Manufacturers' Association Submitted on Behalf of the Dow Company, DOW-19; Further Comments of Montell USA, Inc., MONT-5; Verified Statement of Thomas L. Moranz, QCC-4; Further Comments of the Society of the Plastics Industry, Inc., SPI-16. KCS was equally capable of commenting on the settlement without imposing further delay.

This is not, as KCS weakly claims, the UP/CNW case, where the Commission called for a supplemental filing to clarify whether major developments -- the sale of a controlling interest in CNW stock by Blackstone the investment bank that then controlled CNW -- mooted a hotly-contested dispute over whether any concrete "transaction" was

presented for decision at all. See Union Pacific Corp., Union Pacific R.R. & Missouri Pacific R.R. -- Control -- Chicago & North Western Holdings Corp. & Chicago & North Western Transportation Co., 9 I.C.C.2d 939 (1993). Rather, the settlement with CMA is like important settlements entered into during the course of many prior merger cases, which resolved particular competitive or other issues that parties had raised in the course of the proceeding, and which did not precipitate any requirement that the applicants re-file their application or that there be new rounds of discovery and evidence. See, e.g., Finance Docket No. 32549, Burlington Northern Inc. & Burlington Northern R.R. -- Control & Merger -- Santa Fe Pacific Corp. & The Atchison, Topeka & Santa Fe Ry., Decision served Aug. 23, 1995, pp. 88-92 (settlements with SP, UP and others); Union Pacific Corp., Union Pacific R.R. & Missouri Pacific R.R. -- Control -- Missouri-Kansas-Texas R.R., 4 I.C.C.2d 409, 480 (1988), petition for review dismissed sub nom. RLEA v. ICC, 883 F.2d 1079 (D.C. Cir. 1989) (settlement with SP); UP/MP/WP, 366 I.C.C. at 601 (settlement with CNW); Norfolk Southern, 366 I.C.C. at 240 (settlement with Conrail, MKT and others).

Applicants fully address the CMA settlement in their April 29 Rebuttal, and BN/Santa Fe also addresses that settlement in its April 29 submission. To the extent cross-examination may be needed to resolve material issues of

disputed fact, as KCS suggests, KCS is free to depose all the Applicant witnesses and BN/Santa Fe witnesses who address the CMA settlement. In addition, it is free to advance in its June 3 brief any arguments it may have about that settlement. Requiring a resubmission or amendment of the application, or authorizing renewed discovery at this late stage of this

expedited proceeding, would serve no purpose except KCS' purpose -- delay. The KCS motion should be denied.

Respectfully submitted,

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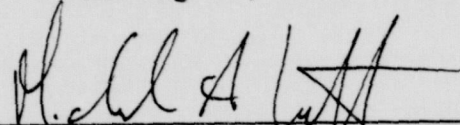
April 30, 1996

CERTIFICATE OF SERVICE

I, Michael A. Listgarten, certify that, on this 30th day of April 1996, I caused a copy of Applicants' Reply to KCS' Motion to Require Amendment to Application or Additional Discovery (UP/SP-237) to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Room 9104-TEA
Department of Justice
Washington, D.C. 20530

Premerger Notification Office
Bureau of Competition
Room 303
Federal Trade Commission
Washington, D.C. 20580



Michael A. Listgarten

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Item No. _____

Page Count 4

APR #404

CORPORATION _____

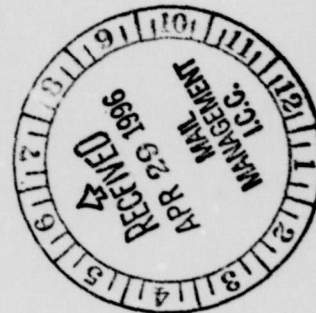
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April 29, 1996

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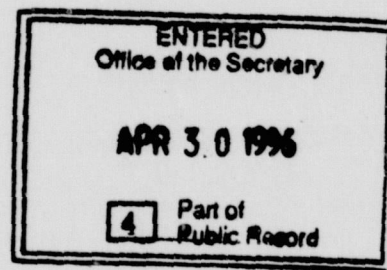
RE: Finance Docket No. 32760
Union Pacific - Control & Merger - Southern Pacific

Dear Secretary Williams:

Enclosed for filing is an original and twenty copies of our Reply to Written Comments in the above-captioned proceeding. Kindly acknowledge receipt of the filing by date stamping the duplicate of this letter. Thank you.

Very truly yours,

cc: The Honorable Jerome Nelson
Administrative Law Judge
Arvid E. Roach II, Esquire
Paul A. Cunningham, Esquire

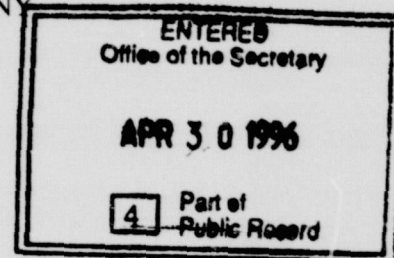


BEFORE THE
SURFACE TRANSPORTATION BOARD

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

REPLY TO WRITTEN COMMENTS



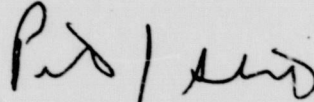
On March 29, 1996, CSX Corporation and its subsidiaries, (hereinafter collectively "CSX") filed its Written Comments expressing its strong support for the UP/SP consolidation.* At that time, CSX also indicated that it was opposed to the divestiture proposals affecting the Gulf Coast and Eastern Regions as outlined in preliminary filings with the Board and as described in the media.

CSX has reviewed the various divestiture proposals contained in Comments and other filings in this proceeding. At this time, CSX desires to reaffirm its strong support for the UP/SP consolidation and its continued opposition to the divestiture proposals pertaining to the Gulf

*CSX also indicated that it had reached general understandings with UP on matters affecting CSX. Recently, UP and CSX entered into a Settlement Agreement on such matters.

Coast and Eastern Regions made by the consolidation's opponents. Additionally, should the Board order any further proceedings with respect to such divestiture proposals, CSX requests the opportunity to participate therein as its interests may appear.

Respectfully submitted,



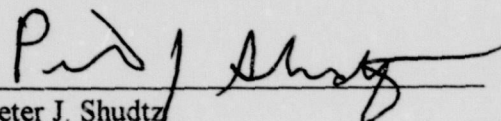
Peter J. Shudtz
CSX Corporation
One James Center
901 E. Cary Street
Richmond, Virginia 23219

Attorney for CSX Corporation and its
subsidiaries including CSX Transportation, Inc.

April 29, 1996

Certificate of Service

I hereby certify that on this 29th day of April, 1996, I served a copy of the foregoing Written Comments by first-class mail, postage prepaid upon each party of record in Finance Docket No. 32760.



Peter J. Shudtz
CSX Corporation
One James Center
901 E. Cary Street
Richmond, Virginia 23219
(804) 783-1343

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32760

4-29-96

D.

82895

Item No. _____

Page Count 10

KELI

APR #400

82895

SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
FACSIMILE (202) 434-4646
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B-1040 BRUSSELS
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FACSIMILE 32(2) 732 53 92

LLER 11907-1994
JCKMAN
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MACARTHUR
WAYNE V. BLACK
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MARTIN W. BERGOVIGI
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PATRICK J. HURO
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MARK L. ITZKOFF
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ELIZABETH N. HARRISON
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S. DEBORAH ROSEN
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FREDERICK A. STEARNS
TONY RUSSELL ERPS*
THOMAS C. BERBER
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ALEXANDRE MENCIK VON ZEBINSKY*
PHILIP H. ANDREWS*
JENNIFER A. BONANNO*
JOHN REARDON*
PATRICK W. RATKOWSKI*
MARA A. MICHAELS*
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LESTER BORODINSKY, PH. D.
THOMAS C. BROWN*
MICHAEL T. FLOOD, PH. D.
ANDREW P. JOVANOVIH, PH. D.

*NOT ADMITTED IN D.C.
*RESIDENT BRUSSELS

WRITER'S DIRECT DIAL NUMBER

April 29, 1996

(202) 434-4179

VIA HAND DELIVERY

Office of the Secretary
Case Control Branch
Attention: Finance Docket No. 32760
Surface Transportation Board
Room 2215
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

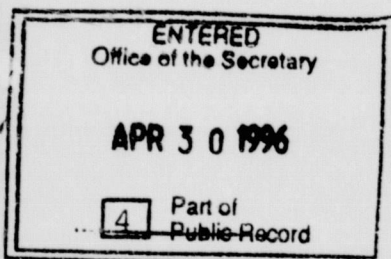


Re: Finance Docket No. 32760, Union Pacific
Corporation, Et. Al - Control and Merger -
Southern Pacific Rail Corporation, Et. Al

Dear Mr. Secretary:

Pursuant to the Order of Administrative Law Judge Jerome Nelson served April 22, 1996 in the above-captioned matter, enclosed herewith are five copies of the following transcript pages which are cited in the Comments and Request for Conditions and Verified Statement on Behalf of North American Logistic Services, a division of Mars, Inc. (NALS-1) filed on March 29, 1996:

1. Deposition of Richard B. Peterson, February 5, 1996, page 88;
2. Deposition of Richard B. Peterson, February 6, 1996, pages 278 and 279;
3. Deposition of Richard B. Peterson, February 6, 1996, page 222; and

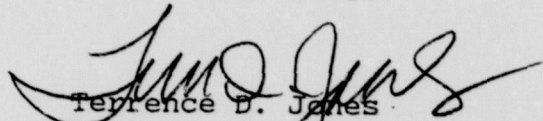


Office of the Secretary
April 29, 1996
Page 2

KELLER AND HECKMAN

4. Deposition of Richard J. Barber, January 24, 1996,
pages 69-72.

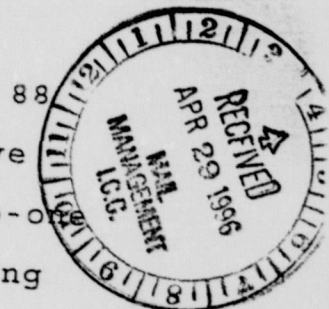
Yours very truly,



Terrence D. Jones
Attorney for North American
Logistic Services, A Division of
Mars, Inc.

Enclosures

cc: Arvid E. Roach, II, Esq.
Paul A. Cunningham, Esq.



1 the two -- I wouldn't state it the way you've
2 stated it. Okay. You've got all the two-to-one
3 points that are there, you've got the existing
4 BN/Santa Fe network. We could not identify any
5 existing customers nor the likelihood of any
6 significant customers that would be disadvantaged
7 from a truck transload standpoint versus where
8 they are today, by trucking in to the BN/Santa Fe
9 point as opposed to trucking to an SP point
10 today. We looked at the numerous existing
11 transloads and we also scoured the map by sort of
12 plotting semicircles over them and couldn't find
13 a place where even a future shipper would be
14 disadvantaged.

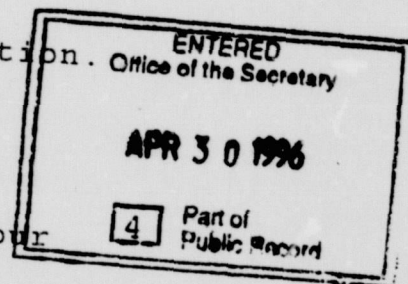
15 Q. Am I correct in understanding then
16 that, so long as the shipper was not
17 disadvantaged, he could reach BN/Santa Fe as well
18 as he could have reached SP?

19 A. Yeah, or maybe UP in a situation.

20 Q. In a reverse?

21 A. Yeah, UP or SP.

22 Q. Would you go to page 42 of your
23 testimony. I want to recall this correctly, but
24 earlier we were discussing a movement in a
25 corridor where you stated BN and Santa Fe had



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1 product to a point on the SP -- on an SP line,
2 and that's a line that BN/Santa Fe will get
3 trackage rights over, will that shipper be able
4 to truck his product to the same point and load
5 it on BN/Santa Fe?

6 MR. ROACH: Asked and answered.

7 THE WITNESS: If it's a 2-to-1 point,
8 yes. If it's not, no.

9 BY MR. ALLEN:

10 Q. If it's not, no?

11 A. If it's not, no.

12 Q. But if it's a point to which the
13 shipper could have trucked his product to a point
14 on the SP, doesn't that by definition make it a
15 2-to-1 point?

16 MR. ROACH: Asked and answered.

17 THE WITNESS: No. We've looked very
18 carefully at this and we looked at all of the
19 relevant geography and we determined that where
20 there currently are trucking options from points
21 on one railroad over to the other, that those
22 will all be preserved as a result of the
23 settlement.

24 If you're talking about a salt producer
25 west of Salt Lake City, he can truck to Salt Lake

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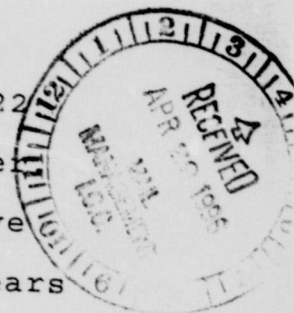
1 City on the interstate highway and load on
2 BN/Santa Fe. He doesn't go up through the desert
3 on gravel roads to the SP and try to load on SP
4 there.

5 We looked at the coverage that will
6 exist, we looked at all the situations that we
7 could find and concluded that all transloading
8 options will be preserved -- well, in fact
9 enhanced by the settlement because those
10 customers will now be able to ship to BN/Santa Fe
11 which has much greater market reach and
12 capability than SP has had.

13 Q. But just so I understand, if it's not a
14 point that is listed in your Exhibit A, the
15 shipper will not be able to truck his product to
16 that point and transload it on to the BN/Santa
17 Fe? I just want to make sure I understand.

18 A. Yeah, the only qualification I would
19 give is Exhibit A, it includes all the 2-to-1
20 points, be they wherever they are listed or even
21 identified subsequent to this time. Those are
22 available for transloading.

23 Q. Let me switch my questions a little.
24 In deciding what settlements to make and with
25 whom or in assessing the probable benefits of the



1 shipper would be identified as a 2-to-1 shipper

2 If a shipper had not shipped for five
3 years and, sometime during the last several years
4 a tariff cleanup was made and his name was not in
5 the tariff anymore as being open because he had
6 probably closed and moved away, then he would not
7 be a 2-to-1 shipper at that point. And then the
8 same process, by looking at joint facility access
9 and direct to railroad access at the point.

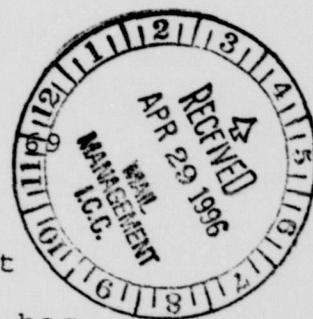
10 Q. So is what we have in the BN trackage
11 rights agreement a remedy for 2-to-1 shippers or
12 2-to-1 points?

13 A. Well, I view it as, I guess, a remedy
14 for 2-to-1 shippers, not limited only to existing
15 shippers, however. It's new shippers can locate
16 and there are provisions in the contract for that
17 that are very liberal and you I'm sure have read
18 that. And BN/Santa Fe can put in automotive
19 facilities, TOFC facilities, bulk transload
20 facilities at any one of these points and serve a
21 shipper not even at the point that may appear
22 that hasn't existed in the past.

23 Q. So just by way of example, if one of
24 the points shown on Exhibit 1 were a site for an
25 industrial park that had no shippers currently

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1 testify as to it. I believe that they have
2 identified all the two-to-one shippers. But
3 certainly, if some shipper believes that it has
4 not been identified, it's entitled to speak out.

5 Q. In your testimony at page 495, starting
6 at the bottom of page 494 and continuing on, you
7 discuss the movement of soda ash, do you not?

8 A. I do.

9 Q. Let me give you a hypothetical. Let's
10 say that UP directly served the soda ash
11 facility.

12 A. A mine like Green River.

13 Q. Right. And that the shipper utilized a
14 truck transload to reach some other railroad,
15 carrier X.

16 A. How about BN?

17 Q. Any carrier you want. Is that a
18 competitive situation?

19 A. Yes. And so regarded by the shippers
20 here and by me. FMC and Owens Illinois and
21 Stouffer all speak exactly to that, say that that
22 situation exists and that they regard it as
23 imposing a competitive constraint, pricing
24 constraints.

25 Q. Is that an example of two carriers

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1 providing competition?

2 A. I would just say there was independent
3 transport competition for the -- for the origin
4 and at the origin.

5 Q. If one of the carriers was UP and the
6 other carrier was SP and this proceeding were
7 underway, would that be a two-to-one situation?

8 MR. ROACH: I object to the form of the
9 question.

10 THE WITNESS: I don't understand it. I
11 thought a moment ago we were going to use BN as
12 an example. Let's suppose UP serves the Green
13 River -- I describe all this at page 495.

14 BY MR. MOLM: I object to the form of the

15 Q. Sure.

16 A. And I'm really not changing anything,
17 I'm just highlighting it if you want to take time
18 to go through it. UP serves the Green River,
19 there's a big reload operation that takes soda
20 ash to a place called Bonneville, Wyoming, where
21 it then moves onward by BN and some moves back to
22 Utah points, Salt Lake City and Ogden, from which
23 under the settlement agreement -- at which
24 pursuant to the settlement agreement BN/Santa Fe
25 will take over and operate the loading facility.

1 BY MR. MOLM:

2 Q. So you would contemplate the settlement
3 addressing that hypothetical?

4 A. It, in fact, specifically addresses
5 this, because the settlement not only doesn't
6 affect and thus preserves the BN/SF competition
7 which is like 750,000 tons a year soda ash over
8 Bonneville, Wyoming, but also it takes the truck
9 reload terminal facilities in Utah that are
10 presently operated by SP including Rio Grande and
11 turns those -- makes those facilities available
12 to BN/Santa Fe. So that, after settlement takes
13 place, there will continue to be independent rail
14 competition for movements at Green River just as
15 there will at Searles Lake, California.

16 Q. Let's take a new hypothetical, the
17 Houston BEA. And Exxon has two facilities in the
18 Houston BEA.

19 A. These are hypotheticals?

20 Q. Yes. And one facility is served by
21 Union Pacific and only Union Pacific and the
22 other facility is served by Southern Pacific and
23 only Southern Pacific and they're some miles away
24 and there's also kinds of buildings and stuff.

25 A. And nothing to fit your build-in

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Item No. _____

Page Count 5

Apr # 405

LAW OFFICES

FRITZ R. KAHN, P.C.

SUITE 750 WEST

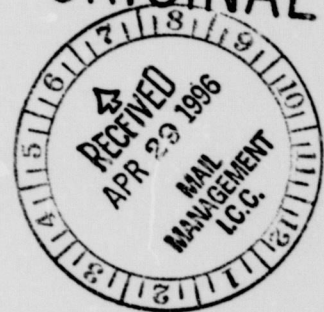
1100 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-3934

(202) 371-8037

FAX (202) 371-0900

82889 5
ORIGINAL



April 29, 1996

VIA HAND DELIVERY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

Dear Secretary Williams:

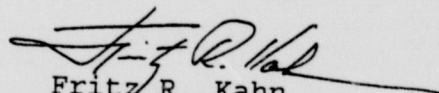
Enclosed for filing in Finance Docket No. 32760, Union Pacific Corp., et al.--Control and Merger--Southern Pacific Rail Corp., et al., are the original and twenty copies of the Responsive Statement of Shell Chemical Company.

Extra copies of the Statement and of this letter are enclosed for you to stamp to acknowledge your receipt of them and to return to me in the enclosed envelope.

By copy of this letter, service is being effected upon counsel for each of the parties.

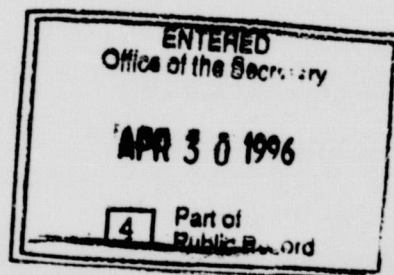
If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

enc.

cc: Mr. Brian P. Felker



ORIGINAL

SHL-5

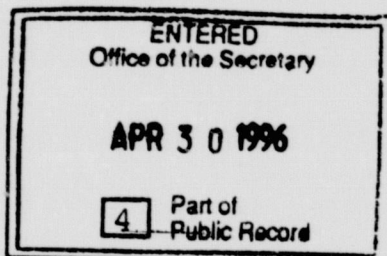
BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423



Finance Docket No. 32760

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

RESPONSIVE STATEMENT
OF
SHELL CHEMICAL COMPANY



Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Attorney for
Shell Chemical Company

Dated: April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

Finance Docket No. 32760

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

RESPONSIVE STATEMENT
OF
SHELL CHEMICAL COMPANY

Shell Chemical Company of Houston, Texas ("Shell"), pursuant to 49 C.F.R. 1104.13(a) and the Decisions of the Interstate Commerce Commission, served October 19 and December 27, 1995, Decisions Nos. 6 and 9, and the Decision of the Board, served April 19, 1996, Decision No. 31, responds to Applicants' Submission of Settlement Agreement with CMA, dated April 19, 1996 (UP/SP-219), as follows:

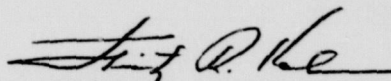
1. We are pleased that the Union Pacific Corporation, et al., have address most of the concerns of the Chemical Manufacturers Association's Distribution Committee.
2. Our position, i.e., the position of Shell Chemical Company, remains as submitted in our Comments submitted on March 29, 1996; we had limited involvement with the CMA comments or

position.

Respectfully submitted,

SHELL CHEMICAL COMPANY

By its attorney,



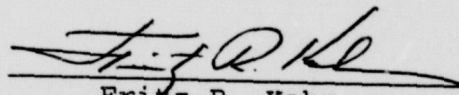
Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Dated: April 29, 1996

CERTIFICATE OF SERVICE

Copies of the foregoing Statement this day were served by me by mailing copies thereof, with first-class postage prepaid, to counsel for each of the parties.

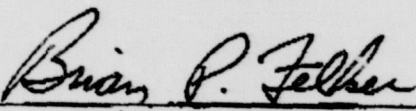
Dated at Washington, DC, this 29th day of April 1996.


Fritz R. Kahn

DECLARATION

I, Brian P. Felker, am the Manager - Products Transportation of Shell Chemical Company, with offices at One Shell Plaza, Houston, Texas. I am the sponsor of the Comments of Shell Chemical Company, filed herein on March 29, 1996. I have read the foregoing Responsive Statement, and, under penalty of perjury of the laws of the United States of America, I declare that the factual assertions therein made are true and correct to the best of my knowledge and belief. I further declare that I am authorized to make this declaration.

Dated at Houston, TX, this 29th day of April 1996.


Brian P. Felker

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Item No. _____

Page Count 8

Apr # 406

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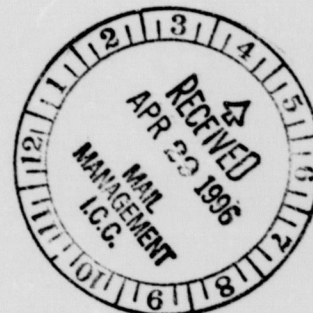
8

HAYNES AND BOONE, LLP

April 29, 1996

Via Hand Delivery

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



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

Dear Secretary Williams:

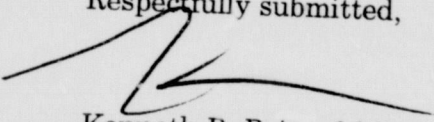
Enclosed for filing are an original and twenty copies of RD-1, Response of Redland Stone Products Company to Comments Seeking Divestiture of Southern Pacific Lines Between San Antonio and Houston, Texas. Also enclosed is a 3.5" floppy computer disc containing a copy of the filing in WordPerfect 5.1 format.

Please place the Redland Stone Products Company ("Redland") and its representative indicated below on the list of all parties of record in this proceeding. Redland's representative is:

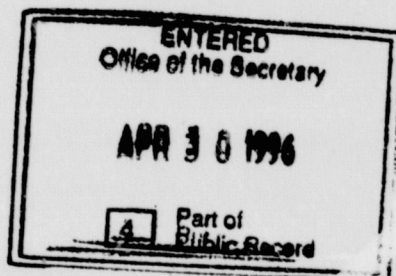
Kenneth B. Reisenfeld
Haynes and Boone, LLP
Suite 825
1225 Eye St., N.W.
Washington, D.C. 20005
202-414-1900

Redland intends to participate as an active party. In accordance with 49 C.F.R. § 1180.4(a)(2), Redland selects the acronym "RD" for identifying all pleadings it submits.

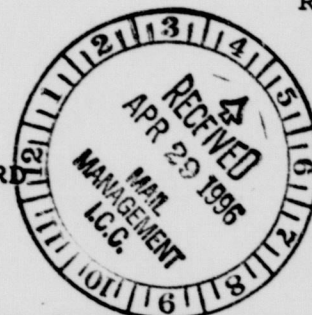
Respectfully submitted,


Kenneth B. Reisenfeld
Haynes and Boone, LLP

Enclosure



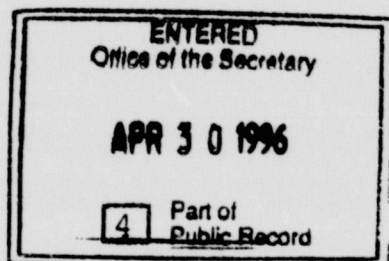
BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 32760

Union Pacific Corp., Union Pacific)
RR. Co. and Missouri Pacific RR Co.)
-- Control and Merger -- Southern)
Pacific Rail Corp., Southern)
Pacific Trans. Co., St. Louis)
Southwestern Rw. Co., SPCSL Corp.)
and The Denver and Rio Grande)
Western Corp.)

RESPONSE OF REDLAND STONE PRODUCTS COMPANY
TO COMMENTS SEEKING DIVESTITURE OF SOUTHERN PACIFIC
LINES BETWEEN SAN ANTONIO AND HOUSTON, TEXAS



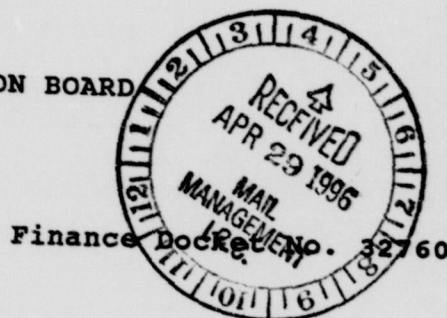
Kenneth B. Reisenfeld
Haynes and Boone, LLP
Suite 825
1225 Eye St., N.W.
Washington D.C. 20005
202-414-1900

Attorney for Redland Stone Products
Company

April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Union Pacific Corp., Union Pacific)
RR. Co. and Missouri Pacific RR Co.)
-- Control and Merger -- Southern)
Pacific Rail Corp., Southern)
Pacific Trans. Co., St. Louis)
Southwestern Rw. Co., SPCSL Corp.)
and The Denver and Rio Grande)
Western Corp.)



RESPONSE OF REDLAND STONE PRODUCTS COMPANY
TO COMMENTS SEEKING DIVESTITURE OF SOUTHERN PACIFIC
LINES BETWEEN SAN ANTONIO AND HOUSTON, TEXAS

Redland Stone Products Company ("Redland") files this response to comments filed by various parties on March 29, 1996 requesting divestiture of lines of the Southern Pacific Rail Corporation et al. ("SP") between Houston, Texas and San Antonio, Texas as a condition of any approval of the merger of the SP and the Union Pacific Corporation, et al. ("UP") (collectively with SP, the "Applicants").^{1/} As discussed below, any such divestiture would have a serious adverse effect on the quality and efficiency of the rail transportation Redland now enjoys.

^{1/} To Redland's knowledge, comments seeking divestiture of such lines were filed by the Texas Railroad Commission (RCT-4), the National Industrial Transportation League (NITL-9), the Kansas City Southern Railway Company (KCS-33), and Consolidated Rail Corporation (CR-21), and perhaps others.

Redland therefore opposes any such divestiture. If the Board nevertheless requires divestiture of any lines of the Applicants between Houston and San Antonio as a condition of approval of the merger, Redland requests that conditions be imposed ensuring that Redland and any other similarly situated shippers continue to have efficient, low-cost, single-line service to satisfy their transportation needs.

Background

Redland produces crushed stone and other stone products from various locations in the United States. Its principal facility in Texas is a limestone quarry at Beckmann, Texas, approximately 15 miles northwest of San Antonio. Redland's main offices are also located at Beckmann. Redland shipped 46,802 carloads of crushed stone to Texas Gulf Coast markets in 1995 via SP and expects to ship more than 57,000 carloads in 1996. These volumes make Redland SP's largest customer in the Southwest region, and one of the largest customers in the entire SP system. Virtually all of this traffic moves on the SP line between San Antonio and Houston.

Redland is entirely dependent on rail transportation to transport its product from Beckmann to its customers in Houston and other Gulf Coast locations. The Beckmann quarry is located near the end of a 17-mile SP branch line that runs southeast to San Antonio where it connects with the main east-west SP line between Houston and El Paso. For many years SP has transported

Redland's stone to distribution points in and around Houston that are located on SP lines. The stone is stockpiled there and distributed to customers by truck. This rail transportation has been performed under long term contracts with SP utilizing a dedicated fleet of approximately 1,000 cars. This single-line service generally has been efficient.

Redland's Objections

Several parties in this proceeding have filed comments taking the position that the proposed UP/SP merger should be denied unless it is conditioned on the divestiture to third parties of various SP lines, including the SP line between Houston and San Antonio. For Redland, however, the remedy of divestiture would seriously worsen the quality and efficiency of the rail service it now enjoys. No party has sought divestiture of the branch line serving Beckmann. Furthermore, although the exact scope of the requested divestitures is not clear, they would not appear to include all of the SP lines in and around Houston on which Redland's distribution points are located.

Accordingly, if the requested divestiture were to occur, Redland would lose the efficient single-line service it now enjoys and would obtain in its place two-line service that would require at least one interchange between railroads at San Antonio and possibly another in Houston. Such two-line service -- possibly requiring two interchanges between carriers -- would add substantially to Redland's costs, transit times, and general

administrative burdens related to the transportation.
Furthermore, Redland believes it would not be able to readily obtain the equipment necessary to fill our contractual requirements to our customers as it would take years to assemble a fleet of cars comparable to the one SP currently provides.

Redland, therefore, strongly opposes any such divestiture.^{2/} Divestiture of lines is an extreme remedy that the Board and its predecessor, the Interstate Commerce Commission, has never required as a condition of a rail merger. Such an extreme and unprecedented remedy certainly cannot be justified if it results in a substantial worsening of the rail service previously provided to shippers or in increases in shippers' costs.^{3/}

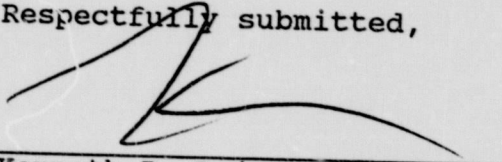
If the Board were to conclude that divestiture of one of the Applicants' lines between Houston and San Antonio is a necessary condition to remedy anticompetitive effects of the merger -- or imposes any other condition that would adversely affect the rail service provided to shippers over these lines -- it should impose conditions to ensure that Redland and other similarly situated shippers continue to have the single-line service, the car supply

^{2/} Redland has not filed any previous appearance or submission in this proceeding because the possibility of divestiture as a proposed remedy for anticompetitive effects was not raised until various comments were filed on March 29, 1996.

^{3/} If the requested divestitures occurred, a merged UPSP could theoretically route Redland's traffic in single-line service from the Beckmann origin to destinations in Houston, but any such routings would be so significantly inferior to the current SP routings as to be impractical.

and the transportation contracts that they now enjoy.
Specifically, to preserve present service levels, the Board should provide that the Applicants retain trackage rights over the divested lines without any increase above their current costs of operations and maintenance.

Respectfully submitted,



Kenneth B. Reisenfeld
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Attorney for Redland Stone Products
Company

April 29, 1996

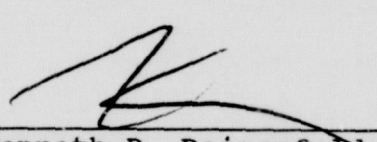
CERTIFICATE OF SERVICE

I hereby certify that I have caused to be served the foregoing RD-1, Responses of Redland Stone Products Company to Comments Seeking Divestiture of Southern Pacific Lines between San Antonio and Houston, Texas, by hand delivery upon the following persons:

Arvid E. Roach II
J. Michael Hemmer
Michael L. Rosenthal
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Paul A. Cunningham
Richard B. Herzog
James M. Guinivan
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1300 Nineteenth Street, N.W.
Washington, D.C. 20036

I have also caused to be served by first-class mail, postage pre-paid, the Honorable Judge Nelson and all persons on the official service list in this proceeding.



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Attorney for Redland Stone
Products Company

April 23, 1996

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April 29, 1996

WRITER'S DIRECT DIAL NUMBER

VIA MESSENGER

Mr. Vernon A. Williams
Surface Transportation Board
Case Control Branch
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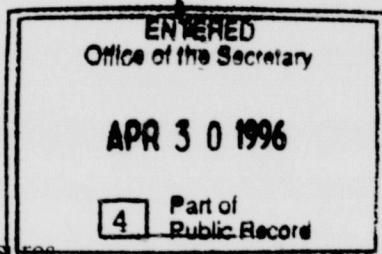
(202) 342-6791

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

Dear Secretary Williams:

Enclosed please find the original and twenty copies of the Comments of Arizona Chemical Company in the above referenced matter. These comments are being served upon all parties of record in this proceeding. Also enclosed is an additional copy to be date-stamped and returned to us.

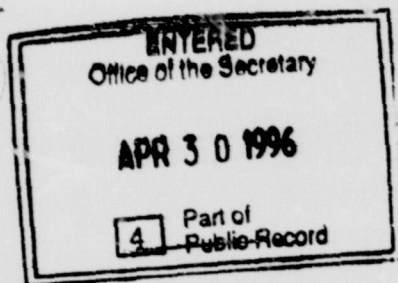
Please feel free to contact us with any questions.



Enclosures

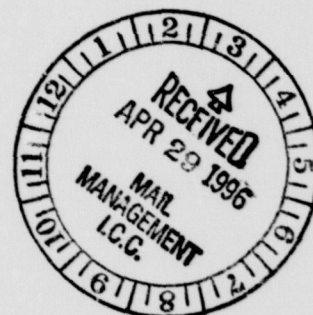
Very truly yours,

John F.C. Luedke
John F.C. Luedke



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

COMMENTS OF
ARIZONA CHEMICAL COMPANY

In accordance with the governing procedural order in this matter, Arizona Chemical Company hereby submits its comments on the proposed settlement agreement reached between the Chemical Manufacturers' Association ("CMA") and the Applicants^{1/} in this proceeding. Arizona Chemical Company is a member of CMA, and has been participating in this proceeding through that membership. Arizona Chemical Company adopts the comments filed by CMA on March 29, 1996 as its own.^{2/}

^{1/} "Applicants" refers collectively to Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company.

^{2/} Arizona Chemical Company believes that it does not need to separately intervene due to its participation in this proceeding through its membership in CMA. To the extent any formal procedures are deemed necessary, Arizona Chemical Company hereby requests a waiver of those requirements.

My name is Thomas S. Brzowski, and I am the Manager Transportation and Distribution at Arizona Chemical Company. I hereby certify that I am qualified and authorized to submit these comments on behalf of the Arizona Chemical Company.

CMA, Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railway Company ("BNSF") and Applicants have entered into a Settlement Agreement ("the CMA Settlement"), see UP/SP-219, filed April 19, 1996, purportedly to resolve the problems and concerns about the merger raised by CMA in their comments on March 29, 1996. see Attachment 1 to CMA-7, filed March 29, 1996. While the CMA Settlement does address some of the issues raised by CMA, and is therefore indicative of the possibility of resolving these issues, it fails to address others, and therefore is not a sufficient solution to the anti-competitive problems raised by CMA in its comments.

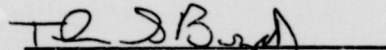
Arizona Chemical Company operates a chemical plant in Springhill, Louisiana. This facility is served exclusively by KCS, which must interchange with other railroads for much of our outbound traffic. For traffic moving to Houston, Mexico, and the Western United States, KCS connects with both UP and SP at Shreveport for beyond movement. Arizona Chemical Company presently has annual contracts in place with both UP and SP, and these contracts are awarded to these carriers based on the price and service options they provide. If the merger is approved, however, Arizona Chemical Company will lose this important price and service competition. Hence, it is a so-called "2-to-1" shipper, due to the Shreveport interchange, but Arizona Chemical Company will, in no way, benefit from the BNSF or CMA Settlement agreements.

Nonetheless, the CMA Settlement is a constructive start to resolving the anti-competitive effects of the proposed merger, but only a start. For example, the CMA settlement will resolve the traffic-flow directional problem CMA referred to in its comments, which is useful. The CMA

settlement will also reduce the reciprocal switching charges, which is another useful benefit for shippers.

Despite these benefits, however, the CMA settlement fails to resolve basic concerns of CMA raised in its March 29 comments. We therefore adhere to those comments as the position of Arizona Chemical Company on the proposed merger.

Respectfully submitted,



Thomas S. Brzowski
Manager Transportation and Distribution
Arizona Chemical Company

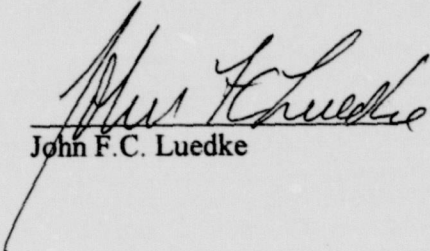
DATE: April 29, 1996

CERTIFICATE OF SERVICE

I, John F.C. Luedke, do hereby certify that a copy of the foregoing Comments of Arizona Chemical Company was served via first class mail, postage prepaid, upon all parties of record in Finance Docket 32760. Additionally, a copy of the foregoing was served, via facsimile, upon:

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John F.C. Luedke