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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



Office of the Secretary

APR 30 1996

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

The Society of the Plastics Industry, Inc. (hereinafter generally referred to as "SPI"), respectfully submits its Further Comments in opposition to the application of the Union Pacific Corporation (UP), et al. and the Southern Pacific Rail Corporation (SP), et al., seeking approval of the Surface Transportation Board for authority to merge. These Further Comments are submitted pursuant to Decision No. 31 issued by the Board on April 19, 1996, wherein the Board interpreted its procedural orders to permit a non-applicant party to file responsive evidence and comments to conditions proposed by another party in the proceeding and "to other parties' comments ..." Decision 31 at p.3.

SPI submits these Further Comments in response to the settlement entered into by Applicants and the BNSF with the Chemical Manufacturers Association (CMA), UP/SP-219 (filed April 19, 1996). Pursuant to that settlement, Applicants have

agreed to amend their trackage rights agreement with the BNSF.^{1/} SPI, accordingly, is entitled to comment on the amendments to the UP/SP-BNSF agreement of September 25, 1995, which Applicants have requested be imposed as a condition of the merger. SPI and the interests it represents would be substantially and materially injured to the extent that the Board may rely upon said settlement as remedial to the anti-competitive effects of the proposed merger and consequently grant approval of the merger.

In these Further Comments, SPI addresses the facts (i) that SPI and CMA represent different interests and that the CMA Settlement is not binding upon or relevant to SPI, (ii) that the CMA Settlement does not mitigate SPI's concerns about the loss of competition resulting from merger of the UP and SP, and (iii) that the CMA Settlement does not even serve to alleviate CMA's concerns about the effect of the proposed merger, see CMA-7.^{2/}

^{1/} In consideration of the settlement, CMA has withdrawn from the merger proceeding. CMA has not, contrary to some reports, endorsed the merger.

^{2/} While the Applicants characterize their settlement as "important" and promise to address it in their rebuttal filing, UP/SP-219 at 1, as discussed herein various terms of the settlement are vague; and in any event, the terms of the settlement require analysis by the consultants to SPI and other interested parties. SPI accordingly urges the Board to grant any request made to adjust the procedural schedule to enable full analysis of the Settlement Agreement, particularly considering that in filing the settlement Applicants indicate their intent to rely upon the CMA Settlement in their rebuttal as dispositive of concerns regarding loss of competition. SPI's Further Comments submitted herewith are subject to supplementation based upon both further analysis and information developed through discovery to the extent further evidence and pleadings may be permitted by the Board.

I. CMA DOES NOT REPRESENT THE PLASTICS INDUSTRY

While plastics and chemicals often are thought of as related products, including both groups of materials being classified under STCC Group 28, Chemicals or Related Products, and while there is some overlap in membership between SPI and CMA, plastics and chemicals are separate product groups; and SPI and CMA represent different constituencies. This is clearly reflected in the comments of SPI and CMA in this proceeding. For example, SPI addresses the impact of the merger on plastics resins, and specifically to polyethylene (PE) and polypropylene (PP).^{3/} CMA, by contrast, is concerned with "basic industrial chemicals." CMA-7 at 2. Basic industrial chemicals include products such as acids, alkaloids, salts, and organic chemicals,^{4/} and represent a distinct category from products such as plastic materials and other products to be used in further manufacture, and products to be used in ultimate consumption. Moreover, from the perspective of this proceeding, SPI's concerns are specifically focused upon the Gulf Coast transportation market due to the fact that 92% of polyethylene and polypropylene production occurs in the Gulf Coast region. SPI-11 at 20. By contrast, whereas the UP and SP

^{3/} Polyethylene and polypropylene, collectively referred to as "plastics resins" in SPI's comments, constitute the two highest volume commodities handled by the UP, if not both the UP and SP, in the STCC 28 Chemicals or Related Products grouping. SPI-11 at 13. PE and PP constitute the majority of production of plastics resins generally, and both were extensively analyzed by Applicants in their application. Id. at v-vi.

^{4/} See, Definition of the Chemical Industry, U.S. Chemical Industry Statistical Handbook, 1995, CMA (1995), associated herewith as Exhibit 1.

represent the primary carriers for Gulf Coast producers of basic industrial chemicals, the concentration of production within the Gulf Coast is materially less for the materials of interest to CMA than for plastics resins.^{5/}

Considering the different constituencies represented by SPI and CMA, and the different geographic distribution of the respective products of interest, withdrawal from the merger proceeding by CMA does not impact upon SPI nor alleviate the concerns of SPI expressed in its comments in this proceeding. Moreover, in the short time since it was announced, a significant representation of the plastics industry, who also are members of CMA, have repudiated the CMA Settlement. Statements to this effect from CertainTeed Corporation, CONDEA Vista Company, The Dow Chemical Company,^{6/} Fina Oil and Chemical Company, The GEON Company, Huntsman Corporation, Montell USA, Inc., Phillips Petroleum Company and Union Carbide Corporation are associated herewith as Exhibit 2. Considering this substantial and distinguished group of companies, query whether the CMA Settlement truly represents the views and interests of CMA's membership?

^{5/} In the case of STCC 14, non-metallic minerals except fuel, for example, UP and SP represent less than a 30% market concentration factor. CMA-7, Attachment 2 at 6.

^{6/} While the attached statement of The Dow Chemical Company is that which was submitted to the Board on March 15, 1996, Dow-10, it is understood that Dow has not changed its position, and contemporaneously will so confirm to the Board in a separate submission.

**II. THE CMA SETTLEMENT DOES NOT MITIGATE
THE COMPETITIVE HARMS IDENTIFIED BY SPI**

In its comments, SPI, after concurring with Applicants that the UP and SP dominate the plastics resins transportation market, SPI-11 at 19-22, identified 15 separate factors leading to SPI's conclusion that the merger would have significant detrimental effects upon competition for rail transportation service to the plastics industry. Only one of those identified factors is changed by the CMA Settlement, and three are touched upon and provide either a limited remedy or require further factual information regarding implementation to understand whether the CMA Settlement is substantive or illusive. As to the 11 remaining competitive elements, the CMA Settlement provides no relief whatsoever.

CMA/UP SETTLEMENT AS AFFECTING SPI MERGER CONCERNS

<u>Issues Identified in SPI Comments</u>	<u>Impact of CMA Settlement</u>
1. UP/SP domination of plastics industry.	
1.1 A merged UP/SP would dominate plastics resins transportation:	
(i) UP/SP would continue to have access to approximately 90% of the plastics market. (SPI 11 at 22)	No change.
(ii) Post-merger, UP/SP market share of PE-63%; PP-62%. (SPI-11 at 22-23)	No change.
(iii) Increased market concentration violates DOJ merger guidelines under HHI analysis. (SPI-11 at 23)	No change.

- (iv) UP/SP market practice foreclosure tactics: tying arrangements, long-term contracts and renewal options. (SPI-11 at 24-28)

UP/SP to release 50% of traffic at 2-to-1 points from contract obligations to enable BNSF to bid (CMA Settlement at ¶3). Whether and extent to which this provides BNSF with market opportunities is unknown since tying arrangements/leverage still would accrue to the UP/SP; selection method for release from contract obligations is not defined; and release could impact only contracts with relatively short remaining duration, thereby leaving long-term contracts and contract renewal options in place. Additional barrier with regard to shipper exercise of new negotiation rights may flow from volume incentives. Adequate storage capacity must be available to BNSF in order to hold itself out to offer service to the plastics industry.

- 1.2 BNSF has made no demonstrated commitment to implement the trackage rights and provide vigorous competition; BNSF occupied with its own merger. (SPI-11 at 28-36)

No change. BNSF addressed CMA to express its interest and intentions with regard to operation under the trackage rights prior to CMA entering into the Settlement Agreement. Notwithstanding that provision of "a detailed operating and capital investment plan ... to support competitive BNSF service to shippers over the trackage rights" was an essential condition set forth in the CMA comments (see CMA-7 at Attachment 1, ¶2A), BNSF offered nothing more, in substance, than its "trust me" approach reflected in its comments of December 29, 1995.^{2/}

2. BNSF is not a viable competitive option:

- 2.1 Trackage rights consisted of a package deal, with BNSF acceptance of rights without seeking them, and its lack of interest in certain of the Gulf Coast corridors evidencing a lack of commitment to vigorously compete for the traffic. (SPI-11 at 28-31)

No change. BNSF's lack of efficacy in dealing with UP is evidenced by the fact that modification of trackage rights agreement is a function of CMA settlement, not BNSF negotiation.

- 2.2 BNSF is a weak competitor, by its own admission. (SPI-11 at 32)

No change.

^{2/} See letter from Jeffrey R. Moreland, BNSF Senior Vice President and General Counsel, April 15, 1996, associated as Exhibit 3, and discussion at § IV, *infra*.

2.3 BNSF lacks adequate infrastructure to render vigorous competition to UP/SP, with only 16% of storage capacity and 13% of operational yard capacity. (SPI-11 at 36-40)

UP agreement to provide "equal access" to Dayton Yard (CMA Settlement at ¶5) does not resolve the BNSF storage-in-transit (SIT) capacity issue for plastics traffic.^{==/} It is understood that the capacity at Dayton currently is substantially if not fully committed to customers. The manner and degree to which BNSF can access Dayton under this provision is unclear (e.g., right to available capacity, right to 50% of available capacity, etc.?). And what would be the impact upon service to UP/SP customers were UP/SP simply to cede BNSF immediate right to succeed to 50% of the SP's contractual commitment to the Dayton Yard? With industry 5-year growth rate of 6+ %, is there any capacity available for BNSF even if UP/SP would lose an account to BNSF? Since Dayton is only 1 of 6 UP/SP Gulf Coast storage locations (which represent 72% of total UP/SP storage), BNSF may have no way of knowing its potential access to Dayton when bidding for trackage rights traffic (barring illegal coordination between UP/SP and BNSF).^{===/}

Additionally, financial terms are not revealed. DOJ's economist states that: "To the extent that BNSF might get access to the UP/SP storage yards with the fixed costs of the yard rolled into the compensation rate, its cost structure would be even further out of line." DOJ-8, V.S. of W. Robert Majure, at 26, n.26. As to working with BNSF to locate additional SIT facilities, query the need for BNSF to require UP/SP assistance?

2.4 Trackage rights agreement places BNSF at competitive disadvantage:

- (i) Traffic basis inadequate to support competitive train operations. (SPI-11 at 41-42)

No change. UP release of 50% of traffic at 2-to-1 points from contract obligations to enable BNSF to compete (CMA Settlement at ¶3) does not change calculation by L. E. Peabody & Associates that traffic available to BNSF is sufficient only to support 0.57 trains/day in the Houston-Memphis corridor. The Peabody

^{==/} Storage-in-transit as a service issue has been identified throughout this proceeding as principally related to service to the plastics industry. Neither CMA nor Applicants consulted with SPI in addressing this term and assuring that any remedial provision is substantive and not merely symbolic.

^{===/} Notwithstanding the ill-defined and uncertain nature of its potential to Dayton, BNSF foresees "no need for substantial capital investment" and characterizes this provision as "clearly sufficient for BNSF to capture a significant share of the new business to which it would gain access." See Exhibit 3 at p.3.

analysis did not take into account limitations on traffic due to contract commitments; i.e., all traffic from the 2-to-1 points was evaluated as available to BNSF; and accordingly, the actual traffic available for BNSF bidding would be below the 0.57 train level calculated by Peabody. This provision would simply serve to move back toward the 0.57 trainload level. See also discussion at 1.1(iv), above. Extending BNSF rights to serve shippers who have not recently or ever shipped by rail, and to serve unidentified new facilities, both at 2-to-1 points (CMA Settlement at ¶¶2, 12), adds no identifiable or measurable traffic to BNSF's achievement of a sufficient critical mass to warrant train operations.

- (ii) Directional flow in Houston-Memphis corridor. (SPI-11 at 42-44)

This is changed (CMA Settlement at ¶10). However, the impact on BNSF of dual track operations and the consequential effects on fueling, maintenance, crewing and other facilities, training, etc., have not been evaluated.

- (iii) Trackage rights fee places BNSF at 30% cost disadvantage. (SPI-11 at 44)

No change. To segregate fee into a separate fund (CMA Settlement at ¶6) provides no improvement, and fund in any event would accrue to UP/SP to extent used to offset depreciation cost. Change in escalation feature (CMA Settlement at ¶7) does not change fee itself.

- (iv) To extent BNSF uses UP/SP for switching, BNSF yields operational and economic control to UP/SP. (SPI-11 at 44-45)

No change. Capping the switching fees (CMA Settlement at ¶4), while beneficial (and essentially a return to pre-1990 levels when SP escalated switching fees), already was promised in the application. See Peterson UP/SP-23 at 71-72. This does not change service implications of BNSF reliance on UP/SP switching. Also, since BNSF has direct service option, switching fees were not included in Peabody competitive analysis.

3. Injury

3.1 Loss of competitive options:

- (i) Loss of source competition. (SPI-11 at 43-51)
- (ii) Loss of build-out opportunities. (SPI-11 at 46-49)

No change.

Limited cure (CMA Settlement at ¶13); arbitration opportunity limited to individual right of CMA members (not to BNSF) for limited time; and to the extent that a build-out would require

aggregation of multi-shipper volumes, timing vis-a-vis contract expirations, whether all shippers are CMA members, and other factors limit utility of this provision.

3.2 Merger will lead to increased prices, as promised by UP President and demonstrated by both experience and the economics literature. (SPI-11 at 52-57)

No change.

III. CMA SETTLEMENT DOES NOT MITIGATE THE COMPETITIVE HARMS IDENTIFIED BY CMA

The CMA comments identified six areas where the UP/SP BNSF agreement is not effective to address anti-competitive concerns, and it further identified seven factors which limit BNSF's incentives to enter the market. Of these 13 identified factors entailing loss of effective competition, the CMA Settlement fails to resolve ten, and its ability to resolve an eleventh item is limited.

CMA/UP SETTLEMENT AS AFFECTING CMA MERGER CONCERNS

Issues Identified in CMA Comments

A. "[T]he BNSF Agreement will not be effective to address anti-competitive concerns because:

(1) it appears unlikely that BNSF will have sufficient economic incentive to exercise its traffic rights to serve traffic to and from CMA member facilities in the Gulf Coast,

(2) even if BNSF did elect to serve CMA member facilities, the rates that would be charged by the UP/SP and BNSF following the merger would almost certainly be higher than those charged today,

Impact of CMA Settlement

No impact. Opening up BNSF access to points which have not shipped by rail in the past and to potential future plants (CMA Settlement at ¶¶ 2, 12), does not provide current economic incentive; as to opening up contracts at 2-to-1 points (CMA Settlement at ¶3), 100% of said traffic was taken into account in the analysis of traffic available to BNSF (see also 1.1(iv) and 2.4(i), supra).

No impact. The settlement provides no incentive for maintaining rates or averting the rate increases promised by UP President Davidson at the CMA dinner meeting on September 25, 1995.

(3) the BNSF Agreement would not in any case do anything to compensate for:

(a) the loss of leverage enjoyed by some sole-served UP and SP shippers today by the threat of having a nearby carrier "build-in" to the shipper's facility,

(b) the loss of SP as an aggressive "maverick" competitor,

(c) the reduction in the number of rail competitors in the West other than at 2-to-1 points, and

(d) the extreme geographic concentration of Gulf Coast chemical shipments in the hands of the combined UP/SP system." CMA-7 at 2.

Limited impact (CMA Settlement at ¶13). CMA members would retain a limited right to pursue build-in; the BNSF could not exercise that right on its own. Additionally, this is a one-time opportunity, and likely would not be available on an aggregated basis where multi-plant access is required to justify the build-in (see, 3.1(ii), supra).

No impact.

No impact.

No impact.

B. "BNSF's incentives to enter the market are severely limited by the facts that:

(1) BNSF will be able to serve only a small number of points on each line over which it has trackage rights -- i.e., the 2-to-1 points -- and will be able to capture only the traffic from those 2-to-1 points that is destined for BNSF's few exclusively served destination, plus a portion of traffic moving to neutral gateways. BNSF's traffic density will thus be much lower than UP/SP's density on the same lines, and BNSF's costs per car will consequently be higher, thus severely impairing its ability to compete.

No impact. The CMA Settlement offers BNSF no additional access to existing facilities.

(2) BNSF would have to make substantial investments (estimated by Mr. Crowley to total at least \$100 million) in yards, maintenance and fueling facilities, switch connection, and other facilities before it could hope to effectively compete with UP/SP for business from chemical shippers using its new trackage rights. In addition, it would need to hire and train new crews.

(3) The UP/SP would have the power to make access difficult through control of dispatching and operations on its lines over which the BNSF would operate -- putting BNSF in the position of offering "service with some disability," to use the words of outgoing BNSF Chairman Grinstein.

(4) BNSF would face other operational hurdles, including the need to run its loaded trains northbound from Texas to Memphis over unsignaled SP track that would be operated by UP/SP one-way southbound.

(5) In contemplating whether to make the investments of time and money necessary to enter the markets offered by its new trackage rights, the BNSF might never face a window of time in which a critical mass of traffic sufficient to justify its investment is available, because much Gulf Coast chemical traffic is committed under transportation contracts to the UP or SP, and because shippers would have no choice but to continue renewing such UP/SP contracts unless and until BNSF has taken the steps necessary to enter the market.

(6) BNSF will have to pay to the UP/SP a trackage rights fee that further raises BN's costs above those of the UP/SP and hence puts the BNSF at a competitive disadvantage.

(7) UP/SP will have the ability to seek to prevent entry by BNSF, or retaliate against BNSF entry, by "pin-point" pricing to undercut the BNSF, and in doing so will have the advantage of a substantially lower cost structure." CMA-7 at 7-8.

No impact. However, opening both the UP and SP routes (CMA Settlement at ¶¶ 1, 10) between Houston and Memphis to BNSF may increase the investment of BNSF necessary to effectively compete (see 2.4(ii), supra).

This is changed (CMA Settlement at ¶9), assuming the proposed dispatching protocols are effective.

This is changed. (CMA Settlement at ¶10). (See 2.4(ii), supra.)

No impact. The traffic available to BNSF before considering impact of UP/SP-customer contracts is inadequate, and no additional traffic is opened by agreement. As to UP/SP opening 50% of contracts, see SPI-1.1(iv), 2.3 and 2.4(i) and CMA-A.(1), supra.

No impact, although the escalation mechanism is modified (CMA Settlement at ¶7).

No impact.

IV. THE BOARD MUST NOT ACCEPT
THE CMA SETTLEMENT AS CURATIVE OF THE
LOSS OF COMPETITION POSED BY THE UP/SP MERGER

Both the foregoing analysis and the BNSF letter of April 15 to CMA raise a number of questions. Inherently, in light of the inadequacies and vagueness of the CMA Settlement Agreement, the issue is posed as to why CMA would enter into such an agreement and withdraw its participation from the merger proceeding. Initially, it must be recalled that CMA set a very low threshold with regard to its objectives in the merger proceeding. It proposed a number of remedial points which do not correlate with nor ameliorate the competitive harms it identified; and then it conceded that "its remedial points do not address all of the likely anti-competitive effects of the merger." CMA-7 at 4. Accordingly, CMA was less than fully committed to a solution to the problems posed by the merger. Consequently, like a Greek tragedy, the end is implicit in the beginning. While a number of explanations present themselves, the specific reasons why CMA accepted the settlement must be ascertained from CMA itself.^{2/}

More profound questions are raised concerning BNSF. The "tiger" portrayed by Applicants, i.e., that the BNSF is "the biggest, meanest, toughest competitor we've got in the West," Rebensdorf Tr. at 150, further appears to be a mere pussycat with stripes, but one with chameleon-like qualities at that.

In comments submitted December 29, 1995, BN/SF-1, entailing the verified statements of three witnesses, and defended through

^{2/} But see, Exhibit 2 to these Further Comments.

four days of deposition testimony, BNSF maintained that the trackage rights agreement "effectively preserves competition" at 2-to-1 points, BN/SF-1 at 2, will enable BNSF to "provide effective service competition on each route covered by the settlement agreement," Id. at 3, and "will promote aggressive competition and will improve the efficiency of the nation's transportation infrastructure." Id. In its letter of April 15, 1996 to CMA, BNSF now merely "expects to be able to offer competitive service at competitive rates to [Gulf Coast] customers, assuming [a stated level of available traffic] and assuming BNSF's trackage rights are implemented in accordance with the Settlement Agreement, *in particular with the modifications that have been discussed with UP.*" See Exhibit 3 at 1-2 (emphasis added). Those modifications are those set forth in the CMA Settlement Agreement. It is apparent that these changes were not negotiated with BNSF, but rather are "operational and other improvements UP has advised were made ..." Id. at 2.

While BNSF previously defended the trackage rights agreement as initially entered into as placing it in a fully competitive position with a merged UP and SP, it now qualifies its ability to compete upon the amendments to that agreement of which "UP has advised" as a result of the UP-CMA settlement negotiations. As demonstrated by the record in this proceeding, BNSF cannot be considered to have vigorously negotiated its terms of access under the Settlement Agreement; and changes emanate only from UP's efforts to win shipper support. It further is apparent that

BNSF has been told, not consulted with, concerning those changes.

The first question posed by the BN's new position is what the Board is to believe of BNSF's assertions with regard to its competitive posture under the trackage rights agreement? On the one hand, the trackage rights provisions as initially agreed were asserted as fully adequate to enable BNSF to be an effective competitor; now, the changes conceded by UP to win CMA support are a condition precedent to its competitive posture. Was BNSF correct previously? Was it mistaken and its comments erroneous? Or was it merely obfuscating and covering for the UP and SP in good market sharing fashion? Secondly, why is BNSF so complacent toward and defensive of the UP/SP merger? Is it because the merger rids the railroad industry of the aggressive competition of the SP? Is it because of a tacit understanding, whether stated or unstated, see KCS-33 at 73-82, between the UP and BN to jointly dominate the western railroad market through absorption of their smaller and more aggressive independent rivals? Or is it because acceptance of the trackage rights agreement is designed to foreclose divestiture of the parallel route system in the petrochemical belt, thereby precluding real competition in the Gulf Coast market from an owning railroad with real incentive to vigorously compete for all available traffic? Any or all of these answers are logical.

Whatever the motivations of CMA and BNSF, the trackage rights agreement, whether as originally agreed upon or as modified by the CMA Settlement, does not serve to preserve and maintain effective competition in the Gulf Coast region. The

changes resulting from the CMA settlement will neither serve to remedy the competitive harms posed by the merger as identified by SPI nor serve to remedy the harms identified by CMA. Indeed, regarding the amendments to the trackage rights agreement which further integrate UP/SP and BNSF operations, e.g., allowing BNSF to operate over UP/SP lines fully between Houston and St. Louis, the more the service becomes indistinguishable except as whether the line haul locomotive is painted yellow or green and as to the payee of the freight bills, the less opportunity there is for real competition. Only facilities based carriers can truly compete with one another; a tenant railroad operating under trackage rights, especially if dependent on the landlord for switching and/or other services, can never offer true and effective rate and service competition.

Finally, regarding the sop that the UP and SP will agree to post-merger oversight (CMA Settlement at ¶14), the Board inherently has such powers in merger proceedings. See (former) 49 U.S.C. § 11351. Regardless, the Board must find that the merger is consistent with the public interest. In doing so, the Board must consider, in the context of the record before it, whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region; it cannot relieve Applicants of their burden of proof through deferral of consideration of competitive harm to post-merger review. See, SPI-11 at 6-13. This is especially critical in consideration both of the downsizing of staff as a result of the ICC Termination Act of 1995, P.L. 104-88, and the barriers posed to

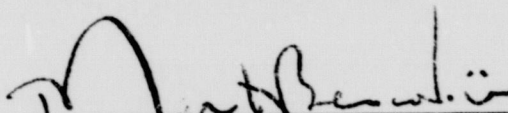
adjudication of railroad complaint cases by the Board's proposed increase in fees from \$1,000 for rate complaints to either \$233,200 or \$23,100. Regulations Governing Fees, Ex Parte No. 542 (April 4, 1996).^{8/}

WHEREFORE, THE PREMISES CONSIDERED, The Society of the Plastics Industry, Inc., respectfully urges the Surface Transportation Board to reject tender of the CMA Settlement Agreement as curing the anti-competitive effects of merger of the Union Pacific and Southern Pacific railroads, and to find that a merger of the Union Pacific Corporation, et al. and the Southern

^{8/} Certainly, Applicants are not modeling ¶14 on the ICC's decision in Wisconsin Central Transportation, 9 I.C.C.2d 233 (1992) (WCT). That transaction, while entailing some overlapping service in Wisconsin and the Upper Peninsula of Michigan, nonetheless had "the strong and unqualified support of most shippers in the area" as well as the responsible state governmental authorities. Id. at 247. In contrast, merger of the UP and SP is opposed by the Governor of Louisiana, the Railroad Commission and Attorney General of Texas, the major customer industry's trade association, numerous individual Gulf Coast shippers, and scores of other parties throughout the joint UP/SP service area. An analysis of the supporting statements, after elimination of the more than 10% from Applicants' subsidiaries and suppliers, non-shippers and multiple entries, concludes: "In sum, the letters seem strongly biased in favor of shippers who will retain transportation options after the merger. UP+SP's claim of broad shipper support is based principally upon shippers over which UP+SP will not be able to establish market dominance." "UP+SP: In Whose Interest?", Mark W. Hemphill, Trains, 39, 42 (May, 1996) (a copy of the article is associated as Exhibit 4). Other significant differences between the instant transaction and WCT include: (i) two Class II carriers v. Class II and Class III carriers, (ii) 39,000 v. 2,500 miles of combined operation (the latter equivalent to approximately 50% of the BNSF trackage rights in this proceeding), (iii) a transaction size of \$5.4 billion v. \$63 million; (iv) a major transaction v. a borderline major transaction, etc. Any reliance upon WCT as precedent for CMA Settlement ¶14 would be fatuous.

Pacific Rail Corporation, et al., would substantially and adversely impact upon the polyethylene and polypropylene resins industries, that a merger of the UP and SP as proposed would not be in the public interest, and to grant the relief as requested in SPI's comments of March 29, 1996.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Martin W. Bercovici", is written over a horizontal line.

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Attorneys for The Society of the
Plastics Industry, Inc.

April 29, 1996

U.S. CHEMICAL INDUSTRY STATISTICAL HANDBOOK

1995



CHEMICAL MANUFACTURERS ASSOCIATION	
Through January 1996	Effective January 1996
2501 M Street, NW	1300 Wilson Boulevard
Washington, D.C. 20037	Arlington, VA 22209
(202) 887-1100	(703)-741-5000

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Definition of the Chemical Industry

There is no single definition of the chemical industry for statistical purposes. Data in this handbook are cited on the basis on which they were published. To the greatest extent possible, data herein cover the Chemicals and Allied Products industry as Standard Industry Code (SIC) 28, as detailed in OMB's *Standard Industrial Classification Manual*. SIC 28 includes both establishments producing basic chemicals and establishments manufacturing products by predominantly chemical processes. Establishments classified in this major group manufacture three general classes of products: (1) basic chemicals, such as acids, alkalies, salts, and organic chemicals; (2) chemical products to be used in further manufacture, such as synthetic fibers, plastic materials, dry colors, and pigments; and (3) finished chemical products to be used for ultimate consumption, such as drugs, cosmetics, and soaps; or to be used as materials or supplies in other industries, such as paints fertilizers, and explosives.

Data on R&D funding, new plant & equipment expenditures, and finances of the industry, however, are reported on a company basis which differs in concept from data reported on an industry basis. Data reported on a company basis may include non-chemicals business activities by companies classified as chemical companies. For example, the new plant and equipment expenditure data collected by the Bureau of the Census will include investments by chemical companies for non-chemical assets and hence may overstate capital investment by the chemical industry. On the other hand, these data will not capture investments in chemical plants made by companies classified in other industries because their other activities are larger than their chemical business. For this reason, the gross investment data developed by the Bureau of Economic Analysis may be preferable in that it includes investments only for chemical assets but reflects these investments by both chemical and non-chemical companies.



H. Patrick Jack
Senior Vice President - Chemicals

April 26, 1996

Ms. Linda J. Morgan
Chairman
Surface Transportation Board
Department of Transportation
12th and Constitution Avenue, NW
Washington, DC 20423

FAX: 202-927-5728

Re: Union Pacific/Southern Pacific Merger
Finance Docket No. 32760

Dear Chairman Morgan:

As a member of both the Chemical Manufacturers Association (CMA) and The Society of the Plastics Industry, Inc. (SPI), we are very disappointed in the CMA settlement in the Union Pacific/Southern Pacific merger proceeding. Please be advised that FINA supports the position of SPI in this proceeding; CMA's settlement does not represent our position.

FINA is one of the largest US producers of polypropylene and polystyrene and a significant producer of polyethylene. FINA's plant locations in Texas and Louisiana are directly affected by the reduced competition created by the merger.

Very truly yours,

A handwritten signature in dark ink, reading "H. Patrick Jack". The signature is fluid and cursive, with a large, stylized "J" at the end.

H. Patrick Jack

HPJ:lr

cc: Larry L. Thomas, President, SPI
Frederick L. Webber, President, CMA

HUNTSMAN

April 26, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20004

Re: F.D. 32760

Dear Secretary Williams:

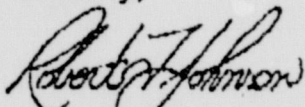
I have serious concerns regarding the recent agreement between the Chemical Manufacturers Association (CMA) and the Union Pacific and Southern Pacific. As a shipper of chemical products and a CMA member company, my company does not believe that this settlement addresses the concerns of the entire CMA membership.

CMA did not consult my company prior to entering into this agreement with the railroads. Apparently a CMA committee of only 15 members agreed to a settlement affecting the entire membership. The agreement does not reflect our views.

As we noted in our March 28 filing before your Board, we are very concerned that a significant number of our key rail segments would be serviced solely by the combined company. The agreement does not provide Burlington Northern Santa Fe any more shippers than those already included in the CMA analysis of the BNSF trackage rights. It does not alleviate the cost disadvantage suffered by BNSF. It merely expands BNSF's rights rather than providing for ownership of lines.

In short, we remain concerned about decreased service and increased rates. My company does not believe that the CMA agreement resolves the competitive problems for chemical shippers. Therefore, I strongly oppose the proposed agreement and believe CMA is not speaking for all chemical shippers.

Sincerely,



Robert F. Johnson
Manager-Rail Logistics

Montell
POLYOLEFINS



Montell USA Inc.
Three Little Falls Centre
2801 Centerville Road
P.O. Box 15439
Wilmington DE 19850-5439

Direct Line 302 996-6108
Facsimile 302 996-6057

Harry E. Beasley
Sr. Vice President Manufacturing
North America

April 24, 1996

Mr. Charles W. Van Vlack
Executive Vice President and COO
Chemical Manufacturers Association
1300 Wilson Boulevard
Arlington, VA 22209

Re: UP/SP Merger

Dear Charlie:

The settlement by CMA with the Union Pacific in the UP/SP merger proceeding is quite disturbing to Montell. Leaving aside the efficacy of the settlement generally, we are quite concerned with paragraph eight which deals with BNSF access to producers at Lake Charles and West Lake, Louisiana.

We filed comments with the Surface Transportation Board addressing our loss of competitive service options at our facility at West Lake Charles, and we requested the Board to empower BNSF to serve our plant, which is now served by the SP and by the KCS with interchange to the UP for movements to New Orleans, Houston, St. Louis and Chicago. The CMA settlement agreement with the UP not only excludes West Lake Charles from the covered BNSF access points, but also limits BNSF to serve only connections with New Orleans and the Mexican border points, limits its applicability only to facilities served by all of the UP, SP and KCS, and further serves to preclude Montell from establishing a relationship with the BNSF wherein cars initially are routed to storage and then dispatched to a customer location. Finally, there is a fee payable by the BNSF to serve the West Lake facilities, which may render BNSF's access uneconomic.

Undoubtedly, the UP will cite the CMA settlement to the Surface Transportation Board as resolving the Lake Charles area access issues raised by Montell, and also by Olin and PPG. Our counsel advises that he attended a portion of the April 16 Distribution Committee meeting, and that he strenuously objected to any consideration of this clause without full consultation with all affected producers. He reports that CMA's outside counsel, Mr. Stone, defended the clause, in its entirety; and he was not allowed to remain for the Committee's deliberations. Subsequently, the offending provision was adopted without change.

Mr. Charles W. Van Vlack
UP/SP Merger
April 24, 1996
Page 2

Montell is very displeased with the CMA's endorsement of such a provision, which effectively favors certain members of the CMA over others, such as Montell. As a member of the CMA, Montell had the reasonable expectation that the CMA would respond to our concerns and protect our interests in any settlement that would so directly impact our operations. That expectation was furthered by your telephone conversation with our Senior Vice President, Bob Ockun, on March 27 and Bob's follow-up letter to you of March 28.

It is clear to us that an error has been made by CMA in endorsing this portion of the settlement as a solution for all CMA members having interests in the Lake Charles area. Montell hereby requests that CMA management take immediate action to rectify the situation by contacting the other parties to the settlement agreement and compelling a revision of the offending provision to assure that Montell and the similarly situated CMA members are not competitively disadvantaged by such a provision. Montell would like to be involved in this renegotiation process to assist in explaining any areas of confusion that may have led to the problematic wording of this provision.

Thank you for your anticipated attention and cooperation.

Very truly yours,



Harry E. Beasley
Sr. Vice President
Manufacturing - North America

c: Mr. Frederick L. Webber
President and CEO
Chemical Manufacturers Association

Mr. R. J. Ockun
Montell USA Inc.
Wilmington, Delaware

jpd
hb_cmlt



PHILLIPS PETROLEUM COMPANY

BARTLESVILLE, OKLAHOMA 74004

918 661-6600

TRANSPORTATION SERVICES

April 25, 1996

The Society of Plastics Industry, Inc.
Maureen A. Healey, Director
1275 K Street, N.W., #400
Washington, D.C. 20005-4006
FAX: 202-842-1165

Dear Ms. Healey:

This letter is to inform you that Phillips has notified the Chemical Manufacturers Association that their recent settlement agreement with the Union Pacific Corporation **does not** represent the views of Phillips. CMA has never been the "lead" organization on issues such as rail mergers and other matters related to transportation legislation.

The current views of N.I.T.L. and SPI on the UP/SP merger are very closely aligned with Phillips' position.

If you have any questions, please feel free to call.

Very truly yours,

A handwritten signature in cursive script that reads "Fred E. Watson".

Fred E. Watson
Transportation Supervisor
328 Adams Building
918-661-6732

FEW/lv

cc: M. N. Harris - 324 Adams Bldg.

CONDEA Vista Company
900 Threadneedle
Houston, Texas 77079-2990
(713) 568-3000



April 26, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20004

RE: F.D. 32760

Dear Secretary Williams:

I am writing in response to the recently announced agreement between Union Pacific, Southern Pacific and The Chemical Manufacturers Association. As a chemical shipper (and a member of CMA and SPI), CONDEA Vista does not believe this agreement resolves the competitive problems identified by CMA and others in the March 29th filing. We continue to support the SPI position opposing their merger.

The agreement between CMA and UP/SP was reached with the input of a small number of CMA members, approximately 15 members. Such a small group of CMA members cannot speak for the entire membership, much less, all chemical shippers. Indeed, my company, and many other chemical shippers, were never even consulted before this small group entered into the agreement.

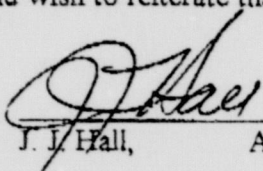
It is also important to note that the CMA is not supporting the merger and that its submittal recognizes that many member companies may oppose the merger.

One of the major reasons this agreement does not resolve the competitive problems is that it does not provide for ownership of lines. It merely expands the BNSF trackage rights, which are an ineffective substitute for ownership. Other reasons this agreement will not solve the competitive problems include:

- Does not provide BNSF any more shippers than were already included in the CMA analysis of the BNSF trackage rights. In other words, the CMA analysis stated that BNSF would not have a sufficient traffic base to allow BNSF to compete and the additional shippers granted access to BNSF under the CMA agreement were already included as potential shippers in the original CMA analysis.
- Does not alleviate the cost disadvantage suffered by BNSF.
- Does not address BNSF's lack of infrastructure, except in a limited way with respect to one facility.

In light of the above information, it is incorrect for UP and SP to decide that the CMA agreement resolves the competitive problems for chemical shippers. I, therefore, continue to strongly oppose the merger and wish to reiterate that the CMA is not supporting the merger.

Executed on

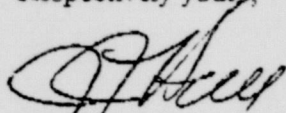


J. J. Hall,

April 26, 1996

I declare that the foregoing is a true and correct statement. Further, I certify that I am qualified and authorized to file this statement.

Respectively yours,



J. J. Hall

Manager, Distribution

THE GEON COMPANY

One Geon Center
Avon Lake, Ohio 44012
216-930-1000

April 29, 1996

Mr. Larry Thomas,
President
The Society of Plastics Industries
1275 K Street, N.W. Suite 400
Washington, D.C. 20005-4006

RE: Union Pacific Merger Proceeding

Dear Mr. Thomas,

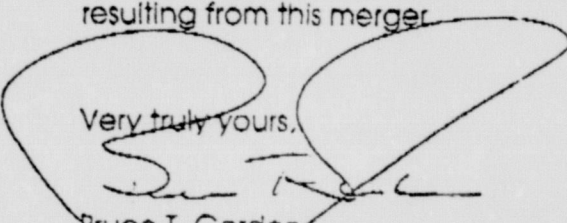
This is to confirm your conversation with our Mr. William Patient, President and CEO of The GEON Company. As you are aware we are members of both the Chemical Manufacturers Association (CMA) and The Society of Plastics Industries (SPI). The recently announced settlement of merger issues released by the Union Pacific and the CMA does not reflect the views of The GEON Company.

The concentration of market power in the remaining rail entities and the lack of an effective competitive plan by the Burlington Northern Santa Fe have not been addressed in the CMA deal.

The GEON Company does not agree with the change in position taken by the CMA and also does not feel that this agreement meets the claim of the UP to "make the merger competitive to the full range of rail shippers". We continue to support the SPI position in this merger proceeding.

The GEON Company is one of North America's leading producers of vinyl monomer, resins and compounds. Our major manufacturing facilities in Texas, Louisiana and California are directly affected by the reduced competition resulting from this merger.

Very truly yours,



Bruce T. Gordon
Director Operations Planning & Logistics.



The Dow Chemical Company
Midland, Michigan 48674

2020 DOW CENTER
March 15, 1996

Linda J. Morgan, Chairman
Surface Transportation Board
Department of Transportation
1201 Constitution Avenue, NW, Room 4126
Washington, D.C. 20423

Subject: Finance Docket 32760 - Union Pacific Corporation Control & Merger -
Southern Pacific Corporation

Dear Ms. Morgan:

The Dow Chemical Company wishes to make a statement concerning the proposed acquisition of the Southern Pacific Corporation (SP) by the Union Pacific Corporation (UP).

The Dow Chemical Company is a major rail shipper of chemicals and plastics, spending more than \$180 million on railroad freight with U.S. railroads in 1995 of which \$135 million was from production plants located in Texas and Louisiana. Dow also ships rail cars from plant sites in several other states.

Dow has serious concerns about the anti-competitive aspects of the proposed acquisition. Dow and the chemical industry rely on rail transportation to safely and economically transport their products. The largest railroads have sought to improve their efficiency, reduce costs, and improve service through mergers over the last two decades. These mergers have reduced the number of Class I railroads from 40 in 1980 to 11 today. Of those 11, there are 6 major railroads that handle 90 percent of rail traffic transported in the continental United States.

The chemical industry is a significant contributor of profits to the railroads due in part to the fact that it generates 14 percent of their total revenue, while producing 9 percent of the volume of freight transported. Rail is the most common mode of transportation for commodity chemicals such as chlorine, plastics, bulk petrochemicals, alkalis, and industrial inorganic chemicals.

The announced UP/SP merger is expected to result in the establishment of one rail carrier that will transport 35 percent of all U.S. chemical rail tonnage and about 50 percent of chemical rail tonnage originating in the Texas/Louisiana region. In the case of large volume plastics products such as polyethylene and polypropylene, combined Texas/Louisiana UP/SP origins account for about three-quarters of the Texas/Louisiana production of these plastics and about 40 percent of this production will be "captive" to the UP/SP after the proposed merger. The merger is expected to have a direct significant economic impact on Texas and Louisiana, key areas of operation for Dow and other chemical and plastics producers.

Whereas the Burlington Northern/Santa Fe (BNSF) merger largely was an end-to-end merger with some pockets of parallel service, a merger of the UP and SP will involve

SURFACE TRANSPORTATION BOARD

March 15, 1996

Page 2

approximately equivalent portions of end-to-end and parallel combinations. The principal area of parallel service is the Gulf Coast petrochemical belt which is the heart of U.S. plastics and chemical production, with overlapping routes running from the production centers in the Gulf Coast to western markets and through the New Orleans, St. Louis, Memphis, and Chicago gateways to the southern, midwest, and eastern markets.

The UP, recognizing that its proposed merger with SP generates serious competitive problems, has proposed a solution in the form of an agreement with BNSF to provide BNSF with extensive trackage rights over the combined UP/SP system. Dow is concerned that this solution will not provide effective competition for chemical and plastics shippers faced with the elimination of existing or potential dual service (UP and SP) or a general shrinkage of viable rail alternatives along its traffic lanes.

The UP/SP/BNSF agreement has the effect of creating a duopoly of western railroads that together will control over three-quarters of all western rail tonnage. While, on the surface, the UP/SP/BNSF agreement provides competition in situations where shippers would be directly reduced from two serving carriers to one, the general reduction in the number of carriers will have the effect of reducing overall rail competition. Further, if the UP/SP merger and the UP/SP/BNSF agreement are approved as proposed, the merged railroads will enjoy general anti-trust immunity, unlike other traditional industries.

Trackage rights alone are not an adequate substitute for two independent competing rail carriers, where each carrier has its own route structure and is not dependent on the other carrier to provide the infrastructure and control the access to its system. The UP's control of BNSF's cost of access and its operations on the UP system would bring into question the ability of BNSF to provide effective infrastructure, service, or competition. Dow believes that a more effective solution to ensuring the maintenance of rail competition for the Gulf Coast chemical industry is for the Surface Transportation Board to require UP/SP to divest itself of parallel rail lines in the region of Texas and Louisiana, and eastern SP lines into the midwest. Having these lines purchased by a viable, independent third carrier, such as Conrail amongst others, will offer better assurance that a reasonable level of competition can be realized.

I, WILLIAM L. GEBO, declare under penalty of perjury that the foregoing is true and correct. Further I certify that I am qualified and authorized to file this verified statement, executed on MARCH 15, 1996.

William L. Gebo

Name

Manager, Rail Services Purchasing

Title

The Dow Chemical Company

Company

2020 DOW CENTER

MIDLAND, MICHIGAN 48674

Address

Sincerely,

W. L. Gebo

W. L. Gebo
Manager, Rail Services Purchasing

gmh

STATE OF MICHIGAN)
)
COUNTY OF MIDLAND)

On March 15, 1996, William L. Gebo personally appeared before me, who is personally known to me to be the signer of the above document, and he acknowledge that he signed it.

Jolene S. Kaufman
Jolene S. Kaufman, Notary Public

JOLENE S. KAUFMAN
Notary Public, Midland County, Michigan
My Commission Expires October 16, 1997

Vinyl Building Products Group

CertainTeed Corporation
P.O. Box 888
Bulphur, LA 70064
(518) 863-1441

CertainTeed ■

April 25, 1996

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20004

Re: F.D. 32760

Dear Secretary Williams:

I am writing in response to the recently announced agreement between Union Pacific, Southern Pacific and The Chemical Manufacturers Association. As a chemical shipper my company does not believe this agreement resolves the competitive problems identified by CMA and others in the March 29th filing.

The agreement between CMA and UP/SP was reached with the input of a small number of CMA members, approximately 15 members. Such a small group of CMA members cannot speak for the entire membership, yet alone all chemical shippers. Indeed, my company, and many other chemical shippers, were never even consulted before this small group entered into the agreement.

One the major reasons why this agreement does not resolve the competitive problems is that it does not provide for ownership of lines. It merely expands the BNSF trackage rights, which are an ineffective substitute for ownership. Other reasons why this agreement will not solve the competitive problems include:

- . Does not provide BNSF any more shippers than were already included in the CMA analysis of the BNSF trackage rights. In other words, the CMA analysis stated that BNSF would not have a sufficient traffic base to allow BNSF to compete and the additional shippers granted access to BNSF under the CMA agreement were already included as potential shippers in the original CMA analysis.
- . Does not alleviate the cost disadvantage suffered by BNSF.
- . Does not address BNSF's lack of infrastructure, except in a limited way with respect to one facility.

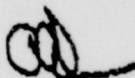
Mr. Vernon A. Williams
April 24, 1996
Page 2.

In light of the above information, it is incorrect for the UP and SP to decide that the CMA agreement resolves the competitive problems for chemical shippers. I, therefore, strongly oppose the proposed agreement and believe CMA is not speaking for all chemical shippers.

I, Charles A. Gellner, state that the foregoing is a true and correct statement. Further, I certify that I am qualified and authorized to file this statement.

Executed on: April 25, 1996

Respectfully yours,



C. A. Gellner
Vice President
Polymer Operations

UNION CARBIDE CORPORATION 39 OLD RIDGEBURY ROAD, DANBURY, CT 06817-0001

W. WILLIAM LINDNER
VICE PRESIDENT
PURCHASING

April 29, 1996

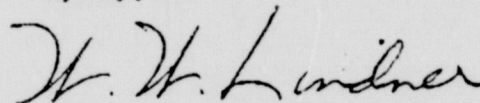
Mr. L. L. Thomas
President
The Society of the Plastics Industry
1275 K Street, N.W.
Washington, DC 20005

Dear Mr. Thomas:

Union Carbide is highly supportive of SPI's opposition to the Union Pacific/Southern Pacific merger as presently proposed. Indeed, we have filed our own protest and request for conditions with the Surface Transportation Board.

SPI has thus far effectively communicated the particularly severe impact this merger would have on the plastics industry. We urge the SPI to continue its effective representation of the interests of the plastics industry in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "W. W. Lindner". The signature is fluid and cursive, with the first and last names being more prominent than the middle initial.

WWL:cam

BNSF Burlington Northern Santa Fe

1700 East Golf Road Schaumburg, Illinois 60173-5860 (847) 995-6000

April 15, 1996

Via Federal Express and Telecopy 703/741-6092

Thomas Schick, Esq.
Chemical Manufacturers Association
1300 Wilson Boulevard
Arlington, Virginia 22209

Via Federal Express and Telecopy 202/457-6315

Scott N. Stone, Esq.
Patton Boggs, LLP
2550 M Street, N.W.
Washington, DC 20037-1350


Re: STB E.D. 32760. Union Pacific - Control and Merger - Southern Pacific

Gentlemen:

This is in response to your request for a further statement of the plans and intentions of Burlington Northern Railroad and Santa Fe Railway for service to members of The Chemical Manufacturers' Association ("CMA") to whom BNSF would gain access under our Settlement Agreement with Union Pacific and Southern Pacific ("UP/SP").

Forwarded herewith is a brief summary of our current plans and intentions in this area, assuming the UP/SP transaction is approved and our Settlement Agreement is implemented, with the modifications proposed by UP/SP.

Very truly yours,


Jeffrey R. Moreland
Senior Vice President &
General Counsel

EXECUTIVE SUMMARY

This is to summarize the current plans and intentions of Burlington Northern Santa Fe ("BNSF") for service to Gulf Coast chemical and plastic shippers under our Settlement Agreement with Union Pacific and Southern Pacific if the UP/SP transaction is approved. This material is being provided to the Chemical Manufacturers Association ("CMA") in response to its request, in order to facilitate settlement negotiations BNSF has been advised are taking place between CMA and Union Pacific, and which would also resolve issues with respect to CMA support of the BNSF Agreement as the exclusive and sufficient solution to competitive issues raised by a UP/SP transaction in this area.

BNSF personnel from multiple departments are proceeding with efforts to fully implement the BNSF-UP/SP Settlement Agreement. This effort includes detailed physical inspection and operational planning for services to customers on and via the trackage rights lines. The overall process would fully implement the settlement agreement and lead to the commencement of BNSF service in these areas upon approval of the UP/SP transaction, if it is approved.

The Settlement Agreement presents BNSF with a new market opportunity to reach additional plastics and chemical shippers on the Gulf Coast and to improve service offerings to shippers now served by BNSF. BNSF expects to be able to offer competitive service at competitive rates to these customers, assuming there are

approximately 130,000 carloads available for competitive bidding by BNSF in 1997, as discussed below, and assuming BNSF's trackage rights are implemented in accordance with the Settlement Agreement, in particular with the modifications that have been discussed with UP. These modifications include addressing particular operational issues such as bi-directional operation between Houston and East St. Louis and modification of the trackage rights compensation basis with, at BNSF's option, either future adjustments to the current mill rate to made on the basis of actual changes in UP/SP's system costs, including productivity improvements, or the trackage rights compensation to be based upon a traditional joint facility basis with actual maintenance costs and interest rental based upon depreciated book value at the current cost of capital, both prorated for usage. The operational and other improvements UP has advised will be made in these and other areas would significantly improve our service capability and transit time between Texas and the East St. Louis gateway.

We anticipate our competitive price and service capabilities to be sufficient for BNSF to capture at least 25% initially and up to 50% over time of the new traffic to which we would gain access. BNSF's current share of the approximately 80,000 cars annually to which BNSF presently has access off of the open points in the Houston market is approximately 50%. Assuming implementation of the settlement agreement and the changes discussed with UP, we anticipate capturing a substantial share of the overall

approximately 130,000 cars to which we would have access with the Settlement Agreement (reflecting our share of both the 90,000 car base to which BNSF presently has access -- this includes the above mentioned 80,000 cars and another 10,000 cars to which BNSF has access -- plus the new traffic to which we would gain access), making our volume approximately 70,000 cars annually. The new traffic combined with our existing traffic which can be rerouted over the trackage rights will clearly support the daily train service we envision between the Gulf Coast and New Orleans and the Gulf Coast and the Memphis and East St. Louis gateways. -

The results of our planning process so far has indicated that there is no need for substantial capital investment to provide this service beyond that anticipated for traffic growth in general. This traffic moves in shipper supplied equipment and thus requires no railcar equipment acquisition by BNSF for immediate handling. The amendments proposed by UP to the Settlement Agreement that would commit UP to make SIT yard capacity available to BNSF on the same terms for the same duration that UP/SP has access to on the Baytown branch are clearly sufficient for BNSF to capture a significant share of the new business to which it would gain access. BNSF also has the right and capability to invest in its own exclusive facilities to be located along these lines. We envision, for example, a \$10-15 million investment in SIT capacity will be made if required to provide the service expected by our customers. Also, BNSF is taking delivery of 87 new locomotives in

1996 at a cost of over \$135 million and will shortly be seeking Board authorization to acquire an additional 150 new locomotives for delivery before the end of the year. One of the reasons we are acquiring these additional locomotives is to be in a position to immediately handle the additional traffic if the UP/SP merger is approved.

The historic margins for chemical and plastics traffic would clearly support capital investments in additional equipment and capacity improvements as shipper commitments of sufficient volume and duration are obtained. When required, BNSF is committed to making the capital investments necessary to handle this traffic, including motive power, connections and storage in transit ("SIT") yard capacity.

April 15, 1996

A seasoned railroad observer and author raises some questions about the West's next big merger

BY MARK W. HEMPHILL

ON AUGUST 3, 1995, the Union Pacific Corporation and Southern Pacific Rail Corporation announced agreement to merge in a \$5.4 billion transaction. On November 30, the two holding companies applied to the Interstate Commerce Commission for permission to merge. If the ICC's successor—the Surface Transportation Board (STB) of the U.S. Department of Transportation—approves the merger, they and their subsidiaries will combine in late summer 1996 to create the nation's largest railroad at 34,000 miles, with track in 24 states. Two dominant railroads will remain west of the Missouri River: UP (the surviving corporation of UP and SP) and Burlington Northern Santa Fe (BNSF).

With its December 22, 1995, supplement, the merger application runs more than 8000 pages. The document concludes that the merger will create effective competition to BNSF, assure shippers of transportation options, and be a good thing for railroads, shippers, and the public alike. This will happen, according to the application, because the merger will enable UP and SP to achieve efficiencies they cannot achieve on their own. In essence the application argues that the ICC erred in permitting the BNSF merger because that merger has reduced competition. Now, however, the STB can boost competition by allowing another merger.

The application's logic goes as follows: SP has for many years

been a financially weak carrier, with good routes and excellent potential but unable to attract the capital necessary to compete on its own. Hence, SP cannot attract sufficient business to afford reinvestment in its property, evidenced by its pressing need for more track, yards, locomotives, cars, and computer systems. Eventually inadequate reinvestment will cause SP to fail, resulting in loss of essential rail service and competition. SP's tenuous condition has been exacerbated by the formation of BNSF, a railroad of such size and power that even UP's competitive ability is called into question.

The application requires SP and UP to take several paradoxical positions. SP now fears financial failure looms, whereas up until the day of the merger announcement SP's public statements emphasized progress toward financial success and a lower operating ratio through debt reduction, plant reinvestment, and marketing. SP now complains

that the BNSF merger is anticompetitive. Last year it had ample opportunity to oppose that merger before the ICC but instead agreed in April 1995 to not oppose it in return for some trackage rights. UP now asserts that the BNSF merger is anticompetitive, whereas a year ago it tried to buy Santa Fe and assemble a railroad of similar proportions.

Interestingly, UP and SP began merger discussions in mid-1994 and continued off and on after that date, but did not make that fact public until after their boards reached agreement on the terms of the merger on August 3, 1995, just before the ICC approved the BNSF merger.

BY LAW, THE STB MUST CONSIDER the public benefits of a railroad merger. The public benefits when merged railroads achieve efficiencies which allow faster and more reliable transportation, more effective competition with other transportation modes, lower rail rates, and a healthier railroad system. The public does not benefit if a merger gives a railroad market dominance, allowing that railroad to raise rates. When it measures how a merger affects the public's interest the STB is guided by Congress's intent to encourage mergers that rationalize and improve the rail system. This intent dates from the 3R Act of 1973, the 4R Act of 1976, and the Staggers Rail Act of 1980, legislation written in the shadow of Penn Central's bankruptcy and the ICC's 10-year long review of the abortive UP-Rock Island merger.

Under sunset legislation created in 1995 to abolish the ICC, there was a good chance that railroads would lose their anti-trust exemption in merger cases. Review responsibility for railroad mergers, under what was known as the Duckworth/Bond amendment, would pass to the Department of Justice, which historically has looked upon industrial concentration with disfavor. The day the Senate was to vote on this amendment, UP Corp. Chairman Drew Lewis spent much of the morning with Utah Republican Sen. Orrin Hatch. Hatch and



JOHN B. CORNS

UP + SP: In w

Utah's other senator, Republican William Bennett, originally had indicated they would vote for this provision, as requested by Utah Gov. Mike Leavitt and a preponderance of Utah rail shippers. After meeting with Lewis, Hatch voted against the amendment, and convinced Bennett to change his vote.

Lewis, a longtime GOP insider, was secretary of transportation during the Reagan administration. SP Rail Corp. Chairman Philip Anschutz is a fund-raising chairman for Republican Robert Dole's presidential campaign. Since 1990, UP has contributed more to congressional campaign funds than any other railroad.

After UP and SP announced their intent to merge, many shippers and government officials voiced concerns that the merger would allow UP to exercise market dominance in much of the West, particularly in the Chemical Coast of Texas and Louisiana, and in the Central Corridor states of Colorado, Utah, and Nevada. Anticipating these concerns, UP and SP reached a settlement agreement with BNSF on September 25, 1995. This agreement, which becomes effective if the STB approves the merger, gives BNSF access to all customers currently served by both UP and SP, the "2-to-1" customers.

The agreement has not mollified many shippers and states. Most shippers in Utah and western Colorado, as well as the State of Utah, dismiss the pact with BNSF as "window dressing," in the words of Alex Jordan, director of the Western Shippers Coalition. They believe BNSF has no interest in competing in the Central Corridor. BNSF already has a good route to the Bay Area, so it doesn't need the Central Corridor for overhead business. Because BNSF pays for its UP trackage rights only when it exercises them, not in advance, BNSF pays no penalty if it chooses to not compete in the Central Corridor. The coalition believes the agreement, which charges BNSF 3.0 mills per ton-mile for bulk business and 3.1 mills per ton-mile for intermodal and carload business, prices BNSF out of the market. And, by limiting BNSF to

only 2-to-1 customers and denying BNSF access to SP-only customers, the coalition believes UP could establish a transportation monopoly in much of the West.

UP and SP argue that vigorous competition will result with only two railroads in the West, citing the Southeast, which has only CSX and Norfolk Southern. This comparison overlooks fundamental geographic differences; since the Southeast is more densely populated, Southeastern shippers are less rail-dependent than Western shippers.

UP and SP have also reached agreements with Illinois Central and Utah Railway, allowing them certain rights in exchange for their support. But other railroads are proving less tractable. Kansas City Southern and Conrail have asked the STB to make the merger conditional on UP allowing other railroads access to large portions of the SP system, principally SP subsidiary Cotton Belt. Much remains to unfold in this arena,

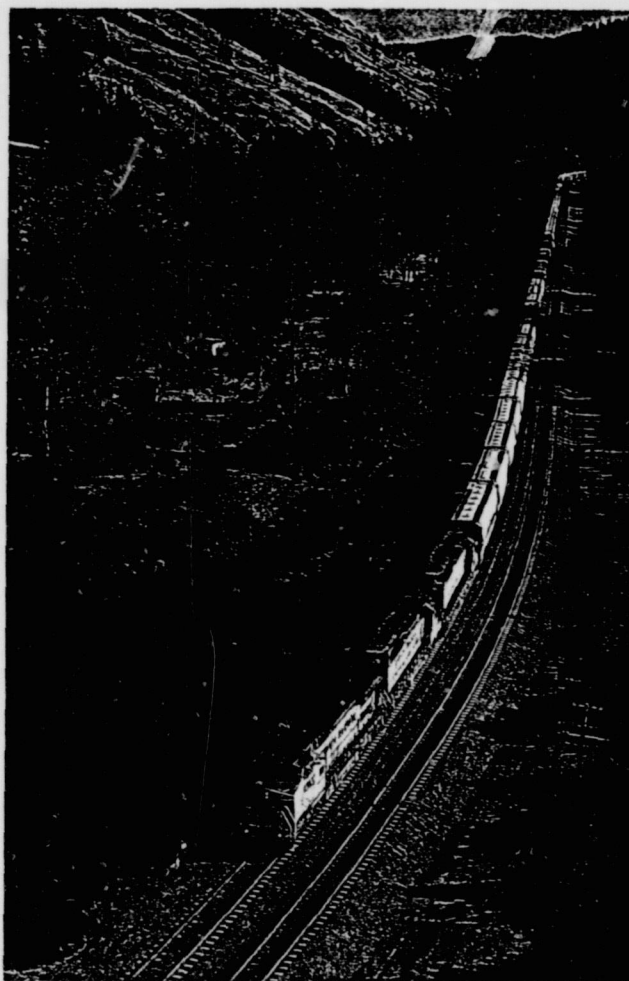
but KCS has already lost its battle to extend the merger's review period past the current accelerated schedule of 255 days.

AS IS COMMON in such large mergers, the principal figures will reap big benefits. Philip Anschutz pockets \$1.6 billion for his shares. SP's top officials benefit; they share a \$12 million golden parachute. SP Lines Chairman and CEO Jerry R. Davis receives \$3 million, and SP will forgive the remainder of an interest-free home loan. SP security holders benefit; they receive \$25 or 0.4065 shares of UP common stock (valued as of January 29, 1996, at \$65.50 share, which makes one SP share worth \$26.63) for each of their shares that in early 1995 sold for as little as \$14.50 a share. But it's possible SP's stock would be worth more if the merger was to occur next year or never—that was the prediction when SP conducted its initial public offering in early 1994.

What about UP's security holders? UP is telling them it's smart to pay \$5.4 billion for a company (SP) which asserts it can't compete. It's fair to ask why UP is in a hurry to buy SP. If SP really is failing—and the evidence for this is unclear—perhaps UP could wait a year and save stockholders a billion dollars. Apparently no one believes UP is paying too little for SP, since no one has made a competitive bid.

UP asserts that post-merger efficiencies will enable it to pay for SP, substantially increase its rate of capital investment in the two railroads, attract business now moving by BNSF, trucks, and waterways, and do all this in a shrinking economy. Presumably the merger will increase the value of UP securities more than if it had not bought SP. UP has had success with prior rail acquisitions, whereas non-rail acquisitions such as trucking firm Overnite Transportation (added in 1986) and hazardous waste handler USPCI (added in 1988) were not successful.

It's difficult to analyze UP's claim that the merger will bring efficiencies that boost traffic at lower costs and higher profits, because UP is the only source for



GARY J. BENSON

those interest?

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 Monday, January 22, 1996

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

ALDERSON REPORTING COMPANY, INC.

(202)289-2260 (800) FOR DEPO
1111 14th ST., N.W., 4th FLOOR / WASHINGTON, D.C., 20005

1 Q. At what point in time did you see a
2 draft?

3 A. I think it was right after Christmas.

4 Q. Did you at the time you negotiated the
5 BN/SF agreement have any information about the
6 nature of the service that BN/SF would offer on
7 the trackage rights lines in question?

8 MR. ROACH: Can I hear the question
9 back.

10 THE REPORTER: "Question: Did you at
11 the time you negotiated the BN/SF agreement have
12 any information about the nature of the service
13 that BN/SF would offer on the trackage rights
14 lines in question?"

15 MR. ROACH: I'll let you answer.

16 THE WITNESS: The answer is I did not
17 have any detailed knowledge of what BN/Santa Fe
18 was proposing to do, but I was very confident
19 that this is the biggest, meanest, toughest
20 competitor we've got in the west and that they
21 were going to put on a level of service that was
22 going to give us a run for our money.

23 BY MR. HUT:

24 Q. You didn't know at the time you
25 negotiated the agreement, did you, for example,

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Page Count 29

Apr #379

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April 29, 1996

VIA HAND DELIVERY

Mr. Vernon A. Williams
Surface Transportation Board
Case Control Branch
Room 1324
1201 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 Secretary Williams:

Enclosed for filing in the above-captioned case are one
original and twenty copies of Further Comments of Consolidated
Rail Corporation in Response to the "CMA Settlement Agreement,"
designated as document CR-37.

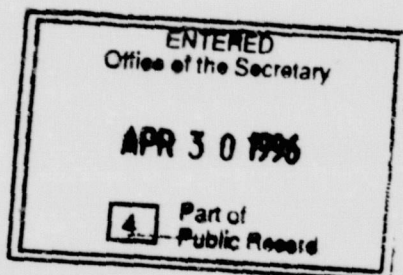
Also enclosed is a 3.5-inch WordPerfect 5.1 disk
containing the text of CR-37.

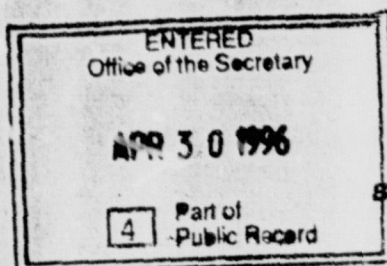
Sincerely,

A. Stephen Hut, Jr.
A. Stephen Hut, Jr.

Attorney for Consolidated
Rail Corporation

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

FURTHER COMMENTS OF CONSOLIDATED RAIL CORPORATION
IN RESPONSE TO THE "CMA SETTLEMENT AGREEMENT"

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April 29, 1996

Introduction

The "Settlement Agreement" recently entered into among Applicants,^{1/} the Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company ("BNSF"), and the Chemical Manufacturers Association ("CMA") raises more questions than it answers. This agreement, which Applicants wish the Surface Transportation Board ("Board") and other parties to view as "important," apparently would amend two earlier agreements between Applicants and BNSF (the first executed on September 25, 1995, the second as a supplement to the first on November 18, 1995); no amended agreement has yet been filed. Since Applicants and BNSF have expressly sought entry of the prior BNSF agreements as conditions to approval of the merger, the CMA agreement is a request for condition to which interested parties may file responses under Decision No. 6 (Oct. 19, 1995) and Decision No. 31 (Apr. 19, 1996).^{2/}

Even in the short period of time that Consolidated Rail Corporation ("Conrail"), like all other interested parties, has had to review the CMA agreement, it has become clear that this agreement raises numerous unanswered questions and concerns.

^{1/} As the Board knows, Applicants are the Union Pacific entities ("UP") and Southern Pacific entities ("SP") identified in the caption of the proceeding.

^{2/} Decision No. 31 (at 3) states that "[p]arties may file on April 29 . . . in response to other parties' comments, protests, requests for conditions, and other opposition evidence." If for any reason the Board believes that these comments may not now be filed as of right under Decision No. 31, Conrail requests that this filing be treated as a motion for leave to file the responsive comments contained herein.

These go to the heart of the agreement's intended purpose: remedying the anticompetitive effects of the proposed UP-SP merger. Even on brief review, it has become clear that this agreement like its predecessors, fails as a remedy. It fails because it does not address (or, therefore, alleviate) many of the operational deficiencies in the earlier BNSF agreements that render BNSF unable to replicate the competitive role that an independent SP plays today. Moreover, like all of its predecessors, the CMA agreement appears to create operational problems of its own.

In sum, like the several agreements that preceded it, the CMA agreement appears to fall far short as a remedy for the acknowledged competitive harms that the merger would produce in the SP East region.^{3/} Conrail briefly identifies below some of the reasons why SP East shippers should -- and do -- have continued concerns, notwithstanding Applicants' newest concessions, about the quality of service that SP East shippers would receive from BNSF over the trackage rights that are the subject of the BNSF agreements.

Conrail emphasizes, however, that, given the limited time available and the fact that the precise language of the proposed amendments are at this writing unknown to the public and to the Board, it has not been possible to analyze the CMA deal in

^{3/} Conrail here uses the term "SP East" as it is defined in the Verified Statement of Ronald J. Conway, Lester M. Passa, and John P. Sammon, at 6-7, submitted with Conrail's March 29, 1996 filing, CR-22 ("V.S. Conway/Passa/Sammon").

depth or to proffer detailed evidence on its new terms or on the BNSF operations they appear to contemplate. Further study will obviously be required to do that. Indeed, absent a reasonably detailed description of proposed BNSF operations -- which Applicants and BNSF have thus far failed to provide -- it will be difficult at any stage for any party (or the Board) to make a complete assessment whether the latest agreement cures some or any of the problems raised by the earlier BNSF agreements -- and thus cures the anticompetitive harms presented by the merger.

Nonetheless, from what little Applicants have already said, it is reasonably clear that Applicants expect to rely heavily on these latest revisions to the BNSF agreements as justification for the merger.^{4/} Moreover, it is difficult to overstate how central the prior BNSF agreements are in this Application. As a result, Conrail and many other parties devoted their March 29, 1996 comments, and much discovery, to probing the efficacy of these agreements. Now, after the March 29 filings, Applicants have changed the agreements with BNSF, and therefore the Application, in a way and at a time that denies the parties any real opportunity for analysis of those changes. This is classic "bait and switch." For these reasons, and those Conrail expects will become evident in the submissions made by Applicants and BNSF on April 29, 1996, Conrail respectfully requests that

^{4/} See Applicants' Submission of Settlement Agreement with CMA, UP/SP-219 (Apr. 19, 1996), at 1: "Applicants will address this important settlement in their rebuttal filing."

the Board allow additional time for submission of further comment and evidence on Applicants' latest effort.^{5/}

Background

The "CMA Settlement Agreement" is the seventh attempt by Applicants to remedy the anticompetitive harms that they acknowledge would be produced by the proposed merger. The ink was scarcely dry on the merger agreement itself when Applicants entered the original BNSF agreement ("BNSF I") providing for a vast grant of nearly 4,000 miles of trackage rights to BNSF -- a grant that many parties described as unprecedented and as inadequate to fix what Applicants acknowledged to be anticompetitive harms. (Application, vol. 1, pp. 318-347.) Indeed, BNSF I has been accurately called no more than a "fig leaf" to cover the glaring competitive harms caused by the merger in the SP East region.^{6/}

^{5/} Conrail understands that a motion being filed by The Kansas City Southern Railway Company ("KCS") forcefully argues that, in fact, these changes necessitate an amendment to the application, with further opportunity for interested parties to take discovery and comment. If the Board chooses not to follow the course argued for by KCS, Conrail suggests that the CMA agreement is, at a minimum, a new request for condition, and thus untimely since, pursuant to Decision No. 6, all such requests had to be made by March 29, 1996. It should therefore be struck from the record.

^{6/} See Comments of the Society of the Plastics Industry, Inc., SPI-11, (Mar. 29, 1996), at 31 ("SPI Comments").

Thereafter, and even before the date for public comment on the merger and on the efficacy of the BNSF I deal, Applicants effectively acknowledged its inadequacy. First, they negotiated substantial amendments resulting in a supplement to the BNSF I deal ("BNSF II") (*id.*, pp. 348-359). Then, following BNSF II, Applicants negotiated new agreements with the Illinois Central Railroad Company, the Utah Railway Company, the Wisconsin Central Ltd., and the Gateway Western Railway Company in what Applicants now effectively concede to be unsuccessful further attempts to address the competitive harms of their proposed merger.^{7/}

These six previous tries were not sufficient to staunch an outpouring of opposition to the merger from shippers, shipper associations, public officials in affected states, and others. Thus, the National Industrial Transportation League, the Society of the Plastics Industry, the Governors of Louisiana, Missouri, and Ohio, the Attorneys General of Arkansas, Louisiana, Texas, and Missouri, the Railroad Commission of Texas, and hundreds of individual shippers submitted comments on or before March 29, 1996 describing the merger as massively anticompetitive and the BNSF I and II deals (and the agreements with the four other railroads) as ineffective to remedy the identified anticompetitive harms.

^{7/} See Applicants' Submission of Settlement Agreements with Utah Railway and Illinois Central, UP/SP-74 (Feb. 2, 1996); Applicants' Submission of Settlement Agreements with Gateway Western and Wisconsin Central, UP/SP-204 (April 8, 1996).

Two weeks later, the United States Department of Justice expressed deep concern over predicted "substantial reduction in competition in numerous markets," "post-merger price increases [of] about \$800 million," and "vastly overstated" efficiencies. Comments of the United States Department of Justice, DOJ-8 (April 12, 1996), at 2, 9. The Department called the BNSF I and II trackage rights deals "ineffective to prevent the widespread anticompetitive effects likely to arise from the proposed transaction," id. at 2, and pointed to "factors that reduce BNSF's incentive to compete using the trackage rights." Id. at 9.

Discussion

Forced back to the drawing board, Applicants (and BNSF) now present BNSF III in the form of the CMA agreement. But given the history of their unsuccessful efforts to devise an effective remedy to date -- notwithstanding the claims for them -- there is no reason to assume that this latest try will be any better than its predecessors. Certainly, absent any detail about proposed BNSF operations under the revised trackage rights scheme, there is no reason to give Applicants or BNSF the benefit of any doubt on this score.

In fact, there is every reason to think that this latest attempted "fix" will be no more efficacious than the previous ones. The thrust of the examples that follow is not to

prove this assertion definitively (a week's time being inadequate to that task), but to begin the analysis and to suggest to the Board reasons why it and the public would benefit from allowing parties the time to do so.

- Nothing in BNSF III addresses BNSF's service problems in Houston. As BNSF's former Chairman Gerald Grinstein candidly acknowledged, BNSF faces a "severe service disability" in Houston, where it has not been "as good a competitor as [it] should be."^{8/} In contrast to SP today (and to UP/SP post-merger), BNSF lacks traffic volume and the consequent ability to avoid blocking and classification in Houston. Instead, BNSF would be forced to use at least one terminal carrier (and sometimes two) in the process -- with attendant delay and cost. Since Houston is the acknowledged hub of all BNSF service over lines in the SP East region to which it would have access under BNSF I, BNSF II, and BNSF III, BNSF service over such lines would be incurably hobbled -- and, for much of the traffic, worse than what SP shippers have today.^{9/}

- It is by no means clear that BNSF trackage rights operations between Northeast Arkansas and St. Louis would allow

^{8/} Transcript of the Deposition of Gerald Grinstein (Feb. 16, 1996), at 161 ("Grinstein Dep. Tr."). The deposition pages cited here and below are at pages 17-18 of Conrail's Appendix: Deposition Excerpts, CR-36.

^{9/} See the Verified Statement of R. Paul Carey, Lawrence L. Ratcliffe, and William H. Sheppard, at 11-15, submitted by Conrail on March 29, 1996 (CR-22) ("V.S. Carey/Ratcliffe/Sheppard"), for a further description of the Houston problems. BNSF III does not purport to address these problems.

it to provide more cost-effective service than use of its own track. If BNSF uses its own track from Memphis into St. Louis via the west bank of the Mississippi River, its service suffers in comparison with SP's today because of greater circuitry and greater reliance on terminal carriers (with associated costs and time). But avoiding these problems by using UP or SP track to East St. Louis pursuant to BNSF III -- assuming the track could accommodate increased traffic density -- would force BNSF to incur other disabilities. First, shifting traffic to these trackage rights lines would reduce the economies of scale gained by the aggregation of traffic on BNSF's owned lines north of Houston -- through Tulsa and Springfield, Missouri, and possibly through Memphis. Second, trackage rights operations may fail to produce investment and market development incentives sufficient to attract significant traffic. Third, operating over trackage rights lines would give rise to transactions costs, arising from dispatching and other disputes and attendant litigation and regulatory oversight (explicitly contemplated in BNSF III, see ¶¶ 13, 14).^{10/} Finally, using UP or SP track to East St. Louis pursuant to BNSF III would obviously require BNSF to incur additional costs in the form of trackage rights fees with no relief from costs incurred on its own routes. Thus, whether operating over its own tracks or pursuant to trackage rights,

^{10/} Such transactions costs are more fully described in the Verified Statement of Richard L. Schmalensee, at 23-24, CR-22 ("V.S. Schmalensee").

BNSF service would incur greater costs than SP today or UP/SP post-merger.

- BNSF would not be likely to provide run-through service at East St. Louis that SP provides today. Today, by virtue of its traffic volume, important segments of SP traffic interchanged with Conrail for delivery to northeast markets can bypass classification and blocking in East St. Louis. Absent traffic in comparably large volumes, BNSF would not be able to do so, and service would deteriorate from its current levels.

- The BNSF route over UP and SP lines to Valley Junction, MO (BNSF III, ¶ 1) is of doubtful value. BNSF would have to use track owned by Alton & Southern Railway Company ("A&S") to access Gateway Yard and other eastern connections at East St. Louis. UP and SP are 50-50 owners of A&S. Nothing in BNSF III speaks to the charges (or other terms) that would be imposed on BNSF by these A&S owners for using such A&S trackage -- charges that only recently were significantly increased. (See V.S. Carey/Ratcliffe/Sheppard, at 31 n.11, CR-22.) Moreover, Section 7(c) of the original BNSF agreement (BNSF I) provided that BNSF would be assessed charges for the use of Gateway Yard equivalent to what is charged to other non-owners of A&S (Application, vol. 1, p. 328); nothing assures BNSF the benefit of charges equal to the costs paid by the owners UP and SP.

- Permitting BNSF to operate northbound on primarily directional northbound routes in the Houston-St. Louis corridor

would likely create as many problems as it solves. From the face of BNSF III (¶¶ 1, 10), it is unclear whether (or under what circumstances) BNSF would operate northbound over what would be primarily southbound lines. If it does, its service would encounter the same operational impediments as Conrail and other parties have earlier described.^{11/} But if it does not, the resulting operation would add substantially to BNSF's circuitry, transit time, and cost for service to northgoing shippers with facilities located on the primarily southbound lines. The traffic of those shippers would be directed far out of route in order to link up eventually with the directional flow.^{12/}

- BNSF III does not address the problem of switching and classification yard capacity that would be unavailable to BNSF. As Conrail has noted, post-merger BNSF would have access to only 12 per cent of the switching and classification yard facilities in the Texas-Louisiana Gulf area, less than one-

^{11/} See, e.g., V.S. Carey/Ratcliffe/Sheppard, at 16-29, CR-22; Verified Statement of Thomas D. Crowley, at 58-59, submitted with SPI Comments, SPI-11 (Mar. 29, 1995) ("V.S. Crowley").

^{12/} For example, International Paper Company ("IP") has a facility located in Camden, AR, on the SP line intended, post-merger, for primarily southbound flow. If BNSF does not operate northbound on this line, but only operates southbound, then IP traffic to Memphis (or beyond) might have to be routed first south, possibly as far as Houston, before turning around to head north on the primarily northbound UP line back to Memphis.

quarter of what SP has today.^{13/} BNSF III does not address this imbalance.^{14/}

• BNSF III does not meaningfully address BNSF's lack of access to storage-in-transit ("SIT") facilities. Post-merger, BNSF would have access to only 16 percent of the available Texas-Louisiana SIT capacity to serve Gulf Coast plastics shippers. (See V.S. Brown, at 8-9.) Applicants agree to do two things to remedy what is thus now effectively conceded to be a serious competitive disability with respect to plastics traffic in the Gulf. First, Applicants undertake to "work with" BNSF to locate additional SIT on the trackage rights lines "as necessary" (BNSF III, ¶ 5) -- a promise that is as nebulous as it sounds. Second, Applicants agree to provide BNSF "equal access to Dayton Yard, on economic terms no less favorable than the terms of UP/SP's access." Id. But this is also wholly unclear. Does UP/SP intend to give over 50 percent of the car spots now under lease to SP? Presumably not, since such a commitment could have been stated far more clearly. Does the clause require UP/SP to give "equal" access only as spots become available? If so, where -- and when -- would such spots become available? And how many such spots at Dayton yard are committed by contract to specific

^{13/} See Verified Statement of H. Declan Brown, at 6, CR-22 (Mar. 29, 1996) ("V.S. Brown").

^{14/} A minor exception concerns possible BNSF acquisition of an unidentified yard at Brownsville (BNSF III, ¶ 11); as discussed below, BNSF makes no commitment to the purchase of this yard.

plastics shippers -- whose assent to any assignment to BNSF would presumably be required? In short, it is hard to see how BNSF III would remedy BNSF's now-conceded SIT shortage.

- The asserted "cap" on reciprocal switch charges in BNSF III (§ 4) was already promised. As part of the Application itself (vol. 2, pp. 71-72), Applicants have already promised to make the reduction in switching charges that is set forth in BNSF III. Shippers obtain no new benefit from this provision.

- The terms of BNSF access to "new" industry on SP lines stack the deck against such access. Not only is "new" industry narrowly defined to exclude "expansions of or additions to existing facilities" (BNSF III, § 2), thereby excluding numerous competitive opportunities, but BNSF is also obligated to foot the bill for half the capital investment necessary to provide rail service to such new facility -- irrespective of the amount of traffic it may be able to capture at the facility. Professor Schmalensee and others, including Conrail's Senior Vice President for the CORE Service Group, have explained why BNSF might reasonably be disinclined toward such investment. (V.S. Schmalensee at 30-31, CR-22; V.S. Conway/Passa/Sammon at 29-31, CR-22.)

- Nothing in the agreement suggests a BNSF commitment for Mexico traffic. While BNSF III provides that UP/SP would permit BNSF to purchase a yard at Brownsville to support "trackage rights operations" (§ 11), BNSF does not commit

to doing so.^{15/} As Conrail and others have pointed out (e.g., V.S. Carey/Ratcliffe/Sheppard, at 38-39, CR-22), BNSF's current service outline states that it will opt for haulage to and from the Brownsville gateway, not trackage rights; BNSF initially sought to provide service to Brownsville through a third-party agent; and BNSF has indicated no plans for location of personnel at Brownsville nor proffered any detailed analysis of rail facilities in the area.

- Enforcement of the draft "Dispatching Protocols" is problematic. Attachment A to BNSF III contains draft "Dispatching Protocols" (provided for in paragraph 9). Because the protocols document is labelled a "draft," it is unclear whether these protocols or any others would eventually become operative. Indeed, paragraph 9 of BNSF III is entirely ambiguous: It provides that Applicants "shall agree" with BNSF -- not that they have done so -- "on a dispatching protocol . . . along substantially the lines of" the Attachment A "draft." In any event, the fundamental problem with any such protocol was clearly stated by BNSF's Mr. Grinstein: While it may provide a formal mechanism for the resolution of disputes, the fact is that

^{15/} Moreover, the utility of any such yard acquisition would in all events depend on the identity and characteristics of the yard in question. BNSF III is silent on these points. If BNSF's right to acquire contemplates purchase of the SP yard at Brownsville, it is of especially doubtful value. Conrail understands that the SP yard is in poor condition; it is located so as to make moves to and from Mexico inefficient. SP therefore currently makes little use of this yard, preferring to use its Harlingen, TX yard.

by the time such disputes are resolved, the business may well be gone (Grinstein Dep. Tr. 177).

- Even a "perfect" trackage rights arrangement -- and BNSF I, II, and III whether considered separately or together, are far from that -- would not restore the competition that an owning railroad could provide and that affected customers seek. An owning railroad is far more likely to commit the resources to recapture its substantial investment and to continue to invest in the lines. As Conrail's Senior Vice President - Operations Ronald J. Conway noted (V. S. Conway/Passa/Sammon, at 34-37, CR-22), any railroad understands that it can compete better over lines it owns, where it -- and not the landlord -- can directly control its own operations, and where it can be directly accountable for meeting customer needs and rectifying any problems.

- BNSF III does nothing to alter the traffic predicted to be available to BNSF. BNSF III purports to "open up" 50 percent of UP/SP's contract traffic to BNSF (§ 3). But, the analyses by Conrail witnesses ALK and John B. Hitchcock^{16/} -- and, we believe, others who assessed available traffic^{17/} -- made no assumption that any portion of traffic at the 2-to-1 points would be unavailable to BNSF under BNSF I and II. Thus, these

^{16/} See Verified Statement of John B. Hitchcock, Parts IV and V, CR-22; Verified Statement of David T. Hunt and William H. Oderwald, Part V, CR-22.

^{17/} See, e.g., V.S. Crowley, at 53-57, SPI-11 (Mar. 29, 1995).

analyses did not discount the amount of traffic available to BNSF because of existing UP or SP contracts. Even assuming BNSF access to all 2-to-1 traffic, they concluded that BNSF would not attract sufficient traffic to be able to replicate the competitive role played today by an independent SP. Therefore, the "concession" by UP/SP in BNSF III giving BNSF access to 50 percent of all contract traffic at 2-to-1 points would not change the forecasts -- except perhaps to reduce further the projected BNSF volumes by removing the up-to-50 percent that UP/SP would keep for itself.

- On the basis of its preliminary study, ALK once again confirms that BNSF would be unable to replicate SP's competitive role. In Conrail's March 29, 1996 submission, Messrs. Hunt and Oderwald of ALK Associates, Inc. demonstrated that BNSF I and II would not result in BNSF providing an effective competitive option. As explained in their attached verified statement (Attachment A), they have now made a preliminary effort to assess the efficacy of BNSF III in this regard.

As they explain, Conrail requested that they perform a diversion study (as such studies are generally described in their earlier testimony) that assumes, inter alia, that there are no impediments to BNSF operations on the primarily directional routes between Houston and St. Louis; that BNSF has access to additional customers specified in BNSF III; that BNSF can make full use of the additional trackage rights provided under BNSF

III; and that BNSF has full access to all traffic at 2-to-1 points (notwithstanding, as noted above, explicit indications to the contrary in BNSF III for up-to-50 percent of contract traffic). Whether or not any of these assumptions is warranted, they give BNSF the benefit of every doubt. Even so, the results are clear. ALK projects that BNSF only gains a very small fraction of traffic under BNSF I, BNSF II, and BNSF III:

-- For all traffic moving between points in Texas, Louisiana, and Arkansas and the Eastern United States, BNSF's share is expected to grow a trivial amount -- by 6.4 percentage points.

-- For traffic originating or terminating in Texas, Louisiana, and Arkansas and moving to and beyond St. Louis, BNSF's share increases by an even smaller 6.1 percentage points.

-- For traffic between points in Texas, Louisiana, and Arkansas and the Conrail service territory, BNSF's share rises 5.5 percentage points.

-- Finally, for the traffic between Mexican gateways in the SP East territory -- which gateways handle 95 percent of all U.S.-Mexican interchange traffic -- and the Eastern U.S., BNSF's share rises 2.8 percentage points.

Messrs. Hunt and Oderwald make clear that these are preliminary estimates. They, too, would profit from the additional time requested here in order to present the Board with a complete assessment of the competitive impact of this latest deal.

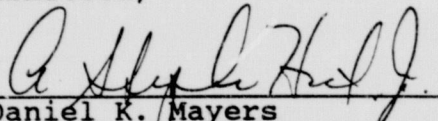
Conclusion

The foregoing (necessarily abbreviated) assessment of BNSF III and the ALK-predicted results demonstrate that the Board cannot rely on BNSF III -- or on Applicants' and BNSF's pronouncements about it -- as the long-awaited and much-promised "fix" for the acknowledged competitive harms of a UP-SP merger. Certainly, the Board cannot and should not do so without further opportunity for scrutiny and comment by interested parties. KCS has already moved the Board (as an alternative request for relief) to allow more time for all interested parties to analyze, take discovery, comment on, and submit evidence concerning these new terms.

Conrail respectfully submits that further opportunity for comment is critical, as a matter of due process and in order to provide for a full record to inform the Board's decision. If, as we expect, Applicants' April 29 filing proclaims BNSF III the cure for all previously identified problems, Applicants should have no objection.

Respectfully submitted,

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Counsel for Consolidated Rail Corporation

April 29, 1996

A

FURTHER VERIFIED STATEMENT
OF
DAVID T. HUNT AND WILLIAM H. ODERWALD

I. INTRODUCTION

Our names are David T. Hunt and William H. Oderwald. We prepared a verified statement that was submitted in this proceeding by Consolidated Rail Corporation ("Conrail") on March 29, 1996. A description of our qualifications is contained in that statement.

II. OVERVIEW

We have been asked by Conrail to examine the likely effect of the agreement between Applicants ("UP/SP") and the Chemical Manufacturers Association ("CMA") on the projected market share of the Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company ("BNSF") as presented in our earlier statement. In particular, we were asked to modify our prior diversion study -- as that term is described in our earlier statement -- to take account of the additional rights granted (by virtue of the CMA agreement) to the BNSF to operate in both directions on UP/SP lines between Houston and Memphis; to operate over UP and SP lines between Houston and St. Louis; and to provide rail service at additional points.

In the limited time available and with the benefit only of a copy of the UP/SP - CMA agreement, we have redone the diversion study, using assumptions that maximize the BNSF share in all situations where additional information and time to

investigate the implications of the agreement may have yielded different results. Thus the results we report below are preliminary only. In particular, we did not attempt to take account of any operational problems that might be associated with pick-up and delivery of cars at newly accessible two-to-one and three-to-two points. We assumed BNSF access to all traffic at two-to-one points and did not assume that UP or SP had any such traffic tied up in long-term contracts. We let the model determine the preferred routing of existing traffic without regard to considerations that might affect whether BNSF would in fact shift preexisting traffic from its old route to the trackage rights route.

We also re-ran our diversion study using the market share equation without taking account of the difference between operations over owned track and operations under trackage/haulage rights that we identified and discussed in our earlier statement. We remain convinced that making a correction to the prior equation to differentiate between trackage/haulage operations and operations over owned lines improves the accuracy of the model; but we were asked to ascertain the results that the diversion approach prior to the trackage-rights recalibration would have generated so that the effect of the revision to the model in this regard would be apparent.

III. RESULTS OF STUDY

We first confirmed the results reported in our earlier statement by re-running the model. The projected changes in market share for BNSF, accounting for the UP/SP merger and the conditions reflected in the prior agreements between BNSF and UP/SP but prior to the UP/SP agreement with CMA, are recapitulated, with respect to the four cases discussed at page 11 of our prior statement, in Column 1 of the Table on page 5 below.^{1/}

We next removed from the market share equation the factor that corrects for the difference between operations over trackage/haulage rights and owned lines. We did this by assigning a coefficient of zero to the trackage rights term of that equation. Those results are shown on Column 2 of the Table. The effect was a very slight increase -- zero in one case and

^{1/} We made one change in the market share equation we used to produce the base case, which had been predicated on 1994 waybill information adjusted to show the BN/Santa Fe and UP/C&NW transactions. The results reported in our prior statement were derived using base case coefficients developed before our new study and the trackage rights recalibration. We have now re-run the equation with the newly reported coefficients so as to assure that no "apples and oranges" distortions were present in our earlier numbers. The base case did not, in fact, change at all in one case (Eastern U.S. traffic) and only insignificantly in the other three -- 0.1 percent (to and beyond St. Louis), 0.2 percent (Conrail service territory), and 1.2 percent (Mexico traffic). These base-case changes produced no material change in the market share increases reported in Column 1: no change in two of the cases, an additional 0.1 percent increase in the case of traffic to and beyond St. Louis, and a reduced increase (by 0.2 percent) in the case of Mexico traffic.

small increases from 0.6 percent to 1.2 percent for the other three cases -- in the market share projected for BNSF as compared to our earlier reported results.

To model the UP/SP agreement with CMA, we included the additional trackage rights granted to BNSF. Access to both SP and UP lines would permit BNSF to run bi-directionally between Houston and St. Louis, and the model reflects that change. We also reflected the route that extension of the trackage rights to St. Louis would provide BNSF and the additional BNSF access to existing shippers served by UP and SP that would also be provided by the terms of UP/SP's agreement with CMA.

The results using the recalibrated equation discussed in our prior statement are shown in Column 3 of the Table. Column 4 of sets forth the results from running the market share equation when the trackage/haulage correction factor is removed from the equation.

PROJECTED INCREASE IN BNSF MARKET SHARE				
	Column 1	Column 2	Column 3	Column 4
	Pre-CMA Agreement - w/Trackage Correction	Pre-CMA Agreement - No Trackage Correction	Post-CMA Agreement - w/Trackage Correction	Post-CMA Agreement - No Trackage Correction
Traffic to and from TX, LA, and AR and:				
Eastern U.S.	3.9	4.7	6.4	7.9
St. Louis and beyond	0.6	0.6	6.1	7.9
Conrail Service Territory	2.7	3.3	5.5	7.2
Eastern U.S. - Mexican Gateways	2.5	3.7	2.8	4.7

CERTIFICATE OF SERVICE

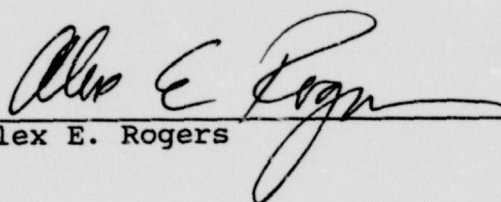
I certify that on this 29th day of April, 1996, a copy of the foregoing Further Comments of Consolidated Rail Corporation in Response to the "CMA Settlement Agreement" was served by hand delivery to:

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S. William Livingston, Jr., Esq.
Michael L. Rosenthal, Esq.
Covington & Burling
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P.O. Box 7566
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2000 Pennsylvania Avenue, N.W.
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Washington, D.C. 20006

and served by first class mail on all Parties of Record.

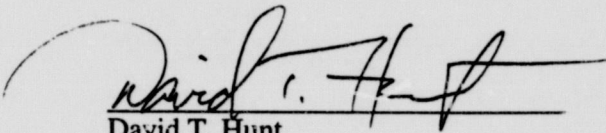


Alex E. Rogers

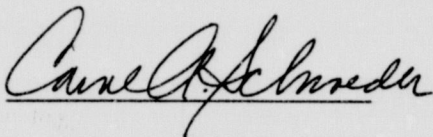
State of New Jersey)
County of Mercer) ss.

Verification

David T. Hunt, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true and correct to the best of his knowledge, information, and belief.


David T. Hunt

Subscribed and sworn to
before me this 29th day
of April, 1996.

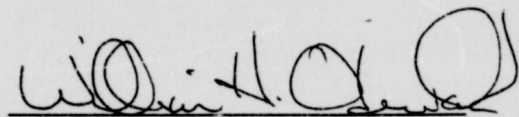


CAROL A. SCHROEDER
Notary Public of New Jersey
My Commission Expires July 2, 1998

State of New Jersey)
) ss.
County of Mercer)

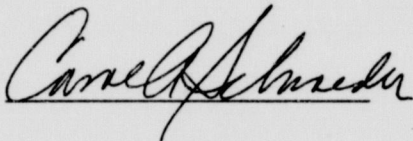
Verification

William H. Oderwald, being duly sworn, deposes and says that he has read the foregoing statement, knows the contents thereof, and that the same are true and correct to the best of his knowledge, information, and belief.



William H. Oderwald

Subscribed and sworn to
before me this 29th day
of April, 1996.



CAROL A. SCHROEDER
Notary Public of New Jersey
My Commission Expires July 2, 1996

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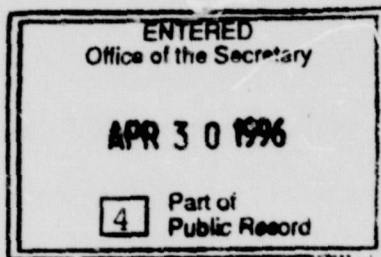
BEFORE THE
SURFACE TRANSPORTATION BOARD

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

OPPOSITION OF
THE SAN DIEGO & IMPERIAL VALLEY RAILROAD COMPANY
TO THE CONDITIONS REQUESTED BY
UNITED STATES GYPSUM COMPANY
AT PLASTER CITY, CA



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Attorneys for:
SAN DIEGO & IMPERIAL VALLEY
RAILROAD COMPANY

Dated: April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

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

OPPOSITION OF
THE SAN DIEGO & IMPERIAL VALLEY RAILROAD COMPANY
TO THE CONDITIONS REQUESTED BY
UNITED STATES GYPSUM COMPANY
AT PLASTER CITY, CA

The San Diego & Imperial Valley Railroad Company ("SDIV") responds in opposition to United States Gypsum Company's ("USG") requested conditions for access by The Atchison, Topeka and Santa Fe Railway Company (the "Santa Fe") to USG's facility at Plaster City, CA. The Surface Transportation Board (the "Board") should deny USG's requested conditions because the issues raised by USG are not related to the proposed consolidation of the Union Pacific Railroad Company, *et al.* ("UP") and the Southern Pacific Transportation Company, *et al.* ("SPT"). Also, the Board does not have jurisdiction to grant the requested trackage rights.

CONDITIONS REQUESTED BY USG

On March 29, 1996, in USG-2, USG filed a request for conditions concerning four of its facilities that allegedly will be adversely affected by the proposed UP-SPT consolidation. SDIV opposes USG's request that the Board grant Santa Fe access to USG's Plaster City,

CA manufacturing plant. With respect to the Plaster City plant, USG seeks: (1) trackage rights for Santa Fe over the 129.61 mile line that SDIV is authorized to operate between Plaster City, CA and SDIV's interchange with Santa Fe in San Diego, CA (the "SDIV Line"); and (2) haulage rights for Santa Fe for the movement of loaded and empty cars over SPT's lines between USG's Plaster City plant and (i) USG's Santa Fe Springs plant in Los Nietos, CA;¹ and (ii) Santa Fe's interchange point with SPT at West Colton, CA. USG argues that SPT has provided USG poor service in moving shipments between Plaster City and Los Nietos, and claims service after the consolidation of UP and SPT will further deteriorate. USG explains that this service is covered by a transportation contract and complains that SPT is failing to meet its contractual commitments. USG also argues that its competitors located elsewhere on the proposed UP-SPT system will receive benefits of new single line service that will make USG's Plaster City facility less competitive.

BACKGROUND

Plaster City is in south central California, just over 10 miles north of the United States-Mexican international border. Prior to the late 1970's, rail service to Plaster City was provided only by the San Diego & Arizona Eastern Railway Company ("SD&AE"), a wholly owned subsidiary of SPT. The SD&AE ran between: (1) San Diego, CA (milepost 0.454) and the Mexican border at San Ysidro, CA (milepost 15.56); (2) San Ysidro and Division, CA, over the Sonora-Baja California Railway Company in Mexico ("SBCR"); and (3) Division, CA (milepost 59.94) and El Centro, CA (milepost 148.1). Until September 1976, shippers in Plaster City (milepost 129.61) had the option of shipping rail traffic about 18.5

¹Los Nietos is just east of Los Angeles and is served by both SPT and Santa Fe.

miles east over the SD&AE to an interchange with SPT at El Centro, CA, or about 129 miles west over the SD&AE, through Mexico, to an interchange with the Santa Fe in San Diego. In September 1976, a storm caused extensive damage to portions of SD&AE's line between Plaster City and Division. After September 1976, Plaster City was only accessible by rail from El Centro in the east. That remains the situation today.

In 1979, SPT sold the stock of the SD&AE to the San Diego Metropolitan Transit Development Board (the "MTDB"), a public transit agency. As part of the transaction, SPT acquired the assets of the SD&AE between Plaster City and El Centro from SD&AE. The MTDB entered an agreement with Kyle Railways, Inc. ("Kyle") to provide freight service over the SD&AE. Kyle provided service through its operating company, the San Diego & Arizona Eastern Transportation Company (the "Transportation Company"). See ICC Finance Docket No. 28917 (Sub-No. 1F), *Southern Pacific Transportation Company-Acquisition (Portion)-San Diego & Arizona Eastern Railway Company* (not printed), served August 22, 1979.

In 1984, SDIV, a subsidiary of Railtex, Inc. ("Railtex"), was authorized to operate over the SD&AE between San Diego and San Ysidro and between Division and Plaster City and replaced Transportation Company. See ICC Finance Docket No. 30457, *San Diego & Imperial Valley Railroad Company, Inc. - Exemption from 49 U.S.C. 10901 and 11301* (not printed), served August 17, 1984 ("*SDIV Operations*").² In exempting SDIV's operations, the Interstate Commerce Commission ("ICC") agreed with SDIV's contention that SDIV is

²SDIV is authorized to operate in Mexico between San Ysidro and Division under an agreement with SBCR.

not required to operate between Division and Plaster City until that portion of the line is repaired because the exemption was permissive and did not obligate SDIV to operate. SDIV is in the second year of its second ten year service agreement with the MTDB.

Since 1979, rail shippers in Plaster City have received direct rail service only from SPT. Prior to that time, service was provided exclusively by the SD&AE. Today, SPT continues to be the only railroad serving Plaster City.

SDIV has not been a party to this proceeding as its interests were not directly affected until now. SDIV is a subsidiary of Railtex, and is not an applicant in these proceedings as that term is defined under 49 U.S.C. § 11343³ and 49 C.F.R. § 1180.3(a and b), as modified in Decision Number 3. The Plaster City conditions sought by USG directly affect SDIV. SDIV is, therefore, filing this response in opposition to those conditions.

**USG HAS NOT AND CANNOT DEMONSTRATE A NEXUS BETWEEN
ALLEGED SPT SERVICE FAILURES
AT PLASTER CITY AND THE UP-SPT CONSOLIDATION**

Before a condition can be imposed on a rail consolidation, among other requirements, the proponent of the condition must present evidence that the condition ameliorates potential anticompetitive effects of the consolidation or preserves essential services and that the condition would not pose operating problems. 49 C.F.R. § 1180.1(d)(1). USG has not met any of these requirements.

USG is served by SPT at Plaster City, as it has been for nearly 20 years. After the consolidation of UP and SPT, USG will continue to be served by UP-SPT at Plaster City.

³Unless otherwise noted, citations are to the former sections of the statute.

The consolidation will not reduce the number of railroads serving USG at Plaster City nor will the consolidation harm essential services at that location.

USG does not contend that the proposed consolidation will have an adverse competitive impact at Plaster City. Rather, USG simply alleges that SPT's service from Plaster City fails to meet the transit time commitments provided for in the USG-SPT rail transportation contract. The Board, however, does not have jurisdiction to address an alleged breach of a rail transportation contract. That is the exclusive province of a court of competent jurisdiction. *See current 49 U.S.C. § 10709(c)*. USG also expects service from Plaster City to deteriorate after the consolidation, and argues that UP-SPT will not be able to meet the contractual service obligations. USG's remedy, if any, under its contract is the same after the consolidation as before.

USG's concerns are not related to the proposed consolidation but appear to be long festering service complaints. When confronted with similar requests, the ICC explained that "[w]e will not impose conditions 'to ameliorate longstanding problems which were not created by the merger,' nor will we impose conditions that 'are in no way related either directly or indirectly to the involved merger.'" Finance Docket No. 32549, *Burlington Northern Inc. and Burlington Northern Railroad Company--Control and Merger--Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company* (not printed), served August 23, 1995, at 56, and 97-101 (the "BN-Santa Fe Merger"); Finance Docket No. 32133, *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company--Control--Chicago and North Western Transportation Company and Chicago and North Western Railway Company* (not printed), served March 7, 1995, at 98

("UP-CNW"); *Burlington Northern, Inc.-Control & Merger-St. L.*, 360 I.C.C. 784, 952 (1980)("BN-Frisco").

USG also has not addressed the operational impediments and impacts of the new service it seeks at Plaster City. The requested haulage rights over SPT can only harm and not improve service at Plaster City. Under a typical haulage arrangement, the owning railroad provides the service for the new entrant. If the consolidated company's service is going to be as congested as USG claims, then providing the Santa Fe with haulage over the congested lines will only cause additional service problems, not reduce them. As to the requested trackage rights over the line between Plaster City and San Diego, a portion of that line west of Plaster City has been out of service for about 20 years. The tunnels on the segment between Jacumba and Plaster City require repairs that have been estimated to cost between \$7 million and \$12 million. USG has not indicated who will pay for these repairs.

**USG IS NOT ENTITLED TO CONDITIONS BECAUSE
USG's COMPETITORS MAY HAVE MORE DIRECT
RAIL SERVICES AS A RESULT OF THE UP-SPT CONSOLIDATION**

USG contends that its competitors in Las Vegas, NV will gain access to new single-line rail service as a result of the proposed UP-SPT consolidation, reducing the ability of USG's Plaster City facility to compete in major markets. The ICC addressed the same argument in the recent *BN-Santa Fe Merger*. There, Bunge Corporation ("Bunge") sought protection from increased rail options for its competitors. The ICC denied the relief stating:

We will deny the condition requested by Bunge. We realize that the SP settlement agreement, by providing increased rail options for Bunge's competitors but not for Bunge, may work to Bunge's disadvantage. But that will not be the kind of harm that we should rectify under our conditioning power. We typically do not use our conditioning power to preserve the

competitive balance among the industries served by rail carriers. Bunge, after all, is not concerned that it is losing a transportation option, but that its competitors are gaining one. Given this context, a condition requiring that a settlement agreement be changed to improve a particular shipper's competitive situation is not proper.

BN-Santa Fe Merger at 99. The Board should follow this precedent here.

**THE BOARD DOES NOT HAVE JURISDICTION TO
GRANT THE REQUESTED TRACKAGE RIGHTS**

USG seeks trackage rights over the rail line SDIV is authorized to operate pursuant to *SDIV Operations*. SDIV operates the SDIV Line under agreements with the owners, MTDB and SBCR. SDIV is not an applicant in these proceedings. Nor is SDIV affiliated with or controlled by UP or SPT. The ICC consistently recognized that, in the context of consolidation proceedings, it did not have jurisdiction to grant involuntary trackage rights over nonapplicant carriers. *See, e.g., St. Louis S.W. Ry. Co.-Trackage Rights*, 363 I.C.C. 899, 902 (1981) ("*SSW-TR*"); *Boston & Maine Corp. Trackage Rights over Conrail*, 360 I.C.C. 239, 241-244 (1979) ("*B&M-Conrail*"). Similarly, the ICC has no general power to force a carrier to grant trackage rights over its lines. *City of Hialeah, Fla. v. Florida East Coast Ry. Co.*, 317 I.C.C. 34, 36 (1962); *Baltimore & O. R. Co. Operation*, 261 I.C.C. 535, 544 (1945); *Alabama, T. & N.R. Corp. Construction*, 124 I.C.C. 114, 115 (1927). The Board should reach the same conclusion here.⁴

⁴The Board can impose involuntary terminal trackage rights under 49 U.S.C. § 11103. However, USG has not requested such rights and made none of the showings required under section 11103 and 49 C.F.R. § 1144. In any event, the involved 129-mile line could not be deemed a terminal area or main-line track for a reasonable distance outside of a terminal.

Moreover, before the Board can grant trackage rights as a condition to a merger, an application must be filed. *See* Ex Parte No. 282 (Sub-No. 1a), *Railroad Consolidation Procedures* (not printed), served March 24, 1978. USG has not filed an application for the requested trackage rights, nor has Santa Fe.⁵ The trackage rights request is further flawed in that the part of the line between San Ysidro, CA and Division, CA is located in Mexico. The Board does not have jurisdiction over property outside the United States. 49 U.S.C. §10501(a)(2); Finance Docket No. 30387, *Canadian National Railway Company and Canadian Pacific Limited - Acquisition - Interests of Consolidated Rail Corporation in Canada Southern Railway Company and Detroit River Tunnel Company* (not printed), served February 15, 1984. Because the Board cannot grant trackage rights over rail lines located in Mexico, and because SDIV has no authority to permit another carrier to operate over the line owned by SBCR, Santa Fe would not be able to operate between Plaster City and San Diego even if SDIV were agreeable to the requested conditions.

As previously noted, trackage rights must be operationally feasible before they may be imposed as a condition by the Board. The SDIV Line between Jacumba, CA and Plaster

⁵Indeed, the Board does not even have the jurisdiction to accept an application under 49 U.S.C. § 11343 for trackage rights from a noncarrier like USG. *See* ICC Finance Docket No. 28583 (Sub-No. 20F), *Application of the Montana Wheat Research and Marketing Committee for Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor--Trackage Rights--Over Burlington Northern, Inc., Lines in MT* (not printed), served August 25, 1978; ICC Finance Docket No. 28583 (Sub-No. 21F), *Application of Wyo-Ben, Inc., for Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor--Trackage Rights--Over Burlington Northern, Inc., Between Billings, MT and Shobon, WY a distance of 227.1 Miles* (not printed), served August 25, 1978; *Pere Marquette Ry. Co., Trackage Rights*, 261 I.C.C. 750, 751 (1946).

City is not operable, and has not been operated since 1976.⁶ USG is seeking to have a west bound service reinstated that has not existed for about 20 years. SDIV has spent about \$7 million rehabilitating a portion of the SDIV Line east of Campo. To complete the rehabilitation of the SDIV Line between Jacumba and Plaster City, another \$7 million to \$12 million is required. SDIV is actively seeking other parties (both governmental and private sector) to share in this cost, but has not yet been successful. If the SDIV Line is fully repaired, SDIV will begin serving the USG facility in Plaster City, which will be the first time Plaster City is served by more than one railroad. Given the condition of the SDIV Line today, USG is seeking a condition that is not operationally feasible, and as such should not be imposed. *BN-Frisco*, at 952; *Detroit, T. & I. R. Co.-Control*, 275 I.C.C. 455, 485 (1950); 49 C.F.R. § 1180.1(d)(1)(iii).

**THE REQUESTED HAULAGE RIGHTS WILL NOT
IMPROVE SERVICE TO PLASTER CITY**

USG seeks to justify the grant of haulage rights for Santa Fe by alleging that SPT has been providing poor service from USG's Plaster City facilities to USG's Santa Fe Springs plant, and that USG expects service to further deteriorate after the consolidation of SPT with UP. USG's allegations of service deficiencies, even if true, are not a proper basis for the Board to impose the requested conditions. SPT's current service to USG at Plaster City is not related to the proposed consolidation with UP. As previously noted, the Board should not impose conditions to ameliorate longstanding problems which are not created by the consolidation. *BN-Frisco*, at 952; *Norfolk & W. Ry. Co. and New York, C. & St. L. R. Co.*

⁶There are no shippers on the SDIV Line between Campo, CA (about 16 miles west of Jacumba) and Plaster City.

Merger, 324 I.C.C. 1, 31; 49 C.F.R. § 1180.1(d)(1)(i). SPT's operational problems, as alleged by USG, pre-date the proposed consolidation. Service at USG's facility in Plaster City by one railroad seems to have been the status quo for over 20 years, and apparently extends back to the construction of the rail line serving Plaster City. The harm alleged by USG is not related to the UP-SPT consolidation.

The haulage rights requested by USG could easily exacerbate the operational problems USG seeks to solve. USG claims that SPT service is poor today and that the added traffic proposed for West Colton yard after the consolidation will worsen service because of congestion. The haulage operation, as proposed by USG, would continue to rely on SPT providing the service, so no change in operations should be expected. If anything, the requested haulage service would entail additional coordination, possibly cause added congestion on SPT's lines and only lead to further delays to USG's shipments. The Board should deny the haulage condition requested by USG to serve Plaster City.

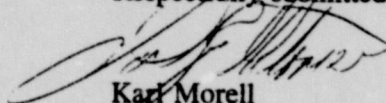
CONCLUSION

USG has not demonstrated that the proposed consolidation of UP and SPT will cause any competitive harm to its plant in Plaster City. Plaster City appears to have always been served by one railroad, either a subsidiary of SPT or SPT itself.

Not only has USG failed to provide a predicate for the conditions it seeks, but USG has not demonstrated that the conditions are operationally feasible. In addition, the Board does not have jurisdiction to grant trackage rights over the line of a nonapplicant party or in Mexico. Accordingly, SDIV urges the Board to deny USG's requests that Santa Fe be granted trackage rights and haulage rights from Plaster City.

If USG is truly interested in receiving competitive rail service at Plaster City, USG should continue to work with SDIV to obtain the necessary funds for the rehabilitation of the portion of the line that is not operable. Once the line is placed back in service, SDIV will provide USG the competitive service it seeks in this proceeding.

Respectfully submitted,



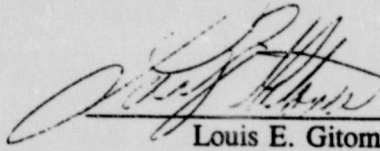
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Attorneys for:
SAN DIEGO & IMPERIAL VALLEY
RAILROAD COMPANY

Dated: April 29, 1996

CERTIFICATE OF SERVICE

I certify that on April 29, 1996, copies of the Opposition of the San Diego & Imperial Valley Railroad Company to the Conditions Requested by United States Gypsum Company at Plaster City, CA (SDIV-2) have been served on all parties of record and Administrative Law Judge Nelson by first class mail, postage prepaid and on counsel for Union Pacific Railroad Company and Southern Pacific Transportation Company by hand.



Louis E. Gitomer

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Item No. _____

Page Count 5APR #383 BEFORE THE

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 32760

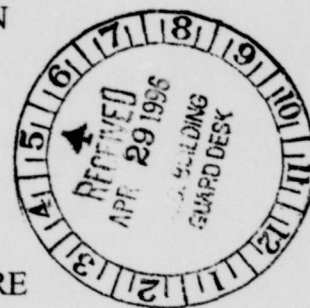
UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD
COMPANY, AND MISSOURI PACIFIC RAILROAD COMPANY

----CONTROL AND MERGER----

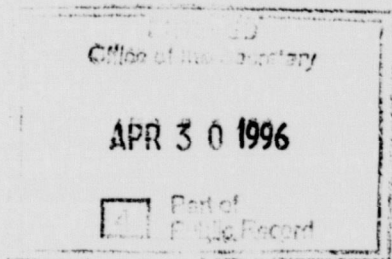
SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN
PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
SOUTHWESTERN RAILWAY COMPANY, SPCSL CORP.,
AND THE DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY

RESPONSIVE COMMENTS OF THE

UNITED STATES DEPARTMENT OF AGRICULTURE

Lon Hatamiya
Administrator

Agricultural Marketing Service

U.S. Department of Agriculture
Washington, D.C. 20250

Date: April 29, 1996

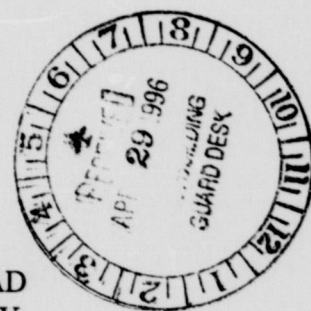
BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET No. 32760

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

---CONTROL AND MERGER---

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



Office of the Secretary

APR 30 1996

Part of
Public Record

RESPONSIVE COMMENTS OF THE

UNITED STATES DEPARTMENT OF AGRICULTURE

These responsive comments are filed on behalf of the United States Department of Agriculture (USDA) in the above proceeding in accordance with the former Interstate Commerce Commission's decision served December 27, 1995, setting forth the procedural schedule for this control and merger proceeding between the Union Pacific (UP) and the Southern Pacific (SP) Railroads.

USDA noted its authority and stated its interest in this control and merger proceeding in initial comments filed March 29, 1996. In those comments, USDA highlighted the importance of rail service to the economic well-being of this Nation's agricultural and rural economies. The tremendous amounts of grain and other agricultural products that move to market by rail from production areas that are frequently far removed from markets makes it imperative that agricultural shippers retain and acquire as many competitive transportation alternatives and

options as possible as major railroads continue to consolidate their systems.

In addition to suggesting trackage rights and line sales to ensure competition, USDA urged the Surface Transportation Board (STB) to consider requiring service by a third Class I or major railroad, as a condition of this proposed merger, in the Kansas City, Wichita, and Fort Worth, Texas corridor to Gulf Ports and Mexican markets to provide alternate service for agricultural traffic, especially the large volumes of wheat produced in the Lower Plains States.¹

The U.S. Department of Justice (DOJ), in comments filed April 12, pointed out the large number of markets in the West where rail competition would be reduced from three to two and from two to one with this proposed merger. USDA noted similar concerns in its comments reminding STB that the entire Western half of the country, between the Mississippi River and the Pacific Ocean would be dominated by just two Class I rail systems.

DOJ also pointed to current significant parallel lines in the UP and SP rail systems, including those in the so-called Central Corridor between Kansas City and the West Coast. The UP and SP currently compete over these lines. A merged UP-SP rail system will eliminate this competition. With the recent passage of the Federal Agriculture Improvement and Reform Act (FAIR), agricultural shippers and growers will have the opportunity to make production decisions as market conditions dictate. FAIR should influence the way grain is produced, marketed and transported in the future. The passage of FAIR raises USDA's concern about the future of rail competition for agricultural shippers along the Central Corridor. An analyst for DOJ has indicated the likelihood of price increases being in the interest of a merged UP-SP and

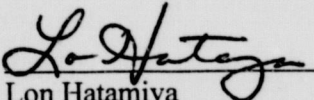
¹The Lower Plains States, for purposes of this discussion, include Kansas, Oklahoma, and Texas.

the other recently merged Western railroad, the Burlington Northern Santa Fe.

CONCLUSION

USDA agrees with DOJ that this proposed merger is likely to significantly reduce competition in various rail corridors, as it stated in its March 29, 1996 comments. In order to preserve and enhance competition in Kansas City, Wichita, and Fort Worth, Texas corridor to the Gulf Ports and to Mexico, USDA urged STB to consider requiring a third Class I railroad be allowed to operate. DOJ has pointed to the probable reduction of rail competition along the Central Corridor as a result of a combined UP-SP. Because of the potential growth in new agricultural shipping patterns as a result of FAIR, USDA believes a third major railroad operating in the Central Corridor will preserve necessary options and alternatives for present and future grain transportation.

Respectively submitted,


Lon Hatamiya
Administrator

Agricultural Marketing Service

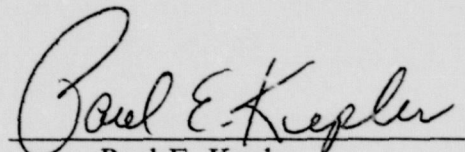
U.S. Department of Agriculture
Washington, D.C. 20250

CERTIFICATE OF SERVICE

I, Paul E. Kepler, certify that, on this 29th day of April, 1996, I caused a copy of the forgoing 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
Room 9104-TEA
Department of Justice
Washington, D.C. 20530

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


Paul E. Kepler

STB

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*NOT ADMITTED IN D.C.
RESIDENT BRUSSELS

WRITER'S DIRECT DIAL NUMBER

April 29, 1996

(202) 434-4144

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



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

Dear Mr. Williams:

Enclosed for filing in the above-captioned docket proceeding, please find an original and twenty (20) copies of Further Comments of Montell USA, Inc. (MONT-5). Also enclosed is a 3.5" disk containing the text of the pleading in Word Perfect 5.1.

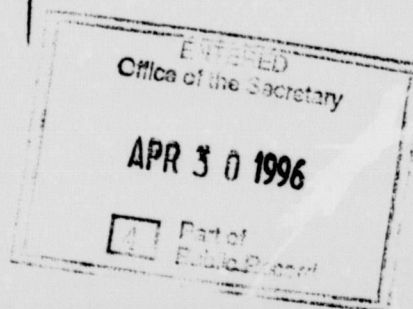
Copies of the enclosed Comments are being served on the parties shown below.

Very truly yours,

Martin W. Bercovici
Martin W. Bercovici

Enclosures

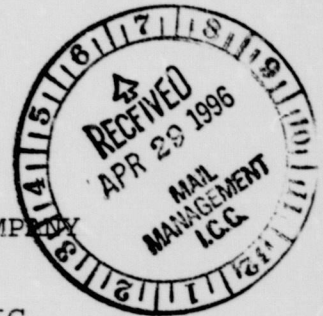
cc: Arvid E. Roach II, Esquire
Paul E. Cunningham, Esquire
All Parties of Record



BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

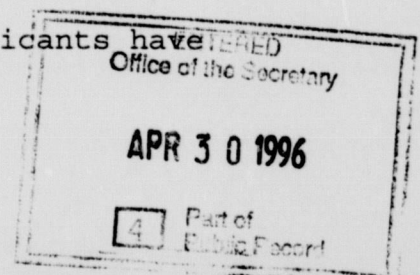
UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
-- CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY



**FURTHER COMMENTS OF
MONTPELL USA, INC.**

Montell USA, Inc. ("Montell") respectfully submits its Further Comments in response to the application of the Union Pacific Corporation (UP), et al. and the Southern Pacific Rail Corporation (SP), et al., seeking approval of the Surface Transportation Board for authority to merge. These Further Comments are submitted pursuant to Decision No. 31 issued by the Board on April 19, 1996, wherein the Board interpreted its procedural orders to permit a non-applicant party to file responsive evidence and comments to conditions proposed by another party in the proceeding and "to other parties' comments ..." Decision 31 at p.3.

Montell submits these Further Comments in response to the settlement entered into by Applicants and the BNSF with the Chemical Manufacturers Association (CMA), UP/SP-219 (filed April 19, 1996). Pursuant to that settlement, Applicants have



agreed to amend their trackage rights agreement with the BNSF.^{1/} Montell, accordingly, is entitled to comment on the amendments to the UP/SP-BNSF agreement of September 25, 1995, which Applicants have requested be imposed as a condition of the merger. Montell would be substantially and materially injured to the extent that the Board may rely upon said settlement as remedial to the anti-competitive effects of the proposed merger as described in the comments of Montell (MONT-2) and consequently grant approval of the merger without further conditions.

I. SUMMARY OF PRIOR POSITION AND EFFECT OF CMA SETTLEMENT

Montell operates a large manufacturing facility at West Lake Charles, Louisiana. Montell is almost exclusively reliant on rail transportation to move its products, primarily plastics resins, to market. Approximately 54% of Montell's outbound shipments move via the eastern gateways (Chicago/St. Louis/Memphis), 20% to Houston, and approximately 4% to the southeast via New Orleans. MONT-2, V.S. of Robert W. Granatelli at ¶7.

The Lake Charles area consists of three identified rail stations: Lake Charles, West Lake Charles and West Lake. The Montell facility is located at the West Lake Charles rail station and is served by the KCS and SP. For shipments to New Orleans, Houston and the eastern gateways, Montell now may utilize either SP direct, or KCS/UP joint-line service. KCS direct service to

^{1/} In consideration of the settlement, CMA has withdrawn from the merger proceeding.

these points is extremely circuitous, e.g., 385 miles versus 146 for UP direct between West Lake Charles and Houston. Granatelli at ¶¶ 7-8; see also MONT-2 at 19.

The CMA Settlement Agreement purports to address the Lake Charles area issue. Paragraph 8 of the Settlement Agreement reads, as follows:

8. The BN/Santa Fe Settlement Agreement shall be amended to give BN/Santa Fe the right to handle traffic of shippers open to all of UP, SP and KCS at Lake Charles and West Lake, Louisiana, (a) to, from and via New Orleans, and (b) to and from points in Mexico, with routings via Eagle Pass, Laredo (through interchange with Tex Mex at Corpus Christi or Robstown), or Brownsville, Texas. BN/Santa Fe access to the covered shippers at Lake Charles and West Lake shall be on the same basis as is provided for in the BN/Santa Fe Settlement Agreement for "2-to-1" points, except that at West Lake BN/Santa Fe shall be required to pay a fee to UP/SP equal to the haulage fee that UP must now pay to KCS to access the traffic, adjusted per Section 12 of the BN/Santa Fe Settlement Agreement. The BN/Santa Fe Settlement Agreement shall also be amended to give BN/Santa Fe the right to handle traffic of shippers open to all of UP, SP and KCS at Texarkana, Texas/Arkansas, and Shreveport, Louisiana, to and from the Memphis BEA (BEA 55), but not including proportional, combination or Rule 11 rates via Memphis or other points in the Memphis BEA.

Montell was not consulted in regard to this provision. Montell, while a member of CMA, is not a member of its Distribution Committee; and Montell did not request CMA to negotiate plant-specific access on its behalf. Counsel for Montell was informed of the settlement proposal and specifically requested CMA and its Distribution Committee to consult with

Montell and the other Lake Charles area shippers prior to any consideration of paragraph 8, a request which was ignored.

**II. CMA SETTLEMENT AT PARAGRAPH 8 DOES NOT SATISFY
ACCESS REQUIREMENTS FOR WEST LAKE CHARLES**

Paragraph 8 of the CMA Settlement Agreement is deficient, and prejudicial to Montell, in four particular respects:

- (i) BNSF access is granted only to producers at Lake Charles and West Lake, not to Montell at West Lake Charles;
- (ii) Paragraph 8 applies only to facilities "open to all of UP, SP and KCS ..." It does not apply to a 2-to-1 location such as Montell which is open to the SP and KCS, but which relies upon a KCS/UP friendly connection for competitive, alternative routing options;^{2/}
- (iii) BNSF access is limited only to service between the covered points and New Orleans or the Mexican border. Thus, the BNSF would be precluded under the terms of such access from serving both Houston and the eastern gateways, routings which the UP currently shares via its friendly connection with the KCS and wherein KCS direct or possible KCS/BNSF service is not

^{2/} While the Lake Charles BEA may be served by the UP, SP and BNSF, as set forth above and in MONT-2, the Montell facility is not open to all three carriers.

available as either circuitous or otherwise uneconomic; and

- (v) BNSF is subject to an "access fee" for the traffic from West Lake, which, although somewhat unclear in its application, appears to impose a "phantom" haulage fee on the BNSF even if BNSF were to provide direct service as is permitted under the UP/SP-BNSF trackage rights agreement. Whether such a fee would apply if BNSF access were extended to West Lake Charles is unclear; however to the extent it would so apply, such a fee would be highly prejudicial and therefore is objectionable.

It is understood that CMA is discussing with Applicants extension of Paragraph 8 to include West Lake Charles. Whether this will be accomplished is unknown. If the CMA Settlement Agreement is so amended, it will rectify only the problem identified in (i), and possibly also (ii) and (iv), above; it would not rectify the very substantial deficiencies of this clause described in (iii).

The exclusion of West Lake Charles from the settlement provision is arbitrary and highly discriminatory. Montell knows of no reason why West Lake Charles should be distinguished from Lake Charles and West Lake. All three are similarly situated, and the KCS and Applicants serve West Lake Charles to the same degree and in the same manner they serve the Lake Charles and the West Lake shipping points.

Second, Montell finds the qualification that points must be open to all three of the UP/SP and KCS to be arbitrary and discriminatory. Whether the UP serves the point directly or through a friendly, necessary connection with the KCS is irrelevant to whether producers lose their competitive alternative in the even the merger is approved. The distinction between "3-to-2" and "2-to-1" points is irrelevant in the context of this area. Effectively for Montell, however, its facility is at a 2-to-1 location since all of its principal routes require KCS/UP joint-line service as an alternative to SP direct service. See MONT-2 at 22-23; see also Burlington Northern, Inc. -- Control and Merger -- Santa Fe Pacific Corp., F.D. No. 32549 ("BN/SF"), Decision No. 38 at 94-95 (served August 23, 1995).

Third, the limitation upon BNSF that it only may serve shipments to the New Orleans gateway and the Mexican gateways also is arbitrary and discriminatory. The Mexican gateways are reached via Houston; and to the extent that it is appropriate to open up service to the Mexican gateways, a fortiori, access to Houston is necessary. Id. As noted above, 20% of Montell's shipments currently move from West Lake Charles to Houston.

The geographic limitation upon BNSF's access further is prejudicial to Montell and likely would preclude Montell from utilizing BNSF's service. As described by Montell, its plastics resins traffic is dependent upon its serving rail carrier for storage pending identification to individual customers, Granatelli at ¶3, see also Comments of The Society of the Plastics Industry, Inc., SPI-11 at 36-39, and supporting evidence

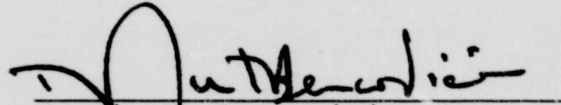
cited therein. Since a substantial quantity of product moves initially to storage, it is critical that Montell establish a relationship with a rail carrier whereby the carrier can accept its product for storage, with subsequent movement to the major gateways for ultimate delivery to customers, or to Houston for packaging if the product is to be exported. The point-specific limitation upon BNSF access as provided in paragraph 8 of the CMA Settlement Agreement effectively precludes Montell from seeking competitive bidding for its plastics business.

Finally, if amendment to the CMA Settlement were to extend or apply the access fee identified in paragraph 8 to Montell's traffic, the BNSF's ability to serve Montell would be effectively precluded. For BNSF both to provide its own switching and pay a phantom "haulage fee" to UP for the privilege of accessing the Montell plant would, ab initio, make BNSF non-competitive to a merged UP/SP. Moreover, if Applicants in fact would provide haulage to the BNSF, the appropriate fee should be negotiated between the involved rail carriers, and should not either be prescribed by the Board or negotiated between Applicants and CMA.

In summary, the Lake Charles area access provisions set forth in the CMA settlement were not negotiated for, on behalf of, or in consultation with Montell. Those provisions cannot be deemed to satisfy Montell; requirement for preservation of competitive transportation service if the merger of the UP and SP were to be approved by the Board. Rather, Montell needs full access by BNSF, without limitation or condition to maintain a rail transportation alternative to a merged UP and SP.

WHEREFORE, THE PREMISES CONSIDERED, Montell USA, Inc.
respectfully urges the Surface Transportation Board to reject
tender of the CMA Settlement Agreement, and particularly
paragraph 8 thereof, as representing satisfaction of the
requirements for maintenance of competitive transportation
service at West Lake Charles, Louisiana, and instead to grant the
relief requested by Montell in its comments submitted March 29,
1995, as further described herein.

Respectfully submitted,



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Arthur S. Garrett, III
Leslie E. Silverman
KELLER AND HECKMAN, LLP
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Attorneys for Montell USA,
Inc.

April 29, 1996

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Page Count 9

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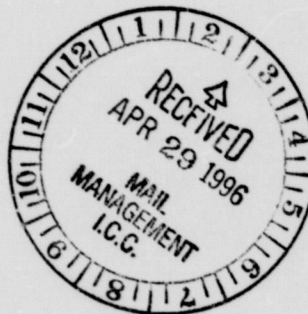
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ANDREW P. GOLDSTEIN
Counsel

April 29, 1996

Vernon A. Williams, Esq.
Secretary
Surface Transportation Board
Room 1324
12th & Constitution Avenue, N.W.
Washington, DC 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 Secretary Williams:

Enclosed for filing are an original and 20 copies of Response Statement of Formosa Plastics Corporation, U.S.A. (FPC-2). We also enclose a floppy disc in WordPerfect 5.1 which contains the same document.

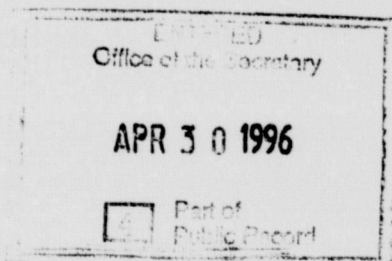
Sincerely,

Andrew P. Goldstein

Andrew P. Goldstein
Attorney for
Formosa Plastics Corporation, U.S.A.

Enclosures

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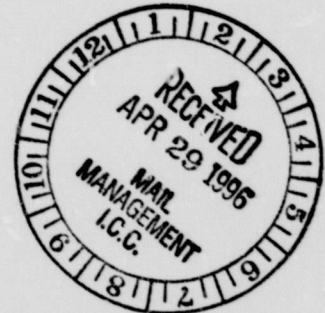


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FPC-2

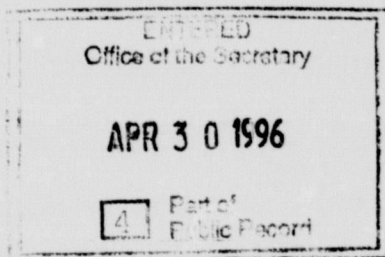
BEFORE THE
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UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND
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SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN
RAILWAY COMPANY, SPCSL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

RESPONSE STATEMENT OF
FORMOSA PLASTICS CORPORATION, U.S.A.



Andrew P. Goldstein
McCarthy, Sweeney & Harkaway, PC
Suite 1105
1750 Pennsylvania Avenue, N.W.
Washington, DC 20006

Attorney for
Formosa Plastics Corporation, U.S.A.

Dated: April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

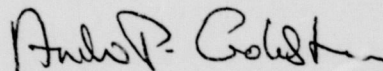
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UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND
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TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN
RAILWAY COMPANY, SPCSL CORP., AND THE
DENVER AND RIO GRANDE WESTERN
RAILROAD COMPANY

RESPONSE STATEMENT OF
FORMOSA PLASTICS CORPORATION, USA

Formosa Plastics Corporation, U.S.A. ("FPC") hereby files its
response to inconsistent and responsive applications and to
comments, protests, and requested conditions, as provided in
Decisions Nos. 6 and 9, as clarified by Decision No. 31.

Respectfully submitted,



Andrew P. Goldstein
McCarthy, Sweeney & Harkaway, PC
Suite 1105
1750 Pennsylvania Avenue, N.W.
Washington, DC 20006

Attorney for
Formosa Plastics Corporation, U.S.A.

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

RESPONSE VERIFIED STATEMENT OF
PABLO RODRIGUEZ

My name is Pablo Rodriguez. I am Traffic Manager for Formosa
Plastics Corporation, U.S.A. ("FPC"). My business address is 9
Peach Tree Hill Road, Livingston, NJ 07039. Mr. Paul Huang, FPC's
Vice President who submitted a statement on behalf of FPC on March
29, 1996, is not presently available and I have been requested to
prepare this response statement.

In its Opening Comments (FPC-1), FPC described its
manufacturing facility at Point Comfort, TX, which is connected by
a 14-mile private industrial spur to the line of Union Pacific
Railroad Company ("UP") at Formosa, TX. FPC is captive to UP at
that point for shipments of plastics and chemical components.

Other filings in this proceeding describe similar captive
situations involving Texas shippers of plastics and chemical
components. Some such filings request the imposition of conditions

claimed by the requesting party to alleviate competitive problems associated with the proposed merger. FPC wishes to respond to some of those requested conditions, particularly as filed by competitors of FPC.

The Dow Chemical Company ("Dow"), a major producer of chemical and plastics components of the types manufactured by FPC, states (DOW-12) that it operates a manufacturing facility at Freeport, TX, served exclusively by UP. Freeport is located on a UP spur that connects at Angelton, TX with the main UP line between Houston (Algoa) and Brownsville. It is the same UP main line which serves FPC at Formosa. Angelton is approximately 70 miles east of Formosa. Dow and FPC are major competitors in the production and sale of chemical and plastics components.

Quantum Chemical Corporation ("Quantum") is another nearby competitor of FPC. Quantum manufactures chemical and plastics components at a facility located at Chocolate Bayou, TX. Chocolate Bayou is between Angelton and Bay City, TX, on the same Union Pacific line that serves Formosa, and is approximately 50 miles east of Formosa (QCC-2).

Union Carbide Corporation ("Union Carbide") operates a chemical and plastics production facility at Seadrift, TX, which is on a UP spur that connects at Bloomington, TX with the UP main line between Houston and Corpus Christi. Bloomington is approximately 10 miles west of Formosa (UCC-6).

As indicated by the comments of Dow, Quantum, Union Carbide, the United States Department of Justice (DOJ-8), and several

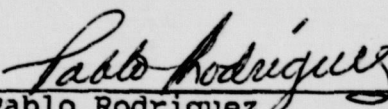
railroads, including Consolidated Rail Corporation, Texas-Mexican Railway Company, and Kansas City Southern Railway Company, FPC by no means is alone in its observation and assertion (FPC-1, that the instant transaction portends serious and irrevocable reductions in competition for the transportation of plastics and chemical components.

Dow, Quantum, and Union Carbide have proposed that these competitive dislocations be ameliorated through the imposition of conditions that would posture a new carrier to provide service at those stations on UP's Houston-Corpus Christi line handling Dow, Union Carbide, and Quantum traffic, including adjustments to the trackage rights settlement agreement between Burlington Northern Santa Fe ("BNSF") and UP so as to provide for local service by BN. Under the settlement agreement, BNSF would obtain trackage rights between Houston (Algoa) and Corpus Christi, over the UP line that serves FPC, Dow, Union Carbide, and Quantum, for "overhead" traffic only; even though BNSF's trains would pass the doorstep of FPC and the others, BNSF would not pick up or deliver cars at our stations.

FPC supports the comments and requested conditions of Dow, Quantum, DOJ, and others who seek pro-competitive solutions, provided that the Board recognizes that pro-competitive relief should not be granted selectively. The preponderance of the chemical and plastics industry in southeast Texas, the United States Department of Justice, and several railroads all have demonstrated how the proposed merger will reduce competition and prove harmful to plastics and chemical shippers such as Quantum,

Union Carbide, Dow, and FPC. If the Board determines to condition merger approval on the introduction of new competitive service at points in Texas originating or terminating plastics or chemical traffic, the Board should do so evenhandedly with respect to all affected shippers in the same industries. If, for example, the Board should require BNSF to provide "local" service to Dow at Freeport or Quantum at Chocolate Bayou, rather than accepting the BNSF/UP proposal for BNSF "closed door" trackage rights over UP's line between Houston (Algoa) and Corpus Christi, the Board should impose similar conditions for other similarly situated shippers, such as FPC, whose comments (FPC-1) demonstrate that the proposed merger will deprive it of competitive rates via Southern Pacific, so that the merger not have an unnecessarily harmful or disruptive effect on the highly competitive plastics and chemical industry in southeast Texas.

The recently submitted settlement agreement (UP/SP-219) between the Applicants and the Chemical Manufacturers Association ("CMA") is not sufficient for these purposes because, among other things, it posits additional competition only at so-called 2-to-1 points, Southern Pacific points, or by means of extremely expensive build-outs or build-ins (FPC estimates that a build-out from its facility to a qualifying point, over a distance of more than 30 miles, would cost upwards of \$50 million).


Pablo Rodriguez

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25 day of April, 1996.

Pablo Rodriguez
Pablo Rodriguez

CERTIFICATE OF SERVICE

I hereby certify that I have, this 29th day of April, 1996, served a copy of the foregoing Comments of Formosa Plastics Corporation, U.S.A. upon all parties of record, by first class mail, postage prepaid.

Andrew P. Goldstein

Andrew P. Goldstein

STB

FD

32760

4-29-96

D

82862

82862

Item No. _____

Page Count 6

Apr # 424

Norfolk Southern Corporation
Law Department
Three Commercial Place
Norfolk, Virginia 23510-2191

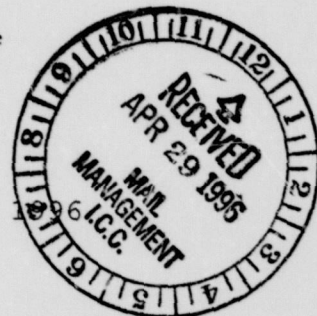
George A. Aspatore
General Attorney

Writer's Direct Dial Number

(804) 629-2657

Fax: (804) 529-2607

April 26, 1996



Mr. Vernon A. Williams, Secretary
Surface Transportation Board
12th Street and 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 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-entitled proceeding
are the original and ten (10) copies of Norfolk Southern Railway
Company's Response to Comments of Consolidated Rail Corporation.

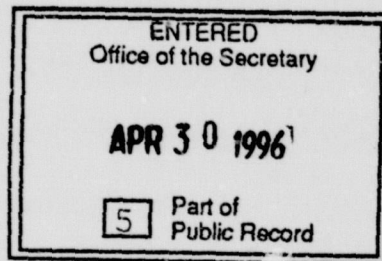
Very truly yours,

George A. Aspatore

George A. Aspatore

Enclosure

GAA/lfe



BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.

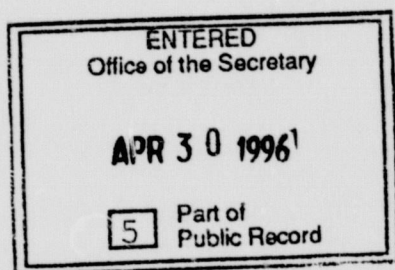
Finance Docket No. 32760

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

-- Control and Merger --

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

RESPONSE OF
NORFOLK SOUTHERN RAILWAY COMPANY
TO COMMENTS OF
CONSOLIDATED RAIL CORPORATION



Robert J. Cooney
George A. Aspatore
Norfolk Southern Corporation
Three Commercial Place
Norfolk, VA 23510-2191
(804) 629-2657

Counsel for
Norfolk Southern Railway Company

Dated: April 26, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 32760

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

-- Control and Merger --

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

**RESPONSE OF
NORFOLK SOUTHERN RAILWAY COMPANY
TO COMMENTS OF
CONSOLIDATED RAIL CORPORATION**

Norfolk Southern submits the following comments in response to the March 29, 1996 filing by Conrail requesting that the Surface Transportation Board mandate a divestiture auction for certain lines of Applicants referred to by Conrail as "SP-East." These lines are, generally speaking, Southern Pacific properties in Texas, Louisiana and Arkansas and SP's eastern main line in Missouri and Illinois.

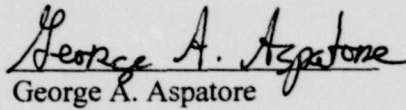
Consistent with its comments of January 29, 1996, Norfolk Southern (1) believes that effective rail competition must be maintained within the Gulf area and to and from eastern gateways, especially New Orleans; (2) does not oppose the Union Pacific-Southern Pacific consolidation as long as such competition in the Gulf area is maintained; and (3) believes that such competition should come from rail carriers already within the region; but (4) would actively participate to protect its interests if access to the Gulf area is granted to carriers now operating largely outside the region, in particular if divestiture of SP-East or similar properties to a major eastern carrier is contemplated.

Traffic to and from the Gulf area is crucial to Norfolk Southern. More than eight percent of all NS rail revenues (approximately \$350 million) are based on traffic originated or terminated in Texas and Louisiana, of which more than half is chemical traffic. Over two-thirds of this traffic originates on UP or SP. There must be an adequate replacement for the healthy and vigorous competition which exists today between UP and SP after UP and SP are consolidated.

At this point Norfolk Southern is not advocating a particular condition or set of conditions to address the competitive issues in the Gulf area. However, divestiture to a major eastern carrier would raise different competitive issues not even touched upon, much less fully discussed and analyzed, during the course of this proceeding. In the event the scope of this proceeding is expanded in the manner requested by Conrail and others, Norfolk Southern will be a vigorous contender for the properties in question. Because the Surface Transportation Board

does not have before it the kind of evidence required for an inconsistent application, Norfolk Southern believes that if the Board wishes to consider divestiture to an eastern carrier, the STB must request and receive additional evidence to develop an appropriate record. Norfolk Southern would actively participate in any such proceeding.

Respectfully submitted,


George A. Aspatore

CERTIFICATE OF SERVICE

I hereby certify that on April 26, 1996 a copy of the foregoing Response of Norfolk Southern Railway Company was served by first-class, U.S. mail, postage prepaid upon all parties of record in this proceeding.

George A. Aspatore
George A. Aspatore

STB

FD

32760

4-29-96

82861

82861

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE, N. W.

P.O. BOX 7566

WASHINGTON, D.C. 20044-7566

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LECONFIELD HOUSE

CURZON STREET

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

April 29, 1996

BY HAND

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

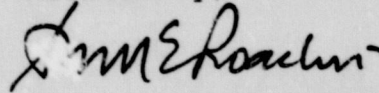
Re: Finance Docket No. 32760, Union Pacific
Corp., et al. -- Control & Merger -- Southern
Pacific Rail Corp., et al.

Dear Secretary Williams:

Enclosed for filing in the above-captioned docket are the original and twenty copies of UP/SP-235, titled Additional Comments of Shippers and Others in Support of Applicants' Rebuttal. Due to printing schedules, it was not possible to include these materials with Applicants' Rebuttal filing (UP/SP-230 through UP/SP-234), which was delivered to you earlier today.

I enclose also for the Board's convenience six diskettes in Wordperfect 5.1 format and one diskette containing Excel spreadsheets, covering the contents of UP/SP-230 through UP/SP-235 to the extent they are available in electronic format, as well as directories showing the contents of each diskette.

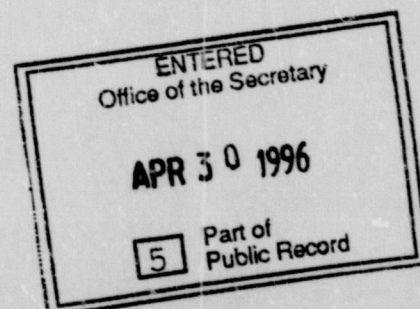
Sincerely,

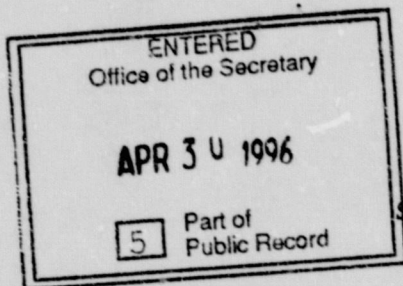


Arvid E. Roach II

Enclosures

cc: All Parties of Record





BEFORE THE
SURFACE TRANSPORTATION BOARD

UP/SP-235

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

ADDITIONAL COMMENTS OF SHIPPERS AND
OTHERS IN SUPPORT OF APPLICANTS' REBUTTAL

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

PAUL A. CUNNINGHAM
RICHARD B. HERZOG
JAMES M. GUINIVAN
Harkins Cunningham
1300 Nineteenth Street, N.W.
Washington, D.C. 20036
(202) 973-7601

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

CARL W. VON BERNUTH
RICHARD J. RESSLER
Union Pacific Corporation
Martin Tower
Eighth and Eaton Avenues
Bethlehem, Pennsylvania 18018
(610) 861-3290

JAMES V. DOLAN
PAUL A. CONLEY, JR.
LOUISE A. RINN
Law Department
Union Pacific Railroad Company
Missouri Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179
(402) 271-5000

ARVID E. ROACH II
J. MICHAEL HEMMER
MICHAEL L. ROSENTHAL
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044-7566
(202) 662-5388

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

April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

-- CONTROL AND MERGER --

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

ADDITIONAL COMMENTS OF SHIPPERS AND
OTHERS IN SUPPORT OF APPLICANTS' REBUTTAL

Applicants are making this filing on behalf of the parties who are submitting the enclosed comments in support of Applicants' rebuttal filing of this date. Due to the printing schedule for the rebuttal filing, it was not possible to include these statements in UP/SP-233. The parties registering their support of the UP/SP merger and their opposition to proposals for divestiture and other conditions put forward by opponents of the merger are listed on the enclosed table of contents.

- Support statements of 26 shippers are enclosed, bringing the total number of shippers who have filed in support of Applicants' rebuttal to 476.

- A support statement from one local official is enclosed, bringing the total number of local government entities that have filed in support of Applicants' rebuttal to 23.

● One shortline railroad has offered a support statement included with this filing, bringing the total number of railroads that have filed in support of Applicants' rebuttal to 25.

Respectfully submitted,

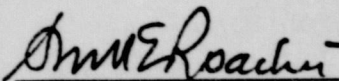
CANNON Y. HARVEY
LOUIS P. WARCHOT
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Southern Pacific
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Harkins Cunningham
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(202) 973-7601

Attorneys for Southern
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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(202) 662-5388

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

April 29, 1996

CERTIFICATE OF SERVICE

I, Karen W. Kramer, certify that, on this 29th day of April, 1996, I caused a copy of the foregoing Additional Comments of Shippers and Others in Support of Applicants' Rebuttal 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

Karen W. Kramer
Karen W. Kramer

COMMENTS OF SHIPPERS AND
OTHERS IN SUPPORT OF APPLICANTS' REBUTTAL

SHIPPERS

- 1 Alliance Shippers Inc.
- 2 American Continental Freight Inc.
- 3 Ancon Transportation
- 4 B&B Transportation Services, Inc.
- 5 Bayou Management Services Inc.
- 6 Branch Warehousing & Distribution Center, Inc.
- 7 Bulk Commodities Transport, Inc.
- 8 Chem-Rail Transport, Inc.
- 9 Girsu, Inc.
- 10 GTC Nutrition Company
- 11 Liebovich Bros.
- 12 Logan Lumber Company
- 13 Mabe
- 14 Mach One
- 15 Martrans International
- 16 Meridian Aggregates Company
- 17 The Morning Star Packing Co.
- 18 Phillip's Cattle Co., Inc.
- 19 Pilgrim's Pride, S.A. de C.V.
- 20 Port of W. St. Mary
- 21 Precision Flamecutting and Steel, Inc.
- 22 Professional Plate Processors, L.L.C.
- 23 Rail Van, Inc.
- 24 Scarpelli Materials, Inc.
- 25 Schnitzer Steel Products (Oakland, Cal.)
- 26 Toyota Motor Sales, U.S.A.

LOCAL OFFICIALS

Benicia, California

Otto Wm. Giuliani,
City Manager

OTHER RAILROADS

Eastern Idaho Railroad

ALLIANCEshippers inc.
●● MEXICO ●●

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pre-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

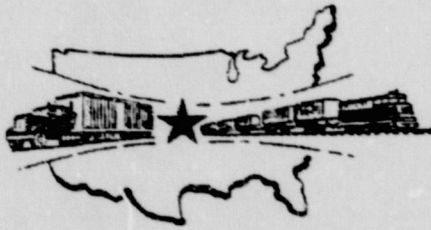
As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 18th, 1996.

SERGIO GONZALEZ A. GONZALEZ HANKEE.

ALLIANCE SHIPPERS INC.

Homero 1804 Desp. 1002 Chapultepec Morales
México, D.F. 11570 Tels. 557-5871 557-8467 Fax 395-8531



NATIONAL WATS - 1-800-231-7936
STATE WATS - 1-800-325-8731

American Continental Freight INC.

2851 SOUTH PARKER ROAD
SUITE 780
AURORA, COLORADO 80014
PHONE (303) 368-SHIP (7447)
FAX (303) 755-3611

April 26, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Ave., N.W.
Washington, DC 20423-0001

Dear Mr. Williams:

At the end of March, several parties filed comments with the STB requesting varying conditions which would result in divestitures of major parts of a merged UP/SP railroad system. These included divestiture of the SP El Paso/New Orleans and Brownsville/Chicago lanes as well as the Stockton/Herington, KS lane. We strongly object to such a divestiture.

The UP/SP merger benefits the shipping public by the formation of a more complete and efficient railroad system. This is a significant benefit in terms of seamless transportation and service improvement. Allowing other carriers to carve out self-serving niches for themselves under the guise of promoting competition would only serve to destroy the great benefits gained through an approval of this merger.

Clearly, common sense conditions can be made to ensure competition without gutting what promises to be a strong, efficient and comprehensive railroad system. I strongly urge the STB to not allow the divestiture of these lanes, which would destroy a merger that promises so many benefits.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 26, 1996.

Sincerely,

Craig Cormier
Vice President/
General Manager

Total Transportation Services

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

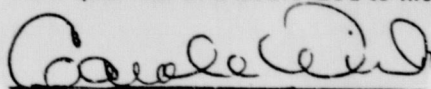
On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Merriam, KS):

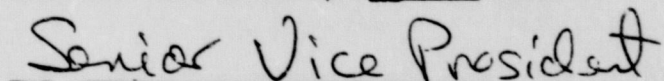
These conditions should not be imposed for the following reasons:

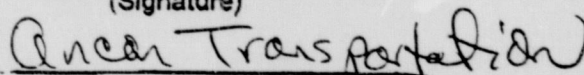
1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

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


(Signature)


(Title)


(Company)

- CONSULTING
- TRUCKLOADS
- L-T-L
- PROTECTIVE SERVICE



- T.O.F.C.
- C.O.F.C.
- POOL CONSOLIDATION
- DISTRIBUTION

B & B TRANSPORTATION SERVICES, INC.

April 18, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Ave., N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger,
F.D. No.32760

Dear Mr. Williams:

We are concerned regarding several conditions in recently filed comments filed with the Surface Transportation Board. These conditions would result in divestitures in parts of the proposed merger of the SP/UP system on the east end of the SP and in the Central Corridor.

As a small but concerned shipper agent and rail user, we feel the above mentioned conditions would place an extreme hardship on us by eliminating the proposed comprehensive single-line service we are looking forward to with the merger. The expected increased capacity and, hopefully, more reliable service are benefits of the merger we are anxiously awaiting.

As we feel we will be adversely impacted by these proposed divestiture conditions, we urge the Board to not jeopardize the UP/SP merger. We strongly urge the Board to approve the UP/SP merger without those conditions involved.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 18, 1996.

William F. Bossert

William F. Bossert
B & B Transportation Services, Inc.

Secretary-Treasurer

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

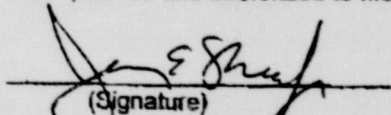
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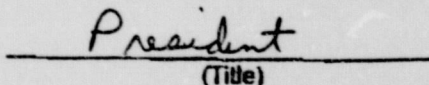
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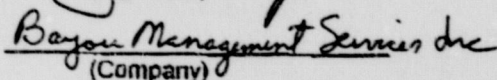
1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

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


(Signature)


(Title)


(Company)

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:


On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks — UP/SP and BN/Santa Fe — shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
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6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned — risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 15, 1996.


(Signature)

President

(Title)

Branch Warehousing & Distribution Center, Inc.
(Company)

Bulk Commodities Transport, Inc.

Common Carriers



Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

April 23, 1996

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks — UP/SP and BN/Santa Fe — shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned — risking the dismemberment of SP and the loss of vital rail service.

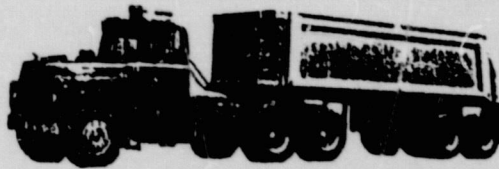
1600 Rand

1555 W. HAWTHORNE LANE
WEST CHICAGO, IL. 60185 - 1821
PHONE: 708-876-0600 FAX: 708-876-0674

708-298-8636

Bulk Commodities Transport, Inc.

Common Carriers



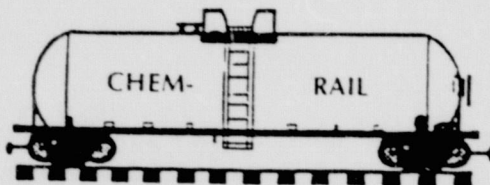
As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23, 1996.

Richard M. Minicelli
(Signature)

VICE PRESIDENT - SALES
(Title)

BULK COMMODITIES TRANSPORT
(Company)



CHEM-RAIL TRANSPORT, INC.

12692 Shawnee Mission Parkway

Shawnee Mission, KS 66216

(913) 631-5912 • FAX: (913) 631-2489

"Specialists in Hazardous Waste Transportation by Rail"

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 22, 1996.

William J. G. Moore
(Signature)

Chem-Rail Transport Inc.

President
(Title)



GIRSA, INC.

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 26th, 1996.

Cher Lin
(Signature)
GIRSA INC
(Company)

Logistics Coordinator
(Title)



8714 State Highway 60
P.O. Box 628
Johnstown, CO 80534
Phone: (970) 587-5131
Fax: (970) 587-6536

April 25, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

Several parties have filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of significant portions of the proposed merged Union Pacific and Southern Pacific Railroad (UP/SP) system, including the east end of the SP system (Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

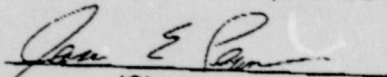
These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide an operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and Burlington Northern/Santa Fe -- shippers could face a splintered western rail system.
3. The benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced.

4. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
5. Imposing these conditions could cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow the UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I certify that I am qualified and authorized to file this verified statement.


(Signature)

Vice President
GTC Nutrition Company

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

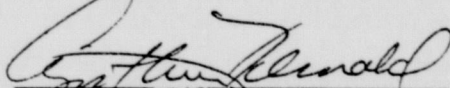
On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

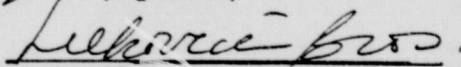
These conditions should not be imposed for the following reasons:

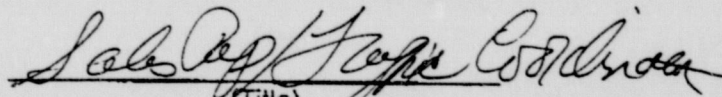
1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23rd, 1996.


(Signature)


(Company)


(Title)

L
C

LOGAN LUMBER COMPANY

2272 LARKIN CIRCLE • SPARKS, NV 89431 • TELEPHONE: (702) 359-7300 • FAX: (702) 359-7087

April 23, 1996

Re: UP/SP Merger F.D. No. 32760

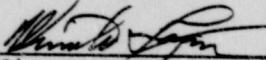
Logan Lumber Company, Sparks, Nevada, on a national scale, would probably be qualified as a small inbound receiver of rail freight. Nevertheless, our very existence depends upon timely shipments. Utopia would be a continuous, one-owner railroad from East to West, or vice-versa. Switching cars from one railroad to another takes time, and time becomes profit.

In our estimation, divestiture of any part of SP or UP would be disastrous. It is our belief the merger of UP-SP is one of the most important actions that could happen to transportation today, along with the competitive settlement being arranged with the BN/Santa Fe.

We ship products from the midwest, the southeast, south and of course, the west coast, into our market area. Our very existence depends upon timely delivery.

We therefore ask for your assistance in maintaining the SP-UP railroads as a complete entity, as they are today. The importance of maintaining these railroads as they are today is not only important to Logan Lumber Company, but of primary importance to the entire West Coast.

Sincerely,



Winston N. Logan
President

/map

Mabe

April 23th, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W
Washington, D.C.

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. U P is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.

*Insurgentes Sur No. 617-3er. Piso
Col. Napoles
C.P. 03810 Mexico, D. F.
Tel. (5) 628 81 00 y 628 82 00
Fax (5) 628 81 79 y 628 82 59*

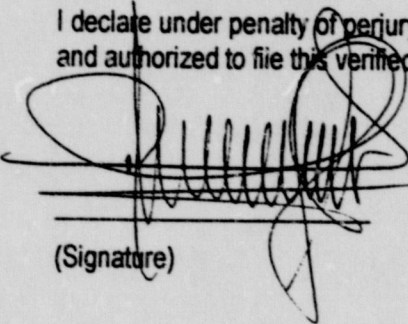
liderazgo en Latinoamérica

Mabe

5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned – risking the dismemberment of SP and the loss of vital rail service.

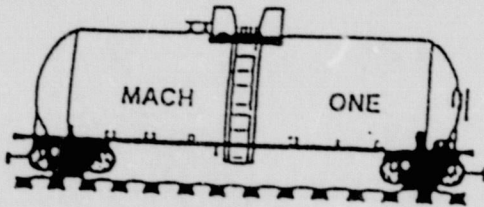
As a concerned rail user who will be adversely impacted by these proposed divestiture conditions. I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 24 1996.


(Signature)

TRANSPORTATION MANAGER.
(Title)

M A B E
(Company)



MACH ONE

P.O. BOX 3009

SHAWNEE, KANSAS 66203

PHONE: 913) 962-0693

FAX: 913) 631-2409

April 23, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C.

Re: UP/SP Merger, F.D. No 32760

Dear Mr. Williams:

It has been called to our attention that as of March 29, 1996, multiple comments had been filed with STB, which contained proposals which would result in divesting the merged system of integral lines essential to smooth operation of our business.

Since our business involves the movement of hazardous materials we are concerned about both the availability of competitive transportation and the safe movement of those materials. Naturally, the shorter the route--the safer the movement.

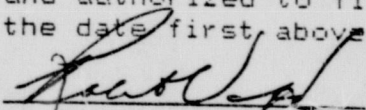
The purchase plan of SP by UP contains a detailed operation plan, which we believe meets our requirements for cost effective-safe railcar movements.

In conducting our business we serve a number of facilities in California, Kansas, Louisiana and Texas. The proposals involve divestiture of available single line service to our customers involved in shipping sensitive material.

The only reason for these proposals is to permit other lines to pick and choose essential parts of the "new" system they would like to acquire for their own financial and competitive advantage.

We strongly oppose these conditions, which would place our numerous customers in the untenable position of having their transportation needs placed on the auction block to lines with unknown effectiveness and ability to serve them and meet their transportation requirements.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement executed the date first above mentioned.


Robert Van Horn

Exec. V.P. President. MACH I, Inc.

Martrans International

2819 22nd Street
Wyandotte, MI 48192
(313) 282-1960

FAX 313 282 1563

April 23, 1996

Mr. Vernon Williams, Secretary
SURFACE TRANSPORTATION BOARD, ROOM 3315,
12th & CONSTITUTION AVENUE N.W.,
WASHINGTON D.C. 20423-0001

RE: UP/SP MERGER - FD NO. 32760

Dear Mr. Williams:

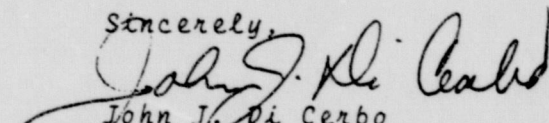
Please reference my verified statement dated October 12, 1995, strongly supporting the merger of the Union Pacific and the Southern Pacific Railroads.

Having being exposed to the BNSF merged operation for the past few months, it has become very obvious that a strong competitive element such as the proposed SP/UP merger must come about in the very near future to inhibit the higher rates that are currently being quoted by the BNSF. These higher rate that are being quoted by the BNSF are on single line rates that were published by the Santa Fe.

I truthfully expected to see reductions in rates on the basis of cost reductions that the combined BNSF would achieve and pass on to shippers but this is certainly not the case: at least for the shipment of steel products.

It is imperative that a strong, reliable and workable competitive factor, such as the proposed SP/UP merger be approved and implemented in the shortest time framework to provide immediate competition on a system wide basis to the BNSF.

Sincerely,


John J. Di Cerbo
Manager, Traffic Services

MERIDIAN

Aggregates Company

April 24, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
12th & Constitution Avenue N.W., Room 3315
Washington, DC 20423-0001

Re: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

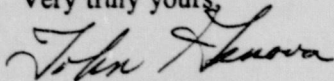
1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
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5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

5575 DTC Parkway, Suite 325
Englewood, Colorado 80111
303 · 694 · 3030
FAX: 303 · 694 · 4220

Mr. Vernon Williams
April 24, 1996
Page Two

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Genova".

John C. Genova
Vice President, Marketing

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 22, 1996.

Jerry Shaw
(Signature)

The Morris Star Parking Co.
(Company)

Shyler
(Title)

PHILLIP'S CATTLE CO., INC.

502 East Barioni Blvd.
P.O. Box 728 • Imperial, CA 92251
Phone (619) 355-1175
FAX (619) 355-1174

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA -Herington, KS):

These conditions should not be imposed for the following reasons:

1. Up is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks--UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

PHILLIP'S CATTLE CO., INC.

502 East Barioni Blvd.
P.O. Box 728 • Imperial, CA 92251
Phone (619) 355-1175
FAX (619) 355-1174

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 19, 1996.



(Signature)

Phillip's Cattle Co.

(Company)

Grain Div. Mgr.

(Title)



PILGRIM'S PRIDE

DECLARO BAJO PROTESTA DE DECIR VERDAD DE: CARLOS CAMPOS CONTRERAS,
EN REPRESENTACION DE PILGRIM'S PRIDE, S.A. DE C.V.

MI NOMBRE ES: CARLOS CAMPOS CONTRERAS, OCUPO EL PUESTO DE JEFE DE TRAFICO. LA RESPONSABILIDAD CONSISTE EN DARLE SEGUIMIENTO A LOS EMBARQUES POR CAMION O FURGON PARA EVITAR PAROS EN LAS PLANTAS - POR FALTA DE INSUMOS, ADEMAS DE UTILIZAR EL FLETE MAS CONVENIENTE REDUCIR Y ELIMINAR LOS PAGOS POR CONCEPTOS DE DEMORAS.

LA EMPRESA SE DEDICA A LA ELABORACION DE ALIMENTO BALANCEADO PARA LA AVICULTURA (CONSUMO PROPIO), ASI COMO A LA PRODUCCION DE CARNE DE POLLO. LOS INSUMOS SON ENVIADOS A NUESTRAS CUATRO PLANTAS DE PROCESO, UBICADAS EN LAS CIUDADES DE SALTILLO, SAN LUIS POTOSI Y QUERETARO. LOS PRINCIPALES ORIGENES DE DOS DE LOS INSUMOS IMPORTADOS POR FERROCARRIL (MAIZ / SORGO) SON DE LOS ESTADOS DE ILLINOIS, NEBRASKA, IOWA, KANSAS Y TEXAS, A TRAVES DE LAS FRONTERAS DE LAREDO, EAGLE PASS Y BROWNSVILLE. EL VOLUMEN APROXIMADO QUE SE REQUIERE ES DE 360,000 TONELADAS ANUALES.

CONOCEMOS DEL PROYECTO DE FUSION DE LOS FERROCARRILES UNION PACIFIC Y SOUTHERN PACIFIC, Y CREEMOS QUE ESTO ES BUENO, PORQUE DARA COMO RESULTADO UN FERROCARRIL MAS FUERTE, MAS COMPLETO Y MEJOR INTEGRADO EN SU SERVICIO DE TRANSPORTE.

PARTE DE LOS BENEFICIOS QUE PODEMOS IDENTIFICAR SON LOS SIGUIENTES:

- A) DAR UN SERVICIO DIRECTO INTEGRAL CON UN SOLO FERROCARRIL.
- B) RUTAS MAS CORTAS Y CON MENOR TIEMPO DE RECORRIDO.
- C) MAYOR DISPONIBILIDAD DE EQUIPO Y MEJOR DISTRIBUCION Y UTILIZACION DEL MISMO.
- D) TENER ALTERNATIVAS DE DOS FERROCARRILES IMPORTANTES Y FUERTES QUE TIENEN ACCESO A LAS FRONTERAS QUE MAS UTILIZAMOS AL HABER SELE CONCEDIDO AL BN/SF DERECHOS DE USO DE VIA A BROWNSVILLE E EAGLE PASS.

PILGRIM'S PRIDE, S.A. de C.V.

Av. 5 de Febrero 1408 Col. San Pablo 76130 Querétaro, Qro.

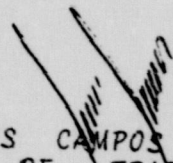
Tels. 17-01-78, 17-03-24, 17-04-91, 17-08-97, 17-09-84, Fax. 17-02-04



PILGRIM'S PRIDE

POR LO TANTO, APOYAMOS LA FUSION DEL UP/SP, CON LA SEGURIDAD DE
QUE HARA FRENTE AL RETO COMPETITIVO DE SERVICIO, DE DESEMPEÑO Y
DE EFICIENCIA QUE TIENE CON EL BN/SF.


A T E N T A M E N T E


SR. CARLOS CAMPOS CONTRERAS
JEFE DE TRAFICO.

YO, CARLOS CAMPOS CONTRERAS, DECLARO BAJO PROTESTA DE DECIR VERDAD
QUE LO ANTES ESCRITO ES CORRECTO Y VERDADERO. ADEMÁS CERTIFICO -
QUE ESTOY CAPACITADO Y AUTORIZADO PARA PRESENTAR ESTA DECLARACION.

QUERETARO, QRO., 01 DE ABRIL DE 1996.

A T E N T A M E N T E


SR. CARLOS CAMPOS CONTRERAS
JEFE DE TRAFICO.

PILGRIM'S PRIDE, S.A. de C.V.

Av. 5 de Febrero 1408 Col. San Pablo 76130 Querétaro, Qro.

Tels. 17-01-78, 17-03-24, 17-04-91, 17-08-97, 17-09-84, Fax. 17-02-04

SWORN STATEMENT MADE BY CARLOS CAMPOS CONTRERAS ON BEHALF
OF PILGRIM'S PRIDE, S.A. DE C.V.

MY NAME IS CARLOS CAMPOS CONTRERAS, AND I HOLD THE POSITION
OF TRAFFIC MANAGER. MY DUTIES CONSIST OF PROVIDING FOLLOWUP
ACTIVITIES ON SHIPMENTS MADE BY TRUCK OR RAILWAY CAR IN ORDER
TO AVOID PLANT STOPPAGES DUE TO THE LACK OF SUPPLIES, IN
ADDITION TO UTILIZING THE MOST EFFICIENT FREIGHT SERVICE FOR
THE PURPOSE OF REDUCING AND ELIMINATING PAYMENTS ARISING DUE
TO DELAYS.

THE COMPANY PREPARES POULTRY FEED (FOR ITS OWN USE), AND ALSO
PRODUCES CHICKEN MEAT. SUPPLIES ARE SENT TO OUR FOUR
PROCESSING PLANTS LOCATED IN THE CITIES OF SALTILLO, SAN LUIS
POTOSI AND QUERETARO. THE PRINCIPAL POINTS OF ORIGIN FOR TWO
OF THE SUPPLIES IMPORTED BY RAIL (CORN/SORGHUM) ARE THE STATES
OF ILLINOIS, NEBRASKA, IOWA, KANSAS AND TEXAS, BY MEANS OF THE
BORDER CROSSINGS OF LAREDO, EAGLE PASS AND BROWNSVILLE. THE
APPROXIMATE VOLUME REQUIRED IS 560,000 TONS PER YEAR.

WE ARE AWARE OF THE PLAN TO MERGE THE UNION PACIFIC AND
SOUTHERN PACIFIC RAILWAYS, AND BELIEVE THIS IS GOOD AS IT WILL
RESULT IN A STRONGER, MORE COMPLETE AND BETTER INTEGRATED
RAILWAY AS REGARDS TRANSPORTATION SERVICES.

SOME OF THE SERVICES WE CAN IDENTIFY ARE THE FOLLOWING:

- A) THE PROVISION OF A COMPLETE DIRECT SERVICE WITH A
SINGLE RAILWAY.
- B) SHORTER ROUTES WITH BETTER RUNNING TIME.
- C) BETTER AVAILABILITY OF EQUIPMENT AND BETTER DISTRIBUTION
AND UTILIZATION OF SAME.
- D) TO HAVE THE ALTERNATIVE OF TWO STRONG AND IMPORTANT
RAILWAYS WITH ACCESS TO THE BORDER CROSSINGS MOST USED
BY OURSELVES, SINCE BN/SF HAS BEEN GRANTED RIGHTS TO
UTILIZE THE LINE TO BROWNSVILLE AND EAGLE PASS.

WE THEREFORE SUPPORT THE UP/SP MERGER, AND ARE CONFIDENT

THAT IT WILL MEET THE COMPETITIVE CHALLENGE OF SERVICE, OF
PERFORMANCE AND OF EFFICIENCY WITH BN/SF.

YOURS VERY TRULY,

CARLOS CAMPOS CONTRERAS,
HEAD OF TRAFFIC.

I, CARLOS CONTRERAS, DECLARE UNDER OATH THAT THE FOREGOING IS
CORRECT AND TRUE, AND ALSO CERTIFY THAT I AM EMPOWERED AND
AUTHORIZED TO FILE THIS STATEMENT.

QUERETARO, QRO., APRIL 1, 1996.

CARLOS CAMPOS CONTRERAS
HEAD OF TRAFFIC

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BNSanta Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BNSanta Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23, 1996.

(Signature)

(Company)

(Title)



P.O. BOX 55948 • HOUSTON, TEXAS 77255 • PHONE (713) 861-6171
FAX (713) 864-6400

April 25, 1996

RE: UP/SP Merger, F.D. No. 32760

Dear

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

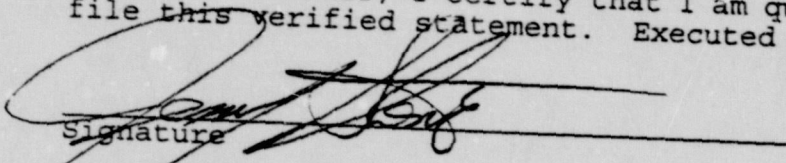
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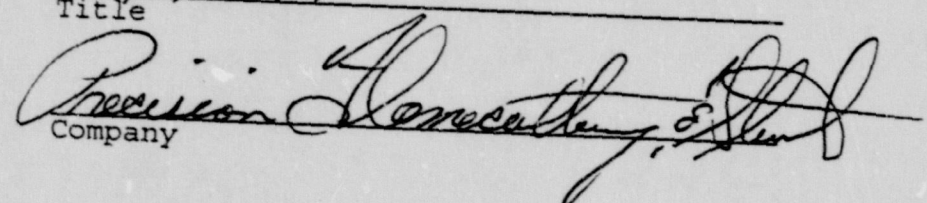
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proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 25, 1996.


Signature

VP / GM
Title


Company

JWS/tb 1558

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

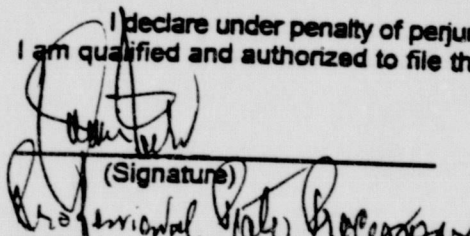
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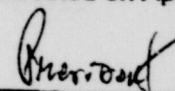
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As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 22, 1996.


(Signature)
Professional Rate Processor
(Company)


(Title)



April 25, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

Re: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams,

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As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 25, 1996.

Signature

Jeffrey B. ...
President

4/25/96
(Title)

RAIL VAN, INC.

Scarpelli Materials, Inc.

*1555 W. Hawthorne Lane • West Chicago, Illinois 60185-1821
630-876-0600 • Fax 630-876-0674*

Commercial

Industrial

Residential

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

April 23, 1996

RE: UP/SP Merger, F.D. No. 32760

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Thank You For Thinking Of Us

Scarpelli Materials, Inc.

1555 W. Hawthorne Lane • West Chicago, Illinois 60185-1821
630-876-0600 • Fax 630-876-0674

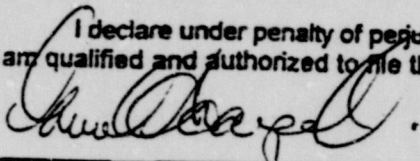
Commercial

Industrial

Residential

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I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23, 1996.



(Signature)

PRESIDENT

(Title)

SCARPELLI MATERIALS

(Company)

Thank You For Thinking Of Us

SCHNITZER STEEL PRODUCTS

1101 Embarcadero West (94607) P.O. Box 747 Oakland, California 94604
Phone (510) 444-3919 FAX (510) 444-3370



April 17, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3515
12th and Constitution Avenue, N. W.
Washington, D. C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso-New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA-Herington, KS):

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6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned-risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up



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Mr. Vernon Williams, Secretary
April 11, 1996
Page 2

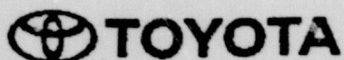
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I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 17, 1996.

Jerry Schmitz
(Signature)

Schmitz Steel
(Company)

Ex. Vice Pres.
(Title)



Jim Hall
Corporate Manager
Logistics Planning and Administration

Toyota Motor Sales, U.S.A., Inc.
19001 South Western Avenue
P.O. Box 2901
Torrance, CA 90509-2901

April 26, 1996

Mr. Vernon Williams
Secretary
Surface Transportation Board
Room #3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons?

1. To the best of our knowledge, UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. Anticipated benefits associated with the UP/SP merger, include increased capacity and faster, more reliable service, would be significantly reduced or eliminated.

Accordingly, Toyota urges the Board to not consider these proposed divestiture conditions, but to rule on the UP/SP merger conditioned only by the Settlement Agreements already submitted in conjunction with the proposed merger.

Sincerely yours,

JH/fcb (96029.)



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707) 746-4200

April 25, 1996

Facsimile Transmission (202) 778-5338

Mr. Vernon Williams
Surface Transportation Board

Subject: UP/SP MERGER CASE, 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 ET. AL.

Dear Mr. Williams:

This is a verified statement of Otto Wm. Giuliani, City Manager of the City of Benicia, California. The City of Benicia supports the above proposed merger action founded on the following beneficial City impacts:

- Raise the economic and fiscal competitiveness of the Benicia Port to retain existing industry and attract industry dependent on efficient rail transportation services.
- Increase public health and safety as UP has the capital resources to make the necessary new investment in track maintenance and repairs.
- Create new job, revenue and investment opportunities through linkages with the Benicia Port. For example, Mazda Motor Company is expected to relocate their Oakland based operation to Benicia pending merger approval.
- UP is known for providing top quality rail transportation services to business and industry. Therefore, the City expects positive economic development outcomes from this merger including new jobs, municipal revenues and indirect economic job and revenue benefits for the community.
- Help our existing industrial base to be more competitive as UP can provide more efficient operations that will mean lower costs for companies located in the Benicia Industrial Park and, thus, greater economic competitiveness for the City of Benicia.

ERNEST F. CLARROCCI, Mayor
Members of the City Council

CAREY CORBALEY Vice Mayor • JOHN SILVA • JERRY HAYES • PEPE ARTEAGA

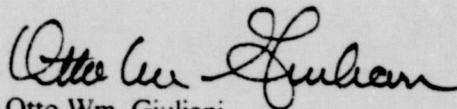
OTTO WM. GIULIANI, City Manager
VIRGINIA SOUZA, City Treasurer
FRANCES GRECO, City Clerk

Mr. Vernon Williams
Page 2

- Measurably elevates the quality of rail services provided to Benicia Industrial Park firms that will help the City retain existing business firms and encourage expanding firms to expand in Benicia.

Therefore, the City of Benicia strongly urges favorable action on this matter. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Otto Wm. Giuliani".

Otto Wm. Giuliani
City Manager

Attachment

- Verification

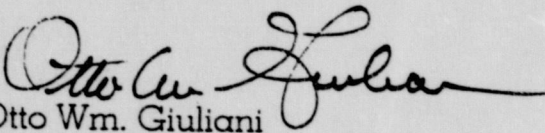
cc: Assistant City Manager/Economic Development Director

//spltr//


VERIFICATION

State of California
County of Solano

I, Otto Wm. Giuliani, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on the 25th day of April, 1996.


Otto Wm. Giuliani
City Manager

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


Notary Public

My Commission Expires:

August 13, 1997





April 25, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: Union Pacific / Southern Pacific Merger,
Finance Docket No. 32760

Dear Mr. Williams,

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) in the Union Pacific / Southern Pacific merger proceeding requesting conditions that would result in divestiture of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville - Chicago) and in the Central Corridor (Stockton, CA - Kansas City). Among the comments filed was the application of Montana Rail Link (MRL) to acquire lines and equipment of the UP/SP in the Central Corridor. MRL also requested the STB's approval to acquire the UP's Silver Bow, ID line.

Eastern Idaho Railroad submits these comments in opposition to the MRL application and request for conditions on the UP/SP merger. We specifically ask that the STB reject the MRL proposal, and in particular MRL's stated desire to buy the UP line between Silver Bow and Pocatello, ID.

The MRL responsive application states that a corporate cousin to MRL will purchase and operate a Central Corridor route consisting primarily of the old SP route and purchase from the UP it's Pocatello to Silver Bow line to allegedly provide better competition than the current UP agreement with the BNSF. The MRL also proposes to purchase without limitation, the locomotives, cars, and various other equipment currently used by the UP/SP on the lines. While we have some feelings regarding the proposed purchase of the Central Corridor route, we are far more concerned with the proposed acquisition of the UP's Silver Bow line and its proposed equipment acquisitions.

The Eastern Idaho Railroad is a regional railroad that serves two markets in eastern and southern Idaho. The first is located around the Idaho Falls area and is comprised of

approximately 110 miles of rail lines. The second is located in and around the Burley/Twin Falls area in southern Idaho and consists of approximately 150 miles of rail lines. The EIRR was purchased from the UP in 1993 and has been successful in growing the business on it's lines with the help of the UP.

The EIRR's primary business, on the section of track most affected by the proposed MRL application, is the transportation of fresh and frozen potatoes from potato houses in the Idaho Falls area, destined to locations on the UP and beyond. The EIRR currently handles approximately 4,000 loads per year. These perishable shipments are extremely time sensitive and truck competitive. The EIRR has service commitments to it's customers that are somewhat unique in the railroad industry. A shipment that is billed today must be at the Idaho Falls UP interchange by midnight tonight or we pay a substantial rebate. The UP has some very stringent service commitments to it's customers also. For example, once that shipment reaches Idaho Falls the UP is committed to getting it to Chicago by the fourth day after billing. The coordination and cooperation between the EIRR and the UP has to be very efficient in order for the shipments to remain on rail. Since the EIRR's inception the rail service to the potato industry has worked extremely well. We have and continue to take business off the highway and onto the rail.

One of the main reasons for this program's success has been the ability of the UP to provide refrigerated box cars to be used for potato shipments. The UP is the owner of the largest fleet of refrigerated equipment in the country and has recently acquired some cars that were in use on the BNSF. Because of the perishable shipments, the UP has an extensive support system to maintain those reefer cars in route. The UP has its largest reefer shop at Pocatello, Idaho that has made it possible to keep this perishable business on the rail. As another convenience to the customer and to the EIRR, the UP provides two support personnel who work on the cars, used on the EIRR, to insure quality customer service. Without this total commitment by the UP to provide specialized refrigerated equipment and in route support maintenance the transportation of potatoes by rail would not be possible.

The MRL's proposal to purchase and operate the UP's Silver Bow to Pocatello line could potentially severely impact our ability to continue to serve this potato market. It is very doubtful that MRL could make the same type of commitments that the UP has made, in order for us to transport perishable shipments. If they buy the reefer equipment necessary to move our shipments in Idaho Falls from the UP, this would impact the southern end of our railroad around Burley/Twin Falls because it would reduce the number of cars in the UP fleet that are currently pooled for use on the EIRR and on the UP. Simply, buying reefer cars and

allowing us to use them will not be sufficient. The support mechanisms in place on the UP will have to be replaced either by us or MRL locally and by the MRL for in route maintenance and support. This type of maintenance commitment was not defined in the MRL application. MRL would also have to commit to some stringent operating requirements, just as the UP has done to insure timely and efficient service. In most instances, the longer routes and slower schedules imposed on our shippers by the MRL proposal would drive the business to truck. We are confident of this assumption, because even though rail is far more economical than truck, the timing of the shipment's delivery is the most critical aspect of the potato shipment. If rail service cannot get the shipment to destination on time, it will go by truck.

It is plain to see that MRL's statement that their proposed acquisitions will not threaten any railroad's essential services is false. It will threaten our ability to serve the potato industry in and around Idaho Falls. MRL reasons that their primary cause for filing the Responsive Application was their concern over the adverse impact the UP/SP merger would have on competition for rail service on the Central Corridor in general and on coal transportation in particular. If that truly is the case then MRL's desire to purchase and control the Pocatello to Silver Bow, UP line should be left out of the argument, because that specific purchase has no positive effect towards reaching the stated Responsive Application's goal of Central Corridor competition. In our opinion, the Central Corridor competitive question can be resolved through the BNSF agreement or one similar in nature, and MRL's desire to purchase the UP line between Silver Bow and Pocatello should be turned down because of the potential adverse impact it would have on the EIRR and its potato customers.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 25, 1996.

Richard Webb

Richard Webb

Vice President

(Title)

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE, N. W.

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44 AVENUE DES ARTS

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TELEPHONE: 32-2-512-9890

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ARVID E. ROACH II

DIRECT DIAL NUMBER

(202) 662-5388

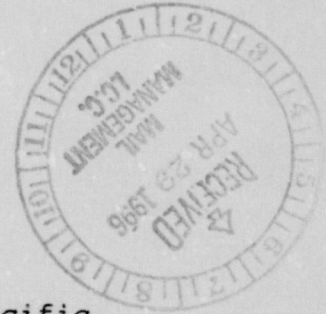
DIRECT TELEFAX NUMBER

(202) 778-5388

April 29, 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 UP/SP-235, titled Additional Comments of Shippers and Others in Support of Applicants' Rebuttal. Due to printing schedules, it was not possible to include these materials with Applicants' Rebuttal filing (UP/SP-230 through UP/SP-234), which was delivered to you earlier today.

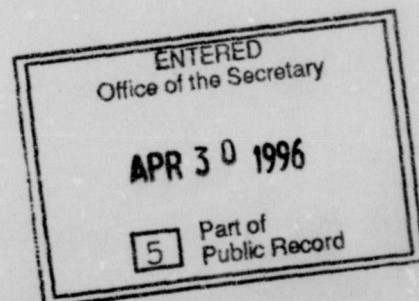
I enclose also for the Board's convenience six diskettes in Wordperfect 5.1 format and one diskette containing Excel spreadsheets, covering the contents of UP/SP-230 through UP/SP-235 to the extent they are available in electronic format, as well as directories showing the contents of each diskette.

Sincerely,

Arvid E. Roach II

Enclosures

cc: All Parties of Record



STB

FD

32760

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D

COVINGTON & BURLING

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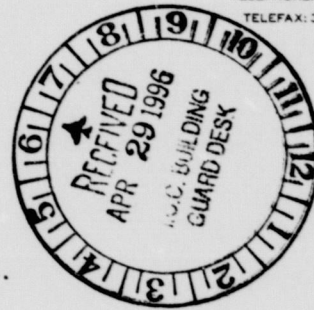
TELEPHONE: 32-2-512-9890

TELEFAX: 32-2-502-1598

April 29, 1996

BY HAND

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Twelfth Street and Constitution Avenue, N.W.
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Re: Finance Docket No. 32760, Union Pacific
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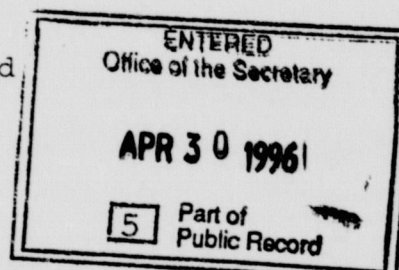
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Sincerely,

Arvid E. Roach II

Enclosures

cc: All Parties of Record

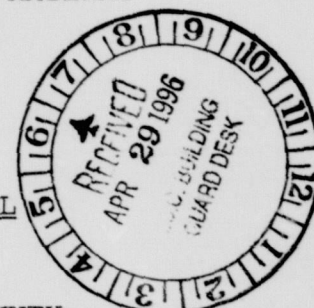


BEFORE THE
SURFACE TRANSPORTATION BOARD

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

ADDITIONAL COMMENTS OF SHIPPERS AND
OTHERS IN SUPPORT OF APPLICANTS' REBUTTAL



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LOUIS P. WARCHOT
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Harkins Cunningham
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Attorneys for Southern
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

ORIGINAL

April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

ADDITIONAL COMMENTS OF SHIPPERS AND
OTHERS IN SUPPORT OF APPLICANTS' REBUTTAL

Applicants are making this filing on behalf of the parties who are submitting the enclosed comments in support of Applicants' rebuttal filing of this date. Due to the printing schedule for the rebuttal filing, it was not possible to include these statements in UP/SP-233. The parties registering their support of the UP/SP merger and their opposition to proposals for divestiture and other conditions put forward by opponents of the merger are listed on the enclosed table of contents.

- Support statements of 26 shippers are enclosed, bringing the total number of shippers who have filed in support of Applicants' rebuttal to 476.

- A support statement from one local official is enclosed, bringing the total number of local government entities that have filed in support of Applicants' rebuttal to 23.

• One shortline railroad has offered a support statement included with this filing, bringing the total number of railroads that have filed in support of Applicants' rebuttal to 25.

Respectfully submitted,

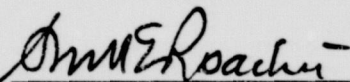
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(202) 662-5388

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

April 29, 1996

CERTIFICATE OF SERVICE

I, Karen W. Kramer, certify that, on this 29th day of April, 1996, I caused a copy of the foregoing Additional Comments of Shippers and Others in Support of Applicants' Rebuttal 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	Premarmer Notification Office
Antitrust Division	Bureau of Competition
Suite 500	Room 303
Department of Justice	Federal Trade Commission
Washington, D.C. 20530	Washington, D.C. 20580

Karen W. Kramer
Karen W. Kramer

COMMENTS OF SHIPPERS AND
OTHERS IN SUPPORT OF APPLICANTS' REBUTTAL

SHIPPERS

- 1 Alliance Shippers Inc.
- 2 American Continental Freight Inc.
- 3 Ancon Transportation
- 4 B&B Transportation Services, Inc.
- 5 Bayou Management Services Inc.
- 6 Branch Warehousing & Distribution Center, Inc.
- 7 Bulk Commodities Transport, Inc.
- 8 Chem-Rail Transport, Inc.
- 9 Girsas, Inc.
- 10 GTC Nutrition Company
- 11 Liebovich Bros.
- 12 Logan Lumber Company
- 13 Mabe
- 14 Mach One
- 15 Martrans International
- 16 Meridian Aggregates Company
- 17 The Morning Star Packing Co.
- 18 Phillip's Cattle Co., Inc.
- 19 Pilgrim's Pride, S.A. de C.V.
- 20 Port of W. St. Mary
- 21 Precision Flamecutting and Steel, Inc.
- 22 Professional Plate Processors, L.L.C.
- 23 Rail Van, Inc.
- 24 Scarpelli Materials, Inc.
- 25 Schnitzer Steel Products (Oakland, Cal.)
- 26 Toyota Motor Sales, U.S.A.

LOCAL OFFICIALS

Benicia, California

Otto Wm. Giuliani,
City Manager

OTHER RAILROADS

Eastern Idaho Railroad

ALLIANCE shippers inc.
●● MEXICO ●●

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

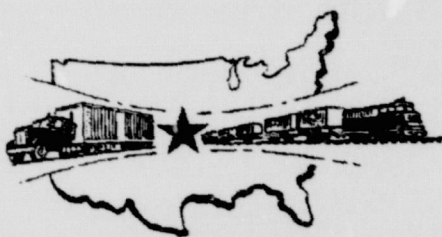
As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 18th, 1996.

SERGIO GONZALEZ A. GENERAL MANAGER.

ALLIANCE SHIPPERS INC.

Homero 1804 Desp. 1002 Chapultepec Morales
México, D.F. 11570 Tels. 557-5871 557-8467 Fax 395-8531



NATIONAL WATS - 1-800-271-7936
STATE WATS - 1-800-325-8731

American Continental Freight INC.

2851 SOUTH PARKER ROAD
SUITE 780
AURORA, COLORADO 80014
PHONE (303) 368-SHIP (7447)
FAX (303) 755-3611

April 26, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Ave., N.W.
Washington, DC 20423-0001

Dear Mr. Williams:

At the end of March, several parties filed comments with the STB requesting varying conditions which would result in divestitures of major parts of a merged UP/SP railroad system. These included divestiture of the SP El Paso/New Orleans and Brownsville/Chicago lanes as well as the Stockton/Herington, KS lane. We strongly object to such a divestiture.

The UP/SP merger benefits the shipping public by the formation of a more complete and efficient railroad system. This is a significant benefit in terms of seamless transportation and service improvement. Allowing other carriers to carve out self-serving niches for themselves under the guise of promoting competition would only serve to destroy the great benefits gained through an approval of this merger.

Clearly, common sense conditions can be made to ensure competition without gutting what promises to be a strong, efficient and comprehensive railroad system. I strongly urge the STB to not allow the divestiture of these lanes, which would destroy a merger that promises so many benefits.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 26, 1996.

Sincerely,

Craig Cormier
Vice President/
General Manager

Total Transportation Services

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

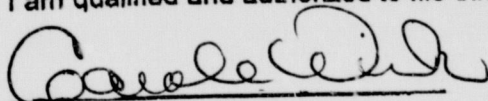
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These conditions should not be imposed for the following reasons:

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6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

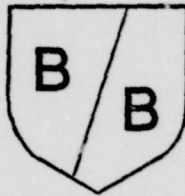
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(Signature)

Senior Vice President
(Title)

Amtrak Transportation
(Company)

- CONSULTING
- TRUCKLOADS
- L-T-L
- PROTECTIVE SERVICE



- T.O.F.C.
- C.O.F.C.
- POOL CONSOLIDATION
- DISTRIBUTION

B & B TRANSPORTATION SERVICES, INC.

April 18, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Ave., N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger,
F.D. No.32760

Dear Mr. Williams:

We are concerned regarding several conditions in recently filed comments filed with the Surface Transportation Board. These conditions would result in divestitures in parts of the proposed merger of the SP/UP system on the east end of the SP and in the Central Corridor.

As a small but concerned shipper agent and rail user, we feel the above mentioned conditions would place an extreme hardship on us by eliminating the proposed comprehensive single-line service we are looking forward to with the merger. The expected increased capacity and, hopefully, more reliable service are benefits of the merger we are anxiously awaiting.

As we feel we will be adversely impacted by these proposed divestiture conditions, we urge the Board to not jeopardize the UP/SP merger. We strongly urge the Board to approve the UP/SP merger without those conditions involved.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 18, 1996.

William F. Bossert

William F. Bossert
B & B Transportation Services, Inc.

Secretary-Treasurer

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

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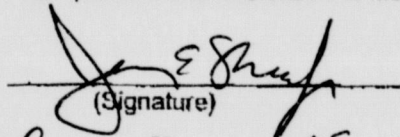
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As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

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


(Signature)
Bayou Management Services Inc
(Company)

President
(Title)

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:


On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 15, 1996.


(Signature)

President

(Title)

Branch Warehousing & Distribution Center, Inc.
(Company)

Bulk Commodities Transport, Inc.

Common Carriers



Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

April 23, 1996

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

1600 Rand

1555 W. HAWTHORNE LANE
WEST CHICAGO, IL. 60185 - 1821
PHONE: 708-876-0600 FAX: 708-876-0674

708-298-8636

Bulk Commodities Transport, Inc.

Common Carriers



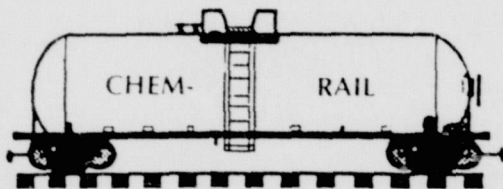
As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23, 1996.

Richard Williams
(Signature)

VICE PRESIDENT - SALES
(Title)

BULK COMMODITIES TRANSPORT
(Company)



CHEM-RAIL TRANSPORT, INC.

12692 Shawnee Mission Parkway
Shawnee Mission, KS 66216
(913) 631-5912 • FAX: (913) 631-2489

"Specialists in Hazardous Waste Transportation by Rail"

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 22, 1996.

Alfred Grimore
(Signature)

President
(Title)



GIRSA, INC.

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Henington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 26th, 1996.

Alvin Lee
(Signature)

GIRSA INC
(Company)

Logistics Coordinator
(Title)



8714 State Highway 60
P.O. Box 628
Johnstown, CO 80534
Phone: (970) 587-5131
Fax: (970) 587-6536

April 25, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

Several parties have filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of significant portions of the proposed merged Union Pacific and Southern Pacific Railroad (UP/SP) system, including the east end of the SP system (Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

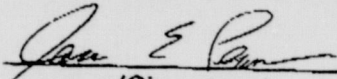
These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide an operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and Burlington Northern/Santa Fe -- shippers could face a splintered western rail system.
3. The benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced.

4. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
5. Imposing these conditions could cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow the UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I certify that I am qualified and authorized to file this verified statement.


(Signature)

Vice President
GTC Nutrition Company

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

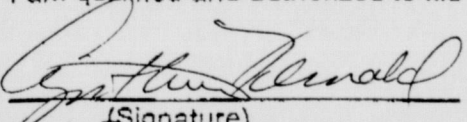
On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

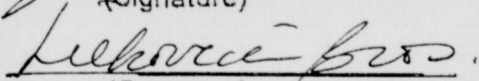
These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23rd, 1996.


(Signature)


(Company)


(Title)



LOGAN LUMBER COMPANY

2272 LARKIN CIRCLE • SPARKS, NV 89431 • TELEPHONE: (702) 359-7300 • FAX: (702) 359-7087

April 23, 1996

Re: UP/SP Merger F.D. No. 32760

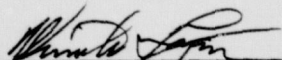
Logan Lumber Company, Sparks, Nevada, on a national scale, would probably be qualified as a small inbound receiver of rail freight. Nevertheless, our very existence depends upon timely shipments. Utopia would be a continuous, one-owner railroad from East to West, or vice-versa. Switching cars from one railroad to another takes time, and time becomes profit.

In our estimation, divestiture of any part of SP or UP would be disastrous. It is our belief the merger of UP-SP is one of the most important actions that could happen to transportation today, along with the competitive settlement being arranged with the BN/Santa Fe.

We ship products from the midwest, the southeast, south and of course, the west coast, into our market area. Our very existence depends upon timely delivery.

We therefore ask for your assistance in maintaining the SP-UP railroads as a complete entity, as they are today. The importance of maintaining these railroads as they are today is not only important to Logan Lumber Company, but of primary importance to the entire West Coast.

Sincerely,



Winston N. Logan
President

/map

Mabe

April 23th, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W
Washington, D.C.

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. U P is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.

*Insurgentes Sur No. 617-3er. Piso
Col. Nápoles
C.P. 03810 México, D. F.
Tel. (5) 628 81 00 y 628 82 00
Fax (5) 628 81 79 y 628 82 59*

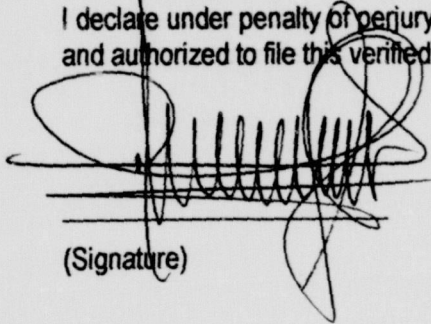
liderazgo en Latinoamérica

Mabe

5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions. I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 24 1996.



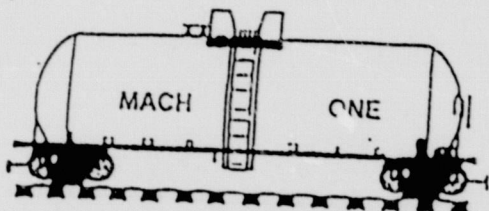
(Signature)

TRANSPORTATION MANAGER.
(Title)

M A B E
(Company)

Insurgentes Sur No. 617-3er. Piso
Col. Nápoles
C.P. 03810 México, D. F.
Tel. (5) 628 81 00 y 628 82 00
Fax (5) 628 81 79 y 628 82 59

liderazgo en Latinoamérica



MACH ONE

P.O. BOX 3009

SHAWNEE, KANSAS 66203

PHONE: 913) 962-0693

FAX: 913) 631-2409

April 23, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C.

Re: UP/SP Merger, F.D. No 32760

Dear Mr. Williams:

It has been called to our attention that as of March 21, 1996, multiple comments had been filed with STB, which contained proposals which would result in divesting the merged system of integral lines essential to smooth operation of our business.

Since our business involves the movement of hazardous materials we are concerned about both the availability of competitive transportation and the safe movement of those materials. Naturally, the shorter the route--the safer the movement.

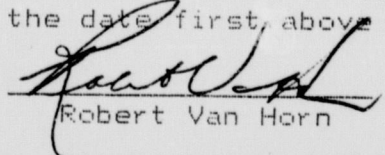
The purchase plan of SP by UP contains a detailed operation plan, which we believe meets our requirements for cost effective-safe railcar movements.

In conducting our business we serve a number of facilities in California, Kansas, Louisiana and Texas. The proposals involve divestiture of available single line service to our customers involved in shipping sensitive material.

The only reason for these proposals is to permit other lines to pick and choose essential parts of the "new" system they would like to acquire for their own financial and competitive advantage.

We strongly oppose these conditions, which would place our numerous customers in the untenable position of having their transportation needs placed on the auction block to lines with unknown effectiveness and ability to serve them and meet their transportation requirements.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement executed the date first above mentioned.


Robert Van Horn

Exec. V.P. President. MACH I, Inc.

Martrans International

2819 22nd Street
Wyandotte, MI 48192
(313) 282-1960

FAX 313 282 1563

April 23, 1996

Mr. Vernon Williams, Secretary
SURFACE TRANSPORTATION BOARD, ROOM 3315,
12th & CONSTITUTION AVENUE N.W.,
WASHINGTON D.C. 20423-0001

RE: UP/SP MERGER - FD NO. 32760

Dear Mr. Williams:

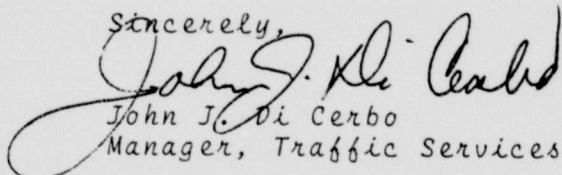
Please reference my verified statement dated October 12, 1995, strongly supporting the merger of the Union Pacific and the Southern Pacific Railroads.

Having being exposed to the BNSF merged operation for the past few months, it has become very obvious that a strong competitive element such as the proposed SP/UP merger must come about in the very near future to inhibit the higher rates that are currently being quoted by the BNSF. These higher rate that are being quoted by the BNSF are on single line rates that were published by the Santa Fe.

I truthfully expected to see reductions in rates on the basis of cost reductions that the combined BNSF would achieve and pass on to shippers but this is certainly not the case: at least for the shipment of steel products.

It is imperative that a strong, reliable and workable competitive factor, such as the proposed SP/UP merger be approved and implemented in the shortest time framework to provide immediate competition on a system wide basis to the BNSF.

Sincerely,


John J. Di Cerbo
Manager, Traffic Services

MERIDIAN

Aggregates Company

April 24, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
12th & Constitution Avenue N.W., Room 3315
Washington, DC 20423-0001

Re: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

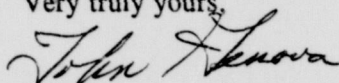
1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

5575 DTC Parkway, Suite 325
Englewood, Colorado 80111
303 • 694 • 3030
FAX: 303 • 694 • 4220

Mr. Vernon Williams
April 24, 1996
Page Two

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

Very truly yours,

A handwritten signature in cursive script, appearing to read "John C. Genova".

John C. Genova
Vice President, Marketing

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

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As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 22, 1996.

Jerry Shaw
(Signature)

The Morning Star Packing Co.
(Company)

Shipper
(Title)

PHILLIP'S CATTLE CO., INC.

502 East Barioni Blvd.
P.O. Box 728 • Imperial, CA 92251
Phone (619) 355-1175
FAX (619) 355-1174

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No.32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA -Herington, KS):

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6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

PHILLIP'S CATTLE CO., INC.

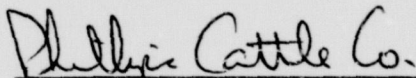
502 East Barioni Blvd.
P.O. Box 728 • Imperial, CA 92251
Phone (619) 355-1175
FAX (619) 355-1174

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

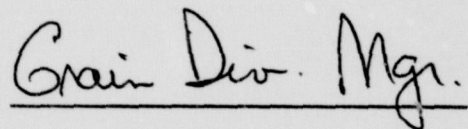
I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 19, 1996.



(Signature)



(Company)



(Title)



PILGRIM'S PRIDE

DECLARO BAJO PROTESTA DE DECIR VERDAD DE: CARLOS CAMPOS CONTRERAS,
EN REPRESENTACION DE PILGRIM'S PRIDE, S.A. DE C.V.

MI NOMBRE ES: CARLOS CAMPOS CONTRERAS, OCUPO EL PUESTO DE JEFE DE TRAFICO. LA RESPONSABILIDAD CONSISTE EN DARLE SEGUIMIENTO A LOS EMBARQUES POR CAMION O FURGON PARA EVITAR PAROS EN LAS PLANTAS - POR FALTA DE INSUMOS, ADEMÁS DE UTILIZAR EL FLETE MAS CONVENIENTE REDUCIR Y ELIMINAR LOS PAGOS POR CONCEPTOS DE DEMORAS.

LA EMPRESA SE DEDICA A LA ELABORACION DE ALIMENTO BALANCEADO PARA LA AVICULTURA (CONSUMO PROPIO), ASI COMO A LA PRODUCCION DE CARNE DE POLLO. LOS INSUMOS SON ENVIADOS A NUESTRAS CUATRO PLANTAS DE PROCESO, UBICADAS EN LAS CIUDADES DE SALTILLO, SAN LUIS POTOSI Y QUERETARO. LOS PRINCIPALES ORIGENES DE DOS DE LOS INSUMOS IMPORTADOS POR FERROCARRIL (MAIZ / SURGO) SON DE LOS ESTADOS DE ILLINOIS, NEBRASKA, IOWA, KANSAS Y TEXAS, A TRAVES DE LAS FRONTERAS DE LAREDO, EAGLE PASS Y BROWNSVILLE. EL VOLUMEN APROXIMADO QUE SE REQUIERE ES DE 360,000 TONELADAS ANUALES.

CONOCEMOS DEL PROYECTO DE FUSION DE LOS FERROCARRILES UNION PACIFIC Y SOUTHERN PACIFIC, Y CREEMOS QUE ESTO ES BUENO, PORQUE DARA COMO RESULTADO UN FERROCARRIL MAS FUERTE, MAS COMPLETO Y MEJOR - INTEGRADO EN SU SERVICIO DE TRANSPORTE.

PARTE DE LOS BENEFICIOS QUE PODEMOS IDENTIFICAR SON LOS SIGUIENTES:

- A) DAR UN SERVICIO DIRECTO INTEGRAL CON UN SOLO FERROCARRIL.
- B) RUTAS MAS CORTAS Y CON MENOR TIEMPO DE RECORRIDO.
- C) MAYOR DISPONIBILIDAD DE EQUIPO Y MEJOR DISTRIBUCION Y UTILIZACION DEL MISMO.
- D) TENER ALTERNATIVAS DE DOS FERROCARRILES IMPORTANTES Y FUERTES QUE TIENEN ACCESO A LAS FRONTERAS QUE MAS UTILIZAMOS AL HABER SELE CONCEDIDO AL BN/SF DERECHOS DE USO DE VIA A BROWNSVILLE E EAGLE PASS.

PILGRIM'S PRIDE, S.A. de C.V.

Av. 5 de Febrero 1408 Col. San Pablo 76130 Querétaro, Qro.

Tels. 17-01-78, 17-03-24, 17-04-91, 17-08-97, 17-09-84, Fax. 17-02-04



PILGRIM'S PRIDE

POR LO TANTO, APOYAMOS LA FUSION DEL UP/SP, CON LA SEGURIDAD DE QUE HARA FRENTE AL RETO COMPETITIVO DE SERVICIO, DE DESEMPEÑO Y DE EFICIENCIA QUE TIENE CON EL BN/SF.


A T E N T A M E N T E


SR. CARLOS CAMPOS CONTRERAS
JEFE DE TRAFICO.

YO, CARLOS CAMPOS CONTRERAS, DECLARO BAJO PROTESTA DE DECIR VERDAD QUE LO ANTES ESCRITO ES CORRECTO Y VERDADERO. ADEMÁS CERTIFICO - QUE ESTOY CAPACITADO Y AUTORIZADO PARA PRESENTAR ESTA DECLARACION.

QUERETARO, QRO., 01 DE ABRIL DE 1996.

A T E N T A M E N T E


SR. CARLOS CAMPOS CONTRERAS
JEFE DE TRAFICO.

PILGRIM'S PRIDE, S.A. de C.V.

Av. 5 de Febrero 1408 Col. San Pablo 76130 Querétaro, Qro.

Tels. 17-01-78, 17-03-24, 17-04-91, 17-08-97, 17-09-84, Fax. 17-02-04

SWORN STATEMENT MADE BY CARLOS CAMPOS CONTRERAS ON BEHALF OF PILGRIM'S PRIDE, S.A. DE C.V.

MY NAME IS CARLOS CAMPOS CONTRERAS, AND I HOLD THE POSITION OF TRAFFIC MANAGER. MY DUTIES CONSIST OF PROVIDING FOLLOWUP ACTIVITIES ON SHIPMENTS MADE BY TRUCK OR RAILWAY CAR IN ORDER TO AVOID PLANT STOPPAGES DUE TO THE LACK OF SUPPLIES, IN ADDITION TO UTILIZING THE MOST EFFICIENT FREIGHT SERVICE FOR THE PURPOSE OF REDUCING AND ELIMINATING PAYMENTS ARISING DUE TO DELAYS.

THE COMPANY PREPARES POULTRY FEED (FOR ITS OWN USE), AND ALSO PRODUCES CHICKEN MEAT. SUPPLIES ARE SENT TO OUR FOUR PROCESSING PLANTS LOCATED IN THE CITIES OF SALTILLO, SAN LUIS POTOSI AND QUERETARO. THE PRINCIPAL POINTS OF ORIGIN FOR TWO OF THE SUPPLIES IMPORTED BY RAIL (CORN/SORGHUM) ARE THE STATES OF ILLINOIS, NEBRASKA, IOWA, KANSAS AND TEXAS, BY MEANS OF THE BORDER CROSSINGS OF LAREDO, EAGLE PASS AND BROWNSVILLE. THE APPROXIMATE VOLUME REQUIRED IS 560,000 TONS PER YEAR.

WE ARE AWARE OF THE PLAN TO MERGE THE UNION PACIFIC AND SOUTHERN PACIFIC RAILWAYS, AND BELIEVE THIS IS GOOD AS IT WILL RESULT IN A STRONGER, MORE COMPLETE AND BETTER INTEGRATED RAILWAY AS REGARDS TRANSPORTATION SERVICES.

SOME OF THE SERVICES WE CAN IDENTIFY ARE THE FOLLOWING:

- A) THE PROVISION OF A COMPLETE DIRECT SERVICE WITH A SINGLE RAILWAY.**
- B) SHORTER ROUTES WITH BETTER RUNNING TIME.**
- C) BETTER AVAILABILITY OF EQUIPMENT AND BETTER DISTRIBUTION AND UTILIZATION OF SAME.**
- D) TO HAVE THE ALTERNATIVE OF TWO STRONG AND IMPORTANT RAILWAYS WITH ACCESS TO THE BORDER CROSSINGS MOST USED BY OURSELVES, SINCE BN/SF HAS BEEN GRANTED RIGHTS TO UTILIZE THE LINE TO BROWNSVILLE AND EAGLE PASS.**

WE THEREFORE SUPPORT THE UP/SP MERGER, AND ARE CONFIDENT

THAT IT WILL MEET THE COMPETITIVE CHALLENGE OF SERVICE, OF
PERFORMANCE AND OF EFFICIENCY WITH BN/SF.

YOURS VERY TRULY,

CARLOS CAMPOS CONTRERAS,
HEAD OF TRAFFIC.

I, CARLOS CONTRERAS, DECLARE UNDER OATH THAT THE FOREGOING IS
CORRECT AND TRUE, AND ALSO CERTIFY THAT I AM EMPOWERED AND
AUTHORIZED TO FILE THIS STATEMENT.

QUERETARO, QRO., APRIL 1, 1996.

CARLOS CAMPOS CONTRERAS
HEAD OF TRAFFIC

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

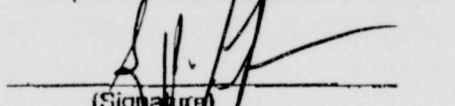
On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23, 1996.


(Signature)
Paul W. St. Mary
(Company)

Exec. Director
(Title)



P.O. BOX 55948 • HOUSTON, TEXAS 77255 • PHONE (713) 861-6171
FAX (713) 864-6400

April 25, 1996

RE: UP/SP Merger, F.D. No. 32760

Dear

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

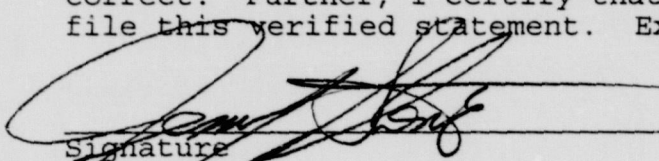
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1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks - UP/SP and BN/Santa Fe - shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
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5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned - risking the dismemberment of SP and the loss of vital rail service.

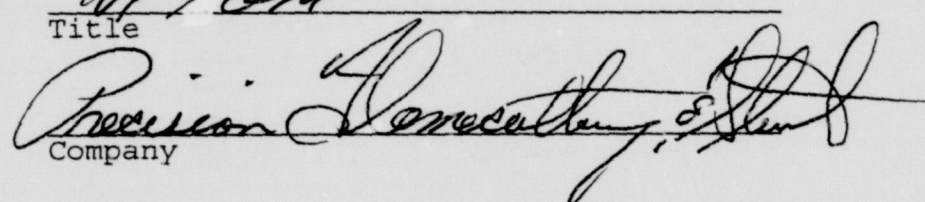
As a concerned rail user who will be adversely impacted by these

proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 25, 1996.


Signature


Title


Company

JWS/tb 1558

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

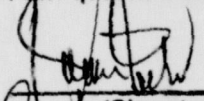
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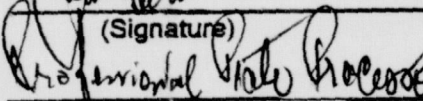
These conditions should not be imposed for the following reasons:

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2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

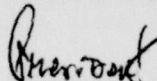
As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 22, 1996.



(Signature)


(Company)



(Title)



April 25, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

Re: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams,

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

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1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks--UP/SP and BN/ATSF--shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster, more reliable service, would be significantly reduced or eliminated.
4. Other carriers want to "cherry pick" valuable parts of the UP/SP system for their own benefit.
5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/ATSF, and cause the entire UP/SP merger to be abandoned--risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 25, 1996.

Signature Jeffrey Brashares
President

4/25/96
(Title)

RAIL VAN, INC.

Scarpelli Materials, Inc.

1555 W. Hawthorne Lane • West Chicago, Illinois 60185-1821
630-876-0600 • Fax 630-876-0674

Commercial

Industrial

Residential

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

April 23, 1996

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

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5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned -- risking the dismemberment of SP and the loss of vital rail service.

Thank You For Thinking Of Us

Scarpelli Materials, Inc.

1555 W. Hawthorne Lane • West Chicago, Illinois 60185-1821
630-876-0600 • Fax 630-876-0674

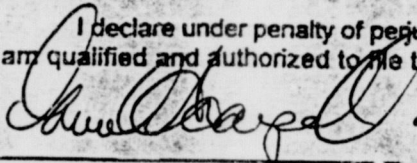
Commercial

Industrial

Residential

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to approve the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 23, 1996.



(Signature)

PRESIDENT

(Title)

SCARPELLI MATERIALS

(Company)

Thank You For Thinking Of Us

SCHNITZER STEEL PRODUCTS

1101 Embarcadero West (94607) P.O. Box 747 Oakland, California 94604
Phone (510) 444-3919 FAX (510) 444-3370



April 17, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3515
12th and Constitution Avenue, N. W.
Washington, D. C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso-New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA-Herington, KS):

These conditions should not be imposed for the following reasons:

1. UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks-UP/SP and BN/Santa Fe-shippers would face a splintered western rail system.
3. The tremendous public benefits associated with the UP/SP merger, including increased capacity and faster more reliable service, would be significantly reduced or eliminated.
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5. Users of these lines would face an uncertain future of not knowing which railroad would provide service, or the prospect of being served by a small railroad whose ability to provide service is a complete unknown.
6. Imposing these conditions could undo UP/SP's pro-competitive settlement with BN/Santa Fe, and cause the entire UP/SP merger to be abandoned-risking the dismemberment of SP and the loss of vital rail service.

As a concerned rail user who will be adversely impacted by these proposed divestiture conditions, I urge the Board not to carve up



Mr. Vernon Williams, Secretary
April 11, 1996
Page 2

the UP/SP system, and not to jeopardize the UP/SP merger. I strongly urge the STB not to grant these conditions and to the UP/SP merger conditioned only by the Settlement Agreements. Such approval will maintain and increase competition throughout the western United States and allow UP to fulfill its commitment to invest an additional \$1.3 billion in capital expenditures into a combined UP/SP system.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 17, 1996.

Jary Schutze
(Signature)

Schutze Steel
(Company)

Ex. Vice Pres.
(Title)



Jim Hall
Corporate Manager
Logistics Planning and Administration

Toyota Motor Sales, U.S.A., Inc.
19001 South Western Avenue
P.O. Box 2991
Torrance, CA 90509-2991

April 26, 1996

Mr. Vernon Williams
Secretary
Surface Transportation Board
Room #3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: UP/SP Merger, F.D. No. 32760

Dear Mr. Williams:

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) requesting conditions that would result in divestitures of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville-Chicago) and in the Central Corridor (Stockton, CA - Herington, KS):

These conditions should not be imposed for the following reasons?

1. To the best of our knowledge, UP is the only carrier to offer to purchase the entire SP and to provide a detailed operating plan that will produce significant service improvements.
2. Shippers would lose single-line service if these lines were sold off. Instead of having two comprehensive, competitive rail networks -- UP/SP and BN/Santa Fe -- shippers would face a splintered western rail system.
3. Anticipated benefits associated with the UP/SP merger, include increased capacity and faster, more reliable service, would be significantly reduced or eliminated.

Accordingly, Toyota urges the Board to not consider these proposed divestiture conditions, but to rule on the UP/SP merger conditioned only by the Settlement Agreements already submitted in conjunction with the proposed merger.

Sincerely yours,

JH/fch (96029.)



CITY HALL • 250 EAST L STREET • BENICIA, CA 94510 • (707)746-4200

April 25, 1996

Facsimile Transmission (202) 778-5338

Mr. Vernon Williams
Surface Transportation Board

Subject: UP/SP MERGER CASE, 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 ET. AL.

Dear Mr. Williams:

This is a verified statement of Otto Wm. Giuliani, City Manager of the City of Benicia, California. The City of Benicia supports the above proposed merger action founded on the following beneficial City impacts:

- Raise the economic and fiscal competitiveness of the Benicia Port to retain existing industry and attract industry dependent on efficient rail transportation services.
- Increase public health and safety as UP has the capital resources to make the necessary new investment in track maintenance and repairs.
- Create new job, revenue and investment opportunities through linkages with the Benicia Port. For example, Mazda Motor Company is expected to relocate their Oakland based operation to Benicia pending merger approval.
- UP is known for providing top quality rail transportation services to business and industry. Therefore, the City expects positive economic development outcomes from this merger including new jobs, municipal revenues and indirect economic job and revenue benefits for the community.
- Help our existing industrial base to be more competitive as UP can provide more efficient operations that will mean lower costs for companies located in the Benicia Industrial Park and, thus, greater economic competitiveness for the City of Benicia.

ERNEST F. CIARROCCHI, Mayor
Members of the City Council

CAREY CORBALEY Vice Mayor • JOHN SILVA • JERRY HAYES • PEPE ARTEAGA

OTTO WM. GIULIANI, City Manager
VIRGINIA SOUZA, City Treasurer
FRANCES GRECO, City Clerk

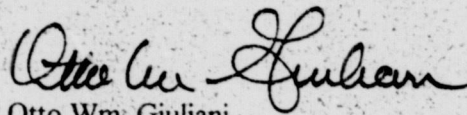
Mr. Vernon Williams

Page 2

- Measurably elevates the quality of rail services provided to Benicia Industrial Park firms that will help the City retain existing business firms and encourage expanding firms to expand in Benicia.

Therefore, the City of Benicia strongly urges favorable action on this matter. Thank you for your consideration.

Sincerely,



Otto Wm. Giuliani
City Manager

Attachment

- Verification

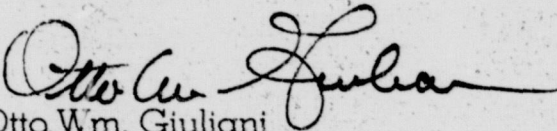
cc: Assistant City Manager/Economic Development Director

//spltx//

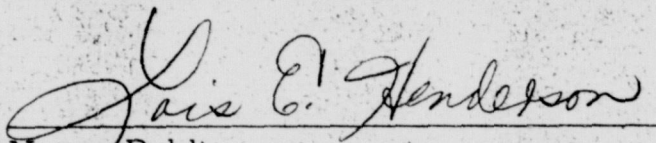
VERIFICATION

State of California
County of Solano

I, Otto Wm. Giuliani, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on the 25th day of April, 1996.

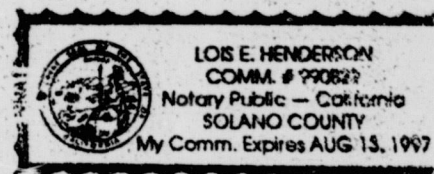

Otto Wm. Giuliani
City Manager

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


Notary Public

My Commission Expires:

August 13, 1997





April 25, 1996

Mr. Vernon Williams, Secretary
Surface Transportation Board
Room 3315
12th and Constitution Avenue, N.W.
Washington, D.C. 20423-0001

RE: Union Pacific / Southern Pacific Merger,
Finance Docket No. 32760

Dear Mr. Williams,

On March 29, 1996 several parties filed comments with the Surface Transportation Board (STB) in the Union Pacific / Southern Pacific merger proceeding requesting conditions that would result in divestiture of massive and crucial parts of the merged UP/SP system on the east end of the SP system (El Paso - New Orleans and Eagle Pass/Brownsville - Chicago) and in the Central Corridor (Stockton, CA - Kansas City). Among the comments filed was the application of Montana Rail Link (MRL) to acquire lines and equipment of the UP/SP in the Central Corridor. MRL also requested the STB's approval to acquire the UP's Silver Bow, ID line.

Eastern Idaho Railroad submits these comments in opposition to the MRL application and request for conditions on the UP/SP merger. We specifically ask that the STB reject the MRL proposal, and in particular MRL's stated desire to buy the UP line between Silver Bow and Pocatello, ID.

The MRL responsive application states that a corporate cousin to MRL will purchase and operate a Central Corridor route consisting primarily of the old SP route and purchase from the UP it's Pocatello to Silver Bow line to allegedly provide better competition than the current UP agreement with the BNSF. The MRL also proposes to purchase without limitation, the locomotives, cars, and various other equipment currently used by the UP/SP on the lines. While we have some feelings regarding the proposed purchase of the Central Corridor route, we are far more concerned with the proposed acquisition of the UP's Silver Bow line and its proposed equipment acquisitions.

The Eastern Idaho Railroad is a regional railroad that serves two markets in eastern and southern Idaho. The first is located around the Idaho Falls area and is comprised of

approximately 110 miles of rail lines. The second is located in and around the Burley/Twin Falls area in southern Idaho and consists of approximately 150 miles of rail lines. The EIRR was purchased from the UP in 1993 and has been successful in growing the business on it's lines with the help of the UP.

The EIRR's primary business, on the section of track most affected by the proposed MRL application, is the transportation of fresh and frozen potatoes from potato houses in the Idaho Falls area, destined to locations on the UP and beyond. The EIRR currently handles approximately 4,000 loads per year. These perishable shipments are extremely time sensitive and truck competitive. The EIRR has service commitments to it's customers that are somewhat unique in the railroad industry. A shipment that is billed today must be at the Idaho Falls UP interchange by midnight tonight or we pay a substantial rebate. The UP has some very stringent service commitments to it's customers also. For example, once that shipment reaches Idaho Falls the UP is committed to getting it to Chicago by the fourth day after billing. The coordination and cooperation between the EIRR and the UP has to be very efficient in order for the shipments to remain on rail. Since the EIRR's inception the rail service to the potato industry has worked extremely well. We have and continue to take business off the highway and onto the rail.

One of the main reasons for this program's success has been the ability of the UP to provide refrigerated box cars to be used for potato shipments. The UP is the owner of the largest fleet of refrigerated equipment in the country and has recently acquired some cars that were in use on the BNSF. Because of the perishable shipments, the UP has an extensive support system to maintain those reefer cars in route. The UP has its largest reefer shop at Pocatello, Idaho that has made it possible to keep this perishable business on the rail. As another convenience to the customer and to the EIRR, the UP provides two support personnel who work on the cars, used on the EIRR, to insure quality customer service. Without this total commitment by the UP to provide specialized refrigerated equipment and in route support maintenance the transportation of potatoes by rail would not be possible.

The MRL's proposal to purchase and operate the UP's Silver Bow to Pocatello line could potentially severely impact our ability to continue to serve this potato market. It is very doubtful that MRL could make the same type of commitments that the UP has made, in order for us to transport perishable shipments. If they buy the reefer equipment necessary to move our shipments in Idaho Falls from the UP, this would impact the southern end of our railroad around Burley/Twin Falls because it would reduce the number of cars in the UP fleet that are currently pooled for use on the EIRR and on the UP. Simply, buying reefer cars and

allowing us to use them will not be sufficient. The support mechanisms in place on the UP will have to be replaced either by us or MRL locally and by the MRL for in route maintenance and support. This type of maintenance commitment was not defined in the MRL application. MRL would also have to commit to some stringent operating requirements, just as the UP has done to insure timely and efficient service. In most instances, the longer routes and slower schedules imposed on our shippers by the MRL proposal would drive the business to truck. We are confident of this assumption, because even though rail is far more economical than truck, the timing of the shipment's delivery is the most critical aspect of the potato shipment. If rail service cannot get the shipment to destination on time, it will go by truck.

It is plain to see that MRL's statement that their proposed acquisitions will not threaten any railroad's essential services is false. It will threaten our ability to serve the potato industry in and around Idaho Falls. MRL reasons that their primary cause for filing the Responsive Application was their concern over the adverse impact the UP/SP merger would have on competition for rail service on the Central Corridor in general and on coal transportation in particular. If that truly is the case then MRL's desire to purchase and control the Pocatello to Silver Bow, UP line should be left out of the argument, because that specific purchase has no positive effect towards reaching the stated Responsive Application's goal of Central Corridor competition. In our opinion, the Central Corridor competitive question can be resolved through the BNSF agreement or one similar in nature, and MRL's desire to purchase the UP line between Silver Bow and Pocatello should be turned down because of the potential adverse impact it would have on the EIRR and its potato customers.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on April 25, 1996.

Richard Webb

Richard Webb

Vice President

(Title)

Finance Docket 32760
UP/SP-230
Applicants' Rebuttal
Volume 1

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Finance Docket 32760
UP/SP-231
Applicants' Rebuttal
Volume 2, Part A

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**Finance Docket 32760
UP/SP-231
Applicants' Rebuttal
Volume 2, Part B**

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Finance Docket 32760
UP/SP-231
Applicants' Rebuttal
Volume 2, Part C

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**Finance Docket 32760
UP/SP-232, 233, 234
Applicants' Rebuttal
Volumes 3, 4, and 5**

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Finance Docket 32760
UP/SP-231
Applicants' Rebuttal
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Finance Docket 32760
UP/SP-235
Additional Comments of
Shippers and Others

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32760

4-29-96

D

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Item No. _____

Page Count 4

Apr #392

84251

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DONELAN, CLEARY, WOOD & MASER, P.C.

ATTORNEYS AND COUNSELORS AT LAW

SUITE 750

1100 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-3934

OFFICE: (202) 371-9500

TELECOPIER: (202) 371-0900

April 29, 1996

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C.



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

Dear Secretary Williams:

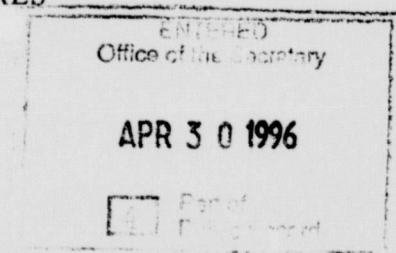
Pursuant to Decision No. 32, enclosed for filing with the Board is an original and five (5) copies of the Certificate of Service of Kennecott Utah Copper Corporation and Kennecott Energy Company ("KENN") certifying that a copy of an index listing all numbered documents filed to date by Kennecott has been mailed to all additional parties of record in this proceeding.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "John K. Maser III".

John K. Maser III
Jeffrey O. Moreno
*Attorneys for Kennecott Utah Copper
Corporation and Kennecott Energy
Company*

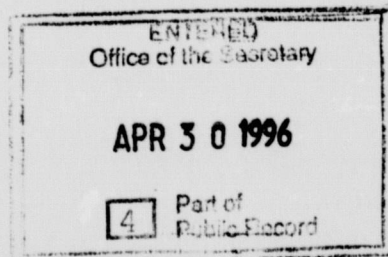
ENCLOSURES
3760-020



**Index of Documents Filed With the
Surface Transportation Board
By Kennecott Utah Copper Corporation and
Kennecott Energy Company
Finance Docket No. 32760**



<u>Document No.</u>	<u>Date Filed</u>	<u>Description</u>
KENN-1	12/4/95	Notice of Intent to Participate
KENN-2	1/16/96	First Set of Interrogatories and Requests for Production of Documents of Kennecott Utah Copper Corporation and Kennecott Energy Company to Applicants.
KENN-3	1/29/96	First Set of Interrogatories and Request for Production of Documents of Kennecott Utah Copper Corporation and Kennecott Energy Company to Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railway Company.
KENN-4	2/26/96	Index of Documents filed by Kennecott pursuant to Decision No. 16.
KENN-5	3/4/96	Kennecott Utah Copper Corporation's and Kennecott Energy Company's Objections to Applicants' First Set of Interrogatories and Requests for Production of Documents.
KENN-6	3/5/96	Notice to the Surface Transportation Board correcting number used on Kennecott-5.
KENN-7	3/11/96	Index of Documents filed with the STB to date sent to additional parties of record.



KENN-8	3/12/96	Kennecott Utah Power Copper Corporation's and Kennecott Energy Company's Initial Responses to Applicants' First Set of Interrogatories and Requests for Production of Documents.
KENN-9	3/18/96	Reply to Applicants' Appeal from ALJ's Order Restricting Applicants' Discovery.
KENN-10	3/29/96	Highly Confidential Comments and Evidence, and Request for Conditions by Kennecott Energy Company.
KENN-11	3/29/96	Redacted Comments, Evidence, and Request for Conditions by Kennecott Energy Company.
KENN-12	4/1/96	Additional Responses to Applicants' First Set of Interrogatories and Requests for Production of Documents.
KENN-13	4/9/96	Kennecott Energy Company's Objections and Responses to Applicants' Second Set of Interrogatories and Requests for Production of Documents.
KENN-14	4/10/96	Joint Motion for Clarification of Decision No. 6.
KENN-15	4/19/96	Deposition Excerpts.
KENN-16	4/19/96	Objections and Responses to Applicants' Twelfth Set of Discovery Requests.
KENN-17	4/29/96	Comments in Support of the Responsive Application of Montana Rail Link, Inc.

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Decision No. 32, a copy of the foregoing INDEX OF DOCUMENTS FILED BY KENNCOTT UTAH COPPER CORPORATION AND KENNECOTT ENERGY COMPANY has been served via first class mail, postage prepaid, on all additional parties of record in this proceeding on the 29th day of April, 1996.

Elinor G. Brown
Elinor G. Brown

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4-29-96

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Item No. _____

Page Count 5

Apr #393

82936

**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 CORPORATION,

ST. LOUIS SOUTHWESTERN RAILWAY COMPANY,

SPCSL CORP., AND THE DENVER AND

RIO GRANDE WESTERN RAILROAD COMPANY

Verified Statement of Thomas L. Moranz

ENTERED
Office of the Secretary

APR 30 1996

Part of
Public Record

My name is Thomas L. Moranz, Manager, Distribution Logistics, for the Quantum Chemical Corporation. I have been employed by Quantum for twenty years. Quantum is a member of the Chemical Manufacturers Association (CMA). I currently represent Quantum on the CMA Rail Task Group, an authorized CMA Distribution Committee Task Group, to promote the safety and efficiency of all aspects of rail transportation.

Statement:

Quantum does not oppose the merger of the Union Pacific (UP) and the Southern Pacific (SP) railroads. However, we want to ensure that the Surface Transportation Board recognizes that the CMA agreement with the UP/SP/BNSF does not address all of Quantum's concerns and remedies as specified in "Comments of Quantum Chemical Corporation" filed on March 26, 1996.

We want to speak for ourselves and reiterate four specific concerns and remedies including:

1. The loss of new competitive opportunities: Quantum's Chocolate Bayou, Texas facility is solely served by, or captive on, the Union Pacific. Prior to the announcement of the merger, Quantum was in discussion with the Southern Pacific regarding the construction of a rail line from Galveston, Texas to Chocolate Bayou which would serve Quantum's Chocolate Bayou manufacturing facility.

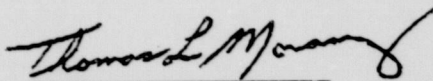
Remedy: Chocolate Bayou, Texas must be opened to access for originating shipments by a competing class I rail carrier, to compensate for the lost build-in opportunity which will occur with the merger.

2. The loss of competitive opportunities between existing origins: Quantum has a facility at Chocolate Bayou, Texas, which is captive on the Union Pacific, and a facility at Williams, Texas, which is captive on the Southern Pacific. Both facilities have the ability to produce similar polyethylene products. Quantum is able to leverage its ability to swing production capacity between the two facilities to take advantage of the current competition between the Union Pacific and the Southern Pacific for originating freight traffic.
Remedy: Williams, Texas must be opened to access for originating shipments by a competing class I rail carrier, to compensate for the loss of competition due to geographic leveraging between the Union Pacific and the Southern Pacific.
3. The loss of competition at industries served by Southern Pacific via Econorail at Baytown, Texas: It is unclear whether or not Seapac via Econorail, Baytown, Texas will be covered by the UP/BNSF Agreement. Quantum presently uses Seapac for regional distribution and Seapac can ship and receive either by the Union Pacific or the Southern Pacific.
Remedy: Seapac (via Econorail), Baytown, Texas must be opened to access for originating and receiving traffic by a competing class I rail carrier, or the UP/BNSF Agreement must be clarified with respect to granting access rights to the BNSF for service to Seapac (via Econorail).
4. The maintenance of three class I carriers at Strang, Texas: Prior to the merger of the Burlington Northern and the Santa Fe, four class I railroads competed for freight from and into Strang, Texas. Subsequent to the merger of the Burlington Northern/Santa Fe, the number of class I carriers at Strang has been reduced from four to three. Under the proposed merger, competition will be further reduced from three to two class I competitors.
Remedy: Strang, Texas must be opened to access to a class I carrier, to preserve the present level of competition by three class I railroads.

Quantum believes if the Surface Transportation Board imposes these conditions upon the merger, both improvements in service and preservation of competition can be achieved in the proposed merger.

I, Thomas L. Moranz, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement, executed on this 29th day of April, 1996.

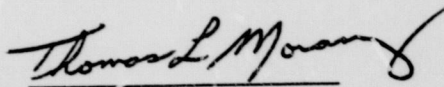
Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas L. Moranz", written over a horizontal line.

Thomas L. Moranz

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04/29/1996	CONFIDENTIAL MATERIAL FILED UNDER SEAL	UNION PACIFIC CORP ET MISCELLANEOUS	
04/29/1996	MOTION/PETITION/REQUEST	KANSAS CITY SOUTHERN RAILWAY COMPANY	MOTION/PETITION/REQUEST
04/29/1996	CONFIDENTIAL MATERIAL FILED UNDER SEAL	BURLINGTON NORTHERN RAILROAD CO ET AL	MISCELLANEOUS
04/29/1996	REPLY	BURLINGTON NORTHERN RAILROAD CO ET AL	REPLY
04/29/1996	CONFIDENTIAL MATERIAL FILED UNDER SEAL	BURLINGTON NORTHERN RAILROAD CO ET AL	MISCELLANEOUS
04/29/1996	LETTER/TELEGRAM	WISCONSIN PUBLIC SVC CORP	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	TEXAS UTILITIES ELECTRIC CO	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	COLORADO SPRINGS UTILITIES	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	CITY UTILITIES OF SPRINGFIELD MO	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	CITY PUBLIC SERVICE BOARD OF SAN ANTONIO TX	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	ENTERGY SERVICES INC ET AL	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	PUBLIC SERVICE CO OF COLORADO	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	COMMONWEALTH EDISON CO	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	PEABODY HOLDING CO INC	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	CENTRAL POWER & LIGHT CO	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	LOWER COLORADO RIVER AUTHORITY & CITY OF AUSTIN TEXAS	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	WISCONSIN POWER & LIGHT COMPANY	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	ARIZONA ELECTRIC POWER COOPERATIVE INC	LETTER/TELEGRAM
04/29/1996	LETTER/TELEGRAM	WESTERN COAL TRAFFIC LEAGUE	LETTER/TELEGRAM
04/29/1996	COMMENT	KANSAS-COLORADO-OKLAHOMA SHIPPERS ASSOC (TRI-STATE)	COMMENT
04/29/1996	PETITION	CALIFORNIA DEPT OF JUSTICE	PETITION
04/29/1996	COMMENT	PUBLIC UTILITIES COMMISSION OF CA	COMMENT

Respectfully submitted,

A handwritten signature in cursive script, reading "Thomas L. Moranz", with a long horizontal flourish extending to the right.

Thomas L. Moranz
Thomas L. Moranz

STB

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32760

4-29-96

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SKI

Item No. _____
Page Count 8
Apr # 434

ATION CONSULTING, INC.

1809 N. E

KANSAS 67214

(316) 264-9630

April 25, 1996

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



Re: Kansas Shippers Association, Now (Tri-State)
Comments in Finance Docket No. 32760

Honorable Secretary Williams,

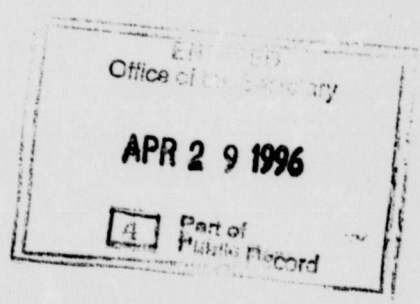
There is enclosed the comments of Tri-State Shippers (Kansas, Colorado, Oklahoma Shippers Association), which is due on April 29, 1996. The original and 20 copies with a Word Perfect 5.1 floppy is being mailed by USA Postal Service Priority Mail system. A copy will be mailed first class to A.L.G. Nelson and all parties of record who have requested same.

Respectfully submitted,

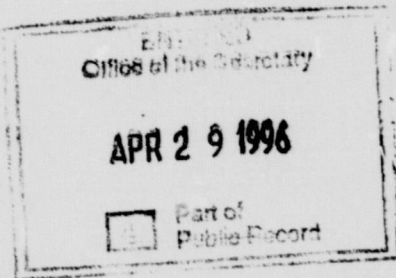
James J. Irlandi
James J. Irlandi
S.T.B. Practitioner

c/c: Governor Bill Graves
Attorney General Carla Stovall

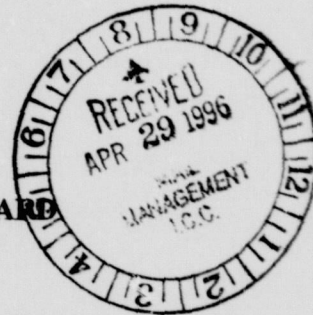
JJI/sl



Nov
Tri-State



**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**

**KANSAS - COLORADO - OKLAHOMA SHIPPERS ASSOCIATION'S
RESPONSE IN SUPPORT OF MONTANA RAIL LINK, INC.
PURCHASE OF APPLICANTS' CENTRAL CORRIDOR LINES AND
THE KCS RAILWAY TO SERVE THE STATES OF KANSAS AND OKLAHOMA**

By: James J. Irlandi
STB Practitioner
1809 N. Broadway / Suite F
Wichita, Kansas 67214
Ph: 316-264-9630
Fax: 316-264-9735

DUE DATE: 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.,**

**KANSAS-COLORADO-OKLAHOMA SHIPPERS ASSOCIATION'S
RESPONSE IN SUPPORT OF MONTANA RAIL LINK, INC.
PURCHASE OF APPLICANTS' CENTRAL CORRIDOR LINES AND
THE KCS RAILWAY TO SERVE THE STATES OF KANSAS AND OKLAHOMA**

PREFACE

Comes now the Kansas-Colorado-Oklahoma Shippers Association to inform all parties of record that three Colorado shippers and two Oklahoma companies have joined the UP-MP and SFE Shippers Group, therefore, there was a need to identify these new shippers in our joint state filing.

**TWO MAIN ISSUES NOT RESOLVED
IN THIS PROCEEDING**

- 1. THE CENTRAL CORRIDOR**
- 2. REPLACEMENT OF THE SP RAILROAD BY THE KCS
RAILROAD ON THE LINES OF EITHER THE UP-SP OR BNSF
RAILROADS.**

The shippers of our Association continue to have need for competitive railroads other than the UP-SP or the BNSF railroads to serve the states of Kansas, Colorado, Oklahoma and Texas.

ISSUE NO. 1 THE CENTRAL CORRIDOR

The UP's secondary mainline running east and west through the states of Kansas and Colorado has need of an alternate carrier other than the BNSF and or a short line railroad in order to provide the service, equipment and rates required to compete with shippers north of them on the mainline of the UP railroad extending from, Abilene KS to Denver Colorado. How important is this Central Corridor (MP line to Pueblo) and how is the UP to implement the need for service? Rumors are rampant that a shortline railroad may have the first opportunity to acquire and operate the line.

A shortline railroad would need additional equipment such as locomotives, LO Hopper cars and have the opportunity to control its through rates beyond its connection with the UP. This is not the experience that Tri-State's shippers have encountered with their shortline railroads. The wishes of the following groups have expressed the need for a different carrier to so acquire and operate the line other than the BNSF or shortlines: NIT League, The Western Shippers Coalition, Weyerhaeuser Company, Louisiana Pacific Corporation, Bartlett & CO., Colorado Wheat Administration Committee, Wormer involved in Farm Economics, Coalition for Competitive Transportation and Mountain/Plains Communities & Shippers Coalition.

The United States Department of Justice also filed a statement in which there was stipulated that the merger would incur serious anti competitive results without a competitive rail carrier in this corridor. One of the larger Farmer Cooperatives also stressed the need for addition competition in this Corridor. See Western Shippers' Coalition Exhibit, WSC Ex. 4. Page 2. See verified statement of Fredric E. Schrod. It is an excellent statement on the need for an additional carrier and support for Montana Rail Link (MRL).

Tri-State Shippers continue to support Montana Rail Link (MRL) in its quest to purchase this Central Corridor line to Oakland. The new development reported in the Rocky Mountain news dated Wednesday, April 17, 1996 that MRL would purchase the entire SP lines has created controversy. What ever posture this new development entails, Tri-State is grateful that MRL is willing to help shippers and receivers of rail freight in this corridor. There is no need for a duopolistic atmosphere west of the Mississippi River.

When the BNSF announced that Joplin MO to Wichita line was to be sold, it was our shippers group who suggested that the KCS purchase that line to serve Wichita and provide alternate service with the shortlines, KSW, CKR and SK&O.

The Rail Business letter dated April 22, 1996, Volume 2, No 9 contained the following:

Kansas Shippers POd By BNSF's Action At Augusta

"Shippers in and around Wichita, Kan. Are angry at what they see as a pre-emptive strike by Burlington Northern Santa Fe (BNSF) to keep the

Kansas City Southern Railway (KCS) out of that market. Under the impression that the Wichita-Joplin, Mo. Line -- which would have linked KCS's mainline to Wichita -- was for sale, area shippers, KCS and the Kansas governor were stunned when they learned that BNSF had effectively cut the line by pulling up the crossing at Augusta, Kan.

Kansas shippers had been counting on the line sale as a way to keep a third Class I (specifically KCS) in Wichita if the Union Pacific Railroad (UP)-Southern Pacific (SP) merger is accepted. BNSF, UP and SP (through trackage rights) now serve the area. Sources say the cost of replacing the crossing is prohibitive, thus eliminating the only opportunity for another Class I to own a line into Wichita.

BNSF spokesman Jim Sabourin said that the line isn't for sale and that the railroad hasn't "even determined that it will be up for sale." The only explanation for the misunderstanding, Sabourin thought, was a meeting between BNSF and union leaders in which the railroad's planned sale of 4,000 miles of line was discussed and "the Wichita-Joplin line was mentioned.

Regardless of whether the line officially is for sale, Kansas interests say look at the timing. The crossing was dismantled only weeks after.

- A letter from KCS to BNSF expressing interest in the line.
- A meeting between KCS president Mike Haverty and Kansas Gov. Bill Graves discussing the line.
- A Feb. 16 meeting between the governor and UP president Dick Davidson in which the governor suggested that the sale of the Joplin line, which he clearly understood to be for sale, to KCS would be "a reasonable solution" to the loss of competition from a UP-SP merger. In a March 7 letter to Farmland Industries Inc., the governor wrote that Davidson had committed "to communicate my wishes to [BNSF CEO] Robert Krebs."

"Scorched Earth Tactics"

"KCS's letter to BNSF expressing interest in the line was sent five weeks ago. KCS received a letter back from BNSF lawyers basically saying they weren't certain the line was for sale. Two weeks later, KCS heard from a shipper who had received a letter from BNSF indicating the line would be cut. "We were somewhat shocked," to learn what had happened, the KCS source said. "We still stand ready to buy it, but not if it doesn't go all the way [to Wichita]."

"A Kansas DOT (KDOT) source said the line "hadn't been officially for sale," but that "my impression was [BNSF was] willing to talk about it." Although he didn't know about BNSF's plan to pull up the Augusta crossing until after the fact, the source understood that the track was removed ostensibly to allow higher crossing speeds over BNSF's north-south mainline. The Wichita-Joplin line, boasting only 90-lb.-rail and a 25 mph limit, has moved only 5,000-6,000 cars/year, he added.

But "volume's not the point," asserted an area shipper. "Competitiveness is the point. Without [the line] there isn't the competition. It's scorched earth tactics," the shipper continued, "the only other thing I can compare it to is pollution."

"Rick Fleming, associate counsel to the governor, said: "In my opinion [BNSF has] impeded our efforts" to maintain competition in Wichita -- which, incidentally, is one of the conditions the governor laid down for his support of the UP-SP merger. UP can still meet the condition by granting trackage rights into the city, but the counsel admits that option will always be second best to outright track ownership."

The UP-SP do not want competition in the East-West and North-South Corridors

In the same newsletter, at page 3, the SP was reported as rejecting the MRL offer:

There is stated:

"SP Rejects MRL Offer"

"Montana Rail Link's (MRL) informal offer to buy the entire SP has been officially rebuffed. Maintaining that it's contractually bound to merge with the UP, SP said there was no "real" offer from MRL and described MRL as "a spoiler."

"Earlier this month an MRL executive suggested to Rail Business that MRL liked the SP franchise and would consider offering to buy the whole thing (RB 4/8/96, p. 4). The decision to follow up on this comment, MRL said, followed scrutiny of Conrail's offer to buy the Cotton Belt for \$1.5 billion: when MRL saw its offer and Conrail's together, MRL realized it could pay at least as much as UP's \$5.4 billion offer for the entire SP.

SP was "not receptive," said the MRL exec who made the pitch. Conceding that he never actually put hard numbers on the table, the exec said he was surprised SP wouldn't entertain the offer as a back-up.

MRL would probably have bought the network whole, operated the Central Corridor, Oregon and northern California routes, and spun off the remaining sections to other railroads, he said. Kansas City Southern Railway and Conrail were contacted by MRL, and both expressed interest.

"There was no real offer on the table here," reiterated SP spokesman Larry Kaufman. "If you accept that, then why are they doing this?" SP's guess is that MRL wants to delay and hence jeopardize the merger, and then pick up some of the SP pieces if the merger falls through.

In addition to playing down the informal MRL proposal, Kaufman poured cold water on MRL's more concrete bid of \$613 million for the Central Corridor. "Our people have run some numbers and [MRL is] awfully close to wanting that property for nothing."

Please note that MRL would operate the Central Corridor and northern California routes, as the U.S.D.O.J. has stated on competitive needs. MRL would work with KCS and Conrail on other sections. This would provide the competition which Tri-State's members need for protection of small shippers and receivers which both the BNSF and UP-SP controlled system would not provide unless help is received in your final decision in this proceeding.

ISSUE NO. 2

REPLACEMENT OF THE SP RAILROAD BY THE KCS RAILROAD ON THE LINES OF EITHER THE UP-SP OR BNSF RAILROAD

Tri-State continues to support the efforts of the KCS Railway to serve Kansas and Oklahoma. We wish to remind the Board that the Kansas Shippers Association invited KCS Officials to Wichita to converse with them concerning replacing the SP railroad. We also invited the KCS Officials to discuss helping with the development of a container yard in Wichita to help other Kansas shippers and receivers of commodities by the container mode of transportation. This reminder is necessary because President Haverty has been the subject of the same treatment accorded to other railroad officials who have protested the merger between the UP and SP railroad, namely, Conrail, MRL and Tex Mex Officials.

It was our Oklahoma members who generated the interest that the KCS Railway provide competitive service in the 2-1 railroad Enid area. One shipper has suggested that Conrail provide service to his plant on a shortline which line is intermediate to the origin plant. We continue to support the KCS's effort and suggest that the Board adopt the U.S. Justice's comments concerning the markets of agricultural products where there would be a reduction of railroad service from 3 to 2 as analyzed by its witness Dr. Majure. This is stated at DOJ-8, Page 9, second paragraph.

NATION WIDE INTEREST ON MERGER

Small communities in the United States which are not involved in this merger proceeding have interest in this proceeding. An example is Pawcatuck, CT and Westerly R.I. The Westerly RI Sun dated 4-14-96 contained an article entitled "Justice Department opposes rail merger." Pertinent to our support comments for the need for Montana Rail Link and KCS service is the following quote:

"But antitrust officials said the number of possible rail competitors would decline from two to one or from three to two in hundreds of markets because of the merger. Only through competition can consumers be assured of the best price," said Arne Bingaman, assistant attorney general in charge of the Justice Department's antitrust division."

"The department is concerned that this transaction will create monopolies or duopolies for crucial transportation services that industries and consumers depend upon throughout the U.S.," she said in a statement. The three-member Surface Transportation Board has the final say on the deal and is expected to make a decision in August."

"The railroads have proposed granting a third railroad company -- Burlington Northern Santa Fe -- 3,800 miles of tracking rights as a remedy. But the Justice Department called that suggestion inadequate, saying it wouldn't prevent price increases. And, it said, Burlington Northern would have to pay "an excessive compensation rate for trackage rights." Antitrust officials also said Union Pacific's and Southern Pacific's claimed efficiencies appear to be vastly overstated and insufficient to outweigh possible rate increases."

Pawcatuck has a population of 5,289 citizens and Westerly has a population of 16,477 individuals.

The Board may inquire what relationship do these two smaller communities have with this merger proceeding? Westerly was formerly on the N.Y.N.H &H railroad which merged with the Penn Railroad. It was a passenger and freight station which served a vital need for the development of the ocean Rhode Island facilities. It is presently served by the Providence and Worcester Railroad. It has experienced what mergers have done to smaller communities. The P & W provides freight services only at Westerly.

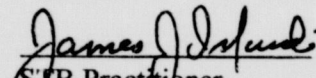
SUMMARY AND CONCLUSION

It is evident that there is an unusual amount of support for Montana Rail Link to purchase the Central Corridor line from applicants. It is also evident that there is an unusual amount of support for the KCS Railway to serve Kansas and Oklahoma area. The Kansas Shippers group now Tri-State has 40 ~~plus~~ members. It is also evident that there is a cross section of interest because these companies are located on the SSW, UP-MP, BNSF, CKR, KSW and SK&O railroads. Several have facilities on more than one line. See Tri-States March 29th filing, pages 11 through 16. Similar to the Mountain Plains Communities & Shippers Coalition, there is support for added competition from city, county officials. Refer to Tri-States March 29th filing at page 19. In addition, the farmers also testified that there is a need for rail services. See Tri-States filing mentioned supra at pages 28 and 29.

Prayer For Relief

In conclusion, Tri-State prays that the Board heeds the advise of two other federal agencies the U.S. Department of Justice and the U.S. Department of Agriculture that there is need for MRL and KCS railroads to serve Colorado, Kansas and Oklahoma. We also pray that the STB issues a final order which also stipulates the need for these two railroads whose executives desire to serve both small and large shippers in these states. The applicants and the BNSF railroad have forgotten their common carrier obligations and prefer to help the large companies and forgot the smaller ones in these states.

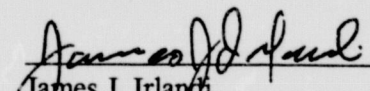
Submitted by,


STB Practitioner
Advisor to Tri-State

I, James J. Irlandi, declare under penalty of perjury that the foregoing is true and correct. Further I certify that I am qualified and authorized to file this statement, executed on April 24 1996.

CERTIFICATE OF SERVICE

I, James J. Irlandi, certify that on this 26th day of April 1996 caused this original and 20 copies of this statement to be mailed by first class to the Surface Transportation Board with a WP5.1 copy included herein. A copy is also directed to the Honorable Jerome Nelson. I further certify that I have mailed to all parties of record who have requested of Tri-State a copy by first class mail as required by the Surface Transportation Board Rules of Practices.


James J. Irlandi

STB

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4-29-96

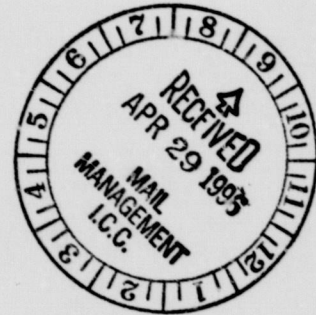
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April 26, 1996

APR 29 1996

Part of
Public Record

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

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

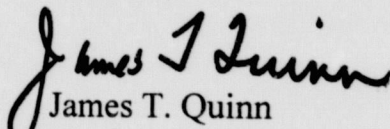
Dear Secretary Williams:

Enclosed for filing please find an original and 21 copies of a document titled "Comments of the Public Utilities Commission of the State of California on the Responsive Application of Montana Rail Link."

Please file-stamp the extra enclosed copy and return it to the undersigned in the enclosed stamped, self-addressed envelope. Thank you for your cooperation

Also enclosed is a 3.5-inch diskette containing a copy of the filing in Wordperfect 5.1 format.

Sincerely,


James T. Quinn
Commission Attorney

JTQ:dd

Enclosures (22)

cc: All parties of record

ORIGINAL

RECEIVED
Office of the Secretary

APR 29 1996

FILED
FBI

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 CRP. AND THE
DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

COMMENTS OF THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE RESPONSIVE APPLICATION OF MONTANA RAIL LINK

The Public Utilities Commission of the State of California (CPUC) hereby submits its comments on the Responsive Application filed by Montana Rail Link (MRL) on March 29, 1996. MRL proposes that one of the two routes that a merged Union Pacific (UP) and Southern Pacific (SP) would own in the Central Corridor instead be purchased and operated by an entity controlled by MRL's majority shareholder.¹ The line would extend from Stockton and Klamath Falls to Kansas City, and north from Ogden to Silver Bow, Montana. Principally, it would encompass the rights of way of

¹ MRL's application refers to the proposed new entity as "Acquisition Company." Herein this acquiring entity is designated "MRLAC."

the former Western Pacific and the Denver and Rio Grande Western and would include trackage rights between Pocatello and Ogden and Kansas City and Herrington, Kansas. For the subject property, including equipment, MRLAC is offering a purchase price of approximately \$615 million.

I

COMMENTS

A. The CPUC Seeks Further Information And Will Set Forth A Final Position On MRL's Proposal In Its Brief

The CPUC wishes to emphasize that its present posture regarding the MRL Responsive Application does not constitute any change in its basic position of support for the UPSP merger. What it does signal, though, is that the CPUC is inclined to see the MRL proposal for the Central Corridor as in California's public interest and the interests of its shippers.

Emphasis must be given to the fact that with respect to the Central Corridor, the merger proposed by UPSP is definitely parallel in nature. Moreover, whatever rights are established in this proceeding will likely dictate the tenor of rail competition in the West for decades to come. Accordingly, it is incumbent on the CPUC to condition its basic support for the merger on supporting conditions that are most conducive to securing a high degree of competition, both within California and along routes to and

from California.

In its earlier Comments before the Board, the CPUC requested, among other things, that if the merger of UP and SP were to be approved, a condition to ensure the preservation of Central Corridor competition should be imposed. As was stated by the CPUC, a significant public interest argument advanced by Rio Grande Industries in support of its 1988 acquisition of SP was that railroad competition with UP in the Central Corridor would be strengthened. That commitment was embraced by California. In contrast, by retaining UPSP ownership over roadway facilities and trackage, and by substituting Burlington Northern Santa Fe (BNSF) as UPSP's competitor -- despite the fact that BNSF's primary service corridor between Central California and the Midwest would continue to be via the former Santa Fe's Southern Corridor route -- the plan advanced by a merged UPSP appears to minimize Central Corridor competition.

Having now considered MRL's Responsive Application, along with what has been presented in this proceeding by UPSP and BNSF, it is the CPUC's opinion that the MRL proposal seems to offer substantial benefits to California. All things being equal, the CPUC favors three competing carriers over two. Moreover, it believes that an owner of a line generally will be a stronger competitor than a carrier that simply has trackage rights.

Accordingly, the CPUC is presently inclined to support the divestment of the identified Central Corridor route, facilities, trackage and traffic base, in accordance with the Responsive Application of MRL -- provided that UPSP receives compensation deemed just and reasonable either by mutual consent of the parties or as determined by the Board. In order, however, to make as informed a decision as possible in a matter of great importance to California, the CPUC reserves the formulation of its final position until June 3 and the filing of its brief. By that time, it will have had the benefit of reviewing responses to MRL's application and whatever presentations are received at a public workshop that it plans to convene.

The workshop will be held in late May at the CPUC's San Francisco office. Areas where further information is sought include how BNSF would operate in the Central Corridor if MRL's Responsive Application were authorized and the basis for the assertion that granting MRL's application could cause the merger to fail.

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B. MRL Would Benefit California By Continuing The Operation Of The Modoc Line

A clear benefit to California of MRL's Responsive Application is that MRLAC would acquire and continue to operate SP's Modoc Line. In contrast, UPSP has proposed to abandon the 85-mile Alturas to Wendel mid-line portion of the Modoc Line, a proposal that has precipitated protests from Modoc County and the City of Alturas and from Lassen County and the City of Susanville. These public entities see the severing of the Modoc Line as having profound negative impacts on the marginal economy of rural Northeastern California and on future economic development.

As CPUC observed in its earlier Comments, a public interest argument advanced by Rio Grande Industries (RGI) in support of its acquisition of SP in 1988 was that the Modoc Line would be reopened and continued in operation. This was one of the reasons why the CPUC (and the State of Oregon) supported RGI's acquisition of SP.

To ensure that the Modoc Line remains in operation for a substantive period, the CPUC requests that any Board approval of the MRL Responsive Application be conditioned on the continued operation by MRLAC of the entire Modoc Line from Klamath Falls, OR, to Flanigan, NV, for a period of not less than five years, subject to oversight by the Board. At MRLAC's option, the Modoc Line operation could be performed by some other

financially and operationally qualified railroad operator. However, any such operator must operate the entire Modoc Line without traffic surcharges, with any financial losses paid for by MRLAC, and with full and unrestricted interchange rights with BNSF and UPSP at Klamath Falls, OR, at Flanigan, NV, and at such other locations as the operator may elect.

II

CONCLUSION

For the reasons stated, the CPUC views MRL's Responsive Application with great interest, in that it appears to promote competition in the Central Corridor and the preservation of the Modoc Line. Prior to formulating its final position, however, the CPUC seeks further input from those who would be most affected by an authorization of the Responsive Application, namely, the applicants, BNSF, shippers and MRL itself. Upon reviewing workshop presentations and additional filings before the Board, a

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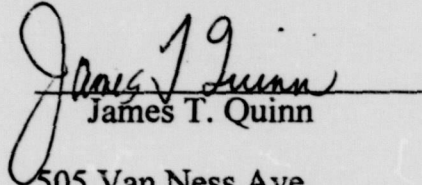
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final recommendation regarding the MRL application will be set forth in the CPUC's brief.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
JAMES T. QUINN


James T. Quinn

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1697
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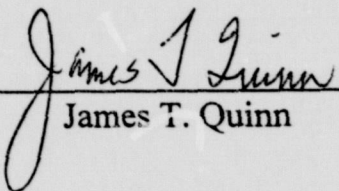
April 26, 1996

Attorneys for the Public Utilities
Commission of the State of California

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all known parties of record by mailing by first-class mail a copy thereof properly addressed to each such party.

Dated at San Francisco, California, this 26th day of April, 1996.


James T. Quinn

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Item No. _____

Page Count 9

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LAW OFFICES

FRITZ R. KAHN, P.C.

SUITE 750 WEST

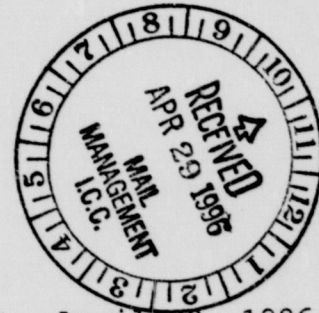
1100 NEW YORK AVENUE, N.W.

WASHINGTON, D.C. 20005-3934

(202) 371-8037

FAX (202) 371-0900

82911
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.--Control and Merger--Southern Pacific Rail Corp., are the original and twenty copies of the Responsive Statement of Georgetown Railroad Company and Texas Crushed Stone Company.

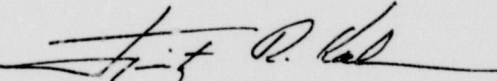
A disc of the pleading's text in WordPerfect format also is enclosed.

Extra copies of the Responsive 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.

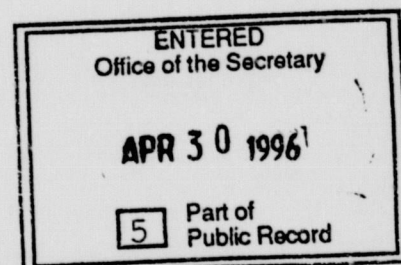
If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

enc.

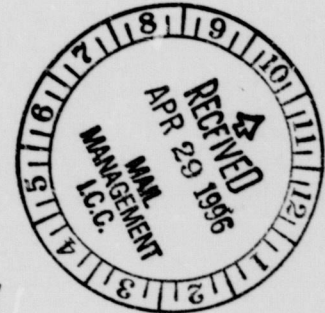
cc: All parties
Mr. Charles R. Turner



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GRR-4

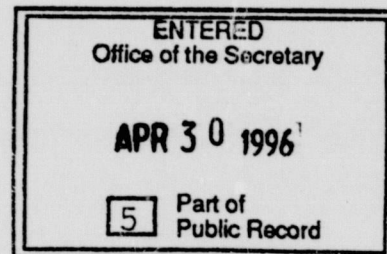
BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423



Finance Docket No. 32760

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

RESPONSIVE STATEMENT
OF
GEORGETOWN RAILROAD COMPANY
AND
TEXAS CRUSHED STONE 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
Georgetown Railroad Company
Texas Crushed Stone Company

Dated: April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

GRR-4

Finance Docket No. 32760

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

RESPONSIVE STATEMENT
OF
GEORGETOWN RAILROAD COMPANY
AND
TEXAS CRUSHED STONE COMPANY

Georgetown Railroad Company of Georgetown, Texas ("GRR") and Texas Crushed Stone Company of Georgetown, Texas ("TCS"), 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 Decisions of the Board, served February 15 and March 25, 1996, Decisions Nos. 13 and 25, respond to the Responsive Application of Capital Metropolitan Transportation Authority for an Unnamed Third Party to Have Certain Trackage and Interchange Rights, filed March 29, 1996 (CMTA-10), as follows:

1. GRR is an approximately 29-mile long railroad, extending between Kerr and Granger, Texas. GRR is a major originator of crushed stone shipments, much of it produced by its corporate

affiliate, TCS. GRR operates 28 locomotives and nearly 1,000 cars, mostly open-top hoppers and gondolas and special equipment.

2. GRR long has enjoyed direct access to competing rail carriers serving the markets to which its crushed stone shipments primarily move, and the importance of safeguarding that GRR continue to have competitive railroad service heretofore has been recognized by the railroads serving the area, as well as the ICC itself. See, Union Pacific Corp., et al.--Cont.--Mo-Ks-Tx Co., et al., 4 I.C.C.2d 409, 424-25, 464-69, 480-81 (1988); Finance Docket No. 32549, Burlington Northern Inc. et al.--Control and Merger--Santa Fe Pacific Cop., served August 23, 1995 (slip sheet decision, pp. 6, 12 & 123).

3. Indeed, by virtue of the trackage rights agreement approved in the Katy case, Southern Pacific Transportation Company ("SP") was granted trackage rights over the Union Pacific Railroad Company ("UP") from Hearne to Kerr, thereby affording GRR a direct connection with both the UP and SP at Kerr.

4. Applicants herein recognize that Kerr in effect is a "two-to-one" station, and section 4(b) of the trackage rights agreement with the Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company (together "BNSF"), dated September 25, 1995, specifically provides that BNSF shall have the right to interchange traffic with GRR at Kerr. GRR, accordingly, will continue to have a direct connection with two railroads, the Applicants and BNSF at Kerr.

5. The situation as it pertains to the Capital Metropolitan

Transportation Authority ("Capital Metro") is altogether different. Capital Metro is the manager for the City of Austin and the aspiring owner of a railroad right-of-way formerly owned and operated by the SP, extending between Llano and Giddings, Texas. No station on the Llano-to-Giddings line is served by both UP and SP, and Applicants' proposal, if approved by the Board, would result in no diminution of competition between the two railroads as it relates to Capital Metro.

6. The Llano-to-Giddings line does cross the UP line at Elgin and connects with the SP line at Giddings. Elgin and Giddings, however, are 32 miles apart. Moreover, the only freight operations being performed on the Llano-to-Giddings line, rendered by Austin & Northwest Railroad Company ("AUNW"), do not even reach Elgin and Giddings; as Capital Metro acknowledges, at page 3 of its Responsive Application, "[t]he AUNW discontinued service on the Smoot to Giddings segment (on the east) in May, 1995."¹ Therefore, the only railroad connection that the Llano-to-Giddings line has is with the UP, at McNeil.

7. It is altogether fallacious, therefore, for Capital Metro to contend, as it does, at page 8 of its Responsive Application, that "[t]he Giddings/Llano [line] will be reduced from two to one carrier service because shippers have traditionally had access to both UP and SP" The shippers on the Llano-to-Giddings line,

¹ See Docket No. AB-410 (Sub-No. 2), Austin Railroad Co., d/b/a Austin & Northwestern Railroad--Discontinuance of Service--Between Smoot and Giddings, in Travis, Bastrop, and Lee Counties, TX, served May 19, 1995.

served, as they are, by the AUNW, have access to only a single connecting railroad, and that is the UP, at McNeil. The shippers on the Llano-to-Giddings line do not have access to the SP; the freight carrier on the line, the AUNW, does not connect with it.

8. The trackage rights proposal put forth by Capital Metro, therefore, is altogether unrelated to the Applicants' proposal and the unification of the UP and SP; the relief it seeks is not required "[t]o ameliorate the anticompetitive consequences of the merger," as Capital Metro contends at page 8 of its Responsive Application. The Applicants' proposal has no deleterious affects upon the shippers situated on the Llano-to-Giddings line, and no case for a grant of trackage rights as sought by Capital Metro has been made by it.

9. The grant of trackage rights which Capital Metro seeks -- for an unidentified railroad to be exercised under indeterminable circumstances -- would impact adversely on GRR. Regardless of whether the interchange between the trackage rights recipient and the BNSF were to occur at McNeil or Kerr, the additional traffic generated by the Llano-to-Giddings line would impose an intolerable burden on the already taxed railroad line between McNeil and Round Rock and occasion delays for the traffic entering or leaving Kerr. Such a grant of trackage rights hardly advances the public interest and, accordingly, should be denied.

10. Finally, it is clear that Capital Metro's primary interest in seeking the grant of trackage rights is to free the Llano-to-Giddings line, or at least substantial portions of it, of

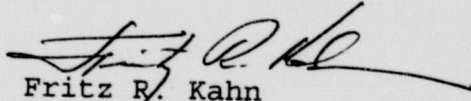
freight traffic so that the tracks will be more readily available for mass transit passenger operations. The grant of trackage rights is sought, Capital Metro concedes, at page 9 of its Responsive Application, so that freight trains "will avoid traveling over what will be the most active segment of CMTA's planned passenger rail system (which will be east of McNeil)." As commendable as Capital Metro's goal may be, this is the wrong forum and the wrong proceeding for Capital Metro to pursue its mass transit objectives. This agency should not be asked to use its conditioning powers in connection with the consolidation of two major railroad systems to address a purely local mass transit problem, particularly when the relief that is sought impedes the effective freight operations on which GRR and its principal customer, TCS, are dependant.

WHEREFORE, Georgetown Railroad Company and Texas Crushed Stone Company ask that the Responsive Application of Capital Metropolitan Transportation Authority be denied.

Respectfully submitted,

GEORGETOWN RAILROAD COMPANY
TEXAS CRUSHED STONE COMPANY

By their attorney,

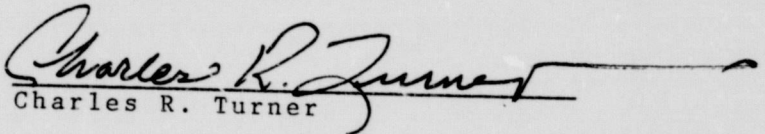

Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Dated: April 29, 1996

DECLARATION

I, Charles R. Turner, am the President of the Georgetown Railroad Company, with offices at 5300 South IH-35, Georgetown, Texas. I have read the foregoing Responsive Statement, and, under penalty of perjury of the laws of the United States, 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 on behalf of the Railroad, as well as Texas Crushed Stone Company.

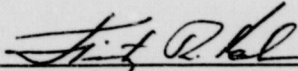
Dated at Georgetown, TX, this 25th day of April 1996.


Charles R. Turner

CERTIFICATE OF SERVICE

Copies of the foregoing Responsive 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