

STB

FD

32760

2-20-96

D

61279



UNITED STATES

IRONMENTAL PROTECTION AGENCY

REGION VIII

3th STREET - SUITE 500

COLORADO 80202-2466

Item No. _____

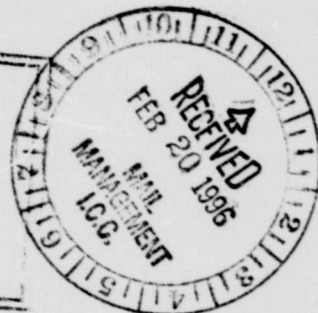
Page Count 9Feb 1 ~~199~~ 137

Ref: 8ENF-L

FEB 13 1996

ENTERED
Office of the Secretary

FEB 22 1996

5 Part of
Public Record

Ms. Elaine K. Kaiser
UP/SP Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
12th and Constitution Avenue, Room 3219
Washington, DC 20423-0001

Re: Finance Docket No. 32760 - EPA Region VIII Comments

Dear Ms. Kaiser:

With this letter, the United States Environmental Protection Agency's Region VIII office ("EPA Region VIII") is providing its comments on the environmental effects of the proposed merger and abandonment of certain rail lines by the Union Pacific Railroad Company (UP) and the Southern Pacific Transportation Company (SP).

As outlined in the enclosed brief notifying the Surface Transportation Board of EPA Region VIII's intent to participate in the merger and abandonment proceedings, EPA Region VIII is concerned that, among other things, such actions may impact our on-going remedial investigations and response activities at the Eagle Mine and California Gulch Superfund Sites and that those potential impacts have not been adequately evaluated or considered by UP and SP in their Environmental Report.

We are also concerned that the Consent Decree between the United States and the Denver & Rio Grande Railroad (D&RGW), which delineates D&RGW's obligations for remediating slag piles and fines within the California Gulch Superfund Site, was not discussed in the Environmental Report. You should note that this Consent Decree requires D&RGW to potentially remediate certain easement soils within Leadville, Colorado, if the rail line running through town is abandoned and its current use changes. The failure of the UP/SP Environmental Report to evaluate future potential uses of the abandoned Malta Line in light of D&RGW's cleanup obligations under the Consent Decree therefore troubles EPA Region VIII greatly.

EPA Region VIII is furthermore concerned that the abandonment of rail lines may increase vehicular traffic within the Rocky Mountain states and may have an impact on noise and air quality. However, we are unable to provide any qualitative analysis on these issues in the 20 days allowed by the Section of Environmental Analysis (SEA) for our review.

ENTERED
Office of the Secretary

FEB 22 1996

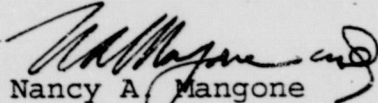
Part of



Printed on Recycled Paper

EPA Region VIII nonetheless offers our assistance in preparing SEA's environmental analysis. Please contact me at the above address, Mail Code 8ENF-L, or at (303) 312-6903 if EPA Region VIII can be of help.

Sincerely yours,


Nancy A. Mangone
Enforcement Attorney

Enclosure

cc: Rebecca Thomas, 8EPR-SR
Gene Taylor, 8EPR-SR
Paul Rogers, 8ENF-T

I. Environmental Assessment Procedure for Rail Line Abandonments

A. Required Contents

As part of the rail line abandonment process, the Companies must prepare an Environmental Assessment Report, which identifies and assesses the environmental impact of the proposed abandonment. In accordance with 49 C.F.R. § 1105.7(e), this report must contain a description of the proposed action, including the planned disposition of the rail line and any related structures, as well as a description of any possible changes in current operations or maintenance practices. The report must also determine whether the proposed abandonment action would be inconsistent with local land use and whether and why the abandoned right of way is suitable for alternative public use under 49 U.S.C. § 10906. Further, the report must identify, after consultation with the U.S. Fish & Wildlife Service, whether the proposed action is likely to adversely affect endangered or threatened species or impact wildlife sanctuaries, or National or State parks and forests. After consultation with State and Federal officials, the report must also state whether the proposed abandonment would create inconsistencies with any applicable water quality standards.

B. Notice Procedure

An Environmental Assessment or Environmental Impact Statement must be submitted with any rail line abandonment application. According to 49 C.F.R. § 1105.7(c), the applicant must certify that it has consulted with a variety of federal, state and local governmental and environmental agencies in preparing the environmental report and that the consulted parties have been sent a copy of the report as submitted to the Commission. The consultations are to occur "far enough in advance to afford those agencies a reasonable opportunity to provide meaningful input." 49 C.F.R. § 1105.7(c). Among the enumerated agencies is any appropriate regional office of the Environmental Protection Agency.

II. Failure to Comply with Notice Procedures

As a threshold matter, EPA Region VIII wishes to inform the Commission that the Companies have failed to comply with the notice requirements of 49 C.F.R. § 1105.07(a)(5). EPA Region VIII, which covers the 6 State (Colorado, Utah, Montana, Wyoming, North Dakota and South Dakota) Rocky Mountain West region, has neither been consulted in the preparation of the Environmental Report accompanying the abandonment applications, nor properly served with a copy of this report. Indeed, a copy of this report was obtained only at EPA Region VIII's insistence today, January 12, 1996.

IV. Insufficiency of the Environmental Analysis

At the Eagle Mine Site, the rail line proposed for abandonment runs directly along the banks of the Eagle River. The rail line also runs adjacent to the former zinc processing plant at Belden and numerous waste rock piles. It is unclear from EPA Region VIII's remedial investigations and enforcement activities to date whether the Companies own or owned any contaminated piles or structures adjacent to the rail line and whether any contaminated property within the Site is owned by either of the Companies. Further, since the rail line is currently active, EPA Region VIII has not conducted any remedial investigations on the right-of-way or the bed for the rail line to determine if it is contaminated, nor has EPA Region VIII proposed a cleanup plan for this portion of the Site. Should the right-of-way be abandoned or any of the Companies' land or structures require remediation, EPA Region VIII may require the Companies' to conduct such cleanup and may have concerns regarding future land use and other public uses.

From discussions with our colleagues from the State of Colorado Department of Public Health and Environment and our cursory review of the materials provided to EPA Region VIII today, EPA Region VIII believes that these potential environmental impacts were not discussed in a detailed fashion in the Companies' Environmental Analysis. There is no analysis regarding whether

Leadville. The Denver & Rio Grande Western Railroad ("D&RGW") has entered into a partial consent decree for remediation of slag at the California Gulch Superfund Site. Risk assessment and remedial investigation data shows that slag "fines," the small particles which result from the breaking or splintering of large slag pieces, may present a risk to sensitive human and ecological populations in the Leadville community. For the California Gulch Superfund Site, health risk to recreational and commercial/industrial users has been shown to be minimal. However, should the future use of the rail line transecting the Town of Leadville be a residential one, EPA Region VIII is concerned that the concentration of heavy metals from slag fines in the soil within or adjacent to the rail line right-of-way would require remediation. The Companies' Environmental Report does not discuss or analyze this environmental impact.

As part of the consent decree with D&RGW, the investigation and remediation of slag fines in the railroad's right-of-way was deferred until such time as the use of the rail line may change. Abandonment of the rail line would be considered a changed use by EPA Region VIII and may trigger the need for conducting remedial investigation and possibly remedial action of this portion of D&RGW's operable unit at the Site. As with the Eagle Mine Site, there is no analysis on whether potential future land uses are consistent with existing land uses and there is no mitigation plan

of-way through the Eagle and California Gulch Superfund sites and that this information be analyzed in light of potential future alternative public uses before the abandonment of the Malta and Sage rail lines can be approved by the Commission.

VI. Conclusion

In conclusion, EPA Region VIII is formally notifying the Commission of its intent to participate in the consolidation and abandonment process surrounding ICC Dockets AB-12 (Sub-Nos. 188 and 189X) and AB-8 (Sub-Nos. 32, 39, and 36X) and/or the Proposed Consolidation Between Union Pacific Railroad Company and Southern Pacific Transportation Company Finance Docket No. 32760.

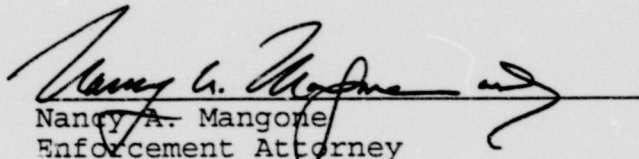
We also inform the ICC that EPA Region VIII has not been provided with a reasonable opportunity to provide meaningful input to the Environmental Analysis prepared by Southern Pacific Transportation Company in support of abandoning the Malta and Sage Lines, nor were we served with a copy of this report as required by 49 C.F.R. § 1105.7.

Lastly, EPA Region VIII believes the Environmental Report neither contains the information required by 49 C.F.R. § 1105.7(e) and (f), nor does it truly assess the impacts of the abandonment of the rail lines within the Eagle Mine, California Gulch and

Dated this 12th day of January, 1996.

Respectfully submitted,
UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY - REGION VIII

By:



Nancy A. Mangone
Enforcement Attorney
Legal Enforcement Program
US EPA Region VIII
999 18th Street
Denver, Colorado 80202-2466
(303) 312-6903

FOR UNION PACIFIC CORPORATION AND UNION PACIFIC RAILROAD
COMPANY:

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

Carl W. Von Bernuth, Esq.
Union Pacific Corporation
Martin Tower
Eighth and Eaton Avenues
Bethlehem, PA 18018

Thomas E. Greenland, Esq.
Union Pacific Railroad Company
Missouri Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

Randy L. Thompson

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of January, 1996, true and correct copies of the foregoing NOTICE OF INTENT TO PARTICIPATE IN CONSOLIDATION AND ABANDONMENT PROCEEDINGS were deposited in the United States mail, postage prepaid, as follows:

An original and 20 copies and a 3.5" WordPerfect diskette of the NOTICE OF INTENT was sent to:

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, DC 20423

One (1) copy of the NOTICE OF INTENT was sent to:

Administrative Law Judge Jerome Nelson
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, DC 20426

FOR SOUTHERN PACIFIC TRANSPORTATION COMPANY AND DENVER & RIO GRANDE WESTERN RAILROAD:

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

Cannon Y. Harvey, Esq.
Southern Pacific Transportation Company
One Market Plaza
San Francisco, CA 94105

Kathleen M. Snead, Esq.
Southern Pacific Lines
P.O. Box 5482
Denver, CO 80217

Charlotte L. Neitzel, Esq.
Holme Roberts & Owen, LLC
1700 Lincoln Street, Suite 4100
Denver, CO 80203

STB

FD

32760

2-20-96

D

61278

DOLORES M. MERTZ
STATE REPRESENTATIVE
Fifteenth District
Statehouse: (515) 281-3221

HOME ADDRESS
1002 70th Avenue
Ottosen, Iowa 50570
Home: (515) 379-2329

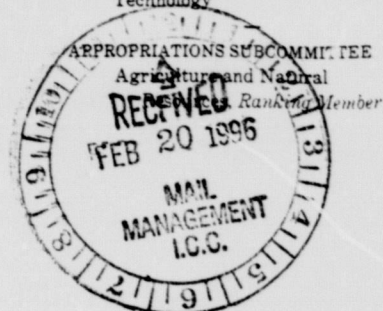


House of Representatives

STATE OF IOWA
Seventy-Sixth General Assembly
STATEHOUSE
Des Moines, Iowa 50319

COMMITTEES

Agriculture
Local Government
Natural Resources
Technology



February 15, 1996

Ms. Linda Morgan
Interstate Commerce Commission
12th Street and Constitution Avenue, NW
Washington, D.C. 20423

RE: Finance Docket 32760

Dear Ms. Morgan:

I am a member of the House Agriculture Committee in the Iowa General Assembly, and have farmed in northern Iowa for many years. I strongly support the merger of Union Pacific and Southern Pacific railroads. My reasons for this support are based primarily upon the significant need that Iowa has to improve the delivery of Iowa grain from any parts of the state, and the need for the opening of new markets, especially in the southwest part of this country and in Mexico.

Iowa shippers will definitely benefit from the fact that Union Pacific and Southern Pacific can offer a faster intermodal service between the midwest and the San Francisco Bay area. The merged carrier will have a much shorter route than currently exists today from either the Union Pacific or the Southern Pacific. Iowa grain and grain product producers will gain a new single-line access to the Southern Pacific-served consumers in the pacific southwest. Additionally, Iowa shippers can gain a more direct route for export to Mexico. I believe that the merger also will expand the efficient use of the Unit Grain Train program, which will improve covered-hopper utilization. Any increased opportunities for movements of covered-hoppers will greatly assist farmers in Iowa.

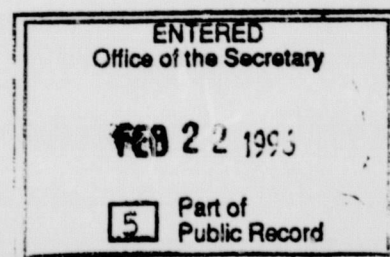
Please support Union Pacific/Southern Pacific merger for the benefit not only of Iowans, but the many people who do business with producers and shippers in the state.

Sincerely,

Dolores M. Mertz
State Representative Dolores Mertz

**ADVISE OF ALL
PROCEEDINGS**

ATE EXPENSE



STB

FD

32760

2-20-96

D

61278

Item No. _____

Page Count 14

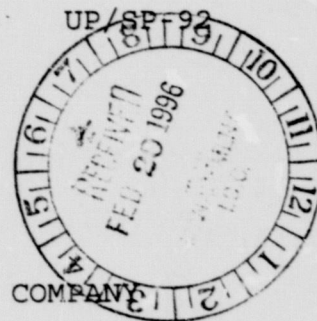
Fee # 148

FEB 21 1996

☒ Part of
Public Record

BEFORE THE
TRANSPORTATION BOARD

Finance Docket No. 32760



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

-- CONTROL AND MERGER --

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

APPLICANTS' RESPONSES TO WESTERN COAL TRAFFIC
LEAGUE'S SECOND SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

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

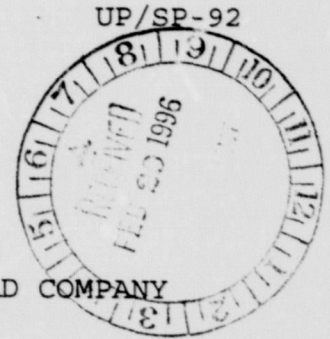
Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

February 20, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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



APPLICANTS' RESPONSES TO WESTERN COAL TRAFFIC
LEAGUE'S SECOND SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW,
collectively "Applicants," hereby respond to the discovery
requests served by Western Coal Traffic League on February 2,
1996.^{1/}

GENERAL RESPONSES

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

1. Applicants have conducted a reasonable search for
documents responsive to the interrogatories. Except as
objections are noted herein,^{2/} all responsive documents have

^{1/} In these responses, Applicants use acronyms as they have
defined them in the application. However, for purposes of
interpreting the requests, Applicants will attempt to observe
WCTL's definitions where they differ from Applicants' (for
example, WCTL's definitions of "UP" and "SP," unlike Applicants',
include UPC and SPR, respectively).

^{2/} Thus, any response that states that responsive documents are
being produced is subject to the General Objections, so that, for
example, any documents subject to attorney-client privilege
(continued...)

been or shortly will be made available for inspection and copying in Applicants' document depository, which is located at the offices of Covington & Burling in Washington, D.C. Applicants will be pleased to assist WCTL to locate particular responsive documents to the extent that the index to the depository does not suffice for this purpose. Copies of documents will be supplied upon payment of duplicating costs (including, in the case of computer tapes, costs for programming, tapes and processing time).

2. Production of documents or information does not necessarily imply that they are relevant to this proceeding, and is not to be construed as waiving any objection stated herein.

3. Certain of the documents to be produced contain sensitive shipper-specific and other confidential information. Applicants are producing these documents subject to the protective order that has been entered in this proceeding.

4. In line with past practice in cases of this nature, Applicants have not secured verifications for the answers to interrogatories herein. Applicants are prepared to discuss the matter with WCTL if this is of concern with respect to any particular answer.

²/ (... continued)

(General Objection No. 1) or the work product doctrine (General Objection No. 2) are not being produced.

GENERAL OBJECTIONS

The following objections are made with respect to all of the interrogatories and document requests.

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

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

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

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

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

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

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

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

9. Applicants object to the interrogatories and document requests as overbroad and unduly burdensome to the extent that they seek information or documents for periods prior to January 1, 1993.

10. Applicants incorporate by reference their prior objections to the definitions and instructions set forth in WCTL's first set of interrogatories and document requests.

SPECIFIC RESPONSES AND ADDITIONAL OBJECTIONS

Interrogatory No. 25

"Identify all coal shippers (including coal mines, coal transloading facilities and power plants or other facilities at which coal is loaded into or unloaded from railcars and the owners or operators thereof) to which BNSF will gain access as a result of the Settlement Agreement. For purposes of this Interrogatory, 'access' means the ability to serve directly with BNSF's power and crews and/or the ability to serve via reciprocal switch or interchange with a rail carrier other than UP/SP that directly serves a coal shipper."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes

requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Applicants do not possess a comprehensive list of the coal shippers to which BN/Santa Fe will gain access as a result of the Settlement Agreement. However, Applicants have used 1994 traffic data to identify as many of those shippers as possible. A list of the shippers and receivers identified through review of the 1994 traffic data is being placed in Applicants' document depository.

Interrogatory No. 26

"Identify any communication(s) with a shipper(s) relating to proposed or contemplated build-outs or build-ins between a plant or other shipping or receiving facility served by UP and a line of the SP, or vice versa, within one year prior to August 4, 1995. With respect to any such communications, provide the name of the shipper, the location of the facility, and the date(s) and nature of the communication(s). For purposes of this Interrogatory, 'build-out' means construction of a spur or other line by UP or SP."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

See Responses to KCS Interrogatories Nos. 27 and 28 and the ruling by Judge Nelson in this matter at the hearings held on December 30, 1995 and January 26, 1996.

Interrogatory No. 27

"Identify any studies, analyses, memoranda, reports or other documents relating to whether the proposed merger should or would be consummated if the approval were conditioned on (a) divesting or (b) providing trackage rights over UP/SP's Central Corridor lines, in either event to a neutral rail carrier (one other than UP/SP or BN/Santa Fe) so as to permit such neutral carrier to serve all coal mines presently served by SP in Colorado and Utah and to transport coal produced at such mines or at mines served by the Utah Railway to Kansas City, MO/KS and/or St. Louis, MO, for movement beyond via connecting rail carriers or other mode of transportation."

Response

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

No responsive documents have been located.

Interrogatory No. 28

"Identify any communications between Applicants and Illinois Central Railroad Company ('IC') relating to the matters identified in the UP press release attached here to as Appendix 1."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

See UP/SP-74.

Interrogatory No. 29

"With respect to the first paragraph at the top of the second page of Appendix 1 attached hereto, and assuming that the Board imposes a condition to any grant of merger authority to Applicants requiring sale of or a grant of trackage rights over UP/SP's Central Corridor lines between Provo, UT or points west thereof and Kansas City, MO or points east thereof via Grand Junction, Denver and/or Pueblo, CO, including access to coal mines presently served by or accessible to SP, and that Applicants still decide to go ahead with the merger:

- (a) State whether the agreement with IC requires Applicants to negotiate first with IC concerning such sale or trackage rights;
- (b) Describe any communications between Applicants and IC concerning the line or line(s) that would be sold to or operated over by IC in order to enable IC to provide service between points in the midwest and points in Colorado and/or Utah; and
- (c) Identify the line or line(s) which Applicants would propose to sell to IC or over which Applicants would propose to grant trackage rights."

Response

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

- (a) The agreement speaks for itself.
- (b) No responsive communications have been identified.
- (c) Applicants have not made such a determination at this time.

Interrogatory No. 30

"Identify any studies, analyses, memoranda, reports or other documents relating to your answer to any part of Interrogatory No. 29."

Response

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

There are no such documents.

Interrogatory No. 31

"Describe any agreement(s) or understanding(s) between Applicants and the Utah Railway or among Applicants, BN/Santa Fe and the Utah Railway concerning Utah Railway's access to additional coal mines or coal transloading facilities following consummation of the proposed merger."

Response

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

See UP/SP-74.

Interrogatory No. 32

"Identify any documents relating to the agreement(s) or understanding(s) described in your answer to Interrogatory No. 7 [sic]."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

No agreements or understandings are referred to in Applicants' response to WCTL Interrogatory No. 7. If this request was intended to refer to Interrogatory No. 31, see UP/SP-74.

Interrogatory No. 33

"For purposes of this Interrogatory, 'WRPI' means Western Railroad Properties, Incorporated and 'CNW' means Chicago and North Western Railway Company. Are there any instances where WRPI/UP or WRPI/UP/CNW or UP/CNW submitted a joint bid or rate proposal for the movement of coal to a customer within one year prior to the date of exercise of the common control authority granted by the Interstate Commerce Commission in its decision served March 7, 1995 in Finance Docket No. 32133, and UP submitted a higher bid or rate proposal for the same movement (or a coal movement of comparable tonnage involving the same origin mining area and destination and the same time frame) subsequent to the date of exercise of such common control authority?"

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Applicants have identified no such instances.

Interrogatory No. 34

"If the answer to Interrogatory No. 34 is affirmative, identify with respect to each such instance:

- (a) The origin mining area involved;
- (b) The destination state;
- (c) The amount of the increase expressed as a percentage; and
- (d) Whether UP provided bids or rate proposals for the movement of coal to the same customer(s) during the same time frames from (i) the same mining areas, or (ii) other origin mining areas."

Response

Not applicable.

Document Request No. 27

"Produce all documents relating to all communications identified in response to Interrogatory No. 26."

Response

See objections to Interrogatory No. 26. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

No communications are identified in the Response to Interrogatory No. 26.

Document Request No. 28

"Produce all documents identified in response to Interrogatory No. 27."

Response

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

No documents are identified in the Response to Interrogatory No. 27.

Document Request No. 29

"Produce all documents relating to all communications identified in response to Interrogatory No. 28."

Response

See objections to Interrogatory No. 28. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

WCTL has previously been served with a copy of
UP/SP-74.

Document Request No. 30

"Produce any agreements or written understandings between Applicants and IC relating to the subject matter of the first paragraph at the top of the second page of Appendix 1 attached hereto."

Response

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

See UP/SP-74.

Document Request No. 31

"Produce all documents identified in response to Interrogatory No. 30."

Response

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

No documents are identified in the Response to Interrogatory No. 30.

Document Request No. 32

"Produce all documents identified in response to Interrogatory No. 32."

Response

See objections to Interrogatory No. 32. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

WCTL has previously been served with a copy of
UP/SP-74.

Respectfully submitted,

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

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 per
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

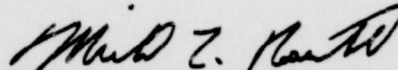
February 20, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 20th day of February, 1996, I caused a copy of the foregoing document to be served by hand on C. Michael Loftus, counsel for Western Coal Traffic League, at Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, D.C. 20036, and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760, and on

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

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



Michael L. Rosenthal