

STB

FD

32760

4-30-96

D

82946

Item No. 8294L
Page Count 5
Apr # 440

United States Gypsum Company

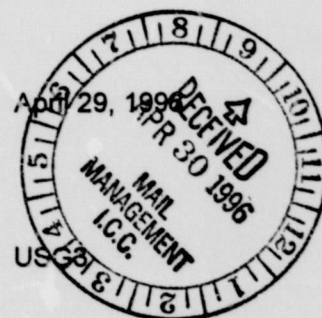
P. O. Box 806278

Chicago, IL 60680-4124

312 606-4000 Fax: 312 606-4093

USG

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



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

Dear Mr. Williams,

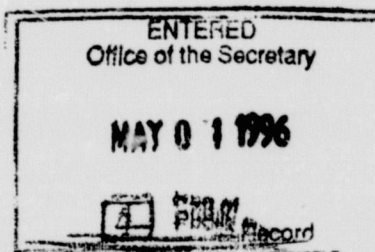
Enclosed for filing in the above captioned proceedings is an original and 20 copies of document designated as USG3 in response to Applicants Sixth Set of Interrogatories and Requests for Production of Documents. This also certifies that all Parties of Record to the above captioned proceedings will be serviced with this letter.

Sincerely

Alex J. Payin
Director, Transportation
United States Gypsum Company

cc. Gerald P. Norton - 1 copy for depository & 1 copy in response.
Harkins Cunningham
1300 Nineteenth Street, N.W.
Washington, DC 20036

All Parties of Record.



WP/15300

125 South Franklin Street
Chicago, IL 60606-4678

A Subsidiary of USG Corporation

**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**

**UNITED STATES GYPSUM COMPANY'S
RESPONSES TO APPLICANT'S SIXTH SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

In response to Applicant's Sixth Set of Interrogatories and Requests for Production of Documents, and pursuant to discussions with counsel (Harkins Cunningham) for the Applicant, U.S. Gypsum Company submits the following responses. Responsive documents will be provided to the Applicant's counsel with these responses.

Pursuant to specific requests from counsel for the Applicant, U.S. Gypsum Company has limited the documents produced to representative documents located in files at U.S. Gypsum headquarters in Chicago. U.S. Gypsum reserves the right to introduce and rely upon responsive and relevant documents not sought by Applicant's counsel and therefore not produced at this time, in support of U.S. Gypsum's filing in this matter.

Per discussions with counsel for the Applicant, U.S. Gypsum FAXed preliminary responses to the Sixth Set of interrogatories in the UP-SP merger on April 18, 1996. Final responses to the interrogatories are answered herein.

US GYPSUM RESPONSES TO INTERROGATORIES;

USG-3

1. None.
2. U.S. Gypsum's 3-29-96 filing does not address this specific issue. However, U.S. Gypsum's Southard, OK plant is served by the GNBC which was granted continued access to three Class I railroads (BNSF, UP and SP) under the ICC's September 1995 Decision No. 38 to Finance Docket No. 32549. U.S. Gypsum's 3-29-96 filing requested continued access to three Class I railroads (BNSF, UP-SP and CSX) at Southard in light of the recent ICC decision on 3 to 2 Class I reductions at Southard, referenced above.
3. Not Applicable. US Gypsum's March 29, 1996 filing does not address potential competitive effects between a merged UP-SP and BNSF. Furthermore to state an opinion on other shipper's expectations on the competitive effects between a merged UP-SP and BNSF requires a complete understanding of their individual circumstances and historical rail experiences which US Gypsum does not have and will not seek out.
4. Not applicable.
5. Not applicable. U.S. Gypsum did not seek any shipper support for positions expressed in U.S. Gypsum's 3-29-96 filing.
6. Not applicable, U.S. Gypsum's March 29, 1996 filing made no reference to any railroad pricing strategies, or, to any specific contentions or statement by Conrail witness Good.

US GYPSUM RESPONSES TO DOCUMENT REQUESTS;

USG-3

1. Not applicable, no verified statements were submitted.
2. Not applicable, no verified statements were submitted.
3. No studies, analysis or reports were developed that identified any potential benefit or efficiency for US Gypsum's rail movements that may result from the proposed UP-SP merger.
4. Responsive information was included in U.S. Gypsum's March 29 filing.
5. Pursuant to discussions with Applicant's counsel (see above), non-privileged, representative documents addressing market share and source or destination competition will be produced. Documents are notated as 'Q5-1, Q5-2, and Q5-3'.
6. Objection. Documents sought by this request are irrelevant and immaterial to this proceeding. Without waiving this objection, while U.S. Gypsum has had several discussions with the IC railroad regarding the IC Settlement Agreement, U.S. Gypsum has no documents responsive to this request.
7. Objection. Documents sought by this request are irrelevant and immaterial. Without waiving this objection, none located in files at U.S. Gypsum headquarters in Chicago.
8. None located in files at U.S. Gypsum headquarters in Chicago.
9. Pursuant to discussions with Applicant's counsel (see above) non-privileged, representative documents located in files at U.S. Gypsum headquarters in Chicago and responsive to this request will be produced. Documents are notated as 'Q9-4'.
10. Objection. Documents sought by this request are irrelevant and immaterial. Without waiving said objection, non-privileged, representative documents located in files at U.S. Gypsum headquarters in Chicago and responsive to this request will be produced. Documents are notated as 'Q10-5'.
11. U.S. Gypsum has taken no position with respect to the financial condition of the SP.
12. Pursuant to discussions with Applicant's counsel (see above) non-privileged, representative documents located in files at U.S. Gypsum headquarters in Chicago and responsive to this request will be produced. Documents are notated as 'Q12-6 and Q12-7'.
13. U.S. Gypsum neither needed nor sought support for its March 29 filing.
14. None located in files at U.S. Gypsum headquarters in Chicago. However, U.S. Gypsum did complete and submit a NITL survey on the effects of the proposed UP-SP merger.
15. None located in files at U.S. Gypsum headquarters in Chicago.
16. Pursuant to discussions with Applicant's counsel (see above) non-privileged, representative documents located in files at U.S. Gypsum headquarters in Chicago and responsive to this request will be produced. Documents are notated as 'Q16-8 and Q16-9'.

17. None located in files at U.S. Gypsum headquarters in Chicago.
18. None located in files at U.S. Gypsum headquarters in Chicago.
19. None located in files at U.S. Gypsum headquarters in Chicago.
20. None located in files at U.S. Gypsum headquarters in Chicago.
21. None located in files at U.S. Gypsum headquarters in Chicago.
22. The aspects of the proposed merger that most critically impact U.S. Gypsum are summarized in U.S. Gypsum's March 29 filing with the STB. Until the proposed merger and any agreements and or conditions related to the proposed merger are finalized, U.S. Gypsum business plans will not incorporate the effect of the proposed UP-SP merger.
23. None.
24. Not applicable. U.S. Gypsum currently does not ship via UP or SP into Mexico.
25. U.S. Gypsum did not join or provide financial support to the CCRT.
26. None with respect to west coast ports served by the UP or SP.
27. U.S. Gypsum has taken no position with respect to the financial condition of the SP.
28. None located in files at U.S. Gypsum headquarters in Chicago.
29. None located in files at U.S. Gypsum headquarters in Chicago.
30. Pursuant to discussions with Applicant's counsel (see above) non-privileged , representative documents located in files at U.S. Gypsum headquarters in Chicago and responsive to this request will be produced. U.S. Gypsum has proposed conditions of trackage and haulage rights, and where available, will provide general historical documentation which supports the conditions U.S. Gypsum was seeking from the S.T.B. as it relates to the proposed UP-SP merger. Documents are notated as 'Q30-EMP10, thru Q30-EMP15, Q30-PC16, thru Q30-PC42, and Q30-SOU43.'
31. None.
32. None.
33. None.
34. None.
35. Pursuant to discussions with Applicant's counsel (see above) non-privileged , representative documents located in files at U.S. Gypsum headquarters in Chicago and responsive to this request will be produced. Documents are notated as 'Q35-44, Q35-45, Q35-46, Q35-47, and Q35-48.'

end.

STB

FD

32760

4-26-96

D

82825

Item No. _____

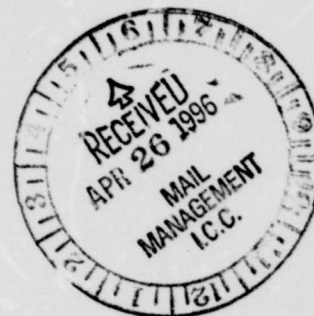
Page Count 6

APR #324

APR 29 1996

☐ Part of
Public Record

82825



April 26, 1996

via Hand Delivery

Honorable Vernon A. Williams
Secretary
The Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Re: Finance Docket No. 32760, *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control & Merger -- Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company*

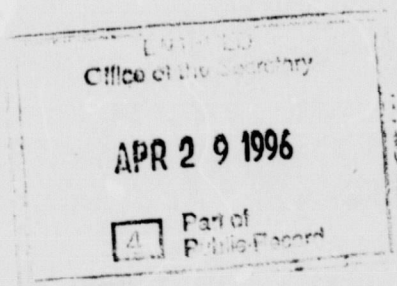
Dear Secretary Williams:

Enclosed for filing in the above-captioned case are an original and twenty copies of the Coalition for Competitive Rail Transportation's responses to Applicants' fifth set of interrogatories and requests for production of documents identified as CCRT-9.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "John T. Estes".

John T. Estes
Executive Director



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

COALITION FOR COMPETITIVE RAIL TRANSPORTATION (CCRT)
RESPONSES TO APPLICANTS' FIFTH SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

John T. Estes
Executive Director
Coalition for Competitive Rail Transportation
1029 North Royal Street, Suite 400
Alexandria, Va 22314
(800) 814-3531

April 26, 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

John T. Estes
Executive Director
Coalition for Competitive Rail Transportation (CCRT)
1029 North Royal Street
Suite 400
Alexandria, Virginia 22314
phone: (800) 814-3531
fax: (800) 641-2255

April 26, 1996

COALITION FOR COMPETITIVE RAIL TRANSPORTATION (CCRT)
RESPONSES TO APPLICANTS' FIFTH SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Coalition for Competitive Rail Transportation (CCRT) submits the following responses
to the discovery request served by Applicants (UP/SP) on April 8, 1996.

RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS

INTERROGATORIES

Interrogatory No. 1: Do you have any information about any offers made by or on behalf of any party to this proceeding opposing the UP/SP merger, or anyone affiliated with such party, to provide funds or other consideration to another such party to help finance its opposition efforts, and, if so, state that information and identify (and produce) any documents referring or relating to such offers. [You may exclude offers made to an association party by its members, or offers to finance work which was proffered to the Board as being jointly sponsored by the parties involved in the offer.] [**Cen-Tex, CR, KCS, MRL, Tex Mex, CCRT, CMA, NITL, SPI, STRICT, WCTL, WSC**]

Response: The value of the KCSI financial contribution to CCRT expressed as a percentage over and above CCRT's financial resources is approximately six percent. As of this date, such contingent liability of CCRT to KCSI could make KCSI a significant contributor to CCRT.

DOCUMENT REQUESTS

Document Request No. 1: Provide the tonnage data supporting each of the percentages listed in Figure Nos. 1, 2, 3 and 4 (pp. 11-12, 16-17) of the Verified Statement of Thomas D. Crowley (SPI V.S.-4). [**SPI**]

Document Request No. 2: To the extent not done as part of your prior discovery responses or March 29 filings, with respect to the joint verified statement of Patteye J. Simpson and H. Lynn Turner, identify any instances relied on to support their statements in:

(a) the second bullet-point on p.96, including for each instance (1) the name of the shipper, (2) the local carrier (3) the rail origination, local destination, and final destination city and state, (4) the date of any shipments, and (5) the name and seven-digit STCC code of the chemical shipped;

(b) the third bullet-point on p. 96, including for each instance (1) the name of the shipper, (2) the city and state of each manufacturing facility, (3) the relevant dates of operation of each facility, and (4) the name and seven-digit STCC code of any chemicals subject to such rescheduled production;

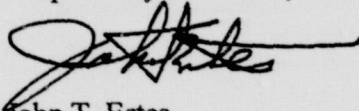
(c) the first bullet-point on p. 97, including for each instance (1) the name of the shipper, (2) the local carrier, (3) the rail origination, local destination, and final destination city and state, (4) the date of any shipments, and (5) the name and seven-digit STCC code of the chemical shipped;

(d) the second bullet-point on p. 97, including for each instance (1) the name of the shipper, (2) the rail origination and destination city and state, (3) the date of any shipments, and (4) the name and seven-digit STCC code of the chemical shipped;

(e) the third bullet-point on p. 97, including for each instance (1) the name of the shipper, (2) the rail origination and destination city and state, (3) the date of any shipments, and (4) the name and seven-digit STCC code of the chemical shipped; and

(f) the first bullet-point on p. 98, including for each instance (1) the name of the shipper, (2) the rail origination and destination city and state, (3) the date of any shipments, and (4) the name and seven-digit STCC code of the chemical shipped. [KCS]

Respectfully submitted,



John T. Estes
Executive Director
Coalition for Competitive Rail Transportation

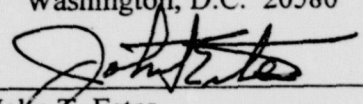
April 26, 1996

CERTIFICATE OF SERVICE

I, John T. Estes, certify that, on the 26th day of April, 1996, I caused a copy of the foregoing document to be served by hand or overnight mail as appropriate on the representatives set forth below 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 nine of the Discovery Guidelines in Finance Docket No. 32760, and in addition by hand on :

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

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


John T. Estes

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

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

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

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

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

STB

FD

32760

4-26-96

D

82818

82818



14600 DETROIT AVENUE
CLEVELAND, OHIO 44107-4250
PHONE: 216-228-9400
FAX: 216-228-0937

Item No. _____
Page Count 4
In Apr # 369
B
Assistant President
ROGER D. GRIFFETH
General Secretary and Treasurer

United transportation union

LEGAL DEPARTMENT

CLINTON J. MILLER, III
General Counsel

KEVIN C. BODAR
Associate General Counsel

ROBERT L. McCARTY
Associate General Counsel

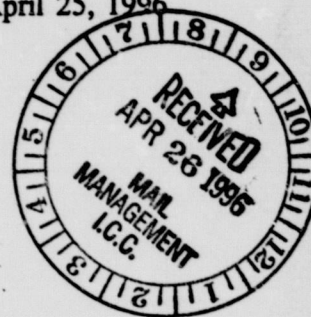
DANIEL R. ELLIOTT, III
Assistant General Counsel

MICHAEL W. PIOTROWSKI
Assistant General Counsel

April 25, 1996

UPS Next Day Air

Vernon A. Williams, Secretary
Surface Transportation Board
Room 2215
12th Street & Constitution Ave., N.W.
Washington, D.C. 20423
(202) 939-3470



Re: Finance Docket No. 32760
UP/SP Merger

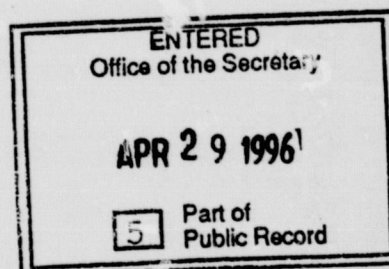
Dear Secretary Williams:

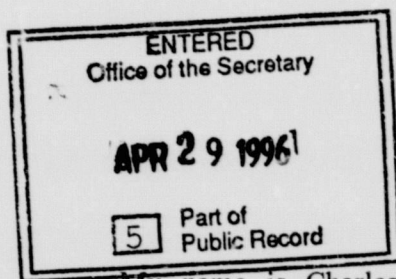
Please find enclosed the original and ten (10) copies of the Verified Statement of Charles L. Little for filing in the above captioned matter. This statement will supplement UTU's Notation of Conditions and Comments previously filed.

Very truly yours,

Michael W. Piotrowski
Assistant General Counsel

Enclosure





VERIFIED STATEMENT
OF
CHARLES L. LITTLE



My name is Charles L. Little. I am the International President of the United Transportation Union ("UTU"). On March 29, 1996, I submitted a verified statement addressing UTU's comments, on behalf of myself and the UTU's membership, in support of the proposed merger of UP and SP.

As I noted in my previous statement, UTU has as members more than 79,000 transportation industry workers. Also, the UTU represents a significant percentage of the unionized work force of the Union Pacific and the Southern Pacific.

I am submitting this statement to express my strong opposition to the Responsive Application filed by Montana Rail Link, Inc. ("MRL") with the Surface Transportation Board ("STB"), on March 29, 1996. Specifically, I and the UTU ask the STB to reject MRL's request to acquire part of the UP/SP system in the Central Corridor from Northern California to Kansas City, Missouri.

I noted in my previous statement that if the UP/SP merger is not approved, the jobs of thousands of additional SP employees will be placed at risk. The job loss that UTU members will experience through the UP/SP merger will be much less than the job loss that will occur if UP and SP are left to stand alone against BN/Santa Fe.

MRL's proposal to form an entity (the "Acquisition Company") to acquire and operate the rail lines that UP/SP would be compelled to divest as part of the merger approved by the STB is detrimental to the best interests of my members. MRL's plan calls for its new Acquisition

Company to acquire only the assets of UP/SP in the Central Corridor and operate as same a stand-alone regional railroad. MRL admits there will be no labor protection in connection with proposed acquisition and resulting operation.

Despite optimistic claims about employment levels on this new company, MRL states only that it would give some form of preference in hiring persons currently employed by UP and SP on the lines MRL wants to acquire. This indicates clearly that our members are likely to have fewer, not more, job opportunities.

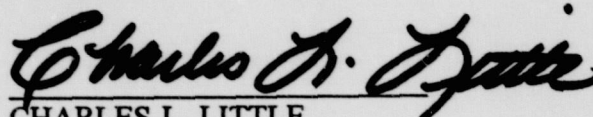
In addition, MRL states that its new company will operate with a regional railroad cost structure one that will permit it to do more with fewer people and at a lower cost than a Class 1 railroad operation. Correspondingly, it is evident MRL's plan will result in fewer employees, who will work at rates of pay, and fringe benefits, below that which is available on UP and SP. In short, fewer UTU members are likely to find employment on MRL's new company. Those who do will be paid less than they are by UP or SP.

I ask STB to reject the MRL divestiture proposal. The UP/SP merger plan, along with the conditions that will mitigate the impact of job loss on our members, is the most beneficial approach that has been advanced to preserve a stronger rail industry in the western United States. Therefore, on behalf of the UTU membership, I again urge the STB to approve the UP/SP merger as those railroads have proposed, subject only to those conditions to which they have agreed.

VERIFICATION

STATE OF OHIO)
)SS.
COUNTY OF CUYAHOGA)

I, Charles L. Little, being duly sworn, state that I have read the foregoing statement, that
I know its contents, and that those contents are true as stated.


CHARLES L. LITTLE

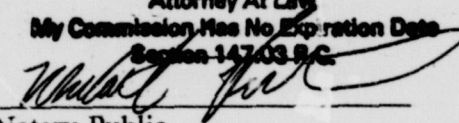
SUBSCRIBED and sworn to before
me this 25th day of April, 1996.

MICHAEL W. PIOTROWSKI

Attorney At Law

My Commission Has No Expiration Date

Section 147.03 B.C.


Notary Public

STB FD 32760

4-26-96

D

82803

Item No. _____

Page Count _____

Apr 23/96

BLACKWELL

ATTORNEYS AT LAW

SUITE 612

2000 L STREET, N.W.

WASHINGTON, D.C. 20036

PHILIP A. RANGERT*
NATHAN J. BAYER
ROBERT J. BLACKWELL
JOHN W. BUTLER
CINDY G. BUYS
MARC J. FINK
R. FREDERIC FISHER*
JEFFREY F. LAWRENCE
ANNE E. MICKEY
STEVEN Y. QUAN
WAYNE R. ROHDE
STANLEY O. SHER
TORBJORN B. SJOGREN
DAVID F. SMITH

*ADMITTED IN CA ONLY
*ADMITTED IN MD ONLY

TELEPHONE (202) 463-2500
FACSIMILE (202) 463-4950/4840

WRITER'S DIRECT DIAL NO.

(202) 463-2510

April 26, 1996

SUITE 1100

555 MONTGOMERY STREET
SAN FRANCISCO, CA 94111
TELEPHONE (415) 788-9150
FACSIMILE (415) 788-9456

SUITE 510

15 EXCHANGE PLACE
JERSEY CITY, NJ 07302
TELEPHONE (201) 915-0100
FACSIMILE (201) 915-0393

By Hand

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

Confidential



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

Dear Mr. Williams:

Pursuant to Judge Nelson's Order Concerning Deposition Transcripts served on April 22, 1996, please find enclosed for filing on behalf of The International Brotherhood of Teamsters ("IBT") five copies of the deposition transcript pages cited in the IBT's Verified Statement of Paul Boldin. Mr. Boldin's Verified Statement was filed on March 29, 1996, as Exhibit 1 to IBT-12, Comments of The International Brotherhood of Teamsters.

I enclose an extra copy of this letter that I ask that you date-stamp as received and return by our courier. Please do not hesitate to contact me should you have any questions about this filing. *(Conf. Seal)*

CHIEF OF BUREAU

APR 29 1996

Sincerely,

John W. Butler

John W. Butler

STB

FD

32760

4-25-96

D

82772

82772

Item No. _____

WEINER
ATTORNEYS AT LAW

Page Count 8
Apr # 353

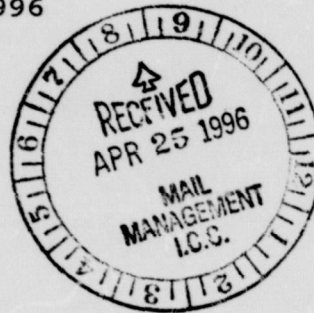
DER
CORPORATION

1350 NEW YORK AVENUE, N.W., SUITE 200
WASHINGTON, D.C. 20005-4797
(202) 628-2000
TELECOPIER (202) 628-2011

RICHARD J. ANDREANO, JR.
JAMES A. BRODSKY
JO A. DeROCHE
CYNTHIA L. GILMAN
ELLEN A. GOLDSTEIN*
DON J. HALPERN
CHRISTOPHER E. KACZMAREK*
MITCHEL H. KIDER
SHERRI L. LEDNER
PAUL C. OAKLEY*
BRUCE E. PRIDDY*
MARK H. SIDMAN
RUGENIA SILVER
HARVEY E. WEINER
JOSEPH F. YENOUSKAS

*NOT ADMITTED IN D.C.

April 25, 1996



BY HAND DELIVERY

MRL-19

Vernon A. Williams
Secretary
Surface Transportation Board
12th 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 Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an original and 20 copies of Response of Montana Rail Link, Inc. to Applicants' Fourteenth Set of Discovery Requests.

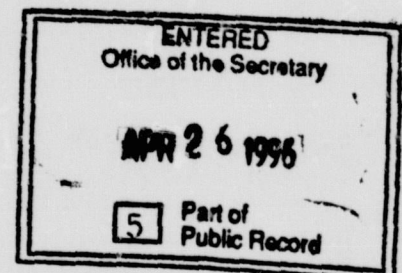
Please acknowledge receipt of this letter and filing by date-stamping the enclosed acknowledgment copy and returning it to our messenger.

Very truly yours,

Jo A. DeRoche

Jo A. DeRoche

Enclosure



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 OF MONTANA RAIL LINK, INC.
TO APPLICANTS' FOURTEENTH SET OF
DISCOVERY REQUESTS

Mark H. Sidman
Jo A. DeRoche
Weiner, Brodsky, Sidman &
Kider, P.C.
1350 New York Avenue, N.W.
Suite 800
Washington, D.C. 20005
(202) 628-2000

ATTORNEYS FOR
MONTANA RAIL LINK, INC.

Dated: April 25, 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

RESPONSE OF MONTANA RAIL LINK, INC.
TO APPLICANTS' FOURTEENTH SET OF
DISCOVERY REQUESTS

Montana Rail Link, Inc. ("MRL") herewith files its Response to the Fourteenth Set of Discovery Requests ("Discovery Request") directed to MRL by applicants UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW ("Applicants"). This Response is made pursuant to the Discovery Guidelines applicable to this proceeding, as adopted by Administrative Law Judge Jerome Nelson ("Judge Nelson") on December 7, 1995.

GENERAL OBJECTIONS

MRL hereby incorporates by reference all of the general objections previously made by it in prior discovery responses in this proceeding.

RESERVATION OF RIGHTS

1. MRL's responses and objections to Applicant's Discovery Request are based on information now known to MRL. MRL reserves the right to amend, modify or supplement its objections and responses if it learns new information.

2. The fact that, in response to certain requests, MRL provides a responsive, non-privileged document is not a concession that the document or its contents are true, accurate, or authentic or that the document is relevant or admissible in this proceeding.

3. In providing the responses herein, MRL does not in any way waive, but rather intends to preserve:

(a) all objections as to competency, relevancy, materiality, and admissibility;

(b) all objections as to vagueness, ambiguity and undue burdensomeness;

(c) all rights to object on any ground to the use of the responses contained herein in any proceeding; and

(d) all rights to object on any ground to any further discovery request related to any of the Discovery Requests.

RESPONSES TO INTERROGATORY

Interrogatory No. 1. State the approximate number of shippers you contacted about providing a statement opposing the UP/SP merger in whole or in part or supporting the position you have stated.

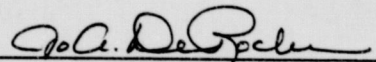
Response. MRL states that it contacted no shippers about providing a statement opposing the UP/SP merger in whole; it contacted approximately 75 shippers concerning support for the position MRL has stated. In addition, an MRL representative explained MRL's position in this matter at a January 10, 1996, meeting of the Western Shippers' Coalition, attended by approximately 15 shippers, some of which may be included in the 75

shippers contacted directly.

Document Request: Produce documents sufficient to identify the shippers you contacted about providing a statement opposing the UP/SP merger in whole or in part or supporting the position you have stated.

Response: MRL objects to this request on the grounds that it seeks production of information and documents that are not relevant to the subject matter of this action, nor reasonably calculated to lead to the discovery of relevant evidence. Furthermore, it appears to seek production of and assumes the existence of documents not now in existence. Without waiving any of the objections made, MRL hereby submits a list of shippers that were contacted, some of whom wrote letters to the Board in support of MRL's proposal.

Respectfully submitted,


Mark H. Sidman
Jo A. DeRoche
Weiner, Brodsky, Sidman &
Kider, P.C.
1350 New York Ave., N.W.
Suite 800
Washington, D.C. 20005
(202) 628-2000

ATTORNEYS FOR
MONTANA RAIL LINK, INC.

Dated: April 25, 1996
93068\004\jad863.oth

ADM/Grownmark
Archer Daniels Midland Company SL
ASARCO SL
Ashgrove Cement
Bartlett Grain
Batts, Peterson & Mine SL
Billings Gazette SL
Blaine Larsen Farms SL
Boise Cascade
Cascade Warehouse
Champion International Corporation
Cky-Ber Enterprises SL
Coastal Coal Sales Inc.
Commonwealth Edison Company
Conagra Collins Terminal
Conoco Inc
Continental Grain
Continental Lime
Crown Pacific Inland SL
Darby Lumber
Diversified Transfer and Storage
Dyce Chemical
Eagle County
Earl's Distributing SL
Empire
Exxon Company USA
Farmland Industries Inc SL
Furman Lumber
Geneva Steel
Georgia Pacific Corporation
Golden Recycling
Harvest States SL
Idaho Asphalt Supply Inc. SL
Idaho Transportation Department
IES Industries Inc
Iowa Department of Transportation
J.B. Hunt
J.R. Simplot SL
Kennecott Corporation
Kock Supply & Trading Company
Louis Dreyfus Company
Louisiana Pacific Corporation SL
Luzenac America
McFarland & Hennen
Military Traffic Management Command
Mineral Specialties SL
Missouri River Grain Company
Modern Machinery SL
Modesto & Empire Traction Company SL
Monsanto SL
Montana Farm Wives SL
Montana Farmers Union SL
Montana Grain Growers Assn. SL
Montana Resources Inc SL

Montana West Lumber Inc SL
Montana Wheat & Barley Committee
Mountain Plains Communities & Shipper Coalition
Mountain Railway Properties
Mountain West Bark
National Grain & Feed Association
North Pacific Lumber Company
Nutra-Lux
Oregon Department of Agriculture
Oregon Department of Transportation
Oregon Economic Development Department
Oregon Steel Mills SL
Pacific Steel & Recycling SL
Plum Creek SL
Port of Portland
Portland General Electric
Prentice Lumber
Proctor & Gamble Company SL
Roseburg Lumber Products
R - Y Timber SL
Simkins Hallin
South Dakota Wheat Growers SL
State of California
State of Montana SL
State of Iowa
Stimson Trading Company SL
Stone Container SL
Texas Attorney General
The Pacific Lumber Company
Timber Products
Tripp Lumber SL
Utah Mining Association
Vinson Timber Products Inc SL
Washington DOT
Watkins Shepherd SL
Carl Weissman
Western Ash SL
Western Sugar
Western Syn Coal
Weyerhaeuser Company SL
Zip Beverage SL
Association for Branch Line Equality SL
Redstone, MT

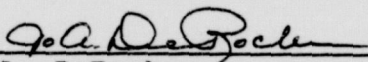
CERTIFICATION OF SERVICE

I hereby certify that on this 25th day of April, 1996, a copy of the foregoing Response of Montana Rail Link, Inc. to Applicants' Fourteenth Set of Discovery Requests was served by facsimile and by messenger upon:

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

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

all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760.



Jo A. DeRoche

STB FD 32760

4-24-96

D

82765

Item No. _____

Page Count 6

Apr #350

CUTLER & PICKERING

2445 M STREET, N.W.

WASHINGTON, D.C. 20037-1420

TELEPHONE (202) 663-6000
FACSIMILE (202) 663-6363

JOSEPH E. KILLORY, JR.
DIRECT LINE (202)
663-6069

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE 011 (4471) 839-4466
FACSIMILE 011 (4471) 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 231-0903
FACSIMILE 011 (322) 230-4322

FRIEDRICHSTRASSE 95
BRIEFKASTEN 29
D-10117 BERLIN
TELEPHONE 011 (4930) 2643 3601
FACSIMILE 011 (4930) 2643 3630

April 24, 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 Consolidated Rail Corporation's Responses and Objections to Applicants' Fourteenth Set of Interrogatories and Requests for Production of Documents, designated as document CR-35.

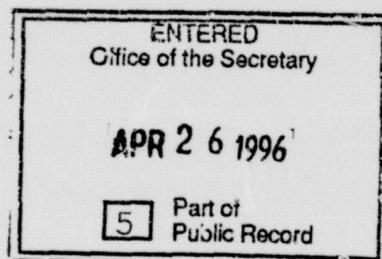
Also enclosed is a 3.5-inch WordPerfect 5.1 disk containing the text of CR-35.

Sincerely,


Joseph E. Killory, Jr.

Attorney for Consolidated
Rail Corporation

Enclosures



BEFORE THE
SURFACE TRANSPORTATION BOARD

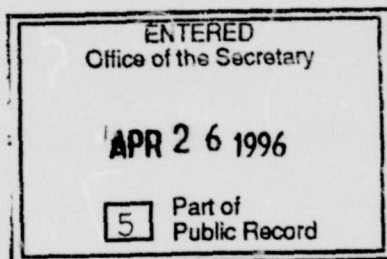
Finance Docket No. 32760

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

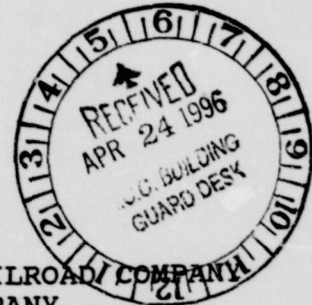
CONSOLIDATED RAIL CORPORATION'S RESPONSES
AND OBJECTIONS TO APPLICANTS' FOURTEENTH SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS



Constance L. Abrams
Jonathan M. Broder
Anne E. Treadway
CONSOLIDATED RAIL CORPORATION
2001 Market Street
Philadelphia, PA 19101

Daniel K. Mayers
A. Stephen Hut, Jr.
Joseph E. Killory, Jr.
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037

April 24, 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

CONSOLIDATED RAIL CORPORATION'S RESPONSES
AND OBJECTIONS TO APPLICANTS' FOURTEENTH SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Consolidated Rail Corporation ("Conrail") hereby
provides its responses and objections to Applicants' Fourteenth
Set of Interrogatories and Document Requests, dated April 17,
1996, but not served until after 5:00 p.m.

GENERAL OBJECTIONS

Conrail incorporates herein by reference the General
Objections set forth in its prior responses and objections to
Applicants' First, Second, and Third Sets of Interrogatories and
Requests for Production of Documents.

SPECIFIC OBJECTIONS

INTERROGATORIES

1. State the approximate number of shippers you
contacted about providing a statement opposing the UP/SP merger
in whole or in part or supporting the position you have stated.
[CR, KCS, MRL, Mex-Mex]

Additional Objection: Conrail objects to this Interrogatory on the ground that it is unduly burdensome. Conrail does not maintain a list of shippers with whom Conrail has had discussions or "contacts" as to concerns shippers have about the UP-SP merger and the shippers' interest in expressing those concerns. Identifying the number of such shippers without guessing or speculating, even on an "approximate" basis, would require inquiry of, and searches of the files of, some 500 Conrail personnel (and persons retained by Conrail), including marketing and sales personnel; operating personnel; lawyers; government relations personnel; corporate strategy personnel; and others. Such file searches would have to be conducted in Philadelphia and at Conrail field offices and facilities. It would take a team of lawyers weeks to accomplish the necessary inquiries and searches, and a special study to compile the information would eventually be required.

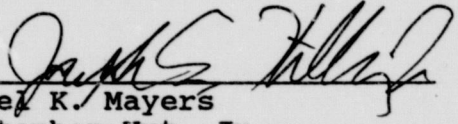
DOCUMENT REQUESTS

1. Produce documents sufficient to identify the shippers you contacted about providing a statement opposing the UP/SP merger in whole or in part or supporting the position you have stated. [CR, KCS, MRL, Tex-Mex]

Additional Objection: See Objection to Interrogatory

No. 1.

Constance L. Abrams
Jonathan M. Broder
Anne E. Treadway
CONSOLIDATED RAIL CORPORATION
2001 Market Street
Philadelphia, PA 19101


Daniel K. Mayers
A. Stephen Hut, Jr.
Joseph E. Killory, Jr.
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037

April 24, 1996

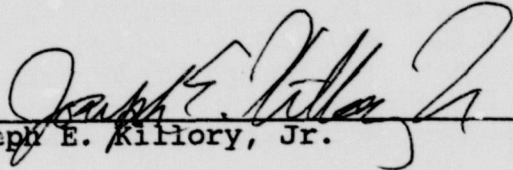
CERTIFICATE OF SERVICE

I certify that on this 24th day of April, 1996, a copy of the foregoing Consolidated Rail Corporation's Objections to Applicants' Fourteenth Set of Interrogatories and Requests for Production of Documents was served by hand delivery to:

Arvid E. Roach II
S. William Livingston, Jr.
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

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

and served by facsimile transmission on all parties on the Restricted Service List.



Joseph E. Killory, Jr.

STB FD 32760

4-23-96

D

82740

Item No. _____

82740

Page Count 6

LAW OFFICES

ITT & RASENBERGER, L.L.P.

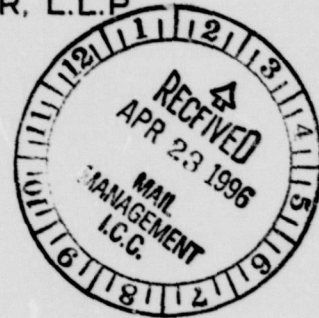
VENTEENTH STREET, N.W.

WASHINGTON, D.C. 20006-3939

TELEPHONE : (202) 298-6660

FACSIMILES: (202) 342-0683

(202) 342-1316



Office of

APR 25 1996

☐ Part of
Public Record

April 23, 1996

Via Hand Delivery

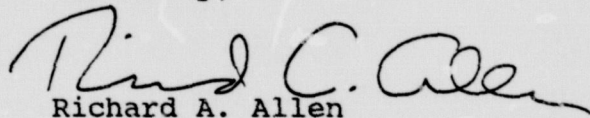
Vernon A. Williams
Secretary
Surface Transportation Board
Room 2215
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

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

Dear Secretary Williams:

Enclosed for filing are an original and twenty copies of TM-30, Responses of The Texas Mexican Railway Company to the Applicants' Fourteenth Set of Interrogatories and Requests for the Production of Documents. Also enclosed is a 3.5" floppy computer disc containing a copy of each of the filings in Wordperfect 5.1 format.

Sincerely,


Richard A. Allen

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD



Union Pacific Corp., Union Pacific)
RR. Co. and Missouri Pacific RR Co.)
-- Control and Merger -- Southern)
Pacific Rail Corp., Southern)
Pacific Trans. Co., St. Louis)
Southwestern Rw. Co., SPCSL Corp.)
and The Denver and Rio Grande)
Western Corp.)

Finance Docket No. 32760

RESPONSES OF
THE TEXAS MEXICAN RAILWAY COMPANY
TO THE APPLICANTS'
FOURTEENTH SET OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

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

Attorneys for The Texas
Mexican Railway Company

April 23, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Union Pacific Corp., Union Pacific)
RR. Co. and Missouri Pacific RR Co.)
-- Control and Merger -- Southern)
Pacific Rail Corp., Southern)
Pacific Trans. Co., St. Louis)
Southwestern Rw. Co., SPCSL Corp.)
and The Denver and Rio Grande)
Western Corp.)

Finance Docket No. 32760

RESPONSES OF
THE TEXAS MEXICAN RAILWAY COMPANY
TO THE APPLICANTS'
FOURTEENTH SET OF
INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

The Texas Mexican Railway Company ("Tex Mex"), hereby responds to the Applicants' Fourteenth Set of Interrogatories and Request for Production of Documents to Tex Mex served by Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corporation, and the Denver and Rio Grande Western Railroad Company ("Applicants") on April 17, 1996.

GENERAL RESPONSES

Tex Mex incorporates by reference the general responses it made in response to the Applicants' First Interrogatories and Document Requests to Tex Mex.

GENERAL OBJECTIONS

Tex Mex incorporates by reference the objections it made in response to the Applicants' First Interrogatories and Document Requests to Tex Mex.

INTERROGATORIES

1. State the approximate number of shippers you contacted about providing a statement opposing the UP/SP merger in whole or in part or supporting the position you have stated. [CR, KCS, MRL, Tex-Mex]

Response: Assuming that "the position you have stated" refers to the position Tex Mex took in its March 29, 1996 responsive application approximately 780.

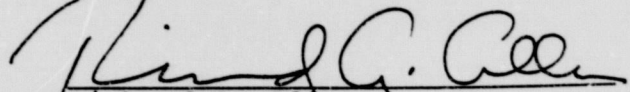
DOCUMENT REQUESTS

1. Produce documents sufficient to identify the shippers you contacted about providing a statement opposing the UP/SP merger in whole or in part or supporting the position you have stated. [CR, KCS, MRL, Tex-Mex]

Response: Assuming that "the position you have stated" refers to the position Tex Mex took in its March 29, 1996 responsive application, Tex Mex will produce responsive

documents.

Respectfully submitted,



Richard A. Allen

Andrew R. Plump

John V. Edwards

ZUCKERT, SCOUTT & RASENBERGER, LLP

888 Seventeenth Street, NW

Suite 600

Washington, DC 20006-3939

202/298-8660

Attorneys for Texas Mexican Railway

Dated: April 23, 1996

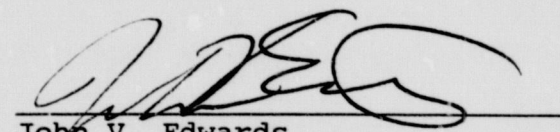
CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing TM-30, Responses of the Texas Mexican Railway Company to the Applicants' Fourteenth Set of Interrogatories and Request for Production of Documents, by hand delivery upon the following persons:

Arvid E. Roach II
J. Michael Hemmer
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044-7566

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

I have also served by first-class mail, postage pre-paid, the Honorable Judge Nelson and all persons on the restricted service list.



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

Dated: April 23, 1996

STB

FD

32760

4-22-96

D

82665

Item No. _____

82665

Page Count 4

WEINER, B
ATTORNEYS AT LAW

Apr. # 337

R
ION

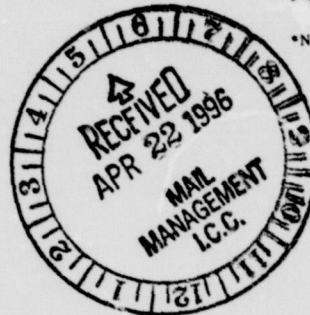
1350 NEW YORK AVENUE, N.W., SUITE 800
WASHINGTON, D.C. 20005-4797
(202) 628-2000
TELECOPIER (202) 628-2011

RICHARD J. ANDREANO, JR.
JAMES A. BRODSKY
JO A. DeROCHE
CYNTHIA L. GILMAN
ELLEN A. GOLDSTEIN*
DON J. HALPERN
CHRISTOPHER E. KACZMAREK*
MITCHEL H. KIDER
SHERRI L. LEDNER
PAUL C. OAKLEY*
BRUCE E. PRIDDY*
MARK H. SIDMAN
RUGENIA SILVER
HARVEY E. WEINER
JOSEPH F. YENOUSKAS

April 22, 1996

BY HAND DELIVERY

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



MRL-16

*NOT ADMITTED IN D.C.

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:

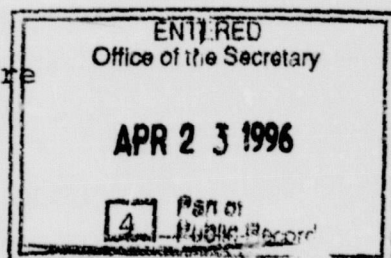
Enclosed for filing in the above-captioned proceeding are an
original and 20 copies of Montana Rail Link's Errata to
Responsive Application (MRL-16).

Please acknowledge receipt of this letter and filing by
date-stamping the enclosed acknowledgment copy and returning it
to our messenger.

Very truly yours,

Mark H. Sidman

Enclosure



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 11)

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

-- CONTROL AND MERGER --

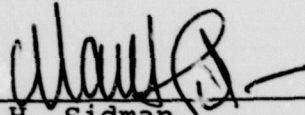
SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

ERRATA TO RESPONSIVE APPLICATION

Responsive Applicant Montana Rail Link, Inc., submits the
following errata to MRL-10, its Responsive Application:

| <u>Page</u> | <u>Line</u> | <u>Change</u> |
|-------------|-------------|---|
| 44 | 16 | Change "V.S. Brodsky at ¶ ____" to "V.S. Brodsky at ¶ 160-161." |
| 90 | | Delete references to "branch lines" at lines 2-4, 10-14, 16-20, 21-23, and 26-27. |
| 112 | 14 | Change "have reviewed the traffic data provided by Primary Applicants" to "have reviewed the traffic data from the STB Carload Waybill Sample" |
| 165 | 11 | Change "included in the Verified Statement of William W. Delaney, attached as Exhibit 29 to the Responsive Application" to "Attachment A to the Verified Statement of Daniel K. Watts," |
| 166 | 9 | Change "\$470,821,552" to "\$615,115,059" |
| 166 | 10 | Change "\$353,116.164" to "461,336,294" |
| 171 | 14 | Change "over 8,900" to "almost 7,800" |
| 171 | 15 | Change "7,916" to "6,800" |
| 178 | 2-6 | Delete sentence, from "In addition" through "Company traffic." |

Respectfully submitted,



Mark H. Sidman
Jo A. DeRoche
Ellen A. Goldstein
Paul C. Oakley
Weiner, Brodsky, Sidman
& Kider, P.C.
1350 New York Avenue, N.W.
Suite 800
Washington, D.C. 20005

**Attorneys for
Montana Rail Link, Inc.**

Dated: April 22, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 1996, a copy of the foregoing Errata to Responsive Application was served by first class mail upon:

Arvid E. Roach, II, Esq.
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20036

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

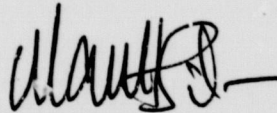
Hon. Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
825 North Capitol Street, N.W.
Washington, D.C. 20426

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

James V. Dolan, Esq.
Law Department
Union Pacific Railroad Company
1416 Dodge Street
Omaha, Nebraska 68179

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

and all other known parties of record.



Mark H. Sidman, Esq.

STB

FD

32760

4-20-96

D

82875

Item No. _____

Page Count 7

Apr # 416

OVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

WASHINGTON, D. C. 20036

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. MCANDREW*

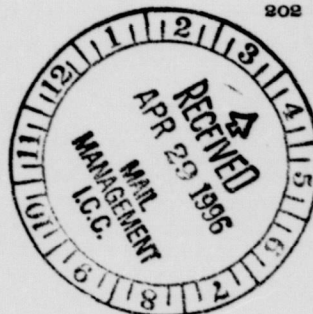
April 29, 1996

202 347-7170

* ADMITTED IN PENNSYLVANIA ONLY

BY HAND DELIVERY

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



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

Dear Mr. Secretary:

Enclosed please find an original and twenty (20) copies of the Response To A Condition Requested By The Railroad Commission Of Texas (TUE-13). This document is being served upon parties of record in the manner described in the Certificate of Service attached thereto. In accordance with prior orders in this proceeding, we have also enclosed a Wordperfect 5.1 diskette containing the enclosed Response.

An extra copy of this filing is enclosed. Kindly indicate receipt and filing by time-stamping this copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.

Sincerely,

John H. LeSeur
Attorney for Texas
Utilities Electric Company

ENTERED
Office of the Secretary

APR 30 1996

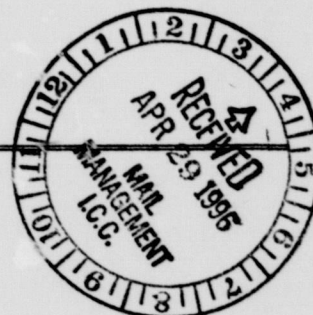
JHL:mfw
Enclosures

The Hon. Vernon A. Williams
April 29, 1996
Page 2

cc: Arvid E. Roach II, Esq.
Paul Cunningham, Esq.
The Honorable Jerome Nelson

TUE-13

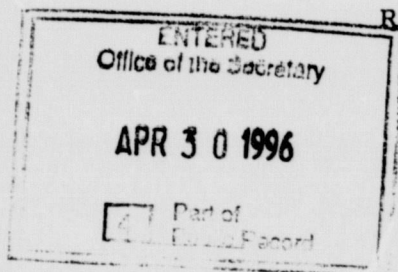
BEFORE THE
SURFACE TRANSPORTATION BOARD



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

Finance Docket No. 32760

RESPONSE TO A CONDITION
REQUESTED BY THE
RAILROAD COMMISSION OF TEXAS



TEXAS UTILITIES ELECTRIC COMPANY

OF COUNSEL:

WORSHAM, FORSYTHE & WOOLDRIDGE
1601 Bryan Street
30th Floor
Dallas, Texas 75201

SLOVER & LOFTUS
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

By: John W. McReynolds
Worsham, Forsythe & Wooldridge
1601 Bryan Street
30th Floor
Dallas, Texas 75201

John H. LeSeur
Frank J. Pergolizzi
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

DATED: April 29, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

| | | |
|------------------------------------|---|--------------------------|
| UNION PACIFIC CORPORATION, UNION |) | |
| PACIFIC RAILROAD COMPANY, AND |) | |
| MISSOURI PACIFIC RAILROAD COMPANY |) | |
| -- CONTROL AND MERGER -- SOUTHERN |) | |
| PACIFIC RAIL CORPORATION, SOUTHERN |) | Finance Docket No. 32760 |
| PACIFIC TRANSPORTATION COMPANY, |) | |
| ST. LOUIS SOUTHWESTERN RAILWAY |) | |
| COMPANY, SPCSL CORP., AND THE |) | |
| DENVER AND RIO GRANDE WESTERN |) | |
| RAILROAD COMPANY |) | |

RESPONSE TO A CONDITION
REQUESTED BY THE
RAILROAD COMMISSION OF TEXAS

The Railroad Commission of Texas ("Commission") filed comments in this proceeding on March 29, 1996. In those Comments, the Commission, inter alia, seeks divestiture of Southern Pacific Transportation Company's ("SP") lines between Fort Worth and Texarkana (via Corsicana and Mount Pleasant).¹ These SP lines are necessary for SP to provide coal transportation to Texas Utilities' Monticello Station, situated near Mount Pleasant, Texas.² However, as the line divestiture transaction is

¹ These line segments are part of Dallas/Fort Worth-to-Houston and Lewisville, AR-to-Corsicana, TX lines subject to the Commission's divestiture requests.

² SP has provided coal transportation bids to TU Electric's Monticello Station from Fort Worth with the Burlington Northern Railroad Company providing origin service to Fort Worth, and the SP now provides service to the Monticello Station from

(continued...)

structured, the SP line running west from Mount Pleasant to TU Electric's private line serving its Monticello Station is not specifically designated as part of the divestiture request. Should the Surface Transportation Board ("STB") grant the Commission's requested divestiture of the Fort Worth-to-Texarkana line segments, TU Electric requests that the divestiture order specifically include the SP line segment from Mount Pleasant to Winfield, Texas for purposes of permitting the new carrier access to TU Electric's private Monticello line.

The requested clarification of the Commission's request appears to be consistent with the Commission's intent,³ is limited in scope (as it involves only ten miles of SP track), and will preserve TU Electric's pre-merger single-line SP routing options.

²(...continued)
Texarkana with the Union Pacific Railroad Company providing origin service to Texarkana.

³ The Commission's Comments state that their line divestiture requests are intended to include "connecting trackage to secondary markets." (Commission Comments at 14). Access to TU Electric's Monticello Station appears to fall into the "secondary markets" category as envisioned by the Commission.

Respectfully submitted,

OF COUNSEL:

WORSHAM, FORSYTHE & WOOLDRIDGE
1601 Bryan Street
30th Floor
Dallas, Texas 75201

SLOVER & LOFTUS
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

DATED: April 29, 1996

By: John W. McReynolds
Worsham, Forsythe & Wooldridge
1601 Bryan Street
30th Floor
Dallas, Texas 75201

John H. LeSeur *John LeSeur*
Frank J. Pergolizzi
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

CERTIFICATE OF SERVICE

I certify that I have this 29th day of April, 1996,
served copies of the foregoing Response To A Condition Requested
By The Railroad Commission Of Texas by hand upon Applicants'
counsel:

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

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

by hand upon:

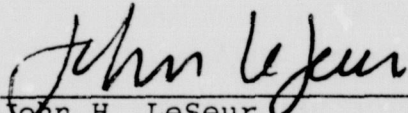
Michael D. Billiel, Esq.
Joan S. Huggler, Esq.
U.S. Department of Justice
Antitrust Division, Suite 500
325 Seventh Street, N.W.
Washington, D.C. 20530

and by first class mail, postage prepaid on:

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

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

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


John H. LeSeur

STB

FD

32760

4-19-96

D

82658

Item No. _____

Page Count 7

Apr #325

82658

COALITION FOR COMPETITIVE RAIL TRANSPORTATION
MOBILIZATION OFFICE
1029 North Royal Street
Suite 400
Alexandria, Va. 22314

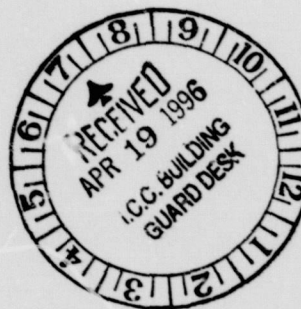
Office: (800) 814-3531

Fax: (800) 641-2255

April 19, 1996

Via Hand Delivery

Honorable Vernon A. Williams
Secretary
The Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

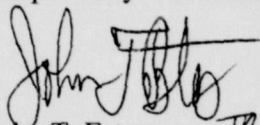


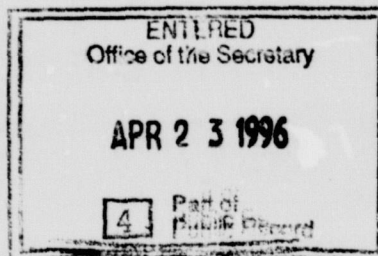
Re: Finance Docket No. 32760, *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control & Merger -- Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company*

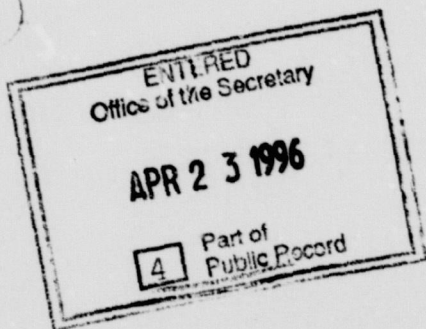
Dear Secretary Williams:

Enclosed for filing in the above-captioned case are an original and twenty copies of the Coalition for Competitive Rail Transportation's responses to Applicants' second set of interrogatories and requests for production of documents identified as CCRT-8.

Respectfully Submitted,


John T. Estes TB
Executive Director





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

COALITION FOR COMPETITIVE RAIL TRANSPORTATION (CCRT)
RESPONSES TO APPLICANTS' SECOND SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

John T. Estes
Executive Director
Coalition for Competitive Rail Transportation
1029 North Royal Street, Suite 400
Alexandria, Va 22314
(800) 514-3531

April 19, 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

John T. Estes
Executive Director
Coalition for Competitive Rail Transportation (CCRT)
1029 North Royal Street
Suite 400
Alexandria, Virginia 22314
phone: (800) 814-3531
fax: (800) 641-2255

April 19, 1996

COALITION FOR COMPETITIVE RAIL TRANSPORTATION (CCRT)
RESPONSES TO APPLICANTS' SECOND SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Coalition for Competitive Rail Transportation (CCRT) submits the following responses
to the discovery request served by Applicants (UP/SP) on April 4, 1996.

RESPONSES TO INTERROGATORIES AND DOCUMENT REQUESTS

INTERROGATORIES

1. Provide a short description of the business conducted at Bartlett's Eads facility (for example "grain elevator," "fertilizer distributor").

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

2. State, by year and type of grain (wheat, corn, etc.), the number of bushels of grain moved out of Bartlett's Eads facility during 1994 and 1995.

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

3. State, by year and type of grain (wheat, corn, etc.), the number of bushels of grain bought or sold by Bartlett's Eads facility during 1994 and 1995 which was not moved through one of the elevators listed in the answer to Interrogatory No. 1.

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

4. List the specific locations and types of facilities to which Bartlett's Eads facility shipped the grain identified in response to Interrogatories Nos. 2 and 3.

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

5. If any of the grain identified in response to Interrogatories Nos. 2 and 3 was not shipped over the Towner-NA Junction rail line, how was it shipped (for example, owned or leased truck, commercial motor carrier, etc.)?

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

6. List the names and addresses of the motor carriers or truck operators that trucked grain from any of the elevators listed in your response to Interrogatory No. 1 during 1994 and 1995. If there are too many to list separately, you may answer "numerous."

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

7. State, by year and type of fertilizer (dry liquid, anhydrous ammonia, etc.), the tons of fertilizer Bartlett's Eads facility purchased in 1994 and 1995.

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

8. If Eads presently owns or leases any trucks (including tractors or trailers), list the type and what you normally use each truck for. You may exclude small vehicles such as pickup trucks and vans from your answer.

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

9. State the names and business addresses of the facilities which believed to be competitors for the Bartlett facility at Eads. If the number of competitors is greater than five, so indicate and state the names and addresses of the firms you believe to be your five principal competitors.

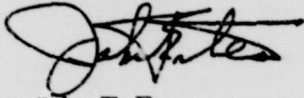
Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this interrogatory.

DOCUMENT REQUESTS

Document Request No. 1: Produce copies of the annual report for Bartlett at Eads for the most recent two years available. If your annual reports are not produced for this facility, any existing financial reports or statements that show the financial results of the operations of Bartlett's Eads facility for these years need to be produced. This document production request covers only financial reports or statements that already exist, and does not require any such reports or statements to be created.

Response: Pursuant to the representation made in Gerald Norton's April 10, 1996 letter to Judge Nelson (page 2, footnote 2) and Mr. Norton's telephone conversation with counsel for CCRT, no response is required to this request.

Respectfully submitted,



John T. Estes
Executive Director
Coalition for Competitive Rail Transportation

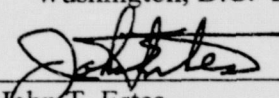
April 19, 1996

CERTIFICATE OF SERVICE

I, John T. Estes, certify that, on the 19th day of April, 1996, I caused a copy of the foregoing document to be served by hand or overnight mail as appropriate on the representatives set forth below 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 nine of the Discovery Guidelines in Finance Docket No. 32760, and in addition by hand on :

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

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


John T. Estes

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

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

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

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

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

STB

FD

32760

4-19-96

D

81527

Item No. _____

Page Count 5

Apr #332

AN SANDERS LLP

NEYS AT LAW
A LIMITED LIABILITY PARTNERSHIP

999 PEACHTREE STREET, N.E. - SUITE 750
ATLANTA, GEORGIA 30309-3964
TELEPHONE: 404-885-3651
FACSIMILE: 404-885-3652

NATIONSBANK PLAZA
600 PEACHTREE STREET, N.E. - SUITE 5200
ATLANTA, GEORGIA 30308-2216
TELEPHONE: 404-885-3000
FACSIMILE: 404-885-3900

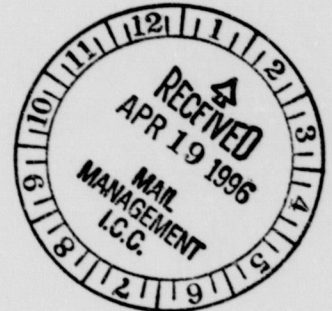
81527

601 PENNSYLVANIA AVENUE, N.W.
SUITE 640
NORTH BUILDING
WASHINGTON, D.C. 20004
TELEPHONE: 202-274-2950
FACSIMILE: 202-274-2994

April 19, 1996

HAND DELIVERED

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



Re: Finance Docket No. 32760, *Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control & Merger -- Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company*

Dear Secretary Williams:

Enclosed please find an original and twenty copies of The Kansas City Southern Railway Company's Responses to Applicants' Tenth Set of Discovery Requests ("KCS-45").

Also enclosed is a 3.5 inch disk containing the text of KCS-45.

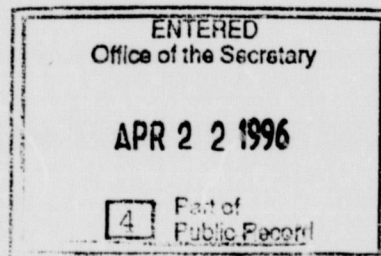
Sincerely yours,

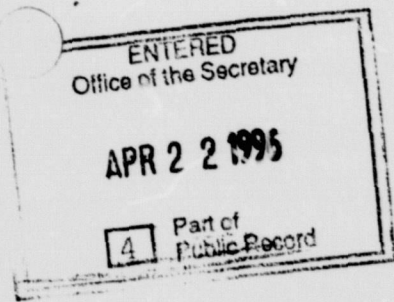
William A. Mullins

William A. Mullins

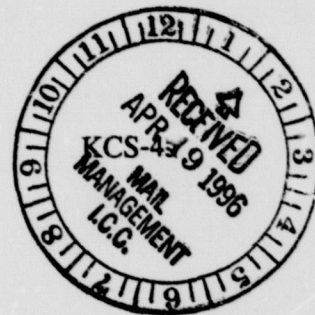
Enclosures

cc: The Honorable Jerome Nelson
Restricted Service List





BEFORE THE
SURFACE TRANSPORTATION BOARD



Finance Docket No. 32760

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

THE KANSAS CITY SOUTHERN RAILWAY COMPANY'S RESPONSES TO
APPLICANTS' TENTH SET OF DISCOVERY REQUESTS

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

James F. Rill
Sean F.X. Boland
Virginia R. Metallo
Collier, Shannon, Rill & Scott
3050 K Street, N.W.
Suite 400
Washington, D.C. 20007
Tel: (202) 342-8400
Fax: (202) 338-5534
April 19, 1996

John R. Molm
Alan E. Lubel
William A. Mullins
David B. Foshee
Troutman Sanders LLP
601 Pennsylvania Avenue, N.W.
Suite 640 - North Building
Washington, D.C. 20004-2609
Tel: (202) 274-2950
Fax: (202) 274-2994

Attorneys for The Kansas City Southern
Railway Company

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

THE KANSAS CITY SOUTHERN RAILWAY COMPANY'S RESPONSES TO
APPLICANTS' TENTH SET OF DISCOVERY REQUESTS

The Kansas City Southern Railway Company ("KCS") responds to Applicants' Tenth Set of Discovery Requests as follows:

KCS reasserts and incorporates by reference, its General Objections to Applicants' discovery requests as set forth in KCS-28, paragraphs 3 through 13. Subject to these objections and to prior rulings by Administrative Law Judge Nelson, KCS responds to Applicants' individual discovery requests as follows:

INTERROGATORY

1. To the extent not answered in your previous discovery responses, identify any communications or agreements between Conrail and KCS or their representatives, concerning any desires, plans or efforts of KCS or Conrail to bid on the purchase of all or of any portion of the lines of applicants. [CR, KCS]

Response: KCS objects to this interrogatory as being vague and incapable of a meaningful response. To the extent KCS understands the request, KCS objects to the interrogatory as requesting information that is neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence.

DOCUMENT REQUEST

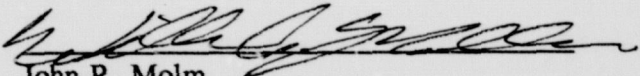
1. Produce any documents relating to or reflecting the communications or agreements referred to in Interrogatory No. 1. [CR, KCS]

Response: KCS incorporates by reference its response to Interrogatory No. 1.

This 19th day of April, 1996

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

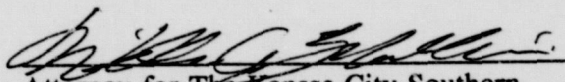
James F. Kill
Sean F.X. Boland
Virginia R. Metallo
Collier, Shannon, Kill & Scott
3050 K Street, N.W., Suite 400
Washington, D.C. 20007
Tel: (202) 342-8400
Fax: (202) 338-5534


John R. Molm
Alan E. Lubel
William A. Mullins
Troutman Sanders LLP
601 Pennsylvania Avenue, N.W.
Suite 640 - North Building
Washington, D.C. 20004-2608
Tel: (202) 274-2950
Fax: (202) 274-2994

Attorneys for The Kansas City Southern
Railway Company

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing "The Kansas City Southern Railway Company's Responses to Applicants' Tenth Set of Discovery Requests" was served this 19th day of April, 1996, by hand delivery to Applicants and upon the restricted service list by hand delivery or U.S. mail.


Attorney for The Kansas City Southern
Railway Company

STB

FD

32760

4-19-96

D

81526

Item No. _____

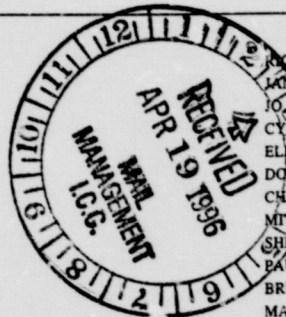
Page Count 17

W
ATTN

Apr # 319

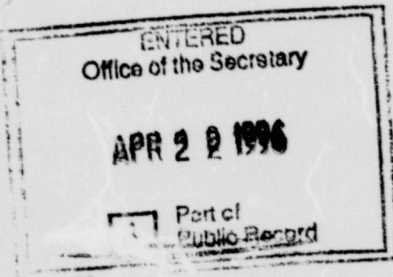
N & KIDER
PROFESSIONAL CORPORATION

1350 NEW YORK AVENUE, N.W., SUITE 800
WASHINGTON, D.C. 20005-4197
(202) 628-2000
TELECOPIER (202) 628-2011



81526

RICHARD J. ANDREANO, JR.
JAMES A. BRODSKY
JO A. DeROCHE
CYRILIA L. GILMAN
ELLEN A. GOLDSTEIN*
DON J. HALPERN
CHRISTOPHER E. KACZMAREK*
MITCHEL H. KIDER
SHERRI L. LEDNER
PAUL C. OAKLEY*
BRUCE E. PRIDDY*
MARK H. SIDMAN
RUGENIA SILVER
HARVEY E. WEINER
JOSEPH F. YENOUSKAS



April 19, 1996

*NOT ADMITTED IN D.C.

BY HAND DELIVERY

MRL-15

Vernon A. Williams
Secretary
Surface Transportation Board
12th 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 Secretary Williams:

Enclosed for filing in the above-captioned proceeding are an
original and 20 copies of the Response of Montana Rail Link, Inc.
to Allied Rail Unions' First Set of Interrogatories and Requests
for Production of Documents.

Please acknowledge receipt of this filing by date-stamping the
enclosed acknowledgment copy and returning it to our messenger.

Ver, truly yours,

Jo A. DeRoche

Enclosures

cc: Restricted Service List
93068\003\tjad861.ltr

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 11)

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
RIO GRANDE WESTERN RAILROAD

RESPONSE OF MONTANA RAIL
TO ALLIED RAIL UNIONS FIRST SET
AND REQUESTS FOR PRODUCTION



ORIGINAL

Mark H. Sidman
Jo A. DeRoche
Weiner, Brodsky, Sidman &
Kider. P.C.
1350 New York Avenue, N.W.
Suite 800
Washington, D.C. 20005
(202) 628-2000

ATTORNEYS FOR
MONTANA RAIL LINK, INC.

Dated: April 19, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760 (Sub-No. 11)

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 MONTANA RAIL LINK, INC.
TO ALLIED RAIL UNIONS FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

Montana Rail Link, Inc. ("MRL") herewith files its Response to the First Set of Interrogatories and Requests for Production of Documents ("Discovery Request") directed to MRL by Allied Rail Unions ("ARU"). This Response is made pursuant to: (i) the Discovery Guidelines applicable to this proceeding, as adopted by Administrative Law Judge Jerome Nelson ("Judge Nelson") on December 7, 1995.

GENERAL OBJECTIONS

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

1. MRL objects to ARU's Discovery Request to the extent that it seeks information protected from discovery by the attorney-client privilege, the work-product doctrine, or any other privilege, immunity or exemption.

2. MRL objects to ARU's Discovery Request to the extent it

seeks information or documents not in MRL's possession, custody or control.

3. MRL objects to providing information or documents that are readily obtainable by ARU from their own files.

4. MRL objects to production of public documents that are readily available, including but not limited to documents on file at the Surface Transportation Board ("Board") or the Securities and Exchange Commission or clippings from newspapers or other public media.

5. MRL objects to the document requests to the extent they seek production of 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. MRL objects to the extent that the Discovery Request seeks highly confidential or sensitive commercial information that is of insufficient relevance to warrant production even under a protective order.

7. MRL objects to ARU's Discovery Request to the extent it seeks documents which do not exist or are not relevant to the subject matter of this action or are not calculated to lead to the discovery of relevant evidence.

8. MRL objects to ARU's Discovery Request to the extent that it attempts to impose any obligation on MRL beyond those imposed by the General Rules of Practice of the Commission, 49 C.F.R. § 1114.21-31, the Commission's scheduling orders in this proceeding

or the Discovery Guidelines.

9. MRL objects to ARU's Discovery Request to the extent that it seeks documents already produced in this Proceeding.

RESERVATION OF RIGHTS

1. MRL's responses and objections to ARU's Discovery Request are based on information now known to MRL. Because formal discovery is continuing, MRL reserves the right to amend, modify or supplement its objections and responses if it learns new information.

2. The fact that, in response to certain requests, MRL provides a responsive, non-privileged document is not a concession that the document or its contents are true, accurate, or authentic or that the document is relevant or admissible in this proceeding.

3. In providing the responses herein, MRL does not in any way waive, but rather intends to preserve:

(a) all objections as to competency, relevancy, materiality, and admissibility;

(b) all objections as to vagueness, ambiguity and undue burdensomeness;

(c) all rights to object on any ground to the use of the responses contained herein in any proceeding; and

(d) all rights to object on any ground to any further discovery request related to any of the Discovery Requests.

RESPONSES TO INTERROGATORIES

Interrogatory No. 1: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will the Acquisition Company or its successor employ persons to perform the type of work traditionally performed on railroads by:

- a) maintenance of way employees
- b) train dispatchers
- c) signalmen
- d) electrical workers
- e) firemen and oilers (laborers)
- f) boilermakers and blacksmiths
- g) sheet metal workers

Response: MRL states that Acquisition Company will employ persons to maintain its track, signals and equipment. Acquisition Company will not limit the work of those persons to the traditional craft distinctions shown above.

Interrogatory No. 2: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, how many persons will the Acquisition Company or its successor employ to perform the type of work traditionally performed on railroads by:

- a) maintenance of way employees
- b) train dispatchers
- c) signalmen
- d) electrical workers
- e) firemen and oilers (laborers)
- f) boilermakers and blacksmiths
- g) sheet metal workers

Response: MRL states that, as shown in its Responsive Application, it is anticipated that Acquisition Company will employ 514 persons to maintain equipment and 587 persons to maintain track. The estimate of 120 persons for general and administrative functions includes supervision of train operations.

Interrogatory No. 3: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, how many persons will the Acquisition Company or its successor employ to perform the type of work traditionally performed on railroads by:

- a) maintenance of way employees
- b) train dispatchers
- c) signalmen
- d) electrical workers
- e) firemen and oilers (laborers)
- f) boilermakers and blacksmiths
- g) sheet metal workers

Response: See answer to Interrogatory No. 2.

Interrogatory No. 4: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, or the Acquisition Company, or its successor accept as a condition of approval a requirement that it afford preference in hiring to persons who were employed on, or had seniority rights on, the lines which Acquisition Company would acquire from the UP or SP.

Response: MRL states that, as shown on pages 17 and 116 of the Responsive Application, Acquisition Company will give a preference in hiring to those persons currently employed by Primary Applicants on the lines to be acquired when it begins its hiring process, subject to the same hiring standards used by MRL.

Interrogatory No. 5: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, or the Acquisition Company, or its successor accept as a condition of approval a requirement that it afford preference in hiring to persons who were employed on, or had seniority rights on, the lines which Acquisition Company or its successor would acquire from the UP or SP, under which Acquisition Company or its successor would be required to make offers of employment in seniority order to UP and SP employees in accordance

with their seniority rights on UP and SP seniority rosters for the following crafts:

- a) maintenance of way employees
- b) train dispatchers
- c) signalmen
- d) electrical workers
- e) firemen and oilers (laborers)
- f) boilermakers and blacksmiths
- g) sheet metal workers

Response: MRL states that, as shown in its Responsive Application, and its answer to Interrogatory No. 4, Acquisition Company will give a preference in hiring to UP and SP employees, subject to MRL-type hiring standards.

Interrogatory No. 6: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, the Acquisition Company, or its successor accept as a condition of approval a requirement that it assume the collective bargaining agreements which are currently applicable on the lines which Acquisition Company would acquire from the UP or SP for the following crafts:

- a) maintenance of way
- b) train dispatcher
- c) signalman
- d) electrical worker

- e) firemen, oiler (laborer)
- f) boilermaker, and blacksmith
- g) sheet metal worker

Response: MRL states that Acquisition Company will not accept as a condition of approval a requirement that it assume any currently existing agreements between Primary Applicants and their employees.

Interrogatory No. 7: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, the Acquisition Company, or its successor adopt the collective bargaining agreements which are currently applicable on the lines which Acquisition Company would acquire from the UP or SP for the following crafts:

- a) maintenance of way
- b) train dispatcher
- c) signalman
- d) electrical worker
- e) firemen, oiler (laborer)
- f) boilermaker, and blacksmith
- g) sheet metal worker

Response: MRL states that Acquisition Company will not adopt any currently existing agreements between Primary Applicants and their employees.

Interrogatory No. 8: If the answers to interrogatories numbers 6 and/or 7 or any of their sub-parts is no, explain what rates of pay, rules and working conditions will apply to any or all of the employees of acquisition Company or its successor who perform the type of work traditionally performed on railroads by:

- a) maintenance of way employees
- b) train dispatchers
- c) signalmen
- d) electrical workers
- e) firemen and oilers (laborers)
- f) boilermakers and blacksmiths
- g) sheet metal workers

And explain how such rates of pay, rules and working conditions will be determined.

Response: MRL states that, as shown on page 16 of its Responsive Application, it is anticipated that Acquisition Company will have a "regional railroad cost structure" similar to that of MRL, which operates with flexible, nontraditional labor agreements that have been negotiated with the representatives of its employees.

Interrogatory No. 9: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, or the Acquisition Company, or its

successor accept as a condition of approval imposition of the New York Dock employee protective conditions.

Response: MRL states that under applicable statutes, New York Dock will have been imposed for the benefit of UP and SP employees as a condition of the merger among Primary Applicants, as required for transactions under 49 U.S.C. § 11343. Acquisition Company will not accept imposition of New York Dock conditions as a condition for its acquisition of the lines under 49 U.S.C. § 10901, although it is recognized that New York Dock may be imposed for the benefit of employees adversely affected by the common control of MRL and Acquisition Company by Dennis Washington.

Interrogatory No. 10: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, or the Acquisition Company, or its successor acquire all of the Central Corridor lines that Primary Applicants have proposed to abandon.

Response: MRL states that it will acquire the lines proposed for abandonment by Primary Applicants, as shown on pages 13 and 114 of its Responsive Application.

Interrogatory No. 11: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, or the Acquisition Company, or its

successor accept, as a condition of approval, a requirement that Acquisition Company not abandon or sell any of the lines that it would acquire for a period of:

- a) ten years after their acquisition.
- b) five years after their acquisition.
- c) two years after their acquisition.

Response: MRL states that, on the assumption that the transaction is approved as described in its Responsive Application, it would accept a condition that it not abandon or sell any of the lines that it acquires for a period of five years.

Interrogatory No. 12. State why MRL believes that an acquisition as described in the Responsive Application would properly be accomplished under 49 U.S.C. §10901.

Response: MRL states that an acquisition as described in the Responsive Application would properly be accomplished under 49 U.S.C. § 10901, as Acquisition Company will be a new, noncarrier entity formed to acquire the assets described in the Responsive Application.

Interrogatory No. 13: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, identify any facilities on the lines which would be acquired (including maintenance of way equipment, buildings used in connection with railroad operations, signal

equipment shops and locomotive repair and maintenance shops) which will not be acquired and/or retained by MRL, the Acquisition Company or its successor.

Response: MRL states that it is unable to reply to Interrogatory No. 13 at this time, as it lacks sufficient information about the existing facilities and equipment on the lines to be acquired. Such information will not be available to Acquisition Company unless or until it is permitted to access the property during a due diligence phase of the purchase.

Interrogatory No. 14: If the Responsive Application is accepted as a condition of the Primary Application, or if the Responsive Application is otherwise approved by the Surface Transportation Board, will MRL, the Acquisition Company, or its successor accept as a condition of approval a requirement that Acquisition Company retain in operation facilities on the lines which would be acquired such as maintenance of way equipment, buildings used in connection with railroad operations, signal equipment shops and locomotive repair and maintenance shops) for a period of:

- a) ten years after their acquisition.
- b) five years after their acquisition.
- c) two years after their acquisition.

Response: MRL states that it is unable to reply to Interrogatory No. 14 at this time, as it lacks sufficient information about the existing facilities and equipment on the

lines to be acquired. Such information will not be available to Acquisition Company unless or until it is permitted to access the property during a due diligence phase of the purchase.

RESPONSES TO DOCUMENT REQUESTS

Document Request No. 1: All documents referred to by MRL in answering the interrogatories above.

Response: Subject to, and without waiving, the general objections, MRL states that it relied only on its March 29 filing, a copy of which was served on ARU.

Document Request No. 2: All documents relating to plans of MRL or Acquisition Company regarding employment and rates of pay, rules and working conditions.

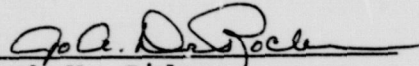
Response: Subject to, and without waiving, the general objections, MRL states that Acquisition Company intends to negotiate labor agreements that contain rates of pay, rules and working conditions similar to those negotiated by MRL with its employees. A copy of the nonoperating craft agreement with MRL is contained in MRL's document depository, and a copy is hereby provided to ARU.

Document Request No. 3: All documents relating to numbers and types of employees expected to be employed by Acquisition Company or any successor if the Responsive Application is made a condition of STB approval of the Primary Application or is otherwise approved

by the STB.

Response: See response to Document Request No. 2.

Respectfully submitted,


Mark H. Sidman
Jo A. DeRoche
Weiner, Brodsky, Sidman &
Kider, P.C.
1350 New York Ave., N.W.
Suite 800
Washington, D.C. 20005
(202) 628-2000

ATTORNEYS FOR
MONTANA RAIL LINK, INC.

Dated: April 19, 1996

CERTIFICATION OF SERVICE


I hereby certify that on this 19th day of April, 1996, a copy of the foregoing Response of Montana Rail Link, Inc. to Allied Rail Union's First Set of Interrogatories and Requests for Production of Documents was served by messenger upon:

William G. Mahoney
Richard S. Edelman
Donald F. Griffin
Highsaw, Mahoney & Clarke, P.C.
1050 17th Street, N.W.
Suite 210
Washington, D.C. 20036

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

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

and by first-class mail, postage prepaid, upon all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760.



Jo A. DeRoche

F:\CLIENTS\93068\004\TJAD857.OTH

STB

FD

32760

4-9-96

D

82773

Item No. _____

Page Count 20

APR #230

82773

CLARY, WOOD & MASER, P.C.

ATTORNEYS AND COUNSELORS AT LAW

SUITE 750

1100 NEW YORK AVENUE, N.W.

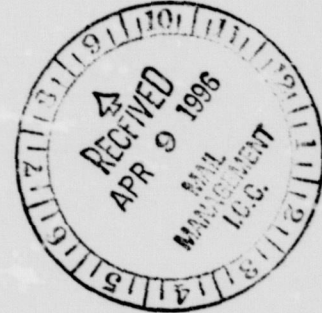
WASHINGTON, D.C. 20005-3934

OFFICE: (202) 371-9500

TELECOPIER: (202) 371-0900

April 9, 1996

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

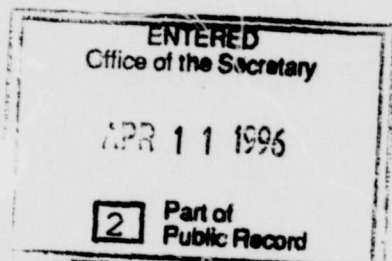


Re: Finance Docket No. 32760;
Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company -- Control and Merger -- Southern Pacific Railroad Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and the Denver and Rio Grande Western Railroad Company.

Dear Mr. Williams:

Enclosed for filing in the above-captioned proceeding are an original and twenty (20) copies of THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE'S OBJECTIONS AND RESPONSES TO APPLICANTS' SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS, designated NITL -12. Also enclosed is a diskette formatted in WordPerfect 5.1 with a copy of the Interrogatories.

If you have any questions, please do not hesitate to contact me.



Sincerely,

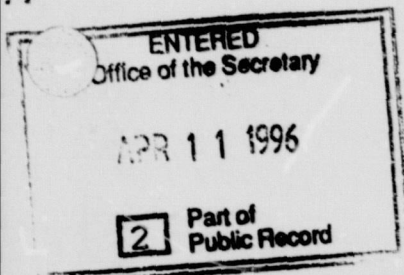
Frederic L. Wood
Frederic L. Wood
Nicholas J. DiMichael

ENCLOSURES

0124-480

cc: Restricted Service List

NITL- 12



**BEFORE THE
SURFACE TRANSPORTATION BOARD**

Finance Docket No. 32760



UNION PACIFIC C
AND

ORIGINAL

PACIFIC RAILROAD COMPANY
RAILROAD COMPANY

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**

**THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE'S
OBJECTIONS AND RESPONSES TO APPLICANTS'
SECOND SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS**

Nicholas J. DiMichael
Frederic L. Wood
DONELAN, CLEARY, WOOD &
MASER, P.C.
1100 New York Avenue, N.W.
Suite 750
Washington, D.C. 20005-3934
(202) 371-9500

*Attorneys for The National Industrial
Transportation League*

Due Date: April 9, 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

THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE'S
OBJECTIONS AND RESPONSES TO APPLICANTS'
SECOND SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS

The National Industrial Transportation League (the "NIT League or League") submits the following objections and responses to the second set of interrogatories and requests for production of documents served by Applicants on April 3, 1996 (UP/SP-200). These objections and responses are made pursuant to the procedures adopted by the Administrative Law Judge at the discovery conference held on March 8, 1996. Tr. 2056-2065. These requests were served subject to the same definitions and instructions contained in applicants' prior discovery request to the League (UP/SP-124, served February 26, 1996). Therefore, in this response, the League is renewing those general and specific

objections to the prior discovery that have not been resolved by a ruling of the Administrative Law Judge.

The NIT League is also submitting responses to the discovery requests. These responses will provide information (including documents) in response to certain of the requests, notwithstanding the fact that objections to the requests are noted herein. It is necessary and appropriate at this stage for the NIT League to preserve its right to assert permissible objections.

GENERAL OBJECTIONS

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

1. The NIT League objects to production of documents or information subject to the attorney-client privilege, including documents or information provided to parties or persons having a common interest in this proceeding.

2. The NIT League objects to production of documents or information subject to the work product doctrine, including documents or information otherwise provided to parties or persons having a common interest in this proceeding.

3. The NIT League objects to production of documents prepared in connection with, or information relating to, possible settlement of this or any other proceeding.

4. The NIT League objects to production of public documents that are readily available, including but not limited to documents on public file at the Board, the Securities and Exchange Commission, the Federal Energy Regulatory Commission, or from newspapers and other public media.

5. The NIT League objects to the production of 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. The NIT League objects to providing information or documents that are as readily obtainable by Applicants from its own files.

7. The NIT League objects to the extent that the interrogatories and document requests seek highly confidential or sensitive commercial information, including information designated as confidential or highly confidential in prior merger proceedings.

8. The NIT League objects to the definition of "shipper" and "relating to" and "produce" as unduly vague and/or overbroad.

9. The NIT League objects to Definitions and Instructions VIII, X, XI, XIII, XIV, XXXI, XXXII to the extent that they seek to impose requirements that exceed those specified in the applicable discovery rules and guidelines.

10. The NIT League objects to Definitions and Instructions VIII, X, XIII, XIV, XX and XXXII as unduly burdensome.

11. The NIT League objects to the interrogatories and document requests to the extent that they call for the preparation of special studies not already in existence.

12. The NIT League objects to the interrogatories and document requests to the extent that they call for speculation.

13. The NIT League objects to the interrogatories and document requests insofar as they call for information from or about individual members of the NIT League as beyond the scope of lawful and proper discovery to the NIT League; because such persons and information in the possession of such persons are beyond the direction and control of the NIT League; because such request would be overbroad and unduly burdensome; and because it includes requests for information from or about such persons that is neither relevant or is reasonably calculated to lead to the discovery of admissible evidence.

Without waiving any of these general objections, responses to the interrogatories and document requests in UP/SP-200 specifically addressed to the League are set out below:

INTERROGATORIES

1. To the extent not done as part of your prior discovery responses or March 29 filings, identify and describe any agreements or understandings that you have with any other party to this proceeding regarding positions or actions to be taken in or otherwise relating to this proceeding, including any "joint defense" or "common interest" agreement, or any confidentiality agreement on which you rely in objecting to discovery requests or invoking an informers privilege or other privilege. [Routine procedural agreements, such as agreements concerning the order of questioning at depositions or the avoidance of duplicative discovery, need not be identified. If [you contend]* that any aspect of such agreement is privileged, state the parties to, date of, and general subject of the agreement.] [All]

Response: A memorandum of understanding dated November 13, 1995 was executed between counsel for the League, The Society of the Plastics Industry, Inc. and the Chemical Manufacturers Association governing the terms of their joint engagement of outside consultants to assist in analyzing the application and preparing testimony for submission to the Board. A letter-agreement was executed on or about November 13, 1995, between counsel for the League, The Society of the Plastics Industry, Inc. and the Chemical Manufacturers Association,

* Amended by letter dated April 5, 1996, from applicants' counsel.

and L. E. Peabody & Associates, Inc. governing the terms of the latter's joint engagement as outside consultants to assist in analyzing the application and preparing testimony for submission to the Board. There is an oral agreement between counsel for the League, The Society of the Plastics Industry, Inc. and the Chemical Manufacturers Association, and Dr. William G. Shepherd governing the terms of the latter's joint engagement to prepare testimony for submission to the Board.

8. If you contend in your March 29 filing that reduction from 3-to-2 in the number of railroads serving various shippers or markets as a result of the merger is a reason for denying approval, state whether you contend that two Class I railroads would always compete less vigorously than three Class I railroads would in any given market. [All]

Response. See NITL-9, Shepherd V.S. at 17-18.

9. The testimony of Richard Peterson on behalf of Applicants describes, at pages 172-75, the views of a number of shippers with respect to competition between a merged UP/SP and BNSF. State whether you believe that those shippers are correct or incorrect in the expectations they have expressed in their statements filed in this proceeding concerning the effects of a UP/SP merger on competition and explain the reasons for that answer. [All]

Response: See NITL-9, Comments at 18-29 and Shepherd V.S. at 12-43.

12. Identify all shippers who you claim have expressed support for your position in this proceeding in your March 29 filings who are presently served at a point of origin or destination by both UP and SP directly. [All]

Response: See NITL Comments, Crowley V.S., Exhibit TDC-1A. The League has not conducted a special study to identify the specific shippers located at the geographic points identified in Exhibit TDC-1A.

13. To the extent not done as part of your prior discovery responses or March 29 filings, state whether your members have been polled in some manner to indicate their views about what position you should take concerning the application in your March 29 filings. [CMA, WCTL, NITL, SPI]

Response: See NITL-11. Responsive documents have already been placed in the League's document depository.

14. To the extent not done as part of your prior discovery responses or March 29 filings, approximately how many of your members (by number or percentage) (a) support the position taken in your March 29 filings, (b) do not support that position, or (c) have expressed no view to you about that position. [CMA, WCTL, NITL, SPI]

Response: The League's positions in proceedings before agencies and similar actions are discussed and recommended by the appropriate standing committee and then acted on by the League's Board of Directors, or the League's Executive Committee subject to subsequent Board review. Once approved, these recommendations become the official position of the League. The votes and positions of members are not recorded. The actions and positions taken by the League in this proceeding were all authorized and approved by action of its Board of Directors and Executive Committee on recommendation of its Railroad Transportation Committee.

19. To the extent not done as part of your prior discovery responses or March 29 filings, identify all information that was relied upon by William G. Shepherd for his statement, in the section of his testimony under the heading "Easy entry," that "in the case of the movement of massive amounts of Powder River Basin coal, the capture of just a few individual movements of traffic between a single origin and a single destination for a single customer were large enough by themselves to support the investment required." (NITL-9, Shepherd V.S. pp. 20-21), and provide a summary of any conversation in which such information was provided. [NITL; SPI]

Response: The statement was made on the basis of general knowledge and understanding from conversations during the preparation of the verified statement.

20. With respect to the statement of William G. Shepherd referred to in the proceeding request, identify the physical assets referred to as the "investment required," and Dr. Shepherd's understanding at the time he signed his statement of the dollar amounts of such investments. [NITL, SPI]

Response: No specific information was relied on in reference to the statement involved.

22. To the extent not done as part of your prior discovery responses or March 29 filings, identify your members involved in the decision to file your opposition to the UP/SP merger, and briefly state the position of each participant in that decision. [SPI, NITL, WCTL, CMA]

Response: See General Objection No. 13 and response to Interrogatory 14. See also NITL-11, Response to Document Request No. 22.

DOCUMENT REQUESTS

1. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents or data relied upon by any person whose verified statement you submitted in your March 29 filings. [All]

Response: Materials responsive to this request have already been placed in the League's document depository and copies have already been furnished to applicants.

2. To the extent not done as part of your prior discovery responses or March 29 filings, produce machine-readable versions, if they exist, of ~~documents or~~ data you submitted as part of your March 29 filings, of ~~documents or~~ data included as work papers, or of ~~documents or~~* data relied upon by persons whose verified statement you submitted in your March 29 filings. [All]

Response: Materials responsive to this request have already been placed in the League's document depository and copies have already been furnished to applicants.

3. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, analyses or reports discussing benefits or efficiencies that may result from the UP/SP merger. [All]

* Amended by letter dated April 5, 1996, from applicants' counsel.

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

4. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, analyses or reports discussing traffic impacts of the UP/SP merger. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

5. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, reports or analyses discussing competitive impacts of the UP/SP merger, including but not limited to effects on the following (a) market shares, (b) source or destination competition, (c) transloading options, or (d) build-in or build-out options. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

6. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents found in the files of officers at the level of Vice President or above, or other files where such materials would more likely to be found, discussing the BN/Santa Fe Settlement Agreement, the IC Settlement Agreement, or the Utah Railway Settlement Agreement. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

7. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents found in the files of officers at the level of Vice President or above, or other files where such materials would more likely be found, discussing conditions that might be imposed on approval of the UP/SP merger. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

8. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, reports or analyses, found in the files of officers at the level of Vice President or above, or other files where such materials would more likely to be found, discussing actual or potential competition between UP and SP. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

9. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, reports or analyses, found in the files of officers at the level of Vice President or above, or other files where such materials would more likely be found, discussing competition between single-line and interline rail transportation. [All]

Response: There are no documents responsive to this request.

10. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, reports or analyses, found in the files of officers at the level of Vice President or above, or other files where

such materials would more likely be found, discussing the benefits of any prior Class I rail merger or rail mergers generally. [All]

Response: There are no documents responsive to this request.

11. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, reports or analyses, found in the files of officers at the level of Vice President or above, or other files where such materials would more likely be found, discussing the financial position or prospects of SP, if those filings discussed that subject. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

12. To the extent not done as part of your prior discovery responses or March 29 filings, produce all communications with other parties to this proceeding discussing the UP/SP merger or the BN/Santa Fe Settlement Agreement, and all documents relating to such communications. [All]

Response: Documents that are responsive to this request have been placed in the League's document depository and have been produced to applicants. There are no other documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

13. To the extent not done as part of your prior discovery responses or March 29 filings, produce all presentations, solicitation packages, form verified statements, or other materials used to seek support from public officials, or any shipper or other party in this proceeding, for a position being taken or proposed or considered by you or any other party in this proceeding. [All]

Response: See NITL-11, response to Document Request No. 14.

14. To the extent not done as part of your prior discovery responses or March 29 filings, produce all presentations, letters, memoranda, white papers or other documents sent or given to DOJ, DOT, any state Governor's, Attorney General's or Public Utilities Commission's (or similar agency's) office, any other government official, any consultant, any chamber of commerce, or any shipper or trade organization relating to the UP/SP merger. [Even if not producing them, you should identify documents submitted to law enforcement officers under an explicit assurance of confidentiality.] [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

15. To the extent not done as part of your prior discovery responses or March 29 filings, produce all notes or memoranda of any meetings with DOJ, DOT, any state Governor's, Attorney General's or Public Utilities Commission's (or similar agency's) office, any other government official, any consultant, any chamber of commerce, or any shipper or trade organization relating to the UP/SP merger. [You should identify but need not produce documents prepared by your counsel.] [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

16. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, analyses or reports discussing or reflecting shipper surveys or interviews concerning the quality of service or competitiveness of any railroad participating in this proceeding. [All]

Response: There are no documents responsive to this request.

17. To the extent not done as part of your prior discovery responses or March 29 filings, if those filings discussed such a condition or sale, produce all documents discussing the price to be paid for, or the value of, any UP or SP lines that might be sold pursuant to a condition to approval of, otherwise in connection with, the UP/SP merger. [All]

Response: There are no documents responsive to this request.

18. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents discussing trackage rights compensation for any of the BN/Santa Fe Settlement Agreement Lines, or any other line of UP or SP that you believe should or might be the subject of a proposed trackage rights condition in this proceeding. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

19. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents relating to actual or estimated maintenance-and-operating costs, taxes and return-to-capital costs with respect to any of the BN/Santa Fe Settlement Agreement Lines, or any other lines of UP or SP that you believe should or might be the subject of a proposed trackage rights condition in this proceeding. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

20. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents relating to any agreement or understanding that is responsive to Interrogatory 1. [All]

Response: A copy of the memorandum of understanding referred to in the response to Interrogatory No. 1 has been placed in the document depository maintained by counsel for The Society of the Plastics Industry, Inc. The letter-agreement with L.E. Peabody & Associates is not being produced on the basis of General Objections No. 1 and 2.

24. To the extent not done as part of your prior discovery responses or March 29 filings, if those filings cite, rely upon, endorse or purport to agree with analyses by any of the following persons, produce all communications with Richard C. Levin, Curtis M. Grimm, James M. MacDonald, Clifford M. Winston, Thomas M. Corsi, Carol A. Evans or Steven Salop concerning econometric analyses of rail pricing, and all documents relating to such communications. [All]

Response: There are no documents that are responsive to this request.

25. To the extent not done as part of your prior discovery responses or March 29 filings, if those filings discuss that subject, produce all studies, reports or analyses, found in the files of officers at the level of Vice President or above, or other files where such materials would more likely be found, discussing competition for traffic to or from Mexico (including but not limited to truck competition) or competition among Mexican gateways. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

26. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents sufficient to show your financial support for, establishment of, participation in, or relationship with the "Coalition for Competitive Rail Transportation," which made a March 29 filing denominated CCRT-4. [All]

Response: There are no documents responsive to this request.

29. To the extent not done as part of your prior discovery responses or March 29 filings, if those filings discussed that subject, produce all studies, reports or analyses, found in the files of officers at the level of Vice President or above, or other files where such materials would more likely be found, discussing competition in freight transportation services for shipments to or from West Coast ports. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

31. To the extent not done as part of your prior discovery responses or March 29 filings, if those filings disagree in any significant way with the description of SP's financial situation in the Application, produce all documents found in the files of officers at the level of Vice President or above, discussing any possible breakup or bankruptcy of SP. [All]

Response: There are no documents responsive to this request.

32. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents found in the files of officers at the level of Vice President or above, discussing your reasons for

opposing the UP/SP merger or seeking to acquire any portion of SP in connection with the UP/SP merger. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

33. To the extent not done as part of your prior discovery responses or March 29 filings, if those filings address a sale of all or part of SP, produce all documents found in the files of officers at the level of Vice President or above, discussing the value or profitability of SSW. [CR, KCS, NITL]

Response: There are no documents responsive to this request.

38. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, reports, analyses, or plans discussing all or any part of the SP line between Lewisville, Arkansas, and Houston, Texas. [CR, KCS, NITL]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

40. To the extent not done as part of your prior discovery responses or March 29 filings, produce all documents relating to any proposal you made for possible line sales or trackage rights in your favor or for your benefit as a condition to the UP/SP merger, proposal, including but not limited to (a) documents describing the proposal, (b) any market analysis with respect to the proposal, (c) any operating plan with respect to the proposal, and (d) any pro forma financial statements with respect to the proposal. [All]

Response: There are no documents responsive to this request that are not subject to protection under General Objections 1 and 2 above.

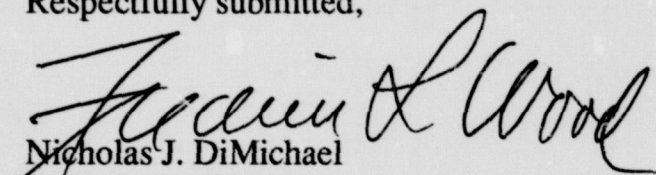
53. To the extent not done as part of your prior discovery responses or March 29 filings, produce all studies, analyses or reports discussing the possibility of a build-in by one of the applicants (or build-out to one of the applicants) at any of your facilities referred to in your March 29 filings. [All]

Response: There are no documents responsive to this request.

57. Produce all documents in your possession reflecting or setting forth the position of any individual member on the merits of the UP/SP merger or any position taken by you concerning the merger. [SPI, NITL, WCTI., CMA]

Response: See NITL-11, Response to Document Production Request No. 15.

Respectfully submitted,



Nicholas J. DiMichael

Frederic L. Wood

Karyn A. Booth

DONELAN, CLEARY, WOOD & MASER, P.C.

1100 New York Avenue, N.W., Suite 750

Washington, D.C. 20005-3934

(202) 371-9500

*Attorneys for The National Industrial
Transportation League*

Due Date: April 9, 1996

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing OBJECTIONS AND RESPONSES OF THE NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE TO APPLICANTS' SECOND SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS has been served by First Class Mail, postage prepaid, on all parties on the restricted service list in this proceeding on this 9th day of April 1996, and by personal delivery to Washington, D.C. counsel for Applicants.



Aimee L. DePew

STB

FD

32760

4-9-96

D

82672

Item No. _____

Page Count 2

APR #235

APR 11 1996

5 Part of
Public Record

April 8, 1996



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

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

Dear Mr. Williams:

It is our understanding that several parties have requested the Surface Transportation Board (STB) to force divestitures of large parts of the UP/SP system as part of its approval process of the UP/SP merger.

The Lake Charles Harbor & Terminal District will benefit tremendously by the proposed merger. Efficient one-line service into the Port's main facility (City Docks) will be accomplished by the merger.

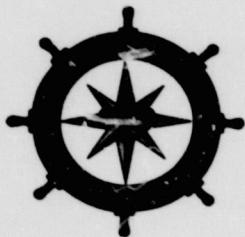
Divestitures of the east end system (El Paso - New Orleans and Eagle Pass/Brownsville - Chicago) would again leave the Port of Lake Charles with splintered rail service to its important cargo facilities.

The Port of Lake Charles supports the UP/SP merger as proposed by UP because UP is the only carrier offering to purchase the entire SP that has provided a detailed operating plan. The Port of Lake Charles strongly feels this proposed plan will produce significant service improvements to its facilities.

The proposed divestiture conditions would eliminate the tremendous public benefits associated with the UP/SP merger, including increased capacity and more reliable service.

If the Port of Lake Charles is forced to deal with a small splintered rail system, the Port and its 500 longshoremen face an uncertain economic future of not knowing which railroad would provide service and what type of service would be provided.

As a major entity requiring efficient rail service to survive, the Port urges the STB not to carve up the UP/SP system and jeopardize the UP/SP merger. Approval of the merger should be conditioned only by the Settlement Agreements.



**Lake Charles
Harbor
& Terminal
District**

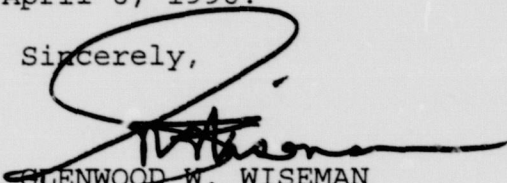
Post Office Box 3753
Lake Charles, LA 70602
Phone 318-439-3661
Facsimile 318-493-3523

Glenwood W. Wiseman
Executive Director

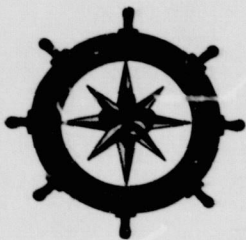
A total UP/SP System with an additional \$1.2 billion in capital investment to the system is in the best interest of all rail users.

I declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and have authority to file this verified statement. Executed on April 8, 1996.

Sincerely,


GLENWOOD W. WISEMAN
Executive Director

GWW\se



STB

FD

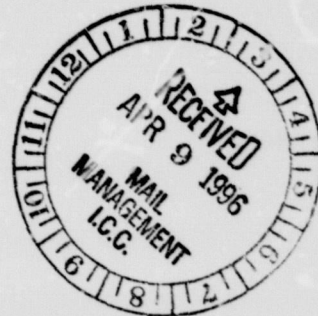
32760

4-9-96

D

81302

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, DC 20423



FINANCE DOCKET No. 32760

(Proposed Merger-Southern Pacific Transportation Co., & Union Pacific Railroad Co.)

DOCKET No. AB-3 (SUB-No. 130) & DOCKET No. AB-8 (SUB-No. 38)
(Towner to NA Jct., CO)

DOCKET No. AB-3 (SUB-No. 131) & DOCKET No. AB-8 (SUB-No. 37)
(Hope to Bridgeport, KS)

DOCKET No. AB-8 (SUB-No. 36x) & DOCKET No. AB-12 (SUB-No. 189x)
(Sage to Leadville, CO)

DOCKET No. AB-8 (SUB-No. 39) & DOCKET No. AB-12 (SUB-No. 188)
(Malta to Canon City, CO)

COMMENT OF E.W. WOTIPKA

March 18, 1996

Copies:

Michael D. Billet, US Department of Justice
Jared Boigon, State of Colorado
Janice G. Barber, Burlington Northern RR Co.
Janet H. Gilbert, Wisconsin Central Ltd.
James J. Irlandi, Kansas Shippers Assn., et. al.
Kenneth C. Johnsen, Geneva Steel Company
Alexander H. Jordan, Western Shippers' Coalition
Robert S. Kompany, DOD, USMTMCTEA
Anthony M. Marquez, CO Public Utility Comm.
Jeffrey R. Mureland, Santa Fe Pacific Corp., et. al.
William A. Mullins, Kansas City Southern Rwy., et. al.

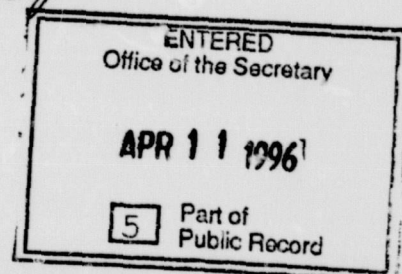
Robert T. Opal, Union Pacific RR Co.
Reed M. Richards, State of Utah
Mark H. Sidman, Montana Rail Link, Inc.
J. Fred Simpson, Montana Rail Link, Inc.
Paul Samuel Smith, US Dept. of Transportation
Junior Strecker, MTN/Plains Comm. & Shippers
Thomas Zwica, LSBC Holdings, Inc.
Myles L. Tobin, Illinois Central Railroad
James P. Gatlin, Southern Pacific Transportation Co.
Gary A. Lasko, Southern Pacific Transportation Co.

Certificate of Service

The undersigned hereby certifies that a copy of this statement was served upon the above-named individuals by first class postage on Mar 21, 1996.

E. Wotipka

E.W. Wotipka
6388 Terrace Lane
Salida, CO 81201



COMMENT OF E.W. WOTIPKA

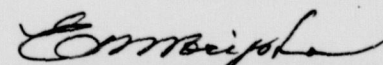
This Comment will supplement statements made in my previous Comment to the Interstate Commerce Commission dated January 24, 1996, protesting the subject abandonments. Since that time several Regional railroad companies have filed with the Surface Transportation Board to either purchase or secure traffic rights over lines now operated by SPT or UPRR in the so-called "Central Corridor," including the Tennessee Pass line in Colorado and the ex-Mopac line between Kansas City, MO and Pueblo, CO.

The willingness of these companies to expend large sums in securing these lines should be adequate evidence to the Board of the viability of the lines as main railroad routes which should be retained for the public benefit. In light of their announced intention to abandon many of the lines in question, in my opinion it would constitute a violation of public trust on the part of the merger partners to categorically oppose granting such petitions, or to refuse to negotiate with the Regionals.

As suggested in my previous Comment, critical capacity concerns which now exist on the main routes of the three principal western carriers demand close scrutiny by the Board of any petitions for abandonment, given unpredictable and continuously changing market and traffic conditions.

It should also be obvious to the Board that fragments of such main routes (such as the aforementioned Tennessee Pass and ex-Mopac lines) cannot be viably operated by Regional carriers without adequate connections to major railroads and market access at their terminal points.

Finally, a smaller railroad could provide a more personalized presence in the areas which it served, offering meaningful competitive service to commercial and industrial interests, and to the public at large.



E.W. Wotipka

STB

FD

32760

4-8-96

D

81472

Item No. _____

Page Count _____

Apr # 221

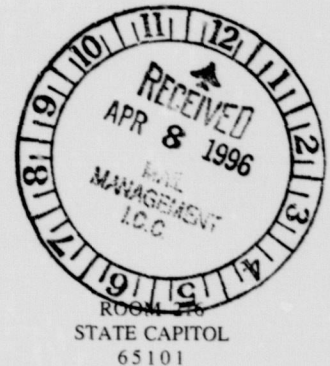
81472



OFFICE OF THE GOVERNOR

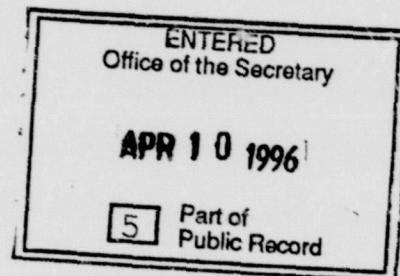
STATE OF MISSOURI
JEFFERSON CITY
(314) 751-3222

MEL CARNAHAN
GOVERNOR



March 29, 1996

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



Finance Docket No. 32760, Union Pacific - Control and Merger - Southern Pacific

Dear Secretary Williams:

While the Union Pacific - Southern Pacific merger may in principle be worthy of support, I can support this specific proposal only after ensuring that the Surface Transportation Board carefully examines and evaluates a number of concerns which have been brought to my attention. Clearly, a merged Union Pacific - Southern Pacific could provide more efficient access to west coast markets for Missouri's shippers and eliminate concerns about the financial viability of the current Southern Pacific rail line. However, to the extent that the proposed merger reduces rail carrier competition both within Missouri and on routes of substantial interest to Missouri shippers, I have serious reservations. Therefore, I encourage the Surface Transportation Board to address the competitiveness issues in a systematic and truly effective manner and to resolve these issues as follows.

The most important concern for Missouri is the loss of competition between St. Louis and Texas gateways. Competition in this corridor must be preserved. Mexico is Missouri's second largest trading partner, receiving significant shipments of industrial and agricultural products from the state through the Texas gateways. A combined UP/SF would control 90% of all rail traffic between Texas and Mexico, and 91% of all traffic between St. Louis and Houston. The combined system would also control essential gateways at the border between Texas and Mexico.

With the passage of GATT and NAFTA, and the pending approval of a U.S. Farm Bill that is expected to increase both the domestic production and international sale of U.S. agricultural commodities, Missouri's agricultural transportation needs are likely to increase significantly. A great volume of the state's agricultural commodities and bulk materials is shipped each year by barge on the Missouri River.

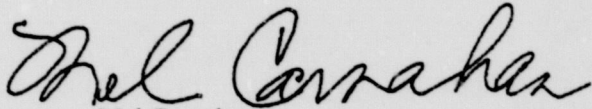
Unfortunately, the transportation potential of the Missouri River has been threatened in recent years as the U.S. Army Corps of Engineers has significantly decreased the length of the navigation season and reduced the flow of the river. It is possible for Missouri agriculture to permanently lose access to Missouri River transportation if the Corps implements its proposed changes to the Missouri River Master Manual, the official operating plan for the river. The Corps proposal magnifies the importance of a competitive rail system for Missouri shippers.

The Union Pacific route from Kansas City to St. Louis is a major link carrying an immense volume of rail traffic. Union Pacific currently grants trackage rights to the Southern Pacific Railroad over this route. Southern Pacific also presently retains ownership of the former "Rock Island" line, a parallel east-west route across central Missouri. The Surface Transportation Board must review the potential for effective competition on this crucial link and consider whether trackage rights for another shipper on the current UP line, or divestiture of the former Rock Island line in its entirety from Kansas City to St. Louis, or both, might be appropriate to ensure continued competition.

The merger also has the potential to eliminate competition on the eastern side of the state along the Mississippi River corridor. The Surface Transportation Board must ensure adequate competition exists along this critical corridor.

Once assured that the Surface Transportation Board will retain a truly viable and competitive rail system for Missouri shippers, I can support this merger.

Very truly yours,

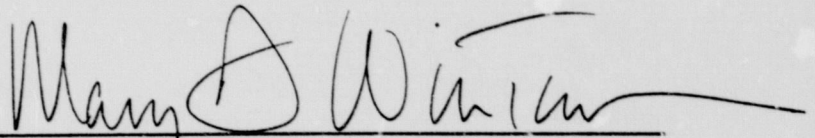


Mel Carnahan

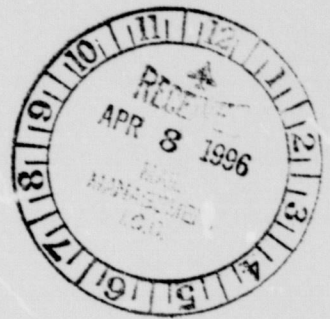
MC:MH:sbs

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was mailed, postage prepaid, this 1st day of April, 1996, to the attached list of names.



General Counsel



TO: HAND DELIVERY

HONORABLE JERMOME NELSON
ADMINISTRATIVE LAW JUDGE
FEDERAL ENERGY REGULATORY
COMMISSION
ADRIAN DICIANNO - LAW CLERK
ROOM 11F-21
888 FIRST STREET, N.E.
WASHINGTON, D.C. 20426

TO: HAND DELIVERY

STEPHEN HUNT
WILLIAM J. KOLASKY, JR.
MICHAEL BRESSMAN
ALI M. STOEPPELWERTH
DANIEL K. MAYERS
WILMER CUTLER PICKERING
2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

TO: HAND DELIVERY

HONORABLE VERNON A. WILLIAMS
SECRETARY
SURFACE TRANSPORTATION BOARD
ROOM 2215
12TH & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20423
(202) 927-7428

TO: RICHARD P. BRUENING
W. JAMES WOCHNER
ROBERT K. DREILING
THE KANSAS CITY SOUTHERN
RAILWAY COMPANY
114 WEST 11TH STREET
KANSAS CITY, MO 64105

TO: HAND DELIVERY

ARVID E. ROACH II
J. MICHAEL HEMMER
MICHAEL L. ROSENTHAL
DOVINGTON & BURLING
1201 PENNSYLVANIA AVE., N.W.
P.O. BOX 7566
WASHINGTON, D.C. 20041

TO: HAND DELIVERY

JAMES RILL
VIRGINIA R. METALLO
COLLIER, SHANNON, RILL & SCOTT
3050 K STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20007

TO: HAND DELIVERY

PAUL A. CUNNINGHAM
GERRALD NORTON
RICHARD B. HERZOG
JAMES M. GUINIVAN
HARKINS CUNNINGHAM
1300 - 19TH STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20036

TO: W. F. CARTER
ALBERMARLE CORPORATION
451 FLORIDA STREET
BATON ROUGE, LA 70801

TO: HAND DELIVERY

GEORGE W. MAYO, JR.
ERIC A. VON SALZEN
HOGAN & HARTSON LLP
55 THIRTEENTH STREET, NW
WASHINGTON, D.C. 20004-1109

TO: BLAINE ARBUTHNOT
BOARD OF COUNTY COMMISSIONERS
CROWLEY COUNTY
601 MAIN STREET
ORDWAY, CO 81063

TO: CARDON G. BERRY
IOWA COUNTY COMMISSIONERS
P.O. BOX 591
1305 GOFF
EADS, CO 81036

TO: WAYNE C. SERKLAND
CANADIAN PACIFIC LEG. SERV.
U.S. REGIONAL COUNSEL
105 S. 5TH ST., STE. 1000
MINNEAPOLIS, MN 55402

TO: BROGAN SULLIVAN
BLACKWELL SANDERS
2300 MAIN STREET, SUITE 1100
KANSAS CITY, MO 64108

TO: THOMAS E. SCHICK
CHEMICAL MANUF. ASSOC.
1300 WILSON BLVD.
ARLINGTON, VA 22209

TO: LINDSAY BOWER
CA DEPARTMENT OF JUSTICE
70 FREMONT STREET
SUITE 300
SAN FRANCISCO, CA 94105

TO: BRUCE B. WILLIAMS
CONSTANCE L. ABRAMS
JONATHAN M. BRODER
ANNE E. TREADWAY
EDWARD B. HYMSO
TWO COMMERCE SQUARE
CONSOLIDATED RAIL CORP.
2001 MARKET STREET, 16-A
PHILADELPHIA, PA 19101-1416

TO: DOUGLAS J. BABB
JANICE G. BARBER
EDMUND W. BURKE
MICHAEL E. ROPER
BURLINGTON NORTHERN RAILROAD
3800 CONTINENTAL PLACE
777 MAIN STREET
FT. WORTH, TX 76102

TO: HAND DELIVERY
MICHAEL D. BILLIEL
JOAN S. HUGGLER
ROBERT L. MCGEORGE
U.S. DEPT. OF JUSTICE
ANTITRUST DIVISION
325 SEVENTH STREET, N.W., SUITE 500
WASHINGTON, D.C. 20530

TO: MARCELLA M. SZEL
CP RAIL SYSTEM
910 PEEL STREET
WINDSOR STATION, RM. 234
MONTREAL, QUEBEC
H3C 3E4 CANADA

TO: JANET RENO
ATTORNEY GENERAL
U.S. DEPARTMENT OF JUSTICE
ROOM 5111
10TH & CONSTITUTION AVE., N.W.
WASHINGTON, D.C. 20530
(202) 514-2001

TO: PETER S. GLASER
OHERTY, RUMBLE & BULTER, P.A.
401 NEW YORK AVE., N.W.
SUITE 1100
WASHINGTON, D.C. 20005-2554

TO: MAUREEN A. HEALEY, DIRECTOR
FEDERAL ENVIRONMENT & TRANSP. ISS.
1275 K. STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20005

TO: NICHOLAS DIMICHAEL
JEFFERY MORENO
FREDERIC WOOD
THOMAS WILCOX
DONELAN, CLEARY, WOOD & MASER, P.C.
1100 NEW YORK AVE., N.W.
SUITE 750
WASHINGTON, D.C. 20005-3934

TO: JOHN GALLAGHER
THOMAS A. SCHMITZ
THE FIELDSTON CO., INC.
1920 N STREET, N.W.
SUITE 210
WASHINGTON, D.C. 20036-1613

TO: E. CALVIN CASSELL
EASTMAN CHEMICAL COMPANY
P.O. BOX 1990
KINGSPORT, TN 37662

TO: ED GREENBERG
ANDREW T. GOODSON
GALLAND, KHARASCH, MORSE & GARFINKLE
CANAL SQUARE
1054 31ST STREET, N.W.
WASHINGTON, D.C. 20007

TO:
B.K. TOWNSEND, JR.
EXXON CHEMICAL AMERICAS
P.O. BOX 3272
HOUSTON, TX 77253-3272

TO: MR. GARY SMITH
MANAGER TRANSPORTATION
GAYLORD CONTAINER CORPORATION
500 LAKE COOK ROAD
DEERFIELD, IL 60015

TO: B. C. GRAVES, JR.
EXXON COMPANY U.S.A.
P.O. BOX 4692
HOUSTON, TX 77210-4692

TO: CURTIS GRIMM, PHD.
COLLEGE OF BUS. & MGMT.
UNIVERSITY OF MARYLAND
VAN MUNCHING HALL, RM. 3437
COLLEGE PARK, MD 20742-1815

TO: PAUL H. LAMBOLEY, ESQ.
ECK MAHIN & CATE
201 NEW YORK AVE., N.W.
WASHINGTON, D.C. 20005

TO: WILLIAM P. JACKSON, JR.
JACKSON & JESSUP, P.C.
P.O. BOX 1240
3426 NORTH WASHINGTON, BLVD.
ARLINGTON, VA 22210

TO: WILLIAM G. MAHONEY
DONALD F. GRIFFIN
RICHARD S. EDELMAN
HIGHSHAW MAHONEY CLARKE
SUITE 210
1050 SEVENTEENTH ST., N.W.
WASHINGTON, D.C. 20036

TO: FRITZ R. KAHN
SUITE 750 WEST
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-3934

TO: ROBERT K. GLYNN
HOISINGTON CHAMBER OF COMM.
23 NORTH MAIN STREET
HOISINGTON, KS 667544

TO: MARTIN W. BERCOVICI
DOUGLAS J. BEHR
TERRENCE D. JONES
LESLIE E. SILVERMAN
KELLER & HECKMAN
1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001

TO: ROBERT P. VOM EIGEN
CHARLES A. SPITULNIK
ALICIA M. SEFATY
HOPKINS & SUTTER
888 16TH STREET, N.W.
WASHINGTON, D.C. 20006-4103

TO: ROGER HERMANN
MALLINCKRODT CHEMICAL
16305 SWINGLEY RIDGE DRIVE
CHESTERFIELD, MO 63017-1777

TO: ROSEMARY MCENERY
ROBERT BRUSKIN
MARK L. JOSEPHS
MARK SCHECTER
OWERY & SIMON
1299 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20004

TO: HAND DELIVERY
ERIKA Z. JONES
ADRIAN L. STEEL, JR.
KATHRYN KUSSKE
ROY T. ENGLERT, JR.
MAYER, BROWN & PLATT
SUITE 6500, 2000 PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20006-1885

TO: JOHN M. CUTLER, JR.
MC CARTHY, SWEENEY & HARKAWAY, P.C.
SUITE 1105
1750 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, D.C. 20006

TO: NATIONAL INDUSTRIAL
TRANSPORTATION LEAGUE
SUITE 1900
1700 NORTH MOORE STREET
ARLINGTON, VA 22209

TO: DAVID A. PINS
THE CHEMICAL GROUP
MONSANTO
800 N. LINDBERGH BOULEVARD
ST. LOUIS, MO 63167

TO: KENTON FORREST, SECRETARY
INTERMOUNTAIN CHAPTER
NATIONAL RAILWAY HISTORICAL SOCIETY
P.O. BOX 480181 TERMINAL ANNEX
DENVER, CO 80248

TO: J. FRED SIMPSON
EXECUTIVE VICE PRESIDENT
MONTANA RAIL LINK
101 INTERNATIONAL WAY
MISSOULA, MONTANA 59802

TO: NEBRASKA PUB. SERVICE COMMISSION
300 THE ATRIUM
1200 N STREET
P.O. BOX 94927
LINCOLN, NE 68509-4927

TO: MR. GILBERT VAN KELL
MANAGER RAIL TRANSPORTATION
MORTON INTERNATIONAL, INC.
100 NORTH RIVERSIDE PLAZA
CHICAGO, IL 60606-1597

TO: ROBERT J. COONEY
NORFOLK SOUTHERN CORPORATION
LAW DEPARTMENT
THREE COMMERCIAL PLACE
NORFOLK, VA 23510-2191

TO: THOMAS F. LINN
GENE E. DICLAUDIO
MOUNTAIN COAL COMPANY
P.O. BOX 591
SOMERSET, CO 81434

TO: KEVIN M. SHEYS
THOMAS LITWILER
THOMAS LAWRENCE III
OPPENHEIMER, WOLFF & DONNELLY
1020 NINETEENTH STREET, N.W.
SUITE 400
WASHINGTON, D.C. 20036-6105

TO: MARC D. MACHLIN
JOHN WILL ONGMAN
MICHELLE J. MORRIS
PEPPER, HAMILTON & SCHEETZ
1300 NINETEENTH STREET, N.W.
WASHINGTON, D.C. 20036

TO: JEFFREY R. MORELAND
RICHARD E. WEICHER
SANTA FE PAC. CORP. ET AL.
1700 EAST GOLF ROAD
SCHAUMBURG, IL 60173

TO: ROBERT L. BANKS
R.L. BANKS & ASSOCIATES, INC.
1717 K. STREET, N.W.
WASHINGTON, D.C. 20006-1515

TO: MARC J. FINK
SHER & BLACKWELL
SUITE 612
2000 L STREET, N.W.
WASHINGTON, D.C. 20036

TO: CATHY RABE
IOWA COUNTY COMMISSION
P.O. BOX 591
EADS, CO 81036

TO: KRISTA L. EDWARDS
TERENCE M. HYHNES
SIDLEY & AUSTIN
1722 EYE STREET, NW
WASHINGTON, D.C. 20006-5304

TO: THE HONORABLE BARRY WILLIAMSON
CHAIRMAN
JERRY L. MARTIN
ANN M. COFFIN
RAILROAD COMMISSION OF TEXAS
P.O. BOX 12967
1701 NORTH CONGRESS AVENUE
AUSTIN, TX 78711-2967

TO: JEFFERY W. HILL
SIERRA PACIFIC POWER CO.
P.O. BOX 10100
6100 NEIL ROAD
RENO, NV89520

TO: ROBERT J. ROSSI
N LOOP OFF PARK
SUITE 2125
7030 N. LOOP WEST
HOUSTON, TX 77018-8112

TO: JAMES J. IRLANDI
SKILL TRANS. CONSUL. INC.
1809 N. BROADWAY, SUITE H
WICHITA, KS 67214

TO: CHRIS A. MILLS
C. MICHAEL LOFTUS
PATRICIA E. DIETRICH
JOHN LESEUR
KEVIN J. DOWD
SLOVER & LOFTUS
1224 - 17TH STREET, N.W.
WASHINGTON, D.C. 20036

TO: THOMAS A. GRIEBEL
TEXAS DEPT. OF TRANS.
125 E. 11TH STREET
AUSTIN, TX 78701

TO: TOM O'CONNER - V.P.,
JOESPH J. PLAISTOW
SNAVELY, KING & ASSOC.
1220 L STREET, N.W.
SUITE 410
WASHINGTON, D.C. 20005

TO: THE TEXAS MEXICAN
RAILWAY CO.
P.O. BOX 419
LAREDO, TX 78042-0419

TO: CANNON Y. HARVEY
LOUIS P. WARCHOT
CAROL A. HARRIS
SOUTHERN PACIFIC
TRANSPORTATION COM-
PANY
ONE MARKET PLAZA
SAN FRANCISCO, CA 94105

TO: MITCHELL KRAUS
LARRY R. PRUDEN
TRANS. COMM. INTL. UNION
3 RESEARCH PLACE
ROCKVILLE, MD 20850

TO: SAMUEL M. SIPE, JR.
TIMOTHY M. WALSH
BETTY JO CHRISTIAN
STEPTOE & JOHNSON
1330 CONNECTICUT AVE., N.W.
WASHINGTON, D.C. 20036-1795

TO: PAUL S. SMITH
DEPT. OF TRANSPORTATION
400 7TH STREET, S.W.
ROOM 4102 C-30
WASHINGTON, D.C. 20590
202-366-9285

TO: JOSEPH H. PETTUS
SUITE 270
SUN VALLEY ENERGY, INC.
800 HOWE AVENUE
SACRAMENTO, CA 95825

TO: CARL W. VON BERNUTH
RICHARD J. RESSLER
UNION PACIFIC CORPORATION
MARTIN TOWER
EIGHTH AND EATON AVENUES
BETHLEHEM, PA 18018

TO: JAMES V. DOLAN
PAUL A. CONLEY, JR.
ROBERT T. OPAL
JEANNA L. REGIER
UNION PACIFIC RAILROAD COMPANY
1416 DODGE STREET
OMAHA, NE 68179

TO: CLINTON J. MILLER, III
ASSISTANT GENERAL COUNSEL
DANIEL R. ELLIOT, III
UNITED TRANSPORTATION UNION
14600 DETROIT AVENUE
CLEVELAND, OH 44107-4250

TO: LOU ANNE RINN
UNION PACIFIC RAILROAD CO.
LAW DEPARTMENT, RM. 830
1416 DODGE STREET
OMAHA, NE 68179

TO: GEN. COMMITTEE OF ADJUST.
GO-895
UNITED TRANS. UNION
NORTH LOOP OFFICE PARK
2040 NORTH LOOP WEST, SUITE 310
HOUSTON, TX 77018

TO: JERRY L. BATTON
GENERAL CHAIRMAN
UNITED TRANSPORTATION UNION
15 NORTHTOWN DRIVE
SUITE M, BOX 7
JACKSON, MS 39211

TO: MARK H. SIDMAN, ESQ.
JO A. DEROCHE
WEINER, BRODSKY, SIDMAN & KIDER, P.C.
1350 NEW YORK AVENUE, N. W.
SUITE 800
WASHINGTON, D. C. 20005

TO: C.L. CRAWFORD
UTU, CHAIRMAN
3104 EDLOE, ROOM 207
HOUSTON, TX 77027

TO: FREDRICK D. PALMER, GENERAL
MANAGER & CEO
WESTERN FUELS ASSOCIATION, INC.
4301 WILSON BOULEVARD, SUITE 805
ARLINGTON, VA 22203

TO: ROBERT A. CUSHING
UNITED TRANS. UNION
LOCAL 1918
12401 HIDDEN SUN COURT
EL PASO, TX 79938

TO: WILLIAM W. WHITEHURST, JR.
12421 HAPPY HOLLOW ROAD
COCKEYSVILLE, MD 21030-1711

TO: JOSEPH GUERRIERI, JR.
JEBRA L. WILLEN
GUERRIERI, EDMOND, ET. AL.
4TH FLOOR
1331 F STREET, N.W.
WASHINGTON, D.C. 20004

TO: BENT COUNTY
BOARD OF COUNTY COMMISSIONERS
P.O. BOX 350
LAS ANIMAS, CO 81054
ATTENTION: JOHN ROESCH

TO: RICHARD A. ALLEN
JOHN EDWARDS, ESQ.
ANDREW R. PLUMP
ZUCKERT, SCOUTT & RASENBERGER, LLP
888 - 17TH STREET, N.W., SUITE 600
WASHINGTON, D.C. 20006-3939

TO: MR. TERRY HART
CO-EXECUTIVE DIRECTOR OF PACOG
PUEBLO COUNTY COURTHOUSE
10TH & MAIN STREETS
PUEBLO, CO 81003

TO: CHARLES H. MONTANGE
426 NW 162D STREET
SEATTLE, WASHINGTON 98177

TO: WILLIAM H. MCGINN
DIRECTOR LOGISTICS
NORTH AMERICAN CHEMICAL
8300 COLLEGE BOULEVARD
OVERLAND PARK, KS 66210

TO: PETER ARTH, JR.
EDWARD W. O'NEILL
JAMES T. QUINN
PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA
505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102

TO: MS. ERIN DUFFY
SURFACE TRANSPORTATION BOARD
ROOM 2406
12TH ST. & CONSTITUTION AVE., N.W.
WASHINGTON, D.C.

TO: STAN UTTING, PRESIDENT
AGRI PRODUCERS, INC.
35 MAIN
P.O. BOX 25
TAMPA, KS 67483

TO: DIRECTOR OF OPERATIONS
ANTITRUST DIVISION
U.S. DEPARTMENT OF JUSTICE
JUDICIARY CENTER BUILDING
ROOM 9104-TEA
555 4TH STREET, N.W.
WASHINGTON, D.C. 20001

TO: PREMERGER NOTIFICATION OFFICE
BUREAU OF COMPETITION
ROOM 303
FEDERAL TRADE COMMISSION
6TH AND PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20580

TO: RICHARD G. SLATTERY
NATIONAL RAILROAD PASSENGER
CORPORATION (AMTRAK)
60 MASSACHUSETTS AVENUE, N.E.
WASHINGTON, D.C. 20002

TO: GORDON P. MACDOUGALL, ESQ.
1025 CONNECTICUT AVENUE, N.W.
ROOM 209
WASHINGTON, D.C. 20036-5405

TO: MR. RICHARD J. BARBER
5511 POLLARD ROAD
BETHESDA, MD 20816

TO: THOMAS H. ODOM
ARTER & HADDEN
SUITE 400K
1801 K STREET, N.W.
WASHINGTON, D.C. 20006-1301

TO: RICHARD SPERO
6805 NEWBOLD DRIVE
BETHESDA, MD 20817

TO: MICHAEL A. ROCK
DIRECTOR OF WASHINGTON AFFAIRS
TRANSPORTATION
UNION PACIFIC
SUITE 450 WEST
555 THIRTEENTH STREET, N.W.
WASHINGTON, D.C. 20004

TO: PAUL O. ROBERTS
PRESIDENT
TRANSMODE CONSULTANTS, INC.
3400 INTERNATIONAL DRIVE, N.W.
SUITE 2K
WASHINGTON, D.C. 20008

TO: ANTHONY F. ZALESKI
FEDERAL RAILROAD ADMINISTRATION,
RRP-24
OFFICE OF POLICY AND PROGRAM
DEVELOPMENT
400 7TH STREET, S.W. ROOM 830-0
WASHINGTON, D.C. 20590

TO: DON AINSWORTH
PRINCIPAL
REEBIE ASSOCIATES
SUITE 111
411 WEST PUTNAM AVENUE
GREENWICH, CONNECTICUT 06830

TO: SCOTT EATON
2915 LANE DRIVE
CONCORD, CA 94518

TO: RONALD BOESEN, PRESIDENT
WESTERN COAL TRANSPORTATION
ASSOCIATION
P.O. BOX 176
DENVER, CO 80201

TO: JACK HYNES
ADMINISTRATOR OF RAILROADS
MISSOURI HIGHWAY AND
TRANSPORTATION DEPARTMENT
P.O. BOX 270
CAPITOL AVE. AT JEFFERSON ST.
JEFFERSON CITY, MO 65102

TO: ANTHONY M. MARQUEZ
FIRST ASSISTANT ATTORNEY GENERAL
GENERAL LEGAL SERVICE SECTION
ATTORNEY FOR PUBLIC UTILITIES
COMMISSION
1525 SHERMAN STREET, 5TH FLOOR
DENVER, COLORADO 80203

TO: DANIEL R. ELLIOTT, III
ASSISTANT GENERAL COUNSEL
UNITED TRANSPORTATION UNION
LEGAL DEPARTMENT
14600 DETROIT AVENUE
CLEVELAND, OHIO 44107-4250

TO: SCOTT MANATT
ATTORNEY AT LAW
BOX 473
CORNING, ARKANSAS 72422

TO: T. L. GREEN
LEGAL DEPARTMENT
WESTERN RESOURCES, INC.
818 KANSAS AVENUE
P.O. BOX 889
TOPEKA, KANSAS 66601

TO: MR. JORGE SILBERSTEIN
C/O MIN. SALVADOR DE LARA
MINISTER FOR ECONOMIC AFFAIRS
EMBASSY OF MEXICO
PENNSYLVANIA AVE., N.W.
WASHINGTON, D.C. 20006

TO: CHARLES N. BEINKAMPEN
DIRECTOR - GLOBAL DISTRIBUTION
DUPONT SOURCING
WILMINGTON, DE 19898

TO: SCOTT MANATT
ATTORNEY AT LAW
BOX 473
CORNING, ARKANSAS 72422

TO: KENNETH C. JOHNSEN
VICE PRESIDENT AND GENERAL COUNSEL
GENEVA STEEL COMPANY
P.O. BOX 2500
PROVO, UTAH 84603

TO: MR. WAYNE L. STOCKEBRAND
DIRECTOR-TRANSPORTATION
KENNECOTT UTAH COOPER CORPORATION
8315 WEST, 3595 SOUTH
P.O. BOX 6001
MAGNA, UTAH 84044-6001

TO: MARTIN WEISSERT
BAKER & DANIELS
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, INDIANA 46802

TO: RAY D. GARDNER, ESQUIRE
CHIEF LEGAL OFFICER
KENNECOTT UTAH COPPER CORPORATION
8315 WEST, 3595 SOUTH
P.O. BOX 6001
MAGNA, UTAH 84044-6001

TO: WILLIAM P. QUINN, JR.
ERIC M. HOCKY
GOLLATZ, GRIFFIN & EWING
213 WEST MINER STREET
P.O. BOX 796
WEST CHESTER, PA 19381-0796

TO: PATRICIA BRITTON
CHIEF LEGAL OFFICER
MR. GARY L. MCFARLEN
DIRECTOR-TRANSPORTATION
KENNECOTT ENERGY COMPANY
505 SOUTH GILLETTE AVENUE
GILLETTE, WYOMING 82716

TO: TENNESSEE VALLEY AUTHORITY
ATTENTION: CHARLES L. YOUNG
EDWARD S. CHRISTENBURY
OFFICE OF THE GENERAL COUNSEL
400 WEST SUMMIT HILL DRIVE
KNOXVILLE, TENNESSEE 37902

TO: PATRICK G. WYNN
DIRECTOR, TRANSPORTATION RATES &
OPERATIONS
KIMBERLY-CLARK CORPORATION
P.O. BOX 59051
KNOXVILLE, TN 37950-4492

TO: RONALD L. RENCHER
ALEXANDER H. JORDAN
UTAH MINING ASSOCIATION
WESTERN SHIPPERS COALITION
136 SOUTH MAIN STREET, SUITE 825
SALT LAKE CITY, UTAH 84101-1672

TO: GEORGE ROUSSOS
COUNTY ENGINEER
EAGLE COUNTY
P.O. BOX 850
500 BROADWAY
EAGLE, CO 81631-0850

TO: SCOTT N. STONE, ESQ.
PATTON BOGGS, L.L.P.
2550 M STREET, N.W.
WASHINGTON, D.C. 20037-1350

TO: WILLIAM F. COTTRELL
CHRISTINE H. ROSSO
ASSISTANT ATTORNEY GENERAL
100 W. RANDOLF ST. - 12TH FLOOR
CHICAGO, IL 60601

TO: PAUL WISNER
445 E. WASHINGTON
LOMBARD, ILLINOIS 60148-2893

TO: OSCAR J. ABELLO, PRESIDENT
"K" LINE AMERICA, INC.
535 MOUNTAIN AVENUE
MURRY HILL NJ 07974

TO: MARK TOBEY-ASST. ATNY. GENERAL
DEPUTY CHEIF FOR ANTITRUST
REBECCA FISHER
CONSUMER PROTECTION DIVISION
P.O. BOX 12548
AUSTIN, TEXAS 78711-2548

TO: GENE ALBAUGH
PO BOX 702
33 S MAIN STREET
COLFAX CA 95713

TO: MICHAEL MCBRIDE
DANIEL ARONOWITZ
LINDA K. BREGGIN, ESQ.
LEBOEF, LAMB, GREENE & MACRAE, L.L.P.
1875 CONNETICUT AVE., N.W.
WASHINGTON, D.C. 20009-5728

TO: PAUL C. ANDERSON
MCDONOUGH, HOLLAND, ET. AL.
1999 HARRISON STREET, STE 1300
OAKLAND CA 94612

TO: JEFFERY L. KLINGER, ESQUIRE
VICE PRESIDENT AND GENERAL COUNSEL
PEABODY HOLDING COMPANY, INC.
31 MARKET STREET
SUITE 700
ST. LOUIS, MISSOURI 63101-1826

TO: WAYNE ANDERSON
ENERGY SERVICES, INC.
639 LOYOLA AVE. MAIL L-ENT-26E
NEW ORLEANS LA 70113

TO: DANIEL R. ARELLANO
CITY HALL
708 THIRD STREET
BRENTWOOD CA 94513-1396

TO: JARED BOIGON
OFFICE OF THE GOVERNOR
STATE CAPITOL, RM 136
DENVER CO 80203-1792

TO: R. MARK ARMSTRONG
P.O. BOX 1051
ALTURAS CA 96101

TO: CHARLES R. BOMBERGER
PUBLIC SERV. OF COLORADO
5900 E. 39TH AVENUE
DENVER CO 80207

TO: DAVID H. BAKER
HOLLAND & KNIGHT
2100 PENN. AVE., N.W., ST. 400
WASHINGTON DC 20037-3202

TO: CHRISTOPHER E. BRAMHALL
ROOM 505
451 SOUTH STATE ST.
SALT LAKE CITY UT 84111

TO: PAUL K. BIBA, HOUSE COUNSEL
FORMOSA PLASTICS CORP.
9 PEACH TREE HILL ROAD
LIVINGSTON NJ 07039

TO: HON. JOHN BREAUX
UNITED STATES SENATE
WASHINGTON, D.C. 20510-1803

TO: LONNIE E. BLAYDES, JR., VICE PRESIDENT
DALLAS AREA RAPID TRANSIT
P.O. BOX 75266-7210
1401 PACIFIC AVENUE
DALLAS TX 75266-7210

TO: STEVEN A. BRIGANCE
LEBOEUF, LAMB, ET. AL.
4025 WOODLAND PARK BLVD., STE 250
ARLINGTON TX 76013

TO: KIRK BROWN
2300 SOUTH DIRKSEN PARKWAY
SPRINGFIELD IL 62764

TO: THOMAS DEGNAN
UNITED STATES GYPSUM CO
125 SOUTH FRANKLIN STREET
CHICAGO IL 60606

TO: RICHARD CABANILLA
IMPERIAL COUNTY
PLANNING DEPARTMENT
939 MAIN STREET
EL CENTRO CA 92243-2856

TO: MAYOR DELCARL EIKENBERG
TOWN OF HASWELL
P.O. BOX 206
HASWELL CO 81045-0206

TO: RUTH H. CARTER, MAYOR
CITY OF CANON CITY
P.O. BOX 1460
CANON CITY CO 81215

TO: BETSY MONEAU
CYPRUS AMAX CORP
9100 EAST MINERAL CIRCLE
ENGLEWOOD CO 80112

TO: HON. JOHN R. COOK, TX HOUSE OF REP.
P.O. BOX 2910
AUSTIN TX 78768

TO: ROBERT V. ESCALANTE
SUITE 470
2010 MAIN STREET
IRVINE CA 92714-7204

TO: JAMES R. CRAIG
O ORIENT RR
809 COLE AVENUE, STE 350
DALLAS TX 75205

TO: JOHN T. ESTES
COALITION FOR COMPETITIVE RAIL
TRANSPORTATION
SUITE 400
1029 NORTH ROYAL STREET
ALEXANDRIA VA 22301

TO: BRIAN P. FELKER
SHELL CHEMICAL COMPANY
P.O. BOX 2463
ONE SHELL PLAZA
HOUSTON TX 77252-2463

TO: JAMES R. FRITZE
EAGLE COUNTY ATTORNEY
P.O. BOX 850
EAGLE CO 81631

TO: THOMAS J. FLORCZAK
CITY OF PUEBLO
127 THATCHER BUILDING
PUEBLO CO 81003

TO: THOMAS J. FRONAPFEL
DEPT. OF TRANSPORTATION
STATE OF NEVADA
1263 S. STEWART STREET
CARSON CITY NV 89712

TO: JOE D. FORRESTER
C/O CO MTN COLLEGE
901 S. HWY 24
LEADVILLE CO 80461

TO: ROY GIANGROSSO
ENTERGY SERVICES, INC.
350 PINE STREET BEAUMONT TX 77701

TO: JEANNE M. FOSTER
UPPER ARKANSAS VALLEY RTB
P.O. BOX 837
SALIDA CO 81201

TO: JANET H. GILBERT
WISCONSIN CENTRAL LTD.
6250 NORTH RIVER ROAD STE 9000
ROSEMONT IL 60018

TO: THOMAS W. FOSTER, CHAIRMAN
COM. TO PRESERVE PROPERTY
P.O. BOX 681
SALIDA CO 81201

TO: ANDREW P. GOLDSTEIN
MCCARTHY, SWEENEY, ET. AL.
1750 PENNSYLVANIA AVE., N.W.
WASHINGTON DC 20006

TO:
RICHARD H. GROSS
3801 WEST CHESTER PIKE
NEWTOWN SQUARE PA 19073

TO: BARRETT HATCHES
8300 COLLEGE BLVD
OVERLAND PARK KS 66210

TO: JEFFERY B. GROV
ONE UTAH CTR
STE 1100
201 SOUTH MAIN STREET
SALT LAKE CITY UT 84111

TO: TIMOTHY HAY
727 FAIRVIEW DRIVE
CARSON CITY NV 89710

TO: MICHAEL E. HALLEY
CITY OF RENO
P.O. BOX 1900
RENO NV 89505

TO: THOMAS J. HEALEY
OPPENHEIMER, WOLFF, ET. AL.
180 N. STETSON AVE., 2 PRUDENTIAL PL
CHICAGO IL 60601

TO: DARRELL L. HANAVAN,
EXECUTIVE DIRECTOR
COLORADO WHEAT ADMIN.
5500 SOUTH QUEBEC STREET, STE 111
ENGLEWOOD CO 80111

TO: JOHN D. HEFFNER, ESQ.
REA, CROSS & AUCHINCLOSS
1920 N STREET, N.W., SUITE 420
WASHINGTON DC 20036

TO: FRANK E. HANSON, JR.
MAGMA METALS COMPANY
SUITE 200
400 NORTH ORACLE ROAD
TUCSON AZ 85704

TO: P.C. HENDRICKS
UTU, STATE LEG. DIR
317 EAST 5TH STREET, STE. 11
DES MOINES IA 50309

TO: RONALD J. HENEFELD
PPG INDUSTRIES, INC.
ONE PPG PLACE - 35 EAST
PITTSBURGH PA 15272-0001

TO: THOMAS R. JACOBSEN
ELECTRIC
1601 BRYAN STREET, STE 11-060
DALLAS TX 75201-3411

TO: STEPHEN C. HERMAN
THOMAS F. MCFARLAND, JR.
MCFARLAND & HERMAN
20 N. WACKER DRIVE - SUITE 1330
CHICAGO IL 60606-2902

TO: EDWIN C. JERTSON
INTERSTATE POWER CO.
P.O. BOX 769
1000 MAIN STREET
DUBUQUE IA 52004

TO: CLAUDIA L. HOWELLS
OREGON DEPT. OF TRANS.
MILL CREEK OFC. BLDG.
555 13TH STREET, NE
SALEM OR 97310

TO: HON. ROBERT JUNELL
TEXAS HOUSE OF REP.
PO BOX 2910
AUSTIN TX 78768

TO: RONALD E. HUNTER
CARGILL, INCORPORATED
LAW DEPARTMENT
15407 MCGINTY ROAD WEST
WAYZATA MN 55391

TO: LARRY B. KARNES
TRANSPORTATION BUILDING
P.O. BOX 30050
425 WEST OTTAWA
LANSING MI 48909

TO: THOMAS F. JACKSON
00 LINCOLN WAY
AMES IA 50010

TO: RICHARD E. KERTH, TRANS. MGR.
CHAMPION INTERNAT'L CORP
101 KNIGHTSBRIDGE DRIVE
HAMILTON OH 45020-0001

TO: BRUCE A. KLIMEK
INLAND STEEL
3210 WATLING STREET
EAST CHICAGO IN 46312

TO: JOSEPH L. LAKSHMANAN
ILLINOIS POWER COMPANY
500 SOUTH 27TH STREET
DECATUR IL 62525

TO: ANN KNAPTON, TRANSP. MGR.
IDAHO TIMBER CORPORATION
P.O. BOX 67
5401 KENDALL STREET
BOISE ID 83707-0067

TO: RONALD A. LANE
ILLINOIS CENTRAL RR
455 N. CITYFRONT PLAZA DR., 20TH FL
CHICAGO IL 60611

TO: ROBERT S. KOMPANTY
SUITE 130
720 THIMBLE SHOALS BLVD
NEWPORT NEWS VA 23608-2574

TO: JOHN F. LARKIN
P.O. BOX 31850
4814 DOUGLAS ST., 68132
OMAHA NE 68132-0850

TO: STANLEY B. KONIZ, UNIT MANAGER
PUBLIC SERVICE COMPANY
1225 17TH STREET, STE 1100
DENVER CO 80202

TO: JOHN P. LARUE
P.O. BOX 1541
222 POWER STREET
CORPUS CHRISTI TX 78403

TO: ALBERT B. KRACHMAN
BRACEWELL & PATTERSON LLP
2000 K STREET, N.W., SUITE 500
WASHINGTON DC 20006

TO: DAVID N. LAWSON,
FUEL TRAFFIC COORDINATOR
PUBLIC SVC CO. OF CO
SEVENTEENTH ST PLAZA
1225 17TH ST., STE. 1100
DENVER CO 80202-5533

TO: KATHLEEN R. LAZARD
P.O. BOX 730
700 COURT STREET
SUSANVILLE CA 96130

TO: DAVID N. MAGAW
YOLO SHORTLINE RR CO
3344 BRAEBURN STREET
SACRAMENTO CA 95821-4037

TO: MICHAEL OL. LEAVITT
210 STATE CAPITOL
SALT LAKE CITY UT 84114

TO: O. KENT MAHER
33 WEST FOURTH ST
PO BOX 351
WINNEMUCCA NV 89446

TO: CHARLES W. LINDERMAN
5TH FLOOR
701 PENNSYLVANIA AVE., NW
WASHINGTON DC 20004-2696

TO: NANCY MANGONE,
ENFORCEMENT ATTORNEY
U.S. EPA REGION VIII
999 18TH ST., STE 500
DENVER CO 80202-2466

TO: THOMAS J. LITWILER
OPPENHEIMER WOLFF ET. AL.
180 N. STETSON AVE., 45TH FLOOR
CHICAGO IL 60601

TO: TINA MASINGTON, PLAN. ANAL.
"K" LINE AMERICA, INC.
535 MOUNTAIN AVENUE
MURRAY HILL NJ 07974

TO: JUDY LOHNES
IAACOG
P.O. BOX 510
CANON CITY CO 81215-0510

TO: MICHAEL MATTIA
INSTITUTE OF SCRAP RECY.
1325 G STREET, NW. STE 1000
WASHINGTON DC 20005

TO: GEORGE W. MALLON, JR.
HOGAN & HARTSON
555 THIRTEENTH STREET, NW
WASHINGTON DC 20004-1161

TO: D. MICHAEL MILLER
AMERICAN ELECTRIC POWER
1 RIVERSIDE PLAZA
COLUMBUS OH 43215

TO: R. MICHAEL MCCORMICK
HUMBOLDT COUNTY DA
P.O. BOX 909
50 WEST FIFTH STREET
WINNEMUCCA NV 89446

TO: KEITH G. O'BRIEN
REA, CROSS & AUCHINCLOSS
1920 N STREET, N.W., SUITE 420
WASHINGTON DC 20036

TO: THOMAS F. MCFARLAND, JR.
BELNAP SPENCER MCFARLAND
20 NORTH WACKER DRIVE, SUITE 3118
CHICAGO IL 60606-3101

TO: KAREN O'CONNOR
LAKE COUNTY COURTHOUSE
313 CENTER STREET
LAKEVIEW OR 97630

TO: RONALD P. MCLAUGHLIN
LOCOMOTIVE ENGINEERS
BROTHERHOOD OF
1370 ONTARIO ST., STAN. BLDG.
CLEVELAND OH 44113-1702

TO: DORI OWEN
SPECIAL PROJECTS MANAGER
REDEVELOPMENT AGENCY
490 S. CENTER STREET, STE 203
RENO NV 89505

TO: FRANK C. MCMURRY
P.O. BOX 699
SALIDA CO 81201

TO: MONICA J. PALKO
BRACEWELL & PATTERSON
2000 K STREET, N.W., STE 500
WASHINGTON DC 20006

TO: JANET PALMER
P.O. BOX 1268
13997 COUNTY ROAD 71
SHERIDAN LAKE CO 81071

TO: KENT M. RAGSDALE
INTERSTATE POWER CO.
P.O. BOX 769
DUBUQUE IA 52004

TO: CONSTANCE H. PIERCE
CONSTELLATION COMPANIES
250 WEST PRATT STREET
BALTIMORE MD 21201-2423

TO: REED M. RICHARDS
STATE OF UTAH
236 STATE CAPITOL
SALT LAKE CITY UT 84114

TO: JOSEPH R. POMPONIO
FEDERAL RAILROAD ADMIN.
400 7TH ST., S.W., RCC-20
WASHINGTON DC 20590

TO: ROBIN L. RIGGS,
GENERAL COUNSEL TO GOVERNOR
STATE OF UTAH
201 STATE CAPITOL
SALT LAKE CITY UT 84114

TO: STEVEN G. RABE, CITY MANAGER
CITY OF FLORENCE
300 W. MAIN STREET
FLORENCE CO 81226

TO: SCOTT A. RONEY
P.O. BOX 1470
4666 FARIES PARKWAY
DECATUR IL 62525

TO: HONORABLE MARC RACICOT
GOV'S OFFICE, STATE CAP.
P.O. BOX 200801
HELENA MT 59620-0801

TO: JOHN JAY ROSACKER
KS DEPT OF TRANSP
217 SE 4TH ST., 2ND FLOOR
TOPEKA KS 66603

TO: ALLAN E. RUMBAUGH
P.O. BOX 1215
COOS BAY OR 97420

TO: J. FRED SIMPSON,
EXECUTIVE VICE PRESIDENT
MONTANA RAIL LINK, INC.
101 INTERNATIONAL WAY
MISSOULA MT 59802

TO: HON. NANCY SANGER, MAYOR
CITY OF SALIDA
P.O. BOX 417
124 E STREET
SALIDA CO 81201

TO: WILLIAM C. SIPPEL
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVE., 45TH FLOOR
CHICAGO IL 60601

TO: ROBERT M. SAUNDERS
P.O. BOX 2910
AUSTIN TX 78768-2910

TO: JAMES A. SMALL
COMMONWEALTH EDISON CO.
1411 OPUS PL., STE 200
DOWNERS GROVE IL 60515-5701

TO: PETER J. SHUDTZ
CSX CORPORATION
901 E. CARY ST., 1 JAMES CENTER
RICHMOND VA 23119

TO: MAYOR JEFF SMITH
CITY OF KENDALLVILLE
234 S. MAIN STREET
KENDALLVILLE IN 46755-1795

TO: KEN SIECKMEYER, MGR.
TRANSP. PLANN. DIV.
NEBRASKA DEPT. OF ROADS
P.O. BOX 94759
LINCOLN NE 68509-4759

TO: MYRON F. SMITH
FREMONT COUNTY COMM.
615 MACON AVE., ROOM #102
CANON CITY CO 81212

O: PATRICIA T. SMITH, SR. VICE PRESIDENT
PUBLIC SERVICE COMPANY
1225 17TH STREET. STE 600
DENVER CO 80202

TO: GREG TABUTEAU
UPPER AR. AREA COUNCIL
P.O. BOX 510
CANON CITY CO 81215

TO: MICHAEL N. SOHN
555 TWELFTH STREET, NW
WASHINGTON DC 20004

TO: LARRY W. TELFORD
ONE EMBARCADERO CTTR
SEVERSON & WERSON
SAN FRANCISCO CA 94111

TO: MICHAEL I. STOCKMAN
S. BORAX INCL.
GENERAL COUNSEL
26877 TOURNEY ROAD
VALENCIA CA 91355

TO: STEVE THACKER
BOX 1460
CANON CITY CO 81215-1460

TO: JUNIOR STRECKER
123 NORTH MAIN ST
HOISINGTON KS 67544

TO: LYNETTE W. THIRKILL,
LOGISTICS MANAGER
GR. SALT LAKE MINERALS
P.O. BOX 1190
OGDEN UT 84402

TO: JOHN R. STULP
CECED
O. BOX 1600
LAMAR CO 81052

TO: ERIC W. TIBBETTS
P.O. BOX 3766
1301 MCKINNEY ST.
HOUSTON TX 77253

TO: W. DAVID TIDHOLM
HUTCHESON & GRUNDY
1200 SMITH STREET #3300
HOUSTON TX 77002-4579

TO: GERALD E. VANINETTI
RESOURCE DATE INT'L
1320 PEARL STREET, STE 300
BOULDER CO 80302

TO: MYLES L. TOBIN
ILLINOIS CENTRAL RAILROAD
455 NORTH CITYFRONT PLAZA DRIVE
CHICAGO IL 60611-5504

TO: GREGORY M. VINCENT, VICE PRESIDENT
TENNESSEE VALLEY AUTHORITY
LOOKOUT PLACE, 1101 MARKET STREET
CHATTANOOGA TN 37402

TO: GARY L. TOWELL
MOLEDO, PEORIA & WESTERN
1990 EAST WASHINGTON STREET
EAST PEORIA IL 61611-2961

TO: ALLEN J. VOGEL, MINNESOTA DOT
SUITE 925, KELLY ANNEX
395 JOHN IRELAND BLVD TRANSP. BLDG
ST PAUL MN 55155

TO: MERRILL L. TRAVIS
ILLINOIS DEPT. OF TRANSP.
2300 SOUTH DIRKSEN PARKWAY
SPRINGFIELD IL 62703-4555

TO: CHARLES WAIT
BACA COUNTY
P.O. BOX 116
SPRINGFIELD CO 81073

TO: BERNICE TUTTLE
KIOWA COUNY WIFE
CHAPTER #124
13775 C.R. 78.5
TOWNER CO 81071-9619

TO: JEFFREY A. WALTER
WATERFALL TOWERS, 201-B
2455 BENNETT VALLEY ROAD
SANTA ROSA CA 95404

TO: PHILIP D. WARD, ET. AL.
P.O. BOX 351
200 FIRST STREET, SE
CEDAR RAPIDS IA 52406-0351

TO: R.L. YOUNG
P.O. BOX 700
ONE MEMORIAL DRIVE
LANCASTER OH 43130-0700

TO: TERRY C. WHITESIDE
SUITE 301 MTN BLDG
3203 THIRD AVENUE NORTH
BILLINGS MT 59101-1945

TO: THOMAS ZWICA
121 WEST FIRST STREET
GENESEO IL 61254

TO: ROBERT A. WIMBISH, ESQ.
REA, CROSS & AUCHINCLOSS
1920 N STREET, N.W., SUITE 420
WASHINGTON DC 20036

TO: SUE BALLENSKI
PHYSICAL RESOURCES
U. S. D. A. FOREST SERVICE
P. O. BOX 25127
LAKE WOOD, CO 80225

TO: E.W. WOTIPKA
6383 TERRACE LANE
SALIDA CO 81201

TO: JANE T. FELDMAN
ASST. ATTORNEY GENERAL
STATE OF COLORADO
1525 SHERMAN ST
5TH FLOOR
DENVER, CO 80203

TO: EDWARD WYTKIND,
EXECUTIVE DIRECTOR
TRANSP TRADES DEPT AFL-CIO
400 N. CAPITOL ST, SW, STE 861
WASHINGTON DC 20001

TO: DICK SCHIEFELFEIN
7801 WOODHARBOR DRIVE
FORT WORTH, TX 76179

J: ANNE D. SMITH
WHITE & CASE
1747 PENNSYLVANIA AVENUE, N. W.
WASHINGTON, DC 20006

TO: STEPHEN D. ALFERS
ALFERS & CARVER
730 17TH STREET
SUITE 340
DENVER, CO 80202

TO: D. E. THOMPSON
GENERAL CHAIRMAN
BROTHERHOOD OF LOCOMOTIVE ENGINEERS
414 MISSOURI BLVD.
SCOTT CITY, MO 63780

TO: JOHN D. BALLAS
AGENCY ENGINEER
INDUSTRY URBAN-DEVELOPMENT AGENCY
15651 EAST STAFFORD STREET
P. O. BOX 7089
CITY OF INDUSTRY, CA 91744

O: J. TUCKER
P. O. BOX 25181
ARLINGTON, VA 22202

TO: SUSAN B. GERSON
J. MICHAEL CAVANAUGH
GRAHAM & JAMES, LLP
SUITE 700
2000 M STREET, N.W.
WASHINGTON, DC 20036

TO: GEORGE T. WILLIAMSON
MANAGING DIRECTOR, PORT OF
HOUSTON AUTHORITY
P. O. BOX 2562
111 E. LOOP N.
HOUSTON, TX 77029

TO: RUSSELL S. JONES, III
MOUNTAIN COAL COMPANY
555 17TH STREET
22ND FLOOR
DENVER, CO 80202

TO: TAMI J. YELLICO
PUEBLO COUNTY COURTHOUSE
215 WEST 10TH STREET
PUEBLO, CO 81003

TO: WILLIAM R. KNIGHT
WISCONSIN POWER & LIGHT COMPANY
P. O. BOX 192
222 WEST WASHINGTON AVENUE
MADISON, WI 53701-0192

DENVER, CO 80203-1792

TO: RICHARD H. STREETER
BARNES & THORNBURG
1401 EYE ST., N. W.
SUITE 500
WASHINGTON, DC 20005

TO: MARTHA T. WILLIAMS,
GENERAL COUNSEL
PORT OF HOUSTON AUTHORITY
P.O. BOX 2565
111 EAST LOOP NORTH
HOUSTON, TX 77252-2562

TO: STEVE TUCKER
DENVER AND RIO GRANDE WESTERN
EMPLOYEES LABOR COMMITTEE
2048 J ROAD
FRUITA, CO 81521

TO: ELIZABETH ESTILL
UNITED STATES DEPT. OF AGRICUL-
TURE
740 SIMMS STREET
GOLDEN, CO 80401

TO: JOHN JAY ROSACKER
BUREAU OF RAIL AFFAIRS
KANSAS DEPT. OF TRANSPORTA-
TION
217 SE 4TH
TOPEKA, KS 66603

TO: GOVERNOR ROY ROMER
136 STATE CAPITOL

STB

FD

32760

4-8-96

D

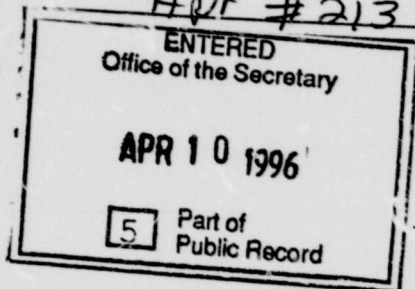
81470

Item No. _____

Page Count 17

APR #213

81470



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 CRP. AND THE
DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

**COMMENTS OF THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

The Public Utilities Commission of the State of California (CPUC) hereby submits its comments on the above-described proceeding whereby the Union Pacific Corporation, et al. (UP) and the Southern Pacific Rail Corporation, et al. (SP) seek authorization for the merger of the Southern Pacific Rail Corporation into the Union Pacific Railroad Company and the consolidation of their railroad operations. The CPUC is an administrative agency established under the Constitution and laws of the State of

California. Among its responsibilities, the CPUC regulates various areas of railroad operations in California.

The CPUC held two public workshops on the proposed merger – at San Francisco on March 13 and at Los Angeles on March 15. Presentations were made by the applicants, interested railroads, public officials, shippers, union leaders and other parties, most of whom were favorable to the merger. The comments herein address many of the issues raised at the workshops, along with others developed by the CPUC staff.

I. INTRODUCTION

The consolidation of the UP and SP would represent a major realignment of railroads in California that could result in improved service and a positive economic impact on the state, assuming certain conditions are addressed. Presently, the state is served by three Class 1 railroads, with SP operating approximately 3,225 miles of track in California, UP 1,000 miles, and Burlington Northern Santa Fe (BNSF) 1,200 miles. The merger is essentially “parallel” (as opposed to “end-to-end”) and proposes to reduce California's Class I railroads from three to two. Although the CPUC supports a UPSP merger, it is concerned about the possible impact of the merger on competition in certain corridors.

The CPUC reserves formulation of its final position on the merger pending review of the further submissions of the applicants and the parties. Additionally, the CPUC plans to carefully review the two inconsistent applications that are anticipated regarding operations through the Central Corridor. Subsequently, the CPUC may file responses to such applications. At this point, CPUC support for the merger is dependent upon the granting of the conditions stated herein.

The conditions address the following subject areas:

- Agreement Term and Replacement of BNSF as UPSP Competitor;
- BNSF Right to Serve Future Industries;
- Central Corridor Competition;
- BNSF Option to Acquire Keddie-Stockton Line;
- Continued Modoc Line Operation;
- North Coast Railroad Authority Access to BNSF.

Additionally, the CPUC sets forth comments on the Capitol Corridor, the Alameda Corridor, NAFTA, and the impact of the merger on railroad employees.

II. PROPOSED UPSP MERGER CONDITIONS

Condition 1: Agreement Term and Replacement of BNSF as UPSP Competitor

The importance of maintaining adequate and effective railroad competition is widely accepted, both in public policy and by the shipping public. UPSP and BNSF have reached a private agreement that BNSF shall replace SP as UP's competitor in selected corridors and at selected stations within California, for a term of 99 years.

BNSF has stated that it intends to provide the desired competition to UP. However, with the exception of BNSF's ownership of UP's Bieber-Keddie Line, BNSF must do so through trackage rights operations in California, instead of through ownership and control of roadway facilities and trackage. BNSF has no inherent financial commitment to continue for the entire 99-year term of the Agreement to provide adequate and effective competition over such UPSP lines in California, particularly in light of the wholly variable character of the agreed-upon rates of compensation for use of the trackage rights. Yet, neither UPSP nor BNSF has suggested any process by which a successor to BNSF would be designated either at the end

of the 99-year term or if BNSF fails to provide adequate and effective competition where it has agreed to do so.

It is unacceptable to the CPUC that UPSP gain a monopoly through the termination of the UPSP Agreement with BNSF at the end of a 99-year term. Assuming that the UPSP merger is approved, the restructuring of railroad competition in California will likely have been completed in perpetuity; the assurance of BNSF's vigorous competition with UPSP should match that same perpetual term.

To address the need for a perpetual term as well as the potential for ineffective competition on the part of BNSF, the CPUC requests that Board approval of the UPSP Merger be conditioned on the following ongoing requirements: (1) that the term of the UPSP and BNSF Agreement shall be perpetual, and (2) that upon complaint by any interested party and the Board's subsequent finding that BNSF has provided inadequate or ineffective competition to UPSP in any selected Corridor or to any selected station in California, the Board shall be empowered to order any appropriate corrective action, including the replacement of BNSF as the designated railroad competitor of UPSP.

Condition 2: BNSF Right To Serve Future Industries

By their Agreement, except where local access was specified, UPSP granted to BNSF only bridge trackage rights for the movement of overhead traffic on most UPSP routes in California. New customers locating on the lines served by BNSF's bridge trackage rights will be served only by UPSP, and BNSF will be denied access to them. Had UPSP elected to sell such routes to BNSF instead of granting bridge trackage rights, then BNSF would have benefited from the new customers, instead of such benefits flowing entirely to UPSP.

The UPSP and BNSF Agreement fails to recognize and accommodate the historic geographic competition which existed between SP and the Western Pacific, or its successor, UP, in locating new industries on these lines within California. Instead, UPSP has reserved for itself a geographic monopoly for new business in that territory. Therefore, the CPUC requests that Board approval of the UPSP Merger be conditioned on BNSF access to serve all future industries located on those lines which the Agreement permits BNSF to serve.

Condition 3: Central Corridor Competition

During the 1988 acquisition of SP, a significant public interest argument advanced by Rio Grande Industries in support of its acquisition of SP was that railroad competition with UP in the Central Corridor would be strengthened; that commitment was embraced by California. In contrast, the merged UPSP would minimize Central Corridor competition by retaining ownership of all of the roadway facilities and trackage, and by substituting BNSF as UPSP's competitor despite the fact that BNSF's primary service corridor between Central California and the Midwest will continue to be via the former Santa Fe's Southern Corridor route.

Two other financially and operationally qualified rail carriers have indicated their intentions to file inconsistent applications to acquire all or portions of the Central Corridor. The CPUC will express an opinion concerning the inconsistent applications following a review of those proposed filings. At this stage, the CPUC requests consideration of its proposal that Board approval of a UPSP Merger be conditioned on a finding and order either (1) that the BNSF is committed to and will provide adequate and effective competition to UPSP as tenants on the same tracks that UP will own and operate or (2) necessitating that the UP divest a stand-

alone UPSP Central Corridor route, facilities, trackage, and traffic base to a carrier other than BNSF.

Condition 4: BNSF Option To Acquire Keddle-Stockton Line

BNSF's trackage rights operation via the UPSP-owned line between Keddle and Stockton is crucial to its provision of adequate and effective competition with UPSP in the north-south I-5 Corridor. It is also important to the ability of BNSF or another carrier to provide adequate and effective competition in the east-west Central Corridor.

Owner discrimination against tenants in similar trackage rights arrangements is a matter of record, including evidence submitted in the recent UP/CNW merger proceeding that UP had discriminated against SP's operations as UP's tenant in the Central Corridor.¹ Accordingly, the CPUC requests that Board approval of the UPSP merger be conditioned on the granting to BNSF of a perpetual option to acquire UP's Keddle-Stockton Line at its net liquidation value, as determined by the Board. BNSF's option may be exercised upon complaint and the Board's subsequent

¹ Union Pacific Corp., et al. -- Control -- Chicago and North Western Transp. Co., et al. (F.D. 32133), SP-19, p. 21; SP-20, pp. 170, 211.

finding that UP has failed to provide on the Keddie-Stockton Line either (1) equal-priority, non-discriminatory dispatching or (2) adequate roadway maintenance or capital improvements.

Condition 5: Continued Modoc Line Operation

During the 1988 acquisition of SP, another public interest argument advanced by Rio Grande Industries (RGI) in support of its acquisition of SP was that the Modoc Line would be reopened and continued in operation. Indeed, one of the reasons why the CPUC (and the State of Oregon) supported RGI's acquisition of the SP was RGI's plan to reopen the Modoc Line.² In contrast, UPSP proposes to abandon a portion of the Modoc Line, a proposal that has precipitated public objections. Moreover, contrary to the statement in the instant UPSP application that the Modoc Line presently serves only one or two trains per day, the planning director for Modoc County and the City of Alturas recently stated at a CPUC workshop that traffic is much greater and that actually about six to ten trains a day utilize the line.

² Rio Grande Industries, Inc., et al. -- Control-- Southern Pacific Transp. Co., et al., 4 ICC 2d 834, 863-864 (1988) (F.D. 32000).

The CPUC believes that UP should keep RGI's and SP's commitment to the public. Accordingly, the CPUC requests that Board approval of the UPSP merger be conditioned on the continued operation of the entire Modoc Line by UPSP from Klamath Falls, OR to Flanigan, NV for a period of not less than five years, subject to continued oversight by the Board. At UPSP's option, the operation could be performed by some other financially and operationally qualified railroad operator. However, any such operator shall operate the entire Modoc Line without traffic surcharges, with any financial losses paid for by UPSP, and with full and unrestricted interchange rights with BNSF at Klamath Falls, at Flanigan, and at such other locations as the operator may elect.

Condition 6: NCRA Access to BNSF

The North Coast Railroad Authority (NCRA) is a local agency created in 1992 by the California Legislature to preserve the only rail service to the North Coast of California. At present, NCRA owns and operates the approximately 160-mile North Coast Railroad which extends from the Eureka-Arcata-Korbel area of the North Coast to Willits. In combination with the Northwestern Pacific Railroad Authority (NWPRA), a

joint powers agency created under California law, NCRA is negotiating the purchase of an additional 140-mile line extending from Willits to Lombard, a point near Suisun-Fairfield on SP's "Cal-P Line." All of the 300-mile line which will then be in public ownership previously constituted SP's subsidiary, the Northwestern Pacific Railroad Co. (NWP). As a result of the purchase and required rehabilitation of the NWP Line by the NCRA and NWPRA, more than \$75 million of public funds will have been expended.

In September 1993, SP inserted between NCRA and itself the California Northern Railroad Co. (CFNR) as a short line operator between Willits and Suisun-Fairfield. Neither NCRA nor CFNR has the right to connect with any Class I carrier other than SP. Both are dependent on SP for all of their car supply, and SP alone possesses the right to price all of the traffic to and from NCRA and CFNR points. As a result of SP's exclusive commercial arrangements with NCRA and CFNR, and as a result of SP's demonstrated inability to compete effectively in the marketplace on behalf of NCRA's shippers, the financial and operational viability of the NWP Line is in question. Thus, the investments made with the substantial public funds that have been expended to preserve rail service to the North Coast of California are in jeopardy.

NCRA's public board has requested competitive access to BNSF as a condition of the UPSP merger, in order to ensure NCRA's competitive ability indefinitely into the future. NCRA states that such competitive access is of great importance given SP's historic failure to provide NCRA's freight shippers with adequate car supply, reasonable and consistent transit times, and competitive rates, and because of SP's threatened use of its power to surcharge NCRA out of business.

The CPUC supports NCRA's request for competitive access to BNSF. Accordingly, CPUC requests that Board approval of the UPSP merger be conditioned on the granting to NCRA (or its designated operator for NCRA traffic only) of bridge trackage rights over UPSP-owned or leased lines between Lombard and the designated BNSF interchange at Suisun-Fairfield or at Richmond, at the Board's option, under the same terms and conditions as contained in the UPSP-BNSF Agreement.

III. FURTHER COMMENTS

In addition to the concerns for which conditions are set forth above, the CPUC also has concerns about how the proposed merger might impact various projects and areas. These include the Capitol Corridor, the Alameda Corridor, NAFTA, and impacts of the merger on railroad employees.

The Capitol Corridor – The Capitol Corridor refers to rail passenger service between San Jose and Sacramento, utilizing SP's main line route for freight. The State of California has committed itself to furnishing extensive funding for improving the line, with an emphasis on track and signalization upgrading between Oakland and Sacramento. In return the state has requested that additional passenger runs be allowed. After lengthy negotiations, SP and the state have agreed on a corridor upgrade plan. The plan is pending approval from the California Transportation Commission.

The CPUC believes that if the UPSP merger were to be granted, the authorizing decision should include language noting UP's duty to assume the obligations for the Capitol Corridor that have been agreed to by SP.

The Alameda Corridor – This \$1.8 billion project calls for the construction of a 20-mile rail corridor between the Ports of Los Angeles and Long Beach and points in central Los Angeles where the corridor would connect with existing SP, UP and BNSF lines. Construction would generally be along the former San Pedro Branch of the SP. The corridor, part of which would be located in a sub-surface trench, would greatly facilitate the speed and volume of rail transportation to and from the ports. It also would enhance safety and air quality.

The above-mentioned three railroads have all signed a Memorandum of Understanding to participate in the corridor project through agreed upon trackage rights and user fees. Approval of the merger apparently would not affect the project, as UP asserts that it is committed to assuming SP's obligations. Nonetheless, the CPUC requests that any decision authorizing the merger underscore this new UP obligation and the importance of the Alameda Corridor for California and the nation.

NAFTA –The North American Free Trade Agreement (NAFTA) has presented California with new opportunities to develop trade, particularly with Mexico. The specific concern that the CPUC has, relative to NAFTA and the UPSP merger, is focused on the Calexico-Mexicali gateway. Presently SP serves this gateway via a secondary main line that runs north from Calexico to El Centro and the Imperial Valley and then connects at Niland with SP's Southern Corridor main line.

The CPUC requests that any decision authorizing UP control over this line also stress the importance of developing the Calexico-Mexicali gateway to its fullest potential in the public interest. Doing so not only will further trade but also reduce the large volume of truck traffic from Mexico that is expected in California soon.

UP should be urged either to develop this gateway or to divest it to another carrier. Alternatively, if UP prefers, it could nominate a short line to develop the gateway. Another solution, and perhaps the most effective, would be for the Board to authorize trackage rights for BNSF from Calexico to Colton.

Impact of Merger on Railroad Employees – California will be the hardest hit state as regards job loss and job transfer due to a UPSP consolidation. Approximately 2,000 employees in California will have their jobs abolished. Also, many California employees will see their jobs transferred out of state -- largely to Denver, St. Louis or Omaha. This is part of a total of some 7,041 SP and UP employees nationwide who would be affected by job abolishment or job transfer. Moreover, according to union leaders appearing at CPUC workshops, final figures for job layoffs due to mergers consistently exceed railroad pre-merger estimates.

The CPUC believes that the large number of persons adversely affected and the distant location of many job transfer points qualify as instances of "special circumstances" that will allow the Board to "tailor employee protective conditions" to the elements present in this particular merger case -- if indeed the Board does approve the merger. Union Pacific

Corp., et al. – Control – Chicago and Northwestern Transportation Co., et al. (F.D. 32133) Decision served March 7, 1995, at p. 95, citing Railroad Consolidation Procedures, 363 ICC 784, 793 (1981); 49 CFR 1180.1(f).
See also New York Dock Ry. v. United States, 609 F.2d 83, 91-92 (2d Cir. 1979).

Adversely affected employees should receive fair and equitable settlement amounts, even if, contrary to normal New York Dock requirements, they choose not to relocate. This exception is particularly appropriate for SP's California employees where union statistics demonstrate that numerous employees have long service records. Union figures show that of those employees in California whose jobs have been adversely affected by the merger, many have been employed by SP for more than 25 years. These longtime employees deserve special consideration, not only for long years of service to SP but also because they are generally at an age when uprooting themselves and their families is particularly difficult.

Finally, for a reasonable period of time after the merger, job training

///

///

///

and out-placement programs should be offered to SP and UP employees
whose jobs have been abolished or transferred.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
JAMES T. QUINN

/s/ JAMES T. QUINN

James T. Quinn

505 Van Ness Ave.
San Francisco, CA 94102
Phone: (415) 703-1697
Fax: (415) 703-4592

March 28, 1996

Attorneys for the Public Utilities
Commission of the State of California

STB

FD

32760

4-8-96

D

81466

Item No. _____

Page Count 1

Apr # 225



PPG Industries, Inc. One PPG Place Pittsburgh, Pennsylvania 15272 (412) 434-3628

Michael E. Petruccelli
Director
Distribution and Transportation
Chemicals Group

March 28, 1996

Vernon A. Williams
Secretary
Attn: Finance Docket 32760
Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



Dear Sir:

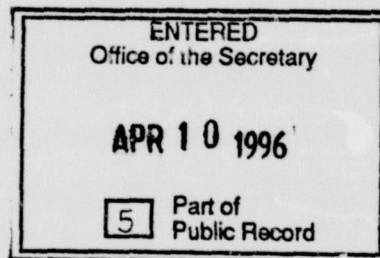
Enclosed is a disk which contains a copy of my verified statement, filed on behalf of PPG, under Finance Docket 32760 and the Certificate of Service. PPG has filed the original and twenty copies and the disk is for Board use.

Very truly yours,

M. E. Petruccelli

MEP/ksc

Enclosure



STB

FD

32760

4-4-96

D

81427

Item No. _____

Page Count 4

Apr #191

STATE OF UTAH

OFFICE OF THE ATTORNEY GENERAL



JAN GRAHAM
ATTORNEY GENERAL



CAROL CLAWSON
Solicitor General

REED RICHARDS
Chief Deputy Attorney General

PALMER DePAULIS
Chief of Staff

March 29, 1996

The Honorable Linda Morgan
Chairwoman
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.

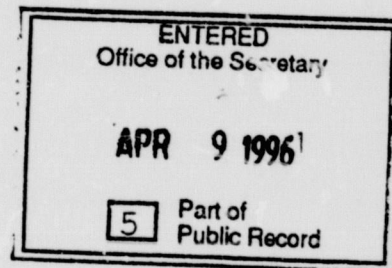
Dear Ms. Morgan:

Enclosed is the notice being filed by the State of Utah in order to preserve its right to file a brief in this matter at a later time. After discussing this with Julia Farr, we understood that this would be an appropriate manner to maintain our position in this case.

For purposes of the mailing list, please retain the following as parties of record representing the State of Utah:

ROBIN L. RIGGS
General Counsel to the Governor
210 State Capitol
Salt Lake City, Utah 84114

REED M. RICHARDS
Assistant Attorney General
236 State Capitol
Salt Lake City, Utah 84114



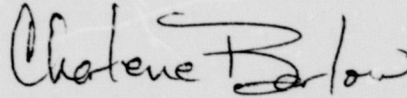
Page two
Morgan letter
March 29, 1996

Please change the designation of party of record to interested person for the following:

MICHAEL O. LEAVITT
Governor of the State of Utah
210 State Capitol
Salt Lake City, Utah 84114

Thank you for your consideration.

Sincerely,



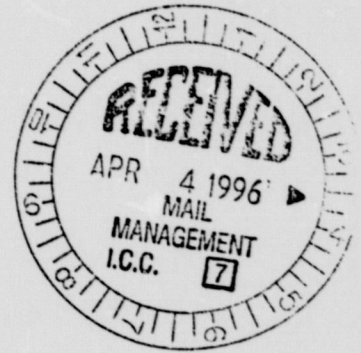
Sr Reed M. Richards
Assistant Attorney General

RMR/cb

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

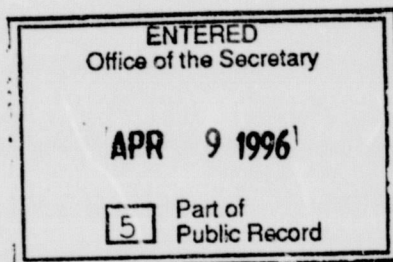
Finance Docket No. 32760

UNION PACIFIC CORP., et al.
CONTROL AND MERGER
SOUTHERN PACIFIC RAIL CORP., et al.

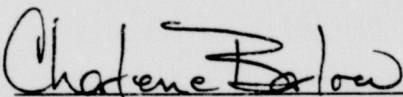


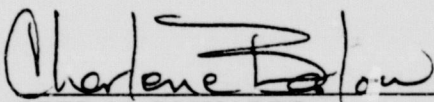
CONTINUING NOTICE OF INTENT TO PARTICIPATE IN PROCEEDINGS
STATE OF UTAH

The State of Utah, as a party of record in this matter, has no specific comments at this time; however, because of grave concerns about the possible anti-competitive effect the proposed merger may have on this state, we reserve the right to file a brief on June 3, 1996. This brief will include comments from the Governor's office and the Attorney General's office regarding the legal and factual issues which arise out of the proposed merger. The State will specifically be monitoring discussions on proposals to ensure that trackage rights result in competitive rates and/or other freight rate and service commitments are made to protect Utah's shippers and receivers.



FOR THE STATE OF UTAH


S. ROBIN L. RIGGS
General Counsel to the Governor
210 State Capitol
Salt Lake City, Utah 84114


S. REED M. RICHARDS
Assistant Attorney General
236 State Capitol
Salt Lake City, Utah 84114

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing notice have been mailed to all parties of record on the service list in this proceeding by first class mail, postage prepaid, this 29th day of March, 1996.

Charlene Blaw

STB

FD

32760

4-4-96

D

81393

Item No. _____
Page Count 2
Apr #193

81393



Before The
SURFACE TRANSPORTATION BOARD
DEPARTMENT OF TRANSPORTATION
formerly known as
INTERSTATE COMMERCE COMMISSION

Finance Docket No. 32760

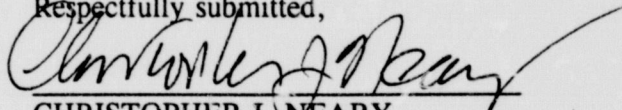
UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
--- CONTROL AND MERGER ---
SOUTHERN PACIFIC RAIL CORPORATION,
SOUTHERN PACIFIC TRANSPORTATION COMPANY, ST. LOUIS
SOUTHWESTERN RAILWAY COMPANY, SPCSL CRP. AND THE
DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY

NOTICE OF INTENT TO PARTICIPATE

Pursuant to the Interstate Commerce Commission's Decision No. above, the NORTH COAST RAILROAD AUTHORITY, a political subdivision of the State of California, hereby gives notice of its intent to participate in the above-described proceeding. Documents should be sent to the undersigned, CHRISTOPHER J. NEARY, at the address shown below.

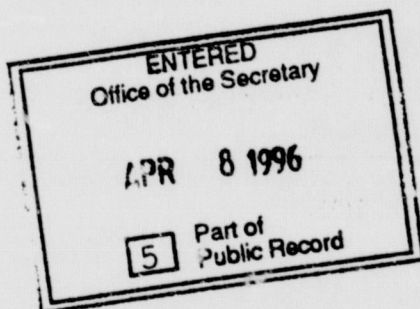
DATED: January 10, 1996

Respectfully submitted,


CHRISTOPHER J. NEARY

110 So. Main St., Ste. C
Willits, CA 95490
(707) 459-5551

Attorney for NORTH COAST
RAILROAD AUTHORITY, a political
subdivision of the State of California



CERTIFICATE OF SERVICE

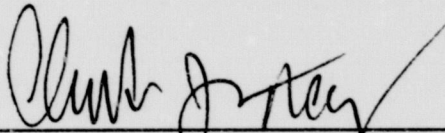
I hereby certify that I have this day served the foregoing document title NOTICE OF INTENT TO PARTICIPATE on Administrative Law Judge Jerome Nelson and the below-listed persons by sending via first-class mail copies thereof properly addressed as follows:

The Honorable Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
825 North Capitol Street, N.E.
Washington, D.C. 20426

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

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

Executed this 12th day of January, 1996 at Willits, California.



CHRISTOPHER J. NEARY

STB

FD

32760

4-4-96

D

81360

Item No. _____

Page Count 1

81360

KEEL

1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
FACSIMILE (202) 434-4646

BOULEVARD LOUIS SCHMIDT 87
B-1040 BRUSSELS
TELEPHONE 32(2) 732 52 80
FACSIMILE 32(2) 732 53 92

ALLER 11907-199-41
JEROME H. HECKMAN
WILLIAM H. BORGHESE, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELDRED
RICHARD J. LEIGHTON
ALFRED S. REGNERY
WILLIAM L. KOS
DOUGLAS J. BISHR
SHIRLEY A. COFFIELD
MICHAEL F. MORRONE
JOHN B. RICHARDS
JEAN SAVIGNY
JOHN B. DUBECK
PETER L. DE LA CRUZ
MELVIN S. DROZEN
LAWRENCE P. H. PRIN
RALPH A. SUMMO
RICHARD F. MANN

C. DOUGLAS JARRETT
SHEILA A. MILLAR
GERTROE G. MISKO
STEPHAN E. BECKER
PATRICK J. HURD
MARIA A. SIEVERS
GARENE E. DODGE
JEAN-PHILIPPE MONTFORT
DAVID G. SARVA
JONATHAN R. SPENCER
CATHERINE R. NIELSEN
SUSAN M. HAFEL
AMN. RODGERS
ELL OT. BELLOS
MARK L. ITZOFF
ROSEMARIE A. KELLEY
T. PHILLIPS BECK
ARTHUR S. GARRETT III
LESLIE E. SILVERMAN
ELIZABETH N. HARRISON
ROBERT H. LOCKWOOD
CAROL MOC. S. TOTH
JOAN C. SYLVAIN

MARTHA E. MARRAPET
DONALD T. WURTH
DAVID B. JERRY
S. DEBORAH ROSEN
DAVID R. JOY
FREDERICK A. STEARNS
TONY RUSSELL EPPS
THOMAS C. BERGER
JOHN F. FOLEY
ALEXANDRE MENCIK VON ZEBINSKY
PHILIP H. ANDREWS
JENNIFER A. BONANNO
JOHN REARDON
PATRICK W. RATKOWSKI
MARA A. MICHAELS
PAULA DEZA
JOHNS W. HOPKINS, JR.
*NOT ADMITTED IN D.C.
*RESIDENT BRUSSELS

SCIENTIFIC STAFF

DANIEL S. DIXLER, Ph. D.
CHARLES V. BREDER, Ph. D.
ROBERT A. MATHEWS, Ph. D. D.A.B.T.
JOHN P. HODDERMAN, Ph. D.
HOLLY HUTMIRE FOLEY
JUSTIN C. POWELL, Ph. D.
JANETTE HOUK, Ph. D.
LESTER BORODINSKY, Ph. D.
THOMAS C. BROWN
MICHAEL T. FLOOD, Ph. D.
ANDREW P. JOVANOVIH, Ph. D.

April 4, 1996

(202) 434-4179

BY HAND

Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Case Control Branch

Attention: Finance Docket No. 32760
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

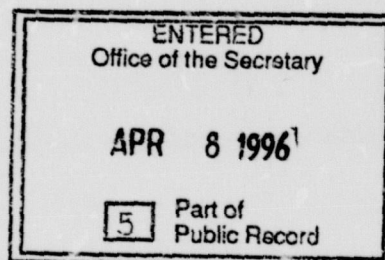
Dear Secretary Williams:

Enclosed, at the request of Mr. Paul Markoff, is a copy of the WordPerfect 5.1 disk for the Unredacted Comments and Request for Conditions and Verified Statement on behalf of North American Logistic Services, a Division of Mars, Incorporated, NALS-1, filed with the Board on March 29, 1996.

Yours very truly,

Terrence D. Jones
Terrence D. Jones

Enclosure



STB

FD

32760

4-4-96

D

81359

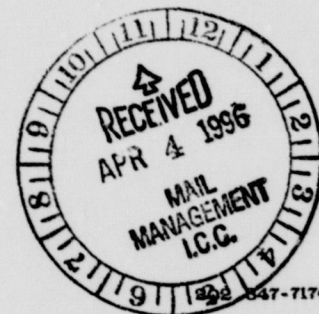
Item No. _____

Page Count _____

Apr #196

C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA E. KOLESAR
EDWARD J. McANDREW*

SLOVER & LOFTUS
ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036



* ADMITTED IN PENNSYLVANIA ONLY

April 4, 1996

BY HAND DELIVERY

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

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

Dear Mr. Secretary:

In response to a request from Mr. Paul Markoff, of the Board's Section of Legal Analysis, we enclose a Wordperfect 5.1 diskette containing the entirety of the Western Coal Traffic League's Highly Confidential Comments on the Proposed UP/SP Merger (WCTL-11) that were filed on March 29, 1996.

An extra copy of this letter is enclosed. Kindly indicate receipt and filing of the diskette by time-stamping this extra copy and returning it to the bearer of this letter.

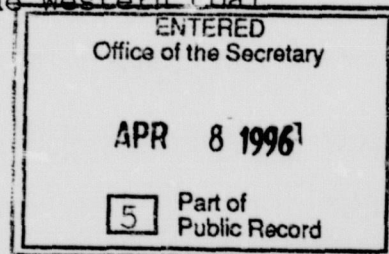
Thank you for your attention to this matter.

Sincerely,

C. Michael Loftus

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

Enclosure



STB FD

32760

4-4-96

D 81358

Item No. _____

Page Count 1

Apr #197

81358

E, WINN, MOERMAN & DONOVAN

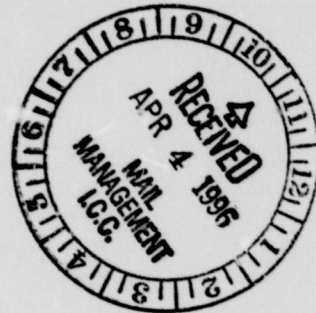
ATTORNEYS AT LAW

3506 IDAHO AVENUE, N. W.

WASHINGTON, D. C. 20016

TELEPHONE (202) 362-3010

FAX (202) 362-3050



April 4, 1996

BY HAND

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

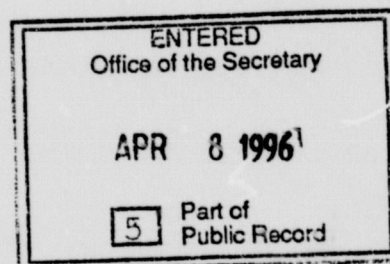
Re: Finance Docket No. 32760, Union Pacific
Corp., et al. -- Control & Merger -- Southern
Pacific Rail Corp., et al.

Dear Secretary Williams:

Pursuant to your request, please find a disc containing the
Comments of The Geon Company in the above-captioned proceeding.
The disc is in Word Perfect 5.1 format as your staff had request-
ed.

Very truly yours,

Paul M. Donovan



STB

FD

32760

4-4-96

D

81357

Item No. _____

Page Count 1

Apr 4 1996
C. MICHAEL LOFTUS
DONALD G. AVERY
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PATRICIA R. KOLESAR
EDWARD J. McANDREW*

* ADMITTED IN PENNSYLVANIA ONLY

81357
SLOVER & LOFTUS
ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036

April 4, 1996



202 347-7170

BY HAND DELIVERY

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

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

Dear Mr. Secretary:

In response to a request from Mr. Paul Markoff, of the Board's Section of Legal Analysis, we enclose three Wordperfect 5.1 diskettes containing the entirety of Texas Utilities Electric Company's Highly Confidential Comments on the Proposed UP/SP Merger that were filed on March 29, 1996.

An extra copy of this letter is enclosed. Kindly indicate receipt and filing of the diskette by time-stamping this extra copy and returning it to the bearer of this letter.

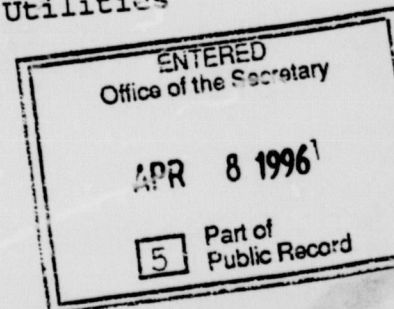
Thank you for your attention to this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frank J. Pergolizzi".

Frank J. Pergolizzi
An Attorney for Texas Utilities
Electric Company

Enclosure



STB

FD

32760

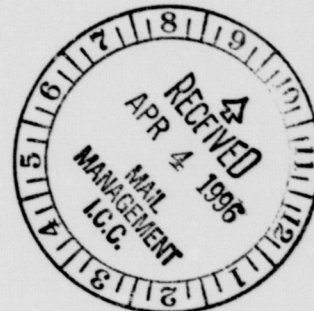
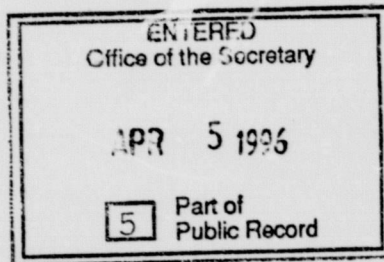
4-4-96

D

62552



Item No. _____

Page Count 5Apr #202(510) 253-3801
Fax (510) 253-3880**Thomas R. Brown**
President

April 3, 1996

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

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

Dear Mr. Williams:

I am writing to express Riss Intermodal's strong support for the BN/Santa Fe settlement in the UP-SP control case. I would also like to reemphasize and underline our continuing strong support for the UP-SP merger as it has been proposed absent any form of divestiture. In my view, the future for intermodal shippers is closely tied to consummation of UP's control of SP, along with approval of the BN/Santa Fe conditions. The Board has on file a copy of my earlier verified statement supporting UP's control of SP, outlining the compelling benefits we foresee for intermodal shippers.

As President of Riss Intermodal, an Intermodal Marketing Company (IMC), I am responsible for approximately \$80 million annually in intermodal revenue tendered by our company to various railroads. Prior to the start-up of Riss Intermodal, I held a number of positions in Operations and Marketing at the Western Pacific Railroad including Senior Vice President - Intermodal.

The specific arguments, and their detailed substantiation, in favor of the BN/Santa Fe settlement with UP are more than adequately presented in BN/Santa Fe's "Comments on the Primary Application (December 29, 1995)" and I will not repeat them here. Suffice it to say, we find the settlement creates the kind of sustainable and aggressive competition that IMCs and intermodal shippers require now and in the future. Furthermore, we strongly believe that only a single carrier, well nourished for capital and network reach, like BNSF, can offer shippers a true geographically complete, competitive option.

Much has been said in recent weeks about commodity shippers who may foresee some reduction in competition. And, both IMCs and shippers have heard and read about alleged competitive options proposed by a variety of

railroads, and even some public bodies, suggesting that some form of divestiture in the Gulf and in the Central Corridor will create more competition than that proposed by UP-SP and its concomitant settlement with BNSF. Some of these arguments go so far as to suggest that BNSF will not be a viable competitor because it will either be unable to compete on a cost per ton-mile basis, or will simply choose not to exercise the new route and access options the settlement affords them.

As a company, and as an individual committed to this industry and to the future of intermodal in the U.S., we strongly urge you to view those arguments in the larger context of the needs of all shippers. And to bear in mind that facilitating expanded intermodal capacity in the West is critical not just to domestic economic growth but to our global competitiveness as a nation.

Divestiture is not the road to more competitive options for shippers. Fragmentation of SP's route structure among a variety of carriers will not create the capital efficiency of UP-SP, it will not create the route structure platform for a new high speed intermodal network in the West as UP-SP does, nor will it facilitate the investment in next generation intermodal terminals necessary to support the anticipated intermodal growth at our ports. Instead, it will likely create a potential network disaster for domestic and international intermodal shippers and the public at large, as the benefits of UP-SP are lost to route fragmentation.

Why? Because the appetite for plant and terminal capacity in the U.S. is greater than the current rate of reinvestment in the rail industry can sustain. Every major railroad in the U.S. is constrained for capacity today at some point on its route network. Intermodal terminal investment has also, in many markets, not kept pace with demand.

Add to this picture the element of bulk traffic, such as chemicals, coal, and grains which offer the railroad a much higher contribution than intermodal. In a scenario where UP-SP are forced to divest important line segments and a number of less powerful competitors are extended into the Western service territory, the capital efficiency and network specialization (and, therefore, additional capacity) envisioned by UP-SP will disappear. Ultimately, intermodal customers will suffer as bulk traffic absorbs a larger and larger percentage of available capacity.

The Board should closely examine whether adding additional carriers such as Montana Rail Link, Kansas City Southern, or Conrail will create meaningful additional capacity and service for shippers. Because of the unique network nature of the railroad industry, adding competition is not as easy as adding carriers. Once a new carrier reaches an important node in its route structure it

must have access to shippers, whether through terminals or local industrial trackage. We are very doubtful than any carrier, outside UP-SP and BNSF will have the capital resources to provide this capacity.

Intermodal terminals themselves have become enormously expensive. BNSF spent almost \$100 million at its new Alliance facility serving the Dallas-Ft. Worth market; they spent in excess of \$75 million at Willow Springs near Chicago, and they plan an additional \$35 million expenditure to improve the nearby terminal at Corwith. UP's intermodal-related capital spending associated with the SP acquisition, exceeds a quarter billion dollars for intermodal terminals alone, and upgrading much of its line, such as \$360 million dollars to be spent on the Tucumcari line, will primarily benefit intermodal shippers.

Will a Montana Rail Link or KCS make such investments? Are they even in a position to do so? We are skeptical that even Conrail would make such investments in newly acquired lines, given that it hasn't made comparable investments during the past five years on its own intermodal terminals. In our view, no other carrier, nor combination of carriers is likely to do so.

In short, intermodal shippers need a UP-SP competing aggressively with a BN/Santa Fe to facilitate healthy, long term intermodal growth in the West. Even a cursory reading of UP's control application should make it clear that UP's acquisition of SP will lead it to become a much more significant intermodal player in the West than it is today. In my view, the UP would not need to acquire the SP were it not intending to become a long term, first class player in the intermodal arena. BN/Santa Fe already occupies such a position. UP's acquisition of SP simply places it in the same intermodal league as BN/Santa Fe, at the same time that the trackage rights agreement extends BN/Santa Fe into UP-SP territory, where competitive imbalances would exist.

UP is clearly willing to invest in intermodal just as BNSF has. In his opening remarks at the 1995 International Intermodal EXPO in Atlanta, then Santa Fe CEO, Rob Krebs told the audience that he had to ask his board of directors to "take a leap of faith" in approving intermodal investment at Santa Fe's pace, due to the segment's low rate of return. He went on to explain how he believed that intermodal was critical to his company's growth in the West and his faith that for the long term, intermodal's profitability would improve. Intermodal shippers need carriers who are in a position to take that kind of risk and make that kind of commitment. It can only happen in the context of the broader base of traffic that UP-SP and BN/Santa Fe bring to facilitate that investment. Alternative carriers in a divestiture scenario simply don't have that wherewithal.

In my view, intermodal shippers will be severely and negatively impacted by the alternative proposals made to UP-SP with the proposed BN/Santa Fe trackage rights. The key to the future for intermodal shippers is having access to a railroad with the route and terminal capacity to meet our needs for more frequent and higher speed trains, and the rapid loading and unloading of cargo at terminals. This can only come with the kind of capital efficiency proposed by UP-SP, and through the kind of network-wide competitive counterpoise offered with a BN/Santa Fe agreement.

None of the alternative competitive scenarios can offer intermodal shippers these benefits. In fact, I am skeptical of their real comparative value to a UP-SP squaring off against BN/Santa Fe. Having worked for a weak competitor in the Central Corridor for a number of years (Western Pacific), I am very dubious of the real value of "new" competitors who lack the network reach and industrial car gathering and distribution capabilities of these two major systems. In the intermodal context, they will lack adequate terminal facilities to sustain their efforts without very significant new investment, which may also involve acquiring expensive urban real estate.

Additionally, creating a more fragmented network in the West will eliminate the potential network specialization and associated very significant increase in intermodal and carload capacity which UP-SP will bring, not to mention the potential loss of BNSF as a balancing competitor throughout the West.

As to BNSF's "real" ability to compete via trackage rights or its "real" interest in negotiating aggressively with shippers to exercise its new franchise under the agreement with UP-SP, the protestants' arguments again strain credibility. Does anyone at the Surface Transportation Board really believe that BN/Santa Fe's Ron Krebs would sign off on an agreement, the economic terms of which would leave his company unable to aggressively compete for UP-SP's traffic? Certainly I do not credit that argument. Nor did Krebs himself in testimony before the Texas Railroad Commission, in which he made it quite clear that the agreement was not only economically viable but beneficial.

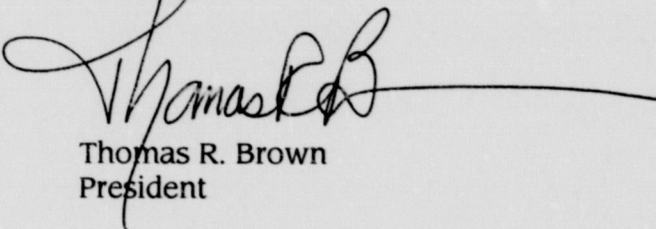
Nor does the argument that railroads cannot effectively compete with one another via trackage rights bear out from our experience. The simple fact is that there are many positive examples of trackage rights today, over which consistent, high quality intermodal service are provided. Furthermore, in the future, as UP-SP and BN/Santa Fe are envisioned, there will be much more interdependence between these roads, giving them every reason to cooperate effectively with one another in their respective operations over trackage rights.

In summary, we believe even more strongly today than we did some months ago, that UP-SP along with the BN/Santa Fe settlement is in the public interest.

Mr. Vernon A. Williams
April 3, 1996
Page 5

And we believe it is of critical importance to intermodal shippers. As a consequence, we urge the Surface Transportation Board to approve these transactions as they have been submitted.

Sincerely,



Thomas R. Brown
President

TRB/lc

State of California

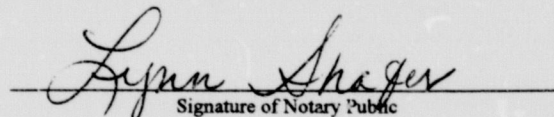
County of Contra Costa

On April 3, 1996 before me, Lynn Shafer, Notary Public, personally appeared Thomas R. Brown



personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.


Signature of Notary Public

STB

FD

32760

4-3-96

D

62544

Item No. _____

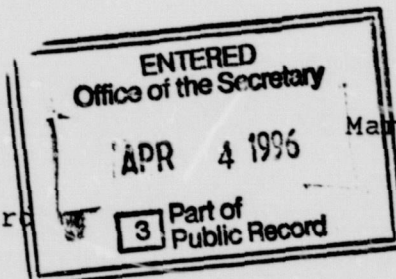
Page Count _____

Apr #175

FD 30760

62544

Secretary
Surface Transportation Board
Washington D.C. 20590



March 25, 1996



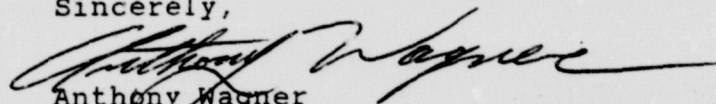
Dear Mr. Secretary:

I urge the Surface Transportation Board to reject the merger of the Union Pacific and the Southern Pacific Railroads. It is far more anti-competitive than the Santa Fe-Southern Pacific merger that was rejected in 1988. A merger of this magnitude will create a monopoly that will hold employees, their families, businesses and other railroads hostage. A hundred years ago, America cracked down on railroads to prevent them from doing just that. Don't bring those monopolies back again!

As a worker whose job is threatened by this merger, I can tell you thousands of communities, consumers and shippers will be abused by corporate giants once rail competition is destroyed. Don't decimate jobs so that greedy owners can get richer. This merger is bad for our country all around.

Please reject this merger.

Sincerely,


Anthony Wagner
203 Plainfield Pike
Foster, RI 02825

Ps) I work for the PROVIDENCE AND WORCESTER RAILROAD COMPANY

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 06-03-02 BY 302

02 MAR 50 BN 3:02

**ADVISE OF ALL
PROCEEDINGS**

STB

FD

32760

4-3-96

D

62543

Item No. _____

Page Count 1

Apr #174



DICKINSON COUNTY COURT HOUSE

ABILENE, KANSAS 67410

Mr. Vernon Williams
Surface Transportation Board
Department of Transportation
Room 3315
12th and Constitution, N.W.
Washington, D.C. 80423-0001

ENTERED
Office of the Secretary

APR 4 1996

5 Part of
Public Record

28 March 1996

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 Corporation and the Denver and Rio Grande
Western Railroad Company

Dickinson County is located in North Central Kansas approximately 120 miles west of Kansas City. Our population is nineteen thousand plus people with agriculture as the County's primary resource. Dickinson County depends on the railroad to ship from the grain elevators in this county to the marketplace.

The proposed merger and abandonment of the Missouri Pacific Rails will in some cases eliminate this County's transcontinental connections.

Also at risk is the loss of direct tax revenue and valuation in our county which are needed to operate our budgets within our county. This loss will result in decreased governmental services, loss of tax dollars for road and bridge maintenance and loss of revenue for our school districts.

We support the Mountains-Plains Communities and Shippers Coalition and believe that any merger proceedings should include a complete divestiture of the Mo-Pac line from Kansas City to Pueblo; as well as divestiture of the Denver and Rio Grande line from Pueblo and Dotsero, and Dotsero to the west coast. Divestiture of a Class 1, or highest possible railroad, to keep this transcontinental central corridor line intact and operating would be in everyone's best interest.

ATTEST

Sandra K. Emig

Sandy Emig, County Clerk

Board of Dickinson County Commissioners

Melvin Leckron

Melvin Leckron, Chairman

STB

FD

32760

4-3-96

D.

62542

Item No. _____

Page Count 1

Apr #173

Commissioners:
George Keener
Bob Tammen
Lon Wells

Mr. Vernon Williams
Surface Transportation Board
Department of Transportation
Room 3315
12th and Constitution, N.W.
Washington, D.C. 80423-0001

SH COUNTY COMMISSION

County Courthouse, P.O. Box 220
LaCrosse, Kansas 67548

March 27, 1996

ENTERED
Office of the Secretary

APR 4 1996

3 Part of
Public Record



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 Corporation and the Denver and Rio
Grande Western Railroad Company.

Rush County is located in West Central Kansas about one hundred
seventy miles east of the Colorado State line. The population is 3541, with
agriculture and beef as the county's primary resources. Rush County depends
on the railroad to ship from the grain elevators in this county to the marketplace.

The proposed merger and abandonment of the Missouri Pacific Rails will
isolate this county from all transcontinental connections except by highway.
There will be a large increase in the costs of transporting grains by truck,
including the added costs in maintaining the highway overloads.

The abandonment of the Missouri Pacific Rail system will affect Rush
County in its loss of direct tax revenue and valuation. This loss will result in
decreased governmental services, road and bridge maintenance, and will
negatively affect our school districts.

We support the Mountains-Plains Communities and Shippers Coalition and
believe that any merger proceedings should include a complete divestiture of the
Mo-Pac line from Kansas City to Pueblo, Colorado, as well as divestiture of the
Denver and Rio Grande line from Pueblo to Dotsero, and from Dotsero to the
Pacific coast. Divestiture of a Class I, or highest possible railroad, to keep this
transcontinental central corridor line intact and operating.

Board of Rush County Commissioners:

George Keener
George Keener

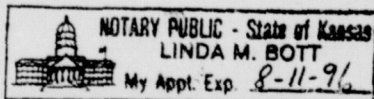
Bob Tammen
Bob Tammen

Lon E. Wells
Lon Wells

Attest:

Linda M. Bott, County Clerk
State of Kansas
County of Rush

On this 27th day of March, 1996, I certify that the preceding document is
true, exact and complete.



Notary Public

Linda M. Bott OF ALL
PROCEEDINGS

STB

FD

32760

4-3-96

D

62541

Item No. _____

Page Count 1

Apr #170

62541

Secretary
Surface Transportation Board
400 7th St. S.W.
Washington D.C. 20590



March 25, 1996

ENTERED
Office of the Secretary

APR 4 1996

Part of
Public Record

Dear Mr. Secretary:

I urge the Surface Transportation Board to reject the merger of the Union Pacific and the Southern Pacific Railroads. It is far more anti-competitive than the Santa Fe-Southern Pacific merger that was rejected in 1988. A merger of this magnitude will create a monopoly that will hold employees, their families, businesses and other railroads hostage. A hundred years ago, America cracked down on railroads to prevent them from doing just that. Don't bring those monopolies back again!

As a worker whose job is threatened by this merger, I can tell you thousands of communities, consumers and shippers will be abused by corporate giants once rail competition is destroyed. Don't decimate jobs so that greedy owners can get richer. This merger is bad for our country all around.

Please reject this merger.

Sincerely,

Kendall W. Field

ADVISE OF ALL
PROCEEDINGS

STB

FD

32760

4-3-96

D

62540

Item No. _____

Page Count 2

Apr # 169

625-40

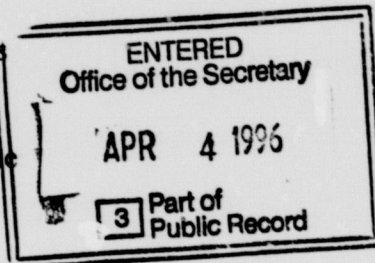
Medina County, Ohio

Fred H. Huff
Director

Medina County Economic Development Corporation
144 N. Broadway Medina, Ohio 44256 (216) 722-9215
FAX: (216) 722-9206

March 26, 1996

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



Dear Secretary Williams:

I am concerned that the proposed Union Pacific-Southern Pacific railroad merger is not in the public interest in Northeast Ohio. We would be far better served if the UP-SP's eastern routes were, as part of the proposed merger, sold to Conrail, not leased to another western railroad.

My reasoning is straightforward. First, our industrial companies, particularly in the booming polymers sector, need direct service to raw materials and markets in the Gulf "chemical coast" region and to Mexico. Second, we believe that an owner-carrier, such as Conrail, would have greater incentive to improve markets along the route. Third, by keeping Conrail strong, we ensure a variety of service options and strong price competition among the major railroads in our region, namely CSX, Norfolk and Southern, and Conrail.

Finally, and most important, we believe the Conrail proposal is in the best interest of the industrial, manufacturing and transportation workers of our region. It combines efficient transportation, economic development, and continued employment opportunities. These are keys to the public interest.

For those reasons, our organization, would oppose the proposed merger unless it includes the Conrail purchase of the eastern lines of the old Southern Pacific. Only with the Conrail acquisition will Northeast Ohio economies be maximally serve.

Thank you for your consideration.

Sincerely,

Fred H. Huff

Fred H. Huff
Executive Vice President

EHH/sc

**ADVISE OF ALL
PROCEEDINGS**

cc: Mayor Roberts
Mike Morse

STB

FD

32760

3-29-96

D

62247

Item No. _____

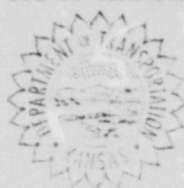
STATE OF KANSAS

62247

8

Page Count 16

Mar # 721



KANSAS DEPARTMENT OF TRANSPORTATION

E. Dean Carlson
Secretary of Transportation

Docking State Office Building
Topeka 66612-1568
(913) 296-3566
TTY (913) 296-3585
FAX (913) 296-1095

Bill Graves
Governor of Kansas

March 28, 1996

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

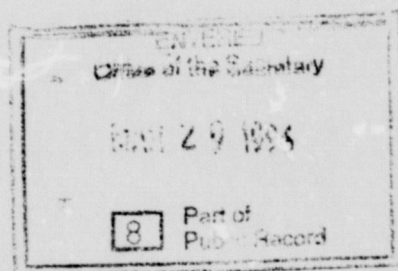


Attention: Office of the Secretary, Case Control Branch,
Attn: Finance Docket No. 32760, Union Pacific Corporation Union
Pacific Railroad and Missouri Pacific Railroad -- Control and
Merger -- Southern Pacific Rail Corporation, Southern Pacific
Transportation Company, St. Louis Southwestern Railway Company,
SPCSL Corp., and The Denver and Rio Grande Western Railroad Company

Dear Secretary Williams:

Enclosed for filing in the captioned docket is the original
and twenty copies of the State of Kansas's comments to Applicants
merger application. In accordance with prior Commission orders, we
have enclosed a Word Perfect 5.1 diskette containing the
aforementioned filing.

Respectfully submitted



John R. Scheirman
Chief, Bureau of Rail Affairs
Attorney at Law
Kansas Supreme Court #11191

John Jay Rosacker
John Jay Rosacker

Attorney at Law
Kansas Supreme Court #10703
Bureau of Rail Affairs
Kansas Department of
Transportation
217 SE 4th
Topeka, KS 66603
(913) 296-4286

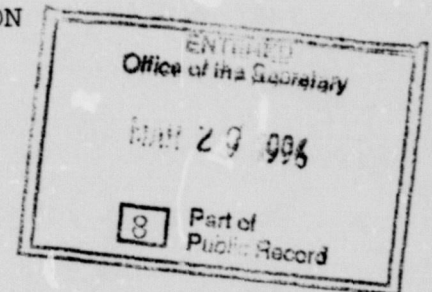
BEFORE THE
SURFACE TRANSPORTATION BOARD



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 DEPARTMENT OF TRANSPORTATION
COMMENTS



John Jay Rosacker
Attorney at Law
Bureau of Rail Affairs
Kansas Department of
Transportation
217 SE 4th
Topeka, KS 66603

Date: MARCH 28, 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

KANSAS DEPARTMENT OF TRANSPORTATION
COMMENTS

Comes now the Kansas Department of Transportation (KDOT) on behalf of the Governor's Railroad Working Group and the State of Kansas before the Surface Transportation Board (Board) and files its comments in this docket.

KDOT is authorized by the State of Kansas to coordinate the planning, development and operation of the various modes and systems of transportation in Kansas. KDOT has represented the public interests of the State of Kansas in a number of Interstate Commerce Commission proceedings. KDOT is the designated state rail planning agency pursuant to 49 U.S.C. 1654 and administers the Local Rail Freight Assistance Program. KDOT is responsible under the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), 23 USC 1000 et seq. for the development and implementation of the state long range planning process, statewide transportation

plan, and intermodal transportation management system. The Bureau of Rail Affairs, within KDOT, coordinates all rail transportation matters, and is authorized to act herein by E. Dean Carlson, Secretary of Transportation.

RELEVANT LAW

Under 49 U.S.C. § 11344(c), the Board is required to approve and authorize a rail consolidation or control transaction when it is found to be consistent with the public interest. In applying this public interest test, the Board and its predecessor, the Interstate Commerce Commission (hereinafter referred to collectively as "the Board") have long been guided by the Congressional intent to "encourage mergers, consolidations, and joint use of facilities that tend to rationalize and improve the Nation's rail system."¹

Consistently the Board has balanced the public benefits of the transaction against the costs of the transaction, where the public benefits encompass more efficient service and increased competition and the costs are any adverse effects on competition or loss of essential services. Thus, the Board performs a balancing test, weighing the "potential benefits to applicants and the public against the potential harm to the public."²

In applying its public interest balancing test, the Board has considered reduction in competition as a potential harm. The criteria for imposing conditions to remedy anti-competitive effects

¹ UP/MP/WP, 366 I.C.C. at 484.

² NS, 366 I.C.C. at 192

were set out in Union Pacific--Control--Missouri Pacific; Western Pacific, 366 I.C.C. 462. There the Board stated that they will not impose conditions unless they find that the consolidation may produce effects harmful to the public interest (such as a significant reduction of competition in an affected market), that the conditions to be imposed will ameliorate or eliminate the harmful effects, that the conditions will be operationally feasible, and that the conditions will produce public benefits (through reduction or elimination of the possible harm) outweighing any reduction to the public benefits produced by the merger.

KANSAS COMPETITIVE CONCERNS

The State of Kansas, like the Board, is also responsible to its citizens and shippers to weigh the benefits and harms of proposed changes to its transportation system. As representatives of the people of the State of Kansas, the Working Group's purpose in this matter has been to reinforce the "public interest" aspect of these proceedings by focusing on the proposed merger's present and future effects on the Kansas public. The Railroad Working Group of state agencies was activated by Governor Bill Graves on September 6, 1995 to attain that goal. The group's mission was to identify, analyze, and summarize the potential impacts on the State of Kansas of the proposed merger, and recommend a policy position. The following agencies were assigned: Transportation (lead agency), Corporation Commission, Agriculture, Revenue, Commerce and Housing, Human Resources, Kansas State University and the

Governor's office.

At the outset the Railroad Working Group was very concerned with the competitive issues in this merger and their potential effects on Union Pacific's and Southern Pacific's essential service to Kansas. To ascertain the effects of the merger, the Railroad Working Group held hearings to obtain input from interested parties. The following is a summary of input received from the UP/SP, Kansas City Southern (KCS) and Kansas Shippers Association. The comments are those of the parties testifying, not of KDOT or the Rail Working Group.

UP/SP

On August 3, 1995, Union Pacific and Southern Pacific announced their intentions to merge. Generally the railroads described the merger as a means to provide dramatic service improvements to shippers, significantly strengthen western rail competition, and generate savings of \$500 to \$750 million dollars annually for the combined railroads. On September 26, 1995 Union Pacific and Southern Pacific announced that their railroads had entered into a comprehensive agreement with Burlington Northern Santa Fe Railroad (BNSF) to preserve and intensify rail competition in the west by granting trackage rights and line sales of nearly 4,100 miles to BNSF. This agreement is intended to allow BNSF to serve every shipper that is presently served jointly by the UP and SP today.

Specifically to Kansas, UP and SP outlined for the Working

Group its proposed increased expenditures on the Topeka to Denver line; Topeka to El Paso Tx; and Herington to Fort Worth Tx. The total expenditure for these routes is estimated to be \$324 million dollars. Of that amount, expenditures in Kansas could be expected to reach \$110 to \$130 million dollars. With the upgrade in these lines, UP will increase daily trains on each of the lines described as follows: Topeka to Denver 2 trains to 8 trains; Topeka to El Paso 11 trains to 20 trains; and Herington to Fort Worth 2 trains to 12 trains. UP and SP are going to use their Topeka connection to route traffic away from Kansas City. This "Kansas City By-pass" will allow UP to speed up its unit trains of coal and grain going south to Texas by avoiding the congestion in the Kansas City area.

In the UP/SP merger application over the five years this merger implementation is to take place, the Kansas City metro area will lose 111 jobs (mostly carmen from a rail car repair shop that is being moved to El Paso), while Herington, Council Grove, Coffeyville and Hoisington will lose 27, 40, 17 and 75 jobs respectively. Correspondingly Pratt, Oakley and Salina will increase jobs in the following numbers, 72, 34 and 17.

At the present time SP brings a significant amount of rail traffic across the Herington to Pueblo, Colorado line. Under this proposal all such traffic will be diverted to other lines. UP/SP plans to abandon its Pueblo to the Colorado border line and operate the rest of the remaining (Kansas) line as a branchline or lease it to a shortline operator.

KCS

The proposed merger will eliminate rail competition for over \$1.65 billion in annual freight traffic revenue. KCS claims the proposed merger and BNSF agreement will provide merely a facade of competition. An examination of trackage rights imposed in previous merger cases clearly shows that extensive rights have not been an effective solution to merger related competitive concerns. This proposed merger and the BNSF agreement will have the two railroads controlling 90% of all rail traffic west of the Mississippi. The absence of effective competition as well as the potential for a "shared monopoly" will not provide adequate competition for shippers in the market.

As these issues relate to Kansas, KCS has requested trackage rights from Topeka to Herington and then south through Wichita to the Gulf. KCS claims studies have found that the reduction of the number of rail competitors in a market from three to two (Wichita) can significantly increase freight rates. Over \$3.9 billion of the nation's freight traffic will see a reduction from three to two rail carriers as a result of an UP/SP merger. KCS has proposed it be allowed to exercise SP's trackage rights from Wichita to the Gulf and it has also proposed to work with Wichita to re-establish an intermodal facility if KCS is permitted to serve Wichita.

Kansas Shippers Association

The Association is very worried that these mergers will reduce service, increase rates, harm the viability of the shortline

railroads who serve them and reduce their ability to compete in today's environment. The Kansas Shippers Association is made up of a group of rail shippers served by facilities of the BNSF, SP, UP and shortline railroads in Kansas (30 to 45 members total). These shippers worked hard in the BNSF merger to get SP trackage rights into Wichita. The Association's intent was to get a viable third carrier in Wichita to compete with BNSF and UP. With the UP/SP merger that accomplishment has been negated. The association now wants to put another railroad in SP's place, preferably the KCS.

Since the Working Group's meetings several other issues have developed. Two railroads, the Wisconsin Central and the Montana Rail Link, have requested trackage rights over the Central Corridor, which would include the Pueblo to Herington line. In other venues, the City of Wichita and Sedgwick County have voiced their concerns that the increased rail traffic through Wichita resulting from the Kansas City Bypass would cause safety, traffic and competitive business problems.

After reviewing the relevant law, the facts presented by the merging railroads and input from concerned shippers, affected communities, other rail carriers and railroad labor, the Railroad Working Group and KDOT have been authorized by Governor Bill Graves to support the UP/SP merger, if the three following conditions are addressed. As outlined in Governor Graves' letter of March 28, 1996, (a copy of which is included hereto and incorporated and referred herein as "Exhibit A",) KDOT and the Railroad Working group hereby respectfully request the Surface Transportation Board

to study the following conditions and use its professional expertise to protect the best interests of Kansas citizens within the framework of federal law::

1. A significant impact will occur along the line from Herington, Kansas to Pueblo, Colorado. According to the merger application, this main line will be downgraded in Kansas and completely abandoned in Colorado. This will adversely affect communities and shippers in the heart of wheat country, where competitive rail service is critical. The State of Kansas wants reliable & affordable rail service on the Herington to Kansas/Colorado railline to be maintained in a reasonable fashion, and the State of Kansas would support a lease or sale of this line to a Class I. If the line is sold or leased to a shortline railroad, we request your assistance to insure that the new operator has a good reputation and operating history and it has competitive access to other Class I's and markets in Salina, Hutchinson and Wichita. Quality service needs to be maintained to insure the economic health of Western Kansas.

2. The City of Wichita will also suffer a decrease in competition, from three major carriers to two. The State of Kansas has explored options to retain a third Class I railroad in Wichita, and we believe viable alternatives are available. We urge the Board to bring a third Class I railroad back into the Wichita market if the merger is approved provided a qualified applicant is available.

3. Finally, the increased traffic density of the "Kansas

City By-pass" will exacerbate historic problems with rail crossings in several Kansas communities. We would particularly direct the Board's attention to the unusually difficult situation in Wichita. We realize the Board does not traditionally consider rail crossings in merger cases, but public safety, quality of life and economic well being are truly at stake and we feel it should be viewed as one respect of the public's interest. We would appreciate the Board's efforts to craft a reasonable solution to the congestion problems in Wichita by using its lawful authority in conjunction with this merger case to bring the parties together around a workable plan.

The Railroad Working Group encourages the Board, to ultimately approve the merger, if the above conditions are satisfied.

CONCLUSION

KDOT as the lead agency for the Governor's Railroad Working Group requests that the Board carefully review the evidence presented by all parties in this case and approve the merger as meeting the public interest test; subject to the appropriate action on the following conditions:

1. Downgrading of the main line from Herington, Kansas to the Kansas/Colorado border and abandonment in Colorado will significantly affect communities and shippers in the heart of wheat country, where competitive rail service is critical. Conditions are needed to assure that quality service is maintained by another Class I and/or a viable shortline railroad in providing continued rail service on this line.

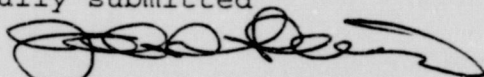
2. The City of Wichita will also suffer a decrease in competition, from three major carriers to two. Conditions should be imposed to bring a third Class I railroad back into the Wichita market if the merger is approved.

3. The increased traffic density of the "Kansas City Bypass" will exacerbate historic problems with rail crossings in several Kansas communities, notably the unusually difficult situation in Wichita. Considering safety as an important aspect of the public interest, the Board should seek to craft a reasonable solution to the congestion problems in Wichita, by bringing the parties together on that issue, and imposing appropriate conditions to arrive at a resolution.

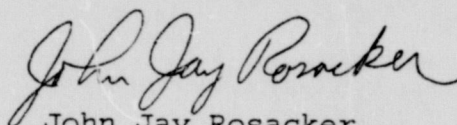
In conclusion, the Kansas Department of Transportation and the Kansas Governor's Railroad Working Group encourages the Board, in considering the public interest conditions described above, to weigh the benefits to UP/SP of an unconditional approval against

any costs of addressing these problems, and to fully consider the public interest in these matters. With the concerns stated above, the State of Kansas through KDOT and The Railroad Working Group hereby conditionally supports the approval of the proposed merger of the UP and SP railroad systems.

Respectfully submitted



John R. Scheirman
Chief, Bureau of Rail Affairs
Attorney at Law
Kansas Supreme Court #11191



John Jay Rosacker
Attorney at Law
Kansas Supreme Court #10703
Bureau of Rail Affairs
Kansas Department of
Transportation
217 SE 4th
Topeka, KS 66603
(913) 296-4286

STATE OF KANSAS

EXHIBIT A

BILL GRAVES, Governor
State Capitol, 2nd Floor
Topeka, Kansas 66612-1590

(913) 296-3232
1-800-432-2487
TDD: 1-800-992-0152
FAX: (913) 296-7973

OFFICE OF THE GOVERNOR

March 28, 1996

Vernon Williams, Secretary
Surface Transportation Board
Department of Transportation
1201 Constitution Avenue, NW
Washington, DC 20423

RE: Finance Docket #32760

Dear Secretary Williams:

The railroad industry continues to fulfill its historically significant role in serving agriculture and industry in the State of Kansas. Our manufacturers and agricultural producers rely on competitive access to distant markets, and vital goods are transported across our state on a daily basis. As the geographical center of the continental United States, Kansas proudly serves as the distribution hub to markets throughout our nation.

My family owned and operated an interstate motor carrier for almost fifty years. Our success over the years was due in part to our ability to make acquisitions and merge with other motor carriers. As a result, I am a firm believer in the free enterprise system.

The proposed merger of Union Pacific and Southern Pacific will create economic efficiencies, which in turn will provide finances for corridor upgrades and other capital investments in Kansas. The merger will potentially bring substantial improvements in rail service, particularly along Southern Pacific lines which have suffered from the railroad's weak competitive position. For these reasons, I support the merger.

My support for the merger is conditioned upon the resolution of three potential negative impacts on my state. These are concerns I share with several Kansas communities and shippers. I respectfully ask the Surface Transportation Board to study the following three issues and exercise its authority and responsibility to protect the best interests of Kansas citizens.

Two of my concerns focus directly on reductions in competition:

- A significant impact will occur along the line from Herington, Kansas to Pueblo, Colorado. According to the merger documents, this main line will be downgraded in Kansas and completely abandoned in Colorado. This will adversely affect

Vernon Williams
Surface Transportation Board
Page 2
March 28, 1996

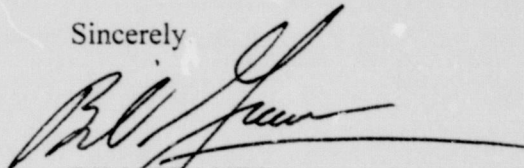
communities and shippers in the heart of wheat country, where competitive rail service is critical. The Surface Transportation Board must ensure reliable and affordable rail transportation to the communities and shippers along this line.

- The City of Wichita will also suffer a decrease in competition, from three major carriers to two. My staff has explored options to retain a third Class I railroad in Wichita and believes them to be possible and practical. Please consider bringing a third Class I railroad back into the Wichita market if the merger is approved.

The third issue of concern involves the safety, quality of life, and economic well-being of Kansans. The increased traffic density on the "Kansas City By-pass" will exacerbate historic problems with rail crossings in several Kansas communities. I would particularly direct your attention to the serious situation in Wichita, the state's largest population center. I realize you do not traditionally consider rail crossings in merger cases, but your analysis weighs the "public interest," and public safety, quality of life and economic health are truly at stake. I would ask that you condition your approval of the merger upon a reasonable solution to these problems.

I encourage you to ultimately approve the merger, while protecting the interests of Kansans. Union Pacific and Southern Pacific have been good corporate citizens in the State of Kansas, and I look forward to a continuing positive relationship with the merged corporation.

Sincerely

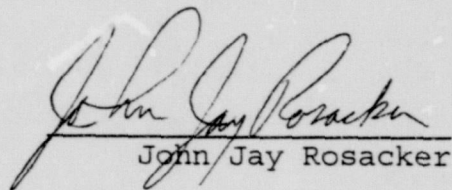


BILL GRAVES
Governor

BG:rf

CERTIFICATE OF SERVICE

COPIES OF THE STATE OF KANSAS'S COMMENT OF APPLICANTS PETITION TO MERGE HAS BEEN SERVED THIS 28TH DAY OF MARCH, 1996 BY FIRST CLASS MAIL, POSTAGE PREPAID, ON PARTIES OF RECORD:


John Jay Rosacker

STB

FD

32760

3-29-96

D

62224

Item No. _____

Page Count 24

Mar #704

OFFICE OF THE GOVERNOR
STATE OF MONTANA

244
62224

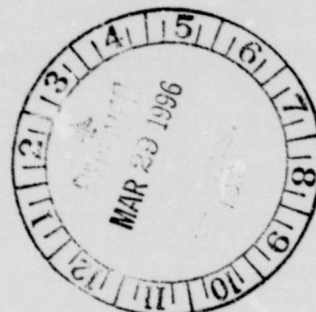
MARC RACICOT
GOVERNOR



STATE CAPITOL
HELENA, MONTANA 59620-0801

March 28, 1996

Vernon A. Williams, Secretary
Attn. Finance Docket 32760
Surface Transportation Board
1201 Constitution Avenue NW
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 Sir:

Enclosed please find the original, 20 copies and a diskette in WP format of Governor Marc Racicot's Request for Conditions and Comments, pursuant to the procedural schedule adopted by the Surface Transportation Board.

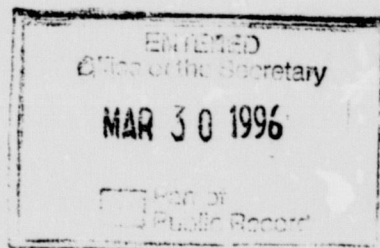
Please receipt duplicate copy of this transmittal and return in the enclosed self-addressed stamped envelope.

Sincerely,

Linda E. Reed

LINDA E. REED
Senior Economic Development Advisor

Enc.



ORIGINAL

MTGO -5

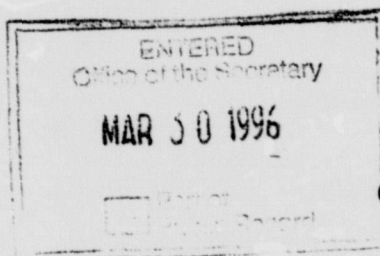
Before The
Surface Transportation Board

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 Corporation.,
and The Denver Rio Grande Western Railroad Company



**Request for Conditions
and
Comments**



submitted on behalf of
the
**State of Montana,
Office of Governor Marc Racicot**

Governor Marc Racicot, State of Montana, (MTGOV) pursuant to the procedural schedule adopted by the Interstate Commerce Commission (the Commission) and thereafter by the Surface Transportation Board (the Board) in this proceeding, and the Commission's regulations, hereby submit the following evidence and argument in support of (1) the specific protective conditions MTGOV has requested the Commission place on its approval of the Railroad Control and Merger Application ("Application") submitted by Union Pacific Corporation (UP) et al, and Southern Pacific Rail Corporation (SP) et al.; and (2) MTGOV's comment on the Application.

I. INTRODUCTION AND SUMMARY OF RELIEF REQUESTED

MTGOV represents the State of Montana's interest. The State of Montana is a state with tremendous natural resources. Its base economies center around products of the mine, lumber

and agriculture as well as tourism. Products of the mine, lumber and agriculture require bulk transportation to points outside Montana in order to have economic value. The proposed merger and consolidation of the Union Pacific and Southern Pacific could have serious detrimental adverse effects on existing competition among rail carriers who serve Montana. Specifically, the Pre-Merger agreement filed with this application could alter long standing cross-country competitive relationships and further increase the monopolistic control of the Burlington Northern (BN) over Montana transportation. Accordingly, MTGOV respectfully requests the Board, pursuant to its authority under 49 U.S.C. § 11344 (c) of the Interstate Commerce Act, to impose conditions requiring the Applicants, upon consummation of their proposed merger and consolidation, to preserve the present rail balance, albeit limited, within the State of Montana. Those requested conditions, and the reasons why such conditions must be imposed, are specified in detail in this submittal.

Montana's primary transportation movements are bulk materials requiring movement to domestic and foreign destinations outside the State of Montana. Therefore, the State's economic survival depends on having access to good, affordable rail transportation and attendant facilities, so that its shippers can deliver a competitively priced product outside the state boundaries, which, in turn, depends on having essential transportation facilities adequately available to consolidate shipments into trainload quantities.

A. Outline of MTGOV's Submittal

This Request for Conditions and Comment is divided into three Sections:

- (1) Section 1 - entitled "Statement of Fact"
- (2) Section 2, entitled "Summary of Evidence and Argument," generally summarizes the facts relating to transportation in Montana, the adverse effect on competition that will be caused by this merger, the legal standards applicable to the Commission's consideration of this question, and the reasons

points in Montana, not just the western half of the state.

4. UP line guarantee - obtain guarantee from the UP of continued integrity and operation of Butte - Pocatello line. The maintenance of limited competitive balance, in this merger, requires and necessitates, the assurance of guaranteed continuation of service with on-going maintenance and upgrades without the potential threat of or eventual abandonment. MTGOV seeks, from this Board, the continuing oversight of this merger for 20 years to insure that the above line guarantee is honored and the competitive position of the UP is adequately maintained for Montana. In the alternative, MTGOV seeks the sale of the line between Pocatello, ID and Silver Bow, MT to Montana Rail Link (MRL) together with the granting of a proportional rate agreement with competitive pricing schemes, similar to the Pre-Merger Agreement between UPSP and BNSF for all traffic moving over Silver Bow, MT from all Montana origins and with the same guarantee of continuation of service as that requested of the UP in this proceeding.

SECTION 1 - STATEMENT OF FACTS

II. STATEMENT OF FACTS

The Montana Transportation Environment Has Changed

The Montana transportation environment has changed from multiple transcontinental railroads to one railroad to handle the major portion of outbound traffic, all with regulatory concurrence. Montana's primary transportation movements are bulk materials requiring movement to domestic and foreign destinations. Therefore, the State's economic survival depends on having access to good affordable rail/motor carrier transportation as well as facilities so that its shippers can deliver a competitively priced product. Timely economical movement depends on having essential transportation facilities adequately available to move, with dispatch,

the goods of commerce from Montana.

Montana's Economy Is Founded on Base Industries

The history of Montana's transportation system and infrastructure development, mirrors changing demand for Montana's products of the land, mine and forests. Montana is a base industry state. In the 1800's its chief industries were mining, lumber and agriculture; today and in the future, Montana's chief industries will be the same three industries, with perhaps the addition of tourism. When Montana was settled, the Northern Pacific Railroad (NP) was constructed through the southern part of the state, utilizing land grants provided by the Federal and State governments. A second transcontinental railroad was constructed through the Northern part of the state, and was known as the "high line," namely the Great Northern Railway Company (GN) and finally a third major transcontinental line was built through the state in the 1930's and 1940's, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW). The Union Pacific, trying to tap into the riches of the Butte/Anaconda, MT mining region extended their line from Idaho Falls, ID (located north of Pocatello, ID) into Silver Bow, MT, thus providing a north-south transportation haul.

The major railroads, in Montana, interfaced with local motor carriers predominately, and provided transportation to move bulk commodities from Montana to markets in the east where population centers were located. So there was a predominant movement to the east for Montana goods. Today, however, virtually all Montana wheat moves to the Pacific Northwest Coast (PNW), i.e. in a westerly direction and into international commerce to fulfill the growing demands for export wheat in the Pacific Rim markets. Montana's barley market is characterized by both domestic rail and export rail movements.

In 1970, the Interstate Commerce Commission (Commission), after many years of deliberation, finally approved the merging of the Northern Pacific, the Great Northern, and the Chicago, Burlington and Quincy into what is known today as the Burlington Northern.

The Commission in its decision in the *Northern Lines case*, 331 ICC 228, thought the

Montana Is Nationally Ranked In Agricultural Production

(Based on 1994 figures)

Table MTGOV-1 (Source: *Montana Agricultural Statistics Service*).

| | | |
|--------------|-------------|----|
| All Wheat | 170,520,000 | 1 |
| Winter Wheat | 64,750,000 | 1 |
| Durum Wheat | 5,500,000 | 4 |
| Spring Wheat | 100,270,000 | 2 |
| Barley | 62,000,000 | 3 |
| Oats | 1,600,000 | 15 |

OUTLINE OF INDUSTRY IN MONTANA

1. The wheat industry in Montana is characterized by export-dominant rail movement.
2. The barley industry in Montana is characterized by both an export and domestic market dominated by rail.
3. The lumber industry in Montana is characterized by both an export and domestic market dominated by rail.
4. The coal industry in Montana is characterized by domestic rail movement.

SECTION 2 - SUMMARY OF EVIDENCE AND ARGUMENT

- III. THE INTERSTATE COMMERCE ACT, AS AMENDED BY INTERSTATE COMMERCE TERMINATION ACT AND THE STAGGERS ACT, REQUIRES THE SURFACE TRANSPORTATION BOARD TO BROADLY IDENTIFY POTENTIALLY HARMFUL COMPETITIVE EFFECTS OF A PROPOSED MERGER AND TO MITIGATE THOSE EFFECTS WHEREVER POSSIBLE

Under Section 11343 of the IC Act, a consolidation or merger of two carriers may be carried

Milwaukee Road and Union Pacific would provide responsible competitive balance for the State of Montana transportation users for many years to come. However, the Union Pacific could only offer limited influence and the Milwaukee Road filed for bankruptcy in 1978, subsequently it abandoned its line in Montana and ceased to exist in Montana in 1981.

Today, in Montana, we have one major railroad, the Burlington Northern Railroad, operating as a monopoly in the transportation of bulk commodities from the farm to market, a situation the Commission has deemed a 'market dominant' transportation condition in the *McCarty Farms Case*, Docket Nos. 37809, 37809 (Sub-No.1).

Montana is a landlocked state, with no direct access to waterborne transportation. Other than rail, Montana products must travel by motor carrier, which, for most bulk commodities, is prohibitively expensive and not practical for the large tonnage involved.

In fact, in 1994, just over 90% of the wheat produced in Montana moved out of state with over 94% of that wheat moving west. Over 88% of that Montana wheat was exported at the coast through Portland, (in excess of 100,000,000 bushels), with over 95% moving via rail (BN) (*Source: Montana Grain Movement Report*). Montana is a large producer of grains. Based on 1994 production, Montana ranked 3rd in all wheat production, 7th in winter wheat production, 4th in durum wheat production, 2nd in spring wheat production, 3rd in barley production, and 15th in oats production in the U.S.

out only with the approval and authorization of the Board. 49 U.S.C. § 11343 (c). The agency must carefully and broadly consider the potential adverse effects on competition among rail carriers in an affected region. Where a proposed merger results in harmful competitive effects, the Board must impose conditions on the merger to eliminate those effects, as long as the conditions are operationally feasible and will produce results which are of greater benefit to the public than they are detrimental to the transaction.

A. The Statutory Standard

The Interstate Commerce Act, in 49 U.S.C. § 11344 (b)(1), requires the Commission to consider, in a proceeding involving the merger of two or more Class I railroads, at least the following:

- (1) The effect of the proposed transaction on the adequacy of transportation to the public.
- (2) The effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.
- (3) The total fixed charges that result from the proposed transaction.
- (4) The interest of carriers' employees affected by the proposed transaction.
- (5) Whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region.

The statute directs the Board to "approve and authorize a transaction...when it finds the transaction consistent with the public interest." 49 U.S.C. § 11344 (c). The same section also provides that "[t]he Commission may impose conditions governing the transaction." *Id.*

The history of rail mergers that have been approved, show that the anti competitive effects of mergers have not been adequately addressed and have caused hardship on many classes of

transportation users. Currently the Board is relying on criteria for imposing conditions to remedy anti-competitive effects as set out in *Union Pacific—Control—Missouri Pacific; Western Pacific*, 366 I.C.C. 462, 562-65 (1982).

The Commission in that decision stated:

- that it would not impose conditions on a railroad consolidation unless it found that the consolidation may produce effects harmful to the public interest (such as a significant reduction of competition in an affected market),
- that the conditions to be imposed will ameliorate or eliminate the harmful effects, that the conditions will be operationally feasible, and
- that the conditions will produce public benefits (through reduction or elimination or possible harm) outweighing any reduction to the public benefits produced by the merger.

The Commission in that same decision recognized that “the rail transportation policy emphasizes the importance of the relationship between ensuring adequacy of transportation and the retention of competition.” *Union Pacific—Control—Missouri Pacific; Western Pacific*, 366 I.C.C. 462, 484 (1982).

B. The Board Must Identify Potentially Harmful Competitive Effects and Mitigate Those Effects Wherever Possible

The Commission at 363 I.C.C. 786-87 stated that in rail merger consideration of anti-competitive effects, “we are necessarily also concerned about any significant ‘lessening’ or ‘reduction’ in competition caused by a consolidation.”

In 49 C.F.R. § 1180.1(c), the Board’s policy statement on major rail mergers states that:

[i]n determining whether a transaction is in the public interest, the Commission

performs a balancing test. It weighs the potential benefits to the Applicants and the public against the potential harm to the public. The Commission will consider whether the benefits claimed by Applicants could be realized by means other than the proposed consolidation that would result in less potential harm to the public.

The policy statement goes on to say in 49 C.F.R. § 1180.1(c), "...In some markets the Commission's focus will be only preservation of effective inter-modal competition, while in other markets (such as long-haul movements of bulk commodities) effective intra-modal competition may also be important."

- C. The Commission's (now the Board's) case law is clear that, in examining a proposed transaction, the Commission must look at specific instances where a lessening or reduction in competition is alleged to take place

The Board must broadly consider all types of restrictions on competition, including direct preclusion of competitive transportation alternatives as a result of the merger, as well as such indirect effects such as the lessening of source competition or the possibility of traffic diversion from and foreclosure of "upstream" competitors.

- D. The Commission's (now Board's) power to condition a proposed merger in order to eliminate anti-competitive effects is broad, especially where protection of the public from anti-competitive effects of the proposed merger is concerned

The Board's power to attach conditions to its approval of a major rail merger is, under the statute, unqualified, and the Commission has indicated that it considers its authority as 'broad.' *UP/MP*, 366 I.C.C. 462, 562. The Commission has generally issued conditions to protect the interests of the competing carrier and to protect the public from anti-competitive consequences. *UP/MP*, 366 I.C.C. 462, 562.

IV. THE PRE-MERGER AGREEMENT FILED AS PART OF THE APPLICATION CREATES ANTI-COMPETITIVE EFFECTS ON MONTANA TRANSPORTATION SHIPPERS

A. Grain Is a Unique and Important Commodity on the Merging Carriers

The transportation of grain by rail is one of the most lucrative segment of transportation provided by the BNSF anywhere on their system. The rates charged on the movement of wheat to Portland, OR from Montana are among the highest in the nation. The rail transportation of grain is characterized by many loading points shipping large volumes of grain in unit trains to a limited number of destinations. This movement, while varying due to supply and demand, occurs each year with consistency. As outlined previously, virtually all of Montana grain shipments move to the west. Less than 4% of the Montana grain shipments moved east by rail in 1995.

Montana grain movement is predominantly westbound and grain pricing is controlled by the Portland Grain Exchange.

B. How Montana Wheat Is Marketed In Montana

A simple discription of how wheat is marketed in Montana will illustrate the product flow and the importance of transportation as a price determinant in agricultural commerce from Montana. Wheat in Montana is sold by growers through local country elevators or grain sub-terminals located in Montana and subsequently to merchandisers and exporters. The wheat is delivered by a farm producer to a local elevator. The producer is given the coast price (Portland Grain Exchange price), less rail transportation charges, less deduction for elevation and margin. Thus, the farm producer bears the transportation costs of moving the wheat to market. The merchandiser may elect to ship the grain via rail or truck/barge combination to the market. Portland movement is so predominant that all wheat is priced in Montana based upon the above method even if that wheat is not shipped directly to the primary market Portland. Rail

shipments in Montana, for the most part, move in multiple car quantities. These shipments may involve up to 52 car rail loads (handling over 170,000 bushels per shipment in a 52 car unit train) requiring a large number of truckload movements before the elevator can consolidate enough grain to fill a unit train of grain.

For the farm producer, the cost of transporting grain can represent as much as one third the overall price received for the grain. The key to understanding the uniqueness of the farmer producers plight is to understand: unlike virtually every other industry, the farm producers bear the freight charges and cannot pass them on to any other party in the distribution chain, and yet the farm producer does not physically pay the freight charges.

In Montana, due to the 1970 *Northern Lines Merger*, we are faced with no effective rail competition on east-west grain movement.

C. The Pre-Merger Agreement Will Alter Traditional Cross-Country Relationships in Montana Between Grain Elevators

This merger and its provision in the Pre-Merger Agreement would alter the present competitive situations in areas like Montana, such that cross-country differential relationships will be altered. Traditionally, within the State of Montana, virtually all grain is marketed to the west or south. Grain from North Dakota, to the east of Montana, moves predominantly east to the Minneapolis and Great Lakes markets. Grain from Montana moves west to the Pacific Northwest Markets. Because traditional marketing areas east of a Billings-Havre, MT line will not be included in the proportional rate agreement contained in the Pre-Merger Agreement, the potential exists for significant anti-competitive effects on the farm producers of Eastern Montana. This Pre-Merger Agreement selectively cuts Montana in half. The Application makes no attempt to analyze the anti-competitive effects of this merger on particular shipping locations in Montana east of the Billings-Havre, MT line.

Approximately 45% of Montana's grain is grown in the area east of the Billings-Havre line

or about 86,492,140 bushels, the contiguous Montana area excluded from the Pre-Merger Agreement. See Exhibit MTGOV - 1, attached hereto.

The granting of the proportional rate access to UPSP by BNSF over its northern part of the system appears to be a payback to Applicants for the granting of extensive trackage rights in the Central Western U.S. to BNSF. The establishment of an arbitrary 'west of Billings-Havre line;' inclusion, effectively cuts the eastern half of Montana out of consideration of these conditions, a territory that is integrally tied to the rest of Montana.

D. The Proposed Trackage Rights Agreement within the Pre-Merger Agreement Will Not Provide Sufficient Competition and Did Not Seek Shipper Involvement In The Process of Selection of Carriers

The selection by UPSP of the BNSF to provide 'competition' and 'competitive balance' to overcome the massive anti-competitive aspects of this proposed rail merger creates great concern here in Montana. After the UP merged with the Chicago and Northwestern, the decline in service levels on the newly merged railroad severely impacted Montana. MTGOV is advised the UPSP did not consult with shippers in Montana, Montana State Government, or according to news reports, other shippers, prior to selecting the BNSF as its competitor through the use of trackage rights. Selection of alternative competitive carriers by affected shippers would most certainly result in selection of carriers that best meet the needs of affected shippers and service levels equal to or greater than that posed by UPSP in this merger proposal.

The selection by the merging railroads of its future competitor on its merged system, by granting trackage rights to a single railroad, thereby closing out any other viable options for affected shippers, does not, on-the-surface, serve the public interest. It is this Board's responsibility to analyze and solicit alternatives to the anti-competitive effects of this proposed merger.

The second consequence of the UPSP action in selecting BNSF as its competitor, is to

make it difficult for shippers to suggest and support alternative proposals to overcome the anti-competitive effects of this merger. Shippers, large and small, are concerned with railroad reprisals from the UP and BN if they publicly support alternative proposals that are not ultimately accepted by this Board. Therefore, the effect of the Pre-Merger Agreement is to stifle creative solutions designed to combat the anti-competitive effects of this, the largest of parallel railroad mergers in U.S. history. Never in the history of the Commission, has a major parallel railroad merger not been conditioned by establishment of one or more major intra-modal competitors to provide competitive balance to the anti-competitive aspects of parallel mergers.

In fact, the selection of the BNSF as the only future competitor to the newly formed UPSP, did not allow other smaller railroads a chance to develop proposals. It is widely reported that many smaller railroads had made proposals to the UP while negotiations were being conducted by the UP with the BN. In this modern day of shortline railroads, it is incumbent upon the Board to provide competitive alternatives to the Big Two railroads controlling the west.

In short, the Applicants have provided this Board with virtually no means by which to develop competitive alternatives to the two major carriers that will exist in the West if this merger is approved. Surely, a better way exists to encourage and foster competitive rail in the West. We, in Montana, know first hand, the effects of losing competitive transcontinental rail and facing no intra-modal competition.

V. EVIDENCE REGARDING THE ANTI-COMPETITIVE IMPACT OF THE MERGER ON MONTANA

A. The Merger of the UP and SP Will Not Provide Rail Transportation Alternatives For About One Half of Montana's Origins

The ability of a shipper to obtain competitive rail access from its origin despite being captive at origin is a recognized competitive advantage to the shipper over the situation in which the shipper is served by a single carrier origin to destination, but conceivably has access to other

origin carriers through joint line movement (or proportional rates) with carriers. In the latter case, the carrier with single line access will have the economic incentive to keep traffic on its own lines, and a corresponding disincentive to enter into joint line movements, thus limiting the shippers' alternative to origins served only by the single-line carrier. For those Montana shippers located east of the Billings-Havre arbitrary line, they will not have access to proportional rate structure proffered in the Pre-Merger Agreement.

VI. EVIDENCE SUPPORTING MTGOV'S SPECIFIC REQUEST FOR CONDITIONS

In its past decisions on merger and control applications, the Commission has stated that a party seeking protected conditions on a proposed merger must show:

1. that the requested conditions are operationally feasible,
2. that the requested conditions ameliorate or eliminate the harm threatened by the transaction, and
3. that they (*the protective conditions*) are of greater benefits to the public than they are detrimental to the transaction. (emphasis added) *UP/MP*, 366 I.C.C. 462, 564.

The conditions sought by MTGOV clearly meet this criteria.

A. The Establishment of a UP Interchange at Silver Bow, MT in the Pre-Merger agreement is Necessary and Appropriate to Ameliorate the Competitive Harm

In this proceeding, MTGOV requests that the Board condition its approval of the merger of the UP and SP on the establishment of a UP Interchange to interchange all traffic designated in the Pre-Merger Agreement, as amended therein, at the Silver Bow, MT gateway, a shipping point located on the UP railroad. This UP interchange will be in addition to the proposed gateway in Portland, OR which is outlined in the Pre-Merger Agreement filed within the

Application. This request for condition will not require additional connections, crossings or related rail facilities to facilitate the exercise and the use of this interchange. The interchange already exists and has been in constant use for many years.

The effect of the inclusion of this additional interchange at Silver Bow, MT in the Pre-Merger Agreement will be to shorten the distance to California markets by 45%! For example, after the proposed merger, the rail distance from Great Falls, MT to Los Angeles via the Portland Gateway outlined in the Pre-Merger Agreement will be 1,955.3 miles (using mileage numbers supplied by UP reflecting post-merger operations). However, with the establishment of the Silver Bow, MT gateway, the rail distance from Great Falls, MT to Los Angeles will be reduced by 604.8 miles to 1,350.5 miles, a savings of 45%! Likewise, the distance from Billings, MT to San Francisco over the Portland, OR gateway will be 2,098.3 miles and via the Silver Bow, MT gateway 1,493.5 miles. The mileage over Portland Gateway is 40.5% further than over the proposed Silver Bow, MT gateway!

Currently, Montana transportation users shipping south can not make extensive use of the Silver Bow, Mt UP connection because of the lack of joint line service and pricing by the BN-UP and thus the necessity of lengthy truck hauls to meet the UP railhead.

In the alternative, MTGOV requests the Board require that requested conditions and responsive/inconsistent application filed by Montana Rail Link (MRL) be approved and that portions of the Pre-Merger Agreement applying proportional rate agreements to UPSP in Montana including the proposed protective conditions outlined herein (including the Silver Bow, MT gateway), be similarly applied to MRL in Montana.

Only by establishing the Silver Bow, MT gateway in addition to the Portland, OR gateway in the Pre-Merger Agreement will the anti-competitive effects of this agreement and the proposed merger on Montana transportation users, be remedied by preserving the competitive benefits, albeit limited. To not grant the Silver Bow, MT gateway, the Board is restricting Montana transportation shippers' access to markets in the Southwest and Central West by adding

an additional 40+% rail mileage to the haul. This will have the effect of disadvantaging Montana shippers against competitive shippers in Washington, Idaho, and Oregon.

B. The Establishment of the Right Under the Proportional Rate Calculation Outlined in the Pre-Merger Agreement to solicit all commodities located in Montana including all grain, lumber, lime, cement and coal

In this proceeding, MTGOV requests that the Board condition its approval of the merger of the UP and SP on the establishment of the right of the selected carrier to solicit and competitively price all commodities located in Montana including all grain, lumber, lime, cement and coal as well as any other Montana commodity that needs rail transportation. To segregate Montana into two parts by arbitrarily establishing a Billings-Havre line of demarcation will disrupt tradition and established movement patterns.

Modification of the proportional rate agreement within the Pre-Merger Agreement, and the trackage rights contained therein, to allow UP access to solicit, competitively price and move traffic, made up of all commodities whose shipments originate in Montana is necessary to offset the anti-competitive effects of the merger agreement.

The conditions sought by MTGOV are reasonable and necessary to ameliorate the competitive harm to the transportation users of the Montana. As demonstrated earlier, approval of this merger as proposed will result in the segregation of areas and commodities in Montana from access to competitive rail alternatives under this Pre-Merger Agreement. Consequently, any conditions that merely allow only part of Montana's commodities access to the proportional rate structures will not preserve competition. It will have the effect of further stratifying and isolating Montana shippers from traditional markets while positioning their competitors, in Washington and Oregon, with unfettered access to compete.

C. In this proceeding, MTGOV requests that the Board condition its approval of the merger of the UP and SP on the establishment of continued oversight of the

last vestiges of intra-modal competition in Montana by maintaining oversight of the merger for the next 20 years or, in the alternative, MTGOV seeks the sale of the line between Pocatello, ID and Silver Bow, MT to Montana Rail Link (MRL) together with the granting of a proportional rate agreement similar to the agreement between UPSP and BNSF for all traffic moving over Silver Bow, MT from all Montana origins.

The Commission in the *Northern Lines Merger*, 331 I. C. C. 228 was concerned enough with anti-competitive effects of this parallel merger that it held it should "retain jurisdiction over these proceedings for a like period of 5 years ..." 331 I.C.C. 288. As it turned out, 5 years was insufficient. The Milwaukee Road failed in 1978, eight years after the merger and three years after the Commission gave up jurisdiction over the Northern Lines Merger of 1980. The Commission granted protections to Milwaukee Road to protect it from the anti-competitive effects of the merger and to provide competitive balance for this basic parallel railroad merger.

The maintenance of limited competitive balance requires and necessitates, in this merger, the assurance of guaranteed continuation of service with on-going maintenance and upgrades without the potential threats of or eventual abandonment. MTGOV seeks, from this Board, the continuing oversight of this merger for 20 years to insure that the above line guarantee is honored and the competitive position of the UP is adequately maintained in Montana. In the alternative, MTGOV seeks the sale of the line between Pocatello, ID and Silver Bow, MT to Montana Rail Link (MRL) together with the granting of a proportional rate agreement similar to the agreement between UPSP and BNSF for all traffic moving over Silver Bow, MT gateway from all Montana origins and with the same guarantee of continuation of service as that requested of the UP in this proceeding.

In the event, that UPSP does not want or intend to give long term assurance to continued service, then the Board must consider with favor, all other applications to acquire the Silver Bow to Pocatello line.

D. The Conditions Sought are Operationally Feasible and Desirable

The conditions sought by MTGOV are clearly operationally feasible and could be implemented by requiring relatively little or no change to operations contemplated by UPSP. The station of Silver Bow is presently served by the Union Pacific on a routine basis. Consequently, little or no operational changes should be required to effectuate the requested conditions.

As discussed previously, the proposed Responsive Application by Montana Rail Link could provide an alternative means by which the competitive harm to MTGOV and the Montana transportation users caused by this merger as proposed could be alleviated or minimized, albeit only partially.

E. The Proposed Conditions Will Produce Substantial Public Benefits Outweighing Their Effect on the Merger

Clearly, the proposed conditions will produce substantial public benefits outweighing any detrimental effect on the merging carriers. The rail transportation policy of the Board indicates that competition, not regulation, should be the touchstone of the Board's regulatory approach. e.g. 49 U.S.C. § 10101a(1). Montana shippers of grain have already been judged by the Commission as being captive and in a 'market dominant' position, in which direct rate regulation is the only alternative, *McCarty Farms Case*, Docket Nos. 37809, 37809 (Sub-No. 1). Here, with the UP being the last vestige of intra-modal competition, imposition of the requested condition will permit limited but viable competition to offset the gains made by other shippers in the Pacific Northwest under this Application.

VII. A RESPONSIVE APPLICATION IS NOT REQUIRED IN ORDER FOR A NON-RAILROAD TO SEEK A TRACKAGE RIGHTS CONDITION.

Under the Board's *Railroad Consolidation Procedures* (49 C.F.R. 1180), a request for trackage rights may be properly maintained as a request for protective conditions and need not

be asserted in a responsive application. The procedure for filing responsive applications applies only to railroads and not to shippers or members of the general public who may comment or seek protective conditions as a result of a proposed merger.

MTGOV however, at the time of filing, January 29, 1996 in order to maintain rights of filing privileges until more was known about the Pre-Merger Agreement and Application as well as other filings known to MTGOV as possible future filings, filed a "Description of Inconsistent and Responsive Application." MTGOV has determined that it is necessary and required that it file this, its Request for Protective Conditions, to accomplish the necessary protection of the Montana shippers interests.

Accordingly, based upon the Interstate Commerce Act and the Board's Railroad Consolidation Procedures, it is clear that a non-railroad party need not file a responsive application in order to request trackage rights or protective conditions.

SECTION 3 - RELIEF REQUESTED

VIII. THE BOARD MUST REQUIRE APPLICANTS TO AMEND THEIR PRE-MERGER AGREEMENT WITH BNSF TO ESTABLISH AND PERMIT SILVER BOW, MT TO BE ADDED AS AN ADDITIONAL GATEWAY FOR TRAFFIC SOLICITATION BY THE MERGED CARRIER TO ALL POINTS IN MONTANA COVERING ALL COMMODITIES.

MTGOV herein requests:

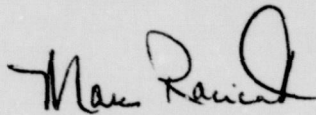
1. The establishment of a UP Interchange to interchange all traffic designated in the Pre-Merger Agreement, as amended therein, including the right by UP to solicit movement and price competitively, at the Silver Bow, MT gateway, a shipping point located on the UP railroad. This UP interchange will be in addition to the proposed gateway in Portland, OR which is outlined in the Pre-Merger Agreement filed within the Application. This request for condition will not require additional connections,

crossings or related rail facilities to facilitate the exercise and use of this interchange.

2. Modification of the Pre-Merger Agreement, and the trackage rights contained therein, to allow UP access to solicit and move traffic, under the pre-merger proportional agreement, made up of all commodities whose shipments originate in Montana.
3. Modification of the Pre-Merger Agreement, and the trackage rights contained therein, to allow UP access to solicit and move traffic, under the pre-merger proportional agreement, from all of points in Montana, not just the western half of the state.
4. UP line guarantee - obtain guarantee from the UP of continued integrity and operation of Butte - Pocatello line. The maintenance of limited competitive balance requires and necessitates, the assurance of guaranteed continuation of service with on-going maintenance and upgrades without the potential threat of or eventual abandonment. MTGOV seeks, from this Board, the continuing oversight of this merger for 20 years to insure that the above line guarantee is honored and the competitive position of the UP is adequately maintained for Montana. In the alternative, MTGOV seeks the sale of the line between Pocatello, ID and Silver Bow, MT to Montana Rail Link (MRL) together with the granting of a proportional rate agreement with competitive pricing schemes, similar to the Pre-Merger Agreement between UPSP and BNSF for all traffic moving over Silver Bow, MT from all Montana origins and with the same guarantee of continuation of service as that requested of the UP in this proceeding.

For all conditions, herein requested, the merger carrier must guarantee service intentions on the line from Pocatello, ID to Silver Bow, MT for a period of 20 years.

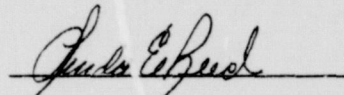
Respectfully submitted,



MARC RACICOT
Governor
State of Montana
Capitol Station
Helena, MT 59620
Phone: (406) 444-3111

Certificate of Service

I HEREBY CERTIFY that a copy of the foregoing REQUEST FOR CONDITIONS AND COMMENTS has been served upon all parties of record, as amended, by U.S. mail, postage prepaid, this 28th day of May, 1996.


Linda E. Reed

**Area Of Eastern Montana
Excluded from Pre-Merger Proportional Rate Agreement**

