STB FD 32760 3-20-96 D 61899

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40189

DAVID R. PERDUE
28 MOCKINGBIRD LANE
PINE BLUFF, ARKANSAS 71603

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MAR 20 1996
MANAGEMENT
I.C.C.

FD 32760

Surface Transportation Board
1201 Constitution Ave NW
Washington, D.C. 20423

March 15, 1996

Gentlemen:

I write as a private citizen, now retired, concerning the proposed UP-SP merger.

As a student in college during the 1950's many of my business courses and the news media at the time dwelled heavily on the Sherman Anti-Trust Law and anything that inhibited competition. I hear nothing about these things today and am concerned that our government cares not about this issue and will be perfectly content as banks, railroads, retailers and many other businesses are concentrated in the hands of mega-corporations who could care less about the human element left in the backwash as bigger figures, the public at large will be at the mercy of the only game in town" mega-corp.

DAVID R. PERDUE
28 MOCKINGBIRD LANE
PINE BLUFF, ARKANSAS 71603

Specifically speaking at the UP/SP merger, I believe it can only enhance competition to the detriment of the public. I believe the Arkansas Texas portion of S.P. will be left holding a short stick. I believe that leasing or selling trackage rights in this area to other carriers as proposed, will not adequately serve this area and that other carriers will be unable to compete with Cotton Belt County yard will soon be abandoned if the merger is completed. I believe that the economic impact of all the employees who will lose jobs will be very serious to our city and county.

I favor the proposal outlined by Cotton Belt to allow it to buy the Cotton Belt portion of the Southern Pacific. They have guaranteed the public no loss of jobs or facilities in Pine Bluff.

Thank you for this opportunity to comment.

Sincerely,

David R. Perdue

(over)

I have spoken with other citizens who feel as I do but who probably do not know how to express their opinions to the proper jurisdiction or agency.

STB FD 32760 3-20-96 D 61895

530 Beacon Parkway, West
Suite 200
Birmingham, Alabama 35209-3196

Telephone: 205 945-6400
Telex: 261327 Drum Ur

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Public Record

James C. Ludwig
President, Domestic Sales

61895

FD 32760

DRUMMOND
COAL
SALES, INC.

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MAR 20 1996
FEE MANAGEMENT
I.C.C.

ALL PAGES PROCESSED

VERIFIED STATEMENT
of
JAMES C. LUDWIG
on behalf of
DRUMMOND COAL SALES, INC.

My name is James C. Ludwig. I am President - Domestic Sales for Drummond Coal Sales, Inc. a wholly owned subsidiary of the Drummond Company, Inc. My Company's address is 530 Beacon Parkway West, Suite 200, Birmingham, AL 35209. I have been President of Drummond Coal Sales for 4 years and in prior periods been Sr. Vice President - Sales & Marketing for Sun Coal Company, Inc. of Knoxville, TN (6½ years) and Vice President - Fuel for the Southern Electric System (10+ years). In these various positions in or associated with the coal industry I have gained hands on experience involving coal and coal transportation issues. As President -Domestic Sales for Drummond I am involved with transportation matters for coal and coke for Drummond's operations in Alabama and Wyoming.

Drummond Company, Inc. is owner of ABC Coke, a merchant coke producer in Alabama which ships approximately 60,000 tons of foundry coke from Birmingham to Mexico. Approximately 60% of these shipments move via Southern Pacific at Eagle Pass with the remaining 40% moving via Union Pacific over Laredo. All of these shipments are currently carried from Birmingham to interchange points with Southern Pacific and Union Pacific via either BN/Santa Fe, CSX, or Norfolk Southern. In addition to the export moves, ABC Coke ships small volumes of coke from Alabama to West Coast points served by Southern Pacific.

Drummond Company, Inc. is also the owner of Caballo Rojo, Inc., a 17,000,000 ton per year (permitted to 30mm tpy) coal mining company in Wyoming, via its controlling ownership of Marigold Land Company. Caballo Rojo, Inc. is a major shipper on the Union Pacific and the Burlington Northern out of the Southern Powder River Basin near Gillette, Wyoming.

The proposed settlement between Union Pacific, Southern Pacific, and BN/Santa Fe, will occasion new, efficient single-line services available over BN/Santa Fe from Birmingham to the Mexican border crossings of Eagle Pass, El Paso, and Brownsville, and to Laredo through a new BN/Santa Fe connection with Texas Mexican at Corpus Christi. This new service will be especially competitive because it can combine trackage rights granted to BN/Santa Fe for access to these important border crossings with new trackage rights also granted to BN/Santa Fe over Southern Pacific's line between Memphis and Houston. With this new BN/Santa Fe transportation option we expect to receive improved service for our export coke after the merger, and we are guaranteed strong competition for these movements over the long-term.

We also foresee additional benefits from the proposed settlement agreement that will allow both the Union Pacific/Southern Pacific and the BN/Santa Fe to provide faster, more efficient service to our existing and future coal and coke customers, and in many cases, provide dependable single-line service to a number of our Caballo Rojo coal customers.

For these reasons, Drummond Coal Sales, Inc. supports the settlement agreement between the BN/Santa Fe and Union Pacific/Southern Pacific and respectfully requests that the Surface Transportation Board give its speedy and unconditional approval to the merger proposal of Union Pacific and Southern Pacific.

I, James C. Ludwig, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified Statement.

Executed on March 19, 1996.

James C. Ludwig

Witness

STB FD . 32760 3-20-96 D . 61892

61892

Retzlaff Grain Company
Route 1 Box 123
Gordon, NE 69343

12 March 1996

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

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

Dear Mr. Williams:

Retzlaff Grain Co. supports the BN/Santa Fe Agreement reached with UP/SP in the above referenced case, we strongly urge the Surface Transportation Board to impose the BN/Santa Fe Agreement as a condition to any UP/SP merger.

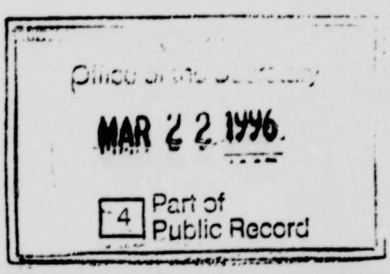
Retzlaff Grain Co. opearates a grain elevator located on NEBKOTA Railway at Clinton, NE. We are primarily an originator of wheat by rail, serving producers in Northwest Nebraska and Southwest South Dakota. All of our wheat is interchanged to BNSF.

STB imposition of the BN/ATSF Agreement on any merger of UP/SP will open additional markets for our originated wheat. Most specifically a number of receivers of wheat for domestic milling are located on UP or SP in the Southwest and California would be accessible by direct BNSF routing.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12th day of March, 1996.

Kerry Retzlaff,
President and Owner

ADVISE OF ALL
PROCEEDINGS



Retzlaff Grain Company
Route 1 Box 123
Gordon, NE 69343

12 March 1996

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

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

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I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12th day of March, 1996.

Kerry Retzlaff,
President and Owner

ABUSE OF ALL
PROCEEDINGS

Filed in the Surface Transportation Board
MAR 22 1996
4 Part of Public Record

Retzlaff Grain Company
Route 1 Box 123
Gordon, NE 69343

12 March 1996

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

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

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I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12th day of March, 1996.

Kerry Retzlaff,
President and Owner

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PROCEEDINGS

MAR 22 1996
4 Part of Public Record

Retzlaff Grain Company
Route 1 Box 123
Gordon, NE 69343

12 March 1996

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

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

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I declare under penalty of perjury that the foregoing is true and correct. Executed on this 12th day of March, 1996.

Kerry Retzlaff,
President and Owner

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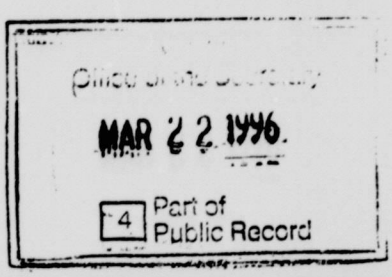
PROCEEDINGS



STB FD 32760 3-20-96 D 61891

61891

VANALCO

Vanalco, Inc.
5701 NW Lower River Road
P.O. Box 9805
Vancouver, Washington 98666-9805
Telephone: (360) 696-8661
FAX: (360) 696-8775

Office of the Secretary
MAR 22 1996
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March 15, 1996

MAR 20 1996

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

Dear Secretary Williams:

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

My name is Charles Reali. For six years I have been Vice President and General Manager of Vanalco, Inc., a primary aluminum smelter. Vanalco, Inc., supports a settlement agreement reached by BN/Santa Fe and UP/SP to be imposed as a condition of the merger.

Vanalco, Inc., is located at 5701 N.W. Lower River Road, Vancouver, Washington 98660. This aluminum smelter began production in 1940 owned by the Aluminum Company of America (ALCOA). ALCOA owned and operated the facility through 1987 at which time it was sold to the present owners. The plant is rated at 115,000 metric tons per year and produces aluminum ingot. Rail transportation has been a vital transportation mode since 1940. Shipments of aluminum ingot have gone to customers as far as New Jersey with most shipments bound for destinations in the Midwest, Texas, and Southern California regions. Full car quantities are shipped in box cars, bulk head flat cars, and covered gondola cars. Rail shipments account for about 40% of our outbound shipments, and intermodal shipments account for another 15%. Rail transport outbound has grown about 20% over the past five years at Vanalco.

Vanalco, Inc., is served by both the BN/Santa Fe and the UP. For all U.S. destinations except Washington, Oregon, and northern California, rail is the preferred shipping mode. Vanalco exports about 33% of its products to the far east due to its close proximity to the Ports of Portland, Tacoma, and Seattle.

I view the settlement agreement reached by BN/Santa Fe and UP/SP very positively. The principle benefit of the settlement agreement to Vanalco, Inc., will be two alternative rail routes to the Los Angeles basin instead of one route with no other rail competition. Two rail routes from Vancouver, Washington, to the Los Angeles area will benefit Vanalco and our customers through competitive rates and service for both rail direct and for intermodal transportation. Approximately 20% of Vanalco's shipments are in this freight corridor.

ADVISE OF ALL

PROCEEDINGS

With the settlement agreement and UP/SP merger in place, we visualize some rate reduction and a reduction in rail transit time. The expected improved service has potential for increased sales to that area and has potential for rail shipment to customers expecting just-in-time delivery and who are now served by truck. We plan to pursue additional rail/dray and intermodal shipments in this corridor.

CONCLUSION

The BN/Santa Fe agreement with UP and SP is very good and important to western U.S.A. shippers. It will improve BN/Santa Fe's competitiveness and enhance rail shipping along the West Coast. If the UP/SP merger is approved, the BN/Santa Fe agreement should be a necessary condition for rail competition in the western U.S.A.

VERIFICATION

"I declare under penalty of perjury that the foregoing is true and correct. Executed this 15th day of March 1996."

Charles D. Reali

On this 15th day of March 1996, before me Darlene E. Olson the undersigned Notary Public, personally appeared Charles D. Reali personally known to me to be the person whose name is subscribed to the within instrument, and acknowledged that he executed it.

WITNESS my hand and official seal.

Darlene E. Olson

DARLENE E. OLSON
NOTARY PUBLIC
STATE OF WASHINGTON
COMMISSION EXPIRES
OCTOBER 31, 1998

CDR/do

STB FD . 32760 3-20-96 D . 61890

MICHAEL J. GERL

21890

FD 32760

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

Dear Secretary Williams:

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

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

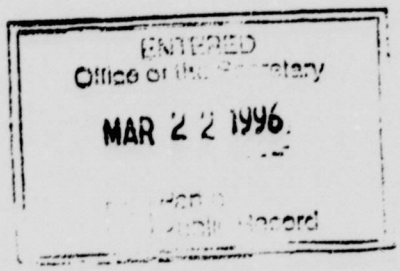
2. It would weaken Northeast Ohio's economy by weakening eastern and midwestern railroads, and threatening industrial jobs here; and

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

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

Sincerely,

Michael J. Gerl
Councilman - Ward 5
Willoughby, Ohio



ADVISE OF ALL PROCEEDINGS

38307 Hastings Avenue
Willoughby, Ohio 44094
(216) 942-2218

STB FD 32760 3-20-96 D 61889

61889

BAKER COUNTY CHAMBER of COMMERCE

Oregon Trail Regional Museum
Sumpter Valley Narrow Gauge Railroad
Hells Canyon Recreation Area
Home of the Oregon Trail Interpretive Center
Historic Baker City
Future Home - Sumpter Valley Dredge State Park

Sustaining Members:
Guyer, Linoley & Bailey, CPA, PC
Nelson Real Estate, Inc.
Pioneer Bank, F.S.B.
Farmterials, Inc.

490 Campbell Street • Baker City, Oregon 97814 • (503) 523-5855 • Fax (503) 523-9187

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OFFICE OF THE SECRETARY

March 13, 1996

The Honorable Vernon A Williams
Surface Transportation Board
Twelfth and Constitution Ave, N.W.
Room 1324
Washington, D.C. 20423

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

Dear Mr. Williams,

The Baker County Chamber of Commerce supports the application by Union Pacific Railroad and Southern Pacific Railroad to merge their operations. As a small Chamber of Commerce located in Eastern Oregon, we recognize the benefits to Oregon that will result from this merger.

Of specific interest to us are benefits such as:

- extensive new single-line service
- trackage rights for UP/SP on north-south routes in Central Oregon under an agreement with BN/Santa Fe
- Improved service from Oregon to the Midwest and the Mississippi River gateways resulting in the savings of hundreds of rail miles and approximately four days of transit time.
- the proposed investment by UP/SP of almost $50 million to improve the service/capabilities in the Portland area

We urge that you favorably approve this application.

Sincerely,

Craig Ward

Craig Ward, President

cc. Alex Tice, UPRR
David Fischer, UPRR
Wiley N. Jones, SPRR
Phillip Houk, UPRR

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STB FD 32760 2-5-96 D 61169

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Item No. _____

Page Count 2.

Feb # 27

ORANGE GROVE GRAIN COMPANY
P.O. BOX 273
ORANGE GROVE, TEXAS 78372

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Office of the Secretary
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5 Part of Public Record

January 30, 1996

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FEB 5 1996
MAIL MANAGEMENT I.C.C.

Mr. Vernon Williams
Interstate Commerce Commission
Room 3315
12th and Constitution, N.W.
Washington, D.C. 20423-0001

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

Dear Mr. Williams:

I am the manager of Orange Grove Grain Co. It is a small country grain elevator 19 miles north of the Tex-Mex railway line on Highway 359 in South Texas. Much of our grain is shipped to elevators on the Tex-Mex for trans-shipment to Nuevo Laredo by rail. We usually handle approximately 450,000 bushels per year.

Our company has been a user of rail service for transportation between the United States and Mexico for the last 17 years. We have a strong interest in competitive rail transportation between the United States and Mexico. The Laredo/Nuevo Laredo gateway is the primary route for shipments between the two countries for the majority of international traffic. This gateway possesses the strongest infrastructure of brokers. It also provides the shortest routing between major Mexican industrial and population centers and the Midwest and Eastern United States.

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

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

I understand there is an alternative that will preserve effective competition for my traffic. Tex-Mex has indicated a willingness to

ADVISE OF ALL PROCEEDINGS

connect with other carriers via trackage rights to provide efficient competitive routes. Trackage rights operating in such a way as to allow Tex-Mex to be truly competitive are essential to maintain the competition at Laredo that would otherwise be lost in the merger. Thus I urge the Commissioners to correct this loss of competition by conditioning this merger with a grant of trackage rights via efficient routes between Corpus Christi and these connecting railroads.

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

Sincerely,

Larell Meischen

Larell Meischen

STB FD 32760 2-5-96 D 61168

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Feb # 26

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PREMONT GRAIN COMPANY
P O BOX 66
PREMONT, TEXAS 78375

January 30, 1996

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FEB 5 1996
MAIL MANAGEMENT I.C.C.

Mr. Vernon Williams
Interstate Commerce Commission
Room 3315
12th and Constitution, N.W.
Washington, D.C. 20423-0001

Re: Finance Docket No. 32760, Union Pacific Co[illegible]
Control & Merger - Southern Pacific Rail C[illegible]

Dear Mr. Williams:

Premont Grain Company is a small country grain elevator in South Texas 27 miles south of the Tex-Mex Railroad on Highway 281. Most of the grain sorghum and field corn that we handle moves to Agua Dulce for loading on rail cars bound for Mexico through Laredo. Our storage capacity is about 325,000 bushels but in a good year will handle more grain than that.

Our company has been a user of rail service for transportation between the United States and Mexico for the last 17 years. We have a strong interest in competitive rail transportation between the United States and Mexico. The Laredo/Nuevo Laredo gateway is the primary route for shipments between the two countries for the majority of international traffic. This gateway possesses the strongest infrastructure of brokers. It also provides the shortest routing between major Mexican industrial and population centers and the Midwest and Eastern United States.

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

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

I understand there is an alternative that will preserve effective competition for my traffic. Tex-Mex has indicated a willingness to connect with other carriers via trackage rights to provide efficient competitive routes. Trackage rights operating in such a way as to allow Tex-Mex to be truly competitive are essential to maintain the competition at Laredo that would otherwise be lost in the merger. Thus I urge the Commissioners to correct this loss of competition by conditioning this merger with a grant of trackage rights via efficient routes between Corpus Christi and these connecting railroads.

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

Regards,

Bill Bailey

Bill Bailey

ENTERED
Office of the Secretary

FEB 06 1996

3 Part of Public Record

ADVISE OF ALL PROCEEDINGS

STB FD 32760 2-8-96 D 61202

Item No. _____

Page Count 9

Offic Feb 10

61202

UP/SP-77

FEB 07 1996

3 Part of Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' RESPONSES TO KCS' FOURTH DISCOVERY REQUESTS

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

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

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

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

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

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

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

February 8, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' RESPONSES TO KCS'
FOURTH DISCOVERY REQUESTS

UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW, collectively "Applicants," hereby respond to KCS' Fourth Discovery Requests to Applicants.[1/]

GENERAL RESPONSES

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

1. Applicants have conducted a reasonable search for documents responsive to the interrogatories. Except as objections are noted herein,[2/] all responsive documents have been or shortly will be made available for inspection and copying

---

1/ In these responses, Applicants use acronyms as they have defined them in the application. However, subject to Applicants' previous objections to KCS' definitions of "Applicants," "SP," and "UP," Applicants will attempt to observe KCS' definitions where they differ from Applicants'.

2/ Thus, any response that states that responsive documents are being produced is subject to the General Objections, so that, for example, any documents subject to attorney-client privilege (General Objection No. 1) or the work product doctrine (General Objection No. 2) are not being produced.

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

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

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

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

GENERAL OBJECTIONS

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

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

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

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

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

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

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

7. Applicants object to the extent that the discovery requests seek highly confidential or sensitive commercial information (including, inter alia, contracts containing confidentiality clauses prohibiting disclosure of their terms)

that is of insufficient relevance to warrant production even under a protective order.

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

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

10. Applicants incorporate by reference their prior objections to the definitions and instructions set forth in KCS' First Interrogatories.

SPECIFIC RESPONSES AND ADDITIONAL OBJECTIONS

Interrogatory No. 69

"Identify and produce all documents that constitute, refer to, or evidence the 'presentation on the UP/SP merger' made by UP to the Mexican CFC referred to in Mr. Rebensdorf's deposition on January 22, 1996, and produce the 'paper on the UP/SP merger and the impact on Mexico' that Mr. Rebensdorf testified was left with the CFC, and the 'mileage comparison' that was 'shared with' the CFC, including an English translation of all such materials."

Response

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

Applicants have produced copies of materials concerning the UP/SP merger that Mr. Rebensdorf provided to the Mexican Competition Commission on January 12, 1996. The "mileage comparison" is found on page 12 of the presentation document that has been placed in Applicants' depository.

Interrogatory No. 70

"Identify and produce all notes, memoranda, and other documents prepared by UP pertaining to the UP/SP merger, 'trackage rights,' the 'BN/Santa Fe settlement,' or the impact of the UP/SP merger on Mexico that were made during, or concern or reflect, the UP meeting with the Mexican CFC referred to in Mr. Rebensdorf's deposition on January 22, 1996, including an English translation of all such materials."

Response

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

No responsive documents have been located in the files of Mr. Rebensdorf or Mr. Blackburn. If any responsive documents are located in the files of other individuals, they will be produced.

Interrogatory No. 71

"Identify and produce all documents provided to UP by the Mexican CFC in connection with the meeting with the CFC referred to in Mr. Rebensdorf's testimony on January 22, 1996, that pertain to the UP/SP merger, 'trackage rights,' the 'BN/Santa Fe settlement,' or the impact of the UP/SP merger on Mexico."

Response

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

No responsive documents have been located.

Respectfully submitted,

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

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

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

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

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

Arvid E. Roach II /mca

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

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

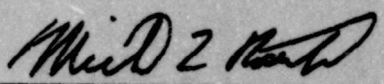
February 8, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 8th day of February, 1996, I caused a copy of the foregoing document to be served by hand on Alan E. Lubel, counsel for KCS, at Troutman Sanders, 601 Pennsylvania Avenue, N.W., Suite 640 - North Building, Washington, D.C. 20004-2609, and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Room 9104-TEA
Department of Justice
Washington, D.C. 20530

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



Michael L. Rosenthal

STB FD 32760 2-2-96 D 61159

Item No. _____

Page Count 1

Feb #17

61159

Office of the Secretary

FEB 0 5 1996

Part of Public Record

Alamo Street Garden and Market
943 South Alamo, San Antonio, Texas 78205
(210) 225-7363

January 25, 1996

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

RE: Finance Docket 32760 - Proposed Merger of Union Pacific and Southern Pacific

Dear Secretary Williams,

As the owner of a small business in San Antonio, I am concerned about the competitive effects on area businesses of the proposed acquisition of the Southern Pacific (SP) Railroad by the Union Pacific (UP) Railroad. While I am familiar with the proposed agreement between UP and the Burlington Northern-Santa Fe (BNSF) Railroad, which is intended to remedy those effects, I am not persuaded that this arrangement will produce effective competition for area rail traffic.

I would hope that the Interstate Commerce Commission (ICC) would carefully review the implications for foreign and domestic trade if only one company owns rail or is the lessor of trackage rights. I also hope that the Texas Railroad Commission, also, reviews the implications of a single company controlling the rail system of Texas.

In addition, it is my desire to ensure the preservation of competition in all rail served markets within the State of Texas by making it possible for alternative railroads, such as Conrail, Inc., with the requisite financial strength and service capability to fill whatever competitive void may result from a potential merger of the two largest railroads of Texas.

Yours Truly,

Cathy Garcia

Cathy Garcia

cc:Barry Williamson, Chairman, Texas Railroad Commission

ADVISE OF ALL PROCEEDINGS

ADVISE OF ALL PROCEEDINGS

STB FD 32760 2-2-96 D 61157

Item No. _____ 41157

Page Count 2

Feb #15

STATE OF TEXAS
HOUSE OF REPRESENTATIVES

P. O. BOX 2910
AUSTIN, TEXAS 78768-2910
(512) 463-0598
FAX: (512) 463-2297

Yvonne Davis
DISTRICT 111

400 SOUTH ZANG BLVD.
SUITE 801
DALLAS, TEXAS 75208
(214) 941-3895
FAX: (214) 941-6859

RECEIVED
FEB 2 1996

January 29, 1996

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

Office of the Secretary
FEB 0 5 1996
Part of
Public Record

Re: Finance Docket 32760

Dear Secretary Williams:

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

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

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

VISE OF ALL
ROCEEDINGS

COMMITTEES: APPROPRIATIONS
ECONOMIC DEVELOPMENT

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

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

Sincerely,

Yvonne Davis

Yvonne Davis
State Representative
District 111

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

STB FD 32760 2-1-96 D 61155

Item No._____ 61155

Page Count 1

Feb 2 13

oria and Western Railway Corporation

1990 East Washington Street, East Peoria, Illinois 61611-2961
(309) 698-2600 • Fax (309) 698-2679

January 31, 1996

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

RE: Finance Docket 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, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company

Dear Secretary Williams:

Toledo, Peoria and Western Railway Corporation intends to become a participant in the above Finance Docket 32760. TP&W anticipates requesting protective conditions in order to protect its interests as they may appear.

Sincerely,

Gary L. Towell

GLT

Gary L. Towell,
Vice President - Marketing & Sales

GLT.jcb
cc: Administrative Law Judge Jerome Nelson
Federal Energy Regulatory Commission
825 N. Capitol St., NE
Washington, DC 20426

Arvid E. Roach II, Esquire
Covington and Burling
1201 Pennsylvania Ave. NW
P.O. Box 7566
Washington, DC 20044

Paul A. Cunningham, Esquire
Harkins Cunningham
1300 19th St. NW
Washington, DC 20036

Office of the Secretary
FEB 0 1 1996
Part of Public Record

STB FD 32760 2-1-96 D 61151

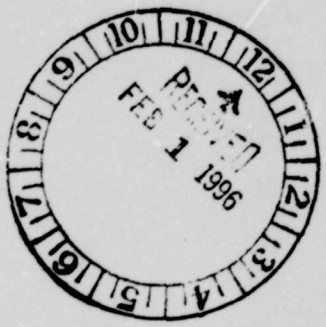
61151

Item No._____

Page Count 9

Feb # 9

BEFORE THE
INTERSTATE COMMERCE COMMISSION



(Relating to Railroad Control Application
in Finance Docket No. 32760)

SAGE - LEADVILLE LINE
DOCKET No. AB-8 (SUB-No. 36x) and DOCKET No. AB-12 (SUB-No. 189x)

MALTA - CANON CITY LINE
DOCKET No. AB-8 (SUB-No. 39) and DOCKET No. AB-12 (SUB-No. 188)

(Proposed Abandonment Southern Pacific Transportation Co.
Main Track from MP 335 near Dotsero, Colo. to
MP 162 near Canon City, Colo.)

WRITTEN COMMENT OF E.W. WOTIPKA
January 24, 1996

Copies:

Robert T. Opal, General Attorney, Union Pacific RR, Omaha, NE
Gary A. Lasko, General Attorney, Southern Pacific Transportation Co., San Francisco, CA
Jim Gatlin, General Attorney, Southern Pacific Transportation Co., Denver, CO
Robert D. Krebs, President and CEO, Burlington Northern Santa Fe RR, Schaumburg, IL
Legal Department, Kansas City Southern Railway Co., Kansas City, MO
US Dept. of Transportation, Washington, DC
MTMCTEA, ATTN: Railroads for National Defense, Newport News, VA
Hon. Roy Romer, Governor, State of Colorado, Denver, CO
Regulatory Agencies Dept., Public Utilities Divn., Denver, CO
Hon. Scott McInnis, US Representative, Pueblo, CO

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

Office of the Secretary

FEB 0 1 1996

Part of
Public Record

My name is E.W. Wotipka. My address is 6388 Terrace Lane, Salida, Colorado 81201. I am submitting this Comment as a private citizen, and do not represent any company, organization or government entity. All of the opinions expressed herein are my own, based upon 33 years of railroad engineering experience, and factual information contained in this Comment are either referenced or can easily be verified by reference to available railroad mapping, Southern Pacific timetables, and grade and alignment charts. Prior to my retirement in 1983, I was employed by the Denver and Rio Grande Western Railroad for a period of 31 years in a variety of maintenance and engineering positions. For the last 10 years I held the position of Engineer, Location and Design, where, among other things, I had a close association with representatives of the Fuel Traffic Section, in the design of branch lines and loading facilities for the transportation of coal in Colorado and Utah. During my tenure with Rio Grande, I worked closely with operating personnel on various design and construction projects, and am very familiar with the line in question. I was a Registered Professional Engineer in the State of Colorado and a member of the American Railway Engineering Association. I maintain an avid interest in the railroad industry, and keep abreast of recent developments by means of several railroad journals such as *Railway Age* and *Progressive Railroading*. I have no personal motive in submitting this Comment other than a concern for the industry which provided my livelihood on two railroads over a span of 41 years.

The Southern Pacific Transportation Company and Denver and Rio Grande Western Railroad Company, in connection with, and contingent upon SPT's consolidation with Union Pacific Railroad Company, have petitioned for abandonment of their main track between Dotsero and Canon City, Colorado. In the abandonment application, the railroads have first discounted the importance of the line as an overhead carrier with a brief statement of their intention to reroute traffic now moving over the line to other UP/SP routes, and a more lengthy discussion of maintenance problems on the line which, of course, are no more than can be expected on any mountain railroad. The bulk of the remainder of the application focuses on the justification for abandonment based upon lack of local traffic on the line. To this end, they have divided the line into two principal segments, apparently to insure that at least some portion, if not all of the line, can be fully justified for abandonment on that basis, now or in the foreseeable future. This would essentially preclude the possibility of the line ever again reverting to through main line status.

In this Comment I propose to treat the "Sage - Leadville line" and the "Malta - Canon City line" as a combined, coherent unit, and shall confine my remarks to the importance of the entire line as a carrier of significant volumes of regional and interstate overhead freight traffic, as indeed it is today. The combined lines are hereinafter referred to as the "Tennessee Pass" line.

The proposed abandonment issue is a unique case and cannot equitably be judged on the usual arguments used to justify ordinary branch line abandonments. (The

writer acknowledges that local traffic on the line is probably insufficient to justify continuance of the line on that basis.) Neither is it analogous to the rash of main line abandonments which took place during the 1960's and '70's, all of which occurred in a period of a declining railroad economy. Today, the reverse is true. Since passage of the Staggers De-regulation Act in 1980, the railroad industry has seen a resurgence in traffic unprecedented since the expansion years of the 19th century, and this trend has every indication of continuing well into the future. In the December 1993 issue of *Railway Age* (p. 28) Union Pacific Chairman and CEO, Dick Davidson, is quoted as saying "... the entire railroad industry is undergoing a fundamental shift from excess capacity to very tight capacity..." From all accounts the three major western railroads are all experiencing severe capacity problems on their principal routes. This translates, of course, to congestion, train delays, and ultimately, poor service to shippers. It seems precipitous and unwise of railroad management to justify destroying a viable alternative to their overcrowded lines on short-term and myopic economic grounds in the face of rapidly changing and unpredictable market conditions. One would think, under the circumstances, that the railroads would welcome utilizing additional capacity which the merger would provide, rather than focusing on the abandonment of main lines. (It is interesting to note several ironic twists which have been produced by relatively recent main line abandonments: The writer was personally involved in the abandonment of one of two main tracks on the ATSF-D&RGW "Joint Line" between Denver and Pueblo, Colorado in 1973. Scarcely had the track been removed between Palmer Lake and Crews when Burlington Northern, as tenant of the Santa Fe, began running what soon became a flood of coal trains from the Powder River Basin. This segment of single track became a severe bottleneck on the line and the remainder of the scheduled abandonment was abruptly called off. The abandonment of Southern Pacific's own "South Line" between El Paso and Douglas (Ariz.) in the mid-60's diverted that traffic to the parallel "North Line" between El Paso and Tucson. S.P. is now frantically constructing a parallel second main on the latter line west of Lordsburg, NM to handle vastly increased traffic volumes. And, following the notorious Rock Island breakup during the 1970's, which resulted in extensive main line abandonments, Southern Pacific rescued the segment between Tucumcari, NM and Kansas City from the same fate. This line is now one of their principal east-west routes.)

I do not intend to address the proposed abandonment of a large segment of Union Pacific's ex-Mopac line (operated by Southern Pacific) between Kansas City and Pueblo, Colorado, except to say that, because of these same capacity concerns, the wisdom of abandoning this line is likewise suspect.

Because several re-route options will become available with the merger, it is not possible to predict precisely what management intends to do in this respect. However, it would seem that most, if not all of the traffic proposed to be diverted off of this ex-Mopac line would be routed via the Union Pacific's "Kansas Pacific" line to Denver. Traffic moving west of Denver, in turn, would be routed either via the Union Pacific main line across Wyoming, or the Moffat tunnel line to Dotsero and west. Capacity problems on the former highly used route are well known, so one would suppose that the bulk of this

traffic would move over the Moffat, which has capacity problems of its own owing to the heavy movement of coal off the Craig branch east of Bond, Colorado, in addition to manifest traffic and one daily passenger train each way. The mountainous terrain traversed by the Moffat line unavoidably further impairs capacity owing to heavier curves and grades, with a corresponding reduction of operating speeds. An unknown factor in this equation is the amount of additional traffic which Burlington Northern Santa Fe will add to both Front Range and Moffat lines to provide the promised competitive service to Western Colorado and Utah as a condition of the merger.

Additional factors other than capacity, however, must be examined, if the Tennessee Pass line is to be given adequate consideration as a viable route to be retained. Recent developments in routing options have opened up new marketing possibilities between two large market areas: The Mid-South, including all of Texas, Louisiana and the burgeoning Mexico market, and the Central West including Western Colorado, Utah, and Northern Nevada. Aside from an exploding population base, this rapidly growing area is rich in natural resources, particularly extensive reserves of low sulphur, high BTU coal. (The coal mined in Wyoming, Montana and North Dakota, while extensive, is of much lower grade sub-bituminous and lignite.) In the July 1994 issue of *Trains Magazine*, the Colorado Mining Association is quoted as saying "Coal resources of Colorado total about 60 billion tons. Only one percent of this has been mined." (See also article in *Southern Pacific Bulletin*, Dec. 1994 entitled "Coal: SP's Hot Haul for the 90's.") And on p. 37 of *Progressive Railroading* (Jan. 1996) Southern Pacific Chairman and CEO, Jerry Davis, is quoted as saying "...our coal business continues a double digit expansion." Until the present time, movement between the Mid-South and the Central West has required handling by two or more railroads involving rate divisions, time consuming transfers, and complicated contractual arrangements. Hence, marketing people have heretofore lacked the incentive to develop business between these areas. Now, however, Southern Pacific can offer single line service between these markets by means of recently secured trackage rights between Pueblo and Ft. Worth. And Burlington Northern Santa Fe's potential entry into the Central West market (as a condition of the UP-SP merger) would enable it to provide competitive single line service between these markets as well. **The more direct Tennessee Pass line is the logical route for joining these market areas.**

For operational purposes, it is advantageous to compare the Tennessee Pass routing to the combined Moffat-Joint Line (Front Range) routing between Dotsero and Pueblo. Picture the area under consideration as an upside-down right triangle with Dotsero at the left (or west) angle, Pueblo at the lower (or South) angle, and Denver at the right angle. (See Fig. 1) The Moffat line then, lies on the horizontal leg, the Front Range line on the vertical leg, and the Tennessee Pass line on the hypotenuse. On a mileage basis, the advantage is clearly with the Tennessee Pass line which is about 64 miles shorter than the Moffat-Front Range route. Congestion-wise, the advantage is again with the Tennessee Pass line which by-passes congestion in the Denver terminal area, as well as on both the Front Range and Moffat lines. Additional mileage and congestion together impact running time, possibly by a factor of 5 or 6 hours. Grade

problems, particularly with regard to the "famous" 15 miles of 3% grade on the eastward approach to the Continental Divide on the Tennessee Pass line, must be addressed. In this regard the Moffat line is not without problems of its own: Both approaches to the Continental Divide on this route have 2% grades, the westward approach extending for most of the 50 odd miles from Denver to the Moffat Tunnel, and both grades requiring either significant tonnage reduction or helpers to surmount the divide. Westward ruling grade on the Tennessee Pass line, by contrast, is 1.4%. And in terms of total vertical elevation to overcome on ascending grades between Dotsero and Pueblo (which in turn directly affects fuel consumption), the Moffat-Front Range route must surmount not only the Continental Divide but Palmer Lake summit on the Front Range as well. Net difference in total vertical elevation to overcome is 1057 ft. between the two routes in each direction, again favoring the Tennessee Pass line! (See Fig. 2) To assume then that operation via the Moffat-Front Range route is less consumptive of fuel because of the 3% grade on Tennessee Pass would simply be false. The Tennessee Pass line is certainly no more maintenance intensive than the Moffat with the latter's 36 tunnels (contrasted with 5 on the Tennessee Pass line), heavy grades, and slide-prone areas. (A few years ago, a large rock fell on the track near Crescent on the Moffat line, causing a catastrophic derailment resulting in the deaths of 2 trainmen.) And by my count there are approximately 160 curves of 6 degrees or over on the Moffat line, contrasted with approximately 145 of such curves on the Tennessee Pass line. Finally, it can handle "high cube" double-stack containers, one of the fastest growing segments in transportation today, which the Moffat cannot, owing to clearance restrictions.

The Tennessee Pass line is a well-maintained, fully signalled, CTC controlled main line railroad which has operated continuously and successfully, 3% grade and all, in direct competition with Union Pacific for over 100 years. Indeed, the very fact that Southern Pacific has made this abandonment contingent upon approval of the merger, is strong evidence of its viability as a main line. The continuation of this important line, being the superior line connecting the Mid-South and Central West, is vital to regional and interstate shippers, and to the economic development of the rapidly growing region which it traverses. In their rush to seek abandonment of this line, the railroads have apparently chosen to overlook or ignore all of the advantages outlined. Furthermore, their biased perception of problems on the line, which would result in its unwarranted abandonment, would inevitably compromise competition in the entire Central-West corridor.

In the event the Union Pacific-Southern Pacific merger is approved, the Commission should deny the abandonment in the National interest and in the interest of National Defense, to avoid an irreversible action which all affected parties will come to regret in years to come.

E.W. Wotipka

REFERENCES

Railroad Technical Information:

Southern Pacific Timetable (Denver Division) No. 1, Apr 10, 1994
Denver and Rio Grande Western - Grade & Alignment Charts, May 1983

Traffic and Capacity

Forbes Magazine, Jan 30, 1986 "Here Come the Truck Busters"
Fortune, June 17, 1991 "Comeback Ahead for Railroads"
Railway Age, Dec 1993 "A Good '93 and More in '94 (esp. p. 28)
Smithsonian, June 1995 "Freight Trains are Back and They're on a Roll"
Time, Aug 23, 1993 "Back at Full Throttle"
Trains, Nov 1995, "Colossus of Roads"

Coal

Geologic Atlas of the Rocky Mountain Region (Rocky Mt. Assn. of Geologists) 1972 (pp. 297-299)
Progressive Railroading, Jan 1996 "CEO's See Opportunity (esp. p. 37)
Southern Pacific Bulletin, Dec 1994 "Coal, SP's Hot Haul for the 90's"
Trains, July 1994 (2 items, p. 50)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Statement by E.W. Wotipka protesting proposed abandonment by Southern Pacific Transportation Co. of its main track between Dotsero, Colorado and Canon City, Colorado (DOCKET No. AB-8 (SUB-No. 36x), DOCKET No. AB-12 (SUB-No. 189x), Docket No. AB-8 (SUB-No. 39) and DOCKET No. AB-12 (SUB-No. 188)), was served upon the following individuals or agencies by first class postage on January 29, 1996.

E. W. Wotipka

Robert T. Opal, General Attorney, Union Pacific RR, Omaha, NE
Gary A. Lasko, General Attorney, Southern Pacific Transportation Co., San Francisco, CA
Jim Gatlin, General Attorney, Southern Pacific Transportation Co., Denver, CO
Robert D. Krebs, President and CEO, Burlington Northern Santa Fe RR, Schaumburg, IL
Legal Department, Kansas City Southern Railway Co., Kansas City, MO
US Dept. of Transportation, Washington, DC
MTMCTEA, ATTN: Railroads for National Defense, Newport News, VA
Hon. Roy Romer, Governor, State of Colorado, Denver, CO
Regulatory Agencies Dept., Public Utilities Divn., Denver, CO
Hon. Scott McInnis, US Representative, Pueblo, CO

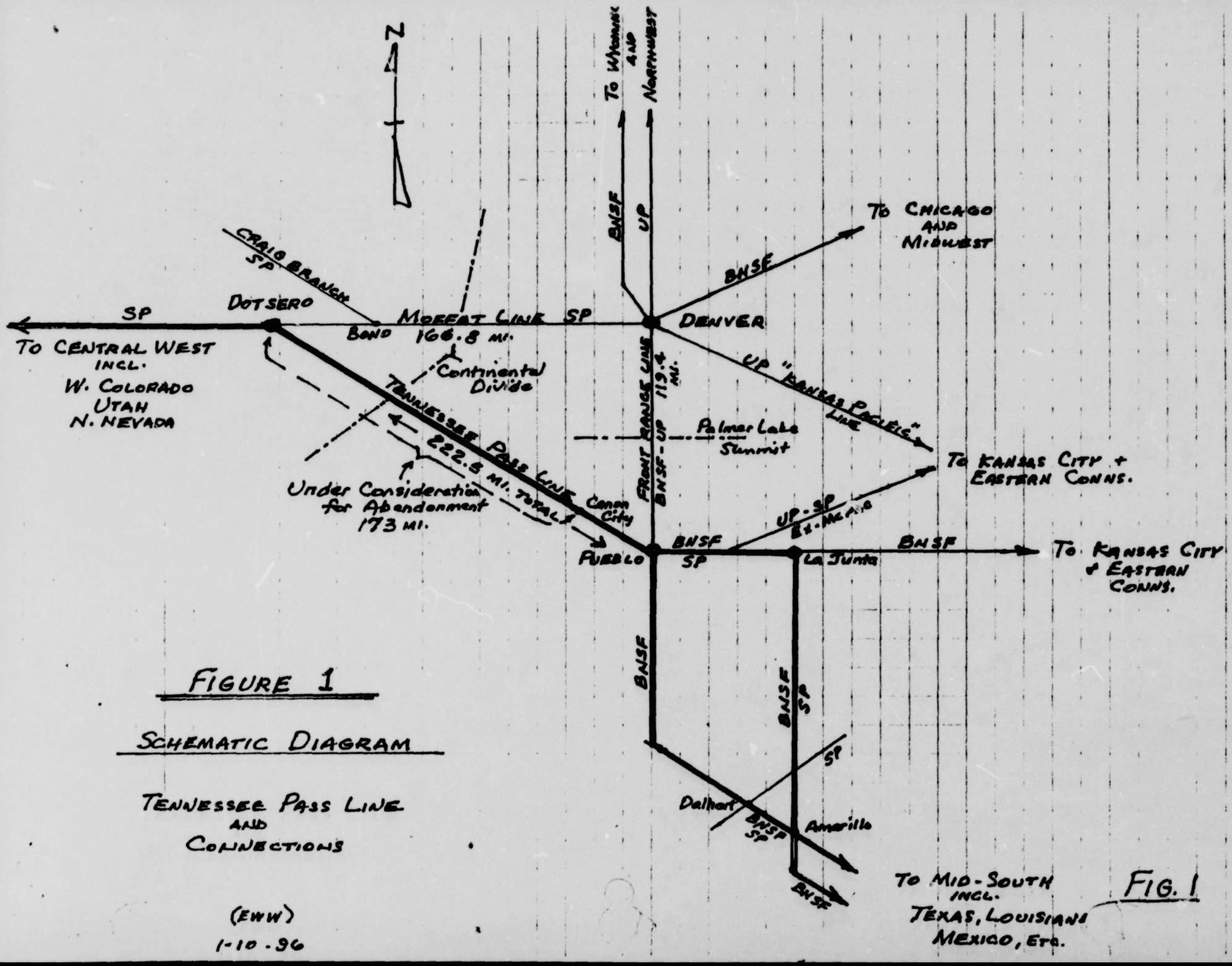


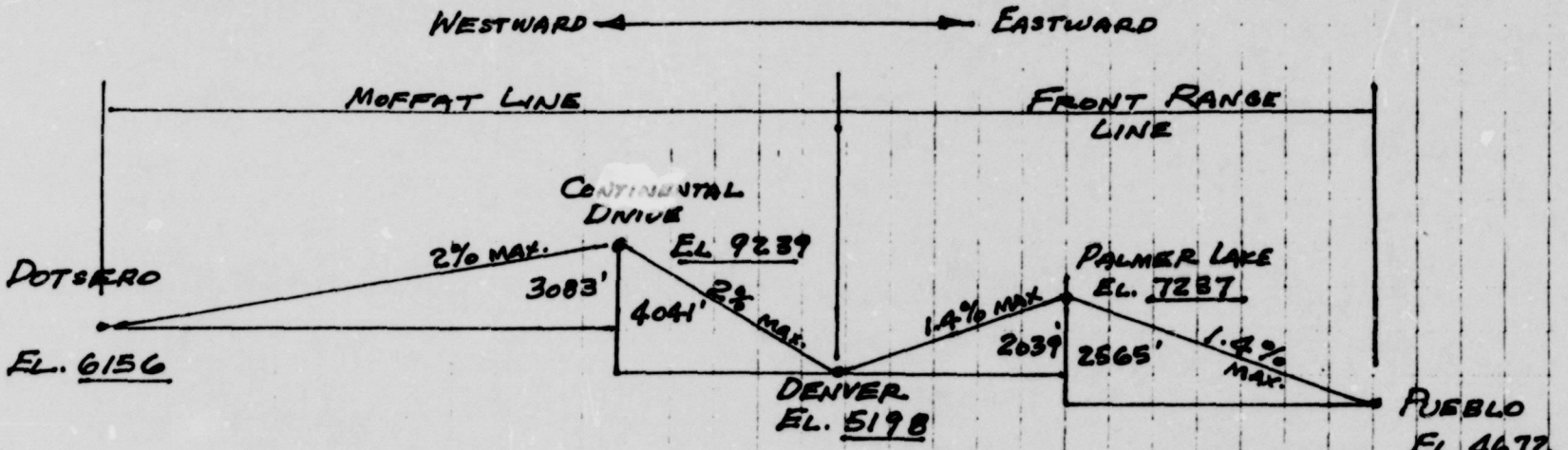
FIGURE 1

SCHEMATIC DIAGRAM

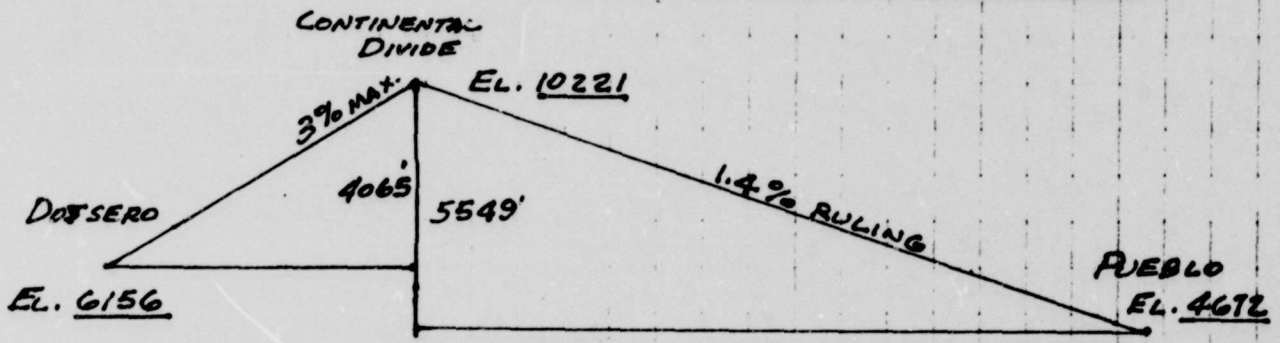
TENNESSEE PASS LINE
AND
CONNECTIONS

(EWW)
1-10-96

FIG. 1



MOFFAT - FRONT RANGE LINE



TENNESSEE PASS LINE

DIFFERENCES - VERTICAL ELEVS.

SCHEMATIC PROFILES

(INTERMEDIATE GRADES NOT SHOWN)

(EWW)

1-10-96

	MOFFAT - FRONT RANGE		TENNESSEE PASS	
EB	3083' + 2039' = 5122'	compared to	EB 4065'	Diff. 1057'
WB	2565 + 4041 = 6606	compared to	5549'	Diff. 1057'

F-2

STB FD 32760 1-31-96 D 61142

ORIGINAL

Item No. 61142

Page Count 3

JAN 418

PHC-1

Office of the Secretary
FEB 0 1 1996
Part of Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

RECEIVED
JAN 31 1996

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

NOTICE OF INTENT TO PARTICIPATE BY PEABODY HOLDING COMPANY, INC.

Pursuant to Interstate Commerce Commission Decision No. 9, served December 27, 1995, Peabody Holding Company, Inc., a New York corporation ("Peabody"), by and through its undersigned counsel, hereby gives notice of its intent to participate in the above-referenced proceeding as an active party as its interests may appear. Peabody is a holding company which has ownership interests in coal mines which may be affected by the proposed merger.

In accordance with 49 C.F.R. § 1180.4(a)(2), Peabody has selected the acronym "PHC" for identifying all documents and pleadings they submit in this proceeding.

Peabody requests that the following person be placed on the service list in this proceeding in addition to its under-

signed counsel and that copies of all pleadings and decisions be furnished to such person:

Jeffrey L. Klinger, Esq.
Vice President and General Counsel
Peabody Holding Company, Inc.
701 Market Street
Suite 700
St. Louis, Missouri 63101-1826

Respectfully submitted,

PEABODY HOLDING COMPANY, INC.

By: C. Michael Loftus
Christopher A. Mills
Patricia E. Kolesar
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Attorneys and Practitioners

Dated: January 31, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of January, 1996, I caused a copy of the foregoing Notice of Intent to Participate to be served by hand on the individuals listed below, and by first-class United States mail, postage prepaid, on all other persons on the service list for this proceeding.

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

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

Patricia E. Kolesar

Patricia E. Kolesar

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' RESPONSES TO KENNECOTT UTAH COPPER
CORPORATION'S AND KENNECOTT ENERGY COMPANY'S
FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

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

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

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

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

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

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

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

Item No.

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JAN 416

January 31, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' RESPONSES TO KENNECOTT UTAH COPPER CORPORATION'S AND KENNECOTT ENERGY COMPANY'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS

UPC, UPRR, MPRR, SPR, SPT, SSW, SPCL and DRGW, collectively, "Applicants," hereby respond to the discovery requests served by Kennecott Utah Copper Corporation and Kennecott Energy Company (collectively, "Kennecott") on January 16, 1996.[1/]

GENERAL RESPONSES

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

1. Applicants have conducted a reasonable search for documents responsive to the interrogatories and document

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[1/] In these responses, Applicants use acronyms as they have defined them in the application. However, subject to General Objections Nos. 9 and 10 below, for purposes of interpreting the requests, Applicants will attempt to observe Kennecott's definitions where they differ from Applicants' (for example, Kennecott's definitions of "UP" and "SP," unlike Applicants', include UPC and SPR, respectively).

requests. Except as objections are noted herein,[2/] all responsive documents have been or shortly will be made available for inspection and copying in Applicants' document depository, which is located at the offices of Covington & Burling in Washington, D.C. Applicants will be pleased to assist Kennecott to locate particular responsive documents to the extent that the index to the depository does not suffice for this purpose. Copies of documents will be supplied upon payment of duplicating costs (including, in the case of computer tapes, costs for programming, tapes and processing time).

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

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

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

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2/ Thus, any response that states that responsive documents are being produced is subject to the General Objections, so that, for example, any documents subject to attorney-client privilege (General Objection No. 1) or the work product doctrine (General Objection No. 2) are not being produced.

discuss the matter with Kennecott if this is of concern with respect to any particular answer.

GENERAL OBJECTIONS

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

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

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

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

4. Applicants object to production of public documents that are readily available, including but not limited to documents on public file at the Board or the Securities and Exchange Commission or clippings from newspapers or other public media. Notwithstanding this objection, Applicants have produced some responsive material of this kind, but Applicants have not attempted to produce all responsive material of this kind.

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

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

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

8. Applicants object to the definition of "referring to" as unduly vague.

9. Applicants object to the inclusion of Philip F. Anschutz and The Anschutz Corporation in the definitions of "Applicants" and "SP" as overbroad.

10. Applicants object to the definitions of "Applicants," "UP," and "SP" as unduly vague and not susceptible of meaningful application.

11. Applicants object to Instructions A, C, D and E and to the definition of "produce" to the extent that they seek to impose requirements that exceed those specified in the applicable discovery rules and guidelines.

12. Applicants object to Instructions A, C, D and E and to the definition of "produce" as unduly burdensome.

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

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

SPECIFIC RESPONSES AND ADDITIONAL OBJECTIONS

Interrogatory No. 1

"Identify each instance in which a shipper of bituminous coal originated by the SP at Kennecott Energy's Colowyo mine has requested SP to lower its rail transportation rates in order to render the purchase of such coal a competitive option to the purchase of coal originated by another carrier at any other location and identify all documents that refer to, relate to or evidence the requests referred to in your response."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 2

"Identify and describe all discussions relating to the possibility of constructing a new rail line in order to give UP access, in competition with SP, to Kennecott's Colowyo mine by identifying the dates, locations, and participants in such discussions and all documents that refer to, relate to or evidence such discussions."

Response

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

UP is aware of no such discussions.

Interrogatory No. 3

"Describe Applicants' operating plan for handling shipments originating at or destined to Kennecott's Magna, Utah facilities if the proposed merger is consummated, including but not limited to any changes in the frequency, car supply, performance standards, switching service or rates for Applicants' service. Identify all studies, analyses and reports or other documents, including work papers, relating to that plan."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

The Operating Plan and Verified Statement of R. Bradley King and Michael D. Ongerth in Volume 3 of the application, and the related workpapers, portray Applicants' operating plans. See BN/SF-1 as to BN/Santa Fe's plans. Highly detailed plans for operations to particular shipper facilities will be worked out in due course among UP/SP, BN/Santa Fe if applicable, and the shipper.

Interrogatory No. 4

"State (separately for UP and SP) the amount of traffic originating at or destined to Salt Lake City, Utah and surrounding areas in Utah served by both SP and UP (including Magna and Garfield, Utah) that Applicants expect to be diverted to BNSF as a result of the trackage rights granted to BNSF under the BNSF Agreement. Identify all studies, analyses and reports or other documents, including work papers, relating to the predicted traffic shifts."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

This information is contained in the Traffic Study workpapers. The Traffic Study was conducted by Richard B. Peterson and his staff, as discussed in Part II of Mr. Peterson's verified statement. Mr. Peterson's testimony describes the assumptions that he used.

Interrogatory No. 5

"Describe in detail the operational control BNSF will have in determining the movement of traffic over the following line segments for which BNSF has been granted trackage rights under the BNSF Agreement and identify all studies, analyses and reports or other documents, including work papers, relating to operational control:

a. Denver, CO-Salt Lake City, UT (SP line)

b. Salt Lake City-Alazon, NV (UP line)

c. Alazon-Weso, NV (SP and UP lines)

d. Weso-Stockton, CA (UP line)

e. Weso-Oakland, CA (SP line)."

Response

Applicants object to this interrogatory as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

BN/Santa Fe will decide what trains to run and what priorities to assign them. It will be entitled to equal dispatch, and UP/SP is committed to work closely with BN/Santa Fe to ensure that no operating problems develop. There are no studies, analyses or similar documents relating to the issue of BN/Santa Fe "operational control" under the settlement agreement.

Interrogatory No. 6

"Describe the facilities and equipment Applicants plan to make available to BNSF to enable it to operate over the line segments listed in Interrogatory No. 5 for which BNSF has been granted trackage rights under the BNSF Agreement."

Response

Applicants object to this interrogatory as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

See the settlement agreement. BN/Santa Fe will be entitled to use the track and to benefit from all associated facilities, such as signalling, dispatching and emergency repair and support facilities. BN/SF-1 describes the terminal facilities that BN/Santa Fe contemplates using.

Interrogatory No. 7

"Identify each electric utility customer of any Applicant that has received or currently receives coal which originates at Kennecott Energy's Colowyo mine. For each such customer, provide the following information:

a. Describe the origin, destination, interchanges, and routes used for shipments to each such customer;

b. Identify and describe each rail transportation contract entered into in the past five years;

c. State each rate for carrying coal since January 1, 1992 and the time period that each rate was in effect for each customer;

d. Identify each competitive rail carrier with access to any such destination;

e. State which Applicants are currently capable of serving each destination; and

f. Identify all correspondence regarding rates and/or service for coal transportation for each origin and destination pair from January 1, 1992 through and including the date of your response."

Response

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

A list of SP electric utility customers from January 1, 1993 that received or receive coal from the Colowyo mine, the general routes used and destination will be produced.

Applicants will identify each competitive rail carrier with access to any such destination and state which applicants are currently capable of serving such destination. Applicants will produce a list of current rates as of January 31, 1996 for the four largest electric utility customers of SP.

Interrogatory No. 8

"Identify each destination outside the states of Colorado, Nevada and Utah for bituminous coal that originates on the SP's line at Kennecott Energy's Colowyo mine. State the percentage of total bituminous coal shipments transported by SP accounted for by such shipments."

Response

Applicants object to this interrogatory as unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Responsive information will be produced.

Interrogatory No. 9

"Explain the phrase 'intensified marketing efforts' in the following statement attributed to Mike Galardi, Vice-President of Sales and Marketing for SP's carload business, on page B2 of the Journal of Commerce, Thursday, December 14, 1995: 'Coal business rose during the quarter due to intensified marketing efforts for Colorado coal.'"

Response

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

The phrase "intensified marketing efforts," which is attributed to Michael Galardi, refers to SP's ongoing efforts to enhance the effectiveness of its marketing program. Such

intensified efforts are not confined to Colorado coal, but apply to all commodities.

Interrogatory No. 10

"State the name, address and job title or position of each individual (1) who was consulted for responses to these interrogatories and document requests, or (2) who participated in preparation of responses to these interrogatories and document requests, or (3) who have knowledge concerning the facts contained in the responses."

Response

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

The names of individuals who were consulted in connection with, or who participated in preparation of, Applicants' responses to Kennecott's interrogatories will be placed in Applicants' depository.

Interrogatory No. 11

"Identify each document not identified in response to a prior interrogatory or produced in response to a document request herein to which you referred or on which you relied in preparation of your responses to these interrogatories."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor

reasonably calculated to lead to the discovery of admissible evidence.

Document Request No. 1

"Produce all documents, including correspondence, agreements, arrangements, understandings, studies, analyses and reports, that discuss competition between or among any of the Applicants for traffic originating at or destined to Kennecott's Magna, Utah facilities."

Response

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

Applicants will search for responsive documents located in their Kennecott shipper files and the files of pertinent executive officers.

Document Request No. 2

"Produce all documents, including correspondence, agreements, arrangements, understandings, studies, analyses and reports, that discuss competition between or among the Applicants and BNSF for traffic originating at or destined to Kennecott's Magna, Utah facilities after the merger of the Applicants is completed."

Response

Applicants object to this document request as unduly vague. Without waiving this objection, and subject to the

General Objections stated above, Applicants respond as follows:

No such documents have been located.

Document Request No. 3

"Produce all documents, including correspondence, memos (internal and external), notes of meetings or conversations or other documents, that refer to, relate to or evidence negotiations or other communications with shippers of bituminous coal originating at Kennecott Energy's Colowyo mine in which the shipper sought to obtain either (1) lower rates or other adjustments to a transportation contract or tariff, or (2) improved service, based on the fact that another mine provided an alternative source of coal and/or the UP or BN provided an alternative means of transportation."

Response

Applicants object to this document request as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Document Request No. 4

"Produce all documents that refer to or relate to anticipated or potential rate changes for traffic originating at or destined to Kennecott's Magna, Utah facilities if the merger is completed."

Response

Applicants object to this document request as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

No such documents have been located.

Document Request No. 5

"Produce all documents identified in response to Interrogatory No. 1."

Response

See Response to Interrogatory No. 1.

Document Request No. 6

"Produce all documents identified in response to Interrogatory No. 2."

Response

No documents were identified in the Response to Interrogatory No. 2.

Document Request No. 7

"Produce all documents identified in response to Interrogatory No. 3."

Response

See Response to Interrogatory No. 3.

Document Request No. 8

"Produce all documents identified in response to Interrogatory No. 4."

Response

See Response to Interrogatory No. 4.

Document Request No. 9

"Produce all documents identified in response to Interrogatory No. 5."

Response

No documents were identified in the Response to Interrogatory No. 5.

Document Request No. 10

"Produce all documents identified in response to Interrogatory No. 7(b) and (f)."

Response

See Response to Interrogatory No. 7.

Document Request No. 11

"Produce all documents identified in response to Interrogatory No. 11."

Response

No documents were identified in the Response to Interrogatory No. 11.

Document Request No. 12

"Produce the operating timetables (including special instructions), station lists, and station books for 1994 to the present for all line segments over which the UP and SP operate in Colorado, Utah, Nevada and California."

Response

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

Responsive timetables are in Applicants' document depository. The Official Railroad Station List is a public document as readily available to Kennecott as to Applicants. UP and SP do not maintain "station books."

Document Request No. 13

"Produce all documents, in a computer readable format to the extent available, which provide the following information for 1994 to the present for each line segment traversed by UP and SP for the routes identified on Appendix A (where a line segment is defined as a station pair between which density (gross tons) statistics are uniform):

a. The 'from' and 'to' stations (by name and milepost);

b. The mileage owned and operated, separated into:

(1) Miles of road;
(2) Miles of second main;
(3) Miles of all other mail [sic] tracks;
(4) Miles of passing tracks, crossovers and turnouts;
(5) Miles of main and branch line;

c. The miles of road operated under trackage rights;

d. Authorized speeds for unit coal and other unit trains and general freight trains;

e. The percent of track-miles in curves of two (2) degrees or more;

f. The percent of track-miles of welded rail;

g. FRA classes of track (e.g., 20 miles of Class IV track, 30 miles of Class III track, etc.); and

h. The train-miles, car-miles (loaded and empty), gross ton-miles of cars and contents, gross-ton miles of locomotives and cabooses, and gross-ton miles of locomotives, cars, contents and cabooses for:

(1) Coal traffic;
(2) Other unit train traffic;
(3) General freight heavy wheel load traffic; and
(4) General freight traffic (excluding heavy wheel load traffic)."

Response

Applicants object to this document request as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the

General Objections stated above, Applicants respond as follows:

Responsive information is contained in timetables, condensed profiles, curve charts, and a document showing average daily train movements over segments throughout the UP system for 1994 and 1995, which are in Applicants' document depository. To the extent, if any, that additional responsive information is available without conducting a burdensome special study, it will be produced.

Document Request No. 14

"Produce current track charts or track profiles for UP and SP routes identified on Appendix A. In addition, please produce the data contained on the track charts or track profiles in a machine-readable format to the extent available (including all necessary documentation)."

Response

Applicants object to this document request as unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Condensed profiles are in Applicants' document depository.

Document Request No. 15

"Produce UP and SP documents which contain operating statistics data (e.g., train miles, train hours, locomotive unit miles, loaded car miles, empty car miles, net ton miles, gross ton miles, number of trains, number of locomotives per train, etc.), in a computer readable format to the extent available (including all necessary documentation), for 1994 and 1995 year to date covering all UP and SP line segments for routes identified on Appendix A."

Response

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

A document showing average daily train movements over segments throughout the UP system for 1994 and 1995 is in Applicants' document depository. To the extent, if any, that additional responsive information is available without conducting a burdensome special study, it will be produced.

Document Request No. 16

"Produce all documents, in a computer readable format to the extent available (including all necessary documentation), containing:

a. Line specific or location-specific maintenance of way and structures expenditures for all UP and SP line segments for the routes identified on Appendix A and for UP's and SP's entire system, for 1994 and 1995 year-to-date; and

b. The gross ton-miles for 1994 and 1995 year-to-date for the line segments included in the response to (a) above."

Response

Applicants object to this document request as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible

evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

(a) Systemwide maintenance of way and structures expenditures are available from the public 1994 Form R-1 filings of UP and SP. Line-specific data cannot be compiled without an unduly burdensome special study. Applicants are willing to discuss the possibility of providing various types of underlying data regarding maintenance of way costs for particular segments for Kennecott's review.

(b) Density charts for 1994 are in Volume 3 of the application. Density charts for 1995 are not available.

Document Request No. 17

"Produce UP and SP documents related in any way to any road property valuation studies or analyses covering any or all of the line segments identified on Appendix A for 1994 to the present."

Response

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

Property records, which are extremely voluminous, can be made available to representatives of Kennecott for inspection at UP and SP offices if Kennecott wishes.

Document Request No. 18

"Produce UP and SP documents in a computer readable format to the extent available (including all necessary documentation), which provide the following information for each valuation section identified on Appendix A for 1994 to the present:

a. A description by milepost and station name of the properties encompassed by each valuation section (as of December 31 for each year);

b. Gross values by STB (or ICC) property account included within each valuation section identified in response to (a) above on a Depreciation Accounting ("DA") basis (as of December 31 for each year);

c. Annual depreciation by STB (or ICC) property account for all properties included within each valuation section identified in response to (a) above on a DA basis (as of December 31 for each year);

d. Accumulated depreciation by STB (or ICC) property account for all properties included within each valuation section identified in response to (a) above on a DA basis (as of December 31 for each year);

e. A description of each STB (or ICC) property account included in the information provided in response to (b) through (d) above.

f. The annual gross ton-miles of cars and contents and annual total gross ton-miles of locomotives and cabooses for 1994 and 1995 for each valuation section identified in response to (a) above."

Response

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

Document Request No. 21

"Produce all UP and SP documents (including bills) related to the development of costs and/or charges related to all agreements identified in response to Document Request No. 19 above for 1994 to the present."

Response

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

Applicants will produce copies of bills and related workpapers to the extent they can be located without undue burden.

Document Request No. 22

"Produce all data related to the UP and SP current operations at Kennecott's Magna, Utah facilities, including:

a. Frequency of service;

b. Type of crew (i.e., yard, local, through);

c. Origin location of crew;

d. Number of locomotives;

e. Number of cars in train originating/terminating at Kennecott's facility; and

f. Number of cars in the train not originating/terminating at Kennecott's Magna, Utah facilities."

Response

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

To the extent responsive information is available without conducting a burdensome special study, it will be produced.

Document Request No. 23

"Provide all studies of the time and cost to perform the switching services at Kennecott's Magna, Utah facilities."

Response

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

No such studies have been performed.

Document Request No. 24

"Provide all marketing plans, budgets for [sic] forecasts related to inbound and outbound traffic to or from Kennecott's Magna, Utah facilities."

Response

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

Any responsive marketing plans located in Applicants' Kennecott files or in the files of pertinent executive officers will be produced.

Document Request No. 25

"Provide all marketing plans, budgets or forecasts related to the transportation of sulfuric acid, cooper [sic] concentrate, molybdenum concentrate and copper products (STCC-3331115)."

Response

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

Applicants will search the files of pertinent executive officers for responsive marketing plans.

Document Request No. 26

"Provide all analyses of the impact of alternative modes of transportation for inbound or outbound traffic at Kennecott's Magna, Utah facilities."

Response

Applicants object to this document request as unduly vague and unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Responsive documents, if any, located in Applicants' Kennecott files will be produced.

Document Request No. 27

"Provide all analyses of the impact to UP or SP from alternative modes of transportation related to the movement of sulfuric acid, copper concentrate, molybdenum and copper products (STCC-3331115)."

Response

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

See Response to Document Request No. 25.

Document Request No. 28

"Provide all analyses of the extent to which traffic originating/terminating at Kennecott's Magna, Utah facilities will utilize BNSF service under the BNSF Agreement."

Response

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

The only such analysis is the Traffic Study conducted by Richard B. Peterson and his staff, and described in Part II of Mr. Peterson's verified statement and related workpapers.

Document Request No. 29

"Provide all documents and analyses related to BNSF's anticipated operations at Kennecott's Magna, Utah facilities."

Response

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

See BN/SF-1.

Document Request No. 30

"Provide all documents related to all UP and SP facilities to be utilized by BNSF in Colorado, Utah, Nevada and California."

Response

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

See the settlement agreement and BN/SF-1. See also Response to Interrogatory No. 6.

Document Request No. 31

"Provide all analyses of UP/SP costs and reasonable additives to provide haulage service to BNSF under Section 1(h) of the BNSF Agreement."

Response

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

There are no such analyses.

Document Request No. 32

"Provide all contracts, amendments, allowances or tariffs related to UP and SP movement of copper ingots from ASARCO's El Paso facility (referenced on page 184 of witness Peterson)."

Response

These documents, relating to Kennecott's competitor, are extremely confidential and sensitive. Kennecott has no need to refer to them to review the referenced material in the Peterson statement, which is supported by workpapers. See Document Nos. HCO1-0004714 to 15.

Document Request No. 33

"For each car utilized originating or terminating at Kennecott's Magna, Utah facilities, provide the following information for 1994:

a. Car initial and number;

b. AAR car type;

c. Tare weight;

d. All compensation made to any company or other railroads related to the time and mileage in Kennecott service;

e. The UP or SP station where the car entered Kennecott service;

f. The UP or SP station where the car left Kennecott service;

g. The date and time the car entered Kennecott service; and

h. The date and time the car left Kennecott service."

Response

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

Responsive information is available on the traffic tapes in Applicants' document depository. Additional responsive information is not available without performing an extremely burdensome special study.

Respectfully submitted,

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

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

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

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

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

Arvid E. Roach II /mm

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

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

January 31, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 31st day of January, 1996, I caused a copy of the foregoing document to be served by hand on John K. Maser, III, counsel for Kennecott Utah Copper Corporation and Kennecott Energy Company, Donelan, Cleary, Wood & Maser, P.C., 1100 New York Avenue, N.W. Suite 750, Washington, D.C. 20005-3934, and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Room 9104-TEA
Department of Justice
Washington, D.C. 20530

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

Michael L. Rosenthal

STB FD 32760 1-31-96 D 61138

Item No. _____

Page Count 1

JAN 414

61138

CHARLES F. LUTER
CHAIRMAN
PRESIDENT/CEO

Peoples Bank
PARAGOULD • RECTOR

RECEIVED
JAN 31 1996
MAIL MANAGEMENT I.C.C.

Jan. 26, 1996

Secretary
Surface Transportation Board (c/o FCC)
12th St. and Constitution Ave. NW
Washington, D.C. 20243

RE: Proposed Union Pacific--Southern Pacific Merger

Dear Sir:

I am writing to express my opposition to the captioned merger. Competition has served this nation well and to lessen competition will not be of benefit to the consumer or businesses in our state.

I know that Conrail is actively pursuing the purchase of a portion of the Southern Pacific System that services Arkansas, Texas, and Louisiana. This is certainly more rational than the merger of two systems that culminates in less competition.

Kindest regards,

Charles F. Luter
President

FD 32760

ADVISE OF ALL PROCEEDINGS

ENTERED
Office of the Secretary
FEB 0 1 1996
Part of
Public Record

P.O. Box 490 • Paragould, Arkansas 72451-0490 • (501) 236-7623

STB FD 32760 1-31-96 D 61136

Item No. _____

Page Count 1

JAN 417.

61134

CASCADE WAREHOUSE

CASCADE WAREHOUSE COMPANY

January 26, 1996

RECEIVED
JAN 31 1996
MAIL MANAGEMENT
I.C.C.

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

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

Dear Mr. Williams:

In August 1995, Cascade Warehouse Company prepared a statement of support for the proposed Union Pacific-Southern Pacific merger, forwarded to the Interstate Commerce Commission. I am now writing you to amend my original statement to address trackage rights considerations which have transpired since the original statement was formulated.

Our company has been involved with the movement of forest products for the past decade. We are a private car owner with a vested interest in the continued vitality of rail competitiveness.

One area of projected growth for our company is the Mexican market. Legitimate access to all major north-south gateways is the only way to maintain true competition.

One case in particular involves the TexMex Railway and their Laredo gateway. The circuitous trackage rights granted to Burlington Northern Sante Fe does not provide an adequate north-south alternative. This band-aid fix, under the guise of preserving competition, is symptomatic of the trackage rights myth currently circulating as a practical competitive substitute.

Allowing railroads, like the TexMex, direct, best route trackage rights is the only solution to truly maintain competition. Thus, we urge the Surface Transportation Board to correct this loss of competition by conditioning the merger with a grant of trackage rights to TexMex to replace the lost SP alternative.

Thank you for your consideration of this important matter dealing with rail competitiveness and continued access to an emerging segment of our international marketplace.

Best Regards,

Scott W Cant.

Scott W. Cantonwine
President/CEO

ADVISE OF ALL PROCEEDINGS

FEB 0 1 1996
Part of Public Record

ADVISE OF ALL
PROCEEDINGS

1625 Front St. N.E. • Salem, Oregon 97303
(503) 363-2483 • Fax: (503) 363-3527

STB FD 32760 1-31-96 D 61135

61135

P.O. BOX 135
SUMMERSVILLE, MO
65571
Telephone (417) 932-4064

STATE CAPITOL
JEFFERSON CITY, MO
65101-6806
Telephone (314) 751-2112
FAX (314) 526-6856

FD-32760

COMMITTEES

Transportation • Chairman

Banks & Financial Institutions

Motor Vehicle & Traffic Regulations

Professional Registration & Licensing

Tourism

Missouri House of Representatives

DON KOLLER

State Representative • District 153

RECEIVED
JAN 31 1996
MAIL
MANAGEMENT
I.C.C.

January 24, 1996

FEB 0 1 1996
Part of
Public Record

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

RE: UP/SP Merger

Dear Secretary Williams:

I am aware that the Southern Pacific (SP) Railroad and the Union Pacific (UP) Railroad have filed an application for merger with the Interstate Commerce Commission. As a Missouri State Representative and Chairman of the House Committee on Transportation, I have concerns with the competitive effects on Missouri and regional businesses for competitive rail lines.

I am also aware Conrail has made a proposal to SP to acquire a portion of SP's eastern lines from Chicago and St. Louis to Arkansas, Texas and Louisiana. I think this proposal would be more effective in addressing Missouri's concerns.

Conrail's proposal would provide efficient service for shippers to northeast and Midwest markets from Texas and Louisiana. Conrail service to these markets would be the faster and more direct, and involve fewer car handlings.

I think Conrail's proposal will ensure that Missouri's rail customers have multiple rail options, and that competition would exist to hold down shipping costs.

I urge you to give the UP/SP proposed merger and Conrail's proposal to SP your utmost consideration.

Sincerely,

Don Koller

DK:dg

cc: David M. LeVan
President and Chief Executive Officer
Conrail

Item No. 1
Page Count 1
JAN HII
PROCEEDINGS

"Common Sense, Plus Hard Work, Equals Progress"

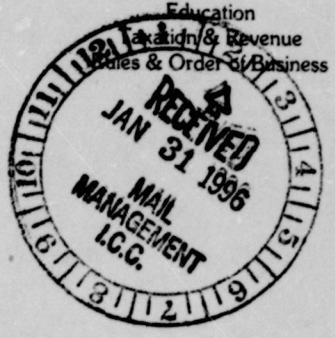
STB FD 32760 1-30-96 D 61134

41134

State of New Mexico
House of Representatives
Santa Fe

MURRAY RYAN
R-Grant & Luna - Dist. 38
P.O. Box 110
Silver City, NM 88062
Home Telephone: 505-538-2085

COMMITTEES:
Education
Taxation & Revenue
Rules & Order of Business



FEB 0 1 1996

January 26, 1996

The Honorable Vernon A. Williams
Secretary, Surface Transportation Board
Room 2215
Twelfth Street and Constitution Avenue, NW
Washington, DC

Dear Secretary Williams:

It is my understanding that you will be considering the proposed merger involving the Union Pacific Railroad and the Southern Pacific Railroad. My legislative district, in southern New Mexico, is in the geographic area served by Southern Pacific.

It is my feeling that the merger should be approved. This action would be advantageous to the economy and convenience of our state. I am a strong advocate of reinvigorating our rail system. I find the years we have already lost are most discouraging.

For many reasons, the proposed merger has great potential for our area.

Sincerely,

Murray Ryan

Representative Murray Ryan
State of New Mexico House of Representatives

MR/maf

Item No. _____
Page Count 1
JAN 410

FD 32760

ADVISE OF ALL PROCEEDINGS

STB FD 32760 1-29-96 D 61121

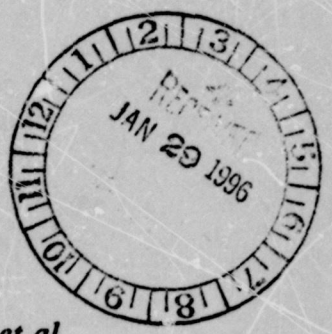
61121

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

ATTORNEYS AND COUNSELORS AT LAW
SUITE 750
1100 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-3934

OFFICE: (202) 371-9500

TELECOPIER: (202) 371-0900



January 29, 1996

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

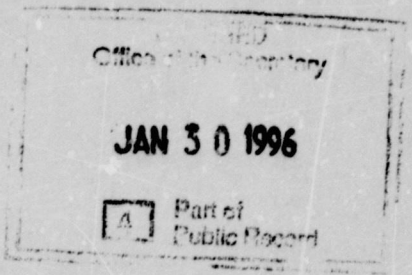
Re: Finance Docket No. 32760, *Union Pacific Corp., et al. Control & Merger, Southern Pacific Rail Corp., et al.*

Dear Secretary Williams:

Please find enclosed for filing with the Board an original and twenty (20) copies of the Notice of Intent to Participate submitted on behalf of Institute of Scrap Recycling Industries, Inc. ("ISRI") for filing in this proceeding. In accordance with 49 C.F.R. § 1180.4(a)(2), this party selects the acronym "ISRI" and, accordingly, the enclosed document is identified as ISRI-1.

In addition, we are enclosing for filing with the Board an original and twenty (20) copies of ISRI's accompanying Motion for Leave to Late-File Notice of Intent to Participate. This document is identified as ISRI-2.

Finally, in accordance with Decision No. 9 in this proceeding, copies of the enclosed documents are being served upon Applicants' counsel, Administrative Law Judge Jerome Nelson, and all known parties of record. Also enclosed is a 3.5-inch disk containing the text of these pleadings in WordPerfect 5.1 format. Should you have any questions concerning the enclosed documents, please do not hesitate to contact the undersigned.



Respectfully submitted,

John K. Maser III
Attorney for Institute of Scrap Recycling Industries, Inc.

Enclosures
cc Hon. Jerome Nelson
All parties of Record

3310-000

Item No. _____

Page Count 4

JAN 398

JAN 30 1996
Part of Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

JAN 29 1996

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

MOTION FOR LEAVE TO LATE-FILE NOTICE OF INTENT TO PARTICIPATE

Comes now the Institute of Scrap Recycling Industries, Inc., ("ISRI") through its counsel, and hereby submits its Motion for Leave to Late-File Notice of Intent to Participate, wherein ISRI seeks leave from the Board to file the accompanying Notice of Intent to Participate in this proceeding. In support of its Motion, ISRI respectfully states the following:

1. ISRI is the trade association representing approximately 1,500 companies that process, broker, and consume recyclable materials, including ferrous and non-ferrous metals, paper, plastic, glass, rubber, and textiles. Suppliers of equipment and services to this industry complete ISRI's membership.

2. ISRI's members are substantial users of the nation's railroads for the receipt of inbound commodities and the shipment of outbound commodities. Many ISRI members are users of railroad services provided by the applicants and other railroads in the Western United States, and such members would be affected, directly or indirectly, by the proposed merger and related transactions at issue in this important proceeding. ISRI, on behalf of its members, is vitally concerned with the preservation and enhancement of competitive rail rates and services.

3. ISRI recognizes that, pursuant to Decisions No. 6, served October 19, 1995, and No. 9, served December 27, 1995, notices of intent to participate in this proceeding were due on January 16, 1996. However, ISRI's Board of Directors was not able to consider the application

filed November 30, 1995, and to approve ISRI's participation in this proceeding until its most recent, regularly scheduled meeting, held in Washington, D.C. on January 21-23, 1996.

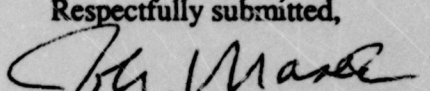
4. ISRI is prepared to comply with the existing procedural schedule in this proceeding and to file its comments on or before the current due date of March 29, 1996, or at such other time as may be ordered by the Board. Granting of the instant Motion will not cause any delay in the proceeding.

5. ISRI submits that neither the applicants, nor other parties will be prejudiced or disadvantaged as a result of the short delay in the filing of its Notice of Intent to Participate. As indicated in the accompanying Certificate of Service, ISRI is filing this Motion and the accompanying Notice of Intent to Participate upon all known parties of record.

6. ISRI respectfully submits that the granting of its Motion would be consistent with the spirit of the Board's Rules of Practice, specifically 49 C.F.R. §1100.3 which, among other things, states that the Board's rules will be construed liberally to secure a just determination of issues presented.

WHEREFORE, ISRI respectfully requests the Board to grant its Motion for Leave to Late-File the accompanying Notice of Intent to Participate and to permit ISRI to become a party of record in this important proceeding and to participate pursuant to the procedural schedule established for this proceeding.

Respectfully submitted,



John K. Maser III
Jeffrey O. Moreno
DONELAN, CLEARY, WOOD & MASER, P.C.
1100 New York Avenue, N.W., Suite 750
Washington, D.C. 20005-3934
(202) 371-9500

January 29, 1996

Attorneys for Scrap Recycling Industries, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of January, 1996, copies of the foregoing NOTICE OF INTENT TO PARTICIPATE AND MOTION FOR LEAVE TO LATE-FILE NOTICE OF INTENT TO PARTICIPATE were served upon Administrative Law Judge Jerome Nelson, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, Arvid E. Roach II, Esquire, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, D.C. 20044, and Paul A. Cunningham, Esquire, Harkins Cunningham, 1300 19th Street, N.W., Washington, D.C. 20036, by hand delivery or telecopy, and upon other known parties of record by first-class mail, postage prepaid, in accordance with the rules of the Surface Transportation Board.

John K. Maser III

STB FD 32760 1-29-96 D 61117

61117

SLOVER & 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. DIETRICH

*ADMITTED IN ILLINOIS ONLY

January 29, 1995

202 347-7170

Via Hand Delivery

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
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 and Merger -- Southern Pacific Rail Corporation, Southern Pacific Transportation Company, et al.

Gentlemen:

Enclosed for filing in the above-referenced proceeding are the original and 20 copies of each of the following pleadings on behalf of Commonwealth Edison Company:

(1) Description of Anticipated Responsive Applications (CED-3); and

(2) Petition for Clarification and/or Waiver (CED-4).

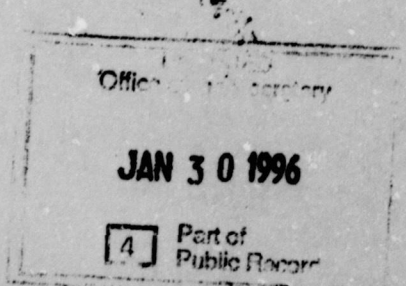
Also enclosed is a WordPerfect 5.1 diskette containing the aforementioned filings.

Sincerely yours,

Christopher A. Mills

CAM:mfw
Enclosures

cc: All parties of record



Item No. _____

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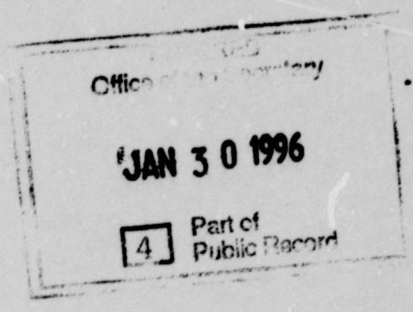
JAN 393

CED-4

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 Sub-26

PETITION OF
COMMONWEALTH EDISON COMPANY
FOR CLARIFICATION AND/OR WAIVER



COMMONWEALTH EDISON COMPANY

By: C. Michael Loftus
Christopher A. Mills
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys and Practitioners

Dated: January 29, 1996

PETITION OF
COMMONWEALTH EDISON COMPANY
FOR CLARIFICATION AND/OR WAIVER

Pursuant to Decision No. 9 in this proceeding, Commonwealth Edison Company ("ComEd")[1] hereby submit this, its Petition for Clarification and/or Waiver of certain Board requirements applicable to responsive applications.

1. ComEd requests clarification that responsive applications seeking only line acquisition for purposes of continued rail operations or trackage rights as a condition require neither environmental documentation (*see* 49 C.F.R. § 1105.6(c)(4)), nor an historical report (*see* 49 C.F.R. § 1105.8(b)(1) and (3)).

As explained in its Description of Anticipated Responsive Applications, filed contemporaneously herewith, ComEd expects to seek, in the alternative, either acquisition of or trackage rights over certain lines of the Applicants, on behalf of a rail carrier unaffiliated with Applicants, in order to preserve the benefits of competitive options that Entergy presently enjoys for its coal traffic. The above-referenced regulations expressly exclude such line acquisition and trackage rights applications from the class of transactions that normally require

---

[1]The identity of ComEd and its interest in this proceeding were explained in its Notice of Intent to Participate filed herein on January 16, 1996.

environmental and/or historical documentation.[2] However, Decision No. 9 could be read as requiring that line acquisition and trackage rights responsive applications include such documentation anyway, unless they also satisfy the alternative basis for exemption set out in § 1105.6(c)(2), *to-wit*, compliance with the thresholds set forth therein.

To avoid uncertainty, ComEd requests the Board to clarify that responsive applications seeking only line acquisition for purposes of continued operations or trackage rights are exempt under §§ 1105.6(c)(4) and 1105.8(b)(1) and (3) from the requirement that environmental and historical documentation be filed with the applications.

2. In the alternative, if the response to the preceding clarification request is negative, ComEd requests clarification or waiver of the six-month pre-notification requirement for applications requiring an Environmental Impact Statement (49 C.F.R. §1105.10(a)(1)), insofar as necessary to permit Entergy's pre-filing consultations with the Board's Section of Environmental Analysis, to be scheduled shortly, to satisfy that notice requirement.

---

[2] The line acquisition contemplated would be for the purpose of continued rail operations, and further Board approval would be required to abandon service following the sale of the lines involved to an independent rail carrier. ComEd does not expect that the acquisition and continued operation of such lines would involve the disposal of any properties subject to Board jurisdiction that are 50 years old or older. Thus, the acquisition application would not require the preparation of an historical report under 49 C.F.R. § 1105.8(b)(1).

3. Finally, ComEd seeks waiver of all requirements in 49 C.F.R. § 1180 for the inclusion of information from "applicant carriers" in its responsive applications. This is necessary because ComEd is a non-carrier, seeking a trackage rights condition on behalf of a suitable third-party carrier for the purpose of preserving competition. ComEd would prefer that such trackage rights be exercised by an independent rail carrier, such as Montana Rail Link, Inc. However, depending on the positions taken -- and the final terms of settlements reached -- by such rail carrier(s), or the conditions imposed by the Board with respect to any grant of merger authority, ComEd is unable to determine at this time what rail carrier is the most suitable carrier to acquire or operate via trackage rights over the lines involved. Because the identity of the purchaser or trackage rights operator/recipient is thus presently uncertain, and may not be resolved when responsive applications are due,[3] ComEd may be unable to supply the information normally expected from applicant carriers in line acquisition or trackage rights proceedings, as specified in, *e.g.*, §§ 1130.6(a)(5) and 1180.6(b)(1)-(6).

Rather than requiring "applicant carrier" information as part of ComEd's responsive line acquisition and trackage

---

[3]Nothing in the Board's regulations prevents the Board from conditioning its approval of the primary application on the Applicants' agreement to grant trackage rights to any suitable rail carrier designated by Entergy, rather than to a specific carrier.

rights applications, the Board should require such information to be filed only if and when ComEd's carrier nominee is objected to by Applicants, at which point the suitability of the nominee could be determined by the Board in subsequent proceedings.[4]

Relief similar to that sought herein by ComEd was requested by several electric utilities who participated in the BN/Santa Fe merger proceeding (Finance Docket No. 32549, Burlington Northern Inc. and Burlington Northern Railroad Company -- Control and Merger -- Santa Fe Pacific Corporation and The Atchison, Topeka and Santa Fe Railway Company), and who sought trackage rights conditions on behalf of unspecified rail carriers. Such relief was granted by the Interstate Comerce Commission in Decision No. 15 served April 20, 1995, in Fincance Docket No. 32549. That decision constitutes a strong precedent for granting the relief requested here.

Respectfully submitted,

COMMONWEALTH EDISON COMPANY

By: C. Michael Loftus
Christopher A. Mills
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys and Practitioners

Dated: January 29, 1996

---

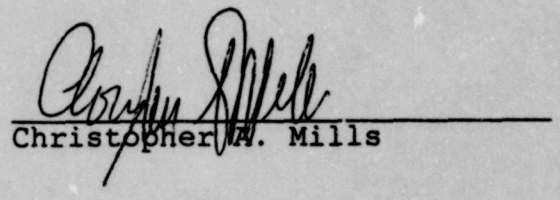
[4]Such follow-up proceedings are of course commonplace in mergers, typically dealing with the implementation of labor protective conditions, compensation for trackage rights, etc.

CERTIFICATE OF SERVICE

I hereby certify that, on this 29th day of January, 1996, I caused a copy of the foregoing Petition for Clarification and/or Waiver to be served by hand on the individuals listed below, and by first-class United States mail, postage prepaid, on all other persons on the service list for this proceeding.

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



Christopher W. Mills

STB FD 32760 1-29-96 D 61102

Item No. _____

Page Count 416

JAN 377

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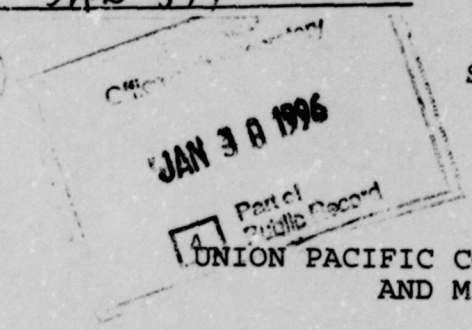
UP/SP-68



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' RESPONSES TO THE
TEAMSTERS' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

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

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

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

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

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

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

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

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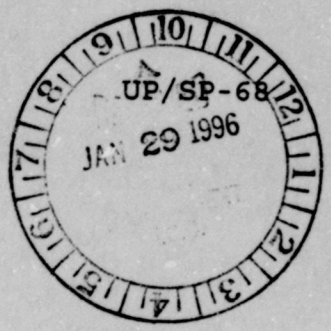

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' RESPONSES TO THE
TEAMSTERS' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

UPC, UPRR, MPRR, SPR, SPT, SSW, SPCL and DRGW, collectively, "Applicants," hereby respond to IBT's First Set of Interrogatories and Requests for Production of Documents Directed to Applicants.

GENERAL RESPONSES

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

1. Applicants have conducted a reasonable search for documents responsive to the interrogatories and document requests. Except as objections are noted herein,[1/] all responsive documents have been or shortly will be made available for inspection and copying in Applicants' document depository, which is located at the offices of Covington &

1/ Thus, any response that states that responsive documents are being produced is subject to the General Objections, so that, for example, any documents subject to attorney-client privilege (General Objection No. 1) or the work product doctrine (General Objection No. 2) are not being produced.

Burling in Washington, D.C. Applicants will be pleased to assist IBT to locate particular responsive documents to the extent that the index to the depository does not suffice for this purpose. Copies of documents will be supplied upon payment of duplicating costs (including, in the case of computer tapes, costs for programming, tapes and processing time).

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

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

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

GENERAL OBJECTIONS

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

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

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

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

4. Applicants object to production of public documents that are readily available, including but not limited to documents on public file at the Board or the Securities and Exchange Commission or clippings from newspapers or other public media. Notwithstanding this objection, Applicants have produced some responsive material of this kind, but Applicants have not attempted to produce all responsive material of this kind.

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

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

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

8. Applicants object to the definitions of "relating to," "relate to" and "concerning" as unduly vague.

9. Applicants object to Instructions Nos. 2, 3, 5, 6, 7 and 8 to the extent that they seek to impose requirements that exceed those specified in the applicable discovery rules and guidelines.

10. Applicants object to Instructions Nos. 2, 3, 5, 6, 7, and 8 as unduly burdensome.

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

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

SPECIFIC RESPONSES AND ADDITIONAL OBJECTIONS

Interrogatory No. 1

"Identify all studies or analyses of diversion of truck traffic to intermodal service conducted by Mr. Don P. Ainsworth, Reebie Associates, Mr. Paul O. Roberts, Transmode Consultants, or Science Applications International Corporation from January 1, 1980 to the present. With respect to each such study or analysis:

(a) Identify the subject matter and purpose of the analysis undertaken.

(b) Provide the dates of the analysis.

(c) Describe with specificity the conclusions, estimates, and results reached in such studies and analyses."

Response

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

All such studies presented in prior rail merger cases, to the extent they can be located, will be produced.

Interrogatory No. 2

"With respect to all truck diversion studies and analyses identified in Interrogatory No. 1, indicate whether any steps were taken following completion of such studies or analyses to determine whether the results of such studies or analyses were accurate as compared to actual subsequent events. Describe for each study or analysis for which follow-up steps were taken the results of such steps (e.g., whether the follow-up steps indicated that the original study or

analysis over-estimated or under-estimated the projected level of diversion of truck traffic to intermodal carriage)."

Response

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

See Response to Interrogatory No. 1. With respect to the studies referred to in that response, no such steps have been taken. This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., p. 74.

Interrogatory No. 3

"With respect to the section of Mr. Ainsworth's Verified Statement labelled 'Premises' (Application at Vol. 1, 434-437), identify the source and basis (including documents, if any) of each of the premises stated in that section, including without limitation, the statements that:

(a) A merged UP/SP will be able to provide new, through train service on 67 major routes.

(b) Rail truck traffic has increased by 6.6% per year over the past 10 years.

(c) Container activity has nearly doubled over the past seven years.

(d) Major LTL carriers have committed up to nearly 20 percent of their traffic to intermodal. For this subpart, identify the LTL carriers to which the statement refers."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

(a) See Document No. HC04-100069.

(b) See Document No. N04-100001.

(c) See Document No. N04-100001.

(d) See Documents Nos. N04-100012 to 13, which identify, among others, CF Motor Freight.

Interrogatory No. 4

"Is 'dry van' freight the only category of freight considered by the analysis undertaken by Reebie Associates? Define 'dry van' freight."

Response

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

As stated in the Ainsworth Verified Statement, the Reebie truck diversion analysis did not evaluate the possible diversion of any truck traffic other than dry van freight. See Ainsworth V.S., pp. 435-36. The definition of "dry van" freight for purposes of the statement was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 126-27. Dry van freight is defined by commodity at the 4-digit STCC level, using those commodities moving in

trailers, containers or boxcars which do not require temperature or humidity control.

Interrogatory No. 5

"What percentage of the total existing combined truck and intermodal market consists of dry van freight.."

Response

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

Applicants have not estimated this figure and could not do so without conducting a burdensome special study.

Interrogatory No. 6

"Does the 'dry van' cargo considered by the Reebie Associates study include cargo in containers as well as trailers?"

Response

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

Yes. This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., p. 127.

Interrogatory No. 7

"What has been the increase, in absolute and percentage terms, in truck/rail intermodal carriage in the past five (5) years? In the past three (3) years?"

Response

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

See Document No. N04-100001.

Interrogatory No. 8

"With respect to the total truck/rail intermodal market, what percentage is container-on-flatcar (COFC) and what percentage is trailer-on-flatcar (TOFC)?"

Response

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

See Document No. N04-100001.

Interrogatory No. 9

"For each of the individual five traffic corridors identified in Appendix A to Mr. Ainsworth's Verified Statement, what is the average profit level (for UP and SP, separately, for each of the last three years) for intermodal cargoes, expressed as a percentage of both total and variable costs?"

Response

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

Applicants have not calculated these figures and could not do so without conducting a burdensome special study.

Interrogatory No. 10

"Identify and describe in detail all studies and analyses undertaken or commissioned by the Applicants to determine the effects on trucking companies of diversion of traffic from truck to rail/truck intermodal carriage."

Response

There are no such studies.

Interrogatory No. 11

"With respect to all studies and analyses identified in response to Interrogatory No. 10, state the anticipated effects of diversion from truck to intermodal on the trucking industry as a whole and on all individual trucking companies identified in all such studies and analyses. Description of such effects shall include, without limitation:

(a) effects on profits of the trucking industry and individual trucking companies,

(b) effects on per unit costs as they apply to the trucking industry generally and as they apply to all individual trucking companies identified in such studies or analyses, and

(c) effects on trucking company employment levels on an industry-wide and individual company basis."

Response

Not applicable.

Interrogatory No. 12

"Describe with particularity the process by which the five traffic corridors identified in Appendix A to Mr. Ainsworth's Verified Statement were chosen. Such description shall identify, without limitation:

(a) All persons participating in the choice of the traffic corridors to be included in the studies undertaken by Reebie Associates and Transmode Consultants.

(b) All traffic corridors considered but not included in the studies, including an explanation of why such corridors were excluded.

(c) The data reviewed and the selection criteria employed in choosing the traffic corridors."

Response

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

The process used to select the five traffic corridors identified in Appendix A to Mr. Ainsworth's verified statement is described in Mr. Ainsworth's statement at pages 437-38 and in Mr. Roberts' statement at page 467, and this

topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 80-81, 86-93. Messrs. Ainsworth and Roberts considered all Western traffic corridors.

Interrogatory No. 13

"For UP and SP separately, what was the total volume of intermodal traffic carried in 1994 between the market pairs identified in Appendix A to Mr. Ainsworth's Verified Statement?"

Response

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

This number has not been computed, but IBT can derive it from the traffic tapes that have been in Applicants' document depository since December 1, 1995.

Interrogatory No. 14

"For UP and SP separately, what was the total volume of intermodal traffic carried by UP and SP in 1994?"

Response

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

UP: 1,583,535 units. SP: 1,461,404 units. These totals include 23,757 units interlined between UP and SP.

Interrogatory No. 15

"For 1994, what was the total volume of truck traffic that moved between the market pairs identified in Appendix A to Mr. Ainsworth's Verified Statement?"

Response

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

Reebie Associates' estimates of the volume of dry van truck traffic that moved between the market pairs is set forth in the Ainsworth workpapers. See Documents Nos. C04-101232 to 36. Transmode's estimates of the truck volume in the market pairs involved in the analysis is set forth in the Roberts workpapers. See Documents Nos. C04-800001 to 32.

Interrogatory No. 16

For 1994, what was the total volume of truck traffic that moved between points served by either UP or SP?"

Response

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

Applicants have not attempted to estimate such a figure, and could do so, if at all, only through conducting an extraordinarily burdensome special study.

Interrogatory No. 17

"For each of the five traffic corridors identified in Appendix A to Mr. Ainsworth's Verified Statement, what is

the magnitude of the traffic imbalances for each of UP and SP?"

Response

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

Data used by Mr. Ainsworth to calculate the magnitude of traffic imbalances is set forth in the Ainsworth workpapers. See Documents Nos. HC04-100025 and HC04-100068.

Interrogatory No. 18

"Identify and describe any databases other than the TRANSEARCH database that were considered by Reebie Associates."

Response

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

The 1994 ICC Waybill Sample.

Interrogatory No. 19

"Describe the criteria used to apply the three 'factors' identified at Vol. 1, p. 437 of Mr. Ainsworth's

Verified Statement with respect to choosing corridors for study. In particular, describe:

(a) The specific criteria used to determine whether the merger created a prospect for improved performance. I.e., (i) how much would a route have to be shortened to indicate a potential for improved intermodal service, (ii) what improved operations, and in what degree, would predict improved intermodal service, (iii) how much lower would costs have to be to indicate improved intermodal service, (iv) what improved terminal arrangements would indicate improved intermodal service, and (v) what other factors were analyzed, and how were they analyzed?

(b) What volume of existing truck traffic was deemed sufficient to make an attempt at diversion attractive? How was this figure derived?

(c) The specific criteria used to determine whether improved service and/or reduced costs from the merger would in fact result in diversion of truck traffic, and how such criteria were applied."

Response

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

This topic was the subject of examination and testimony at the Ainsworth Deposition (see Tr., pp. 80-81, 86-93) and is discussed in Mr. Ainsworth's verified statement (see pp. 437-38, 446-50, 456-59). The volume of existing truck traffic deemed sufficient to make an attempt at diversion attractive was the equivalent of two truckloads per day.

Interrogatory No. 20

"Identify all documents relating to marketing plans that include consideration of possible truck diversions."

Response

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

See the testimony and workpapers of Richard B. Peterson, which analyze in detail opportunities to divert traffic from trucks.

Interrogatory No. 21

"Describe the analysis of 'extended traffic lanes' referred to at Vol. 1, p. 440 of Mr. Ainsworth's Verified Statement. In particular:

(a) Identify all extended traffic lanes that were identified by Reebie Associates.

(b) Identify those extended traffic lanes included in the Reebie Associates study.

(c) Describe how the inclusion of extended traffic lanes in the Reebie Associates study affected the final diversion predictions."

Response

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

The extended traffic lanes considered by Reebie Associates were Detroit and New York over the Chicago gateway, Louisville over the St. Louis gateway, Atlanta over the Memphis gateway, and Jacksonville over the New Orleans gateway. These lanes are listed on Document No. HC04-100032. The diversion estimates set forth in Appendix A do not include such traffic.

Interrogatory No. 22

"For each of the five corridors and each of the individual market pairs included in Appendix A to Mr. Ainsworth's Verified Statement, state the truck diversion estimates obtained by the Reebie Associates study before those estimates were modified to arrive at the 'Consensus' statement attached as Appendix A to Mr. Ainsworth's Verified Statement. Identify all documents relating to truck diversion estimates arrived at by the Reebie Associates study prior to modification of such estimates as reflected in the 'Consensus' statement."

Response

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

The outcome of the Reebie Associates study is set forth in the workpapers of Mr. Ainsworth, at Documents Nos. HC04-100029 to 33.

Interrogatory No. 23

"For each of the five corridors and each of the individual market pairs included in Appendix A to Mr. Ainsworth's Verified Statement, state the truck diversion estimates obtained by the Transmode Consultants study before those estimates were modified to arrive at the 'Consensus' statement attached as Appendix A to Mr. Ainsworth's Verified Statement. Identify all documents relating to truck diversion estimates arrived at by the Transmode Consultants study prior to modification of such estimates as reflected in the 'Consensus' statement."

Response

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

The outcome of the Transmode Consultants study is set forth in the workpapers of Mr. Roberts, at Documents Nos. C04-800001 to 32.

Interrogatory No. 24

"For each traffic corridor identified in Appendix A to Mr. Ainsworth's Verified Statement, name each motor carrier that has been identified by any means (including but not limited to the Reebie Associates and Transmode Consultants studies) as being a significant competitor with rail/truck intermodal service."

Response

Applicants object to this interrogatory as unduly burdensome and unduly vague, and in that it seeks information that is neither relevant nor reasonably calculated to lead to

the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Neither Reebie Associates nor Transmode Consultants prepared any such identification in connection with their studies. Mr. Ainsworth testified at his deposition about several specific motor carriers that participate in the various corridors. See Tr., p. 84.

Interrogatory No. 25

"Does the estimate of truck diversion in Appendix A to Mr. Ainsworth's Verified Statement include potential diversion of traffic between the Bay Area and Los Angeles? If not, why was that market pair excluded?"

Response

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

No. This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., p. 140.

Interrogatory No. 26

"Describe how the increased revenues for UP/SP resulting from truck diversion stated in Mr. Ainsworth's Verified Statement for each traffic corridor were calculated."

Response

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

The estimated number of diverted units was multiplied by the applicable average revenue per intermodal unit set forth at Document No. HC04-100027.

Interrogatory No. 27

"With regard to the statement at Vol. 1, p. 443 that '[w]e also considered several Eastern extended gathering areas for this [Midwest/Southwest] Corridor,' identify the extended gathering areas considered and explain how that consideration affected the final study results."

Response

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

See Response to Interrogatory No. 21.

Interrogatory No. 28

"With respect to Midwest/Texas/Mexico Corridor, identify and describe any analysis undertaken and conclusions reached with respect to diversion of truck traffic originating or terminating in Mexico. Why are no Mexican market points identified in Appendix A to the Verified Statement of Mr. Ainsworth?"

Response

Applicants object to this interrogatory as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Mr. Ainsworth began but did not complete an analysis of potential diversions of truck traffic originating and terminating in Mexico, which he described in greater detail at his deposition. See Tr., pp. 141-42, 191-96, 200. That study was not completed for the reasons explained at the Ainsworth Deposition. Tr., p. 141.

Interrogatory No. 29

"Describe the nature and results of any analysis or study undertaken of the effects of the North American Free Trade Agreement ('NAFTA') on (i) truck diversion and (ii) the competitive and operational positions of UP and SP, together and separately."

Response

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

Applicants have not conducted any study focusing on the interplay of NAFTA and the UP/SP merger. The ways in which the merger will promote the goals of NAFTA are discussed by various witnesses, including Mr. Peterson.

Interrogatory No. 30

"With reference to Mr. Ainsworth's Verified Statement at Vol. 1, p. 446, identify the 'eastern markets that could serve as extended gathering areas' for the Central Corridor. Describe the analysis used to consider the effects of these markets on truck traffic diversion and state all conclusions reached with respect to potential truck diversion from such extended gathering areas. Identify all documents relating to consideration of such extended gathering areas."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor

reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 138-39. See also Response to Interrogatory No. 21.

Interrogatory No. 31

"Describe the assumptions, analysis, and data inputs used to arrive at the conclusion stated at Vol. 1, p. 448 of Mr. Ainsworth's Verified Statement that intermodal service must be competitive within a half day in order to divert truck traffic. Identify all documents relating to this analysis and conclusion. Define 'half day.'"

Response

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

This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 147-48. See also Ainsworth V.S., p. 447.

Interrogatory No. 32

"With reference to Vol. 1, p. 451 of Mr. Ainsworth's Verified Statement, why were cost levels calculated only from truckload motor carriers?"

Response

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

Because truckload costs are a reasonable representation of the LTL carrier line haul costs, which is that portion that could be diverted to an intermodal operation. The same is generally true for private carriers; that is, the prospect of diversion of this traffic relates to line haul economics, similar to what is represented by for-hire truckload costs. This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 181-82.

Interrogatory No. 33

"Describe all analysis done and conclusions reached regarding the effect on the Reebie Associates study of using only truckload carrier costs in the diversion calculations."

Response

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

This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 181-82.

Interrogatory No. 34

"Which motor carriers' costs were used to calculate truck carrier costs in the Reebie Associates study? How was this cost information obtained?"

Response

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

No specific motor carriers' costs were used. The motor carrier cost data that were used were drawn from a variety of trade sources, including the TSS Blue Book of Trucking Companies, and processed through the proprietary truck cost model described in the Ainsworth Verified Statement. See Ainsworth V.S., p. 450-51] This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 177-78.

Interrogatory No. 35

"With reference to the discussion of rail margins in the first paragraph of Vol. 1, p. 457 of Mr. Ainsworth's Verified Statement, explain how assuming a lower price/cost relationship would improve projected rail profitability on diverted cargo."

Response

Applicants object to this interrogatory as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

Mr. Ainsworth did not so testify.

Interrogatory No. 36

"With reference to the first modification identified at Vol. 1, p. 457 of Mr. Ainsworth's Verified Statement, describe the magnitude and nature of the differences in truck diversion analysis results obtained by substituting BN/Santa Fe's costs for the Dallas-Bay Area and Bay Area-Dallas lanes."

Response

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

The effect of using BN/Santa Fe's costs as the measure of "pre-merger" existing intermodal economics in the referenced corridor was to reduce the magnitude of predicted diversions, since BN/Santa Fe's costs were lower than the pre-merger costs of either UP or SP in this corridor.

Interrogatory No. 37

"With reference to the second modification identified at Vol. 1, p. 457 of Mr. Ainsworth's Verified Statement, state how many units of diverted cargo are represented by the 60% share allocated to the BN/Santa Fe for the following lanes: Los Angeles to and from Memphis, and Los Angeles to and from Atlanta."

Response

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

Responsive information will be produced.

Interrogatory No. 38

"Describe in detail the analysis and data inputs on which the 15% and 20% intermodal market share gain caps identified at Vol. 1, p. 458 (Modification 2) of Mr. Ainsworth's Verified Statement were based."

Response

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

Both caps were established to provide a conservative estimate of the level of truck diversions. The 20 percent

gain cap was applied to backhaul lanes to permit achievement of better balance with the headhaul diversions. The caps were based on expert judgment about the degree of diversions that could occur in a reasonable time frame in the absence of technological innovation. This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 183-84. See also Ainsworth V.S., p. 458.

Interrogatory No. 39

"Identify [illegible] market pairs (separately in each direction), whether [illegible] included in the final Reebie Associates or Transmode consultants studies, for which initial calculations indicated UP/SP intermodal market gains from truck diversions in excess of 15%."

Response

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

As discussed at the Ainsworth Deposition, the model employed in the Reebie study imposed a cap of 15 or 20 percent on the percentage increase in rail market share, depending on whether a lane was classified as headhaul or backhaul. See Tr., pp. 183-84. Accordingly, there were no "calculations' that indicated how much above 15 or 20% market share gains would have been absent those caps. The Transmode study did

not employ a percentage cap on truck diversions. Corridors for which diversions in excess of 15% were predicted are indicated in the Roberts workpapers. See Documents Nos. C04-800001 to 32.

Interrogatory No. 40

"With respect to those market pairs identified in the response to Interrogatory No. 39 for which initial calculations indicated increases in market share in excess of 15%, state for each such market pair (separately for each direction) the percentage increase in intermodal market share and the actual number of truck units diverted as indicated by unmodified calculations. Identify all documents relating to those market pairs for which initial (unmodified) calculations indicated an intermodal market share increase in excess of 15%."

Response

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

See Response to Interrogatory No. 39.

Interrogatory No. 41

"With reference to Vol. 1, p. 458-459 of Mr. Ainsworth's Verified Statement (Modification 4), state at what level of headhaul/backhaul imbalance the Reebie Associates study was adjusted to decrease the number of headhaul diversions."

Response

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

Projected headhaul diversions exceeding the corresponding backhaul diversion by a margin of three or more loads per day were scaled back to a margin of one load per day.

Interrogatory No. 42

"Also with reference to Vol. 1, p. 458-59 (Modification 4) state the aggregate and discrete (by market pair, each direction separately) effects on final diversion estimates of all modifications of results undertaken as described in Modification 4."

Response

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

Eight headhaul lanes were scaled back by a total of twenty-three loads per day: Portland to Los Angeles by three loads, Houston to Bay Area by three loads, Memphis to Los Angeles by five loads, St. Louis to Houston by three loads, Chicago to Dallas by three loads, Chicago to Bay Area by two loads, Minneapolis to Bay Area by two loads, and Bay Area to Atlanta by two loads.

Interrogatory No. 43

"For the Reebie Associates study, were all rail intermodal cost figures based solely on TOFC services? If the

answer is yes, describe how TOFC costs compared to COFC costs."

Response

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

This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 172-74.

Interrogatory No. 44

"With reference to Vol. 1, p. 452 of Mr. Ainsworth's Verified Statement, were 'surplus' and 'deficit' equipment designations based solely on motor carrier information? From what motor carriers was that information obtained?"

Response

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

This topic was the subject of examination and testimony at the Ainsworth Deposition. See Tr., pp. 178-79.

Interrogatory No. 45

"With reference to Vol. 1, p. 453 of Mr. Ainsworth's Verified Statement, state the effects of dropping from the study traffic distances over 2,300 miles. Identify all documents relating to any analysis of truck diversion potentials for moves over 2,300 miles in length."

Response

Applicants object to this interrogatory as unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

The effect was to decrease the magnitude of predicted diversions. There are no such documents.

Interrogatory No. 46

"For the Reebie Associates and Transmode Consultants truck diversion studies, state all equations used to process input data into truck diversion predictions and label and explain each variable in each such equation."

Response

Applicants object to this interrogatory as unduly burdensome. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follow:

The models used by Messrs. Ainsworth and Roberts are addressed extensively in their testimony and workpapers. Further information with regard to the basic equations used by each model is being produced.

Interrogatory No. 47

"Describe all changes (from the time the studies were commissioned until the final reports were delivered to Applicants) made to the input data, premises, assumptions, and methodology of the Reebie Associates and Transmode Consultants studies as a result of consultations between or among the Applicants and their principals, employees, or representatives and the employees, representatives, or principals of Reebie Associates and Transmode Consultants."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible

evidence. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

This matter is addressed extensively in the testimony and workpapers, and Messrs. Ainsworth and Roberts can be (and in the case of Mr. Ainsworth, has been) questioned as to any material issues at deposition.

Interrogatory No. 48

"Define the term 'shipper benefits' as that term is used in the Verified Statement of Mr. Paul O. Roberts."

Response

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

Shipper benefits as used in the Roberts verified statement refers to certain shipper savings that Mr. Roberts measured associated with reductions in costs to shippers realized as a result of the UP/SP merger. See Roberts V.S., pp. 465-66, 472.

Interrogatory No. 49

"Describe with particularity what information is included in the North American Truck Survey ('NATS') referred to at Vol. 1, p. 466 of Mr. Roberts' Verified Statement. Identify all documents that describe or state the information contained in the NATS database."

Response

Applicants object to this interrogatory as unduly burdensome. Without waiving this objection, and subject to

the General Objections stated above, Applicants respond as follows:

See Roberts V.S., pp. 474-75.

Interrogatory No. 50

"What percentage of the total truck traffic in the five traffic corridors identified in Appendix A to Mr. Ainsworth's Verified Statement is included in the NATS database."

Response

Applicants object to this interrogatory as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

The NATS database reflects a survey of all such traffic, with the exception of LTL shipments. Data concerning the volume of LTL movements were gathered from other sources. The percentages that non-LTL truck movements represent of total movements can be calculated from the Roberts workpapers. See Documents Nos. C04-800001 to 32.

Interrogatory No. 51

"Does the NATS database include only truckload cargoes?"

Response

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

Yes.

Interrogatory No. 52

"What percentage of the total truck traffic in the five traffic corridors identified in Appendix A to Mr. Ainsworth's Verified Statement consists of less-than-truckload ('LTL') cargoes?"

Response

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

The percentage can be calculated from the Ainsworth workpapers. See Document Nos. C04-101232 to 36.

Interrogatory No. 53

"Describe in detail, including a statement of all relevant equations and variables used, how the figure of $72 million in benefits to carload shippers (Vol. 1 at 473) was derived."

Response

Applicants object to this interrogatory as unduly vague. Without waiving this objection, and subject to the General Objections stated above, Applicants respond as follows:

This figure was calculated using the Transmode logistics cost model to compare shipper costs related to existing SP carload service in various corridors (described in the Roberts workpapers, see Document No. C04-800033) before

and after the merger. See Documents Nos. N04-800019 to 21. See also Roberts V.S., pp. 472-73.

Interrogatory No. 54

"Are refrigerated containers and/or trailers included in the input data for the Transmode Consultants study?"

Response

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

Yes.

Interrogatory No. 55

"With respect to Step 4 of the Transmode Consultants diversion analysis (Vol. 1 at 477), explain the role of the 'receiver's annual use' figures in determining truck diversions."

Response

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

The "receiver's annual use" determined the frequency with which a receiver would receive loads of a given commodity, which in turn influenced the relative importance in the logistics cost model of various measured transportation characteristics, such as reliability.

Interrogatory No. 56

"Explain how figures for the 'receiver's internal rate of return' affect the Transmode Consultants truck diversion analysis. Define 'receiver's internal rate of return.' How were figures for receivers' internal rates of return obtained?"

Response

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

The "receiver's internal rate of return" is the discount rate used to calculate the opportunity costs associated with increased levels of inventory in lieu of reliable, on-time delivery. The figure is based on Roberts' expert judgment.

Interrogatory No. 57

"Name all 'tributary areas' considered by Transmode Consultants in conducting its truck diversion study, including all such areas that were not included in the final diversion estimates."

Response

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

Responsive material will be placed in Applicants' document depository.

Interrogatory No. 58

"For each tributary area considered by Transmode Consultants during its diversion study but not included in the final truck diversion estimates, state the estimated number of diversions by market pair (separately for each direction) for each originating and terminating point within such tributary areas."

Response

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

All tributary areas considered by Transmode were included in Transmode's final diversion estimates, which are set forth in the Roberts workpapers. See Documents Nos. C04-800001 to 32.

Interrogatory No. 59

"Have the Applicants (including Overnite) undertaken any study or made any analysis as to what effect, if any, the merger will have on Overnite, PMT, or SPMT, including but not limited to whether any traffic now transported by Overnite, PMT, or SPMT will be diverted to intermodal? If so, describe each such effect."

Response

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

Applicants have done no such study. Overnite is not an Applicant, and its business is run entirely independently of UP. Overnite has submitted a support statement which is contained in Volume 4 of the application. IBT can inquire of Overnite as to its expectations concerning the effect of the merger on its business.

Interrogatory No. 63

"Describe the work done by UPMF and SIMB at each location at which they operate. State the number of employees and their positions at each location."

Response

Applicants object to this interrogatory as unduly vague and unduly burdensome, and overbroad in that it includes requests for information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence.

Interrogatory No. 64

"Will any of the employees identified in the response to Interrogatory No. 63 be dismissed or relocated as a result of the merger? If so, describe each such dismissal or relocation."

Response:

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

No employees are identified in the Response to Interrogatory No. 63. Applicants do not anticipate that any employees of UPMF or SIMB will be adversely affected by the UP/SP merger.

Interrogatory No. 65

"Do the Applicants intend within the next five years to make any investment in any truck terminal owned or used by Overnite, PMT, or SPMT? If so, describe each such investment."

Response

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

No such investments are contemplated in connection with the UP/SP merger.

Interrogatory No. 66

"Describe the basis for the estimate of the diversion of the carriage of each of the following commodities from truck to intermodal as set forth in Mr. Richard B. Peterson's Verified Statement:

(a) food products (Vol. 3 [sic] at 277-281);

(b) forest products (Vol. 3 [sic] at 281-283);

(c) chemicals (Vol. 3 [sic] at 283-284);

(d) grain (Vol. 3 [sic] at 284-285);

(e) coal (Vol. 3 [sic] at 285-286);

(f) automobiles (Vol. 3 [sic] at 287-288);

(g) metals (Vol. 3 [sic] at 288-289); and

(h) aggregates (Vol. 3 [sic] at 289-290)."

Response

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

The basis is set forth in the testimony and workpapers of Mr. Peterson and can be explored further at his deposition.

Interrogatory No. 67

"Identify all documents related to the calculation, derivation, study, or analysis of each diversion estimate identified in Interrogatory No. 66."

Response

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

Such documents are contained in Mr. Peterson's workpapers, which can be found in Applicants' document depository.

Document Request No. 1

"Produce all documents relating to studies or analyses of truck to intermodal rail traffic diversion undertaken from January 1, 1980, to the present by Mr. Don P. Ainsworth, Reebie Associates, Mr. Paul O. Roberts, Transmode Consultants, and Science Applications International Corporation. Such documents shall include all Verified Statements and transcripts of all testimony (other than in Finance Docket No. 32760) relating to diversion of truck traffic to intermodal rail service and made or given by Mr. Don P. Ainsworth, Mr. Paul O. Roberts, or any principal, employee, or representative of Reebie Associates, Transmode Consultants, or Science Applications International Corporation."

Response

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

See Response to Interrogatory No. 1.

Document Request No. 2

"Produce all documents identified in the response to Interrogatory No. 2."

Response

Interrogatory No. 2 does not call for an identification of documents.

Document Request No. 3

"Produce all documents identified in the response to Interrogatory No. 3."

Response

The documents are in Applicants' document depository.

Document Request No. 4

"Produce all documents identified in the response to Interrogatory No. 20."

Response

Mr. Peterson's workpapers are in Applicants' document depository.

Document Request No. 5

"Produce all documents identified in the response to Interrogatory No. 22."

Response

The documents are in Applicants' document depository.

Document Request No. 6

"Produce all documents identified in the response to Interrogatory No. 23."

Response

The documents are in Applicants' document depository.

Document Request No. 7

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

Response

The documents are in Applicants' document depository.

Document Request No. 8

"Produce all documents identified in the response to Interrogatory No. 40."

Response

The documents are in Applicants' document depository.

Document Request No. 9

"Produce all documents identified in the response to Interrogatory No. 45."

Response

No documents are identified in response to Interrogatory No. 45.

Document Request No. 10

"Produce all documents identified in the response to Interrogatory No. 49."

Response

No documents are identified in response to Interrogatory No. 49.

Document Request No. 11

"Produce all documents identified in the response to Interrogatory No. 60."

Response

No documents are identified in response to Interrogatory No. 60.

Document Request No. 12

"Produce all documents identified in the response to Interrogatory No. 62."

Response

No documents are identified in response to Interrogatory No. 62.

Document Request No. 13

"Produce all documents identified in the response to Interrogatory No. 67."

Response

Mr. Peterson's workpapers are in Applicants' document depository.

Document Request No. 14

"Produce all documents relating to instructions given to Reebie Associates and Transmode Consultants concerning any aspect of the studies conducted by those companies."

Response

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

There are no such documents. No "instructions" were given, except to conduct studies as described in the testimony and to endeavor to arrive at a single set of agreed or "consensus" results.

Respectfully submitted,

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

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

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

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

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

Arvid E. Roach II /mm

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

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

January 29, 1996

STB FD 32760 1-26-96 D 61091

Item No. _____

Page Count 7

JAN 366

61091

OFFICE OF THE GOVERNOR

STATE OF MONTANA

MARC RACICOT
GOVERNOR

STATE CAPITOL
HELENA, MONTANA 59620-0801

RECEIVED
JAN 29 5 [illegible] '96
ICC
OFFICE OF SECRETARY

January 25, 1996

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760 [redacted]
Interstate Commerce Commission
1201 Constitution Avenue, N.W.
Washington, D. C. 20423

Dear Commissioners:

Enclosed is the State of Montana's Description of Inconsistent and Responsive Application as a party of interest in Finance Docket No. 32760 [redacted]

Sincerely,

Marc Racicot

MARC RACICOT
Governor

Enclosure

ENTERED
Office of the Secretary
JAN 29 1996
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Public Record

cc: Administrative Law Judge Jerome Nelson
Arvid E. Roach II, Esq.
Paul A. Cunningham, Esq.

TELEPHONE: (406) 444-3111 FAX: (406) 444-5529

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FINANCE DOCKET NO. 32760 (Sub-No. 10)

Before The

INTERSTATE COMMERCE COMMISSION

WASHINGTON, D. C. 20423

ENTERED
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JAN 29 1996
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Public Record

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,	FINANCE DOCKET NO. 32760 [redacted]

DESCRIPTION OF INCONSISTENT

AND

RESPONSIVE APPLICATION

COMES NOW, The Honorable Marc Racicot, Governor, State of Montana and Attorney at Law, intervenor in the above-styled proceeding and herewith submits this, his DESCRIPTION

OF INCONSISTENT AND RESPONSIVE APPLICATION, that will be filed in this docket on March 29, 1996.

Montana is a state whose economy is integrally tied to transportation. Our economy and commerce is largely dependent upon agricultural products, timber and minerals that require transport by rail in order to reach markets. Maintaining strong, efficient and competitive rail transportation is critical to our economic health.

The importance of maintaining competitive rail alternatives with Union Pacific Railroad (UP) service to Montana points was recognized by the Interstate Commerce Commission (ICC) when it recognized the UP line from Pocatello, Idaho to Butte, Montana and the Milwaukee Road across the state as competitive components of Montana's rail system in the Northern Lines merger in March, 1970. The competitive balance envisioned by the ICC in 1970 has grossly deteriorated. Commission actions over the years, together with the intervening loss of the Milwaukee Road, have severely limited and altered the railroad competitive balance this Commission sought in Montana and the Western United States in the Northern Lines merger 25 years ago.

Montana's economy is predominately characterized by products of mining, agriculture and forests. Each of these products in order to have economic value to Montanans, must be moved in bulk to areas outside the state of Montana and, indeed, outside the confines of the United States. Montana producers ship grain from virtually every corner of Montana to both export and domestic markets. The Burlington Northern Railroad (BN) has an origin monopoly with respect to these shipments. The UP does offer limited competition to southern Montana, and the competitive presence of the UP has been extremely important to the state. But this

merger has the potential of further diminishing the already limited competitive effect of the UP on Montana rail transportation. The pre-merger agreement between the Union Pacific/Southern Pacific and the Burlington Northern/Santa Fe, if allowed to go forward, will potentially do harm to the integrity of the Butte-Pocatello UP line by soliciting and redirecting traffic headed for the southwestern United States, over the BN - Portland, Oregon gateway. The Butte-Pocatello line of the UP has struggled to remain competitive prior to this announced pre-merger agreement and will be further harmed if the pre-merger agreement is allowed to be consummated, as written. This anti-competitive effect of the pre-merger agreement must be remedied before this merger is allowed to be consummated.

In order to prevent the elimination of this competition, the following responsive and inconsistent applications will be filed:

1. UP Interchange - obtain the right of UP to interchange all traffic designated in the pre-merger agreement, as amended herein, at Butte, Montana/Silver Bow, Montana gateway and in addition, to the Portland, Oregon gateway as designated in the pre-merger agreement.
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, from all points in Montana, not just the Western half of the state.
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, made up of all commodities whose shipments originate in Montana, not just a limited number of commodities.

4. UP line guarantee - obtain guarantee from the UP of continued integrity of Butte-Pocatello line. 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 or eventual threat of abandonment. We intend to seek, from this Commission and its successor agency, 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.

RESPECTFULLY SUBMITTED,

S/ Marc Racicot

MARC RACICOT
Governor of the State of Montana
Attorney at Law

State of Montana
County of Lewis and Clark

This instrument was acknowledged before me on 25th day of January 1996 by Marc Racicot as Governor of the State of Montana.

S/ Karen A. Fred

Seal

Notary Public
State of Montana
My Commission Expires 1-12-98

CERTIFICATE OF SERVICE

Copies of Intervenor's Description of Inconsistent and Responsive Application has been served this 25th day of January, 1996, by Federal Express, postage prepaid on:

Administrative Law Judge Jerome Nelson

Federal Energy Regulatory Commission

825 North Capitol Street, N.E.

Washington, D. C. 20426

Arvid E. Roach II, Esq.

1201 Pennsylvania Avenue, N.W. **P. O. Box 7566**

Washington, D. C. 20044

Paul A. Cunningham, Esq.

Harkins Cunningham

1300 Nineteenth Street, N.W.

Washington, D. C. 20036

Betsy Allen

STB FD 32760 1-26-96 D 61088

Item No. _____

Page Count 1

JAN 363

61088

Ohio House of Representatives

Columbus
43266-0603

Office of the Secretary
JAN 30 1996
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RECEIVED
JAN 29 1996

January 17, 1996

Honorable Vernon A. Williams
Secretary, Interstate Commerce Commission
12th Street & Construction Avenue
Washington, DC 20423

FD 32760

Dear Secretary Williams:

I have recently learned of your agency's hearings on the possible merger of Union Pacific-Southern Pacific Railroads. As a member of the Ohio House of Representative's Economic Development & Small Business Committee, I wanted you to know how strongly I feel about a Conrail alternative that would not only be more beneficial to our state, but would also protect competition in the western and southern states. This alternative would be destroyed if the Union Pacific-Southern Pacific merger is approved.

As you know, Conrail is very interested in acquiring the eastern routes of Southern Pacific. Conrail's plan would give Ohio direct rail access to the growing Gulf Coast and Mexican markets. Ohio is the second largest auto manufacturing state in the country, as well as a major producer of auto parts, glass, steel, paper, and cellular equipment. Conrail's proposed acquisition would help our industries export numerous products to the South and to the new Mexican markets now available because of NAFTA.

Conrail has a superb reputation throughout the state of Ohio, and it is a vital part of our economic well-being. The access to new markets that could be created through the Conrail proposal would be extremely advantageous to our economy. Please give favorable consideration to the Conrail alternative to the Union Pacific-Southern Pacific merger.

Sincerely,

Lynn E. Olman
State Representative
51st House District

ADVISE OF ALL PROCEEDINGS

LEO/mms

STB FD 32760 1-26-96 D 61084

41089

PHONE 597-2723

PHONE 597-2753

MARMADUKE
INDUSTRIAL DEVELOPMENT COMMISSION

P.O. BOX 208
MARMADUKE, AR 72443

Office of the Secretary
JAN 30 1996
4 Part of Public Record

RECEIVED
JAN 26 1996
MAIL MANAGEMENT I.C.C.

January 22, 1996

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

RE: Finance Docket 32760

Dear Secretary Williams:

The Marmaduke Industrial Development Commission is extremely concerned about the competitive effects on area businesses of the proposed acquisition of the Southern Pacific (SP) Railroad by the Union Pacific (UP). While we are familiar with the proposed agreement between UP and the Burlington Northern-Santa Fe (BNSF) which is intended to remedy those effects, we are not persuaded that this arrangement will produce effective competition for area rail traffic.

We also have reviewed Conrail's proposal to acquire a significant portion of the SP's eastern lines in connection with the merger, especially the lines running from Chicago and St. Louis to Arkansas, Texas and Louisiana. We find this proposal to be more appropriate and far more effective in addressing our concerns. The Conrail proposal calls for ownership of the lines, whereas the UP-BNSF agreement primarily involves the granting of trackage rights. We believe that trackage rights provide only limited benefits and limited guarantees which easily can be lost if railroads disagree over whose traffic has priority and who is in charge of operations on the line. Further, we believe an owning railroad is in a far better position than a renter to encourage economic development activities on its lines.

Another reason that the Marmaduke Industrial Development Commission favors Conrail's proposal is that it would provide efficient service for area shippers, especially to northeast and midwest markets. Conrail service to these markets would be the fastest and most direct and would involve the fewest car handlings.

Finally, we believe Conrail's proposal will ensure that area rail customers have multiple rail options. We are extremely concerned about the recent merger trend that could lead to only a few giant railroads serving the nation's businesses. Clearly, mega-railroads will only further limit competition and reduce productivity.

For all of these reasors, the Marmaduke Industrial Development Commission will actively oppose the UP-SP merger at the ICC unless it is conditioned upon acceptance of Conrail's proposal.

Item No. _____

Page Count 1

JAN 3619

Sincerely,

Jerry McIntosh
Marmaduke Industrial Development Commission

cc: Brady & Assoc., 300 Springwood Drive, Little Rock, AR 72211

ADVISE OF ALL PROCEEDINGS

STB FD 32760 1-25-96 D 61074

61074

SHER & BLACKWELL
ATTORNEYS AT LAW
SUITE 612
2000 L STREET, N.W.
WASHINGTON, D.C. 20036

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

WRITER'S DIRECT DIAL NO.

(202) 463-2510

SUITE 1100
555 MONTGOMERY STREET
SAN FRANCISCO, CA 94111
TELEPHONE (415) 788-9150
FACSIMILE (415) 788-9454

SUITE 510
15 EXCHANGE PLACE
JERSEY CITY, NJ 07302
TELEPHONE (201) 915-0100
FACSIMILE (201) 915-0393

PHILIP A. BANGERT*
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

January 25, 1996

By Hand

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

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

Dear Mr. Williams:

Enclosed for filing on behalf of The International Brotherhood of Teamsters ("IBT") are an original and twenty (20) copies of the IBT's Statement in Support of the Western Shippers' Coalition's Motion for Enlargement of the Procedural Schedule.

I also enclose a disk containing the IBT's Statement in Support in WordPerfect 5.1 format. Finally, I enclose an extra copy of this filing, which I ask that you date-stamp as received and return to us via our messenger.

Thank you for your attention to this matter.

Sincerely,

John W. Butler

John W. Butler

Enclosure

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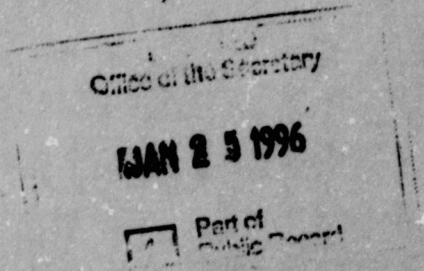

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Page Count 3

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JAN 25 1996
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JAN 25 1996
MANAGEMENT
I.C.C.

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 32760

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

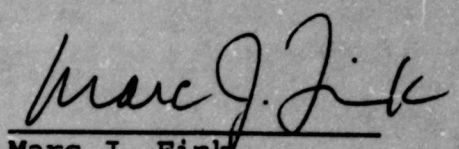
-- Control and Merger --

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

STATEMENT OF THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS IN SUPPORT OF THE WESTERN SHIPPERS' COALITION'S MOTION FOR ENLARGEMENT OF THE PROCEDURAL SCHEDULE

The International Brotherhood of Teamsters ("IBT"), by its undersigned counsel, hereby respectfully requests that the Board grant the relief requested by the Western Shippers' Coalition in its January 22, 1996, Motion for Enlargement of the Procedural Schedule. The IBT has previously expressed its concern that the current schedule is too compressed to allow parties to make a meaningful contribution to the record. The proposed extension, although brief, would aid the parties in preparing informed comments and responses and would further the public interest by encouraging the compilation of a more complete record in this important and complicated proceeding.

Respectfully submitted,



Marc J. Fink
John W. Butler

SHER & BLACKWELL
2000 L Street, N.W.
Suite 612
Washington, DC 20036
(202) 463-2500

Attorneys for The
International Brotherhood of
Teamsters

Dated: January 25, 1996

STB FD 32760 1-25-96 D 61073

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61073

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N. W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

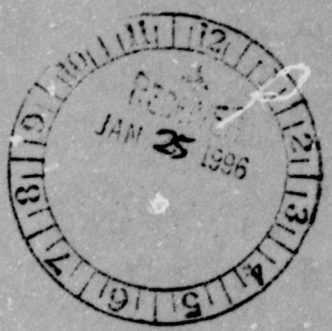
TELEFAX: (202) 662-6291
TELEX: 89-593 (COVLING WSHI
CABLE: COVLING

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE: 44-171-495-5655
TELEFAX: 44-171-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE: 32-2-512-9890
TELEFAX: 32-2-502-1598

MICHAEL L. ROSENTHAL
DIRECT DIAL NUMBER
(202) 662-5448
DIRECT TELEFAX NUMBER
(202) 778-5448

January 25, 1996



BY HAND

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

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

Dear Secretary Williams:

Enclosed for filing in the above-captioned docket are the original and twenty copies of Applicants' Reply to Motion of Western Shippers' Coalition for Enlargement of the Procedural Schedule (UP/SP-65). Also enclosed is a 3.5-inch disk containing the text of this pleading in WordPerfect 5.1 format.

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

ENTERED
Office of the Secretary

JAN 25 1996

Sincerely,

Michael L. Rosenthal

Enclosures

cc: All Parties of Record

Office of the Secretary

JAN 25 1996

UP/SP-65

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

APPLICANTS' REPLY TO MOTION OF WESTERN SHIPPERS' COALITION FOR ENLARGEMENT OF THE PROCEDURAL SCHEDULE

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

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

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

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

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

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

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

January 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

APPLICANTS' REPLY TO MOTION OF WESTERN
SHIPPERS' COALITION FOR ENLARGEMENT
OF THE PROCEDURAL SCHEDULE

Union Pacific Corporation ("UPC"), Union Pacific Railroad Company ("UPRR"), Missouri Pacific Railroad Company ("MPRR")[1/] Southern Pacific Rail Corporation ("SPR"), Southern Pacific Transportation Company ("SPT"), St. Louis Southwestern Railway Company ("SSW"), SPCSL Corp. ("SPCSL"), and The Denver and Rio Grande Western Railroad Company ("DRGW"),[2/] hereby reply to the Motion of Western Shippers' Coalition ("WSC") for Enlargement of the Procedural Schedule, dated January 22, 1996.

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

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

More than four and one-half months after the Commission called for comments on a proposed schedule, more than three months after the ICC established the final procedural schedule for this proceeding,[3] and only a week before the deadline fixed in that schedule for descriptions of anticipated inconsistent and responsive applications, WSC seeks a 60-day deferral of the entire procedural schedule. None of WSC's purported justifications warrant this delay. More than 100 parties have indicated their intent to participate in this proceeding, and many have been active in discovery, yet only six days before the deadline for describing inconsistent and responsive applications, no other party had sought relief from the procedural schedule set by the Commission last October.[4] WSC makes no showing that it is unable to prepare a protective filing describing a potential inconsistent application by the deadline of January 29, 1996.

The procedural schedule for this case was not fixed casually. Last summer the Commission was completing the BN/Santa Fe proceeding, proving to skeptics that it could

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[3] Decision No. 6 served Oct. 19, 1995 ("Schedule Order").

[4] The Board may anticipate that, as is usually the case when one party seeks schedule relief, opponents of the merger will piggyback on WSC's request in hopes of achieving delay. Indeed, KCS and its affiliate, Tex Mex, have already jumped on the bandwagon. Applicants will respond separately to their comments.

handle a major merger proceeding between two Class I carriers expeditiously yet fully and fairly. Its original six-month schedule in this case was modeled on the BN/Santa Fe schedule, as well as the procedures it published for comment in Ex Parte No. 282 (Sub-No. 19), New Procedures in Rail Acquisitions, Mergers & Consolidations, Decision served Jan. 26, 1995. The Commission invited comments on its proposed schedule,[5/] and received them from about 35 parties. Some favored the schedule while others sought extensions up to 2 1/2 years. See Schedule Order, p. 4.

After considering this rich variety of opinion, the Commission added 60 extra days to the schedule, including 30 extra days for responding parties to develop their positions. From the date of that order, interested parties had more than five months to develop comments and responsive applications. From the filing date of the application, parties will have the same amount of time to prepare any opposition evidence or evidence in support of conditions as the Applicants used to prepare their entire Application. WSC Petition, p. 2 [6/]

[5/] Decision No. 1, served Sept. 1, 1995, p. 3; 60 Fed. Reg. 45737 (Sept. 1, 1995).

[6/] WSC's implied suggestion (id.) that the Commission did not know what is was getting into when it set the procedural schedule is clearly mistaken. The Commission knew well that it was about to consider the biggest rail merger proposal in its history. It had received hyperbolic warnings about the magnitude of the proceeding, including KCS' claim that the Santa Fe-Southern Pacific case in the 1980s would "be dwarfed

(continued...)

In juxtaposition to the Commission's in-depth and informed consideration of the schedule, WSC offers only the weakest of excuses for being unprepared to comply. As WSC acknowledges, it was formed before the application was filed. Its members had as much time as any other party to prepare their positions. Many have independently filed notices (due January 16) of their intent to participate in the proceeding as parties. Several, such as Sierra Pacific Power, Kennecott and Geneva Steel, have been active participants in discovery and depositions, underway since December. Unlike several of its members, however, WSC itself did not ask to be placed on the Restricted Service List (for service of discovery pleadings) until January 23, the day after it filed its motion seeking delay. It has not attended discovery conferences, and it has never visited Applicants' document depository.

WSC argues that the schedule should be deferred because Applicants have not negotiated a settlement with it and have not met with its members since November. In fact, UP contacted WSC's top officer in early December and invited him to arrange another meeting, but heard nothing further, even after UP sent supplemental information in early January. Any "diligent" pursuit of "informal negotiations" by WSC

6/ (...continued)
in comparison with the instant merger." KCS-3, p. 12. KCS ever filed verified statements to emphasize the scale of the merger.

(Petition, p. 4) has been invisible to Applicants. WSC's counsel has never contacted Applicants' counsel about settlement.

But in any case, the procedural schedule in a merger case is not contingent on settlement negotiations. Settlement discussions may occur at any time with any interested person, and Applicants would be happy to meet with WSC today or at any time, but those discussions do not relieve parties of their obligations to comply with the deadlines of the Surface Transportation Board. WSC was not at liberty to postpone its preparations for this proceeding on the basis of possible settlement discussions, especially discussions it did not aggressively pursue.

WSC also contends that it requires extra time to evaluate the BN/Santa Fe settlement, which it claims was disclosed belatedly. The essential elements of the settlement were disclosed to the public in September when it was reached, and Applicants began providing copies of the agreement to parties who asked for it shortly thereafter. It does appear, however, that WSC misunderstands the agreement and has not reviewed the application. WSC asserts that UP/SP would defer "non-essential maintenance" on DRGW lines for five years. UP/SP has absolutely no such plans, which would violate section 9d of the settlement agreement. Application, Volume 1, p. 333. And, contrary to WSC's suggestion, the application

and underlying workpapers very extensively address the volume of traffic that will be open to BN/Santa Fe and likely diverted by BN/Santa Fe (as does a subsequent filing by BN/Santa Fe itself).[2/]

At some length, WSC describes the "great uncertainty" facing the Commission last fall, the legislative turmoil, the threats of a presidential veto and the presumed ICC staff dislocations. WSC fails to explain, however, why its preparations should have been affected by such uncertainties. The Commission itself expressly addressed these uncertainties in adhering to its schedule and making clear that the case would move forward without any delay. Decision No. 6, served Oct. 19, 1995, pp. 6-7. The presiding Administrative Law Judge made the same determination. E.g., Transcript of Hearing, Dec. 20, 1995, pp. 12-31. The procedural order was in place and legally effective throughout November and December. Administrative Law Judge Nelson held discovery proceedings during December and into January without disruption. WSC had no basis for assuming that the schedule would change in any way.

To be sure, the weather in Washington was miserable and the roads were a mess, but Applicants and many other

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[2/] Verified Statement of Richard B. Peterson, p. 15 ("BN/Santa Fe will have access to well over $1 billion in UP and SP traffic"); Testimony of Larry M. Lawrence, BN/SF-1, p. 3-3 ("new market access . . . is $1,062 million").

parties continued to move the proceeding forward on schedule.[8/] Discovery requests flew as thick as the snow flakes, and Applicants filed objections and responses throughout the blizzard. Discovery hearings were held on December 20, January 2 and January 17. Other parties have filed 16 lengthy sets of formal discovery requests containing some 600 inquiries (not counting sub-parts) and have made many further informal or followup requests. Applicants have dealt with them all, in spite of the weather. An extensive deposition schedule of witnesses has been set and depositions are underway.

UP has indeed experienced some service problems attributable in part (but only in part) to implementing its acquisition of CNW. That is acknowledged in the application, which explains the steps UP is taking to solve them. This proceeding clearly should not be held in abeyance until UP "provides substantial evidence that its service problems . . . have been improved." WSC Petition, p. 5. Such a performance test has never been applied, and the suggestion is counterproductive. Although UP has in fact achieved improvements in service quality, and hopes to make further progress in coming months, the SP acquisition itself would bring an instantaneous solution to some of the most nagging

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[8/] Unlike the weather, the holidays -- which WSC cites as a reason for deferral -- can hardly be viewed as an unexpected intrusion into the schedule.

capacity and facility problems facing both UP and SP today. WSC's request would only delay and make more difficult the improved services it demands.

Finally, WSC argues that 1994 waybill sample and URCS data became available only recently. This is not correct. The 1994 Waybill Sample became available at the beginning of September -- a point that was highlighted in the ICC order adopting 1994 as the base year for this proceeding. Decision No. 1, served Sept. 1, 1995, p. 2. The ICC publicly announced the availability of 1994 Phase III URCS unit costs on November 7, 1995. The application uses 1994 UP and SP URCS costing, and pertinent data have been available to any party since the application was filed (and indeed earlier). No party has claimed that these data are necessary to review the application and describe responsive applications. Moreover, WSC still has more than two months before it must submit any evidence. Its immediate obligation is much more limited -- and may not exist at all if WSC is not proposing an inconsistent application: it need only describe any anticipated inconsistent and responsive application and file any petition for waiver or clarification.

Although it disputes their magnitude, WSC implicitly acknowledges that the public benefits of the merger -- estimated by Applicants as approximately <u>two million dollars per day</u> -- would be lost forever for the duration of the

requested 60-day extension. WSC Petition, p. 7. But even if losing $120 million in public benefits were a reasonable price for a 60-day extension, there are important reasons for the Board to proceed expeditiously. This merger is a response to the BN/Santa Fe merger, and BN/Santa Fe will not delay its continued implementation of merger efficiencies, and its steps to become more and more competitive, for 60 days. Right now, BN/Santa Fe is spending heavily to add capacity and new services so that it can divert shipments from UP and SP. Its Chief Executive Officer, Rob Krebs, has announced that the merger will produce far greater efficiencies than predicted, and he is moving quickly to exploit them while UP and SP await government action. Every passing day, BN/Santa Fe's competitive advantages grow, especially over SP.

CONCLUSION

In adopting its revised procedural schedule, the Commission rejected demands for a longer schedule because they would represent "a step backward in our effort to process applications fairly but efficiently." Schedule Order, p. 5. WSC has had ample opportunity to meet the modest requirements of the January 29 deadline, and it has 65 more days to develop its comments on the proposed merger. Applicants respectfully urge the Board not to take "a step backward" by delaying consideration of the UP/SP merger in response to WSC's last-minute and ill-founded request.

Respectfully submitted,

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

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

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

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

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

Arvid E. Roach II /mem

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

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

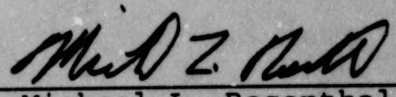
January 25, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 25th day of January, 1996, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

Director of Operations
Antitrust Division
Room 9104-TEA
Department of Justice
Washington, D.C. 20530

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



Michael L. Rosenthal

STB FD 32760 1-25-96 D 61072

61072

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

Office: (800) 814-3531 Fax: (800) 641-2255

FD 32760

January 25, 1996

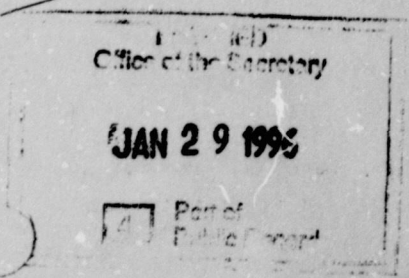
Via Hand Delivery
Honorable Vernon A. Williams
Secretary
The Surface Transportation Board
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Secretary Williams:

The Coalition for Competitive Rail Transportation (CCRT) has reviewed the filings and support the 60 day extension request of the Kansas City Southern Railway Company, the Texas Mexican Railway Company and the Western Shippers Coalition. This additional time is required by our shippers (an expanding number now in excess of 125 companies) to review the UPSP application and to adequately respond in an appropriate and meaningful manner.

Respectfully Submitted,

John T. Estes
Executive Director



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LAW OFFICES
KELLER AND HECKMAN
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

JOSEPH E. KELLER (1907-1994)
JEROME H. HECKMAN
WILLIAM H. BORGHESANI, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELDRED
RICHARD J. LEIGHTON
ALFRED S. REGNERY
WILLIAM L. KOVACS
DOUGLAS J. BEHR
RAYMOND A. KOWALSKI*
SHIRLEY A. COFFIELD
MICHAEL F. MORRONE
JOHN S. RICJARDS
JUAN SAVIGNY*◇
JOHN B. DUBECK
PETER L. de la CRUZ
MELVIN S. DROZEN
LAWRENCE P. HALPRIN
RAL H A. SIMMONS
RICHARD F. MANN
C. DOUGLAS JARRETT
SHEILA A. MILLAR
GEORGE G. MISKO
STEPHAN E. BECKER
PATRICK J. HURD
MARK A. SIEVERS
GAREN E. DODGE
JEAN-PHILIPPE MONTFORT*◇
DAVID G. SARVADI*
JONATHAN R. SPENCER
CATHERINE R. NIELSEN
SUSAN N HAFELI*
AMY N. RODGERS
ELLIOT SELIKOS
MARK L. ITZKOFF
ROSEMARIE A. KELLEY
T. PHILLIPS BECK
ARTHUR C. GARRETT III
LESLIE E. SILVERMAN
ELIZABETH N. HARRISON
ROBERT H. G. LOCKWOOD
CARRIN MOORE YOTH
JOAN P. SYLVAIN*
MARTHA E. MARRAPESE
DONALD T. WURTH
DAVID B. BERRY
S. DEBORAH ROSEN
DAVID R. JOY
FREDERICK A. STEARNS
TONYE RUSSELL EPPS*
THOMAS C. BERGER
JOHN F. FOLEY*
ALEXANDRE MENCIK von ZEBINSKY*◇
PHILIP H. ANDREWS*◇
JENNIFER A. ROMANNO*
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.S.T.
JOHN P. MOUDERMAN, PH. D.
HOLLY HUMPHRE FOLEY
JUSTIN C. HOWELL, PH. D.
JANETTE HOUK, PH. D.
LESTER SORODINSKY, PH. D.
THOMAS C. BROWN◇
MICHAEL T. FLOOD, PH. D.
ANDREW P. JOVANOVICH, PH. D.

WRITER'S DIRECT DIAL NUMBER

January 25, 1996

JAN 29 1996

(202) 434-4144

Part of Public Record

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

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

Dear Honorable Williams:

Enclosed for filing with the Surface Transportation Board in the captioned docket are the original and twenty (20) copies of Comments of The Society of the Plastics Industry, Inc. (SPI-3), in Support of the Motion by Western Shippers' Coalition for Enlargement of the Procedural Schedule. Also enclosed is a 3.5" disk containing the text of this submission in WordPerfect 5.1 format.

Respectfully submitted,

Martin W. Bercovici

Enclosures

cc: Honorable Jerome Nelson
Restricted Service List

Item No.

Page Count 16

JAN 345

Office of the Secretary
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SURFACE TRANSPORTATION BOARD

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

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

COMMENTS OF
THE SOCIETY OF THE PLASTICS INDUSTRY, INC.,
IN SUPPORT OF
MOTION BY WESTERN SHIPPERS' COALITION
FOR ENLARGEMENT OF THE PROCEDURAL SCHEDULE

Martin W. Bercovici
Douglas J. Behr
Arthur S. Garrett III

KELLER AND HECKMAN
1001 G Street, NW
Suite 500 West
Washington, DC 20001
Tel: (202) 434-4100
Fax: (202) 434-4651

Attorneys for The Society of the
Plastics Industry, Inc.

January 25, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

COMMENTS OF
THE SOCIETY OF THE PLASTICS INDUSTRY, INC.,
IN SUPPORT OF
MOTION BY WESTERN SHIPPERS' COALITION
FOR ENLARGEMENT OF THE PROCEDURAL SCHEDULE

The Society of the Plastics Industry, Inc. (SPI), strongly supports the motion of the Western Shippers' Coalition (WSC) for enlargement of the procedural schedule.[1/]

SPI takes particular note of the comments of the Kansas City Southern Railway Company (KCS) in its support for the WSC motion (KCS-17). KCS discusses the tortuous efforts to secure relevant and necessary documentation from applicants through the discovery process. SPI has shared some of the same experience as the KCS, and respectfully submits that the delays in the discovery process necessitate the extension of the schedule.

SPI propounded interrogatories to applicants on December 7, 1995. Responses were received on December 22, which advised (i) that certain information would be placed in the depository, (ii) that searches were being conducted for other information, and (iii) objected to still other information requested. Much of the information furnished by the applicants consists of files of their plastics shippers. A substantial quantity of those files

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1/ WSC Motion dated January 22, 1996.

were not placed in the depository until the last two weeks. More importantly, as of the preparation of this pleading, applicants have not fully satisfied SPI's interrogatories; and that matter is scheduled to be brought to the attention of Judge Nelson for resolution on Friday, January 26, 1996. Moreover, even with regard to a matter as basic as internal analyses and studies of the plastics industry, one of the major customer groups for both the UP and SP, we are advised that inquiry as to this is still being made at the level of the responsible marketing executives into the existence of such documents.

Additionally, SPI's consultants, L.E. Peabody & Associates, have been unable to secure the spreadsheets, databases and computer programs utilized by applicants in preparing their verified statements (other than the traffic tapes), in machine-readable form.

Applicants expended approximately four months from the date of their agreement to merge their application. The time devoted to analysis and pre-application planning prior to the date of final agreement is unknown. Given the size, nature and scope of this transaction, and the continuing barriers to achieving full and candid disclosure of all relevant information as exemplified by the experience of KCS, SPI and others in the weekly parade before Judge Nelson by parties seeking orders compelling production of documents, it is clear that the period of less than three months provided for discovery will not be adequate for the compilation of a full and complete record.

WHEREFORE, THE PREMISES CONSIDERED, The Society of the Plastics Industry, Inc., supports the request for enlargement of the procedural schedule.

Respectfully submitted,

Martin W. Bercovici
Douglas J. Behr
Arthur S. Garrett III

KELLER AND HECKMAN
1001 G Street, NW
Suite 500 West
Washington, DC 20001
Tel: (202) 434-4100
Fax: (202) 434-4651

Attorneys for The Society of the Plastics Industry, Inc.

January 25, 1996

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JAN 327

41051

COVINGTON & BURLING
1201 PENNSYLVANIA AVENUE, N. W.
P.O. BOX 7566
WASHINGTON, D.C. 20044-7566
(202) 662-6000

TELEFAX: (202) 662-6291
TELEX: 89-593 (COVLING WSHI
CABLE: COVLING

LECONFIELD HOUSE
CURZON STREET
LONDON W1Y 8AS
ENGLAND
TELEPHONE: 44-171-495-5555
TELEFAX: 44-171-495-3101

BRUSSELS CORRESPONDENT OFFICE
44 AVENUE DES ARTS
BRUSSELS 1040 BELGIUM
TELEPHONE: 32-2-512-9890
TELEFAX: 32-2-502-1598

J. MICHAEL HEMMER
DIRECT DIAL NUMBER
(202) 662-5578
DIRECT TELEFAX NUMBER
(202) 778-5578

January 23, 1996

HAND DELIVERY

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

Re: UP/SP Merger, Finance Docket No. 32760

Dear Mr. Williams:

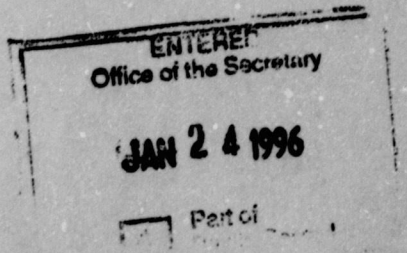
Late yesterday afternoon, counsel for applicants received by facsimile the "Motion of Western Shippers' Coalition For Enlargement of the Procedural Schedule" which apparently had been filed with the Board earlier in the day. As this motion seeks relief from a January 29, 1996 deadline, applicants intend to respond no later than Thursday, January 25. Applicants respectfully ask the Board not to act on this petition before considering their response.

Sincerely,

Mike Hemmer

Arvid E. Roach II
J. Michael Hemmer

cc: All Parties



STB FD 32760 1-16-95 D 60960

40960

CSX Corp

One James Center
Richmond, Virginia 23219
Telephone: (804) 783-1343
Telecopy: (804) 783-1355

PETER J. SHUDTZ
General Counsel

January 15, 1996

VIA AIRBORNE EXPRESS

JAN 17 1996

Office of the Secretary
Case Control Branch
Surface Transportation Board
1201 Constitution Ave., N.W.
Washington, D.C. 20423

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

Notice of Intent to Participate

Dear Secretary Williams:

By Decision served December 27, 1995 in the above-captioned proceeding, the Board required all parties intending to participate in this proceeding to file notice thereof by January 16, 1996. In accordance with the Board's order, this will serve as notice of the intent of CSX Corporation and its subsidiaries, including CSX Transportation, Inc., to participate. Kindly, enter me on the service list as representative of these parties as follows:

Peter J. Shudtz, General Counsel
CSX Corporation
One James Center
901 E. Cary Street
Richmond, Virginia 23219

Very truly yours,

Peter J. Shudtz

cc: The Honorable Jerome Nelson
Administrative Law Judge
Arvid E. Roach II, Esquire
Paul A. Cunningham, Esquire

Item No. _____

Page Count 1
II 23C

STB FD 32760 1-16-96 D 60952

68952

TRL COMPANY, INC.

January 12, 1996

Office of the Secretary

JAN 17 1996

RECEIVED
JAN 16 1996
MAIL MANAGEMENT I.C.C.

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

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

Dear Secretary Williams:

Enclosed for filing is an original and 20 copies of the notification of TRL Company, Inc. ("TRL") of its intent to participate in this proceeding as an active party, plus a 3.5-inch floppy diskette formatted to 5.1 WordPerfect of the same. Please place TRL and its representatives indicated below on the list of all parties of record in this case. TRL Company, Inc. selects the acronym "TRL" for identifying all documents and pleadings it submits.

James R. Craig
TRL Company, Inc.
4809 Cole Avenue, LB-126
Dallas, Texas 75205

If you have any questions regarding this matter, please contact the undersigned.

Sincerely yours,

James R. Craig
Chief Financial Officer

cc: Administrative Law Judge Nelson
All Parties of Record

4809 Cole Avenue, Suite 350, Dallas, Texas 75205
telephone (214) 528-2888 fax (214) 528-0770

Item No. _____
Page Count 1
228

40949

HOPKINS & SUTTER

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

888 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 (202) 835-8000
FACSIMILE (202) 835-8136 TELEX 440374

CHICAGO OFFICE THREE FIRST NATIONAL PLAZA CHICAGO 60602
DALLAS OFFICE 5700 BANK ONE CENTER 1717 MAIN STREET 75201

*CHARLES A. SPITULNIK
(202) 835-8196

RECEIVED
JAN 16 1996
MAIL MANAGEMENT I.C.C.

January 16, 1996

BY HAND DELIVERY

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
Room 1324
12th Street & Constitution Avenue, N.W.
Washington, D.C. 20423

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

Dear Sir:

Enclosed please find 20 copies of Vail Associates Real Estate Group, Inc.'s Notice of Intent to Participate in the above proceeding.

Please date-stamp the extra copy provided and return it with our messenger. Thank you.

Sincerely,

Charles A. Spitulnik

Enclosure

ENTERED
Office of the Secretary
JAN 22 1996
S Part of Public Record

Item No. 3
Page Count #725

VAIL-1

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 32760

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

-- Control and Merger --

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

NOTICE OF INTENT TO PARTICIPATE

Vail Associates Real Estate Group Inc. ("Vail Associates"), by its undersigned counsel, hereby provides notice of its intent to participate in this proceeding as an active party. All service of pleadings and decisions to Vail Associates may be made to the undersigned counsel. In accordance with 49 C.F.R. § 1180.4(a)(2), Vail Associates selects the acronym "VAIL" for identifying all documents and pleadings it submits.

Dated: January 16, 1996

Respectfully submitted,

Robert P. vom Eigen
Charles A. Spitulnik
Alicia M. Serfaty
Jamie Palter Rennert
HOPKINS & SUTTER
888 Sixteenth Street, NW
Washington, D.C. 20006
(202) 835-8000

Counsel for Vail Associates Real
Estate Group Inc.

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 1996, a copy of the foregoing Vail Associates Real Estate Group Inc.'s Notice Of Intent To Participate was served by first-class, U.S. mail, postage prepaid upon all parties of record in this proceeding.

Alicia M. Serfaty

CYPRUS AMAX
Coal Sales Corporation

Cyprus Amax Coal Sales Corporation
9100 East Mineral Circle
Englewood, Colorado 80112
(303) 643-5114
Fax: (303) 643-5002

Item No. _____

Page Count 2
4240

Richard J. Elston
Vice President Logistics

January 11, 1996

Office of the Secretary
Surface Transportation Board
Interstate Commerce Commission
Case Control Branch
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Attention: Finance Docket No. 32760

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

Dear Secretary:

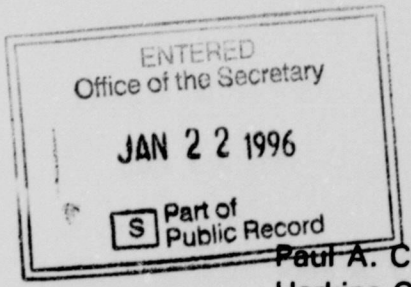
Cyprus Amax Coal Sales Corporation hereby notifies the Surface Transportation Board of its intention to participate in the Board's consideration of the proposed UP/SP merger by filing an original and twenty (20) copies of its Notice of Intent to Participate. Should you have any questions, please contact the undersigned.

Respectfully submitted,

Richard J. Elston

RJE/sg

Enclosures



cc: Arvid E. Roach, II
Covington & Burling
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, D.C. 20044

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

011196.rje

January 11, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD
DEPARTMENT OF TRANSPORTATION
(FORMERLY 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 CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

NOTICE OF INTENT TO PARTICIPATE

Pursuant to Decision No. 6 in this proceeding, and in accordance with 49 C.F.R §1180.4(a)(4), Cyprus Amax Coal Sales Corporation hereby submits its Notice of Intent to Participate. We respectfully request that our representatives, as listed below, be included in the service list maintained by the Board in this proceeding so that the listed representatives receive copies of all orders, notices, and other pleadings in this proceeding. Further, we request that Applicants and other parties of record serve copies of all pleadings filed in this proceeding directly upon the indicated representatives as listed below:

Richard J. Elston
Vice President Logistics
Cyprus Amax Coal Sales Corporation
P.O. Box 3299
Englewood, CO 80155-3299

Greg A. Walker
General Attorney
Cyprus Amax Coal Sales Corporation
P.O. Box 3299
Englewood, CO 80155-3299

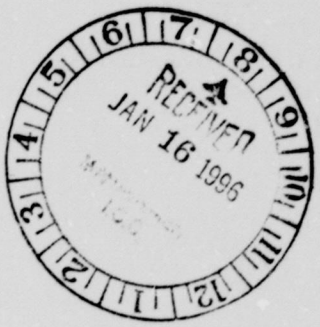
STB FD 32760 1-16-96 D 60946

60946

Public Service®

Public Service
Company of Colorado
P.O. Box 840
Denver, CO 80201-0840

January 8, 1996



Office of the Secretary
Surface Transportation Board
Interstate Commerce Commission
Case Control Branch
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Attn: Finance Docket No. 32760

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

Dear Secretary:

Public Service company of Colorado hereby notifies the Surface Transportation Board of its intention to participate in the Board's consideration of the proposed UP/SP merger by filing an original and twenty (20) copies of its Notice of Intent to Participate. Should you have any questions, please do not hesitate to contact the undersigned.

Respectfully submitted,

Charles Bomberger/GK

Charles R, Bomberger
Manager, Production Services

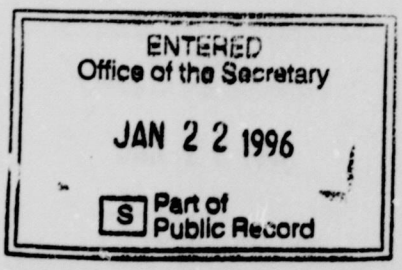
Item No. _____
Page Count 3
#222

Enclosures

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

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

Jerome Nelson
Administrative Law Judge
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426



ENTERED
Office of the Secretary
JAN 22 1996
Part of
Public Record

January 8, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD
DEPARTMENT OF TRANSPORTATION
(FORMERLY 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 CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

NOTICE OF INTENT TO PARTICIPATE

Pursuant to Decision No. 6 in this proceeding, and in accordance with 49 C.F.R. Sec. 1180.4(a)(4), Public Service Company of Colorado hereby submits its Notice of Intent to Participate. We respectfully request that our representatives, as listed below, be included in the service list maintained by the Board in this proceeding so that the listed representatives receive copies of all orders, notices and other pleadings in this proceeding. Further, we request that Applicants and other parties of record serve copies of all pleadings filed in this proceeding directly upon the indicated representatives as listed below:

Charles R. Bomberger
Manager, Production Services
Public Service Company of Colorado
5900 E. 39th Avenue
Denver, Colorado 80207

Patricia T. Smith
Sr. Vice President & General Counsel
Public Service Company of Colorado
1225 17th Street, Suite 600
Denver, Colorado 80202

Stanley B. Koniz
Unit Manager - Fuel & Water Supply
Public Service Company of Colorado
1225 17th Street, Suite 1100
Denver, Colorado 80202

David N. Lawson
Fuel Traffic Coordinator
Public Service Company of Colorado
1225 17th Street, Suite 1100
Denver, Colorado 80202

Respectfully submitted,

Charles Bomberger/gk

Charles R. Bomberger
Manager, Production Services

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of January, 1995, copies of the foregoing Notice of Intent to Participate were served upon Administrative Law Judge Jerome Nelson, Federal Energy regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, Arvid E. Roach II, Esquire, Covington & Burling, 1201 Pennsylvania Avenue, N.W., P.O. Box 7566, Washington, D.C. 20044, Paul A. Cunningham, Esquire, Harkins Cunningham, 1300 19th Street, N.W., Washington, D.C. 20036, and upon other known parties of record in Finance Docket No. 32760 by first-class mail, postage prepaid, in accordance with the rules of the Interstate Commerce Commission.

David N. Lawson

David N. Lawson
Fuel Traffic coordinator
Public Service Company of Colorado
1225 17th Street, Suite 1100
Denver, Colorado 80202
(303) 294-8014

STB . FD 32760 1-16-96 D 60945

60945

WESTERN SHIPPERS' COALITION

136 SOUTH MAIN STREET, SUITE 825 • SALT LAKE CITY, UTAH 84101-1672
(801) 364-1874 • FAX: (801) 364-2640

ALEXANDER H. JORDAN
Director

January 11, 1996
Via Facsimile & Federal Express

Mr. Vernon A. Williams
Secretary, Room 2215
Surface Transportation Board
Department of Transportation
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

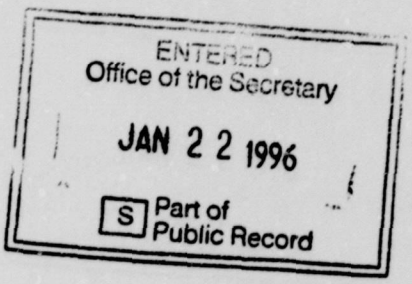
Item No. _____
Page Count 1
221

Attn.: Case Control Branch

Re: Finance Docket No. 32760, Union Pacific Corp., et al.; Notice of Intent to Participate

Dear Mr. Williams

In accordance with the Commission's various decisions in this proceeding (see, e.g., Decision No. 9 at 3), this is a Notice of Intent to participate in the above-referenced proceeding on behalf of Western Shippers' Coalition ("WSC"). WSC intends to participate as a full participant, and should be listed as a party of record. The counsel of record is as follows:



Michael F. McBride, Esq.
Daniel Aronowitz, Esq.
LeBouef, Lamb, Greene & MacRae
1875 Connecticut Ave., N.W., Suite 1200
Washington, D.C. 20009-5728
202-986-8050 (Phone) 202-986-8102 (Fax)

Ronald L. Rencher, Esq.
136 South Main Street, Suite 1000
Salt Lake City, Utah 84101-1672
801-355-6900 (Phone) 801-359-8256 (Fax)

WSC is still evaluating the position it intends to take in this proceeding.

Very truly yours,

Alexander H. Jordan

Alexander H. Jordan

cc: Arvid E. Roach, II, Esq.
Paul A. Cunningham, Esq.

STB FD 32760 1-16-96 D 60941

60941

Certified
Return Receipt Requested
(P 467 952 785)

January 10, 1996

Mr. Vernon A. Williams
Interstate Commerce Commission
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Subject: Docket No. 32760
NOTICE OF INTENT TO ABANDON AND DISCONTINUE SERVICE

Dear Secretary:

Pursuant to the Interstate Commerce Commission procedural schedule adopted by Decision No. 6 in the above outlined Docket, please accept this original and twenty (20) copies as our official "Notice of Intent to Participate" in the Subject Docket as listed above.

Please direct all future correspondence and/or telephone or FAX transmissions with respect to the Subject Dockets to:

Town of Haswell
P.O. Box 206
Haswell, CO 81045
ATTN.: Delcarl Eikenberg
(719) 436-2233
FAX: (719) 436-2324

We are aware of the schedule dates applicable for the filing of subsequent "comments, protests, requests for conditions and any other opposition evidence and arguments due" and/or "Briefs due", and will meet those required deadlines.

Please advise if any questions or changes occur in these proceedings.

Sincerely,

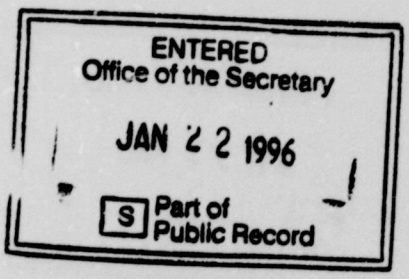
Delcarl L. Eikenberg

Delcarl L. Eikenberg
Mayor, Town of Haswell

ATTEST:

Kathy Eikenberg

Kathy Eikenberg, Haswell Town Clerk



Item No. 2
Page Count 2
#217

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon Applicant's Representatives:

Robert T. Opal, General Attorney
Jeannna L. Regier, Reg. ICC Practitioner
Missouri Pacific Railroad Company
1416 Dodge Street, #830
Omaha, Nebraska 68179
Receipt # P 467 952 786

Gary A. Laakso, General Attorney
The Denver & Rio Grande Western
Railroad Company
One Market Plaza, Room 846
San Francisco, CA 94105
Receipt # P 467 952 787

Prepaid, First-Class, Certified Return Receipt Requested, United States Postal Service.

Dated at Haswell, Colorado, this 10th day of January, 1995

Kathy Eikenberg

Kathy Eikenberg, Town Clerk

STB FD 32760 1-16-96 D 60938

60938

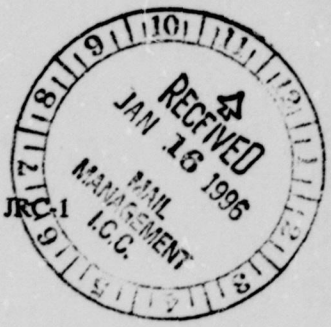
The State of Texas
House of Representatives
Austin, Texas

JOHN R. COOK
STATE REPRESENTATIVE
DISTRICT 60

P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0656
FAX 512-472-5019

DISTRICT OFFICE:
212 W. ELM
BRECKENRIDGE, TEXAS 76424
817-559-3319
1-800-304-9045
FAX 817-559-8393

January 11, 1996



JRC-1

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

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

Dear Secretary Williams:

Enclosed for filing is an original and 20 copies of the notification of Representative John R. Cook of his intent to participate in this proceeding as an active party, plus a 3.5 - inch floppy diskette formatted to 5.1 WordPerfect of the same. Please place Representative John R. Cook on the list of all parties of record in this case. Representative John R. Cook selects acronym "JRC" for identifying all documents and pleadings he submits.

Representative John R. Cook
P.O. Box 2910
Austin, TX 78768-2910

If you have any questions on this matter, please contact the undersigned.

Yours very truly,

John R. Cook
State Representative
District 60

Item No. _____
Page Count 9
F 214

ENTERED
Office of the Secretary
JAN 22 1996
S Part of Public Record

cc: Arvid E. Roach, II, Esquire
Covington and Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044

Paul A. Cunningham, Esquire
Harkins and Cunningham
1300 19th Street, N.W.
Washington, D.C. 20036

60928

LAW OFFICES
KELLER AND HECKMAN
1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
TELEX 49 95551 "KELMAN"
FACSIMILE (202) 434-4646

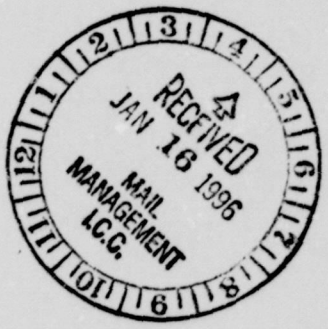
BOULEVARD LOUIS SCHMIDT 87
B-1040 BRUSSELS
TELEPHONE 32(2) 732 52 80
FACSIMILE 32(2) 732 53 92

JOSEPH E. KELLER (1907-1994)
JEROME H. HECKMAN
WILLIAM H. BORGHESANI, JR.
MALCOLM D. MACARTHUR
WAYNE V. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELDRED
RICHARD J. LEIGHTON
ALFRED S. REGNERY
WILLIAM L. KOVACS
DOUGLAS J. BEHR
RAYMOND A. KOWALSKI*
SHIRLEY A. COFFIELD
MICHAEL F. MORRONE
JOHN B. RICHARDS
JEAN SAVIGNY*◊
JOHN B. DUBECK
PETER L. DE LA CRUZ
MELVIN S. OROZEN
LAWRENCE P. HALPRIN
RALPH A. SIMMONS
RICHARD F. MANN
C. DOUGLAS JARRETT
SHEILA A. MILLAR
GEORGE G. MISKO
STEPHAN E. BECKER
PATRICK J. HURD
MARK A. SIEVERS
GAREN E. DODGE
DAVID G. SARVADI*
JONATHAN R. SPENCER
CATHERINE B. NIELSEN
AMY N. RODGERS
ELLIOT BELILOS
MARK L. ITZKOFF
JEAN-PHILIPPE MONTFORT*◊
ROSEMARIE A. KELLEY
T. PHILLIPS BECK
ARTHUR S. GARRETT III
LESLIE E. SILVERMAN
JOSEPH M. SANDRI, JR.
ELIZABETH N. HARRISON
ROBERT H. G. LOCKWOOD
CAROL MOORE TOTH
JOAN C. SYLVAIN
MARTHA E. MARRAPESE
DONALD T. WURTH
DAVID B. BERRY
S. DEBORAH ROSEN
DAVID R. JOY
FREDERICK A. STEARNS
TONYE RUSSELL EPPS*
THOMAS C. BERGER*
JOHN F. FOLEY*
ALEXANDRE MENCIK von ZEBINSKY*◊
PHILIP H. ANDREWS*◊
JENNIFER A. BONANNO*
JOHN REARDON*
PATRICK W. RATKOWSKI*
*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. MODDERMAN, 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. JOVANOVICH, PH. D.

WRITER'S DIRECT DIAL NUMBER

January 16, 1996

(202) 434-4179



VIA MESSENGER

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

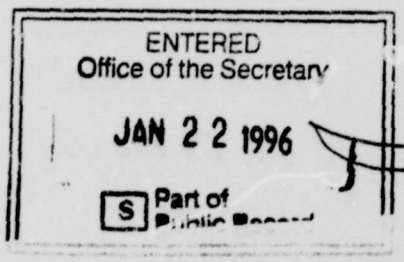
Re: Finance Docket No. 32760, Union Pacific Corporation, et al. - Control and Merger - Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

In response to Decision No. 9 of the Interstate Commerce Commission, served December 27, 1995 in the above-captioned proceeding, this is to advise that North American Logistic Services, a Division of Mars, Incorporated, intends to participate in this proceeding.

An additional 20 copies of this letter are enclosed, and a copy has this date been served by first-class mail, postage prepaid, on applicants' representatives.

Yours very truly,



Terrence D. Jones

Attorney for North American Logistic Services, a Division of Mars, Incorporated

Item No. 2

Page Count # 204

cc: Arvid E. Roach II, Esquire
Covington & Burling
1201 Pennsylvania Avenue, N.W.
P.O. Box 7566
Washington, D.C. 20044

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

STB FD 32760 1-6-96 D 60908

Item No. 60908
Page Count 5
4/84

OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Jim Ryan
ATTORNEY GENERAL

January 13, 1996

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

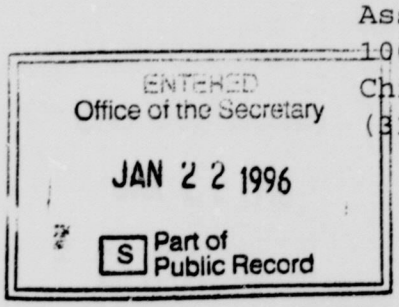
Attn: Case Control Branch, Finance Docket No. 32760

Dear Mr. Williams:

Enclosed for filing in Finance Docket No. 32760 are an original and twenty copies of the Notice of Intent to Participate and Preliminary Comments of the People of the State of Illinois ex rel. James E. Ryan, Attorney General of Illinois (IL AG-1).

It is requested that the undersigned be added to the service list representing the People of the State of Illinois:

Christine H. Rosso
Assistant Attorney General
100 W. Randolph St. - 12th Floor
Chicago, IL 60601
(312) 814-5610



Sincerely,

Christine H. Rosso

Christine H. Rosso

cc: All Parties

500 South Second Street, Springfield, Illinois 62706 (217) 782-1090 • TTY: (217) 785-2771 • FAX: (217) 782-7046
100 West Randolph Street, Chicago Illinois 60601 (312) 814-3000 • TTY: (312) 814-3374 • FAX: (312) 814-3806
1001 East Main, Carbondale, Illinois 62901 (618) 457-3505 • TTY: (618) 457-4421 • FAX: (618) 457-5509

IL AG-1

Before The

SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

NOTICE OF INTENT TO PARTICIPATE AND
PRELIMINARY COMMENTS OF THE
PEOPLE OF THE STATE OF ILLINOIS

The People of the State of Illinois, *ex rel.* James E. Ryan, Attorney General of the State of Illinois, ("Illinois Attorney General" or "IL AG"), submit this Notice of Intent to Participate and the following Preliminary Comments in Finance Docket No. 32760.

The proposed merger of Union Pacific and Southern Pacific raises significant questions concerning the resulting state of competition among Western railroads and the impact of such competition on rates and prices charged to shippers and ultimately on costs to the public. Similarly, the proposed merger, or absence of the merger or other alternatives, raises

significant questions concerning the long-term adequacy of surface transportation service to the public not only in the service territory of Union Pacific and Southern Pacific but throughout the United States.

The Illinois Attorney General represents public interest considerations well beyond those of the competitive carrier parties. The Illinois Attorney General has broad antitrust enforcement as well as power and responsibility to represent the People of the State of Illinois in many types of regulatory proceedings.

At this preliminary stage of the proceedings, the Illinois Attorney General does not take a position on whether the proposed merger is consistent with the public interest within the meaning of Section 11344 of the Interstate Commerce Act. In large part that determination will depend upon an evaluation and weighing of evidence concerning four considerations, among others:

1. Whether the resulting markets after merger would be sufficiently competitive to protect the public interest.

2. Whether resulting improvements in service after merger are reasonably probable and likely to enhance the public interest in competition in the markets.

3. Whether the financial and operating condition of Southern

Pacific is such that it is in the public's interest that it be part of a merged system.

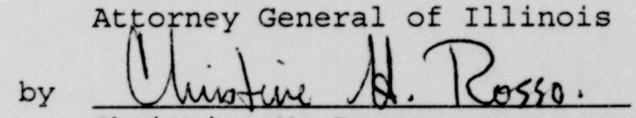
4. Whether inclusion of other rail carriers in the transaction would provide competitive and service alternatives to the merger as proposed that would better protect the public interest.

The Illinois Attorney General intends to be an active participant in these proceedings on behalf of the People of the State of Illinois.

Respectfully submitted,

People of the State of Illinois

James E. Ryan
Attorney General of Illinois

by 

Christine H. Rosso
Chief, Antitrust Bureau

100 W. Randolph St. - 12th Fl.
Chicago, IL 60601
(312) 814-5610

Dated: January 12, 1996

Certificate of Service

I hereby certify that copies of the Notice of Intent to Participate and Preliminary Comments of the People of the State of Illinois (IL AG-1) were served upon all parties of record on January 12, 1996 by U.S. Mail, postage prepaid from Chicago, Illinois 60601.

Christine H. Rosso

Christine H. Rosso
Assistant Attorney General
100 W. Randolph St. - 12th Fl.
Chicago, IL 60601

STB FD 32760 1-16-96 D 60924

40924

ORIGINAL

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

(202) 371-8037
FAX (202) 371-0900

January 11, 1996

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

Dear Secretary Williams:

Enclosed for filing in Finance Docket No. 32760, Union Pacific Corporation, et al.--Control and Merger--Southern Pacific Rail Corporation, are the original and twenty copies of the Notice of Intent to Participate of Eagle and Lake Counties, Colorado, and the Towns of Eagle, Minturn, Gypsum, Vail and Red Cliff.

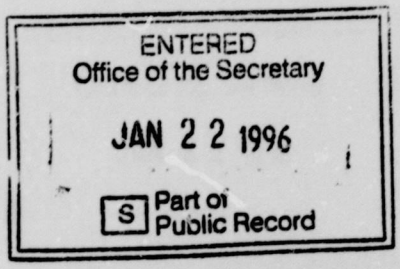
Service of the Notice has been effected in accordance with the Certificate of Service.

Sincerely yours,

Fritz R. Kahn

enc.
cc: Arvid E. Roach II, Esq.
Paul A. Cunningham, Esq.
Hon. Federico F. Pena
Hon. Anne K. Bingaman
Hon. Jerome Nelson
James R. Fritze, Esq.
Mr. George J. Roussos

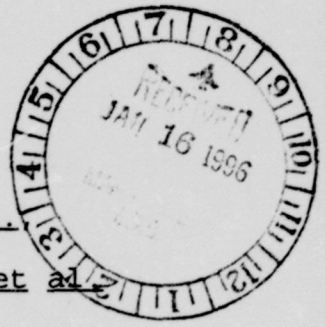
Item No. 3
Page Count 4 200



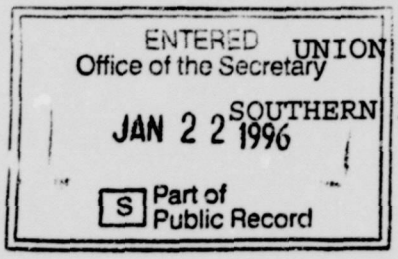
ORIGINAL

EGL-1

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423



Finance Docket No. 32760[1]



UNION PACIFIC CORPORATION, et al.
--CONTROL AND MERGER--
SOUTHERN PACIFIC RAIL CORPORATION, et al.

NOTICE OF INTENT
TO PARTICIPATE

Pursuant to the decision, served October 19, 1995, Decision No. 6, the Boards of County Commissioners of the Counties of Eagle and Lake, State of Colorado, and the Towns of Eagle, Minturn, Gypsum, Vail and Red Cliff advise the Board of their intention to participate in the proceeding as their interests may appear and ask that the appearance of their attorneys be entered. They have selected the acronym "EGL" for identifying the filings they will be making.

Respectfully submitted,

THE BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF EAGLE, STATE OF COLORADO

THE BOARD OF COUNTY COMMISSIONERS OF
THE COUNTY OF LAKE, STATE OF COLORADO

---

[1] Embracing, among others, Docket No. AB-12 (Sub-No. 189X), Southern Pacific Transportation Company--Abandonment Exemption--Sage-Leadville Line in Eagle and Lake Counties, CO, and Docket No. AB-12 (Sub-No. 188X), Southern Pacific Transportation Company--Abandonment--Malta-Canon City Line in Lake, Chafee and Freemont Counties, CO.

TOWN OF EAGLE, MUNICIPAL CORPORATION
TOWN OF MINTURN, MUNICIPAL CORPORATION
TOWN OF GYPSUM, MUNICIPAL CORPORATION
TOWN OF VAIL, MUNICIPAL CORPORATION
TOWN OF RED CLIFF, MUNICIPAL CORPORATION

By their attorneys,

James R. Fritze
Eagle County Attorney
P. O. Box 850
Eagle, CO 81631
Tel.: (970) 328-8685

Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Dated: January 11, 1996

CERTIFICATE OF SERVICE

Copies of the foregoing Notice of Intent to Participate were served upon counsel for the Applicants, the Attorney General, the Secretary of Transportation and Administrative Law Judge Nelson, by first-class mail, postage prepaid.

Dated at Washington, DC, this 11th day of January 1996

Fritz R. Kahn

STB FD 32760 1-16-96 D 60923

60923

SHER & BLACKWELL

ATTORNEYS AT LAW

SUITE 612
2000 L STREET, N.W.
WASHINGTON, D.C. 20036

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

WRITER'S DIRECT DIAL NO.

(202) 463-2510

PHILIP A. BANGERT*
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

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

January 16, 1996

By Hand

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

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

Dear Mr. Williams:

Enclosed for filing on behalf of The International Brotherhood of Teamsters ("IBT") are an original and ten (10) copies of the IBT's Notice of Intent to Participate in the above-referenced proceeding. This document is designated as IBT-6.

I also enclose a disk containing the IBT's Notice of Intent to Participate in WordPerfect 5.1 format. Finally, I enclose an extra copy of this filing, which I ask that you date-stamp as received and return to us via our messenger.

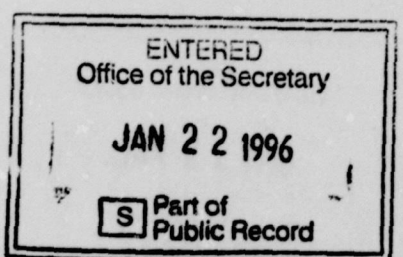
Thank you for your attention to this matter.

Sincerely,

John W. Butler

Enclosure

11459.0072.01.00.01



Item No. _____

Page Count 5
II 199

IBT-6

BEFORE THE
SURFACE TRANSPORTATION BOARD
Washington, D.C.

Finance Docket No. 32760

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

– Control and Merger –

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

NOTICE OF INTENT TO PARTICIPATE

The International Brotherhood of Teamsters ("IBT"), by its undersigned counsel, hereby provides notice of its intent to participate in this proceeding as an active party. All service of pleadings and decisions to IBT should be made to the undersigned counsel. In accordance with 49 C.F.R. § 1180.4(a)(2), The International Brotherhood of Teamsters selects the acronym "IBT" for identifying all documents and pleadings it submits.

Marc J. Fink
John W. Butler

SHER & BLACKWELL
2000 L Street, N.W.
Suite 612
Washington, DC 20036
(202) 463-2500

Attorneys for The
International Brotherhood of Teamsters

Dated: January 16, 1996

CERTIFICATE OF SERVICE

I hereby certify that I have this 16th day of January, 1996, served the attached International Brotherhood of Teamsters' Notice of Intent to Participate on the persons named on the attached list by first class mail, postage prepaid, unless otherwise indicated.

John W. Butler

Michael D. Billiel
U.S. Department of Justice
Antitrust Division
555 - 4th Street, N.W.
Room 9104 - TEA
Washington, DC 20001

Martin Bercovici
Keller & Heckman
1001 G Street, N.W.
Suite 500W
Washington, DC 20001

Robert M. Bruskin
Howrey & Simon
1229 Pennsylvania Ave., N.W.
Washington, DC 20004

Richard S. Edelman
Donald F. Griffin
Highsaw, Mahoney & Clark, P.C.
10150 17th Street, N.W.
Suite 210
Washington, DC 20036

John C. Edwards
Zuckert, Scoutt & Rasenberger,
888 17th Street, N.W.
Suite 600
Washington, DC 20006-3939

Krista L. Edwards
Sidley & Austin
1722 Eye Street, N.W.
Washington, DC 20006

Stephen Hut
William Kolasky
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, DC 20037-1420

William P. Jackson, Jr.
Jackson & Jessup
P.O. Box 1240
Arlington, VA 22210

Erika Z. Jones
Mayer, Brown & Platt
2000 Pennsylvania Ave., N.W.
Washington, DC, 20006-2882

C. Michael Loftus
Slover & Loftus
1224 Seventeenth St., N.W.
Washington, DC 20036

Alan E. Lubel
Bill Mullins
Troutman Sanders
Suite 640 North Building
601 Pennsylvania Ave., N.W.
Washington, DC 20004-2994

John K. Maser, III
Donelan, Cleary, Wood &
Maser, P.C.
1100 New York Ave., N.W.
Suite 750
Washington, DC 20005-3939

John Will Ongman
Pepper, Hamilton & Scheetz
1300 Nineteenth St., N.W.
Washington, DC 20036

Larry R. Pruden
Transportation Communications
International Union
3 Research Place
Rockville, MD 20850

Alicia M. Serfaty
Hopkins & Sutter
888 Sixteenth Street, N.W.
Washington, DC 20006

Kevin M. Sheys
Oppenheimer Wolff & Donnelly
1020 Nineteenth St., N.W.
Suite 400
Washington, DC 20036-6105

Ed Greenberg
Charles White
Galland, Kharasch, Morse
& Garfinkle
1054 31st Street, N.W.
Washington, DC 20007

Debra L. Willen
Guerrieri, Edmond & Clayman,
P.C.
1331 F Street, N.W.
Washington, DC 20004

Thomas W. Wilcox
Frederic L. Wood
Donelan, Cleary, Wood &
Maser, P.C.
1100 New York Ave., N.W.
Suite 750
Washington, Dc 20005-3939

S. William Livingston, Jr.
Arvid E. Roach, II **(Faxed)**
Covington & Burling
1201 Pennsylvania Ave., N.W.
P.O. Box 7566
Washington, DC 20044-7566

Honorable Jerome Nelson
Administrative Law Judge
FERC
825 North Capitol Street, N.E.
Washington, DC 20426

Geroge W. Mayo, Jr.
Eric A. Von Salzen
Hogan & Hartson L.L.P.
555 Thirteenth Street, N.W.
Washington, DC 20004-1109

Paul A. Cunningham
James J. Guinivan
Harkins Cunningham
1300 19th Street, N.W.
Suite 600
Washington, D.C. 20036

Lou Anne Rinn
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68175

STB FD 32760 1-16-96 D 20922

60922

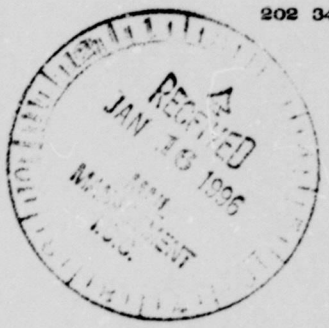
SLOVER & LOFTUS
ATTORNEYS AT LAW
1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036

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. DIETRICH

*ADMITTED IN ILLINOIS ONLY

202 347-7170

January 16, 1996



By Hand

Office of the Secretary
Case Control Branch
Attn: Finance Docket No. 32760
Surface Transportation Board
12th & 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, et al.

Dear Sirs:

Enclosed for filing in the above-referenced proceeding are the original and twenty copies of the Notice of Intent to Participate of the City Public Service Board of San Antonio, Texas.

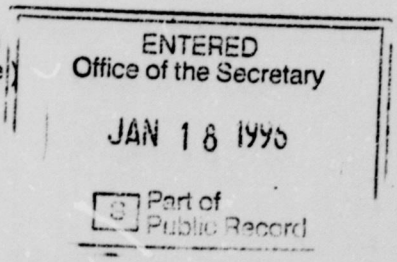
Sincerely yours,

John H. LeSeur

John H. LeSeur

JHL:mfw
Enclosures

cc: Arvid E. Roach II, Esq. (via facsimile)
Paul A. Cunningham, Esq. (via facsimile)
Restricted Service List (via mail)



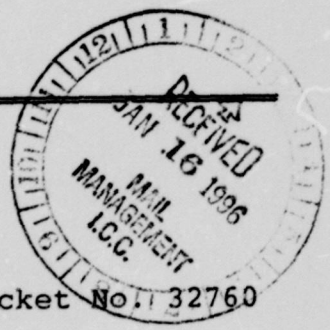
Item No._____

Page Count 4

Fin #215

CPSB-1

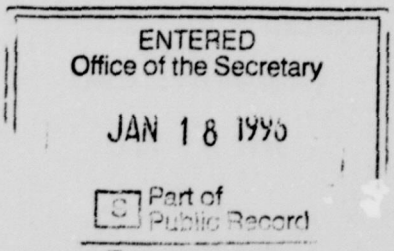
BEFORE THE
SURFACE TRANSPORTATION BOARD



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

NOTICE OF INTENT TO PARTICIPATE
BY
CITY PUBLIC SERVICE BOARD OF SAN ANTONIO, TEXAS

Pursuant to Interstate Commerce Commission Decision No. 9 served on December 27, 1995, City Public Service Board of San Antonio, Texas ("San Antonio"), by and through its undersigned counsel, hereby gives notice of its intent to participate in the above-referenced proceeding as an active party. In accordance with 49 C.F.R. §1180.4(a)(2), San Antonio selects the acronym "CPSB" for identifying all documents and pleadings it submits in this proceeding.



Respectfully submitted,

CITY PUBLIC SERVICE BOARD
OF SAN ANTONIO, TEXAS

By: William L. Slover
John H. LeSeur
Andrew B. Kolesar
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036

Attorneys and Practitioners

Dated: January 16, 1996

CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of January, 1996, I caused a copy of the foregoing Notice of Intent to Participate to be served by hand on the individuals listed below, and by first-class United States mail, postage prepaid, on all other persons on the Restricted Service List in this proceeding.

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

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

Andrew B. Kolesar III
Andrew B. Kolesar

STB FD 32760 1-16-96 D 60906

40906

Processors of agricultural products

ADM

ARCHER DANIELS MIDLAND COMPANY BOX 1470 DECATUR, ILLINOIS 62525 TEL: 217/424-5200

RECEIVED
JAN 16 1996
MAIL MANAGEMENT
I.C.C.

January 11, 1996

Secretary
Surface Transportation Board
12th & Constitution Avenue NW
Washington, DC 20423

Dear Sir:

RE: FINANCE DOCKET NO. 32760, UNION PACIFIC CORPORATION, ET AL CONTROL AND MERGER OF SOUTHERN PACIFIC RAIL CORPORATION ET AL

Enclosed please find the original and twenty (20) copies and (1) floppy diskette formatted for Word Perfect 5.1 of Petition of Archer Daniels Midland Company for Party of Record Status in the above referenced proceeding.

Scott A. Roney
Attorney

Enc.

ENTERED
Office of the Secretary
JAN 22 1996
Part of
Public Record

Item No. 4
Page Count 4
*4782

ORIGINAL

BEFORE THE

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

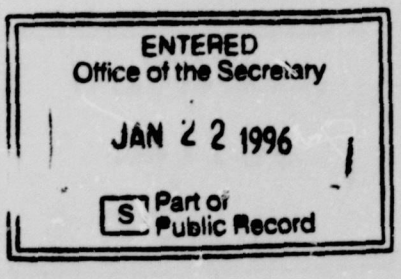
UNION PACIFIC CORPORATION, ET AL, CONTROL AND
MERGER OF SOUTHERN PACIFIC RAIL CORPORATION, ET AL

PETITION OF ARCHER DANIELS MIDLAND COMPANY
TO BECOME A PARTY OF RECORD

Archer Daniels Midland Company
4666 Faries Parkway
P.O. Box 1470
Decatur. Illinois 62525

By Scott A. Roney
Attorney

Dated: January 11, 1996



BEFORE THE

SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

UNION PACIFIC CORPORATION, ET AL, CONTROL AND
MERGER OF SOUTHERN PACIFIC RAIL CORPORATION, ET AL

PETITION OF ARCHER DANIELS MIDLAND COMPANY
FOR PARTY OF RECORD STATUS

Archer Daniels Midland Company ("ADM"), a Delaware Corporation says that it is an agribusiness engaged in the handling, processing, and distribution of grain, oilseeds, and direct products thereof in the domestic and world markets. ADM petitions this agency for party of record status. On October 10, 1995, ADM notified the Interstate Commerce Commission ("ICC") of its intention to participate and of its request to receive copies of all pleadings, orders, and notices. ICC allowed non party of record status as ADM did not meet certain Commission requirements codified at 49 CFR 1104 to achieve party of record status. ADM is complying with the above referenced service requirement as detailed in the attached certificate of service and requests that it be allowed to participate as its interests may require and to receive copies of all the applications and all supplemental pleadings, decisions, and notices filed in this proceeding.

Respectfully submitted,

Scott A. Roney

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January, 1996, I submitted the original plus twenty (20) copies and a 3.5 inch floppy diskette formatted for Work Perfect 5.1 of this petition upon the Surface Transportation Board, 12th & Constitution Avenue, N.W., Washington, DC 20423, and one (1) copy upon the following by overnight delivery:

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

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

Administrative Law Judge Jerome Nelson
FERC
888 First Street, N.E.
Washington, DC 20426

Michael McBride, Esq.
Le Boenf, Lamb, Green & MacRae
Suite 1200
1875 Connecticut Avenue, N.W.
Washington, DC 20009

John H. Le Seur, Esq.
Slouer & Loftus
1224 17th Street, N.W.
Washington, DC 20036

Richard D. Fortin, Esq.
Donelan, Cleary, Wood & Moser
Suite 750
1100 New York Avenue, N.W.
Washington, DC 20005

John R. Molm, Esq.
Troutman Sanders
640 N Building
601 Pennsylvania Avenue, N.W.
Washington, DC 20004

Scott A. Roney
Archer Daniels Midland Company

STB FD 32760 1-16-96 D 60903

60903

Southeast Colorado Enterprise Development, Inc.

Phone: (719) 336-3850
Fax (719) 336-3835

103A E. Elm
P.O. Box 1600
Lamar, Colorado 81052

Certified
Return Receipt Requested
(Z 711 755 483)

RECEIVED
JAN 26 1996
MAIL MANAGEMENT I.C.C.

December 20, 1995

Mr. Vernon A. Williams
Interstate Commerce Commission
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Subject: Docket No. 32760
NOTICE OF INTENT TO ABANDON AND DISCONTINUE SERVICE

Dear Secretary:

Pursuant to the Interstate Commerce Commission procedural schedule adopted by Decision No. 6 in the above outlined Docket, please accept this original and twenty (20) copies as our official "Notice of Intent to Participate" in the Subject Docket as listed above.

Please direct all future correspondence and/or telephone or FAX transmissions with respect to the Subject Dockets to:

Southeast Colorado Enterprise Development
P.O. Box 1600
Lamar, CO 81052
ATTN: John Stulp
(719) 336-3850
FAX: (719) 336-3835

ENTERED
Office of the Secretary
JAN 22 1996
S Part of Public Record

Item No.
Page Count 2
Jan 175

We are aware of the schedule dates applicable for the filing of subsequent "comments, protests, requests for conditions and any other opposition evidence and arguments due" and/or "Briefs due", and will meet those required deadlines.

Please advise if any questions or changes occur in these proceedings.

Thank you.

Sincerely,

John R Stulp

John Stulp
Southeast Colorado Enterprise Development
Chairman

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon Applicant's Representatives:

Robert T. Opal, General Attorney
Jeannna L. Regier, Reg. ICC Practitioner
Missouri Pacific Railroad Company
1416 Dodge Street, #830
Omaha, Nebraska 68179
Receipt ~~# Z 711 755 484~~ KP
Z 711 755 487

Gary A. Laakso, General Attorney
The Denver & Rio Grande Western
Railroad Company
One Market Plaza, Room 846
San Francisco, CA 94105
Receipt ~~# Z 711 755 485~~ KP
Z 711 755 488

Prepaid, First-Class, Certified Return Receipt Requested, United States Postal Service.

Dated at Lamar, Colorado, this 9th day of January, 1994.

Kim A. Phillips
Signature

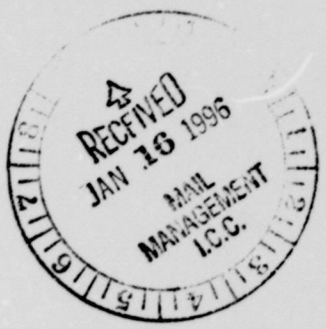
STB FD 32760 1-16-96 D 60873

60873

ORIGINAL

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

(202) 371-8037
FAX (202) 371-0900



January 16, 1996

VIA HAND DELIVERY

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
Washington, DC 20423

Dear Secretary Williams:

Enclosed for filing in Finance Docket No. 32760, Union Pacific Corporation, et al.--Control and Merger--Southern Pacific Rail Corporation, et al., are the original and twenty copies of the Notice of Intent to Participate of Mountain Coal Company.

Extra copies of the Notice and of this letter are enclosed for you to stamp to acknowledge your receipt of them and to return to me.

By copy of this letter, service is being effected in accordance with the Certificate of Service.

If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,

Fritz R. Kahn

enc.
cc: Arvid E. Roach II, Esq.
Paul A. Cunningham, Esq.
Hon. Federico F. Pena
Hon. Anne K. Bingaman
Hon. Jerome Nelson
Thomas F. Linn, Esq.

Item No. _____
Page Count 23
FEE 11150

ENTERED
Office of the Secretary

JAN 22 1996

Part of

ORIGINAL

MTN-1

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

Finance Docket No. 32760

UNION PACIFIC CORPORATION, et al.,
--CONTROL AND MERGER--
SOUTHERN PACIFIC RAIL CORPORATION, et al.

NOTICE OF INTENT
TO PARTICIPATE

Pursuant to the decision, served October 19, 1995, Decision No. 6, Mountain Coal Company, a Delaware corporation, advises the Board of their intent to participate in the proceeding without asserting a position for or against the proposed merger and as its interests may otherwise appear and asks that the appearance of its attorneys be entered. It has selected the acronym "MTN" for identifying the filings it will be making.

Respectfully submitted

MOUNTAIN COAL COMPANY

By its attorneys,

Thomas F. Linn
Mountain Coal Company
555 17th Street (22nd fl.)
Denver, CO 80202
Tel.: (303) 293-4234

ENTERED
Office of the Secretary
JAN 22 1996
Part of

Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Dated: January 16, 1996

CERTIFICATE OF SERVICE

Copies of the foregoing Notice of Intent to Participate were served upon counsel for the Applicants, the Attorney General, the Secretary of Transportation and Administrative Law Judge Nelson by first-class mail, postage prepaid.

Dated at Washington, DC, this 16th day of January 1996.

Fritz R. Kahn

STB FD 32760 1-16-96 D 60861

Page Count 3

H 139

60861

LAW OFFICES
KELLER AND HECKMAN
1001 G STREET, N.W.
SUITE 500 WEST
WASHINGTON, D.C. 20001
TELEPHONE (202) 434-4100
TELEX 49 95551 "KELMAN"
FACSIMILE (202) 434-4646

BOULEVARD LOUIS SCHMIDT 87
B-1040 BRUSSELS
TELEPHONE 32(2) 732 52 80
FACSIMILE 32(2) 732 53 92

JOSEPH E. KELLER (1907-1994)
JEROME H. HECKMAN
WILLIAM H. BORGHESANI, JR.
MALCOLM D. MacARTHUR
WAYNE Y. BLACK
TERRENCE D. JONES
MARTIN W. BERCOVICI
JOHN S. ELDRED
RICHARD J. LEIGHTON
ALFRED S. REGNERY
WILLIAM L. KOVACS
DOUGLAS J. BEHR
RAYMOND A. KOWALSKI*
SHIRLEY A. COFFIELD
MICHAEL F. MORRONE
JOHN B. RICHARDS
JEAN SAVIGNY*◊
JOHN B. DUBECK
PETER L. DE LA CRUZ
MELVIN S. DROZEN
LAWRENCE P. HALPRIN
RALPH A. SIMMONS
RICHARD F. MANN
C. DOUGLAS JARRETT
SHEILA A. MILLAR
GEORGE G. MISKO
STEPHAN E. BEC...R
PATRICK J. HURD
MARK A. SIEVERS
GAREN E. DODGE
DAVID G. SARVADI*
JONATHAN R. SPENCER
CATHERINE R. NIELSEN
AMY N. RODGERS
ELLIOT BELLOS
MARK L. ITZKOFF
JEAN-PHILIPPE MONTFORT*◊
ROSEMARIE A. KELLEY
T. PHILLIPS BECK
ARTHUR S. GARRETT III
LESLIE E. SILVERMAN
JOSEPH M. SANDRI, JR.
ELIZABETH H. HARRISON
ROBERT H. G. LOCKWOOD
CAROL MOORS TOTH
JOAN C. SYLVAIN
MARTHA E. MARRAPESE
DONALD T. WURTH
DAVID B. BERRY
S. DEBORAH ROSEN
DAVID R. JOY
FREDERICK A. STEARNS
TONYE RUSSELL EPPS*
THOMAS C. BERGER*
JOHN F. FOLEY*
ALEXANDRE F. ENCIK von ZEBINSKY*◊
PHILIP H. ANDREWS*◊
JENNIFER A. BONANNO*
JOHN REARDON*
PATRICK W. RATKOWSKI*
*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. MODDERMAN, 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. JOVANOVICH, PH. D.

WRITER'S DIRECT DIAL NUMBER

January 16, 1996

(202) 434-4144

Office of the Secretary
Case Control Branch
Surface Transportation Board
12th Street & Constitution Avenue
Washington, DC 20423

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

Dear Mr. Williams:

Transmitted herewith, please find a Notice of Appearance for Montell USA, Inc. in the above-captioned proceeding. Additionally, we are submitting a revised Notice of Appearance for Quantum Chemical Company to reflect that the proper name of the company is Quantum Chemical Company (nee, not Quantum Chemical Corporation, as it appeared on the January 11, 1996 Notice). Finally, your records should reflect that we also are counsel of record for The Society of the Plastics Industry, Inc. and Union Carbide Corporation in this proceeding.

Your attention to the foregoing is appreciated.

Copies of this letter and the associated Notices have been served on the parties shown below.

Respectfully submitted,

Martin W. Bercovici

Enclosures

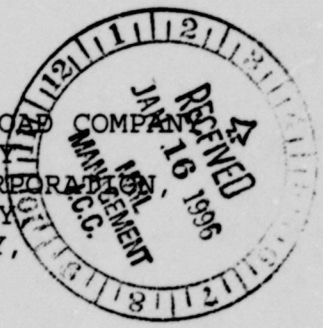
cc: The Honorable Jerome Nelson
Arvid E. Roach, II, Esquire
Paul A. Cunningham, Esquire
Joan S. Huggler, Esquire
Michael D. Billiel, Esquire
Secretary Federico Pena
George W. Mayo, Jr.
Eric A. Von Salzen

ENTERED
Office of the Secretary
JAN 22 1996
S Part of Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

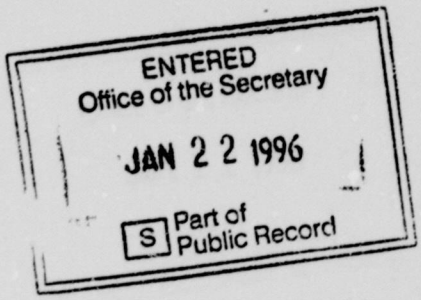
UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY
-- CONTROL MERGER -- SOUTHERN PACIFIC RAIL CORPORATION,
SOUTHERN PACIFIC TRANSPORTATION COMPANY,
ST. LOUIS SOUTHWESTERN RAILWAY COMPANY,
SPCSL CORP., AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY



MONTELL USA, INC.'S
NOTICE OF ITS INTENT TO
PARTICIPATE IN THIS PROCEEDING

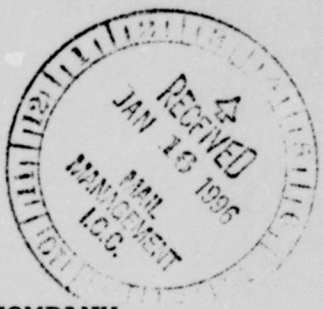
Pursuant to Decision No. 6, in the above referenced proceeding, Montell USA, Inc. hereby provides its notice to the Interstate Commerce Commission of its intent to participate in this proceeding. Please forward any notices to Montell USA, Inc.'s attorneys at the address listed below.

Respectfully submitted,



Martin W. Bercovici
Douglas J. Behr
Leslie E. Silverman
KELLER AND HECKMAN
1001 G Street, N. W.
Suite 500 West
Washington, D.C. 20001
Tel: (202) 434-4100
Fax: (202) 434-4646
Attorneys for Montell USA, Inc.

January 16, 1996



BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

MONTELL USA, INC.'S
NOTICE OF ITS INTENT TO
PARTICIPATE IN THIS PROCEEDING

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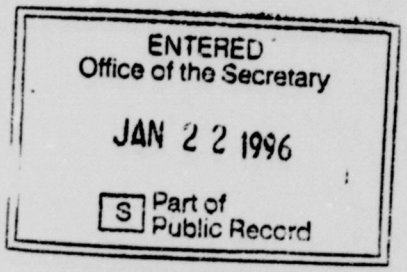
Respectfully submitted,



Martin W. Bercovici
Douglas J. Behr
Leslie E. Silverman
KELLER AND HECKMAN
1001 G Street, N. W.
Suite 500 West
Washington, D.C. 20001
Tel: (202) 434-4100
Fax: (202) 434-4646
Attorneys for Montell USA, Inc.

January 16, 1996

60818

Angel of Mt. Shavano

CITY of SALIDA, CO. 81201

P. O. Box 417 • 124 'E' Street • (719) 539-2311
FAX (719) 539-5271

"Heart of the Rockies"

RECEIVED
JAN 15 1996
MAIL MANAGEMENT I.C.C.

Item No. ____
Page Count 2

Secretary
Interstate Commerce Commission
Washington, D.C. 20423

January 13, 1996

Subject: Docket No. AB-12 (Sub-No.188)
Docket No. AB-8 (Sub-No.39
NOTICE OF INTENT TO ABANDON AND DISCONTINUE SERVICE
-and-
ICC Finance Docket No. 32760
PROPOSED CONSOLIDATION, et al

Dear Secretary;

Pursuant to the Interstate Commerce Commission procedural schedule adopted by Decision No. 6 in the above outlined three (3) Dockets, please accept this as our official "Notice of Intent to Participate" in all three (3) Subject Dockets as listed above.

Please direct all future correspondence and/or telephone or FAX with respect to the Subject Dockets to:

City of Salida
Attention: Nancy Sanger, Mayor
P.O. Box 417
Salida Co. 81201
Telephone Number (719) 539-4555
FAX Number (719) 539-5271

Office of the Secretary
JAN 17 1996

We are aware of the schedule dates applicable for the filing of subsequent "comments, protests, requests for conditions and any other opposition evidence and argument due and/or Briefs due" and will meet those required deadlines.

Please advise if any questions or changes occur in these proceedings.

Thank you very much.

Respectfully submitted,

Nancy Sanger

Nancy Sanger
Mayor, City of Salida

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon Applicant's Representative, Robert T. Opal, General Attorney, 1416 Dodge Street, Omaha, Nebraska 68179-0830, by Prepaid, Express, Return Receipt Requested, United States Postal Service.

Dated at Canon City, Colorado, this 13th day of January, 1996.

Nancy Sanger

Nancy Sanger

STB FD 32760 1-15-96 D 60817

60817

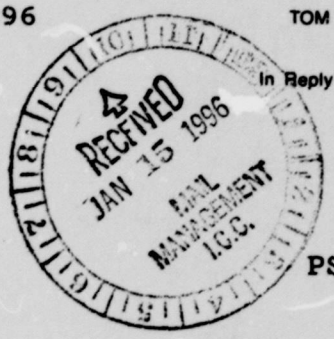
STATE OF NEVADA
DEPARTMENT OF TRANSPORTATION
1263 S. Stewart Street
Carson City, Nevada 89712

BOB MILLER, *Governor*

January 11, 1996

TOM STEPHENS, P.E., *Director*

In Reply Refer to:



PSD 7.14

Vernon A. Williams, Secretary
Interstate Commerce Commission
1201 Constitution Avenue, Rm. 2215
12th and Constitution Avenue, N.W.
Washington, DC 20423

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

Dear Secretary Williams:

The Nevada Department of Transportation intends to participate in this merger proceeding as an active party since we are responsible via Nevada Revised Statutes for the State Rail Plan and for the acquisition, guarantee, and distribution of federal funds for certain rail projects statewide. We also reserve the right to offer comments when appropriate at a later date and as additional information becomes available.

Should you have any questions on this matter, please contact me at (702) 687-3691.

Sincerely,

Thomas J Fronapfel

Thomas J. Fronapfel, P.E.
Assistant Director - Planning

TJF/dm

cc: Nevada Public Service Commission
Arvid E. Roach II, Covington and Burling
Paul A. Cunningham, Harkins Cunningham
Tom Stephens, Director, NDOT
Tim Crowley, Governor Miller's Office

JAN 1 / 1996

Item No._____

Page Count 1

#94

(O)-4667

STB FD • 32760 8-24-95 D • 60014

60014

LAW OFFICES
JACKSON & JESSUP, P.C.
3426 NORTH WASHINGTON BOULEVARD
POST OFFICE BOX 1240
ARLINGTON, VIRGINIA 22210
(703) 525-4050
TELECOPIER
(703) 525-4054
INTERNET
TRANSLAW@DGS.DGSYS.COM

RECEIVED
AUG 24 1995
MAIL MANAGEMENT I.C.C.

Item No. _____

Page Count 12

Aug #22

WILLIAM P. JACKSON, JR.
DAVID C. REEVES
JOHN T. SULLIVAN
JOHN R. COPLEY

GERALD E. JESSUP
(1911-1994)

August 24, 1995

FD-32760

Mr. Vernon A. Williams
Secretary
Interstate Commerce Commission
12th & Constitution Ave., N.W.
Washington, DC 20423

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

Dear Mr. Williams:

Enclosed for filing in the referenced proceedings are the original and 20 copies of STRC-1, the Reply in Opposition of Save the Rock Island Committee, Inc., to Petition for Waiver of or Exemption from 49 U.S.C. Section 10904(e)(3) and 49 C.F.R. Section 1152.13(d). Also enclosed for filing are the original and 20 copies of STRC-2, the Reply in Opposition of Save the Rock Island Committee, Inc., to Petition to Establish Procedural Schedule. Also enclosed is a 3.5-inch disk containing the text of both pleadings.

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

Very truly yours,

William P. Jackson, Jr.

WPJ/jmb

Enclosures

cc: Mr. Jim Link

ENTERED
Office of the Secretary
AUG 25 1995
Part of
Public Record

STRC-2

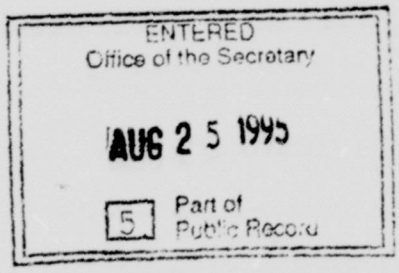
BEFORE THE

INTERSTATE COMMERCE COMMISSION

WASHINGTON, D.C.

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

REPLY IN OPPOSITION OF SAVE THE ROCK ISLAND COMMITTEE, INC., TO PETITION TO ESTABLISH PROCEDURAL SCHEDULE



William P. Jackson, Jr.
Attorney for Save the Rock Island Committee, Inc.

OF COUNSEL:

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

Due and Dated: August 24, 1995

BEFORE THE

INTERSTATE COMMERCE COMMISSION

WASHINGTON, D.C.

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

REPLY IN OPPOSITION OF SAVE THE ROCK ISLAND COMMITTEE, INC., TO PETITION TO ESTABLISH PROCEDURAL SCHEDULE

Save the Rock Island Committee, Inc. ("STRICT"), submits this reply in opposition to the Petition to Establish Procedural Schedule (hereinafter "Petition") filed August 4, 1995, in this proceeding by Union Pacific Corporation ("UPC"), Union Pacific Railroad Company ("UPRR"), Missouri Pacific Railroad Company ("MPRR"), Southern Pacific Rail Corporation ("SPR"), Southern Pacific Transportation Company ("SPT"), St. Louis Southwestern Railway Company ("SSW"), SPCSL Corp. ("SPCSL"), and The Denver and Rio Grande Western Railway Company ("DRGW") (collectively "Applicants"). STRICT's interest in this proceeding is set forth in its concurrently filed Reply in Opposition to Petition for Waiver of or Exemption From 49 U.S.C. Section 10904(e)(3) and 49 C.F.R. Section 1152.13(d) (STRC-1).

STRICT urges the Commission to reject the Petition as premature, and not consider it on its merits at this time. Given the significance of the merger that is being proposed by Applicants as well as other factors, it is too early for the Commission to craft an appropriate schedule in this proceeding.

BACKGROUND

On August 4, 1995, Applicants notified the Commission of their intention to file by December 1, 1995, an application seeking Commission authorization under 49 U.S.C. Sections 11343 to 11345 for the acquisition of control of SPR by UP Acquisition, an indirect wholly-owned subsidiary of UPC, the merger of SPR into UPRR, and the resulting common control of UPRR, MPRR, SPT, SSW, SPCSL, and DRGW by UPC. In connection therewith, Applicants filed their Petition, which includes the procedural schedule they request the Commission to adopt for this proceeding.

Applicants acknowledge that their suggested schedule is modeled after the schedule adopted in Finance Docket No. 32549, Burlington Northern Inc. and Burlington Northern Railroad Co.--Control and Merger--Santa Fe Pacific Corp. and The Atchison, Topeka and Santa Fe Railway Co. (hereinafter "BN/ATSF") (not printed), served March 7, 1995, which itself was based on the procedural schedule for major and significant rail combinations suggested by the Commission in a pending notice of proposed rulemaking. See Ex Parte No. 282 (Sub-No. 19), New Procedures in Rail Acquisitions, Mergers & Consolidations (not printed), served January 26, 1995 (hereinafter "New Procedures"). Applicants urge adoption of a very similar schedule in this proceeding on the ground that it has been "demonstrated that schedule provides all parties with a fair opportunity to be heard while accommodating the primary applicants' interest in obtaining an expeditious decision on an important rail restructuring initiative." Petition at 3-4.

STRICT urges the Commission to reject Applicant's Petition not on substantive grounds, but rather on the ground that it is premature. In light of Applicants' admissions both in its submissions to the Commission and in media accounts of the merger proposal, it is simply too early for the

Commission to determine the appropriate schedule for this proceeding. Only later, when Applicants have actually filed their control and merger application, can a proper schedule be established.

ARGUMENT

By any standard, it is too early for the Commission to determine an appropriate procedural schedule in this proceeding. The schedule which should govern the proposed merger proceeding of two of the three remaining major rail systems which serve the western two-thirds of the United States should have as a primary concern the extent to which the merger could adversely impact the public interest. Because Applicants' merger proposal is nothing more than a skeletal proposal at this point, it is impossible to determine its impact on the public interest.

Applicants have made it clear that they know they will have to make significant concessions in an attempt to allay concerns that the merger will have an anti-competitive impact. See Washington Post, August 4, 1995, at B2, col 1. ("A UP official said that the railroad will be prepared to sell lines or grant rights to other railroads in instances in which the merger would end competition."); see also Burke, Union Pacific, Omaha and Yellow: But a Host of Other Questions Remain, Traffic World, August 14, 1995, at 20-21. It remains to be seen, however, to what extent Applicants will divest lines and agree to lease and trackage rights agreements as well as other measures which will increase rail competition.[1]

---

[1] Despite Applicants paying lip service to competition in the railroad industry, it is a fact that every major railroad has had to be dragged, kicking and screaming, into any situation involving enhanced competition. Historically, this can be seen from the railroad industry's knee-jerk protests of motor carrier operating rights applications that took place prior to that abusive practice being (continued...)

In addition, Applicants have informed the Commission that, along with their merger application, they may be filing abandonment applications for main line trackage. See Petition for Waiver or Clarification of Railroad Consolidation Procedures, and Related Relief, filed August 4, 1995 (UP/SP-3) at 19. Given the large stretches of the country where the rail lines of the Applicants are essentially parallel, the number and size of the lines to be abandoned could be quite large. Again, however, the extent of Applicants' plans to divest lines by abandonment are unknown, since Applicants state they will not make abandonment decisions until they are further along with preparation of their merger application. Id. at 15.

Consequently, no one, including the Applicants, knows what the proposed post-merger rail line configuration will look like. It may be that the Applicants will enter into agreements that assuage concerns about anti-competitive impacts. Applicants may also arrange to sell trackage they would otherwise abandon, and thereby dampen public opposition to the merger proposal in those areas of the country that would be affected by such abandonments. However, until Applicants decide to do so, and perhaps not until they actually file their merger application, both the Commission and the public will be in the dark regarding the extent of the impact of the proposed merger.

Plainly, the complexity of this proceeding will be largely determined in the coming months, as Applicants make many decisions regarding the merger. The number of related applications, inconsistent applications, and responsive applications, as well as requested conditions, will depend on the actions

---

[1](...continued)
essentially halted by the decision of the Supreme Court of the United States in Schaffer Transportation Co. v. United States, 355 U.S. 83 (1957). There are many other examples. For this reason, the Commission needs to make certain that it does not merely endorse what the Applicants may propose.

Applicants take from now until the time they file their merger application, and should determine the procedural schedule that is adopted by the Commission.

Contrary to Applicants' claims, the Commission's schedule in BN/ATSF provides no real model for this proceeding. In BN/ATSF, primarily an end-to-end merger was at issue. BN/ATSF, slip. op. served August 23, 1995, at 64. The same cannot be said of what the Applicants seek. The extent and effect of the parallel nature of the route structure they will propose must be subjected to greater scrutiny if the Commission or its successor is to do its job in a manner that will inspire the public to have confidence in an ability to do more than rubber-stamp major rail industry proposals.

To take but one example, many of the conditions imposed by the Commission in Union Pacific Corp., Pacific Rail System, Inc., and Union Pacific Railroad Co.--Control--Missouri Pacific Corp. and Missouri Pacific Railroad Co., 366 I.C.C. 462 (1982) ("UP/MP/WP"), were designed to maintain competition in the Central Corridor between and among the Applicants herein. If the Applicants merge, substantially all of those conditions will become moot. Therefore, the issue of competition in the Central Corridor is once more on the table. There was no issue of comparable importance in BN/ATSF, so the schedule adopted in that proceeding should not necessarily be accepted by the Commission as a model for this proceeding.

In addition, there were no merger-related abandonment proposals for the Commission to decide in BN/ATSF, even for light-density branch lines. See BN/ATSF, slip op. served August 23, 1995. In the instant proceeding, Applicants have already admitted that they are contemplating seeking authority

to abandon main line trackage as part of the merger proceeding. The complexity that such abandonment plans will add to this proceeding is clear.[2]

In nevertheless urging in their Petition that the schedule adopted by the Commission in BN/ATSF be used as a model for this proceeding, Applicants neglect to mention one additional but very critical fact. In BN/ATSF, that schedule was adopted nearly five months after the subject merger application was filed. See BN/ATSF (not printed), served March 7, 1995, at 2. Here, the Applicants are seeking adoption of a schedule three months before filing of the application, and without proper notice to the public.

Consequently, in BN/ATSF, the Commission, employing its accumulated transportation expertise, had ample opportunity to gauge the affected public's concern regarding the merger proposal, and set the procedural schedule accordingly. In the instant proceeding, the Commission has had no such opportunity, because it, like the public, knows little of the details of Applicants' merger proposal.

The Commission's pending proposal in New Proceedings also provides little support for the Applicants' proposed procedural schedule. While the Commission has had nearly six months to consider public comment on the proposed changes to the Commission's basic merger proceeding timetable, it has yet to issue a decision on proposed amendments to its regulations. Clearly, the Commission is having second thoughts on the proposal; otherwise, it would

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[2] In many of the other mergers that the Commission approved in the 1980's and 1990's, it did not have to act upon any related abandonment proposals, main line or otherwise. See, e.g., Finance Docket No. 32133, Union Pacific Corp., Union Pacific Railroad Co. and Missouri Pacific Railroad Co.--Control--Chicago and Northwestern Transportation Co. and Chicago and North Western Railway Co., slip. op. served March 7, 1995; Rio Grande Industries, Inc., SPTC Holding, Inc., and The Denver and Rio Grande Western Railroad Co.--Control--Southern Pacific Transportation Co., 4 I.C.C.2d 834 (1988); UP/MP/WP, supra.

have acted by now, if for no other reason than to further demonstrate its ability to do so.

There is one additional factor that the Commission should take into account when considering the Petition. H. R. 2002, the Transportation Appropriations Act for Fiscal Year 1996, as passed by the Senate on August 10, 1995, provides for termination of the Commission no later than December 31, 1995, and for only 51 successor employees in whatever agency is designated as the Commission's successor. If that appropriation is not materially increased, it is clear that reasoned action will be impeded by a lack of personnel, not to mention the chaos generally attendant upon a reorganization such as is contemplated. While the Commission is to be lauded in expressing its intention to step up to the challenge presented by this major rail merger application, it simply cannot justify setting a procedural schedule for a successor agency that will probably have far less extensive resources than the Commission presently.

In light of the foregoing, it is much too early to set a procedural schedule in this case. STRICT suggests that the Commission instead wait until the merger application is actually filed to propose a procedural schedule. At that time, not only will the public and the Commission have a much better idea of the various ramifications of the proposed merger, but much of the uncertainty that now surrounds the merger proposal should have dissipated. In addition, legislation dealing with appropriations, with sunset of the Commission, and with reallocation of its duties should have been passed by that time. These Congressional actions will allow the Commission to more confidently project the resources that can be devoted to this proceeding.

Regardless of what point in time the Commission decides to set a procedural schedule, it should invite public comment on that schedule before

issuing it as a final order. The Commission did so in BN/ATSF, so such is appropriate in this proceeding. At that time the Commission can also invite further comment on how and to what extent this proceeding differs from BN/ATSF, and whether and to what extent those differences should be reflected in the procedural schedule.

Applicants have objected to such a procedure, which STRICT hopes is not a harbinger of Applicants' attitude towards public participation in this proceeding. See Applicants' Reply to KCS' Comments on Proposed Procedural Schedule and Discovery Guidelines, filed August 18, 1995 (UP/SP-6) at 5. In no event should the Commission allow Applicants to use the threat of an expedited schedule as a weapon to deprive parties of substantive rights under the Interstate Commerce Act and thereby put them at a severe negotiating disadvantage which they would not face under a more measured pace. One result of the schedule in BN/ATSF that cannot be ignored was that relatively few settlement agreements were reached with individual shippers and short line railroads, while three of the four Class 1 carriers that initially opposed aspects of that merger quickly entered into settlement agreements.[3]

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[3] Unfortunately, that process may have already begun yet again in this proceeding. Applicants state that they are "already discussing with other railroads how best to preserve rail competition where shippers would lose a second rail alternative in a UP/SP merger." See Applicants' Reply to KCS' Comments on Proposed Procedural Schedule and Discovery Guidelines at 6. No mention is made whether shippers are also being approached by Applicants in such situations. If, as it appears, they are not, the Commission is likely to see, as it did in BN/ATSF but on a far larger scale, shippers filing responsive applications in order to maintain rail competition. The extent to which such occurs will in large part determine the complexity, and thus the procedural schedule, of this case.

CONCLUSION

WHEREFORE, the foregoing considered, STRICT requests the Commission to deny Applicants' Petition as premature at this time. STRICT also requests that the Commission grant STRICT such other and further relief as may be warranted in these circumstances.

Respectfully submitted,

SAVE THE ROCK ISLAND COMMITTEE, INC.,

By _____
William P. Jackson, Jr.
Its Attorney

OF COUNSEL:

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

CERTIFICATE OF SERVICE

I, William P. Jackson, Jr., hereby certify that on this 24th day of August, 1995, I have served one copy of the foregoing Reply in Opposition of Save the Rock Island Committee, Inc., to Petition to Establish Procedural Schedule, upon the following parties of record in this proceeding, by first class mail, postage prepaid, or as otherwise indicated:

Arvid E. Roach, II
J. Michael Hemmer
Michael L. Rosenthal
Covington & Burling
1201 Pennsylvania Avenue, NW
P.O. Box 7566
Washington, DC 20044
(Hand-delivered)

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

James V. Dolan
Paul A. Conley, Jr.
Louise A. Rinn
Law Department
Union Pacific Railroad Company
1416 Dodge Street
Omaha, NE 68179

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

Cannon Y. Harvey
Carol A. Harris
Louis P. Warchot
Southern Pacific
Transportation Company
One Market Place
San Francisco, CA 94105

William P. Jackson, Jr.