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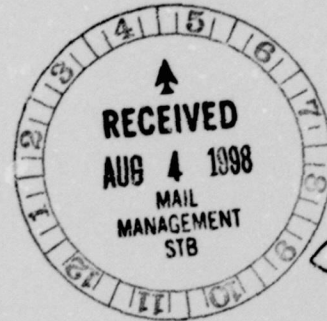
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August 4, 1998

Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, NW
Room 711
Washington, DC 20423

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

Dear Secretary Williams:

Enclosed for filing in the above-captioned proceeding are the original and twenty-five (25) copies of the Petition of The Burlington Northern and Santa Fe Railway Company for Enforcement of Merger Condition (BN/SF-84). Also enclosed is a 3.5 inch disk containing the text of the petition in WordPerfect 6.1 format.

I would appreciate it if you would date-stamp the enclosed extra copy of this submission and return it to the messenger for our files. Thank you for your assistance.

Sincerely,

Erika Z. Jones
KL

Erika Z. Jones

Enclosures

cc: All Parties of Record

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Office of the Secretary

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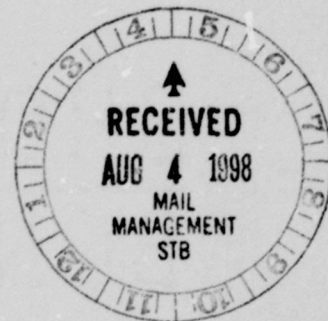
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BEFORE THE
SURFACE TRANSPORTATION BOARD



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

PETITION OF
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
FOR ENFORCEMENT OF MERGER CONDITION

Jeffrey T. Moreland
Richard E. Weicher
Michael E. Roper
Sidney L. Strickland, Jr.

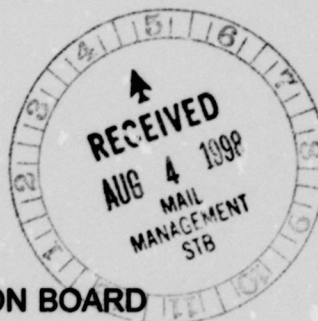
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BN/SF-84

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

PETITION OF
THE BURLINGTON NORTHERN AND SANTA FE RAILWAY COMPANY
FOR ENFORCEMENT OF MERGER CONDITION

Pursuant to Decision No. 44 and Decision No. 72 in the above-referenced proceeding, The Burlington Northern and Santa Fe Railway Company ("BNSF")^{1/} petitions the Surface Transportation Board ("Board") for enforcement of the "BNSF Agreement"^{2/} which, as modified by the Board, was imposed as a condition to the Board's approval of the UP/SP merger: "We therefore impose as a condition the terms of the BNSF agreement, by which we mean the agreement dated September 25, 1995, as modified

^{1/} The acronyms used herein are the same as those used in Appendix B to Decision No. 44.

^{2/} In Decision No. 72, the Board stated that "any beneficiary of the Decision No. 44 conditions has the right to seek relief from the Board if it believes that these conditions have not been implemented in a manner that achieves their competition-preserving objectives." Slip op. at 8 (footnote omitted).

by the supplemental agreement dated November 18, 1995, and as further modified by the second supplemental agreement dated June 27, 1996." Decision No. 44, slip op. at 145.^{3/}

In the Second Supplemental Agreement, BNSF was given the right to serve all existing and future transload facilities at the "2-to-1" points listed on Exhibit A to the BNSF Agreement, including, among other places, San Antonio, Texas.^{4/} See Second Supplemental Agreement at 6 (amending section 4(b)). Section 9(g) of the BNSF Agreement provides that the locations referenced in the Agreement "shall be deemed to include all areas within the present designated switching limits of the location." September 25, 1995, the date of the BNSF Agreement, is the effective date for the determination of relevant switching limits under the BNSF Agreement.

The South Texas Liquid Terminal, Inc. ("STL Terminal") is an existing transload that, according to an item in the UP tariff then on file and in effect, was within the San Antonio switching limits on September 25, 1995. UP, however, has taken the position that the tariff item designating the San Antonio switching limits was "obsolete" on September 25, 1995 because the mile posts referred to in the tariff item had been removed and new mile posts erected. Therefore, UP has taken the position that, even

^{3/} Following the Board's practice, the agreement entered into by BNSF and UP on September 25, 1995, as modified thereafter by the Supplemental Agreement, dated November 18, 1995, and the Second Supplemental Agreement, dated June 27, 1996, shall be referred to in this petition as the "BNSF Agreement."

^{4/} The points listed on Exhibit A to the BNSF Agreement are locations which were served by both UP and SP and by no other railroad prior to the merger. They are thus referred to as "2-to-1" points.

though both before and well after September 25, 1995 its tariffs continued to define San Antonio switching limits as encompassing the STL Terminal facility, STL Terminal was not within the San Antonio switching limits and, consequently, BNSF may not serve it.

UP's position would improperly restrict BNSF's access rights under the BNSF Agreement. Furthermore, UP's position would effectively preclude shippers and BNSF from relying on UP's published tariffs to determine the switching limits of the "2-to-1" points to which BNSF gained access under the BNSF Agreement, thereby depriving shippers and BNSF of a crucial method for determining the extent of BNSF's access under the BNSF Agreement. Consequently, BNSF seeks an order finding that, as of September 25, 1995, STL Terminal was within the San Antonio switching limits and, therefore, pursuant to the Board's decision imposing the terms of the BNSF Agreement as a condition of the UP/SP merger, the facility may be served by BNSF.

In order to prevent the recurrence of disputes about the applicable switching limits of "2-to-1" points, BNSF further petitions for a finding that under the BNSF Agreement, as imposed by the Board as a condition to the UP/SP merger, any changes to the mile posts on UP or SP lines — whether made before or after September 25, 1995 — that were not reflected in UP or SP tariffs on file and in effect as of September 25, 1995 do not alter the geographic limits within which BNSF may provide service at the points designated on Exhibit A of the BNSF Agreement (hereinafter "Exhibit A points"). In addition, BNSF requests that the Board order UP to provide BNSF, within thirty days of the Board's order deciding this petition, with a list of all reciprocal switching limits for Exhibit A points that were set forth in UP or SP tariffs on file and in effect as of

September 25, 1995, along with copies of the applicable sections of those tariffs. BNSF further requests that the Board place UP under a continuing duty to provide BNSF with a complete list of any changes in the mile posts defining the switching limits of Exhibit A points that were set forth in tariffs on file and in effect on September 25, 1995. For any change in mile posts at such points, UP also should provide BNSF with information and data necessary for determining how the mile posts listed in the tariffs relate to the new mile posts.

BACKGROUND

STL Terminal is located at 3131 North PanAm Expressway, San Antonio, Texas. The facility sits along a former Missouri-Kansas-Texas Railroad Company ("MKT") line which runs north from San Antonio toward Austin, Texas, on the site of the former MKT Travis Yard. (A map depicting the San Antonio area and the relevant rail lines, including the former MKT line, is attached hereto as Attachment A.) The facility is used to transload corn syrup from rail cars to trucks for shippers such as Archer Daniels Midland Company ("ADM").

According to Supplement 149 to Tariff MP 8170-C, which was in effect on September 25, 1995, when the BNSF Agreement was executed, the San Antonio switching limits encompassed three lines: according to item 2650 of Supplement 149, the switching limits on the former MKT line extended from Mile Post 1028.55 on the north to Mile Post 1038.5 on the south; and, according to item 2649.10 of Supplement 149, the switching limits on the former Missouri Pacific "Palatine" line extended from Mile Post 255.97 on the north to Mile Post 267.80 on the south, and the switching limits

on the former Missouri Pacific "Corpus Christi" line extended from the intersection with the "Palestine" line to Mile Post 4.1 on the south. See Supplement 149 to Tariff MP 8170-C, at 98, items 2650 and 2649.10 (effective December 2, 1994) (attached as Exhibit 1 to the Verified Statement of Frank R. Colby ("Colby V.S."), attached hereto as Attachment B).^{5/}

UP has not disputed that STL Terminal is located on the former MKT line. There also is no dispute that the STL Terminal facility is an "existing transload," as that term is used in the BNSF Agreement and the Board's decisions in this proceeding. Nor is there any dispute that, under the terms of the BNSF Agreement, BNSF may serve existing transloads at "2-to-1" points designated in Exhibit A to the Agreement, including at San Antonio. Finally, there is no dispute that, under the BNSF Agreement, the geographic limits within which existing and new transload facilities may be served at San Antonio and other Exhibit A points are to be determined by reference to designated switching districts in effect on September 25, 1995, when the BNSF Agreement was executed. See BNSF Agreement, section 9(g) (providing that locations referenced in the Agreement "shall be deemed to include all areas within the present designated switching limits of the location").

^{5/} As explained by Mr. Colby, it is clear from now-canceled MKT tariffs that the switching district in Supplement 149 that is defined by Mile Post 1028.55 on the north and Mile Post 1038.5 on the south is on the former MKT line running north out of San Antonio. Tariff MKT 8901-H (effective September 26, 1986) Item 4080, page 20 utilizes the identical mile posts to define the former MKT line switching limits as are used in Supplement 149. (Relevant portions of Tariff MKT 8901-H are attached as Exhibit 2 to Mr. Colby's Verified Statement.)

Consistent with these undisputed facts, on May 16, 1997, Robert B. Price of UP advised Mr. Colby that STL Terminal was accessible to BNSF as a transload. See Colby V.S. at 5. Subsequently, BNSF identified the STL Terminal facility in its Quarterly Progress Reports in the lists of customer facilities accessible to BNSF as a result of the merger. See BNSF Quarterly Progress Report, October 1, 1997 (BNSF-PR-5) at Attachment 9; BNSF Quarterly Progress Report, January 2, 1998 (BNSF-PR-6) at Attachment 3; and BNSF Quarterly Progress Report April 1, 1998 (BNSF-PR-7-) at Attachment 6.

UP never affirmatively took issue with BNSF's inclusion of STL Terminal in the Quarterly Progress Reports. Instead, UP simply omitted the facility from its July 1997 and January 1998 lists, which UP provided to BNSF to confirm which facilities BNSF had access to as a result of the merger. When BNSF noticed that STL Terminal was not on those lists, it notified UP on August 12, 1997 and February 4, 1998, pointing out the omissions and, in the later notification, requesting that the list be corrected to include the STL Terminal facility. Colby V.S. at 5-6 & Exhs. 6, 7. UP did not respond to BNSF until the week of April 13, 1998, when Linda Gaeta of UP orally advised BNSF of UP's position that the facility is outside the San Antonio switching limits. Colby V.S. at 6. By that time, BNSF had executed a contract to move freight to STL Terminal, and volumes had begun to move under that contract.^{6/} Id. UP also advised the shipper, ADM, that BNSF did not have access to the STL Terminal facility, that BNSF would be billed line

^{6/} Customer traffic began moving using BNSF instead of UP, in part, to permit customers to bypass areas of UP Texas service congestion and to maintain supplies of sweeteners and syrups for their customers.

haul charges for the movement to STL Terminal, and that ADM should discontinue shipping via BNSF to STL Terminal. Id. at 6-7.

Therefore, the practical implication of UP's decision not to accord BNSF access to the facility after having first agreed to such access is not only that BNSF will not be able to serve STL Terminal in the future, but also that UP may claim that BNSF is liable for line haul revenue payments to UP. It also means that customers will be locked into UP service to the STL Terminal, notwithstanding the Board's intent, and UP's agreement, to provide shippers with access to BNSF at existing transload facilities at "2-to-1" points.

ARGUMENT

As noted above, it is BNSF's position that STL Terminal was within the switching limits of San Antonio at the time of the BNSF Agreement because it is located along the former MKT line between Mile Posts 1028.55 and 1038.5, which according to item 2650 of Supplement 149 to Tariff MP 8' 70-C, established the boundaries of the switching limits on that line. UP, on the other hand, has asserted that BNSF does not have the right to serve STL Terminal because item 2650 of Supplement 149 was "obsolete," and STL Terminal was not within the switching limits for that line on September 25, 1995. However, as established below, the limits set forth in item 2650 of Supplement 149 were not "obsolete" on that date (and, in fact, were not canceled until June 1998, some two and a half years after the execution of the BNSF Agreement, and months after BNSF had entered into a contract to move freight to the facility and the dispute over the San Antonio switching limits had begun).

Item 2650 of Supplement 149 To Tariff MP 8170-C
Was In Effect As of September 25, 1995

As noted, UP asserts that tariff item 2650's designation of the San Antonio switching limits was "obsolete" on September 25, 1995. UP bases this assertion on the fact that, prior to the merger, the mile posts on the former MKT line were replaced with new mile posts. Although UP has not provided a detailed explanation of the replacement of the former MKT mile posts, BNSF believes that the mile posts were replaced when, as part of a general upgrading of the former MKT line to provide additional main line track capacity on the north side of San Antonio, UP designated the former MKT line as "Track No. 2" and the former "Palestine" line as "Track No. 1." New mile posts corresponding to the mile posts on the "Palestine line" were placed on the newly-designated "Track No. 2," replacing the MKT mile posts. See Colby V.S. at 8. UP has apparently concluded that, as a result of the placement of new mile posts on the former MKT line, the San Antonio switching limits changed; item 2650 of Supplement 149 to Tariff MP 8170-C was "obsolete"; and, as of September 25, 1995, STL Terminal was nearly two miles outside of the San Antonio switching limits, instead of inside the San Antonio switching limits, as defined in item 2650.

UP's reliance on its replacement of the former MKT mile posts is misplaced. In September 1997, UP reconfirmed item 2650's identification of the San Antonio switching limits by reference to the former MKT mile posts. The reconfirmation of the item 2650 switching limits occurred in Supplement 217 to Tariff UP 8170-C (issued September 18, 1997, and effective September 19, 1997). As explained in Mr. Colby's Verified Statement (at 3 & Exh. 4), Supplement 217 provided a cumulative index of the items and

stations in Tariff MP 8170-C and listed Supplement 149 (which contains item 2650) as the most recent supplement affecting the definition of the San Antonio switching limits on the former MKT line. Because the switching limits set forth in item 2650 of Supplement 149 were effective December 2, 1994, and were reconfirmed by UP in September 1997, the switching limits as set forth in item 2650 of Supplement 149 clearly were in effect on September 25, 1995.

Moreover, as Mr. Colby explains in his Verified Statement (at 8), UP reconfirmed the switching limits based on the former MKT mile posts in February 1998, when it issued a supplement to one of its tariffs — Supplement 260 to Tariff UP 8005-D — and referred, once again, to the former MKT mile posts in denominating the boundaries of the San Antonio switching limits. In fact, UP did not file a tariff revising or canceling the switching limits set forth in item 2650 of Supplement 149 until June 1998, some two and a half years after the execution of the BNSF Agreement, and months after BNSF had entered into a contract with ADM to move corn syrup to STL Terminal and the dispute concerning BNSF access to STL Terminal had begun.⁷¹ See Colby V.S. at 8.

⁷¹ As explained by Mr. Colby (V.S. at 8), on the same day that UP issued a tariff supplement canceling Tariff UP 8170-C (see Supp. 224 to Tariff UP 8170-C (issued February 26, 1998; effective March 19, 1998)), UP issued Supplement 260 to Tariff UP 8005-D, which reconfirmed the switching district based on the former MKT mile posts. Supplement 260 includes an item (item 1357.55) listing the boundaries of the San Antonio as "Mile Post 1028.55 on the North and Mile Post 1038.5 on the South" (Supplement 260, at 37) — the identical mile posts listed in item 2650 of Supplement 149. The June 1998 cancellation of the San Antonio switching limits based on the former MKT mile posts occurred in Supplement 271 to Tariff UP 8005-D, which declared the switching district bounded by the MKT mile posts "obsolete." See Supp. 271, item 1357-A, at 2. (Pertinent portions of these tariff supplements are attached to Mr. Colby's Verified Statement as Exhibits 15, 16, & 17.)

Thus, in view of UP's failure, prior to September 25, 1995, to file a supplement revising the switching limits, as well as its 1997 reconfirmation of the item 2650 switching limits based on the former MKT mile posts, UP's self-serving declaration that item 2650 of Supplement 149 was "obsolete" at the time the BNSF Agreement was executed is flatly wrong.

**The STL Terminal Facility Is Within The Switching Limits Set Forth In
Item 2650 of Supplement 149 To Tariff MP 8170-C**

Having established that the switching limits for the former MKT line as set forth in tariff item 2650 of Supplement 149 to MP 8170-C were still in effect as of September 25, 1995, the next issue is whether STL Terminal is within those limits — i.e., is it between MP 1028.55 and MP 1038.5 on that line? A review of the applicable MKT, MP, and UP tariffs and UP's own practices establishes that it is. First, the MKT System Timetable No. 3, dated October 31, 1976, establishes at page 21 (copy attached to Colby V.S. as Exhibit 3) that the former MKT Travis Yard is at MKT Mile Post 1030.3. Since STL Terminal is located at the former MKT Travis Yard (Colby V.S. at 3), it is clear that STL Terminal is within the switching limits on that line.

Second, the conclusion that STL Terminal is within the San Antonio switching limits on the former MKT line is compelled by UP's own practices under the BNSF Agreement. UP has accorded BNSF access to Fite Distribution Services Company ("Fite"), which, like STL Terminal, is located on the former MKT line between the allegedly "obsolete" mile posts delineated in item 2650 of Supplement 149. In fact, Fite is further than STL Terminal is from the northern mile post of the "new" San Antonio switching limits that, according to UP, were in effect on September 25, 1995. See Colby

V.S. at 4. Yet, in its lists of facilities to which BNSF has access as a result of the merger, UP has acknowledged that Fite is open to BNSF. See Colby V.S. at 4 & Exhibit 5, attached thereto. The only conceivable basis for BNSF's access to Fite is that, as of September 25, 1995, it was a "2-to-1" shipper located within the switching limits of San Antonio. Thus, in acknowledging BNSF's right to serve Fite, UP has, in effect, conceded the continued effectiveness of what it now contends were the "obsolete" switching limits set forth in item 2650 of Supplement 149. This position leaves no room for UP to contend that STL Terminal is not within the San Antonio switching limits, because, if Fite is within the San Antonio switching limits in effect on September 25, 1995, then so is STL Terminal.

The Board Should Grant The Relief Requested In This Petition

We have shown that tariff item 2650 of Supplement 149, which defined the San Antonio switching limits by reference to the former MKT mile posts, was still in effect when the BNSF Agreement was entered into (and, in fact, that those switching limits were not canceled by UP until June 1998). We have also shown that STL Terminal was within the San Antonio reciprocal switching limits set forth in item 2650 of Supplement 149. Accordingly, the Board should enforce the BNSF Agreement by holding that STL Terminal was within the reciprocal switching limits of San Antonio, Texas, as defined by the applicable UP tariffs and tariff supplements in effect as of September 25, 1995, and that, therefore, BNSF may serve it.

Furthermore, in order to prevent future instances of UP-fostered uncertainty concerning the extent of BNSF's access at the points designated by Exhibit A to the

BNSF Agreement, the Board should find that changes to the mile posts on UP or SP lines — whether made before or after September 25, 1995 — that were not reflected in UP or SP tariffs on file and in effect as of September 25, 1995, do not alter the geographic limits within which, under the BNSF Agreement, BNSF may provide service at the Exhibit A points. The Board also should order UP to provide BNSF, within thirty days of the Board's decision on this petition, with a list of all reciprocal switching limits for Exhibit A points that were set forth in UP or SP tariffs on file and in effect as of September 25, 1995, along with copies of the applicable sections of those tariffs, and should find that UP is under a continuing duty to provide BNSF with a complete list of any changes to the mile posts defining the switching limits of Exhibit A points that were set forth in tariffs on file and in effect on September 25, 1995, along with information and data enabling BNSF to determine how such new mile posts relate to the mile posts listed in those tariffs.

The relief requested here would grant BNSF access to a facility that it clearly is entitled to serve under the BNSF Agreement. The relief also would prevent UP from evading the terms of its own tariffs that were on file and in effect on September 25, 1995. Moreover, since the Board, BNSF, and the shipping public assumed that published UP and SP tariffs presumptively set forth the switching limits of points to which BNSF gained access under the BNSF Agreement, the relief requested here also would be consistent with the Board's purposes in imposing the BNSF Agreement, as modified by the Board, as a condition of the UP/SP merger, and would preserve the reasonable expectations of BNSF and shippers by maintaining the integrity of the "designated

switching districts" referred to in section 9(g) of the BNSF Agreement. Finally, the relief requested here would promote greater certainty concerning the extent of BNSF's access to shippers and facilities at "2-to-1" points, which would benefit BNSF and shippers, alike. See Colby V.S. at 9-10.

CONCLUSION

The Board should reject UP's newly-minted, opportunistic and commercially-driven position that STL Terminal is outside the San Antonio switching limits because the tariff item setting forth the switching limits on the former MKT line was "obsolete" as of September 25, 1995 — a position that UP did not take until more than three years after an apparent mile post change in the San Antonio area, two and a half years after the execution of the BNSF Agreement, and months after both BNSF began moving freight to STL Terminal under contract and the dispute about the San Antonio switching limits had begun. UP's position is inconsistent with its applicable tariff filings; with the expectations of BNSF, the shipping public and the Board during the UP/SP merger proceeding; with UP's practice under the BNSF Agreement, and with the interests of BNSF and the shipping public in certainty concerning the scope of BNSF's access under the BNSF Agreement.

Therefore, BNSF respectfully requests that the Board

(a) enforce the BNSF Agreement by holding that the South Texas Liquid Terminal transload facility was within the reciprocal switching limits of San Antonio, Texas, as defined by the applicable UP tariffs and tariff supplements in effect as of September 25, 1995, and may therefore be served by BNSF;

(b) find that changes to the mile posts on UP or SP lines — whether made before or after September 25, 1995 — that were not reflected in UP or SP

tariffs on file and in effect as of September 25, 1995, do not alter the geographic limits within which, under the BNSF Agreement, BNSF may provide service at the Exhibit A points;

(c) order UP to provide BNSF, within thirty days of the Board's decision on this petition, a list of all reciprocal switching limits for Exhibit A points that were set forth in UP or SP tariffs on file and in effect as of September 25, 1995, along with copies of the applicable sections of those tariffs; and

(d) find that UP is under a continuing duty to provide BNSF with a complete list of any changes to the mile posts defining the switching limits of Exhibit A points that were set forth in tariffs on file and in effect on September 25, 1995, along with information and data enabling BNSF to determine how such new mile posts relate to the mile posts listed in those tariffs.

Jeffrey T. Moreland
Richard E. Weicher
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August 4, 1998

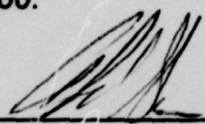
Respectfully submitted,

Erika Z. Jones / JR

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Adrian L. Steel, Jr.
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(202) 463-2000

CERTIFICATE OF SERVICE

I do hereby certify that, on this 4th day of August, 1998, a copy of the foregoing Petition for Enforcement (BN/SF-84) was served, by first-class mail, postage prepaid, on all Parties of Record in Finance Docket No. 32760.



Adam C. Sloane
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2000 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Union Pacific Reciprocal Switching Limits San Antonio, TX

The Burlington Northern and Santa Fe Railway Company
**Union Pacific Reciprocal
Switching Limits**
San Antonio, TX
Engineering Services July 24, 1998

to Palestine →

Longhorn

Longhorn

Converse

Fratt

former MKT

Remount

former MP

Towne Spur

Adams

Kirby

Salado Jct

MP 1028.55

Fite Distribution

South Texas Travis

Liquid Terminal

MP 255.97

East Yard

MP 255.97 (new)

SP San Antonio

San Antonio

Apache Jct

Tower 105

MP 1038.5

SP Transfer

SP Jct

Sosa

MP 4.1

San Jose

Heafer Jct

MP 267.80

to Laredo

Southton

to Corpus Christi

Line Ownership

UP

SP

Current UP Reciprocal Switch Limits

Additional trackage within
UP Reciprocal Switch Limits
as of September 25, 1995, per
Item 2650, Tariff MP 8170-C

VERIFIED STATEMENT

OF

FRANK R. COLBY

BACKGROUND

My name is Frank R. Colby, and I am Market Manager for the Metals and Minerals Business Unit of The Burlington Northern and Santa Fe Railway Company ("BNSF"). My business address is 2650 Lou Menk Drive, 3rd Floor, Fort Worth, Texas 76161-0064. I have held my present position for approximately three months. Prior to assuming my present position, I held various management positions in the area of price management. I have worked for BNSF and its predecessor railroads in various marketing positions since April 1, 1974.

From the effective date of the UP/SP merger until April 15, 1998, I served as the designated contact with UP concerning shipper facilities to which BNSF gained access pursuant to the BNSF Agreement and other conditions imposed by the Surface Transportation Board on the merger. In this regard, I worked closely with UP managers and directors to secure UP's lists of "2-to-1" shippers, transloads, and new shipper facilities open to BNSF service under those merger conditions. In assessing those lists and comparing them with lists assembled by BNSF, I worked with members of the BNSF Marketing and Law departments. As a result of our efforts, BNSF has identified over 100 customers that have been added to the lists of "2-to-1" shippers, transloads, and new shipper facilities that BNSF is entitled to serve.

THE SOUTH TEXAS LIQUID TERMINAL FACILITY

South Texas Liquid Terminal, Inc. ("STL Terminal") is a transload facility that has been in operation since March 1994. The facility is used to transload corn syrup from rail cars to trucks for shippers such as Archer Daniels Midland Company ("ADM"), Minnesota Corn Processors, and others. The facility is located at 3131 North PanAm Expressway, San Antonio, Texas, along a former Missouri-Kansas-Texas Railroad Company ("MKT") line which runs north from San Antonio toward Austin, Texas, on the site of the former MKT Travis Yard.

As I understand it, the BNSF Agreement of September 25, 1995, as modified and amended by the "Second Supplemental Agreement" of June 27, 1996, entitles BNSF to serve existing transloads facilities located at points listed on Exhibit A to the BNSF Agreement. Under the BNSF Agreement, "[a]ll locations referenced herein shall be deemed to include all areas within the present designated switching limits of the location." BNSF Agreement § 9(g) (emphasis added). As a result, BNSF would have access to STL Terminal if it was within the designated switching limits of San Antonio on September 25, 1995 — the day that the BNSF Agreement was entered into.

STL Terminal was within the San Antonio switching limits on September 25, 1995. The switching limits at that time were defined in Supplement 149 to Tariff MP 8170-C. (The relevant portion of Supplement 149 is attached as Exhibit 1.) Supplement 149 was effective December 2, 1994, and defined San Antonio switching limits on three rail lines: the former Missouri Pacific "Palestine" line, the former Missouri Pacific "Corpus Christi"

line, and the former MKT line.^{1/} Item 2650 of Supplement 149 designated the San Antonio switching limits on the former MKT line as falling between Mile Post 1028.55 on the north and Mile Post 1038.5 on the south. STL Terminal is located at the site of the former MKT Travis Yard, which, according to page 21 of the MKT System Timetable No. 3 (dated Oct. 31, 1976) is at MKT Mile Post 1030.3. (The relevant portion of the timetable is attached as Exhibit 3.) It is therefore clear that STL Terminal was located within the switching limits of San Antonio, as defined by item 2650 of Supplement 149 at the time the BNSF Agreement was executed.

Confirmation that item 2650 of Supplement 149 was still in effect on September 25, 1995 is provided by a UP tariff supplement that was issued and effective in September 1997. That tariff supplement — Supplement 217 to Tariff UP 8170-C — provides a list of all the items and stations in Tariff 8170-C and lists the most recent supplements affecting each item. It lists Supplement 149 as the most recent supplement affecting item 2650's definition of the San Antonio switching limits. (The relevant portion of Supplement 217 is attached as Exhibit 4.) Because Supplement 149 was effective December 2, 1994, and no further changes to the definition of the San Antonio switching limits had been made as of September 1997, it can be established with certainty that the definition of the switching limits in item 2650 of Supplement 149 was still in effect on

^{1/} Although Supplement 149 does not expressly refer to the former MKT line, a review of Tariff MKT 8901-H makes it clear that the switching district defined by Mile Post 1028.55 on the north and Mile Post 1038.5 on the south is on the former MKT line, because the switching district defined in Item 4080 of MKT 8901-H (on page 20) refers to the same mile posts referred to in Supplement 149 — that is "Mile Post 1028.55 on the North" and "Mile Post 1038.5 on the South." (The relevant portion of Tariff MKT 8901-H is attached as Exhibit 2.)

September 25, 1995. Therefore, as of September 25, 1995, STL Terminal was within the San Antonio switching limits and should be open to BNSF under the BNSF Agreement.

Further confirmation that STL Terminal is within the switching limits of San Antonio is provided by the fact that UP has given BNSF access to Fite Distribution Services Company ("Fite"), which is a "2-to-1" shipper that is also on the MKT line between the item 2650 mile posts that UP now claims are "obsolete." In fact, Fite is even further than STL Terminal is from the northern boundary of the San Antonio switching limits that UP now claims were in effect on September 25, 1995. Nevertheless, UP has acknowledged in its lists of facilities that are open to BNSF service that Fite is open to BNSF as a result of the BNSF Agreement. (A UP list of open facilities is attached as Exhibit 5.) Because Fite is an existing "2-to-1" shipper, not a new facility or a transload, the only basis for BNSF's right of access to Fite is that it is within the switching limits of San Antonio. But if, as of September 25, 1995, Fite was within the San Antonio switching limits, then STL Terminal had to be within those switching limits, too.

THE DISCUSSIONS WITH UP CONCERNING STL TERMINAL

BNSF had been considering developing a transload facility in the San Antonio area to meet the needs of shippers and receivers when, during an on-site survey of customers accessible to BNSF in the San Antonio area, a BNSF employee discovered that there already is an operating transload facility there — STL Terminal. Through contact with both STL Terminal and involved shippers, BNSF confirmed the facility's

name, address, and its potential usefulness for shippers seeking to use BNSF's services. After concluding that STL Terminal should be open to BNSF access under the BNSF Agreement, I spoke to UP analyst Robert B. Price about the facility on May 16, 1997, and provided him relevant information concerning STL Terminal's business and location. Mr. Price has been designated by UP as the employee responsible for responding to BNSF inquiries concerning whether customers and facilities are open to BNSF under the BNSF Agreement. Mr. Price orally advised me that STL Terminal qualified as a legitimate transload facility and that he would add the facility to UP's list of customers and facilities open to BNSF access.

On July 9, 1997 and July 11, 1997, Linda Gaeta, Manager, Marketing & Sales Customer Support Systems, Revenue & Information Management, Union Pacific, also a designated contact person, sent me UP's list of all customers and facilities accessible to BNSF as a result of the UP/SP merger settlement agreements, conditions, and decisions. Edward Pidgeon, Senior Analyst Auxiliary Pricing, BNSF Customer Service & Support, and I carefully compared this list to BNSF's list of open customers and facilities. Over the next several weeks, Mr. Pidgeon and I worked with Ms. Gaeta to identify and resolve discrepancies between the UP and BNSF lists. On August 12, 1997, I sent Ms. Gaeta an E-mail pointing out that Mr. Price had advised that STL Terminal is a transload and would be added to the UP list of shippers and facilities open to BNSF. I have no record of any response to this E-mail. (A copy of my E-mail to Ms. Gaeta is attached as Exhibit 6.)

Thereafter on January 9, 1998, after I made numerous requests, I received from Ms. Gaeta UP's updated list of all customers and facilities accessible to BNSF as a result of the UP/SP merger settlement agreements, conditions, and decisions. STL Terminal was not on the list. Subsequently, on February 4, 1998, Mr. Pidgeon sent Ms. Gaeta an E-mail, which listed facilities, including STL Terminal, that appeared on BNSF's list, but not on UP's list. In the February 4, 1998 E-mail, Mr. Pidgeon reminded Ms. Gaeta that "Bob Price agreed that this was a Transload facility but so far it hasn't shown up on any of your lists. As a follow-up, Frank sent a request on 8-12-97 to add. PLEASE ADD AS A TRANSLOAD FACILITY." (A copy of Mr. Pidgeon's E-mail is attached as Exhibit 7.)

During the week of April 13, 1998, Ms. Gaeta orally advised BNSF of UP's position that STL Terminal is outside the San Antonio switching limits. She sent BNSF an E-mail to the same effect on April 21, 1998. (A copy of Ms. Gaeta's E-mail is attached as Exhibit 8.) When I learned of the position that Ms. Gaeta had taken on behalf of UP, I contacted BNSF Marketing. Delane Finke, a BNSF Account Manager, informed me that, based on UP's previous representation that STL Terminal is open to BNSF service, BNSF had already begun moving cars to the STL Terminal facility for ADM and that BNSF had additional cars of corn syrup under load for ADM and ready to move, or already en route, from Cedar Rapids and Clinton, Iowa to STL Terminal. BNSF's agreement with the shipper for this transportation had been entered into on April 8, 1998, and it is highly likely that it had come to the attention of the UP commercial organization. UP has subsequently advised ADM on several occasions that BNSF does

not have access to the STL Terminal facility in San Antonio, that BNSF would be billed line haul charges for this movement, and that ADM should discontinue shipping via BNSF — a directive that ADM, based on BNSF's advice, has thus far refused to follow. Thus, if UP's position is upheld, UP may claim that BNSF is liable for line haul payments to UP.

On April 28, 1998, Peter J. Rickershauser, Vice President-Marketing UP/SP Lines, sent Ms. Gaeta an E-mail requesting that UP reconsider its position. In his April 28, 1998 E-mail, as well as in subsequent messages to UP concerning STL Terminal, Mr. Rickershauser pointed out that STL Terminal is within the switching limits defined in Tariff 8170-C. (Mr. Rickershauser's April 28, 1998 E-mail is attached hereto as Exhibit 9.) UP, however, refused to grant BNSF access to STL Terminal, contending that item 2650 of Supplement 149 is "obsolete" because the mile posts on the former MKT line had been changed. (The correspondence between UP and Mr. Rickershauser subsequent to Mr. Rickershauser's April 28, 1998 E-mail, including UP's E-mail of May 28, 1998 characterizing the tariff item as "obsolete," is attached hereto as Exhibits 10-14.)

THE IMPLICATIONS OF UP'S POSITION

UP has taken the position that item 2650 of Supplement 149 to Tariff MP 8170-C was "obsolete" on September 25, 1995, because the mile posts on the former MKT line had been changed — a change not reflected in any UP tariff until June 1998, after the dispute over BNSF's access to STL Terminal began. In fact, as noted above, UP reconfirmed the switching limits defined in item 2650 of Supplement 149 to Tariff MP

8170-C in 1997, when UP issued Supplement 217 to Tariff UP 8170-C. In February 1998, UP issued Supplement 224 to Tariff UP 8170-C, which canceled Tariff UP 8170-C. (Supplement 224 is attached as Exhibit 15.) But on the same day that it canceled Tariff 8170-C, UP also issued Supplement 260 to Tariff UP 8005-D, which set the same San Antonio switching limits as appeared in item 2650 of Supplement 149 to Tariff MP 8170-C. (The relevant portion of Supplement 260 is attached as Exhibit 16.) UP finally filed a tariff supplement (Supplement 271 to Tariff UP 8005-D) eliminating the switching limits that had been set forth in item 2650 and in Supplement 260 to Tariff UP 8005-D in June 1998, more than two and a half years after the BNSF Agreement was executed, and months after BNSF began moving freight under contract to STL Terminal and the dispute about BNSF access to STL Terminal had begun. (The relevant portion of Supplement 271 is attached as Exhibit 17.)

UP apparently changed the mile posts on the former MKT line when, as part of its upgrade of the former MKT line to provide additional main line track capacity north of San Antonio, it designated the former MKT track as "Track No. 2" and the "Palestine" line as "Track No. 1." At that time, UP replaced the former MKT mile posts with mile posts corresponding to the "Palestine" line's mile posts. Therefore, because the upgrade and change of mile posts occurred before the BNSF Agreement was entered into, UP has taken the position that tariff item 2650's designation of the San Antonio switching limits by reference to the former MKT mile posts was "obsolete" as of September 25, 1995, and that "UP's tariff described a switching limit to which NO track segment in the San Antonio area applied at the time of the Settlement Agreement." 6/24/98 E-mail from

John H. Ransom, UP, to Peter J. Rickershauser (attached hereto as Exhibit 14). But this position is contradicted by UP's own tariff supplements, which, as noted above, reconfirmed the allegedly "obsolete" switching limits as recently as February 1998.

UP's position that the switching limits defined in item 2650 of Supplement 149 were "obsolete" in 1995 even though they were reconfirmed in 1997 and 1998 would have negative consequences for BNSF and for shippers. The tariffs that were in effect on September 25, 1995 provide the best — often, the only — means for determining which new facilities and new and existing transloads are within the switching limits of the "2-to-1" points listed in the BNSF Agreement. If UP's position were upheld by the Surface Transportation Board, neither BNSF nor shippers would be able to rely upon those published tariffs to determine the extent of BNSF's access to shippers under the BNSF Agreement, contrary to the terms of the BNSF Agreement itself, which, in section 9(g), refers to the "designated switching limits of the location[s]" referred to in the Agreement. Therefore, UP should not be permitted to reduce BNSF's rights of access under the BNSF Agreement by selectively renouncing the tariffs that were in effect when the BNSF Agreement was entered into. By the same token, BNSF and the shipping public should not be penalized for UP's failure to keep its tariffs properly updated to reflect the changes that UP unilaterally made on its lines.

Furthermore, if UP's position is upheld, there almost surely will be other instances in which UP creates uncertainty concerning switching district boundaries. In such cases, the burden will fall on BNSF to do the field work, with UP and SP tariffs in hand, in order to match up existing mile posts with the mile posts listed in published tariffs, and, then,

to seek to reconcile mile post disparities with UP, which, based on its actions with respect to STL Terminal, has shown itself to be less than responsive to requests concerning access to specific shippers and locations. The resulting confusion and delays in determining whether customers are within the switching districts of locations defined in the BNSF Agreement will benefit UP — the incumbent provider of service — at the expense of both BNSF and the customers. Customers will be unwilling to “chance” moving their traffic over BNSF to or from “2-to-1” points while such matters remain unresolved, regardless of the merits of BNSF’s request for access.

Finally, in this case, UP has taken a position that directly contradicts its prior practice. Throughout BNSF’s dealings with UP over access issues, UP has insisted that BNSF’s access to “2-to-1” shippers should be determined on the basis of applicable UP or SP tariffs, and that the information contained in such tariffs is indisputable. Now, in order to prevent BNSF from obtaining the traffic to which it is clearly entitled, UP has abandoned this established practice, declaring its own repeatedly reconfirmed tariff item “obsolete.” This self-serving alteration in its established approach to resolving issues of competitive access should not be permitted.^{2/}

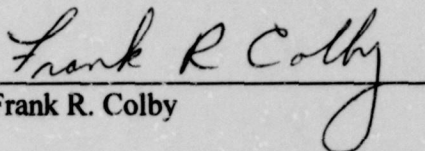
^{2/} Nor should UP be permitted to subvert the competitive intent of the merger settlement agreement and the Board’s conditions by, first, ignoring — for months at a time — repeated BNSF “tracer” requests concerning specific shipper locations, and, then, after its employees have conceded that BNSF has the right to serve specific locations, disavowing those employees’ statements when customers at those locations actually award competitive traffic to BNSF.

VERIFICATION

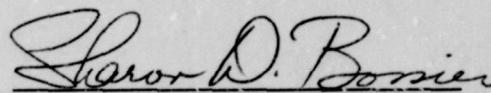
THE STATE OF TEXAS)

COUNTY OF TARRANT)

Frank R. Colby, being duly sworn, deposes and says that he has read the foregoing statement and that the contents thereof are true and correct to the best of his knowledge and belief.


Frank R. Colby

Subscribed and worn before me on this 24th day of July 1998.


Notary Public

My Commission Expires:



IL CC A-503

SUPPLEMENT
TO

ICC MP 8170-C



MISSOURI PACIFIC RAILROAD COMPANY

SUPPLEMENT 149

TO

TARIFF MP 8170-C

(Cancels Supplements 78, 89, 127, 134, 135, 136, 137, 138, 146 and 148)

Supplement 149 and Special Supplements shown on page 2 herein contain all changes.

LOCATION OF NEW OR CHANGED ITEMS

The latest complete list of all new or changed items in effective Supplements is published in this Supplement.

ABSORPTIONS OF SWITCHING AND OTHER TERMINAL CHARGES

AND

ALLOWANCES

AT STATIONS

ON

MISSOURI PACIFIC RAILROAD
DONIPHAN, KENSETT & SEARCY RAILWAY

(Except as Noted in Item 325)

THIS TARIFF APPLIES ON INTRASTATE TRAFFIC IN THE STATES OF ARKANSAS, COLORADO, ILLINOIS, KANSAS, LOUISIANA, MISSOURI, NEBRASKA, OKLAHOMA, TENNESSEE (MEMPHIS) AND TEXAS.

SWITCHING TARIFF

ISSUED OCTOBER 17, 1994

EFFECTIVE DECEMBER 2, 1994

K. H. SCHROEDER
Manager-Phone Services
Omaha, NebraskaIssued by
G. OSLER
Publishing Officer
1416 Dodge St.
Omaha, Nebraska 68179

(D.W.C.)

**SECTION 5
DEFINITION OF SWITCHING LIMITS**

ITEM	STATION	POINTS FROM WHICH MILE POST LOCATION SHOWN HEREIN IS COMPUTED	FROM MILE POST DIRECTION	TO MILE POST DIRECTION
41 2549 04	Ratcliff TX (DQ-2929)	Harlingen TX	59.3 on north	60.3 on south.
41 2549 05	Refugio TX (DQ-2929)	Brownsville TX	190.4 on north	180.8 on south.
41 2549 06	Rio Grande City TX (DQ-2929)	Harlingen TX	Switching limits extend to 72.0 on north.	
41 2549 07	Riverside TX (DQ-2929)	Palestine TX	69.9 on north	72.2 on south.
41 2549 08	Salter TX (DQ-2929)	Ft Worth TX	155.2 on north	156.5 on south.
41 2549 09	Sam Fordyce ... TX (DQ-2929)	Harlingen TX	52.8 on north	55.4 on south.
41 2549 10	San Antonio ... TX (DQ-2929)	Palestine TX	255.97 on north	267.80 on south.
		San Antonio TX	On Corpus Christi line extends to	4.1 on south.
ITEM	STATION	BETWEEN MILE POST (Except as noted)		AND MILE POST (Except as noted)
41 2550	San Antonio ... TX (DQ-2929)	Mile Post 1028.55 on the north		Mile Post 1038.5 on the south.
ITEM	STATION	POINTS FROM WHICH MILE POST LOCATION SHOWN HEREIN IS COMPUTED	FROM MILE POST DIRECTION	TO MILE POST DIRECTION
41 2550 01	San Jose TX (DQ-2929)	San Antonio TX	5.9 on north	7.2 on south.
41 2550 02	San Juan TX (DQ-2929)	Harlingen TX	A-28.90 on north	A-29.60 on south.
		Raymondville TX	Edinburg Line	E-37.80 on south.
ITEM	STATION	BETWEEN MILE POST (Except as noted)		AND MILE POST (Except as noted)
41 2550 03	Seely TX (DQ-2929)	Mile Post 1034.9 on the north		Mile Post 1036.18 on the south.
41 2550 04	Service TX (DQ-2929)	Mile Post 793.42 on the north		Mile Post 794.42 on the south.
41 2550 05	Sherman TX (DQ-2929)	Mile Post 663.3 on the north		Mile Post 669.11 (End of Line).

ICC MC 8901-H
(Cancels ICC MC 8901-G)



MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

SWITCHING TARIFF MC 8901-H
(Cancels Tariff MC 8901-G)

CONTAINING
SWITCHING CHARGES
AND
RULES AND REGULATIONS
ALSO
ALLOWANCES TO PRIVATE INDUSTRIES AND RULES
PERTAINING TO ABSORPTION OF DRAYAGE AND SWITCHING CHARGES
AT
POINTS IN TEXAS LOCATED ON MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

Applicable on Interstate and Intrastate Traffic
(See Item 105)

NOTICE

The provisions published herein will, if effective, not result in an effect on the quality of the human environment.

ISSUED: September 5, 1986

EFFECTIVE: September 26, 1986

Issued by
L. O. TRAMPE
Director of Pricing-Commerce
MISSOURI-KANSAS-TEXAS RAILROAD COMPANY
420 Gimblin Road
St. Louis, MO 63147

(kqee-206)

SECTION 5
DEFINITION OF SWITCHING LIMITS

ITEM	STATION	Switching limits embrace all tracks of the MKT and industry tracks connecting with the MKT.	
3900	All points, except those for which specific switching limits are otherwise provided herein.	Incorporated Towns or Cities. Within the Corporate limits.	
		Stations other than incorporated towns or cities within one (1) mile in each direction from the center of the depot.	
		Where there is no depot it will be one (1) mile in each direction from the center of the side track serving the station and where track serving the station is a spur it will be one (1) mile in each direction from the head-block of such spur.	
		FROM	TO
3910	Alwoodco.....TX	Mile Post D-773.02 on the North.	Mile Post D-773.02 on the South.
3920	Armaglas.....TX	Mile Post D-794.37 on the North.	Mile Post D-794.37 on the South.
3930	Austin.....TX	Mile Post 731.0 on the North.	Mile Post 733.3 on the South.
3940	Carrollton.....TX	Mile Post A-743.0 on the North (Denton-Subdivision).	Mile Post A-743.0 on the South (Denton-Subdivision).
3950	Dallas.....TX	Mile Post D-731.0 on the North (To Denison) Mile Post K-747.8 on the North (Denton-Subdivision).	Mile Post D-771.1 on the South (To Waco).
3960	Denison.....TX	Mile Post D-655.4 on the North.	Mile Post D-660.3 on the South (Dallas Divn.) Mile Post D-668.8 on the South (Ft Worth Divn.)
3970	Denton.....TX	Mile Post 207.4 on the North.	Mile Post 743.0 on the South.
3980	Farmers Branch..TX	Mile Post A-743.3 on the North (Denton-Subdivision).	Mile Post A-747.3 on the South (Denton-Subdivision).
3990	Fort Worth.....TX	Mile Post 737.3 on the North.	Mile Post 742.3 on the South.
4000	Fratt.....TX	Mile Post 1024.3 on the North.	Mile Post 1027.3 on the South.
4010	Galveston.....TX	Mile Post 40.97 on the North.	
4020	Garland.....TX	Mile Post D-749.4 on the North.	Mile Post D-751.3 on the South (RCT-Docket 15437-R Railroad Freight Circular 29151)
4030	Greenville.....TX	Mile Post D-711.3 on the North.	Mile Post D-713 on the South.
4040	Hodge.....TX	All industries now located at Hodge, TX, are considered within the switching limits of Fort Worth, TX (See Item 2535).	
4050	Houston.....TX	Mile Post 1070.0 on the North.	Mile Post 10.0 on the South.
4060	New Braunfels...TX	Mile Post 1002.7 on the North.	Mile Post 1006.0 on the South.
4070	Oildom.....TX	Mile Post 4.0 on the North (Western Subdivision).	Mile Post 3.3 on the South (Western Subdivision).
4080	San Antonio.....TX	Mile Post 1028.33 on the North.	Mile Post 1035.3 on the South.
4090	Sealy.....TX	Mile Post 1034.9 on the North.	Mile Post 1038.3 on the South.
4100	Service.....TX	Mile Post 793.42 on the North.	Mile Post 794.42 on the South.
4110	Sherman.....TX	Mile Post 003.3 on the North.	Mile Post 007.11 (End of Line).
4120	Taylor.....TX	Mile Post 910.00 on the North.	Mile Post 917.92 on the South.

For explanation of reference marks, see concluding page of this tariff.



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M-K-T R.R.CO.

**SYSTEM
TIMETABLE
No. 3**

EFFECTIVE 12:01 A.M. OCT. 31, 1976

**FOR THE INFORMATION AND GUIDANCE
OF EMPLOYEES ONLY**

*The Railroad Company reserves the right to vary therefrom
as circumstances may require*



HOUSTON SUBDIVISION

SOUTHWARD		Station Numbers	Mile Post Location	MAIN LINE	Length of siding in feet	NORTHWARD	
SECOND CLASS						SECOND CLASS	
103	105					104	102
DAILY	DAILY					DAILY	DAILY
STATIONS							
PM 5 20	AM 10 45	5969	969.4	(R) SMITHVILLE-YTWOB 8.6	YARD	AM 6 45	PM 9 30
.....	.....	.....	978.0	S. P. ....XA 10.2	.....	.....	.....
.....	.....	5988	988.2	LAGRANGE.....OB 0.8	.....	.....	.....
5 52	11 17	5989	989.0	L. A. YARD..... 0.9	4138	5 39	8 53
7 04	11 29	.....	995.9	LCRA..... 6.2	.....	5 27	8 41
7 14	11 39	6002	1002.1	FAYETTEVILLE..... 11.5	9349	5 17	8 31
7 33	11 58	6014	1013.6	NEW ULM.....B 10.4	5565	4 58	8 12
¹⁰³ 7 55	12 15	6024	1024.0	CAT SPRING..... 11.4	5649	4 41	¹⁰³ 7 55
3 13	12 33	6035	1035.4	SEALY.....C	2837	4 23	7 23
.....	.....	.....	1035.4	AT&SF.....XA 12.4	.....	.....	.....
3 32	12 52	6048	1047.8	BROOKSHIRE.....OB 8.2	4705	4 04	7 04
3 47	1 07	6056	1056.0	KATY.....O 5.2	4116	3 49	6 49
3 57	1 17	6061	1061.2	WHIT..... 11.7	6900	3 39	6 39
3 16	1 36	6073	1072.9	HENNESSEY.....Y 6.0	4996	3 20	6 20
.....	.....	.....	1078.9	S. P. ....XA (R) 1.5	.....	.....	.....
1 00	5 00	6079	1080.2	EUREKA-YTWOBOB 0.6	YARD	3 00	6 00
AM	PM	.....	1080.8	S. P. ....XN 3.4	.....	AM	PM
.....	.....	.....	1084.2	S. P. ....XA 69.8	.....	.....	.....
.....	.....	6084	1084.2	HOUSTON.....Y	.....	.....	.....
.....	.....	6133	1134.0	GALVESTON.....	.....	.....	.....
				164.6			

Between Houston and Galveston, G.H.M. RR Co. Rules, Timetable and Special Instructions govern.

Trains are authorized to operate between Eureka and Houston without clearance or train orders being governed by instructions of Yardmaster.

MAXIMUM SPEED	MPH	BUSINESS TRACKS	MP	STA NO
969.4 - MP 1072.0.....	40	Halsted.....	994.2	5994
1072.0 - MP 1084.2.....	25	Schindler.....	1036.5	6036
		Midway.....	1049.9	6049
ADDITIONAL LIMITS PRESCRIBED BY		Cardiff.....	1050.8	6051
YARD ORDINANCE		Addicks.....	1066.7	6066

Smithville, through city
limits..... 25
New, through city limits.. 25
Houston, through city
limits..... 25

Southward trains arriving Eureka will contact the Yardmaster before entering Yard Limits, and will be governed by his instructions.

Trains will be governed by instructions of the Train Dispatcher use of the Main Track at Smithville.

SAN ANTONIO SUBDIVISION

21

SOUTHWARD		Station Numbers	Mile Post Location	MAIN LINE	Length of siding in feet	NORTHWARD	
SECOND CLASS						SECOND CLASS	
183						184	
DAILY						DAILY	
STATIONS						STATIONS	
PM 8 01	....	918.9	TRANSFER JCT ...	PM 7 00	....	
....	....	919.9	TAYLOR(MO PAC) B 1.0 34.3	....	....
....	6647	955.5	AUSTIN.....CYOB	....	....
PM 10 00	....	984.9	M-K-T JCT.....YO 29.7 0.6	PM 5 05	....	
10 02	....	985.5	AJAX.....Y	5 01	....	
10 05	6753	986.3	SAN MARCOS.....YMOB 0.8 16.4	924	4 58		
10 35	....	1002.7	N. B. YARD.....	4462	4 28	
....	6769	1003.3	NEW BRAUNFELS.CO 0.6 0.3	....	....
....	....	1003.3	MO. PAC.....XA 3.1	....	....
10 43	....	1006.7	WRP.....C	4 20	....	
10 50	6777	1010.6	COMAL.....	2305	4 13		
11 13	6791	1024.8	FRATT.....	2856	3 50		
11 26	6797	1030.3	TRAVIS.....Y 5.5 2.5	3123	3 37		
11 33	6800	1032.8	WARDEN.....Y 3.3	2646	3 30		
....	....	1036.1	S. P. ....X 0.4	....	....
....	....	1036.5	S. P. ....XM (R) 1.0	....	....
2 30 AM	6803	1037.5	SLOAN.....YTWOBOB 0.5	YARD	3 00 PM		
....	....	1038.0	S. P. ....XS 0.5	....	....
....	6804	1038.5	SAN ANTONIO.....YB	....	....
		118.6					

ABS between MP M-984.9 and MP M-1037.2.

Between Transfer Jct. and M-K-T Jct., Mo. Pac. RR Co. Rules, Timetable and Special Instructions govern.

Between M-K-T Jct. and San Marcos:—Trains have no superiority and trains and engines will move at Restricted Speed.

Exception to Rule 83(a) (last paragraph): Regular trains may leave their initial station without clearance at the following points.

M-K-T Jct.—No 183.

Trains will register at other than register stations as follows: Austin (MKT Yard)—Trains originating or terminating. San Marcos—Trains originating or terminating.

Trains and Engines moving from Mo. Pac. Main Track to MKT Yard Tracks at Austin will be governed by S. P. Co. Rules, Timetable and Special Instructions between Pershing and Congress Avenue; and will be governed by Rule 93 when on S. P. Co. tracks.

MAXIMUM SPEED	MPH	BUSINESS TRACKS	MP	STA NO
MP M- 984.9 - MP M- 985.5.	20	Ogden.....	M-1012.6	6779
MP M- 985.5 - MP M-1026.0.	40	Longhorn.....	M-1023.6	6790
MP M-1026.0 - MP M-1036.1.	25	Dixie.....	M-1023.7	6789
MP M-1036.1 - MP M-1038.5.	10	Remount.....	M-1027.1	6794

FLOOD INDICATORS

MP M- 999.5	MP M-1013.5
MP M-1006.5	MP M-1023.5

UNION PACIFIC RAILROAD COMPANY



SUPPLEMENT 217
TO

TARIFF UP 8170-C

Cancels Supplements 215 and 216.
Supplements 149, 164, 180, 182, 190, 197, 210, 212, 213, 217 and the Special Supplement shown
on page 2 of Supplement 149 contain all changes.

LOCATION OF NEW OR CHANGED ITEMS

The latest complete list of all new or changed items in effective Supplements is published in this Supplement.
The latest complete list of all stations listing corporations, etc. in effective supplements is published in
this Supplement.

ABSORPTIONS OF SWITCHING AND OTHER TERMINAL CHARGES AND

ALLOWANCES

AT STATIONS ON

UNION PACIFIC RAILROAD COMPANY

(Former Missouri Pacific Railroad)

and

(Former Doniphan, Kensett & Searcy Railway)

(Except as Noted in Item 325)

SWITCHING TARIFF

This tariff applies on intrastate traffic in the states of Arkansas, Colorado, Illinois, Kansas, Louisiana,
Missouri, Nebraska, Oklahoma, Tennessee (Memphis) and Texas.

ISSUED SEPTEMBER 18, 1997

EFFECTIVE SEPTEMBER 19, 1997

G. H. OSLER
Manager-Price Simplification
UNION PACIFIC RAILROAD
1416 Dodge Street
Omaha, Nebraska 68179

(Published by Railroad Publication Services, Atlanta, GA 30335)

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LAWRENCE E. WZOPEK
GENERAL COMMERCE COUNSEL

UNION PACIFIC RAILROAD COMPANY



1416 DODGE STREET
OMAHA, NEBRASKA 68179
(402) 271-3897
FAX (402) 271-5810

November 27, 1996

Mr. Peter J. Rickershauser
Vice President, Marketing - UP/SP Lines
and
Mr. E. L. "Buck" Hord
Vice President, Operations - UP/SP Lines
P.O. Box 961085
2650 Lou Menk Drive, Third Floor
Fort Worth, TX 76131-2830

RE: "2-to-1" Shipper Location List

Dear Pete and Buck:

Attached is a revised list that identifies the stations and the shippers who were served only by Union Pacific and Southern Pacific prior to our merger on September 11, 1996. This "2-to-1" list is an update of and supersedes the list previously provided to you. This list includes DUNS numbers which should facilitate an accurate description of the locations for waybilling and data exchange purposes.

We also previously provided you with the list of "2-to-1" shortline railroads to which BNSF has access since they were accessible only to UP and SP. Several industries on the Salt Lake City Southern have been added. For the other shortlines, you should contact each of them, if you have not already done so, to obtain a list of customers they serve.

The revised "2-to-1" list includes some new locations like Intermod Industries at Ortega, CA, which we determined was open to both UP and SP. Other locations were removed from the list based on further investigation. In short, this list represents a work in progress which may be changed from time-to-time as additional information becomes available.

An electronic version of this list has been transmitted to Frank Colby by Linda Gaeta of Union Pacific.

Sincerely,

Attachment

c: Ken Morrill - Room 1130
Clyde Anderson - Room 700
John Ransom - Room 1110
Linda Gaeta - Room 600

JUL 10 '98 10:02

PAGE 02
PAGE 03

UP/SP Two to One
Work in Progress List

190	TX	ORANGE	ORANGE SHIP BUILDING	720 MARKET STREET	77630-6620	(409) 883-6888	089848844	UP
191	TX	ORANGE	PRECINCT ONE ORANGE COUNTY	HWY 87	77630	(000) 000-0000	080881588	MP
192	TX	ORANGE	RESCAR	RR 5 BOX 38	77630-9805	(409) 883-0383	175684353	MP
193	TX	ORANGE	SABINE WAREHOUSE	COUNTY DOCKS	77630	(409) 886-8201	055142888	MP
194	TX	ORANGE	SCHULMAN A	THOMAS STREET	77680	(409) 883-8371		MP
195	TX	ORANGE	SCHULMAN PLANT	3007 BURNETT	77680	(409) 883-9371	026905547	MP
196	TX	ORANGE	TEXAS POLYMER SERVICES	6822 IH-10 WEST	77630	(409) 883-4331		MP
197	TX	ORANGE	TRINITY INDUSTRIES	81 FRONT STREET	77630-6847	(409) 883-7006		SP
198	TX	ORANGE	WEST ORANGE CITY OF	2700 AUSTIN STREET	77630-6144	(713) 883-3468	074159773	MP
199	TX	ORANGE	WILSON WAREHOUSE	1417 W. MAIN ST	77630-5586	(615) 444-4872	050311828	SP
200	TX	SAN ANTONIO	ALAMO IRON WORKS	943 COLISEUM RD	78219	(210) 223-6161	187814827	SP
201	TX	SAN ANTONIO	BIG STATE PRODUCE	1500 S. ZARZAMORA	78207-7210	(210) 223-9567	027012384	SP
202	TX	SAN ANTONIO	BIG TEX GRAIN	401 BLUE STAR	78204-1720	(512) 227-3462	008143929	MP
203	TX	SAN ANTONIO	BLOCK DISTRIBUTING	827 COLISEUM RD	78219	(512) 882-4273	008862857	SP
204	TX	SAN ANTONIO	BUDCO	811 N CHERRY ST	78202	(210) 226-3044	041367913	SP
205	TX	SAN ANTONIO	CALIFORNIA FRUIT	1500 SOUTH ZARZAMORA	78207-7210	(512) 224-6646	027016080	SP
206	TX	SAN ANTONIO	CITY PL. BLC SERVICE	145 NAVARRO ST	78205	(210) 978-2000	087838873	SP
207	TX	SAN ANTONIO	FIESTA WAF. HOUSING	4221 DIRECTOR DRIVE	78219	(210) 337-9101	080844825	SP
208	TX	SAN ANTONIO	FITE DISTRIBUTION SERVICES	1905 SHIPMAN	78219	(210) 299-1031	102728892	MP
209	TX	SAN ANTONIO	GAYLORD CONTAINER	1111 COLISEUM ROAD	78219	(210) 225-2901	098393335	SP
210	TX	SAN ANTONIO	GAYLORD CONTAINER MP	3323 COMMERCE ST	78223	(210) 225-2901		MP
211	TX	SAN ANTONIO	GAYLORD CONTAINER NORTH	1940 SHIPMAN DRIVE	78237	(210) 225-5193		MP
212	TX	SAN ANTONIO	GLI DISTRIBUTING	803 SOUTH MEDINA	78207-5616	(210) 226-4377	027089888	MP
213	TX	SAN ANTONIO	HALO DISTRIBUTING	1403 N COMAL	78207	(210) 735-1111	027039468	MP
214	TX	SAN ANTONIO	HART LUMBER JP	558 N WW WHITE RD	78219	(210) 337-6464	027031748	SP
215	TX	SAN ANTONIO	HOOD CLAYS VR	1231 WEST MARTIN	78207-3060	(210) 222-1331	175864101	MP
216	TX	SAN ANTONIO	IMPERIAL BEDDING	1114 WEST COMMERCE	78207-4447	(210) 225-8511	044775767	MP
217	TX	SAN ANTONIO	INTSEL SOUTHWEST	2221 1/2 W MALONE AVE	78225	(210) 827-8855	782984080	MP
218	TX	SAN ANTONIO	LONE STAR BREWING	600 LONE STAR BLVD	78204	(210) 226-8301	102732148	SP
219	TX	SAN ANTONIO	NATIONAL STEEL COMPRESSING	726 EL PASO	78207-6050	(210) 227-4887		SP
220	TX	SAN ANTONIO	PEARL BREWING	312 PEARL PARKWAY	78216	(210) 226-0231	008115248	SP

Author: Frank R Colby at CFW05PO
Date: 8/12/97 2:06 PM
Priority: Normal
TO: lmgaeta@notes.up.com at Internet
TO: Frank R Colby
BCC: Edward E Pidgeon
Subject: South Texas Liquid Terminal, San Antonio, TX
----- Message Contents -----

TX
SAN ANTONIO
SOUTH TEXAS
LIQUID TERM

Linda:

I don't think I have asked you about this one. Sorry if it is a duplicate. Bob Price advised 5/16/97 that the following customer is a transload facility and would be added to the UP list as such.

South Texas Liquid Terminal
3131 N Panam Expwy
San Antonio, TX

Please advise if any problem or if my UP list is just not up to date.

Thanks

Frank



Edward Pidgeon [BNSF.EPidgeon]@SSW on 02-04-98 12:59:00 PM

Please respond to Edward Pidgeon [BNSF.EPidgeon] @ SSW

To: limgaeta@notes.up.com@INTERNET, Frank Colby [BNSF.FColby]@SSW
cc: Edward Pidgeon [BNSF.EPidgeon]@SSW (bcc: Peter J Rickershauser/MKT/RRD/US)
Subject: UP/SP and BNSF differences on 2:1 listings

Hi Linda,

After going thru your Jan 9, 1998 spreadsheet and comparing it to ours, I originally found 18 customers that were listed on our spreadsheet that were not listed on yours. By catching up on some of the requests we had sent earlier, the original 18 is now down to only 14. I'll try to be as concise as possible so I don't give you a book to have to go thru. Here goes:

1. Sterling Paint Inc - Little Rock AR
Quick background--Sterling Paint (subsidiary of Stebbins & Roberts Inc; P O Box 791; Little Rock AR 72203) bought the old Arkansas Broom Works facility at 1216 E 6th St and also bought out the companies of Cash Wholesale Co Inc and Sterling Everest Co, both of which were located at 1300 E 6th St. The 1216 E 6th St address has no trackage so is Not2:1 and you don't need to do anything with this address. However, the 1300 E 6th St. does not show on your spreadsheet under any name. Both of the old companies showed open on the MP on your 7-11-97 Tariff 'open to reciprocal' sheet but showed no address and "No Business Listing" under comments. PLEASE ADD STEPLING PAINT INC 1300 E 6TH ST AS 2:1 OPEN ON UP.
2. Petro Source Asphalt Terminal - Elko NV
Petro Source as 9801 Westheimer Rd is listed as 2:1 so no problem. However, Petro Source Asphalt Terminal at 1520 Silver St. is not listed. On 10-17, Bob Price sent us a ccMail confirming that this address is open; also per John Ransom's letter of 11-5, all industries at Elko served by industry tracks were opened to BNSF. PLEASE ADD 1520 SILVER ST AS 2:1.
- 3 and 4. Transwood Inc at Jayhawk Nv and at Redhouse Nv
Both of these locations were part of the Kennecott Utah Copper discussions and were agreed upon that BNSF had access by Larry Wzorek of UPRR on 7-18-97. Also Jayhawk and Redhouse fall under John Ransom's letter. PLEASE ADD BOTH OF THESE CUSTOMER/LOCATIONS AS 2:1.
5. Rhone Poulenc, 3439 Park St., Baytown TX 77520
On your 7-11 Tariff reciprocal list, this customer shows open on the MP with a TCS # 727474 and Duns# 82688896 but does not show on your Jan 9, 1998 list. PLEASE ADD AS 2:1.
6. City of Brownsville, City Abbatore Track, 1100 Roosevelt, Brownsville, TX 78521
On your 7-11 Tariff reciprocal list, this customer shows open on the MP but does not show on your Jan 9, 1998 list. PLEASE ADD AS 2:1.

7. LCRA Plant - Halsted TX
This shows as 2:1 on Exhibit A of Agreement but does not show on your list. PLEASE ADD AS 2:1
8. Brown & Joiner; 821 W Jackson; Harlingen, TX
This shows as open on MP on the 7-11 Tariff reciprocal list, but does not show on your Jan 9, 1998 list. PLEASE ADD AS 2:1.
9. M G Building Materials; 227 New Laredo Hwy; Heafer TX
Originally showed incorrect address of 9501 Hwy 81. THIS CORRECTED ADDRESS IS IN SAN ANTONIO SWITCHING DISTRICT AND SHOULD BE SHOWN AS 2:1. Frank shows a verbal agreement from the UPRR agreeing with this status on Aug 4, 1997. but UP spreadsheet doesn't show this company.
10. Schulman Plant; Thomas St.; Orange TX 77680
You show a Schulman Plant at 3007 Burnett as Jointly Served 2:1 No problem with that, however WE NEED THE 2ND ADDRESS OF THOMAS ST ADDED AS 2:1 ALSO.
11. South Texas Liquid Terminal; 3131 N PanAm Expwy; San Antonio
On 5-16-97, Bob Price agreed that this was a Transload facility but so far it hasn't shown up on any of your lists. As a follow-up, Frank sent a request on 8-12-97 to add. PLEASE ADD AS A TRANSLOAD FACILITY.
12. Terra Nitrogen Corp (Terra Intl) - Waco TX
This shows on 7-11 Tariff reciprocal list as open on SP with TCS# 12475 and Duns#174133702 but does not show on your Jan 9 list. PLEASE ADD AS 2:1.
13. Terminal Freight Handling; 175 W 1300 South; Salt Lake City UT
This shows on your 7-11 Tariff reciprocal list as being under customer name of Sears Logistics Servs Transp TRA and open on UP. However, the Sears Logistics address shows as 335 W Burgatti and being served by SL. I BELIEVE THAT TERMINAL FREIGHT HANDLING, 175 W 1300 SOUTH, IS ON THE UP AND NOT SL AND SHOULD SHOW AS 2:1 OPEN ON UP.
14. This is the last one and I'm not sure if you need to do anything or not. Imperial Holly; 198 Kempner; Sugar Land, Tx shows on both of our lists as open on UP and 2:1. No problem so far....However, A E Staley also operates on Imperial Holly property with the same address. We show Staley as also open on UP and 2:1, but you don't show them at all. Because they are operating at the same address as Imperial Holly, do you need to add them so there is no confusion with the operating people??

Well, that's all I show so far. It looks to me like we've really been making progress lately on getting both lists to agree and I just want to thank you for all your efforts. If there is anything else you need, just let me know.

Thanks again

Ed

Linda_M._Gaeta@notes.up.com on 04-21-98 04:17:46 PM
To: Edward Pidgeon [BNSF.EPidgeon]@SSW
cc: Kurt_H._Schroeder@notes.up.com@INTERNET,
Larry_E._Wzorek@notes.up.com@INTERNET,
John_H._Ransom@notes.up.com@INTERNET,
Robert_B._Price@notes.up.com@INTERNET,
Helen_A._Heller@notes.up.com@INTERNET,
Peter J Rickershauser/MKT/RRD/US@RRD, Regina Minish [BNSF.RMinish]@SSW,
Frank
Colby [BNSF.FColby]@SSW, Butch_Grigone@notes.up.com@INTERNET
Subject: South Texas Liquid Terminals - San Antonio, Texas

Ed, reference our many discussions pertaining to South Texas Liquid Terminals. We have done some research on the above customer and determined that South Texas Liquid Terminals is rail served out of Travis yard, on the old Katy #2 track. The facility is outside the switching limits of San Antonio, which is a bonafide "2 to 1" station.

The facility existed prior to the UP/SP-BNSF Settlement Agreement, so it does not qualify as a new facility located along a trackage rights line.

I will forward you the page we are putting into our database as soon as I am able to secure a CIF# (Duns) for this particular customer location.

To: Linda_M._Gaeta@notes.up.com@INTERNET
cc: Edward Pidgeon [BNSF.EPidgeon]@SSW, Kurt_H._Schroeder@notes.up.com@INTERNET,
Larry_E._Wzorek@notes.up.com@INTERNET, John_H._Ransom@notes.up.com@INTERNET,
Robert_B._Price@notes.up.com@INTERNET, Helen_A._Heller@notes.up.com@INTERNET, Regina
Minish [BNSF.RMinish]@SSW, Frank Colby [BNSF.FColby]@SSW,
Butch_Grigone@notes.up.com@INTERNET (bcc: Peter J Rickershauser/MKT/RRD/US)
Subject: Re: South Texas Liquid Terminals - San Antonio, Texas

Linda, reference your note attached to Ed Pidgeon of BNSF dated 4/21/98 concerning the above subject.

In reading your note, you advise UP will not permit BNSF access to this customer under any of the merger conditions. I believe your information is in error, and request your reconsideration of BNSF ability to access this customer under the merger conditions as a "transload" facility.

BNSF is not claiming this facility is either a "2-to-1" shipper facility, or a new facility located along a trackage rights line. However, there appears little doubt that this facility is a transload facility accessible to BNSF at a "2-to-1" point, similar to the Ernest F. Mariani Co., in Salt Lake City, UT, which we reviewed in December and January.

Our review of the applicable UP reciprocal switch tariff, MP 8170-C (we checked supplement 149, page 26) shows The Fite Distribution Services Co. as being open to reciprocal switch in Group B for San Antonio, TX. Fite Distribution is served by the same line as South Texas Liquid Terminals and, located 1905 Shipman Avenue in San Antonio, is further out from the center of San Antonio than South Texas Liquid Terminals. Said differently, the fact that The Fite Distribution Services Co., is open to reciprocal switch established that South Texas Liquid Terminals is within the San Antonio reciprocal switch district. As a result, it appears South Texas Liquid Terminals falls within the description of Section 4b of the "BNSF Settlement Agreement", which states "BNSF shall receive access on such lines only to . . . (ii) any existing or future transloading facilities at points listed on Exhibit A of this Agreement, . . ." San Antonio, TX is listed on Exhibit A. South Texas Liquid Terminals is both within the San Antonio reciprocal switch limits and within the city limits of San Antonio, TX.

I have another concern here, however. Our records show on May 16, 1998 Bob Price advised Frank Colby verbally that South Texas Liquid Terminals in San Antonio, TX was a transload facility accessible to BNSF. After receiving a UP list of shipper facilities on July 9 and July 11, 1997 accessible to BNSF which did not include South Texas Liquid Terminals, on August 12 Frank Colby of BNSF addressed an electronic note to Linda Gaeta requesting South Texas Liquid Terminal be added to the list of shipper facilities accessible to BNSF as a transload. The next list we received from UP, on January 9, 1998, also did not include South Texas Liquid Terminals; our specific requests were not answered until the message below. In the meantime, we have listed South Texas Liquid Terminals, based on advice from UP received on May 16, 1997 in our quarterly filings to the STB of October 1, 1997, and January 2 and April 1, 1998.

In brief, BNSF believes that application of the BNSF settlement agreement terms as well as the STB merger conditions and subsequent decisions intend our access to South Texas Liquid Terminals, San Antonio, TX as a transload facility. Appreciate you either advising basis for your different interpretation in this matter, or your concurrence to our request.

Author: JHRANSOM@scz.skyway.com at Internet
Date: 5/7/98 11:18 AM
Priority: Normal
TO: Peter_J_Rickershauser@RRD@scz.skyway.com at Internet
CC: Edward E Pidgeon-at CFW05PO
CC: Regina C Minish at CFW07PO
CC: Frank R Colby at CFW05PO
CC: KHSCHROE@scz.skyway.com at Internet
CC: LEWZOREK@scz.skyway.com at Internet
CC: JHRANSOM@scz.skyway.com at Internet
CC: RBPRICE@scz.skyway.com at Internet
CC: HAHELLER@scz.skyway.com at Internet
CC: BPGRIGON@scz.skyway.com at Internet
Subject: BNSF Proposed Access to South Texas Liquid Terminals

TX
SAN ANTONIO
SOUTH TEXAS LIQUID
TERMINALS

----- Message Contents -----

Pete,

Linda Gaeta has asked that I respond to your note of April 28 concerning whether or not South Texas Liquid Terminals is open to service by BNSF. You indicated that BNSF believes it is entitled to serve this facility under the Settlement Agreement because it is a transload facility in San Antonio, a "2-to-1" point specifically listed in Exhibit A to the Agreement.

Based on my review of the facts, I have concluded that South Texas Liquid Terminals does not qualify as a transload facility located at San Antonio. Consequently, BNSF does not have access to this facility.

UP agrees that South Texas Liquid Terminals is a transload facility, but it is located at Travis, TX which is a separate rail station distinct from San Antonio. Travis is not a "2-to-1" location. It is UP's opinion that the geographical boundaries of "2-to-1" stations are defined by the switching limits for that station. This is the only consistent definition of "San Antonio" over the life of the Settlement Agreement. In fact, UP's switching limits are shown in former tariff MP 8170-C, supplement 149, page 98. M. P. 255.97 sets the outer limit of the switching district, and it is nearly 2 miles closer to San Antonio than South Texas Liquid Terminals.

Municipal boundaries/corporate limits will change over time. The switching limits previously established by MP for service by SP set the boundaries of the "2-to-1" station of San Antonio. UP does not agree with your statement that the existence of a nearby industry (Fite Distribution Services) which is accessible to BNSF automatically establishes what you define as the "San Antonio reciprocal switch district". It is my understanding that BNSF may use this methodology to establish switching limits, but UP does not. The page of the reciprocal switch tariff that you cite stated what industries were open to the SP via reciprocal switching. It did not set the switching limits of San Antonio.

I regret the confusion this may have caused, but South Texas Liquid Terminals is not on a list that UP generated. We do not have the resources to review every list that BNSF has submitted to the STB with your quarterly reports to determine whether or not BNSF has added a station/customer and whether or not UP agrees with that representation.

BNSF

PETER J. RICKERSHAUSER
Vice President UP/SP Lines & Mexico

Burlington Northern Santa Fe

2650 Lou Menk Drive
P.O. Box 961065
Fort Worth, TX 76161-0065
817 352-6686
Fax 817 352-7154

May 15, 1998

Mr. John Ransom,
Senior Interline Marketing Officer
Union Pacific Railroad
1416 Dodge Street
Omaha, NE 68179

Dear John:

Reference your Internet message of May 7, 1998 concerning Burlington Northern Santa Fe access to South Texas Liquid Terminals in San Antonio. After reviewing your note and the information you provided, and reviewing our available data, I continue to conclude that application of the terms of the BNSF Settlement Agreement as well as the merger conditions and subsequent Surface Transportation Board decisions permit BNSF access to this facility.

Your message states:

"UP agrees that South Texas Liquid Terminals is a transload facility, but it is located at Travis, TX, which is a separate rail station distinct from San Antonio. Travis is not a "2-to-1" location. It is UP's opinion that the geographical boundaries of "2-to-1" stations are defined by the switching limits for that station. This is the only consistent definition of "San Antonio" over the life of the Settlement Agreement. In fact, UP's switching limits are shown in former tariff MP 8170-C, Supplement 149, page 98. M.P. 255.97 sets the outer limit of the switching district, and it is nearly two miles closer to San Antonio than South Texas Liquid Terminals."

UP's San Antonio switching limits are indeed contained in Supplement 149, MP Tariff 8170-C, Items 2649.10 and 2650, on page 98. The "definition of switching limits" in fact encompasses three UP (not SP) lines in the San Antonio area:

The "Palestine" line, former MP, from MP 255.97 on the north to 267.80 on the south
The "Corpus Christi" line, former MP, from intersection with the "Palestine" line to MP 4.1 on the south

A third line, which is the former MKT line, from MP 1028.55 on the north to MP 1038 on the south

South Texas Liquid Terminals is located in the former MKT Travis Yard facility, MP 254.31.

In reviewing employees' timetables for Union Pacific as well as the former Missouri Pacific and Missouri-Kansas-Texas railroads, it is evident that reference to MP 255.97 to MP 267.80, as shown in Item 2649.10, refers to the MP line (the former Austin Subdivision of the Palestine

Mr. John Ransom
May 15, 1998
Page 2

Division), and that reference to MP 1028.55 to MP 1038.5 refers to the MKT line. I am attaching copy of Page 21 from MKT System Timetable No. 3, dated October 31, 1976, wherein you will note MP 1038.5 as shown in Supplement 149, MP Tariff 8170-C, Item 2650 corresponds exactly to the MKT's "end of track" in San Antonio.

This same MKT timetable page establishes Travis at Milepost 1030.3, which is between MP 1028.55 and MP 1038.5 as shown in Item 2650, Supplement 149, MP Tariff 8170-C. Therefore, under the application of the item, Travis and South Texas Liquid Terminals are within the reciprocal switching limits of San Antonio. This is borne out by the fact that Item 190, MP 8170-C, page 5, shows The Fite Distribution Services Co. as being open to reciprocal switch; Fite is located at 1905 Shipman Avenue in San Antonio, is served off the same line, and is between Travis and MP 1028.55. If Fite is within the reciprocal switching limits of San Antonio, and it appears to be, than South Texas is, as well.

The picture was still confusing to me however, inasmuch as South Texas advised their milepost location as between MP 254.4 and 254.1, until we determined that UP had replaced the former MKT mileposts with new mileposts calibrated to the former MP mileages - which makes sense, given that the MKT route is severed north of San Antonio. However, Item 2650 of MP Tariff 8170-C continues to define the reciprocal switching limits of San Antonio by using the MKT mileposts. Travis and South Texas Liquid Terminals are clearly within the defined reciprocal switch limits contained in the tariff governing, based on the miles shown.

Based on this information, and your review of the attachments, I request you reverse your previous decision and affirm that BNSF is entitled to access to South Texas Liquid Terminals, a transload within the reciprocal switch limits of San Antonio as defined by the applicable tariffs in effect at the time of the "BNSF Settlement Agreement."

Sincerely,

Pete Rickershauser
/SR

Attachment

cc: Larry Wzorek
Mike Roper
Edward Pidgeon

051598 a

JHRANSOM@skyway.com on 05-28-98 09:34:44 AM

To: Peter J Rickershauser/MKT/RRD/US@RRD

cc: Edward <Edward.Pidgeon@BNSF.COM>@skyway.com @ INTERNET,

BAVANKAM@skyway.com @ INTERNET, KHSCHROE@skyway.com @ INTERNET,

LEWZOREK@skyway.com @ INTERNET, RBPRICE@skyway.com @ INTERNET,

HAHELLER@skyway.com @ INTERNET, Regina Minish [BNSF.RMinish]@SSW, Frank Colby [BNSF.FColby]@SSW, BPGRIGON@skyway.com @ INTERNET, LMGAETA@skyway.com @

INTERNET

Subject: Re: South Texas Liquid Terminals - San Antonio, Texas

Reference your letter of May 15: The tariff reference you point out regarding the former MKT line is an outdated and obsolete switching limit. At the time of the Settlement Agreement, the applicable mileposts for switching limits were indeed M.P. 255.97 on north to M.P. 267.8 on south. UP had NO track segments radiating from San Antonio or describing the San Antonio switching limits to which the former MKT mileposts could have been applied. The track profile corrected to March 23, 1995, shows the mileages calibrated upon the former MoPac route.

As to your observation that Fite Distribution Services somehow establishes "reciprocal switching limits", I can only reiterate that UP does not utilize the presence or absence of "open" industries to describe the extent of tariff switching limits. Tariff switching limits define the boundaries of "2 to 1" stations.

UP will ensure that ADM is aware that South Texas Liquid Terminals is not accessible to BNSF.

File item 2 original document name: 62SOTXLI.SAM



To: JHRANSOM.uprr.com@internet
cc: Edward E Pidgeon [BNSF.EPidgeon]@SSW, bavankam.uprr.com@internet,
khschroed.uprr.com@internet, lewzorek.uprr.com@internet, rbprice.uprr.com@internet,
haheller.uprr.com@internet, Regina C Minish [BNSF.RMinish]@SSW, Frank R Colby
[BNSF.FColby]@SSW, bpgrigon.uprr.com@internet, limgaeta.uprr.com@internet (bcc: Peter J
Rickershauser/MKT/RRD/US)
Subject: Re: South Texas Liquid Terminals - San Antonio, Texas

Reference previous correspondence in this matter, ending with your note below.

Burlington Northern Santa Fe cannot accept your position that BNSF or our customers are not entitled to access to South Texas Liquid Terminals, San Antonio, TX under the terms of the BNSF Settlement Agreement or the subsequent STB conditions and decisions on the UP/SP merger. To review:

1. In your letter of May 7, 1998, you agreed that South Texas Liquid Terminals is a transload facility.
2. You further stated "It is UP's opinion that the geographical boundaries of "2-to-1" stations are defined by the switching limits for that station. This is the only consistent definition of "San Antonio" over the life of the Settlement Agreement. In fact, UP's switching limits are shown in former tariff MP 8170-C, Supplement 149, page 98."

We agree. As pointed out in my letter of May 15, application of the precise definition you provide and reading your tariff as requested provides all the proof needed that South Texas Liquid Terminals is within the reciprocal switching limits of San Antonio, TX, per Item 2650, MP Tariff 8170-C. There is no other way to read either the tariff or the Settlement Agreement. Up through at least Supplement 217, MP Tariff 8170-C, effective September 19, 1997, well beyond the critical date of September 25, 1995 for the terms of the BNSF Settlement Agreement, Item 2650 defining San Antonio switching limits remained in effect. BNSF or our customers cannot be expected to know which of your tariff items, though remaining published and in effect, are "outdated and obsolete." The fact that the mileposts were changed in 1995 as shown on track profile maps is not our business, or relevant - the Settlement Agreement does not refer to track profile maps to define reciprocal switching areas. The tariff item governing, which established the switching limits, was not changed, and the section of track it describes is plainly the line serving South Texas Liquid Terminals, as reference to the tariff shows.

Once again, based on our review of the terms of the BNSF Settlement Agreement and the information and direction you have provided, I request that Union Pacific reverse its previous decision and confirm that BNSF and our customers are entitled to access to South Texas Liquid Terminals, a transload within the reciprocal switching limits of San Antonio as defined by the applicable tariffs in effect at the time of the BNSF Settlement Agreement.

STB

FD

32760

8-4-98

I

190399

2/2



John H. Ransom

05/24/98 10:28 AM

To: Peter.Rickershauser1@BNSF.COM @ INTERNET BY FAX
cc: Larry E. Wzorek@UP, Linda M. Gasta@UP
Subject: South Texas Liquid Terminals

Pete--reference our various exchanges on STLT(South Texas Liquid Terminals). As much as BNSF desires access to STLT, neither of us can change the fact that UP's tariff described a switching limit to which NO track segment in the San Antonio area applied at the time of the Settlement Agreement. You contend that track charts/profiles/timetables are not relevant to implementing the switching limit concept in the Settlement Agreement. Yet these are precisely the ONLY links UP can make between its tariff and the actual railroad track segment. The fact that BNSF is or was not aware of the relevant mileposts defining the operational limits of the switching district does not change the fact that they were defined as of the pertinent date.

Consequently, I can only reiterate UP's strong conviction that the milepost defining the switching limit on the north boundary of the track segment running through Travis is indeed M.P. 255.97 regardless of how much BNSF or the affected customer wishes it were different. There is no relationship between UP's switching limits in effect at the time of the UP/BNSF Settlement Agreement and MKT Timetables from a generation ago.

UP will advise ADM that our position on BNSF access to South Texas Liquid Terminals remains unchanged.

RECEIVED TIME/UN. 24. 10:28AM

PRINT TIME/UN. 24. 610:27AM

UNION PACIFIC RAILROAD COMPANY



SUPPLEMENT 224
TO

TARIFF UP 8170-C

Supplement 224 contains all changes.

**ABSORPTIONS OF SWITCHING AND OTHER TERMINAL CHARGES
AND
ALLOWANCES
AT STATIONS ON
UNION PACIFIC RAILROAD COMPANY
(Former Missouri Pacific Railroad)
and
(Former Doniphan, Kensett & Searcy Railway)
(Except as Noted in Item 325)**

SWITCHING TARIFF

▲ ♦ ▲ CANCELLATION OF TARIFF

This tariff is hereby cancelled; for applicable provisions see Union Pacific Railroad Company Switching and Terminal Tariff UP 8005-D. (DQ 3494)

♦ - Reduction.

♦ - Increase.

▲ - Denotes change in wording which results in neither increase nor reduction in charges.

ISSUED FEBRUARY 26, 1998

EFFECTIVE MARCH 19, 1998

ISSUED BY
G. H. OSLER
Manager-Price Simplification
UNION PACIFIC RAILROAD
1416 Dodge Street
Omaha, Nebraska 68179

(Published by Railroad Publication Services, Atlanta, GA 30335)

UNION PACIFIC RAILROAD COMPANY



SUPPLEMENT 260 ▲♦▲
TO

FREIGHT TARIFF UP 8005-D

Supplements 118, 164, 194, 197, 202, 211, 239, 243, 247, 258, 259 and 260 and the following
Special Supplements contain all changes.
Supplement 82 - Not used.

LOCATION OF NEW OR CHANGED ITEMS

The latest list of all new or changed items in effective supplements is published in Supplement 118.
For list of items since Supplement 118, see Page 2 of this Supplement.

LOCAL AND JOINT SWITCHING CHARGES AND ABSORPTIONS

AT STATIONS IN

ARKANSAS
CALIFORNIA
COLORADO
IDAHO
ILLINOIS
IOWA

KANSAS
LOUISIANA
MICHIGAN
MISSOURI
MINNESOTA
MONTANA

NEBRASKA
NEVADA
OKLAHOMA
OREGON
SOUTH DAKOTA

TENNESSEE
TEXAS
UTAH
WYOMING
WASHINGTON
WISCONSIN

ON THE UNION PACIFIC RAILROAD

See Item 120 for Intrastate Application.

SWITCHING AND TERMINAL TARIFF

ISSUED FEBRUARY 26, 1998

EFFECTIVE MARCH 19, 1998

ISSUED BY
G. H. OSLER
Manager-Price Simplification
Union Pacific Railroad
1416 Dodge Street
Omaha, Nebraska 68179

(Published by Railroad Publication Services, Atlanta, GA 30335)

INDEX OF NEW OR CHANGED ITEMS PUBLISHED SINCE SUPPLEMENT 118

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(Continued on next page)

SECTION 1 - SWITCHING DISTRICTS, CONNECTING ROADS OR INDUSTRIES ON UP		
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1356.25	DESCRIPTION OF SAM FORDYCE, TX SWITCHING DISTRICT (DQ 3494)	From Haringen, TX, Mile Post 52.8 on the North to Mile Post 55.4 on the South.
1357	DESCRIPTION OF SAN ANTONIO, TX SWITCHING DISTRICT (DQ 3494)	Between Mile Post 1028.55 on the North and Mile Post 1038.5 on the South.
1357.55	DESCRIPTION OF SAN ANTONIO, TX SWITCHING DISTRICT (DQ 3494)	From Palestine, TX, Mile Post 255.97 on the North to Mile Post 267.80 on the South. From San Antonio, TX on Corpus Christi line extends to Mile Post 4.1 on the South.
1362.10	DESCRIPTION OF SAN JOSE, TX SWITCHING DISTRICT (DQ 3494)	From San Antonio, TX, Mile Post 5.9 on the North to Mile Post 7.2 on the South.
1362.25	DESCRIPTION OF SAN JUAN, TX SWITCHING DISTRICT (DQ 3494)	From Haringen, TX, Mile Post A-28.90 on the North to Mile Post A-29.60 on the South. From Raymondville, TX, Edinburg Line to Mile Post E-37.80 on the South.
1364	DESCRIPTION OF SEALY, TX SWITCHING DISTRICT (DQ 3494)	Between Mile Post 1034.9 on the North and Mile Post 1036.18 on the South.
1367	DESCRIPTION OF SERVICE, TX SWITCHING DISTRICT (DQ 3494)	Between Mile Post 793.42 on the North and Mile Post 794.42 on the South.
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1367.10	DESCRIPTION OF SHERMAN, TX SWITCHING DISTRICT (DQ 3494)	Between Mile Post 563.3 on the North and Mile Post 569.11 (End of Line).
1371	DESCRIPTION OF SMACKOVER, AR SWITCHING DISTRICT (DQ 3494)	Between Mile Post 476.0 and Mile Post 482.06.
1374	DESCRIPTION OF SOUTH BAY CITY, TX SWITCHING DISTRICT (DQ 3494)	FROM Brownsville, TX, Mile Post 276.75 on South to Mile Post 277.75 on North. NOTE - Includes plant of Celanese Corporation of America.

UNION PACIFIC RAILROAD COMPANY SOUTHERN PACIFIC TRANSPORTATION COMPANY



SUPPLEMENT 271
TO

FREIGHT TARIFF UP 8005-D

Cancels Supplements 268 and 270.
Supplements 118, 164, 194, 197, 202, 211, 239, 243, 247, 258, 260, 265, 267 and 271 and the following
Special Supplements contain all changes.
Supplement 82 - Not used.

LOCATION OF NEW OR CHANGED ITEMS

The latest list of all new or changed items in effective supplements is published in Supplement 118.
For list of items since Supplement 118, see Page 2 of Supplement 267.

LOCAL AND JOINT SWITCHING CHARGES AND ABSORPTIONS

ARKANSAS
CALIFORNIA
COLORADO
IDAHO
ILLINOIS
IOWA

KANSAS
LOUISIANA
MICHIGAN
MISSOURI
MINNESOTA
MONTANA

AT STATIONS IN

NEBRASKA
NEVADA
OKLAHOMA
OREGON
SOUTH DAKOTA

TENNESSEE
TEXAS
UTAH
WYOMING
WASHINGTON
WISCONSIN

ON THE UNION PACIFIC RAILROAD

See Item 120 for Intrastate Application.

SWITCHING AND TERMINAL TARIFF

ISSUED JUNE 9, 1998

▲ --- EFFECTIVE JUNE 10, 1998
♦ --- EFFECTIVE JUNE 30, 1998
(Except as otherwise provided)

ISSUED BY
G. H. OSLER
Manager-Price Simplification
Union Pacific Railroad
1416 Dodge Street
Omaha, Nebraska 68179

(Published by Railroad Publication Services, Atlanta, GA 30335)

SECTION 1 - SWITCHING DISTRICTS, CONNECTING ROADS OR INDUSTRIES ON UP			
ITEM	STATION	APPLICATION	
1357-A	DESCRIPTION OF SAN ANTONIO, SWITCHING DISTRICT (DQ 3529)	• Cancel: account obsolete.	
SECTION 1 - SWITCHING DISTRICTS, CONNECTING ROADS OR INDUSTRIES ON UP			
ITEM	STATION	INDUSTRY	GROUP
<div>270</div> <div>1441.70</div> <div>-A</div>	LIST OF INDUSTRIES AT DENVER, CO (DQ 3528)	A.L.J. Coating Company Alpine Lumber 5800 North Pecos Amcon Distributing (Sheya Brother) Anheuser Busch Incorporated Boise Cascade Corporation Cargill Incorporated Colorado Forest Industries Conoco Dawn Food Products Den Pak Building Products Denver Lumber Company Incorporated Don Ward Hugh M Woods H & W Warehouse (Herbel & Woods) Iron & Metals Keebler Company Kellogg Lumber Company Koppers Industries Incorporated Metro Waste Water Reclamation Mobile Premix Concrete National Sy Products Newell Recycling Pepcol Manufacturing Pluswood Incorporated Republic Paperboard Rio Grande Rebar Services Rocky Mountain News 5991 North Washington Rocky Mountain Reload Rustco Products Silco Oil Company Snavely Forest Products Tenneco Packaging Thompson Pipe & Steel U. S. Mix Products W. R. Grace & Company Weyerhaeuser Company, 5170 Kalamath St Zimmerman Metals Incorporated	S
<div>288</div> <div>1448.75</div> <div>-A</div>	LIST OF INDUSTRIES AT EUGENE, OR (DQ 3525)	A & M Reload Incorporated Cascade Resin Incorporated Emerald Forest Products Incorporated Eugene Freezing & Storage *** Grain Millers Incorporated J. H. Baxter & Company Lane Plywood Incorporated Lumber Products Company McCracken Van & Storage Company Melamine Decorative Laminate Northwest Reload Pennington Crossarm Company Scherps Twin Oaks Builders Supply Suburan Propane Gas Corporation Trus-Joist Macmillan Weatherlys Incorporated West Wind Forest Products (Open only on inbound traffic) Willamette Industries Willamette Valley Company, The	S

STB

FD-32760

6-26-98

I

ID-189083

189083
ORIGINAL

LAWRENCE W. BIERLEIN
DOUGLAS M. CANTER
JOHN M. CUTLER, JR.
ANDREW P. GOLDSTEIN
STEVEN J. KALISH
KATHLEEN L. MAZURE
HARVEY L. REITER
DANIEL J. SWEENEY

LAW OFFICES
McCARTHY, SWEENEY & HARKAWAY, P.C.
1750 PENNSYLVANIA AVE., N. W.
SUITE 1105
WASHINGTON, D. C. 20006
(202) 393-5710

FACSIMILE
(202) 393-5721

E-MAIL
MSH@MSHPC.COM

WEBSITE
HTTP://WWW.MSHPC.COM

OF COUNSEL
WILLIAM I. HARKAWAY

June 26, 1998

Via Hand Delivery

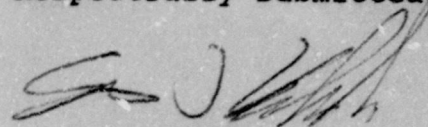
Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

Re: Finance Docket No. 32760

Dear Secretary Williams:

Enclosed are an original and ten copies of the Joint
Petition For Approval And Prescription Of Settlement of the City
of Wichita, Kansas, Sedgwick County, Kansas, and the Union
Pacific Railroad Company.

Respectfully submitted,



Steven J. Kalish

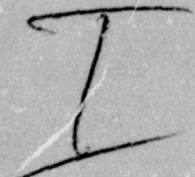
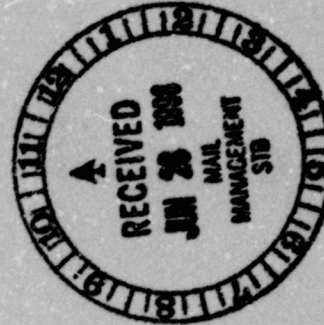
Enc.

cc: Elaine K. Kaiser
J. Michael Hemmer

ENTERED
Office of the Secretary

JUN 29 1998

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

JOINT PETITION
FOR APPROVAL AND PRESCRIPTION OF SETTLEMENT

Pursuant to the attached Memorandum of Understanding ("MOU" or "settlement") entered into on June 24, 1998, Joint Petitioners, the City of Wichita, Kansas and Sedgwick County, Kansas ("Wichita/Sedgwick") and the Union Pacific Railroad Company ("UP"), hereby request that the Surface Transportation Board ("Board") approve their settlement and prescribe it as a condition of the Board's approval of the common control and merger of the rail carriers controlled by Union Pacific Corporation and the rail carriers controlled by Southern Pacific Rail Corporation ("UP/SP merger") in lieu of any other mitigation that could be imposed pursuant to paragraph 23d of Appendix G to Decision 44 in the above-entitled proceeding.

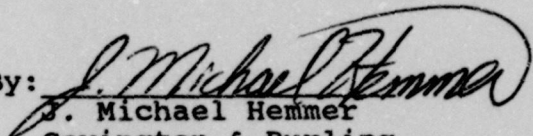
As required by paragraph 23d of Appendix G to Decision 44 and by Decision 76 in the above-entitled proceeding, Joint

Petitioners are providing a copy of this Joint Petition and the MOU to the Board's Section of Environmental Analysis.

Respectfully submitted,

Union Pacific Railroad Company


By:


J. Michael Hemmer
Covington & Burling
1201 Pennsylvania Ave., N.W.
Washington, D.C. 20044
202-662-5578

Its Attorney

City of Wichita, Kansas
Board of County Commissioners
of Sedgwick County, Kansas

By:


Steven J. Kalish
McCarthy, Sweeney
& Harkaway, P.C.
1750 Pennsylvania Ave., N.W.
Washington, D.C. 20006
202-393-5710

Their Attorney

**MEMORANDUM SETTING FORTH TERMS
OF AN UNDERSTANDING AMONG THE
CITY OF WICHITA, KANSAS, SEDGWICK COUNTY,
KANSAS, AND UNION PACIFIC RAILROAD**

This Memorandum of Understanding (MOU) is entered into on June 24, 1998, by and between the City of Wichita, Kansas, and Sedgwick County, Kansas (hereinafter City/County), and the Union Pacific Railroad Company, a Utah corporation (hereinafter Railroad). This MOU is intended to set forth the fundamental terms of an agreement between City/County and Railroad resolving a dispute presently pending before the Surface Transportation Board (STB).

Section I. Recitals

- A. On August 12, 1996 the STB in Decision No. 44, Finance Docket No. 32760, approved Railroad's application to merge with Southern Pacific Transportation Company.
- B. In Environmental Mitigating Condition No. 23 of Decision No. 44, the STB directed its Section of Environmental Analysis (SEA) to study the potential environmental effects on City/County of the additional rail freight traffic projected as a result of the merger and to identify mitigation measures to offset the effects.
- C. On September 15, 1997 SEA issued the Preliminary Mitigation Plan (PMP) for City/County. Railroad and City/County have filed comments on the PMP with SEA.
- D. City/County and Railroad desire to reach an independent, negotiated settlement in lieu of SEA study and STB prescription of mitigation. They agree to make certain assurances and commitments regarding the mitigation of merger impacts as part of a broader City/County program to address rail operations, as further set forth below.

Section II. Terms

Now, therefore, City/County and Railroad do hereby agree as follows:

A. Railroad Obligations.

- 1) Railroad agrees to perform any or all of the following if requested in writing by City/County:
 - a) Grade crossing signal improvements as set forth in the PMP at Greenwich, 17th Street North, 11th Street North, 10th Street North, 9th Street North, Murdock, Lincoln, Bayley, Zimmerly, Osie, Skinner, Mt. Vernon, MacArthur, 55th Street South, 103rd Street South and 119th Street South (est. cost \$1.92 million); provided, however, that City/County may select substitute crossings on Railroad's mainline if City/County notifies Railroad that one or more of the crossings listed above will be closed before Railroad expends funds to upgrade its crossing equipment.

- b) Pedestrian crossing upgrades at Mt. Vernon (est. cost \$200,000). City/County has determined that other pedestrian crossing upgrades proposed in the PMP will not be necessary in light of educational programs and other considerations.
 - c) Hot box/dragging equipment detectors at milepost 234.0 (two miles north of Kechi near North 77th Street) and milepost 255.0 (two miles south of Haysville near West 87th Street South) (est. cost \$225,000).
 - d) Operation Lifesaver programs for schools as set forth in PMP (no charge).
 - e) Participate in further good faith discussions on train horn reduction methods after FRA issues regulations, but with no commitment regarding financial responsibility for implementation (no charge).
- 2) Railroad agrees to fund up to the indicated amount for any or all of the following:
- a) Grade crossing surface improvements at crossings of Railroad's mainline as selected by City/County, work to be performed by City/County with reimbursement by Railroad (maximum allowance of \$200,000).
 - b) A fund of \$150,000 which may be used for separating fences or guardrails along Railroad tracks at locations specified by the City between 21st Street North and Pawnee where necessary to prevent vehicle access to the tracks as set forth in PMP, or for the grade separations specified in Section II.A.4. Fences/guardrails are to be placed a minimum of ten feet from center line of track.
 - c) A fund of \$1.5 million which may be used for electronic communications systems for emergency dispatchers or for the grade separations specified in Section II.A.4.
- 3) Railroad agrees to convey to City all of Railroad's right, title and interest in, and to seek to abandon rail operations over, downtown properties known as the Hutchinson Branch between mileposts 483.44 (east line of Broadway Avenue) and 485.94 (the point of switch at Hardtner Jct.) and the Midland Valley Industrial Lead between mileposts 312.09 (north line of Pawnee Street) and 313.38 (south line of Bayley Street), including bridges, culverts, all track structure and all leases and other agreements to which Railroad is a party. Railroad will transfer all such interests and assets "as is" without warranty of title or further responsibility for transferred assets, except that Railroad will be responsible for environmental clean up (consistent with all applicable Federal and State requirements) of the entire Midland Valley Industrial Lead, including

properties occupied by lessees after lessees vacate. For purposes of this MOU, the downtown properties will be valued at \$6.25 million. If Railroad is unable to convey its interests in and abandon rail operations over all or any portion of the downtown properties, it will pay City/County the appraised value, in cash, of the affected property. Appraised values have been provided to City/County. The payment, if any, will be made as part of Railroad's payment 48 months after the date of STB Action, under the schedule set forth in Section II.B.7, and will satisfy all claims of City/County against Railroad with respect to such property. City/County agrees to permit Central Kansas Railway Company and/or Kansas Southwestern Railway Company (the Omnitrax Railroads) or Railroad to maintain rail service to Wichita Iron & Metals, using the Midland Valley Industrial Lead between milepost 312.65 and milepost 313.38, until Wichita Iron & Metals vacates its current location. Railroad will not be responsible for relocation costs.

- 4) Railroad agrees to contribute to the costs of eight grade separations: 21st Street North, 13th Street North, Murdock Street, Central Avenue (some or all of those grade separations may be in the form of a track elevation), Harry Street, Pawnee Street, 47th Street South, and 71st Street South. Final locations to be selected by City/County. Railroad will have no additional obligation beyond that stated here to fund these grade separations or grade separations on the joint trackage with BNSF between North and South Junctions. City/County may draw down funds for design work, necessary property acquisitions or actual construction of any or all of these grade separations at rates of payment not to exceed those set forth in Part B, Railroad Commitment Level and Timing of Railroad Obligations. Funds must be expended on grade separations on UP mainline within Sedgwick County. (Contribution will be the lesser of \$16.205 million or remainder of \$25 million commitment level).
- 5) City/County will determine priority and selection of actions, on the understanding that the estimated values of the selected actions shall not exceed the aggregate \$25 million commitment level in Part B, Railroad Commitment Level and Timing of Railroad Obligations. Railroad has no obligation to perform any of the above actions not selected by City/County under the \$25 million cap or any other actions recommended in the PMP.
- 6) Railroad will provide to the Omnitrax Railroads the following materials to rehabilitate their trackage between South Junction and Hardtner Junction:
 - a. Five (5) track miles of rail, six-inch base, either second-hand (SH) 132-pound or SH 136-pound rail.
 - b. Other Track Material required (SH tie plates, SH joint bars, and SH rail anchors).
 - c. Eleven (11) SH #10 turnouts (6 right hand, 5 left hand).

- d. 14,400 SH track ties recovered from Railroad's main line reconstruction or branch line abandonments.

B. Railroad Commitment Level and Timing of Railroad Obligations

- 1) Total of Railroad Obligations described above, excluding Railroad's contributions to the Omnitrax Railroad described in Section II.A.6 above, will equal \$25 million.
- 2) Railroad will comply with Section II.A.1 within 18 months after the date of STB Action as described in Section II.C or within 30 days of a written request from City/County, whichever occurs later, provided that Railroad will comply with Section II.A.1.e within 60 days after FRA issues final regulations regarding use of train horns.
- 3) After the date of STB Action as defined in Section II.C, Railroad will pay invoices from City/County for City/County expenditures under Section II.A.2 within 30 days of receipt of such invoices. If City/County elects to utilize any portion of the Section II.A.2.b or II.A.2.c funds for grade separations, Railroad payment therefor shall be governed by Section II.B.7.
- 4) Railroad will seek any required STB authority or exemption to abandon rail operations over the Hutchinson Branch and the Midland Valley Industrial Lead between milepost 312.09 and milepost 312.65 within 30 days of the filing of this MOU with the STB. Railroad will quitclaim its interests in the downtown properties, subject to rights to continue rail operations until abandoned, within 30 days after the date of STB Action as defined in Section II.C.
- 5) Railroad will seek any required STB authority or exemption to abandon rail operations over the Midland Valley Industrial Lead between milepost 312.65 and milepost 313.38 within 60 days after termination of the lease to WI&M and of rail service to WI&M.
- 6) Railroad will complete environmental clean up on each segment of the Midland Valley Industrial Lead within 36 months after the effective date of an abandonment approval or exemption for that segment.
- 7) Railroad will pay one-third of obligation contained in Section II.A.4 at the end of each of 24, 36, and 48 months after the date of STB Action as described in Section II.C, provided, however, that Railroad will accelerate payments under this schedule to pay bona fide invoices presented by City/County during the first 24 months after the date of STB Action for design work, necessary property acquisition, and/or construction costs for the grade separations on the UP mainline, such invoices not to exceed a total of \$4 million (the \$4 Million Advance Payment Obligation). Railroad will pay invoices within 30 days after

receipt by Railroad. Such payments will reduce the amount due from Railroad in the next scheduled payment. If City/County does not at the time of any scheduled payment need funds for actual grade separation design, property acquisition or construction, funds will be placed into an interest-bearing escrow account until drawn down for those purposes. City/County must earn \$3.0 million of this obligation by closing grade crossings on the Railroad's mainline. For each of twelve grade crossings closed, Railroad will pay \$250,000. If there is a shortfall in the number of grade crossings closed at the end of 48 months, the 48th month payment will be adjusted accordingly. Subsequently, Railroad will pay \$250,000 within 30 days of written request following the closure of a grade crossing. City/County will have ten years from the date of STB Action described in Section II.C to close additional grade crossings and receive any remaining payments.

- 8) Upon written request by City within 24 months after the date of STB Action, Railroad agrees to advance to City up to \$500,000 in funds that City has agreed to pay to the Omnitrax Railroads to upgrade tracks, bridges and signals on the Omnitrax Railroads between South Junction and Hardtner Junction. Any amounts so advanced will satisfy that portion of the \$25 million of total Railroad Obligations described in Section II.B.1 and will reduce the \$4 Million Advance Payment Obligation described in Section II.B.7, above. City agrees that, within 24 months after the date of STB Action, it will commit its own funds, equal in amount to the amount advanced by Railroad under this paragraph, to design work, necessary property acquisition and/or construction costs for grade separations on Railroad's mainline in order to reimburse Railroad for this advance.
- 9) Until the date of STB Action as described in Section II.C, Railroad will maintain the existing cap of 6.4 through trains per day on Railroad's mainline. Trains rerouted from the Hutchinson Branch will not be counted. Railroad will report its compliance to City/County each month as it does currently.

C. STB Action.

This settlement is contingent on filing by Railroad and City/County of a joint petition seeking approval and prescription of this settlement in lieu of any other mitigation and on final, unappealed action by STB approving and prescribing this settlement without material modification or, if an appeal is filed, final favorable action by appellate courts. The term "STB Action" means the later of the final date for filing an appeal from STB orders prescribing this MOU or, if an appeal is filed, the date of final favorable action by appellate courts.

Section III. Term

This MOU shall remain in full force and effect until all of the commitments made by Railroad and by City/County are fully accomplished as provided above and all commitments have been performed by both parties.

Section IV. Attorney's Fees

In the event City/County or Railroad is required to retain an attorney to enforce any of the terms of this MOU, then the final judgment shall award attorney's fees and costs to the prevailing party.

Section V. Advice of Counsel

Each party to this MOU has been advised by counsel of its choosing, and all parties have cooperated in the preparation of this MOU. It shall be deemed a joint product and may not be construed against either party by reason of its preparation. This MOU supersedes all previous discussions and correspondence between the parties regarding these matters and constitutes the full agreement between the parties.

Section VI. Waiver

Either party may waive an obligation of the other, but only in writing served on the other and on STB or any successor agency. The waiver of or any failure to enforce any provisions of this MOU shall not operate as a waiver of any other provision or any future breach.

Section VII. Jurisdiction and Venue

This MOU shall be interpreted in accordance with the laws of the State of Kansas. This MOU may be enforced or interpreted by an action in the Sedgwick County District Court.

Section VIII. Operating Memoranda

City/County and Railroad acknowledge that implementation of this MOU will require a close degree of cooperation and an on-going working relationship. Details, refinements and future events may demonstrate the need for technical clarifications to implement its general terms. If and when the parties find that such clarifications are necessary, or where there is need to establish the time or manner of a specific thing to be done, they shall effectuate such changes or take such steps in the form of Operating Memoranda.

No such memorandum shall create or constitute an amendment to the general terms of the MOU. The parties shall also execute any and all additional documents reasonably required to carry out this MOU. Any amendment to this MOU must be approved in writing by the parties.

Section IX. Notices

Any and all notices, statements, demands or other communications to be given under this MOU shall be in writing and shall be deemed given when delivered in person, or by certified mail, postage prepaid, return receipt required, to the following:

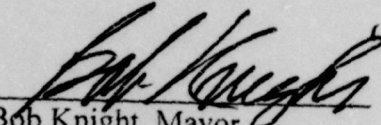
Union Pacific Railroad Company
Attn.: Senior Assistant Vice President -
Engineering
Room 1030
1416 Dodge St.
Omaha, NE 68179

City of Wichita
Attn.: City Manager
13th Floor, City Hall
455 No. Main St.
Wichita, KS 67202

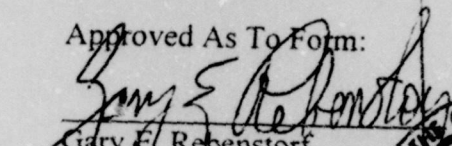
Sedgwick County
Attn.: County Manager
Sedgwick County Courthouse
County Courthouse, 3rd Floor
Wichita, KS 67203

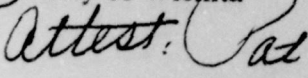
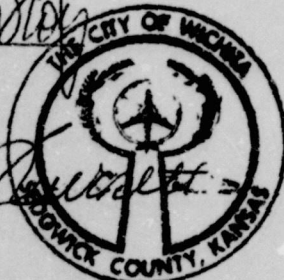
Executed this 24th day of June 1998 at Wichita, Kansas.

CITY OF WICHITA

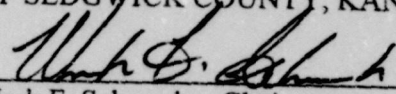

Bob Knight, Mayor

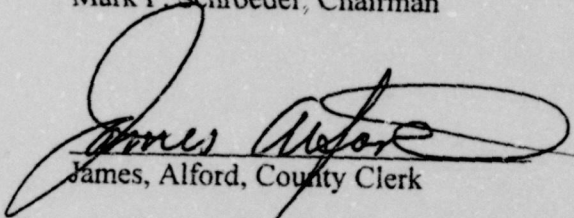
Approved As To Form:


Gary E. Rebenstorf
Director of Law
City of Wichita

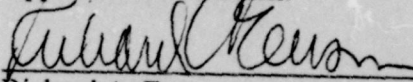
Attest: 


BOARD OF COUNTY COMMISSIONERS
OF SEDGWICK COUNTY, KANSAS

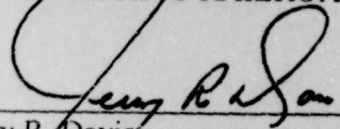

Mark F. Schroeder, Chairman


James, Alford, County Clerk

Approved As To Form:


Richard A. Euson
County Counselor

UNION PACIFIC RAILROAD COMPANY


Jerry R. Davis
President and Chief Executive Officer



STB

FD

32760

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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
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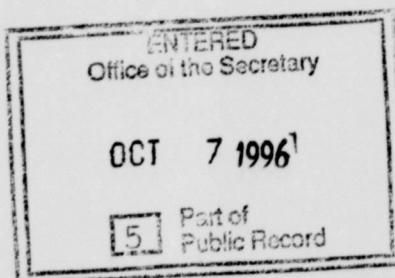
MOTION FOR LEAVE TO FILE REPLY TO THE SUBMISSIONS
OF BNSF, DOW, IPC, NITL, QCC, SPP AND WCTL
IN OPPOSITION TO APPLICANTS' PETITION FOR CLARIFICATION

CARL W. VON BERNUTH
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JAMES V. DOLAN
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ARVID E. ROACH II
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Attorneys for Applicants



October 4, 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
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MOTION FOR LEAVE TO FILE REPLY TO THE SUBMISSIONS
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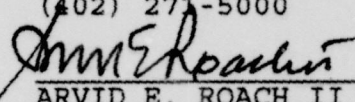
The primary applicants, UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW,^{1/} hereby petition the Board for leave to file the attached brief Reply to the submissions in opposition to Applicants' Petition for Clarification that were filed by BNSF, Dow, IPC, NITL, QCC, SPP and WCTL on September 23, 1996. Those oppositions focus on particular factual circumstances that Applicants did not specifically address in their Petition. To ensure that the Board decides this matter in an informed manner based on a full and complete record, Applicants respectfully request permission to file the attached reply.

^{1/} The acronyms used herein are the same as those in Appendix B to Decision No. 44.

Respectfully submitted,

CARL W. VON BERNUTH
RICHARD J. RESSLER
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Attorneys for Applicants

October 4, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

SOUTHERN PACIFIC RAIL CORPORATION, SOUTHERN PACIFIC
TRANSPORTATION COMPANY, ST. LOUIS SOUTHWESTERN RAILWAY
COMPANY, SPCSL CORP. AND THE DENVER AND
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APPLICANTS' REPLY TO THE SUBMISSIONS OF
BNSF, DOW, IPC, NITL, QCC, SPP AND WCTL IN OPPOSITION
TO APPLICANTS' PETITION FOR CLARIFICATION

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Attorneys for Applicants

October 4, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

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UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY
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APPLICANTS' REPLY TO THE SUBMISSIONS OF
BNSF, DOW, IPC, NITL, QCC, SPP AND WCTL IN OPPOSITION
TO APPLICANTS' PETITION FOR CLARIFICATION

The primary applicants, UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW,^{1/} hereby reply to the submissions of BNSF, Dow, IPC, NITL, QCC, SPP and WCTL in opposition to Applicants' Petition for Clarification (UP/SP-275).

In their Petition for Clarification, Applicants asked the Board to clarify the scope of the Board's condition requiring that BNSF be permitted to serve new transloading facilities not only at "2-to-1" points, but at all points on the lines over which BNSF will receive trackage rights. Applicants explained that unless the Board clarified that the condition is designed only to preserve the existing level of competition provided by transloading options, BNSF and others might argue for an overbroad interpretation of the condition to allow BNSF to build and serve new transloading facilities

^{1/} The acronyms used herein are the same as those in Appendix B to Decision No. 44.

adjacent to exclusively-served shippers on lines over which BNSF was to receive only overhead trackage rights, thereby creating the very near equivalent of direct two-railroad service for shippers on these lines. And in fact, in their oppositions to Applicants' Petition, BNSF and several shippers did argue that the Board's transloading condition should be interpreted to create such extensive new competition.^{2/}

Applicants proposed that the Board clarify that the transloading condition applies only to shippers trucking traffic between a point on one of the merging railroads and a new BNSF transloading facility at a point on the other merging railroad. UP/SP-275, p. 5. This clarification would resolve the condition's ambiguity with respect to a large number of potentially affected shippers. Applicants also recognized that their suggested clarification might not preserve pre-merger transloading options for off-line shippers -- that is, shippers not located on the line of the merging railroad over which BNSF does not have trackage rights. Applicants suggested that the Board might wish to adopt a further clarification to allow such shippers to take advantage of BNSF transloading facilities if the distance between the shipper and the transloading facility is at least as great as the

^{2/} Applicants have already demonstrated the inconsistency between such an interpretation and the Board's clear, repeated statements in Decision No. 44 that it would not use its conditioning authority to create new competition, and will not repeat those arguments here.

distance between the shipper and the nearest point on the other merging railroad. Id., p. 6, n.10.

In their replies to Applicants' Petition, BNSF and several shippers argue that Applicants' proposed clarifications are inconsistent with preserving all existing competition from transloading. Specifically, these parties argue that where UP and SP have parallel lines and BNSF has trackage rights over only one of them, Applicants' suggested clarifications give no remedy to a shipper located on the line over which BNSF has rights. E.g., BN/SF-68, pp. 5, 7; DOW-28, p. 3; IP-17, p. 3; NITL-22, pp. 9-10; QCC-7, p. 4; SPP-18, pp. 4-5.

This is not correct. Applicants' suggested clarification for off-line shippers -- that they be allowed to truck their product to new transloading sites at least as distant as sites they might have used pre-merger -- applies to this situation. This clarification is just as effective in preserving the existing level of competition occasioned by transloading opportunities for shippers located on the line over which BNSF has trackage rights as it is in preserving transloading options for shippers with no rail service at all.

No party refutes Applicants' showing that, absent the clarifications that Applicants have requested, the transloading condition, read literally, will create extensive

new competition, undermining a core principle of ICC/STB merger law.

Upon review of the particular examples that various parties have set forth to illustrate the claimed flaws in Applicants' proposed clarifications, the need for such clarifications becomes all the more clear. For example, IPC argues (IP-17, pp. 3-4) that unless it is allowed to transload from its SP-exclusive Nacogdoches, Texas, facility to a BNSF-served transloading facility on the SP line, over which BNSF received overhead rights, it will lose its current UP transloading option.^{3/} However, if IPC's position were to prevail, new competition would be created because IPC would be able to transload to a BNSF facility virtually at the plant door, whereas pre-merger, IPC's nearest transloading option was to BNSF at Tenaha (not to UP, as IPC implies), a substantial distance away.^{4/}

^{3/} IPC's argument, of course, will be moot unless the Board agrees with Applicants' request to clarify that the transload condition does not apply to the UP Houston-St. Louis line, over which BNSF was given rights solely for operating convenience. See UP/SP-275, p. 7.

^{4/} IPC mischaracterizes Applicant witness Peterson's prior testimony as having been that no transloading option, however inferior, would be eliminated (IP-17, p. 3). Mr. Peterson actually testified that all shippers that had economical transload options pre-merger would continue to have such options with BNSF post-merger -- and that is clearly true of IPC's Nacogdoches plant. See UP/SP-23, Peterson, p. 164 n.79; UP/SP-231, Peterson, pp. 76-77. The Board found that reductions from three to two in the number of railroads in various markets, in the context of this merger, did not

(continued...)

Similarly, SPP points to the example of SP-served coal mines in the Central Corridor. Under SPP's interpretation, BNSF could build and serve a new transloading facility right at the mine, thereby creating the near equivalent of direct two-railroad service. Under Applicants' proposed clarifications, these coal mines would only be able to use a BNSF transload at a distance equal to that of their nearest pre-merger potential transload to UP, which would replicate the options the coal mines had before the merger.

BNSF points to a number of situations in which it claims that transloading opportunities would be eliminated if Applicants' proposed clarifications were adopted (BN/SF-68, p. 5), but those claims are without merit. The situations BNSF describes relating to the Central Corridor, the line between Houston and Lake Charles, and the UP line between Houston and Valley Junction are no different from the situations discussed above with respect to IPC and SPP. BNSF also suggests that shippers in and near Eagle Pass, Laredo and Brownsville will lose transloading options if the Board accepts Applicants' clarifications. But in fact, just as before the merger, transloading options independent of UP/SP will be available via Tex Mex at Laredo and via BNSF at Brownsville, a "2-to-1" point, among other points. And BNSF's suggestion that

⁴/ (...continued)

diminish competition; this conclusion applies just as clearly to transloading as to other forms of competition.

shippers on SP's Baytown branch will lose their transloading option to UP similarly neglects the transloading options that will be available via BNSF in nearby Houston.

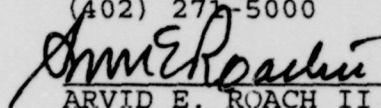
Finally, WCTL and BNSF argue (WCTL-24, pp. 11-12; BN/SF-68, pp. 11-12) that Applicants' requested clarification that the transloading condition does not apply to BNSF's trackage rights over UP's line between Placedo, Texas, and Harlingen, Texas, over which SP has trackage rights (UP/SP-275, pp. 6-7), would eliminate the ability of shippers on adjacent SP lines, such as SP's Port Lavaca branch, to transload to UP on the Placedo-Harlingen segment. WCTL and BNSF's arguments are something of a red herring, since these shippers already have the ability to transload to BNSF facilities at Harlingen and at Sinton, Texas, both of which are "2-to-1" points on the Placedo-Harlingen segment. Nonetheless, Applicants do not object to allowing shippers on SP lines adjacent to UP's Placedo-Harlingen segment to transload to BNSF facilities located on that segment. This limited transloading right is consistent with the clarifications Applicants are seeking.

Applicants' proposed clarifications ensure that the transloading condition fulfills its purpose as described by the Board: to preserve the pre-merger competitive status quo with respect to shippers' transloading options without creating new competition.

Respectfully submitted,

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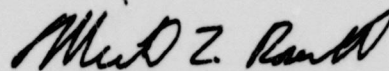
October 4, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 4th day of October, 1996, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

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

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



Michael L. Rosenthal

STB

FD

32760

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BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD
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' FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO THE CITY OF RENO
AND PETITION FOR WAIVER OF SERVICE REQUIREMENT

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
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Railroad Company and Missouri
Pacific Railroad Company

ENTERED
Office of the Secretary

APR 07 1997

April 4, 1997

 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' FIRST SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION OF DOCUMENTS TO THE CITY OF RENO
AND PETITION FOR WAIVER OF SERVICE REQUIREMENT

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30,
Applicants UPRR and SPT direct the following interrogatories
and document requests to the City of Reno.

Responses should be served as soon as possible,
and in no event later than 15 days from the date of service
hereof. The City of Reno is requested to contact the under-
signed promptly to discuss any objections or questions
regarding these requests with a view to resolving any disputes
or issues of interpretation informally and expeditiously.

UPRR and SPT also petition for waiver of the
requirement that they serve hundreds of parties with no
interest in the ongoing environmental mitigation studies.
UPRR and SPT are serving this document on counsel for the City
of Reno and on counsel for the only other parties with any
possible interest, the City of Wichita and Sedgwick County.

The Board has granted similar waivers in such circumstances.
See Decision No. 45.

DEFINITIONS AND INSTRUCTIONS

I. "Document" means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including but not limited to intra-company communications, correspondence, telegrams, memoranda, contracts, instruments, studies, projections, forecasts, summaries or records of conversations or interviews, minutes or records of conferences or meetings, records or reports of negotiations, diaries, calendars, photographs, maps, tape recordings, computer tapes, computer disks, other computer storage devices, computer programs, computer printouts, models, statistical statements, graphs, charts, diagrams, plans, drawings, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, financial statements, accounting records, worksheets, drafts, revisions of drafts, and original or preliminary notes. Further, the term "document" includes

- (a) both basic records and summaries of such records (including computer runs);
- (b) both original versions and copies that differ in any respect from original versions; and
- (c) both documents in the possession, custody or control of City of Reno and documents in the

possession, custody or control of consultants or others who have assisted City of Reno in connection with this proceeding.

II. "Produce" means to make legible, complete and exact copies of responsive documents and send them by expedited delivery to the undersigned counsel. UPRR and SPT will pay all reasonable costs for duplication and expedited delivery of documents to their attorneys.

III. "Relating to" a subject means referring to, discussing, describing, dealing with, consisting of, or constituting, in whole or in part, the subject.

IV. "SPT" means Southern Pacific Transportation Company.

V. "UPRR" means Union Pacific Railroad Company.

VI. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

VII. Produce a privilege log in accordance with the guidelines established at the December 20, 1995 discovery conference (Tr., pp. 313-14).

VIII. References to the "City of Reno" include the City government and the Reno Redevelopment Agency, as well as their employees, attorneys, consultants, agents and representatives.

IX. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

INTERROGATORIES

1. State whether the City of Reno or any other person acting on behalf of or in conjunction with the City of Reno distributed copies of the form titled "URGENT NEWS!!! RR UPDATE" dated January 8, 1997, or any other solicitation by the City of Reno of comments on UP train operations through Reno, to City of Reno employees with their paychecks.

2. State all the ways in which, and the groups of persons to whom, the form titled "URGENT NEWS!!! RR UPDATE" dated January 8, 1997, and any other solicitation by the City of Reno of comments on UP train operations through Reno, was distributed by the City of Reno.

DOCUMENT REQUESTS

Please produce the following:

1. The document written by Mark Demuth titled "Sustaining Community Outrage."
2. All documents received in response to the form titled "URGENT NEWS!!! RR UPDATE" dated January 8, 1997, or

any other solicitation by the City of Reno of comments on UP train operations through Reno.

Respectfully submitted,

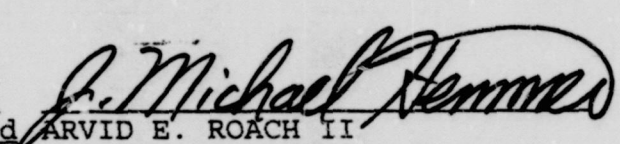
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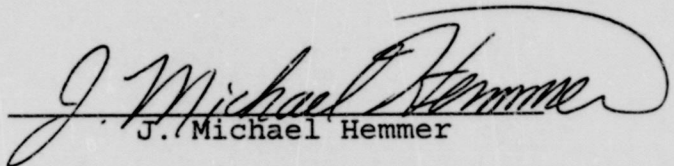
April 4, 1997

CERTIFICATE OF SERVICE

I, J. Michael Hemmer, certify that on this 4th day of April, 1997, I caused a copy of the foregoing document to be served by hand delivery on:

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Washington, D.C. 20006


J. Michael Hemmer

STB FD 32760

2-3-97

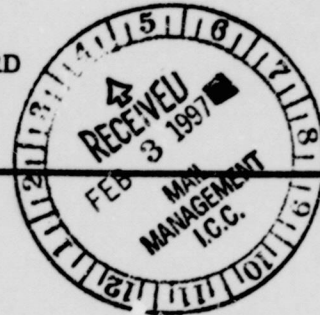
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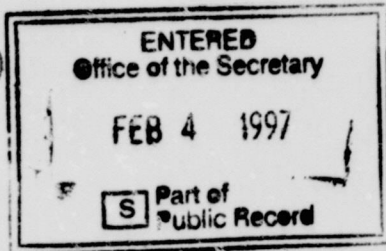
TUE-22

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



MOTION FOR LEAVE TO
FILE A REPLY TO APPLICANTS'
TUE CONDITION SUBMISSION

OF COUNSEL:

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SLOVER & LOFTUS
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Dated: February 3, 1997

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(214) 979-3000

John M. LeSeur
Christopher A. Mills
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Attorneys for Texas Utilities
Electric Company

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

Finance Docket No. 32760

MOTION FOR LEAVE TO
FILE A REPLY TO APPLICANTS'
TUE CONDITION SUBMISSION

(1) Texas Utilities Electric Company ("TUE")¹ hereby requests that the Board accept its Reply to Applicants' TUE Condition Submission ("TUE Reply").

(2) As TUE explains to the Board in TUE-21, UP/SP has filed an unauthorized reply to the submissions presented by TUE, BNSF and KCS pursuant Decision Nos. 44 and 64.

(3) TUE has no objection to the Board's acceptance of UP/SP's unauthorized reply provided the Board also considers the TUE Reply. The TUE Reply responds to errant contentions raised by UP/SP in its January 24, 1997 submission (UP/SP-296), and provides material that will allow the STB to decide this matter in an informed manner based upon a full and complete record.

¹ TUE shall utilize the same abbreviations as set forth in Decision No. 44.

WHEREFORE, for the reasons set forth herein, TUE requests that the Board accept the TUE Reply for filing.

Respectfully submitted,

OF COUNSEL:

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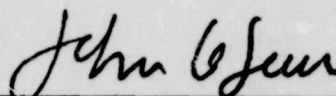
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Attorneys for Texas Utilities
Electric Company

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the foregoing Motion for Leave to File a Reply to Applicants' TUE Condition Submission on counsel for UP/SP, BNSF and KCS via hand delivery.

Dated this 3rd day of February, 1997 at Washington,
D.C.



John H. LeSeur

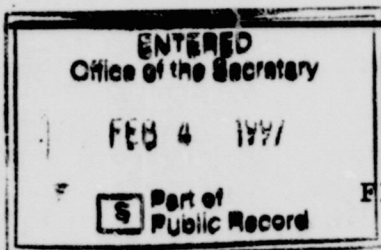
TUE-22

BEFORE THE
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-- CONTROL AND MERGER -- SOUTHERN
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Finance Docket No. 32760



MOTION FOR LEAVE TO
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BEFORE THE
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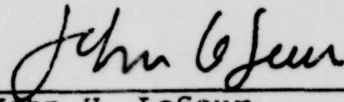
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Dated this 3rd day of February, 1997 at Washington,

D.C.



John H. LeSeur

STB

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GALLAND, KHARASCH, MORSE & GARFINKLE, P.C.
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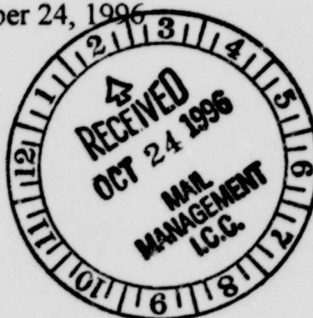
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WRITER'S DIRECT DIAL NUMBER

(202) 342-5277

October 24, 1996



VIA MESSENGER

Mr. Vernon A. Williams
Surface Transportation Board
Case Control Branch, Room 1324
1201 Constitution Ave., N.W.
Washington, D.C. 20423

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

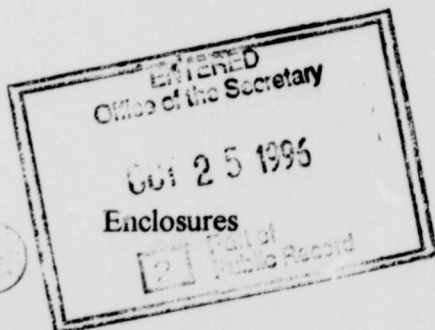
Dear Secretary Williams:

Enclosed for filing in the above-captioned case is one original and twenty copies of the Motion For Leave to File and Reply of The International Paper Company to UP/SP-285, designated as document IP-18. We have also enclosed an additional copy to be date-stamped when filed and returned to us.

Also enclosed is a 3.5" WordPerfect 5.1 disk containing the text of IP-18.

Very truly yours,

Edward D. Greenberg
Edward D. Greenberg
John F.C. Luedke



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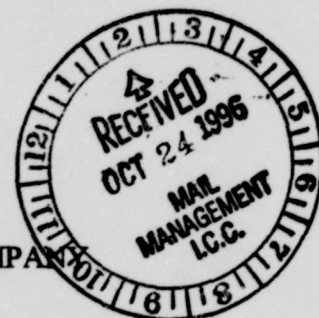
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BEFORE THE
SURFACE TRANSPORTATION BOARD

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

MOTION FOR LEAVE TO FILE
REPLY OF THE INTERNATIONAL PAPER COMPANY
TO UP/SP-285

Edward D. Greenberg
John F.C. Luedke
GALLAND, KHARASCH, MORSE &
GARFINKLE, P.C.
Canal Square
1054 Thirty- First Street, N.W.
Second Floor
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(202) 342-5200

Attorneys for The International Paper Company

October 24, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

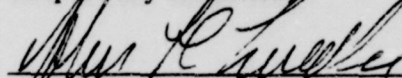
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Respectfully submitted,



Edward D. Greenberg

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IP-18

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At the outset, we note that the Applicants have advanced not a single basis for contravening the clear requirements in 49 C.F.R. § 1104.13(c). That rule specifically states that "[a] reply to a reply is not permitted." Although the Applicants filed a detailed Petition for Clarification, together with the Verified Statement of Richard B. Peterson that supposedly addressed the factual underpinnings supporting its request to narrow the scope of the Commission's decision pertaining to the transloading and new facility conditions, the Applicants now blandly contend that they should have the right to reply to replies essentially to make sure they get the last word. This is scarcely a basis for continuing the never-ending barrage of papers in this proceeding. There is no immutable

law that says that applicants always have the right to have the last word. To the contrary, the Commission's rules of practice explicitly state that will not be the case and the entirety of UP/SP-285 should be stricken.

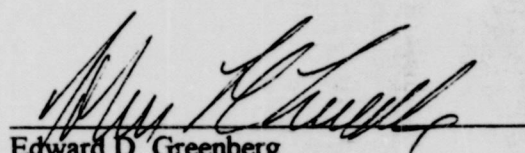
However, should the Board decide to accept UP/SP-285, IP should accordingly be given this chance to respond to the statements therein. We see no reason to reargue the points raised in IP-17, which replied to Applicants' original Petition for Clarification on this issue. It is relevant to note here, however, that in UP/SP-285 Applicants have seriously mischaracterized the facts in their attempt to limit the scope of the very conditions to which they had agreed when they wanted to persuade the Board to approve the merger in the first instance.

For example, at page 4 Applicants argue that IP would not be injured by Applicants' restrictive interpretation of the new facility/transload condition. They reached that conclusion by implying that IP never had a UP transload option for traffic originating at its SP-exclusive Nacogdoches, Texas facility. Applicants contend that the UP was not a viable transload option pre-merger, solely on the basis that the UP location was more distant than was the BNSF. Thus, according to Applicants, a literal reading of the Commission's decision would reward IP with new competition that was never intended. This self-serving interpretation is flatly inconsistent with the facts and simple logic. It is true that the UP transload point of Crockett, Texas is somewhat more distant from Nacogdoches than is the BNSF transload location at Neuville, Texas. Nonetheless, the shortest distance is not the ultimate determination in deciding to transload, and IP did transload substantial quantities of product out of the UP facility as a competitive alternative to the direct SP service, and IP will now plainly lose that option if the Applicants' request for "clarification" is sustained.

The Board's condition was plain and unambiguous. BNSF was "granted the right to serve new facilities on both SP-owned and UP-owned track over which BNSF will receive trackage rights; . . . [and] the term 'new facilities' shall include transload facilities, including those owned or operated by BNSF." Decision No. 44, at 146. There is nothing unclear or ambiguous about this condition. Similarly, it is absolutely clear and unambiguous that the Applicants' limitation on this condition will deprive IP of transloading options it currently has and will minimize the ability of BNSF to provide the competitive balance in this region that was lost due to the merger.

Accordingly, the Applicants' request for clarification should be denied.

Respectfully submitted,



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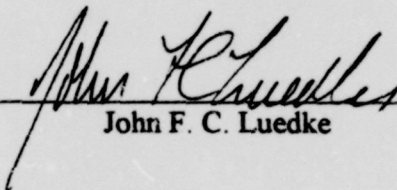
Washington, D.C. 20007

(202) 342-5200

Dated: October 24, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 24th day of October, 1996, a copy of the foregoing was sent, via U.S. mail, to all parties of record.



John F. C. Luedke

STB

FD

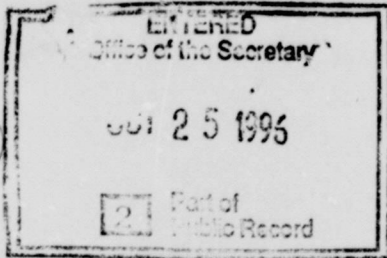
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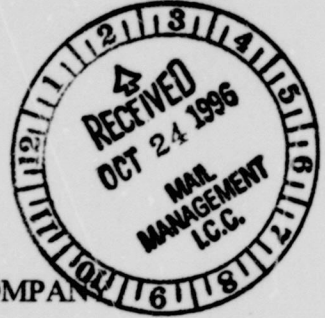
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IP-18

BEFORE THE
SURFACE TRANSPORTATION BOARD



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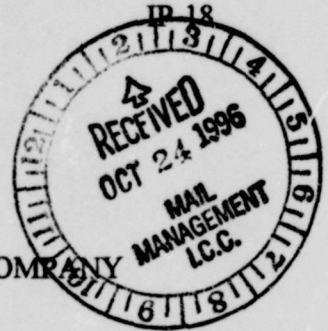
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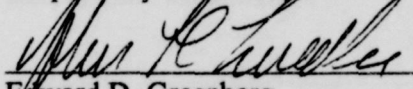
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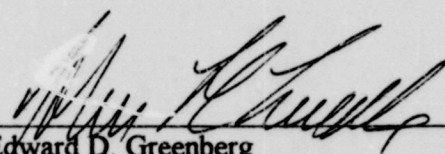
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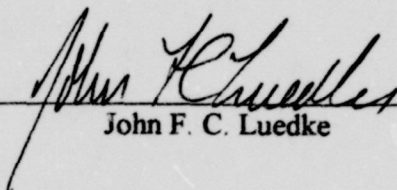


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*NOT ADMITTED IN D.C.
 *RESIDENT BRUSSELS

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October 22, 1996

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 Surface Transportation Board
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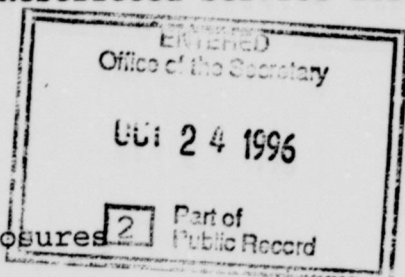


Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Corporation, et al.

Dear Mr. Williams:

Enclosed for filing in the above-captioned docket proceeding, please find an original and twenty (20) copies of the Motion to Strike Reply of the Kansas City Southern Railway to BNSF's October 1, 1996 Progress Report and Operating Plan (MONT-12/PPG-5) on behalf of Montell USA, Inc. and PPG Industries, Inc. Also enclosed is a 3.5" disk containing the text of the pleading in Word Perfect 5.1.

Copies of the enclosed Motion to Strike are being served on the Restricted Service List.

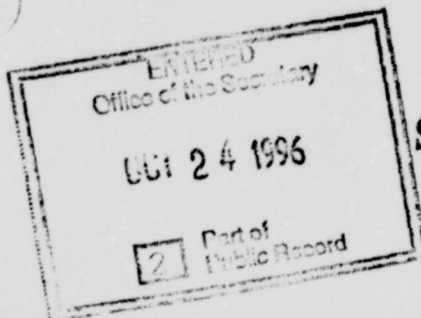


Very truly yours,

Martin W. Bercovici
 Martin W. Bercovici

Enclosures 2 Part of Public Record

87210
MONT-12
PPG-5



BEFORE THE
Surface Transportation Board

WASHINGTON, D.C. 20423

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
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COMPANY, SPCSL CORP. AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

**MOTION TO STRIKE REPLY OF
THE KANSAS CITY SOUTHERN RAILWAY TO BNSF'S
OCTOBER 1, 1996 PROGRESS REPORT AND OPERATING PLAN**

Montell USA, Inc. and PPG Industries, Inc., pursuant to Section 1104.8 and 1104.13 of the Commission's Rules of Practice, 49 C.F.R. §§ 1104.8 and 1104.13, respectfully move the Surface Transportation Board ("Board") to STRIKE the Reply of the Kansas City Southern Railway ("KCS") to BNSF's October 1, 1996 Progress Report and Operating Plan (KCS-68) ("Reply"). As set forth herein, this Motion should be granted for two reasons: (i) the October 1, 1996 Progress Report is not a "pleading" to which a reply is permitted under Section 1104.13(a) of the Commission's Rules of Practice, and (ii) KCS's Reply specifically addresses BNSF's September 23 reply (BN/SF-70) and thus violates Section 1104.13(c) of the Commission's Rules of Practice which prohibits a party from filing "a reply to a reply."

I. BACKGROUND

KCS petitioned the Board to reopen the above-captioned proceeding and reconsider portions of Decision No. 44 (KCS-65). BNSF, among others, replied to KCS's petition on September 23, 1996.^{1/} Thereafter, on October 1, 1996, as directed by the Board in its Decision No. 44 approving the UP/SP merger with certain conditions, BNSF filed its first Progress Report and Operating Plan with respect to BNSF's compliance with the conditions to the UP/SP merger ("Progress Report"). See Decision No. 44, pp. 145-147. The Board requires BNSF to submit such progress reports on a quarterly basis over the next five (5) years unless otherwise relieved of this obligation as part of the UP/SP merger oversight. Id.

On October 11, 1996, KCS filed a Reply to BNSF's October 1, 1996 Progress Report in which KCS addresses BNSF's characterization of the status of BNSF's access to the Lake Charles, Louisiana area and describes the KCS Petition to Reopen as potentially impacting on the competitive posture in the Gulf Coast. See BNSF October 1, 1996 Progress Report, pp. 22-24. KCS justifies the filing of its Reply on the basis that BNSF's Progress Report constitutes "a separate new pleading" and that this provides "the first opportunity for KCS to address the arguments raised in BNSF's September 23 reply" to KCS's petition to reopen and reconsider portions of Decision No. 44. See KCS Reply, pp. 1-2.

^{1/} Montell USA, Inc. and PPG Industries, Inc. filed a joint reply, with Olin Corporation, to KCS's petition to reopen/reconsider on September 23, 1996 (MONT-11/PPG-4).

**II. KCS'S REPLY TO BNSF'S PROGRESS REPORT SHOULD
BE STRICKEN FROM THE RECORD OF THIS PROCEEDING**

**A. The October 1, 1996 Progress Report Is Not A
"Pleading" To Which A Reply Is Permitted.**

KCS states as justification for filing its Reply that BNSF's October 1 filing is a "separate new pleading" to which a reply is permitted pursuant to 49 C.F.R. § 1104.13(a). KCS is mistaken. A progress report is not a "new pleading." It is simply, as its name suggests, a report by BNSF on its progress with respect to its efforts and abilities to implement the conditions imposed by the Board in Decision No. 44. Thus, the Progress Report is a characterization and summary of the facts to date surrounding ENSF's progress; it is not a "pleading" that contains allegations or defenses or requests any relief, see Black's Law Dictionary, "Pleadings," West Pub., 6th Ed. (1990), matter to which a reply is appropriate so that both sides may be heard on "due process" grounds. To the extent the Progress Report does contain "argument," such argument, as characterized by KCS itself, is merely a "repeat" and "redundant" of the arguments raised in BNSF's September 23 reply. See Reply, p. 2.

Furthermore, the Progress Report is a document filed solely in accordance with the Board's directive in Decision No. 44 (see Progress Report, p. 2), not on the initiative of a party. In this regard, it is significant to note that BNSF itself treated the Progress Report as separate and distinct from a "pleading" by not conferring a "pleading" number on the document as required by 49 C.F.R. § 1180.4(a)(2).

B. KCS's Reply Violates Section 1104.13(c) Of The Commission's Rules Of Practice Prohibiting A Party From Filing "A Reply to A Reply."

KCS's true motivation for filing its Reply in response to the Progress Report is to "address the arguments raised in BNSF's September 23 reply" for the first time. See Reply, p. 2. This is clearly prohibited under the Commission's Rules. Section 1104.13(c) states that "[a] reply to a reply is not permitted." 49 C.F.R. § 1104.13(c). See CSX Transportation, Inc. -- Abandonment Exemption -- In Allegany County, MD and Mineral County, WV, Docket No. AB-55, 1995 ICC Lexis 184, at *2, n. 2 (June 29, 1995) ("[u]nder [Commission's] rules, a reply to a reply is not permitted"); Arizona Public Service Company and PacifiCorp v. The Atchison, Topeka and Santa Fe Railway Company, No. 41185, 1995 ICC Lexis 54, at *8, n. 9 (March 10, 1995) (Commission citing 49 C.F.R. §1104.13(c) as basis for denying motion for leave to file reply to a reply).

KCS is obviously aware of this rule. Indeed, KCS requests, if the Board "declines to accept" KCS's Reply, that the Board alternatively treat KCS's filing as a motion for leave to file a reply to a reply or that it strike the BNSF recitation concerning the Lake Charles area. See Reply, p. 2, n. 3. Montell and PPG oppose the acceptance of additional pleadings by KCS. The rule prohibiting replying to a reply long has been part of practice before the Board and its predecessor. No reason has been advanced to allow KCS to file a rebuttal; and to do so, consistent with 49 C.F.R. § 1104.13(a) and (c), would require the Board to allow a sur-reply so that opponents of the KCS Motion have the final word. The

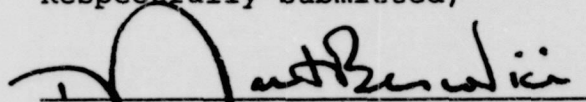
preferable course, however, is to confine the record to those pleadings permitted by the Board's regulations.^{2/}

III. CONCLUSION

KCS should not be permitted to use BNSF's Progress Report as a vehicle to do what it otherwise cannot do under the Commission's Rules of Practice; that is, respond to arguments contained in BNSF's September 23 reply.

WHEREFORE, THE PREMISES CONSIDERED, Montell USA, Inc. and PPG Industries, Inc. respectfully move the Surface Transportation Board to STRIKE KCS's Reply to BNSF's October 1, 1996 Progress Report, KCS-68, from the record of this proceeding.

Respectfully submitted,



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Attorneys for Montell USA, Inc.
and PPG Industries, Inc.

October 22, 1996

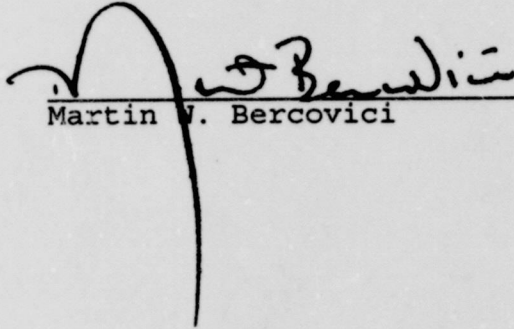
^{2/} Montell and PPG take no position on the KCS Motion to Strike BNSF's Lake Charles discussion; however, since that passage in the BNSF Progress Report merely summarizes the prior pleadings and contains no new facts or arguments, the request to strike appears to be a meaningless gesture.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike Reply of the Kansas City Southern Railway to BNSF's October 1, 1996 Progress Report and Operating Plan was served by first-class mail, postage prepaid, upon the Restricted Service List, and upon:

Alan E. Lubel
William A. Mullins
Troutman Sanders, LLP
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Suite 500-East
Washington, DC 20005-3314

Counsel for Kansas City Southern Railway



Martin W. Bercovici

STB FD

32760

10-22-96

I

87210

87240
MONT-12
PPG-5

BEFORE THE
Surface Transportation Board

WASHINGTON, D.C. 20423

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 TO STRIKE REPLY OF
THE KANSAS CITY SOUTHERN RAILWAY TO BNSF'S
OCTOBER 1, 1996 PROGRESS REPORT AND OPERATING PLAN**

Montell USA, Inc. and PPG Industries, Inc., pursuant to Section 1104.8 and 1104.13 of the Commission's Rules of Practice, 49 C.F.R. §§ 1104.8 and 1104.13, respectfully move the Surface Transportation Board ("Board") to STRIKE the Reply of the Kansas City Southern Railway ("KCS") to BNSF's October 1, 1996 Progress Report and Operating Plan (KCS-68) ("Reply"). As set forth herein, this Motion should be granted for two reasons: (i) the October 1, 1996 Progress Report is not a "pleading" to which a reply is permitted under Section 1104.13(a) of the Commission's Rules of Practice, and (ii) KCS's Reply specifically addresses BNSF's September 23 reply (BN/SF-70) and thus violates Section 1104.13(c) of the Commission's Rules of Practice which prohibits a party from filing "a reply to a reply."

I. BACKGROUND

KCS petitioned the Board to reopen the above-captioned proceeding and reconsider portions of Decision No. 44 (KCS-65). BNSF, among others, replied to KCS's petition on September 23, 1996.^{1/} Thereafter, on October 1, 1996, as directed by the Board in its Decision No. 44 approving the UP/SP merger with certain conditions, BNSF filed its first Progress Report and Operating Plan with respect to BNSF's compliance with the conditions to the UP/SP merger ("Progress Report"). See Decision No. 44, pp. 146-147. The Board requires BNSF to submit such progress reports on a quarterly basis over the next five (5) years unless otherwise relieved of this obligation as part of the UP/SP merger oversight. Id.

On October 11, 1996, KCS filed a Reply to BNSF's October 1, 1996 Progress Report in which KCS addresses BNSF's characterization of the status of BNSF's access to the Lake Charles, Louisiana area and describes the KCS Petition to Reopen as potentially impacting on the competitive posture in the Gulf Coast. See BNSF October 1, 1996 Progress Report, pp. 22-24. KCS justifies the filing of its Reply on the basis that BNSF's Progress Report constitutes "a separate new pleading" and that this provides "the first opportunity for KCS to address the arguments raised in BNSF's September 23 reply" to KCS's petition to reopen and reconsider portions of Decision No. 44. See KCS Reply, pp. 1-2.

^{1/} Montell USA, Inc. and PPG Industries, Inc. filed a joint reply, with Olin Corporation, to KCS's petition to reopen/reconsider on September 23, 1996 (MONT-11/PPG-4).

II. KCS'S REPLY TO BNSF'S PROGRESS REPORT SHOULD
BE STRICKEN FROM THE RECORD OF THIS PROCEEDING

A. The October 1, 1996 Progress Report Is Not A
"Pleading" To Which A Reply Is Permitted.

KCS states as justification for filing its Reply that BNSF's October 1 filing is a "separate new pleading" to which a reply is permitted pursuant to 49 C.F.R. § 1104.13(a). KCS is mistaken. A progress report is not a "new pleading." It is simply, as its name suggests, a report by BNSF on its progress with respect to its efforts and abilities to implement the conditions imposed by the Board in Decision No. 44. Thus, the Progress Report is a characterization and summary of the facts to date surrounding BNSF's progress; it is not a "pleading" that contains allegations or defenses or requests any relief, see Black's Law Dictionary, "Pleadings," West Pub., 6th Ed. (1990), matter to which a reply is appropriate so that both sides may be heard on "due process" grounds. To the extent the Progress Report does contain "argument," such argument, as characterized by KCS itself, is merely a "repeat" and "redundant" of the arguments raised in BNSF's September 23 reply. See Reply, p. 2.

Furthermore, the Progress Report is a document filed solely in accordance with the Board's directive in Decision No. 44 (see Progress Report, p. 2), not on the initiative of a party. In this regard, it is significant to note that BNSF itself treated the Progress Report as separate and distinct from a "pleading" by not conferring a "pleading" number on the document as required by 49 C.F.R. § 1180.4(a)(2).

B. KCS's Reply Violates Section 1104.13(c) Of The Commission's Rules Of Practice Prohibiting A Party From Filing "A Reply to A Reply."

KCS's true motivation for filing its Reply in response to the Progress Report is to "address the arguments raised in BNSF's September 23 reply" for the first time. See Reply, p. 2. This is clearly prohibited under the Commission's Rules. Section 1104.13(c) states that "[a] reply to a reply is not permitted." 49 C.F.R. § 1104.13(c). See CSX Transportation, Inc. -- Abandonment Exemption -- In Allegany County, MD and Mineral County, WV, Docket No. AB-55, 1995 ICC Lexis 184, at *2, n. 2 (June 29, 1995) ("[u]nder [Commission's] rules, a reply to a reply is not permitted"); Arizona Public Service Company and PacifiCorp v. The Atchison, Topeka and Santa Fe Railway Company, No. 41185, 1995 ICC Lexis 54, at *8, n. 9 (March 10, 1995) (Commission citing 49 C.F.R. §1104.13(c) as basis for denying motion for leave to file reply to a reply).

KCS is obviously aware of this rule. Indeed, KCS requests, if the Board "declines to accept" KCS's Reply, that the Board alternatively treat KCS's filing as a motion for leave to file a reply to a reply or that it strike the BNSF recitation concerning the Lake Charles area. See Reply, p. 2, n. 3. Montell and PPG oppose the acceptance of additional pleadings by KCS. The rule prohibiting replying to a reply long has been part of practice before the Board and its predecessor. No reason has been advanced to allow KCS to file a rebuttal; and to do so, consistent with 49 C.F.R. § 1104.13(a) and (c), would require the Board to allow a sur-reply so that opponents of the KCS Motion have the final word. The

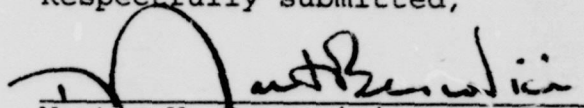
preferable course, however, is to confine the record to those pleadings permitted by the Board's regulations.^{2/}

III. CONCLUSION

KCS should not be permitted to use BNSF's Progress Report as a vehicle to do what it otherwise cannot do under the Commission's Rules of Practice; that is, respond to arguments contained in BNSF's September 23 reply.

WHEREFORE, THE PREMISES CONSIDERED, Montell USA, Inc. and PPG Industries, Inc. respectfully move the Surface Transportation Board to STRIKE KCS's Reply to BNSF's October 1, 1996 Progress Report, KCS-68, from the record of this proceeding.

Respectfully submitted,



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(202) 434-4100
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Attorneys for Montell USA, Inc.
and PPG Industries, Inc.

October 22, 1996


^{2/} Montell and PPG take no position on the KCS Motion to Strike BNSF's Lake Charles discussion; however, since that passage in the BNSF Progress Report merely summarizes the prior pleadings and contains no new facts or arguments, the request to strike appears to be a meaningless gesture.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Strike Reply of the Kansas City Southern Railway to BNSF's October 1, 1996 Progress Report and Operating Plan was served by first-class mail, postage prepaid, upon the Restricted Service List, and upon:

Alan E. Lubel
William A. Mullins
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1300 I Street, NW
Suite 500-East
Washington, DC 20005-3314

Counsel for Kansas City Southern Railway



Martin V. Bercovici

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L.L.P.

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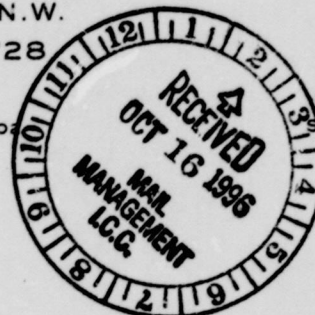
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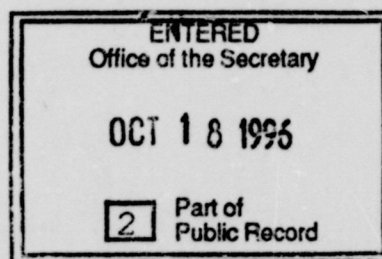
LONDON
BRUSSELS
MOSCOW
ALMATY



October 16, 1996

VIA HAND DELIVERY

Mr. Vernon A. Williams, Secretary
Surface Transportation Board
U.S. Department of Transportation
Room 2215
1201 Constitution Avenue, N.W.
Washington, D.C. 20423



Re: UP/SP Merger, Finance Docket No. 32760

Dear Secretary Williams:

Enclosed please find the original and twenty copies of the following documents to be filed on behalf of The Fertilizer Institute in the above-referenced proceeding: (1) Entry of Appearances (TFI-1); (2) Motion for Leave to File Out of Time Reply to Petitions For Clarification (TFI-2); and (3) Reply of The Fertilizer Institute to Petitions for Clarification (TFI-3). The filings are also provided in the enclosed 3.5 inch diskette in WordPerfect 5.1 format. Finally, an extra copy of each filing is enclosed. Please date stamp each document and return them to our messenger. Thank you for your help in this matter.

Respectfully submitted,

Michael F. McBride

Michael F. McBride

Attorney for The Fertilizer Institute

Mr. Vernon A. Williams, Secretary

October 16, 1996

Page 2

cc: All Persons on Service List

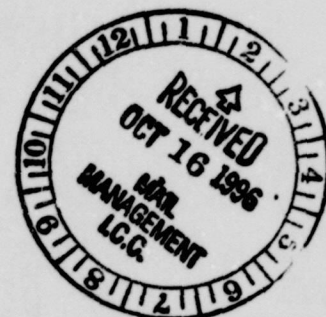
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TFI-1

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

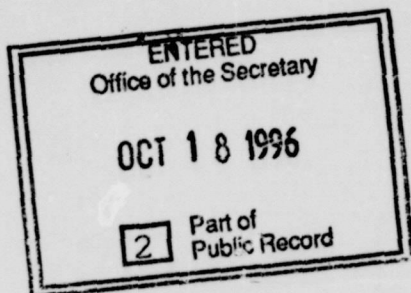
UNION PACIFIC CORP., et al. --
CONTROL AND MERGER --
SOUTHERN PACIFIC RAIL CORP., et al.



ENTRY OF APPEARANCES

The undersigned counsel hereby enter their appearances for The Fertilizer
Institute in this proceeding.

Respectfully submitted,



Michael F. McBride
Michael F. McBride

Daniel Aronowitz
Daniel Aronowitz

LeBoeuf, Lamb, Greene & MacRae, L.L.P.
1875 Connecticut Avenue, N.W.
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Washington, D.C. 20009-5728
(202) 986-8000

October 16, 1996

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UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

TFI-2

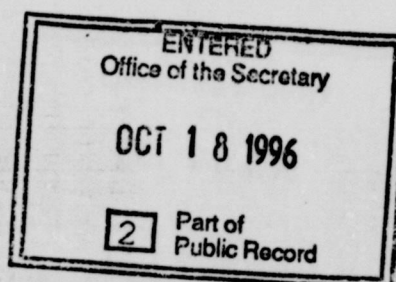


FINANCE DOCKET NO. 32760

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

**MOTION FOR LEAVE TO FILE OUT OF TIME REPLY
TO PETITIONS FOR CLARIFICATION**

The Fertilizer Institute ("TFI"), through its undersigned counsel, hereby seeks leave to file out of time the accompanying Reply to the pending petitions for clarification of Applicants, BN-SF, and Geneva Steel Company. This Reply could not have been filed within the time prescribed by the Board's rules, because TFI's Transportation Committee had not met during that time to determine the position of TFI. Good cause exists for granting this Motion, because TFI's Reply does not present



new substantive arguments, and merely supports the arguments presented by other parties within the time prescribed by the Board's rules.

Respectfully submitted,

Michael F. McBride

Michael F. McBride

Daniel Aronowitz

LeBoeuf, Lamb, Greene & MacRae, L.L.P.

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Attorneys for The Fertilizer Institute

October 16, 1996

TFI-3

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

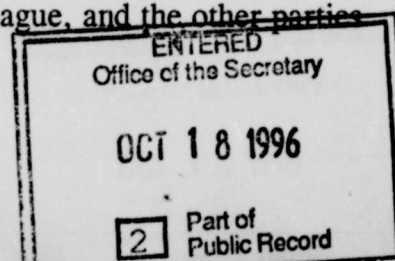
FINANCE DOCKET NO. 32760

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

**REPLY OF THE FERTILIZER INSTITUTE
TO PETITIONS FOR CLARIFICATION**

The Fertilizer Institute ("TFI"), through counsel, hereby replies to the pending Petitions for Clarification filed by Applicants, BN-SF, and Geneva Steel Company. TFI supports the position taken in reply to those Petitions by the National Industrial Transportation League and other parties, i.e., that the Board should act in response to the Petitions in a manner that best promotes effective competition by BN-SF under the trackage rights it was provided by Applicants in the UP-BN Settlement Agreement, as amended. Doing so will ameliorate the competitive harm caused by the merger of Applicants.

Accordingly, the Board should deny Applicants' Petition for Clarification, and grant the Petitions for Clarification filed by BN-SF and Geneva Steel Company, for the reasons given by BN-SF, Geneva Steel, NIT League, and the other parties responding to those Petitions.



Respectfully submitted,

Michael F. McBride

Michael F. McBride

Daniel Aronowitz

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Attorneys for The Fertilizer Institute

October 16, 1996

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

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

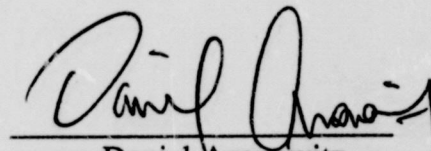
CERTIFICATE OF SERVICE

I hereby certify that I have served, this 16th day of October, 1996, a copy of the foregoing Entry of Appearances, Motion for Leave to File Reply to Petitions for Clarification, and Reply to Petitions for Clarification, by facsimile and First-Class mail, postage prepaid, on the following:

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

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

and by First-Class mail, postage prepaid to all persons on the Board's official service list in these proceedings.


Daniel Aronowitz

STB

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32760

10-4-96

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86600

BEFORE THE
SURFACE TRANSPORTATION BOARD



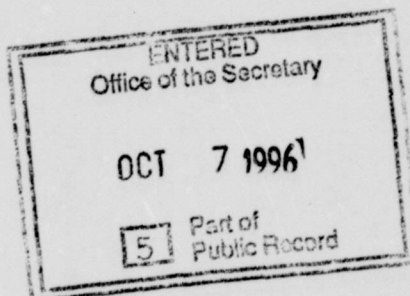
Finance Docket No. 32760

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

MOTION FOR LEAVE TO FILE REPLY TO GS-7

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Attorneys for Applicants

October 4, 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

MOTION FOR LEAVE TO FILE REPLY TO GS-7

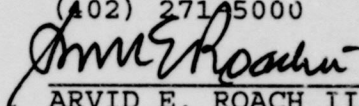
The primary applicants, UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW,^{1/} hereby petition the Board for leave to file the attached brief Reply to the "Reply of Geneva Steel Company to Applicants' Petition for Clarification," filed September 26, 1996 (GS-7). As Geneva acknowledges (GS-7, p. 2, n.1), its September 26 Reply is in fact a reply to Applicants' September 23 reply to Geneva's September 3 Petition For Clarification (GS-3). Although Geneva did not seek the Board's permission to file its reply to Applicants' reply, Applicants did not object. The Geneva reply raises new arguments, and Applicants respectfully request that the Board accept the attached reply to ensure that the Board decides this matter in an informed manner based on a full and complete record.

^{1/} The acronyms used herein are the same as those in Appendix B to Decision No. 44.

Respectfully submitted,

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October 4, 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
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APPLICANTS' REPLY TO GS-7

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Attorneys for Applicants

October 4, 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 GS-7

The primary applicants, UPC, UPRR, MPRR, SPR, SPT, SSW, SPCSL and DRGW,^{1/} hereby reply to the "Reply of Geneva Steel Company to Applicants' Petition for Clarification" (GS-7).

In GS-3, Geneva sought clarification regarding the application of the Board's condition that Applicants make available to BNSF 50% of the volume of traffic subject to contracts at "2-to-1" points. In their response, Applicants explained their approach to implementing the 50% Obligation, which includes retaining the option to release the entire volume of traffic under contract, rather than just 50%, where price and/or service terms were specially tailored to volumes committed by the shipper during arm's-length negotiations prior to the merger and would be uneconomic with lower volumes. UP/SP-280, pp. 6-7. In its Reply, Geneva argues

^{1/} The acronyms used herein are the same as those in Appendix B to Decision No. 44.

that the Board "has no authority to issue an order" allowing Applicants to apply the 50% Obligation in this fashion. GS-7, p. 3. Geneva argues for the Board to issue such an order would amount to improper regulation of the recently executed rail transportation contract between Geneva and UP.^{2/}

Geneva's argument regarding the Board's authority to modify Geneva's contract with UP is completely without merit. Geneva remains free to enforce its existing contract with UP. Nothing in UP's approach to implementing the 50% Obligation changes that essential fact. In affirming that UP/SP is taking an appropriate approach to implementing the 50% Obligation, the Board would not be regulating Geneva's contract with UP. Instead, the Board would be clarifying a condition that it imposed on UP/SP as a condition to going forward with the merger.^{3/} That condition, mandatory on

^{2/} In the verified statement of Ralph D. Rupp, Geneva's Manager-Traffic, which was filed under seal, Mr. Rupp makes allegations about UP's actions and motivations in connection with UP's recently negotiated contract with Geneva. Applicants believe it would not aid in the Board's resolution of the present dispute, nor is it desirable in its own right, to air the contents of such settlement negotiations. However, Applicants are prepared to show, if the Board requests, that Geneva's statements are not accurate.

^{3/} The Board's actions in confirming UP's approach to implementing the 50% Obligation would be no more an improper interference with Geneva's contract than was the Board's initial imposition of the 50% condition. Moreover, even if the Board's actions were viewed as affecting Geneva's contract rights -- which would clearly be incorrect -- the Board unquestionably has the authority to alter contract rights under the pre-emption provision of former 49 U.S.C. §

(continued...)

UP/SP, gives shippers an option, which they need not exercise. In clarifying that condition, the Board would not be in any way abrogating shippers' contractual rights; it would merely be refining an exercise of its authority under former 49 U.S.C. § 11344(c) to condition a rail merger.

Finally, Geneva's argument that UP's approach to implementing the 50% Obligation would undercut the purpose of that condition makes no sense. The Board imposed the 50% Obligation to ensure that BNSF could promptly bid on additional volumes of traffic. Applicants' providing BNSF with the opportunity to bid on 100% of a shipper's traffic would give BNSF more, not less, of an opportunity to compete promptly for traffic.

^{2/}(...continued)

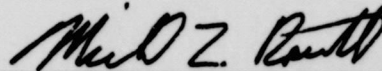
11341(a). See Norfolk & Western R.R. v. ATDA, 499 U.S. 117 (1991).

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 4th day of October, 1996, I caused a copy of the foregoing document to be served by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties of record in Finance Docket No. 32760, and on

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

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



Michael L. Rosenthal

STB

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ORIGINAL

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CWD-4

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760, et al.

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 TO STRIKE



GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington, DC 20036

Attorney for Charles W. Downey

Dated: October 4, 1996

ENTERED	
Office of the Secretary	
OCT 7 1996	
5	Part of Public Record

Before the
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760, et al.

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 TO STRIKE

Intervenor, Charles W. Downey, ^{1/} for and on behalf of General
Committee of Adjustment for United Transportation Union, on lines of
SPCSL Corp. (SPCSL), Gateway Western Railway Company (GWWR), and
Illinois Central Railroad Company (IC), submits this motion to strike
portions of the Reply by Applicants, filed September 23, 1996. (UP/SP-
282). The Board's rules of practice do not permit a reply-to-reply,
except for sound reason. ^{2/}

I. THE REPLY WRONGLY CLAIMS INTERVENOR
TO HAVE MADE CERTAIN CONCESSIONS.

The Reply asserts that intervenor does not challenge certain
conclusions of the Board as to its jurisdiction; or that the GWWR
agreement is subject to the former 49 U.S.C. 11341, or to any other
provision of law. (Reply, 2):

1/ General Chairman for UTU on SPCSL, GWWR, and IC, with offices at
1301 1/2 Morrissey Drive, Unit 4, Bloomington, IL 61701.

2/ 49 CFR 1104.13(c). However, there would be sound reason for permitting
a reply-to-reply, inasmuch as further discussion would be helpful, and
this motion should embrace a request for leave to file, if deemed
necessary. Van Waters & Rogers, Inc., of Calif. v. Baltimore & O.R.
Co., 268 I.C.C. 179 (1947).

Mr. Downey does not challenge the Board's conclusion that "the arrangements provided for in the GWWR agreement are 'non-jurisdictional'" and "do not require our approval." Decision No. 44, p. 175 n.222. He does not contend that the GWWR agreement is subject to former 49 U.S.C. 11341, et seq., or that Board approval is required under any other provision of law. Given those concessions, there is no basis for the Board to impose either mandatory or discretionary labor protective conditions on the settlement agreement.

Contrary to Applicants' assertion of Mr. Downey's "concessions," there were no concessions. The above excerpt should be stricken. Intervenor wishes to protect the record in this regard. To be sure, although the GWWR settlement agreement was not submitted for agency approval/exemption at this time for future transactions contemplated therein requiring such approval/exemption,^{3/} the agreement would not have been made but for the UP/SP consolidation. (GWWR-6, p. 3; UP/SP-204, p. 3); and certain actions not requiring specific present or future approval/exemption contained in the settlement agreement are there as a result of the UP/SP unification. The full reach of New York Dock should apply to the settlement agreement. Such agreements are important to the agency decisionmaking. Union Pacific-Control-Missouri Pacific; Western Pacific, 366 I.C.C. 459, 601 (1982):

Applicants have entered into settlements with CNW and CR. We favor the negotiation of settlements by parties to a consolidation proceeding. Such agreements promote the expeditious resolution of matters of serious concern to affected carriers. When parties enter into a settlement they should submit a summary of this agreement to us so that we will be fully advised of all effects of our approval of a proposed consolidation. To the extent that the settlement terms involve only private contractual matters between the parties, however, we will not usually make those terms conditions of our approval of the transaction...

See also: CSX Corp.-Control-Chessie and Seaboard C.L.I., 363 I.C.C. 521, 581 (1980); Union Pacific Corp. Et Al.-Cont.-MO-KS-TX Co., Et Al., 4 I.C.C.2d 409, 480-83 (1988).

^{3/} See: UP/SP-204, UP/SP-206, UP/SP-250, GWWR-6, CWD-1.

The Board has jurisdiction over the settlement agreement between the parties Applicants and party GWWR, as part of the UP/SP approval process. This Intervenor has never conceded to the contrary. The Board should strike Applicants' Reply at p. 2, referenced supra, at pp. 1-2.

II. THE AAR'S 1994 PUBLICATION ON
FREIGHT RATES SHOULD NOT BE GIVEN
CONSIDERATION WITHOUT FURTHER HEARINGS.

Applicants do not really defend the Board's reliance upon the ICC's Rail Rates Continue Multi-Year Decline, 1995. Rather, Applicants bring forward the AAR's 1994 analysis to shore up the "rate decline" findings of Decision No. 44. (Reply, 5-8). The entire passage should be stricken.

Applicants err in their approach. Intervenor's September 3, 1996 pleading (Part II) was directed to the official notice given the ICC publication. If the ICC publication is rejected as unsound, then the parties should have an opportunity to demonstrate the invalidity of Applicants' "new evidence" by the AAR. Actually, the AAR study (by a single individual) places primary reliance upon the same ICC study for an earlier year, and is thus discredited in turn.^{4/} Reliance upon revenue ton-miles to be virtually the exclusive alternative to the ICC's revenue per ton basis, is itself flawed. Rates usually taper drastically with distance, as noted by the former ICC, and indeed prescribed by it in its major rate decisions. Docket No. 28300, Class Rate Investigation, 1939, 262 I.C.C. 441, 562-63, 776 (1945), aff'd New York v. United States, 331 U.S. 284, 301 (1947); Docket Nos. 30660/30416, Class Rates, Mountain-Pacific Territory, 296 I.C.C. 555, 661-62 (1955).

^{4/} Intervenor had difficulty securing the AAR study, and could not be found in the Board's or AAR's library.

Revenue per ton-mile is not the same as a rail rate. The average length of haul has increased by almost one-third since 1980. The AAR's Railroad Facts (1995), at p. 35, illustrates this trend:

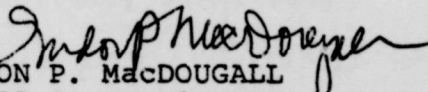
<u>Year</u>	<u>Average Length of Haul (miles)</u>
1980	615.8
1985	664.5
1986	664.5
1987	687.7
1988	696.9
1989	722.8
1990	725.7
1991	751.3
1992	762.5
1993	794.2
1994	816.8

Thus the Board should strike the entire discussion by Applicants in their Reply dealing with the allegation of declining rates. (Reply, 5-8). The Reply is not responsive to the official notice accorded the ICC 1995 study. Intervenor appreciates that the myth of declining rates springs from the Board, and not from the parties (with the exception of USDOT). The new evidence sought to be introduced by the Applicants comes primarily from a private and mostly unavailable document by an industry trade association.

CONCLUSION

Applicants' Reply (UP/SP-282) should be stricken as indicated.

Respectfully submitted,


GORDON P. MacDOUGALL
1025 Connecticut Ave., N.W.
Washington, DC 10036

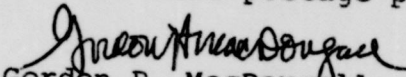
October 4, 1996

Attorney for Charles W. Downey

CERTIFICATE OF SERVICE

I hereby certify I have served a copy of the foregoing
upon all parties of record by first class mail postage-prepaid.

Dated at
Washington, DC
October 4, 1996


Gordon P. MacDougall

STB FD 32760

9-23-96

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SLOVER & LOFTUS

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.

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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

September 23, 1996

BY HAND DELIVERY

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



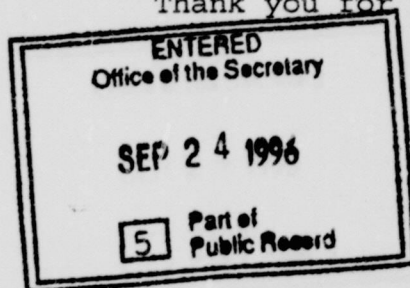
Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Rail Corporation, et al.

Dear Mr. Secretary:

Enclosed for filing in the above-referenced proceeding please find an original and twenty (20) copies of the "Reply of the Lower Colorado River Authority and the City of Austin, Texas in Support of BNSF's Petition for Clarification" (LCRA-6). In accordance with prior orders in this proceeding, we have also enclosed a Wordperfect 5.1 diskette containing this Reply.

We have also enclosed an extra copy of this document. Kindly indicate receipt and filing by time-stamping this copy and returning it to the bearer of this letter.

Thank you for your attention to this matter.



Sincerely,

C. Michael Loftus

C. Michael Loftus
An Attorney for the Lower Colorado River
Authority and the City of Austin, Texas

CML:raw
Enclosures

cc: Arvid E. Roach II, Esq.
Paul A. Cunningham, Esq.
Parties of Record

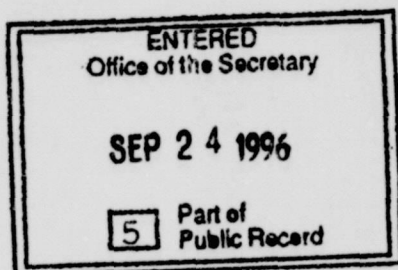
BEFORE THE
SURFACE TRANSPORTATION BOARD



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

REPLY OF THE LOWER COLORADO RIVER
AUTHORITY AND THE CITY OF AUSTIN, TEXAS
IN SUPPORT OF BNSF'S PETITION FOR CLARIFICATION



THE LOWER COLORADO RIVER AUTHORITY
AND THE CITY OF AUSTIN, TEXAS

OF COUNSEL:

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

By: C. Michael Loftus
Donald G. Avery
Andrew B. Kolesar III
Slover & Loftus
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: September 23, 1996

Attorneys for the Lower
Colorado River Authority and
the City of Austin, Texas

BEFORE THE
SURFACE TRANSPORTATION BOARD

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

**REPLY OF THE LOWER COLORADO RIVER
AUTHORITY AND THE CITY OF AUSTIN, TEXAS
IN SUPPORT OF BNSF'S PETITION FOR CLARIFICATION**

Pursuant to 49 C.F.R. § 1104.13, LCRA/Austin hereby reply in support of BNSF's Petition for Clarification of Decision No. 44 (hereinafter "BNSF Petition"). In particular, LCRA/Austin support BNSF's request that the Board clarify the contract modification condition of Decision No. 44 to allow shippers the option to reduce their contractual volume incentive thresholds by fifty percent. In addition to this Reply, LCRA/Austin today have also filed their own Petition for Clarification of Decision No. 44 (LCRA-4). That submission, which LCRA/Austin incorporate herein by reference, similarly argues that the option to reduce contractual volume incentive thresholds is essential to the "opening up" of traffic to BNSF in any realistic sense.

As BNSF suggests in its Petition for Clarification, allowing the Applicants the unfettered ability to implement the

contract modification condition of Decision No. 44 in the manner of their choice would contravene the public interest. In particular, absent further specificity from the Board, the Applicants could greatly hinder BNSF's ability to offer economically competitive service over the trackage rights lines, and consequently could jeopardize the Board's "competition-driven" approach to ameliorating the harmful effects of the subject merger. See Decision No. 44 at 116.

In order to level the playing field between the Applicants and BNSF, the Board should carefully consider the effect that a volume incentive threshold would have upon UP/SP vs. BNSF bidding to provide rail service. See BNSF Petition at 5 ("Where a contract includes volume incentives or minimum-volume surcharges, a modification that did no more than permit the shipper to rebid half of the total contract volume would not give BN/Santa Fe 'access' to that volume in any real sense.").¹ Fortunately, the solution to the problem created by volume incentive thresholds should be relatively simple. In particular, through a simple clarification, the Board can require UP under the contract modification condition to allow any affected shipper to elect a fifty percent reduction in its volume incentive thresholds (whether stated on a tonnage or percentage basis). Such a

¹ Consistent with that argument, BNSF's Petition offers detailed analysis of the many ways in which the Applicants could exploit the ambiguities of the Decision's contract modification condition to preclude BNSF's from having a fair opportunity to compete. See BNSF Petition at 5.

clarification would facilitate improved competition between the two remaining western carriers.

For the foregoing reasons, LCRA/Austin respectfully support BNSF's Petition for Clarification of the Board's contract modification condition.

Respectfully submitted,

THE LOWER COLORADO RIVER AUTHORITY
AND THE CITY OF AUSTIN, TEXAS

C. Michael Loftus

By: C. Michael Loftus
Donald G. Avery
Andrew B. Kolesar III
Slover & Loftus
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OF COUNSEL:

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Washington, D.C. 20036

Attorneys for the Lower
Colorado River Authority
and the City of Austin, Texas

Dated: September 23, 1996

CERTIFICATE OF SERVICE

I hereby certify that I have this 23rd day of September, 1996, caused the foregoing document to be served by hand upon Applicants' counsel:

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

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

and by first class mail, postage prepaid, on all other parties of record in Finance Docket No. 32760.

Andrew B. Kolesar III
Andrew B. Kolesar III

STB

FD

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Item No. _____

Page Count 7

May #73

☒ Part of
Public Record

WRITER'S DIRECT DIAL
(202) 973-7608

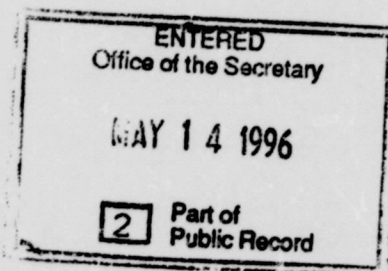
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215 851-6700
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May 13, 1996



BY HAND

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

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

Dear Mr. Williams:

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

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

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

HARKINS CUNNINGHAM

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

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

Very truly yours,

James M. Guinivan

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

Enclosures

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

-- CONTROL AND MERGER --

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

NOTICE OF SUPPLEMENTAL FILING OF DEPOSITION TRANSCRIPTS

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

May 13, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

NOTICE OF SUPPLEMENTAL FILING OF DEPOSITION TRANSCRIPTS

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

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

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

SUPPLEMENTAL FILING

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

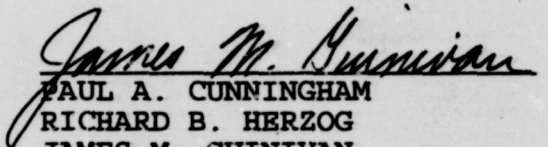
With the exception of certain signature pages and errata that applicants have been unable to obtain from counsel for the deponents, this list corresponds exactly to the Attachment to the Notice of Filing of Deposition Transcripts (UP/SP-236), in which Applicants listed the materials they intended to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

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

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

Respectfully submitted,

CANNON Y. HARVEY
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LOUIS P. WARCHOT
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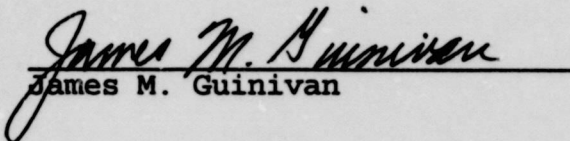
May 13, 1996

CERTIFICATE OF SERVICE

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

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

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


James M. Guinivan

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May 9 1996

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

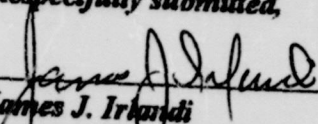


Re: Motion to Accept New Evidence
Finance Docket No. 32760

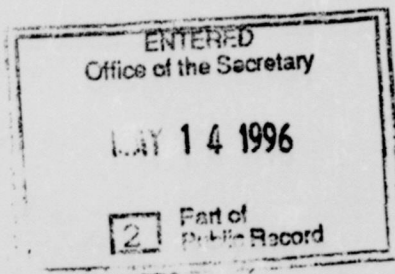
Honorable Secretary Williams,

There is enclosed a Joint Motion To Accept New Evidence dated May 10 1996. The original and 20 copies with a Word Perfect 5.1 floppy is being mailed by USA Postal Service Express Mail system. A copy will be sent express mail to A.L.G. Nelson and Attorneys Arvid E. Roach and Erika Z. Jones.

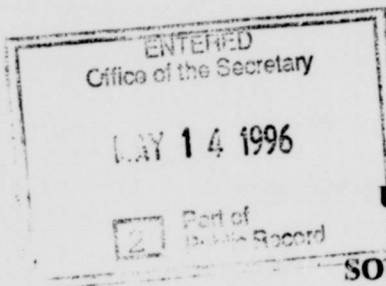
Respectfully submitted,


James J. Irlandi
STB Practitioner
1809 North Broadway, Suite F
Wichita, Kansas 67214
Ph(316)264-9630; Fax (316)264-9735

JJI/sl



BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423



Finance Docket No. 32760

UNION PACIFIC CORPORATION, et al.,
— CONTROL AND MERGER —
SOUTHERN PACIFIC CORPORATION, et al.,

MOTION TO ACCEPT NEW EVIDENCE

Comes now the Kansas, Colorado and Oklahoma Shippers Association and the Enid Board of Trade to jointly file this motion to the Surface Transportation Board for acceptance of new evidence which was not available to us prior to the filing date of March 29, 1996.

The new evidence consists of:

1. Central Kansas Railway Tariff 8000-a which contains local rates and charges and other rules and charges on traffic between stations on the Central Kansas Railway and Interchange with Connections. These rules and charges become effective on May 16, 1996.
2. Rate Book ATSF 4100-B, A Computer Based Rate Book Designed For Electronic Retrieval and Distribution. This tariff applies on wheat only 01-137 STCC No. Commodity. It cancels Tariff ATSF 4100-A effective May 15, 1996.

The CKR Tariff and the ATSF 4100-B Tariff were issued after March 29, 1996, therefore, we could not make reference to them in our March 29, 1996 filings.

MOVANT'S INFORMATION ON NEED FOR ACCEPTANCE

This new Central Kansas Railway Tariff on rates will substantiate the statements heretofore submitted that the combined to be UP-SP and BNSF railroads control the destiny of small shippers located on short line railroads by publishing noncompetitive thru rates, thereby causing rural branch lines to be embargoed for lack of service forcing shippers to truck, thence, the outcome of same is lack of revenue to maintain these lines and eventual embargoes and abandonment.

In our initial Notice of Participation filed by the Kansas Shippers Association at Page 2 there was a title which stated: "Concern of Short line Railroads." Reference was made to

In our initial Notice of Participation filed by the Kansas Shippers Association at Page 2 there was a title which stated: "Concern of Short line Railroads." Reference was made to members who had facilities on short line railroads and to their concerns.

In Kansas, Colorado and Oklahoma Shippers Association Statement of Opposition filed on the 26th day of March 1996, there is also references to concern of short line railroad shippers. At Page 2 there is reference to Issue No. 6 which states:

6. "Members on short line railroads are concerned that this mega carrier merger will follow the pattern of the BN-ATSF merger with no equipment available and control of through rates by these mega carriers."

At Page 6 Chairman York stated:

"We presently are located on a short line railroad on leased lines. Therefore, the rates are set by a large Class I railroad."

At Page 7 Alvin Brensing, President of the Stafford County Flour Mills stated:

"Our mill, has in the past, attempted to buy milling wheat from the UP origin sources but the UP and KSW could not meet truck competitive rate pricing."

Further, on Page 17 Norbert Gerstenkorn stated:

"My concerns for the Hardtner line echoes with other shippers and the UP should work with the KSW to give it the help needed to compete with trucks to destinations served by the UP. Knowing, the UP will provide equipment to its loader customers, the KSW will still have problems of car supply."

Lew Meibergen, a director of the Enid Board of Trade has also concerns for Oklahoma Short line railroads. He stated in Enid Board of Trade filing at EBT-4 the following under the caption "Opposition To This Merger."

"We have been told by various short line railroads that if allowed, they could offer rates that would be very competitive to truck rates, but unfortunately, most of these short lines connect with only one large Class I carrier and thus serve as feeder carriers. As feeder carriers, their traffic and rates depend upon their connecting Class I carriers. Even if there is a short line that

connects with two carriers, for example, UP and SP, as those carriers merge, these short lines and the shippers located on these short lines lose the ability to benefit from UP and SP competition."

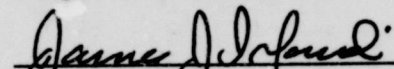
How did the Central Kansas railway handle its problem. Effective May 16, 1996 it published its own tariff, rather than using the BNSF rates which were not competitive.

Movant's pray that the Board accepts this tariff and the new BNSF Tariff filed to become effective May 15, 1996, which contains rates to Wichita, Kansas from similar CKR origins. The Rate Book 4100-A was canceled by 4100-B to become effective May 15, 1996. These BNSF rates are increments 1-25 cars and 26-110 cars. There are no provisions in this tariff to coload at more than one station.

The CKR tariff allows coload from an entire branch line at the 30 car level in CKR cars.

In order to conserve the STB time and resources, we are attaching a copy of the Title Page of the new Central Kansas Railway tariff and the rates contained therein and excerpts from the new BNSF tariff which contains the title page and the first page of the rates to Hutchinson and Wichita. In addition, a map with the CKR rates is also attached in order to give the geographic scope of the CKR tariff.

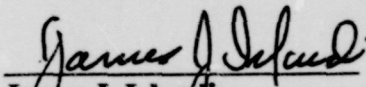
Respectfully submitted,



James J. Irlandi - STB Practitioner
Advisor To: The Kansas, Colorado
And Oklahoma Shippers Association.
1809 N. Broadway / Suite F
Wichita, Kansas 67214
Ph (316)264-9630 Fax (316) 264-9735

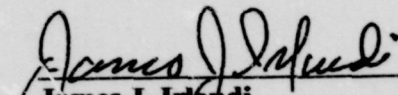
Advisor to:
Enid Board of Trade
2309 N. 10th Street / Suite E
Enid, Oklahoma 73701

I, James J. Irlandi, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this verified statement. Executed on this 10th day of May 1996.


James J. Irlandi

CERTIFICATE OF SERVICE

I, James J. Irlandi, certify that on this 10th day of May, 1996, caused the original and 20 copies to be mailed by first class to the Surface Transportation Board. A copy is also directed to the Honorable Jerome Nelson and to applicants' attorney Arvid E. Roach, and BNSF's attorney Erika Z. Jones, and all other active participants in this merger proceeding.


James J. Irlandi

FT CKRY 8000-A
(Cancels FT's CKRY 6000 & CKRY 8000)

CENTRAL KANSAS RAILWAY



FREIGHT TARIFF CKRY 8000-A (Cancels Freight Tariffs CKRY 6000 & CKRY 8000)

CONTAINING
LOCAL RATES AND CHARGES,
MISCELLANEOUS
RULES AND CHARGES
GRAIN DEMURRAGE RULES AND CHARGES
ALSO
SWITCHING CHARGES
ON
TRAFFIC
BETWEEN STATIONS
ON THE
CENTRAL KANSAS RAILWAY
AND
INTERCHANGE WITH CONNECTIONS

This tariff is also applicable on intrastate traffic, except where expressly provided to the contrary in connection with particular items.

ISSUED: April 24, 1996

EFFECTIVE: May 16, 1996

ISSUED BY
Central Kansas Railway
1825 West Harry
Wichita, KS 67213

(The provisions published herein, if effective, will not result in an effect on the quality of the human environment.)

ATCHISON TOPEKA & SANTA FE RR
AGRICULTURAL COMMODITIES UNIT
777 MAIN STREET - SUITE 2800
FORT WORTH, TX 76102
RATE BOOK ATSF-4100-B

ISSUED: APR 25, 1996
EFFECT: MAY 15, 1996
(R) (A) (ADDITION)

ITEM: 20030
PAGE: 1
REVISION: 0

WHEAT

STCC: 01-137-XX

FROM SELECTED STATIONS IN

TO ATSF STATIONS

COLORADO
OKLAHOMA
KANSAS
MISSOURI
NEBRASKA
NEW MEXICO
TEXAS

HUTCHINSON, KS

RATE APPLICATION RULES

CARLOAD SHIPMENT SIZE:

COLUMN 1: 1 TO 25 CARS.

COLUMN 2: 26 TO 110 CARS.

EQUIPMENT TYPE:

COLUMN 1: COVERED HOPPERS

COLUMN 2: COVERED HOPPERS

ROUTE APPLICATION:

001: ATSF DIRECT
002: (CKRY)-NEWTON, KS-ATSF
003: (CKRY)-WELLINGTON, KS-ATSF
022: (CKRY)-HUTCHINSON, KS-ATSF
026: (TXNW)-ETTER, TX-ATSF
029: (CVR)-E ENSIGN, KS-ATSF
036: (WTLR)-LUBBOCK-ATSF
042: (CKRY)-ABILENE-ATSF
043: (CKRY)-WICHITA-ATSF
044: (CKRY)-ATTICA-ATSF
046: (DCFB)-DODGE CITY-ATSF
047: (GCW)-GARDEN CITY-ATSF
049: KYLE-COURTLAND-ATSF
050: (PNR)-PANHANDLE-ATSF
051: (SLAL)-SLATON-ATSF
053: (SW)-SHATTUCK-ATSF
089: (CVR)-SPRINGFIELD-ATSF

SEE RULES AND REGULATIONS LISTED IN RATE BOOK
OR ALL ITEMS LISTED IN THIS RATE BOOK

A000IG00

MORE =>

ATCHISON TOPEKA & SANTA FE RRW
AGRICULTURAL COMMODITIES UNIT
777 MAIN STREET - SUITE 2800
FORT WORTH, TX 76102
RATE BOOK ATSF-4100-B

ISSUED: APR 25, 1996
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(R) (A) (ADDITION)

ITEM: 20040
PAGE: 1
REVISION: 0

WHEAT

STCC: 01-137-XX

FROM SELECTED STATIONS IN

TO ATSF STATIONS

COLORADO
KANSAS
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A000IG00

MORE =>

STB

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32760

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Item No. _____
Page Count 17
Feb 28 1996
MAR 04 1996
Part of Public Record

FOR THE
TRANSPORTATION BOARD



Finance Docket No. 32760

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

-- CONTROL AND MERGER --

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

BROWNSVILLE AND RIO GRANDE INTERNATIONAL'S
SECOND SET OF INTERROGATORIES
AND INFORMAL REQUEST FOR PRODUCTION OF DOCUMENTS
TO THE BURLINGTON NORTHERN RAILROAD COMPANY
AND THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY
("BNSF")

Pursuant to 49 C.F.R. §§ 1114.21-1114.31, the
Brownsville and Rio Grande International Railroad ("BRGI")
directs the following interrogatories and informal document
production requests to the Union Pacific Corporation ("UPC"),
Union Pacific Railroad Company ("UPRR"), Missouri Pacific
Railroad Company ("MPRR"), Southern Pacific Rail Corporation
("SPR"), Southern Pacific Transportation Company ("SPT"), St.
Louis Southwestern Railway Company ("SSW"), SPCSL Corp.
("SPCSL"), and the Denver and Rio Grande Western Railroad Company
("DRGW") (collectively, the "Applicants").

BRGI requests that, within 15 days after service of
these requests, Applicants serve their responses on BRGI's

counsel and make the requested documents available for inspection and copying by BRGI or its representatives at the document depository established by Applicants in this proceeding. Alternatively, Applicants may produce legible, complete, and exact copies of responsive documents so long as the documents themselves are retained and will be made available if requested. In such case, the copies should be sent by expedited delivery to the undersigned attorneys. BRGI will pay all reasonable costs for duplication and expedited delivery of documents to its attorneys.

Applicants should contact the undersigned promptly to discuss any objections or questions with a view to resolving any points of dispute or issues of interpretation informally and expeditiously.

DEFINITIONS

1. The "Agreement" means the agreement between UPC, Acquisition (a direct wholly-owned subsidiary of UPRR), UPRR and SPR to merge, as provided in Exhibit 2 in Volume 7 of the Application (UP/SP-28).

2. "Applicants" mean the Union Pacific Corporation ("UPC"), Union Pacific Railroad Company ("UPRR"), Missouri Pacific Railroad Company ("MPRR"), Southern Pacific Rail Corporation ("SPR"), Southern Pacific Transportation Company ("SPT"), St. Louis Southwestern Railway Company ("SSW"), SPCSL Corp. ("SPCSL"), and the Denver and Rio Grande Western Railroad Company ("DRGW"), any divisions, departments, subsidiaries, affiliates,

related companies, present and former employees, agents, counsel, officers, directors, advisors, consultants, divisions, all other persons or entities acting on behalf of any or all of the above-identified companies, and the Consolidated System that would result from the Transaction.

3. "Application" means the application filed in this proceeding on November 30, 1995, by the Applicants, including, where relevant, any amendment or supplemental information submitted by Applicants to the Board.

4. "BNSF" means any and all of following: the Burlington Northern Inc. ("BNI"), Burlington Northern Railroad Company ("BN"), Santa Fe Pacific Corporation ("SFP") and The Atchison, Topeka and Santa Fe Railway Company ("Santa Fe"), any divisions, departments, subsidiaries, affiliates, related companies, present and former employees, agents, counsel, officers, directors, advisors, consultants, divisions, all other persons or entities acting on behalf of any or all of the above-identified companies, as well as any and all successor entities resulting from the merger of the above-identified companies as approved pursuant to Finance Docket No. 32549.

5. "Board" or "STB" means the Surface Transportation Board and/or its predecessor, the Interstate Commerce Commission.

6. "BRGI" means the Brownsville and Rio Grande International Railroad.

7. "Brownsville" means any and all of the following: the City of Brownsville, Texas, the immediate vicinity (within a

radius of 10 miles from the City of Brownsville), and the Port of Brownsville, Texas.

8. "Competition" includes both intramodal and intermodal competition and also includes source competition.

9. "Consolidated System" means UP and SP operated as an integrated system after the Transaction, or the entity created by the merger of UP and SP.

10. "Depository" means the depository established by Applicants in accordance with the Interstate Commerce Commission's order of December 7, 1995 ("Order Adopting Discovery Guidelines") in these Proceedings, to contain "all documents relevant to [each evidentiary] filing (other than documents that are privileged or otherwise protected from discovery)".

11. "Document" means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including: intra-company communications; electronic mail; correspondence; telegrams; memoranda; contracts; instruments; studies; projections; forecasts; summaries, notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or interviews; minutes, summaries, notes, or records of conferences or meetings; record or reports of negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models; statistical statements; graphs; charts; diagrams, plans; drawings; brochures; pamphlets;

news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term "document" includes:

- (a) both basis records and summaries of such records (including computer runs);
- (b) both original versions and copies that differ in any respect from original versions, including notes; and
- (c) both documents in the possession, custody, or control of Applicants and documents in the possession, custody, or control of consultants or others who have assisted Applicants in connection with this proceeding.

12. "Identify,"

(a) when used in relation to an individual, means to state the name, address, and home and business telephone number of the individual, the position and employer of the individual at the time of the activity inquired of, and the last-known position and employer of the individual;

(b) when used in relation to a corporation, partnership, or other entity, means to state the name, address, and telephone number of the corporation, partnership, or entity;

(c) when used in relation to a document, means to:

- (1) state the nature of the document (e.g., letter, memorandum, report, chart);

- (2) identify the author, each addressee, and each recipient; and
- (3) state the number of pages, title, and date of the document and the specific page number(s), and line number(s), if possible, where the relevant information can be found.

(d) when used in relation to an oral communication or statement, means to:

- (1) identify the person making the communication or statement and the person, persons, or entity to whom the communication or statement was made;
- (2) state the date and place of the communication or statement;
- (3) describe in detail the contents of the communication or statement; and
- (4) identify all documents relating to the communication or statement;

(e) when used in relation to traffic flows, means to identify relevant traffic movements by commodity (including 5-digit STCC code), origin, and destination; and

(f) when used in any other context means to describe or explain.

13. "Including" means encompassing without limitation.

14. "Interchange" or "interline" includes all forms of

interchange, including run-through trains and haulage. All references to "interchange" or "interline" traffic includes potential as well as actual interchange or interline traffic.

15. "1982 Memorandum of Understanding" means that agreement entitled: "Memorandum of Understanding: An Agreement for Relocation of Railroad Facilities and for Related Improvements at and Near Brownsville, Texas," dated August 6, 1982 among the Missouri Pacific Railroad Company, the Southern Pacific Transportation Company, the Brownsville Navigation District of Cameron County, Texas, the Texas State Department of Highways and Public Transportation, the City of Brownsville, Texas, and Cameron County, Texas.

16. "Person" means an individual, company, partnership, or other entity of any kind.

17. "Provide" (except where the word is used with respect to providing service or equipment), "set forth", "list", or "describe" means to supply a narrative response in accordance with 49 C.F.R. § 1114.26. If the information sought in a particular interrogatory is contained in existing documents, those documents may be specifically identified and produced as an alternative to supplying a narrative response.

18. "Rates" include contract rates and tariff rates.

19. "Relating to" a subject means making a statement about, referring to, or discussing, the subject, including, as to, actions, any decisions to take, not take, defer, or defer decision on the action.

20. "Settlement Agreement" means the following agreements between the Applicants and BNSF:

(a) the agreement dated September 25, 1995, and attached as Appendix 1 to the Verified Statement of Carl R. Ice (BN/SF-1);

(b) the supplemental agreement dated November 18, 1995, and attached as Appendix 2 to the Verified Statement of Carl R. Ice (BN/SF-1); and

(c) any additional supplemental agreements between these parties which relate to the agreement described in 24(a), above.

21. "Shipper" means a user of rail services, including a consignor, a consignee, or a receiver.

22. "SP" means SPT, SSW, SPCSL, and any divisions, departments, subsidiaries, affiliates, or related companies, present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, and all other persons or entities acting on behalf of any or all of them.

23. "Studies, analyses, and reports" include studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.

24. "This proceeding" means Finance Docket No. 32760 and any sub-dockets that may be established.

25. "Transaction" means the actions for which approval is sought in the Application, as generally described at UP/SP-22 pp.

1-6, or any one of such actions of any combination of such actions, and any related transactions (including tender offers and agreements to incur debt).

26. "UP" means UPRR, MPRR, Chicago and North Western Transportation Company and Chicago and North Western Railway Company, and any divisions, departments, subsidiaries, affiliates, or related companies, present or former employees, agents, counsel, officers, directors, advisors, consultants, divisions, and all other persons or entities acting on behalf of any or all of them.

INSTRUCTIONS

1. To the extent that Applicants consider any of the following interrogatories or document requests objectionable, respond to each part thereof that is not objectionable, separately identify that part of the interrogatory or document request that Applicants find objectionable and state the grounds for each such objection.

2. Unless otherwise specified, these discovery requests cover the period beginning January 1, 1994, and ending with the date of response.

3. When producing documents, indicate the specific request in response to which the documents are produced.

4. Where a request contains subparts denominated by letters, (e.g., (a), (b)), respond separately to each subpart.

5. If Applicants have information that would permit a

partial answer to any interrogatory, but would have to conduct a special study to obtain information necessary to a more complete response to that interrogatory, and if the burden of conducting such special study would be greater for Applicants than for BRGI, then:

- (a) state that fact;
- (b) provide the partial answer that may be made with information available to Applicant; and
- (c) as provided in 49 C.F.R. § 1114.26(b),
produce such business records, or compilation, abstract, or summary based thereon, as will permit BRGI to derive or ascertain a more complete answer.

6. If a document responsive to any part of a document request is not presently available:

- (a) state that fact;
- (b) identify the document to the extent possible;
- (c) state when the document was most recently in Applicants' possession or subject to Applicants' control and what disposition was made of it;
- (d) identify each person currently in possession or control of the document; and
- (e) furnish whatever other responsive documents are available.

7. If the answer to an interrogatory may be derived from

documents in Applicants' possession, and deriving the answer would be no more burdensome for BRGI than for Applicants, then Applicants may respond to the interrogatory by referring to this Instruction and identifying and producing the documents, indicating specifically by document date, page and, if possible, line number where the information can be found.

8. To the extent that any response refers to or consists of documents in the depository, identify the documents by Bates number(s) and specific line number(s) as relevant.

• 9. If any information or document is withheld on the ground that it is privileged or otherwise not discoverable,

(a) identify the information or document; and

(b) state the basis for the claim that it is privileged or otherwise not discoverable.

10. Where any interrogatory or document request refers to "Applicants" or to any "Applicant", and the response for UP alone would be different from the response for SP alone, give separate responses for UP and SP.

11. In responding to any request for data regarding intermodal traffic, indicate separately data for trailers and for containers.

12. Where the response to a request is found in the response to another request, in the Application, or in documents in the Depository, it will be sufficient to refer specifically to relevant portions thereof.

13. All documents requested and other information requested

herein should be supplied or made available in printed or hard copy form.

14. Please note that pursuant to 49 C.F.R. § 1114.29 these discovery requests are continuing and that there is an obligation to supplement such responses as may be required.

15. References to railroads, shippers, and other companies (including Applicants) include: parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; agents; consultants; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

16. Unless otherwise specified, all users of the conjunctive include the disjunctive and vice versa, and words in the singular include the plural and vice versa.

17. In answering each of the interrogatories, Applicants are to:

- (a) Identify all source documents from which the information has been or can be obtained or which form a basis for answers given or corroborate the answers given. For each source document identified, state the name, title and address of the custodian of such document, and state whether such source document may be inspected and copied by Applicants; and

- (b) State whether the information furnished is within the personal knowledge of the person answering and, if not, the name of each person to whom the information is a matter of personal knowledge.

BROWNSVILLE AND RIO GRANDE INTERNATIONAL RAILROAD'S

SECOND SET OF INTERROGATORIES

9. Has BNSF prepared any operating or service plans (or service studies) concerning its potential access to Brownsville, TX? If so, please identify any documentation prepared in connection with such operating or service plans or studies, and identify the individual or individuals who prepared such operating or service plan(s).

10. Has BNSF undertaken or prepared any marketing, service, operating or economic assessments or studies of the Brownsville market? If so, please identify any documentation prepared as a result of such studies or assessments, and identify the individual or individuals who prepared the assessment(s) or studies.

11. BRGI understands that, if the proposed UP/SP merger is approved, BNSF intends to initiate rail service to the Brownsville area via a haulage rights agreement with the merged UP/SP system. If BRGI is correct, please provide in detail a full listing of those considerations that have caused BNSF to opt to exercise haulage rights, rather than trackage rights, to serve

Brownsville.

12. In connection with interrogatory number 11, above, does BNSF interpret its Settlement Agreement with the Applicants to enable BNSF to elect, at some later date, to convert its haulage rights service from Houston to Brownsville to trackage rights service? If so, please explain with particularity what circumstances must be met to cause BNSF to choose to initiate trackage rights service to Brownsville.

13. BRGI understands that, for BNSF to initiate trackage rights service to Brownsville, it will probably have to undertake certain capital commitments. Please provide in detail the various expenses and operating costs that BNSF anticipates it would incur to provide direct service to Brownsville via trackage rights, and explain how these expenses and costs would exceed the expenses and costs associated with BNSF's service to Brownsville via haulage rights.

14. In determining whether, in the event the proposed UP/SP merger is approved, BNSF would opt to serve Brownsville via trackage rights or haulage rights, did BNSF review and assess the suitability and availability of rail facilities located in the Brownsville area when it considered the trackage rights option? If so, what facilities did BNSF consider, in the event that it should undertake trackage rights service to Brownsville?

15. Assuming BNSF elects to exercise trackage rights to Brownsville (either immediately following approval of the UP/SP merger or at some later date), what rail facilities (yards,

interchange tracks, etc.) would BNSF utilize to accommodate its operations in the Brownsville area?

16. BRGI is particularly interested in BNSF's proposed grain transportation service to and from the Port of Brownsville. Please explain in detail: (1) how BNSF will market grain service to Brownsville; (2) what rates it intends to charge for the movement of such traffic; (3) and under what terms and conditions BNSF will make available grain cars to customers seeking to ship to and from Brownsville.

17. Does BNSF intend to promote or develop intermodal service to and from the Brownsville area? If so, please identify and describe all of the studies and marketing research conducted on this topic, and describe how such service would be implemented following the merger of the UP and SP.

18. Does BNSF contend that it should not be made a party to the 1982 Memorandum of Understanding? If so, please explain the grounds for your position.

19. Has BNSF undertaken any studies which, in whole or in part, concern the rail service it plans to provide to the various ports it will serve along the Gulf of Mexico, following the proposed merger? If so, please identify any documentation prepared in connection with such studies, including any proposed or existing marketing plans or operating strategies resulting therefrom, and identify the individual or individuals who prepared such studies and related documents.

20. BRGI understands that BNSF will be accorded access to

the Mexican rail system at Brownsville (Matamoros, Mexico), in the event that the subject merger is approved. Following the merger, will BNSF be entitled to provide switching services to BRGI in order to move cars from the Port of Brownsville to the interchange with the Mexican rail system? If not, please describe those restrictions that would prohibit BNSF from providing such switching and interchange services.

BROWNSVILLE AND RIO GRANDE INTERNATIONAL RAILROAD'S
SECOND REQUEST FOR PRODUCTION OF DOCUMENTS

6. Produce all documents identified in response to any of the foregoing interrogatories, and provide all documents relied upon in responding to the foregoing interrogatories.

Respectfully submitted,

Robert A. Wimbish

Robert A. Wimbish
John D. Heffner
Keith G. O'Brien

REA, CROSS & AUCHINCLOSS
Suite 420
1920 N Street, N.W.
Washington, D.C. 20036
(202) 785-3700

Counsel for the Brownsville
and Rio Grande International
Railroad

DATED: February 26, 1996

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of February, 1996, served the foregoing document on counsel for the Applicants and both the Burlington Northern Railroad Company and the Atchison, Topeka and Santa Fe Railway Company (by messenger) and on all other parties listed on the Restrictive Service List (by first class mail, postage prepaid, or by more expeditious manner of delivery).

Robert A. Wimbish
Robert A. Wimbish

STB

FD

32760

2-28-96

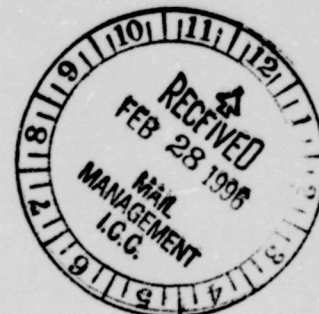
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Part of
Public Record

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 CORPORATION AND THE DENVER AND
RIO GRANDE WESTERN RAILROAD COMPANY

CHEMICAL MANUFACTURERS ASSOCIATION'S
INTERROGATORIES TO APPLICANTS
AND REQUESTS FOR PRODUCTION OF DOCUMENTS

INTERROGATORIES

1. In accordance with Mr. Peterson's undertaking at his deposition session on February 6, 1996 to provide more detailed information concerning a list of locations proffered by the undersigned counsel (and listed on what was marked as Peterson deposition Exhibit 1), please state, for each of the locations listed on Attachment A hereto (an identical copy of said deposition exhibit) (a) whether the location, or any portion of the real estate at the location is considered by Applicants to be a "2-to-1" point as that term has commonly been used in this proceeding (i.e., a point, or facility at a point, that would following the proposed merger be open to service by the Burlington Northern Santa Fe under the trackage rights agreement dated 25th September 1996, as amended); (b) if a portion of the real estate at the

location is considered by Applicants to be a 2-to-1 point, which portion is so considered; and (c) if the location or a portion of the real estate there is not considered by Applicants to be a 2-to-1 point, the specific reason(s) why it was not so considered, including what specific criterion or criteria for inclusion in the Applicants' list of 2-to-1 points the point failed to meet.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Please provide all notes, memoranda, or other documents whether in paper form or stored on a computer or in other electronic form, that refer to the locations listed on Attachment A and were prepared as part of Applicant's work to delineate which locations or points (or portions of locations or points) are 2-to-1 points as that term is defined above.
2. Please provide a copy of the study of the feasibility of "build-ins" or "build-outs" conducted by or for applicant Union Pacific and referred to by Mr. Peterson in his deposition session on February 5, 1996.
3. Please provide all documents, maintained by Applicants' chemical marketing personnel or chemical business units, which discuss, or reflect non-privileged discussions or communications, either within an Applicant railroad or with a shipper, regarding efforts by shippers of chemicals (as the term chemicals is used in the Peterson verified statement in this proceeding) (a) to use any form of source competition or threatened source competition in bargaining with the Applicant railroads for rates or service, (b) to use the threat of a build-in or build-out in bargaining with the Applicant railroads for rates or service, (c) to use modal

competition, or the threat of modal competition, in bargaining with the Applicant railroads
for rates or service.

Respectfully submitted,



Scott N. Stone
Patton Boggs, L.L.P.
2550 M Street, N.W.
Washington, DC 20037
(202) 457-6000

Outside counsel for Chemical
Manufacturers Association

Thomas E. Schick
Chemical Manufacturers Association
Commonwealth Tower
1300 Wilson Boulevard
Arlington, VA 22209
(703) 741-5172

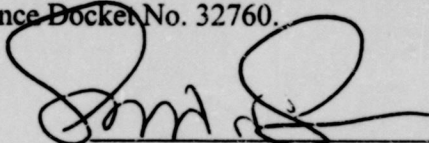
Inside counsel for Chemical
Manufacturers Association

Location		
<u>SPLC</u>	<u>Station Name</u>	<u>State</u>
(1)	(2)	(3)
392918	NILWOOD	IL
569916	PLEASANT HILL	MO
574192	DELTA	MO
577211	ILLMO	MO
612143	PULASKI	AR
612149	MAUMELLE	AR
619600	TEXARKANA	AR
665298	BIG SANDY	TX
669754	EAST WACO	TX
682482	HEARNE	TX
682840	BRYAN	TX
684782	PIERCE JCT	TX
685500	AUSTIN	TX
689980	MCALLEN	TX
874670	WOODLAND	CA
874761	CANNON	CA
875659	FRENCH CAMP	CA
875670	LATHROP	CA
875694	TRACY	CA
875696	LYOTH	CA
876125	MCAVOY	CA
876126	NICHOLS	CA
883615	WALNUT	CA
883619	CITY OF INDUSTR	CA
883658	PARAMOUNT	CA

Counsel exhibit prepared by Scott N. Stone for Chemical Manufacturers Association.

CERTIFICATE OF SERVICE

I hereby certify that copies of Chemical Manufacturers Association's Interrogatories to Applicants and Requests for the Production of Documents have been served this 26th day of February, 1996, by fax to counsel for Applicants and by first-class mail, postage prepaid on all persons on the Restricted Service List in Finance Docket No. 32760.



Scott N. Stone
Patton Boggs, L.L.P.
2550 M Street, N.W.
Washington, DC 20037
(202) 457-6000

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2-26-96

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Item No. _____

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BEFORE THE
CE TRANSPORTATION BOARD

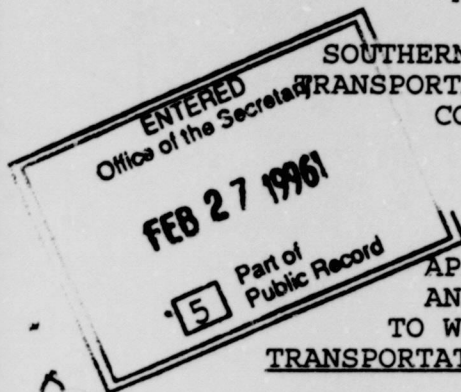
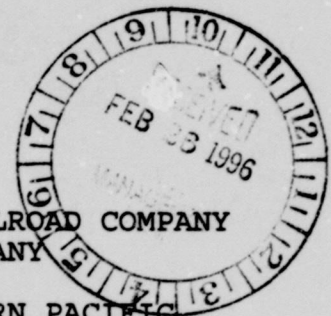
UP/SP-137

Finance Docket No. 32750

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' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO WISCONSIN CENTRAL LTD., WISCONSIN CENTRAL
TRANSPORTATION CORPORATION, AND FOX VALLEY & WESTERN LTD.

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Washington, D.C. 20036
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Southern Pacific Transportation
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Railway Company, SPCSL Corp. and
The Denver and Rio Grande
Western Railroad Company

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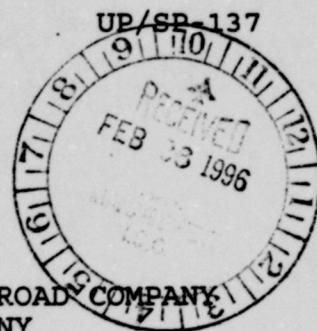
Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

February 26, 1996

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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



APPLICANTS' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO WISCONSIN CENTRAL LTD., WISCONSIN CENTRAL
TRANSPORTATION CORPORATION, AND FOX VALLEY & WESTERN LTD.

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, and
the Discovery Guidelines entered in this proceeding on
December 7, 1995, Applicants UPC, UPRR, MPRR, SPR, SPT, SSW,
SPCSL and DRGW direct the following interrogatories and
document requests to Wisconsin Central Ltd., Wisconsin Central
Transportation Corporation, and Fox Valley & Western Ltd.
("WC").

Responses should be served as soon as possible, and
in no event later than 15 days from the date of service
hereof. WC is requested to contact the undersigned promptly
to discuss any objections or questions regarding these
requests with a view to resolving any disputes or issues of
interpretation informally and expeditiously.

DEFINITIONS AND INSTRUCTIONS

I. "Applicants" means UPC, UPRR, MPRR, SPR, SPT,
SSW, SPCSL and DRGW.

II. "Board" means the Surface Transportation Board.

III. "BN/Santa Fe" means the Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company.

IV. "The BN/Santa Fe Settlement Agreement" means the agreement between UP and SP and BN/Santa Fe dated September 25, 1994, as supplemented by the November 18, 1995 agreement between those parties.

V. "The BN/Santa Fe Settlement Agreement Lines" means the lines that BN/Santa Fe will receive trackage rights over or purchase under the BN/Santa Fe Settlement Agreement.

VI. "CNW" means Chicago and North Western Railway Company.

VII. "DRGW" means The Denver and Rio Grande Western Railroad Company.

VIII. "Document" means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including but not limited to intra-company communications, correspondence, telegrams, memoranda, contracts, instruments, studies, projections, forecasts, summaries or records of conversations or interviews, minutes or records of conferences or meetings, records or reports of negotiations, diaries, calendars, photographs, maps, tape recordings, computer tapes, computer disks, other computer

storage devices, computer programs, computer printouts, models, statistical statements, graphs, charts, diagrams, plans, drawings, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, financial statements, accounting records, worksheets, drafts, revisions of drafts, and original or preliminary notes.

Further, the term "document" includes

- (a) both basic records and summaries of such records (including computer runs);
- (b) both original versions and copies that differ in any respect from original versions; and
- (c) both documents in the possession, custody or control of WC and documents in the possession, custody or control of consultants or others who have assisted WC in connection with this proceeding.

IX. "The IC Settlement Agreement" means the agreement between UP and SP and Illinois Central Railroad Company dated January 30, 1996.

X. "Identify," when used in relation to an individual, corporation, partnership or other entity, means to state the name, address and telephone number thereof.

"Identify," when used in relation to a document, means to

- (a) state the nature of the document (e.g., letter, memorandum, etc.);

(b) state the author, each addressee, each recipient, date, number of pages, and title of the document; and

(c) provide a brief description of the contents of the document.

XI. "MPRR" means Missouri Pacific Railroad Company.

XII. "Produce" means to make legible, complete and exact copies of responsive documents and send them by expedited delivery to the undersigned counsel. The originals of responsive documents should be retained in the files of WC, its counsel, or the consultants or others who have assisted WC in connection with this proceeding and have documents in their possession, and made available if requested. Applicants will pay all reasonable costs for duplication and expedited delivery of documents to their attorneys.

XIII. "Relating to" a subject means referring to, discussing, describing, dealing with, consisting of, or constituting, in whole or in part, the subject.

XIV. "SP" means SPT, SSW, SPCSL and DRGW.

XV. "SPCSL" means SPCSL Corp.

XVI. "SPR" means Southern Pacific Rail Corporation.

XVII. "SPT" means Southern Pacific Transportation Company.

XVIII. "SSW" means St. Louis Southwestern Railway Company.

XIX. "Shipper" means any user of rail services, including but not limited to a consignor, a consignee, and a receiver.

XX. "Southern Pacific" means SPR and SP.

XXI. "This proceeding" means Finance Docket No. 32760 and all subdockets and related dockets.

XXII. "UP" means UPRR and MPRR, including the former CNW.

XXIII. "UPC" means Union Pacific Corporation.

XXIV. "UPRR" means Union Pacific Railroad Company.

XXV. "The UP/SP merger" means the transactions proposed in this proceeding, including all related applications.

XXVI. "Union Pacific" means UP and UPC.

XXVII. "The Utah Railway Settlement Agreement" means the agreement between UP and SP and Utah Railway Company dated January 17, 1996.

XXVIII. "WC" means Wisconsin Central Ltd., Wisconsin Central Transportation Corporation, and Fox Valley & Western Ltd.

XXIX. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

XXX. Documents need not be produced if they have been produced by Applicants in this proceeding.

XXXI. Produce a privilege log in accordance with the guidelines established at the December 20, 1995 discovery conference (Tr., pp. 313-14).

XXXII. References to railroads, shippers, consultants or companies (including WC) include affiliates, subsidiaries, officers, directors, employees, attorneys, agents and representatives thereof.

XXXIII. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

XXXIV. Unless otherwise specified, these requests cover the period January 1, 1993 and thereafter.

INTERROGATORIES

1. Identify and describe in detail any agreements that WC has with any other party to this proceeding regarding positions or actions to be taken in this proceeding. Routine procedural agreements, such as agreements concerning the order of questioning at depositions or the avoidance of duplicative discovery, need not be identified. If WC contends that any such agreement is privileged, state the parties to, date of, and general subject of the agreement.

DOCUMENT REQUESTS

1. Produce no later than April 1, 1996 (a) all workpapers underlying any submission that WC makes on or about March 29, 1996 in this proceeding, and (b) all publications,

written testimony and transcripts of any witnesses presenting testimony for WC on or about March 29, 1996 in this proceeding.

2. Produce all documents relating to benefits or efficiencies that will result from the UP/SP merger.

3. Produce all documents relating to potential traffic impacts of the UP/SP merger.

4. Produce all documents relating to competitive impacts of the UP/SP merger, including but not limited to effects on (a) market shares, (b) source or destination competition, (c) transloading options, or (d) build-in options.

5. Produce all documents relating to the BN/Santa Fe Settlement Agreement.

6. Produce all documents relating to the IC Settlement Agreement.

7. Produce all documents relating to the Utah Railway Settlement Agreement.

8. Produce all documents relating to conditions that might be imposed on approval of the UP/SP merger.

9. Produce all studies, reports or analyses relating to actual or potential competition between UP and SP.

10. Produce all studies, reports or analyses relating to competition between single-line and interline rail transportation.

11. Produce all studies, reports or analyses relating to the benefits of any prior rail merger or rail mergers generally.

12. Produce all studies, reports or analyses relating to the financial position or prospects of SP.

13. Produce all communications with other parties to this proceeding relating to the UP/SP merger or the BN/Santa Fe Settlement Agreement, and all documents relating to such communications. This request excludes documents already served on Applicants.

14. Produce all presentations, solicitation packages, form verified statements, or other materials used to seek support from shippers, public officials, railroads or others for the position of WC or any other party in this proceeding.

15. Produce all presentations, letters, memoranda, white papers or other documents sent or given to DOJ, DOT, any state Governor's, Attorney General's or Public Utilities Commission's (or similar agency's) office, any Mexican government official, any other government official, any security analyst, any bond rating agency, any consultant, any financial advisor or analyst, any investment banker, any chamber of commerce, or any shipper or trade organization relating to the UP/SP merger.

16. Produce all notes of any meetings with DOJ, DOT, any state Governor's, Attorney General's or Public Utilities Commission's (or similar agency's) office, any Mexican government official, any other government official, any security analyst, any bond rating agency, any consultant, any financial advisor or analyst, any investment banker, any chamber of commerce, or any shipper or trade organization relating to the UP/SP merger.

17. Produce all documents relating to shipper surveys or interviews concerning (a) the UP/SP merger or any possible conditions to approval of the merger, or (b) the quality of service or competitiveness of any railroad.

18. Produce all documents relating to the price to be paid for, or the value of, any UP or SP lines that might be sold as a condition to approval of, or otherwise in connection with, the UP/SP merger.

19. Produce all documents relating to trackage rights compensation for any of the BN/Santa Fe Settlement Agreement Lines or any other line of UP or SP that might be the subject of a proposed trackage rights condition in this proceeding.

20. Produce all documents relating to actual or estimated maintenance-and-operating costs, taxes and return-to-capital costs with respect to any of the BN/Santa Fe Settlement Agreement Lines or any other line of UP or SP that

might be the subject of a proposed trackage rights condition in this proceeding.

21. Produce all documents relating to any agreement or understanding that WC has with any other party to this proceeding regarding positions or actions to be taken in this proceeding. Documents relating to routine procedural agreements, such as agreements concerning the order of questioning at depositions or the avoidance of duplicative discovery, need not be produced.

22. Produce all presentations to, and minutes of, the board of directors of WC relating to the UP/SP merger or conditions to be sought by any party in this proceeding.

23. Produce all studies, reports or analyses relating to collusion among competing railroads or the risk thereof.

24. Produce all studies, reports or analyses relating to the terms for or effectiveness of trackage rights.

25. Produce all WC business plans or strategic plans.

26. Produce all computerized 100% WC traffic data for 1994, containing at least the fields listed in Attachment A hereto, a Rule 11 or other rebilling indicator, gross freight revenue, and freight revenue net of allowances, refunds, discounts or other revenue offsets, together with documentation explaining the record layout and the content of

the fields. To the extent particular items are unavailable in machine-readable form, (a) provide them in hard-copy form, and (b) provide any similar machine-readable data.

27. Produce all documents relating to WC's financial support for, establishment of, participation in, or relationship with the "Coalition for Competitive Rail Transportation."

28. Produce all documents relating to discussions between WC and Applicants in August or September 1995 concerning possible line sales, trackage rights or other agreements in regard to this proceeding. Except to the extent that Applicants may be required to do so, WC need not produce documents depicting the back-and-forth of negotiations.

29. Produce all documents relating to the acquisition by any person of all or any portion of SP or WC's interest in such an acquisition.

30. Produce all documents relating to possible operations by WC over, or capital investments by WC in, lines of UP or SP.

31. Produce each current haulage or trackage rights agreement in effect between WC and any other railroad.

32. Produce all studies, reports or analyses relating to competition in freight transportation services for shipments to or from West Coast ports.

33. Produce all public statements by WC's President or other top executives relating to the UP/SP merger.

34. Produce WC's annual reports to stockholders for years 1991 through 1995.

35. Produce all documents relating to any possible breakup or bankruptcy of SP.

36. Produce all documents relating to WC's reasons for opposing the UP/SP merger or seeking to acquire any portion of SP in connection with the UP/SP merger.

Respectfully submitted,

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

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

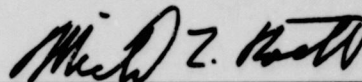
February 26, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 26th day of February, 1996, I caused a copy of the foregoing document to be served by overnight mail on Janet H. Gilbert, counsel for Wisconsin Central Ltd., Wisconsin Central Transportation Corporation, and Fox Valley & Western Ltd., at 6250 N. Rivert Road, Suite 9000, Rosemont, IL 60018, and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760, and on

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

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



Michael L. Rosenthal

Attachment A

Commodity Code (STCC)
Hazardous Commodity Code
Shipper Name
Origin City
Origin State
Origin SPLC
Origin FSAC
Receiver Name
Destination City
Destination State
Destination SPLC
Destination FSAC
Car Initial
Car Number
Waybill Number
Waybill Date (yy/mm/dd)
Type Move Indicator
AAR Car Type
Origin Railroad
Railroad From
Railroad To
Destination Railroad
On Junction
Off Junction
Net Tons
Freight Revenue
Unit Count
Carload Count
Trailer/Container Count
First Railroad - RR Code
First Railroad - Alpha
Interchange Received Junction #1
First Railroad - Split Revenue
First Railroad Distance
Second Railroad - RR Code
Second Railroad - Alpha
Interchange Received Junction #2
Second Railroad - Split Revenue
Second Railroad Distance
Third Railroad - RR Code
Third Railroad - Alpha
Interchange Received Junction #3
Third Railroad - Split Revenue
Third Railroad Distance
Fourth Railroad - RR Code
Fourth Railroad - Alpha
Interchange Received Junction #4
Fourth Railroad - Split Revenue
Fourth Railroad Distance
Fifth Railroad - RR Code

Fifth Railroad - Alpha
Interchange Received Junction #5
Fifth Railroad - Split Revenue
Fifth Railroad Distance
Sixth Railroad - RR Code
Sixth Railroad - Alpha
Interchange Received Junction #6
Sixth Railroad - Split Revenue
Sixth Railroad Distance
Seventh Railroad - RR Code
Seventh Railroad - Alpha
Interchange Received Junction #7
Seventh Railroad - Split Revenue
Seventh Railroad Distance
Eighth Railroad - RR Code
Eighth Railroad - Alpha
Interchange Received Junction #8
Eighth Railroad - Split Revenue
Eighth Railroad Distance
Ninth Railroad - RR Code
Ninth Railroad - Alpha
Interchange Received Junction #9
Ninth Railroad - Split Revenue
Ninth Railroad Distance
Tenth Railroad - RR Code
Tenth Railroad - Alpha
Interchange Received Junction #10
Tenth Railroad - Split Revenue
Tenth Railroad Distance
Eleventh Railroad - RR Code
Eleventh Railroad - Alpha
Interchange Received Junction #11
Eleventh Railroad - Split Revenue
Eleventh Railroad Distance
Car Ownership Code
Mechanical Designation
Tare Weight
Railroad System Revenue
Railroad System Miles
Railroad Ton Miles

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Item No. WILLIAM CUTLER & PICKERING

STREET, N.W.
D.C. 20037-1420

Page Count 5

A. STEPHEN HUT, JR.
DIRECT LINE (202) 663-6235

Feb 27 3 16

202) 663-6000
202) 663-6363

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

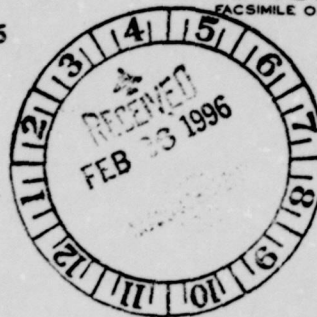
RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 231-0903
FACSIMILE 011 (322) 230-4322

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

February 26, 1996

VIA HAND DELIVERY

Mr. Vernon A. Williams
Interstate Commerce Commission
Case Control Branch
Room 1324
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

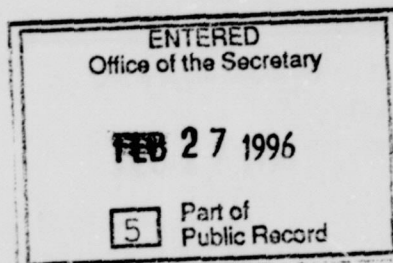


Re: Finance Docket No. 32760, Union Pacific Corporation, et al. -- Control and Merger -- Southern Pacific Corporation, et al.

Dear Secretary Williams:

Enclosed for filing in the above-captioned case are:
(1) one original and twenty copies of Consolidated Rail Corporation's First Request For Inspection of Applicants' Property, designated as document CR-13; and (2) one original and twenty copies of Consolidated Rail Corporation's First Request to Burlington Northern Railroad Company, Atchison, Topeka and Santa Fe Railway Company, and Burlington Northern Santa Fe Corporation For Inspection of Property, designated as document CR-14.

Also enclosed is a 3.5-inch WordPerfect 5.1 disk containing the texts of CR-13 and of CR-14.



Enclosures

Sincerely,

A. Stephen Hut, Jr.

A. Stephen Hut, Jr.

Attorney for Consolidated
Rail Corporation

ENTERED
Office of the Secretary

FEB 27 1996

5 Part of
Public Record

BEFORE THE
SURFACE TRANSPORTATION BOARD

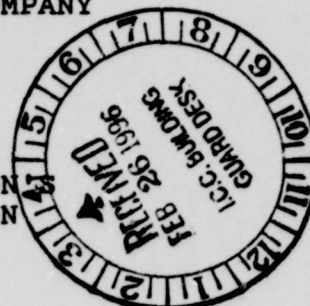
Finance Docket No. 32760

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

CONSOLIDATED RAIL CORPORATION
FIRST REQUEST FOR INSPECTION
OF APPLICANTS' PROPERTY



Pursuant to 49 C.F.R. § 1114.30(a)(2) and the Discovery Guidelines entered pursuant to order dated December 5, 1995 ("Discovery Guidelines"), Consolidated Rail Corporation ("Conrail") hereby requests permission to enter the property of Union Pacific Corporation, Union Pacific Railroad Company, and Missouri Pacific Railroad Company, Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company, set forth below for the purpose of inspecting by means of a "hi-rail" vehicle, and measuring, surveying, photographing, testing, or sampling the property or

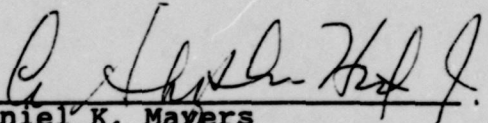
any designated object or operation thereon, during daylight business hours at the earliest possible opportunity and, in any event, on or before March 12, 1996.

Conrail hereby incorporates by reference the Definitions and Instructions contained in its First Request for Production of Documents and First Set of Interrogatories to Applicants (designated as document CR-4), served December 22, 1995, and its Second Set of Interrogatories and Second Request for Production of Documents to Applicants (designated as document CR-8), served February 2, 1996, as if fully set forth herein.

Applicants' Property Identified for Inspection

1. The SP line between Houston, Texas and St. Louis, Missouri.
2. The SP line between Houston, Texas and New Orleans, Louisiana via Dayton and Beaumont, Texas.
3. The SP terminal facility at Dayton, Texas.
4. The SP and UP lines between Houston, Texas and Brownsville, Texas.
5. The SP line between Houston, Texas and El Paso, Texas via San Antonio and Sierra Blanca, Texas.

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


Daniel K. Mayers
William J. Kolasky, Jr.
A. Stephen Hut, Jr.
Steven P. Finizio
Alex E. Rogers
WILMER, CUTLER & PICKERING
2445 M Street, N.W.
Washington, D.C. 20037

February 26, 1996

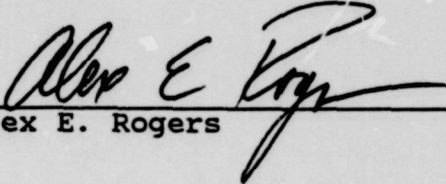
CERTIFICATE OF SERVICE

I certify that on this 26th day of February, 1996, a copy of the foregoing Consolidated Rail Corporation's First Request For Inspection of Applicants' Property was served by hand delivery to:

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

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

and served by first-class mail, postage pre-paid, to all parties on the Restricted Service List.



Alex E. Rogers

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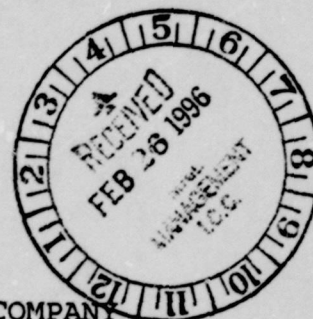
Item No. _____

Page Count 11

Feb 23 1996

UCC-2

RE THE
TRANSPORTATION BOARD



FINANCE DOCKET NO. 32760

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

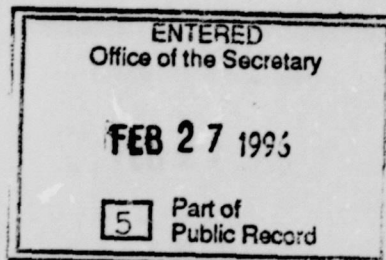
UNION CARBIDE CORPORATION'S
FIRST REQUEST FOR ADMISSIONS ON
THE APPLICANTS

Martin W. Bercovici
Douglas J. Behr
Arthur S. Garrett, III

KELLER AND HECKMAN
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Tel: (202) 434-4100
Fax: (202) 434-4646

Attorneys for Union Carbide
Corporation

February 23, 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

UNION CARBIDE CORPORATION'S
FIRST REQUEST FOR ADMISSIONS
ON THE APPLICANTS

Pursuant to 49 C.F.R. §§ 1114.21 and 1114.27 and the
Discovery Guidelines entered pursuant to order dated December 5,
1995 ("Discovery Guidelines"), Union Carbide Corporation ("UC")
directs the following requests for admissions to Union Pacific
Corporation, Union Pacific Railroad Company and Missouri Pacific
Railroad Company and to Southern Pacific Rail Corporation,
Southern Pacific Transportation Company, St. Louis Southwestern
Railway Company, SPCSL Corp., and The Denver and Rio Grande
Western Railroad Company, collectively referred to as
"Applicants."

THE RAILROAD ENTITIES

1. 'Applicants' means Union Pacific Corporation, Union
Pacific Railroad Company, Missouri Pacific Railroad Company,
Southern Pacific Rail Corporation, Southern Pacific

Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company, individually and collectively, together with any parent, subsidiary or affiliated corporation, partnership or other legal entity, including, but not limited to UP Acquisition Corporation, Union Pacific Holdings Corp., Chicago & North Western Railway Company, Philip F. Anschutz and The Anschutz Corporation.

2. 'BN' means the Burlington Northern Railroad Company.
3. 'BNI' means Burlington Northern Inc.
4. 'CNW' means Chicago and North Western Railway Company.
5. 'BNSF' means BNSF Corporation or the entity resulting from the merger of BNI and BN with Santa Fe Pacific Corporation and The Atchison, Topeka, and Santa Fe Railway Company, and includes all parents, subsidiaries, or affiliated corporations of any of the foregoing entities.
6. 'DRGW' means The Denver and Rio Grande Western Railroad Company.
7. 'KCS' means The Kansas City Southern Railway Company.
8. 'Santa Fe' means The Atchison, Topeka and Santa Fe Railway Company.
9. 'SFP' means Santa Fe Pacific Corporation.
10. 'SLSRC' means St. Louis Southwestern Railway Company.
11. 'SPRC' means Southern Pacific Rail Corporation.
12. 'SPTC' means Southern Pacific Transportation Company.
13. 'SPCSL' means SPCSL Corp.

14. 'SP' means all SPRC entities individually and collectively, i.e., Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company, together with any parent, subsidiary or affiliated corporation, partnership or other person or legal entity, including, but not limited to Philip F. Anschutz and The Anschutz Corporation.

15. 'UPC' means Union Pacific Corporation.

16. 'UPRC' means Union Pacific Railroad Company.

17. 'MPRC' means Missouri Pacific Railroad Company.

18. 'UP' means all UPC entities individually and collectively, i.e., Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company, together with any parent, subsidiary or affiliated corporation, partnership or other legal entity, including, but not limited to UP Acquisition Corporation, Union Pacific Holdings Corp., and Chicago & North Western Railway Company.

19. 'UP Acquisition' means UP Acquisition Corporation, an indirect wholly-owned subsidiary of Union Pacific Corporation.

DEFINITIONS

1. The 'Agreement and Plan of Merger' means the August 3, 1995 Agreement set forth at page 1 et seq. of the Applicants' Railroad Merger Application, Volume 7 (UP/SP-28 at 1).

2. 'BNSF Agreement' refers to the agreement between UP and SP and BNSF relating to the proposed UP/SP merger, including the Supplemental Agreement, set forth at p. 16 et seq. of the Applicants' Railroad Merger Application, Volume 5 (UP/SP-26 at 16 et seq.).

3. 'Commission' or 'ICC' means the Interstate Commerce Commission and also includes the Department of Transportation's Surface Transportation Board and any other successor agency or department charged by Congress with authority over railroad mergers and combinations.

4. 'Competition' includes both intramodal and intermodal competition and, where applicable, includes source competition.

5. 'Consolidated System' means the integrated rail system after the Transaction (as defined below), or to the entity created by the merger proposed by Applicants.

6. 'Document' means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including: intra-company communications; electronic mail; correspondence; telegrams; memoranda, contracts; instruments; studies; projections; forecasts; summaries, notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models;

statistical statements; graphs; charts; diagrams; plans; drawings; brochures; pamphlets; news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term 'document' includes:

- a. both basic records and summaries of such records (including computer runs);
- b. both original versions and copies that differ in any respect from original versions, including notes; and
- c. both documents in the possession, custody, or control of Applicants and documents in the possession, custody, or control of consultants or others who have assisted Applicants in connection with the Transaction.

7. 'Including' means including without limitation.

8. 'Person' means an individual, company, partnership, or other entity of any kind.

9. 'Plastic(s) Resin(s)' means each and every commodity that bears any of the following STCC codes: 2821138, Acrylonitrile-butadiene-styrene, other than liquid; 2821139, Polypropylene, other than liquid; 2821140, Polystyrene, other than liquid; 2821141, Polyvinyl chloride, other than liquid; 2821142, polyethylene, other than liquid; 2821144, plastics, resins or gums, other than liquid; 2821148, styrene-acrylonitrile, other than liquid; 2821150 Styrene-butadiene copolymer, other than liquid; 2821156, polyethylene

terephthalate; and 2821163, plastic flakes, granules, lumps, pellets, powder or solid mass, other than expanded.

10. 'Provide' (except where the word is used with respect to providing service or equipment) or 'describe' means to supply a complete narrative response.

11. 'Rates' include contract rates and tariff rates.

12. 'Relate to and relating to' have the broadest meaning according to them and include but are not limited to the following: directly or indirectly describing, setting forth, discussing, commenting upon, analyzing, supporting, contradicting, referring to, constituting, concerning or connected in any way with the subject in question or any part thereof.

13. 'Revenue share' means any share of revenue on traffic interchanged with another railroad, including contractual revenue shares, joint rates, proportional rates, and multiple independent factor rates.

14. 'Shipper' means a user of rail services, including a consignor, a consignee, or a receiver.

15. 'STCC' means Standard Transportation Commodity Code.

16. 'Studies, analyses, and reports' include studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.

17. 'Transaction' means the actions for which approval is sought by the Applicants, as described at UP/SP-1 including

- a. the acquisition of control of SPR by UP Acquisition;
- b. the merger of SPR into UPRC; and
- c. the resulting common control of UP and SP by UPC or any one of such actions or any combination of such actions, and any related transactions.

18. 'Western Class I Railroad' means, in addition to Applicants, any of the following: BN, Santa FE, CNW, Illinois Central Railroad Company, KCS, and Soo Line Railroad Company.

19. References to railroads, shippers, and other companies (including Applicants) include: parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

20. Unless otherwise specified, all uses of the conjunctive include the disjunctive and vice versa, and words in the singular include the plural and vice versa.

INSTRUCTIONS

1. Unless otherwise specified, these discovery requests cover the period beginning January 1, 1993, and ending with the date of response.

2. Applicants should set forth in detail all reasons why they cannot admit any request and shall fairly meet the substance of the requested admission.

3. When good faith, the Discovery Guidelines, and/or other applicable rules or law require that Applicants qualify their response to a request or deny only a part of the requested admission, Applicants shall specify and admit so much of the request as is true and qualify and/or deny the remainder, as appropriate.

4. Applicants should not respond that lack of information or knowledge is the reason for failure to admit or deny any request, unless they previously have made a reasonable but unsuccessful inquiry for the purpose of obtaining sufficient information to respond to the request.

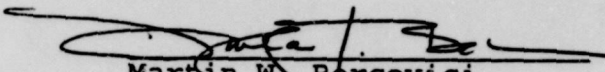
5. Applicants should not deny any request for admission on the ground that the request relates to, or constitutes, an issue for determination at or by hearing.

REQUESTED ADMISSIONS

For the purposes of this proceeding only, UC requests that SP admit the following statement to be true:

1. That SP expressed an interest as late as 1994 in re-initiating discussions with Union Carbide Corporation concerning the possibility of a "build-in" off of its Victoria, Texas/Port Lavaca, Texas spur to the Union Carbide chemical plant in North Seadrift, Texas.

Respectfully submitted,



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February 23, 1996

Attorneys for Union Carbide
Corporation

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Item No. _____

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Feb # 320

BEFORE THE
ACE 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

ENTERED
Office of the Secretary

FEB 2 / 1996

5 Part of
Public Record

APPLICANTS' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO WISCONSIN POWER & LIGHT COMPANY AND
WISCONSIN PUBLIC SERVICE

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Railway Company, SPCSL Corp. and
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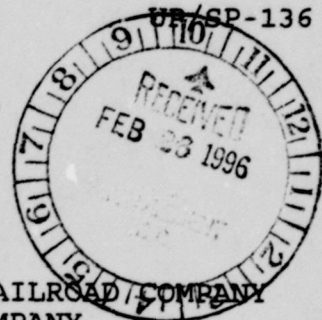
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Attorneys for Union Pacific
Corporation, Union Pacific
Railroad Company and Missouri
Pacific Railroad Company

February 26, 1996

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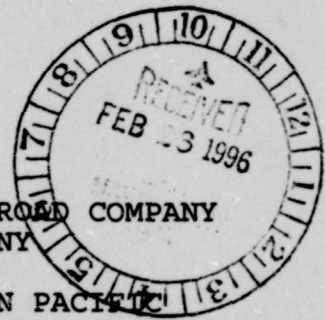
UP/SP-136



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' FIRST SET OF INTERROGATORIES
AND REQUESTS FOR PRODUCTION OF DOCUMENTS
TO WISCONSIN POWER & LIGHT COMPANY AND
WISCONSIN PUBLIC SERVICE

Pursuant to 49 C.F.R. §§ 1114.26 and 1114.30, and
the Discovery Guidelines entered in this proceeding on
December 7, 1995, Applicants UPC, UPRR, MPRR, SPR, SPT, SSW,
SPCSL and DRGW direct the following interrogatories and
document requests to Wisconsin Power & Light Company and
Wisconsin Public Service ("Wisconsin Power").

Responses should be served as soon as possible, and
in no event later than 15 days from the date of service
hereof. Wisconsin Power is requested to contact the
undersigned promptly to discuss any objections or questions
regarding these requests with a view to resolving any disputes
or issues of interpretation informally and expeditiously.

DEFINITIONS AND INSTRUCTIONS

I. "Applicants" means UPC, UPRR, MPRR, SPR, SPT,
SSW, SPCSL and DRGW.

II. "Board" means the Surface Transportation Board.

III. "BN/Santa Fe" means the Burlington Northern Railroad Company and The Atchison, Topeka and Santa Fe Railway Company.

IV. "The BN/Santa Fe Settlement Agreement" means the agreement between UP and SP and BN/Santa Fe dated September 25, 1994, as supplemented by the November 18, 1995 agreement between those parties.

V. "The BN/Santa Fe Settlement Agreement Lines" means the lines that BN/Santa Fe will receive trackage rights over or purchase under the BN/Santa Fe Settlement Agreement.

VI. "CNW" means Chicago and North Western Railway Company.

VII. "DRGW" means The Denver and Rio Grande Western Railroad Company.

VIII. "Document" means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including but not limited to intra-company communications, correspondence, telegrams, memoranda, contracts, instruments, studies, projections, forecasts, summaries or records of conversations or interviews, minutes or records of conferences or meetings, records or reports of negotiations, diaries, calendars, photographs, maps, tape recordings, computer tapes, computer disks, other computer storage devices, computer programs, computer printouts,

models, statistical statements, graphs, charts, diagrams, plans, drawings, brochures, pamphlets, advertisements, circulars, trade letters, press releases, invoices, receipts, financial statements, accounting records, worksheets, drafts, revisions of drafts, and original or preliminary notes.

Further, the term "document" includes

- (a) both basic records and summaries of such records (including computer runs);
- (b) both original versions and copies that differ in any respect from original versions; and
- (c) both documents in the possession, custody or control of Wisconsin Power and documents in the possession, custody or control of consultants or others who have assisted Wisconsin Power in connection with this proceeding.

IX. "The IC Settlement Agreement" means the agreement between UP and SP and Illinois Central Railroad Company dated January 30, 1996.

X. "Identify," when used in relation to an individual, corporation, partnership or other entity, means to state the name, address and telephone number thereof.

"Identify," when used in relation to a document, means to

- (a) state the nature of the document (e.g., letter, memorandum, etc.);

- (b) state the author, each addressee, each recipient, date, number of pages, and title of the document; and
- (c) provide a brief description of the contents of the document.

XI. "MPRR" means Missouri Pacific Railroad Company.

XII. "Produce" means to make legible, complete and exact copies of responsive documents and send them by expedited delivery to the undersigned counsel. The originals of responsive documents should be retained in the files of Wisconsin Power, its counsel, or the consultants or others who have assisted Wisconsin Power in connection with this proceeding and have documents in their possession, and made available if requested. Applicants will pay all reasonable costs for duplication and expedited delivery of documents to their attorneys.

XIII. "Relating to" a subject means referring to, discussing, describing, dealing with, consisting of, or constituting, in whole or in part, the subject.

XIV. "SP" means SPT, SSW, SPCSL and DRGW.

XV. "SPCSL" means SPCSL Corp.

XVI. "SPR" means Southern Pacific Rail Corporation.

XVII. "SPT" means Southern Pacific Transportation Company.

XVIII. "SSW" means St. Louis Southwestern Railway Company.

XIX. "Shipper" means any user of rail services, including but not limited to a consignor, a consignee, and a receiver.

XX. "Southern Pacific" means SPR and SP.

XXI. "This proceeding" means Finance Docket No. 32760 and all subdockets and related dockets.

XXII. "UP" means UPRR and MPRR, including the former CNW.

XXIII. "UPC" means Union Pacific Corporation.

XXIV. "UPRR" means Union Pacific Railroad Company.

XXV. "The UP/SP merger" means the transactions proposed in this proceeding, including all related applications.

XXVI. "Union Pacific" means UP and UPC.

XXVII. "The Utah Railway Settlement Agreement" means the agreement between UP and SP and Utah Railway Company dated January 17, 1936.

XXVIII. "Wisconsin Power" means Wisconsin Power & Light Company and Wisconsin Public Service.

XXIX. Discovery responses should be supplemented when a supplemental response is required pursuant to 49 C.F.R. § 1114.29.

XXX. Documents need not be produced if they have been produced by Applicants in this proceeding.

XXXI. Produce a privilege log in accordance with the guidelines established at the December 20, 1995 discovery conference (Tr., pp. 313-14).

XXXII. References to railroads, shippers, consultants or companies (including Wisconsin Power) include affiliates, subsidiaries, officers, directors, employees, attorneys, agents and representatives thereof.

XXXIII. All uses of the conjunctive include the disjunctive and vice versa. Words in the singular include the plural and vice versa.

XXXIV. Unless otherwise specified, these requests cover the period January 1, 1993 and thereafter.

INTERROGATORIES

1. Identify and describe in detail any agreements that Wisconsin Power has with any other party to this proceeding regarding positions or actions to be taken in this proceeding. Routine procedural agreements, such as agreements concerning the order of questioning at depositions or the avoidance of duplicative discovery, need not be identified. If Wisconsin Power contends that any such agreement is privileged, state the parties to, date of, and general subject of the agreement.

competition, (c) transloading options, or (d) build-in options.

5. Produce all documents relating to the BN/Santa Fe Settlement Agreement.

6. Produce all documents relating to the IC Settlement Agreement.

7. Produce all documents relating to the Utah Railway Settlement Agreement.

8. Produce all documents relating to conditions that might be imposed on approval of the UP/SP merger.

9. Produce all studies, reports or analyses relating to actual or potential competition between UP and SP.

10. Produce all studies, reports or analyses relating to competition between single-line and interline rail transportation.

11. Produce all studies, reports or analyses relating to the benefits of any prior rail merger or rail mergers generally.

12. Produce all studies, reports or analyses relating to the financial position or prospects of SP.

13. Produce all communications with other parties to this proceeding relating to the UP/SP merger or the BN/Santa Fe Settlement Agreement, and all documents relating to such communications. This request excludes documents already served on Applicants.

14. Produce all presentations, solicitation packages, form verified statements, or other materials used to seek support from shippers, public officials, railroads or others for the position of Wisconsin Power or any other party in this proceeding.

15. Produce all presentations, letters, memoranda, white papers or other documents sent or given to DOJ, DOT, any state Governor's, Attorney General's or Public Utilities Commission's (or similar agency's) office, any Mexican government official, any other government official, any security analyst, any bond rating agency, any consultant, any financial advisor or analyst, any investment banker, any chamber of commerce, or any shipper or trade organization relating to the UP/SP merger.

16. Produce all notes of, or memoranda relating to, any meetings with DOJ, DOT, any state Governor's, Attorney General's or Public Utilities Commission's (or similar agency's) office, any Mexican government official, any other government official, any security analyst, any bond rating agency, any consultant, any financial advisor or analyst, any investment banker, any chamber of commerce, or any shipper or trade organization relating to the UP/SP merger.

17. Produce all documents relating to shipper surveys or interviews concerning (a) the UP/SP merger or any

possible conditions to approval of the merger, or (b) the quality of service or competitiveness of any railroad.

18. Produce all documents relating to the price to be paid for, or the value of, any UP or SP lines that might be sold as a condition to approval of, or otherwise in connection with, the UP/SP merger.

19. Produce all documents relating to trackage rights compensation for any of the BN/Santa Fe Settlement Agreement Lines or any other line of UP or SP that might be the subject of a proposed trackage rights condition in this proceeding.

20. Produce all documents relating to actual or estimated maintenance-and-operating costs, taxes and return-to-capital costs with respect to any of the BN/Santa Fe Settlement Agreement Lines or any other line of UP or SP that might be the subject of a proposed trackage rights condition in this proceeding.

21. Produce all documents relating to any agreement or understanding that Wisconsin Power has with any other party to this proceeding regarding positions or actions to be taken in this proceeding. Documents relating to routine procedural agreements, such as agreements concerning the order of questioning at depositions or the avoidance of duplicative discovery, need not be produced.

22. Produce all presentations to, and minutes of, the board of directors of Wisconsin Power relating to the UP/SP merger or conditions to be sought by any party in this proceeding.

23. Produce all documents in the possession of Wisconsin Power relating to whether Utah and Colorado coal competes with Powder River Basin or Hanna Basin coals, including but not limited to any studies, reports or analyses of the use by utilities of, solicitation by utilities of bids for, or interchangeability in use of, such coals.

24. Produce all studies, reports or analyses relating to collusion among competing railroads or the risk thereof.

25. Produce all studies, reports or analyses relating to the terms for or effectiveness of trackage rights.

26. Produce all documents relating to the effect of the UP/SP merger on coal transportation service, competition or routings to any Wisconsin Power facility.

27. Produce all studies, reports or analyses relating to (a) using a different coal source than is presently used at any Wisconsin Power facility, (b) using a non-coal fuel in lieu of coal at any Wisconsin Power facility, or (c) purchasing power or shifting power generation among facilities as alternatives to consuming coal at any Wisconsin Power facility.

28. Produce all filings made with state utility commissions or state regulatory agencies that discuss sources of fuel.

29. Produce all studies, reports, analyses, compilations, calculations or evaluations of market or competitive impacts of the UP/SP merger or the BN/Santa Fe Settlement, or of trackage rights compensation under the BN/Santa Fe Settlement, prepared by L.E. Peabody & Associates, and all workpapers or other documents relating thereto.

Respectfully submitted,

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

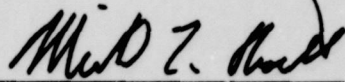
February 26, 1996

CERTIFICATE OF SERVICE

I, Michael L. Rosenthal, certify that, on this 26th day of February, 1996, I caused a copy of the foregoing document to be served by hand on C. Michael Loftus, counsel for Wisconsin Power & Light and Wisconsin Public Service Corporation, at Slover & Loftus, 1224 Seventeenth Street, N.W., Washington, D.C. 20036, and by first-class mail, postage prepaid, or by a more expeditious manner of delivery on all parties appearing on the restricted service list established pursuant to paragraph 9 of the Discovery Guidelines in Finance Docket No. 32760, and on

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

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



Michael L. Rosenthal

STB FD 32760

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SPI - 6

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760

Finance Docket No. 32760

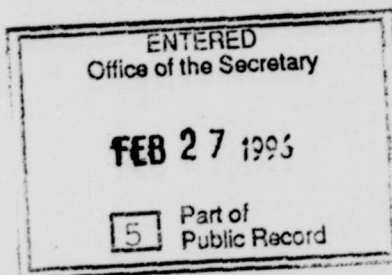


UNION PACIFIC CORPOPATION, UNION PACIFIC RAILROAD COMPANY
AND MISSOURI PACIFIC RAILROAD COMPANY

-- 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

THE SOCIETY OF THE PLASTICS INDUSTRY, INC.'S
SECOND SET OF INTERROGATORIES AND DATA REQUESTS TO APPLICANTS



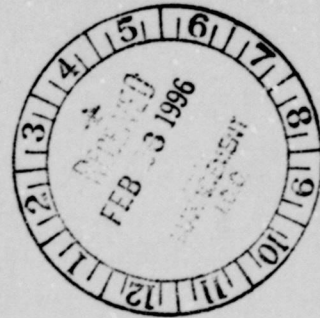
Martin W. Bercovici
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Washington, D.C. 20001
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Attorneys for The Society
of the Plastics
Industry, Inc.

bruary 23, 1996

- BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760



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

**THE SOCIETY OF THE PLASTICS INDUSTRY, INC.'S
SECOND SET OF INTERROGATORIES AND DATA REQUESTS TO APPLICANTS**

Pursuant to 49 C.F.R. §§ 1114.21 - 1114.31 and the Discovery Guidelines entered pursuant to order dated December 5, 1995 ("Discovery Guidelines"), The Society of the Plastics Industry, Inc. ("SPI") directs the following interrogatories and data requests to Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company and to Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company, collectively referred to as "Applicants."

THE RAILROAD ENTITIES

1. 'Applicants' means Union Pacific Corporation, Union Pacific Railroad Company, Missouri Pacific Railroad Company,

Southern Pacific Rail Corporation, Southern Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp., and The Denver and Rio Grande Western Railroad Company, individually and collectively, together with any parent, subsidiary or affiliated corporation, partnership or other legal entity, including, but not limited to UP Acquisition Corporation, Union Pacific Holdings Corp., Chicago & North Western Railway Company, Philip F. Anschutz and The Anschutz Corporation.

2. 'BN' means the Burlington Northern Railroad Company.
3. 'BNI' means Burlington Northern Inc.
4. 'CNW' means Chicago and North Western Railway Company.
5. 'BNSF' means BNSF Corporation or the entity resulting from the merger of BNI and BN with Santa Fe Pacific Corporation and Santa Fe.
6. 'DRGW' means The Denver and Rio Grande Western Railroad Company.
7. 'KCS' means The Kansas City Southern Railway Company.
8. 'Santa Fe' means The Atchison, Topeka and Santa Fe Railway Company.
9. 'SFP' means Santa Fe Pacific Corporation.
10. 'SLSRC' means St. Louis Southwestern Railway Company.
11. 'SPRC' means Southern Pacific Rail Corporation.
12. 'SPTC' means Southern Pacific Transportation Company.
13. 'SPCSL' means SPCSL Corp.
14. 'SP' means all SPRC entities individually and collectively, i.e., Southern Pacific Rail Corporation, Southern

Pacific Transportation Company, St. Louis Southwestern Railway Company, SPCSL Corp. and The Denver and Rio Grande Western Railroad Company, together with any parent, subsidiary or affiliated corporation, partnership or other person or legal entity, including, but not limited to Philip F. Anschutz and The Anschutz Corporation.

15. 'UPC' means Union Pacific Corporation.
16. 'UPRC' means Union Pacific Railroad Company.
17. 'MPRC' means Missouri Pacific Railroad Company.
18. 'UP' means all UPC entities individually and collectively, i.e., Union Pacific Corporation, Union Pacific Railroad Company and Missouri Pacific Railroad Company, together with any parent, subsidiary or affiliated corporation, partnership or other legal entity, including, but not limited to UP Acquisition Corporation, Union Pacific Holdings Corp., and Chicago & North Western Railway Company.
19. 'UP Acquisition' means UP Acquisition Corporation, an indirect wholly-owned subsidiary of Union Pacific Corporation.

DEFINITIONS

1. The 'Agreement and Plan of Merger' means the August 3, 1995 Agreement set forth at page 1 et seq. of the Applicants' Railroad Merger Application, Volume 7 (UP/SP-28 at 1).
2. 'BN/SF Agreement' refers to the agreement between UP and SP and BNSF relating to the proposed UP/SP merger, including the Supplemental Agreement, set forth at p. 16 et seq. of the

Applicants' Railroad Merger Application, Volume 5 (UP/SP-26 at 16 et seq.).

3. 'Commission' or 'ICC' means the Interstate Commerce Commission and also includes the Department of Transportation's Surface Transportation Board and any other successor agency or department charged by Congress with authority over railroad mergers and combinations.

4. 'Competition' includes both intramodal and intermodal competition and, where applicable, includes source competition.

5. 'Consolidated System' means the integrated rail system after the Transaction (as defined below), or to the entity created by the merger proposed by Applicants.

6. 'Describe' when used in relation to a discussion, meeting or other communication means to identify the participants, the date or time period when the communication took place, the location of the participants at the time of the communication and a detailed summary of the content of the communication.

7. 'Document' means any writing or other compilation of information, whether printed, typed, handwritten, recorded, or produced or reproduced by any other process, including: intra-company communications; electronic mail; correspondence; telegrams; memoranda, contracts; instruments; studies; projections; forecasts; summaries, notes, or records of conversations or interviews; minutes, summaries, notes, or records of conferences or meetings; records or reports of

negotiations; diaries; calendars; photographs; maps; tape recordings; computer tapes; computer disks; other computer storage devices; computer programs; computer printouts; models; statistical statements; graphs; charts; diagrams; plans; drawings brochures; pamphlets; news articles; reports; advertisements; circulars; trade letters; press releases; invoices; receipts; financial statements; accounting records; and workpapers and worksheets. Further, the term 'document' includes:

a. both basic records and summaries of such records (including computer runs);

b. both original versions and copies that differ in any respect from original versions, including notes; and

c. both documents in the possession, custody, or control of Applicants and documents in the possession, custody, or control of consultants or others who have assisted Applicants in connection with the Transaction.

8. 'Identify,'

a. when used in relation to an individual, means to state the name, address, and home and business telephone number of the individual, the job title or position and the employer of the individual at the time of the activity inquired of, and the last-known position and employer of the individual;

b. when used in relation to a corporation, partnership, or other entity, means to state the name of the

entity and the address and telephone number of its principal place of business;

c. when used in relation to a document, means to:

(1) state the type of document (e.g., letter, memorandum, report, chart);

(2) identify the author, each addressee, and each recipient; and

(3) state the number of pages, title, and date of the document;

d. when used in relation to an oral communication or statement, means to:

(1) identify the person making the communication or statement and the person, persons, or entity to whom the communication or statement was made;

(2) state the date and place of the communication or statement;

(3) describe in detail the contents of the communication or statement; and

(4) identify all documents that refer to, relate to or evidence the communication or statement;

e. when used in any other context means to describe or explain.

9. 'Including' means including without limitation.

10. 'Person' means an individual, company, partnership, or other entity of any kind.

11. 'Plastic(s) Resin(s)' means each and every commodity that bears any of the following STCC codes: 2821138, Acrylonitrile-butadiene-styrene, other than liquid; 2821139, Polypropylene, other than liquid; 2821140, Polystyrene, other than liquid; 2821141, Polyvinyl chloride, other than liquid; 2821142, polyethylene, other than liquid; 2821144, plastics, resins or gums, other than liquid; 2821148, styrene-acrylonitrile, other than liquid; 2821150 Styrene-butadiene copolymer, other than liquid; 2821156, polyethylene terephthalate; and 2821163, plastic flakes, granules, lumps, pellets, powder or solid mass, other than expanded.

12. 'Provide' (except where the word is used with respect to providing service or equipment) or 'describe' means to supply a complete narrative response.

13. 'Rates' include contract rates and tariff rates.

14. 'Relate to and relating to' have the broadest meaning according to them and include but are not limited to the following: directly or indirectly describing, setting forth, discussing, commenting upon, analyzing, supporting, contradicting, referring to, constituting, concerning or connected in any way with the subject in question or any part thereof.

15. 'Revenue share' means any share of revenue on traffic interchanged with another railroad, including contractual revenue shares, joint rates, proportional rates, and multiple independent factor rates.

16. 'Shipper' means a user of rail services, including a consignor, a consignee, or a receiver.

17. 'STCC' means Standard Transportation Commodity Code.

18. 'Studies, analyses, and reports' include studies, analyses, and reports in whatever form, including letters, memoranda, tabulations, and computer printouts of data selected from a database.

19. 'Transaction' means the actions for which approval is sought by the Applicants, as described at UP/SP-1 including

- a. the acquisition of control of SPR by UP Acquisition;
 - b. the merger of SPR into UPRC; and
 - c. the resulting common control of UP and SP by UPC
- or any one of such actions or any combination of such actions, and any related transactions.

20. 'Western Class I Railroad' means, in addition to Applicants, any of the following: BN, Santa FE, CNW, Illinois Central Railroad Company, KCS, and Soo Line Railroad Company.

21. References to railroads, shippers, and other companies (including Applicants) include: parent companies; subsidiaries; controlled, affiliated, and predecessor firms; divisions; subdivisions; components; units; instrumentalities; partnerships; and joint ventures.

22. Unless otherwise specified, all uses of the conjunctive include the disjunctive and vice versa, and words in the singular include the plural and vice versa.

INSTRUCTIONS

1. Unless otherwise specified, these discovery requests cover the period beginning January 1, 1993, and ending with the date of response.

2. If Applicants have information that would permit a partial answer to any interrogatory, but they would have to conduct a special study to obtain information necessary to provide a more complete response to that interrogatory, and if the burden of conducting such special study would be greater for Applicants than for SPI, then:

- a. state that fact;
- b. provide the partial answer that may be made with information available to Applicant;
- c. identify such business records, or any compilation, abstract, or summary based thereon, as will permit SPI to derive or ascertain a more complete answer; and
- d. as provided in 49 C.F.R. § 1114.26(b), produce such business records, or any compilation, abstract, or summary based thereon, as will permit SPI to derive or ascertain a more complete answer.

3. All documents responsive to a data request should be produced, including each copy of an original that differs in any way from the original, including, but not limited to, differences caused by markings on, or other additions to, such copy or deletions of parts of the original.

4. If a document responsive to a particular data request is known to have been in existence but no longer exists, state the circumstances under which it ceased to exist, and identify all persons having knowledge of the contents of such documents.

5. If the information sought in a particular interrogatory is contained in existing documents, those documents may be specifically identified, and pursuant to 49 C.F.R. § 1114.26(b), Applicants may produce legible, complete and exact copies thereof so long as the original documents are retained and will be made available if requested; however, the documents shall be produced within the fifteen-day time period provided for responding to these interrogatories and shall be identified as being responsive to that particular interrogatory. In such case, the copies should be sent by expedited delivery to the undersigned attorneys. SPI will pay all reasonable costs for duplication and expedited delivery of documents to its attorneys.

6. If Applicants' reply to any interrogatory includes a reference to the Application to be filed in this proceeding, such response shall specify the volume(s) and exact page number(s) of the Application where the information is contained.

7. If any information or document is withheld on the ground that it is privileged or otherwise not discoverable,

a. identify the information or document (in the manner provided in Definition 8 *supra*); and

b. state the basis for the claim that it is privileged or otherwise not discoverable.

8. Where any interrogatory or data request refers to 'Applicants' or to Any 'Applicant,' and the response for one Applicant would be different from the response for other Applicants, give separate responses for each Applicant.

9. In responding to any request for data regarding intermodal traffic, indicate separately data for trailers and for containers.

10. If any Applicant knows or later learns that its response to any interrogatory is incorrect, it is under a duty seasonably to correct that response.

Pursuant to 49 C.F.R. § 1114.29, Applicants are under a duty seasonably to supplement their responses with respect to any questions directly addressed to the identity and locations of persons having knowledge of discoverable matters.

INTERROGATORIES AND DATA REQUESTS

1. Identify each and every contract, agreement, commitment, or draft of such contract or agreement or proposal tendered to or entered into by the UP with Exxon Chemical Americas ("ECA") or any company affiliated with ECA between October 30, 1995 and February 23, 1996.

2. Other than those documents identified in response to Interrogatory No. 1 above, identify all documents, including, but not limited to, notes, internal memoranda, records of conversations, drafts of contracts or agreements prepared by the

UP between October 30, 1995 and February 23, 1996 relating to the UP's service with Exxon Chemical Americas ("ECA") or any company affiliated with ECA.

3. With reference to a memorandum located at the Covington & Burling repository in the Chevron file (document # HC44-000724) (hereinafter referred to as "Memorandum") the SP's knowledge of a UP customer being leveraged on its rate increases, please identify:

a. the SP personnel discussed in the Memorandum and otherwise associated with the Memorandum;

b. the SP customer that the "SP salesperson" is referring to in the Memorandum;

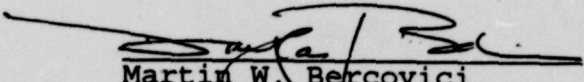
c. the specific details of the conversation referred to in the Memorandum between the author of the Memorandum and the "SP salesperson."

4. Produce the UP file on the SP customer identified in response to Request No. 3.b. above.

5. Produce the "study" referred to by Richard B. Peterson on pp. 508-509, among other pages, of his deposition transcript in this proceeding concerning "opportunities for UP to build in or work with a customer to build out at locations primarily involved in the chemical industry."

6. Produce all other documents identified in response to the interrogatories above.

Respectfully submitted,



Martin W. Bercovici
Douglas J. Behr
Arthur S. Garrett III

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Fax: (202) 434-4646

February 23, 1996

Attorneys for The Society
of the Plastics Industry, Inc.


CERTIFICATE OF SERVICE

I hereby certify that the Society of the Plastics Industry, Inc.'s foregoing Second Set of Interrogatories and Data Requests to Applicants, was served this 23rd day of February, 1996, by hand delivery upon counsel for the Applicants:

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 Nineteenth Street, N.W.
Washington, D.C. 20036

and, by mail upon the remainder of the Restricted Service List.


Arthur S. Garrett III