

STB

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3 of 13

volume of traffic that the line presently serves. In his affidavit, Mr. Turney has the line "operating two through trains per day (one in each direction)."

Id. SP's environmental report on the line gives a different picture, however.

While it describes the line as "infrequently used," it further states the following:

"Currently, SP operates seven trains each day seven days a week over this line, all overhead traffic between points in Oregon and the Central Corridor."

UPSP Railroad Merger Application, Vol. 6, Part 4, pp. 53, 56.

A line that serves approximately 50 trains a week can hardly be described as "infrequently used." The extent of the misnomer was further shown when Scott Kessler, the Planning Director for Alturas and the County of Modoc, spoke at a CPUC Workshop on the proposed UPSP merger. He stated that the line serves six to ten trains a day.

This volume of usage confirms the worth of the line as a regional transportation resource. It also demonstrates that an abandonment of the Wendel-Alturas Line does not qualify as a matter of limited scope under 49 U.S.C. § 10505. Moreover, SP provides no factual basis for its claim that rerouting trains through Roseville or Portland will constitute better service.

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SEA has reviewed CPUC's question about the number of trains using the Wendel to Alturas line. The EA states that the line "currently serves as a through route for limited traffic." To clarify, the traffic consists of seven through trains per day, serving traffic between points in Oregon and the Central Corridor. There is no local traffic on the line. If this line were abandoned, the through traffic would be handled via Portland on the shorter, faster UP main line.



In 1988 when Rio Grande Industries (RGI), the parent company of the Denver and Rio Grande Western Railroad, sought to acquire SP, one of the public interest arguments it advanced was that it would reopen the Modoc Line and continue its operation. This commitment was one of the reasons why the CPUC, as well as the State of Oregon, supported RGI's acquisition proposal. The public interest considerations that prompted the CPUC's position at that time still obtain. Moreover, the high volume of present usage demonstrates its value as a connection to the Central Corridor transcontinental route for Northeast California and Oregon.

WHEREFORE, the CPUC strongly urges the Board to reject the Petition for Exemption. As a condition of any UPSP consolidation, UP should be required to operate the line for not less than five years.

Alternatively, UP may bring in a qualified short line or regional railroad carrier to operate the line, subject to the following conditions: The carrier shall operate the entire Modoc Line without traffic surcharges, with any financial losses paid for by UPSP, and with full and unrestricted interchange

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SEA has considered CPUC's request that the Applicant be required to operate the Wendel to Alturas line for not less than five years. The Board's jurisdiction is limited to deciding the merits of an abandonment application. Whether the Board approves or denies the application, it cannot impose a time limit on how long SP must operate the line. The only postponement of the effective date in a granted abandonment is for a 180-day public use condition or the granting of interim trail use authority. If the Board denies the abandonment proposed, it cannot require SP to continue operations for any certain time period.

rights with BNSF at Klamath Falls, at Flanigan, and at such other locations
as the carrier may elect.

Respectfully submitted,

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

/s/ JAMES T. QUINN

James T. Quinn

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San Francisco, CA 94102
Phone: (415) 703-1697
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Attorneys for the Public
Utilities Commission of the
State of California

March 28, 1996



STATE AGENCIES

CALIFORNIA - STATE HISTORIC PRESERVATION OFFICER

STATE OF CALIFORNIA — THE RESOURCE AGENCY

PETE WILSON, Governor

OFFICE OF HISTORIC PRESERVATION

DEPARTMENT OF PARKS AND RECREATION

P.O. BOX 942898

SACRAMENTO 94296-0001

(916) 653-6624

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(916) 653-6624

FAX (916) 653-9824

April 30, 1996

ICC951009A-Y

Elaine Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue
WASHINGTON DC 20423-0001

Finance Docket No.
32760

Dear Ms. Kaiser:

Thank you for submitting to our office your April 12, 1996 letter and supporting documentation regarding the Environmental Assessment (EA) being prepared in compliance with the National Environmental Policy Act (NEPA) for the proposed merger of the operations of the Union Pacific Railroad Company (UP) and the Southern Pacific Transportation Company (SP). The proposed merger is intended to improve service capabilities and operating efficiencies. The merger now requires the approval of the Surface Transportation Board (STB).

You are seeking our comments on your proposed EA in accordance with 36 CFR 800, regulations implementing Section 106 of the National Historic Preservation Act. We understand however that additional documentation is being forwarded to our office that will provide comprehensive survey information regarding historic resources associated with the proposed project. This information will be evaluated in accordance with 36 CFR 800.4(c), regulations implementing Section 106 of the National Historic Preservation Act. Since the submitted EA contains only preliminary information on these resources, and is purely a National Environmental Policy Act (NEPA) document, our office declines comment on its contents pursuant to Section 106.

Thank you again for seeking our comments on your project. If you have any questions, please contact staff historian Clarence Caesar at (916) 653-6902.

Sincerely,

Cherilyn Widell

Cherilyn Widell
State Historic Preservation Officer

1 SEA acknowledges the California State Historic Preservation Officer's choice not to comment on the EA. Section 106 consultation with the State Historic Preservation Officer to reach a determination of effects is underway. Because consultation has not been completed, mitigation measures are specified in Chapter 5 of the Post EA.

STATE AGENCIES
COLORADO - ATTORNEY GENERAL



GALE A. NORTON
Attorney General

STEPHEN K. EAKENBRACK
Chief Deputy Attorney General

TIMOTHY M. TYMKOVICH
Solicitor General

STATE OF COLORADO
DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

May 1, 1996

STATE SERVICES BUILDING
1525 Sherman Street - 5th Floor
Denver, Colorado 80203
Phone (303) 866-4500
FAX (303) 866-5691



Surface Transportation Board
Section of Environmental Analysis
1201 Constitution Avenue, N.W.
Room 3219
Washington, D.C. 20423

RE: Environmental Assessment for the proposed abandoned rail
lines in Colorado- Finance Docket No. 32760

Dear Sir or Madam:

The Colorado Department of Public Health and Environment (CDPHE) and the United States Environmental Protection Agency Region VIII (EPA) hereby submit their comments on the Environmental Assessment (EA) as it relates to environmental impacts of the proposed merger of Union Pacific Railroad (UP) and the Southern Pacific Transportation Company (SP) and their subsidiaries and proposed abandonments in Finance Docket No. 32760.

GENERAL COMMENTS

1. CDPHE and EPA are pleased that the EA recommends that UP/SP be required to perform a Risk Assessment and develop a Remediation Plan along the entire rail line proposed for abandonment. The EA should make it clear, however, that this Risk Assessment and Remediation Plan should be subject to the approval of CDPHE and EPA.¹ The review of the plans, moreover, will require significant amount of time and effort on the part of CDPHE and EPA. UP/SP should be required to reimburse CDPHE and other state agencies involved, as well as EPA and any other federal agencies for their costs.

Section 4.1.4 Potential Environmental Impacts of Proposed Action-
Water Resources

Paragraph 2 states that soil disturbance from the removal of materials other than bridges is expected to be negli-

¹ In general, CDPHE and EPA perform the Risk Assessments at Superfund sites.

SOLO - 8

1 SEA's recommended mitigation has been amended to include approval of the Risk Assessment and Remediation Plan by the Colorado Department of Public Health and Environment. The request for reimbursement of costs for plan review by state agencies is not within the authority of SEA or the Surface Transportation Board. This request should be submitted directly to the Applicant.



Surface Transportation Board
Page 2

gible. Because of the length of the segment proposed for abandonment and the number of ties involved, a fairly large soil disturbance will result. The disturbance of the rail bed will increase the potential for erosion of adjacent soils, resulting in increased sediment transport into adjacent surface water bodies, thereby negatively impacting the water quality. The EA should give greater consideration to stabilizing or fully reclaiming those areas identified as having a high erosion/sediment transport potential.

SITE SPECIFIC COMMENTS

1. Eagle Mine Site¹

a. Section 4.1.3 Existing Environment

Paragraph 3 states that the proposed abandonment runs directly along the banks of the Arkansas River. It should be the Eagle River.

b. Biological Resources-Vegetation

This paragraph states that opportunistic plant species would quickly revegetate the cleared rail bed and the area would eventually evolve into a natural state. These opportunistic plant species will be dominated by weedy and even noxious plant species. The rail line would serve as a source of weed propagation and future seed source. Noxious weed control have become a concern at the county and state level. At other areas at the Eagle Mine Site, CDPHE and EPA have specified the vegetation that should be seeded as well as the percentage of each species, and the density of the vegetation. Reclamation of the portions of

¹ CDPHE has been acting as the lead agency for clean-up of the Eagle Mine Site since March 26, 1986, when the State of Colorado and EPA entered into a Memorandum of Understanding (MOA) with regards to the clean-up. As noted in the Joint Comments submitted to the Surface Transportation Board on March 29, 1996 (COLO-6) at page 4, EPA, CDPHE and Viacom, Inc. have entered into a three way Consent Decree relating to the Eagle Mine Site. CDPHE, however, was never contacted by anyone at the Surface Transportation Board regarding the EA. According to Volume 5 of the EA, only the Colorado State Historic Preservation Officer and the Department of Natural Resources were solicited for comments. Neither of those agencies have any jurisdiction over the removal or clean up of hazardous waste or hazardous materials. CDPHE does have that authority, and filed notice of its intent to participate in this proceeding in January.

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SEA acknowledges concerns about erosion and sedimentation from salvage activities. Recommended abandonment mitigation measures in Volume 1, Chapter 5 of the Post EA respond to these concerns.

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The name of the affected river (Eagle River) is noted.

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SEA has recommended mitigation measures in Chapter 5 of the Post EA to encourage regrowth in disturbed areas and to stabilize disturbed soils. UP/SP has stated a willingness to negotiate a conversion of the abandonment to the State of Colorado. The Department's request for particular plantings can be accommodated in that negotiation.

Refer to following page for comment.

5

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The Colorado Department of Public Health and Environment was not contacted directly for comment and input into the EA because SEA's contact mechanism directed correspondence to the State Clearinghouse in each affected State. Correspondence sent to the State Clearinghouse address was returned to SEA, stating that Colorado has opted to discontinue its clearinghouse. No designated alternative central point of contact was identified.

STATE AGENCIES
COLORADO - ATTORNEY GENERAL

Surface Transportation Board
Page 3

the rail line that will not be developed or maintained as a transportation or recreation corridor should be seeded with native grass, forb and shrub species in a manner subject to the approval and oversight of CDPHE and EPA.

2. California Gulch Site

Pursuant to the Consent Decree entered December 15, 1993 between the Denver Rio Grande & Western Railroad (D&RGW), a subsidiary of Southern Pacific Railroad, and the United States, D&RGW is required to perform a Feasibility Study on a number of slag piles as well as on its easement, if necessary. The Feasibility Study was deferred, however, until such time as the land use changed. If the rail line is abandoned, therefore, D&RGW will be required to perform a Feasibility Study pursuant to the Consent Decree, and subject to the approval of EPA and CDPHE. See, COLO-6 at pages 9-11.

Respectfully Submitted,

Jahe T. Feldman
Jahe T. Feldman
Assistant Attorney General
Natural Resources Section
Colorado Department of Law
1525 Sherman Street
Denver, CO 80203
(303) 866-5073

Attorneys for Colorado Department
of Public Health and Environment

Nancy A. Mangone
Nancy A. Mangone
Enforcement Attorney
Legal Enforcement Program
U.S. EPA Region VIII
999 Eighteenth Street, Suite 500
(8ENF-L)
Denver, CO 80202-2466
(303) 312-6903

cc: Richard Parachini

4 Refer to previous page for response.

6 SEA recognizes that the D&RGW would be required to perform a feasibility study for slag piles near and along the Sage to Leadville line in the event of land use change. SEA's recommended mitigation measures in Volume 1, Chapter 5 of the Post EA acknowledge this requirement.



CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of May, 1996, true and correct copies of the within Joint Comments of the Colorado Department of Public Health and the Environment and the United States Environmental Protection Agency Region VIII on the Environmental Assessment were deposited in the United States mail, at Denver, Colorado postage prepaid as follows:

An original and 20 copies and a 3.5" WordPerfect diskette of the Joint Comments was sent to:

Surface Transportation Board
Section of Environmental Analysis
Attn: Finance Docket No. 32760
1201 Constitution Avenue, N.W.
Washington, D.C. 20423

Additionally, one (1) copy of the Joint Comments was sent to each of the parties of record.

Margaret K. Amos
Office of the Colorado Attorney General

CHLOUBER
Office of the Secretary
MAR 26 1996
State Representative
KEN CHLOUBER
220 West Eighth
Leadville, Colorado 80451
Home: (719) 488-0006
Capitol: (303) 656-2952



COLORADO
HOUSE OF REPRESENTATIVES

STATE CAPITOL
DENVER
80203

Chairman:
Local Government Committee
Member:
Agriculture, Livestock and
Natural Resources Committee



Surface Transportation Board
Office of the Secretary
1201 Constitution Avenue N.W.
Room 2215
Washington, D.C. 20423

RE: Protest of the Intent to Abandon and Discontinue Service filed by the
Southern Pacific Transportation Company and the Denver and Rio Grande
Western Railroad Company.

NO. AB-12 (Sub-No. 188) and No. AB-8 (Sub-No. 39)

Members of the Surface Transportation Board:

I am State Representative Ken Chlouber and I represent District 61 in the Colorado House of Representatives. My House district is comprised of the counties of Chaffee, Gunnison, Hinsdale, Lake, Park, Pitkin, and Teller, Colorado. I have lived in this area for 22 years and have represented this House district for the past 10 years. Prior to that I was a county commissioner for Lake County. I am a farmer, an auctioneer, and a small businessman. I am very familiar with the people and economy of the area and therefore I must strongly protest the abandonment of the Malta line which extends from railroad milepost 271.0 near Malta to railroad milepost 162.0 near Canon City, a distance of 109 miles in Fremont, Chaffee, and Lake Counties, Colorado.

Abandonment of the Malta line will have an extremely adverse impact on the economy in that area as well as the state of Colorado as a whole. The economy of the area relies upon the mining of gold, silver, coal, and molybdenum ore. The mining industry has supplied many in my district with jobs and has created a way of life unprecedented anywhere else in the country. Much of the Malta line runs through that area and, because of the mountainous terrain, it is the only practical way to transport the ore out of the mountains. The only other means is by way of a two-lane highway, however, this highway was not constructed for nor is it large enough to accommodate the transportation of great truckloads of ore. Construction of a larger highway to accommodate transport of the ore by truck is not practical, again because of the mountainous terrain of the area. To increase its size would be cost prohibitive and could not occur fast enough to save an already weakened mining industry.



The Colorado mining industry is heavily dependent upon the operation of the Malta line. By abandoning this line, it will be hobbled, if not completely paralyzed. In recent years, mining has been marginally profitable at best. If the ore can not be transported from the mines in a manner that is not cost effective, the mining industry in Colorado will never recover. If this occurs many jobs will be lost and the continued existence of many of the small mining towns in my district may be threatened.

Abandonment of the Malta line will also negatively impact the highway infrastructure throughout Colorado. The ore that was once transported by rail will be placed on trucks and added to an already overburdened highway system. The cost in pollution, highway repair, and congestion will be certainly be increased. In an era where the discovery of convenient, clean, and inexpensive methods of transportation is becoming imperative, it is ironic that abandonment of any functioning rail line is even considered.

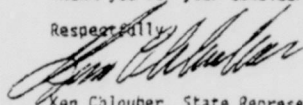
Additionally, there is little doubt that if you allow Malta line to be abandoned, the rail line itself will be removed and salvaged. Perhaps this will not occur immediately, but rest assured that it will occur. When it does, transportation of ore by rail will be only a memory. Lost also will be the possibility of using the rail lines as an alternative method for the mass transportation of people and other types of cargo.

Transportation by automobiles and trucks on the nation's highways is increasing pollution. The roadways are difficult and expensive to maintain. If the rail lines are present, there is always the possibility of using them. Once they're gone, they're gone.

Colorado, and much of the West, was built by and because of the existence of the railroads. It is our tradition, our history. Not only do we fear the loss of jobs and a weakened economy, we fear that once the rail lines are removed, that part of our past will be irretrievable. The state of Colorado and the west would be much better served by maintaining the rail line. Our future, our past, depends on it.

Thank you for your consideration.

Respectfully,



Ken Chlouber, State Representative

1 SEA has reviewed Representative Chlouber's comment on impact to highway infrastructure. SEA's analysis of rail-to-truck diversions, as a result of the proposed abandonments, indicate that 530 rail cars per year for the Malta to Canon City segment would be diverted. These diversions would cause an estimated increase of 2,120 truck trips per year. This level of diversion would represent an increase of less than one percent of regional truck traffic, so no mitigation is necessary. Rail to truck diversions are anticipated to be limited to the Malta area for the movement of mine products from Asarco in Malta.



COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203-2137

May 2, 1996

Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423-0001

RE: Union Pacific/Southern Pacific Railroad Merger (Finance Docket No. 32760)

Dear Ms. Kaiser:

Thank you for your April 12, 1996, correspondence concerning the above merger. We are responding to your request to review the Environmental Assessment (EA) for this undertaking.

In general we believe that the need to identify historic properties (cultural resources) and determine eligibility and potential impacts to them has been satisfactorily addressed. In addition we agree with potential assessments of effects identified within each of the five categories of activities except as specified in our comments below:

April 12, 1996 letter

Page 2, paragraph two, next to last sentence - It is our understanding - and our expectation - that Colorado Cultural Resource Survey forms are being prepared for the railroad lines and all associated features, rather than only bridges.

Attachment A

Page A-2, Category 3 - We look forward to receiving an inventory record form for the water tower at the Denver North Yard Intermodal facility.

Page A-3, Category 4 - All three railroad abandonment projects in Colorado have the potential to adversely affect historic properties if the railroad lines themselves are determined eligible for inclusion in the National Register of Historic Places and if contributing features, including but not limited to bridges, will be impacted. Activities involving individually eligible structures also may constitute an adverse effect.

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303 866-3392 Fax 303-866-4464

Post-It Fax Note	7871	Date	5/2/96	Page	3
To	ELAINE K. KAISER	From	JOHN RICH NORTON		
Company	STB	City	CO HISTORICAL SOC		
Phone		Phone	(303) 866-3392		
Fax	(303) 927-6225	Fax	(303) 866-4464		

1 SEA acknowledges the State Historic Preservation Officer's (SHPO) comments that the need to identify historic properties and determine eligibility and potential impacts have been satisfactorily addressed.

2 The SHPO's request for Colorado Cultural Resource Survey forms for railroad lines and associated features, in addition to bridges, was addressed in materials submitted as part of the Section 106 consultation process.

3 The requested inventory record was provided as part of the Section 106 consultation process.

4 The SHPO's opinion on potential impacts of rail line abandonment was considered in the Section 106 consultation process.



Elaine K. Kaiser
May 2, 1996
Page 2

Page A-4, Category 5 - There is also a potential for adverse effects in the event that the new connections and new sidings will occur in previously undisturbed areas.

Attachment C

The discussion of the area of potential effects (APE) and the criteria of adverse effects was quite clear and comprehensive. We would suggest substituting "constructed" for "established" (page C-3, (2), second "bullet", line two).

ENVIRONMENTAL ASSESSMENT (EA)

Volume 1

Page ES-16, Abandonments - This discussion does not address the potential to impact historic properties.

Page 1-25, paragraph two, line 14 - We believe that "Antonio" should be "Antonito".

Page 3-6, Section 3.4 - We request that "known" be added before "historic resources" in all three subsections, since surveys have not yet been completed and reviewed for any of the three abandonment areas. Tables on pages 3-14, 15 and 16 will need to be updated once the surveys are completed and consultation with our office regarding National Register eligibility has been conducted.

Page 6-1, Section 6.0

While we agree that it is not likely that historic properties will be impacted by the increased activity, rail yards and intermodal facilities categories, we wish to reiterate the comments made in our February 2, 1996, response regarding the potential for activities involving previously undisturbed ground to have the potential to impact historic properties. In addition, if previously unidentified historic properties are located within the APE, it will be necessary to evaluate their eligibility and determine effects.

Volume 3

Pages 4-14 (Section 4.1.7), 4-16 (Section 4.1.8), 4-28 (Section 4.2.7), 4-29-30 (Section 4.2.8), 4-42 (Section 4.3.7) and 4-43 (Section 4.3.8) - Completion of appropriate cultural resource inventory record forms, interim maintenance and addressing discoveries do not constitute mitigation measures for adverse effects. Typical mitigation measures for these types of historic/architectural resources include archival quality recordation to Historic American Buildings Survey/Historic American Engineering Record (HABS/HAER) standards, marketing historic properties with preference given to recipients willing to maintain the properties in accordance with the Secretary of the Interior's Standards and Guidelines, Rail-to-Trails conversions and interpretation. Standard mitigation measures for subsurface resources when avoidance or in-place preservation is not possible include data recovery and completion of a report after development of an appropriate research design, curation of artifacts, monitoring disturbance and publication of findings in appropriate professional venues.

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
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5 The SHPO's concern for potential adverse effects in the event of new construction was considered in the Section 106 consultation process.

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6 Proposed language changes are noted, but would not change the conclusions drawn in the EA. Also, the EA will not be reprinted.

7

7 Subsequent Section 106 consultation has addressed this concern.

8

8 Proposed language changes are noted, but would not change the conclusions drawn in the EA. Also, the EA will not be reprinted.

9

9 SEA's recommended mitigation measures states that the Applicant must cease work in the area of discovery of a previously unknown archeological resource and contact the governing SPHO.

10

10 Decisions on mitigation measures, where necessary, will be made in the course of Section 106 consultation. Mitigation measures that would apply while Section 106 proceeds are reported in Chapter 5 of the Post EA.

Elaine K. Kaiser
May 2, 1996
Page 3

Page 4-34 - It will be necessary to address the National Register eligibility of the Towner to NA Junction section of the Hoisington Subdivision railroad line itself, as well as associated features, in addition to the individual eligibility of features, including but not limited to bridges.

Page 4-38 - The Colorado State Historic Preservation Officer has not yet been requested to comment specifically on the effects of the abandonment of the Towner to NA Junction section. We will not be able to offer our opinion on the effects of any of the proposed activities having the potential to affect historic properties until we have reviewed and commented on the results of appropriate surveys to identify such properties.

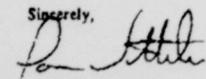
Page 4-43. Historic and Cultural Resources - Comment #1 is not applicable to this segment.

Page 4-20. Historic and Cultural Resources - If there are no historic properties located within the APE of this new connection (described in Section 4.2.1), then there will be no effect on historic properties.

In the future we would appreciate having more than fifteen working days to review a five-volume document such as this EA. We are concerned that other agencies having jurisdiction regarding some or all of the proposed activities as well as interested parties may not all be able to provide meaningful comment within such a short time frame.

If we may be of further assistance, please contact Kaaron Hardy-Hunt, our Technical Services Director, at (303) 866-3398.

Sincerely,



James E. Hartmann
State Historic Preservation Officer

JEH/KKP

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464

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11 Determination of National Register eligibility of various resources was part of the Section 106 consultation process.

12 Information to allow determinations of effect on the Towner to NA Junction abandonment was provided in the Section 106 consultation process.

13 The SHPO's comment is noted.

14 The SHPO's interpretation was incorporated into the Section 106 consultation process.

15 The amount of review time allowed for the EA is a result of the overall schedule established for review of the merger application. In anticipation of this concern, SEA initiated contact with agencies on January 29, 1996 to identify areas and issues of concern and to alert agencies of the 20 day review period for the EA.



COLORADO - STATE HISTORIC PRESERVATION OFFICER



COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203-2137

April 10, 1996

Julie Donsky
Environmental Scientist
Dames & Moore
One Continental Towers
1701 Golf Road, Suite 1000
Rolling Meadows, IL 60008

Re: Union Pacific and Southern Pacific Railroads Merger,
Rail Segment - Activity Increase,
Denver, Colorado to Dotsero, Colorado

Dear Ms. Donsky:

Thank you for your correspondence dated March 26, 1996, concerning the above project having Surface Transportation Board involvement.

The nature of the proposed project is such that there will be no effect on historic properties. If we may be of further assistance, please contact Kaaren Hardy-Hunt, our Technical Services Director, at (303) 866-3398.

Sincerely,

James E. Hartmann
State Historic Preservation Officer

JEH/KKP

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464

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The Agency's concurrence that the proposed merger (Denver to Dotsero rail segment) will have no effect on historic and cultural properties is noted. This correspondence completes Section 106 coordination responsibilities for the State of Colorado.



COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203 2137

May 10, 1996

Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423-0001

Re: Proposed Abandonment, Hoisington Subdivision
Proposed Constructions on Salina Branch

Dear Ms. Kaiser:

Thank you for your correspondence dated March 13, 1996, concerning the above projects.

Hoisington Subdivision - Towner to NA Junction Abandonment

The Hoisington Subdivision appears to have been evaluated solely for architectural/engineering significance as related to its 1886-1887 construction. No evaluation has been made of the entire resource - as opposed to a series of bridges - for its historical significance in the area of transportation. The route appears to have changed little over its 1886-1946 period of significance. Most of the upgrades to track and bridges - in fact, for all but one bridge - occurred during this period of significance. There is no indication of why the line was upgraded during the Great Depression, although this would seem to be an unusual corporate expenditure for the 1930's. We note that the list of bridges in the photograph notebook does not include all the bridges along the route. Additionally, much of the route traversed by the line retains its historic appearance during the period of significance, thus yielding an intact transportation corridor/cultural landscape.

No mention is made of the railroad's impact on the towns along its route, i.e. Towner, Sheridan Lake, Haswell, Eads, Sugar City, Crowley, Olney Springs. Do these communities not owe their founding and development to the availability of rail service? The context submitted suggests that the Missouri Pacific served only Pueblo and points in Kansas without in any way impacting the development of eastern Colorado. Did the sugar beet industry around Sugar City and Ordway happen without reference to the availability of rail transportation provided by the Missouri Pacific? In addition, the report indicates the existence of five grain elevators along the route but makes no reference to agricultural history and its relation to rail service.

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464

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Additional information requested by the State Historic Preservation Officer (SHPO) was provided in the Section 106 consultation process.



Elaine K. Kaiser
May 10, 1996
Page 2

As implied by the above discussion, the context and inventory forms do not contain adequate documentation on which to provide our comments about the historical significance of the Missouri Pacific Railroad from 1886-1946. Consequently, we are also unable to comment on the effects of the abandonment at this time.

Salina Branch - Kansas Boundary into Pullman Yard, Denver, Construction Activities

Our opinions regarding the National Register of Historic Places eligibility of the following properties is provided below:

Union Pacific Railroad, Central Division, Salina Branch (SCH118, SLN201, SEL307, SAH808, SAM459) - The Central Division is eligible as a whole under Criterion A for its transportation significance for the period 1869-1946.

Bridge at MP 472.55 (SCH118.1) - Contributing element to the above district

Bridge at MP 525.67 (SLN201.1) - Non-contributing

Clifford School House (SLN96) - A current photograph is needed to assess integrity.

Bridge at MP 527.84 (SLN201.2) - Contributing

Bridge at MP 563.56 (SEL307.1) - Non-contributing

Comanche Crossing (SAH163) - Listed in the National Register; contributing

Bridge at MP603.08 (SAH808.1) - Non-contributing

Bridge at MP626.43 (SAM459.5) - Need data

We request inventory record forms for the depots at Limon and Cheyenne Wells. It is also our recollection from previous visits to Cheyenne Wells that the depot was of wood frame construction with board and batten siding. We would like to know the status of this structure. In addition, we look forward to receiving photographs to accompany the inventory forms.

We agree with your determination that the Clifford School House is not within the APE. It is our opinion that routine maintenance and upgrading of roadbed, track and signal equipment will have no effect on historic properties. However, alterations or replacement activities have the potential to affect contributing elements to eligible railroad lines, branches or segments, such as bridges depots and culverts, whether or not such elements have been identified and evaluated as a result of this survey. In addition, if subsurface archaeological resources are encountered during ground disturbing activities, such as those associated with new or extended rail sidings, it will be necessary to halt the work until such resources can be evaluated in consultation with our office.

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464

1

1 Refer to the previous page for response.

2

2 The SHPO's opinions on the listed properties is noted and was incorporated into the Section 106 consultation process.

3

3 The requested records for depots at Limon and Cheyenne Wells were provided for review.

4

4 The SHPO's concurrence that the Clifford School is not within the APE is noted. SEA's recommended mitigation states that the Applicant must in the event of the discovery of a previously unknown archeological resource, contact the appropriate governing SHPO.

Elaine K. Kaiser
May 10, 1996
Page 3

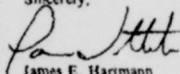
Southern Pacific (D&RGW) Denver Yard and Union Pacific Pullman Denver Yard Modifications

Based upon the information provided, it is our opinion that activities proposed for the above project will have no effect on historic properties. However, if subsurface archaeological resources are encountered during ground disturbing activities, such as those associated with new or extended rail sidings, it will be necessary to halt the work until such resources can be evaluated in consultation with our office.

If you disagree with the above opinions on National Register eligibility, please seek the comments of the Keeper of the National Register of Historic Places.

We look forward to further consultation regarding these proposed activities. If we may be of further assistance, please contact Kaaren Hardy-Hunt, our Technical Services Director, at (303) 866-3398.

Sincerely,



James E. Hartmann
State Historic Preservation Officer

JEH/KKP

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303 866-3392 Fax 303-866-4464

5

5

The SHPO's opinion that the proposed project will have no effect on historic properties in the Denver SP and Pullman Yards is noted. SEA's recommended mitigation states that the Applicant must in the event of the discovery of a previously unknown archeological resource, contact the appropriate governing SHPO.





COLORADO
HISTORICAL
SOCIETY

The Colorado History Museum 1300 Broadway Denver, Colorado 80203-2137

May 22, 1996

Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423-0001

RE: Union Pacific/Southern Pacific Railroad Merger

Dear Ms. Kaiser:

Thank you for your correspondence of May 2, 1996, requesting determinations of eligibility and effect for the various classes of activities proposed under the merger.

It appears that some of the activities for which you are requesting our comments have been discussed previously in your March 13, 1996, correspondence regarding the Holsington Subdivision and Salina Branch to which we responded on May 10, 1996, as well as your April 12, 1996, correspondence concerning the Environmental Assessment, to which we responded on May 2, 1996. We encourage you to refer to these responses in conjunction with this current response. It is our opinion that allowing our office adequate review time will help avoid the duplication of effort for this very complex and extensive project. Since we have been asked to provide multiple responses regarding this project to three different entities within extremely short time frames, we are not always able to meet these deadlines while at the same time responding to numerous project review requests from other agencies as well.

Based upon our review of appendix D, we have the following comments:

IDENTIFICATION OF HISTORIC PROPERTIES - We are pleased with your recognition of the need to identify, evaluate and determine the effects of the various activities on both archaeological and historical resources.

RAIL LINE SEGMENTS - It is our opinion that increased railroad traffic, per se, will have no effect on historic properties. However, "capacity improvements", such as construction of new sidings and new connections in previously undisturbed areas have the potential to affect historic properties, as stated in our May 2nd response. We agree that the Clifford School House is not within the area of potential effects (APE). (See our May 10, 1996 response.) We anticipate no effect on historic properties from

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464

SEA appreciates the State Historic Preservation Officer's (SHPO) comment on the Board's recognition of the need to identify, evaluate and determine the potential effects of the proposed merger on archaeological and historical resources.

- 1 SEA appreciates the State Historic Preservation Officer's (SHPO) comment on the Board's recognition of the need to identify, evaluate and determine the potential effects of the proposed merger on archaeological and historical resources.
- 2 The SHPO's concern for potential adverse effects in the event of new construction was considered in the Section 106 consultation process.
- 3 The SHPO's concurrence that the Clifford Schools is not within the APE is noted. SEA's recommended mitigation states that the Applicant must in the event of the discovery of a previously unknown archaeological resource, contact the appropriate governing SHPO>

Elaine K. Kaiser
May 22, 1996
Page 2

the capacity improvements, with the caveat that any discoveries during ground disturbing activities will need to be addressed in consultation with our office.

RAIL YARDS - We concur with your determination that the activities at all three yards will have no effect on historic properties.

INTERMODAL FACILITIES - From the description of the proposed work at the 40th Street UP (Pullman) facility, we can concur there is no potential to affect historic properties. With regard to the North Yard SP facility and the automotive facility, we will need to review an inventory record form for the water tower (requested in our May 2, 1996 response). As stated in our May 10, 1996, response, it is our opinion that the proposed demolition of both North Yard facilities will have no effect on historic properties, rather than no adverse effect, again with the caveat regarding subsurface resources that may be encountered during ground disturbing activities included in this document.

ABANDONMENTS

Malta to Canon City - We agree that if any previously identified but unevaluated or newly discovered archaeological resources are located within the APE, it will be necessary to determine their eligibility and the effects of the project on any found eligible. Ground disturbance involving any such eligible resources (historic properties) may constitute an adverse effect in the absence of appropriate research or the transfer, lease or sale of such properties with adequate restrictions.

Since we have not yet received the survey report and inventory record forms for the historic resources in this APE, we cannot formally comment on their eligibility. Conceptually we can agree that if any such resources are determined eligible, the potential exists for adverse effects for the reasons outlined in the last paragraph on page D-4.

It should be noted that adaptive reuses of the railroad grade, such as conversion to trails or vehicular traffic, may create a potential for adverse effects to not only railroad related historic properties but also other types of adjacent historic properties which may become more accessible. If such alternatives are selected, it will likely be necessary to evaluate any such additional resources determined to be within the APE.

Sage to Leadville - Our comments on this segment are the same as above for Malta to Canon City.

Towner to NA Junction - As indicated in our May 10, 1996, response, we request additional information about the entire Hoisington Subdivision to enable us to comment about the eligibility of the Missouri Pacific Railroad. Consequently we cannot comment on effects of this abandonment project at this time. Please refer to our comments on the eligibility and effects of the related Salina Branch project also addressed in our May 10, 1996, response.

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464

3 Refer to the previous page for response.

4 SEA acknowledges the SHPO's concurrence that there will be no effect on historic properties at the three rail yards in Colorado.

5 SEA acknowledges SHPO's concurrence that there will be no effect on the Pullman Intermodal Facility. Information on the water tower in the North Yard SP facility has been provided subsequent to the date of this letter. SEA also notes the SHPO's opinion that demolition of North Yard facilities will have "no effect" on historic properties, rather than "no adverse effect."

6 SEA acknowledges that ground disturbance of undiscovered resources would require an evaluation of eligibility and effect. This type of mitigation is discussed in Volume 1, Chapter 5 of the Post EA. Information requested by the SHPO for the Malta to Canon City rail segment has been provided.

7 SEA recognizes the SHPO's position that conversion to trails use could create a potential for adverse effects. The Surface Transportation Board does not have the authority to require conversion to trails use. It should be noted that the Applicant has responded favorably to the State of Colorado's request for trails use if the proposed abandonment is approved.

8 SEA has responded to the SHPO's request for additional information about the proposed abandonment of the Towner to NA Junction segment.



SE AGENCIES

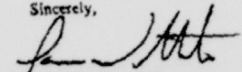
COLORADO - STATE HISTORIC PRESERVATION OFFICER

Elaine K. Kalsor
May 22, 1996
Page 3

CONSTRUCTION - See comments above regarding Intermodal Facilities.

If we may be of further assistance, please contact Kaaren Hardy-Hunt, our Technical Services Director,
at (303) 866-3398.

Sincerely,


James E. Hartmann
State Historic Preservation Officer

JEH/KKP

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 Fax 303-866-4464



IDAHO STATE HISTORICAL SOCIETY

Preserving Idaho's Past

John R. Hill, Director

Philip F. Batt, Governor

April 12, 1996

Ms. Elaine K. Kaiser
 Chief, Section of Environmental Analysis
 Surface Transportation Board
 Washington D.C. 20423-0001

RE: Union Pacific/Southern Pacific Railroad Merger, Section 106 Compliance

Dear Ms. Kaiser:

Thank you for requesting our views on the proposal to merge the operations of the Union Pacific Railroad Company and Southern Pacific Transportation Company. According to your letter, the transaction will not cause changes to rail line segments, rail yards, or intermodal facilities, or initiate new construction projects. Further, it will not result in new rail lines abandonments in Idaho. We agree, then, that the proposed merger will have no effect on historic properties, and Section 106 Review for Idaho has been completed for this undertaking.

We would like to take this opportunity to remind the Surface Transportation Board (STB) that our office has requested additional information from Union Pacific on abandonments currently being considered. On several of these projects, we have not received responses. We would appreciate closer coordination between Union Pacific and the STB on current and future railroad undertakings requiring review under Section 106 of the National Historic Preservation Act.

If you have any questions, feel free to contact either myself or Suzi Neitzel at 208-334-3847.

Sincerely,

Robert M. Yone II
 State Archaeologist and
 Deputy SHPO

RMY/spn

cc: Susan Hamlin, Idaho Public Utilities Commission, Boise

Administration 210 Main Street Boise, Idaho 83720 Tel: 208-334-3847 Fax: 208-334-3848	Historic Preservation 210 Main Street Boise, Idaho 83720 Tel: 208-334-3847 Fax: 208-334-3848	Historic Sites 2445 Old Penitentiary Road Boise, Idaho 83722 Tel: 208-334-3844 Fax: 208-334-3848	Historical Library and Archives 150 North Capitol Street Boise, Idaho 83720 Tel: 208-334-3846 Fax: 208-334-3848	Historical Museum 410 North Julia Davis Drive Boise, Idaho 83702 Tel: 208-334-3842 Fax: 208-334-3848
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The Idaho State Historical Society is an Equal Opportunity Employer

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SEA acknowledges the Idaho State Historical Society's statement that the proposed merger will have no effect on historic properties. This correspondence completes Section 106 coordination responsibilities for the State of Idaho.

2

2

The current proposal does not include any abandonments in Idaho.





ILLINOIS
DEPARTMENT OF
NATURAL RESOURCES
Office of Water Resources

524 South Second Street, Springfield 62701-1787

Jim Edgar, Governor • Brent Manning, Director

November 16, 1995

SUBJECT: Union Pacific and Southern Pacific Railroads
Potential Construction Projects

Ms. Julie Donsky
Dames & Moore, Inc.
One Continental Towers
1701 Golf Road, Suite 1000
Rolling Meadows, Illinois 60008

Dear Ms. Donsky:

Enclosed for your information are copies of our rules for "Construction in Floodways of Rivers, Lakes and Streams" and "Floodway Construction in Northeastern Illinois." These rules appear to be the ones which would be relevant to the types of work you are proposing for the merger of the Union Pacific and Southern Pacific Railroads. This office also regulates construction in the public waters of the state and the construction and modification of dams. From the information included in your September 30, October 23, 24, and 31 and November 6, 1995 letters it did not appear that our public water or dam safety rules would be applicable.

From the general location and project description information included with your letters I have made the following determinations:

- Barr (October 23 letter) - The drainage area of the stream at the Barr site is less than 10 square miles in a rural area, therefore, an IDNR/OWR permit is not required. If work other than the removal of the rails and ballast is proposed for the rail line south of Barr more detailed information should be submitted for our review.
- Buda (October 31 letter) - It appears that the construction of new siding west of Buda could involve the crossing of a waterway with a drainage area greater than 10 square mile in an rural area. Therefore, a permit would be required from this office for the proposed construction. The other proposed work in the Buda vicinity does not involve streams under our jurisdiction. Therefore, a permit is not required for that work.

- • -

Effective July 1, 1995, the Illinois Department of Natural Resources was created through the consolidation of the Illinois Department of Conservation, Department of Mines and Minerals, Abandoned Mine Land Reclamation Council, the Department of Transportation's Division of Water Resources, and the Illinois State Museum and Scientific Surveys from the Illinois Department of Energy and Natural Resources.

(printed on recycled and recyclable paper)

Ms. Julie Donsky
Page 2
November 16, 1995

- Dolton (October 23 letter) - The proposed expansion of the intermodal facility does not appear to be enlarging the existing yard area and does not appear to cross a waterway with a drainage area greater than 1 square mile in an urban area or a waterway that has a designated floodway. If this is the case, a permit is not required.
- Dupo (October 23 letter) - The proposed expansion of the intermodal facility does not appear to be enlarging the existing yard area and does not appear to cross a waterway with a drainage area greater than 1 square mile in an urban area. If this is the case, a permit is not required.
- Girard (September 30 and October 23 letters) - The drainage area to the "wyse" is less than 10 square miles in a rural area. Therefore, a permit is not required. If work other than the removal of the rails and ballast is proposed for the rail line north of Girard more detailed information should be submitted for our review.
- Global 2 (October 23 letter) - The Office of Water Resources had previously contacted the CNW regarding a proposed flood control reservoir in the vicinity of Addison Creek. Please coordinate your efforts with Melvin Allison of this office. Proposed construction for the expansion of the intermodal facility which would impact flows in Addison Creek, or its tributary from the Lower Elmhurst Reservoir, would involve a waterway with a designated floodway and would, therefore, require a permit.
- Salem (September 30 and October 23 letters) - It appears that the construction of the 8000 ft. connection would involve the crossing of a waterway with a drainage area greater than 1 square mile in an urban area. Therefore, a permit would be required from this office for the proposed construction.
- Salem (September 30 and October 23 letters) - It appears that the provision of the four tracks in excess of 8000 ft. at the Salem yard might also involve the crossing of a waterway with a drainage area greater than 1 square mile in an urban area. Therefore, a permit would be required from this office for the proposed construction.

- 1 SEA acknowledges the Illinois Department of Natural Resources, Office of Water Resources, guidance and comments on permitting requirements for proposed new rail line constructions at Girard and Salem. The Applicant would be required to procure all necessary permits prior to initiating construction at these locations.





State Historical Society of Iowa

The Historical Division of the Department of Cultural Affairs

May 9, 1996

In reply please refer to:
R&CW: 951100104

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

RE: SIB-STATEWIDE-SURFACE TRANSPORTATION BOARD REQUEST FOR ENV. COMMENTS
ON THE POTENTIAL ENV. IMPACTS OF CONTROL AND MERGER APPL. BETWEEN
THE UNION PACIFIC AND SOUTHERN PACIFIC RAILROADS (FINANCE DOCKET
#32760):

Dear Ms. Kaiser:

Based on the information you provided, we find that there are no historic properties which might be affected by the proposed undertaking. Therefore, we recommend project approval.

However, if the proposed project work uncovers an item or items which might be of archeological, historical or architectural interest, or if important data come to light in the project area, you should make reasonable efforts to avoid or minimize harm to the property until the significance of the discovery can be determined.

Should you have any questions please contact me at the number below.

Sincerely,

Sincerely,

Ralph J. Christian
Ralph J. Christian
Architectural Historian
Community Programs Bureau
515/281-8697

☐ 402 Iowa Avenue
Iowa City, Iowa 52240-1806

☐ 600 E. Locust
Des Moines, Iowa 50319-0290

☐ Montauk
Box 372
Chariton, Iowa 51536-0372

1 SEA acknowledges the State Historic Preservation's Office's conclusion that there are no historic properties in Iowa which might be affected by the proposed merger. This correspondence completes Section 106 coordination responsibilities for the State of Iowa.

2 A general mitigation stipulation of the proposed merger requires the Applicant to halt work in the area upon discovery of archaeological resources and to contact the appropriate SHPO.

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

KANSAS DEPARTMENT OF TRANSPORTATION
COMMENTS

John Jay Rosacker
Attorney at Law
Bureau of Rail Affairs
Kansas Department of
Transportation
217 SE 4th
Topeka, KS 66603

Date: MARCH 28, 1996



10

City By-pass" will exacerbate historic problems with rail crossings in several Kansas communities. We would particularly direct the Board's attention to the unusually difficult situation in Wichita. We realize the Board does not traditionally consider rail crossings in merger cases, but public safety, quality of life and economic well being are truly at stake and we feel it should be viewed as one respect of the public's interest. We would appreciate the Board's efforts to craft a reasonable solution to the congestion problems in Wichita by using its lawful authority in conjunction with this merger case to bring the parties together around a workable plan.

The Railroad Working Group encourages the Board, to ultimately approve the merger, if the above conditions are satisfied.

CONCLUSION

KDOT as the lead agency for the Governor's Railroad Working Group requests that the Board carefully review the evidence presented by all parties in this case and approve the merger as meeting the public interest test; subject to the appropriate action on the following conditions:

1

1

SEA acknowledges Kansas DOT's concern about an increase in grade crossing problems in Kansas communities and Wichita as a result of increased train traffic. SEA notes Kansas DOT's recognition that SEA does not normally address rail crossings in merger proposals. Subsequent to the EA, SEA visited Wichita and also conducted additional rail traffic and vehicular analyses.

The Chickasha to Wichita line, which passes through downtown Wichita, will see an increase from 4.4 (pre-merger) to 11.8 (post-merger) freight trains per day, an increase of 7.4 trains per day. SEA's calculation of the delay is shown in the following paragraph. The Lost Springs to Wichita line, which begins at 21st Street, north of downtown Wichita, and continues north to Lost Springs, will see an increase of 10 trains per day from 1.9 to 11.9 per day.

Train Speed. The current freight train speed limit for crossings between 19th and Central Streets is 10 MPH. For 5,000-foot unit freight trains traversing the 10-MPH crossings, the additional crossing delay with the increased rail traffic from the merger would be approximately 47 minutes over a 24-hour period. Thus, the total post-merger delay blockage time at 10 MPH crossings would increase from 28 minutes (pre-merger) to 75 minutes (post-merger) per day.

However, all crossings in Wichita do not have train speed limits of 10 MPH, so this analysis overstates the potential impact of any increase in rail traffic. Based on *UP Timetable No. 2*, dated 10/29/95, which gives the permanent freight train speed limits, the train speed limit for the Lincoln Street crossing and all crossings to the south of the city limits is 20 MPH. The train speed limit for all UP crossings in Sedgwick County outside the Wichita city limits is 40 MPH. Where conflicting with

the timetable speeds, the current 10 MPH slow orders referred to by the City would be temporary and should not be used for calculating future impacts.

Delay. The incremental crossing delay caused by the additional 5,000-foot freight trains associated with the proposed merger would be much less than for the lower speed crossings. Total blockage time for the crossings from Lincoln Street south would increase from about 15 minutes per day to 41 minutes per day, an increase of 26 minutes. Likewise, total blockage time for the crossings north of 21st Street would increase from about 4 minutes per day to about 29 minutes per day, an increase of 25 minutes.

SEA used 5,000-foot train lengths as the average for calculating crossing delay. For Wichita, SEA also calculated delays using a longer average train length of 6,000 feet. For 6,000-foot freight trains, total blockage time for crossings south of Lincoln Street would increase from pre-merger values of 36 minutes to post-merger values of 96 minutes, a change of 60 minutes. The crossings north of 21st Street would experience blockage increases from 5 minutes per day pre-merger, to 30 minutes per day post-merger.

Traffic level of service (LOS) at grade crossings in the 10 MPH operating section would be degraded to peak hour LOS D values for 6,000-foot train operation. For 5,000-foot freight trains, LOS C values are projected for the crossings in the 10 MPH operating area. Please refer to Volume 1, Chapter 4 of the Post EA for additional discussion of LOS at grade crossings.



SEAG AGENCIES

KANSAS - STATE HISTORIC PRESERVATION OFFICER

Richard Penkratze page -3

FAX REPLY to : 202/927-6225

To: Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington DC 20423-0001

From: Richard Penkratze, Kansas State Historic Preservation Officer

Date 5/21/96 Signature Richard D. Penkratze

Re: Section 106 Consultation Comments regarding
Proposed Merger of Union Pacific and Southern Pacific Railroads
Finance Docket 32780

___ I concur with the Surface Transportation Board's (STB) findings regarding historic and cultural resources as described in STB's letter of May 14, 1996.

___ I concur with the Surface Transportation Board's (STB) findings regarding historic and cultural resources as described in STB's letter of May 14, 1996, with the following comments:

1

1 SEA acknowledges the Kansas State Historical Preservation Officer's concurrence with the Board's findings regarding historic and cultural resources as described in the Board's letter of May 14, 1996. This correspondence completes Section 106 consultation with the State of Kansas.

STATE AGENCIES

LOUISIANA - STATE HISTORIC PRESERVATION OFFICER



KATHLEEN BABINEAUX BLANCO
LIEUTENANT GOVERNOR

State of Louisiana
OFFICE OF THE LIEUTENANT GOVERNOR
DEPARTMENT OF CULTURE, RECREATION & TOURISM
OFFICE OF CULTURAL DEVELOPMENT
DIVISION OF ARCHAEOLOGY

PHILLIP J. JONES
SECRETARY

GERRI HOB DY
ASSISTANT SECRETARY

May 6, 1996

Ms. Julie Donsky
Dames & Moore
One Continental Towers
1701 Golf Road, Suite 1000
Rolling Meadows, Illinois 60008

Re: Addendum to the Environmental Report for the Proposed Merger
of the Union Pacific and Southern Pacific Railroads
Multiple Parishes, Louisiana

Dear Ms. Donsky:

Reference is made to your letter dated March 26, 1996, requesting our comments on the above. We have completed our review of the proposed plans and determined that significant cultural resources will not be affected. Therefore, we have no objections.

If we may be of further assistance, please contact Mr. Mike Mahady in the Division of Archaeology at (504) 342-8170.

Sincerely,

Gerri Hobdy
State Historic Preservation Officer

GH:MM:s

1 SEA acknowledges SHPO's comment that no significant cultural resources will be affected by the project.



MICHIGAN - STATE HISTORIC PRESERVATION OFFICER



MICHIGAN DEPARTMENT OF STATE
Candice S. Miller, Secretary of State

Lansing, Michigan 48918-0001

STATE HISTORIC PRESERVATION OFFICE
Michigan Historical Center
717 West Allegan Street
Lansing, Michigan 48918-1800

April 18, 1996

ELAINE K KAISER
CHIEF SECTION OF ENVIRONMENTAL ANALYSIS
SURFACE TRANSPORTATION BOARD
WASHINGTON DC 20423-0001

RE: ER96-723 Proposed merger, Union Pacific and Southern Pacific Railroads (STB
Finance Docket No. 32760)

Dear Ms. Kaiser:

We have received your request to concur with the Surface Transportation Board's opinion under Section 106 of the National Historic Preservation Act of 1966, as amended, that the above referenced project will have no effect on cultural resources in Michigan.

However, you have not provided any information to support this finding. What states does these railroads operate in? Perhaps the State of Michigan is outside the area of potential effect for the project and you are not required to consult with this office.

If Michigan is within the area of potential effects we require information on how your agency arrived at its no effect determination. This information should include a list of historic properties within the area of potential effect and a description of why the merger will have no effect on historic properties.

If you have any questions, please contact Kristine Wilson, Environmental Review Coordinator at (517) 335-2721. Thank you for this opportunity to review and comment.

Sincerely,

John R. Halsey for

Kathryn B. Eckert
State Historic Preservation Officer

KBE:KMW

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Information explaining the basis of the Surface Transportation Board's determination that the proposed merger would have no effect on cultural resources in Michigan was submitted on May 2, 1996.

Dr. Kathryn Eckert
page 3

FAX REPLY to : 202/927-6225

To: Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue
Washington DC 20423-0001

From: Kathryn Eckert, Michigan State Historic Preservation Officer

Signature Kathryn D. Eckert

Date 5/29/96

Re: Section 106 Consultation regarding
Proposed Merger of Union Pacific and Southern Pacific Railroads
Finance Docket 32760

1 I concur with the finding of the Surface Transportation Board's Section of Environmental Analysis (SEA) that the proposed merger would have no effect to historic and cultural resources in Michigan, as described in SEA's letter of May 2, 1996.

I concur with the finding of the Surface Transportation Board's Section of Environmental Analysis (SEA) that the proposed merger would have no effect to historic and cultural resources in Michigan, as described in SEA's letter of May 2, 1996, with the following comments:

1 SEA acknowledges Michigan's State Historic Preservation Officer's comment that there would be no effect to historic and cultural resources in Michigan. This correspondence completes Section 106 coordination responsibilities for the State of Michigan.





MINNESOTA HISTORICAL SOCIETY

May 10, 1996

Ms. Elaine K. Kaiser
Environmental Analysis
Surface Transportation Board
Washington, D. C. 20423-0001

Dear Ms. Kaiser:

Re: Merger of Union Pacific and Southern Pacific Railroads
Minnesota
SHPO Number: 96-2141

Thank you for your letter regarding the above referenced proposed action.

If there are no proposed actions that would affect Minnesota, we conclude that there is no undertaking subject to Section 106 review in Minnesota. (A "no effect" review finding would only be made if National Register listed or eligible resources had been identified in the area of potential effect for the project.)

If you have any questions regarding our review of this project, please contact our Review and Compliance Section at 612-296-5462.

Sincerely,

Britta L. Bloomberg
Deputy State Historic Preservation Officer

BLB:dmb

305 KILGORE BOULEVARD WEST SAINT PAUL, MINNESOTA 55102-0008 TELEPHONE 612 296-6125

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SEA acknowledges the State Historic Preservation Officer's conclusion that there is no undertaking subject to Section 106 review in Minnesota. This completes Section 106 coordination responsibilities for the State of Minnesota.

Surface Transportation Board
Washington, D.C. 20423-0001

Section of Environmental Analysis

April 3, 1998

Finance Docket No. 32760

Mr. Paul M. Putz
State Historic Preservation Officer
1410 8th Avenue
P.O. Box 201201
Helena, MT 59820-1202

Re: Union Pacific/Southern Pacific railroad merger, Section 106 Compliance

Dear Mr. Putz:

As you are aware, on November 30, 1995, the Union Pacific Railroad Company (UP) and the Southern Pacific Transportation Company (SP) applied to the Interstate Commerce Commission (ICC) for authority to merge their operations into a single Union Pacific Railroad Company. This proposed merger now requires the approval of the Surface Transportation Board (STB). The STB retains the former ICC's merger review authority.

Because the proposed undertaking has the potential to affect historic resources, the STB is seeking your comment on various aspects of compliance with Section 106 of the National Historic Preservation Act. This effort is being coordinated with preparation of an Environmental Assessment to comply with the National Environmental Policy Act (NEPA).

On January 29, 1998, you were sent a letter from the Section of Environmental Analysis requesting your comments regarding potential environmental impacts of the proposed merger. The letter summarized merger activities into five categories: (1) Rail Line Segments, (2) Rail Yards, (3) Intermodal Facilities, (4) Rail Line Abandonments, and (5) Rail Line Construction Projects. In Montana, there are no proposed changes to rail line segments, rail yards, or intermodal facilities; and no new construction projects. No rail lines are proposed to be abandoned.

In accordance with the rules and regulations found in 38 CFR Part 800.5b, the STB requests your formal agreement that this project would have no effect on historic resources in Montana and that consultation regarding Section 106 has been completed.

CONCUR
MONTANA THPC
DATE 4-5-98 SIGNED *[Signature]*

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SEA acknowledges the Montana State Historic Preservation Officer's concurrence that the proposed merger will have no effect on historic and cultural properties in Montana. This correspondence completes Section 106 coordination responsibilities for the State of Montana.





GARY E. JOHNSON
GOVERNOR

State of New Mexico
ENVIRONMENT DEPARTMENT
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502
(505) 827-2850

MARK E. WRIDLER
SECRETARY
EDGAR T. THORNTON, III
DEPUTY SECRETARY

May 2, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue, NW
Room 3219
Washington, D.C. 20423

Dear Ms. Kaiser:

RE: CONTROL AND MERGER OF UNION PACIFIC CORPORATION, UNION PACIFIC RAILROAD COMPANY, AND MISSOURI PACIFIC RAILROAD COMPANY; ENVIRONMENTAL ASSESSMENT; FINANCE DOCKET NO. 32760.

The following transmits New Mexico Environment Department (NMED) staff comments concerning the above-referenced Environmental Assessment (EA).

The proposed merger will increase locomotive traffic by 50% along the Lordsburg, NM to El Paso, TX rail line segment. The increase in locomotives, from 3 to 6, results in an increase of criteria pollutant levels in New Mexico and in Air Quality Control Region (AQCR) 12, New Mexico southern border. The increases are:

Lordsburg to El Paso		AQCR 12	
Pollutant	Tons per Year	Pollutant	Tons per Year
HC	31.2	HC	47.4
CO	97.0	CO	147.3
NOX	726.3	NOX	79.9
SO2	52.6	SO2	79.9
PM-10	15.7	PM-10	23.9

(Note: The emission amounts shown here are distributed along the distance of the rail line segment.)

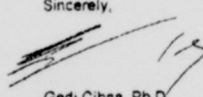
Elaine K. Kaiser
May 2, 1996
Page 2

The increase in emissions resulting from the merger should not significantly impact the air quality of New Mexico. For example, the total NOx emissions of the rail line segment from Lordsburg to El Paso represents less than 20% of the NOx emissions from a single major source along the rail line segment.

The report did not mention the Sunland Park Marginal Ozone Nonattainment Area. Although not mentioned, less than 20% of the rail line segment between Lordsburg and El Paso is in this nonattainment area. For example, NOx emissions from the rail-line segment in the nonattainment area would represent only 4% of the NOx emissions from the largest single major source within the area. Therefore locomotive emissions within the nonattainment area are minimal.

We appreciate the opportunity to comment on this EA. Please let us know if you have any questions on our comments.

Sincerely,


Gedi Gibbs, Ph.D.
Environmental Impact Review Coordinator

NMED File No. 986ER

1

2

1

The New Mexico Environment Department's comment that increases in rail line traffic between Lordsburg, NM and El Paso, TX should not adversely impact air quality is noted and is consistent with SEA's finding.

2

SEA acknowledges the Department's identification of NOx emissions in the Sunland Marginal Ozone nonattainment area and comment that these emissions are minimal.





GARY E. JOHNSON
GOVERNOR

STATE OF NEW MEXICO
OFFICE OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION

VILLA RIVERA BUILDING
1218 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501
(505) 827-6320

May 17, 1996

Ms. Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423-0001

Dear Ms. Kaiser:

I am writing in response to your letter dated April 3, 1996 a copy of which I just received from Myra Frank and Associates. Thank you for the information that we requested concerning the Union Pacific/Southern Pacific railroad merger undertaking. I can now give you our recommendations on the undertaking pursuant to Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations 36 CFR 800.

The undertaking, as defined within the state of New Mexico, will involve ground disturbing activities within existing railroad rights-of-way associated with new rail line segment construction resulting in capacity improvements such as double tracking and siding extensions. These activities have the potential to effect both known and unknown historic properties that are eligible for listing on the National Register of Historic Places.

For the Cochise, AZ to Lordsburg to El Paso TX corridor, a second track one train length long will be constructed at Aden, Afton, Akela, Carne, Dona, Gage, Lanark, Strauss, and Tunis. At Deming a double track six miles long will be built. From Lizard to Anapra and from Lordsburg to Ulmoris a second main track will be built. Lastly, from Separ to Wilna a double track and an additional crossover will be constructed. Deming contains two buildings listed on the National Register of Historic Places that are in the vicinity of the proposed second track. Known archaeological sites are located in Deming, the Lizard to Anapra area, the Separ to Wilna area, and in the vicinity of Strauss, New Mexico.

For the El Paso, TX to Dalhart, TX corridor, five new sidings 9,700 feet long (each) will be constructed at Arabella, Leoncito, Oscura, Robsart, and Tularosa. At Palomas that existing siding will be extended by 3120 feet. One known archaeological sites is near Tularosa, New Mexico.

1

2

1 SEA acknowledges the State Historic Preservation Officer's comment that ground disturbing activities have a potential to affect known and unknown historic properties. SEA's recommended mitigation measures relevant to the undiscovered archeological resources are reported in Chapter 5 of the Post EA.

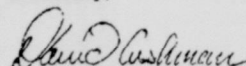
2 Information on historic and archeological resources at various locations in New Mexico noted by the SHPO has been included in the Section 106 consultation process. Information was submitted on the requested forms.

For each of the proposed line constructions, I recommend that an archaeological survey be conducted to identify all cultural resources that may be affected by the undertaking as required under 36 CFR 800.4. This will involve hiring an archaeologist who meets the professional qualifications contained in Archaeology and Historic Preservation: Secretary of the Interior's Standards and Guidelines (FR, 48:190, September 29, 1983). The archaeologist is to conduct a pedestrian survey within the proposed right-of-way and along the lengths of each proposed rail segment and record all cultural resources encountered using Laboratory of Anthropology Site forms available at this office for all new sites and an update form for all previously recorded sites. After the survey has been completed, a survey report must be prepared detailing the results of the survey and containing copies of the site forms. This report must be submitted to my office for review. At that point, we will provide you with our recommendations on site eligibility and effect as required under 36 CFR 800.4 and 800.5. All sites found not to be eligible to the National Register of Historic Places will require no further consideration. However, all sites that are determined to be eligible, and that will be affected by the undertaking, will require treatment of effect prior to construction in accordance with the provisions of 36 CFR 800.5.

If you have any questions, please contact me.

Thank you.

Sincerely,



David Cushman
Acting Deputy State Historic Preservation Officer

Log: 50442

cc: Rick Starzak
Myra Frank and Associates
811 W. 7th Street
Suite 800
Los Angeles, CA 90017

2

2

Refer to the previous page for response.



BOB MILLER
Governor

STATE OF NEVADA

JOHN F. CORRAUX
Director



DEPARTMENT OF ADMINISTRATION

Capitol Complex
Carson City, Nevada 89710
Fax (702) 687-3983
(702) 687-4065

May 10, 1996

Ms. Elaine K. Kaiser
Chief, Section for Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue, NW
Room 3219
Washington, DC 20423

Re: Nevada SAI # 96300161 -Environmental Assessment for the Union Pacific and
Southern Pacific Railroad Merger (Finance Docket No. 32760)

Dear Ms. Kaiser:

Thank you for the opportunity to review the Environmental Assessment for the proposed merger between the Union Pacific and the Southern Pacific rail lines. Also, thank you for agreeing to extend our comment deadline to May 10.

After reviewing the document, the State of Nevada finds that it is deficient in several respects. First, the impacts to air quality were not adequately addressed. The regional analysis that was conducted is too broad an area to sufficiently document the true air quality impacts to the Reno/Sparks area. In downtown Reno, where the impacts will be the greatest, no modeling was conducted to depict worst-case scenarios, such as during the winter at rush hour traffic. To analyze the true impacts to air quality, such an analysis must be conducted.

Second, the State is concerned with the potential impacts the increased number of trains could pose to emergency response vehicles in the downtown Reno area. If there is a rail accident, a fire, or some other incident, emergency response crews may not be able to get to the scene because a train could be blocking vital passageways. Currently in downtown Reno, motorists must wait for several minutes when a train comes through. The projected increases in rail traffic that will accompany this proposed merger will only exacerbate this situation, and will place emergency response crews in the situation of not being able to respond in a timely fashion.

1

SEA notes the state's concern about air quality impacts in the Reno/Sparks area. In response to this and other comments, SEA performed air quality analysis at 10 intersections in downtown Reno for which the average daily traffic per crossing is 1,267 vehicles. SEA's findings for the 10 crossings (between Keystone and Lake) are that annual emissions, in tons, would be: 1.6 (HC), 20.0 (CO), 0.4 (NOx), 0.01 (SO2), and 0.01 (PM10). SEA concludes this level of emission is not substantial. No mitigation is necessary. Please refer to Volume 1, Chapter 4 of the Post EA for further discussion of the air quality methodology. Air Quality mitigation is discussed in Volume 1, Chapter 5 of the Post EA.

2

SEA acknowledges the Commission's concerns about emergency response issues in the City of Reno. The analysis of intersection delay reported indicates that emergency response times should not be affected by the incremental change in delay that would be attributable to the merger. It should also be noted that the City of Reno has a distribution of fire/rescue stations on each side of the railroad tracks to provide adequate coverage. Therefore, the impact of a blocked railroad grade crossing on emergency response times (for either existing conditions or if the merger is approved) would be minimal. Grade crossings blocked by trains can be incorporated into the dispatching protocol to dispatch response from the next closest or available standby station. Recognizing continuing concern for this issue, however, SEA's recommended mitigation for the Reno area is reported in Volume 1, Chapter 5 of the Post EA.

SEA evaluated traffic delay for the 15 grade crossings in Reno, using traffic data provided by the City, supplemented by grade crossing data from the Federal Railroad Administration. Using the affirmed number of trains, SEA conducted additional traffic analysis following issuance of the EA. Current total vehicle delay is estimated at 48 minutes per day, or 1.6 to 4.2 seconds per vehicle using at-grade crossings. The results of analysis indicate that the 24-hour level of service (LOS) (please refer to Volume 1, Chapter 4 of the Post EA for an explanation of LOS) for vehicles crossing the railroad tracks in the unmitigated postmerger condition would be LOS B for either 5,000 foot trains (assumed for the EA) or 6,000 foot trains (tested in the post EA period). This is based on a projection of 88 minutes of total delay per day for 5,000 foot trains, or a range of 2.9 to 7.6 seconds of delay per vehicle (depending on volume of traffic). For 6,000 foot trains, the projected total delay per day would be 102 minutes, or a range of 3.7 to 10.0 seconds delay per vehicle. The peak hour average LOS

Furthermore, with increased rail traffic comes an increased risk of accidents. The EA states that "the proposed merger could be expected to result in an additional 25 accidents per year." Yet, no mention is made of where these accidents are expected to occur, again pointing to a deficiency in the document.

Third, although Section 106 consultation with Nevada's State Historic Preservation Office revealed that the proposed merger could have the results listed below, the document does not discuss the impacts of those actions.

- The construction of 6 universal crossovers between existing parallel SP and UP lines (at Alazon, Barth, Beowawe, Elburz, MP440, and the UP Connection)
- Abandonment of the rail yard at Carlin
- Phasout of the existing Reno UP intermodal facility
- Construction of a new rail facility in the Reno area
- Demolition of the Sparks SP intermodal facility

In addition, the increased rail traffic that will inevitably result from this merger may cause an increase in the number of wildlife fatalities. The State is especially concerned with the potential impacts to pronghorn antelope, mule deer, and wild turkeys. Although construction of fencing along the tracks would help to mitigate this phenomena, it would prevent free movement between lands on either side of the tracks, which is not acceptable.

In conclusion, this proposed rail merger is a multi-state action with many impacts, not just to Nevada. The document is inadequate in several respects, a few of which were mentioned above. In addition, although we thank you for extending the review and response timeline for us, we find that the comment window was simply too short. All of these points suggest that the Surface Transportation Board should conduct an Environmental Impact Statement on the proposed merger, not an Environmental Assessment. The issues are simply too complex, and the proposal affects many states, all of which suggests that the current level of analysis is inadequate. This letter, along with the enclosed comments from the Nevada Division of Environmental Protection, the Nevada Division of Wildlife, and the State Historic Preservation Office, constitutes the review of this proposal as per Presidential Executive Order 12372. Please call me if you have any questions at (702) 687-6367.

Sincerely,

Julie Butler

Julie Butler, Coordinator
Nevada State Clearinghouse/SPOC

cc: Tim Crowley, Governor's Office
David Cowperthwaite, NDEP
Rebecca Palmer, SHPO
Richard Haas, NDOH

2 (post-merger) would be LOS C for either train length, based on peak-hour delay values approximately double those cited for the 24-hour level of service. Impacts at LOS B and C do not indicate the need for mitigation. Because of local concern, SEA recommends that the Applicant consult with the City of Reno about traffic issues. SEA's revised mitigation recommendations are discussed in Volume 1, Chapter 5 of the Post EA.

SEA also analyzed the impact of train traffic on the amount of time that crossing gates would be down. Using the 6,000 foot train length to evaluate a worst-case scenario, SEA's analysis of delay indicated that the average gate down-time per train would increase from 3.5 minutes for 5,000 foot trains to 4.1 minutes (a 36-second increase).

3 SEA acknowledges the Clearinghouse reference to the Section 106 consultation process and evaluation of potential impacts to sites identified by the State Historic Preservation Officer (SHPO). Information listed in the comment as not discussed in the EA has been developed and reviewed as part of the ongoing Section 106 consultation process initiated by SEA with the Nevada SHPO.

4 SEA acknowledges the Agencies' concerns for potential adverse impacts to wildlife. The proposed merger would not introduce new types of impacts. SEA agrees that the suggestion for fencing of the right-of-way is not feasible, in addition to its prevention of free movement of animals.

5 SEA notes the Clearinghouse position on conducting an EIS. SEA concludes that an EA is appropriate and an EIS is not required. The EA and Post EA identify and evaluate impacts of the proposed merger and describe recommended mitigation measures to reduce potential impacts.



BOB MILLER
Governor

STATE OF NEVADA

JOHN P. COMEAUX
Director



DEPARTMENT OF ADMINISTRATION

Capitol Complex
Carson City, Nevada 89710
Fax (702) 687-3983
(702) 687-4065

May 15, 1996

Ms. Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue, NW, Room 3219
Washington, DC 20423

Re: Nevada SAI NV# 96300161 - Environmental Assessment for the Union Pacific and
Southern Pacific Railroad Merger (Finance Docket No. 32760)

Dear Ms. Kaiser:

Enclosed are additional comments from the Nevada Division State Lands and the Division
of Conservation Districts of that was received after our previous letter to you. Please
incorporate this comment into your decision making process. If you have any questions, please
contact me, at (702) 687-6382, or Julie Butler, Clearinghouse Coordinator/SPOC, at (702) 687-
6367.

Sincerely,

Terri Rodefer, Environmental Advocate
Nevada State Clearinghouse

Enclosures

PETER C. MORRIS, Director

L.H. DODGSON, Administrator

(702) 687-4470

(702) 687-4678

Administrative
Mining Regulation and Reclamation
Water Pollution Control
Facilities 687-5836

Address Envelope to:
Capitol Complex
Carson City, NV 89618

STATE OF NEVADA

BOB MILLER

Commissioner



DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION

Capitol Complex
Carson City, Nevada 89710

Waste Management
Corrective Actions
Pollution Tacklers
Facilities 685-0608

Air Quality
Water Quality Planning
Facilities 687-6396

Located at:
320 W. 8th Lane
Carson City, NV 89710

May 9, 1996

CLEARINGHOUSE COMMENTS

NDEP # 1996-114
SAI NV # 96300161

TITLE: USDOT-STB Draft EA for Union Pacific/Southern Pacific Railroad Merger

The Division of Environmental Protection has reviewed the aforementioned State Clearinghouse item and has the following comments:

The Division is concerned about the overall adequacy of the Environmental Assessment. The magnitude and consequences of the decision requires a more in depth review. As such, the Division believes that an Environmental Impact Statement should be prepared that addresses many of the issues currently not defined in the Environmental Assessment. It is our belief that issues hidden by the brevity of the Environmental Assessment would be revealed by the more intensive review provided by an Environmental Impact Statement.

From an environmental perspective, the consequences upon air quality needs further review. The Environmental Assessment persists in treating the issue of impacts at a Air Quality Control Region (AQCR) level. Since an AQCR can cover a quarter of Nevada, the defacto analysis does not portray the true impact. Worst case air quality modeling is needed to adequately characterize the impact of rail movement through Urban areas. For example, impacts from rail traffic through downtown Reno, Nevada have been dismissed as having no adverse impact. No modeling was done using worst case conditions (ie. winter time period at peak traffic periods), and as such the document has not adequately disclosed impacts.

- 1 SEA recognizes the position of the Division regarding the need for an EIS. SEA concludes that an EA is appropriate and an EIS is not required. The EA and Post EA identify and evaluate impacts of the proposed merger and describe recommended mitigation measures to reduce potential impacts.
- 2 SEA acknowledges the concern of the Division about air quality impacts. Please refer to response provided for comment #1 regarding vehicle idling. Emissions increases for the Roseville to Sparks segment (including Reno) are less than EPA levels of significance. The air quality methodology is described in Volume 1, Chapter 4 of the Post EA.



SAI 96300161 (NDEP 1996-114)
 Union Pacific/Southern Pacific Merger Environmental Assessment
 Page 2 - May 9, 1996

We are also concerned that the proposed rail merger will place a greater demand on local emergency response agencies in the event of a rail incident. Although we understand that there are requirements for transportation of rail cars that is defined in 49CFR, our concern is whether any greater risk will be imposed upon the general public and environment by the increased train traffic in highly hazardous substances. The EA states that "the proposed merger could be expected to result in an additional 25 accidents per year based on the projected increase in train-miles of the proposed system". No mention has been made as to where the accidents will most likely occur.

Finally, although a subtle issue, it is still relevant that the Environmental Assessment has not addressed on-going or anticipated remediation activities. For example the Environmental Assessment has not included a discussion of how the proposed merger will effect the Sparks Solvent/Fuel Site cleanup.

David R. Cowperthwaite
 David R. Cowperthwaite
 Clearinghouse Coordinator
 Division of Environmental Protection

cc: Tim Crowley, Governors Office

3

4

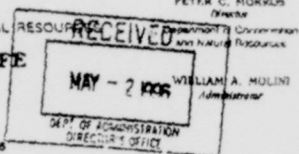
3 SEA acknowledges the concern of the Division about emergency response impacts. SEA's has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1, Chapter 4 of the Post-EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be higher than the historical traffic fluctuations experienced by the railroad industry. Even with this increase, SEA considers the movement of hazardous materials safe because of the necessity to comply with Federal regulations regarding the movement of such materials. (See page 4 of the US DOT response letter in Appendix A.) In response to this comment, SEA also recommends additional mitigation as described in Volume 1, Chapter 5 of the Post-EA.

4 Any on-going responsibilities of the Applicant for clean up of the Sparks Solvent/Fuel Site would not be affected by the proposed merger.



BOB MILLER
Governor

STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF WILDLIFE
1100 Valley Road
P.O. Box 10678
Reno, Nevada 89520-0678
(702) 688-1500 • Fax (702) 688-1598



April 29, 1996

Nevada Division of Wildlife
Region 1 Ph 423-3171
660 West B Street
Fallon, Nevada 89406

Ms. Julie Butler
Nevada State Clearinghouse
Planning Division
Blasdel Bldg. Room 200
Carson City, Nevada 89710

RE: SAIF 96300161 - Rail Merger

Dear Ms. Butler:

Thank you for the opportunity to review the above document. We have determined that the impacts to wildlife will probably be limited to an increased number of collisions that may occur as a result of the increased traffic on the existing rail lines.

Pronghorn antelope and mule deer are two big game species that would be at highest risk due to migration patterns in the areas of existing rail lines. Wild turkeys exist within the Truckee Canyon between Wadsworth and Vista. There have been several instances of collision mortalities. Evidently, the turkeys are feeding upon spilled grain located on the tracks.

Although there is a possibility to preclude wildlife from the tracks using exclusionary fencing, these same methods would adversely alter free movement between lands on either side of the tracks. We cannot condone this.

If you have any questions, please feel free to call Craig Mortimore at (702) 423-3171.

Sincerely,

WILLIAM A. MOLINI, ADMINISTRATOR

Richard T. Heap, Jr.
Richard T. Heap, Jr.
Regional Manager
Region I

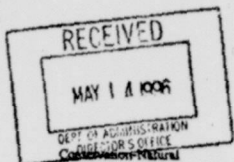
CM
CC: Habitat, Reno

1 SEA acknowledges the Agencies' concerns for potential adverse impacts to wildlife. The proposed merger would not introduce new types of impacts. SEA agrees that the suggestion for fencing of the right-of-way is not feasible, in addition to its prevention of free movement of animals.



NEVADA STATE CLEARINGHOUSE

Department of Administration
Budget and Planning Division
Blasdel Bldg., Rm. 200
(702) 687-4065
fax (702) 687-3983



DATE: April 22, 1996

Governor's Office
Nuclear Projects Office
Business & Industry
Agriculture
Minerals
Energy
Economic Development
Tourism
Fire Marshal
Human Resources
Aging Services
Health Division
Colorado River Commission

Legislative Counsel Bureau
Communications Bd.
Emp. Training & Rehab.
Research Division
FSG
Transportation
UNR Bureau of Mines
UNR Library
UNLV Library
Wild Horse Commission
Historic Preservation
Emergency Management
Washington Office

Director's Office
State Lands
Environmental Protection
Forestry
Wildlife
Region 1
Region 2
Region 3
State Parks
Water Resources
Water Planning
Natural Heritage

Nevada SAI # 96300161

Project: EA - Union Pacific Corporation & Southern
Pacific Rail Corporation Control & Merger

CLEARINGHOUSE NOTES:

See Related SAI # 96300061 & 96300104

~~May 17, 1996, for review and comment, is a copy of the above mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.~~

Enclosed, for your review and comment, is a copy of the above mentioned project. Please evaluate it with respect to its effect on your plans and programs; the importance of its contribution to state and/or local areawide goals and objectives; and its accord with any applicable laws, orders or regulations with which you are familiar.

Please submit your comments no later than 7. Use the box below for short comments. If significant comments are provided, please use agency letterhead and include the Nevada SAI number and comment due date for our reference. If you have any questions, please contact either Terri Rodefer, Clearinghouse Environmental Advocate, at 687-6382, or Julie Butler, Clearinghouse Coordinator, 687-6367.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

- | | |
|--|--|
| <input type="checkbox"/> No comment on this project | <input type="checkbox"/> Conference desired (See below) |
| <input type="checkbox"/> Proposal supported as written | <input type="checkbox"/> Conditional support (See below) |
| <input type="checkbox"/> Additional information below | <input type="checkbox"/> Disapproval (Explain below) |

AGENCY COMMENTS:

1. Recommend all proposed abandonments be considered for the rails to trails program.
2. Recommend a weed control program be set up for the rail right of ways.

1 SEA acknowledges the recommendation of the Nevada Division of Conservation Districts that all proposed abandonments be considered for the rails-to-trails program. However, this proposed merger does not include abandonments in Nevada.

2 SEA recognizes the recommendation submitted by the Nevada Division of Conservation Districts for a weed control program for the rail right-of-way. Maintenance issues are not within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.

NEVADA STATE CLEARINGHOUSE

Department of Administration
Budget and Planning Division
Blasdel Bldg., Rm. 200
(702) 687-4065
fax (702) 687-3983

DIVISION OF
STATE LANDS

96 APR 23 11:33
DATE: April 22, 1996

Geological Office
Nuclear Projects Office
Business & Industry
Archaeology
Minerals
Erosion
Ecology
Tourism
Fire Management
Hunting
Agriculture
Housing
Cultural Resources

Legislative Council Bureau
Communications Bd.
Exp. Training & Rehab.
Research Division
PSC

STATE	KAM
ED	ED
SARAH	SARAH
RON	RON
REX	REX
JON	JON
MARVA	MARVA
KIM	KIM
BOB	BOB
CD	CD
OTHER	OTHER

Director's Office
Environmental Protection

5-14
I think we mentioned them in our
letter. I don't think you need to read

5-13-96

Julie:

Nevada

State Lands just sent this
comment on the UP/SP Merger:

I think their comments were

already incorporated into the
consolidated letter. Should I
just send their comments as late
comments? Or can I include them

1. Please
cc of its
with any

Please submit your comments no later than 1. Use the box below for short comments. If
significant comments are provided, please use agency letterhead and include the Nevada SAI
number and comment due date for our reference. If you have any questions, please contact either
Terri Rodefer, Clearinghouse Environmental Advocate, at 687-6382, or Julie Butler,
Clearinghouse Coordinator, 687-6367.

THIS SECTION TO BE COMPLETED BY REVIEW AGENCY:

- ☐ No comment on this project
☐ Proposal supported as written
☒ Additional information below
☐ Conference desired (See below)
☐ Conditional support (See below)
☐ Disapproval (Explain below)

1

AGENCY COMMENTS: THE DIVISION OF STATE LANDS IS NOT AWARE OF ANY IMPACTS
FROM THE PROPOSED MERGER THAT AFFECT THE AGENCY OR AFFECT PUBLIC LANDS MANAGEMENT
NEVADA. INCREASED TRAFFIC WILL ADVERSELY AFFECT CERTAIN CITIES AND COMMUNITIES
NEVADA. COMMENTS REGARDING THOSE IMPACTS SHOULD BE MADE FROM THOSE ENTITIES
AFFECTED. 5-12-96

1

SEA acknowledges the comment of the Division of State Lands that it
is unaware of any impacts from the proposed UP/SP merger that may
affect the Agency or public lands management. Also noted is the
statement that increased traffic will affect certain cities and
communities. The potential impacts of increased traffic to communities
is addressed in Volume 1, Chapter 3 the Post EA.



STATE AGENCIES
NEVADA - PUBLIC SERVICE COMMISSION

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D. C.

Finance Docket No. 32760

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

COMMENTS AND REQUEST FOR CONDITIONS OF
PUBLIC SERVICE COMMISSION OF NEVADA

The Public Service Commission of Nevada (PSCN), submits these comments and requests for conditions. Public meetings were conducted by the Commission throughout Nevada in order to ascertain information useful to the Surface Transportation Board in evaluating the merger. The public meetings¹ elicited comments specific to Nevada but useful under the broad criteria specified in 49 C.F.R. § 1180, specifically:

1. The effect on the adequacy of transportation to the public;
2. The effect of including or failing to include, other rail carriers in the area involved in the proposed transaction;
3. The total fixed charges that result from the proposed transaction;
4. The interest of the rail carrier employees affected by the proposed transaction; and
5. Whether the proposed transaction would have an adverse effect on competition among rail carriers in the affected region or in the national rail system.

General Comments

The State of Nevada has an historic relationship with the development of the rail transportation system in the West. Nevada's development in the late 19th Century was largely associated with its proximity to the transcontinental

¹ Public meetings were held in Nevada for this purpose: in Reno on February 12, 1996; in Lovelock on February 13, 1996; in Winnemucca on February 14, 1996; in Las Vegas on February 15, 1996; and in Elko on February 29, 1996.

1

Response #1 reflects comments beginning on the following page.

SEA acknowledges the Commission's concern about increased rail traffic through the cities of Reno, Lovelock, Winnemucca, Carlin, Elko and Wells. Projected rail traffic increases are as follows:

Volume 1, Chapter 3 of the Post EA reports that train traffic will increase on the Roseville, CA to Sparks, NV line (through Reno) by 11.3 freight trains per day in addition to the existing 13.8 trains (12.7 freight and 1.1 passenger) per day. The rail segment from Sparks to Winnemucca would increase by 12.4 freight trains per day over the existing 13.8 trains (12.7 freight and 1.1 passenger) per day, through the towns of Lovelock and Winnemucca. Rail traffic between Winnemucca and Alazon would increase by 4 freight trains over the existing 31.3 trains (30.2 freight and 1.1 passenger) per day, through Carlin and Elko. Rail traffic between Alazon and Ogden, UT would increase by 10.3 freight trains per day over the existing 12.7 freight (0 passenger) trains per day through the town of Wells.

Impact assessments were conducted as noted in the next section. The rail traffic increase between Winnemucca and Alazon does not exceed the Board's threshold for requiring environmental review. SEA's recommended mitigation for impacts in Nevada are reported in Volume 1, Chapter 5 of the Post EA.

Noise impacts due to increased train traffic in all rail segments was below the 3 dB threshold at which mitigation would become warranted. In Reno, currently 75 residences lie within the 65 L_{dn} noise contour; post-merger, an additional 58 residences would be within the noise contour. A site visit was conducted in Winnemucca in response to the city's concern that an area had not been included in the EA noise analysis. When including the Grass Valley area, the (revised) number of residences falling within 65 L_{dn} the noise contour is estimated to be 136 (pre-merger) and 301 (post-merger). The number of schools within the 65 L_{dn} noise contour pre- and post-merger are 0 and 2, respectively. A single church is within the contour in either circumstance. In Lovelock, there are currently 70 residences within the 65 L_{dn} noise contour; post-merger, an additional 77 residences and one church would be within the post-merger contour. In Wells, there are currently 55 residences and two churches within the 65 L_{dn} noise contour; post-merger, there would be an additional seven residences and one church within the contour. Noise impacts were not assessed in Carlin and Elko because the change in train traffic did not exceed the Board's analysis threshold. Volume 1, Chapter 4 of the Post EA describes the noise analysis.

through trackage rights agreements. This could provide guidance in other proceedings considering competitive rail access.

III. Mitigation of Increased Rail Traffic Through Northern Nevada

As indicated earlier, the PSCN held public meetings on the impacts of the merger in Reno, Lovelock, Winnemucca, Elko and Las Vegas. A primary concern of local government expressed at these public meetings was the anticipated effect of increased rail traffic through the cities of Reno, Lovelock, Winnemucca, Carlin, Elko and Wells, Nevada. These concerns have been acknowledged by both UP and SP railroad officials. Despite identifying these issues, however, no specific mitigation measures have been proposed by the Applicants to address the environmental, traffic congestion, safety and emergency response problems that are likely to result from the merger due to greater rail traffic along the corridor.

A. Reno

The impacts of the merger on Reno may be the greatest on any city affected by the merged railroad operations. This results from the proximity of the SP railroad tracks to downtown Reno and the fact that Reno's tourism-based economy make it a destination for millions of visitors each year. Reno is a 24-hour-a-day resort area, and the area adjacent to the railroad is a significant business center with heavy vehicular, public transit and pedestrian traffic at all hours.

The PSCN understands that the City of Reno is an intervenor in Finance Docket 32760 and that issues specific to Reno are being evaluated by experts from the City of Reno, the UP and SP. The concerns of the City of Reno, have also been publicly stated by Nevada Governor Bob Miller, U.S. Senator Harry Reid, U.S. Senator Richard M. Bryan, and Congresswoman Barbara Vucanovich. These elected officials are concerned with the public safety and economic impact the merger, if approved, will have on Nevada's second largest city. As the state agency having jurisdiction over railroad crossings and acting under certification for the Federal Railroad Administration for railroad safety issues, it is the express request of the PSCN that Reno's unique situation be recognized by the Board and that conditions to mitigate the impact of substantially increased rail traffic be required in any order approving the merger. Recognizing that local government

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Impacts to grade crossings are reported in Volume 2, section 12.4.1 of the EA. Average rail traffic on the Roseville, CA to Sparks line would increase from 13.8 to 25.1 trains (freight plus passenger) per day. There are 18 grade crossings along this segment in Nevada; 8 of these have Average Daily Traffic (ADT) counts greater than 5,000 vehicles per day. The maximum queue length per train due to peak-hour vehicle traffic would range from 1 to 80 vehicles, and the corresponding delay per vehicle would vary from 1.35 to 2.06 minutes for each train pass. Vehicle delays of these amounts on low-volume grade crossings do not warrant mitigation.

SEA evaluated traffic delay for the 15 grade crossings in Reno, using traffic data provided by the City, supplemented by grade crossing data from the Federal Railroad Administration. Using the affirmed number of trains, SEA conducted additional traffic analysis following issuance of the EA. Current total vehicle delay is estimated at 48 minutes per day, or 1.8 to 4.2 seconds per vehicle using at-grade crossings. The results of analysis indicate that the 24-hour level of service (LOS) (please refer to Volume 1, Chapter 4 of the Post EA for an explanation of LOS) for vehicles crossing the railroad tracks in the unmitigated post-merger condition would be LOS B for either 5,000 foot trains (assumed for the EA) or 6,000 foot trains (tested in the post EA period). This is based on a projection of 88 minutes of total delay per day for 5,000 foot trains, or range of 2.9 to 7.6 seconds of delay per vehicle (depending on volume of traffic). For 6,000 foot trains, the projected total delay per day would be 102 minutes, or a range of 3.7 to 10.0 seconds delay per vehicle. The peak hour average LOS (post-merger) would be LOS C for either train length, based on peak-hour delay values approximately double those cited for the 24-hour level of service. Impacts at LOS B and C do not indicate the need for mitigation. Because of local concern, SEA recommends that the Applicant consult with the City of Reno about traffic issues. SEA's revised mitigation recommendations are discussed in Volume 1, Chapter 5 of the Post EA.

On the Sparks to Winnemucca line, average rail traffic would increase from 13.8 to 26.2 trains per day. There are 24 grade crossings along this segment; none of these have ADT counts greater than 5,000 vehicles per day. The lowest train speed at grade crossings in this segment is 40 MPH. The maximum queue length per train due to peak-hour vehicle traffic would range from 1 to 11 vehicles, and the corresponding delay per vehicle would vary from 1.11 to 1.35 minutes for each train pass. SEA concludes that vehicle delay of these amounts on low volume grade crossings do not warrant mitigation.



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On the Winnemucca to Alazon line, average rail traffic would increase from 31.3 to 35.3 trains per day. There are 18 grade crossings along this segment, none of which have ADT counts greater than 5,000 vehicles per day. The lowest train speed at grade crossings in this segment is 25 MPH. The maximum queue length per train due to peak hour vehicle traffic ranges from 1 to 11 vehicles, and the corresponding delay per vehicle varies from 1.11 to 1.77 minutes for each train pass. SEA concluded that vehicle delay of these amounts on low volume grade crossings do not warrant mitigation.

Average rail traffic on the Alazon line to Ogden, UT would increase from 12.7 to 23.0 trains per day. None of the 18 grade crossings has ADT counts greater than 5,000 vehicles per day. The maximum queue length per train due to peak hour vehicle traffic ranges from 1 to 11 vehicles, and the corresponding delay per vehicle varies from 1.11 to 1.77 minutes for each train pass. Vehicle delays of these amounts on low volume grade crossings do not warrant mitigation.

Safety issues, including increased accidents at grade crossings and risks associated with shipment of hazardous commodities are discussed in Volume 1, Chapter 4 of the Post EA. Subsequent to issuance of the EA, in response to a request from SEA, the Applicant generated a more detailed output from their traffic model, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Donner route through Reno would experience an increase of 60 percent in hazardous materials car loadings. The traffic increase resulting from the merger exceeds both historic levels and the increase that could be reasonably be expected from the upward swing of a single business cycle. SEA's recommended mitigation measures for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.

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SEA acknowledges the Commission's concern about impacts within the City of Reno. Please refer to response to comment #1C for information on noise, and to response to comment #1E for information about intersection delay. SEA also analyzed the impact of train traffic on the amount of time that crossing gates would be down. Using the 6,000 foot train length to evaluate a worst-case scenario, SEA's analysis of delay indicated that the average gate down-time per train would increase from 3.5 minutes for 5,000 foot trains to 4.1 minutes (a 36 second increase). In response to this and other comments, SEA performed the requested analysis at 10 intersections in downtown Reno for which the average daily traffic per crossing is 11,267 vehicles. SEA's findings for the 10 crossings (between Keystone and Lake) are that annual emissions, in tons, would be: 1.6 (HC), 20.0 (CO), 0.4 (NO_x), 0.01 (SO₂), and 0.01 (PM₁₀). SEA concludes that this level of emission is not substantial and would not require mitigation.

expertise is best able to suggest solutions to the variety of problems increased traffic will engender, the PSCN defers to the City of Reno's comments to advise the Board as to which mitigation measures are the most feasible and appropriate.

B. Rural Communities--Lovelock, Winnemucca, Carlin, Wells

There are railroad-related impacts to some of Nevada's rural communities which are as significant to the residents of these communities as the impacts of the merger are to the Reno urban area. The City of Winnemucca has intervened in this proceeding. Lovelock, Winnemucca, Carlin and Wells are all adversely affected because railroad tracks bisect these communities, requiring at-grade crossings. Some city services, such as fire and police services, are located on one side of the tracks while hospitals and emergency care facilities are located on the other. Rail operations often cause substantial delays to vehicular and pedestrian traffic and interfere with the citizens' emergency and police response capabilities.

In Winnemucca, it was suggested that the railroads realign the SP mainline track west of town near Rose Creek to connect to the UP mainline right-of-way, double-track the UP main line through Winnemucca as needed, then realign the SP track east of Winnemucca to complete a bypass of the downtown area. UP's tracks and yard do not go through the downtown area and therefore do not create the conflicts with the community that the SP track alignment causes. Except for rail access to a limited number of shippers, one of which is a major employer in Winnemucca, this alternative would eliminate the conflicts the community has with the railroad's at-grade crossings in downtown Winnemucca.

A similar situation exists in Carlin. Carlin has multiple yard tracks at one crossing, which is in poor condition, and these tracks bisect the city. Linda Bingham, Mayor of Carlin, indicated that a relocation of the tracks bisecting Carlin would resolve most of Carlin's problems. This option seems to make sense in light of the Applicant's expectation that SP's Carlin facilities will be closed and the functions transferred to Elko.¹⁶

¹⁶ APPLICATION, Volume 3, page 173.

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Concern about impacts to Lovelock, Winnemucca, Carlin and Wells are noted. See response to comment #1 for the train traffic numbers. Rail traffic for the segment containing Carlin does not exceed the Board's analysis threshold and are thus not assessed in the EA.

SEA visited Winnemucca to review circumstances raised and mitigation requested by the City. SEA has assessed the request for a grade separation at Bridge Street. The Applicant has indicated a willingness to discuss joint funding under the financial constraints of Nevada law, but the City has indicated that its share of either a \$4 million underpass or a \$25.5 million bypass cannot be met. There is an existing grade crossing at Hanson Street, approximately seven blocks south of Bridge Street. There is also an underpass at US-40, approximately the same distance north.

Additional analysis of traffic in Winnemucca indicates that the average vehicle delay would increase from 1 to 2 seconds (pre-merger) to 2 to 3 seconds (post-merger). SEA finds the accompanying effect on level of service (LOS) associated with the post-merger level of operations is not of a magnitude to require mitigation. See the response to comment #1F. Given the presence of two existing grade separations near Bridge Street, and the City's expressed inability to participate in funding, SEA believes mitigation for a Bridge Street grade separation is not warranted.

SEA conducted a field review of the City's proposed rerouting of mainline traffic from the middle of Winnemucca to the UP line. The proposed new alignment would also have to cross the Humboldt River and associated wetlands. The estimated cost of construction reported by the Applicant to County officials is \$25.5 million. SEA concludes that the costs of construction needed to implement rerouting would be excessive and does not consider this proposed mitigation to be viable.

Five of the 24 grade crossings on the Sparks to Winnemucca segment are in Lovelock. See response to comment #1F.

Two of the 18 grade crossings along the Alazon to Ogden, UT segment are in Wells. See response to comment #1H.

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SEA has assessed the City of Winnemucca's request for mitigation. Please see response to comment #3

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Refer to following page for response.

At the PSCN's public meetings in both Winnemucca and Elko, railroad representatives indicated an interest in exploring alternatives and suggested that proposals to address these issues might be forthcoming.

C. Recommendations

The PSCN recognizes that without the merger, existing problems are unlikely to be addressed in a comprehensive fashion. However, with the merger, opportunities are presented to eliminate conflicts between the railroad and the local communities, improve overall rail operations, and enhance public safety. Operational efficiencies resulting from merged railroad dispatch may mitigate conflicts in Lovelock and Wells. In Winnemucca and Carlin, some level of capital investment could resolve the conflicts. The railroads have indicated an interest in resolving these conflicts with a possible proposal.

Should such a proposal from the railroad not be made and accepted prior to the time the Board makes its decision on the merger application, the PSCN strongly urges the Board to impose mitigation conditions that require the railroad to evaluate and implement appropriate mitigation measures no later than five years from the date of merger approval.

IV. Local Service and Community Contact

Throughout the public meetings held by the PSCN, a common community concern was that railroad personnel are very difficult, if not impossible, for the general public or local government to contact in order to express complaints, operating problems, hazardous materials, shipper questions or obtain other general information. Local agents have answered that need; but affected citizens must pay for that local attention. For example, in Winnemucca, the UP now charges shippers \$30.00 each time the shipper calls the local agent to resolve a problem or obtain an answer that the UP's National Customer Service Center (NCSC) cannot resolve or answer.¹⁷ Shippers should not have to pay for the inability of the railroad to communicate accurate and timely information when questions are asked.

¹⁷ See Supplement 17 to Union Pacific Railroad Company's Freight Tariff UP 9006-D, Effective October 12, 1994.

Refer to previous page for comment.

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The proposed relocation of tracks at Carlin was not analyzed in the EA, since the rail segment affecting Carlin does not exceed the Board's environmental analysis threshold.

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The Commission's recommendation that mitigation conditions be completed within five years is noted. SEA recommended mitigations are reported in Volume 1, Chapter 5 of the Post EA.

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Concerns about communications with railroad personnel are noted. This issue does not fall within the jurisdiction of the Surface Transportation Board. The concern should be conveyed directly to the Applicant.



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Recommendation

The PSCN believes that the railroad should be required to address this problem by improving its communication effectiveness with both its shippers and with the communities it affects so problems can be dealt with in an efficient and timely manner. To this end, the PSCN recommends that the Board require as a condition of any merger approval that the railroads provide personnel and/or points of contact with local or easily accessible phone numbers that would provide timely response to inquiries, not only from shippers, but also from local governments and the general public. This should be implemented within twelve months of the date of any merger approval.

V. Labor

A broad spectrum of labor unions initially opposed the merger. The PSCN understands that an agreement has been reached between the United Transportation Union (UTU) and the UP/SP that ends the UTU's opposition to the merger's approval, and has been informed a similar agreement has been concluded between the Brotherhood of Locomotive Engineers and the UP/SP. If true, then these agreements cover about 39 of the approximately 60 jobs abolished or transferred out of Nevada.

One aspect of the job abolition issue, expressed in public comments and by State Legislators was that a reduction in work force in the maintenance-of-way departments would result in increased track and roadbed problems, thereby potentially contributing to accidents.

The PSCN recognizes and enforces the applicable safety standards promulgated by the Federal Railroad Administration. The PSCN will diligently work with FRA inspectors and administrators to enforce those standards. The PSCN would recommend that if the Board approves the merger it explicitly makes a strong statement that the merger must not result in a relaxed operating or maintenance environment that impairs public safety.

VI. Hazardous Material

A great deal of concern was expressed by speakers at the PSCN's public meetings about the railroads' response to hazardous materials incidents. Recent train accidents and derailments around the country have only highlighted these

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Refer to previous page for response.

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SEA recognizes the Commission's concerns about movement of hazardous materials and emergency response. Please refer to response to comment # 1-1 for information on the movement of hazardous materials. Concerns about contents of railroad emergency response plans and communication with local officials should be conveyed directly to the Applicant.

concerns and make this issue critical for state and local governments. At several of the public meetings conducted by the PSCN, local government officials expressed concern that information was not readily available, and personnel from the railroad could not be contacted. For instance, in Winnemucca, local governmental officials were unaware of the railroads' Emergency Plan for the Winnemucca yard. A railroad supervisor was able to provide, however, an Emergency Operating Plan to local officials at the close of the public meeting.

It is imperative that the railroad share jointly with local government and local emergency response agencies the information and response plans which relate to potential incidents. The Board should require that the railroads provide this type of information to the appropriate local authorities in a timely fashion and on an updated basis.

VII. Comments provided by Nevada State Clearinghouse

The comments regarding environmental issues, dated February 3, 1996, and filed by the Nevada State Clearinghouse should be taken into consideration in any decision rendered by the Board. Of particular note, the Board should seek to mitigate increased emissions from vehicular traffic caused by increased traffic delays along the Central Corridor.

VIII. Conclusion

Nevada provides an appropriate environment for the Board, the railroads and shippers to gain innovative experience in open access operations, especially utilizing the trackage rights agreements. In particular, coal shipments provide an opportunity to spread the benefits resulting from competitive, single-line shipments to a broad category of citizens, electric utility ratepayers.

Competition is recognized as an ideal mechanism to capture economic efficiencies; it should not, however, be a vehicle solely to generate excess profits for the railroads. If the Board accepts the Applicants' premise that the merged railroad enhances competition, then it should also accept its responsibility to ensure that the benefits of enhanced competition actually are achieved. The Board must provide not only the opportunities for private enterprise to operate in an efficient and economic manner, but it should also

SEA recognizes the Commission's concern about air quality impacts. See response to comment #2 for a discussion of vehicle emission impacts in Reno. Vehicle delays and associated emissions would be less in smaller communities. Please refer to the discussion of air quality impacts in Volume 1, Chapter 4 of the Post EA. Mitigation measures are reported in Volume 1, Chapter 5 of the Post EA.



BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D. C.

Finance Docket No. 32760

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

COMMENTS OF
PUBLIC SERVICE COMMISSION OF NEVADA

Comments of the Public Service Commission of Nevada on the Environmental Assessment of potential environmental impacts associated with the proposed merger of the Union Pacific Railroad Company and the Southern Pacific Transportation Company and their subsidiaries in the Finance Docket No. 32760.

These comments are filed by the Public Service Commission of Nevada in response to the Environmental Assessment (EA) prepared by the Surface Transportation Board's Section on Environmental Analysis (SEA). The PSCN is an intervenor in Finance Docket No. 32760.

General

The PSCN references and incorporates its comments filed in this docket on or about March 29, 1996. In those comments, the PSCN noted that of primary concern to local Nevada governments was "the anticipated effect of increased rail traffic through the cities of Reno, Lovelock, Winnemucca, Carlin, Elko and Wells, Nevada . . . no specific mitigation measures have been proposed by the Applicants to address the environmental, traffic congestion, safety and emergency response problems that are likely to result from the merger due to greater rail traffic along the corridor." (COMMENTS AND REQUEST FOR CONDITIONS OF PUBLIC SERVICE COMMISSION OF NEVADA, page 8). The PSCN reiterates its belief that the Board should impose appropriate conditions on the merger to make sure that the negative

1 SEA recognizes the Commission's concern about increased rail traffic through the cities of Reno, Lovelock, Winnemucca, Carlin, Elko and Wells. Please refer to comments in response to the Commission's letter of March 29, 1996 for information on each of the named locations. Additional details may be found in responses to comments from Governor Miller, Senator Reid, the City of Reno, Washoe County, Humboldt County/Winnemucca, and the Nevada Department of Administration.

SEA's recommended mitigation for impacts in Nevada are reported in Volume 1, Chapter 5 of the Post EA.

environmental effects of the merger are mitigated to the greatest extent possible in the communities affected.

DATED this 2nd day of May, 1996.

Respectfully submitted,

Timothy Ray
TIMOTHY RAY, ESQ.
GENERAL COUNSEL
PUBLIC SERVICE COMMISSION OF NEVADA
727 Fairview Drive
Carson City, NV 89710
Telephone: (702) 687-6008

VERIFICATION

I, Galen D. Denio, declare under penalty of perjury that the foregoing is true and correct. Further I declare that I am qualified and authorized to submit these Comments on behalf of the PSCN.

BY: *Galen D. Denio*
GALEN D. DENIO, PSCN COMMISSIONER

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1104.12, I certify that I have this day served copies of the document entitled COMMENTS OF PUBLIC SERVICE COMMISSION OF NEVADA upon parties in this proceeding, by first-class, postage pre-paid U.S. mail.

DATED this 2nd day of May, 1996.

Mary K. Dreeson
MARY K. DREESON

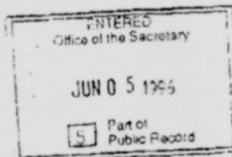
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Refer to the previous page for response.



STATE AGENCIES
NEVADA PUBLIC SERVICE COMMISSION



BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D. C.



Finance Docket No. 32760

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

**LEGAL MEMORANDA OF THE
PUBLIC SERVICE COMMISSION OF NEVADA**

The Public Service Commission of Nevada (PSCN), submits the following Legal Memoranda as an Interested Party in the proposed merger of the Union Pacific Railroad Company and the Southern Pacific Transportation Company and their subsidiaries in Finance Docket No. 32760.

I. INTRODUCTION.

The PSCN references and incorporates its comments filed in this docket dated March 29, 1996, as well as those dated May 3, 1996. The PSCN furthermore incorporates the attached comments of Frankie Sue Del Papa, State of Nevada Attorney General, filed with the Surface Transportation Board (STB) on or about May 8, 1996, and concurs with the City of Reno's Brief with regard to the legal arguments raised with respect to environmental impact issues and the environmental assessment performed in the context of Finance Docket No. 32760.

ARGUMENT

I. ANY EXCLUSIONARY AND DISCRIMINATORY PROVISIONS OF THE MERGER AND ASSOCIATED TRACKAGE RIGHTS AGREEMENTS WHICH PREVENT COMPETITIVE ACCESS FOR UTILITY FACILITIES ARE NOT IN THE PUBLIC INTEREST AND THEREFORE MUST BE ADDRESSED.

A primary interest of the PSCN is the impact the proposed merger will have on Nevada's energy suppliers. Lost competitive access for utilities must be adequately addressed before utilities, such as Sierra Pacific Power Company (SPPCo) and Nevada Power Company (NPC), are able to offer their resources in a cost effective manner. As previously noted in the PSCN's comments filed in March, 1996, the Merger Application does not sufficiently demonstrate that restricting single-line access through only the merged Union Pacific/Southern

Pacific (UP/SF) rail system to Utah coal sources is in the economic interests of SPFCo, Idaho Power Company, or their northern Nevada ratepayers. Furthermore, as Nevada's Attorney General argued, lost competition will not be meaningfully offset by the agreement between Union Pacific and the Burlington Northern/Santa Fe (BN/SF) granting BN/SF limited trackage rights in northern Nevada. (See May 8, 1996, comments of Nevada Attorney General Frankie Sue Del Papa, page 2).

The STB's action with regard to this merger should be consistent with the policies embraced by Congress in Public Law 104-88, Sec. 11324, subsection (c), which states that "[T]he Board may impose conditions governing the transaction, including the divestiture of parallel tracks or requiring the granting of trackage rights and access to other facilities."

The STB must therefore condition the UP/SF merger to allow third party competing railroad operators, such as the Utah railway, to obtain nondiscriminatory trackage rights from the merger applicants. Congress explicitly authorized these conditions to eliminate anti-competitive conditions in the ICC Termination Act of 1995.¹

The issue of interchange traffic is another consideration the STB must take into consideration in determining whether adequate competition is being ensured in a post-merger environment. Nevada Northern Railway, having comparable access at Shafter, Nevada must be a consideration in any balancing test performed in a comparable access determination.

II. INCREASED RAIL TRAFFIC THROUGH NORTHERN NEVADA AND ITS RESULTANT IMPACTS ON THE ENVIRONMENT, TRAFFIC CONGESTION, SAFETY AND EMERGENCY RESPONSE PROBLEMS HAVE NOT BEEN ADEQUATELY MITIGATED AND THEREFORE MUST BE ADDRESSED BY THE MERGER APPLICANTS.

As the State agency having jurisdiction over railroad crossings and acting under certification for the Federal Railroad Administration for railroad safety issues, it is critical from the perspective of the PSCN that Reno's unique situation must be recognized by the STB and that sufficient conditions to mitigate the impact of substantially increased rail traffic on both the area's environment, as well as on traffic and safety related problems, be required in any order approving the merger.

¹ See Conference Report on HR2539, Sec. 11324, page 191.

1 SEA acknowledges the Public Service Commission of Nevada's position that impacts of the proposed merger have not adequately been mitigated. Additional mitigation has been proposed, as reported in Volume 1, Chapter 5 of the Post EA.

STATE AGENCIES

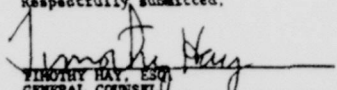
NEVADA PUBLIC SERVICE COMMISSION

CONCLUSION

It is respectfully requested that the STB, in its evaluation of these issues, carefully consider the views of the PSCN, other State of Nevada agencies, Nevada municipalities, and Nevada public officials who have participated in these proceedings when rendering its judgment on the merits of the proposed merger.

DATED this 31st day of May, 1996.

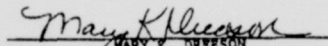
Respectfully submitted,


TIMOTHY HAY, ESQ.
GENERAL COUNSEL
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727 Fairview Drive
Carson City, NV 89710
Telephone: (702) 687-6008

CERTIFICATE OF SERVICE

Pursuant to 49 C.F.R. § 1104.12, I certify that I have this day served copies of the document entitled LEGAL MEMORANDA OF THE PUBLIC SERVICE COMMISSION OF NEVADA upon parties in this proceeding, by first-class, postage pre-paid U.S. mail.

DATED this 31st day of May, 1996.


MARY K. DREXSON



BOB MILLER
Governor

JOAN G. KERSCHNER
Department Director

STATE OF NEVADA
DEPARTMENT OF MUSEUMS, LIBRARY AND ARTS
STATE HISTORIC PRESERVATION OFFICE
Capitol Complex
100 Stewart Street
Carson City, Nevada 89710

April 11, 1996

RONALD M. JAMES
State Historic Preservation Officer

Julie Donsky
Environmental Scientist
Dames and Moore
One Continental Towers
1701 Golf Rd Ste 1000
Rolling Meadows IL 60008

SUBJECT: Environmental Comments on the Potential Environmental Impacts of the Control and Merger Application between the Union Pacific and Southern Pacific Railroads--Rail Segment: Alazon, Nevada to Sacramento, California.

Dear Ms. Donsky:

The Nevada State Historic Preservation Office (SHPO) has the following comments to make on the subject undertaking:

A number of historic and potentially historic railroad resources along the segment between Alazon, Nevada, and the Nevada-California border have not yet been surveyed. These resources include: the SP Rail Yard in Carlin and the UP Facility in Reno. In addition there may be other isolated resources along the segment that have not yet been identified.

There are numerous resources along the segment that have been surveyed and that the Nevada SHPO believes to be National Register eligible, including buildings and structures in Reno, Lovelock, and Winnemucca.

To date the documentation provided to the Nevada SHPO concerning the merger is unclear on the effects increased traffic could have on historic and potentially historic resources. However, documentation concerning the merger should address potential effects on these resources.

If you have any questions concerning these comments, please contact me at (702) 687-7601.

Sincerely,

Julie Nicoletta
Julie Nicoletta
Architectural Historian

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- 1 The potentially historic properties noted by the State Historic Preservation Officer (SHPO) at Carlin and Reno, and other resources along the Alazon to California State line segment, have been included in the Section 106 consultation process initiated by SEA.
- 2 Resources identified by the SHPO have been included in the Section 106 consultation process initiated by SEA.
- 3 Consultation with the SHPO to reach a determination of effects is under way. Because consultation has not been completed, SEA has added a recommended mitigation condition that would require the Applicant to retain its interest in and take no steps to alter eligible historic resources identified through the course of Section 106 consultation until the consultation process is completed. SEA's recommended mitigation states that the Applicant is to cease work in the area of discovery of previously unknown archaeological remains found during salvage operations and immediately contact the SHPO (see Volume 1, Chapter 5 of the Post EA).



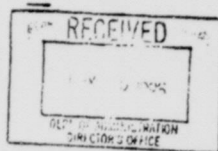


DOUG MILLER
Governor

JOAN G. KERSCHNER
Department Director

STATE OF NEVADA
DEPARTMENT OF MUSEUMS, LIBRARY AND ARTS
STATE HISTORIC PRESERVATION OFFICE
Capitol Complex
100 Stewart Street
Carson City, Nevada 89710

May 8, 1996



RONALD M. JAMES
State Historic Preservation Officer

Ms. Elaine K. Kaiser
Chief, Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue, NW
Room 3219
Washington DC 20423

RE: Union Pacific and Southern Pacific Railroad Merger, Finance Docket No. 32760.
Clearinghouse Nevada SAI # 96300161, Due Date May 10, 1996.

Dear Ms. Kaiser:

The Nevada State Historic Preservation Office (SHPO) reviewed the Environmental Assessment (EA) for this proposed undertaking. The SHPO received a letter from the Surface Transportation Board on April 5, 1996 initiating Section 106 (National Historic Preservation Act of 1966, as amended) consultation with this office. That correspondence stated that the proposed merger could have the following results:

1. The construction of (6) universal cross-overs between the existing parallel SP and UP trackways. The proposed construction projects are located at Alazon, Barth, Beowee, Elburz, MP440, and the UP Connection.
2. The abandonment of the rail yard at Carlin.
3. The phaseout of the existing Reno UP intermodal facility resulting in the demolition of one existing track and concrete intermodal ramp.
4. The construction of a new rail facility in the Reno area.
5. The demolition of the Sparks SP intermodal facility.

The above elements of the proposed merger do not appear to be addressed in the subject EA.

If you have any questions concerning this correspondence, please feel free to call me at (702) 687-5138.

Sincerely,

Rebecca Lynn Palmer
Rebecca Lynn Palmer
Archaeologist

1 SEA has initiated Section 106 consultation with the Nevada State Historic Preservation Officer on April 5, 1996. A letter describing the five mentioned properties was submitted to the SHPO by SEA. SEA will continue such consultations through completion of the 106 process.



BOB MILLER
Governor

JOAN G. KERSCHNER
Department Director

STATE OF NEVADA
DEPARTMENT OF MUSEUMS, LIBRARY AND ARTS
STATE HISTORIC PRESERVATION OFFICE
Capitol Complex
100 Stewart Street
Carson City, Nevada 89710

RONALD M. JAMES
State Historic Preservation Officer



May 7, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington DC 20423-0001

SUBJECT: Union Pacific/Southern Pacific Railroad Merger, Nevada.

Dear Ms. Kaiser:

The Nevada State Historic Preservation Office (SHPO) has received your letter of April 5, 1996. At this time we cannot concur with your determinations of eligibility and effect.

First, in its submission of April 5, 1996, the Surface Transportation Board (STB) included the results of a literature search at the statewide archaeological inventory of the Nevada State Museum. According to this information, the six (6) proposed cross-over locations (see attached maps) are sensitive for cultural resources. However, these areas have not been inventoried yet. The SHPO again recommends that any undisturbed ground in the area proposed for cross-over construction be surveyed for cultural resources prior to the initiation of the undertaking.

Second, the STB states that the Carlin SP rail yard is not eligible for the National Register of Historic Places. We cannot concur with this determination because the STB has not conducted adequate research to make an evaluation. Photographs of the buildings at the rail yard do not constitute adequate documentation. We need a historic context for the yard as well as a building form (enclosed) for each building at the site. In addition, the yard needs to be evaluated as a district.

Third, it is not completely clear what effect phaseouts will have on the Carlin SP rail yard, the Reno UP intermodal facility, and the Sparks SP intermodal facility. For example, even if demolition does not include historic structures, we need to know if the process of demolishing other buildings and structures could harm historic ones. We cannot make determinations of effect until we know exactly what those effects will be.

Fourth, we will need information on the where the proposed UP facility in the Reno area will go. Depending on the location, archaeological and/or architectural inventories will have to be conducted before the Nevada SHPO can review the undertaking.

- 1 SEA acknowledges the State Historic Preservation Officer's inability to concur with SEA's letter of April 5, 1996.
- 2 Survey work for archaeological resources in the vicinity of six proposed track crossovers is noted and is being conducted by SEA.
- 3 Agency's position on eligibility of the Carlin SP Yard is noted. Additional documentation on historic context and as a potential district is being prepared by SEA.
- 4 Information on the effects of closeout of the Carlin SP Yard, Reno UP Intermodal Facility, and Sparks Intermodal Facility is being provided by SEA.
- 5 Information on the consolidation of intermodal functions at Reno/Sparks SP Intermodal Facility is being provided by SEA.



Elaine K. Kaiser
May 7, 1996
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The SHPO reminds the STB that it is the responsibility of the federal agency to identify historic properties that may be affected by the undertaking and gather sufficient information to evaluate the eligibility of these properties for the National Register (36CFR Part 800.4(b)). If you have any questions concerning these comments, please contact me at (702) 687-7601 or Rebecca Palmer at (702) 687-5138.

Sincerely,

Julie Nicoletta

Julie Nicoletta
Architectural Historian

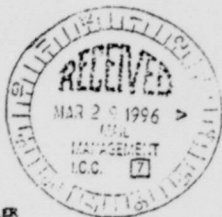
Enclosures

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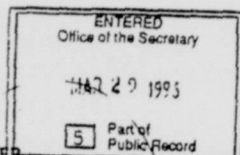
SEA acknowledges the Agency's comment on the Surface Transportation Board's responsibility to identify resources and determine eligibility. This responsibility has been met through the EA and the Section 106 consultation process initiated by SEA on January 29, 1996.

SE AGENCIES
NEVADA - EXECUTIVE CHAMBER



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EXECUTIVE CHAMBER

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BOB MILLER
Governor

March 28, 1996

The Honorable Vernon A. Williams
Secretary
The Surface Transportation Board
1201 Constitution Avenue, Room 2215
12th and Constitution Avenue, NW
Washington, D.C. 20423

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

Dear Secretary Williams:

I am writing to comment on the proposed Union Pacific/Southern Pacific railroad merger.

As you may know, a private consulting firm, Nolte and Associates, Inc., was commissioned by the City of Reno to assess how the merger will effect the city. I endorse this work in progress, and I have enclosed segments of their report that I believe best illustrate some of the more disturbing consequences of the merger. To date, the study has revealed economic, health and safety concerns that the State of Nevada finds unacceptable. Since the study is ongoing, we reserve the right to comment further should additional ramifications be revealed.

It is anticipated that the train traffic through Reno will grow from 14 to approximately 38 trains per day. The subsequent vehicular traffic delays at Reno's 15 at grade street crossings are estimated to increase by 339 percent. The heart of Reno will essentially be split in two. In addition, downtown pedestrians can expect a wait three times the current wait. Most notably, these delays will further endanger the health and safety of those who need immediate assistance from emergency medical teams, police, fire crews, etc. It should also be noted that the potential for pedestrian accidents, given the thousands of tourists and casino personnel who walk downtown every day, will also grow.

Neither should the possible economic benefit to the shipping industry or a Union Pacific/Southern Pacific company supersede the need to avoid these recognized repercussions.

March 28, 1996
The Honorable Vernon A. Williams
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The city of Reno and the Union Pacific/Southern Pacific railroads are currently examining ways to solve the aforementioned problems, and I applaud their efforts. As of this letter, however, no commitments have been made to establish a solution. Until such time the Union Pacific and Southern Pacific railroads and the city of Reno agree to a solution, I cannot endorse the merger.

Other ramifications have been raised in Nevada that must not be overlooked. The Public Service Commission of Nevada (PSCN) conducted a series of hearings throughout Nevada and compiled a comprehensive assessment of the effects the merger will have on Nevada. I have enclosed a copy of the PSCN report for your review. Please give this report your utmost consideration.

Sincerely,

Bob Miller
BOB MILLER
Governor

BM/tc
Enclosures

RESPONSE TO PREVIOUS PAGE

1

SEA acknowledges the State's concern about rail traffic increases and the effects on vehicular traffic and pedestrians in Reno. In response to the concern expressed by the City over conflicting train projections, SEA reviewed train data to affirm the proper number. Based upon Applicant data, the total number of daily trains (freight plus passenger) would increase from 13.8 to 25.1, not to 38 trains per day. This is an increase of 11.3 trains per day. These affirmed numbers, which were included in the BN/Santa Fe-1 Settlement Agreement, were used in the EA. Subsequent to circulation of the EA, the Applicant reached a Settlement Agreement with the Chemical Manufacturers' Association (CMA). The final train numbers, which account for the CMA Agreement, are shown in Volume 1, Chapter 3 of the Post EA. To clarify, the freight train numbers are as follows: the Applicant intends to operate 20.0 freight trains per day, BN/Santa Fe proposes to operate 4 freight trains, for a total of 24 freight trains. This number focuses the analysis on the increment of change attributable to the proposed merger. For supplemental traffic analysis of intersection delay performed by SEA in response to City concerns, passenger train traffic was included to provide an approximation of day-to-day traffic impacts.

SEA evaluated traffic delay for the 15 grade crossings in Reno, using traffic data provided by the City, supplemented by grade crossing data from the Federal Railroad Administration. Using the affirmed number of trains, SEA conducted additional traffic analysis following issuance of the EA. Current total vehicle delay is estimated at 48 minutes per day, or 1.6 to 4.2 seconds per vehicle using at-grade crossings. The results of analysis indicate that the 24-hour level of service (LOS) (please refer to Volume 1, Chapter 4 of the Post EA for an explanation of LOS) for vehicles crossing the railroad tracks in the unmitigated post-merger condition would be LOS B for either 5,000 foot trains (assumed for the EA) or 6,000 foot trains (tested in the Post EA period). This is based on a projection of 88 minutes of total delay per day for 5,000 foot trains, or range of 2.9 to 7.6 seconds of delay per vehicle (depending on volume of traffic). For 6,000 foot trains, the projected total delay per day would be 102 minutes, or a range of 3.7 to 10.0 seconds delay per vehicle. The peak hour average LOS (post-merger) would be LOS C for either train length, based on peak-hour delay values approximately double those cited for the 24-hour level of service. Impacts at LOS B and C do not indicate the need for mitigation. Because of local concern, SEA recommends that the Applicant consult with the City of Reno about traffic issues. SEA's revised mitigation recommendations are discussed in Volume 1, Chapter 5 of the Post EA.

RESPONSE TO PREVIOUS PAGE

1

SEA also analyzed the impact of train traffic on the amount of time that crossing gates would be down. Using the 6,000 foot train length to evaluate a worst-case scenario, SEA's analysis of delay indicated that the average gate down-time per train would increase from 3.5 minutes for 5,000 foot trains to 4.1 minutes (a 36-second increase).

SEA acknowledges the State's concern about pedestrian delay. SEA performed additional analysis subsequent to the EA that addressed both vehicular delay and pedestrian delay. SEA's methodology for analysis differs somewhat from that used by the City's consultant. Based upon the intersection delays cited in response to comment #1B, the average delay to pedestrians crossing the SP track in downtown Reno between Lake and Washington Streets is estimated to increase from 4 seconds (current level of train operations) to 9 seconds if the merger is approved. The resultant degradation of service would not warrant mitigation.

SEA acknowledges concerns about emergency response. The analysis of intersection delay reported above indicates that emergency response times should not be affected by the incremental change in delay that would be attributable to the merger. It should also be noted that the City of Reno has a distribution of fire/rescue stations on each side of the railroad tracks to provide adequate coverage. Therefore, the impact of a blocked railroad grade crossing on emergency response times (for either existing conditions or if the merger is approved) would be minimal. Grade crossings blocked by trains can be incorporated into the dispatching protocol to dispatch response from the next closest or available standby station. Recognizing continuing concern for this issue, however, SEA's recommended mitigation for emergency response issues is reported in Volume 1, Chapter 5 of the Post EA.

2

SEA acknowledges Governor Miller's position not to endorse the merger until the City and the Applicant agree to a solution to the City's concern.

3

SEA appreciates the receipt of public concerns compiled by the Nevada Public Service Commission. Responses to comments and issues raised in the Commission's Fact Finding Report are provided in response to comments #4 through #19, below.



Railroad Merger Study

Fact Finding Report

The State commissioned a study which revealed widespread presence of chlorinated solvents at relatively low concentrations. These pollutants have also been discovered in at least one municipal well (Morrill Street site). The Washoe County Regional Water Management Agency is pursuing the creation of a remediation district encompassing most of the downtown to effect a clean-up.

5.0 IMPACTS OF MERGER

5.01 Proposed Merged UP/SP Operations

The merged railroads' operating plan (Plan) included in the merger application shows one passenger and 20 freight trains per day through Reno for an increase of 7 trains per day from current levels.¹⁶ The Plan calls for an increase in train tonnage through Reno from the present level of 20 million to 33 million gross tons per year, an increase of 63%. However, the Plan's estimates are not consistent and don't seem to match historic data or projected future traffic levels. For instance, the numbers in the Plan do not include Burlington Northern Santa Fe (BNSF) trains, Reno Fun trains, Ski and special excursion trains, or local operations. The environmental report section of the merger application, however, indicates an increase in train traffic of 9 trains per day,¹⁷ which is different than Volume 3. Also, the Plan only looks at what traffic levels will be the day after the merger changes and construction projects take place with no provision for growth.

The Plan showing 21 trains per day does not include the expected 6 BNSF trains, 1 Reno fun or ski train, or 2 local switching movements. In addition, it shows 10 trains diverted away from the UP's Feather River route while only 7 are added to the Donner route.¹⁸ Based on conversations with SP operating officers we believe that some trains might be diverted from the Feather River or Donner Pass routes to other rail routes including Roseville to Oregon and Roseville to southern California. We cannot, however, account for all trains removed from the Feather River route. We also believe that the Plan does not account for peak volumes that occur seasonally.

¹⁶ ICC Finance Docket # 32760, Railroad Merger Application, Volume 3, Page 385.

¹⁷ Ibid., Volume 6, Page 2, Pages 56 and 93.

¹⁸ The 7 trains would increase to 9 if the figures in Volume 6, Part 2 are used.

4 SEA notes the Commission's comments on different estimates of anticipated trains in the area. Please see response to comment #1A. SEA's analysis does not include local train operations, special, or excursion trains, since they would not be part of the incremental change associated with the proposed merger.

With regard to train lengths, SEA reviewed operational information on train lengths for Central Corridor operations, which include the Sparks, NV to Roseville, CA line segment. The average of 5,000 feet represents a mixture of shorter (less than 3,000 feet) and longer (more than 7,000 feet) trains. To address the City's concern about the impact of longer trains, supplemental analyses were performed for 6,000 foot trains. Analysis with the 6,000 foot length did not yield impacts noticeably greater than with the 5,000 foot lengths. Train lengths are determined by railroad operating policy and are not subject to Surface Transportation Board jurisdiction. SEA consulted with the Applicant regarding the viability of 6,500 trains. Although such lengths are physically possible, current operating policy does not favor this length. With little likelihood of this length being used, analysis of this length was not performed.

Railroad Merger Study

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We estimate that actual post-merger traffic will be 34 through-freight, 2 passenger (on average), and 2 local trains per day through Reno for a total of 38 trains per day.¹⁹ Historical trends factored into this estimate take into account the 22 trains per day moving through Reno in 1980,²⁰ the former Western Pacific Railroad (WP) operation of 6 trains per day, anticipated BNSF traffic of 6 trains per day,²¹ expected and historic passenger train activity at 2 trains per day on average, and 2 movements of the local switch engine between Sparks and West Reno. This projection also takes into account the growth anticipated in rail traffic in and out of the Port of Oakland as part of their major expansion plans. The Port of Oakland is anticipating 6% average annual growth in rail demand. With UP's enhanced competitive position over the central corridor brought on by this merger, intermodal traffic through Reno should grow at a rate at least equivalent to this rate.²²

Southern Pacific historically operated over Donner Summit with trains that ranged up to 8,000 feet in length and 10,000 tons. Trains of 7,000 feet (8,000 tons) or greater generally required helper locomotives to negotiate the 2.6% grade and heavy curvature. SP trains historically averaged around 6,000 feet in length.²³ Union Pacific operating personnel have indicated that they will probably operate most trains on this route without helper locomotives, indicating that most trains will not exceed 7,000 feet. We believe average post-merger train lengths will be around 6,500 feet with a few in the 7,000 to 8,000 foot range using helper locomotives. UP could, however, choose to operate standard-length 8,000 foot trains should business and locomotive availability favor the use of helper locomotives on this route segment.

Hazardous materials are most generally handled in manifest trains under strict positioning rules and regulations. Cars must be placarded identifying the commodity or chemical being moved. According to statistics from the American Association of Railroads (AAR) movement of these chemicals by rail is considerably safer than movement over the road. It is possible that a modest increase of this traffic will occur through Reno as a result of this merger. However, heavier and slower manifest trains most likely to carry these commodities will probably be routed

¹⁹ Based on the knowledge of railroad operating specialists and historical trends in northern Nevada.

²⁰ 1980 represents the year of the Reno trainway bond issue vote.

²¹ Verified statement of Mr. Neal D. Owen in BN/Santa Fe's Comments on the Primary Application, December 29, 1995, representing a possible diversion from their Southern California to Chicago route. This study assumes all 6 BNSF trains will use the Donner Pass route due to its reduced operating costs. Diversion to the Feather River route would reduce this number; however, increases due to additional business could offset these reductions.

²² Western Region Automotive Intermodal Terminal Rationalization, Revised 9/21/95, Page 13, indicates that 50,000 additional containers will be handled through the Oakland railroad intermodal yards per year, post merger, due to truck-to-rail traffic diversions.

²³ According to a former SP Sacramento Division operating superintendent.

4

4 Refer to the previous page for response.

5

5 SEA recognizes the concern about impacts associated with increases in the movement of hazardous materials. In response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Donner route through Reno would experience an increase of 60 percent in hazardous materials carloadings. The traffic increase resulting from the merger exceeds both historic levels and the increase that could be reasonably be expected from the upward swing of a single business cycle. Mitigation measures that are proposed for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.



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through the Feather River line to avoid delaying the expedited intermodal and auto trains using the Donner route.

Similarly, unit coal, grain, and ore trains (80 to 90 cars, 12,000 tons, 5,000 feet) will also probably operate via the Feather River route.

The merged operating plan indicates that UP will reduce their Reno branch operation to one local train per day from North Reno to Reno junction. They will also move their intermodal and automotive operations from North Reno to Sparks. This move will require an eventual expansion of SP's current intermodal facility at Sparks.²¹

5.02 Traffic Effects

As part of this study our team calculated the average time crossing gates would be down at a typical downtown Reno crossing for a variety of train lengths. We determined that a 6,000 foot train traveling at 20 mph would result in gates down for 3.9 minutes; a 6,500 foot train would hold gates down for 4.2 minutes; and a 1,500 passenger or local freight train would keep gates down for 1.4 minutes. We estimated that current gate down time based on 14 trains per day (11 freight, 1 passenger, and 2 local switching movements) would be 52.7 minutes per day. This number compares well with actual field measurements made by the City's traffic control computer for 4 downtown crossings in January, 1996.²² Based on these assumptions we estimated that downtown traffic on the 8 crossings from and including Washington to Lake are presently causing around 4,344 minutes of delay to vehicles stopped for trains. Using this same methodology we estimated the delay that might occur by 2015 based on projected train and vehicular traffic levels downtown. For the same crossings we calculated a total of 18,952 minutes of delay to vehicles stopped for trains, an increase of 339%. This corresponds to each crossing being blocked about 133 minutes each day. See the table in Appendix D for a detail of these estimates.

These crossing blockage estimates do not account for a situation where two trains simultaneously converge on the downtown area. In this case some crossings would stay down for up to 8.5 minutes. Traffic stopped on streets such as Virginia, Center, or N. Arlington would probably gridlock several cross streets under such conditions.

²¹ UP-SP Common Point Team #3 Report, Area #6, and Intermodal Rationalization Summary.

²² Memo dated 1/30/96 from Mr. Jim Position, City of Reno traffic department, copy on file, showing a range of total crossing closures from 41 min. 33 sec. to 54 min. 21 sec. on Sierra, Center, Virginia, and Sutro Streets from 5 Jan. to 25 Jan. 1996.

5

5 Refer to the previous page for response.

6

6 SEA confirms that the Applicant intends to close the intermodal facility at North Reno, and shift the traffic to Sparks. SEA's review of the proposed shift indicates that the impact on Sparks will not be above threshold levels that would invoke environmental review.

7

7 SEA recognizes the Commission's concerns about traffic impacts. SEA's methodology for analysis differs somewhat from that used by the City's consultant. Please see response to comment #1A regarding the number of trains per day and response to comment #4 regarding train length. SEA performed supplemental analysis after issuance of the EA, for the locations analyzed by the City. Preliminary analysis of average vehicle delay at the eight central Reno highway-railroad grade crossings (between Washington and Lake) were calculated. The proposed level of train operations would increase average delay to vehicle crossings the tracks in Reno from 1.6 to 4.2 seconds (pre-merger) to 2.9 to 7.6 seconds (post-merger). The level of service at roadway/rail intersections would decrease from LOS A to LOS B, at worst. Impacts that result in an LOS of A or B do not warrant mitigation. Rounded to a high of 8 seconds, these results are comparable to the 11-second value cited in the comment (where calculated vehicle delay was projected to Year 2015 travel volumes rather than existing traffic volumes). Because of local concern, SEA recommends that the Applicant consult with the City of Reno about traffic issues. SEA's revised mitigation recommendations are discussed in Volume 1, Chapter 5 of the Post EA.

Railroad Merger Study

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Based on available figures, we estimate that current levels of crossing delay are costing motorists \$163,000 per year. Without mitigation, this cost could climb to \$720,000 per year by the year 2015.

5.03 Environmental Assessment Thresholds

The ICC requires an environmental analysis when increases in rail traffic exceed the thresholds established in 49 CFR 1105.79(e)(5)(i) and (ii). These thresholds include air quality for line segments with increases of 8 trains per day in attainment and 3 trains per day in non-attainment areas. They also include noise for line segments with increases of 8 trains per day or 100% of annual gross ton miles. The SP route through Reno exceeds these thresholds. The merger application therefore includes an air quality and noise analysis for the increased rail traffic through Reno.

The ICC thresholds also apply to railroad yards and intermodal facilities. Based on criteria contained in the merger application,²⁴ the virtual doubling of activity at SP's intermodal facility at Sparks should require both an air quality and noise analysis for that location. However, the merger application does not contain such an analysis.

5.04 Air Quality

Kleinfelder estimated vehicular air emissions resulting from an increase in the number of trains traveling through Reno, Nevada. Emissions of volatile organic compounds (VOC), carbon monoxide (CO), oxides of nitrogen (NO_x), and particulate matter with aerodynamic diameter less than 10 microns (PM₁₀) occur when vehicles decelerate to a train crossing, idle, and then accelerate from the train crossing. The number of train trips through the area is expected to increase from 13.6 trains/day (1993 estimate) to 38 trains/day. The methods used to calculate vehicular emissions due to future train traffic are presented below. The results of all emission calculations are provided on the attached spreadsheets.

Vehicular air emission factors for VOC, NO_x, and CO due to train-caused delays were estimated using the United States Environmental Protection Agency's (U.S.EPA's) MOBILE5a model. Included as VOC are all non-methane and non-ethane hydrocarbons and aldehydes. MOBILE5a is useful for the analysis of air pollution impacts from gasoline and diesel-fueled highway mobile sources. The model calculates pollutant emission factors for eight individual vehicle types in two regions (low and high altitude areas). The emission factor estimates depend upon such conditions as ambient temperatures, average travel speed, operating modes, fuel type

²⁴ ICC Finance Docket No. 32760, Railroad Merger Application, Volume 6, Part 1, Page 5.

7 Refer to the previous page for response.

8 SEA wishes to clarify elements of the proposed merger, relative to the Surface Transportation Boards' environmental thresholds (49 CFR Part 1105). SEA performed a noise impact assessment for the SP route through Reno, which is reported in Volume 2, Section 12.3 of the EA. The noise increase in this segment was below the 3 dB threshold to define impact. No noise analysis was performed for the Sparks yard or intermodal facility because the Applicant's projected changes in activity did not meet or exceed the thresholds for noise analysis. The Reno intermodal operations would be consolidated with the Sparks intermodal operation in Sparks. The intermodal facility operations in Reno are expected to be eliminated, resulting in a reduction of noise associated with that facility. See Volume 1, Chapter 4 of the Post EA for discussion of the noise analysis.



Railroad Merger Study

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(e.g. oxygenated, reformulated, etc.), fuel volatility, and mileage accrual rates. Conditions such as the possibility of fuel system tampering and the existence of an inspection and maintenance program can be taken into account. MOBILE5a supersedes MOBILE4.1, incorporating several new options, calculating methodologies, emission factor estimates, and emission control regulations.

In order to account for differences in fuel types used and ambient temperatures from month to month, 12 separate monthly runs of MOBILE5a were completed. Model inputs were based almost exclusively upon data used by the state of Nevada to prepare a State Implementation Plan (SIP). Only the average vehicle speed was changed. It was assumed that inspection and maintenance and anti-tampering programs are in place. Oxygenated fuels were assumed to be used for 4 months of the year (October through January). For each month, the emission factor in grams/mile (g/mile) for each pollutant emitted per vehicle was obtained from MOBILE5a output. As described below, the emission factors were then used to calculate monthly emissions of each pollutant for all vehicles delayed at the train crossings. Annual emissions of each pollutant were obtained by summing the monthly emissions.

Each day, an estimated total of 125,283 vehicles travel over train tracks at 16 train crossings. About 38 trains are expected to pass through Reno, with an expected delay time of 9.5 minutes per train. The total delay time will be 38×9.5 minutes, or about 6 hours/day (6 hrs/day was the estimated blockage at the time the model was run. Lower levels of blockage would adjust pollution levels proportionately). Assuming vehicles pass over the tracks at a constant rate, the number of vehicles that will be delayed is calculated as 6 hours/day divided by 24 hours/day \times 125,283 vehicles, or 31,321 vehicles delayed.

Much of the vehicular air emissions released during a train-caused delay occur when vehicles begin a phased cycle: 1) decelerating, 2) idling and, 3) accelerating. Daily emissions for each pollutant from vehicle deceleration (including the contribution to VOC emissions from exhaust, running losses, resting losses, and evaporation) were estimated by multiplying the emission factor (g/mile) obtained from MOBILE5a applicable to a given month by the length of the deceleration zone (assumed to be 200 feet) and the number of vehicles delayed (31,321). The emission factors were based upon a conservative input average vehicle speed of 2.5 miles/hour. The total emissions of each pollutant in each month were estimated by multiplying the daily emissions by the number of days in that month. Then monthly emissions were summed to obtain annual emissions.

The minimum average vehicle speed MOBILE5a accepts is 2.5 miles/hour, and idling emissions are not calculated. To allow for this fact, to estimate idling emissions, MOBILE5a model was run with an input vehicle speed of 2.5 miles/hour, obtaining g/mile of each pollutant emitted from each vehicle. As required by U.S. EPA guidance (*Estimating Idle Emission Factors Using MOBILES*, July 30, 1995), the emission factor for each pollutant (in g/mile) was converted to an emission rate (in g/hr) by multiplying by 2.5 miles/hour. Only the exhaust portion of VOC emissions were considered for idling, as suggested by U.S. EPA guidance. Daily emissions of each substance in each month were then calculated by multiplying the emission rate for each vehicle by the number of vehicles delayed, adjusting for the average delay time of each vehicle.

Railroad Merger Study

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per day (9.5 min/day). Monthly and annual emissions of each pollutant were calculated using the procedures stated above for deceleration emissions.

Daily emissions for each pollutant from vehicle acceleration (including the contribution to VOC emissions from exhaust, running losses, resting losses, and evaporation) were estimated by multiplying the emission factor applicable to a given month by the length of the acceleration zone (assumed to be 150 feet) and the number of vehicles delayed (31,321). As with the deceleration emission calculations, the emission factors were based upon a conservative input average vehicle speed of 2.5 miles/hour. Monthly and annual emissions of each pollutant were then calculated using the procedures stated above for deceleration emissions.

Vehicular emissions of PM_{10} were estimated using emission factors stated in the South Coast Air Quality Management District's (SCAQMD's) California Environmental Quality Act (CEQA) manual, which is based upon the EMFAC7 model. The vehicle exhaust PM_{10} emission factors are 0.01 g/mile for light-duty vehicles (under 6001 lb vehicle weight), and 0.47 lb mile for heavy-duty vehicles (over 6000 lb vehicle weight). PM_{10} emissions due to tire wear were ignored for this analysis, because tire wear emissions would already occur without a train-caused delay. Based upon the default vehicle mix assumed for the MOBILE5a model, 91.2% of the vehicles were assumed to be light-duty vehicles, and 8.8% were assumed to be heavy-duty vehicles. The deceleration, idling, and acceleration emissions were then calculated using methods stated above for other pollutants, accounting for a PM_{10} emission factor weighted by vehicle type. The emission factor for idling (g/mile) was converted to an emission rate (g/hr) by multiplying by 5.0 miles/hr instead of 2.5 miles/hr, since the EMFAC7 model runs were completed using an average vehicle speed of 5.0 miles/hr.

The results of emissions calculations are presented in the attached spreadsheets. The total estimated annual vehicular air emissions of VOC, CO, NO_x , and PM_{10} due to 38 train trips through the Reno area are 85.4 tons/year, 1,112 tons/year, 24.8 tons/year, and 0.55 tons/year, respectively.

The merger application indicates an increase in air pollutants from locomotives proportional to the anticipated increase in train traffic of 9 trains per day.²⁷ These pollutants include 8.23 tons per year of CO (Carbon Monoxide), 1.24 tons per year of PM (Particulate Matter), 2.65 tons per year of HC (volatile Hydrocarbons), and 61.60 tons per year of NO_x (Nitrogen Oxides). The air Quality Control Region (AQCR) 148 that includes Reno and Sparks is in a non-attainment (NA) status for PM, CO, and Ozone (Ozone is formed during complex photochemical reactions between NO_x and HC in the presence of sunlight). However, if these pollution number are adjusted for the correct number of anticipated trains, they would indicate 22 tons per year of CO, 3.6 tons per year of PM, 7 tons per year of HC, and 165 tons per year of NO_x . These numbers do not include added air pollutants from idling vehicles trapped in queues behind crossing gates.

²⁷ Ibid. Part 2, Table 2-22, Page 85.

9 SEA has carefully reviewed the air quality analysis provided by the commentor. The report results are based upon several overestimates, including train traffic (see response to comment #1), train lengths (see response to comment #4) and intersection delay (see response to comment #7). Please refer to Appendix G for a critique of the report. As result of these overestimates, the projected air quality impacts appear much greater than reported in the EA. Please refer to Volume 1, Chapter 5 for of the Post EA for the detailed discussion and results of SEA's area quality analysis.



Railroad Merger Study

Fact Finding Report

5.05 Noise

Page 56 of Volume 6, Part 2, Page 56 of the merger application contains the following quote:

"Reno, NV: The line runs through the center of Reno. There are several grade crossings along the tracks. The area is mainly industrial and commercial, but there are residential areas near Sparks, on the western edge of town, and near the tracks throughout the middle of town."

Table 2-14 on page 58 indicates that Reno has 41 sensitive receptors pre-merger and 146 post-merger. This number does not account for the actual number of additional trains, nor does it seem to match the actual number of sensitive receptors, especially in the downtown area. In fact downtown Reno is a high-density commercial and recreational area with 13,075 licensed hotel and motel rooms within one-half mile of the tracks along with 362 single family and 1,770 multi-family residential units. Over 9,000 hotel rooms are within 1,500 feet of the tracks. Hotel and motel room capacity has grown by over 18% in the last 5 years with this trend continuing.

The precise effect of added noise due to this merger cannot be determined without a more extensive study.

5.06 Water Quality and Toxics

Neither the existing nor the proposed rail routes lay near CERCLIS, NPL, or RCRA sites under remediation or investigation of releases of hazardous or regulated materials.

Both routes pass near sites with registered USTs, sites undergoing leaking UST cleanups, and near both large and small quantity RCRA generators. The existing route passes 24 sites with registered USTs, four active leaking UST cleanup sites, seven RCRA SQGs, and three RCRA LQGs. The alternate I-80 route passes eight sites with registered USTs, two active leaking UST cleanup sites (one is nearly complete), seven RCRA SQGs, and five RCRA LQGs.

The existing route traverses directly over the groundwater PCE plume and passes over the northern edge of the groundwater hydrocarbon plume. The alternate I-80 route passes over the known northern edge of the PCE plume, but avoids the hydrocarbon plume.

Groundwater depths vary from less than 20 feet below ground surface to greater than 60 feet below ground surface. Generally, the depth to groundwater is deepest the I-80 alternate route and shallowest along the existing route.

10

10 SEA acknowledges concerns about noise analysis and the categorization of sensitive receptors. The noise analysis for the Roseville-Sparks segment through Reno was based on 12.7 pre-merger freight trains per day and 24 post-merger freight trains per day. The noise increase expected from the proposed merger is 2.8 dB, which is below the threshold established to define impact. The Surface Transportation Board is aware of the extensive hotel and motel operations in Reno, and of concern about potential noise impact on these facilities. SEA notes the Executive Chamber's estimate of over 9,000 hotel rooms within 1,500 feet of the railroad alignment through Reno. Hotels and motels were considered as commercial receivers, based on the standard practice of using ground floor uses to establish categories, and therefore were not considered as sensitive receivers.

11

11 Information on water quality and toxins in the vicinity of rail operations is noted. SEA does not anticipate that these off-right-of-way properties would be affected by the proposed merger.

Railroad Merger Study

Fact Finding Report

5.07 Emergency Services -Public Safety

The service infrastructure of the City of Reno is impacted to a great extent by the proposed merger of Union Pacific and Southern Pacific Railroads. While the community has built-up around the railroad environment, the significant increase in utilization of the corridor by virtue of the post-merger Union Pacific operation and the additional traffic occasioned by the use of trackage by Burlington Northern Santa Fe has pointed out the danger and adverse impact of the rail operation in downtown Reno. While the impacts on air, water and ambient noise levels can be quantified, the following comments from the Reno Chief of Police clearly describe the impact of having a major rail operation cut through the center of a 24-hour tourism based community.

Delays - There is little question that the closure of the main street thoroughfares as a result of train usage hampers our police response and patrol ability on a daily basis. The Police Department had divided the City into three policing districts. Two south districts are basically divided by the train tracks from the north district. This districting, which spans the entire west and east limits of the city, is not the most effective districting method but has been forced on the department because of the physical barrier trains create during an emergency response. Because of police staffing shortages and workload increases, police dispatchers routinely cross-dispatch north officers to emergencies and routine calls in the south part of town and vice versa. North district officers routinely cover officers on the south side of the train tracks. Train traffic has been a problem for years to responding police units, fire units, and paramedics, forcing the time consuming rerouting of personnel to avoid trains. This situation has become much worse in the past few years because of population growth, increased calls for service, and fewer police officers. In many cases, emergency vehicle delays result in a domino effect resulting in a time delay that impacts almost all our pending calls for service. In emergency and critical incident response cases, these delays require an immediate tactical redeployment of resources to insure an adequate response, leaving many of our citizens confused and irate when the police need to leave their call to respond to another with a higher response priority. The continual bisecting of special event activities downtown by trains already hampers the ability of police to control the events.

Post-Merger Delays - Any increase in train traffic, length, or decrease in speed will have a direct impact in the following areas:

- 1) Police response times will increase to emergency and non-emergency calls which are cross-dispatched. Cross-dispatching is routine and occurs 24 hours per day because of current police staffing shortages. Citizen response time complaints will increase.
- 2) Officer safety and citizen safety will be impacted by delayed response of police units to assist officers needing cover, police response to injury traffic accidents, or any other citizen injury type call.
- 3) Increased train crossing traffic violations will occur. Currently, impatient drivers ignore crossing arms to beat oncoming trains, make U-turns, or drive the wrong way to find an escape route to avoid train delays. Adding train traffic will exacerbate this already dangerous situation.

12

- 12 - SEA recognizes the Commission's concern about the effect on emergency response services. Please refer to response to comment #1E.



Railroad Merger Study

Fact Finding Report

- 4) Special events management will deteriorate as trains bisect parades, static display street closures, and major special events.
- 5) Intoxicated pedestrians (tourists, transients, and locals) currently race across tracks to avoid trains. Their impaired condition increases the potential for an injury. Massive special event crowds, combined with noise levels of the event, often force pedestrians too close to train tracks. Reno's entertainment industry often results in tourists and local citizens being intoxicated or under the influence of alcohol in the downtown area.

Policing Problems - The physical environment created by the railroad tracks downtown serves as a magnet for local transients, bums, drug dealers, and even provides weapons for unruly crowds. Consider the following:

- 1) Our local population of street criminals congregate on railroad tracks right-of-ways behind buildings, crossing arms, and underpasses because these areas are often hidden from direct view of police officers. The right-of-way also makes excellent places of operation for panhandlers, strong arm robbers, and permanent homeless residents to accost our citizens. The railroad provides no immediately available property owner or security to monitor this problem and help regulate this crime. Since property owners throughout downtown prohibit this activity on their properties and can authorize trespassing arrests to remove petty criminals, the situation has forced many petty criminals onto the railroad right-of-way.
- 2) The railroad bed includes rocks, broken bottles, cans, grease, oil, and dirt. Rocks and bottles are routinely used during fights among petty criminals, provide drunks ammunition during major special events, and are hard to navigate by pursuing officers.

Other Impacts - The presence of the railroad tracks in their current location represents a mixture with our economy not unlike oil and water. They are a critically dangerous segment of our downtown area in which we contain thousands and thousands of residents, tourists, gamers, and visitors. The police department has had to physically adapt its emergency operations to accommodate the train tracks. However, the accommodations are not in the best interest of the City.

Note: Additional information concerning public safety has been received but is not included here.

5.08 Economic Effects of Merger on the Railroad

The combined UP/SP route between Oakland and Chicago will be shorter than the UP or the SP route. Mileage reductions will come from combining parts of the UP and SP routes to create a new route much shorter than either railroad's present system. Oakland to Chicago, via Reno, will show a reduction of 388 miles from SP's present route and 189 miles from UP's line.¹³

¹³ Ibid., Volume I, Pages 29 & 30.

13

- 13 SEA acknowledges concerns about the impacts of intersection delay related to emergency response time and driver behavior. Please refer to response to comments #1A and #1E. Regarding driver actions, the Surface Transportation Board cannot preclude intentional traffic violations. SEA's recommended mitigation measures are reported in Volume 1, Chapter 5 of the Post EA.

14

- 14 SEA recognizes the Commission's concern about railroad-related security issues. Security issues are beyond the jurisdiction of the Surface Transportation Board and should be discussed with UP/SP.

15

- 15 SEA acknowledges the Commission's position on impacts of the location of railroad tracks through the City. The physical presence of the railroad is a pre-existing condition which is beyond the jurisdiction of the Surface Transportation Board. The concept of relocating tracks elsewhere in the region may have merit in addressing local concerns, but the impacts of the proposed merger are insufficient for the Board to require relocation.

Railroad Merger Study

Fact Finding Report

7.02 Potential Solutions

We have heard from a large number of intelligent, articulate, and informed professionals, civil servants, and residents concerning possible "fixes" for this problem. Most have been well conceived. Following is a brief list of the alternatives now being seriously discussed:

- No action
- A fully depressed trainway
- A partially depressed trainway
- Limited grade separations (underpasses or overpasses)
- Railroad relocation, possibly to the I-80 corridor

Throughout our discussions we have heard the recurring theme of combining a number of different transportation facilities such as pipelines, fiberoptics, power, water, and sewer into the same corridor. This "Transportation Corridor" concept could allow much more efficient use of valuable property and should be pursued.

7.03 Suggested Action Items

We suggest the following action items be considered by the City.

1. Union Pacific should provide financial assistance in finalizing the study effort which will identify reasonable mitigation efforts to resolve impacts on the downtown Reno area while increasing the efficiency of the railroad operation through downtown Reno.

In order to clearly identify the impacts of the post-merger condition and to accurately assess the alternatives, additional engineering studies should be initiated and complete. The City of Reno has committed considerable effort and funds to move the project to the current stage. Additional funds should be forthcoming from Union Pacific to complete the initial engineering studies and to conduct a full alternatives analysis and/or major investment study. These studies, while expensive, would clearly delineate the alternatives and investments necessary to allow for informed decision making.

2. The Union Pacific and City of Reno should establish a mutually acceptable schedule to complete the study effort described in No. 1.
3. The Union Pacific and City of Reno should cooperatively develop a strategy to help resolve all of the issues which may impact identified implementation scenarios.

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- 16 SEA acknowledges the request for Applicant funding of City studies. The Surface Transportation Board does not have jurisdiction to require the Applicant to provide such funds. This request should be submitted directly to the Applicant.

- 17 SEA acknowledged the Commission's comments about the time period for implementing mitigation. Please refer to the discussion on mitigation measures in Volume 1, Chapter 5 of the Post EA.

- 18 The Surface Transportation Board cannot comment on the merits of legislative actions.



Railroad Merger Study

Fact Finding Report

Legislative action at the state level - In order to implement a selected alternative, it may be necessary to develop a specific legislative program providing for legislative change. The Union Pacific could play a key role in this activity.

Legislative action at the federal level - Although current funding levels of ISTEA are limited, this is clearly a source of funding which should be explored.

Identification of potential funding sources - Private funding sources, as well as local, state and federal funding should all be considered for each mitigation element. Initially, in order to expedite the alternative analysis, it is suggested that funding be provided by Union Pacific to allow quick and complete evaluation of the alternatives. A major investment analysis should be performed and the task should be initiated as quickly as possible.

4. Establish a project coordination team to assure the timely and effective resolution of the issues and implementation strategies.

This coordination team should be composed of members of the consulting team, City of Reno, Union Pacific and other stakeholders. A team approach to identifying problems and finding solutions will clearly benefit all parties to the effort.

18

18 Refer to the previous page for response.

19

19 The Surface Transportation Board encourages the use of project coordination teams.

BEFORE THE
SURFACE TRANSPORTATION BOARD
UNITED STATES DEPARTMENT OF TRANSPORTATION

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

WRITTEN COMMENTS SUBMITTED BY
THE STATE OF OREGON
THROUGH ITS
DEPARTMENT OF TRANSPORTATION

INTRODUCTION

My name Claudia L. Howells, Railroad Services Coordinator for the Oregon Department of Transportation. I am authorized to submit this Verified Statement on behalf of the State of Oregon (Oregon) and the Oregon Department of Transportation (ODOT). ODOT has been designated by John Kitzhaber, Governor of Oregon to represent shippers, port districts, local governments and the public generally in this proceeding.



Portland is currently a railroad interchange nightmare. While some of the problems relate to how reciprocal switching charges are structured, the local rail infrastructure is inadequate to handle the current level of traffic efficiently. Additional traffic will only increase congestion, unless considerable capital investment is made in both the terminals and the connecting trackage. We also suggest that the combined railroad reconsider the elimination or downsizing of Brooklyn Yard. It is the main interchange point for the Willamette & Pacific, Portland & Western, Portland Traction Company railroads which together run approximately 1400 cars a month through Brooklyn Yard. This does not include SP origin/destination traffic that is currently handled at Brooklyn Yard. The possibility also exists for additional traffic being moved off of short lines through Brooklyn Yard.

The infrastructure needs are of such magnitude in Portland, that we seriously suggest that UP move cautiously in changing the traffic patterns in the Willamette Valley. We further suggest that UP work closely with the local governments in Portland, Salem, Albany, and points between to insure that rail traffic flows are fluid, that safety is not compromised, and that congestion at grade crossings is reduced. (For more detail reference the comments from the Portland area governments. Letter 11)

We are not requesting conditions on these issues, but we are, in a separate filing, protesting the abandonment of the Modoc Line. The protest is based in part on our concern about the ability of the Portland Gateway to handle any increase in traffic without major improvements of the I-5 system. Additional concerns will be addressed in more detail in the related filing

Cascade Line

We fully support increasing tunnel clearances on the Cascade Line, as proposed in the Operating Plan. SP has suffered from its inability to operate double-stack container trains through the I-5 corridor, being kept out of the growing intermodal business.

1 Concerns by the Oregon Department of Transportation about impacts at grade crossings are noted. Volume 2, Section 15.4.1 of the EA describes the impact of truck activities at the Albina intermodal facility. The facility is expected to experience an average increase of 274 trucks per day due to the consolidation of the SP Portland intermodal facility. The additional trucks would represent a 5.3 percent increase in daily traffic volumes on surrounding roadways. SEA's recommended mitigation to address these communities' concerns are addressed in Volume 1, Chapter 5 of the Post EA. Section 15.4.2 of the EA describes grade crossing impacts at various locations in the state. The two rail segments traversing the Portland area (Portland to Oregon Trunk Junction and Seattle to Portland) would experience an increase of approximately 3 trains per day. These additional trains would increase the total delay to vehicle traffic 3 to 8 minutes over a 24-hour period. This increase in train service would not compromise safety at the crossings. See Volume 1, Chapter 5 of the Post EA for SEA recommended mitigation for grade crossing protection.

2 Opposition is noted to the proposed abandonment of the Modoc line. SEA notes that in a brief (dated 5/30/96) filed with the Surface Transportation Board, Oregon DOT withdrew its opposition to the proposed abandonment.

3 Support is noted for increasing clearances in the Cascade Tunnels.

High Speed Rail and Passenger Service

The I-5 Corridor between Eugene and Portland has been designated as a High Speed Rail Corridor by the federal government and is part of the Cascadian Corridor that extends through Washington to British Columbia. Oregon has received good cooperation from SP in its endeavors to increase passenger rail service on SP's line. We have been assured by the UP that under its direction, cooperation will continue at least at the level we have received from SP. We will reiterate here that increasing rail passenger service both in the I-5 corridor and elsewhere in Oregon is a long-term, well supported effort. This demonstrated by the letter from Oregon's Governor John Kitzhaber, included in the Supplemental to the Application. In turn, the state commits fully to insuring that the efficiency of freight moves will not be compromised.

Environmental Concerns

With hesitation we express here some concern about the Environmental Report. Our hesitation is based on the unfortunate fact that Oregon natural resource agencies were unable to evaluate the effects of the proposed changes in train operations and terminals. This comes as a result of staff reductions and changes in agency responsibilities. This agency is not in a position to comment with any authority on environmental issues, but we are concerned that the Environmental Report lacks much in the way of detail. We think this is, in part, because the Operating Plan also lacks detail. We have been advised by both UP and SP that the Operating Plan is not an "implementation plan," which then raises the question as to what environmental impacts may occur that were not anticipated in the Operating Plan or in the Environmental Report.

We can say with certainty that increases in train traffic have the potential for adversely affecting air quality, primarily because of vehicular traffic stopped at grade crossings in congested urban areas. We also know that the expansion of Barnes Yard

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SEA has noted the concern about a lack of detail in the Applicant's Environmental Report. Additional information is provided in the EA and the Post EA.

5

SEA has reviewed the concern about air quality impacts resulting from increases in train traffic. The air quality assessment has determined that no rail segments in Oregon will exceed the threshold for adverse impacts; no mitigation is proposed. The Surface Transportation Board's environmental rules specify air quality assessments on a regional basis but do not include assessments of localized impacts, such as delays at intersections.



may well require permitting from the Oregon Division of State Lands, the agency vested with the authority to regulate the fill and removal of wetlands. We also know that changes in yard operations in Portland will affect truck traffic, we hope for the better. These issues are discussed in more detail in submissions from local governments that are included within this filing.

6

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CONDITIONS

Condition #1

Expand the BNSF agreement to include:

1. Open interchange at all points between and within Portland and Eugene for all BN- and SP-direct shippers, as well as for all shippers located on short lines, notwithstanding lease or sale agreements. This should apply to current and future short line customers directly served by either carrier.
2. Grant trackage rights to BN over the SP main line between Portland and Eugene and between Eugene to Klamath Falls over SP's Cascade Line.
3. Require reasonable or free reciprocal switching charges at all points in Oregon among all carriers.
4. Grant BNSF joint trackage between Wallula Junction, located in Washington, and points within a fifty mile radius of Hinkle Yard, near Hermiston.

Argument

We believe that the agreement with the BNSF, which eliminates reciprocal switching charges for "2-1" shippers, establishes a proportional rate agreement for traffic moving over the Portland Gateway, and extends BN trackage rights beyond Bieber into California, provides little benefit to most Oregon shippers. Furthermore, the agreement appears to provide greater benefits to competitors of Oregon producers. Those benefits also accrue to industrial locations in our neighboring states, making Oregon, except for

6 The need for wetland permitting from the Oregon Division of State Lands is noted. Securing and complying with state and local permits is a standard procedure that the Applicant must follow, regardless of the review of the Surface Transportation Board.

7 See response provided for comment #1 of this letter.

BEFORE THE
SURFACE TRANSPORTATION BOARD
UNITED STATES DEPARTMENT OF TRANSPORTATION

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

COMMENTS ON ENVIRONMENTAL ASSESSMENT

SUBMITTED BY
THE STATE OF OREGON
THROUGH ITS
DEPARTMENT OF TRANSPORTATION

Herein are comments from the Oregon Department of Transportation (ODOT),
Railroad Services Coordinator, Transportation Development Branch. Because of the
short comment time, there may be other filings from ODOT Regional Offices and local
governments that should be considered as consistent with these comments. The nature of
these comments should be viewed as general comments and of statewide interest.



Rail Line Segments, Rail Yards and Intermodal Facilities

Train Counts. We have attempted to calculate the increase in train traffic on the line segment between Klamath Falls, OR and Bend, OR. Between Bend and Chemult there is a projected increase of .8 trains a day. Between Klamath Falls and Chemult, an increase of 8.1 trains a day. Between Chemult and Eugene, 5.2 trains a day. Are there two trains missing? These figures are also not consistent with BNSF's plans, as we understand them, to route significant Washington origin/destination traffic via the Oregon Trunk.

Air Quality Impacts at Grade Crossings. The EA states that there is no grade crossing in Oregon with more than 5,000 vehicles a day. We have attached the Annual Average Daily Traffic statistics for all crossings affected by the merger. Please note that there are many crossings with traffic counts far in excess of 5,000 vehicles a day. Please also note that in many cases where crossings are close together, traffic will be stopped at several crossings by one passing train. In some areas, such as in Portland, long, slow moving trains can tie up traffic for sometime. As an example, on the SP line in Portland there are 18 crossings within 1.28 miles, with a total ADT of 50,900 vehicles. It is not unusual for all 18 crossings to be blocked by one train.

Yards. There continue to be references made to changes in the Salem Yard. What are they?

Proposed Construction Projects. According the Operating Plan and our discussions with both the UP and SP, UP intends on adding tracks to Barnes Yard in Portland. There is no mention of that project in the EA. Also mentioned in the Operating Plan is a proposal to increase clearances on SP's Cascade Line. There is no mention of that project in the EA.

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SEA has reviewed the concern about train counts and verified the counts. Between Bend and Chemult there are 4.7 trains per day. Post-merger there will be an increase of .8 trains for a total of 5.5 trains per day. Between Klamath Falls and Chemult there are presently two passenger trains, plus 20.1 freight trains (4.7 are BN/Santa Fe) for a total of 22.1 trains per day. Post-merger there will be an increase of 8.1 freight trains for a total of 30.2 trains per day. Between Chemult and Eugene there are 17.4 trains operated per day. Post-merger there will be an increase of 5.2 freight trains, for a total of 22.6 trains per day.

2

SEA has reviewed the information provided about at-grade crossing traffic counts. The EA noted that most, not all, grade crossings in Oregon carry less than 5,000 vehicles per day. According to the list attached to the comment letter, more than half of the crossings carry less than 5,000 vehicles per day. SEA has reviewed projected delays at crossings with more than 5,000 vehicles per day and found that the projected increase in delay is small. For instance, in Salem, OR the average delay per vehicle at grade crossings would increase from a pre-merger value from 1 to 2 seconds to post-merger value of 2 to 3 seconds. The decrease in the level of service (LOS) with the post-merger level of freight operations in such a magnitude does not require mitigation. Please see the discussion of traffic delay and level of service in Volume 1, Chapter 4 of the Post EA.

3

No physical changes to the yard are anticipated as a result of the proposed merger. Operational changes at the yard are described in the EA, Volume 2, page 15-7.

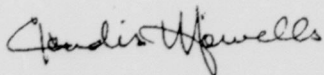
4

The additional trackage at Barnes Yard and the increased clearances on the SP's at Cascade Line do not require new rights-of-way and are therefore not part of the EA

As mentioned previously, there will be other more specific comments filed by local governments and ODOT Regional Offices with proposals for mitigation, as well as requests for clarification. We do not have proposals for mitigation because we are not certain the EA accurately reflects either the Operating Plan or the combined railroad's plan for operation.

If we can provide you with additional information please contact me at the address and phone number provided on the cover sheet.

Respectfully submitted,

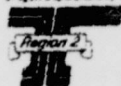


Claudia L. Howells

Railroad Services Coordinator



Oregon Department of Transportation



INTEROFFICE MEMO

April 30, 1998

TO: Claudia L. Howells
Railroad Services Coordinator

FROM: Barb Hopewell *Barb*
Region 2 Traffic Investigator

SUBJECT: Environmental Assessment: UP/SP Railroad Merger

We have reviewed the Environmental Assessment and have the following comments:

- 1) Oregon is working with Washington to develop a high speed rail corridor between Eugene and Vancouver, British Columbia. Expansion of freight activities on this corridor may present complications to the development of this high speed passenger rail service. 1
- 2) The Schools in the City of Oakridge are experiencing difficulties with the noise level with the current number of trains through their community. The noise threshold may be exceeded if there is an increase in the number of trains. There are many communities along the rail line that may experience the same impact. 2
- 3) Safety is an on going concern at grade crossings. To increase train traffic at these crossings may create additional safety problems. 3

1 The issue of high speed rail is beyond the scope of the Surface Transportation Board's jurisdiction and SEA's environmental review.

2 Concern about potential impacts to schools at Oakridge are acknowledged. The change in train volume projected for the City of Oakridge did not meet the Surface Transportation Board's thresholds for noise analysis.

3 SEA appreciates the concerns about safety. All grade crossings will be maintained to FRA standards to ensure that safety is not compromised. See Volume 1, Chapter 5 of the Post EA for SEA recommended mitigation for grade crossing protection.

"Center of Oregon's
Administration"

Office - City Hall
503-523-4541 - 503-523-2850
VOICEMAIL

CITY OF BAKER CITY, OREGON

P.O. Box 636 - Baker City, Oregon 97814-0636

May 2, 1996

Claudia L. Howells
Department of Transportation
Transportation Development Branch
555 13th Street NE
Salem, Oregon 97310

Dear Ms. Howells:

This letter is to address the Environmental Assessment being done for the UP/SP Railroad Merger. Even a slight increase in traffic through Baker City is something that warrants comment.

We realize that there is little that can be done to change the amount of noise that results from the wheels of the train coming in contact with the track. We also realize that a great deal has already been done to reduce the amount of noise the diesel electric propulsion causes. We do not believe that the noise from whistles is being addressed.

In the technological age we live in, we believe there must be something that can be done to alert motorists and pedestrians without the use of whistles, horns or other noise generating devices that can be heard for miles in all directions. It seems to us that little is being done to reduce the amount of noise resulting from whistles. Some even contend that some engineers simply whistle all the way through the City and others are whistling for crossings that no longer exist.

At a minimum we would recommend that whistling be reduced to a minimal without jeopardizing safety. The optimum would be a new system that does away with whistling in situations other than emergencies. Most of us don't consciously hear the whistles during the daytime because there are so many of them, so where is the safety advantage. There must be a better way.

HOME OF THE NATIONAL HISTORIC OREGON TRAIL INTERPRETIVE CENTER
(For Center Information - 1-800-523-1235)

OFFICE OF THE HISTORIC OREGON TRAIL

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The projected train volume changes for the City of Baker, Oregon are insufficient to trigger a noise analysis per Surface Transportation Board thresholds. Although the Board is sensitive to community concerns, the environmental noise analysis is focused on the impacts due just to the merger, and not the total noise impact of all operations. Noise from train whistles is a result of federally-required sounding of horns at rail/roadway crossings for safety purposes.


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The Surface Transportation Board cannot override the Federal safety requirement for sounding horns at grade crossings. This issue is of concern to many communities. Alternatives are currently being reviewed by the Federal Railroad Administration. Among these are permanent closure of crossings, grade separations, four-quadrant gates, and gates with median barriers. Permanent closure of grade crossings, and grade separated crossings would eliminate train whistle noise. Four quadrant gates and median barriers would, subject to FRA approval, eliminate train whistle noise, but FRA approval will have to wait until the end of this year at the earliest. Rail whistle concerns should be submitted directly to FRA.



A railroad through the center of a community is no small thing. Union Pacific has realized and responded to that over the years. We hope that UP/SP will use their combined resources to further reduce the impact they have on Baker City.

Sincerely,

Sincerely,

Karen Woolard
City Manager



City of Echo

20 S Bonanza
P.O. Box 9
Echo, OR 97826
(503) 376-8411

May 3, 1996

Claudia Howells
Railroad Services Coordinator
ODOT
Transportation Dev. Branch
Mill Creek Office Park
255 13th St. NE
Salem, OR 97310

Subject: Environmental Assessment UP/SP Railroad Merger

The City of Echo is located in Northeastern Oregon 20 mi. west of Pendleton, 185 mi. east of Portland and about 4 miles from Hinkle. Our town is bisected down the middle by the Union Pacific main line. As a result, we are very concerned about the impact on our community of the proposed UP/SP merger from both a safety and environmental standpoint. I am responding not only on behalf of the City of Echo, but have been asked by Echo Rural Fire Protection District Fire Chief Tom Haright.

Because of our proximity to Hinkle and the fact that our community has a siding, without increased train traffic, we already experience problems due to use of the Echo siding to hold trains for a few hours to as much as several days. We have had a reoccurring problem with blocked crossings, although some of this problem has been eliminated due to changes in the location of crossing arm switches. We have two vehicle crossings and one pedestrian crossing in Echo. Often all three are blocked. The fire department is concerned about the blocking of crossings at Echo and Nolin (7 miles south of Echo) in the event of fires. Since the Fire Station is on the west side of town, blockage of crossings at Echo or Nolin can force the Fire Department to drive at least 5 miles to get to the other side of town or to the freeway to reach a fire. At Nolin there is only one crossing for miles.

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1 The existing conditions in Echo arising from operational practices are not within the jurisdiction of the Surface Transportation Board and have not been considered in SEA's environmental review of the proposed merger.

2 Concerns about grade crossings are noted. The Surface Transportation Board does not have authority over existing conditions, and the proposed merger would result in a decrease of .43 trains per day on this line segment.

Our police are concerned about the repeated crossing blockages. Just today, the fire chief caught a student crawling under a train on his way back to school. Because trains so often block crossings, (although it is illegal) we have residents assume that the crossing arms there is no moving train, and dart between crossing arms.

The fire department is also concerned about increased railroad generated fires and increased potential for spills of hazardous materials. While the Echo Fire District is one of the largest in the state in area, it is one of the smallest in terms of budget and man-power. It also has over 20 miles of mainline railroad running through it. As a result, it can be a big strain on their resources to handle such problems.

When trains are left on the siding in Echo they are left idling which creates not only problems with air emissions but with noise and vibration. This week alone, we have had at least two evenings where the trains sat for several hours idling. Echo residents have tried to file complaints about the noise the idling trains cause and the fact that it interferes with their sleep, but have been told by the PUC that we have no jurisdiction.

I can attest to this being a problem. I live over a 1/4 of a mile away from the track on the hill above Echo and can hear and feel the vibration in my home at night. Echo lies in a narrow river valley prone to stagnant air, especially in winter months. Increased train traffic will only escalate these problems.

We have been told over the years that the siding at Echo is used so heavily, because during busy periods, there is not enough room at Hinkle to hold the trains. If this is the case now, how can they possibly handle increased traffic without increasing the problems we already face.

Your memo asked for suggestions for mitigation. We are not asking to block the merger, but feel there are things that can be done to limit the impact that can be placed on conditions on the merger.

1. Require expansion of track at Hinkle, so that trains can be handled there rather than being held in Echo and Molia.

2. Require the railroad to plant and maintain trees and shrubs along both sides of the siding about 50 feet from the tracks. If the trees are planted close enough together they should help to eliminate some of the noise problem, as well as helping with air quality.

3. Require the railroad to provide the Echo Fire District

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Concerns about grade crossings is noted. The Surface Transportation Board does not have authority over existing conditions, and the proposed merger would result in a decrease of .43 trains per day on this line segment.

The Surface Transportation Board thresholds for noise analysis were not exceeded by the proposed train volume changes. Noise impacts may exist due to existing train traffic in the City of Echo. Although the Board is sensitive to community concerns, the environmental noise analysis is focused on the impacts due just to the merger, and not the total noise impact of all operations. Idling noise appears to be an existing noise problem, and is beyond the Surface Transportation Board's authority. Concerns for this issue should be forwarded directly to the Applicant.

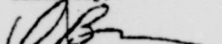
The Surface Transportation Board cannot require the expansion of the Hinkle Yard to address operational concerns in Echo.

See response provided for comment # 4 of this letter. Please also note that planting trees will not reduce noise produced by idling locomotives or through-trains.

The Surface Transportation Board cannot require the Applicant to provide funding to the Echo Fire District.

funding for equipment to handle potential railroad generated problems.

Sincerely,


Diane Berry
City Administrator

cc: Tom Enright
Matilla Co. Sheriff's Department



SEAGENCIES

OREGON - STATE HISTORIC PRESERVATION OFFICER

Oregon

PARKS AND
RECREATION
DEPARTMENT

STATE HISTORIC
PRESERVATION OFFICE

May 2, 1996

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

RE: Union Pacific/Southern Pacific Merger
Oregon - Statewide

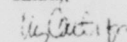
Dear Ms. Kaiser:

Thank you for your submission of project documentation for the property(s) referenced above. This information was submitted in compliance with the National Historic Preservation Act of 1966 (16 U.S.C. 470f), Section 106, and reviewed under criteria and procedures outlined in 36 CFR Part 800. Further consultation and comment was also solicited from appropriate SHPO program staff. This review resulted in the following determination(s) and finding(s).

It is not possible for the SHPO to fully comment on the proposed undertaking at this time due to the comprehensive nature of this merger, and the incompleteness of the information submitted regarding historic and cultural resources. When more specific documentation regarding the affected resources becomes available, we will review and comment as to their eligibility and any effect this proposed undertaking will have on cultural or historic resources.

If you should have any further questions, or need additional assistance, please feel free to contact Liz Carter at the SHPO, extension 219.

Sincerely,



Henry C. Kunowski
Project Manager



15 Commercial St. NE
Salem, OR 97310-1007
(503) 378-9000
FAX (503) 378-6447
7/10/97

1 SEA acknowledges the Oregon State Historic Preservation Officer's position to provide no comment on the proposed merger at this time. Information on potential historic resources and evaluation of effect is being provided to the Officer during the Section 106 consultation initiated by SEA.

STATE AGENCIES

SOUTH DAKOTA - STATE HISTORIC PRESERVATION OFFICER

Jay Vogt
page 2

FAX REPLY to : 202/927-6225

To: Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue NW
Washington DC 20423-0001

From: ~~SEA~~ Jay Vogt, South Dakota State Historic Preservation Officer

#960425004F

Signature

Don M. Wall

Date 4-25-96

Re: Section 106 Consultation regarding
Proposed Merger of Union Pacific and Southern Pacific Railroads
Finance Docket 32760

☒ I concur with the finding of the Surface Transportation Board's Section of Environmental Analysis (SEA) that the proposed merger would have no effect to historic and cultural resources in South Dakota, as described in SEA's letter of April 11, 1996.

☐ I concur with the finding of the Surface Transportation Board's Section of Environmental Analysis (SEA) finding that the proposed merger would have no effect to historic and cultural resources in South Dakota, as described in SEA's letter of April 11, 1996, with the following comments:

1

1

SEA acknowledges the State Historical Society's comment that the proposed merger will have no effect on historic and cultural resources in South Dakota. This correspondence completes Section 106 coordination responsibilities for the State of South Dakota.

MERGER OF UNION PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC TRANSPORTATION COMPANY

AS-111



DAMES & MOORE
ONE CONTINENTAL TOWERS, 1701 GOLF ROAD, SUITE 1000, ROLLING MEADOWS, ILLINOIS 60008
(847) 228-0707 FAX: (847) 228-1111

February 26, 1995

Andrew Sansom
Executive Director
Parks and Wildlife Commission
4300 Smith School Road
Austin, TX 78744

Dames & Moore is preparing an addendum to the Environmental Report for the application for merger of the Union Pacific and Southern Pacific Railroads. The attached list and maps show additional construction projects which have been identified within your state.

To prepare our addendum to the Environmental Report, we are requesting that you inform us of any concerns you have and provide information regarding:

- protected species information (State, Federal) within 5 miles of each site.
- listing of critical habitats within 5 miles of each site.
- locations of parks and refuges in proximity to the proposed projects.
- citations to any permitting/approval authority which you believe your state has over the actions identified.
- any other information you would like to provide regarding environmental matters or local concerns at these sites.

We would appreciate receiving the requested information at your earliest convenience. We would further appreciate it if the information could be supplied in writing or orally to the undersigned at the address and phone/fax numbers on this letterhead.


We very much appreciate your assistance.

Very truly yours,

DAMES & MOORE, INC.

Julie Donsky

Julie Donsky
Environmental Scientist



Review of the proposed activity as proposed in
minimal impacts to fish and wildlife resources
Reviewed: *Julie Donsky*

Texas Parks & Wildlife Dept.

MAR 1 1996

Habitat Management Branch

1 SEA acknowledges the Texas Parks and Wildlife Department's comment that there would be minimal impacts to fish and wildlife resources.

328-02
78 22 02 13 0203

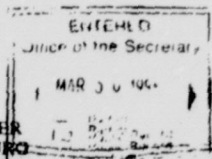
Before the
SURFACE TRANSPORTATION BOARD

RCT-4

Finance Docket No. 32760

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

COMMENTS IN OPPOSITION TO MERGER
EVIDENCE AND ARGUMENT
SUBMITTED BY THE RAILROAD COMMISSION OF TEXAS
ON BEHALF OF THE STATE OF TEXAS



RICHARD H. STREETER
BARNES & THORNBURG
1401 EYE STREET, N.W.
SUITE 500
WASHINGTON, D.C. 20005
(202) 408-6933

COUNSEL FOR THE
RAILROAD COMMISSION OF TEXAS

CAROLE KEETON RYLANDER, CHAIRMAN
BARRY WILLIAMSON, COMMISSIONER
CHARLES R. MATTHEWS, COMMISSIONER

DATED: MARCH 29, 1996



Merger. Furthermore, any such sale must assure the Port of Corpus Christi competitive access to its markets west of the Mississippi River. A third condition is the creation of neutral terminal railroads in all major industrial markets which, by virtue of what is likely to be the final railroad merger in Texas, would otherwise be dominated by U.P. The fourth condition would require UP and BN/Santa Fe, if they propose to abandon tracks in Texas following the Merger, to include all trackage necessary to ensure that a purchasing carrier, rural rail district or other acquiring entity, have unfettered access to rail junction points. In short, any line abandonments filed by merger applicants must be junction to junction, or industry to junction in the case of abandoning an industrial lead.

In addition to the economic conditions, the Commission is extremely concerned that the anticipated increase in rail traffic in certain areas, especially in West Texas, may potentially impact public safety. In order to ensure the safety of motorists, the Commission requests imposition of a condition that would require the merged railroad to agree (1) to confer with law enforcement officials, traffic engineers, and public officials in cities and counties on the merged railroad's routes where there will be a substantial increase in the number of daily trains attributable to implementation of the merged railroad's operating plan, and (2) to install flashers, bells and gates at all grade crossings where authorized maximum train speed is great enough to present a hazard to motorists and there is a sufficient number of automobiles per day at the crossing to warrant installation of electronic warning devices.

-13-

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2

1 SEA has incorporated in the Post EA the request of the Railroad Commission of Texas that the Applicant confer with law enforcement officials, traffic engineers, and public officials in cities and counties where there would be a substantial increase in the number of daily trains attributable to implementation of the merged railroads operating plan. No mitigation of impacts was requested in response to consultation and no mitigation measures concerning consultation were identified in the EA.

2 SEA acknowledges the Commission's request for flashers, bells, and gates at all grade crossings where authorized minimum train speed is great enough to present a hazard to motorists and the number of automobiles per day at the crossing is sufficient to warrant installation of electronic warning devices. UP/SP is required to comply with Federal Railroad Administration requirements for safety. The Applicant must comply with FRA standards concerning grade crossing safety.

significant volumes of hazardous materials. Given the number of daily hazardous material train movements, it is expected that a derailment, possibly resulting in a spill, will occur occasionally.²

The Railroad Commission of Texas, through a partnership with the Federal Railroad Administration, has responsibility for rail safety. History has shown that as individual railroads have slipped into financial difficulties, safety has deteriorated. A financially sound railroad will provide a safer environment for its employees and the public than a railroad that is fighting for its financial survival.

The Southern Pacific Railroad does not have one of the best safety record among Class I railroads. Highway-rail safety improvement projects on the SP are considered difficult to implement on occasion due to lack of personnel and scheduling of work crews. On the other hand the Union Pacific has one of the best safety records among all railroads. Moreover, the Union Pacific has a reputation of working with local communities and the Texas Department of Transportation to improve safety at highway-rail grade crossings.

The proposed Union Pacific/Southern Pacific merger will create redundancies in rail routes. It has been suggested, though not necessarily by the merger applicants, that these redundancies could lead to track abandonment. These potential abandonments could enhance the ability of local communities in their effort to close and/or consolidate under-used highway-rail grade crossings. Several Texas communities are served by both the Union Pacific and Southern Pacific railroads. The closure of under-used grade crossings would save Texas

² A breakdown of rail and truck hazardous materials incidents is included in Table 4.3 on page 4-9.

3

3 SEA acknowledges the comment regarding the closure of under used grade crossings. SEA has recommended mitigation to address rail crossings which is detailed in Volume 1, Chapter 5 of the Post EA.



taxpayers not only the capital cost of warning device improvements but also the state portion of continuous warning device maintenance costs.

In addition, railroad relocation and consolidation projects in several Texas communities could be assisted by the merger. For example, the Brownsville railroad relocation and the Texas A&M campus rail relocation projects involve both the UP and SP. Where railroads share in the responsibility for maintenance of terminal facilities, such as in Houston and Corpus Christi, strong, financially secure railroads will enhance public safety through adequately funded rail infrastructure maintenance programs.

10.3 Conclusion

The proposed merger of the Union Pacific/Southern Pacific railroads could serve to improve highway-rail grade crossing safety in Texas. The Union Pacific has the financial wherewithal to ensure that safety-based projects are completed and maintained. Inasmuch as the merger may also encourage the abandonment of little-used trackage, it is expected that communities can look to consolidate or close unwanted highway-rail grade crossings with attendant safety improvements. In addition, the merged railroad may also be able to accommodate rail relocation projects in areas currently served by both applicants.

If the merger is opposed, the Railroad Commission should request documentation from the Southern Pacific specifying how they will finance safety-related projects. The Railroad Commission may wish to direct its rail safety staff, in cooperation with the Texas Department of Transportation, to further detail the impacts of the merger on highway-rail grade crossing elimination and consolidation.

3 Refer to the previous page for response.

4 SEA acknowledges the comment about the Applicant's financial ability to improve highway-rail grade crossing safety and the local safety benefits of the merger through potential consolidation or closure of unwanted grade crossings. SEA has recommended mitigation to address rail line and grade crossings which is detailed in Volume 1, Chapter 5 of the Post EA.



TEXAS HISTORICAL COMMISSION

P.O. BOX 12276

AUSTIN, TEXAS 78711-12276

(TELEPHONE) 512-461-6100

(FAX) 512-475-4872

(RELAY TX) 1-800-755-2989 (TDD)

NATIONAL REGISTER DEPARTMENT

May 3, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, D. C. 20423-0001

Re: Union Pacific/Southern Pacific Railroad Merger, Section 106 Compliance Finance Docket
No. 32760 (STB, N10)

Dear Ms. Kaiser:

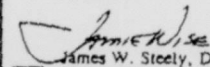
The State Historic Preservation Office (SHPO) reviewed the federal undertaking referenced above under Section 106 of the National Historic Preservation Act, 36 CFR 800. The SHPO's National Register Department and the Department of Antiquities Protection review properties to determine their historical significance.

The National Register Department and Department of Antiquities Protection conducted a review of the above referenced undertaking by applying state and federal criteria for historical designation and would like to defer comment until after the environmental assessment and survey of historic properties is completed.

For questions about eligibility of standing structures contact Jamie Wise, National Register Department, at 512/463-6006 and for archeological concerns contact Sergio Inuegas, Department of Antiquities Protection at 512/463-6096.

Thank you for your interest in the cultural heritage of Texas, and for your compliance with this federal review process.

Sincerely,


James W. Stealy, DSHPO
National Register Department

cc: Sergio Inuegas, THC Department of Antiquities Protection

JWS/JLW

The State Agency for Historic Preservation

1 SEA acknowledges the State Historic Preservation Officer's preference to withhold comment until after the EA and completion of survey of historic properties. A copy of the EA was served to the Agency during the week of April 15, 1996. Ongoing Section 106 consultation, including information on historic properties, was provided via correspondence dated April 12, May 2 and May 22, 1996. Consultation with the SHPO to reach a determination of effects is under way. Because consultation has not been completed, mitigation measures are specified in Chapter 5 of the Post EA.



TEXAS HISTORICAL COMMISSION
P.O. Box 12276 • Austin, Texas 78711 • 512/463-6094
State Historic Preservation Office (SHPO)
Review of Federal Undertaking (funded or licensed), under the
National Historic Preservation Act of 1966 (16 USC 470) as amended.

SECTION 106 (36 CFR 800)

REVIEWER: _____ Amy Dase _____ Bruce Jensen _____ Jamie Wise _____ Technical Review
DATE: 4/18/96 TRACK CODE: Nz N10

ATTN: JULE DONSKY ENVIRONMENTAL SCIENTIST

RE: JAMES & MOORE, ONE CONTINENTAL TOWERS 1701 GOLF ROAD SUITE 1000
ROUND MEADOWS III. 60008

JEFFERSON & ANGELINA COS. (100) MID-PACIFIC & SOUTHERN PACIFIC
The Section 106 review process is intended to protect historic properties from adverse effects by Federal agencies. Federal agencies, or their designated representatives, must notify the Texas State Historic Preservation Officer (SHPO) if they are considering taking action themselves or if they are assisting, permitting or licensing an action that will affect a property built before 1950, including archeological sites.

SECTION 106 PROCESS IS NOT YET REQUIRED FOR BUILDINGS BUILT AFTER 1950

STEP A: DETERMINATION OF ELIGIBILITY - projects with standing structures will be reviewed by the National Register Department staff, and projects with below ground sites will be reviewed by the Department of Antiquities Protection staff. See contact list on reverse.

1. Provide information on the property: *PLEASE PROVIDE INFORMATION ABOUT ALL STEEL, CONCRETE AND MASONRY BRIDGES IN PROJECT AREA. ALSO INCLUDE INFORMATION ABOUT BUILDINGS WITHIN THE RIGHT OF WAY.*
 - A. Address (street, city, county)
 - B. Construction date
 - C. Architect/builder
 - D. A brief history of the building
 - E. Photographs of at least two elevations and one streetscape
 - F. A location map
 - G. A USGS map for archeological sites, accurately plotted.
 2. Send SHPO that information along with description of intended work.
 3. Based on the information provided, the SHPO will determine within 30 days if the building, structure, object, or site is eligible for listing in the National Register. Possible responses from the SHPO are:
 - NOT ELIGIBLE. If the building or site is not eligible, your agency can proceed with the intended action without further consultation with the SHPO.
 - MORE INFORMATION REQUIRED (any combination of items in #1). If more information is required, your agency must send the requested information and await a determination of eligibility. Determination will be made within 30 days.
 - ELIGIBLE. If the building is eligible, your agency must contact the Department of Architecture at the SHPO (see contact list) for a "determination of effect" the action will have on the building.
 - LISTED in the National Register. If the building is already listed in the National Register, the agency must contact the SHPO Department of Architecture for a determination of effect; GO TO STEP B.
- For archeological sites, the SHPO will respond:
- NOT ELIGIBLE. Your agency can proceed with the intended action.
 - MORE INFORMATION REQUIRED. Your agency must send a survey report and/or conduct a test excavation and await a determination of eligibility.
 - ELIGIBLE. If the archeological site is eligible; GO TO STEP B.
4. If the agency does not concur with the determination, it must request a determination from the Keeper of the National Register of Historic Places (see contact list).

1 Information requested by the Texas SHPO was provided as part of the Section 106 consultation process.



TEXAS HISTORICAL COMMISSION

P.O. BOX 12276 AUSTIN, TEXAS 78711-0276 (TELEPHONE) 512-463-6100 (FAX) 512-475-4871 (RELAY TX) 1-800-735-2989 (TDD)

NATIONAL REGISTER DEPARTMENT

May 31, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, D. C. 20423-0001

Re: Union Pacific/Southern Pacific Railroad Merger, Section 106 Compliance Finance Docket No. 32760 (STB, N10)

Dear Ms. Kaiser:

The State Historic Preservation Office [SHPO] reviewed the federal undertaking referenced above under Section 106 of the National Historic Preservation Act, 36 CFR 800. The SHPO's National Register Department and the Department of Antiquities Protection review properties to determine their historical significance.

The National Register Department and Department of Antiquities Protection received your correspondence of May 2, 1996 and May 22, 1996 (Finance Docket No. 32760). Within thirty days of the May 22, 1996 correspondence which includes the inventory forms and photographs our departments will review and coordinate with Richard Starzak of Myra Frank and Associates, Inc., as necessary.

For questions about eligibility of standing structures contact Jamie Wise, National Register Department, at 512/463-6006 and for archeological concerns contact Sergio Iruegas, Department of Antiquities Protection at 512/463-6096.

Thank you for your interest in the cultural heritage of Texas, and for your compliance with this federal review process.

Sincerely,

James W. Steely
James W. Steely, DSHPO
National Register Department

cc: Sergio Iruegas, THC Department of Antiquities Protection
Richard Starzak, Myra Frank & Associates

JWS/JLW

The State Agency for Historic Preservation

1 SEA acknowledges the State Historic Preservation Officer's preference to withhold comment until after the EA and completion of survey of historic properties. A copy of the EA was served to the Agency during the week of April 15, 1996. Ongoing Section 106 consultation, including information on historic properties, was provided via correspondence dated April 12, May 2 and May 22, 1996. Consultation with the SHPO to reach a determination of effects is under way. Because consultation has not been completed, mitigation measures are specified in Chapter 5 of the Post EA.





Department of Community & Economic Development
Division of State History
Utah State Historical Society



Michael O. Leavitt
Governor
Mick J. Evans
Director

XX Rio Grande
Salt Lake City, Utah 84101-1162
(801) 533-3500 • FAX: 533-3503 • FDD: 533-3502
cehistory.ushs@email.state.ut.us

May 3, 1996

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

Attention: Finance Docket No. 32760

RE: Surface Transportation Board Request for Environmental Comments on the Potential
Environmental Impacts of the Control and Merger Application between the Union Pacific and
Southern Pacific Railroads

In Reply Please Refer to Case No. 95-1312

Dear Ms. Kaiser:

The Utah State Historic Preservation Office received the above referenced project. Our office has
seen no site specific action which would effect historic properties, our office therefore recommends a
determination of No Historic Properties.

This information is provided on request to assist the Surface Transportation Board with its Section
106 responsibilities as specified in 36CFR800. If you have questions, please contact me at (801) 533-
3555, or Barbara L. Murphy at (801) 533-3563. My computer address on internet is:
jdykman@email.state.ut.us

As ever,

James L. Dykmann
Compliance Archaeologist

ILD-95-1312

Preserving and Sharing Utah's Past for the Present and Future

1 SEA acknowledges the State Historic Preservation Officer's
recommended determination of "no historic properties" are affected by
the proposed merger. This correspondence completes Section 106
coordination responsibilities for the State of Utah.



STATE OF WASHINGTON

DEPARTMENT OF COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION

111 21st Avenue S.W. • P.O. Box 48143 • Olympia, Washington 98504-8343 • (360) 753-4011

April 15, 1996

Ms. Elaine Kaiser
Section of Environmental Analysis
Surface Transportation Board
12th and Constitution Avenue, Room 3219
Washington, D.C. 20423-0001

Log: 121395-27-ICC
Re: Expansion of Seattle Union Pacific
Intermodal Facility

Dear Ms. Kaiser:

Thank you for your letter of April 5, 1996 to the Washington State Office of Archaeology and Historic Preservation (OAHP) regarding the above referenced proposal. From your material, I understand that the Surface Transportation Board (STB) requests a determination of eligibility and opinion of effect in response to the proposed Union Pacific Railroad expansion at its Seattle Intermodal Facility.

In response, based upon the material provided in your letter, it is my opinion that the waste management facility on Dawson Street and the Denver Avenue gate are not eligible for listing in the National Register of Historic Places. Further, it is also my opinion that this action will have no effect upon properties listed in, or eligible for listing in, the National Register. As a result of this opinion, further contact with OAHP regarding this action at the Seattle Intermodal Facility is not necessary.

Thank you for the opportunity to comment. Should you have any questions, please feel free to contact me at (360) 753-9116.

Sincerely,

Gregory Griffith
Gregory Griffith
Comprehensive Planning Specialist

GAG:jt

1

1 SEA acknowledges the Washington State Office of Archaeology and Historic Preservation's comment that the proposed merger will have no effect on National Register properties. This correspondence completes Section 106 coordination responsibilities for the State of Washington.



RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC

MERGER OF UNION PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC TRANSPORTATION COMPANY



STB

FD-32760

6-24-96

K

ID-EISV2A

5 of 13

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' COMMENTS

ON

THE ENVIRONMENTAL ASSESSMENT
PREPARED BY THE
SECTION OF ENVIRONMENTAL ANALYSIS



RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
RAILROADS - APPLICANT

Applicants 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 submit the following comments on the Environmental Assessment ("EA") prepared by the Board's Section of Environmental Analysis, served April 12, 1996.

In general, Applicants do not disagree with the EA. However, the EA contains some errors which Applicants believe should be corrected. Also, some of the proposed mitigation measures are inappropriate, unjustified or beyond the Board's jurisdiction, and should be revised or deleted. These comments address these errors and proposed mitigation measures.

It should be noted that Applicants submitted an extensive and detailed Environmental Report with their application. The Environmental Report was prepared by Dames & Moore, an engineering firm with extensive experience in assessing environmental issues. The report concluded that the system-wide net environmental effects of the merger (including the BN/Santa Fe settlement) would be very positive. For instance, the diversion of truck traffic to rail and the consolidation and rerouting of rail traffic would result in significant reductions in fuel consumption (a savings of 35 million gallons per year), in reduced emissions to the atmosphere, and in fewer highway accidents when compared with current conditions. None of the parties in this proceeding has challenged the accuracy of the analysis of the overall net environmental benefits of the merger as set forth in the Environmental Report.

1

1

SEA has considered the Applicant's comments concerning the EA in preparing the Post EA.

VOLUME 1 - ENVIRONMENTAL OVERVIEW OF THE PROPOSED MERGER

Section ES-4, p. ES-7

Approval of an abandonment will not necessarily result in the salvaging or removal of a rail line as stated in the fourth paragraph on page ES-7. Abandoned lines may be sold for continuing rail operations (including for use by tourist trains), or there may be other reasons why salvaging may not occur.

Section ES-4, p. ES-8

Corrections to Table ES-3 are contained in the Appendix hereto.

Section ES-4, p. ES-13

Corrections to Table ES-7 are contained in the Appendix hereto.

Section ES-8, p. ES-19

Applicants concur with the EA's conclusion that an environmental impact statement is unnecessary in this proceeding. The Environmental Report and EA fully comply with the requirements of 49 C.F.R. pt. 1105 and the National Environmental Policy Act. Both the ER and EA contain an extensive examination of potential environmental impacts and clearly demonstrate that the merger (including the BN/Santa Fe settlement) and related construction and abandonment proposals will not significantly affect the quality of the human environment. Also, although Applicants request modifications to some of the SEA's recommended mitigation measures, Applicants are fully committed to implementing any appropriate mitigation measures.

2

2 The Applicant's comment that abandonment does not necessarily result in the salvaging of a rail line is noted. As indicated by the Applicant, abandoned lines may indeed be sold for continuing rail operations. A discussion on abandonments is included in Volume 3, Section 1.2 of the EA.

3

3 Revisions to Table ES-3 are noted.

4

4 Revisions to Table ES-7 are noted.

5

5 SEA acknowledges the Applicant's statement that the Environmental Report and EA fully comply with the requirements of 49 CFR part 1105 of the National Environmental Policy Act and that an EIS is not appropriate or required. This is consistent with the position of SEA. The impacts of the merger have been identified and appropriate mitigation measures applied. The Applicant's commitment to fully implement these mitigation measures is noted and appreciated.



Section 1.1.2, p. 1-7

The EA recommends that Applicants "consult with American Indian Tribes near construction and abandonment sites." Applicants interpret this recommendation as being limited to identified Indian Tribal properties that are contiguous to a construction site or abandoned line or to situations where Tribes hold reversionary interests in ROW if abandoned. (Any broader interpretation would be unreasonably burdensome, and should not be imposed.) To date, the Bureau of Indian Affairs has not identified any affected Indian Tribal properties, other than lands of the Chickasaw Nation in Oklahoma, for which a copy of UP's Emergency Response Plan is requested. Applicants will provide a copy of its Emergency Response Plan to any affected Indian Tribe.

Section 1.5.2, p. 1-25

The Environmental Verification filed by Montana Rail Link, Inc. (MRL) asserts that acquisition and operation of identified lines would not exceed the applicable thresholds. However, the thresholds identified by MRL do not include those set out in 49 C.F.R. § 1105.7(e)(5)(ii) for nonattainment areas. Twenty of the 25 identifiable line segments on which MRL seeks to operate are in nonattainment areas and 9 of the 12 identified yards where MRL seeks to operate are in nonattainment areas. Under these circumstances, it would appear that the MRL verification is seriously deficient, and does not satisfy the criteria established by SEA with respect to a Preliminary Draft Environmental Assessment.

6 SEA notes the comment on consultation with American Indian Tribes. Consultation letters and copies of the EA were distributed to all regional offices of the Bureau of Indian Affairs. These consultations did not reveal any impacts to tribal lands, such as abandonments or new construction outside the existing right-of-way. Accordingly, no contacts were made with tribal governments. Also noted is the Applicant's comment that they will provide a copy of their Emergency Response Plan to the Chickasaw Nation in Oklahoma as well as any potentially affected Indian Tribe.

7 SEA recognizes the Applicant's concern about air quality analysis for the responsive application filed by Montana Rail Link, Inc. (MRL). The EA does not analyze the potential air quality impacts of the MRL responsive application because the verified statement submitted by the party indicated that the Board's environmental thresholds will not be met or exceeded, and no substantial increase in trains or other activities are expected as a result of MRL's proposals.

Section 2.1 - 2.4, p. 2-4 - 2-13

Tables 2-2, 2-3, and 2-4 contain data only with respect to rail segments, yards and intermodal facilities which are projected to have increased activity, omitting rail lines, yards and intermodal facilities with decreased activity. Combining these increases in the Table 2-5 "Summary of Emission Increases by AQCRs" grossly overstates the potential emission increases by failing to net out the decreases in rail activity and truck activity which will occur in those AQCRs. This problem is discussed in detail in comments on Volume 2.

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The Applicant's comment that Table 2-5, "Summary of Emission Increases by AQCR's" grossly overstates potential emission increases is noted. Refer to the responses to comments #12A through #12D for a thorough explanation of this issue.



VOLUME 2 RAIL LINE SEGMENTS/RAIL YARDS/INTERMODAL
FACILITIES

GENERAL COMMENTS

Safety

Section 1.2.2, p. 1-15

The number of anticipated rail accidents reported by the EA does not reflect the Errata filed by Applicants which corrected the number of train miles traveled and thus the number of potential rail accidents. The statement in the EA should be corrected so that the first line of the "Accidents" paragraph reads "the proposed merger could result in an increase of 17 rail accidents per year."

Section 1.2.2, pp. 1-16 to 1-22

In the subsection entitled "Chemical and other Hazardous Materials Movement," the EA includes a description of Applicants' plan for directional operations between St. Louis and Memphis on the northbound route and Houston and San Antonio on the southbound route. The EA recommends that various mitigation measures be implemented because of the traffic densities and the volume of hazardous materials to be handled on these lines. The recommended mitigation (on p. 1-20 and repeated on pp. 6-28, 9-15, 10-8, 16-43) is that UP/SP conduct rail line capacity simulations to verify that the directional operations involving St. Louis, Memphis, Dallas, San Antonio, and Houston can be safely accomplished. These simulations are to be submitted to FRA for its review and UP/SP is to comply with FRA's recommendations. The simulations are recommended for a large number of

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SEA acknowledges the Applicant's comment that the number of rail accidents reported in the EA does not reflect an Errata statement filed to correct the number of train miles traveled and thus the number of potential rail accidents. The revision of the existing text to read, "the proposed merger could result in an increase of 17 rail accidents per year" is also noted. SEA's revised safety analysis is reported in Volume 1, Chapter 4 of the Post EA. Safety mitigation measures are reported in Volume 1, Chapter 5 of the Post EA.

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SEA acknowledges the Applicant's concern about submitting simulation analyses of bi-directional operations to FRA. In its response to the EA, US DOT indicated that the existing FRA regulations pertaining to train movement are sufficient to ensure safety without further analysis of specific line segments. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

rail line segments in Arkansas, Illinois, Louisiana, Missouri and Texas.

The Rebuttal Verified Statement of R. Bradley King discusses in detail UP's and SP's experience with directional operations in three lengthy corridors totalling over 1000 miles of mainline track, and discusses the significant operating efficiencies and resulting safety benefits that are possible from this method of operation.¹ (Relevant portions of the King statement are included in the Appendix to these comments.) These comments, together with UP's operating history, demonstrate that the recommended mitigation measures are not warranted. Applicants are willing to consult with FRA concerning any legitimate safety or operational issues raised by directional operations; however, it is not appropriate to impose the recommended mitigation measures when there is no evidence that the proposed operating plan presents additional risks and no reason to believe that such risks would arise. Applicants strongly request that the mitigation measure be amended so as only to require applicants to consult with FRA concerning any safety issue which is identified as a result of the directional operating plan and the operations of BN/Santa Fe on the trackage rights involved.

Section 1.2.2, p. 1-18

Section 1.2.2 also contains a discussion concerning the SP line between Lewisville, Arkansas, and Houston. Portions of this line do not have a signal system

¹Also the EA's description of the directional operation plan does not reflect Applicants' recent commitment to grant BN/Santa Fe additional overhead trackage rights adequate to allow BN/Santa Fe also to operate directionally on UP/SP trackage. (See Rebuttal Verified Statement of John Rebensdorf, p.7. Copies of the pertinent pages of the Rebensdorf Statement are included in the Appendix to these comments.)

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10 Refer to the previous page for response.

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11 SEA recognizes the Applicant's objection to proposed mitigation for operating signals on the Lewisville, AR to Houston, TX line. Refer to the response provided for comment #10.



and are dispatched under direct traffic control procedures. The EA acknowledges that these procedures meet all applicable safety regulations but states that these procedures are more dependent on human judgment than a signalized system. The EA recommends (on p. 1-21 and repeated on pp. 3-14, 9-15, 16-43) that UP/SP conduct a safety analysis of the SP line segment between Houston, Texas and Lewisville, Arkansas, to determine the need for installing an Automatic Block Signal (ABS) system or Centralized Traffic Control (CTC) System.

The post-merger operations of UP/SP on the Lewisville-Houston line will be changed significantly, reducing hazardous materials traffic on this line. The line will become part of the proposed directional operating plan. This will have the effect of rerouting the current northbound chemical traffic on this line to the parallel UP line which is controlled by CTC. (Rebuttal Verified Statement of R. Bradley King.) The directional operating plan, together with the rerouting of current chemical traffic can only reduce the risk of rail accidents on this line.

The adequacy of operating signals for a rail line is a matter solely within the jurisdiction of FRA. Accordingly, Applicants respectfully request that the mitigation be revised so as only to require UP/SP to comply with all authorized requests for information, directives, or orders from FRA relating to the adequacy of operating signals on this rail line segment.

11 Refer to the previous page for response.

GENERAL COMMENTS Air Quality

Section 1.2.4, p. 1-23

Although the methodology used for the air quality calculations in the EA is the same or similar to the methodology used in the Environmental Report, the EA evaluated the impact on emissions only from increased rail operations on line segments and yards that experienced activity above the applicable thresholds. A correct and comprehensive analysis would also have incorporated all of the following changes in rail operations when determining the overall effect of the proposed merger on air quality within a given AQCR.

- Rail operations (rail segments, rail yards, intermodal and automotive facilities) with less than threshold increases in activity;
- Rail operations (rail segments, rail yards, intermodal and automotive facilities) that experience decreases in activity; and
- Truck to rail diversions.

Since, in each case for each AQCR, the EA fails to take into account any decreases in rail activity within that AQCR, it has incorrectly concluded that adverse impacts to air quality would result in all of the identified AQCRs. The problem with the EA's approach is shown by the following example.

Table 2-5 in Volume 1 of the Environmental Assessment identifies AQCR 24, which encompasses metropolitan Los Angeles, as experiencing an increase of 415.7

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SEA acknowledges the Applicant's concerns about air quality analysis. Specific points raised are addressed below:

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SEA has prepared revised tables of merger-generated emissions by AQCR and rail segment that incorporate the effect of changes in activity which were formerly not considered because they fell below threshold values. The data for truck-to-rail conversions are currently only available for the national scope. Air quality benefits that may ascribe to a region cannot be accurately quantified.

12b

The result for NO_x emissions in the metropolitan Los Angeles AQCR [24] is that the projected emissions were reduced to 148.8 tons per year. Truck-to-rail diversions were not quantified. Refer to the response provided for comment #12a of this letter.



tons per year of NO₂ as a result of the proposed merger. This estimate of emissions only takes into account rail operations that exceed the corresponding thresholds for rail segments, rail yards, and intermodal operations. When all the segments, rail yards, intermodal facilities, automotive facilities, and truck-to-rail diversions within AQCR 24 are accounted for in the NO₂ emissions estimate, the projected increase in emission is only 66 tons per year. See Environmental Report, Part 1, Table 8 and Table 9.

The EA's air quality analyses that should be modified to take account of merger-related decreases in rail and truck activity are found in various parts of Volumes 1, 2, and 5. Applicants suggest that the most efficient way to recognize the offsetting effect of rail and truck activity decreases is to discuss that concept (as set forth above and in Applicants' Environmental Report) in Volume 1, Chapter 2.0 Overview of Operational Impacts.

The EA's recommended mitigation measure requiring UP/SP to consult with federal, state, and local agencies concerning any possible mitigation measures to reduce any potential adverse emissions may have resulted from the gross overestimation of emission increases.² This recommended mitigation is included for almost all of the states where Applicants would operate, in spite of the fact that the overall net effect of the merger is to reduce emissions. This recommended mitigation measure would impose an unjustified and burdensome consultation and reporting

²See pp 2-19, 3-13, 4-42, 5-26, 6-27, 7-12, 8-34, 9-14, 10-8, 11-4, 12-14, 13-10, 14-19, 15-16, 16-42, 17-11, 18-11, 19-7

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12b Refer to the previous page for response.

12c

12c SEA recognizes the Applicant's position on consultation regarding air quality impacts. SEA's revised mitigation recommendations are described in Volume 1, Chapter 5 of the Post EA.

requirement with an unspecified number of agencies. Moreover, UP/SP will be obligated to comply with all applicable laws and regulations relating to air emissions, and it will consult with appropriate agencies when specific merger-related issues or problems are identified. The proposed mitigation measure should be withdrawn.

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Moreover, it should be recognized that essentially all air emissions that have been calculated in connection with rail operations are from locomotives and from trucks which serve intermodal facilities. Emissions from trucks are regulated by federal and state requirements. Emissions from locomotives have been the subject of extensive study and discussion by both the industry and U.S. EPA. The Association of American Railroads and locomotive manufacturers have been in negotiations with U.S. EPA to establish regulations reducing emissions. The current proposal, which is expected to be reflected in proposed regulations in 1996, would reduce emissions from new and reconstructed locomotives. The current proposal would reduce emissions from reconstructed locomotives by 33% beginning in 2000, and from new locomotives by 45% beginning in 2000, reaching emission reductions of 55% in 2010. There are today, however, only limited technical and operational mitigation measures available for reduction of emissions from railroad locomotives; meaningful mitigation is therefore not currently available. This provides an additional justification for deleting or revising this proposed mitigation measure.

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12c Refer to the previous page for response.

12d Please refer to the response provided for comment #12c.



GENERAL COMMENTS Noise

Section 1.2.5, p. 1-25

Given the large number of rail line segments, rail yards, and intermodal facilities with increases in rail activity exceeding the applicable thresholds, the number of affected sensitive noise receivers is remarkably small. Nevertheless, the EA includes in its recommended mitigation measures for each of the affected states a condition that would require UP/SP to consult with appropriate state and local agencies to develop noise abatement plans, to advise SEA of the results of these consultations and to provide SEA with a copy of any resulting noise abatement plans.² For many states, the EA recommends consulting with state and local agencies and developing a noise control plan even where noise assessment was not required (because the projected change is less than 2dBA), or where the assessment indicates no potential for impacts. Applicants are willing to consult with state and local agencies with respect to identified noise issues when they arise. However, particularly in view of the minimal increase in affected sensitive noise receptors which have been identified in the EA, the proposed blanket mitigation measure for each affected rail line segment, rail yard and intermodal facility is unwarranted and unnecessary. Moreover, it could impose a very significant burden if it were interpreted as requiring preparation of a description of existing and future noise levels and mitigation plans for hundreds of communities. The proposed mitigation

²See pp 2-19, 3-13, 4-42, 5-26, 6-27, 7-13, 8-34, 9-14, 10-8, 11-14, 12-14, 13-10, 14-20, 15-16, 16-42, 17-11, 18-11, 19-7.

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SEA acknowledges the Applicant's concerns about noise mitigation. The Board's environmental criteria state that mitigation may be considered when sensitive receivers (1) fall within the L_{dn} 65 noise contour after the merger and (2) where the noise increases are at least 3 dB.

The Noise Control Act (NCA) may preempt state and local regulation of noise from rail operations meeting Federal regulatory standards. However, the NCA does not preempt regulation of railroad merger-related noise impacts by the Board, one of several Federal agencies responsible for regulation. The Surface Transportation Board would not require that the railroad meet state and local regulations for railroad noise - regulations that may be non-existent or inadequate. The Board can require that the railroad "consult" with state and local agencies in developing noise mitigation plans.

Finally, the Applicant indicates that it should be required to address only specific noise issues in those communities where noise from rail operations exceed Federal regulatory limits or specific operations are seriously affecting sensitive areas. With respect to Federal regulatory noise limits, there are none that apply to railroad noise at sensitive receivers. However, the EPA, through the FRA, regulates noise emission from locomotives and rail cars on essentially tangent track. With respect to operations that seriously affect sensitive areas, this condition exists in most communities proximate to railroad alignments throughout the United States. SEA's recommended noise mitigation is reported in Volume 1, Chapter 5 of the Post EA.

Merger related noise impact mitigation, whether by consultation or by specifications of treatment, is not needed at locations where noise impacts are less than 3 dB, or where sensitive receivers are outside of the L_{dn} 65 noise contour.

measures may also be inconsistent with the Noise Control Act, which preempts state and local regulation of noise from rail operations meeting federal regulatory standards. Those federal standards have been adopted to preclude the significant burdens on interstate commerce that would result if each state or local government could regulate noise emissions from rail operations.

Applicants should be required to address only specific noise issues in those communities where noise from rail operations exceeds federal regulatory limits or specific operations are seriously affecting sensitive areas.

SPECIFIC COMMENTS

Air Quality

For the reasons stated at pp. 10-11 above, the mitigation recommendations in Volume 1, ES, Chapters 1.0, 2.0, and Volume 2 should either be deleted or revised as follows: "UP/SP shall comply with all applicable laws and regulations relating to air emissions and shall consult with appropriate agencies when specific and significant issues or problems from merger-related emission increases are identified."

Noise

For the reasons stated at pp. 12-13 above, the mitigation sections in Volume 1 and each Chapter of Volume 2 should be revised as follows: "UP/SP shall consult with state and local agencies with respect to significant issues from merger-related increases in noise to sensitive receptors when they are identified." This addresses the issues raised in the General Comments above, including the fact that

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Refer to the previous page for response.

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SEA appreciates the Applicant's suggested rewording for air quality mitigation. SEA's recommended air quality mitigation is reported in Volume 1, Chapter 5 of the Post EA.

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SEA appreciates the Applicant's suggested rewording for noise mitigation. SEA's recommended noise mitigation is described in Volume 1, Chapter 5 of the Post EA.



there are numerous segments, yards, and intermodal facilities where no noise assessment was required or no noise impacts were projected.

Transportation and Safety

In Section 4.6, the EA references comments from East Bay Regional Park District, the counties of Butte, Placer, Shasta and Nevada, and the town of Truckee, all relating to the potential effects of increased rail traffic on vehicular traffic and safety. The EA (Section 4.8) recommends that UP/SP consult with these entities and communities and develop mutually agreeable mitigation plans.

The Rebuttal Verified Statement of Michael D. Ongerth discusses rail traffic in these communities, as well as past and current efforts to resolve issues of concern. (The pertinent parts of the Ongerth Statement are included in the Appendix.) In most cases, post-merger rail traffic will be less than traffic previously running on these lines in past years. The real problem is not the merger, but the growth of the communities and the corresponding increase in vehicular traffic. Applicants have initiated discussions with a number of communities to address merger-related increases in rail traffic and the potential effects on vehicular traffic and safety, and have proposed improvements to mitigate traffic-related impacts.^{*} Applicants will continue discussions with these communities, but it is unreasonable to require the development of "mutually agreeable" mitigation plans, and the submission of a plan to SEA for any community that has filed comments in this proceeding. The

^{*}A specific plan to construct grade separations in Truckee has been proposed and is currently being negotiated between UP/SP and the City.

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15 Refer to the previous page for response.

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16 SEA notes the comments regarding the growth of communities proximate to the rail line. Since publication of the EA, field inspections and discussions with local representatives have confirmed that the grade crossing problem predates merger. SEA also recognizes that the Applicant has reached agreement with the cited parties to negotiate mutually-agreeable mitigation measures. Please refer to supporting correspondence in Appendix B.

EA's suggested mitigation might also permit each local community to seek to extract unjustified concessions from UP/SP as a price for the community's agreement to the mitigation plan. Also, the concessions demanded by some jurisdictions may be contrary to the interests of others, and one jurisdiction might refuse to agree to a mitigation plan unless UP/SP agreed to "export" a problem to a neighboring jurisdiction.⁵ A more reasonable recommendation is that UP/SP and these communities continue cooperative discussions, recognizing that resolution of traffic issues is primarily a matter for the local communities and states that will be obligated to pay for most of the costs of any grade separations or other crossing improvements that may be required.

Similar mitigation proposals are recommended in Section 5.8 (Cheyenne and Mesa Counties, Colorado), 6.8 (Whiteside County, Illinois), 8.8 (Abilene, Wichita and McPherson County, Kansas),⁶ 9.8 (Calcasieu Parish, Louisiana), and 15.8 (Salem and Clackamas County, Oregon). They likewise should be substantially revised as discussed above.

⁵For example, Wichita seeks a condition which would result in more trains operating through Kansas City, Missouri, Lawrence, Kansas, and other cities, and Sacramento seeks conditions that would force trains through Placer County.

⁶McPherson County, Kansas expressed concerns about adequacy of crossing protection in the cities of Hutchinson and McPherson. Abilene, Kansas expressed concern about police and fire services and access to the Dwight Eisenhower Library. Traffic in Abilene will increase by only one train per day. There are no comments from the City of Wichita reflected in the Environmental Assessment. Applicants are aware of concerns expressed by Wichita and the Kansas DOT about increased train traffic and congestion at grade crossings. Representatives of UP/SP have met with officials of Wichita to discuss proposed grade crossing improvements and grade separations. Applicants are also considering possible rerouting of trains.

16 Refer to the previous page for response.



The EA also recommends that UP/SP consider the need for a grade separation for Grand Junction Yard in Colorado. The number of trains and the volume of rail traffic in the Grand Junction area is projected to decrease sharply. Car activity at the Grand Junction Yard is projected to increase by approximately 22% only because the yard was temporarily closed during the base study period. There is no need for any mitigation measure at Grand Junction..

If SEA concludes that some mitigation measures are appropriate in this area, Applicants strongly recommend that the following should replace the EA's recommendations found in Sections 4.8, 5.8, 6.8, 8.8, 9.8, and 15.8 that are described above:

"UP/SP shall consult with state and local governments with respect to traffic or safety issues that are identified as arising from merger-related increases in rail traffic, cooperate with investigations of grade crossing protection and comply with all rail/vehicle traffic standards and state/federal requirements."

In Section 12.8, the EA recommends that UP/SP conduct traffic safety studies in consultation with Sparks and Winnemucca, Nevada, and specify site specific mitigation, as appropriate, advise SEA of the consultations, and submit the final version of each study to SEA. As discussed in the Rebuttal Verified Statement of Michael D. Ongerth (see Appendix), the projected post-merger rail traffic through Sparks and Winnemucca will be less than historic SP traffic levels on these lines. Applicants have been involved in discussions with these communities and will

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SEA acknowledges the Applicant's comments indicating that rail activity at the Grand Junction Yard is projected to increase by approximately 22 percent only because the yard was temporarily closed during the base study period. Also noted is the Applicant's recommended mitigation which advocates coordination efforts between UP/SP and state and local governments with respect to traffic and safety issues among others. Following issuance of the EA, SEA conducted a field visit to Grand Junction. SEA's revised, recommended mitigation is described in Volume 1, Chapter 5 of the Post EA.

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SEA recognizes the Applicant's comments regarding traffic safety issues in, and the ongoing discussion with, the cities of Sparks and Winnemucca. The SEA encourages the continuation of these discussions until mutually satisfactory solutions are reached in each community. SEA's mitigation recommendations are described in Volume 1, Chapter 5 of the Post EA.

continue to cooperate to resolve safety issues related to merger-related rail traffic increases.

In Section 12.8, the EA recommends that UP/SP continue to cooperate with Reno in the development of a final plan to deal with rail/highway/pedestrian conflicts in downtown Reno and to negotiate a final agreement within one and half years after the effective date of the merger. If no agreement is reached, UP/SP would be required to construct a minimum of three grade separations and cooperate with the City in locating the grade separations. The EA also recommends that UP/SP study the safety and adequacy of pedestrian circulation in the downtown area and, if warranted, UP/SP shall construct two pedestrian grade separations. It also recommends that UP/SP study the adequacy of existing warning devices for at-grade crossings and upgrade the crossing protection as needed.

Mr. Ongerth's Rebuttal Verified Statement contains a discussion of historic rail traffic volumes on the SP line through Reno and shows that post-merger rail traffic, including BN/Santa Fe, will be less than SP traffic through Reno in recent years. See Appendix. The Statement also discusses the history of Reno's problem with vehicular congestion and traffic at grade crossings, which has been caused by the rapid growth of the City and the casinos in the central business district. Applicants have undertaken discussions with city and state officials and have developed a specific proposal for construction of grade separations in Reno and for improvements to grade crossing protection. Despite the apparent difficulties, Applicants are committed to continue discussions with city, county and state officials

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18 Refer to the previous page for response.

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19 SEA acknowledges the Applicant's comment regarding at grade-crossing vehicular traffic congestion in Reno and the exacerbation of this issue with downtown Reno development and post-merger train volumes. The Applicant's commitment to continue discussion with local and state agency officials is also noted. SEA conducted field visits to Reno and also performed additional traffic analysis following issuance of the EA. The results of analyses are reported in response to correspondence to the City of Reno, dated May 3, 1996. SEA's revised mitigation recommendations are described in Volume 1, Chapter 5 of the Post EA. With regard to the financing of any agreed-upon improvements for at-grade crossings that may result from these discussions, it is expected that existing Federal and state sources and associated cost-sharing agreements be considered for their funding.



and are prepared to implement a reasonable mitigation plan for Reno consistent with the EA's recommendation, with the following modifications. With respect to the mitigation relating to pedestrian traffic and adequacy of grade crossing signals, Applicants suggest that the city's and state's primary obligation under Nevada law for funding these improvements be recognized. Accordingly, each of the recommended mitigation measures should include language to the effect that UP/SP shall consult with the City of Reno concerning the financing of pedestrian grade separations and upgraded grade crossing warning devices and that SEA anticipates that the City would apply for shared funding for these improvements from appropriate State and federal sources.

19 Refer to the previous page for response.

VOLUME 3 ABANDONMENTS

GENERAL COMMENTS - Mitigation

The EA proposes recommended mitigation measures for each of the proposed abandonments in the following categories:

Land Use
Water Resources
Biological Resources
Historic and Cultural Resources
Safety
Transportation
Air Quality
Noise

Except as noted below and with respect to specific abandonments, in general the recommended mitigation measures appear to be appropriate and are measures Applicants would take in connection with the abandonment process.

Land Use Mitigation

In response to comments submitted by the Bureau of Indian Affairs, the EA recommends that Applicants consult with Indian Tribes "near abandonment sites." In each subsequent Chapter of Volume 3, in the Section on SEA Recommended Mitigation, Land Use, the fourth paragraph requires that Applicant consult with "any potentially affected American Indian Tribes." As stated in comments to Volume 1, the Applicants interpret these mitigation measures as limited to Indian Tribal properties

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SEA agrees that only Indian tribes with a property interest in a rail line need be contacted by the Applicant regarding abandonments. Refer to the response provided for comment #6.



which are identified as contiguous to the ROW, or belonging to a Tribe that holds a reversionary interest in ROW if abandoned. Applicants are willing to consult with any Tribe that identifies itself as having a property interest as described above. However, if the EA has intended to cover Tribal properties that are not contiguous to the ROW, then it is unreasonably overbroad and should be clarified as indicated above. This comment affects Chapter 1.0, Section 1.3, and each subsequent Chapter in the Section on SEA Recommended Mitigation, Land Use, paragraph 4.

The EA recommends with respect to each abandonment: "UP/SP shall use appropriate technologies, such as silt screens, to minimize soil erosion during salvaging. UP/SP shall disturb the smallest area possible around streams and tributaries and shall revegetate disturbed areas immediately following salvage operations." In most cases, salvage operations will occur within the ballasted ROW, and will not disturb the contour of the ROW, causing little, if any, soil erosion. Applicants interpret the revegetation requirement as not requiring UP/SP to revegetate the entire ROW but only the areas where revegetation is required to control soil erosion. If the EA was intended to impose a broad revegetation requirement for any disturbed area, it would be unreasonably broad. Also in some cases, the ROW property may be reversionary and, once the track and ties are removed, UP/SP will lose its right to control the property.

The EA also recommends that UP/SP assure that all culverts are clear of debris to avoid potential flooding and stream flow alteration. So long as UP/SP retains its interest in the lines, it will maintain drainage structures; however, once

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20 Refer to the previous page for response.

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21 SEA acknowledges the Applicant's position that it will maintain drainage as long as a property interest in rail lines is retained. SEA also recognizes that re-vegetation requirements would apply only in areas necessary to control erosion. SEA's mitigation recommendations are described in Volume 1, Chapter 5 of the Post EA.

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22 Please refer to the response to comment #21.

reversion occurs, or the line is sold, UP/SP will no longer be able to do so. UP/SP would recommend that these mitigation measures be amended to reflect the fact that UP/SP's obligations cease if the property reverts or is sold.

Historic and Cultural Resources Mitigation

For several proposed abandonments, the EA recommends that UP/SP retain its interest in and take no steps to alter eligible or potentially eligible historical or archaeological resource until the Section 106 process of the National Historic Preservation Act has been completed. See, e.g., p. 2-8.

As a general comment, UP/SP will cooperate with the SHPOs to document appropriately any identified historical resources, and will maintain its ownership in any eligible and potentially eligible historical and archaeological resources for a reasonable time after abandonment authority is granted. Applicants object to an open-ended requirement that it maintain any such resource until the Section 106 process is completed. Such a requirement could be unreasonably restrictive, and is beyond the acknowledged authority of the Board and the stated purpose of Section 10904 of the Interstate Commerce Act. See Implementation of Environmental Laws, 7 I.C.C.2d 807, 827, 829 (1991), and cases cited. Additional comments regarding specific historical and archaeological resources are included in discussions for applicable lines.

Suggested corrections and technical comments to Volume 3 are included as an Appendix to these comments.

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22 Refer to the previous page for response.

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23 SEA notes the Applicant's objection to proposed mitigation requiring retention of the rail lines and structures until completion of Section 106 process. SEA is required by the National Historic Preservation Act to ensure that historic resources are not altered or adversely affected until the completion of the Section 106 process. Normally, the timeliness of that process is contingent upon the railroad's compliance with the SHPO's requirements. SEA will work with the SHPO and UP/SP to ensure the timely completion of that process.

Consultation with the State Historic Preservation Officers (SHPOs) that was initiated on January 29, 1996 and SEA anticipates that Section 106 consultation will not extend for lengthy periods. To date, Section 106 consultation is complete in 11 states that requires no mitigation actions by the Applicant (Arkansas, Idaho, Illinois, Iowa, Kansas, Louisiana, Michigan, Minnesota, South Dakota, Utah and Washington). Mitigation actions that limit Applicant activities in specific areas of rail lines or facilities that are still under review by the SHPOs in nine states (Arizona, California, Colorado, Missouri, Nevada, New Mexico, Oklahoma, Oregon and Texas) are described in Volume 1, Chapter 5 of the Post EA. Other mitigation actions may be required as a result of the consultation process. In most cases, the Section 106 review is focused on the identification and evaluation of archeological resources.

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24 Specific errata corrections included in the Appendix to the respondent's letter are noted. SEA reviewed the errata and determined that the conclusions drawn in the EA would not be affected.



CHAPTER 2.0 Arkansas

Section 2.1.4, p. 2-8

Gurdon-Camden Historic and Cultural Resources

The EA recommends that UP/SP retain its interest in and take no steps to alter the through-plate girder bridge at MP 436.70 until the Section 106 process of the National Historic Preservation Act has been completed. UP/SP will cooperate with the SHPO to document potentially eligible historic resources; however, Applicants restate their objection (p. 21) to an obligation to maintain indefinitely any bridge pending completion of the Section 106 process.

CHAPTER 3.0 CALIFORNIA

Section 3.2.4, p. 3-18

Magnolia Tower-Melrose Historic and Cultural Resources

The EA identifies the Magnolia Interlocking Tower and the WP Oakland Depot as potentially eligible for listing on the NRHP and SEA has recommended that UP/SP retain its interest in and not alter Magnolia Tower or WP Oakland Depot until the Section 106 process is completed. UP/SP will cooperate with the SHPO to document these structures; however, Applicants restate their objection (p. 21) to an obligation to maintain indefinitely any structure pending completion of the Section 106 process.

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25 SEA recognizes the Applicant's comment on the subject bridge in Arkansas. The Arkansas SHPO has determined that there will be no effect to historic resources by the proposed abandonment. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

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26 SEA notes the Applicant's objection regarding indefinite maintenance of properties pending completion of Section 106 consultations. Refer to the response provided for comment #23.

Section 3.3.8, p. 3-34

Alturas-Vendel Historic and Cultural Resources

In Section 3.3.3, the EA states that 30 prehistoric sites have been recorded on or adjacent to ROW, that 16 include historic components, 9 are eligible for listing on the NRHP. The EA recommends in Section 3.3.8, p. 3-34 that UP/SP retain ownership in and not alter the integrity of 9 eligible and 11 potentially eligible prehistoric sites until the Section 106 consultation process has been completed. Applicants restate their objection (p. 21) to an obligation to maintain indefinitely any site or structure pending completion of the Section 106 process.

In addition, any prehistoric sites within the ROW would in most cases have been disturbed during the original construction of the line. Salvage of the rail line, as described in Section 1.2.1 of the EA, would be significantly less intrusive than the original construction. The EA concludes that, "Salvage of the lines would add little, if any, disturbance to existing conditions." Applicants agree with that conclusion. UP/SP will cooperate with SHPOs in their efforts to identify eligible prehistoric sites on the ROW and will grant access to the ROW to any SHPO to identify sites or to observe any salvage activity that could potentially affect the sites. However, Applicants object to any requirement that they not alter or dispose of assets pending completion of the Section 106 process.

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SEA notes the Applicant's objection regarding indefinite maintenance of properties pending completion of Section 106 consultations. Refer to the response provided for comment #23. The comment that any prehistoric sites within the right-of-way would have been disturbed during the original construction is noted.



CHAPTER 4.0 Colorado

Section 4.1.8, 4.2.8, 4.3.8

Sage-Leadville, Malta-Cañon City Historical and Cultural Resources

The following comments are addressed to the EA's Recommended Mitigation measures for Historical and Cultural Resources and Safety Issues and the comments filed by governmental agencies and other parties.

As an initial matter, Applicants refer SEA to the letter dated March 21, 1996 to the Board from Roy Romer, Governor of the State of Colorado, in support of the proposed UP/SP merger. (A copy of the letter is in the Appendix.) The letter reflects the agreement between Applicants and the State of Colorado. Applicants have agreed to maintain service on all three rail lines in Colorado proposed for abandonment for a minimum of six months following the merger. In addition, Applicants have promised to delay the removal of track on all three rail lines until upgrades of other lines will permit abandonment and, at a minimum, for a period of 12 months after merger. Also, Applicants have agreed to sell all or any part of the three rail lines for net liquidation value to the State or its designee within the first twelve months following the merger.

The EA recommends that UP/SP retain its interest in and take no steps to alter the DRGW line from Sage to Cañon City, including the Leadville branch, until the Section 106 process of the National Historic Preservation Act has been completed. This mitigation measure is apparently responsive to a comment from the Colorado Historical Society that the branch line from Malta to Leadville has been

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SEA acknowledges the agreement between Applicant and the State of Colorado, reflected in Governor Romer's letter of March 21, 1996 to the Surface Transportation Board prescribes satisfactory mitigation. SEA also notes the Applicant's objection regarding indefinite maintenance of properties pending completion of Section 106 consultations. Refer to the response provided for comment #23. The Section 106 process was initiated on the basis of the Applicant's proposed abandonment. The identification and evaluation of historic and cultural resources engendered in the consultation process would not preclude trails use or the continued use of the line by the Applicant if the abandonment is not approved. Coordination among State interests to implement the Applicant's agreement with the State of Colorado would be the responsibility of the state government. SEA notes the Applicant's position with regard to compromise of the historic nature of D&RGW line. SEA also notes and appreciates the Applicant's commitment to provide documentation of historic resources and its objections to conditions that would preclude transfer upon expiration of its agreement with the State. SEA's statement on rails-to-trails is reported in Volume 1, Chapter 4 of the Post EA.

determined to be eligible for listing on the NRHP and that the SHPO has determined that the main line from Sage to Cañon City via Malta, including all bridges, tunnels and appurtenances more than 50 years old, is also eligible for the NRHP.

Applicants object to this proposed mitigation as unreasonable. First, it would prevent the prompt transfer of any part of the Sage-Cañon City line to the State or its designee, in violation of UP/SP's Agreement with the State of Colorado. Second, it might be interpreted to prevent the routine maintenance of these lines during the period that the lines are needed for operations of the merged carrier. Third, a condition which obligates UP/SP to hold the line until such time as the Section 108 process is completed prevents the railroad from using its property for a non-rail purpose, such as a recreational trail. Under these circumstances, such a condition would constitute an unauthorized taking of the Applicants' property under the Fifth Amendment. See Implementation of Environmental Laws, 7 I.C.C.2d at 829 n. 47. Fourth, the proposal exceeds the Board's jurisdiction, which is limited to the documentation of historic resources in the proposal under review. *Id.*

Fifth, the Colorado Historical Society's position that the entire line from Sage to Cañon City is an historical resource is subject to serious question. Based on their age, some of the bridges and perhaps other structures on the Sage to Cañon City line are potentially eligible for the NRHP, but the rail line itself would appear to be neither historic nor potentially eligible for the NRHP. The description of the line confirms that the line as currently constructed and operated bears little resemblance to the line as originally constructed as a narrow gauge railroad by the Denver & Rio

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28 Refer to the previous page for response.



Grande Railway in the 1880's. Over the years the line has been converted to standard gauge and, as indicated in the EA, DRGW conducted a major reconstruction to improve the alignment of the line in the late 1920's. The existing track structure is of recent construction, consisting largely of continuous welded rail laid within the last twenty years and heavy creosote-treated ties, little resembling the original lightly constructed narrow gauge line.

Sixth, the history of this line is already extremely well documented. See for example G. Hilton, American Narrow Gauge Railroads at 344, Stanford University Press, 1990, and references cited therein.

Seventh, given Applicants' agreement with the State of Colorado, the Colorado SHPO will have a significant period post-merger in which to document further any of the historical resources on these lines. UP/SP will cooperate with the documentation process. Any condition, however, which would prevent UP/SP from transferring the rail lines upon expiration of its agreement with the State is clearly unreasonable, if not unconstitutional, and should be modified accordingly.

Sections 4.1.4, p. 4-10; 4.2.4, p. 4-25

Sage-Leadville, Malta-Cañon City Safety

SEA, as well as Applicants, received a number of comments relating to possible environmental contamination and existing CERCLA sites on or adjacent to the Sage to Cañon City line, including the Leadville branch. Comments were filed by the Rails to Trails Conservancy, Viacom, the US Department of Agriculture, the US Department of Interior, the Colorado Department of Public Health and Environment

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28 Refer to the previous page for response.

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29 SEA acknowledges the Applicant's position with regard to remediation conditions linked to a potential rails-to-trails usage. SEA's mitigation measures with regard to hazardous remediation are coincidental with decisions and requirements of the US Environmental Protection Agency. SEA notes and appreciates that the Applicant agrees to honor any obligations and agreements of SP with respect to Consent Orders or obligations relative to investigation or remediation of environmental contaminations and to take reasonable steps to provide access, including maintenance of essential access roads, for parties obligated to undertake investigation or remediation.

and US EPA Region VIII, Eagle, Chaffee and Fremont Counties, Colorado, the Leadville Coalition and others. These comments include requests that UP/SP be required (a) to undertake further assessments and remediation of the lines and adjoining properties, prior removal of hazardous or toxic wastes, (b) suggestions that an environmental impact statement is required, or that abandonments be deferred pending completion of a consent decree by EPA, and (c) expressions of concern about CERCLA sites and SP's obligations under consent orders.

Requests that any abandonment or the merger itself be conditioned upon the implementation of a remedial investigation, risk assessment, or remediation of any of the affected lines are clearly not warranted, and go well beyond the jurisdiction of the Board. Any existing environmental problems are not merger-related, and any obligations of UP/SP to investigate or remediate are governed by federal and state laws. There is no requirement or justification for the Board to impose any such conditions.

The EA recommends as a mitigation measure that UP/SP consult with US EPA Region VIII prior to conducting any salvage activity for the entire line and that UP/SP, in consultation with EPA, develop a risk assessment and remediation plan, advise SEA of the results of its consultation, and provide SEA with a copy of the EPA-approved mitigation plans. See p. 4-16. As previously indicated, the agreement between UP/SP and the State of Colorado will prevent the salvage of any of the rail lines proposed for abandonment until at least one year following merger. In the event that any part of the rail line between Sage and Cañon City is not used for rail

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29 Refer to the previous page for response.



operations and is proposed for conversion to a non-rail use or will be salvaged. UP/SP is willing to consult with EPA and the Colorado Department of Public Health and Environment to develop an appropriate risk assessment plan which will address the risks associated with such use or with salvage operations. Although UP/SP will, under the terms of the merger, honor any obligations and agreements of SP with respect to any consent orders or obligations relating to investigation or remediation of environmental contamination, there is no basis for imposing any further obligations regarding investigation or remediation of existing sites.

UP/SP will also take reasonable steps to provide access to Viacom or any other party that currently is obligated to undertake investigation or remediation of any site where access is gained via the railroad ROW. UP/SP agrees that, so long as it is in possession of the rail line, it will maintain access roads which are essential to any remediation efforts.

CHAPTER 5.0 ILLINOIS

Section 5.2.8 as amended by Errata

DeCamp-Edwardsville Historic and Cultural Resources

The EA identifies a concrete arch structure at MP 132.47 as potentially eligible for listing on the NRHP see p. 5-20. The EA recommends that UP/SP retain its interest in and not alter the bridge at MP 132.47 until the Section 106 process is completed.

Applicants will cooperate with the SHPO to document any potentially eligible historic resource on this line. However, Applicants restate their objection (see

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29 Refer to the previous page for response.

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30 SEA recognizes the Applicant's comment on the subject bridge in Illinois. The Illinois SHPO has determined that there will be no effect to historic resources by the proposed merger. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

p. 21) to an obligation to maintain indefinitely any bridge or other structure pending completion of the Section 106 process.

Section 5.3.4, p. 5-32 as amended by Errata

Barr-Girard Historical and Cultural Resources

The EA identifies three deck truss bridges and two concrete arch bridges at MP 82.12 and MP 87.04 as potentially eligible for listing on NRHP. The EA recommends that UP/SP prepare written documentation on the history of the deck truss bridges and concrete bridges and submit it to Illinois SHPO and to retain its interest in and not alter the bridges until the Section 106 process is completed.

Applicants will provide available documentation concerning these bridges to the Illinois SHPO. (See p. 21). However, Applicants restate their objection to an obligation to maintain indefinitely any bridge pending completion of the Section 106 process.

CHAPTER 8.0 Texas

Section 8.1.8, p. 8-13

Seabrook-San Leon Historical and Cultural Resources

The EA identifies two through-plate girder bridges at MP 31.99 and 38.77 as potentially eligible for the NRHP. The EA recommends that UP/SP retain its interest in and not alter the two through-plate girder bridges until the Section 106 process is completed.

Applicants are willing to cooperate with the SHPO to document these bridges but Applicants restate their objection (see p. 21) to an obligation to maintain

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30 Refer to the previous page for response.

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31 Please refer to the response to comment #30.

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32 SEA recognizes the Applicant's comment on the subject bridge in Texas. Section 106 consultation with the Texas SHPO has not been completed. Please see response to comment #23. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.



indefinitely any bridges pending completion of the Section 106 process.

The EA also recommends that Applicants continue consultation with the Texas SHPO to determine the need for a recovery and treatment plan for three known archaeological sites. Applicants restate their objections set forth in their comments on archaeological sites on the Alturas-Wendel line; see p. 23 above.

Section 3.2.3, p. 3-27

Suman-Benchley Historical and Cultural Resources

The EA identifies three deck plate girder bridges at MPs 109.73, 112.96, and 117.55 as having undergone alteration. NRHP eligibility is awaiting SHPO concurrence. The EA recommends that UP/SP retain interest in and not alter three deck plate girder bridges until the Section 106 process is completed.

Applicants are willing to cooperate with the SHPO to document these bridges but restate their objections (see p. 21) to requiring UP/SP to maintain indefinitely any bridge pending completion of the Section 106 process.

The EA also recommends that UP/SP continue Section 106 consultation with the Texas SHPO for known archeological sites. Applicants restate their objections set forth in their comments on archeological sites on the Alturas-Wendel line.

The EA recommends that, prior to the start of abandonment activities in areas containing copper slag ballast, UP/SP shall consult with TNRCC as necessary to assess procedures necessary to address this issue. See p. 3-27. Applicants are

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32 Refer to the previous page for response.

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33 Please refer to the response to comment #32.

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34 SEA notes the Applicant's willingness, in the event the subject abandonment is approved, to consult with TNRCC regarding copper slag ballast. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

not aware that copper slag ballast is present on this line, but are willing to consult
with TNRCC as appropriate.

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34 Refer to the previous page for response.

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VOLUME 4 PROPOSED CONSTRUCTION PROJECTS

GENERAL COMMENTS Mitigation

The EA proposes recommended mitigation measures for:

Land Use

Water Resources

Biological Resources

Historic and Cultural Resources

Safety

Transportation

Air Quality

Noise

Except as noted below, in general the recommended mitigation measures appear to be measures that UP/SP would take for construction projects of these types.

Land Use Mitigation

The fourth recommended mitigation for Land Use for each construction project requires that Applicants consult with Indian Tribes "potentially affected." Applicants interpret this request, as discussed in comments to Volume 3, to require consultation only with those American Indian Tribes whose property is on or contiguous to the construction site. SEA may want to clarify this recommendation accordingly.

This comment affects Section 1.2.8 of Chapter 1.0, and the Section on SEA Recommended Mitigation in each subsequent Chapter.

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35 SEA recognizes the Applicant's comment on land use mitigation. Please see response to comment #20.

Water Resources Mitigation

The EA recommends that "UP/SP shall use Best Management Practices to control erosion, run off, and surface instability during construction, including seeding, fiber mats, straw mulch, plastic liners, slope drains and other erosion control devices. Once the track is constructed, UP/SP shall establish vegetation on the embankment slope to provide permanent cover and prevent potential erosion. If erosion develops, UP/SP shall take steps to develop appropriate erosion control procedures."

This condition is inappropriate for some projects. In many cases, erosion is controlled by ROW ballast; vegetation is eliminated as a maintenance and safety problem. In those cases where embankments are being constructed, UP/SP will comply with all applicable permitting and erosion control laws and regulations and confer with appropriate governmental agencies. Applicants recommend that the mitigation measure be modified to address their concerns about erosion control and to eliminate confusion about unnecessary or counterproductive construction and maintenance requirements.

Specific comments with respect to individual projects are discussed below.

CHAPTER 2.0 Arkansas

Section 2.2.1, p. 2-13

The connection is proposed for the southeast quadrant, not southwest.

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36 SEA recognizes the Applicant's comment on water resource mitigation. See response to comment # 21.

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37 SEA acknowledges the correction of connection point quadrant in Arkansas. The results reported in the EA are not affected.



Section 2.3.8 p. 2-35 and 2.4.8, p. 2-47

For Transportation mitigation, the EA recommends that UP/SP provide final plans to Arkansas DOT and appropriate local agencies for review. The EA does not recommend this mitigation measure for projects in any other states. UP/SP will consult with appropriate agencies where permitting or other environmental or land use requirements apply. However, Applicants are not aware that any project proposal for Arkansas would involve construction over an existing highway or other areas within the jurisdiction of Arkansas DOT. Applicants recommend that this mitigation measure be deleted.

CHAPTER 3.0 California

Section 3.4.8, p. 3-46

The area of the proposed construction is entirely within the Ldn 65 dBA noise contour and no nighttime noise sensitive receptors are present; however, the EA recommends noise mitigation to "control excessive wheel squeal." This might be interpreted to require use of rail lubricators. However, such steps should not be required unless conditions demonstrate that they are necessary to abate an identified noise violation. Also, noise monitoring is an excessive mitigation requirement in this case. Applicants recommend that the Noise Mitigation, paragraph 2 on page 3-46, be modified to: "UP/SP shall respond to requests to investigate wheel noise, if requested."

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38 SEA notes the Applicant's comment that construction would not affect Arkansas DOT property. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

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39 SEA recognizes the Applicant's objection to rail lubricators as a mitigation measure to control wheel squeal. The Applicant's position that monitoring of noise is an excessive mitigation measure is noted. The Applicant's suggested language that it would respond to requests to investigate wheel noise, if requested, is appreciated. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

CHAPTER 4.0 Colorado

Section 4.1.1, p. 4-1

The proposed construction at the Denver North Yard location is approximately 3,100 feet, not 3,650, in length and will require acquisition of approximately four acres, not one acre.

Section 4.2.3, p. 4-14

The Water Resources paragraph should be modified to reflect the fact that the Denver (Pullman) proposed siding extension will not cross the South Platte River. Only the existing SP Belt Line, which will be upgraded (the connection), crosses the South Platte River; however, all work involving the floodplain or riverbed was completed in 1994. The proposed upgrade will involve only work on the deck. The words "rail siding extension and" should be deleted from the first line of the paragraph.

Section 4.2.8, p. 4-24

The EA's Recommended Mitigation for Water Resources, paragraph 5, on page 4-24 should be deleted. As described above, no modifications to the South Platte River bridge will require hydrologic or hydraulic analyses. Only upgrade work on the bridge deck will be performed.

CHAPTER 8.0 Missouri

Section 8.1.1, p. 8-1

The proposed construction at Dexter is a 2,100 foot long siding extension, not 8,900.

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40 SEA notes the Applicant's correction of construction length. The results reported in the EA are not affected.

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41 SEA acknowledges the Applicant's comment regarding the South Platte River. The results reported in the EA are not affected.

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42 SEA acknowledges the Applicant's comment that there would be no change to the South Platte River bridge. The results reported in the EA are not affected. SEA's revised mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

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43 SEA notes the Applicant's correction of construction length. The results reported in the EA are not affected.



Section 8.2.1 p. 8-12

The proposed construction at Parant is an 8,000 foot long siding extension, not 8,600.

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44 SEA notes the Applicant's correction of construction length. The results reported in the EA are not affected.

Chapter 9.0 TEXAS

Section 9.1

Westpoint is 145 miles south of Waco, not Amarillo.

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45 SEA notes the Applicant's correction of the location of Westpoint. The results reported in the EA are not affected.

Section 9.2

Lines in the area of Houston (Tower 26) include the SP mainline, not HB&T.

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46 SEA notes the Applicant's correction. The results reported in the EA are not affected.

CORRECTIONS TO TABLE ES-3

Rail Line Segments that Meet or Exceed Environmental Analysis Thresholds

STATE LOCATION

California

Stockton (Lathrop) to Sacramento - Operator is SP

Oakland to Martinez - Trains per day Post-Merger 32.3
Trains per day Change 7.1

West Colton to Yuma AZ - Trains per day Pre-Merger 27.7

Louisiana

Avondale to Lafayette - Length (mi.) 125.0

Livonia to Kinder - Trains per day Change 1.6

Oregon

Eugene to Portland - Trains per day Pre-Merger 16.3
Trains per day Post-Merger 21.5

Texas

Big Sandy to Texarkana - Operator - SP

Fort Worth to Dallas - Trains per day Change 10.2

Wyoming

Granger to Green River - Trains per day Pre-Merger 57.8

47

SEA notes the Applicant's corrections to Volume 1 of the EA. The results reported in the EA are not affected.



CORRECTIONS TO TABLE ES-7

Rail Line Construction on New Rights of Way

<u>State</u>	<u>Location</u>	<u>Description of Proposed Construction</u>
Arkansas	Pine Bluff (West)	Approximately 1,000 feet of new track
Colorado	Denver	Approximately 3,100 feet of new track construction
Kansas	Hope	Approximately 2,200 feet of new track construction
Missouri	Dexter Parant	2,062 foot extension 8,000 foot extension

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48 SEA notes the Applicant's corrections to Volume 1 of the EA. The results reported in the EA are not affected.

CORRECTIONS TO VOLUME 1

Page 3-6, MP for Leadville is 276.1

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Page 3-6, Length of Sage to Leadville line is 69.1 miles

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Page 3-8, Length of Hope to Bridgeport line is 31.24 miles

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Page 3-9, Length of Suman to Benchley line is 13.1 miles

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SEA notes the Applicant's corrections to Volume 1 of the EA. The results reported in the EA are not affected.



Corrections to Volume 3

Page 1-7, first paragraph under Safety, second line - Safety impacts associated with the proposed abandonments should be limited to "disturbance of hazardous," and not "creation or disturbance of hazardous."

Page 10-7, third paragraph - The EA does not define orphan or unmappable hazardous sites. Those types of sites should be defined.

Page 3-4, first paragraph under Historic and Cultural Resources, first line - typographical error - "191" should be corrected.

Page 3-4, same paragraph as above, third line - the milepost for the bridge over Whittier Blvd. (3.05) should be included. There is an inconsistency with the date of construction. The ER (and UP's bridge report) listed the date of construction as 1933, not 1930.

Page 3-4, same paragraph - There is also a bridge at MP 3.00 (1917). Two bridges are mentioned in the impacts section (page 3-7). As such, the second bridge should be mentioned in this section also.

Page 4-4, first paragraph under Threatened and Endangered Species, eighth line - Reports of black-footed ferret occurrence along this abandonment are historic only. This species does not currently occur in Colorado.

Page 4-9, first paragraph, under Threatened and Endangered Species, sixth line (and elsewhere) - Change "Colorado Department of Natural Resources" to "Colorado Division of Wildlife."

Page 4-18, last two lines on the page - Reports of occurrences of black-footed ferrets along this proposed abandonment are historic only.

Page 4-28, first bullet item under Suggested Mitigation - Three superfund sites are referred to along the Malta to Canon City abandonment. However, the Existing Environment sections of the EA and the ER both refer to only two superfund sites.

Page 4-31, first paragraph under Land Use, sixth line - There appears to be a word missing at the end of the sentence "herbaceous, shrub and brush, and mixed."

Page 4-32, first paragraph under Threatened and Endangered Species - Reports of occurrences of black-footed ferret are historic only.

Page 10-4, first paragraph under Historic and Archaeological Resources - Throughout the EA, the terms "archaeological" and "cultural" are used interchangeably. For consistency, one term or the other should be used, not both.

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50 SEA notes the Applicant's proposed wording change. SEA does not agree with the proposed change. Any hazardous material condition created during abandonment must be corrected.

51 SEA's review of the VISTA data base did not indicate the presence of any hazardous waste sites along the proposed abandonment from Magnolia Tower to Melrose, California.

52 SEA notes the Applicant's corrections in Volume 3 of the EA. The results reported in the EA are not affected.

53 SEA acknowledges the Applicant's suggested wording. The term "cultural" is more appropriate.

Page 10-5, in-text table, entry for Historic and Archaeological Resources - Change "Sites" to "Properties." "Sites" has a specific meaning under NRHP that does not include all the types of historic properties. This comment applies to all the tables in the Summary.

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Page 10-7, in-text table, entry under Historic and Archaeological Resources - One site is listed, yet two buildings are listed on Page 3-22. The discrepancy should be resolved.

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Page 10-9 and Page 10-10, in-text tables, entries under Historic and Archaeological Resources - Change the word "Sites" to "historic properties" to reflect NRHP usage of terms.

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55 SEA acknowledges the Applicant's suggested wording. The terms "Properties" and Historic Properties" are appropriate.

56 SEA notes the discrepancy raised by the Applicant. Both Magnolia Tower and Oakland Depot have potential historic significance. The results reported in the EA are not affected.

57 SEA acknowledges the Applicant's suggested wording. The terms "Properties" and Historic Properties" are appropriate.



CR-22

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

-- CONTROL AND MERGER --

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

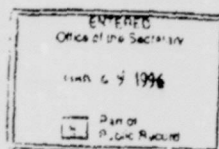
COMMENTS OF CONSOLIDATED RAIL
CORPORATION IN OPPOSITION TO THE MERGER

PETITION FOR REVOCATION OF
SETTLEMENT-RELATED TRACKAGE RIGHTS CLASS EXEMPTION

OPPOSITION TO PETITION FOR EXEMPTION
FOR SETTLEMENT-RELATED LINE SALES

VERIFIED TESTIMONY

SHIPPER, GOVERNMENT, AND OTHER STATEMENTS



VOLUME II - REDACTED
(Verified Testimony)

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March 29, 1996

Comments submitted by the Consolidate Rail Corporation focus on their opposition to the proposed merger. Volume 1 contains their anti-competitive positions. Volume II (Redacted) of Consolidated Rail Corporation's comments contain 15 Verified Statements. Many of the statements pertain to economic and competitive market issues which will be addressed outside the forum of the EA. Three of the fifteen statements do pertain to issues addressed in the EA. Two of these statements focus on rail traffic issues and an apparent problem with the overall Operating Plan which forms the basis of the proposed merger and the EA. The third statement deals with safety issues, in particular, the transport of hazardous materials.

The statement by Hitchcock questions the validity of the results of the MultiRail Model. SEA notes that the model is incapable of portraying a picture of proposed operations in exacting detail, but is confident that it provides a valid assessment of projected operations for the purpose of the environmental assessment.

The statement by McNally alleges that the safe movement of hazardous materials will be compromised in BN/Santa Fe secures part of the traffic because that railroad:

- does not have a complete operating plan;
- is not a member of the CMA responsible Care Partnership Program
- will not have sufficient volume for solid hazmat trains; and
- must rely on other carriers for terminal switching and handling in Houston and St. Louis.

The issues raised are valid, but they compare a fully developed UP/SP plan, and presumably a Conrail plan of similar depth, to the modestly developed by BN/Santa Fe plan. It is important to note that all carriers are responsible for compliance with federal and state regulations, and the promotion of safe practices to the greatest extent possible.

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 32760

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

COMMENTS OF THE KANSAS CITY SOUTHERN RAILWAY COMPANY
ON THE ENVIRONMENTAL ASSESSMENT

The Kansas City Southern Railway Company (KCS) appreciates the opportunity to comment on the Environmental Assessment (EA) prepared by the Surface Transportation Board's Section of Environmental Analysis (SEA) in connection with the proposed merger of Union Pacific Railroad Company (UP) and Southern Pacific Transportation Company (SP) (Finance Docket No. 32760).

KCS has a substantial stake in this proceeding. Concurrent with the control and merger application, UP, SP and BN/Santa Fe filed certain Related Trackage Proposals¹ to implement trackage rights agreements that purport to address the substantial competitive problems with the merger. The Related Trackage Proposals include a petition that seeks

¹ "Related Trackage Proposals" is defined to mean the (i) Notice of Exemption for Settlement-Related Trackage Rights (Sub-No. 1); (ii) Petition for Exemption for Settlement-Related Line Sales (Sub-No. 2); (iii) Application for Terminal Trackage Rights (Sub-No. 9); and related access by BN/Santa Fe over the New Orleans Public Belt Railroad.



terminal trackage rights for BN/Santa Fe over tracks owned and operated by KCS in Shreveport, Louisiana and Beaumont, Texas. The Related Trackage Proposals would also grant BN/Santa Fe overhead trackage rights on UP/SP rail lines between Houston and Memphis and between Houston and Iowa Junction, Louisiana, and give BN/Santa Fe the right to acquire the rail line currently owned by SP between Iowa Junction and Avondale, Louisiana, with the reservation of full trackage rights along that corridor for UP/SP. BN/Santa Fe also will require access over the New Orleans Public Belt Railroad in order to reach Eastern carriers at New Orleans.

As a landowner and rail owner/operator, KCS has a substantial interest in the environmental impacts of the proposed merger and Related Trackage Proposals. KCS is concerned that the record is severely deficient with regard to the potential safety impacts of these actions. The proposed merger and Related Trackage Proposals will result in significant operational changes and traffic increases in the Houston to Memphis and Houston to New Orleans corridors, which in turn will result in increased congestion along those rail lines, at grade crossings and within yard limits and result in delays and increased handling of cars, thereby increasing the risk of incidents and accidents—particularly incidents and accidents involving hazardous commodities. The proposed merger and Related Trackage Proposals also will result in increased noise and air quality impacts along these corridors. These impacts, in addition to the safety impacts, directly affect KCS's interest in protecting the environment and in the health and safety of its employees who work along these corridors.

If approved, the merger of UP and SP will be the largest merger in rail history. It will consolidate ownership and operation of over 14,000 miles of track in 25 states. EA, vol.

1 SEA acknowledges the comment regarding safety, noise and air quality. Since publication of the EA, SEA has verified train traffic data and reevaluated potential impacts. The results described in the Post EA include train traffic from the related trackage proposals.

1 at ES-1. It involves significant operational changes, substantial rerouting of rail traffic which result in significant increases in traffic along certain segments, extensive trackage rights agreements, consolidation of yard and terminal facilities, abandonment of approximately 600 miles of track in 3 states, and approval of 25 new rail construction projects outside of existing right-of-way in 3 states. EA, vol. 1 at ES-4 to ES-7.

As proposed, the merger and Related Trackage Proposals will have unprecedented environmental effects. These effects include issues of safety, air quality, and noise any of which, in and of themselves, create the potential for a "significant environmental impact on the quality of the human environment" as defined under the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332. If, as the SEA asserts, this proposal has no significant environmental impacts, then no major federal action taken by the STB will ever be found to have a significant impact on the environment under NEPA. NEPA and the STB regulations implementing NEPA will thus be emasculated, void of substance and purpose.

While the SEA's initial Environmental Assessment identifies relevant environmental issues, it fails to assess and mitigate adequately the impacts of the proposed merger and Related Trackage Proposals. The SEA's initial finding of no significant impact in connection with the safety issues, in particular, has no basis in law or fact. The safety analysis is based on incomplete and inaccurate information about BN/Santa Fe operations to be undertaken pursuant to the Related Trackage Proposals. The traffic and operational data provided by BN/Santa Fe and its outside consultant Neal Owen, is deficient as it is, is completely superseded by recent filings, specifically the agreement with the Chemical Manufacturers Association (the "CMA Agreement") and the Applicants' Recurrent Statements on Operation

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SEA considered the comment regarding potential environmental effects. SEA's recommended finding of no significant environmental effect is based upon independent analysis, review of the comments, consideration of all available information, review of FRA safety regulations, consultations with FRA, and examination of the CMA agreements and related effects on the BN/Santa Fe settlement agreement. Based on this thorough review, SEA developed mitigation, where appropriate, to address potential adverse environmental effects. This mitigation has been refined to reflect developments and information made available after service of the EA.

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SEA has assessed the potential impacts of the changes in train operation and traffic flows, including changes in the movement by rail of hazardous commodities. SEA verified the certified train and tonnage information provided by the Applicant, including the BN/Santa Fe trackage rights (the BN/Santa Fe-1 Settlement Agreement) and the CMA Settlement Agreement.

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SEA is satisfied that the information presented by the Applicant and further supplemented by the BN/Santa Fe-1 Settlement Agreement and the CMA Settlement Agreement is adequate to meet the requirements of the EA process. BN/Santa Fe provided rail traffic and general operating philosophy for each operating area and the proposed train traffic data. The Applicant's traffic data established an operations plan that SEA used to assess the differences between the post-merger operations and the pre-merger operations. SEA has analyzed the environmental impacts of these data during the Post EA process and determined that the EA conclusions are still sound. SEA's revised recommended mitigation measures are described in Volume 1, Chapter 5 of the Post EA.

In the corridor linking Houston, Avondale, and Memphis with St. Louis and Chicago, the total number of train miles and gross ton miles for all trains, including BN/Santa Fe trackage rights trains moving as specified in the CMA, decreases 14 percent for train miles, and 2 percent for gross ton miles. Twenty-five specific segments have minor changes in numbers of trains and gross tons as a result of the CMA. In fact, the CMA actually reduces from five to four the number of segments where changes exceed the SEA thresholds for analysis.



Issues, which were filed on April 19 and 19, 1996 respectively. These filings completely undercut the weight of any evidence relating to traffic estimates and operational information on which the EA is based. They also plainly illustrate the absence of any operational plan as to how the CMA Agreement will be implemented in connection with the Related Trackage Proposals. Given the lack of accurate information regarding rail traffic and operational changes, it was impossible for the SEA to conduct a proper review of the safety, air quality and noise impacts of the proposed merger, Related Trackage Proposals and the CMA Agreement. Although the SEA recognized that this action will raise important safety, air quality and noise issues, the SEA improperly abdicated its duty to analyze those issues by directing the parties to study the problems and consult with various federal and state agencies. The SEA made virtually no attempt to mitigate the environmental impacts it acknowledged will occur, and failed to consider any alternatives that would avoid these impacts. As such, the Environmental Assessment is deficient. In any event, the SEA must prepare an environmental impact statement in connection with this merger.

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L The SEA's Environmental Assessment is Based Entirely on Inadequate Incomplete and Now Outdated Information and Assumptions Regarding Increases in Rail Traffic and Operational Changes.

An accurate understanding and analysis of the operational changes associated with a proposed action are central to an Environmental Assessment under the Board's NEPA regulations. The SEA must prepare an Environmental Assessment of a proposed merger or acquisition of control "if it will result in . . . operational changes" that exceed the regulatory thresholds defined at 49 CFR § 1105.7(e)(4) or (5), which include increases in rail traffic.

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Trackage rights operations, per se, do not change the level of safety of railroad operations. Common operating rules (UP, SP, BN/Santa Fe all use the General Code of Operating Rules) and railroad employee training result in the same levels of safety on rail lines, whether operated by holders of trackage rights or principal operators.

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SEA reviewed the comment on the operations plan. Refer to the responses for comments #3 and #4.

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The EA addressed the environmental issues related to the proposed merger and no EIS is required. Recommended mitigation actions are addressed in the EA. The Post EA takes into account any traffic/operational changes (e.g., CMA settlement agreement). It also includes further analysis and verification of underlying data, on which this Post EA and the recommended mitigation measures, are based. Also, refer to the response provided for comment #2.

densities, and diversions from rail to motor carriage. 49 CFR § 1105.6(a)(4)(i). Operational changes, including rail traffic increases and increases in traffic densities, not only determine when an EA is required, but also determine the scope of the analysis. See 49 CFR § 1105.7(e)(4), (5), (6) (defining thresholds for analyzing air quality, noise and energy impacts). Information regarding operational changes and increases in traffic and traffic densities, is therefore the foundation of an Environmental Assessment. In this case, the EA and the SEA's Finding of No Significant Impact (FONSI) are based entirely on inadequate, incorrect and now outdated factual information on operational changes, rail traffic and traffic densities, throwing the SEA's entire analysis into question.

First, because BN/Santa Fe has not submitted or even developed an operating plan, the SEA has very little information regarding the planned or potential operational changes in connection with proposed BN/Santa Fe operations to be undertaken pursuant to the Related Trackage Proposals. If approved, these proposals would give BN/Santa Fe operating rights over more than 3,000 miles of track and result in significant operational changes. The primary Trackage Rights Agreement establishes a landlord/tenant-type relationship between UP/SP and BN/Santa Fe and results in major operational changes on rail segments between Houston and Memphis, and between Houston and Avondale, Louisiana. Under the Agreement, BN/Santa Fe will be subject to the dispatching and operating schedules of UP/SP while operating on UP/SP rail segments between Houston and Memphis and Houston and Iowa Junction. Likewise, UP/SP will be subject to the dispatching and operating schedules of BN/Santa Fe while operating on the BN/Santa Fe rail segment between Iowa Junction and Avondale. Moreover, BN/Santa Fe (and UP/SP) will be subject to KCS dispatch and

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SEA considered the adequacy of the EA comment. Refer to the response to comment #4 and the discussion in Volume 1, Chapter 4 of this Post EA.

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For SEA's response to the comment on the operational plan, please refer to the response to comment #4 and the discussion in Volume 1, Chapter 4 of this Post EA.



scheduling in Beaumont and Shreveport. In New Orleans, the NOPS will be in control of dispatching and scheduling. In addition, along the Houston to Memphis corridor, the UP and SP propose to change the primary directional flow of rail traffic. As currently proposed by UP and SP pursuant to the CMA Agreement, the SP line between Houston and Memphis will operate in a southerly direction. The UP line that runs parallel to the SP line would be operated in a northerly direction. This planned directional flow contains an exception for local traffic.

The Related Trackage Proposals will also result in increases in rail traffic by adding an additional rail carrier to rail lines that were previously used by only a single carrier. In the EA, the SEA relies primarily on traffic projections provided by BN/Santa Fe. The SEA cannot, however, rely on these estimated rail traffic projections nor can it independently assess the accuracy of the projections because BN/Santa Fe has not submitted either an operating plan or traffic studies that would provide a sound basis for those projections.

The BN/Santa Fe traffic projections are based on nothing more than assumptions of BN/Santa Fe's ability to compete in the relevant corridors and do not account for important factors such as economic growth. While BN/Santa Fe retained Neal Owen, an outside transportation consultant, to testify in this proceeding regarding potential traffic increases resulting from the Related Trackage Proposals, Mr. Owen testified at his deposition that he had no specific knowledge about how much SP traffic would be open to BN/Santa Fe competition. (Deposition at 15-16).² Mr. Owen also testified that he did not interview any shippers to determine the level of service required of BN/Santa Fe in order to serve the

² Relevant pages of Mr. Owen's deposition testimony are contained in Appendix A hereto.

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SEA has reviewed the comment on BN/Santa Fe traffic projections. SEA must rely on the certified data submitted by UP/SP as verified by SEA. Increases in rail traffic, including movement of hazardous materials by rail, per se, would not result from the proposed trackage rights operations. In fact, two railroads will handle the traffic, the same circumstance as current operations. The identity of the two railroads will change, and various cars and trains will move over different rail line segments. The changes, especially as related to grade crossings and vehicle delays, have been identified and assessed. SEA believes that economic growth in rail freight and movement of hazardous material by rail may or may not occur, regardless of the proposed merger. Future market forces will drive the amount of freight to move. In general, SEA views the movement of freight, especially hazardous material, by rail as environmentally preferable to other modes.

industries in the corridors under the trackage rights agreement. (Deposition at 37, 50, 134-35) He also admitted that BN/Santa Fe and UP/SP have not conducted any joint scheduling for post-merger operations. (Deposition at 61).

In his deposition, Mr. Owen went on to explain that his testimony in this proceeding:

was not designed to be . . . an operating plan per se in the context of ICC regulations. (Deposition at 14). (The statement) was not shipper specific, we conducted no shopper interviews in conjunction with this, we did not have a traffic study . . . (Deposition at 37, 49-50, and 15-16).

Finally, Mr. Owen explained that BN/Santa Fe's traffic estimates do not account for growth. According to Owen, "there has been no consideration of growth in what I've stated here, economic growth." (Deposition at 151, 152). While BN/Santa Fe does not necessarily have a duty to take into account economic growth, the SEA does. NEPA "requires the sponsoring agency to consider the impact on the environment resulting from the cumulative effect of the contemplated action and other past, present, and 'reasonably foreseeable' future actions." Village of Grand View v. Skinner, 947 F.2d 651, 659 (2nd Cir. 1991). Certainly, some level of economic growth is "reasonably foreseeable" in this case.

To date, BN/Santa Fe has failed to submit any studies to support its traffic projections. Nonetheless, the SEA adopted the BN/Santa Fe projections without any independent analysis, and it is upon Mr. Owen's unsubstantiated traffic projections that the Environmental Assessment is based. EA, vol. 1 at 1-6. Therefore, the Environmental Assessment and the SEA's conclusions are based upon unsupported traffic projections over these line segments. Without more reliable and detailed information regarding BN/Santa Fe operations, it is impossible to accurately determine the true impact of the merger on the quality of the human environment.

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Please refer to response provided for comment #9.

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Please refer to response provided for comment #9. BN/Santa Fe have certified their requirements.



In any event, BN/Santa Fe and Applicants have recently submitted two filings that underscore the absence of an operating plan to implement the Related Trackage Proposals and completely undercut the operational assumptions and projections contained in the EA. According to the SEA, the EA includes all information available as of mid-March, 1996. EA, vol. 1 at 1-6. On April 19, 1996 the Applicants filed their Rebuttal Statements on Operating Issues. The statement of Michael D. Ongertn, Vice President of Strategic Development for SP, plainly illustrates that UP, SP, and BN/Santa Fe have not developed an operating plan to implement the Related Trackage Proposals and are only just now beginning to develop such a plan. According to Ongertn:

Since the filing of our initial evidence, a team of operation specialists from SP, UP, and BN/Santa Fe has been meeting and planning how the proposed BN/Santa Fe trackage rights operations will be integrated into the post-merger UP/SP operations. In the course of this planning a number of issues have arisen which concerned BN/Santa Fe's proposed service, and in each case the teams are addressing them thoughtfully, and where it appears that more needs to be done to implement the intent of the agreement with BN/Santa Fe, we are developing the additional steps necessary to do so.

The BN/Santa Fe Settlement Agreement teams are working from a 196-point Agenda covering, in addition to Overall Project Management, Joint Facility reconfiguration (16 issues); Marketing/Interline (11 issues); Operating Plan/Network Planning (22 issues); Transportation Control (17 issues); Engineering (13 issues); Real Estate (18 issues); Law (6 issues); Labor Relations (3 issues); and Systems (22 issues). Agenda Line Items 11, 12, and 36 through 59 covered on-site review of all of the joint facilities which BN/Santa Fe will use. Agenda Line Items 11, 12, and 25 identify the milepost limits, and the present and future 1-0-1 industries' segments. Items 16, 17, and 18 cover the provision of information to BN/Santa Fe's marketing department of the new industries and industry sites available to BN/Santa Fe. Items 43 and 44 concern the maintenance of up-to-date customer lists available to BN/Santa Fe. Item 60 covers intermodal/automotive ramps to be used by BN/Santa Fe -- and the list goes on.¹

¹ Rebuttal Verified Statement of Michael D. Ongertn, pp 13-19.

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Please refer to responses provided for comments #4 and #9.

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These are difficult issues to deal with. In his Recusal Verified Statement (at 5) in this proceeding, Carl R. Lee, Vice President and Chief Mechanical Officer for BN/Santa Fe states:

BN/Santa Fe separately agreed with UP and SP that the CMA Agreement does not preclude BN/Santa Fe from continuing the process of negotiating the detailed implementation of the Agreements, and that BN/Santa Fe's consent was not a waiver of, and was given without prejudice to, any position we may take that we are entitled to more favorable terms with respect to any implementation issue, whether or not addressed in the CMA Agreement. For example, the CMA Agreement's specification of a switching charge that will not exceed \$130 per car does not mean that BN/Santa Fe has agreed to a charge of \$130 per car. At this point, this issue remains in negotiation among BN/Santa Fe, UP and SP.

On April 19, 1996, Applicants and BN/Santa Fe submitted the CMA Agreement in which the parties thereto agree to (1) significantly expand the scope of the Related Trackage Proposals to include additional overhead trackage rights access between Houston and East St. Louis; (2) permit BN/Santa Fe to operate along both UP and SP lines along the Houston-Memphis-St. Louis corridor rather than limiting BN/Santa Fe to use of the SP line; and (3) modify UP/SP contracts with suppliers at 2-to-1 points in Texas and Louisiana to open at least 50% of the volume to BN/Santa Fe.

The CMA Agreement significantly expands the scope of the Related Trackage Proposals. Under this Agreement, BN/Santa Fe trackage rights would be expanded to include new trackage rights over (1) UP's line between Houston and Valley Junction, IL via Palestine, (2) SP's line between Fair Oaks and Valley Junction; and (3) UP's line between Fair Oaks and Bald Knob, AR. This extension of the Related Trackage Proposals will significantly alter the operational assumptions and projected increases in rail traffic and

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Please refer to response provided for comment #4.



traffic densities and for that reason will require the SEA, at a minimum, to revisit and revise its Environmental Assessment in this case.

In addition to expanding the geographical extent of the Related Trackage Proposals, the CMA Agreement will result in additional increases in rail traffic as a result of BN/Santa Fe's ability to operate along UP's Houston-Memphis-St. Louis line and the potential for increased operations resulting from these contractual arrangements. The provisions of this Agreement render the operational assumptions and traffic projections contained in the EA, and the EA itself, meaningless. These are fundamental operational changes that alter the foundation of the Environmental Assessment, and these changes will likely have a significant impact on the scope and conclusions of the initial EA.

II. The SEA's Finding of No Significant Impact is Clearly Erroneous.

The SEA concludes that "(b)ased on its independent analysis, review of available information, and the recommended mitigation measures," the proposed merger of Union Pacific and Southern Pacific Railroads, if approved, would not significantly affect the quality of human environment. . . . Therefore, preparation of an environmental impact statement is not necessary." EA, vol. 1, at ES-19.

This conclusion is simply unsupportable. Based on the potential safety impacts alone, this merger will have a significant impact on the quality of the human environment and will require preparation of a full environmental impact statement. The anticipated Air Quality and noise impacts also warrant preparation of an environmental impact statement.

13 Refer to the previous page for response.

14 Please refer to response provided for comment #4. SEA's analysis of the CMA Agreement indicates that changes in rail traffic would be small. The anticipated change results in increases of train traffic by 1.5 trains on five rail segments.

15 Please refer to response provided for comment #6.

A. The Environmental Assessment Fails to Consider Adequately the Safety Impacts of the Proposed Merger and Related Trackage Proposals.

According to the SEA, it "assessed a number of potential safety related issues associated with proposed operational changes." EA, vol. 1 at 1-15. The SEA erroneously concludes that there would be no major impacts as a result of the proposed merger. Given the recent increase in rail accidents, the SEA's safety analysis borders on irresponsible.

First, the SEA bases its "analysis" on incomplete and unreliable operational information and traffic projections. It also fails to conduct an independent analysis of the increased risk of rail accidents and risks associated with hazardous commodities, and instead incorporates information almost verbatim from the Applicants' Environmental Report. Finally, the SEA attempts to abdicate its duty to assess the potential for increased safety risks associated with the Related Trackage Proposals to Applicants, BN/Santa Fe and the Federal Railroad Administration (FRA) in direct violation of NEPA.

1. The Safety Analysis Is Based Upon Incomplete and Unreliable Factual Information.

An analysis of safety risks in connection with this type of proposed action depends heavily on operational changes and rail traffic projections because, as the EA notes, safety risks derive primarily from increased traffic at highway grade crossings. In addition, there is the risk of rail accidents and incidents as a result of congestion and increased car handling and the risks associated with shipments of hazardous commodities. For example, according to the EA, "changes in the probability of accidents at grade crossings would depend on changes in the number of trains on rail segments." EA, vol. 1 at 1-12. "Delay" in particular, "is a function of the number of trains passing per day and the length and speed of

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Please refer to response provided for comment #4.

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SEA has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1 Chapter 4 of the Post EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be within the range of historical traffic fluctuations experienced by the railroad industry. Volume 1, Chapter 5 of the Post EA describes SEA's recommended systemwide mitigation measures. See comment #29 for a discussion of specific lines.

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Please refer to responses provided for comments #3 and #4.



the train." EA, vol. 1 at 2-22. Based on its own analysis, the SEA cannot credibly assess this risk of increased delays at rail crossings and increased probabilities of accidents without reliable traffic projections. Similarly, the SEA cannot assess the increased risk of derailments and other rail accidents, particularly those involving hazardous commodities, without reliable data on anticipated traffic increases and information about where those increases are expected to occur. Moreover, the projections relied on by the SEA are now invalid given the revisions to the Related Trackage Proposals under the recent CMA Agreement. All potential safety impacts must be reassessed in light of the changed conditions.

2. The EA Fails to Conduct an Independent Analysis of the Increased Risk of Accidents and Impacts Associated with Shipments of Hazardous Commodities.

The SEA adopts almost wholesale the Applicants' "analyses" of accident risk and risks associated hazardous commodities. The EA provides that "the proposed merger could be expected to result in an additional 25 accidents per year based on the projected increase in train-miles of the proposed merged system." EA, vol. 1 at 2-24. First, assuming this is a valid conclusion, it does not appear that the SEA made any attempt to conduct an independent analysis of the issue. This is a direct violation of the STB regulations implementing NEPA. 49 CFR 1105.10. Second, because this assessment was adopted directly from the Applicants' Environmental Report, it is based on projected traffic increases that even the SEA agrees have been superseded by the BN/Santa Fe data. Because that data has been superseded in light of the CMA Agreement, this analysis must be revised to reflect

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19 Please refer to responses provided for comments #4 and #17.

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20 SEA conducted an independent safety analysis during the Post EA process. This safety analysis is described in Volume 1, Chapter 4 of the Post EA.

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21 Please refer to response provided for comment #4.

the CMA Agreement. Finally, the accident analysis provides a summary of the Applicants' accident history, but it fails to address the accident history of BN/Santa Fe.

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The SEA also adopts the Applicants' analyses of the risks associated with shipments of hazardous commodities. Again, the SEA has shirked its responsibility to conduct an independent analysis of serious public health and environmental risks, and it is doing so at a time when accidents involving hazardous materials are on the rise. In two very short paragraphs, the EA summarily concludes that "the proposed merger would not affect the UP/SP's policies or operating procedures governing the transport of hazardous materials."

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EA, vol. 1 at 1-24. Pursuant to 49 CFR § 1105.7(e), an environmental report must include certain minimum safety related information, including:

([I]f hazardous materials are expected to be transported, . . . the materials and quantity, the frequency of service, whether chemicals are being transported that, if mixed, could react to form more hazardous commodities; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents, and hazardous spills; the contingency plans to deal with accidental spills; and the likelihood of an accidental release of hazardous materials.

49 CFR § 1105.7(e)(7).

Applicants' Environmental Report does not include this analysis, nor does the PDEA submitted by Applicants. The SEA must, at a minimum, assess BN/Santa Fe's experience with hazardous commodities and whether it has accident prevention and emergency response plans in place to prevent accidents and incidents involving hazardous commodities. Finally, the SEA conducts no safety analysis of the Related Trackage Proposals. After reviewing the Proposals, the SEA "found that none appear to be unique or out of bounds of common railroad operating practices." EA, vol. 1 at 1-16. However, whether the proposed

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The Applicant's accident history is the appropriate database for use in the safety analysis. The Applicant's operating rules and maintenance standards will govern operations. However, SEA used independent safety analysis industry averages, which include BN/Santa Fe.

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Please refer to response provided for comment #20.

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The Atchison Topeka and Santa Fe Railway Company's "Action Emergency Plan," published May 1994, and Burlington Northern Railroad's "Hazardous Materials Emergency Response Plan," published in January 1994, were submitted as part of the Post EA process. On a systemwide per ton-mile basis (i.e., hazardous materials releases reported to the Federal Railroad Administration which caused injuries or required evacuations between 1986 and 1996), there is no basis to conclude that BN/Santa Fe's hazardous materials practices require the assessment proposed. The rate of reported releases per ton-mile over this period for the BN/Santa Fe system was about 15 percent less than that for the UP and SP considered together as a system. The Related Trackage Proposals were included in SEA's analysis.



operations are "out of the bounds of common railroad operating practices" is not the standard for environmental review recognized in the STB regulations and, therefore, is irrelevant.

The regulations require the STB to determine whether an operational change is significant based on the thresholds at 49 CFR, § 1105.7(e)(4) and (5) and whether those changes will have a "significant" impact on the quality of the human environment. The SEA failed to conduct this analysis.

3. The Risk of Accidents Involving Hazardous Commodities Creates the Potential for a Significant Environmental Impact

Even if the projections submitted by UP/SP or BN/Santa Fe were correct, the increases in rail traffic associated with the merger create the potential for a significant environmental impact, particularly for shipments of hazardous commodities in the Houston to Memphis and Houston to New Orleans corridors. Regarding chemical and other hazardous materials movement, the EA notes that "the rail line segments linking the Gulf Coast region between New Orleans and Houston, and between Houston and Memphis are heavily used for chemical and other hazardous material transport." EA, vol. 2 at 1-16. These corridors are the subject of the Related Trackage Proposals and will be affected by the substantial operational changes discussed above.

3. The SEA's Finding of No Significant Impact in Connection with Air Quality Impacts is Also Flawed.

The EA states that "the rail segments may adversely affect air quality in 19 states." EA, vol. 1 at 85-15. The EA acknowledges that many of the areas impacted by increased emissions are designated as nonattainment areas, which means that they are not in compliance with National Ambient Air Quality Standards (NAAQS) under the Clean Air Act.

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27 Comment noted. SEA maintains its position on this issue.

28 SEA has complied with all pertinent regulations in its assessment of environmental issues associated with the proposed merger. In those areas where thresholds specified in Board regulations were exceeded, SEA executed its own analysis to verify the EA findings. In each and every case, there were no environmental elements that required the process to move into the EIS stage.

29 SEA recognizes the concerns about hazardous materials transport in the Houston to Memphis and Memphis to New Orleans corridors. SEA has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1, Chapter 4 of the Post EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be higher than the historical traffic fluctuations experienced by the railroad industry. Even with this increase, SEA considers the movement of hazardous materials safe because of the necessity for UP/SP and BN/Santa Fe to comply with Federal regulations regarding the movement of such materials. (Also, see USDOT and FRA comments in Volume 2, Appendix A.) In response to this comment, SEA also recommends mitigation as described in Volume 1, Chapter 5 of the Post EA.

EA, vol. 1 at ES-15. According to the EA, "the increased emissions from the locomotives in these segments could potentially contribute to increased levels of pollution." EA, vol. 1 at ES-15. The SEA concluded, based on its emissions data, that "adverse impacts could result from the proposed merger." EA, vol. 1 at 2-6, 2-11. Nonetheless, the SEA dismissed the air quality impacts and found no significant environmental impact because the emissions estimates are conservative and that actual emissions may be lower. EA, vol. 1 at 2-13. The EA does not include any data or analysis that supports or even suggests that the emission estimates are overly conservative. Nor does the EA include any data or analysis that suggests the emissions likely will be offset.

The air quality analysis in the EA indicates that the merger and Related Trackage Proposals will increase emissions of certain regulated air pollutants such as NO₂ by thousands of tons per year. EA, vol. 1 at 2-11 to 2-13. In many cases, these increases will occur in ozone attainment areas in states that are already facing potential sanctions under the Clean Air Act, including the loss of federal highway funding because of the nonattainment problems. Further, the Environmental Protection Agency and state regulatory agencies in 37 states have, in the last year, initiated a full scale cooperative effort called the Ozone Transport Assessment Group to try to resolve the ozone problem in those states. Significant increases in NO₂ emissions in those states will only frustrate this effort.

As the SEA noted, the air quality analysis in the EA indicates that the merger and Related Trackage Proposals will have an adverse impact on air quality. EA, vol. 1 at 2-13. The SEA cannot rationally conclude, without analysis, that the cumulative emission increases will not have a significant environmental impact under NEPA. Based on this deficiency

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SEA has revised estimates of merger-related increases in locomotive and intermodal facility emissions by AQCR and track segment. SEA has also proposed emission mitigation measures for the locomotive emissions. The air quality analysis is discussed in Volume 1, Chapter 4 of the EA. SEA's recommended mitigation measures are included in Volume 1, Chapter 5.



alone, the SEA's finding of no significant impact is clearly erroneous, arbitrary and capricious.

III. The SEA Illegally Abdicated Its Responsibility of Assessing and Mitigating the Impacts of the Proposed Merger and Related Trackage Proposals.

Under the guise of "mitigating" the potential safety, air quality, and other impacts of the proposed merger and Related Trackage Proposals, the SEA attempts to abdicate its duty to assess and mitigate the environmental impacts of this action in direct violation of NEPA.

The SEA has improperly deferred to others by imposing conditions that Applicants consult with various other agencies about the specific environmental impacts that fall within their jurisdiction.

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Specifically, the SEA directs the parties to, among other things:

"(C)onduct rail line capacity simulations to verify that the directions operations involving St. Louis, Missouri, Memphis, Tennessee, and Dallas, San Antonio, and Houston, Texas can be safely accomplished. These simulations should also include BN/Santa Fe train movements. UP/SP shall submit these simulations to FRA for its review and shall comply with FRA's recommendations. UP/SP shall submit its analysis, as well as FRA's findings, to SEA. . . . EA, vol. 2 at 1-10.

- "(C)onduct a safety analysis of the SP line segment between Houston, Texas and Lewisville, Arkansas to determine the need for installing an Automatic Block Signal (ABS) system or a Centralized Traffic Control (CTC) system. UP/SP shall submit its analysis to FRA for its review and shall comply with FRA's recommendations. UP/SP shall submit its analysis, as well as FRA's findings, to SEA." EA, vol. 2 at 1-11 to 1-12.
- "(C)onsult with appropriate Federal, state and local agencies responsible for regulating air quality, concerning any possible mitigation measures to reduce adverse emissions in aquaterrarium areas." EA, vol. 1 at 6-1.
- "(C)onsult with appropriate state and local agencies to develop noise abatement plans." EA, vol. 1 at 6-1.

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SEA has not deferred responsibility of the EA to other agencies. It has directed UP/SP to comply with governing regulations. Also, SEA has recommended, where appropriate, its own mitigation measures that are a result of additional analysis as described in Volume 1, Chapter 5 of the Post EA. Also, refer to response provided for comment #2, and the discussion in Volume 1, Chapters 1 and 4 of the Post EA.

In order to accomplish this express purpose, the SEA must require more than mere consultation with other agencies, and the SEA must require that the mitigation be taken prior to the final decision by the STB.

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IV. The SEA Failed to Consider Reasonable and Feasible Alternatives that Would Reduce the Environmental Impacts of the Proposed Merger and Related Trackage Proposals.

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NEPA requires the STB to give full and careful consideration to 'reasonable' and 'feasible' alternatives prior to reaching a decision on the proposed action. 42 U.S.C. § 4332(2)(C); 40 CFR § 1502.14; City of Grapewine v. DOT, 17 F.3d 1502 (DC Cir. 1994); see also State of Alaska v. Andrus, 580 F.2d 465, 474 (D.C. Cir. 1978). Rather than simply listing the possible alternatives, the STB must carefully analyze the relative environmental merits and deficiencies of the proposed action and possible alternatives. Id. Consequently, it is incumbent upon the SEA to study and evaluate possible alternatives and the environmental effects thereof. Vermont Yankee Nuclear Power Corp. v. Natural Resources Defense Council, 435 U.S. 519, 98 S.Ct. 1197 (1978).

For example, the SEA must consider the environmental impact of the alternative action proposed by KCS. Under the KCS alternative action, UP/SP would divert one of its two parallel and duplicate lines between Houston and St. Louis, Houston and New Orleans, and Houston and San Antonio.* As shown in KCS-35, this proposed alternative action is both reasonable and feasible. Unlike the proposed merger and Related Trackage Proposals,

* For a more complete description of this proposal, see KCS-35, vol. 1 at 100-17. Consolidated Rail Corporation proposed a similar alternative which should also be evaluated. See KCS-35, vol. 1 at 7-13.

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Refer to the previous page for response.

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SEA considered the comment on alternatives. SEA maintains its position that the appropriate alternative for consideration in the EA is "no merger". Responsive Applications to the proposed merger included verified statements that the proposed alternatives or options to the UP/SP proposal did not exceed Surface Transportation Board environmental thresholds. KCS did not file a Responsive Application to the proposed merger to support its proposed alternatives. Additionally, KCS did not file a verified statement or Preliminary Draft Environmental Assessment (PDEA) in support of its proposal.



however, the proposed divestiture (the KCS alternative action) would not significantly impact the environment. Instead of adding a carrier in these corridors, the KCS alternative would merely substitute one carrier for another onto one of the two parallel and duplicate lines. UP/SP would operate on one line in each corridor, and some other carrier would operate on the other line in the corridor—thus avoiding the substantial traffic increases and operating changes that the UP/SP plan and Related Trackage Proposals entails.

In the present case, the SEA considered only the "merger" and "no merger" alternatives. EA, vol. 1 at ES-17 and ES-1. The SEA did not analyze the impacts of alternatives proposed by other parties (including the KCS alternative), or any other reasonable and feasible alternatives, based upon the SEA's belief that the proposals would not exceed the STB's environmental impact thresholds.

The complete lack of analysis of alternatives in the EA shows that the SEA did not give "full and careful consideration to possible alternatives" before reaching its finding of no significant impact. As such, the record is entirely inadequate to form the basis for a decision by the STB on the merits of proposed action.

V. As Proposed, the Merger and Related Trackage Proposals Will Have a Significant Environmental Impact. Therefore the SEA Must Prepare an Environmental Impact Statement

An EIS is required for any "major federal action significantly affecting the quality of the human environment." 49 C.F.R. § 1105.4(f); 42 U.S.C. § 4332. Further, where there exist "substantial questions whether a project may have a significant effect, an EIS must be prepared." The Steamboatery v. FERC, 759 F.2d 1382, 1392 (9th Cir. 1985). Since there

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The comment on need for an EIS was considered by SEA. The EA has properly addressed environmental concerns. Please refer to the discussion in Volume 1, Chapter 4 of the Post EA addressing the preparation of an EA versus an EIS.

is no doubt that the proposed merger, Related Trackage Proposals and the CMA Agreement will have an impact on the quality of the human environment, the dispositive issue becomes whether the proposed merger will "significantly" affect the quality of the human environment.¹

The ICC environmental regulations adopt by reference the definition of "significantly" promulgated by the President's Council on Environmental Quality (CEQ).² These regulations specify the factors that the STB must consider in deciding whether the proposed action is considered "significant." These factors include: (1) the degree to which the proposed action affects the public health or safety; (2) unique characteristics of the geographic area; (3) the degree to which the effects on the quality of the human environment are likely to be highly controversial; (4) the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks; (5) impacts that may be both beneficial and adverse; and (6) the degree to which the action may establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

The proposed merger, Related Trackage Proposals and CMA Agreement have the potential to significantly affect the public health and safety. They result in significant increases in rail traffic along a number of rail segments within the proposed UP/SP system.

¹ The SEA acknowledges that the decision on the merger and Related Trackage Proposals is a "major Federal action" requiring review under the National Environmental Policy Act, 42 U.S.C. § 4332; 40 C.F.R. § 1508.13. EA, vol. 1 at ES-2.

² The CEQ regulatory standards were designed to assist agencies in satisfying their statutory obligations under NEPA, and they apply to actions by every federal agency. 40 CFR §§ 1500.3, 1501.2; *Agabus*, 442 U.S. at 351.

33 Refer to the previous page for response.

34 Please refer to responses provided for comments #1 and #4.



The increased traffic will derive from a number of sources including the rerouting of train traffic within the consolidated UP/SP and BN/Santa Fe systems, diversions from other rail and non-rail carriers, and abandonments of certain rail segments.

Importantly, much of the traffic increases will occur between Houston and New Orleans, where congestion already is a problem. For example, a 1995 Louisiana Department of Transportation study showed that the East Bridge Junction, located on the NOPB rail line entering New Orleans, is the "principal bottleneck in Louisiana's railroad network." As stated in the study:

The Junction is owned by the New Orleans Public Belt Railroad (NOPB), and links directly with Illinois Central trackage. Maintenance and operation of the Junction is governed principally by agreements between these two railroads. East Bridge Junction is, however, the state's major rail gateway because it provides, in close proximity, linkage among the Southern Pacific and Union Pacific (via NOPB's Huey Long Bridge), the Norfolk Southern (and via the NS, CSX), NOUPT (Amtrak), and NOPB's mainline. The actual movement of trains across the Junction involves decisions by NS, IC and UP officials. In addition, several high volume roadway grade crossings are located nearby. As a result, the safety and efficiency of both highway and rail operations (both private and public), for both freight and passengers, are affected.

Add to the mix the fact that many of these trains are carrying hazardous commodities and will have to operate over the East Bridge Junction.

The second largest volume of rail traffic in the consolidated UP/SP system would move between Texas, Louisiana and Illinois. Texas, Louisiana and Illinois are ranked first, third and fourth respectively in terms of chemical production in the U.S.¹ According to the

¹ Statewide Intermodal Transportation Plan, State of Louisiana Department of Transportation and Development, October 1995, p.51.

¹ U.S. Chemical Industry Statistical Handbook, 1995, p. 153.

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Refer to the previous page for response.

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U.S. Chemical Industry Statistical Handbook, 142 million tons of chemicals and allied products are shipped annually by rail. (Id. at 157).

Because BN/Santa Fe has not submitted an operating plan or any information on its anticipated shipments of hazardous commodities, the SEA cannot evaluate the potential risks resulting from the operations of BN/Santa Fe under the Related Trackage Proposals. Without a formal traffic diversion study and BN/Santa Fe operating plan, the SEA cannot properly evaluate how the transportation of hazardous commodities will affect the environment.

BN/Santa Fe also has not submitted information on its current or anticipated future volume of hazardous materials traffic, nor has it provided evidence of its past experience and accident rate with respect to hazardous materials. In order for the SEA to thoroughly examine the impact on the environment, Applicants and BN/Santa Fe must submit such evidence along with evidence of any increased risk of accidents involving hazardous commodities as a result of the increased rail traffic and operational changes. Finally, BN/Santa Fe has not provided the SEA with its planned response action, including emergency actions and remedial actions, in case of a spill. As described by Mr. James R. McNally, General Manager of Hazardous Materials Systems in the Operations Department of Conrail, "[t]o gauge risk probability, the critical things to look at in a rail operating proposal are the amount of carrier handling, the number of carriers involved in a particular shipment, and mileage. . . . (T)he more carriers added to the mix, the more chance for a mishap." CR-12, V.S. McNally at 7 and 10.

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35 Please refer to response provided for comment #4.

36 SEA considered the comment on transport of hazardous materials. Refer to response provided for comments #4, #17 and #22.

37 SEA considered the comment on hazardous emergency response plans. This information has been provided to SEA. SEA's evaluation of hazardous materials emergency response issues is described in Volume 1, Chapter 4 of the Post EA. UP, SP, and BN/Santa Fe have hazardous materials emergency response plans in place and operating. SEA recommends mitigation measures related to hazardous materials emergency response are discussed in Volume 1, Chapter 5 of the Post EA.



The merger and Related Trackage Proposals also will result in substantial changes in operations which will only increase the risk of accidents. Under the merger application and Related Trackage Proposals, BN/Santa Fe will be subject to the dispatching and operating schedules of UP/SP when operating on UP/SP trackage between Houston and Memphis and Houston and Iowa Junction. Likewise, UP/SP will be subject to the dispatching and operating schedules of BN/Santa Fe when operating on BN/Santa Fe trackage between Iowa Junction and Avondale. Moreover, BN/Santa Fe (and UP/SP) will be subject to KCS dispatch and scheduling in Beaumont and Shreveport. In New Orleans, the NOPB will be in control of dispatching and scheduling. These operational changes, combined with increases in rail traffic and densities, will increase the potential for accidents, incidents and derailments. As the chart attached hereto as Exhibit 1 illustrates, there are over 7000 residential homes that will suffer from increased noise and will be exposed in many cases to additional risks arising from potential incidents, accidents and derailments.

These safety risks are real. In the last three months alone, there have been one major train derailments, eight of which have involved the release of hazardous chemicals to the environment. Six of the eight derailments involved trains operated by either SP or BN/Santa Fe. In addition to releasing hazardous and extremely hazardous substances to the environment, these accidents have resulted, *inter alia* in the evacuation of thousands of residents from their homes and offices. This recent rash of accidents illustrates that even a relatively minor accident involving hazardous commodities can have a significant impact on public health and safety.

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38 SEA reviewed the comment on operational changes. The operational changes alluded to regarding dispatching and scheduling are not environmental or safety issues; these are management issues. Dispatching by all railroads must comply with FRA regulations and operating rules.

39 Please refer to responses provided for comments #1, #4 and #20.

40 Please refer to response provided for comment #37.

Furthermore, the merger and Related Trackage Proposals will result in emissions increases of thousands of tons of pollutants, often exacerbating existing nonattainment problems. In other areas, the emissions increases may cause an attainment area to exceed the National Ambient Air Quality standards, which are designed to protect the public health and safety. In short, the effects of the proposed merger and Related Trackage Proposals are highly uncertain and highly controversial.

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Given the magnitude of this proposed merger, a finding of no significant impact in this proceeding would establish a precedent for all future STB actions. If the SEA finds that this proceeding does not significantly impact the quality of the human environment, it is likely the SEA never will find an action that does. Finally, a finding of no significant impact in this proceeding would frustrate the very purpose of NEPA, which is to ensure informed decision making by the STB.

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Accordingly, these "substantial questions" as to whether the proposed actions may significantly affect the quality of the human environment requires that the SEA must prepare an EIS. LaFramme v. FERC, 352 F.2d 389 (9th Cir. 1988); Jones v. Gordon, 792 F.2d 321, 827 (9th Cir. 1986); 42 U.S.C. § 4332(2)(C).

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VI. Conclusion

The very purpose of the Environmental Assessment is to "provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement." 40 C.F.R. § 1508.9(a). In this proceeding, the careful study and analysis prepared in connection with an EIS is necessary in order for the Surface Transportation Board to fulfill

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41 Please refer to response provided for comment #30.

42 Comment on environmental assessment noted. SEA's findings and recommendations for the current proposal have no direct bearing on hypothetical, future proposals.

43 Please refer to response provided for comment #33.

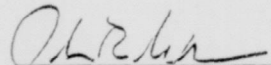
44 Please refer to response provided for comment #33.



the purposes of NEPA and make a "fully informed and well-considered decision" required by NEPA. Sierra Club v. United States Army Corps of Engineers, 701 F.2d 1011, 1029 (2nd Cir. 1983). Preparation of an EIS would "insure[] the integrity of the process of decision by giving assurance that suborn problems or serious criticisms have not been 'swept under the rug.'" Id.

This 1st day of May, 1996.

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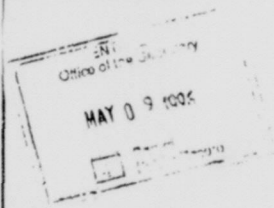

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May 1, 1996

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Refer to the previous page for response.



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BEFORE THE
SURFACE TRANSPORTATION BOARD

KCS-53

Finance Docket No. 32760

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

THE KANSAS CITY SOUTHERN RAILWAY COMPANY'S
MOTION TO STRIKE PORTIONS OF APPLICANTS' REBUTTAL AND
ACCOMPANYING VERIFIED STATEMENTS (UPSP 230-234) AND TO STRIKE
PORTIONS OF BN/SANTA FE'S RESPONSE TO INCONSISTENT AND RESPONSIVE
APPLICATION; RESPONSE TO COMMENTS, PROTESTS, REQUESTED CONDITIONS
AND OTHER OPPOSITIONS; AND REBUTTAL IN SUPPORT OF RELATED
APPLICATIONS TO WHICH BN/SANTA FE IS A PARTY (BN/SF 54)

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May 8, 1996



this juncture as a basis for the Board's consideration of the Application is unwarranted. As argued by Applicant UP in its motion to strike CCP and SP rebuttal testimony in the UP/CNW proceeding (UP/CNW-126), a party is not entitled to insert entirely new factual issues into the case on rebuttal. (UP/CNW-126, p.15) Similarly, Applicants herein "should not be permitted to introduce entirely new subjects and disputes into what is supposed to be a rebuttal filing." *Id.* The CMA agreement is analogous to part 6 of CC&P witness Trout's statement in the UP/CNW proceeding in that it relates to a theory not previously advocated by Applicants. Although Applicants will likely repeat their favorite refrain that KCS is only attempting to delay or somehow divert the Board's attention from relevant matters, that refrain has become stale and should be ignored. Applicants themselves have repeatedly emphasized the financial impact of this merger and the scope of the effect on rail transportation in this country. What the eleventh hour CMA agreement purports to achieve is a "fix" to the issues raised by the many parties opposing the merger. As an initial matter, it should be noted that the CMA agreement does not even purport to "fix" all of the issues raised by the party whose name is affixed thereto, *i.e.*, most of the concerns raised even by CMA and its members are not even addressed.³

Further, the purported "fixes" are not supported by operating plans, financial analyses, environmental analyses,⁴ labor impacts, or the myriad of other analyses required by the Board's rules, nor have Applicants amended their Application to include the effects of

³ See, SPI-16; CR-37; and DOW-19.

⁴ See Comments of The Kansas City Southern Railway Company on the Environmental Assessment (KCS-50).

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The Applicant submitted supplemental environmental information concerning the CMA settlement (5/21/96) and a Verified Statement (6/11/96) verifying to SEA that the agreement involves no substantive operational changes (see Appendix E - Applicant Related Correspondence).

SCOTT MANATT

Attorney at Law
March 28, 1996

Box 473
Corning, Arkansas 72422
Telephone: (501) 837-1183

Surface Transportation Board
Section of Environmental and Analysis
1201 Constitutional Avenue Northwest
Washington, D.C. 20423

ATTN: Environmental Project Director, Elaine Kaiser

Dear Ms. Kaiser:

Please find enclosed a copy of the full edition of the newspaper of Corning, Clay County, Arkansas, of June 22, 1995, with some 15 to 20 photographs of the train derailment which occurred in Corning, Arkansas on June 17, 1995.

Also find enclosed a copy of my Objection to the Merger filed in this matter setting forth other detail information. As you are aware, there have been four derailments on the Union Pacific line within the city of Corning, Arkansas (over a distance of 1.5 miles) since 1960, and a fifth incident, which was the explosion of a munitions train two miles North of Corning in 1966. Fire, water and chemicals don't mix as to the safety of our people.

In addition, the town was partially evacuated of up to 500 people, the flames burned for three days, some of which were 300 to 400 feet into the air on occasion, (the toxicity of the substance burning being unknown), but all of the residue going to the ground or in the air which in turn could go to the drain to Black River, which river is a 30 miles navigable water of the United States within the State of Arkansas and/or the sewer system of the City of Corning, Arkansas, and/or ditches which may lead to the river or to the sewer and water system of our town.

This was a follow-up to other derailments in which many, many train cars came to rest on the same mile and a quarter/ or half mile of track in the early 1970's, when the train cars were believed to contain chlorine or other dangerous chemicals and had to be removed to insure the safety of our people, and again we had volumes and volumes of water applied as the train cars lay on their sides in down town Corning, Arkansas and where the water went or into what stream, we still don't know.

In addition to these, a third wreck occurred without a fire, where the train cars came to rest on their side, and it was only spillage, the contents of which would be unknown to me.



A fourth derailment occurred when a train rounded the track on the South end of Corning, crossing Corning Lake, which is a linking of five different lakes, the lakes linked together, being Victory Lake, Taylor Lake, Corning Lake, Long Lake and Murphy Lake then the last lake being the entry into the wildlife restoration area, game and fish property, consisting of several thousand acres and Black River.

It is my concern that the railroad has not given due regard to the safety factors and/or the environmental impacts of their derailments and placing people at risk. I recently learned that as to any rail crossings, contractually the rail charged with paying the line use or trackage use charge is liable for all damages at crossings, so there would be no reason why Union Pacific should or would care one way or the other as to the condition of the rails in that by reason of improvident contracts, the liability would be passed on to the taxpayers such as in the case of Amtrak. It is my opinion that this is unequal and disproportionate positions where Union Pacific has the only rail in town and if you want to ride, you will assume all risk of damage regardless of fault. This is adverse to both safety and in my opinion is a violation of the law as prohibiting Monopoly and Anti Trust (except for the rail exclusion) but in either case is anti competitive and results in both contract over reaching and use charges and should not be tolerated, irrespective of the size and power of the applicant railroad such as Union Pacific. The world must again pause and wonder at the amazing misdirection of this merger application in that I know of no one who has asked, "How much money is owed and/or unpaid by Southern Pacific for line charges that will be forever concealed upon the completion of the inevitable merger, when approved or not approved?"

In addition to these matters, my son, while walking at night, got his foot caught in a crossing trap and while attempting to extricate his foot was struck and killed by an Amtrak train at the age of Nineteen years one month and two days. In a separate incident, two other persons whose vehicle apparently either stalled out or bottomed out by reason of a construction of a rail, were killed. There have been a number of persons prior to the railroad attempting to work on the crossings in down town Corning who would have been stuck on the rails during the inclement weather if not assisted and on two occasions, I removed vehicles from the tracks that could not pull themselves clear for the simple reason that the construction of the rail and the snow impacted thereon created a hole which would not allow the vehicle traction to pull clear.

The question of rail maintenance, the question of people safety and security, the question of public safety, the question of environmental impact and concerns, the question of contamination of water and air, the question of air pollution and the water pollution, the question of the health and safety of all our people by reason of unknown chemicals being airborne, and the absence of adequate safeguards and rail maintenance gives me grave concern for the environmental security of my city, the one of which I have been City Attorney upon completion of this term, some 19 1/2 years.

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SEA has considered the concerns about public safety and hazardous materials. SEA has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1, Chapter 4 of the Post EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be within the range of historical traffic fluctuations experienced by the railroad industry. Volume 1, Chapter 5 of the Post EA describes SEA's recommended system wide mitigation measures.

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Issues related to railway maintenance, trackage rights, and rail competition are not addressed in SEA's environmental analysis. They are, however, considered by the Surface Transportation Board in reviewing the proposed merger. Volume 1 of the Post EA provides information about safety and anticipated environmental impacts (i.e., air quality, noise, transportation, including grade crossings, and hazardous commodities) of the proposed merger and recommended mitigation.

BEFORE THE
INTERSTATE COMMERCE COMMISSION

Finance Docket No. 32760

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

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Office of the Secretary

DEC 14 1995

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Public Record

SCOTT MANATT, OBJECTING PETITIONER

OBJECTION TO THE MERGER

Comes now Scott Manatt individually and for his objection to the merger of Union Pacific and Southern Pacific Rail in the above financed docket case number now pending before the Commission, believes and therefore alleges and states:

1. That the approval of said merger is not in the public interest and on the contrary is adverse to the public interest and does not further the provisions set forth in 49 U.S. Code 11344 (b). The objecting party further alleges and states that the rails of Union Pacific Railroad are unsafe, unsound, inadequate, and fail to adequately provide and safeguard the traveling public and the public that lives contiguous to or near the said rails. That Union Pacific's present operation is such that this Petitioner believes and therefore alleges that they fail to adequately supervise, maintain, safeguard, and construct in a safe and efficient manner the rails of the United States.

2. That this Petitioner and objector believes and therefore alleges that Union Pacific engages in a cover-up tactic to avoid disclosing to the American public the dangers of the rails of Union Pacific in the United States.

1 SEA acknowledges Petitioner Scott Manatt's objection to the UP/SP merger.



3. That this Petitioner believes and therefore alleges that the dangerous rails of the United States maintained in an unsafe and inadequate manner should not have added to their rails other rails by merger until such time as the applicants have complied and made all the rails in the United States safe, secure, and sound for the traveling public.

4. That this Petitioner knows of his own knowledge, same being personal knowledge, that since 1966 there has been one explosion North of Corning, Arkansas and three derailments of trains on Union Pacific Railways in the City of Corning, Arkansas. That these derailments occurred and the box cars came to rest as close as one block to this Petitioner's office.

5. The most recent derailment was 19 cars in 1995, same being on June 17, 1995, in which there was a train derailment, explosion, and fire in down town Corning. That up to 500 people were evacuated and that the derailment was a Union Pacific Train in down town Corning, Arkansas. That the approximate total distance of this town, along the rail, is one and one-half miles and that the June 17, 1995 derailment placed the entire populous, including this Petitioner, at risk.

6. That prior thereto, and on a separate occasion, Union Pacific Rail had a train derailment in down town Corning that blocked the main street of Corning, Arkansas, blocked the entire West Front Street and evacuated the businesses. That at the said time that the cars were derailed and off the track, they contained hazardous chemicals and the hazardous waste and disposal people and the health department required the said box car to be immediately watered down, safeguarded and moved out of the city. That in the event the car had exploded, it is very likely that many, many lives would have been lost and that this occurred in the down town city limits of the City of Corning, Arkansas over a one and one-half mile stretch.

7. That in addition to this, in front of the Balcoate (sic) house, again on West Front Street, another derailment was had where six train cars were laid over

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SEA has reviewed the concerns regarding the safety and maintenance of rail lines. Although the general maintenance of rail facilities does not fall within the jurisdiction of the Surface Transportation Board, there are requirements for the maintenance of grade crossing warning devices implemented by the Federal Railroad Administration.

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Concerns about the transport of hazardous materials and emergency response are noted. SEA has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1, Chapter 4 of the Post EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be within the range of historical traffic fluctuations experienced by the railroad industry. SEA's evaluation of hazardous materials emergency response issues is described in Volume 1, Chapter 4 of the Post EA. UP, SP, and BN/Santa Fe have hazardous materials emergency response plans in place and operating. SEA recommends mitigation measures related to hazardous materials emergency response in Volume 1, Chapter 5 of the Post EA.

RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - ALAMEDA HISTORIC COMPLEX

ENTERED
Office of the Secretary
MAY 30 1996 Before the United States Transportation Board
Part of
Public Record

Finance Pocket No. 32760

RE: APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

RESPONSIVE APPLICATION BY ALAMEDA HISTORIC COMPLEX
FOR TRackage RIGHTS AND OTHER SPECIFIED CONDITIONS

To begin this request for conditions in allowance of Union Pacifics Application a short article to establish its validity seems in order for the Board to appreciate the sensibility of agreement.

It is not a small Irony that our Free Market System quite often trends toward Monopolies and this issue has been causing problems in this country since the Industrial expansion in the last Century. The Railroads in particular have created much Public consternation which had not really settled until the Federal Government Built the Great Interstate Highway system which expanded Truck Traffic. The steady loss of the Fast freight Business required the railroads to concentrate on Heavy Freight and cut back on operations area and as you may hear the service has been in many cases very poor. History shows that Monopolies give the lowest level of service that customers will tolerate and Profits are managed free of restraints so it should be no surprise that the Heavy freight business suffers. It is another Irony that the Railroads seek to increase Mergers as a means of providing better service which seems quite logical except that the Railroads still have the users in the service vice. A major Monopolistic element in Railroads per say is that no new Rail lines will ever be constructed to create better service as the Originals were given by the Federal Gov. any right of way the chose. As one examines the dilemma of free enterprize and Rail Mergers it becomes clear that the Railroads are moving into a Public Utility realm which they nor the Government seem ready to deal with as yet. An analogy could be made to A.T.T. before its breakup when many can remember that old Black dial Phone and how far we have come, so, a question would be can the Railroads also adapt to new technology. One possibility would be to incentive the Railroads to become a sort of Multi user right of way giving many more people the ability to experiment with new types of vehicles and traffic interchanges. It is a loss to the country that so few people are now allowed the privilege of running a railroad or even a train and a multi user system would permit a much greater expression of economic freedom. The railroads would probably be apprehensive of an open right of way because of the natural internal biases toward the status quo but this Merging process could give them the Cover to experiment. As of now the Union Pacific and Southern Pacifics Agenda seems to be focused mostly on controlling Foreign containers especially in merging the operations within the Port of Oakland's reorganization. It seems that along with their new economic benefits the railroads can cooperate with the general interest of the community as well in sharing their assets just as they seek expansion in our port.



ROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - ALAMEDA HISTORIC COMPLEX

Before the United States Transportation Board
Finance Docket No. 27769

RE: APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

RESPONSIVE APPLICATION BY ALAMEDA HISTORIC COMPLEX
FOR TRACKAGE RIGHTS AND OTHER SPECIFIED CONDITIONS

REQUEST FOR OVERHEAD TRACKAGE RIGHTS

As expressed in the opening article fewer and fewer people are going to be allowed the opportunity to run real trains because of the relentless economic pressures that are creating these mergers so this is a request to preserve some of what is now being lost

Specifically "Alameda Historic Complex" is seeking to be a Haven of sorts for the smaller Non Profit Train Preservation Groups that are organized here in California who have little money or trackage and are so dependent on the railroads they are afraid to ask for any.

As a means of generating enough income to properly maintain the equipment that already exists A.H.C. is proposing a major Rail Museum on the Naval Air Base in Alameda Calif that would attract enough Tourist to finance a Quality Display and Maintenance Area.

Linkage of the Museum with the Calif. State Museum in Sacramento by running a "Special Tourist Train" between Oakland and Sacramento would create a World class attraction that would have a regional benefit and help raise the money needed for Train Restorations.

The Railroads have not responded to my requests for Trackage rights and its assumed they are more concerned with the Precedence then with the actual effect the infrequent train runs would have on their operations but in any event it is an idea whos time has come.

In addition to the Oak.-Sac. Run a connection to Niles valley and the Napa Calif. Private rail line is being requested and an occasional run from Sac. up to Reno if conditions permit and of course access to service and yardage tracks during operations.

Southern Pacific also has a number of abandoned spurs of which the most valuable for Tourism would be that line running South out of Sacramento down into the Delta to the little town of Isleton from which the line could be extended to meet a Ferry boat on the Delta.

The Rail Trackage on the Island of Alameda itself is also needed as it lies within the general Museum Area and would be critical to be able to move and store equipment as would be the Main Rail Yard which is controlled by a 50%-ownership partnership by Union Pacific

As mentioned A.H.C. is seeking to be a place by of and for the rail preservation Groups and so a "general" kind of Trackage Rights is requested to allow the Older Train Engines and Equipment to travel to and from Alameda for Maintenance or as Displays in the Museum.

Yearly Historic Train rides from Coast to Coast is also a Goal and a Train that specializes in carrying R.V.s and or Personal Property from Coast to Coast is a service that the Railroads dont provide so its requested that U.P. allow some experimentation along those lines

- 1 The requested trackage rights to allow equipment movement to a proposed rail museum at the Alameda Naval Air Station would involve only occasional use of rail lines. This circumstance does not fall within the jurisdiction of the Surface Transportation Board.

Before the United States Transportation Board
Finance Docket No. 32760

RE: APPLICATION OF UNION PACIFIC RAILROAD ET AL.

RESPONSIVE APPLICATION BY ALAMEDA HISTORIC COMPLEX
FOR TRackage RIGHTS AND OTHER SPECIFIED CONDITIONS

COOPERATION WITH NEW TUNNEL

In addition to the rail Right of Way requirements of the Complex the tourist facility and Alameda will need a Bridge or Tunnel and it has been my efforts to construct a large Tunnel from Alameda under the Oakland Estuary and then to continue on under the Port of Oakland from where it would pass under the Bay over to S.F. Hwy. 280

Because the Cypress Replacement Freeway project is progressing and it must be modified to merge with the Tunnel its requested that to save time U.P. should promise passage under their property and to do what they can to assist the tunnels construction and operations

This project is sorely needed in the Bay Area and its been a great neglect on the part of the Transportation Bureaucracy not to have anticipated or to have actual plans for this type of Tunnel and its fallen on me a local individual to promote and plan the thing. It would be a great help at this late date if the Federal Govt. would do what it can to reduce the time consuming negotiations that would normally complicate any future agreements with U.P. or S.P. and simply ask that U.P. must give its full assistance as needed.

The S.T.B. Authority to request U.P. cooperation would come from the Competition effects that the Merger would have on Trucking by potentially increasing rail efficiencies to a point where Trucks are put at a disadvantage in competing for space in the Port area

A Second issue concerning the Merger is that it creates a greater politically influential organization that can use its Economic Leverage to a greater degree in specific areas and in this case a U.P. S.P. combine may resist local political requests to cooperate

The Tunnel under the Bay would also have a Rail in it and that would provide additional Competition and rail capacity that is needed for Commuters and the Merger would reduce the possibility that the combine could be persuaded to carry the local yokels.

As a message to the new Rail combine to accommodate the long range commuter trains to S.F. its requested that they in fact should anticipate such service now and plan their local Trackage so as to facilitate easy access to and from the Tunnel and the Right of Way

The Tunnel project should not disrupt the Combines rail operations except for adjustments which can be managed with normal Traffic

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The proposed bay tunnel is not included in the proposed merger. This issue is not within the jurisdiction of the Surface Transportation Board.



ROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - ALAMEDA HISTORIC COMPLEX

Before the United States Transportation Board
Finance Docket No. 12760

RE: APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

RESPONSIVE APPLICATION BY ALAMEDA HISTORIC COMPLEX
FOR TRACKAGE RIGHTS AND OTHER SPECIFIED CONDITIONS

CONSTRUCTION OF A TRUCK ONLY ROADWAY

As stated in the request for Tunnel passage the port of Oakland's reorganization is creating a competition for space between the Railroads and the Trucking industry and that issue revolves around the Warehouses being turned over to the port by the U.S. Military.

New Tunnels will help the Trucking industry make good use of most of this area in cooperation with the Rail Industry which does not have the Auto congestion problem to deal with in its operations and its advantage in the area will increase with Merger efficiencies.

As a means of mitigating the already serious congestion problems in the East Bay it has been my suggestion to S.P. from years ago that they could easily construct a special Truck only Roadway system on the Shoulders of their East Bay rail tracks with very few problems.

S.P. had not even replied to that potentially profitable suggestion and instead pleaded poverty with its last Merger initiative and now after 1/4 billion in profits is pleading greater rail efficiencies which would put East Bay Trucking at increasing time disadvantages.

It is probable that S.P. does not wish to set the precedence of building a Freeway bypass system for its trucking competitors in this situation because other communities in less profitable areas would then be requesting similar treatment with uncertain results.

This Merger situation however is the perfect opportunity for us to see if such a Bypass is really viable and it would reduce a lot of the current very Dangerous congestion on our local East Bay freeway and U.P. will have the new S.P. right of ways which it can modify.

Because the Tunnel will allow an increase in traffic the extra freeway capacity will be well used and the Port of Oakland can be converted into a more viable Warehousing area accessible to Trucks which would be able to travel freely to the outer suburban areas.

The Tunnel may have a traffic separation between Autos and Trucks so that would work well with integrating into the Bypass and the contractors and financial backers of the tunnel would likely want to build the bypass within the purview of U.P. and your direction.

The roadway like the tunnel is likely to be a toll road at first but if the State or Federal Govt wishes otherwise then that is possible.

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The suggestion that the SP be directed to construct a highway to benefit modal freight service competition is beyond the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.

BEFORE THE
SURFACE TRANSPORTATION BOARD
UNITED STATES DEPARTMENT OF TRANSPORTATION



In the matter of the Application of)
Union Pacific Corporation, Union)
Pacific Railroad Company, Missouri)
Pacific Railroad Company, Southern) Finance Docket No. 32760
Pacific Rail Corporation, Southern)
Pacific Transportation Company, St.)
Louis Southwestern Railway Company,)
SPCSL Corp., and the Denver and Rio)
Grande Western Railroad Company)

NOTICE OF INTENT TO PARTICIPATE
OF
THE CITY OF BRENTWOOD



Comes now the City of Brentwood, a California municipal corporation ("Brentwood") appearing by and through its attorney, McDonough, Holland & Allen, and give notice of its intent to formally participate in the subject proceeding as an interested party whose position of support or opposition has not yet been determined. The Application suggests that significant and adverse environmental and safety impacts arising out of increased rail traffic and blockage of a critical rail/highway and/or city street grade crossings will occur in Brentwood if the transaction for which the Applicants seek authority is consummated. Analysis of the Application by Brentwood is continuing, and its position will be determined by the results of that analysis. Brentwood reserves the right to conduct discovery concerning matters arising from its analysis in accordance with the Rules of Practice and Orders of the Board issued in this proceeding, and to request imposition of conditions upon any authority granted by the Board.

Brentwood requests that copies of all pleadings, orders, decisions and other papers filed in this proceeding be served upon it at the following address:

Paul C. Anderson
McDonough, Holland & Allen
1999 Harrison Street, Suite 1300
Oakland, CA 94612

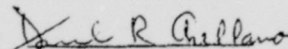
Phone No. (510) 273-8780
Fax No. (510) 839-9104
Voicemail (510) 273-8772
Direct Line (510) 273-8772
Car Phone (510) 701-7399

Dated: January 12, 1996

Respectfully submitted,

Jay M. Corey, City Manager

BY:


Daniel R. Arellano, P.E.
Transportation Manager

1 City's concern for potential impacts related to increased rail traffic is noted. Volume 2, Section 4.3.1 of the EA reports that train traffic on the Martinez to Stockton segment, which includes Brentwood, would increase by 4.0 trains per day over the existing zero trains per day. The section also reports that post-merger, 74 residences and one church would lie within the 65 L_{dn} contour. Section 4.2.2. reports grade crossing information. There are 25 grade crossings along this segment, 6 have ADT counts greater than 5,000 vehicles per day. At typical and low speed grade crossings along the route (e.g., train speed of 25 mph), delay to vehicle traffic would increase from 0 minutes (pre-merger) to 12 minutes (post-merger) over a 24-hour period. At the highest speed grade crossings (e.g., train speed of 40 mph), delay to vehicle traffic would increase from 0 minutes (pre-merger) to 8 minutes (post-merger) over a 24-hour period. The maximum queue length per train due to peak hour vehicle traffic ranges from 1 to 24 vehicles, and the corresponding delay per vehicle would vary from 1.35 to 1.77 minutes.

Additional analysis was conducted on this segment. This analysis shows that the average delay per vehicle using crossings on this segment would be one second or less over existing conditions. This minor decrease in traffic level of service (LOS) associated with the post merger level of freight operations will not require mitigation. SEA's traffic methodology is described in Volume 1, Chapter 4 of the Post EA.

While acknowledging the concerns of the City, SEA concludes that the proposed merger would result in impacts that are below Surface Transportation Board thresholds.



BOARD OF SUPERVISORS

ADMINISTRATION CENTER

25 COUNTY CENTER DRIVE - OROVILLE, CALIFORNIA 95965

TELEPHONE: (916) 538-7224

ED McLAUGHLIN, Chair
Fourth District

VIVIAN MEYER
First District

JANE DOLAN
Second District

MARY ANNE HOUX
Third District

GORDON THOMAS
Fifth District

April 29, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
Washington, D.C. 20423-0001

RE: COMMENTS IN RESPONSE TO THE ENVIRONMENTAL ASSESSMENT -
MERGER APPLICATION BY UNION PACIFIC AND SOUTHERN PACIFIC
RAILROADS

Dear Ms. Kaiser:

Thank you for sending copies of the Environmental Assessment to Butte County. One copy has been made available for public review per your request. These are lengthy documents, but the direct impacts to this County appear limited to an increase in daily train traffic of approximately 30%. In addition to our earlier comments, we would like to request the following concerns be made part of the record, and subsequently addressed as mitigation measures in the event the merger application is approved.

- A number of the existing at grade road crossings are very rough on the Southern Pacific line. The County has written Southern Pacific several times in the past requesting these crossings be brought up to a reasonable level of repair. This has not been done, and we remain concerned about the safety of motorists on County and State roads at these crossings. Damage to vehicles is also a concern due to the poorly maintained crossings. **1**
- Southern Pacific also has a pattern of leaving debris for extended periods of time following construction and maintenance work. This is not allowed when work is performed on County and State roads, and has an adverse visual impact to the community. Following merger, better performance in cleaning up work sites would be greatly appreciated by County residents. **2**
- Southern Pacific owns several parcels in the community of Durham that have accumulated debris, junk, and weeds. If the railroad cannot or will not maintain these in a fashion normal to other property owners, then we encourage these properties to be sold to someone else. **3**

- 1** SEA acknowledges Butte County's concern about maintenance of at-grade crossings. SEA's recommended mitigation for this issue is reported in Volume 1, Section 5 of the Post EA.
- 2** SEA recognizes the County's concern about cleaning of work sites. This issue does not fall within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.
- 3** SEA acknowledges the County's concern about maintenance of Applicant-owned properties in Durham. This issue does not fall within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant.



P.O. Box 702
33 S. Main Street
Colfax, CA 95713



916 346 2313
Fax 916 346-6214

Comes now the City of Colfax, a California municipal corporation ("Colfax"), appearing by and through its attorney, Claude L. Biddle, and gives notice of its intent to formally participate in the subject proceeding as an interest party whose position of support or opposition has not yet been determined.

The Application suggests that significant and adverse environmental and safety impacts arising out of increased rail traffic and blockage of a critical rail/highway and/or city street grade crossing may occur in Colfax if the transaction for which the Applicants seek authority is consummated. Analysis of the Application by Colfax is continuing, and its position will be determined by the results of that analysis.

Colfax reserves the right to conduct discovery concerning matters arising from its analysis in accordance with the Rules of Practice and Orders of the Board issued in this proceeding, and to request imposition of conditions upon any authority granted by the Board.

Colfax requests that copies of all pleadings, orders, decisions and other papers filed in this proceeding be served upon it at the following address:

Claude L. Biddle, City Attorney
City of Colfax
P.O. Box 702, 33 S. Main Street
Colfax, CA 95713
(916) 346-2313 (phone)
(916) 346-6214 (fax)

Dated: January 11, 1996

Respectfully submitted,

Gene Albaugh
GENE ALBAUGH
City Manager

1

1

Since receipt of this comment, SEA has received a letter (dated June 5, 1996) from the Placer County interests requesting that SEA not recommend any specific mitigation for Placer County in the Post EA because they are negotiating a Memorandum of Understanding (MOU) with UP/SP that would address their environmental issues. The MOU would not affect any SEA recommended compliance with applicable laws and regulations. The signatories to the letter are the Placer County Transportation Planning Agency, City of Auburn, City of Colfax, City of Lincoln, Town of Loomis, City of Rocklin, City of Roseville, Placer County, and the Placer Foothills Consolidated Fire District. A copy of the letter is included in Appendix B.

If the MOU is signed, SEA would recommend that the Surface Transportation Board require UP/SP to comply with the MOU conditions. If the MOU is not signed, SEA will recommend appropriate mitigation in a supplemental environmental document.

RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - CONTRA COSTA COUNTY

Community
Development
Department

County Administration Building
651 Pine Street
4th Floor, North Wing
Martinez, California 94553-0095

Phone:

Contra
Costa
County



Harvey E. Bragdon
Director of Community Development

May 1, 1996

Ms. Elaine K. Kaiser
Surface Transportation Board
Section of Environmental Analysis
Washington, D.C. 20423-0001

RE: Environmental Assessment, Finance Docket No. 32760, Proposed Merger of the Union Pacific Railroad companies and Southern Pacific Rail companies

Dear Ms. Kaiser:

This letter is to acknowledge that the County of Contra Costa, a duly constituted subdivision of the State of California, has received the Environmental Assessment for the Proposed Merger of the Union Pacific Railroad companies and Southern Pacific Rail companies (Finance Docket 32760).

Contra Costa County, which stretches approximately 40 miles from west to east and approximately 20 miles north to south, is adjacent to Alameda, San Joaquin, Sacramento, and Solano counties in Northern California.

The proposed merger of Union Pacific and Southern Pacific would directly affect two railroad lines that traverse Contra Costa County currently owned and operated by the Southern Pacific Railroad Company: Southern Pacific's "Cal-P" double track main line between Oakland and Martinez which traverses Contra Costa County along the San Pablo Bay shoreline and Carquinez Strait shoreline; and, Southern Pacific's Mococo line which connects Martinez and Stockton by traversing the east and south sections of Contra Costa County.

Our review of the Environmental Assessment indicates that Contra Costa County will be affected by the projected changes in the density and character of rail traffic which may be moved over these two rail lines if the proposed merger and/or related transactions proceed. Accordingly, we are submitting the following comments on the Environmental Assessment:

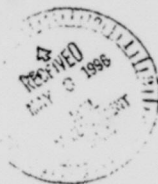
1. Need to Evaluate Settlement Agreement with Burlington Northern Santa Fe Railroad

Union Pacific and Burlington Northern Santa Fe Railroad (BNSF) have entered into a settlement agreement that would grant BNSF rights to operate trains on the Cal-P and Mococo lines. The Environmental Assessment does not precisely quantify the volume of BNSF traffic to be diverted to the Cal-P and Mococo lines under this settlement agreement. There have been some reports that indicate BNSF would operate an additional six freight trains per day on the Cal-P line and up to 10 freight trains on the Mococo line. The Environmental Assessment should document the number of trains that would be diverted to these lines under the BNSF settlement agreement and then evaluate their impact on nearby communities in terms of air quality, noise, hazardous commodities transport, grade crossing safety, and local/regional transportation circulation.

1 Subsequent to the publication of the EA, the East Bay Regional Park District and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the District. It is SEA's understanding that the issues and concerns of Contra Costa County are the same as the District's and are covered by the MOU. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.



EBRPD-4



Before the
United States Surface Transportation Board

Finance Docket No. 32760

APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

THE EAST BAY REGIONAL PARK DISTRICT'S
COMMENTS AND RESPONSE TO THE ENVIRONMENTAL ASSESSMENT

Susan B. Gerson
J. Michael Cavanaugh
GRAHAM & JAMES LLP
Suite 700
2000 M Street N.W.
Washington D.C. 20036
Tel. (202) 833-0807
Fax (202) 463-0823

Attorneys for the
East Bay Regional Park District

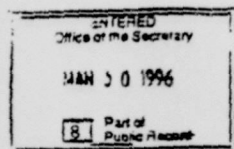
Subsequent to the publication of the EA, the East Bay Regional Park District and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the District. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.

Before the
United States Surface Transportation Board

Finance Docket No. 32780

APPLICATION OF UNION PACIFIC RAILROAD, ET AL.

COMMENTS AND REQUESTS FOR CONDITIONS OF
THE EAST BAY REGIONAL PARK DISTRICT



Susan B. Gerson
J. Michael Cavanaugh
GRAHAM & JAMES LLP
Suite 700
2000 M Street N.W.
Washington D.C. 20036
Tel. (202) 833-0807
Fax (202) 463-0823

Attorneys for the
East Bay Regional Park District

Subsequent to the publication of the EA, the East Bay Regional Park District and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the District. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.





City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

5/31/

(510)

FAX (510)

May 1, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board, Room 3219
1201 Constitution Avenue, NW
Washington D.C. 20423

Dear Ms. Kaiser:

The City of Martinez has the following comments on the Draft Environmental Assessment prepared for the Union Pacific- Southern Pacific merger (Finance Docket No. 32760):

We have reviewed the Environmental Assessment, and the proposed Operating Plan. The merger will result in a dramatic increase in freight trains through downtown Martinez. This conclusion is based on UP's intent to consolidate traffic from UP lines onto SP lines: Donner Pass Line (Sparks to Roseville), Sacramento Line (Roseville to Oakland), Mococo Line (Martinez to Stockton), and consolidate all UP/SP intermodal traffic at a new Joint Intermodal Terminal in the Port of Oakland.

In addition, UP has granted trackage rights to the Burlington Northern Santa Fe over many of the same lines. This will not only increase the number of trains in downtown Martinez, but will divert them from the BNSF Franklin Canyon Line (portion of Stockton to Richmond), which is a much safer alignment from Martinez to Richmond because it has no grade crossings.

The specific impacts the City anticipates from the merger are:

- The increased number of freight trains through downtown Martinez will cause a localized significant decrease in air quality. Although the San Francisco Bay Area has recently been redesignated as an Attainment Area by the federal government, that status is currently being reviewed.

We believe this impact could be mitigated by a UP/SP contribution to the City to encourage use of railroad passenger trains as an alternative to single occupant vehicles. This contribution could take the form of dedicating the site of our proposed new Intermodal Project (new Amtrak station, parking, bus transfer facility, bicycle lockers). The site is currently owned by the SP.

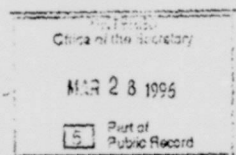
JAMES JAKEL, CITY M

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Subsequent to the publication of the EA, the East Bay Regional Park District and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the District. It is SEA's understanding that the issues and concerns of the City of Martinez are the same as the District's and are covered by the MOU. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.

RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - MODOC COUNTY & CITY OF ALTURAS



Before the

Surface Transportation Board

Finance Docket No. 32760



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

Before the Surface Transportation Board

Docket No. AB-12 (sub-No. 184X)

SOUTHERN PACIFIC TRANSPORTATION COMPANY
ABANDONMENT EXEMPTION - WENDEL - ALTURAS LINE
IN MODOC AND LASSEN COUNTIES, CALIFORNIA

COMMENTS OF THE COUNTY OF MODOC AND CITY OF ALTURAS

The County of Modoc and the City of Alturas wish be on record opposing the merger of the Union Pacific Railroad and the Southern Pacific Railroad as presented. The merger proposes abandonment of a portion of the Modoc Line (Flannigan to Alturas), rail line sections, beginning mile post 455.6 and ending mile post 360.1. The County of Modoc and the City of Alturas believe the entire rail system as it traverses the county is an under utilized system but a very important part of the entire rail transportation system, as well as a benefit to the public at large. The County of Modoc and the City of Alturas respectfully request that the commission consider these additional facts:

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SEA has noted the County's and City's opposition to the proposed abandonment.



1. The N.C.O. railroad first began service to Modoc County in 1907. Prior to arrival of rail service, all raw materials, agricultural products and goods produced in the county were consumed within the rural area. Arrival of the railroad provided a means of transportation to export products and heralded 60 years of economic prosperity within the county. Thus, the rail line has played a large role in the development, customs and culture of the County of Modoc and is still an accepted part of our communities.

2. The Modoc line provides the only alternative form of transportation to move goods to and from Modoc County and the City of Alturas. Only United Parcel Service provides regular scheduled service within the County of Modoc and to the City of Alturas. No other regularly scheduled bus service or truck service is provided.

3. In an era of rapid consumer and economic changes, it is difficult to estimate transportation needs. The Modoc Line provides flexibility and transportation stability for the city and the county to adapt to these changing times.

4. Abandonment of the Wendel to Alturas section of the line will place the City of Alturas and the City of Lakeview at the end of what will be considered a very long spur. Without heavy traffic to keep the spur open, it will only be a short time before it is abandoned. The economies of rural regions are based on the extraction of base resources and the primary processing of such which are best shipped by rail. The Wendel to Alturas section of the Modoc Line is important because it provides the shortest distance to markets south of the county seat. Rerouting to the west could cost shippers considerably more and place them at an economic disadvantage. For example, shipments of lumber to Reno would be shipped first to Klamath Falls, Oregon, south to Sacramento then east to Reno.

5. The County of Modoc and the City of Alturas are in a depressed and marginal economic state experiencing high welfare and unemployment. We would suffer unmeasurably in our ability to attract business and industry. As a point in fact, we are currently under consideration as a location for a meat packing plant, a building block manufacturing plant and a cogeneration power plant. Each of these industries are counting on continued rail service and will locate elsewhere without rail service.

6. Given the proximity of the line to wildlife refuges and sensitive habitats throughout the county and the economics associated with the construction of a new line, a decision to remove the line will most likely represent an irreversible commitment for no service to the

City of Alturas. We believe this represents a short-term benefit to the detriment of long-term goals.

7. In 1917, the City of Alturas gifted several blocks of land in the center of the city to the N.C.C. railroad; subsequently the Southern Pacific Railroad. The site was used as a maintenance and repair facility. The State of California currently has this location on a hazardous sites list. Should abandonment occur, the City of Alturas requests lands be remediated for hazardous waste and returned to the city for redevelopment efforts. The railroad grade both east and south of the City of Alturas is an integral part of the flood management program designed by the Army Corp of Engineers. Should abandonment of the line occur virtually one half of the city will be at risk of flood.

8. The Township of Likely utilizes and is dependant on a water system installed and maintained by the Southern Pacific Railroad.

9. Please be aware that under The County Land Use Ordinances any mitigations that involve the transfers or long-term lease of property to State or Federal agencies require county participation throughout the mitigation, negotiation and transfer process.

10. The line serves primarily overhead traffic that short cuts the terminals in Sacramento, Roseville and Portland. It also avoids the Sierra Nevada route that directs traffic through downtown Reno, Nevada. In addition, the line provides an alternate route when the routes to the west are under maintenance repair or have suffered accidental damage. The accident at Dunsmir in 1993 is a case in point. In addition, the line provides for increased overall traffic and scheduling flexibility at peak flows or in times of schedule conflict.

11. The document undervalues the line by stating there are between one and two trains per day utilizing the line. As discussed in the accompanying Verified Statement of Scott Kessler, average traffic on the route is between six to ten trains per day.

12. The line is in generally good condition, therefore costly reconstruction that would predicate abandonment is not necessary.

13. The City of Lakeview utilizes the line to ship lumber to external markets and biomass to a power plant in Wendel. The City of Lakeview purchased those portions of the line north of Alturas from Southern Pacific. You may wish to check the conditions of sale for provisions that would preclude abandonment.

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2 Respondent's request for return of property previously gifted to SP in the event of abandonment does not fall within the jurisdiction of the Surface Transportation Board. The respondent should forward this concern directly to the Applicant. SEA's general statement about rails- to-trails conversion is included in Volume 1, Chapter 4 of the Post EA.

3 Abandonment of the line should not affect the flood management of the area. Volume 3 of the EA describes the typical salvage activities that the Applicant would conduct. Volume 1, Chapter 5 of the Post EA, describes SEA's recommended mitigation measures for abandonments.

4 SEA has noted the Township's concern about its water system. The water system is not part of the rail abandonment and is beyond the scope of the Board's jurisdiction. This concern should be forwarded to the Applicant.

5 The County's role in mitigation plans for the transfer of lands to state or federal agencies is noted. In the event that the abandonment is approved and involves a state or federal agency (such as B.L.M.), it is assumed that the County would exercise its statutory authority to participate.

6 Currently, through train service operated by SP averages 2 trains per day. Attachment 13 in Volume 3 of the merger application indicated that there was no traffic on the line in 1994. This is correct for the specific time period use as the base, because the SP had suspended through service during a period that included the Year 1994, and rerouted the traffic via Roseville. This service was re-instituted in August, 1995, and continues to operate. The rail traffic numbers found in Subsection 4.1.2.6 of Volume 6, Part 4, Chapter 4, of the merger application are incorrect.

SP also operates local freight service from Klamath Falls to Alturas and return, one day each week. It is expected that this service would continue to be operated by the merged system. The operation of the Lakeview Branch has been assumed by a short line, which may account for some of the trains observed in Alturas. On a given day, 6 to 10 trains might be counted if the local and the short line, as well as the pair of through trains were operating, but this would not to be the case on a daily average basis.



14. The Modoc line is an under utilized cutoff. Total rail capacity could be increased if it were more fully utilized for overflow traffic and to provide service to destination points between Portland and Sacramento and east to Reno and Salt Lake City. In addition, it could reduce the number of trains that travel through downtown Reno and Sparks, and relieve pressure at terminals in Portland, Sacramento and Roseville.

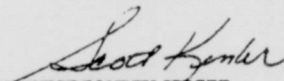
15. The Modoc line provides some degree of national security through the movement of military equipment from bases at Herlong, Nevada to Klamath Falls, Oregon and destinations in the northwest.

16. The Modoc Line is the shortest route connecting points in the east to points between Portland and Sacramento.

17. The route does not suffer the weather related hazards that routes over the Sierra Nevada's and Feather River Canyon have, and therefore could provide more reliable service for destinations north of Sacramento and south of Portland, as well as, destinations in the east.

WHEREFORE, the County of Modoc and the City of Alturas, respectfully request that this commission deny the merger as it is requested, or approve with a mandate to aggressively continue use of this line, or divest the Southern Pacific Railroad to a competing railroad that will fully utilize the line between Klamath Falls, Oregon east to Herington, Kansas.

Respectfully submitted,
SCOTT KESSLER, AICP


202 WEST FOURTH STREET
ALTURAS, CALIFORNIA 94102
(916) 233-6406

Planning Director for the
City of Alturas
County of Modoc

March 26, 1996

4

The railroad indicates, in Subsection 4 1.1.2, that overhead traffic will be shifted to another route, and even if abandonment is denied, no operations will be conducted east (south) of Alturas to Wendel. The merged system will offer new combinations of routes which may be found preferable, either in terms of shorter distances, or the opportunity to generate economies of scale by increasing the amount of traffic that may be operated on the alternative line. This, however is an economic issue, and not within the purview of SEA.

7 Comments on the importance of the rail segment in local, regional and National goods movement are noted. However, these issues are beyond the scope of SEA's environmental review. The respondent should forward this concern directly to the Applicant.

COUNTY OF NEVADA

STATE OF CALIFORNIA

950 Main Avenue • Nevada City, California 95959-4617
Telephone: (916) 265-1480 • FAX: (916) 265-1234

BOARD OF SUPERVISORS



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March 8, 1996

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

RE: Finance Docket No. 32760 - Comments - Nevada County, California, Board of Supervisors

Dear Ms. Kaiser:

The purpose of this letter is to convey to you the concerns of the Nevada County Board of Supervisors regarding the proposed merger between the Union Pacific and Southern Pacific railroads.

The Board of Supervisors believes that any impacts caused by the merger and the resulting increase in train traffic should be fully mitigated.

The Nevada County Board of Supervisors is aware that the Town of Truckee plans to file statements containing specific detail concerning potential impacts of the proposed rail merger. The issues contained herein are of concern to the Nevada County Board of Supervisors and this letter is written in support of the more complete information that Truckee will transmit to you.

Impacts on Vehicle Traffic Utilizing California State Highway 267 Crossing of SP Donner Summit Line

This highway grade crossing is located near downtown Truckee. Each time a train moves through the Town of Truckee, auto traffic comes to gridlock in the vicinity of the railroad crossing. During peak traffic times, the queues extend from the train tracks one to two miles south into the Marsh Valley. On the north side of the crossing, emergency vehicles are frequently blocked from exiting the Truckee fire station.

1 SEA acknowledges the Board of Supervisors' position that impacts caused by the merger should be mitigated. SEA proposes mitigation for significant adverse impacts in Volume 1, Chapter 5 of the Post EA.

2 SEA recognizes the Board of Supervisors' concerns about traffic impacts in Truckee. Subsequent to the issuance of the EA, the Town of Truckee and UP/SP reached an agreement to mitigate traffic impacts. UP/SP has agreed to provide funding for a new highway grade separation that will alleviate traffic congestion in the center of town.



Proposed Merger between UP/SP Railroads
March 8, 1996
Page 2

Truckee is the gateway to the North Lake Tahoe area and this region's economy is heavily dependent upon tourism. The extreme congestion, which occurs when trains move through the area, has a potentially negative economic impact on Truckee and the rest of the North Tahoe region.

Air Quality Issues

Eastern Nevada County is under the jurisdiction of the Northern Sierra Air Quality Management District and has a nonattainment air quality status. The increase in train traffic has the potential to increase particulate matter and other pollutants in the air. Also, the pollutant levels may increase from vehicles in traffic queues waiting for trains to clear the crossing.

Water Quality Issues

The railroad tracks in the Truckee area run along the Truckee River canyon which is a part of an important and sensitive watershed. The environmental impact analysis for this proposed merger should consider potential degradation of water quality in the Truckee River, and the potential for contamination that may occur if a train, carrying hazardous materials, has an accident near the river.

Potential Mitigations

In preparation of the environmental assessment for the proposed merger, it has been suggested that the following potential mitigations be considered:

(1) The geography of the State Highway 267 SP railroad crossing precludes the installation of a grade separated crossing at that location. However, there is an existing grade separated crossing on Highway 89, a short distance west of the Highway 267 crossing. Potential mitigation for the increased train traffic might be to provide funding to assist in a widening of the SR 89 grade separated crossing to allow more traffic to utilize that location during times when trains are moving through town.

(2) Another way that the railroad could help alleviate the impacts of increased train traffic would be to provide passenger rail service into the Truckee region. This would allow tourists to access the recreational facilities of the High Sierra without bringing vehicles into the area. In 1992, the Nevada County Transportation Commission prepared a rail feasibility analysis which indicated the potential viability of passenger rail operations from the San Francisco Bay Area into the Truckee/Reno area. We hope you will consider this information in the preparation of the environmental assessment.

(3) Nevada County and the State of California are working to complete plans for Highway 267 to bypass the Town of Truckee and bridge the Truckee River and the railroad. We have been working for years to obtain funding for this project and it continues to be at risk. Once this bypass is

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2 Refer to the previous page for response.

3 SEA acknowledges the Board of Supervisors' air quality concerns. Subsequent to issuance of the EA, the Town of Truckee and UP/SP reached agreement that the UP/SP provide funding for the Town's wood stove program to improve air quality (especially PM₁₀) in that area of Nevada County.

4 SEA recognizes concerns about water quality in the Truckee River and hazardous material spills. SEA has conducted an independent analysis of the movement of hazardous materials throughout principal corridors of the proposed merged UP/SP route system. A description of the methodology for this analysis is contained in Volume 1, Chapter 4 of the Post EA. The post-merger risk posed by the movement of hazardous materials through this region was found to be higher than the historical traffic fluctuations experienced by the railroad industry. Even with this increase, SEA considers the movement of hazardous materials safe because of the necessity to comply with Federal regulations regarding the movement of such materials. (See page 4 of the US DOT response letter in Appendix A.) In response to this comment, SEA also recommends additional mitigation as described in Volume 1, Chapter 5 of the Post EA.

5 SEA has considered the County's suggestion of potential mitigation. Subsequent to the issuance of the EA, Truckee and UP/SP reached an agreement to mitigate traffic impacts. UP/SP has agreed to provide funding for a new highway grade separation that will alleviate traffic congestion in the center of town.

6 The Surface Transportation Board has no jurisdiction regarding passenger train service. The respondent should forward this comment directly to the Applicant.

Proposed Merger between UP/SP Railroads
March 8, 1996
Page 3

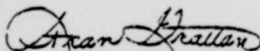
constructed, a significant amount of traffic will be moved out of Truckee. Consideration should be given to the railroad providing some funding to help with construction of the bypass as a mitigation measure.

If you need further information from the Nevada County Board of Supervisors, please feel free to contact the Board office at the address above or call directly to (916) 265-1480.

To enable the board to continue to track this important issue, please send copies of the Environmental Impact Statement to the Nevada County Planning Department, 950 Main Avenue, Nevada City, CA 95959 and to the Nevada County Transportation Commission, 101 Providence Mine Road, Suite 102, Nevada City, CA 95959.

Thank you for the opportunity to share these comments.

Sincerely,



Fran Grantan, Chairman
Nevada County Board of Supervisors

FG:nh

cc: Truckee Town Council ✓
Senator Diane Feinstein
Senator Barbara Boxer
Congressman Wally Herger
Congressman John Doolittle
Assemblyman Bernie Richter
Senator Tim Leslie

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Please refer to the response provided for comment #5 of this letter.



RECEIVED
OFFICE OF ECONOMICS
DIRECTOR'S OFFICE

MAY 3 4 32 PM '96 BEFORE THE
SURFACE TRANSPORTATION BOARD

RECEIVED
SURFACE TRANSPORTATION
SECTION OF ENVIRONMENTAL ANALYSIS

Finance Docket No. 32760

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

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

COMMENTS TO ENVIRONMENTAL ASSESSMENT
OF COUNTY OF PLACER AND
PLACER COUNTY TRANSPORTATION PLANNING AGENCY

The County of Placer and Placer County Transportation Planning Agency hereby submits its Comments to the Section of Environmental Analysis regarding the proposed merger of Union Pacific Railway Company with the Southern Pacific Railroad Company. The proposed Union Pacific and Southern Pacific merger will result in a considerable increase in train activity in the post-merger environment. Rail traffic is expected to increase substantially on the Roseville to Sparks route (Donner Route) and the Roseville to Marysville Route (Marysville route). This increase in rail activity along these routes has the potential to create significant impact on the County and various jurisdictions within the County.

As a small suburban/rural county along both the Donner Summit and Marysville rail routes, Placer jurisdictions would be disproportionately affected by the proposed merger. The merger would increase the number of trains traveling through Placer County from the present twenty-eight trains to as many as fifty. Union Pacific proposes to use the Roseville rail yard as its Northern California freight hub. This increased route and yard traffic would have an adverse impact on passenger rail and traffic congestion due to increased noise, air pollution and delay at grade crossings, degradation of water quality and reduced public safety. These impacts were previously documented in a March 28, 1996, Placer County submission to the Federal Surface Transportation Board as Comments to Finance Docket Number 32760 regarding the Union Pacific/Southern Pacific rail merger, and include:

Since receipt of this comment, SEA has received a letter (dated June 5, 1996) from the Placer County interests requesting that SEA not recommend any specific mitigation for Placer County in the Post EA because they are negotiating a Memorandum of Understanding (MOU) with UP/SP that would address their environmental issues. The MOU would not affect any SEA recommended compliance with applicable laws and regulations. The signatories to the letter are the Placer County Transportation Planning Agency, City of Auburn, City of Colfax, City of Lincoln, Town of Loomis, City of Rocklin, City of Roseville, Placer County, and the Placer Foothills Consolidated Fire District. A copy of the letter is included in Appendix B.

If the MOU is signed, SEA would recommend that the Surface Transportation Board require UP/SP to comply with the MOU conditions. If the MOU is not signed, SEA will recommend appropriate mitigation in a supplemental environmental document.

RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - PLACER COUNTY DEPARTMENT OF PUBLIC WORKS



May 2, 1996

PLACER COUNTY
DEPARTMENT OF PUBLIC WORKS

Surface Transportation Board
Section of Environmental Analysis, Room 3219
Attn: Elaine K. Kaiser
1201 Constitution Ave., N.W.
Washington, D.C. 20423

SUBJECT: ENVIRONMENTAL ASSESSMENT OF PROPOSED UP/SP MERGER

Dear Ms. Kaiser,

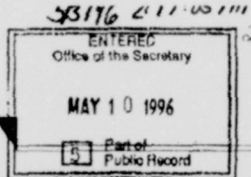
Thank you for providing Placer County with the opportunity to review and comment on the Environmental Assessment of the proposed merger of the Union Pacific and Southern Pacific Railroads. The proposed merger is of interest to Placer County because of the potential for the merger to create adverse impacts. In summarizing our comments, Placer County is concerned with the adverse impacts related to:

- safety at at-grade crossings;
- safety with respect to blockage of emergency service responses;
- safety due to the increased likelihood of a hazardous material incident;
- regional and local transportation systems due to increased congestion and delay at at-grade crossings; and
- noise and air quality impacts.

We feel that the Environmental Assessment fails to address some very fundamental and crucial aspects of these issues. Finally, the mitigation measures that have been proposed are slanted toward consulting with appropriate agencies and developing plans, but lack requirements for implementation. We feel that this needs to be strengthened.

We offer the following specific comments on the Environmental Assessment of the proposed merger of the Union Pacific and Southern Pacific Railroads (Finance Docket No. 32760), for your consideration.

Volume 1, Page 1-10. The Surface Transportation Board's Air Quality and Noise Thresholds for Impact Analysis for Rail Yards is questionable. A percentage increase in carload activity does not seem to be an appropriate indicator of the potential for impact on



Since receipt of this comment, SEA has received a letter (dated June 5, 1996) from the Placer County interests requesting that SEA not recommend any specific mitigation for Placer County in the Post EA because they are negotiating a Memorandum of Understanding (MOU) with UP/SP that would address their environmental issues. The MOU would not affect any SEA recommended compliance with applicable laws and regulations. The signatories to the letter are the Placer County Transportation Planning Agency, City of Auburn, City of Colfax, City of Lincoln, Town of Loomis, City of Rocklin, City of Roseville, Placer County, and the Placer Foothills Consolidated Fire District. A copy of the letter is included in Appendix B.

If the MOU is signed, SEA would recommend that the Surface Transportation Board require UP/SP to comply with the MOU conditions. If the MOU is not signed, SEA will recommend appropriate mitigation in a supplemental environmental document.

11444 B Avenue / DeWitt Center / Auburn, California 95603 / (916) 889-7500 / Fax (916) 885-3159

MERGER OF UNION PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC TRANSPORTATION COMPANY





**PLACER FOOTHILLS CONSOLIDATED
FIRE PROTECTION DISTRICT**

11645 ATWOOD ROAD
AUBURN, CALIFORNIA 95603
(916) 889-7991 • FAX (916) 823-4014

4/4/96 2:32:40 PM
R9M

March 27, 1996

Elaine K. Kaiser
UP/SP Environmental Project Director
Section of Environmental Analysis
Surface Transportation Board
12th and Constitution Avenue, Room 3219
Washington, D.C. 20423-0031

RE: Finance Docket No. 32760 - Comments

Dear Ms. Kaiser,

This letter is in regards to the potential increase in train traffic through the North Auburn area due to the merger of Union Pacific and Southern Pacific. It is our understanding that the increase in traffic volume will be 2 to 3 times what we are currently experiencing.

Unmitigated, this additional traffic will have negative impacts to fire and life safety issues and to our ability to serve the public. Of several issues, the most obvious and pressing to the District is blockage of the crossings at Luther Road and Auburn Ravine Road.

This District is located in Placer County and serves areas both north and east of the City of Auburn. One of our fire stations (Station 3) serves a zone along Luther Road between Highway 49 and Interstate 80. This station is situated on the west side of the down track at Luther Road and is on Southern Pacific property leased by the District.

In the past, there have been several occasions where the track has been blocked by trains causing a considerable delay for emergency apparatus responding to an incident. Doubling or tripling the traffic on this track would considerably compound this problem.

The only real solution would be to relocate the fire station to the east side of the track. Land in this area is extremely expensive and the District does not have the funding resources to purchase a suitable site. Another possibility is land owned by Southern Pacific at the location where the tracks bisect Interstate 80 and Bowman Road. There are a couple of sites that a fire station could be situated to mitigate this issue in the best interests of the public being protected by the District.

Since receipt of this comment, SEA has received a letter (dated June 5, 1996) from the Placer County interests requesting that SEA not recommend any specific mitigation for Placer County in the Post EA because they are negotiating a Memorandum of Understanding (MOU) with UP/SP that would address their environmental issues. The MOU would not affect any SEA recommended compliance with applicable laws and regulations. The signatories to the letter are the Placer County Transportation Planning Agency, City of Auburn, City of Colfax, City of Lincoln, Town of Loomis, City of Rocklin, City of Roseville, Placer County, and the Placer Foothills Consolidated Fire District. A copy of the letter is included in Appendix B.

If the MOU is signed, SEA would recommend that the Surface Transportation Board require UP/SP to comply with the MOU conditions. If the MOU is not signed, SEA will recommend appropriate mitigation in a supplemental environmental document.

BEFORE THE SURFACE TRANSPORTATION BOARD

Union Pacific --)
Control and Merger --) Finance Dkt. 32760
Southern Pacific)

COMMENTS AND CONDITIONS
on behalf of
RAILS TO TRAILS CONSERVANCY
in connection with
ABANDONMENT-RELATED ISSUES
including

MOTION FOR WAIVER OF CERTAIN SERVICE REQUIREMENTS

These comments are on behalf of Rails to Trails Conservancy, a nation-wide non-profit corporation dedicated to fostering the preservation of otherwise-to-be abandoned railroad corridors for possible future rail use ("railbanking"), and for other compatible public purposes, including interim use as trails. RTC has approximately 70,000 members, with members in every State affected by this merger proceeding.

I. Summary of Position

RTC at this time does not take a position on the merger per se. RTC is, however, concerned about the various merger-related abandonments identified by the merger partners, Union Pacific (UP) and Southern Pacific (SP). In order to mitigate adverse impacts flowing from the merger, appropriate conditions should be imposed to ensure that opportunities are maximized to preserve otherwise-to-be abandoned rail corridors for railbanking, interim trail use, and other compatible public uses pursuant to section 3(d) of the National Trails System Act, 16 U.S.C. § 1247(d). In addition, appropriate public interest, public use, environmental, and historic preservation conditions

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1 SEA acknowledges the Conservancy's position that abandonments should be conditioned upon preservation of rights-of-way for railbanking, interim trail use and other compatible public use.

2 Other public interests have been provided opportunities to comment on the proposed merger; many were included in the environmental consultation process, as shown by the listing of contacts in Volume 5 of the EA. SEA is recommending that the Board impose various environmental and historic preservation conditions if the merger is approved (see Volume 1, Chapter 5 of the Post EA).



STB

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of 13

should be imposed.

In the absence of the conditions sought herein, STS approval of the merge would constitute a major federal action with significant adverse environmental impacts. STS under the circumstances would be barred from authorizing the merger until an environmental impact statement (EIS) is prepared, circulated for comment, finalized, and available for consideration by the agency before it acts upon the merger application. 42 U.S.C. § 4332. In the event the impacts of the merger-related abandonments are mitigated by the issuance of (i) Certificates or Notices of Interim Trail Use (CITU's in application abandonment proceedings or NITU's in exempt abandonment proceedings)¹ and (ii) conditions as provided herein, the potential adverse impacts would be so contained as to support the position that an EIS unnecessary.

Consistent with the above, RTC is currently prepared to support the merger in the event measures consistent with preserving otherwise-to-be abandoned corridors are adopted by STS or agreed upon by UV.

II. Railbanking

RTC realizes that continued freight rail service in general takes precedence over railbanking, interim trail use, and alternative public use of otherwise-to-be abandoned rail corridors. RTC of course does not object to continued freight rail service, or acquisition of rail corridors for that purpose.

¹ See 49 C.F.R. § 1152.29.

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3 SEA acknowledges the Conservancy's position on the need for an EIS. Please refer to the general statement on environmental assessment in Volume 1, Chapter 4 of the Post EA.

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4 The Conservancy's filing of Statements of Willingness, requests for Certificate of Interim Trail Use or Notice of Interim Trail Use for proposed abandonments in California, Colorado, Illinois and Kansas is acknowledged. The Surface Transportation Board will consider these actions in the decision process.

where such service can be provided in an economically competitive and responsible manner. In light of merger-related economics, RTC believes that, for the most part, the bulk of the lines proposed for merger-related abandonment are not strong candidates for current freight rail service. Nonetheless, the corridors in question constitute important and historic rail lines which may be of vital importance as our Nation's population and economy continues to expand. In conjunction with the merger, UP and SP propose that approximately 600 miles worth of these traditional and unique rail corridors be abandoned. Railbanking and interim trail use will assist in preserving these corridors for the future at no cost to the railroads or their shippers. Furthermore, many of the corridors proposed for abandonment constitute excellent recreational resources in their own right (e.g., the "Tennessee Pass" line from Sage to Canon City) or can be important connections in a larger trail network netting together state-wide or nation-wide trail systems. RTC accordingly supports railbanking of as many of these corridors as possible, and in all instances where a qualified agency or public interest organization is prepared to assume managerial, legal and tax (if any) responsibilities.²

1. Specific lines. RTC files herewith "statements of

² Railbanking is also compatible with proposals for use of portions of some of these lines (e.g., the Tennessee Pass line through the Royal Gorge near Canon City, Colorado) for excursion rail purposes. RTC is prepared to work with parties interested in such joint use of the corridors consistent with overall preservational objectives.

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willingness" invoking section 8(d) of the Trails Act, and requests the issuance of a Certificate of Interim Trail Use (CITU) or Notice of Interim Trail Use (NITU) as appropriate, with respect to the following lines:

California

AB-12 (Sub 184X), SP, Alturus to Wendel, 86.5 miles

Colorado

AB-12 (Sub 189X), SP, Sage to Leadville, 69.1 miles

AB-12 (Sub 188), SP, Malta to Canon City, 109.0 miles

AB-3 (Sub 130), UP, Towner to NA Junction, 122.4 miles

Illinois

AB-33 (Sub 96), UP, Barr to Girard, 38.4 miles

Kansas

AB-3 (Sub 131), UP, Hope to Bridgeport, 31.2 miles

In addition, RTC supports the issuance of Notices of Interim Trail Use pursuant to section 8(d) applications filed by, inter alia, Madison Transit with respect to the following two proceedings in Illinois:

AB-33 (Sub 98X), UP, Edwardsville to Madison, 15.0 miles

AB-33 (Sub 97X), UP, DeCamp to Edwardsville, 14.6 miles

2. Special provision in CITU's and NITU's. It is RTC's understanding that UP plans to continue service on many lines for which merger-related abandonment is sought for a year or more post-abandonment authorization. UP intends to continue service or use for this period in order to ensure an orderly reconfiguration of operations. Because operations are likely to

5 The Conservancy's support for the Notice of Interim Trail Use filed by Madison Transit is acknowledged.

6 The Conservancy's request that Certificates of Interim Trail Use or Notices of Interim Trail Use be extended for a two-year period is noted. Please refer to SEA's general statement on rails-to-trails and public use in Volume 1, Chapter 4 of the Post EA.

continue for a substantial period on many of these lines, it is prudent to issue the requested CITU's and NITU's not for the customary 180 days (subject, of course to extension) but instead for a two-year period. This period should be sufficient for UP to conclude its operations on the line, and to permit the completion of railbanking agreements without need to return to STB for extension orders.

3. Motion in connection with statements of willingness.

RTC is serving 20 copies of the identified RTC "statements of willingness" upon STB, as well as serving the railroads, in conformity with regulations appearing at 49 C.F.R. § 1152.19. However, service of all these "statements" upon all parties to the merger proceeding is burdensome and almost certainly a matter of total irrelevance to almost all such parties. In order to avoid an unnecessary and unwarranted burden, RTC hereby specifically moves, pursuant to 49 C.F.R. § 1110.9, that 49 C.F.R. § 1110.12 (service on all parties to the proceeding) be waived for purposes of the "statements of willingness," and instead that RTC be granted leave to file the "statements" with STB (a) with service at this time only on representatives of UP and SP so long as (b) RTC makes the statements available promptly to any other party to this proceeding requesting them.

III. Public Interest Conditions

A. Conditions Sought

The STB enjoys broad powers to impose conditions in merger proceedings to protect the public interest pursuant to statutes



such as 49 U.S.C. § 11346 (1995), as well as traditional sources of conditioning power in abandonment proceedings such as 49 U.S.C. § 10906 (recodified to § 10905 by the ICC Termination Act). Railroad corridors are unique assets, which are virtually impossible to reassemble once lost.³ While a benefit of the merger may be economies resulting from an ability to cease current operation of particular lines, and while such economies may constitute a public benefit, loss through abandonment of approximately 600 miles of difficult-to-assemble rail corridor, much of which has previously served as mainline rail corridor for major carriers, constitutes a grave threat to the public interest in preserving transportation corridors. Measures must be taken to ensure that these corridors are preserved wherever this may be possible without significant cost to the merging carriers. Consonant with this objective, and in order to protect the public interest, RTC requests that STB impose several conditions on all merger-related abandonments. None of the requested conditions pose significant costs on the merging carriers. Moreover, all the conditions may be helpful in preserving the corridors in question, and the benefits of the

³ "[T]o assemble a right-of-way in our increasingly populous nation is no longer simple. A scarcity of fuel and the adverse consequences of too many motor vehicles suggest that society may someday have need either for railroads or for the rights-of-way over which they have been built. A(n) ... agency charged with designing part of our transportation policy does not overstep its authority when it prudently undertakes to minimize the destruction of available transportation corridors painstakingly created over several generations." Reed v. Moser, 487 F.2d 646, 649-50 (1st Cir. 1973).

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7 The Conservancy's position that abandonments should be conditioned upon preservation of rights-of-way for railbanking, interim trail use and other compatible public use has been reviewed by SEA. Please refer to the general statement on rails-to-trails and public use in Volume 1, Chapter 4 of the Post EA.

conditions easily outweigh any burdens attributable to them.

In particular, RTC requests the issuance of the following conditions:

1. Preserve Surface Transportation Board (STB) jurisdiction to issue "railbanking" or other appropriate orders over all merger-related abandonments for a period of 180 days following the date UP actually ceases to use the line in question, and otherwise consummates any abandonment authority received from STB.

2. Bar UP from disposing or otherwise transferring (other than for public use) any real estate interests, bridges, culverts, or similar structures for a period of 180 days following the date UP actually ceases to use the line in question, and otherwise consummates any abandonment authority received from STB.

It is RTC's understanding that possible toxic contamination exists on or adjacent to the "Tennessee Pass" line in Colorado.⁴ The presence of Superfund sites, or known toxic contamination, can be detrimental to all parties, including the railroad, in the context of abandonment proceedings.⁵ Some baseline information on the corridor is vital to ensure that a timely railbanking arrangement can be reached, and to ensure that the

⁴ In particular, it is RTC's understanding that there are three Superfund sites along or near the corridor: the California Gulch Superfund Site in Leadville, the Eagle Mine Superfund Site in Minturn, and the Smeatertown Superfund Site in Salida. It is further RTC's understanding that the merged railroad will own an interest in certain slag piles at Leadville which may contain toxic material, and some material from the slag piles may have been employed as ballast on the line.

⁵ To make a long story short, applicable Federal and State law renders current owners of contaminated property strictly liable. Prior owners may also be liable. Transfer of title may result in liability for prospective owners. The issue of possible liability, and its scope, can easily complicate arrangements to preserve a rail corridor, even though such conservation is highly desirable from an environmental point of view.

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The Conservancy's request that Certificates of Interim Trail Use or Notices of Interim Trail Use be extended for a two-year period has been reviewed. The Surface Transportation Board's authority extends for only 180 days.

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The Conservancy's comment that railroad infrastructure and real estate interests on the proposed abandonments be maintained for a two-year period is acknowledged. Prohibiting the UP from disposing or transferring real estate (other than for public use) is beyond the scope of the Board's jurisdiction.



impasse which has bewildered the "Wallace Branch" in northern Idaho is avoided. In connection with the two proceedings relating to the "Tennessee Pass" line in Colorado -- AB-12 (Sub 189X) and AB-12 (Sub 188), RTC accordingly also requests the issuance of the following public interest condition:

1. Within 180 days of authorization of abandonment, UP shall complete and supply to the State of Colorado and RTC a report (by an independent third entity) commonly known as a Phase I environmental survey, which report shall identify all possible toxic contamination on the corridor based upon an on-site inspection, thorough canvass of all local, state and federal environmental agencies, and reasonable investigation of internal company records. The independent third entity shall be selected by UP from a list of qualified companies or individuals acceptable to the State of Colorado for purposes of conducting the survey in question.

3. More Detailed Justification for Conditions Sought

Conditions 1 and 2. The first public interest condition sought be RTC, a bar on disposal or transfer on real estate, bridges and related structures for 180 days from the date of actual post-abandonment cessation of use, is similar to public use conditions generally requested under 49 C.F.R. § 1152.28, with two exceptions. First, we seek an order running for 180 days from the date the railroad actually ceases all use of the corridor (including overhead or local use, or storage or work train use) or consummation, whichever is later. Ordinarily the 180 day period runs from the effective date of the abandonment authorization. The reason for the difference is that UP has indicated that the railroad is likely to operate for as much as a year or more over many of these corridors in order to ensure a smooth transition of service for customers of the merged

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The Conservancy's request for filing of information on hazardous materials on the Tennessee Pass line is noted. This request is similar to comments filed by EPA Region 8 and the Colorado Department of Public Health. SEA has addressed mitigation for hazardous materials which is detailed in Volume 1, Chapter 5 of the Post EA.

statement" or "EIS." STS to date has evinced no plan to prepare an EIS, and instead is preparing an "environmental assessment" ("EA"). Insofar as is germane here, an EA is appropriate to assess environmental impacts where there is an assurance that there will be no significant environmental consequences by reason of the prospective agency action.⁷ But loss of some 600 miles of important transportation corridors as proposed as part of this merger application would constitute a significant adverse environmental impact necessitating an EIS.⁸ The only available method lawfully to avoid the EIS requirement would be to place appropriate conditions on all merger-related abandonment authority so as to ensure that the various corridors are preserved for railbanking/trail use purposes, at least in all cases where a qualified entity files a "statement of willingness." Only in this fashion would there be any reasonable assurance that the merger-related abandonments would not involve substantial environmental considerations.⁹ The measures sought herein would also be compatible with preserving historic structures consistent with the National Historic

⁷ 40 C.F.R. §§ 1501.4 & 1508.9.

⁸ This is a point RTC has already made in our letter to Elaine Kaiser (STS, Section of Environmental Analysis) dated 16 February 1996.

⁹ Completion of a Phase I environmental survey in a fashion acceptable to the State as sought through Condition 3 as requested by RTC may also serve as part of a program to ensure that significant adverse environmental consequences by reason of toxic contamination do not occur in the event the Board authorizes abandonment of the Tennessee Pass line from Saga to Canon City in Colorado.

11 SEA acknowledges the Conservancy's position on the need for an EIS. Please refer to the general statement on environmental assessment in Volume 1, Chapter 4 of the Post EA.





City of Rocklin

3970 Rocklin Road
P.O. Box 1380
Rocklin, CA 95677
916-832-4000
TDD 916-832-4013

March 20, 1996

TO: Southern Pacific Rail Transportation Co.

RE: Comments regarding the merger of Southern Pacific
with Union Pacific

The City of Rocklin is essentially divided into two halves by the railroad tracks. There are four railroad crossings in very close proximity to each other. These crossings are located on very critical local collectors that transport the eastbound/westbound traffic in our City. Train traffic not only interferes with the local flow of traffic across these streets (sometimes causing major delays and backups onto our local streets), but more importantly, impacts our police and fire response times.

Unlike larger cities, the City of Rocklin does not have major railroad overcrossings, therefore we depend on these at-grade crossings. If the rail transportation increases on these tracks, the City of Rocklin will experience a major traffic dilemma. I have tabulated 24 hour traffic counts taken this week at these crossings for your information and to help you understand our concerns.

TRAFFIC COUNTS March, 1996

LOCATION	Westbound	Eastbound
Midas Avenue	4,623	5,751
Rocklin Road	3,879	2,215
Farron Street	960	699
Del Mar Avenue	1,641	1,176

Pacific Street is one of the major arterials in the City of Rocklin that intersects Midas Avenue, Rocklin Road and Del Mar Avenue. These are major intersections and they carry the majority of traffic in the downtown area. Rocklin Road and Midas Avenue intersections are signalized without the benefit of interconnecting with the railroad signal arms. All three intersections are located approximately 100-150 ft. from the railroad

Since receipt of this comment, SEA has received a letter (dated June 5, 1996) from the Placer County interests requesting that SEA not recommend any specific mitigation for Placer County in the Post EA because they are negotiating a Memorandum of Understanding (MOU) with UP/SP that would address their environmental issues. The MOU would not affect any SEA recommended compliance with applicable laws and regulations. The signatories to the letter are the Placer County Transportation Planning Agency, City of Auburn, City of Colfax, City of Lincoln, Town of Loomis, City of Rocklin, City of Roseville, Placer County, and the Placer Foothills Consolidated Fire District. A copy of the letter is included in Appendix B.

If the MOU is signed, SEA would recommend that the Surface Transportation Board require UP/SP to comply with the MOU conditions. If the MOU is not signed, SEA will recommend appropriate mitigation in a supplemental environmental document.



CITY MANAGER
CITY OF ROSEVILLE
TRADITION - PRIDE - PROGRESS

311 VERNON STREET, #200 - ROSEVILLE, CA 95
PHONE: (916) 774-5242 • FAX: (916) 784-9175

March 28, 1996

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

Dear Ms. Kaiser:

Subject: Finance Docket No. 32760-Comments

The City of Roseville is responding to the proposed merger of the Union Pacific and Southern Pacific railroads. The City of Roseville has identified a number of issues associated with the merger and is requesting the Surface Transportation Board consider them during its review of the proposed merger.

Currently the City of Roseville has not made a formal decision to support or oppose the proposed merger between the Union Pacific and Southern Pacific railroads. City representatives have had very little contact with railroad representatives and even less information regarding the merger. The City's first formal contact with Union Pacific and Southern Pacific regarding the merger did not occur until March 12, 1996, with a second contact during a March 21, 1996 workshop. During both meetings the railroad representatives provided general descriptions of how the merger will change railroad operations in the Roseville yard, but no detailed information or documentation has been provided. In addition, railroad representatives have reacted defensively when affected agencies, such as the City of Roseville, request detailed information to objectively analyze merger impacts or suggest the railroads enter into an enforceable agreement to address merger impacts.

As a result of these two meetings the City of Roseville has had with railroad representatives, it is the City's understanding the following changes will occur to the Roseville railyard and rail traffic as a result of the merger:

1. Rail traffic is projected to increase by 30-50% along the I-80 corridor line and the Marysville corridor line.
2. The merged railroad company will invest an estimated \$35- \$40 million in improvements to the Roseville railyard.

Since receipt of this comment, SEA has received a letter (dated June 5, 1996) from the Placer County interests requesting that SEA not recommend any specific mitigation for Placer County in the Post EA because they are negotiating a Memorandum of Understanding (MOU) with UP/SP that would address their environmental issues. The MOU would not affect any SEA recommended compliance with applicable laws and regulations. The signatories to the letter are the Placer County Transportation Planning Agency, City of Auburn, City of Colfax, City of Lincoln, Town of Loomis, City of Rocklin, City of Roseville, Placer County, and the Placer Foothills Consolidated Fire District. A copy of the letter is included in Appendix B.

If the MOU is signed, SEA would recommend that the Surface Transportation Board require UP/SP to comply with the MOU conditions. If the MOU is not signed, SEA will recommend appropriate mitigation in a supplemental environmental document.



City of Tehama Incorporated

March 25, 1996

Post Office Box 70
Tehama, CA 96090

Dames & Moore
One Continental Towers
1701 Golf Road, Suite 1000
Rolling Meadows, Illinois 60008

Dear Ms. Julie Donsky:

The City of Tehama has several concerns on the proposed merger of Southern Pacific and Union Pacific's impact on the environment and quality of life in the City of Tehama. There are several old and historic brick buildings in the city that feel the vibrations of current trainloads and will be affected. Trains in the past few years appear to have increased in weight and speed, as the vibrations of their approach can be felt in homes of longtime residents that compare present to past train effects.

A city well and a two city parks are adjacent to the railroad as it passes through the city. A concern of subsidence at the well due to vibration damage is also a possibility. The city is located on recent alluvium soils which have little or no rock base; they are fluid and are conducive to vibration and consequently are potentially damaging to older buildings, if not newer ones.

Noise is another factor that seems to have increased in decibels from the various trains that come through the city, particularly at night, and from certain trains. We realize that safety regulations probably require the horn sounding at automobile crossings and bridge approaches. Apparently some engineers delight in running their horns from the bridge approach continually to the automobile crossing, or for many more times than what is required for safety. The horns also appear to be louder and of a different quality in the recent years.

The Red Bluff Daily news reported the increase of train traffic would probably be similar to earlier years of 24 trains per day - Up to some six more trains than present. We can compare this with an environmental report on truck traffic for the automobile bridge that said truck traffic would only be increased minimally in Tehama. It is now a heavily trafficked truck bridge, contrary to what the early environmental study claimed. What assurance can we have that train traffic will not increase significantly and even more, compound the noise and vibration damage to Tehama?

The automobile bridge has also brought an increase of auto and truck traffic through Tehama. The Fifth Street railroad crossing often detains traffic through the intersection creating some traffic problems. Three crossings, Aramayo Way, Proberta, and Gerber Road, often cause auto traffic to wait at crossings three times, creating lines of traffic through Tehama.

Tehama also receives it's emergency services of fire, police and medical from outside of

1 SEA acknowledges the City of Tehama's concern about potential vibration impacts to historic buildings and the city well. The projected rail traffic increase for the rail segment that includes Tehama is 5.2 trains per day, which does not exceed the Surface Transportation Board's threshold for analysis (i.e., an increase of 8 trains per day). Consequently, no noise impact analysis was performed. SEA does not usually analyze vibration impacts. The respondent should forward these concerns directly to the Applicant.

2 SEA acknowledges the City's comment on the frequency and volume of train horns. The sounding of train horns at grade crossings is a safety requirement of the Federal Railroad Administration (FRA) that cannot be overridden by the Board. The US Congress has directed that horns be sounded at all grade crossings beginning November 2, 1996 (Swift Act of 1994). FRA must issue regulations controlling horn usage by this time. Included in the regulations will be conditions for waiver of horn usage, which may include establishment of Quiet Zones, grade separations, four-quadrant gates, and standard gates with median barriers. Currently, the only guarantee of relief from horn noise is permanent closure of grade crossings. Fencing to prevent pedestrian trespassing on the right-of-way may be desirable. All other grade crossing designs would be subject to FRA approval.

3 SEA acknowledges the City's concern about increases in truck traffic that may accompany increases in train traffic. As noted in response to comment #1, the train increase for the rail segment that includes Tehama is 5.2 trains per day, which does not exceed the Board's threshold for analysis (i.e., an increase of 8 trains per day). Potential increases in truck traffic were not assessed, but truck traffic increases are not usually related to an increase in through train traffic. The respondent should contact the Applicant directly regarding this issue.

the city. These services must also pass through the mentioned crossings for access to opposite ends of this part of the county by going through Tehama for immediate response.

An increase of train traffic will certainly increase the chances of being detained and to the auto traffic problems.

The railroad bridge pilings have collected debris from brush and trees for at least ten years. Many years ago the Southern Pacific used to periodically, if not annually, clear this debris from their pilings. It has not been done, we are told, because of the impact on the fish habitat, particularly salmon. The collection of this debris does affect the river bank as the current is diverted and it further erodes the banks on each side of the river. Will structural changes to the bridge increase the collection of this debris? Will there be a program for cleaning of this debris that will not affect the fish habitat and still decrease the erosion caused by this debris? Periodic flooding brings down large trees that are caught by the pilings and debris enhances the possibility of catching large trees and damming a portion of the river at this point. Water is often very close to the underside of the bridge and is a potential danger to the bridge, the city and the downstream road bridge.

There is an island south of the two bridges between Tehama and Los Molinos. The railroad tracks run parallel to the river on the Los Molinos side at this point. Train horns can be heard in Tehama as they approach the Aramayo Way road crossing. The island is part of the Nature Conservancy's holdings, and has turkeys, deer and other wildlife on it as well as on the adjacent banks. Will the increase of freight train traffic and sound have an effect on this wildlife and cause a migration to the Tehama side of the river.

Recent evacuations of towns and other populated areas due to rail accidents are also a cause for concern. The Southern Pacific bridge south of Red Bluff nearly collapsing during wet weather two years ago, the many car derailment also south of Red Bluff and another in Tehama city limits are examples of for our area. Will spills or accidents be addressed and hopefully prevented? What can the railroad do to assure Tehama residents how they and property will be protected? What amount of hazardous material and what types of material are passing through here now and how much and what kind may be increased with changes to the freight carrying you are proposing?

The train accident that occurred partly within the city limits a few years ago caused some disruption and concern of possible hazardous danger potential for city residents. Little or no notification or contact was made by the railroad to assure the residents of what affects the accident may have had for the residents. If for nothing else, contact to reassure the residents that the accident was not a danger threat to the city. Will the merger of these two rail companies and their increase of freight traffic, length and weight produce better personal public relations and information of these hazards, or will it be touch tone numbers on phones to tell residents they are or are not in danger when an accident or spill occurs?

There is little if anything at all to indicate that enlarging the height of the Sacramento bridge, in order to accommodate taller, possibly larger and longer as well as more trains will enhance the once tranquil quality of life in the city of Tehama. In fact it may well be a detriment to

SEA acknowledges the City's concern about increased delay that may accompany increases in train traffic. There are 103 grade crossings along the Marysville to Dunsmuir segment, 15 of which have ADT counts greater than 5,000 vehicles per day. A review of crossing data from the Federal Railroad Administration revealed that the average daily traffic for the cited locations was less than 5,000. At typical and high speed grade crossings along the route (e.g., train speed of 65 MPH), delay to vehicle traffic would increase from 26 minutes (pre-merger) to 34 minutes (post-merger) over a 24-hour period. At the lowest speed grade crossings (e.g., train speed of 25 MPH), delay to vehicle traffic would increase from 49 minutes (pre-merger) to 64 minutes (post-merger) over a 24-hour period. The maximum queue length per train due to peak hour vehicle traffic ranges from 1 to 34 vehicles, and the corresponding delay per vehicle would vary from 1.07 to 1.77 minutes.

SEA acknowledges the City's concern about bridge maintenance. This issue does not fall within the Board's jurisdiction. This issue should be conveyed directly to the Applicant.

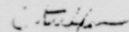
SEA acknowledges concern about the impacts of horn noise at the wildlife refuge. Please see response to comment #2.

SEA recognizes the City's concern about the transport of hazardous materials. In response to a request from SEA, the Applicant generated a more detailed output from its traffic model, which indicates the number of carloads of hazardous materials before and after the merger. This information indicated that the Cascade route would experience an increase of 50 percent in hazardous materials carloadings. Mitigation measures that are proposed for the transport of hazardous materials are reported in Volume 1, Chapter 5 of the Post EA.



city and the resident. Little is said about upgrading tracks, trains or public relations to assure the once tranquil quality of life we have enjoyed in Tehama.

Sincerely,



Carolyn Steffan, City Clerk

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SEA acknowledges the City's concern about increased clearance of the Sacramento bridge. SEA is conducting consultation with the California State Historic Preservation Officer (SHPO) regarding the potential historic significance of the bridge crossing the Sacramento River. The respondent should also convey its concern to the SHPO.

RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - TOWN OF TRUCKEE CALIFORNIA - CITY OF TEHAMA

7/24/96 12:12 PM

Town Council

Douglas C. McCormack, Mayor

Emilee B. (Breese) Cross

Kathleen Eagan

Steve A. Carpenter

Robert H. Drake



Department Heads

Stephen L. Wright, Town Manager

Jill R. Fox, Director of Finance

J. Dennis Crabb, Town Attorney

Jon A. Lander, Town Engineer

Thomas E. Cohen, Public Works

Tony Lashbrook, Community Development

April 5, 1996

Dames and Moore
Attn: Julie Donsky
Environmental Scientist
One Continental Towers
1707 Golf Road, Ste. 1000
Rolling Meadows, IL 60008

SUBJECT: UP/SP Merger Impacts - Town of Truckee

Dear Ms. Donsky:

This letter is a follow up to our earlier communications regarding the significant impacts that the proposed merger will impose on the Town of Truckee. Enclosed please find copies of the three Verified Statements submitted to the Surface Transportation Board on behalf to the Town. We believe that these documents clearly identify the series of environmental impacts which are being created without mitigation. The analysis which you are currently undertaking needs to completely evaluate the impacts described herein and we would request that that analysis be forthcoming. If additional information is needed, please feel free to contact either myself or Town Community Development Director Tony Lashbrook for additional data as desired.

Thank you for your consideration.

Very Truly Yours,


Stephen L. Wright
Town Manager

SLW/bj

Tel: 916-582-7700

Town Administrative Office
11570 Donner Pass Road, Truckee, CA 96161

Fax: 916-582-7710

MERGER OF UNION PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC TRANSPORTATION COMPANY



C. SOURCES OF PM10 PM10 consists of two types, direct emissions and secondary particulates. Direct emissions occur when solid particles are discharged directly into the air. Examples include wood stoves, wind blown dust, soot from internal combustion engines, dust from paved (sanded) and unpaved roads, and dust from agricultural operations. Examples of secondary PM10 include oxides of nitrogen (NOx) emissions from internal combustion engines such as automobiles, trucks, trains, airplanes, boats, and farm equipment.

IV. MERGER RELATED IMPACTS

A. MERGED UNION PACIFIC AND SOUTHERN PACIFIC As detailed in TRCK-3, Applicants' filings with the Board indicate that the merged carrier's operating plan ("Plan") calls for one passenger and 20 freight trains per day over Donner Pass, for an increase of 7 trains per day from current levels. However, the environmental report section of the merger application indicates an increase in train traffic of 9 trains per day. These numbers do not include Burlington Northern Santa Fe (BNSF) trains, Reno Fun Trains, Ski and other special excursion trains, or local operations. The Plan calls for an increase in train tonnage through Truckee from the present level of 20 million to 35 million gross tons per year, an increase of 65%. Truckee understands these numbers to be merely a snapshot of what the Applicants believe the merged operation will be shortly after consummation of the merger. They do not appear to take account of future growth arising out of restoration of the original shorter and faster SP-UP Overland Route from California to Chicago, and appear to understate the realistic future volume of rail traffic through Truckee.

B. BNSF RAIL TRAFFIC The Applicants have reached a trackage rights agreement with BNSF to allow BNSF to operate two manifest trains per day and unlimited intermodal trains on the Donner Summit lines of the merged carrier. As more particularly detailed in TRCK-3, Nolte & Associates believes that BNSF will operate all its Central Corridor intermodal trains over the Donner Summit route, and, taking into account historic rail traffic patterns over the Central Corridor, including Reno Fun Trains, Ski and other special excursion trains, estimates that the post merger rail traffic through Truckee will be 36 trains per day.

C. CUMULATIVE IMPACT ON VEHICULAR TRAFFIC As more particularly detailed in TRCK-2, the projected level of post merger rail traffic will result in delays of 118 vehicle hours per day, 36,000 vehicle hours per year, delayed vehicles numbering 3,762 per day and 1,152,000 per year, and over 2 million people per year. Truckee believes this level of congestion would cause the destruction of its historic Downtown Core. Patrons of the Commercial Row businesses simply won't put up with the gridlock to reach them. The

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1 SEA's analysis indicates that on the Roseville, California to Sparks, Nevada line segment there will be an increase of 11.3 freight trains from 13.8 trains per day (including 1.1 passenger trains) to a post-merger operation of 25.1 trains per day. This increase of 11.3 trains per day includes 4 BN/ Santa Fe trains. Projected usage of the line, based on future growth volumes, is beyond the scope of the Environmental Assessment.

2 Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.

businesses will either fail or relocate. The Lake Tahoe and ski resort areas south of Truckee on Highway 267 will also be adversely affected because their visitors and patrons will likewise go elsewhere if confronted with gridlock in Truckee. Access to emergencies south of the Highway 267 crossing will likewise be further impaired. It is obvious that even under existing traffic conditions and rail operations, a grade separation or bypass of Commercial Row for Highway 267 is required. In fact, Caltrans, the California Department of Transportation, has designed a grade separation/bypass for Highway 267, and indeed, Caltrans has previously budgeted funds to construct the bypass in order to improve circulation through Truckee and accommodate anticipated growth. Unfortunately, the Loma Prieta and Northridge earthquakes in California demonstrated that much of California's highway infrastructure was in need of major seismic rehabilitation and strengthening. As a result, most new construction has been placed on hold, and the funding for the Highway 267 bypass has been diverted to the seismic rehabilitation elsewhere. It is unknown when, if ever, Caltrans will find the funds to construct this desperately needed facility. As pointed out in my discussion of Truckee's financial condition and the existing deferred maintenance of its roadways, Truckee is certainly not in a position to undertake such construction on its own. Truckee and other interested parties are applying maximum efforts through their representatives to find a solution to the problem, and will continue that effort, no matter what the outcome of this proceeding. Truckee believes the Highway 267 bypass is a State of California responsibility arising out of state, regional and local growth.

D. HIGHWAY 267 BYPASS DOES NOT SOLVE THE PROBLEM Even if the Highway 267 bypass described above is constructed, serious traffic delays at the crossing will continue to occur. As detailed in TRCK-2, under pre-merger conditions, the Highway 267 bypass would reduce the existing northbound traffic volume over the crossing by approximately 50% from No-Build Conditions. Southbound traffic volumes would be reduced approximately 35% at the crossing from No-Build Conditions. However, these benefits of the Bypass are more than offset by the increase in passing trains resulting from the merger. Assuming the construction of the 267 Bypass and post merger train traffic, vehicular delays at the existing crossing will increase 148% from 46 vehicle hours daily to 68 vehicle hours daily. These delays assume absolutely no growth in Truckee and the region in the future. If growth occurs at the rate of 2% per year as forecast in Truckee's newly adopted General Plan, delays jump dramatically.

Truckee and its consultants have analyzed several different traffic improvement alternatives, some with the assistance of engineering personnel of the Applicants. Truckee and its consultants believe that a cost efficient two lane grade separation can be constructed underneath an elevated section of the railroad west of the Highway 267 at-grade crossing, from West River Street to Donner Pass Road east of the Interstate 80 off ramp ("Western Undercrossing"). This underpass is critical to offset the effects of the proposed merger. Preliminary cost estimates for two lane grade separation at this location are between \$3 million and \$7 million.

Under post merger conditions, construction of this alternative would reduce train related delay from 46 to 15 vehicle-hours per day and 4,000 vehicle-hours per year. This would partially

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3 Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.



allow for the planned growth in the Truckee and the region that the Highway 267 Bypass was intended to accommodate. Also, the Western Underpass is the only relief valve for circulation and public safety should funding for the Highway 267 Bypass be delayed or, worse yet, lost.

For the year 2015, the West Side Underpass continues to provide marked improvements to traffic circulation in the downtown area. However, due to both local and regional traffic growth, the available capacity of the roadways through the downtown area will be exceeded based on current growth projections. For this reason, construction of a second underpass of the railroad connecting East River Street to State Route 267 in the vicinity of the existing Church Street intersection (Easterly Undercrossing, should be planned. This would effectively bracket the downtown area with two rail/highway grade separations. As importantly, construction of this undercrossing would allow closure of the existing Highway 267 at-grade crossing, eliminating rail/traffic conflict altogether. The Easterly Undercrossing could also be used to provide access to the Old Mill Site as development of this property occurs. Further, it could be expanded over time to tie into another north-south bridge crossing of the Truckee River in the downtown area.

E. OPERATIONS All of the TRCK-2 analysis of cumulative impacts of the merger on vehicular traffic assumes 100% operating efficiency. In other words, gate down time would occur only for passing trains and would never exceed 7.5 minutes. As stated under II.D, congestion arising from existing rail operations at the Highway 267 at-grade crossing result in frequent additional gate down events, often lasting 10 to 20 minutes. Continuation of these operating practices will greatly increase the vehicular delays estimated in TRCK-2. Operating efficiencies must be instituted.

F. AIR QUALITY IMPACTS As described in TRCK-3, it appears that post merger rail operations and idling motor vehicles will cause a significant increase in Ozone-creating pollutants. Nolte & Associates estimates that post-merger locomotives will add up to 291 tons per year of the Ozone-creating pollutants. This number does NOT include additional pollutants from idling vehicles waiting in traffic due to the gates being down. In a study recently completed by Nolte for the City of Reno, vehicles stopped for trains would emit an estimated additional 1,200 tons of air pollutants annually. Prorating the results of the Reno study to Truckee, additional post-merger vehicular emissions could reach the following levels: 34 tons/year VOC, 440 tons/year CO, 10 tons/year NO_x, and 0.2 tons/year PM10. Using data provided in the Merger Application, Nolte estimates that locomotive emissions from the post-merger railroad operations in Truckee would add approximately 22.3 tons per year of PM10 including primary and secondary PM10 from locomotive and vehicle emissions to a basin already nearly in a non-attainment air quality status. This would result in an increase of PM10 emissions in Truckee of approximately 1.54%. By comparison this represents 10% of the total PM10 from residential wood burning sources for Truckee (220 tons per year). Another potential increase of PM10 due to the railroad merger is the road dust generated by increased vehicle mile trips from extra trips and diversions stemming from grade crossing blockages. Nolte estimates

Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.

that the total amount of PM10 due to road dust (dust from road sand on paved roads plus dirt roads) in Truckee is currently around 800 tons per year. Increased vehicle mile trips due to

diversions around queues will increase this source of PM10. However, it is unknown at this time what the increase in road dust emissions will be because the increased vehicle mile trips related to post-merger railroad operations has not been quantified. Locomotive emissions and added road dust due to post-merger railroad operations will contribute to the PM10 problems in the Truckee air basin and may result in Truckee reaching non-attainment status for PM 10. This designation will saddle the Town with numerous restrictions, requirements, and corresponding costs, in addition to affecting the health of thousands of residents and visitors. According to information provided by the California Air Resources Board, the average statewide cost of purchasing "off-sets" for PM 10 is \$15,000 per ton¹.

The Town is also concerned about the potential damage to the many historic structures located within 200 feet of the tracks in Downtown Truckee caused by accelerated weathering associated with increased locomotive emissions

V.

MITIGATION MEASURES

INTRODUCTION:

Overall, the Town has identified that there are \$34 - \$45 million in circulation remedies that must occur to resolve all railroad /traffic circulation conflicts for the Truckee-Tahoe region. However, the railroad is not being requested to shoulder the entire burden. As a priority, the Western Underpass must be completed immediately or the post merger rail traffic will gridlock Truckee and choke access to Lake Tahoe. We ask the railroad to fund the Western Underpass, subsidized by a \$1 million contribution from the Town so that project can commence NOW. The Town and Region will continue pursuit of the other remedies. With all remedies in place, we see the elimination of the existing at grade crossing and operating freedom for the railroad.

¹ Emissions calculations for the UP/SP Merger contained in March 23, 1996 Memo from Rodney Hill, Air Pollution Control Officer, Northern Sierra Air Quality Management District.

² Personal conversation with Rodney Hill, Air Pollution Control Officer, Northern Sierra Air Quality Management District.

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Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.



ROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC CALIFORNIA - TOWN OF TRUCKEE

The following chart reflects all of the railroad/traffic interface issues which the Town must deal with. It also identifies the limited obligation that the Railroad is responsible for due to direct merger related impacts.

TAHOE / TRUCKEE REGION RAILROAD / TRAFFIC REMEDIES

IMPACT	SOLUTION	COSTS	WHO MITIGATES
REGIONAL TRAFFIC	267 BYPASS	\$20 MILLION	STATE OF CALIFORNIA
MERGER TRAFFIC IMPACTS	WESTERN UNDERPASS	\$ 4-7 MILLION	53-6 MILLION UP/SP 51 MILLION FROM TOWN DEVELOPER FE
FUTURE TRAFFIC GROWTH	EASTERN UNDERPASS	\$ 3-6 MILLION	FUTURE GROWTH / STATE / RR
	Bridge Street Closure & Downtown Pedestrian Crossing		
	2ND RIVER CROSSING	\$ 4-6 MILLION	FUTURE GROWTH
	HWY 89 MOUSEHOLE WIDENING	\$ 3-6 MILLION	STATE / LOCAL / FUTURE GROWTH
		\$34-45 MILLION	
RAILROAD SHARE		11-15%	

In addition, operating efficiencies must be implemented to assure that vehicular delays do not exceed the projected levels.

Third, the railroad contribution to increased PM10 levels can be easily mitigated with a contribution to a wood stove replacement fund. We have local ordinances in place asking the same of all new development.

Last, the tremendous public concern over increased risk of hazardous materials spills can be addressed with the commitment to no increase in the amount of hazardous materials moving along the Donner route.

BOARD'S OBLIGATION TO IMPOSE CONDITIONS Truckee believes that the National Environmental Policy Act ("NEPA"), the National Historic Preservation Act ("NHPA"), and the Clean Air Act require the Board to impose conditions on any approval of the Application which will mitigate the damage arising out of the proposed merger. The merged carrier will enjoy massive operating efficiencies and consequent profits for their shareholders and customers.

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5 Refer to the previous page for response.

6 Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.

7 SEA's environmental review includes preparation of an Environmental Assessment and development of mitigation for significant adverse impacts. The Post EA summarizes the results of the environmental review and defines the mitigation measures SEA recommends for inclusion as conditions for any approval decision by the Surface Transportation Board.

Truckee will receive no benefit from the merger. It is only fair that the Railroad be required by the Board to mitigate the damage they will inflict on the Lake Tahoe-Truckee region. Truckee opposes the combination of Union Pacific and Southern Pacific unless the damage this merger will inflict on Truckee and the region is mitigated by imposition of the following conditions.

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A. WEST RIVER STREET GRADE SEPARATION Truckee requests that if the Board chooses to approve the merger, it condition its approval on a requirement that Union Pacific will cause to be designed and constructed a Western Undercrossing of the train tracks providing a two-lane roadway and pedestrian/bikelanes connecting Donner Pass Road to West River Street east of the intersection of the Interstate 80 Central Truckee off-ramp and Donner Pass Road. Union Pacific will promptly commence engineering studies and design of the grade separation described herein, leading to an obligation to commence construction not later than one year following consummation of the merger, and completion of construction within eighteen months thereafter. The Town of Truckee has the capacity and willingness to contribute \$1 million towards the project.

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B. EASTERLY UNDERCROSSING Truckee requests that if the Board chooses to approve the merger, it condition its approval on a requirement that Union Pacific agree to cooperate in the facilitation and funding (as later determined appropriate) in the construction of an easterly undercrossing of the tracks providing vehicular access from East River Street to future access roads within the Mill Site and to provide a pedestrian crossing of the tracks in the vicinity of Commercial Row in conjunction with the elimination of the Highway 267 grade crossing. Funding for these undercrossings will be provided by a combination of locally generated growth related impact fees and railroad and grant contributions associated with elimination of the existing grade crossing.

C. OPERATING EFFICIENCIES/STANDARDS Truckee requests that, if approved, the merger be conditioned on a requirement that Union Pacific will establish and enforce the following operational standards, all of which will terminate upon elimination of the Highway 267/Bridge Street at-grade crossing pursuant to mitigation measure B above:

1. Minimize rail trips that result in "gate down" occurrences at the Highway 267/Bridge Street at-grade crossing on Sundays (or Monday on Monday holiday weekends) between 3:00 p.m. and 6:00 p.m. to the maximum extent feasible until the Highway 267 bypass is completed.

2. Prohibit freight trains from parking across the Highway 267/Bridge Street at-grade crossing and support the Town's efforts to stop AMTRAK trains from doing the same.

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Refer to the previous page for response.

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Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.



3. Minimize switching and maintenance operations that result in gate down occurrences at the Highway 267/Bridge Street at-grade crossing, particularly during peak vehicular traffic periods.
4. Prohibit "scissor moves" that result in extended gate down occurrences at the Highway 267/Bridge Street at-grade crossing.
5. Prohibit maintenance vehicles from being loaded onto the tracks at the Highway 267 grade crossing that result in gate down occurrences.
6. Establish a minimum speed limit of 25 miles per hour for through trains crossing the Highway 267/Bridge Street at-grade crossing.

NO NET INCREASE IN PM10 IN TRUCKEE - MARTIS VALLEY

Truckee requests that, should the merger be approved, it be conditioned upon a requirement that Union Pacific ensure there will be no net increase of PM10 air emissions within Truckee. This mitigation is to be accomplished by participation in an existing wood burning stove buy back program through contributing the sum of \$300,000 which is equivalent to replacing 200 older wood burning stoves in Truckee with cleaner burning EPA phase II stoves through a woodstove buyback program and resulting in an annual PM10 emissions savings of 9.9 tons. Although the \$300,000 does not mitigate 100% of the Railroad's PM10 impact it was the number identified in our initial negotiations with Union Pacific and will be retained for consistency purposes.

In addition, Union Pacific will strive to utilize cleaner burning locomotives and California low sulfur diesel fuel so that localized and longer term impacts of PM 10 emissions are minimized.

NO NET INCREASE IN HAZARDOUS MATERIALS TRAFFIC Truckee requests that, if approved, the merger be conditioned on a requirement that the Applicants not increase the level of hazardous materials traffic through Truckee above that presently moving through the Town, measured on an annual basis.

Respectfully submitted,


Stephen D. Wright
Town Manager

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Refer to the previous page for response.

9

9

Subsequent to the publication of the EA, the Town of Truckee and UP/SP have negotiated an agreement and prepared a Memorandum of Understanding (MOU) to address the concerns identified by the town. SEA recommends the inclusion of a condition of approval for the proposed merger that would require UP/SP to abide by the terms of the MOU. A copy of confirmation of the agreement is included in Appendix B.

VERIFICATION

I, Stephen L. Wright, declare under penalty of perjury that the foregoing is true and correct as to all matters stated therein of my own knowledge, and as to matters stated therein on knowledge and belief, believe the same to be true and correct. Further, I certify that I am qualified and authorized to file this Verified Statement.

Executed on March 25, 1996, at Truckee, California.


STEPHEN L. WRIGHT



Town Council

Don McCormack, Mayor

Emilee H. (Breeze) Cross

Steve A. Carpenter

Kathleen Lagan

Robert Drake



Department Heads

Stephen L. J. right, Town Manager

Jill R. Fox, Director of Finance

J. Dennis Crabb, Town Attorney

Jon Lander, Town Engineer

Thomas Covey, Public Works Director

Tony Lashbrook, Community Development

May 2, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Ave, NW
Washington, DC 20423

Re: Environmental Assessment- Finance Docket 32760

Dear Ms. Kaiser:

The Town of Truckee has reviewed the environmental assessment prepared to address the impacts of the Union Pacific Southern Pacific Rail Corporations merger. The concerns of the Town all relate to the expected increase in rail traffic on the Donner corridor resulting from the merger and are outlined in detail in the three verified statements submitted by the Town of Truckee (Christensen, Wright and Shaw). These reports are part of the formal record for this proceeding and will not be repeated in this letter.

Our primary concern with the environmental assessment is the daily rail traffic assumption used for the environmental assessment and particularly for the various technical studies including traffic, air quality and noise impacts. The environmental assessment is based upon a total of 25.1 train trips through Truckee per day on the line between Sparks, Nevada and Roseville, California. Information developed by our railroad consultants indicates that rail trips through Truckee will increase from the current level of 14 trips to 36 trips per day (including B.N.S.F. traffic). It is imperative that the technical studies and their conclusions be based upon an accurate projection of the increase in rail traffic expected to result from the merger to avoid a fatal flaw in the validity of the environmental documentation. This issue must be addressed before the environmental assessment is accepted.

Beyond our concern with the validity of the rail traffic estimates and the technical studies contained in the environmental analysis, we support the mitigation measures established on page 4-43 and 4-44 of volume 2 of the environmental assessment. In fact the Town is actively negotiating with Union

Telephone (916) 582-7700 11570 Donner Pass Road, Truckee, CA 96161 FAX (916) 582-7710

1 The Town's concern about the number of trains that would affect the area is acknowledged. SEA has confirmed the validity of the train traffic assumptions used for analyses in the EA. Please refer to the general discussion of train traffic in Volume 1, Chapter 4 of the Post EA.

2 SEA acknowledges the Town of Truckee's support for mitigation measures presented in Volume 2, Chapter 4 of the EA. Subsequent to the EA, UP/SP and the Town developed a mutually agreeable plan to mitigate traffic impacts and air quality impacts.

RAILROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
CALIFORNIA - TOWN OF TRUCKEE

Elaine Kaiser, Surface Transportation Board
May 2, 1996

Page 2

Pacific within the context of Air Quality mitigation measure 1 and Transportation and Safety mitigation measure 1. We are optimistic that we will reach an agreement with UP/SP on these issues in the very near future. We request that these mitigation measures be retained within the final environmental assessment. They provide the only mechanism to insure that significant environmental impacts created by increased rail traffic associated with the merger are adequately mitigated.

Thank you for considering our comments. Should you have questions or need more information, please give me a call.

Sincerely,


Stephen L. Wright
Town Manager

cc: Bill Wimmer, Union Pacific
Town Council

RAILEALT WPD

Telephone (916) 582-7700 11570 Donner Pass Road, Truckee, CA 96161 FAX (916) 582-7710

2 Refer to the previous page for response.



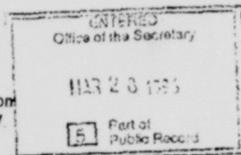


The Board of County Commissioners
of Chaffee County

P. O. Box 699
Salida, Colorado 81201
(719) 539-2218

March 25, 1996

Vernon A. Williams, Secretary
Surface Transportation Board
Interstate Commerce Commission
12th and Constitution Ave. N.W.
Washington, D.C. 20423



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

Docket No. AB-12 (Sub-No. 188)
Docket No. AB-8 (Sub-No. 39)
Docket No. AB-8 (Sub-No. 36x)
Docket No. AB-3 (Sub-No. 130)

LETTER OF PROTEST AND REQUEST FOR CONDITIONS
SUBMITTED BY
CHAFFEE COUNTY BOARD OF COMMISSIONERS
P.O. BOX 699
SALIDA, CO. 81201-0699

Dear Secretary Williams:

Pursuant to the Notice of Intent to Participate, submitted to you in letters dated December 26, 1995, the Chaffee County Board of Commissioners hereby submits its position statement concerning protest to the proposed merger, particularly as it pertains to the anticipated and proposed abandonment of 173 miles of track between Canon City, Colorado and Sage, Colorado.

1. Chaffee County Board of Commissioners is a body politic under the laws of the State of Colorado. The Board of Commissioners is made up of three County Commissioners elected at large (but residing in three separate districts). The Board of Commissioners is the administrative, legislative and policy making board of Chaffee County.

Economic Objections 1.

1 SEA has noted the County's opposition to the proposed UP/SP merger and related abandonments.

Secretary Vernon A. Williams
March 25, 1996
Page Two

Chaffee County was formed by an act of the State Legislature in February of 1879. Among the duties of the Board of Commissioners are the powers granted to Counties to regulate land use of all unincorporated portions of Chaffee County and to improve and protect the health, welfare and safety of all citizens and visitors to Chaffee County.

2. The Board of Commissioners has worked with other jurisdictions within Chaffee County concerning the matter of the merger and abandonment of lines proposed in this action. It is the wide spread consensus of agencies and entities that the abandonment of the 178 miles of tract between Canon City and Sage, Colorado and in particular the mileage within the boundaries of Chaffee County will be detrimental to the interest of the County and or at the very best, shouldn't occur without the imposition of certain conditions concerning such line abandonment.

3. **THE CHAFFEE COUNTY BOARD OF COMMISSIONERS HEREBY REQUEST THAT THE PROPOSED LINE ABANDONMENT BE DENIED. ABANDONMENT WILL CLEARLY PROHIBIT FUTURE OPPORTUNITIES FOR MINING AND WILL CERTAINLY DAMAGE A STRUGGLING LOCAL ECONOMY AND PROHIBIT ECONOMIC DIVERSIFICATION.**

4. If the line abandonment is granted, the Board of Commissioners request that it be subject to the following conditions:

a. The merging parties, or Southern Pacific be required to offer for sale tracks and right-of-way within Chaffee County and the 173 miles within the region of proposed abandoned lines as a unit to enable the lines to remain intact as a whole which would encourage a regional railroad, or other similar interested party to make beneficial use of the lines for the betterment of the County and region. In addition, provide bridge rights to any potential buyer. Although Southern Pacific has indicated that it does not oppose the sale of the lines, it has failed to give any consideration to inquiries for purchase of the lines. Chaffee County supports the sale of this route to Montana Rail Link, LSBC Holdings or any other viable alternative.

b. If negotiations for sale of the intact lines are unsuccessful, the merging parties, or Southern Pacific be required to rail-bank the tracks and right-of-way within Chaffee County and the 173 miles of line within the region, which would allow the right of way to be preserved.

c. The merging parties or Southern Pacific be required to leave the physical track in place along the intact 173 miles of line for a period of 24 months following final approval of the proposed merger and be required to negotiate, in good faith, with the regional or other viable railroads.

d. If either abandoned or rail-banked that the merger parties or Southern Pacific be required to preform an Environmental Assessment, a plan be implemented for removal of all hazardous waste and bonding be placed to perform such task.

2. SEA has noted the County's opposition to the proposed UP/SP merger and related abandonments.

3. Economic and competitive market issues are beyond the scope of SEA's environmental review and are addressed by the Surface Transportation Board in its review of the merits of the case.

4. Requiring the railroad to (1) offer its tracks and right-of-way for sale, (2) rail bank its tracks, or (3) leave its tracks in place for 24 months are all beyond the Surface Transportation Board's jurisdiction. However, the Applicant has entered into a Letter of Intent (March 21, 1996) with the State of Colorado to explore disposition of the line in a fashion most beneficial to all interested parties including sale to the State, partial retention of rail service and joint use with recreational. Additionally, the State of Colorado has submitted Statements of Willingness to Assume Financial Responsibility for all of the lines proposed for abandonment. A general statement about SEA's approach to rail-to-trail conversions is included in Volume 1, Chapter 4 of the Post EA.

5. Since publication of the EA, SEA has conducted a review of hazardous materials issues related to the proposed abandonment of the Sage to Canon City rail line (Sage to Leadville segment and Malta to Canon City segment). This review included interviews with cleanup agency officials and others (CDPHE, US Forest Service, SP, and D&RGW), a site visit, and a review of hazardous materials investigation reports. The Eagle Mine and California Gulch Superfund sites are located adjacent to the proposed abandonment. Three derailment sites along the line (1989, 1994, and 1996) are being investigated, cleaned up, and restored by

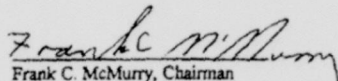


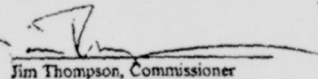
Secretary Vernon A. Williams
March 25, 1996
Page Three

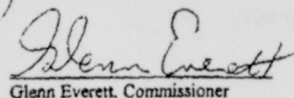
e. In order to augment the \$73,900 of lost property tax due to abandonment, a trust fund be established of not less than \$1,750,000 (one million seven hundred fifty thousand dollars) to augment the lost revenues. Revenue be proportioned to the County, the Town of Buena Vista, the City of Salida, and all affected special districts government based on their 1996 railroad assessed valuation multiplied by their past years mill levy.

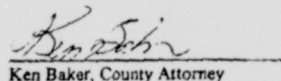
It is the position of the Chaffee County Board of Commissioners that the interests of the residents, citizens, governments, agencies, businesses and other entities would be best served if the conditions set forth in this letter are imposed. Without the proposed conditions, the detrimental effect of the proposed line abandonment to this regions would be tremendous.

Sincerely Yours,


Frank C. McMurtry, Chairman


Jim Thompson, Commissioner


Glenn Everett, Commissioner


Ken Baker, County Attorney

5 Refer to the previous page for comment.

Southern Pacific. SEA notes that D&RGW has signed a consent decree with EPA regarding investigation and clean up of the California Gulch site. Remediation of the Eagle Mine site by Viacom International is under way under a 1988 Consent Decree. If the proposed merger is approved, UP/SP would assume, as appropriate, any responsibility and/or liability for hazardous materials clean up by SP or D&RGW in accordance with hazardous waste liability laws. This would include any responsibility of D&RGW for the California Gulch Superfund site. A copy of SEA's report is included in Appendix G. Volume 1, Chapter 5 of the Post EA includes SEA's recommended mitigation measures regarding hazardous materials along rail lines proposed for abandonment.

6 Requiring the railroad to establish a trust fund for lost property tax revenues is beyond the scope of the Board's jurisdiction. If an abandonment is approved, the respondent should forward this concern directly to UP/SP.



The Board of County Commissioners
of Chaffee County

P. O. Box 699
Salida, Colorado 81201
(719) 539-2218

April 29, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Surface Transportation Board
1201 Constitution Avenue, NW, Rm 3219
Washington, DC 20423

Vernon A. Williams, Secretary
Surface Transportation Board
Interstate Commerce Commission
12th and Constitution Ave. NW
Washington, D. C. 20423

RE: LETTER OF PROTEST CONCERNING ENVIRONMENTAL ASSESSMENT
ON FINANCIAL DOCKET NO. 32760

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

Docket No. AB-12 (Sub-No. 188)
Docket No. AB-8 (Sub-No. 39)
Docket No. AB-8 (Sub-No. 36x)
Docket No. AB-3 (Sub-No. 130)

SUBMITTED BY
CHAFFEE COUNTY BOARD OF COMMISSIONERS
P. O. BOX 699
SALIDA, CO. 81201-0699

Dear Chief Kaiser,
Dear Secretary Williams:

Pursuant to the Notice of Intent to Participate, submitted to you in letters dated December 26, 1995, the Chaffee County Board of Commissioners hereby submits its position statement concerning protest to the proposed merger and ENVIRONMENTAL ASSESSMENT as it pertains to the anticipated and proposed abandonment of 173 miles of track between Canon City, Colorado and Sage, Colorado and particularly to trackage within Chaffee County, Colorado



Chief Elaine K. Kaiser
Secretary Vernon A. Williams
April 29, 1996
Page Two

1. Chaffee County Board of Commissioners is a body politic under the laws of the State of Colorado. The Board of Commissioners is made up of three County Commissioners elected at large (but residing in three separate districts). The Board of Commissioners is the administrative, legislative and policy making board of Chaffee County. Chaffee County was formed by an act of the State Legislature in February of 1879. Among the duties of the Board of Commissioners are the powers granted to Counties to regulate land use of all unincorporated portions of Chaffee County and to improve and protect the health, welfare and safety of all citizens and visitors to Chaffee County.

2. The Board of Commissioners has worked with other jurisdictions within Chaffee County concerning the matter of the merger and abandonment of lines proposed in this action. It is the wide spread consensus of agencies and entities that the abandonment of the 178 miles of tract between Canon City and Sage, Colorado and in particular the mileage within the boundaries of Chaffee County will be detrimental to the environmental interest of the County and or at the very best, shouldn't occur without the consideration of several environmental concerns.

3. Chaffee County Protests the following lack of information on or misrepresentation of:

A. **Flood Plain** ---- Several areas along Rail Corridor within Chaffee County are in the 100 year flood plan or in the flood inundation zone. (See Maps)

B. **Prime Agricultural Land** ---- The rail corridor in Chaffee County passes through several prime agricultural areas. (See Maps)

C. **Ditches** ---- No mention of irrigation and the impact of abandonment on easements, water rights and potential changes to land use patterns. (See Maps and Ditch / Water Rights fact sheet).

D. **Past Spill and Disposal (Arsenic and Mercury)** ---- Reports of substantial hazardous material spills and adjacent site disposal in the nineteen hundreds (1900's) were not addressed. Some are in Chaffee County or in neighboring Lake County and have the potential of contaminating the water supply.

4. **Mitigation Measures** ---- If either abandoned or rail-banked that the merger parties or Southern Pacific be required to perform an environmental mitigation, a plan be implemented for removal of all hazardous waste and bonding be placed to perform such task. Also protection of prime agricultural lands, flood plains and irrigation ditches be insured.

It is the position of the Chaffee County Board of Commissioners that the interests of the residents, citizens, governments, agencies, businesses and other entities would be best served if the conditions set forth in this letter are imposed. Without the proposed conditions, the detrimental environmental affect of the proposed line abandonment to this region would be substantial.

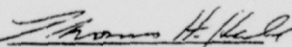
1 SEA recognizes the Board of Commissioner's position that the proposed merger and abandonments would be detrimental to the environmental interests of the County.

2 SEA appreciates the Board's information on flood plains, agricultural lands and ditches. These sources are different than used in the EA. The source of flood plain information used in the EA is the Federal Emergency Management Agency mapping of flood plains; agricultural lands are defined by the Natural Resource Conservation Service. Information on ditches was not used.

3 SEA has considered the Board's recommendation for mitigation measures for removal of hazardous wastes, a bonding requirement, and protection of primary agricultural lands, flood plains and irrigation ditches. Since publication of the EA, SEA has conducted a review of hazardous materials issues related to the proposed abandonment of the Sage to Canon City rail line (Sage to Leadville segment and Malta to Canon City segment). This review included interviews with clean up agency officials and others (CDPHE, US Forest Service, SP, and D&RGW), a site visit, and a review of hazardous materials investigation reports. The Eagle Mine and California Gulch Superfund sites are located adjacent to the proposed abandonment. Three derailment sites along the line (1989, 1994, and 1996) are being investigated, cleaned up, and restored by Southern Pacific. SEA notes that D&RGW has signed a consent decree with EPA regarding investigation and clean up of the California Gulch site. Remediation of the Eagle Mine site by Viacom International is under way under a 1988 Consent Decree. If the proposed merger is approved, UP/SP would assume, as appropriate, any responsibility and/or liability for hazardous materials clean up by SP or D&RGW in accordance with hazardous waste liability laws. This would include any responsibility of D&RGW for the California Gulch Superfund site. A copy of SEA's report is included in Appendix G. Volume 1, Chapter 5 of the Post EA includes SEA's recommended mitigation measures regarding hazardous materials along rail lines proposed for abandonment.

Elaine K. Kaiser
Vernon A. Williams
April 29, 1996
Page Three

Sincerely Yours,


Thomas H. Hale
County Administrator

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon applicants' Representatives:

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

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

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

Gary Laakso, General Attorney
Southern Pacific Building, Room 846
One Market Plaza
San Francisco, CA. 94105

Robert Opal, General Attorney
1416 Dodge Street
Omaha, NE 68179-0830

Prepaid, First-Class, Certified Return Receipt Requested, United States Postal Service.
Dated at Salida, Colorado, this 30th day of April, 1996

Kathy A. Leinz, Adm. Assist.



COLORADO MOUNTAIN COLLEGE



LC-3

May 1, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis
Room 3219
Surface Transportation Board
1201 Constitution Ave., NW
Washington, DC 20423

ref: Finance Docket No. 32760

Union Pacific Corporation, Union Pacific Railroad Co.,
& Missouri Pacific Railroad Co.
-- Control & Merger --
Southern Pacific Rail Corporation, Southern Pacific Transportation Co.,
St. Louis Southwestern Railway Co., SPCSL Corp., and
The Denver & Rio Grande Western Railroad Co.

Dear Ms. Kaiser:

The Leadville Coalition is a party of record in the above-referenced issue. The Coalition is composed of a board of directors representing the Lake Co. Board of Commissioners; the City of Leadville; the Leadville Sanitation District; the Parkville Water District; the Lake Co. School District R-1; the Colorado Mountain Junior College District; and the Greater Leadville Area Chamber of Commerce. Associate memberships are held by St. Vincent General Hospital; Lake Co. Parks & Recreation Dept.; the U.S. Forest Service, Pike-San Isabel National Forest, Leadville Ranger District; and the Leadville Transportation Dept.

In correspondence to the Surface Transportation Board dated March 21, 1996, the Coalition indicated its opposition to the proposed merger and related abandonments on the basis of a number of concerns related to environmental conditions relating to Docket No. AB-8 (Sub No. 36X), the Denver & Rio Grande Western Railroad Discontinuance Exemption, Sage-Leadville Line in Eagle and Lake Counties, Colorado, and Docket No. AB-12 (Sub No. 189X) Southern Pacific Transportation Company Abandonment Exemption, Sage-Leadville Line in Eagle and Lake Counties, Colorado. Specifically, our concerns were related to unresolved issues

1

2

1 SEA acknowledges opposition to the proposed UP/SP merger and related abandonments.

2 Since publication of the EA, SEA has conducted a review of hazardous materials issues related to the proposed abandonment of the Sage to Canon City rail line (Sage to Leadville segment and Malta to Canon City segment). This review included interviews with clean up agency officials and others (CDPHE, US Forest Service, SP, and D&RGW), a site visit, and a review of hazardous materials investigation reports. The Eagle Mine and California Gulch Superfund sites are located adjacent to the proposed abandonment. Three derailment sites along the line (1989, 1994, and 1996) are being investigated, cleaned up, and

LEARNING

LEADVILLE CAMPUS
501 South Highway 74, Leadville, Colorado 80461 719-486-2015

Page 2

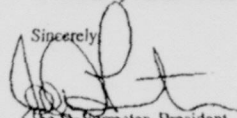
LC-3

establishing responsibility for remedial action and the specific actions to be undertaken within the California Gulch Superfund Site.

In review of the Environmental Assessment completed by your office, we are particularly troubled by the information contained in Vol. 3, Chapter 4, Section 4.1.7-Suggested Mitigation found on page 4-14. In this section, you are identifying mitigation measures requested by various parties participating in the Environmental Assessment. It is indicated that the U.S. Environmental Protection Agency, Region 8 has requested a remedial investigation to determine the nature and extent of contamination of rail lines to be abandoned within the Eagle Mountain and California Gulch Superfund sites. There is no indication in the record that any action will be required of the Surface Transportation Board in regard to suggested mitigation.

Further, as we review Section 4.1.8-SEA Recommended Mitigation, there appears to be no recommendation from the Section of Environmental Analysis to the Surface Transportation Board regarding the need for further remedial investigation as requested by EPA Region 8. It is indicated that "the Board will consider SEA's recommendations and the environmental record in making its final decision." We consider the absence of a recommendation from SEA on the request from EPA Region 8 to be a critical omission. Therefore, we are requesting that Section 4.1.8-SEA Recommended Mitigation be expanded to address the request filed with you by EPA Region 8. It is our preference that a complete remedial investigation be undertaken to define the responsibilities of the corporate entity to be created by the merger and the actions to be undertaken within the California Gulch Superfund Site and other sites under investigation by EPA along the route proposed for abandonment and/or exemption. A final record of decision should be entered by the Environmental Protection Agency as part of the remedial investigation.

Sincerely,


Joe D. Forrester, President
Leadville Coalition

/cc

pc: Leadville Coalition Directors & Associate Directors

2 Refer to the previous page for comment.

restored by Southern Pacific. SEA notes that D&RGW has signed a consent decree with EPA regarding investigation and clean up of the California Gulch site. Remediation of the Eagle Mine site by Viacom International is underway under a 1988 Consent Decree. If the proposed merger is approved, UP/SP would assume, as appropriate, any responsibility and/or liability for hazardous materials clean up by SP or D&RGW in accordance with hazardous waste liability laws. This would include any responsibility of D&RGW for the California Gulch Superfund site. A copy of SEA's report is included in Appendix G. Volume 1, Chapter 5 of the Post EA includes SEA's recommended mitigation measures regarding hazardous materials along rail lines proposed for abandonment.

The State of Colorado has entered into negotiations with UP/SP regarding future use of the proposed abandonments. The Coalition's concerns about hazardous materials investigations should also be forwarded to the State and UP/SP.

Please also refer to the entire response provided for the comment letter submitted by the Environmental Protection Agency Region 8 and Colorado Department of Public Health and Environment, dated March 22, 1996.

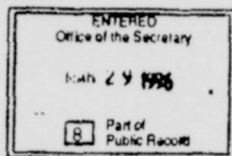


COLORADO MOUNTAIN COLLEGE



LC-2

March 21, 1996



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

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

Docket No. AB-8 (Sub-No. 36X), The Denver and Rio Grande Western Railroad Discontinuance Exemption, Sage-Leadville Line in Eagle and Lake Counties, Colorado and

Docket No. AB-12 (Sub-No. 189X), Southern Pacific Transportation Company Abandonment Exemption, Sage-Leadville Line in Eagle and Lake Counties, Colorado.

Docket No. AB-8 (Sub-No. 39), The Denver and Rio Grande Western Railroad Company Discontinuance, Malta-Canon City Line in Lake, Chaffee and Fremont Counties, Colorado and

Docket No. AB-12 (Sub-No. 188) Southern Pacific Transportation Company Abandonment, Malta-Canon City Line in Lake, Chaffee and Fremont Counties, Colorado.

Dear Secretary Williams:

On December 22, 1995, I advised you, on behalf of the Leadville Coalition, of our intent to participate in the above referenced proceedings. The Coalition is composed of a Board of Directors representing the Lake County Board of Commissioners; The City of Leadville; The Leadville Sanitation District; The Parkville Water District; The Lake County School District, R-1; The Colorado Mountain Junior College District and the Greater Leadville Area Chamber of Commerce. Associate memberships are held by St. Vincent General Hospital; The Lake County Parks and Recreation Department; The U. S. Forest Service, Pike-San Isabel National Forest,

LEARNING

TIMBERLINE CAMPUS
2001 South Highway 24, Leadville, Colorado 80451-7045

LC-2

Leadville Ranger District and The Leadville Transportation Department. Collectively, we have a number of concerns regarding the proposed merger, abandonment and exemption.

It is our understanding that the Union Pacific Railroad Company, the Southern Pacific Transportation Company and their respective subsidiaries, hereinafter referred to as the "Companies", are required to prepare an Environmental Assessment Report on properties proposed for abandonment. It is our impression, substantiated by the January 12, 1996 "Notice of Intent to Participate" filed by the United States Environmental Protection Agency, Region VIII, that the report filed by the Companies is not in compliance with a variety of federal statutes and regulations.

Portions of the properties owned by the Southern Pacific (SP) and proposed for abandonment lie within the California Gulch Superfund Site covering parts of Leadville and unincorporated areas in Lake County. In its filing, Volume 6; Part 4; Chapter 5.0, Colorado; Section 5.1, Sage to Leadville, Colorado; Subsection 5.1.2.5.1, Conditions of the Rail Segment, it is acknowledged that "SP own three slag piles included in the site, referred to as the Harrison Street Pile, the La Plata Pile, and ASARCO Pile." The ASARCO Pile is referred to in other documents as the Arkansas Valley or AV Pile. It is further stated that "Ballast-sized slag (greater than 0.25 inch in diameter) was released for use by the Environmental Protection Agency (EPA) in 1993. As a result of that ruling, SP resumed use of appropriately sized slag as ballast in 1995."

The statement continues "The three slag piles in SP ownership contain some lead "fines" (slag less than 0.25 inch in diameter), as well as ballast-sized slag. It is anticipated that following the merger, slag would continue to be used as ballast, an action that would reduce the size of the piles." However, there appears to be no mention of remedial action contemplated by SP in relation to the "fines" which remain at the three sites.

In our view, the term "piles" is somewhat relative and does not accurately describe SP's area of responsibility. In the November, 1991 document "Sampling and Analysis Plan for Slag Pile Remedial Investigation/Feasibility Study at California Gulch Site, Leadville, Colorado," prepared for D & RGWRC by Morrison Knudsen Corporation, the description of the "piles" is more precise.

The report states "The Arkansas Valley (AV) pile is the largest and westernmost of the three slag piles owned by D&RGW at this site.... The AV pile covers an area of approximately two million square feet. The maximum depth of the pile is approximately 50 feet, but in some areas the depth is less than one foot." (p. A-6) The report continues "The La Plata (LP)...slag pile is irregular in shape and covers an area of approximately 500 feet by 600 feet. This pile has steep sides approximately 30 feet high." (P. A-6) , and finally, "The Harrison Street (HR)...pile thickness ranges from approximately five feet to over 40 feet. The size of this pile is approximately 400 feet by 400 feet." (p. A-7)

Responsibilities of the Companies for remediation of these sites has yet to be fully determined. In the partial Consent Decree between the D & RGW and the EPA, it is noted that "EPA will prepare the ROD (Record of Decision) for OU3 (Operable Unit 3) addressing all sources of potential

1 SEA acknowledges the Coalition's concern about the proposed abandonment within the California Gulch Superfund site. Since publication of the EA, SEA has conducted a review of hazardous materials issues related to the proposed abandonment of the Sage to Canon City rail line (Sage to Leadville segment and Malta to Canon City segment). This review included interviews with clean up agency officials and others (CDPHE, US Forest Service, SP, and D&RGW), a site visit, and a review of hazardous materials investigation reports. The Eagle Mine and California Gulch Superfund sites are located adjacent to the proposed abandonment. Three derailment sites along the line (1989, 1994, and 1996) are being investigated, cleaned up, and restored by Southern Pacific. SEA notes that D&RGW has signed a consent decree with EPA regarding investigation and clean up of the California Gulch site. Remediation of the Eagle Mine site by Viacom International is under way under a 1988 Consent Decree. If the proposed merger is approved, UP/SP would assume, as appropriate, any responsibility and/or liability for hazardous materials clean up by SP or D&RGW in accordance with hazardous waste liability laws. This would include any responsibility of D&RGW for the California Gulch Superfund site. A copy of SEA's report is included in Appendix G. Volume 1, Chapter 5 of the Post EA includes SEA's recommended mitigation measures regarding hazardous materials along rail lines proposed for abandonment.



contamination within the OU, however D&RG shall only implement the remedial action selected in the ROD for the three D&RG owned slag piles." (Appendix A, p. 3) As of this time, the Record of Decision has not been entered.

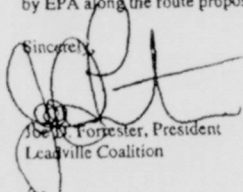
Based on these unresolved issues, our concerns can be summarized as follows:

1. The final responsibility of the Companies for remedial action on its properties within the California Gulch Superfund Site have yet to be fully determined through the filing of a Record of Decision by EPA.
2. The remedial actions currently under discussion are based largely on current land use. Future undefined usage of the properties proposed for abandonment as part of the merger may require further risk assessment and remedial action.
3. The January 12, 1996 "Notice of Intent to Participate" filed by EPA Region VIII raises a number of compliance and use issues which do not seem to be adequately and/or appropriately addressed.
4. It appears that the Environmental Assessment presented by the Companies is incomplete and does not seek to define the responsibilities of the corporate entity created by the merger in completing remedial action within the California Gulch Superfund Site and other sites under investigation by EPA.

Given these considerations, we believe that a further risk assessment addressing contemplated uses of the properties to be abandoned is necessary. We ask that no decision be made by the Surface Transportation Board on the merger, the abandonment or the exemption until appropriate, required environmental assessments are completed. Further, we ask that decisions on the merger abandonment and exemption be deferred until a complete Consent Decree and a Final Record of Decision are entered by the Environmental Protection Agency.

These documents should define the responsibilities of the corporate entity to be created by the merger for action within the California Gulch Superfund Site and other sites under investigation by EPA along the route proposed for abandonment and/or exemption.

Sincerely,


Joe W. Forrester, President
Leadville Coalition

/oc

- 2 EPA's Record of Decision will specify responsibilities of all parties for remediation. Should the proposed merger be approved, any responsibilities placed on Denver & Rio Grand Western would be assumed by UP/SP.
- 3 SEA's recommended mitigation described in Volume 1, Chapter 5 of the Post EA would address risk assessment and remediation issues for future land uses.
- 4 The Applicant's Environmental Report (ER) appropriately identified the hazardous materials conditions associated with the proposed abandonment, and the existence of remedial planning. The ER is not required to resolve issues, but serves to identify them to the SEA and the Surface Transportation Board for inclusion in the environmental review process.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document by pre-paid U.S. first class mail on all other Parties of Record (POR) in accordance with Surface Transportation Board's Decision No. 15, as well as on upon each of the parties listed below.

Gary A. Laakso, General Attorney
Southern Pacific Building, Room 846
One Market Plaza
San Francisco, CA 94105

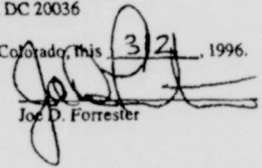
Robert Opal, General Attorney
1416 Dodge Street
Omaha, NE 68179-0830

Hon. Jerome Nelson, Administrative Law Judge
Interstate Commerce Commission
825 North Capitol Street, NE
Washington, DC 20426

Arvid E. Rosch, II, Esq.
Covington & Burling
1201 Pennsylvania Ave., NW
Washington, DC 20044

Paul Cunningham, Esq.
Harkins Cunningham
1300 Nineteenth Street, NW
Washington, DC 20036

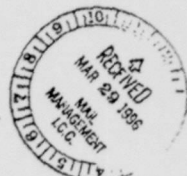
Dated at Leadville, Colorado, this 32, 1996.


Joe D. Forrester



BGL-6

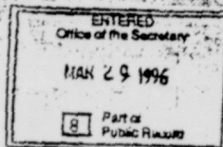
BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423



Finance Docket No. 32760

UNION PACIFIC CORPORATION, et al.,
--CONTROL AND MERGER--
SOUTHERN PACIFIC RAIL CORPORATION, et al.¹

COMMENTS
OF
EAGLE COUNTY, COLORADO, et al.



Fritz R. Kahn
Fritz R. Kahn, P.C.
Suite 750 West
1100 New York Avenue, NW
Washington, DC 20005-3934
Tel.: (202) 371-8037

Attorney for
Eagle County, Colorado, et al.

Due and dated: March 29, 1996

¹ Embracing Docket No. AB-12 (Sub-No. 188), Southern Pacific Transp. Co.--Abandonment--Malta-Canon City Line in Lake, Chaffee and Fremont Counties, Colorado, and Docket No. AB-12 (Sub-No. 189X), Southern Pacific Transp. Co.--Abandonment Exemption--Sage-Leadville Line in Eagle and Lake Counties, Colorado.

Engineering Department
(970) 428-8760
Fax: (970) 428-7185
TDD: (970) 428-8797



EAGLE COUNTY, COLORADO

Eagle County Building
P.O. Box 850
500 Broadway
Eagle, Colorado 81631-0850

March 25, 1996

VERIFIED STATEMENT

of

George A. Gates, Chairman

Eagle County Board of County Commissioners
Eagle County, State of Colorado

I, George ("Bud") A. Gates, am Chairman of the Eagle County Board of County Commissioners. Eagle County has been leading a coalition of eight governmental entities on railroad issues affecting the Colorado's Intermountain Region. The governments involved include Eagle and Lake counties, as well as the Towns of Red Cliff, Minturn, Vail, Avon, Eagle and Gypsum. All these entities strongly support the merger of the Union Pacific and Southern Pacific Railroads which is before the Surface Transportation Board under Finance Docket No. 32760.

The communities involved have had a long standing relationship with the Southern Pacific Railroad and its predecessors. Currently, most of the railroad traffic on the Tennessee Pass line originates outside of Eagle and Lake Counties and simply transits the counties for destination elsewhere. The Union Pacific/Southern Pacific merger will provide alternative routing which will provide the railroads with the flexibility to reroute traffic to improve service. As a result, safer alternatives will be available for shipment of freight, particularly hazardous materials. The Tennessee Pass line has experienced rail accidents, most notable the recent derailment in February 1996 which resulted in two deaths and a spill of approximately 55,000 gallons of sulfuric acid, and other chemicals. The aforementioned governmental entities welcome this merger because of the benefits to the Intermountain Region, urge your prompt approval of the proposed merger, and hereby express their intent to make an offer to purchase the Tennessee Pass line upon its abandonment pursuant to the financial assistance provisions of the statute and the Board regulations. The Tennessee Pass line is described more fully as the line from Canon City to Malta (Milepost 162.00 to Milepost 271.00) and the line from

1 SEA acknowledges Eagle County's support for abandonment of the Tennessee Pass line and potential safety improvements because alternate rail routings would be possible. SEA recognizes Eagle County's intent to make an offer to purchase the Tennessee Pass line if it is abandoned.



Leadville to Malta to Sage (Milepost 276.10 to Milepost 271.00 to Milepost 335.00).

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

George A. Gates
George ("Bud") A. Gates, Chairman
Eagle County Board of County
Commissioners

CERTIFICATE OF SERVICE

Copies of the foregoing Comments this day were served by me by mailing copies thereof, with first-class postage prepaid, to counsel for each of the parties.

Dated at Washington, DC, this 29th day of March 1996.

Fritz R. Kahn
Fritz R. Kahn



SINCE 1867

April 29, 1996

Elaine K. Kaiser, Chief
Section of Environmental Analysis Surface Transportation Board
1201 Constitution Avenue, NW-Room 3219
Washington, DC 20423-0001

Dear Ms. Kaiser

The following comments are of particular interest to this Association:

1. In Volume 1, Section 5.4, page 5-7 and Volume 3, Section 4.1.6, page 4-13 the US Forest Service talks about hazardous materials coming in contact with trail users. An analysis needs to be done by the National Environmental Policy Act (NEPA) before anyone else, namely Governor Romer's "Heart of the Rockies Historic Corridor Steering Committee" can proceed with proposed abandoned rail corridor activities. Title I of NEPA states the responsibility of the federal government to assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings.
2. Volume 3, Section 4.1.4, page 4-7 says the proposed abandonment would not affect any prime farmlands. Also stated in Section 4.2.3, page 4-17 is that no prime agriculture land has been identified adjacent to the rail line. This is absolutely incorrect. We believe there is prime agricultural land along the rail corridor, which will be profoundly affected by trail use.
3. Volume 3, Section 4.2.3, page 4-18 discusses water resources and that the rail line does not cross flood plains. In 1957 portions of the present track were under flood waters.
4. No account of herbicide spraying of the tracks in the last 100 years has been mentioned in the SIS. Regional Environmental Review Coordinator Michael P. Jansky states in his letter to you that Section 309 of the Clean Air Act and the Council on Environmental Quality (CEQ) regulations require EPA to review and comment on projects that may significantly impact the quality of the human environment.
5. Volume 3, Section 4.2.7, page 4-28 states that "People for the West," who also represents cattlemen, is for the trail system. The letter in Volume 5, page E-73 proves the opposition of the trail.
6. In Volume 3, Section 4.2.6, page 4-28 salvage of hazardous materials is what is being addressed, not the disposal of railroad ties and/or buildings.

Furthermore, there will be economic hardship if the rail is abandoned because of the reduction of the tax base. Maintenance of the trails would come from tax payers. The proposed abandonment and trails system changes an income into an expense for the community.

Our biggest concern is the problems it would cause the property owners along the corridor. The irrigation ditches would soon be full of rocks and trash, not to mention the increase of trespassing. We also feel that private property owners along the corridor will suffer unwarranted liability over instances of damage

5/5/96 10:53:19 AM



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1

SEA has considered the Association's concern for a hazardous materials survey prior to abandonment. Since publication of the EA, SEA has conducted a review of hazardous materials issues related to the proposed abandonment of the Sage to Canon City rail line (Sage to Leadville segment and Malta to Canon City segment). This review included interviews with cleanup agency officials and others (CDPHE, US Forest Service, SP, and D&RGW), a site visit, and a review of hazardous materials investigation reports. The Eagle Mine and California Gulch Superfund sites are located adjacent to the proposed abandonment. Three derailment sites along the line (1989, 1994, and 1996) are being investigated, cleaned up, and restored by Southern Pacific. SEA notes that D&RGW has signed a consent decree with EPA regarding investigation and cleanup of the California Gulch site. Remediation of the Eagle Mine site by Viacom International is underway under a 1988 Consent Decree. If the proposed merger is approved, UP/SP would assume, as appropriate, any responsibility and/or liability for hazardous materials cleanup by SP or D&RGW in accordance with hazardous waste liability laws. This would include any responsibility of D&RGW for the California Gulch Superfund site. A copy of SEA's report is included in Appendix G. Volume 1, Chapter 5 of the Post EA includes SEA's recommended mitigation measures regarding hazardous materials along rail lines proposed for abandonment.

2

SEA has considered the Association's concern that potential trail use would affect adjacent farmlands. The classification of prime farmland used in the EA is based upon Natural Resource Conservation Service (NCRS) mapping. NCRS indicated in its comments that there would be no apparent impacts to prime farmlands.

3

Information on flood plains contained in the EA is based on mapping provided by the Federal Emergency Management Agency; episodic flooding is not necessarily an indication of the presence or absence of a floodplain.

4

SEA has noted the Association's concern about past herbicide use along the right-of-way. The EA did not discuss potential impacts of past herbicide use because it is not contingent on the proposed action--abandonment. If the abandonment is not approved, herbicide practices would continue. Volume 3, Section 4.2.4 of the EA discusses the potential impact to biological resources that would occur if the proposed abandonment is approved. Discontinuance of vegetation control practices would enable native plant species to reestablish.



ROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
COLORADO - FREMONT CATTLEMENS ASSOCIATION

Elaine K. Kaiser, April 29, 1996
Page 2

due to public trespass and misbehavior. We feel the National Trails System Act should be repealed because of the assault on private property rights.

Also the highway traffic would increase to accommodate trucks hauling what the railroad has been transporting. The statement in Volume 3, Section 4.2.4, page 4-25 concurs with this.

Finally, we received the EIS on April 22, 1996. This gives our Association 12 days to review five volumes of gobbledegook and fine print. NEPA requires that the information made to the public be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA. We feel the aforementioned categories in the EIS have not been met by NEPA standards. Let it be known we are strongly opposed to the proposed rail line abandonment, and the proposed trail system for the rail corridor.

Sincerely

David J. Yadd
Chairman

Fremont Cattlemen's Association
Private Property Rights & Environment Committee
Dave Neese, Chairman
Rod Carpenter, President
Danael Goodwin
Tim Canterbury

In

c: US Senator Hank Brown
US Senator Ben Nighthorse Campbell
US Representative Joel Hefley
US Representative Scott McInnis
Governor Roy Romo
State Senator Linda Powers
State Senator Larry Schwarz

5 SEA concurs that the People for the West, Arkansas Valley Chapter letter does not indicate support for trails use. Upon review, it is clear the organization is concerned about several rails-to-trails issues, including costs and potential trespassing.

6 SEA's recommended mitigation measure for rail line abandonments and the disposal of materials, reported in Volume 1, Chapter 5 of the Post EA, applies to all materials, including hazardous materials.

7 SEA acknowledges the Association's concerns about degradation of the environment if the proposed abandonment is approved. It can be assumed that conversion to trail use would include management and security programs. Issues relating to the National Trail Systems Act are beyond the scope of SEA's environmental review. The State of Colorado has submitted Statements of Willingness to Assume Financial Responsibility for all Colorado lines proposed for abandonment.

8 Approximately 530 rail cars per year for the Malta to Canon City segment would be diverted to trucks, which would use local highways. These diversions would cause an estimated increase of 2,120 truck trips per year, less than one percent of current trips. This level of change does not warrant any mitigation.

9 The schedule for the Surface Transportation Board's review of the proposed merger dictates a 20 day review period. SEA endeavored to notify potential reviewers of the schedule in advance.



Danna K. Murphy
Joseph F. Hall
Myron F. Smith

Board of County Commissioners

FREMONT COUNTY

615 Macon, Room 102 • Canon City, Colorado 81202
Phone 719 275-1515 • Fax 719 275-7626

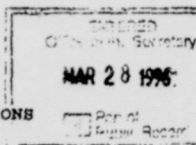
March 27, 1996



Vernon A. Williams, Secretary
Surface Transportation Board
Interstate Commerce Commission
12th and Constitution Ave. N.W.
Washington, D.C. 20423

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

Docket No. AB-8 (Sub-No. 39)
Docket No. AB-8 (Sub-No. 36x)
Docket No. AB-3 (Sub-No. 130)



LETTER OF PROTEST AND REQUEST FOR CONDITIONS
SUBMITTED BY

FREMONT COUNTY BOARD OF COMMISSIONERS
Fremont County Courthouse
615 Macon Avenue
Canon City, CO 81212

Dear Secretary Williams:

Pursuant to the Notice of Intent to Participate, dated January 11, 1996, the Fremont County Board of Commissioners hereby submits its position statement concerning protest to the proposed merger particularly as it pertains to the anticipated and proposed abandonment of 178 miles of track between Canon City, Colorado and Sage, Colorado.

1. Fremont County is a political subdivision of the State of Colorado. The Board of Commissioners is made up of three County Commissioners elected at large (but residing in three separate districts within the county). Canon City is the county seat of the county, which is the commencement point of the proposed abandonment of lines. The Board of Commissioners is the administrative, legislative and policy making board of Fremont County.

Economic Concerns



Secretary Vernon A. Williams
March 27, 1996
Page Two.

Fremont County was formed by an act of the State Legislature in February of 1879. Among the duties of the Board of Commissioners are the powers granted to counties to regulate land use of all unincorporated portions of Fremont County and to improve and protect the health, welfare and safety of all citizens and visitors to Fremont County. The county has a population of approximately 35,775. The county comprises 1,502 square miles of varied terrain, and is centrally located within the state of Colorado.

2. The County has participated with municipalities, entities and agencies within and without Fremont County concerning the matter of the Merger and Abandonment of Lines proposed in this action. It is the widespread consensus of the municipalities, agencies and entities that the abandonment of the 178 miles of track between Canon City and Sage, Colorado, will be detrimental to the interests of the region and should not occur without the imposition of certain conditions concerning such line abandonment.

3. The Fremont County Board of Commissioners hereby requests that the proposed line abandonment be denied. If the line abandonment is granted, the County requests that it be subject to the following conditions:

a. The merging parties, or Southern Pacific be required to offer for sale all of the Denver & Rio Grande Western lines as a whole unit which would encourage an interested party to make beneficial use of the lines for the betterment of the region. Although Southern Pacific has indicated that it does not oppose the sale of the lines, it has failed to give any consideration to inquiries for purchase of the lines.

b. If negotiations for sale of the intact lines are unsuccessful, the merging parties, or Southern Pacific be required to rail-bank the 178 miles of line, from Canon City to Sage, which would allow the right of way to be preserved.

c. The merging parties, or Southern Pacific be required to leave the physical track in place along the 300 miles of line proposed for abandonment in the State of Colorado for a period of 24 months following final approval of the proposed merger.

- 1 SEA acknowledges the Fremont County Board of Commissioners' comment that the proposed abandonments between Canon City and Sage should be denied unless conditions are imposed.
- 2 Conditions requiring the Applicant to offer for sale D&RGW lines for continued use are beyond the scope of the Board's jurisdiction.
- 3 The County's request for railbanking of the Canon City to Sage line (if abandonment is approved) is noted. The Applicant has provided evidence of willingness to negotiate with the State of Colorado for trails use if the abandonment is approved. SEA's general approach to railbanking and rail-to-trails conversion is included in Volume 1, Chapter 4 of the Post EA.
- 4 SEA has considered the County's request that rail facilities on all proposed abandonments be left in place for a period of 24 months following approval of the proposed merger. This issue would be coordinated with other time requests for trail conversions of abandonments, and the requests of the Colorado Department of Public Health and Environment, EPA Region 8 and others relating to risk assessment and remediation should the abandonments be approved. The Surface Transportation Board's authority to delay the effective date of the abandonment is limited to the 180 day time period for a public use condition.

[STATEMENT NO. 2]

BEFORE THE SURFACE TRANSPORTATION BOARD
ICC FINANCE DOCKET NO. 32760
UNION PACIFIC CORP., ET AL-- CONTROL AND MERGER--
SOUTHERN PACIFIC RAIL CORP., ET AL

STATEMENT OF CAROL SHALBERG
OPPOSING THE UP-SP MERGER

My name is Carol Shalberg and I live at 15555 County Road 67, Sheridan Lake, Colorado 81071. Our phone number is (719) 729-3548. My husband, Merle and I are farmers and ranchers. Our farming and ranching operation is located north of Sheridan Lake. We also deliver mail to the postal patrons in the Sheridan Lake and Brandon communities on a highway contract route. I also serve as a member of the Board of Directors of the Kiowa County RE-2 School District, Plainview School.

We do not have on farm grain storage and must haul our wheat to Tempel Grain Company in Sheridan Lake. We have to get custom harvesters to harvest our crop and truck the grain to the elevator. If the only elevator in Sheridan Lake would close we would then need to have our grain hauled to Cargill, Inc. in Cheyenne Wells. This would cost us an additional ten cents per bushel. Harvesters haul the grain to Sheridan Lake because it is close to our fields and it is relatively easy to get back and forth.

Should the railroad track be pulled up, we will lose another part of the rich history of our area. I am concerned that our two grandchildren may not be able to finish school at Plainview School if the school district has to close because of decreased enrollment and loss of tax revenue due to the railroad's departure. Plainview School stands to lose \$75,288.84 annually if the railroad is abandoned. The students at our school district need the security of knowing that they will be provided a quality education in spite of the depressed agricultural economy and boom and bust cycles in the rural areas of Southeastern Colorado.

I travel many miles on county roads and state highways each day. It is very apparent to me when the roads "go to pot". I am concerned that the extra truck traffic will further deteriorate the roads that aren't in excellent shape at the present time.

I am very interested in the proposed merger and abandonment because I know how important it is to have the railroad in this county.

I am very much opposed to the proposed merger and abandonment and ask that you deny the application. I would support an effort that calls for the sale of the line to an independent third party carrier who would operate the line in a competitive manner-offering good freight rates, an reasonable amount of cars and good service.

Thank you.

SEA acknowledges concerns about the proposed abandonment of the Towner to NA Junction segment. Approximately 120 rail cars of grain products would be diverted to local highways, which is equivalent to an increase of 480 trucks per year. This increase would be less than one percent of truck trips in the area, so no mitigation is proposed.



ROADS, COUNTIES, CITIES, ORGANIZATIONS AND GENERAL PUBLIC
COLORADO - DOROTHY MERCER



7/2/76 J176-2712

Route 2, Box 167
Logan, Oklahoma 73849
and
4500 S. 4 Mile Run Drive, #728
Arlington, Virginia 22204
March 29, 1996

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

Office of the Secretary

MAR 30 1996

4 Part of
Public Record

RE: Finance Docket No. 32760 Union Pacific Corporation, et al -- Control and Merger -- Southern Pacific Rail Corporation, et al and Docket No. AB-3 (Sub-No. 130) and other dockets affecting abandonment in the Central Corridor

Dear Mr. Williams:

There is a widespread and intense public outcry against the proposed merger of Union Pacific Corporation with Southern Pacific Rail Corporation and associated selective abandonment of segments of the rail. The new Surface Transportation Board has been given a mandate unprecedented in our times for reversing the ICC's long record of favoring the regulated interests over the public interest. The new Board is in a position to end the record of accommodating progressive concentration in this critical sector that has created a drag on the national economy and caused economic devastation to regions of the country which have not been adequately served for decades.

I speak from the viewpoint of a professional economist holding M.S. and Ph.D. degrees in economics. My experience includes serving as Director (acting) of the Office of Middle East and Central Asia, U.S. Department of the Treasury where for over 18 years I have conducted economic analysis and participated in policy formulation with regard to domestic and international energy issues and developments. I formerly designed and taught consumer affairs courses at the graduate and undergraduate levels at California Polytechnic State University, San Luis Obispo, and conducted economic research and policy analysis for the Office of Saver and Consumer Affairs of the Board of Governors of the Federal Reserve System in Washington, D.C.

I am responding to Docket No. 32760-UP-SP Merger and Docket No. AB-3 (Sub-No. 130) as an owner of valuable agricultural land and as a producer of wheat and milo in the vicinity of Eads and Chivington in Kiowa County, Colorado, and as heir to similar valuable wheat and milo producing lands in Oklahoma. I am, consequently, a financially affected party. I am further responding as a private citizen concerned with the adverse impacts of this proposed merger on industrial structure and