STB FD 32760 10-16-97 K 1/2

ORIGINAL

K



OFFICE OF THE SECRETARY
CASE CONTROL UNIT
FINANCE DOCKET No. 32760
SURFACE TRANSPORTATION BOARD
1925 K STREET, N.W., ROOM 700
WASHINGTON, D.C.

ATTN: ELAINE K. KAISER
CHIEF, SECTION OF ENVIRONMENTAL ANALYSIS
ENVIRONMENTAL FILING - WICHITA

ENVIRONMENTAL DOCUMENT

ORIGINAL

BEFORE THE
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 32760
UNION PACIFIC/SOUTHERN PACIFIC MERGER

COMMENTS OF
CITY OF WICHITA, KANSAS AND
SEDGWICK COUNTY, KANSAS
ON THE PRELIMINARY MITIGATION PLAN

Pursuant to the procedural schedule established by the September 15, 1997 Preliminary Mitigation Plan ("PMP") as later amended to permit comments as late as October 16, 1997, City of Wichita, Kansas and Sedgwick County, Kansas ("Wichita/Sedgwick") submit their comments on the PMP.

Executive Summary

"Optimism, said Candide, is a mania for maintaining that all is well when things are going badly."[1/]

Candide would admire the PMP's ability to see the "facts" in a manner most favorable to the Union Pacific Railroad ("UP"). Notwithstanding the Federal Railroad Administration's conclusion that "there is a fundamental breakdown in basic railroad operating procedures and practices essential to a safe operation [on the UP]", directly or indirectly attributable to the merged Southern Pacific and UP railroads[2/], the PMP concludes that "The combined UP/SP system is likely to be safer per ton-mile carried than in the pre-merger state."[3/] And, notwithstanding public

---

1/ Voltaire, Candide, Chapter 1 at 19.

2/ Summary Federal Railroad Administration Union Pacific Railroad Safety Assurance Assessment.

3/ PMP at 6-21.

knowledge of serious operational problems which have resulted in a unique Surface Transportation Board ("Board" or "STB") investigation[4/], the PMP accords the UP's prediction as to the number of trains to be operated through Wichita absolute, but undue, deference. UP's prediction that its average speed will be equal to the maximum speed permitted by law is accorded similar undue deference. In contrast, the PMP ignores the UP's predictions as to train lengths in the future and incorrectly substitutes shorter lengths, i.e. the lengths of pre-merger trains, for four trains per day.

Wichita/Sedgwick cannot view the facts and emerge as sanguine as the PMP. As discussed infra, our review of the PMP establishes that its input data are in error. **Among other things, the PMP uses incorrect train lengths and train speed to calculate post-merger impacts.** Accordingly, virtually every one of its calculations of environmental degradations resulting from the merger, even with the mitigation proposed, is seriously understated. The harms to Wichita/Sedgwick, including risks to public safety, are vastly greater than those incorrectly calculated by the PMP and are not fully addressed by the PMP's proposed mitigation. Further mitigation is required.

As a matter of law, the PMP fails the most basic requirement for administrative agencies. Its adoption by the Board would result in a decision that is arbitrary and capricious. The PMP admits, among other things, that its proposed mitigation would be

---

[4/] Ex Parte No. 573, Rail Service To The Western United States.

insufficient to bring the amount of time that the UP will block emergency vehicles anywhere close to pre-merger levels. However, it provides no analysis or standards by which Wichita/Sedgwick and/or a reviewing court could determine the STB's rationale for determining that the harms to emergency services need not be mitigated. This error of law must be corrected in the final mitigation plan.

As a matter of substance, the PMP's failure to recommend mitigation measures that would avoid increases in response times of emergency service vehicles, i.e. police, fire, and emergency medical services, is also a fatal defect.[5/] Even assuming, arguendo, that the PMP's analytical assumptions, e.g. as to train speed and length, have not understated the public safety harms to Wichita/Sedgwick, the PMP's analysis demonstrates a level of harm directly attributable to the merger so severe that it cries out for meaningful mitigation.[6/] And yet, the proposed mitigation falls well short of what is required to return Wichita/Sedgwick to the status quo ante. This error must be corrected.

In determining the need for, and elements of, its recommended mitigation, the PMP relies almost exclusively on

---

[5/] Public safety, in addition to being a statutory concern of the STB, has always been the key concern to Wichita/Sedgwick. See, e.g. PMP at 2-18.

[6/] The PMP also fails to assess certain public safety concerns voiced early and often in this proceeding. For example, access to the Via Christi-St. Francis hospital through 21st Street, 13th Street, Murdock, and Central has long been a concern. However, while this concern is mentioned by the PMP, 2-18, it is not further considered in the PMP analysis.

train count and speed projections by the railroad and offers Wichita/Sedgwick not even a hope of future action by the STB in the likely event that one or more of the railroad's projections proves overly optimistic. Neither approach has been justified and both must be abandoned in the final mitigation plan.

More mitigation, including pedestrian and vehicle grade separations, can and should be required by the STB and the substantive elements of that mitigation should, as previously advocated[7], be completed before train traffic increases.

Wichita/Sedgwick's major concerns with the PMP's analysis and proposed mitigation and our recommendations for mitigation are set forth hereinbelow.

COMMENTS ON THE PMP ANALYSIS

1. Potential Mitigation Measures

One of the more striking elements of the PMP is its listing of potential mitigation measures.[8] Each of the measures considered, increased train speeds, grade separations, etc., has as its single underlying premise that the UP must be permitted to increase its through train traffic through Wichita/Sedgwick. But, that is a legally faulty premise. In all environmental analyses, the "no action" alternative must be considered, i.e. requiring UP to maintain the historic level of traffic through Wichita/Sedgwick.

---

[7] PMP at 2-22.

[8] PMP at ES-4.

The PMP reflects not a single argument against consideration of the "no action" alternative advocated by a number of individuals.[9] However, the PMP does contain facts supporting that alternative. In fact, the UP has informed the Board of its plans

> to leave the coal trains on their present routes and to increase investment to provide additional capacity in Kansas City and on the lines emanating from Kansas City that carry coal to utilities, as well as other traffic. The greater capacity on routes via Kansas City will improve transit times, reduce congestion, and provide greater flexibility in future years.[10]

In the face of this planned upgrade of the Kansas City routing, an alternative routing to Ft. Worth and points south[11], the "no action" alternative is particularly compelling. Since, as the PMP admits, it is the policy of the United States Government "to operate transportation facilities and equipment without detriment to the public health and safety"[12] and since, as the PMP admits, its proposed mitigation cannot completely eliminate the environmental harms to Wichita/Sedgwick directly attributable to the merger, the PMP should have considered "just saying no", by requiring the UP to limit average daily train counts either to the historic figure or to a number for which the

---

[9] PMP at 2-20.

[10] Applicants' July 1, 1997 Report On Merger And Condition Implementation at 25.

[11] PMP Figure 4.1-1.

[12] PMP at 2-2 through 2-3.

inexpensive mitigation proposed by the PMP would be adequate. The Board established the precedent for the "no-action" alternative in Decision No. 44, which limited traffic counts "to preserve the environmental status quo"[13] and the PMP's failure to consider the "no-action" alternative was clear error.[14]

2. UP Train Activities

The first of the three most fundamental of the data inputs upon which an analysis of railroad merger impacts is based is the number of new trains that would result from the merger. Here, the PMP relies almost exclusively on data provided by the railroad. The Union Pacific's current number of trains is listed as averaging 4.0 trains per day and its future level of trains is listed as 9.6 trains per day.[15]

The historic data is demonstrably accurate.[16] However, the train counts for the future are not. Rather, they are nothing

---

[13] PMP at 1-1, 2-6, and 4-7.

[14] The PMP notes the existing route bypass option at 6-6, but does not discuss it further. See, e.g. PMP at 7-1 through 7-2.

[15] PMP at ES-3.

[16] Data provided by the UP for the 16 month period from May, 1996 through August, 1997 indicates an average of 3.99 through trains per day. See also, PMP Table 4.2-1.

more than UP's current[17] projections of what it expects to do in the future.[18]

If the UP had presented information demonstrating the reliability of its predictions[19], if the UP had not substantially changed its predictions of future traffic during the course of this proceeding[20], if certain important UP customers had not already voiced complaints concerning UP's current proposal to upgrade its routing through Kansas City, rather than Wichita/Sedgwick[21], and if the most significant mitigation measure proposed by the PMP, i.e. a substantial investment in tracks and centralized control systems, did not create the obvious potential for increased use of the Wichita/Sedgwick route, reliance on UP's current projections may have been justified. But, the fact remains that there is no

---

[17] UP's earlier projections are summarized in the June 3, 1996 Brief of Sedgwick County, Kansas and City of Wichita, Kansas (SEDG-16).

[18] The simple statement that SEA conducted an "independent review of the train traffic projections submitted by UP", PMP at 4-8, is hardly comforting. No information is provided as to the nature of this "independent review" and no information is provided as to whether any similar "independent review" in the past has been demonstrated to result in accurate data.

[19] UP has participated in many mergers in the past. Accordingly, it has data that would demonstrate the accuracy of its predictions. It chose not to present that information.

[20] As noted in the PMP at 2-20, the train counts upon which the analysis is premised were first presented by the UP in March, 1997.

[21] See, e.g. the July 1, 1997 Applicants' Report On Merger and Condition Implementation at 24-25 and the August 4, 1997 Comments Of The Lower Colorado River Authority And The City Of Austin, Texas at 6-7.

record evidence of UP's predictive skills[22], the UP has substantially lowered its predicted train counts during the course of this mitigation study, certain UP customers are putting pressure on the UP by voicing concerns over a perceived failure to gain all of the benefits claimed for the UP/SP merger as a result of the UP's stated intention to route Powder River Basin coal unit trains via Kansas City rather than Wichita/Sedgwick, and the proposed mitigation does, in fact, increase the desirability of the Wichita/Sedgwick route from an operational perspective.[23]

Still further, the PMP did not reflect two other train count matters that are directly attributable to the UP/SP merger. First, neither UP's March, 1997 projections nor the PMP reflects the increased switching activity in Wichita currently planned to relieve congestion elsewhere. See, UP/SP-323 at 27. No railroad traffic is as slow as switching operations and no railroad activity is likely to have as negative an impact on Wichita as increased switching. See, infra. Wichita/Sedgwick request that the final mitigation plan include a discussion as to (1) the currently expected extent of UP's new switching operations in

---

[22] For evidence to the contrary, see UP/SP-323 (October 1, 1997), the UP's remarkably candid appraisal of the operations nightmare it is now experiencing.

[23] Wichita/Sedgwick take it as a given that increasing the speed over a given route reduces transit times, thus enhancing the railroad's competitive position. "A primary objective of the merger was to create a rail carrier that would be more competitive and efficient...". PMP at 2-1. See also, the Benefits of the Merger" description at 2-9.

Wichita, (2) the currently expected the duration of those operations, and (3) the currently expected impact of those operations on Wichita/Sedgwick. These impacts should be fully mitigated.

Second, UP/SP-323 also notes the possibility of certain UP traffic being diverted to the BNSF. However, that document does not say what that traffic is or how much of it may be routed by BNSF through Wichita/Sedgwick. The point here is that UP's operational problems are directly related to its merger and that if BNSF traffic through Wichita/Sedgwick increases as a result of the UP/SP merger, that additional traffic must be included in the STB's analysis of the environmental harms created by the merger. Once again, Wichita/Sedgwick request that this issue be fully considered by the final mitigation plan.

In the face of all of this, complete reliance on UP's projected train count figures does not constitute a NEPA-mandated "hard look." Rather, a "hard look" would include one of three possible approaches. First, the PMP could have factored in some reasonable projection for train traffic growth in the future and based its mitigation requirements on that projection. Second, the PMP could have held UP to its projection and recommended that the Board limit UP's train counts to the projected average of 9.6 trains per day. Third, the PMP could have ordered the UP to monitor its train counts in the future[24] and set forth the

---

[24] In essence, this would be a continuation of Decision No. 44's condition number 23b. PMP at 2-8.

mitigation that would be required if UP's current 9.6 trains per day projection proves to be understated. Wichita/Sedgwick request that either the second or the third of these approaches be taken in the final mitigation plan.

In support of the second and third alternatives, Wichita/Sedgwick ask the Board to consider, by way of analogy, a construction proposal. Assume that a railroad proposed to construct new trackage, predicted that it would require a right of way 50 yards wide, and that the Board determined the need for environmental mitigation based on that prediction. Assume further that, as a result of unforseen circumstances, the railroad then learned that a right of way of 75 yards would be required. Ignoring that change could not possibly be consistent with the Board's obligations under NEPA. For the same reasons, ignoring changed activities resulting from the UP/SP merger, including increased UP through trains, increased UP switching, and increased BNSF traffic resulting from UP operational problems resulting from the merger also cannot be consistent with the Board's obligations under NEPA.

3. Train Speed

The second of the three most fundamental data inputs for measuring the impact of the UP/SP merger on Wichita/Sedgwick is the speed at which the UP trains will operate.[25/] Here, the PMP bends so far backward to minimize the harm to public safety in

---

[25/] See, e.g., PMP at 6-3.

Wichita/Sedgwick that it cannot even see, let alone take a hard look at, the problem.

By way of background to this issue, the PMP states that observed train speeds in Wichita indicate an average actual speed for through trains of 13.6 mph.[26/] The PMP then assumes, contrary to all experience[27/], that the speed of local trains and the speed of switching movements is the same as that of through trains.[28/] It then states that increasing the maximum timetable speed of through trains to 30 mph in the City [and to 60 mph in the rest of County] is possible and premises its post-merger, post-mitigation analysis on switching and local trains operating in the City at 13.6 mph and through trains operating in Central Wichita at 30 mph.[29/]

The result of this analysis is an assertion that the average crossing blockage in Wichita/Sedgwick is 2.6 minutes "per through train" today and a further assertion that the average crossing blockage will be only 1.8 minutes post-merger with increased train speeds.[30/]

[26/] PMP at 7-3. See also, Exhibit 1 hereto, underlying calculations of SEA's outside contractor.

[27/] Wichita/Sedgwick examined UP train speeds during the period between June 23, 1997 and July 2, 1997. The nine observed switching (yard/work) trains averaged 12.6 mph. The 12 observed Arkansas City Local and Through trains averaged 15.6 mph.

[28/] PMP at F-9. See also, Exhibit 1 hereto.

[29/] PMP at 7-3. See also, Exhibit 1 hereto.

[30/] PMP Table 7.2.2-1.

Even assuming, arguendo, that these figures were calculated correctly, but see note 27 and infra, this average masks real world impacts for Wichita. Using the formula for street blockage found at page F-4 and inserting the 5,618 feet average train for Central Wichita[31] and a 30 mph speed, the average street blockage would be 2.84 minutes, not 1.8.

In reviewing the PMP's analysis, it must first be noted that the PMP obviously is minimizing the current impact of switching and local movements on the street traffic, including emergency service traffic, of Wichita. Switching movements do not operate at 13.6 mph. In fact, they frequently stop in the middle of the street. The PMP's failure to consider this, especially in light of UP's admission that switching movements in Wichita will increase as a result of the merger, is clear error.

Second, the PMP is arbitrary and capricious in failing to provide any reason as to why its analysis of increased through train speeds differs so markedly from the analysis presented on the same day in the Reno mitigation study. In Reno, like Wichita, the current speed limit is 20 mph. In Reno, like Wichita, the proposed speed limit is 30 mph. However, the Reno PMP works under the assumption that increasing the speed limit by 10 mph will increase the speed of the trains by the same 10 mph.[32] In contrast, the Wichita PMP works under the assumption

---

[31] PMP at 5-8.

[32] Reno PMP at 7-5. See also, Reno PMP at 8-6. "UP has informed SEA that, not only is it feasible to increase the speed

(continued...)

that increasing the speed limit by 10 mph will increase the speed of the trains by 16.4 mph (30-13.6). Stated another way, the PMP assumes that the same mitigation will have a 64 percent greater impact on UP movements in Wichita than in Reno. Once again, this is clear error.

In response to the PMP's working assumption that the UP trains through Wichita will average the 30 mph maximum speed, Wichita/Sedgwick are enclosing as Exhibit 2 the verified statement of John Stanek, an engineer with 35 years experience in the railroad industry. Mr. Stanek explains that the UP cannot average the 30 mph speed that is at the heart of the PMP's analysis of the benefits of its mitigation proposal.

But the Board need not rely solely on Mr. Stanek for this conclusion. Common sense would lead to the same result. Thirty miles per hour would be the maximum speed permitted by law for the facilities proposed by the PMP. No railroad, indeed no human creation known to Wichita/Sedgwick, can average its maximum speed each and every mile, each and every day. It just doesn't happen. And yet, the PMP assumes that it will happen and premises its analysis and conclusions on this impossible event.

---

[32] (...continued)
of each train by 10 mph (which is the basis for the above analysis), UP can consistently maintain train speeds of all trains through downtown Reno at 30 mph with appropriate capital investments. However, to be conservative, SEA assumed for its analysis only that each train would travel at a speed 10 mph greater than observed during the survey week, rather than assume that all trains would travel at 30 mph." This approach was not taken in the Wichita PMP.

Approximately one month ago, the Federal Railroad Administration advised the world of its finding that fully 57 percent of UP's locomotive fleet was "defective."[33] This fact is not mentioned in the PMP, but it must be mentioned in the final mitigation plan. Even ignoring the operational realities set forth by Mr. Stanek, if 57 percent of the railroad's fleet of locomotives is defective, the railroad has the proverbial snowball's chance in hell of averaging the maximum speed permitted by law.

Finally, the final mitigation plan cannot ignore the apples-to-oranges analysis that forms the basis for the PMP's comparison of pre-merger and post-merger results. We know that the current speed limit in Wichita is 20 mph[34] and that the proposed speed limit in Wichita is 30 mph.[35] This is a 50% increase. However, the PMP forecasts a 121% increase in speed. It reaches this indefensible result by comparing the UP's speed in Central Wichita under unusual circumstances, 13.6 mph[36], with its proposed maximum speed.

---

[33] See the September 10, 1997 Summary, Federal Railroad Administration Union Pacific Railroad Safety Assurance Assessment, Exhibit 3, hereto.

[34] PMP at 7-3.

[35] Id.

[36] Id. The PMP notes that this low speed resulted, in part, from "track conditions that have since been improved." Nonetheless, the PMP uses this speed as its baseline in order to maximize the claimed benefit of increasing speed in the future. This is patently inappropriate.

This is not a hard look. It is not even a soft look. If, as the PMP assumes, the UP is averaging no better than 68 percent (13.6/20) of its maximum speed today, there is no reason to assume that it will average better than 68 percent of its maximum speed in the future, i.e. 20.4 mph.

Wichita/Sedgwick ask the Board to do nothing other than take the hard look mandated by law. First, reasonable speeds must be selected for the switching (yard/work) and other (Arkansas City Local and Through) movements in order to develop an accurate baseline. Based on the analysis reflected in note 27, supra, we suggest 12.6 mph and 15.6 mph respectively for the baseline. Second, if one element of the final mitigation plan is to increase the timetable maximum speed by 10 mph, then the mitigation analysis should assume no more than a 10 mph increase in average through train speed. As noted above, this was the analysis done for Reno and it should be used in Wichita as well.

In order to demonstrate the impact of utilizing a reasonable speed assumption, we offer Exhibit 4. In this exhibit, we make only one change to the outside contractor's workpaper presented in Exhibit 1. That is, we have changed the speed of the post-merger trains from 30 mph to 23.6 mph, i.e. a 10 mph increase.[37/]

[37/] It bears emphasis that Wichita/Sedgwick are not saying that UP's average speed will be precisely 23.6 mph. Rather, we are saying that the STB's concern should be calculating the harm that will remain unmitigated even with a 10 mph increase in speed. That unmitigated harm, the "delta" if you will, also could be determined by using the current 20 mph maximum speed as the baseline and the proposed 30 mph maximum speed as the post-speed increase figure.

The impact is dramatic. While Exhibit 1 calculates a slight reduction in total vehicle delay (from 15.25 hours to 14.92 hours), Exhibit 4 demonstrates a substantial increase, from 15.25 hours to 21.12 hours. This is a 38 percent increase in total vehicle delay and it requires mitigation. But, as we will demonstrate infra, even this increase understates the impact of the merger on Wichita/Sedgwick.

4. Train Length

The third of the vital inputs to an impact analysis is train length. Here, the PMP ignores UP's March 7th verified statements and assumes that there are two categories of trains, "pre-merger" (with an average length of 3,380 feet) and "additional" (with, e.g. an average length in Central Wichita of 5,618 feet).[38/] But, the UP's verified statements, Exhibit 5, make it clear that all of the post-merger through trains passing through Wichita/Sedgwick will have the lengths the PMP attributes only to the "additional" trains. In other words, the PMP has understated the lengths of approximately four trains per day by approximately 2,300 feet (or 1,748 feet if the outside consultant's spread sheets are accurate). This error, like the obvious errors in numbers of trains and train lengths, fatally infects each of the PMP's analytical results.

[38/] PMP at F-8. Wichita/Sedgwick do not know why the PMP utilizes 3,380 feet as the length of the existing through trains, on the one hand, and the outside consultant is utilizing 3,870 feet for these trains in Exhibit 1. An explanation should be provided in the final mitigation plan.

In Exhibit 5 hereto, we have recreated the outside consultant's spread sheet for Pawnee, correcting for both the speed and the length of trains. This exhibit establishes that, rather than the slight reduction in total vehicle delay calculated for the PMP, i.e. from 15.25 hours to 14.92 hours, **the real impact of the merger and the proposed mitigation would be an increase from 15.25 hours to 25.90 hours. This is an increase of 70%.** Mitigation, i.e. grade separations, must be ordered to eliminate, or at least substantially reduce this impact on Wichita/Sedgwick.

5. Emergency Vehicle Access

The PMP's analysis of emergency vehicle access[39], ignores all of the evidence previously submitted by Wichita/Sedgwick[40] and is built on unfounded assumption after unfounded assumption. For example, the PMP states:

> Third, emergency vehicle drivers typically drive around trains when they can so that they can use unblocked crossings, and they are unhampered by traffic restrictions such as one-way streets and traffic signals as they drive to unblocked crossings.[41]

The PMP is in error. First, emergency vehicles in Wichita do not typically "drive around" trains. In fact, the Wichita Fire Department ("WFD") has a policy which typically will not allow its personnel to attempt to maneuver around a train.

---

[39] PMP at 6-8, et seq.

[40] Wichita/Sedgwick incorporate by reference herein their May 3, 1996 submission.

[41] PMP at 6-8.

Second, "ignoring" traffic restrictions is not an option for the WFD, the Sedgwick County Fire Department and EMS. City and County policy for these departments is as follows:

> 1. An emergency vehicle shall come to a complete stop when approaching an intersection with a red light or stop sign. Only when the driver is positive that the intersection is clear of traffic is the driver able to proceed.
>
> 2. Even if the driver has a green light, the driver must slow down to ensure that no other traffic is entering the intersection.
>
> 3. When a driver encounters a non-signalized intersection, the driver is required to slow down to 10 mph and proceed only after making sure the path is clear.

While "ignoring traffic restrictions" is an option for the police, depending on the circumstances of their activities, it is one that gives rise to risk, to both the police and others on the road.

Finally, in order to justify "driving around" trains, there must be an advantage in speed, i.e. a reduced transit time to the person(s) in need of aid. But, there is no such advantage in driving around trains. Doing so must increase the distance that the emergency vehicle must drive and that increased distance will, in virtually all cases, more than offset the time that an emergency vehicle would wait for a train, especially if the train's speed is increased.

Consider one example. In Haysville, a Sedgwick County community not even considered for grade separation by the PMP, County Fire Station #34 is on the west side of the tracks along 71st Street South. If the fire department responds to a call on

the east side of the tracks at the north end of Sunnyside Drive, the direct path would be 2.5 miles. To avoid a southbound train by traveling north, the distance would increase to 4.79 miles. Avoiding a northbound train by travelling to the south would increase the distance to 6.5 miles. Clearly, these increased distances do not permit emergency services personnel to avoid the time impact of the blockage of 71st Street caused by the train.

In fact, there is no way to avoid that impact. If vehicles from County Fire Station #34 are blocked, the best they could do would be to call for assistance from other stations. However, the two closest, i.e. County Station #36 and Wichita Station #19, would have to travel about 6 miles and 4.93 miles respectively to reach Sunnyside Drive.

The same result occurs from street blockage in Central Wichita. For WFD Station #1 (located at 731 N. Main) to respond to an emergency at Washington Elementary School (at 1600 E. Third Street), the direct distance is 1.36 miles. This increases to 2.75 miles if the emergency vehicle must avoid a northbound train by going south to the underpass at 1st Street. And, the emergency vehicle would encounter eleven signals, three left turns and one right turn.[42/]

If the emergency vehicle from WFD Station #1 were to avoid a southbound train by traveling north, the distance would increase

---

[42/] We mention turns because large fire department vehicles are slowed substantially each time they must turn.

to 2.64 miles. And, it would be slowed by nine signals, three left turns, and one right turn.

The point here is that the only way to measure the impact of this merger on emergency services in Wichita/Sedgwick is total daily crossing blockage time. Each minute that the railroad blocks the streets of Wichita/Sedgwick is a minute potentially lost to its emergency services personnel. And, when life is at risk, each minute is vital.[43]

The PMP also incorrectly states:

> The emergency response senior staff could not identify any emergency incident that was made worse by a train blocking a grade crossing.[44]

Wichita/Sedgwick cannot learn from the PMP the identity(ies) of the "senior staff" who had problems in identifying emergency incidents that were made worse by a train blocking a grade crossing. Nor, given our May 3, 1996 submission, do we know why additional inquiries were necessary to identify such incidents.

Wichita Fire Chief Garcia alone provided nine such examples:

1) Fire equipment blocked by a train -- as a result, the fire escalated to a second alarm;

2) A baby stopped breathing; department personnel were blocked by a train; they attempted another route and were

---

[43] While four minutes is the standard response time criterion for all emergency services, if a person suffers a sudden cardiac arrest, "the victim has only four minutes before irreversible brain damage occurs." See SEDG-9, the verified statement of Thomas W. Pollan.

[44] PMP at 6-9.

involved in an accident; a second unit had to respond to the baby;

3) A pedestrian was struck by a car; department personnel were blocked by a train; the unit made a three mile detour resulting in a five minute delay;

4) A child was choking; the original rescue team was blocked by a train; another team had to respond;

5) Department personnel were placed in danger because the second unit called to the scene were blocked by a train;

6) A "ventilation team" was delayed by trains;

7) Two units responding to a fire were blocked by a train and were delayed for approximately ten minutes;

8) When responding to a shooting, fire/rescue teams were delayed by a train for approximately three to four minutes;

9) While transporting a critical burn victim, the ambulance was delayed by a train for approximately five minutes.

These examples establish a more than adequate basis for Wichita/Sedgwick's conclusion that an increase in traffic on the Union Pacific railroad, even with the proposed 10 mph increase in train speed, poses unacceptable safety risks to their citizens. However, further information is available.

As a result of operational problems elsewhere on its system, the BNSF increased its traffic through Wichita during the period September 10-23, 1997. This increase, between 10 and 15 trains a day, resulted in an immediate and serious increase in emergency service delays in Wichita. Emergency Commurications reports that

an average of 1.78 emergency calls were blocked each day of the increase in BNSF traffic. This compares with the historic figure of .98 blocked calls per day. The Wichita Fire Department was delayed twice during this two week period. This compares with the historic figure of approximately one delay per month. The Wichita Police Department recorded a total of 38 delays during this two week period. This compares with the historic figure of approximately 17.8 train-related delays for each two weeks last year. The sixteen delays attributable to BNSF or UP trains[45] averaged 5.5 minutes. This is more than twice the delay that the PMP assumes.[46] EMS had eight calls delayed due to trains during this two week period. Last year, EMS had three calls delayed during the entirety of August and September. The four delays attributable to BNSF or UP trains averaged 2.5 minutes.

The point here is not that a two week sample will result in perfect data to project the impact of increased through trains (and increased switching) in Wichita/Sedgwick. Rather, this new data only confirms the obvious. When the number of trains increases, the impact is experienced by all emergency services

---

[45] Because of the physical configuration of the tracks, it is frequently impossible for emergency services personnel to distinguish between delays attributable to BNSF and UP.

[46] PMP table 7.2.2-1. Our initial analysis indicates that of the sixteen delays attributable to BNSF and UP traffic during this period, fourteen occurred at either 21st Street or 13th Street and are likely to be attributable to switching movements which, as noted above, are much slower than through train movements. As also previously noted, UP now proposes to increase its switching movements in Wichita as a result of problems elsewhere on its system. This increases the need for grade separations at 21st Street and 13th Street.

and the risk to life and property increases. This must be fully mitigated by the final mitigation plan.

The PMP also reaches favorable conclusions with regard to the effects of "quick fixes" even though it admits that the benefits of those fixes are speculative.

> In addition to measures outlined in Section 6.2.1 for general traffic delay, emergency vehicle delays could be reduced by establishing a communication system for informing dispatchers of the approach of each train so they could dispatch emergency vehicles already located on the appropriate side of the tracks. Because dispatchers do not now have information on the location of trains and the grade crossings that are blocked, providing information on those locations could improve dispatchers' ability to inform emergency vehicle drivers of the location of trains so that the drivers could better avoid the blockage.[47]

Wichita/Sedgwick have added underscoring to the quotation above to emphasize the admittedly speculative nature of the relief that may be provided by enhancing communications between the railroad and dispatchers of emergency services vehicles. As the PMP notes at 6-9, dispatching today is based on an "as the crow flies" distance calculated by computer. As a result, knowledge that a train is approaching, standing alone, is of limited value. See the Verified Statement of Diane M. Gage, Director, Sedgwick County Emergency Communications, Exhibit 7 hereto.

Assume a dispatcher is informed that a train is approaching. Assume then that the dispatcher takes a call requiring emergency

---

[47] PMP at 6-13, emphasis added.

response. In order for the dispatcher to make use of the train arrival information, he/she would have to 1) determine the closest response vehicle; 2) determine whether that vehicle was on the same side of the tracks as the incident; 3) if that vehicle is not on the same side of the tracks as the incident, locate the nearest vehicle on the correct side of the tracks; 4) determine whether the vehicle on the correct side of the tracks could reach the incident faster than the other vehicle; and 5) pray that all the time spent calculating transit times did not have an adverse impact on the victim.

The point here is that emergency vehicle dispatch is not as simple as suggested by the PMP and, without a major upgrade to computers, addressed in Director Gage's Verified Statement, the benefits of the improved communications suggested by the PMP are speculative at best.

6) Pedestrian Safety

The PMP notes that representatives of Wichita Industries & Services for the Blind, Inc. recommended the installation of truncated-dome detectable warning tiles to improve safety for the organization's employees.[48/] Without explanation, the PMP drops the subject and never determines whether this expense should be borne by the City or should be borne by the railroad whose merger gives rise to the problem. This was error.

The PMP notes that grade separations or pedestrian grade separations could eliminate the danger to pedestrians [including

---

[48/] PMP at 6-14.

school children].[49] However, the PMP does not give serious consideration to whether this should be done. See infra. This also was error.

COMMENTS ON THE PMP'S MITIGATION ANALYSIS

Even assuming, arguendo, that the PMP did not err in the analytical manners set forth above, the PMP's use of its own data was faulty in that no standards were provided to judge the harms that the PMP admitted would not be mitigated.

1. Emergency Vehicle Access

Consider first, and most importantly, the PMP's conclusions as to emergency vehicle access. In Table 7.2.2-1, the PMP concludes that with the train count supplied by the UP, with the assumption that the UP will average its maximum lawful speed, and with the assumption that the UP's trains will be shorter than UP says they will be, the amount of time that the streets of Wichita/Sedgwick will be blocked, thus prohibiting emergency vehicle access, will increase from 6.90 hours per day pre-merger to 10.30 hours per day post-merger.

While the PMP does not perform this calculation, an increase from 6.90 hours to 10.30 hours per day is an increase of 49.3 percent. This means that, even if UP's prediction as to train counts is correct, even if increases in UP switching movements are ignored, even if increases in BNSF traffic resulting from UP operational problems are ignored, even if the PMP's prediction that the average speed of UP through trains will increase by 16.4

---

[49] PMP at 6-15.

mph as a result of a 10 mph increase in the maximum lawful speed is correct, and even if the PMP is correct in ignoring UP's predictions as to train length, 49.3 percent more police, fire, and ambulance vehicles will be blocked every year. Is this significant? The PMP doesn't say. Is 10.30 hours of blockage per day acceptable for Wichita under some standard considered by the PMP? The PMP doesn't say. The only thing known for certain is that an (obviously understated) increase in street blockage of 204 minutes per day in Wichita (3.4 hours x 60) is deemed no more worthy of mitigation than an increase in street blockage of 11.9 minutes per day in Reno.[50/]

This failure of analysis is a strong candidate for "arbitrary and capricious" poster-child of the year. Not the slightest hint is provided to Wichita/Sedgwick or to a reviewing court as to why the PMP considers it appropriate to leave even this seriously understated level of harm unmitigated. This is error.

2. Other Unmitigated Harms

Table 8.4.5-2 also tells Wichita/Sedgwick that even after the mitigation proposed by the PMP, there will be, inter alia:

a) an additional derailment every 5.9 years; and

b) an additional 139 "receptors" experiencing noise of 65 dBa or greater.[51/]

[50/] Reno PMP at 7-10.

[51/] The PMP admits that one of its proposed mitigation measures, increasing train speeds, will make the noise problem worse. PMP at Figure 7.3.8-1.

As to both of these items, we ask the same questions asked above with regard to emergency vehicle access. The PMP obviously found these results to be acceptable, but we have no idea as to why. At what level is the risk of train derailments in the largest city in Kansas unacceptable to the STB? How many noise receptors must be added before merging railroads are required to fix or even mitigate the problem? What type of noise receptor is worthy of the sound insulation discussed[52/] and rejected without discussion[53/] by the PMP? The PMP is silent as to all of these questions. This is error. In fact, without such standards, Wichita/Sedgwick must question the utility of even calculating the risk of derailment or noise impacts. That is, if there is no derailment risk or noise impact that would lead to mitigation, the computational exercise is pointless at best.

With regard to noise, Wichita/Sedgwick advocate requiring UP, at a minimum, to install directional horns at all at-grade crossings between Lincoln and Pawnee. Wichita/Sedgwick further request that the Board require UP to conform, at its sole expense, to the best noise reduction practices permitted following completion of the FRA study noted at PMP 7-43.

3. Rejected Mitigation

a. **Grade Separations**

The PMP's errors of omission were not limited to a failure to provide standards against which harms could be compared.

[52/] PMP at 7-43 through 7-44.

[53/] PMP at 8-18.

Rather, without taking a hard look, the PMP rejected the very type of mitigation, grade separations, previously proposed by the SEA.

> For example, with respect to vehicular and pedestrian safety, SEA has determined that separated grade crossings and pedestrian overpasses and/or underpasses will be needed to address safety concerns on the existing rail lines in Reno and Wichita. Accordingly, the studies will identify the appropriate number and precise location of highway/rail grade separations and rail/pedestrian grade separations in Reno and Wichita.[54/]

Within the context of public safety, a hard look at grade separations requires, at a minimum, that the Bcard consider the extent to which Wichita/Sedgwick emergency service personnel now may move between points east and west of the UP tracks. The PMP correctly notes that there are existing grade separations at (from north to south) 2d Street, 1st Street, Douglas, Waterman, and Kellogg.[55/] However, it ignores the significance of the fact that there are no grade separations north of 2nd Street or south of Kellogg.

Major arterial streets north of 2nd Street include Central (with an ADT of 17,362), Murdock (12,000), 13th Street (16,415) and 21st Street (14,747). There are approximately 2.5 miles between 2nd Street and 21st Street that would be entirely blocked by the trains. A grade separation for at least one of these streets must be provided if emergency services personnel are to

---

[54/] Decision No. 44 at 221.

[55/] PMP at 7-7.

have access to a major portion of Wichita including Via Christi-St. Francis Hospital.

Major arterial streets south of Kellogg include Lincoln (12,010), Harry (15,063), Pawnee (26,973), MacArthur (15,258), 47th Street (12,985), and 71st Street South (Haysville) (10,945). Again, the entire distance between Kellogg and 71st Street, 8.01 miles, does not currently have any grade separation[56/] and would be almost entirely blocked by trains. At least two grade separations, at Pawnee and 71st Street, must be required to permit emergency vehicle access through the core of Wichita and through Haysville on the south.

But, none of this was considered by the PMP. For example, the PMP notes that a grade separation at Pawnee would reduce emergency vehicle access for the entirety of Wichita/Sedgwick from 10.3 hours per day to 9.86 hours per day.[57/] It then incorrectly minimizes that benefit by stating that "A grade separation at Pawnee would improve emergency vehicle access at Pawnee only."[58/] This statement ignores the fact that the impact of such a grade separation on public safety would be substantially greater than the calculated 0.44 hours of reduced blockage time. That is, emergency vehicles that otherwise would

---

[56/] There is an interchange to I-235 at MacArthur that can be accessed by the Wichita Fire Department facility at the corner of Exchange and MacArthur.

[57/] Compare Table 7.2.3-1 with Table 8.4.5-2.

[58/] PMP at 7-8.

be blocked between Harry on the north and Pawnee on the south[59] would be able to select Pawnee as their primary route, thereby avoiding train blockage.

The PMP's analyses of the other considered grade separation options suffer from similar defects. They ignore the geography of Wichita/Sedgwick and, without explanation, assert that the only emergency service vehicles that would be aided by grade separations would be the vehicles that otherwise would have used these arterials.

The rejection of grade separations for Wichita/Sedgwick appears, at its heart, to be premised on the notion that the risk to public safety created by an increased number of trains is speculative. "Because crossing blockage time represents only the risk of emergency vehicle delay and not actual delay, a change in this measure does not necessarily represent a change in conditions." PMP at 7-28. This is not a hard look. As demonstrated by Wichita's experience with an increase in BNSF trains supra, and as should be intuitively obvious, a 50 percent increase in the amount of time that emergency vehicles cannot traverse Wichita/Sedgwick inexorably will lead to a 50 percent increase in the number of cases that police, fire, and ambulance personnel cannot reach victims without delay. Cheap fixes like incomplete enhancements to emergency services communications will not solve this problem. Even the PMP qualifies its endorsement

---

[59] This encompasses Harry, Osie, Funston, Skinner, Mt. Vernon, Clark, Kinkaid, and Pawnee with a combined ADT of 50,912.

of this approach by saying that it "could" have a beneficial effect.[60] Grade separations are mandatory.

b. Pedestrian Grade Separations

Pedestrian grade separations, at least in the areas used by elementary school children, also have been given short shrift by the PMP. Why have they been rejected? Because using them would be "less convenient" than walking across the tracks and children "might be unwilling to use an overpass unless the street were closed and they had no alternative path."[61]

Once again, this is purest speculation. Is it not possible either that the children of Wichita are bright enough to use an overpass that could save their lives or that their parents and schools would insist that they use pedestrian overpasses? Is it not possible that schools would post crossing guards to mandate use of the overpasses? The PMP does not say, satisfied as it is that children would be so discomforted by pedestrian walkways that installing them would be a waste of time.

This is error. At the least, elementary school children should be protected from increased railroad traffic by the installation of grade separations.

c. Vibration

The PMP concludes that increased freight operations are "highly unlikely to cause damage to buildings in Wichita." PMP at 6-28. As reflected in Exhibit 8 hereto, the owners of an

---

[60] PMP at 7-29.

[61] PMP at 7-31.

historic home in Wichita are not as certain of this as is the PMP. Wichita/Sedgwick request that the final mitigation plan require UP to take immediate steps to protect this home at 1208 N. Emporia and require UP to provide all protection from vibration damage that proves necessary once UP train counts increase through Wichita/Sedgwick. Again, this potential problem is a clear rationale for continued STB jurisdiction over the environmental impacts of the UP/SP merger.

COMMENTS ON THE PMP'S PROPOSED MITIGATION

While our comments supra, have focused principally on vehicle and pedestrian grade separations and noise, there are other elements of Section 10.2 of the PMP, "Preliminary Recommendations for Additional Mitigation to Require of UP", that must be corrected in the final mitigation plan.

Item 1 -- Increased Train Speed

Wichita/Sedgwick endorse the requirement that UP make the necessary capital improvements to enable it to establish the timetable speeds set forth in this recommendation. However, in light of our prior comments as to the impossibility of maintaining a 30 mph speed for each and every train operating through Wichita, we draw the Board's attention to the final sentence of this item, to wit: "UP shall operate all through trains at the timetable speed through Sedgwick County consistent with safe operating practices dictated by conditions at the time each train traverses the rail line." (Emphasis added.) This

sentence makes it crystal clear that even the PMP does not expect UP to operate every train at 30 mph.

Wichita/Sedgwick further ask the Board to note that a plan for capital improvements will not mitigate any environmental harm caused by the merger. Only the installation of the facilities and an actual increase in speed will have that effect. Accordingly, UP should be prohibited from increasing the train count through Wichita/Sedgwick above the level permitted by Decision No. 44 until such time as its construction is complete and the timetable speeds have been increased as mandated by this item.

Item 2 -- Crew Change Elimination

No comments

Item 3 -- Improved Communications

For the reasons set forth above, the communications enhancements proposed in this item should be recognized to be insufficient. UP should be required to provide complete communications enhancements necessary to permit computer analysis of the impact of arriving trains before train counts in excess of those permitted by Decision No. 44 are permitted.

Item 4 -- Pedestrian Crossing Gates

For the reasons set forth above, the need for pedestrian grade separations at each of the four locations contemplated by this item must be revisited. The lesser protection offered by pedestrian grade crossing gates should be ordered only if pedestrian grade separations are not warranted after a reasoned

analysis. In all events, pedestrian protection should be in place before train counts in excess of those allowed by Decision No. 44 are permitted.

Item 5 -- School Programs

No comments.

Item 6 -- Safety Information

No comments.

Item 7 -- Grade Crossing Gates

First, the required grade crossing gates should be installed before train counts in excess of those allowed by Decision No. 44 are permitted. Second, Wichita/Sedgwick are seriously concerned that the PMP's selective application of grade crossing gates is inconsistent with the "uniformity" requirement of the Manual on Uniform Traffic Control Devices.[62] As the trains along the UP line between 19th Street and Kinkaid begin operating at a greater speed, the railroad crossbuck warnings at the seven non-signalized crossings[63] may not be sufficient to give adequate time for proper response. The sight problems caused by buildings adjacent to those crossings or a curve in the track alignment could cause one or more of these crossings to become a trap for the unwary.

Wichita/Sedgwick propose the following mitigation. First, if Wichita/Sedgwick determine that these seven streets can be

---

[62] MUTCD at Section 1A-2.

[63] While Table 7.3.5-1 lists eight crossings between 19th Street and Kinkaid that have crossbucks, one, Gilbert, has gates and lights.

closed, UP should pay the cost of closure.[64] If, in contrast, Wichita/Sedgwick determine that any or all of these streets must remain open, UP should be required to install gates and lights.

Item 8 -- Separating Fences Or Guardrails

This requirement must be modified in three regards. First, the dimensions of proposed fences, guard rails, and barriers should be specified. Alternatively, Wichita should be permitted to provide specifications for these items.

Second, the ends of barriers walls should have acceptable attenuating devices.

Third, the maintenance of all installed protection devices should be the responsibility of the UP. Maintenance should include replacement of fences so that they do not become unsightly.

Item 9 -- Detectors

The required detectors should be in place before UP increases train counts above the number permitted by Decision No. 44. Further, the final mitigation plan must correct the milepost designations in the language at page 10-2. According to information provided by UP, milepost 248 is not about 6 miles south of Wichita as stated in the PMP. Rather, it is just north of MacArthur. Also, milepost 239 is not about 3 miles north of Wichita. Rather, it is just north of 37th Street.

---

[64] Expenses involved will include, but not be limited to, installation of reflective material on the barriers, necessary signing, and pavement removal/revisions.

Wichita/Sedgwick request that the detectors be placed north of Kechi and south of Haysville.

Item 10 -- Community Advisory Panel

No comments.

Item 11 -- Oversight

This item requires clarification and modification. As an initial matter, Wichita/Sedgwick have identified a number of mitigation measures that must be in place before train counts increase. For each of these items, UP should be required to certify completion to SEA with copies to Wichita/Sedgwick.

Second, if mitigation is to be premised solely upon predictions as to future activity, notably train counts, train length, and train speed, UP should be required to provide specific data on a monthly basis as to each of these items. Moreover, as to speed, UP should be required to provide information for three locations between Hillside and Pawnee so that the Board will know whether UP is able to meet the standard of perfection assumed by the PMP (or even the 10 mph increase assumed in the Reno PMP).

Third, this item should be modified to eliminate the five-year limitation on Board oversight. That limitation would allow the UP to limit increased train traffic through Wichita/Sedgwick for a modest period and then to subject Wichita/Sedgwick to unlimited environmental degradation. In this regard it must be noted that the effective date of the merger was over one year ago and that it may take the entirety of the second year for UP to

complete even the limited mitigation mandated by the PMP. At the least, Board oversight should extend ten years after the completion of all required mitigation.

OTHER REQUIRED ANALYSIS AND MITIGATION

1) The "no action" alternative must be considered before issuance of the final mitigation plan.

2) The final mitigation plan must either limit UP's monthly train count to an average of 9.6 per day or must require UP to provide monthly reports as to train count and reopen the mitigation phase of this proceeding when UP exceeds the 9.6 daily figure.

3) The final mitigation plan must be premised on an analysis that reflects nothing more than the 10 mph increase in timetable speed proposed by UP and the train lengths predicted by the UP for all through trains.

4) The final mitigation plan must require UP to reimburse Wichita for all expenses incurred to protect the employees of Wichita Industries & Services for the Blind, Inc.

5) Based upon an analysis contemplating a 10 mph increase in speed and the UP's projected train lengths, the final mitigation plan must mandate or, at least seriously consider, pedestrian grade separations at crossings utilized by elementary school children.

6) The final mitigation plan must, at the least, explain why the increased likelihood of derailments should not be mitigated at all and the increased number of noise receptors

should not be mitigated in the manners proposed herein. The objective criteria used for these analyses should be identified.

7) Based upon an analysis contemplating a 10 mph increase in speed and the UP's projected train lengths, the final mitigation plan must calculate the amount of time that Wichita/Sedgwick streets will be blocked and the impact this will have on street traffic, on emergency vehicle access, and on air quality.

8) Utilizing the data produced under Wichita/Sedgwick request number 7, the final mitigation plan must reevaluate the need for grade separations based on objective criteria and require UP, at a minimum, to construct grade separations: a) north of 2nd Street; b) south of Kellogg; and c) at 71st Street.

Respectfully submitted,

City of Wichita, Kansas
Sedgwick County, Kansas

By: _____

Gary E. Rebenstorf
City Attorney
Douglas J. Moshier, Esq.
455 N. Main, 13th Floor
Wichita, Kansas 67202
Tel: (316) 268-4681

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

Their Attorneys

Richard A. Euson
Sedgwick County Counselor
525 N. Main St., Third Floor
Wichita, Kansas 67203-3790
Tel: (316) 383-7111

Dated: October 16, 1997

EXHIBIT I

PAWNEE DELAY CALCULATIONS

ADT 26973

	Length (feet)	Speed (mph)	Train Time (mins)	Total Veh. Delay (hours)	(hours)	Vehicles Affected		Average (mins/veh)
Pre-Merger	3870	13.6	3.95	14.80	**14.80**	372	**372**	2.39
Post-Merger Exist	3870	30.0	2.18	4.54		206		1.32
Post Merger Addtl	5618	30.0	2.84	9.92	**14.46**	346	**552**	1.72
Locals	442	13.6	1.09	0.46	**0.46**	43	**43**	0.63
	195	13.6	0.88	**Pre**	**15.25**	-	**415**	-
	1497	13.6	1.97	**Post**	**14.92**	-	**595**	-

Locals

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
13	0.063	11.753	12.76	0.38	1.50	35.3	0.66	23.22	
22	0.021	3.918	3.45	0.08	1.00	7.8	0.53	4.16	
Total						43.15		0.46	hours

Pre-Merger Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	ADT
1	0.006	1.119	4.42	0.10	4.08	9.1	2.39	21.85	26973
3	0.003	0.560	2.21	0.05	4.03	4.5	2.39	10.79	26973
6	0.033	6.157	24.32	0.63	4.61	56.8	2.39	135.65	26973
20	0.035	6.530	25.79	0.67	4.65	60.8	2.39	145.26	26973
2	0.004	0.746	2.95	0.07	4.05	6.0	2.39	14.45	26973
4	0.005	0.933	3.68	0.08	4.07	7.6	2.39	18.13	26973
18	0.056	10.448	41.27	1.19	5.18	108.2	2.39	258.58	26973
21	0.031	5.783	22.85	0.58	4.57	52.8	2.39	126.23	26973
8	0.052	9.701	38.32	1.09	5.07	98.4	2.39	235.07	26973
15	0.084	15.671	61.91	2.11	6.09	191.0	2.39	456.51	26973
16	0.088	16.418	64.85	2.27	6.25	205.3	2.39	490.67	26973
17	0.085	15.858	62.64	2.15	6.13	194.5	2.39	464.89	26973
7	0.062	11.567	45.69	1.37	5.35	123.8	2.39	295.81	26973
10	0.049	9.142	36.11	1.01	4.99	91.2	2.39	218.07	26973
18	0.056	10.448	41.27	1.19	5.18	108.2	2.39	258.58	26973
19	0.041	7.649	30.22	0.81	4.79	73.3	2.39	175.22	26973
0	0.010	1.866	7.37	0.17	4.15	15.5	2.39	37.05	26973
11	0.060	11.194	44.22	1.31	5.29	118.5	2.39	283.13	26973
12	0.067	12.500	49.38	1.52	5.50	137.6	2.39	328.78	26973
17	0.085	15.858	62.64	2.15	6.13	194.5	2.39	464.89	26973
Averag	-	-	33.61	1.03	5.01	92.88	2.39	3.70	hours
Daily	-	-	-	-	20.04	371.53	9.56	14.80	hours

PAWNEE DELAY CALCULATIONS
Post-Merger

Existing Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
1	0.006	1.119	2.44	0.06	2.27	5.1	1.32	6.72	26973
3	0.003	0.560	1.22	0.03	2.24	2.5	1.32	3.32	26973
6	0.033	6.157	13.44	0.35	2.56	31.5	1.32	41.65	26973
20	0.035	6.530	14.25	0.37	2.59	33.8	1.32	44.60	26973
2	0.004	0.746	1.63	0.04	2.25	3.4	1.32	4.44	26973
4	0.005	0.933	2.04	0.05	2.26	4.2	1.32	5.57	26973
18	0.056	10.448	22.80	0.66	2.88	60.1	1.32	79.35	26973
21	0.031	5.783	12.62	0.32	2.54	29.4	1.32	38.76	26973
8	0.052	9.701	21.17	0.60	2.82	54.6	1.32	72.14	26973
15	0.084	15.671	34.20	1.17	3.38	106.0	1.32	139.98	26973
16	0.088	16.418	35.83	1.25	3.47	113.9	1.32	150.43	26973
17	0.085	15.858	34.61	1.19	3.40	107.9	1.32	142.54	26973
7	0.062	11.567	25.25	0.76	2.97	68.7	1.32	90.76	26973
10	0.049	9.142	19.95	0.56	2.77	50.7	1.32	66.93	26973
18	0.056	10.448	22.80	0.66	2.88	60.1	1.32	79.35	26973
19	0.041	7.649	16.69	0.45	2.66	40.7	1.32	53.79	26973
0	0.01	1.866	4.07	0.09	2.31	8.6	1.32	11.38	26973
11	0.06	11.194	24.43	0.72	2.94	65.8	1.32	86.87	26973
12	0.067	12.500	27.28	0.84	3.06	76.4	1.32	100.86	26973
17	0.085	15.858	34.61	1.19	3.40	107.9	1.32	142.54	26973
Averag	-	-	18.57	0.57	2.78	51.57	1.32	1.13	hours
Daily	-	-	-	-	11.13	206.29	5.28	4.54	hours

PAWNEE DELAY CALCULATIONS
Post-Merger

Additional Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
6	0.033	6.157	17.51	0.45	3.33	41.0	1.72	70.54	26973
8	0.052	9.701	27.60	0.78	3.66	71.0	1.72	122.21	26973
10	0.049	9.142	26.01	0.73	3.60	65.9	1.72	113.38	26973
15	0.084	15.671	44.58	1.52	4.40	137.8	1.72	237.24	26973
16	0.088	16.418	46.70	1.63	4.51	148.2	1.72	254.98	26973
17	0.085	15.858	45.11	1.55	4.43	140.4	1.72	241.59	26973
3	0.003	0.560	1.59	0.04	2.91	3.3	1.72	5.61	26973
8	0.052	9.701	27.60	0.78	3.66	71.0	1.72	122.21	26973
9	0.046	8.582	24.41	0.67	3.55	60.9	1.72	104.82	26973
11	0.06	11.194	31.84	0.94	3.82	85.5	1.72	147.18	26973
16	0.088	16.418	46.70	1.63	4.51	148.2	1.72	254.98	26973
22	0.021	3.918	11.15	0.27	3.15	24.7	1.72	42.47	26973
2	0.004	0.746	2.12	0.05	2.93	4.4	1.72	7.52	26973
4	0.005	0.933	2.65	0.06	2.94	5.5	1.72	9.43	26973
8	0.052	9.701	27.60	0.78	3.66	71.0	1.72	122.21	26973
16	0.088	16.418	46.70	1.63	4.51	148.2	1.72	254.98	26973
17	0.085	15.858	45.11	1.55	4.43	140.4	1.72	241.59	26973
18	0.056	10.448	29.72	0.86	3.74	78.1	1.72	134.43	26973
0	0.01	1.866	5.31	0.12	3.00	11.2	1.72	19.27	26973
1	0.006	1.119	3.18	0.07	2.95	6.6	1.72	11.37	26973
2	0.004	0.746	2.12	0.05	2.93	4.4	1.72	7.52	26973
4	0.005	0.933	2.65	0.06	2.94	5.5	1.72	9.43	26973
13	0.063	11.753	33.44	1.01	3.88	91.3	1.72	157.12	26973
0	0.01	1.866	5.31	0.12	3.00	11.2	1.72	19.27	26973
2	0.004	0.746	2.12	0.05	2.93	4.4	1.72	7.52	26973
6	0.033	6.157	17.51	0.45	3.33	41.0	1.72	70.54	26973
13	0.063	11.753	33.44	1.01	3.88	91.3	1.72	157.12	26973
23	0.015	2.798	7.96	0.19	3.07	17.2	1.72	29.54	26973
Averag	-	-	22.06	0.68	3.56	61.76	1.72	1.77	hours
Daily	-	-	-	-	19.93	345.85	9.64	9.92	hours

Delay (mins/veh)
2.39
1.57
0.63
2.21
1.50

EXHIBIT II

VERIFIED STATEMENT
OF
JOHN L. STANEK

I. INTRODUCTION

A. Qualifications

My name is John L. Stanek. I am Principal and sole proprietor of JLS Enterprises, an independent transportation consulting firm specializing in all phases of railroad engineering, operations and management. My offices are located at Route 1, Box 47A, Mt. Calvary, Wisconsin 53057. A copy of my resume is attached as Exhibit A to this verified statement.

I have been involved in railroad operations, engineering and management for over 35 years. I began my railroad career in 1952, when I joined the Chicago, Milwaukee, St. Paul and Pacific Railroad as an operating employee. During my nine years with the Milwaukee Road, I worked as a brakeman, locomotive fireman and locomotive engineer. My service with the Milwaukee Road was interrupted between 1954 and 1957 for military service, during which I supervised the military railroad transportation office in Verona, Italy.

In 1961, I joined the New York Central Railroad. During the following 12 years (part of which was with the Penn Central Railroad after the merger of the New York Central and Pennsylvania Railroads), I held various railroad operating and engineering positions, including assistant trainmaster, trainmaster, maintenance engineer, transportation supervisor and

division superintendent.

I was appointed Assistant Vice President and Division Manager for Chicago and North Western Railroad (CNW) in 1974. In this capacity I was responsible for operations on CNW's 1,900 mile Wisconsin Division, which was headquartered in Milwaukee.

I left CNW in 1977 to become a Senior Project Manager for the national railroad engineering firm of DeLeuw, Cather & Company. Between 1977 and 1984, I was manager of DeLeuw, Cather's Western Region railroad department, with headquarters in Chicago, Illinois. During this period, I was involved in numerous railroad engineering and operating projects for a variety of railroad and other clients. Many of these projects involved the development and review of railroad operating plans, budgets and maintenance and rehabilitation programs.

In 1985, I became involved in the management and operation of industrial switching railroads when I was appointed Vice President of Rail Switching Services. As Vice President of Rail Switching Services, I had responsibility for day-to-day management of industrial switching operations, identification of new markets, development of service plans and operating budgets, purchasing and maintenance of locomotives, and hiring and training of operating employees.

In 1986, I became Vice President and General Manager of the Copper Basin Railway, a 68-mile railroad headquartered in Hayden, Arizona. Copper Basin was a start-up railroad formed to operate a line of railroad acquired in 1986 from the Southern

Pacific Transportation Company and Kennecott Copper Company. As the chief operating officer of Copper Basin, I was responsible for setting up its entire operations, including hiring and training of employees, acquisition of the company's locomotives, and development of an operating plan, budget and control systems.

I left the Copper Basin in 1987 and since that time have devoted full time to my independent consulting work. My assignments have included, among other things, cost and engineering analyses of proposed line changes and grade separations, line rehabilitations, feasibility analyses of proposed consolidations and re-routings of rail operations, and organization of regional rail operations. In particular, I was responsible for organizing, staffing and directing the start-up operations of the Wisconsin Central Railroad's 466-mile Eastern Division.

I have also worked extensively overseas in China, Africa and Thailand on railroad projects for USAID, the Asian Development Bank and State Railway of Thailand.

B. Purpose of Testimony

I have been asked by the Wichita-Sedgwick County Metropolitan Planning Department to review the validity and overall feasibility of certain features contained in the UP/SP Merger Mitigation Study. Specifically, I was asked to comment on the proposed train speed increases and the likelihood of attainment. As part of this assignment, I reviewed pertinent sections of the Preliminary Mitigation Plan and Train Performance

Simulations (TPS) provided by the Union Pacific. These simulations were intended to replicate actual operating results of typical trains that are, and will be, passing through Wichita.

C. Summary of Conclusions

The mitigation proposal presented by UP and SEA, and the decrease in crossing blockage time claimed is totally dependent on every train operating at the maximum authorized speed--30 or 60 MPH--through the Wichita area. Train speeds can be demonstrated, in a theoretical sense, by properly modeled computer simulations. The TSP runs made by UP were flawed, as will be explained in the next section of this statement, so any conclusions as to train speeds and crossing blockage based on this data will not be accurate.

Any conclusions as to crossing blockage times made using generalized computer models would be even more suspect when TSP runs of trains resembling those that will actually operate are available so the TSP runs furnished by UP are the best data SEA had available to perform its analysis.

However, the TSP runs were not modeled accurately for reasons that will be discussed and, in any event, fail to take into consideration the many real life factors that cause delays and prevent trains from operating at maximum track speed.

Some of the every day occurrences that cause trains to operate below maximum authorized speed are:

1. Traffic conflicts, including meets with other trains (this line is single track), interference with yard and local

train movements and BNSF trains on the joint track section.

2. Mechanical problems when trains are stopped to inspect and repair defects or locomotives are not developing full power.

3. Slow orders because of defective track.

4. The human element: Locomotive engineers are subject to disciplinary action if they exceed the maximum authorized speed so they typically operate trains slightly under the limit.

For all these reasons, in my professional judgment, the train speeds and resultant crossing blockage times claimed by UP and SEA will be impossible to obtain on a regular, day-to-day basis under real life railroad operating conditions.

II. COMMENTS CONCERNING PROPOSED INCREASES IN TRAIN SPEED

The mitigation plan based on increased speeds requires a CTC train control system between Whitewater (MP 222.8) and Riverdale (MP 265.6) which the UP has agreed to install. With this signal system and improvements to track geometry and conditions, the maximum authorized speed would be 60 MPH with a 30 MPH limit between MP 238.6 and MP 246.8. This 30 MPH restriction is necessary mainly because of track curvature and interlockings. From an engineering standpoint, the signal and trackage improvements noted are feasible and the maximum speed limits practical.

TSP Runs

UP furnished TSP computer runs for 6 southbound and 5 northbound trains which were as follows:

Southbound:

Run No. 1	Loaded Coal Train	115 loads-0 empties
		13,808 trailing tons
Run No. 2	Loaded Grain Train	115 loads-0 empties
		13,808 trailing tons
Run No. 3	KCWTS Manifest	68 loads-45 empties
		10,010 trailing tons
Run No. 4	HKFWS Manifest	75 loads-50 empties
		9,632 trailing tons
Run No. 5	DVFWS Manifest	59 loads-40 empties
		7,856 trailing tons
Run No. 6	OWTCK Loaded Rock	95 loads-0 empties
		2,739 trailing tons

Northbound:

Run No. 1	Empty Coal Train	0 loads-115 empties
		2,835 trailing tons
Run No. 2	Empty Grain Train	0 loads-115 empties
		2,835 trailing tons
Run No. 3	FWHKN Manifest	50 loads-30 empties
		2,835 trailing tons
Run No. 4	FWDVN Manifest	66 loads-40 empties
		2,835 trailing tons
Run No. 5	FWWTN Manifest	40 loads-16 empties
		2,835 loads

TSP runs such as these usually replicate actual train operations fairly closely providing the input data is accurate.

There are four major elements of input data for these programs, which are:

1. Physical characteristics of the line of railroad involved.
2. Power and tractive effort characteristics of the locomotives.
3. Consist and tonnage of the trains being operated.
4. Operational parameters.

I assume the model of the line of railroad through Wichita used by UP is accurate but take issue with the locomotive and train consists used and the operational parameters on which the TSP runs were based.

With regard to locomotives, all 11 TSP runs were modeled using three C40-8H units. These are relatively new 4000 HP locomotives probably built within the past 3-7 years. Using this modern, high horsepower locomotive consist for the TSP runs optimizes performance and train speed but is a situation highly unlikely to take place in real life for a number of reasons.

First, at the end of 1996, UP owned or leased 6755 diesel units that had an average age of 13.7 years so it is not logical to assume that a sizeable number of the newest locomotives would be concentrated on trains operating through Wichita--which is not one of the UP's principal main line routes.

Second, railroads typically assign the least number of units necessary to meet scheduled transit times. This means that only enough power will be assigned so that trains can get over

the most severe grades to be encountered and operate at an average speed that will get the train from origin to destination in the specified time. In practice, trains may run the maximum authorized speed, 60 MPH for example, only a fraction of the entire trip--usually on down grades--and perhaps only 10-20 MPH when ascending ruling grades. On this basis, most of the trains modeled in the TSP runs were over powered; i.e., had more units and/or higher horsepower units than would actually be assigned by a railroad practicing efficient locomotive utilization.

Without more information than was provided in the Preliminary Mitigation Plan and by UP, a better analysis of train performance cannot be made. However, it can be concluded that the selection of motive power consists used in the modeling has exaggerated attainable train speeds and rates of acceleration.

The TSP data furnished by UP concerning consist and tonnage of the trains modeled appears to be flawed for certain specific runs as will be discussed below.

Southbound Run No. 1

Loaded coal train 115 loads-0 empties 13,808 tons

The tonnage shown is considerably understated as the cars indicated in the TSP run would average only about 240,000 lbs. gross weight. Coal hoppers and gondolas now in use have gross weights of 263,000-286,000 lbs. so the actual trailing tonnage of a 115 car train would be in the 15,123-16,445 ton range. Thus, the tonnage used in the model is understated by 10-20 per cent.

Southbound Run No. 2

Loaded grain train 115 loads-0 empties 13,808 tons

The same comments apply to the loaded grain train as were made regarding Run No. 1, the loaded coal train. Gross car weights would be 263,000 lbs. or more (grain cars now being built have 286,000 lbs. gross weight) resulting in a total weight of at least 15,123 tons for a 115 car train.

Southbound Run No. 3

KCWTS Manifest 68 loads-45 empties 10,010 tons

This train was modeled as a through movement from Whitewater to Riverdale when, in fact, it terminates at Wichita Yard according to Table 4.4.3-1 in the Preliminary Mitigation Plan. This means the train would have to decelerate before reaching the north end of the yard and enter the yard at a maximum speed of 10 MPH in accordance with UP operating rules. Obviously, grade crossings for several miles north of the yard entrance would be blocked longer than this TSP run indicates.

Southbound Run No.6

Loaded Rock Train 95 loads-0 empties 2,739 tons

As with the loaded coal and grain trains, the tonnage of this train is grossly understated. The tonnage should be approximately 12,000 tons. Additionally, this run was improperly modeled because these trains operate from the Dolese Cement Company at MP 248.9, where the train is picked up by light engines originating at Wichita Yard. The TSP run indicates a through train movement from Whitewater to Riverdale and shows no

stop at Dolese to pick up the train. Also, the northbound empty return train was not included in the TSP runs.

Northbound Run No. 5

FWWTN Manifest 40 loads-16 empties 2,835 tons

According to the Preliminary Mitigation Plan, this train terminates at Wichita. However, the TSP run indicates it is a through train operating from Riverdale through Wichita to Whitewater. The train would actually slow down south of Wichita Yard, enter the yard at a maximum speed of 10 MPH and stop. Crossings south of the yard would be blocked much longer than this TSP run indicates. In addition, the tonnage of this train is understated and, at a minimum, would be in the 5,000-6,000 ton range.

Northbound Runs No. 3 and 4 also show tonnages of 2,835 tons which is considerably understated. These trains would actually total 7,000 to 9,000 tons.

One train shown in Table 4.4.3-1 of the Preliminary Mitigation report, Manifest WTFW, was completely omitted from the TSP runs. This train originates at Wichita Yard and would block crossings south of the yard considerably longer than a through movement because it would start from a dead stop at the yard, exit the yard at a maximum speed of 10 MPH until the last car was out on the main line and then accelerate to 30 MPH.

In summary, the TSP runs provided by UP do not reflect actual train operations nor are they consistent with the information set forth in the Preliminary Mitigation Plan for

these reasons:

1. Some trains shown in the Preliminary Mitigation Plan have been omitted entirely from the TSP runs.
2. The TSP runs show trains that originate and/or terminate in the Wichita area as through trains.
3. Tonnages of unit coal, grain and rock trains, as well as some manifest trains are considerably understated.

These factors all serve to present an optimistic operating scenario with train speeds that are totally unrealistic.

Aside from the locomotive and train consist deficiencies in the TSP runs, there are some important real life factors that were not considered but are very important. These are:

1. Traffic Delays

The UP line is single track and north and southward trains will sometimes meet at Wichita which means that one or both trains will stop and average speeds over the crossings in the study area may be much lower than the 30 or 60 MPH suggested.

BNSF and UP traffic effectively cross between North Jct. and South Jct. so there will be conflicting movements and trains will be slowed and stopped on occasion.

Even with good planning by dispatchers there will be yard switchers, local and other freight traffic that will sometimes disrupt the through movements of unit trains.

It is worth noting that traffic delays tend to increase exponentially as the number of movements becomes greater.

2. Mechanical Problems

Trains may be stopped because of broken knuckles or drawbars, burst air hoses, undesired brake applications or any number of other mechanical reasons.

Trains may be unable to operate at maximum authorized speed because of locomotive shut downs, loss of power or poor traction because of rain or snow.

Trains may be stopped to set out bad order cars or locomotives, inspect cars or locomotives for suspected hot journals or other mechanical defects and to replace faulty end of train devices, among other reasons. The end result is slower average running times over the crossings through Wichita.

3. Slow Orders

Track will sometimes be slow ordered because of defects that have not been corrected.

Track will normally be slow ordered following surfacing for a period of time to allow the track structure to compact.

During periods of extremely hot or cold weather, there frequently are speed restrictions on trains.

4. The human element: Train operation and speed depends, in the final analysis, on the locomotive engineer and some are better than others. Ideally, he or she should operate the train exactly at the maximum authorized speed (when the locomotives are capable of doing so) but engineers are subject to disciplinary action for exceeding speed limits and typically err

on the side of caution, staying somewhat under the maximum speed.

All of the factors noted above are common occurrences and result in trains failing to operate at maximum track speed.

To summarize, in my judgment the mitigation proposal presented by the UP and SEA depends on achieving theoretical operating speeds that will be impossible to attain on a regular basis considering the day-to-day circumstances and problems that are an inescapable part of the railroad business.

VERIFICATION

STATE OF WISCONSIN)
) ss
COUNTY OF FOND DU LAC)

I, John L. Stanek, verify under penalty of perjury that the foregoing statement is true and correct. Further, I certify that I am qualified and authorized to file this statement.

John L. Stanek

Sworn to and signed before
me this 1st day of October, 1997.

Christine M. Serres
Notary Public

My Commission Expires: 8-27-00

Personal Resume

JOHN L. STANEK
Route 1 Box 47A
Mt. Calvary, WI 53057
(414) 753-3308

PROFILE

A broadly qualified railroad expert with over 15 years in the consulting field following employment with major railroads, industrial and switching lines and regional railroads. During 25 years service in the railroad industry, worked in the ranks as a transportation department employee and was then promoted to operating and engineering management assignments, advancing to the position of Assistant Vice President.

EDUCATION

Iowa State University
B.S. Electrical Engineering 1961

EXPERIENCE

JLS ENTERPRISES 1985 - Present
Owner and Principal

Responsibilities: Sole proprietor of an independent transportation consulting service specializing in all phases of railroad engineering, maintenance, operations and management.

Representative assignments include: Continuing contract since 1987 with the Minnesota Department of Transportation to provide assistance on railroad projects, some of which included an inventory and analysis of all railroads in the Minneapolis-St. Paul metropolitan area, route consolidations to reduce the cost of rail-highway grade separations, and development of a viable program to evaluate, rehabilitate and select operators for short line railroads.

On an annual retainer since 1986 with Alumina Partners of Jamaica to develop operating, maintenance and employee training procedures to improve efficiency and safety on this company's mining railroad.

For Wisconsin Central, Ltd., hired employees, set up operating and maintenance procedures and directed the start of operations for this 2,000 mile regional railroad's Eastern Division.

For the City of St. Paul, MN, negotiated the relocation of a Soo Line Railroad intermodal terminal and a Chicago and North Western Railroad classification yard from the central city and assisted in the design of the new facilities.

EXPERIENCE (continued)

Assisted CSX Transportation, Inc. in analyzing operating costs to successfully defend against an Interstate Commerce Commission rate overcharge action brought by a major power company. Prepared engineering evidence for the Burlington Northern Railroad in connection with a grain rate overcharge case.

For the U.S. Agency for International Development, made field inspections of the Mozambique National Railway route between Nacala and Entre Lagos and developed a rehabilitation and operating plan. Also, for USAID, served as inspector for the construction of 13 locomotives being built for the National Railways of Zimbabwe.

For the Asian Development Bank, made field inspections and evaluated the design, traffic forecasts and operational programs and general feasibility of 10 proposed new railroads in the Peoples Republic of China.

Conducted investigations of railroad accidents and derailments to determine cause and responsibility for industries and insurance companies.

Managed a study to determine the feasibility of establishing a regional rail passenger system on freight railroads in Southeast Michigan, primarily serving the Detroit area.

For the City of Wichita, KS, assisted in negotiations with BNSF and UP to consolidate routes to eliminate grade crossings and reduce traffic interference in the central city.

For the National Economic and Social Development Board of Thailand, developed performance standards and rolling stock specifications for a 200 km high speed railway between Bangkok and Rayong, Thailand.

For the State of Minnesota, analyzed rail operations to develop access routes to a consolidated intermodal terminal site in the Minneapolis-St. Paul metropolitan area for use by three major railroads.

From 1993 to 1996 served as an operational and engineering advisor to the State Railway of Thailand during design and construction of a $3.2 Billion railroad, transit and expressway project in metropolitan Bangkok. This project involved elevating approximately 46 km of two and three track SRT main lines and building a parallel transit line. Job requirements included design of trackage and support facilities, selection of rolling stock and development of operational plans.

EXPERIENCE (continued)

COPPER BASIN RAILWAY 1986 - 1987
Vice President and General Manager

Responsibilities: Chief Operating Officer of a 60 mile railroad in Arizona handling over 20 million gross tons annually. Organized the entire operation including hiring of employees, acquisition of locomotives, design and construction of locomotive and car maintenance facilities, development of an operating and maintenance plan, operating rules, schedules and control system.

RAIL SWITCHING SERVICES 1985 - 1986
Vice President

Responsibilities: Managed industrial switching operations throughout the U.S. Developed contacts with major railroads and industries to identify new business opportunities. Hired and trained personnel, acquired locomotives and established operating and maintenance programs.

DE LEUW, CATHER & COMPANY 1977 - 1984
Senior Project Manager

Responsibilities: Manager of De Leuw, Cather's Western Region railroad department in Chicago. Managed railroad rehabilitation, facility design, and valuation projects nationwide. Conducted feasibility studies and developed operating and maintenance programs for major railroads, short lines and transit authorities.

Appeared as an expert witness in abandonment, line sale and acquisition cases and other regulatory proceedings.

Representative specific assignments included: Project engineer on an audit of operating and capital budgets for the New York Metropolitan Transportation Authority. Inspected and evaluated subways and elevated trackage of the New York Transit Authority. Assisted in the design of improvements and modernization of the interlocking and station complex at Jamaica, Long Island.

Project manager on an assignment to determine the net liquidated salvage value of the 900 mile Rock Island route between Santa Rosa, NM and St. Louis, MO. Also assisted the Southern Pacific Railroad in the preparation of documents and exhibits for the Interstate Commerce Commission hearings and the preparation of a $60 million rehabilitation program for this line.

In charge of a $40 million project relocating seven major railroads through Duluth, MN. Acted as negotiator for Minnesota Department of Transportation with the railroads on this project.

EXPERIENCE (continued)

Project manager on an assignment to determine the feasibility of and physical improvements necessary to increase commuter rail operations between Detroit and Ann Arbor, MI. Elements of this project included determining the type and number of locomotives and coaches required, locating stations and support yards and facilities, preparation of operating plans and schedules and coordinating the proposed commuter service with the existing freight traffic.

CHICAGO AND NORTH WESTERN RAILROAD 1974 - 1977
Assistant Vice President and Division Manager

Responsibilities: In charge of the 1900 mile Wisconsin Division headquartered in Milwaukee which included three major Chicago area commuter routes that also handled heavy freight traffic. The division had large classification yards, intermodal terminals, locomotive and car maintenance facilities, heavy industrial switching operations and service to large coal burning power plants and two major automobile assembly plants.

PENN CENTRAL RAILROAD 1969 - 1973
Division Superintendent

Responsibilities: In charge of all operations in all departments in the Toledo Division and Canada Division.

NEW YORK CENTRAL RAILROAD 1961 - 1969
Operating and Engineering Officer

Assigned to positions ranging from assistant trainmaster to maintenance engineer, coal dock superintendent and transportation superintendent at numerous locations from Boston to Chicago and Indianapolis.

Responsibilities: In charge of train operations and scheduling, development and administration of safety and quality control programs, service improvements, locomotive and car maintenance and utilization, liaison with customers, preparation and control of operating plans and budgets, track, signal and fixed facility maintenance and construction of new track and facilities.

U. S. ARMY TRANSPORTATION CORPS 1954 - 1957

Responsibilities: Served as instructor for locomotive engineers and supervised military rail transportation office in Verona, Italy.

MILWAUKEE ROAD 1952 - 1961
Operating Employee

Responsibilities: Worked as brakeman, fireman and locomotive engineer.

EXHIBIT III

SUMMARY
Federal Railroad Administration
Union Pacific Railroad
Safety Assurance Assessment

Background

During the eight week period between June 22 and August 21, 1997, three collisions occurred on the Union Pacific Railroad (UP) that resulted in five railroad employee fatalities and two trespasser fatalities. Two subsequent collisions in Wyoming and California, while fortunately not resulting on loss of life or serious injury, further demonstrated an alarming safety trend. Additionally, thus far in 1997, four UP train service employees were killed in yard switching accidents.

FRA Response

The Federal Railroad Administration (FRA) already had a number of safety initiatives underway on the UP, including a train riding safety review in Region 7. However, after the Devine, TX, collision, FRA escalated efforts with the issuance of Safety Directive 97-1 to all railroads. This directive addressed dispatching procedures in non-signaled territory, and raised questions about the adequacy of railroad quality controls necessary to accomplish the objectives of operational testing and inspection programs.

Beginning August 23, FRA increased its intervention on UP. Conducting an initial review of the circumstances surrounding the five collisions and the four yard incidents, **FRA came to the conclusion that there is a fundamental breakdown in basic railroad operating procedures and practices essential to a safe operation.** Additionally, due to the varying corporate cultures that exist within the now merged Southern Pacific (SP), Chicago and Northwestern (CNW), and UP railroads, FRA believes this breakdown can be directly or indirectly attributed to the issue of corporate culture.

In order to further determine the magnitude and extent of the problem, FRA initiated a comprehensive system-wide safety assurance review of the UP's operation. This safety assurance project differed from past projects because it sought not only to identify impediments to good safety processes and effective communications within UP, but also to identify ways to correct those impediments. It is FRA's judgment that this approach will ensure a permanent solution to the current systemic safety shortcomings as long as all fully participate.

FRA would like to thank Mr. Jerry Davis, President and Chief Operating Officer, Union Pacific Railroad, as well as the many thousands of UP employees who participated in and contributed to this Safety Assurance Assessment. Over the last 17 days, FRA has worked closely in partnership with labor and management. Both groups have assured FRA and each other their absolute cooperation to resolve the safety critical issues identified on the UP. To their credit, both have already begun to address many of the following areas of concern.

Below is a summary of FRA's key findings:

1. **Crew utilization**

FRA found significant evidence of ineffective crew utilization which leads directly to crew fatigue, stress, a lowering of morale, violations of the hours of service law, and a reduced ability to comply with operating rules. Crews are needlessly working longer hours without getting time off. Cumulative fatigue erodes train and engine service employee ability to perform their duties safely. When crews work erratic schedules for days on end, their ability to read and follow instructions, identify and comply with signals, react appropriately in emergency situations and make safety critical decisions and act on those decisions is lost. The end effect is train accidents and employee fatalities. UP has agreed to participate in the SACP process.

Action: **Teams with representatives from FRA, labor, and management will address job fatigue and will study all aspects of work/rest cycles including crew scheduling. FRA recommends that UP require crew transportation contractors provide an adequate number of vans and drivers, or arrange alternate transportation, to ensure the safety of train crews.**

2. **Supervision - Workload**

FRA found that in virtually all management levels supervisors perform a multitude of tasks that are not directly related to their supervisory responsibilities. The inability of supervisors to monitor and evaluate the performance of those they supervise contributes to a breakdown in safety processes.

Action: **The UP will hire 16 additional field managers immediately, and will reevaluate field management requirements.**

3. **Supervision - Training**

FRA found that some supervisors in the Harriman Dispatching Center (HDC) are unfamiliar with the territories of the dispatchers that they supervise. Consequently, some supervisors are unable to readily determine whether or not the employees they supervise are complying with applicable carrier rules.

Action: **FRA recommends that the UP reevaluate its training program for Corridor Managers to provide corridor managers with hands on experience.**

4. **Dispatcher Workload**

FRA found evidence of heavy dispatcher workload and resultant stress at the HDC that when combined with inexperienced supervisors, places additional stress on dispatchers, and could lead to increased instances of rule violations.

Action: **FRA recommends that UP continue to periodically evaluate dispatchers for excessive workloads and stress. Thus far, UP has "split" the duties of three dispatchers**

because the workload was too much. UP has hired 19 dispatchers, and they are currently in training. Also, FRA recommends that UP ensure, in writing, all supervisors are trained and qualified on the territories over which they are supervising the movement of trains.

5. Operational Compliance

FRA found that in the LA service unit, there is no mandatory process in place to advise/educate employees on operating rules, system wide instructions, and local operating restrictions. Consequently, employees may not know the rules, revisions, local speed restrictions, system instructions.

Action: FRA recommends that within the next 12 months, each UP employee whose job is governed by the operating rules attend a mandatory operating rules class to ensure and verify that the employee understands the operating rules; in addition, FRA recommends that UP reemphasize job briefings. UP has begun notifying employees who is or will be the safety officer at each respective location. UP has implemented procedures for the departure sequence of trains at West Colton. FRA recommends that all employees whose job requires them to operate equipment receive the necessary training for each piece of equipment they are expected to use; this should be verified in writing as soon as practicable.

6. Harassment and Intimidation

FRA found numerous allegations by employees of harassment and intimidation. Consequently, senior UP management's goal of empowering employees is short circuited by a "command and control" style of management. This perception of a command and control management style seriously reduces employee confidence in managements commitment to safety.

Action: UP has appointed a senior manager to oversee the safety operations; this officer now reports directly to the President on safety matters. However, this individual also has other duties and responsibilities outside of safety in which he reports to the Executive Vice President of Operations. FRA recommends that UP create a safety position, with no other duties and responsibilities other than safety, who reports directly to the President.

7. Mechanical Inspections

FRA found 57 percent of the locomotive fleet defective. This means that improperly inspected and defective locomotives are being used in service.

Action: UP has agreed to participate in the SACP process. Teams with representatives from FRA, labor, and management will address locomotive and mechanical inspections and employee training.

8. Labor Contact and Participation

FRA found that the UP has an incredible amount of support among the labor unions, both in the international and regional officers. At the same time, local union people feel that safety is still a

lower priority than corporate profits "at any cost." It is widely held that while selected senior management, especially President Jerry Davis, may be serious about safety, but they are insulated by their staffs from the real state of the railroad. Union people do not believe that they are valued members of the safety program, but are involved only when expedient to advance a program developed by management. This means that UP has the seeds of a collaborative relationship with their employees, but they don't seem to "walk the talk" when it comes time to truly involve the unions in a needs assessment of the work force or in establishing formal safety programs.

Action: **UP's President has committed to FRA all safety issues will be addressed at the top of the organization. UP has established an "800" number for employees to report safety issues and concerns. The reports are being reviewed each day by the UP's President. UP has committed to embracing the full processes of SACP. On September 17, a meeting will be held with FRA, UP senior management and the Presidents of the labor organizations who deal directly with UP to discuss these processes.**

EXHIBIT IV

PAWNEE DELAY CALCULATIONS

ADT 26973

	Length (feet)	Speed (mph)	Train Time (mins)	Total Veh. Delay (hours)	(hours)	Vehicles Affected		Average (mins/veh)
Pre-Merger	3870	13.6	3.95	14.80	**14.80**	372	**372**	2.39
Post-Merger Exist	3870	23.6	2.58	6.33		243		1.56
Post Merger Addtl	5618	23.6	3.42	14.33	**20.67**	415	**659**	2.07
Locals	442	13.6	1.09	0.46	**0.46**	43	**43**	0.63
	195	13.6	0.88	**Pre**	**15.25**	-	**415**	-
	1497	13.6	1.97	**Post**	**21.12**	-	**702**	-

Locals

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
13	0.063	11.753	12.76	0.38	1.50	35.3	0.66	23.22	
22	0.021	3.918	3.45	0.08	1.00	7.8	0.53	4.16	
Total						43.15		0.46	hours

Pre-Merger Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	ADT
1	0.006	1.119	4.42	0.10	4.08	9.1	2.39	21.85	26973
3	0.003	0.560	2.21	0.05	4.03	4.5	2.39	10.79	26973
6	0.033	6.157	24.32	0.63	4.61	56.8	2.39	135.65	26973
20	0.035	6.530	25.79	0.67	4.65	60.8	2.39	145.26	26973
2	0.004	0.746	2.95	0.07	4.05	6.0	2.39	14.45	26973
4	0.005	0.933	3.68	0.08	4.07	7.6	2.39	18.13	26973
18	0.056	10.448	41.27	1.19	5.18	108.2	2.39	258.58	26973
21	0.031	5.783	22.85	0.58	4.57	52.8	2.39	126.23	26973
8	0.052	9.701	38.32	1.09	5.07	98.4	2.39	235.07	26973
15	0.084	15.671	61.91	2.11	6.09	191.0	2.39	456.51	26973
16	0.088	16.418	64.85	2.27	6.25	205.3	2.39	490.67	26973
17	0.085	15.858	62.64	2.15	6.13	194.5	2.39	464.89	26973
7	0.062	11.567	45.69	1.37	5.35	123.8	2.39	295.81	26973
10	0.049	9.142	36.11	1.01	4.99	91.2	2.39	218.07	26973
18	0.056	10.448	41.27	1.19	5.18	108.2	2.39	258.58	26973
19	0.041	7.649	30.22	0.81	4.79	73.3	2.39	175.22	26973
0	0.010	1.866	7.37	0.17	4.15	15.5	2.39	37.05	26973
11	0.060	11.194	44.22	1.31	5.29	118.5	2.39	283.13	26973
12	0.067	12.500	49.38	1.52	5.50	137.6	2.39	328.78	26973
17	0.085	15.858	62.64	2.15	6.13	194.5	2.39	464.89	26973
Averag	-	-	33.61	1.03	5.01	92.88	2.39	3.70	hours
Daily	-	-	-	-	20.04	371.53	9.56	14.80	hours

PAWNEE DELAY CALCULATIONS
Post-Merger

Existing Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
1	0.006	1.119	2.89	0.07	2.68	6.0	1.56	9.36	26973
3	0.003	0.560	1.44	0.03	2.65	3.0	1.56	4.62	26973
6	0.033	6.157	15.88	0.41	3.02	37.2	1.56	58.09	26973
20	0.035	6.530	16.85	0.44	3.05	39.8	1.56	62.20	26973
2	0.004	0.746	1.93	0.04	2.66	4.0	1.56	6.19	26973
4	0.005	0.933	2.41	0.05	2.67	5.0	1.56	7.77	26973
18	0.056	10.448	26.96	0.78	3.39	70.9	1.56	110.69	26973
21	0.031	5.783	14.92	0.38	2.99	34.6	1.56	54.06	26973
8	0.052	9.701	25.03	0.71	3.32	64.5	1.56	100.63	26973
15	0.084	15.671	40.43	1.38	3.99	125.1	1.56	195.31	26973
16	0.088	16.418	42.36	1.48	4.10	134.5	1.56	209.91	26973
17	0.085	15.858	40.92	1.40	4.02	127.4	1.56	198.89	26973
7	0.062	11.567	29.84	0.89	3.51	81.1	1.56	126.61	26973
10	0.049	9.142	23.59	0.66	3.27	59.8	1.56	93.36	26973
18	0.056	10.448	26.96	0.78	3.39	70.9	1.56	110.69	26973
19	0.041	7.649	19.74	0.53	3.14	48.1	1.56	75.03	26973
0	0.01	1.866	4.81	0.11	2.73	10.2	1.56	15.87	26973
11	0.06	11.194	28.88	0.85	3.47	77.6	1.56	121.19	26973
12	0.067	12.500	32.25	0.99	3.61	90.1	1.56	140.71	26973
17	0.085	15.858	40.92	1.40	4.02	127.4	1.56	198.89	26973
Averag	-	-	21.95	0.67	3.28	60.86	1.56	1.58	hours
Daily	-	-	-	-	13.13	243.45	6.24	6.33	hours

PAWNEE DELAY CALCULATIONS
Post-Merger

Additional Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
6	0.033	6.157	21.07	0.54	4.00	49.2	2.07	101.90	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
10	0.049	9.142	31.28	0.87	4.33	79.1	2.07	163.79	26973
15	0.084	15.671	53.62	1.83	5.28	165.6	2.07	342.82	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
17	0.085	15.858	54.26	1.86	5.32	168.6	2.07	349.11	26973
3	0.003	0.560	1.92	0.04	3.50	3.9	2.07	8.11	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
9	0.046	8.582	29.37	0.81	4.26	73.1	2.07	151.42	26973
11	0.06	11.194	38.30	1.13	4.59	102.7	2.07	212.64	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
22	0.021	3.918	13.41	0.33	3.78	29.6	2.07	61.34	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
4	0.005	0.933	3.19	0.07	3.53	6.6	2.07	13.62	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
17	0.085	15.858	54.26	1.86	5.32	168.6	2.07	349.11	26973
18	0.056	10.448	35.75	1.03	4.49	93.8	2.07	194.21	26973
0	0.01	1.866	6.38	0.15	3.60	13.4	2.07	27.83	26973
1	0.006	1.119	3.83	0.09	3.54	7.9	2.07	16.42	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
4	0.005	0.933	3.19	0.07	3.53	6.6	2.07	13.62	26973
13	0.063	11.753	40.22	1.21	4.66	109.7	2.07	227.01	26973
0	0.01	1.866	6.38	0.15	3.60	13.4	2.07	27.83	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
6	0.033	6.157	21.07	0.54	4.00	49.2	2.07	101.90	26973
13	0.063	11.753	40.22	1.21	4.66	109.7	2.07	227.01	26973
23	0.015	2.798	9.58	0.23	3.68	20.6	2.07	42.66	26973
Averag	-	-	26.54	0.82	4.27	74.18	2.07	2.56	hours
Daily	-	-	-	-	23.93	415.42	11.59	14.33	hours

Delay (mins/veh)
2.39
1.88
0.63
2.21
1.81

EXHIBIT V

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

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

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

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

J. MICHAEL HEMMER
DIRECT DIAL NUMBER
(202) 662-5578
DIRECT TELEFAX NUMBER
(202) 778-5578
INTERNET ADDRESS
MHEMMER@COV.COM

March 7, 1997

HAND DELIVERY

Elaine K. Kaiser
Michael J. Dalton, III
Section of Environmental Analysis
Surface Transportation Board, Room 3219
12th Street and Constitution Avenue, N.W.
Washington, D.C. 20423

Dear Ms. Kaiser and Mr. Dalton:

Enclosed is the Second Joint Verified Statement of C.L. Anderson and R.M. Naro, providing revised details of UP/SP operations through Wichita as a result of the merger. Union Pacific is reviewing Mr. Wimmer's verified statement to determine whether changes should be made to that statement as well. Please contact me if you have any questions.

Sincerely,

Mike Hemmer

J. Michael Hemmer

cc: Winn B. Frank
Steven J. Kalish, Esq.

SECOND JOINT VERIFIED STATEMENT

OF

C. L. ANDERSON AND R. M. NARO

Clyde Anderson and Ron Naro jointly submit this verified statement to update their response to Question No. 1 posed by the Section of Environmental Analysis in a letter dated November 8, 1996 regarding the potential effects of the UP/SP merger in the areas of Wichita, Kansas. The revised response reflects a revised operating plan for the OKT route through Wichita developed by Union Pacific. Their qualifications are described in their initial verified statement.

Question No. 1: *The number, length, and type of through freight trains that UP plans to operate in Wichita annually for each of the next five years.*

The UP/SP Operating Plan originally projected that UP/SP would increase train frequencies through Wichita by creating a Kansas City Bypass route between Topeka, Kansas, and Ft. Worth, Texas, requiring investment of $91.5 million to upgrade and expand capacity on the OKT route. Many of the trains were to be loaded and empty unit coal trains operating between the Powder River Basin in Wyoming and points in Texas served via Ft. Worth.

Because of Wichita's concerns about increased train traffic, particularly lengthy coal trains to and from the Powder River Basin, and the additional costs associated with handling 135-car distributed power trains on the OKT line, UP management developed a revised operating plan for the OKT line.

UP will continue to operate Texas coal trains to and from the Powder River Basin via Kansas City as it does today and as it would have had the merger not been approved. UP will reroute some of its trains between Denver and Ft. Worth via Wichita. Train OKKC from Oklahoma City to Kansas City is not expected to operate because BNSF successfully contracted to transport the General Motors business from Oklahoma City.

The following projections are based on the traffic data prepared for the UP/SP merger application. The chart shows post-merger through trains under the revised OKT operating plan, their length and their type for a normal year after merger implementation.

TRAIN	FREQUENCY	TYPE	LENGTH IN FEET
FWHK	Daily	Manifest	4634
FWDV	Daily	Manifest	6376

TRAIN	FREQUENCY	TYPE	LENGTH IN FEET
FWWT	Daily	Manifest	4765 (south of UP Wichita yard only)
WTKC	Six times weekly	Manifest	4023 (north of UP Wichita yard only)
KCWT	Six times weekly	Manifest	4205 (north of UP Wichita yard only)
HKFW	Daily	Manifest	6835
[illegible]	Daily	Manifest	6040
[illegible]	Daily	Manifest	4237 (south of UP Wichita yard only)
OWTCK/OCKWT	Twice weekly in each direction	Unit rock train	4012 (south of Dolese Cement only)
Unit coal trains between Utah/Colorado mines and Texas utilities	Approximately 10.5 trains per week	Unit coal trains and empty returns	6210
Unit grain trains to/from Texas ports	Approximately 11.2 trains per week north of Wichita yard; 14.7 per week south of Wichita yard	Unit grain trains and empty returns	5789 or less

It is important to recognize that this is a predicted average. Actual operations would change from day to day and with seasonal variations in customer demand, particularly for Kansas grain. Note that approximately 0.4 trains per day, consisting of an existing unit gravel train movement, do not operate through most of Wichita. These trains from southwestern Oklahoma operate to and from the Dolese Cement facility south of Wichita. Only the locomotives operate between the Dolese facility and the UP yard on the north side of Wichita.

The impact of the revised OKT operating plan is shown in the following chart.

Segment	Pre-Merger Through Trains	Post-Merger Through Trains	Change
Lost Springs-Wichita	3.6	9.0	5.4
Central Wichita	4.0	9.6	5.6
Dolese Plant-Chickasha	4.4	10.0	5.6

UP cannot predict with precision when these trains would start running. UP would likely begin running additional manifest trains per day by some point in 1998. The coal trains and two more manifest trains would likely be added by some point in 1999.

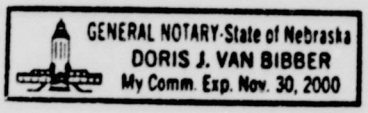
VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Clyde Anderson, being first duly sworn, deposes and says that he has read the foregoing document, knows the facts asserted therein, and that the same are true as stated.

Clyde Anderson
CLYDE ANDERSON

SUBSCRIBED AND SWORN TO before me this 6th day of March, 1997.



Doris J Van Bibber
Notary Public

VERIFICATION

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Ronald M. Naro, being first duly sworn, deposes and says that he has read the foregoing document, knows the facts asserted therein, and that the same are true as stated.

Ronald M. Naro
RONALD M. NARO

SUBSCRIBED AND SWORN TO before me this 6th day of March, 1997.

Doris J. Van Bibber
Notary Public

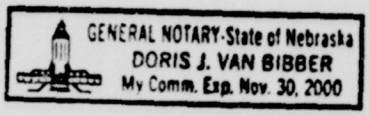


EXHIBIT VI

PAWNEE DELAY CALCULATIONS

ADT 26973

	Length (feet)	Speed (mph)	Train Time (mins)	Total Veh. Delay (hours)	(hours)	Vehicles Affected		Average (mins/veh)
Pre-Merger	3870	13.6	3.95	14.80	**14.80**	372	**372**	2.39
Post-Merger Exist	5618	23.6	3.42	11.11		322		2.07
Post Merger Addtl	5618	23.6	3 42	14.33	**25.45**	415	**738**	2.07
Locals	442	13.6	1.09	0.46	**0.46**	43	**43**	0.63
	195	13.6	0.88	**Pre**	**15.25**	-	**415**	-
	1497	13.6	1.97	**Post**	**25.90**	-	**781**	-

Locals

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
13	0.063	11.753	12.76	0.38	1.50	35.3	0.66	23.22	
22	0.021	3.918	3.45	0.08	1.00	7.8	0.53	4.16	
Total						43.15		0.46	hours

Pre-Merger Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	ADT
1	0.006	1.119	4.42	0.10	4.08	9.1	2.39	21.85	26973
3	0.003	0.560	2.21	0.05	4.03	4.5	2.39	10.79	26973
6	0.033	6.157	24.32	0.63	4.61	56.8	2.39	135.65	26973
20	0.035	6.530	25.79	0.67	4.65	60.8	2.39	145.26	26973
2	0.004	0.746	2.95	0.07	4.05	6.0	2.39	14.45	26973
4	0.005	0.933	3.68	0.08	4.07	7.6	2.39	18.13	26973
18	0.056	10.448	41.27	1.19	5.18	108.2	2.39	258.58	26973
21	0.031	5.783	22.85	0.58	4.57	52.8	2.39	126.23	26973
8	0.052	9.701	38.32	1.09	5.07	98.4	2.39	235.07	26973
15	0.084	15.671	61.91	2.11	6.09	191.0	2.39	456.51	26973
16	0.088	16.418	64.85	2.27	6.25	205.3	2.39	490.67	26973
17	0.085	15.858	62.64	2.15	6.13	194.5	2.39	464.89	26973
7	0.062	11.567	45.69	1.37	5.35	123.8	2.39	295.81	26973
10	0.049	9.142	36.11	1.01	4.99	91.2	2.39	218.07	26973
18	0.056	10.448	41.27	1.19	5.18	108.2	2.39	258.58	26973
19	0.041	7.649	30.22	0.81	4.79	73.3	2.39	175.22	26973
0	0.010	1.866	7.37	0.17	4.15	15.5	2.39	37.05	26973
11	0.060	11.194	44.22	1.31	5.29	118.5	2.39	283.13	26973
12	0.067	12.500	49.38	1.52	5.50	137.6	2.39	328.78	26973
17	0.085	15.858	62.64	2.15	6.13	194.5	2.39	464.89	26973
Averag	-	-	33.61	1.03	5.01	92.88	2.39	3.70	hours
Daily	-	-	-	-	20.04	371.53	9.56	14.80	hours

PAWNEE DELAY CALCULATIONS
Post-Merger

Existing Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
1	0.006	1.119	3.83	0.09	3.54	7.9	2.07	16.42	26973
3	0.003	0.560	1.92	0.04	3.50	3.9	2.07	8.11	26973
6	0.033	6.157	21.07	0.54	4.00	49.2	2.07	101.90	26973
20	0.035	6.530	22.34	0.58	4.04	52.7	2.07	109.11	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
4	0.005	0.933	3.19	0.07	3.53	6.6	2.07	13.62	26973
18	0.056	10.448	35.75	1.03	4.49	93.8	2.07	194.21	26973
21	0.031	5.783	19.79	0.50	3.96	45.8	2.07	94.82	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
15	0.084	15.671	53.62	1.83	5.28	165.6	2.07	342.82	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
17	0.085	15.858	54.26	1.86	5.32	168.6	2.07	349.11	26973
7	0.062	11.567	39.58	1.18	4.64	107.3	2.07	222.17	26973
10	0.049	9.142	31.28	0.87	4.33	79.1	2.07	163.79	26973
18	0.056	10.448	35.75	1.03	4.49	93.8	2.07	194.21	26973
19	0.041	7.649	26.17	0.70	4.16	63.6	2.07	131.62	26973
0	0.01	1.866	6.38	0.15	3.60	13.4	2.07	27.83	26973
11	0.06	11.194	38.30	1.13	4.59	102.7	2.07	212.64	26973
12	0.067	12.500	42.77	1.32	4.77	119.3	2.07	246.92	26973
17	0.085	15.858	54.26	1.86	5.32	168.6	2.07	349.11	26973
Averag	-	-	29.11	0.89	4.34	80.53	2.07	2.78	hours
Daily	-	-	-	-	17.37	322.12	8.28	11.11	hours

PAWNEE DELAY CALCULATIONS
Post-Merger

Additional Through Trains

Time	k	ArrivRate (veh/min)	maxQ (vehicles)	dispersal (minutes)	Event Time (minutes)	Event Vol (vehicles)	Av Delay (mins/veh)	TotDelay (minutes)	
6	0.033	6.157	21.07	0.54	4.00	49.2	2.07	101.90	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
10	0.049	9.142	31.28	0.87	4.33	79.1	2.07	163.79	26973
15	0.084	15.671	53.62	1.83	5.28	165.6	2.07	342.82	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
17	0.085	15.858	54.26	1.86	5.32	168.6	2.07	349.11	26973
3	0.003	0.560	1.92	0.04	3.50	3.9	2.07	8.11	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
9	0.046	8.582	29.37	0.81	4.26	73.1	2.07	151.42	26973
11	0.06	11.194	38.30	1.13	4.59	102.7	2.07	212.64	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
22	0.021	3.918	13.41	0.33	3.78	29.6	2.07	61.34	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
4	0.005	0.933	3.19	0.07	3.53	6.6	2.07	13.62	26973
8	0.052	9.701	33.20	0.94	4.40	85.3	2.07	176.56	26973
16	0.088	16.418	56.18	1.97	5.42	178.0	2.07	368.46	26973
17	0.085	15.858	54.26	1.86	5.32	168.6	2.07	349.11	26973
18	0.056	10.448	35.75	1.03	4.49	93.8	2.07	194.21	26973
0	0.01	1.866	6.38	0.15	3.60	13.4	2.07	27.83	26973
1	0.006	1.119	3.83	0.09	3.54	7.9	2.07	16.42	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
4	0.005	0.933	3.19	0.07	3.53	6.6	2.07	13.62	26973
13	0.063	11.753	40.22	1.21	4.66	109.7	2.07	227.01	26973
0	0.01	1.866	6.38	0.15	3.60	13.4	2.07	27.83	26973
2	0.004	0.746	2.55	0.06	3.51	5.2	2.07	10.85	26973
6	0.033	6.157	21.07	0.54	4.00	49.2	2.07	101.90	26973
13	0.063	11.753	40.22	1.21	4.66	109.7	2.07	227.01	26973
23	0.015	2.798	9.58	0.23	3.68	20.6	2.07	42.66	26973
Averag	-	-	26.54	0.82	4.27	74.18	2.07	2.56	hours
Daily	-	-	-	-	23.93	415.42	11.59	14.33	hours

Delay (mins/veh)
2.39
2.07
0.63
2.21
1.99

EXHIBIT VII

SEDGWICK COUNTY , KANSAS
DEPARTMENT OF
EMERGENCY COMMUNICATIONS
Diane M. Gage, Director
525 N Main Ste-B-6
Wichita, KS 67203-3703
(316) 383-7077
(316) 383-8060 (FAX)

Verified Statement
of
Diane M. Gage

Director, Sedgwick County Emergency Communications

I. Introduction

A. Qualifications

My name is Diane M. Gage. I am the Director of Emergency Communications for Sedgwick County Kansas. Emergency Communications is the primary answering point for "911" calls in Sedgwick County, including the City of Wichita. We provide consolidated dispatching services for the Sedgwick County Sheriff, Sedgwick County Emergency Medical Service, Sedgwick County Fire Department, Wichita Police Department, Wichita Fire Department, and several communities located in Sedgwick County. Over 400,000 calls are received annually on an "E-911" system, with approximately 80% coming from the City of Wichita.

I have been involved in the field of emergency communications for over 20 years, starting as an emergency dispatcher with the City of Valley Center in May, 1977. In July 1979, I joined what was then the Wichita-Sedgwick County Department of Emergency Communications, now known as Sedgwick County Emergency Communications, as an emergency services dispatcher. Working through the ranks, promoted to supervisor in October, 1985; Quality Assurance and Training Officer (interim) January, 1994; Assistant Director, June 1994; and to my current position as Director in November, 1996.

During this time I also volunteered as an Emergency Medical Technician for both Sedgwick County EMS Reserves and the Butler County Rescue Squad.

B. Purpose of Testimony

As director of Emergency Communications, I am responsible for overseeing the communications operations. Emergency Communications' personnel are responsible for responding law enforcement, fire and emergency medical personnel to incidents in the City of Wichita and Sedgwick County. Responses can be delayed if there is a train blocking a street between emergency crews and an incident scene. The proposed increase in train traffic could contribute to this type of delay occurring more frequently.

C. Summary of Conclusions

The mitigation proposal submitted by SEA eludes to a communications system which would alert the emergency dispatchers as to the location of a train. This is only part of the solution. If the dispatchers do not know the exact location of emergency crews, it could actually take longer for a response decision to be made. If the computer-aided-dispatch system (CAD) was updated with the locations of a train and the emergency crew, response configurations would take both pieces of information into consideration and be able to recommend appropriately. (Note: The current system cannot support this function, but can be updated to do so.) If only the train location is given, the CAD system is not able to recommend the closest unit, and then either the wrong response is recommended and changes are made while crews are responding or dispatchers must manually look up the information, building in a delay to the system.

Seconds count when responding emergency crews: fires can double in size every 30-45 seconds; a person who is not breathing can suffer permanent brain injury or death in four to six minutes; or a domestic violence disturbance can quickly result in serious injury or death. Anything to prevent incorrect responses and delays in responses can save lives and prevent property damage. If it is necessary to route emergency crews around a train, we need the tools to do it accurately and be able to respond quickly and effectively.

To make the SEA recommendations work, Global Positioning Satellite (GPS) receivers will be needed on the trains and the emergency vehicles, essentially an Automatic Vehicle Location (AVL) system. In addition to the equipment in the vehicles, the CAD system and the radio would need to be upgraded to support the AVL system. This requires a radio channel for the GPS receivers/transmitters, software upgrades to CAD to track units and make response recommendations; and hardware upgrades to support both the main frame and dispatcher applications.

This solution is more involved than the SEA recommendations, and the estimated cost is between $1.5 to $2 million for the entire project. The following are the estimated costs associated with the part of the solution which involves public safety.

Item	Unit Cost	Total
Base station radios		$ 50,000
Vehicle equipment (units with MCT terminals) 280 units	$ 1,600	$ 450,000
Vehicle equipment (units without MCTs) 150	$ 4,265	$ 640,000
CAD Software updates		$ 175,000
CAD Hardware updates		$ 75,000
Systems Integrator		$ 100,000
Total (estimated)		**$1,470,000**

Note: these are rough estimates - based on limited information provided by a few vendors. This does not include the components for the railroad side of the solution, only public safety. This has not yet been reviewed by a qualified professional in the field of AVL.

I believe with these upgrades, the delays caused by train blockages could be minimized. The delays would still have an impact on the safety and well being of the citizens of this community, but the delays would be as short as possible, utilizing our public safety resources to the maximum.

Respectfully submitted,

Diane M. Gage
Director of Sedgwick County
Emergency Communications

SEDGWICK COUNTY , KANSAS
DEPARTMENT OF
EMERGENCY COMMUNICATIONS
Diane M. Gage, Director
525 N Main Ste-B-6
Wichita, KS 67203-3703
(316) 383-7077
(316) 383-8060 (FAX)

VERIFICATION

STATE OF KANSAS)
) ss
COUNTY OF SEDGWICK)

I, Diane M. Gage, verify under penalty of perjury that the foregoing statement is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Diane M Gage
Diane M. Gage

Sworn to and signed before
me this 14 day of Oct, 1997.

Bonnie Kerr
Notary Public

7/23/2000

BONNIE KERR
NOTARY PUBLIC
STATE OF KANSAS
My Appt. Exp.

DIANE M. GAGE
4948 N. Salina
Wichita, Kansas 67204-2840
Home - (316) 831-9839
Work - (316) 383-7077

EXPERIENCE

1979 to present - Sedgwick County Department of Emergency Communication, a department that employs 54 emergency dispatchers, 7 communications supervisors, 5 radio technicians and 4 support/management staff. Serves a population of over 400,000 through the utilization of Enhanced 9-1-1, Computer-Aided Dispatch and 800 megahertz trunked radio systems. Soon to be using a Mobile Computer System for law enforcement vehicles. A consolidated department, handling the dispatching for law enforcement, fire, and emergency medical services, the main dispatch center for the area.

Currently serving as the Director, promoted in November 1996. Responsible for the departmental operations, including the communications center and radio shop. Oversee an annual budget of $2.6 million.

Have served in every capacity in the communications center. Began as an emergency dispatcher in 1979; promoted to supervisor in 1985; in 1993, served as training and quality assuranc officer; and was appointed assistant director in June 1994.

Work extensively with the E-911 System. Participated in development and installation of the Computer-Aided Dispatch System. Track software problems and coordinate with Planning and Research Corporation, when necessary. Currently the project director of the MCT (Mobile Computer Terminals) project, which is a coordinated effort between the Sedgwick County Sheriff's Department, Wichita Police Department, and suburban law enforcement agencies in Sedgwick County. This $2.6 million project is supported by a $2.0 million grant received through the COPS More project.

Involved in the implementation of an Emergency Medical Dispatch System, that provides pre-arrival instructions to callers and responsible for the continuing training of those dispatchers.

Involved in the public safety field in other aspects: taught classes at the Kansas APCO Conference, Fall 1990 and Spring 1991; conducted Emergency Communications classes for the Wichita Police and Sedgwick County Sheriff's Department's Training Academy. Represent the department as needed for civic events and neighborhood watch meetings.

Member of Beta Gamma Sigma, honor society for Business Students and member of Association of Public Safety Communications Officials.

1977 to 1979, served as an Emergency Dispatcher for the City of Valley Center, Kansas, providing dispatching for Police, Fire and Ambulance.

EDUCATION AND TRAINING

Wichita State University - Graduated Magna Cum Laude in May 1993, with a Bachelor of Business Administration; Masters of Business Administration, May, 1996.

Kansas Emergency Medical Technician, certified since 1981.

Certified Emergency Medical Dispatcher, accredited through the National Academy of Emergency Medical Dispatchers, Salt Lake City, Utah, December, 1988.

EXHIBIT VIII

Kenneth A. Watson
James A. Fenton

1208 N. Emporia
Wichita, Kansas 67214

October 12, 1997

To Whom It May Concern,

We currently reside in the Topeka/Emporia Historical District located within the Historic Midtown Citizens Association. Approximately two years ago, after living in Wichita over 20 years, we began searching for an older home in the core of the city. We chose a one-of-a-kind structure and made a commitment to make it our home and be a part of the neighborhood.

The house was constructed in 1910 by a local businessman. The plans for the home reflect his Chicago heritage and education. The house is an English Mission style, contemporary with the idea that man should live a simple life in harmony with nature. This house has lived through the many struggles of Wichita's growth. It began as a wonderful single family dwelling and later became a boarding house and apartments in the World War eras. In the 1970's, the house was returned to it's original single family condition through enormous efforts of the then owners and the residents of this neighborhood and city. This only remaining concrete and Kansas river rock thrown stucco home is a treasure and a testament to Wichita.

Since purchasing the house in 1996, we have invested thousands of dollars into its restoration and preservation. Over the next few years, we will spend over $100,000 on the continued rehabilitation of our home. Our house has been used as the meeting place for the Neighbor-to-Neighbor group, Neighborhood Watch, and Historic Midtown Citizens Association. We have been instrumental in neighborhood clean-ups, graffiti paint-outs, helping neighbors paint and work on their homes, and working with community police to reduce illegal activities in this inner city community.

We have many concerns over the pending increase in train traffic through our neighborhood. Our historic home sits within 200 yards of the UPSP tracks that will carry nine (9) or more speeding through-trains a day. The proposed increase in the number and length of the trains passing by our home and neighborhood raises concerns over the increase in noise, vibrations and the creation of a non-desirable environment by the trains.

The increase in through-train traffic will create adverse noise for our neighborhood and city. The noise of additional train horns, locomotives, and

wheels will be heard in our home. The increase in speed of the proposed trains will work to amplify and carry the addition noise at a stronger rate through our neighborhood. This additional noise will serve as an irritant to an already tense environment. It is a noise and an inconvenience we did not buy, nor due we want. This noise jeopardizes our neighborhood's sanity.

Today in our home, we can at times feel and visibly see the evidence of train vibration. Many times while working in our office, located on the second floor at the furthest point in the house from the tracks, we can feel the trains approaching and leaving our vicinity. Papers and drinks vibrate as the trains pass at their current slow rate of travel through our city. What will an increase of 100% in rate of travel, length, and frequency do to our home's exterior stucco structure and stick balloon construction? We fear that this increased vibration will irreversibly harm the unique concrete and Kansas river rock stucco facade, a tragic and irreplaceable loss to Wichita. Who will pay to repair or restore the exterior if our worst fears occur? Will it be the city or the train companies? I think not.

During the times we are stopped at the tracks waiting for through-trains to pass, we have observed the clouds of dust and debris surrounding the passing trains. We have also been witness to the high weeds and trash deposited along the railways. The railroad companies do not cut the weeds or clean up the trash, only spray the weeds with pesticides. The remaining dead weeds still collect debris from the passing trains, only to be released when the weeds break loose from their roots. This dirt, debris, and dead weeds carried by the passing trains, travels throughout and is deposited in our neighborhood creating a blighted situation.

We believe the increase in train traffic will only harm our home, neighborhood, and city. The issues we have discussed above will serve to return our inner city neighborhood to a slum. We believe the increase in train traffic will cause families to move from this inner city area, returning it to a deserted blighted crime-stricken neighborhood, destroying much of the historical heritage of this city. If the proposed increase in through-train traffic occurs, we will most likely sell our home and leave the area.

Sincerely,

Kenneth A. Watson James A. Fenton



1208 North Emporia, Wichita, Kansas in 1996

Kenneth A. Watson has a Bachelor's Degree in Business Economics, Sociology, Psychology and Women's Studies. He has a Masters Degree in Sociology and Psychology. He is currently employed as an administrator for the Salvation Army Homeless Services in Wichita, Kansas.

James A. Fenton has a Bachelor's Degree in General Studies with emphasis in Math, Graphic Design, and Computer Science. He is currently employed as a Systems Analyst for Cessna Aircraft Company in Wichita, Kansas.

Historic Preservation Department
Kansas State Historical Society
120 West 10th Street
Topeka, KS 66612-1291

KANSAS HISTORIC RESOURCES INVENTORY

1a. Property name: historic (050)

b. Property name: common

2. Property address/descriptive location (062)
1208 N. EMPORIA
WICHITA, KANSAS

3. Legal description (070)
N. 1/2 LOT 254--ALL LOTS 256-258 EMPORIA AVE.
FERRELL'S SECOND ADDITION

4. Original use
RESIDENCE

5. Present use (208)
RESIDENCE

6. Other uses

7. Original owner or occupant
CHARLES A. MAGILL

8. Date of construction (301)
X estimated
__ documented 1910

9. Changes dates
__ moved
__ major alterations

10. Architect (300)

11. Builder contractor

12. Identify any outbuildings and or other structures associated with this building or structure (Attach an additional inventory form for each one that has particular architectural or historical interest.)



13. KSHS Inventory Code (054)

14. County (064)
SEDGWICK

15. Survey sequence no

16. Accessibility
__ open to public
X accessible by permission only
__ inaccessible

17. Visibility from public road or street
X good
__ poor
__ not visible

18. Condition (084)
__ excellent
X good
__ fair
__ deteriorated
__ ruins
__ no visible remains
__ incorporated into later structure

19. USGS quadrangle map if required (see instructions)

20. UTM reference if required (see instructions)

21. Current owner's name and address (096 097)
WYATT K. MCCREA ETUX
1208 N. EMPORIA
WICHITA, KANSAS 67214

22. Tenant's name and address if different from property address (see instructions)

23. Principal material(s) (216)
STUCCO

24. Style and or form type (210)
ARTS & CRAFTS
RECTANGLE SIDE GABLE RO

THIS SECTION FOR KSHS USE ONLY

25. Category (060)

26. Functional type (202)

27. Registration status and dates (078)
__ NHL
__ listed NR
__ approved for NR
__ federal DOE
__ listed SR
__ local landmark
__ HABS HAER

28. Is this property included in a historic district?
__ yes
__ no
__ proposed
__ NR district
__ SR district
__ local district

Name of district (080)

__ contributing __ noncontributing

KANSAS HISTORIC RESOURCES INVENTORY

29. Brief statement of the property's history

1208 EMPORIA--Original owner residents were Charles A. Magill and his wife Evanegline. Magill, treasurer of Johnston & Larmier Dry Goods Co., had previously lived at 3750 E. Douglas (College Hill) and 1253 N. Emporia. H acquired title to 1208 Emporia from A. Hill, of Hill-Engstrom Lumber. Evangeline Magill was born and educated in Burmuda. Charles Magill studied at the Chicago Art Institute. Title to the property transferred from Magill in 1920. Some of the other owners included: Cora L. Hibbard, 1920; Oscar B. Rynders, 1945; Chas. E. Cox, 1951; D.M. Brown, 1954; Willa C. Hawkins, 1959.

30. Brief description. If a thorough description has been prepared separately, disregard this section and check here —

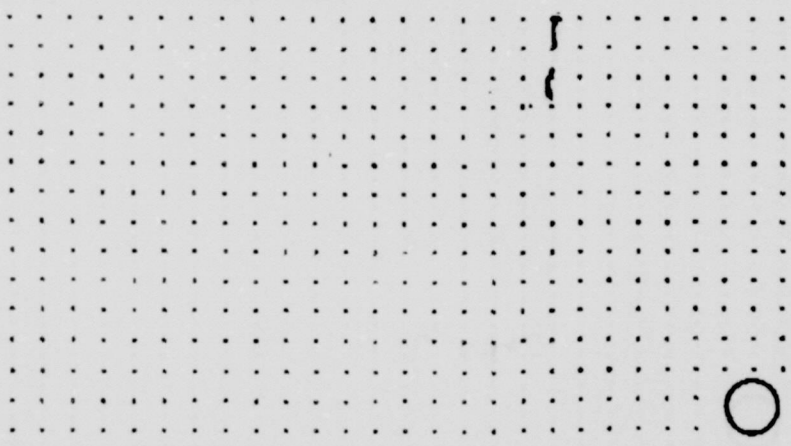
1208 N EMPORIA--2 1/2 story; 3 bays; symmetrical; stucco; Arts & Crafts; west orientation; end gable roof, wood shingles, 3 front gable dormers w/ 4, 1, 4 lights; exterior side right chimney; brick foundation w/limestone water table; bays 1 & 3--1/1 double hung sash, both levels; bay 2--slab door w/multi-light, leaded glass sidelights, upper level paired 10 light French doors w/side lights; flat roof porch covers lower facade, square brick supports, closed rail, limestone cap, balustrade, stick work.

31. Additional remarks or continuation of other sections

32. Sources of information

SANBORN MAPS
SEDG. CO. LAND RECORDS
CITY DIRECTORIES
SOCIAL REGISTER, 1921

33. Sketch of site plan. (Include north arrow. Show outline of building shape, locations of outbuildings, and locations of roads or streets.)



34. Photographer or photo source
M.A.P.D.

35. Photo roll and frame number(s)
3-2

36. Photo date
OCT. 18-24, 1989

37. Inventory form completed by (name and organization)
W2/SW

38. Survey project name
MIDTOWN I

39. Date form compiled
5/23/90

THIS SECTION FOR KSHS USE ONLY

40. Attached supplementary materials

41. Date logged, HPD

42. Logged by

STB FD 32760 10-16-97 K 1/2

UP/SP-325

RECEIVED
OCT 16 1997
MAIL
MANAGEMENT
STB

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 UNION PACIFIC RAILROAD COMPANY AND SOUTHERN PACIFIC TRANSPORTATION COMPANY ON THE RENO PRELIMINARY MITIGATION PLAN

CARL W. VON BERNUTH
RICHARD J. RESSLER
Union Pacific Corporation
1717 Main Street
Suite 5900
Dallas, Texas 75201
(214) 743-5600

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

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

Attorneys for Union Pacific Corporation, Union Pacific Railroad Company and Southern Pacific Transportation Company

ORIGINAL

October 16, 1997

ENVIRONMENTAL
DOCUMENT

UP/SP-325

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 UNION PACIFIC RAILROAD COMPANY
AND SOUTHERN PACIFIC TRANSPORTATION COMPANY
ON THE RENO PRELIMINARY MITIGATION PLAN

Union Pacific Railroad Company ("UP") and Southern Pacific Transportation Company ("SP") (collectively, "UP/SP") offer the following comments on the Preliminary Mitigation Plan ("PMP") for the Reno area, issued on September 15, 1997. After a thorough review of the PMP, UP/SP concludes that the PMP prescribes workable and effective actions to offset the effects of adding approximately 11.3 additional trains per day to the UP/SP mainline through Reno. UP/SP can comply with the PMP and can safely operate its trains in the manner contemplated by the PMP, and UP/SP expressly agrees to do so.

As City of Reno ("City" or "Reno") representatives have made clear at meetings of the Reno Mitigation Task Force ("Task Force"), they are operating under City Council instructions to seek a depressed trainway, paid for by UP/SP, as the

core of any mitigation package. Public officials and Task Force members have openly urged SEA to impose additional costs on UP/SP, not because they are justified on the merits but for the express purpose of increasing pressure on UP/SP in negotiations over funding a depressed trainway. There is little doubt that SEA will receive a barrage of comments from Reno and its friends pursuing these objectives.

UP/SP submits these comments for SEA's consideration in evaluating demands for additional mitigation and in developing a Final Mitigation Plan and recommendation to the Board. We also hope these comments will prove useful to SEA and the Board in establishing policies to guide handling of similar situations in the future. In reviewing demands for additional mitigation, we urge SEA to consider the public policy implications of requiring railroads to mitigate the effects of continuing operations on existing rail lines. We also urge SEA to consider the direct responsibility of the City of Reno and business interests in Reno for the conditions UP/SP is being required to mitigate, and the tension between those requirements and the language of Decision No. 44.

UP/SP willingly cooperated in this intensive mitigation investigation, not only to obtain permission to add trains to its line through Reno, but also to respond to community concerns. The experiences of the last year, however, lead UP/SP to question the expense, burden and prudence of this type of mitigation process. UP/SP urges SEA

and the Board to reconsider, at least for future proceedings, whether it is necessary or desirable to impose mitigation when a railroad intends to use an existing rail line in the manner originally intended and as the railroad is free to use it without federal review. Even if UP/SP receives no benefit in this proceeding from this re-examination, we urge consideration of a less expensive and less potentially damaging approach to future mergers and other efficiency-enhancing transactions that affect the number of trains on existing rail lines.

UP/SP respectfully submits that this expensive and time-consuming process is not required by environmental law and that the experience with the current Reno and Wichita proceedings demonstrates that it is inadvisable as public policy. The ICC and the Board have never before treated conflicts between increased train frequencies and vehicular traffic caused by urban development as requiring mitigation at railroad expense. Unless cabined, this approach to increased train service threatens to impose enormous costs on future rail transactions that increase rail traffic on existing rail lines, even though those lines will be used as they were intended to be used, have been used in the past and could be used in the future without Board permission. SEA and the Board should protect interstate commerce from these costly impositions, or they may curtail efforts to increase the efficiency of the rail network.

Imposing any mitigation costs on the railroad -- much less the increased costs that Reno will demand -- under the extraordinary circumstances of Reno's recent history is especially unfair. Less than twenty years ago, at a time when SP was operating 24 trains per day through Reno and Reno expected that number to increase, SP agreed to participate in funding a depressed trainway. SP was to pay approximately 5% of the costs, and Reno the remainder. But Reno voters overwhelmingly rejected a bond issue to fund Reno's share of the trainway. In the face of this vote, Reno and its business interests proceeded with extensive casino and hotel development near the tracks, creating and intensifying the conflicts between urban development and rail operations that the PMP addresses. After creating these conflicts, Reno and the business interests now demand that UP/SP pay to resolve them.

By its terms, Decision No. 44 relieves UP/SP of responsibility for pre-merger development, yet the PMP does not recognize Reno's responsibility for development and places all responsibility for mitigation on the railroad. At the very least, UP/SP should not be allocated any greater responsibility for financing mitigation of Reno's development impacts than the PMP proposes.

1. NEPA Does Not Require Mitigation for Continuing Operation of a Railroad

UP/SP has high regard for the professional quality of the PMP. It recommends mitigation actions tailored to the

carefully measured effects of adding 11.3 additional through freight trains to the UP/SP mainline. But the PMP is the product of a new direction in regulatory policy that needs to be rethought.

The National Environmental Policy Act ("NEPA") was adopted in 1971, but neither the ICC nor the Board has ever before concluded that changes in the number of trains on an existing railroad line require mitigation of conflicts between rail operations and the highways and related development that have surrounded the nation's railroads. UP acquired Missouri Pacific, Western Pacific, Missouri-Kansas-Texas and Chicago & North Western after extensive environmental review, but there was no suggestion that the mere fact of increases in train operations requires mitigation like that proposed in the PMP. The same is true of ICC approval of mergers creating CSX Transportation, Norfolk Southern and BNSF. Similarly, the ICC and the Board have approved or exempted dozens of trackage rights arrangements that increase train frequencies on existing rail lines without ordering the participants to mitigate effects on urban development and road crossings.

The Reno and Wichita mitigation studies reflect a policy under which continuing use of rail lines for their intended purpose in a manner fully consistent with permissible unregulated activity requires extensive environmental mitigation at carrier expense. If this policy is followed in the future, it could devour the agency's resources and dissuade

railroads from pursuing efficiency-enhancing actions requiring Board approval. Based on the precedent the Board could be setting, there is nothing to stop demands for expensive mitigation for every country rail crossing and every developed area on any rail line where train frequencies increase.

If this new policy were required by law, SEA and the Board would, of course, have no choice but to follow it. But the law did not change in 1996 with adoption of the UP/SP decision. This new direction is not required under NEPA, and SEA should urge the Board to reconsider it. Even if the Board adopts this PMP, it should treat the Reno and Wichita situations as unique and avoid principles of broad application.

There is no debate about NEPA's essential thrust. It applies to all "major Federal actions significantly affecting the quality of the human environment." 42 U.S.C. § 4332(2)(C). But it is equally clear that environmental mitigation is not required when a federal action maintains the status quo, continues existing operations or merely restores pre-existing conditions. Committee for Auto Responsibility v. Solomon, 603 F.2d 992, 1003 (D.C. Cir. 1979), cert. denied, 445 U.S. 915 (1980); Sierra Club v. Hassell, 636 F.2d 1095, 1099 (5th Cir. 1981); Burbank Anti-Noise Group v. Goldschmidt, 623 F.2d 115, 116-17 (9th Cir. 1980), cert. denied, 450 U.S. 965 (1981).

Changes in activity that constitute normal use of a facility *do not* require environmental mitigation, *even when*

those fluctuations clearly will have adverse environmental effects. For example, in Upper Snake River Chapter of Trout Unlimited v. Hodel, 921 F.2d 232 (9th Cir. 1990), the sporting and environmental group argued that the Bureau of Reclamation could not reduce water flow from a Bureau dam below 1,000 cubic feet per second during a drought -- a depressed flow level that had occurred only twice in the prior thirty years -- without environmental review. The parties agreed that the reduced flow would "have a negative effect on the downstream fishery." Id. at 234. However, the court held that no environmental investigation or mitigation was required:

> "[The government agencies] are simply operating the facility in the manner intended. In short, they are doing nothing new, nor more extensive, nor other than that contemplated when the project was first operational."

Id. at 235. Although water flow had been high for several years prior to the Bureau's action, the court distinguished flow restriction from situations where a project takes place in incremental stages of major proportions or there is a "revision or expansion of the original facilities." Id.

Similarly, the U.S. Navy's decision to lease its San Francisco shipyard to a private ship repair company did not require environmental mitigation, even though the shipyard had been closed for two years and reactivation would have adverse environmental impacts on traffic, noise and other

urban values. City & County of San Francisco v. United States, 615 F.2d 498 (9th Cir. 1980). As the court held, "It was not unreasonable to regard the leasing of the yard as a phase in an essentially continuous activity." Id. at 501.

It is entirely reasonable to regard changes in train frequency on an operating mainline railroad, including changes caused by a merger, as a phase in a continuous activity. That is even more clearly the case in Reno than it was in San Francisco, where the Navy facility had been closed for two years.

The rail line now owned by UP/SP was built for the purpose of carrying trains to, from and through Reno. It has been used continuously for that purpose since 1868. UP/SP plans to continue to use it for its original purpose. UP/SP will run no more trains over the line than SP did less than twenty years ago.

Another critical element of the status quo is that SP has always had -- and UP/SP today has -- the unrestricted right to add 11.3 more non-merger-related trains through Reno without environmental review or Board action. Although UP and SP have merged, and expect to route additional rail traffic through Reno as a result of their merger, SP would have been entirely free to expand the number of trains through Reno to the same extent as proposed by UP/SP without government

approval.[1] That was the status quo before the merger, and the proposed post-merger operations are indistinguishable from those SP had the right to mount on its own.

UP/SP's use of this line -- like any railroad's use of any existing line -- is indistinguishable from the water flow below the dam in Hodel. Its volume may ebb or swell, but that is what one expects on a railroad line as economic conditions and operating circumstances change, new industries are constructed and lines are abandoned. There is no reason for environmental law, or the Board, to view changes attributable to efficiency-enhancing actions requiring Board approval as a change from a status quo that already includes a railroad's right to effect the same change.

2. Mitigation for Continuing Use of a Railroad Is an Undesirable Public Policy

Environmental mitigation of continuing rail operations on existing lines will give rise to ever-increasing levels of administrative litigation. SEA is already seeing the effects of its Reno and Wichita mitigation studies in the Conrail proceeding, and this effect is likely to continue to expand as the Not-In-My-BackYard phenomenon blossoms. These proceedings consume both SEA staff time and the time and resources of the parties. There is every reason to expect

---

[1] For example, Reno speculates -- probably incorrectly -- that the Port of Oakland may handle much more container traffic at some point in the next century. Without a merger, SP would have been free to compete for that traffic and carry it through Reno without government review.

these demands to increase. The Board should exercise extreme caution before encouraging this trend.

The direct costs of the Reno and Wichita investigations have been greater than UP/SP (and perhaps SEA) had expected. Before these mitigation studies are complete, UP/SP likely will be required to spend as much as $3 million for work performed by consultants for SEA. These funds could have been used to contribute to effective mitigation or to provide improved transportation service for the nation's shippers. If this type of proceeding becomes standard fare in rail licensing proceedings, such costs will continue to mushroom, as there is nothing to limit them. SEA and the Board may be asked to investigate the effects of increased train traffic on every city, town and road crossing where rail traffic is expected to increase due to a regulated transaction.

The costs to rail transportation may be great enough to impair railroads' ability to compete and may block efficiency-enhancing transactions. UP/SP already faces an exposure of some $25 million in the Wichita and Reno mitigation studies based on the PMPs, and SEA or the Board may increase that total. And the impact is not necessarily limited to rail mergers. The same logic applies not only to mergers but also to voluntary trackage rights agreements, poolings, build-ins, and other transactions. Since a primary purpose of many of these transactions is to enhance the

efficiency of rail service, heavy mitigation costs would become a tax on efficiency-enhancing actions.

This tax will have perverse effects. A railroad that engages in an efficiency-enhancing transaction requiring Board action will find itself paying environmental mitigation for running more trains, while a competing railroad running through the same city will pay nothing for operating more trains. Indeed, the two carriers will likely be competing for the same business, but one will be handicapped. This is exactly what is happening in Reno. UP/SP is required to pay mitigation costs, while its nose-to-nose competitor, BNSF, pays nothing.

These perverse effects will apply intermodally as well. A railroad seeking Board approval of an efficiency-enhancing transaction may be forced to pay millions in mitigation costs, while competing motor carriers are free to increase the number of trucks on Interstate 80 in order to compete for the same business. It is well established that motor carriers are less fuel efficient and cause greater pollution than railroads, yet the mitigation costs will be assessed against the more efficient mode and drive traffic to the less efficient alternative.

Mitigation for continuing use of a railroad has one final perverse effect. It discriminates in *favor* of cities and towns that have *not* made investments to address rail/highway conflicts in the past. The less a city has done

to facilitate vehicular movement over rail lines, the greater the alleged effects of the rail transaction. Those effects are the result of the city or town's growth over the years, unmitigated by actions to address it, but the city or town will blame the railroad transaction and seek reimbursement from the carrier. Meanwhile, a city that invests in infrastructure to remedy the impacts of its own growth will garner little or no mitigation.

Reno illustrates this pattern. Reno rejected the depressed trainway in 1980, yet continued to develop the area surrounding the SP tracks without any mitigation measures. Had Reno invested its funds (and SP was ready to contribute its reasonable share), those conflicts would not exist today. Yet, because of Reno's decision, which UP and SP could not control, UP/SP is now being required to bear the financial burden of reducing traffic delay and pedestrian activity. Meanwhile, a city like Sparks, which responsibly invested in overpasses, receives no mitigation because none is needed.

These perverse effects, which create negative incentives for cities and towns by discouraging investment in rail-highway facilities and encouraging litigation before the Board, are especially unfair in view of established public policies recognizing that such facilities primarily benefit highway users, not railroads. These policies have constitutional dimensions. By 1935, the Supreme Court had held that "the main purpose of grade separation . . . is now the

furtherance of uninterrupted, rapid movement by motor vehicles . . . . The railroad has ceased to be the prime instrument of danger and the main cause of accidents. It is the railroad which now requires protection from dangers incident to motor transportation." Nashville, Chattanooga & St. Louis Ry. v. Walters, 294 U.S. 294, 421-23 (1935). The Court also recognized that a highway crossing is of little benefit to railroads and, on the contrary, "serves to intensify the motor competition and to further deplete rail traffic." Id. at 423. The benefits are to the motorist: "The avoidance . . . of traffic interruptions incident to crossing at grade is now of far greater importance to the highway users than it is to the railroad crossed." Id. at 423-24. Cf. United States v. Chicago, Burlington & Quincy R.R., 412 U.S. 401, 414 (1973). As a result, the Court held that shifting the burdens of providing public benefits to railroads is unconstitutional.

This recognition is now built into ICC rulings and federal transportation policy. The ICC agreed in 1964 that the costs of improving rail-highway crossings "should be borne by public funds" because "it is the increasing highway traffic that is the controlling element in accident exposure at these crossings." Prevention of Rail-Highway Grade-Crossing Accidents Involving Railway Trains and Motor Vehicles, 322 I.C.C. 1, 81 (1964). As the ICC concluded, "the major costs of grade separation and protection at rail-highway grade crossings should be borne by the public since the public is

the principal recipient of the benefits." Id. at 82. The mitigation studies do not comport with this conclusion.

Similarly, DOT regulations limit the amounts states may ask railroads to contribute to federally funded grade-crossing improvements under 23 U.S.C. § 130. This amount cannot exceed the net benefit to the railroad, which is defined as 5-10%. 23 U.S.C. § 130(b); 23 C.F.R. § 646.210(b)(3). See also Moreno v. Consolidated Rail Corp., 99 F.3d 782, 785 (6th Cir. 1996).

Thus, although funding of rail-highway projects is governed by constitutional, statutory and regulatory law that limits railroad exposure and recognizes the benefits of such investments flow mainly to the public, the policy direction reflected in the mitigation studies would impose the costs on the party that receives very few benefits -- UP/SP. This is fundamentally unfair and of dubious legality.

3. Reno and Its Gaming Interests Are Responsible for Post-Merger Conflicts

Reno owes its very existence to the railroad. The western partner in the original transcontinental railroad, the Central Pacific Railroad, purchased the site for Reno in 1867 and sold the lots from which the City grew. Starrs at 5-6.[2/] Reno viewed the railroad not as a burden, but as

---

[2/] This discussion draws on "Downtown Reno & The Railroad -- a Railroad Runs Through It" by Professor Paul F. Starrs of the University of Nevada at Reno and his assistants, Heather Van Wormer and Jeanne Harrah, Ph.D. That document was supplied to (continued...)

a lifeline essential for growth. Reno welcomed the railroad and prospered because it was there. As one Reno historian explains, Reno would have become a ghost town like many other Nevada towns without the Central Pacific. Id. at 8.

The conflicts addressed in the PMP began with the introduction of the motor vehicle, a pattern repeated throughout the United States. As Reno's citizenry began to adopt this new form of transportation, it simultaneously demanded its right to cross the SP (successor to the Central Pacific) tracks. Acting on these wishes, the City -- over SP objections -- demanded road crossings at all the streets in central Reno, including Virginia and Center. Id. at 24-26. Cars and trucks stop for trains at Virginia Street today because the City and its citizens threatened to sue SP over that crossing. Id.

No sooner was the last of the crossings completed in the late 1930s than Reno began to see the attractions of a depressed trainway to put the tracks below ground. Id. at 27. City and State officials studied the idea at least half a dozen times in the following decades, as the cost of the trainway soared with inflation and expanding environmental requirements. But not until the late 1970s did Reno make a concerted effort to build the trainway.

2/ (...continued)
SEA and to counsel for the City of Reno in July 1997. A copy is attached.

The timing of that initiative is significant. Throughout the 1950s and 1960s, Reno's downtown gambling district had been located south of the SP tracks. Id. at 18. By 1980, however, as a report prepared for the City explained: "Recent rapid expansion of the tourist industry has caused development in downtown Reno to jump to the north across the tracks to accommodate demand for new hotels and casinos." Reno Railroad Study, 1978-80, p. 4. Reno's expanding gaming district focused attention on the tracks running through it and the need to mitigate conflicts caused by intensive development.

The timing of the initiative is significant for another reason. In 1980, SP operated almost exactly the same number of trains each day through Reno that UP/SP and BNSF propose to operate in the future. As the Reno Railroad Report stated, "at least 24 long freight trains pass through the City each day" and "volumes are expected to continue at present levels and perhaps to increase slightly." Id. Reno voters were asked to approve a $40.5 million bond issue, endorsed by the City Council and City Manager, to fund the trainway. Reno persuaded a reluctant SP to provide its 5% share of the costs of the project. Id. But the bond issue failed miserably in 1980.

Despite that failure -- a collective community decision to reject mitigation -- development north of the tracks slowed not a bit. Reno added more than 4,000 hotel

rooms in casinos north of the SP line in subsequent years. Starrs at 22. As one civic leader described the situation in the wake of this development, "The center of town now is the railroad track!" Id. at 18.

The historical facts are clear. Reno concluded that development of its downtown gaming area, visited by 24 freight trains per day, justified a depressed trainway. SP was willing to help fund the trainway. But Reno voters rejected the proposal. Notwithstanding that decision, and with the expectation that rail traffic would remain stable or increase, Reno marched ahead with further development adjacent to the SP tracks, performing no mitigation. Having made those decisions as a community, Reno now demands that UP/SP pay to mitigate the effects of its development.

It is difficult to imagine circumstances more clearly requiring a community, not its pre-existing railroad, to be responsible for conflicts between trains and cars or pedestrians. Reno moved astride the SP tracks, knew how many trains SP expected to operate, decided against mitigation and yet intensified the development pressure on the tracks. It should not be allowed to shift its responsibility for the conflicts between 24 trains and urban activities to the railroad in its midst.

Decision No. 44 clearly states that UP/SP is not responsible for the effects of Reno development. As the Board held,

> Mitigation of conditions resulting from the preexisting development of hotels, casinos, and other tourist-oriented businesses on both sides of the SP rail line in Reno . . . are not within the scope of the studies.

Decision No. 44, p. 223. The PMP, however, treats UP/SP as responsible for mitigating the costs of running the number of trains Reno expected SP to run when it rejected mitigation in 1980 and continued development. The PMP does not appear to allocate any responsibility for conflicts between trains and cars, pedestrians or other urban activities to preexisting development of casinos and hotels on both sides of the track. While UP/SP is willing to implement the PMP in its current form, we urge SEA and the Board to consider the contrast between the PMP and the language of Decision No. 44 in evaluating demands for additional mitigation measures.

UP/SP should not be required to mitigate the rail operations that Reno expected and chose to do nothing about. UP/SP and BNSF plan to use the former SP mainline exactly as SP planned to use it in 1980. Train operations declined only because of SP's financial condition and competitiveness, described in Decision No. 44. We ask SEA and the Board to consider the following question: Since Reno decided in 1980 that conflicts between intensive casino/hotel development and 24 daily freight trains were acceptable without mitigation, why should UP/SP be forced to pay to resolve the same con-

flicts between trains and intensive casino/hotel development in 1997?

4. The PMP Provides Practical, Reasonable and Sufficient Mitigation

As part of its campaign to discredit all mitigation actions other than depressed trainway, Reno questions UP/SP's ability to operate trains through Reno at 30 mph. UP/SP made an extensive presentation to the Task Force detailing the steps it would take to facilitate consistent 30 mph train speeds through Reno. UP/SP operating officers and railroad engineers told SEA at public meetings that the proposed speed limit is both practical and safer than the current 20 mph speed limit. The Task Force representative from the Nevada Public Utilities Commission confirmed, based on an independent analysis of UP/SP's plans, that UP/SP will be able to operate trains at 30 mph through Reno.

Attached as Exhibit A is a verified statement by UP/SP's senior officer on the Roseville Service Unit, which includes Reno and Sparks. Superintendent Carl Bradley testifies under oath that if UP/SP installs Centralized Traffic Control through the Reno/Sparks area and redesigns Sparks Yard so that trains can enter and leave the yard at full track speed, as required by the PMP, UP/SP trains will have no difficulty maintaining a 30 mph operating speed through Reno. He explains as well why the conditions that

today cause some trains to operate through Reno at speeds below 20 mph will be eliminated by the new investments.

Mr. Bradley also explains why rail operations at 30 mph will be safer than operations at 20 mph. Unlike cars, trucks and buses on city streets, trains are safer at higher speeds. (As SEA will recall, Amtrak's Task Force representative endorsed this perspective.) Freight trains moving 30 mph are fully extended so that they can stop smoothly if emergency brakes are applied. At 20 mph, by comparison, trains have slack between the cars that can cause derailments during emergency stops. In addition, railroad experience shows that both drivers and pedestrians show greater respect for trains moving at higher speeds, in part because they know they will not have to wait as long for the train to pass.

SEA should adjust its studies to eliminate the conservative bias against UP/SP of assuming that train speeds will increase by only 10 mph on average. They will increase to very close to 30 mph. This will further reduce the potential effects of increased train frequency on traffic delays, air quality and emergency vehicle access. UP/SP should not be required to pay for additional mitigation as a result of overly conservative calculations.

Once that correction is made, it will be even clearer than it already is that the cost of overpasses is not remotely justified by the results of SEA's studies. Reno argues that overpasses might be needed to reduce delays to

emergency vehicles. As speakers pointed out during SEA's public meeting, however, Reno placed hospitals and emergency response units on both sides of the track, and the PMP requires UP/SP to improve their response capabilities in several ways.

Using the PMP's conservative calculations, total "gate down" time after a 10 mph average speed increase will grow by less than 3/4 of a percentage point, which does not justify imposing millions of dollars in costs on the railroad. The City's claim that total "gate down" time is irrelevant to emergency vehicles, and that only train counts matter, is demonstrably wrong, because the question is how frequently an emergency vehicle will encounter a blocked crossing (an event that can be avoided entirely with new monitoring equipment prescribed in the PMP). Under Reno's logic, the problem would be virtually solved if UP/SP and BNSF combined all their trains into one long train each way per day, no matter how long it blocks crossings.

The real reason Reno and some other Reno interests are showing a sudden interest in grade crossings, however, is not a desire for grade crossings, but a hope that SEA will put its fingers on the negotiation scale and tip it toward Reno. Several speakers and public officials at SEA's public meetings candidly urged SEA to impose more costs on UP/SP so that UP/SP would be forced to donate more than the $35 million it already offered to contribute to a depressed trainway.

We are confident that SEA will not yield to calls for arbitrary and unlawful action that disregards the facts SEA has developed during this proceeding. UP/SP needs no encouragement to negotiate in good faith. It voluntarily offered far more than the share of a depressed railway that SP agreed to pay in 1980 or that any railroad could be required to pay under DOT regulations and state laws. The City should not be rewarded for its strategy of demanding an arbitrary $100 million from the railroad, unsupported by any form of fact or logic except that the City wants the money.

5. SEA Should Adjust the PMP to Reflect UP/SP's Safety Record

In the wake of several recent and tragic accidents on UP/SP lines, the FRA released a number of harsh judgments about UP/SP's safety compliance. UP/SP does not agree with all those statements, but UP/SP management determined from the outset that it will cooperate with FRA and with labor organizations, redoubling its dedication to addressing all safety concerns. As the FRA has reported, UP/SP is cooperating fully, and it will continue to do so. Working with employee organizations, UP/SP is empowering its employees to help implement this broad safety initiative.

On September 17, UP/SP joined with FRA and four of UP/SP's major labor unions to create a Safety Assurance Compliance Program ("SACP"), which is addressing safety problems identified during the FRA review. UP/SP instituted a hot

line, reviewed daily by its President, where employees can report safety concerns anonymously. UP/SP appointed a Senior Vice President to the new position of Safety Assurance and Compliance Process. The appointee reports directly to UP/SP's President. UP/SP also created a new position of Director of Alertness Assurance to work with unions on train crew fatigue. The SACP also includes review of all training programs, monitoring of train crew performance and rules compliance procedures. And UP/SP is reviewing dispatcher workloads with FRA.

At the same time, SEA should take into consideration the continuing dramatic improvement in safety on UP/SP, rather than treating railroad safety performance as static. In evaluating risks of derailments and incidents at grade crossings, SEA should consider the consistent and continuing record of improvement established by the railroad industry in general and UP in particular. Year after year for many years, UP has achieved a 20% reduction in derailments and reportable injuries. Even in this year of several well-publicized derailments, UP/SP has reduced the number of total derailments by 16% and the number of reportable derailments by 25% compared to 1996. Reportable injuries to employees have declined by 22% in 1997 compared to 1996, continuing a sharp decline over a multi-year span. Moreover, as UP/SP has previously reported, the merger itself should reduce derailments on SP lines by 50% as UP/SP brings SP facilities and safety programs

into line with UP policies and elevates safety results on SP to UP levels. Early experience confirms major improvement.

Although neither rail nor vehicular traffic volumes have declined, UP/SP has achieved similar reductions in grade crossing accidents, injuries and fatalities. During 1997, grade crossing accidents are down 25% compared to 1996. Injuries declined 23% and fatalities declined 14%.

In light of this record of continuous improvement, ongoing UP/SP programs such as Operation Lifesaver to reduce accidents even further and UP/SP's participation in the SACP with FRA and rail labor, SEA should adjust its assumptions to reflect the declining risk of incidents and evaluate mitigation measures accordingly. Historic derailment and accident rates are plainly outdated and misleading indicators of future derailment risk.

6. Reno Has Distorted the Public Input Process

Despite its best efforts, SEA is not obtaining accurate information about the views of Reno area residents because of persistent interference by the City of Reno and its advocates. The City packed the Task Force with members generally supportive of its policies. It has engaged in an extensive, well-funded propaganda campaign. Reno has been supported throughout by one-sided reporting in the primary Reno-area newspaper. Merely as examples, the Reno Gazette-Journal ran front-page stories when Reno brought suit in the Nevada District Court and about DOT Secretary Slater's

supposed intervention in the Reno Mitigation Study, but when Reno's lawsuit was dismissed and when Secretary Slater wrote that he had been misunderstood, the Reno Gazette-Journal did not report those developments at all.

Reno has attempted to incite its populace against UP/SP and, more recently, against the PMP. Attached as Exhibit B are the cover page and abstract of a document entitled "Sustaining Community Outrage," authored by Reno's environmental consultant, Mark A. Demuth. (UP/SP does not have the entire document. We asked Reno to produce it in discovery, but Reno refused.) In the abstract, Mr. Demuth recommends steps to build "new community outrage," and his document apparently presents "a specific action plan to sustain community outrage." Outrage is the reaction Reno citizens ought to have to the City's manipulation of public opinion.

Reno's propaganda machine has been surprisingly unsuccessful, especially in light of the amounts Reno spent. According to published reports, Reno distributed some 90,000 brochures urging residents to attend SEA's recent public meetings, but attendance -- including numerous City representatives, railroad representatives and outsiders -- did not tax the City Council chambers. At the afternoon session, a majority of speakers were unsupportive of the City's position.

CONCLUSION

From the outset, UP/SP has cooperated with the mitigation studies and has tried to assist SEA in addressing community needs. SEA and the Board may conclude, after devoting so much effort to these studies and raising expectations in Reno and Wichita, that they must go forward with mitigation plans, despite the policy implications. If so, and if the plans remain reasonable, UP/SP will comply. But SEA should urge the Board to consider long and hard before continuing on this path, because it leads only into quicksand. We urge SEA and the Board to reconsider this policy direction.

This policy is especially inappropriate when applied to Reno, a city that, although fully aware of expected rail operations indistinguishable from those proposed by UP/SP and BNSF, elected not to mitigate their effects and chose instead to intensify the conflicts between development and railroading. SEA should not punish UP/SP for Reno's choices.

Respectfully submitted,

CARL W. VON BERNUTH
RICHARD J. RESSLER
Union Pacific Corporation
1717 Main Street
Suite 5900
Dallas, Texas 75201
(214) 743-5600

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

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

Attorneys for Union Pacific Corporation, Union Pacific Railroad Company and Southern Pacific Transportation Company

October 16, 1997

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of October, 1997, I served a copy of the "Comments of Union Pacific Railroad Company and Southern Pacific Transportation Company on the Reno Preliminary Mitigation Plan" by first-class mail, postage prepaid on all parties in Finance Docket No. 32760 requesting service of filings regarding the Reno and Wichita Mitigation Studies, including counsel for the City of Wichita and Sedgwick County, Kansas (served by hand).

J. Michael Hemmer

VERIFIED STATEMENT OF CARL BRADLEY

My name is Carl Bradley. I am Superintendent for Union Pacific Railroad Company's Roseville Service Unit. My business address is 10031 Foothills Blvd., Roseville, California 95678. I began my railroad career in 1960 as a brakeman on the St. Louis Southwestern Railway. I also worked as a conductor and later as an engineer. I was promoted to a position as an operating officer with Southern Pacific in 1976 and held positions of increasing responsibility in Pine Bluff, Dallas, Denver and San Antonio.

As Superintendent for the Roseville Service Unit, I have responsibility for Union Pacific's Roseville Subdivision, which includes the former Southern Pacific track through Reno and Sparks, Nevada. I am very familiar with this segment of track and with the Sparks Yard. I am also fully familiar with the plans developed by Union Pacific's Engineering Department to install Centralized Traffic Control through Reno and Sparks and to redesign Sparks Yard to facilitate higher and more consistent train speeds through Reno.

I have no doubt whatsoever that Union Pacific trains will be able to operate at a consistent speed very close to 30 mph through Reno once these plans are carried out. Our train crews attempt to operate at or as close to the posted speed limit as possible, and there will be no physical impediment to running trains at 30 mph through Reno after these changes are completed. The only exceptions will be very rare instances when a train suffers some sort of mechanical problem as it passes through

Reno, which could slow it down, or needs to make an emergency stop.

Today, westbound trains leaving Sparks sometimes do not reach full speed by the time they enter Reno because of the slow speed limits on switches in the yard at Sparks. If a train is leaving one of the yard tracks at Sparks, it cannot exceed 10 mph until the rear end of the train clears the switch. Union Pacific will replace those switches with new equipment so that trains can accelerate immediately to 30 mph, without slowing for the switches. Every westbound train will be capable of entering Reno at 30 mph without adding any additional locomotives.

Eastbound trains entering Reno are running downhill at speeds above 30 mph and will have no trouble slowing to 30 mph for the run through Reno. Today, eastbound trains are sometimes delayed because a train ahead is entering the yard tracks at Sparks at 10 mph. Once the new switches are installed, eastbound trains entering the yard tracks will be able to run at 30 mph through the switches without delaying following trains. In addition, with Centralized Traffic Control, trains will be able to operate on either track through Reno, so both tracks will be available for eastbound (and westbound) trains. Union Pacific has already removed a signal that sometimes delayed trains passing through Reno, and it replaced grade crossing equipment so that the crossing gates at all Reno crossings are activated 25 seconds before a train arrives, regardless of its speed.

As I said during my comments at the Reno public meeting, trains running at 30 mph are safer than trains running at 20 mph. The cars on a train running at 20 mph tend to bunch up, which can lead to derailments if the train must make an

emergency stop. At 30 mph, the drawbars on the train cars are fully extended, and the train will come to a smooth emergency stop with substantially less risk of derailment. Our experience is also that drivers and pedestrians show more respect for faster trains than for slower trains. Since they will experience less delay, they will be less likely to take chances by trying to beat the trains across the tracks.

One of Union Pacific's engineers said that Union Pacific is training its engineers to use Distributed Power, with locomotives spaced throughout the train, to run trains two to three times longer than we run today. We do use Distributed Power to runs trains up to 135 cars long out on the plains, but that will not happen through Reno because of the grades over Donner Pass. Union Pacific has been using Distributed Power on most trains through Reno for months. The train lengths have not changed and will not change, because we don't want the trains to be too heavy for the mountain grades. Also, many of our sidings and yard tracks in this corridor do not have the capacity to handle longer trains. The only thing we are doing differently is that we are using newer locomotives -- the most modern power on the Union Pacific system -- which are equipped for Distributed Power operation. These locomotives have the lowest emissions of any engines on our system.

VERIFICATION

STATE OF CALIFORNIA :
: ss:
COUNTY OF PLACER :

CARL BRADLEY, being duly sworn, deposes and says that he is Superintendent-Roseville Service Unit for Union Pacific Railroad Company and has read the foregoing document, knows the contents thereof, and that the same is true and correct.

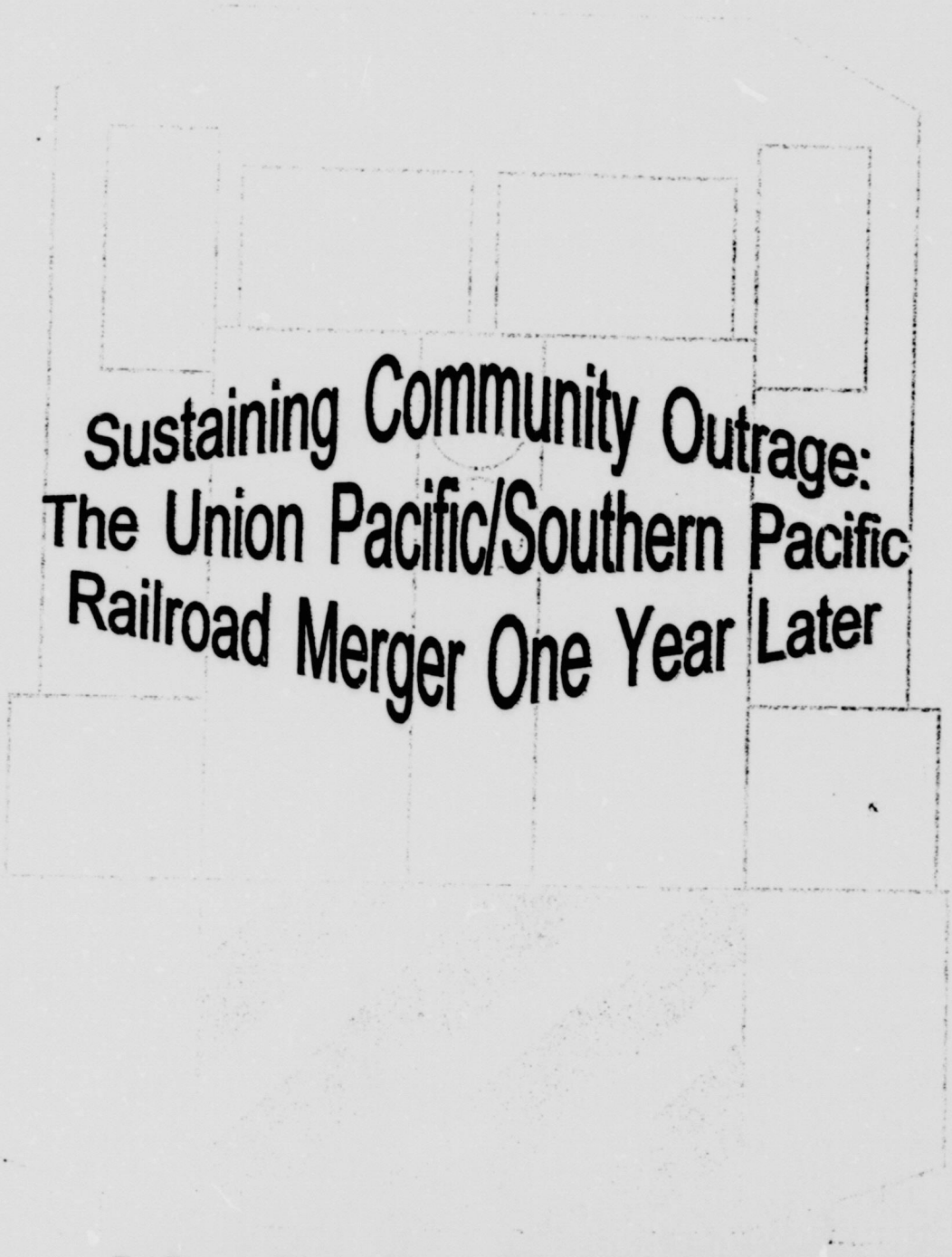
Carl Bradley
Carl Bradley

SUSBCRIBED AND SWORN to before me this 15th day of October, 1997.

C M Dales
Notary Public

My Commission Expires:

C. M. DALES
Comm. # 1121633
NOTARY PUBLIC CALIFORNIA
Placer County
My Comm. Expires Jan. 2, 2001



Sustaining Community Outrage: The Union Pacific/Southern Pacific Railroad Merger One Year Later

Mark A. Demuth

December 10, 1996

ABSTRACT

One year after the Union Pacific and Southern Pacific Railroads submitted an application to the now defunct Interstate Commerce Commission for authorization to merge their operations into a single Union Pacific Railroad Company, the City of Reno examines the difficulties in sustaining community outrage against a federal action which is perceived by the stakeholders to be inevitable. The discussion centers on stakeholder identification, existing community perceptions, communications from the City of Reno, and building new community outrage based on trust and credibility. The City of Reno concludes the need for a specific action plan to sustain community outrage which is presented.

RECEIVED
OCT 16 1997
MAIL
MANAGEMENT
STB

Report...

Downtown Reno & The Railroad

— "A Railroad Runs Through It..." —

A Report of the Project on Historical Growth & Development of Downtown Reno, Nevada

Prof. Paul F. Starrs, Ph.D.
Heather Van Wormer
Jeanne Harrah, Ph.D.

ENVIRONMENTAL
DOCUMENT

Founding Notes

In early 1868, Truckee Meadows awaited the railroad like Cinderella her Fairy Godmother's wand.

Geography made the process inevitable; railroads outbound from the Meadows in every path changed a county crossroads into Nevada's metropolis by 1900. Beef and wool went west in cars returned chockfull of goods for ranch and home. Jobs created by busy ranches, merchants, and transportation empires attracted newcomers as the town thrived and expanded.

John M. Townley
Tough Little Town on the Truckee [1983], pp. 65, 163.



Joseph M. Graham, of this city [Berkeley, California] was a recent visitor in Reno, where 70 years ago he headed the surveying crew which drove the first stake for the townsite of Reno.

Mr. Graham at that time headed the Central Pacific Company's Surveying crew. When the railroad company and M.C. Lake concluded the deal for the land the town site of Reno was surveyed. Reno was, at that time, in 1868, a stage station.

Mr. Graham resides at 2510 College Avenue.

Berkeley [California] *Gazette*, May 18, 1938.
Newspaper clipping files on Reno, Nevada, The Bancroft Library



...when you stop to consider that there are 21 passenger trains in and out of Reno every day and the railroads serving the city furnish spur lines to 60 industrials located on their respective lines, with four miles of trackage in the Reno yards, you gain some idea of the future in industrial expansion.

John F. Ness
Reno, Washoe County, Nevada: The Recreation Center of America, [1926], p. 15.

Report Provenance

This is a study of the growth and development of downtown Reno, Nevada, prepared for the Union Pacific Railroad Chief Engineer-Design's office in Omaha, which wanted to understand the historic details of form and function in the city's downtown and their relationship with the railroad. The project was begun in late 1996 and completed in June 1997, with sizable contributions from three main participants, and related work from several others. The contract was developed between the Union Pacific Railroad and the University of Nevada Sponsored Projects Office, and includes three of us.

Prof. PAUL F. STARRS (Ph.D., Geography, University of California at Berkeley) is an Associate Professor of Geography at the University of Nevada, has lived in Nevada off and on for twenty years, and is the author of some fifty scholarly essays, reviews, articles, and contract reports. Editor of the flagship journal, *The Geographical Review*, his specialty is the historical geography of the western United States and a broadly-based resource geography, including elements of demography and migration, historical ecology, planning and urbanization, and cultural studies. **Dr. JEANNE HARRAH** (Ph.D., Folklore and Anthropology, Indiana University) is an oral historian and folklorist, and has done extensive work with the Oral History Program at the University of Nevada and, before that, at Indiana University. **HEATHER VAN WORMER** is a Master's degree candidate at the University of Nevada, and is entering the doctoral program in Anthropology and Archaeology at Michigan State University.

The report draws on several oral history interviews conducted by Dr. Harrah. Each interview was recorded on audio tape. Each interviewee executed a release allowing the project to make use of and disclose the interviews. Appendix C contains full transcripts of the interviews. Other appendices list newspaper sources and reproduce significant reports.

The principal author can be contacted at the address below:

Paul F. Starrs
Department of Geography
Mail Stop 154
University of Nevada, Reno
Reno, NV 89557–0048

electronic mail: starrs@unr.edu

Appendices

A. Population growth data
B. Redline Newspaper Accounts
C. Oral History Materials
D. Track Lowering Study Chronologies
E. Growth and Planning Newspaper Materials
F. Nevada State Rail Plan, 1978; Railroad & Urban Conflicts section, plus Summary & Conclusions
G. Crossings and Traffic in Reno
H. 1978-1980 SEA, Inc. Reno Railroad Study

Overview & Executive Summary

Although Reno's origins parallel those of many a western city and town founded by a railroad, the "Biggest Little City in the World" is now one of a kind. With long traditions of mistrust or even hostility toward government, and routine tolerance of behavior considered questionable elsewhere, Reno has developed a most unusual central business district with a focus on gambling. Over the last thirty years, gambling has pushed the center of Reno's downtown from south of the Southern Pacific tracks to its present location, sitting astride a two-track mainline transcontinental railroad.

Throughout this migration, Reno has done little to address the presence of the railroad through its prime tourist territory, and in 1980 it rejected a proposal to depress the railroad tracks. This inaction reflects a broader inability to engage in coherent, purposeful action to enhance downtown Reno. The need for urban improvement has long been recognized, but one proposal after another failed at the hands of conflicting political forces, a native skepticism about government initiatives, and lack of interest on the part of city residents in the needs of a gaming industry that they consider foreign to their concerns. Thanks to decades of inaction, Reno today finds itself overshadowed by once-smaller Las Vegas and struggling to attract tourists to an economically becalmed, and what some perceive to be relatively unattractive, downtown casino district.

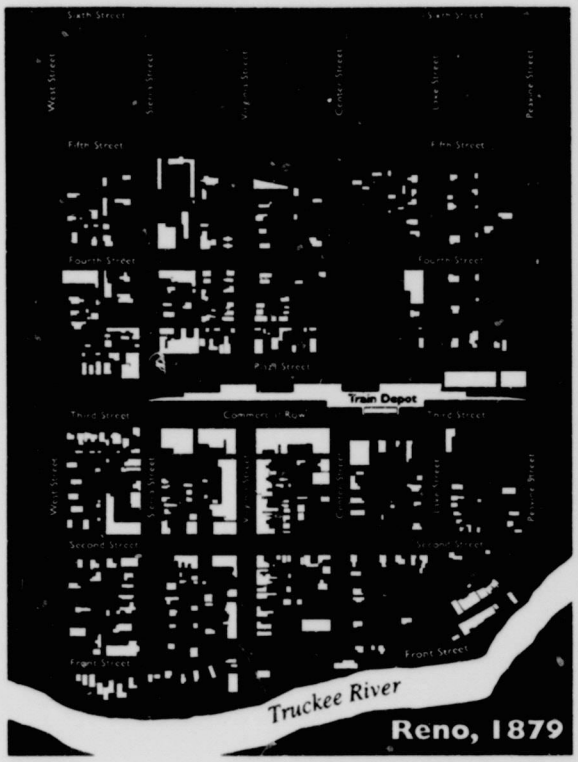
- 1 Reno is one of many western cities that fits the "North American Railroad Development" model. It owes it existence to the original transcontinental railroad, which picked the site because of its natural advantages for commerce. Hoping to profit from land sales and generate business for its trains, the Central Pacific platted the downtown street pattern that is still in use today, using a design that minimized wagon crossings of the railroad grade. The staying power of transport and commerce allowed Reno to prosper while more famous mining towns busted and disappeared.
- 2 From early on, Reno's citizens showed a deep distrust of government at all levels, aversion to any form of restraint on laissez faire activity, and a willingness to accept behavior repressed elsewhere, including easy divorce, prostitution, and what is now

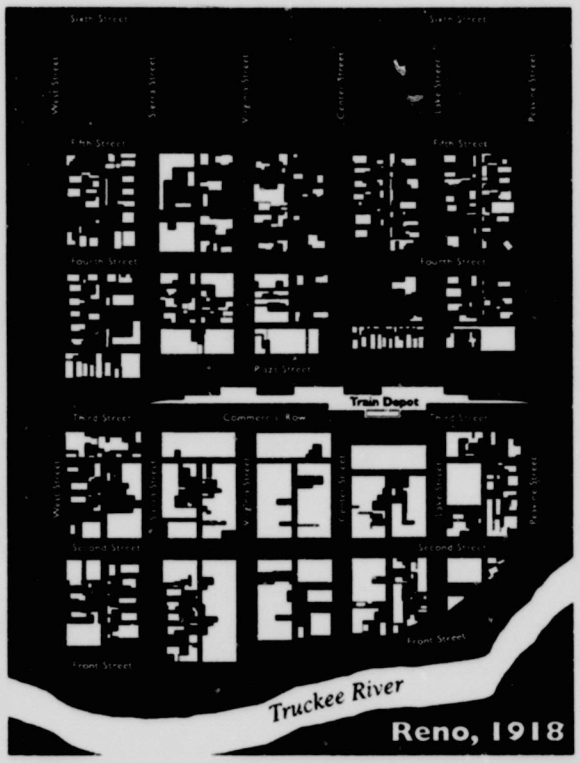
called "gaming." In a crucial 1923 mayoral election, Reno citizens overwhelmingly rejected moralistic reformers in favor of an independent who called — in the First Methodist Church, no less — for open barrels of whiskey on every street corner with ladies for all, as paraphrased in William Rowley's history. Still today, Reno citizens regularly threaten their elected officials with recall initiatives. Reno politics became a politics of obstruction, but with a healthy respect for economic power.

- 3 In the early decades of this century, Reno was perhaps best known as a divorce haven, the term "Reno-vation" coming to refer to the resurrection of the single life in a lengthy Reno vacation. By World War II, though, the discreet gaming industry began to assert itself publicly, and the city has since been first and foremost a tourist destination driven by gambling. As the Mapes family announced plans for the first high-rise hotel/casino in 1947, the City Council attempted to institute of a "Red Line Ordinance" restricting gambling to a commercial district east of Virginia Street and south of the railroad tracks. Within a decade, though, the Red Line began to bend under the onslaught of gaming interests, and by the 1970s it had broken. The leakage became a torrent, as the City Council approved construction and expansion of numerous major casinos on both sides of the railroad tracks and far from downtown during the 1970s and 1980s. The gaming interests demanded, and the city approved, the migration of gambling to north of the tracks, causing an inevitable increase in pedestrian and vehicular traffic across the railroad.

- 4 While Reno was expanding its core casino district across the railroad in its midst (Downtown Map Series, Reno), relocating its Central Business District on top of a railroad, it failed to take any action that would reconcile operation of more than twenty trains per day with tourist activities. The possibility of depressing the Southern Pacific tracks through downtown Reno had been under consideration since the late 1930s, after the city of Reno pushed several streets across the tracks, and it received still more substantial attention during the 1970s. Political leaders of the time believed that federal funding was available for the project, but the City failed to act in a coordinated manner and the funds were lost. Funding for the project was then submitted to the vote of a highly perplexed public and, although supported by the City Council and City Manager, was rejected. This failure to deal with the railroad had no apparent effect on the 1980s flood of new casino and hotel construction, especially north of the railroad tracks.

- 5 Failures such as the Reno Red Line and the depressed trainway project reflected a more general inability to improve the image and appearance of downtown Reno. Numerous proposals, such as a pedestrian-only mall on Virginia Street, failed due to the lack of public and civic commitment to common interests. Historian William Rowley's assessment of early day Reno remains apt today: "The concepts of Andrew Carnegie or a public conscience failed to make an impression on the Meadows' entrepreneurs. ...There was no loyalty to the town, it simply had trading advantages." Today, most Reno residents appear to regard the gaming industry that is so central to the community's economic well-being — and the centerpiece of Reno's downtown — as almost a foreign presence.

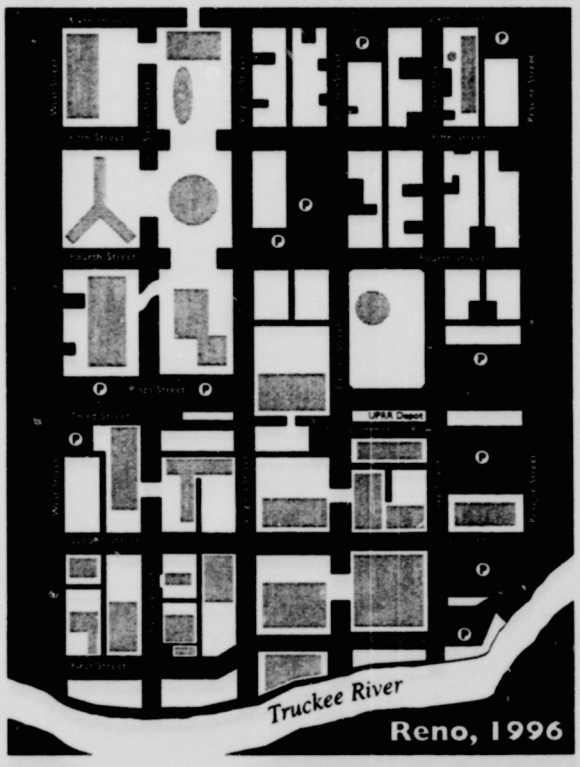




Downtown Map Series

Sequence shows Reno's growth and development, and in particular the filling in of the downtown core area. Note early concentration on lower Virginia Street, especially by 1918 near the Truckee River. The 1996 data approximates the multiple stories and growth concentration in the blocks north of the railroad tracks, at the expense of declining riverside blocks.

SOURCE: Historic maps redrafted from Sanborn Fire Insurance Company sheets, Nevada Historical Society and UNR Special Collections; current data from 1996 aerial photographs, courtesy of Reno Redevelopment Agency. Cartography by Conrad Wong and Paul Starrs.



- 6 Downtown Reno now forms what urban historian Grady Clay describes as "an epitome district," focused on gambling, with other commercial and civic activities far less supported. By emphasizing gaming, its allure for tourists, and the passing pleasures of a transitory visit, Reno pays less attention to its residents than many other metropolises — even to the extent of building a $50 million bowling stadium where local residents cannot bowl. With a few exceptions (a winter ice-skating rink in 1996-1997), citizens have increasingly steered clear of the expanding (upward and laterally) Reno downtown. The evolving Interstate 80, Highway 395, and McCarran Boulevard road systems, completed between 1975 and 1996, made it a simple matter for Washoe County residents to bypass the downtown altogether in journeys to work or shop. The epitome district is ceded to the tourist trade, which is perceived as doing relatively little for the city's residents beyond paying fees and taxes into city coffers.

- 7 With the May 1997 newspapers carrying stories of yet another recall attack on city council members, Reno's politics of obstruction continue. They may have served this city well enough. Reno has not become another Las Vegas. Its lack of coherent direction has kept it smaller, more livable, and that is welcomed in particular by the more recent arrivals from California and other states who "came from away to stay." Government is probably less intrusive here than in many other locales. But they have also made this gambling mecca a highly unusual urban form, with very little effective investment in the core business district on which the city's economy so heavily depends. Reno acts like a city that dislikes its own downtown.

Each of these seven points about Reno's growth and development is discussed in the pages ahead. Reno, in occasionally significant ways, has broken from its mold as a typical western city. Where that break puts the city, however, is in a more complicated and problematic setting. Most clear is that Reno has little sway over what its downtown does and has long had trouble effecting even the simplest of plans or programs for downtown development and control. Its "railroad problem" is very much a manifestation of an old and untreated urban malaise.

Downtown Reno and the Railroad

In its founding and early history, Reno is little different from a great many other towns of the western United States spawned by railroads. There the comparison ends. "The Biggest Little City in the World" is today one of a kind. This is a study of the history and development of its downtown, with a focus on how Reno came to have a transcontinental mainline railroad running at street level through the middle of a prime tourist district.

I. The Founding and Form of Early Reno

A. The Railroad Developmental Model

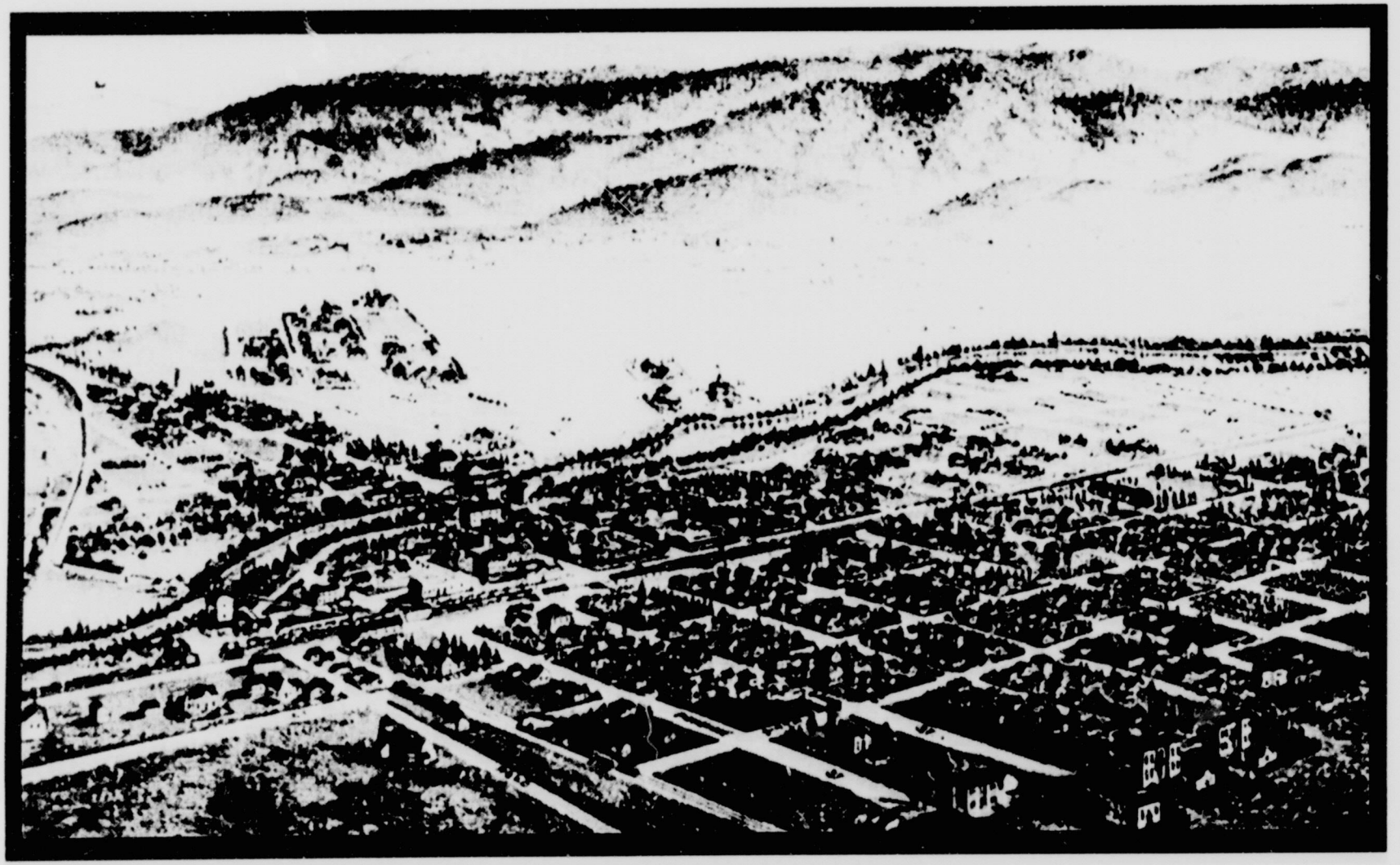
Railroads were the most important single town building force in the American West. When the United States Congress chartered companies to build the transcontinental railroad, it brought a new urbanizing influence onto the scene. Not only did many of the nineteenth century railroads gain permission to claim alternate sections of land, running perpendicular to the tracks for distances varying from ten to forty miles, they also assumed the function of establishing townsites on railroad land along the trackways. These sites, and the cities that arose on them, were crucial to the success and stability of the railroad, since they stimulated the economic life on which the railroad would depend (NHS Photo WA1998 *c.* 1920). Literally hundreds of western communities were created as railroad townsites.

Most railroads, including the Central Pacific and Union Pacific railroads that built the original transcontinental line, had a townsite subsidiary or department, tasked with laying out orderly settlements platted by the railroad (Map 1890 Birdseye Reno). Town planning for the



Reno, c. 1920. (WA 1998; courtesy of Nevada Historical Society)

Aerial view of downtown Reno, looking southeast. The Southern Pacific station remains a focal point of economic activity, with downtown development concentrated south of the tracks.



Map excerpt from birdseye view, "City of Reno, Washoe County, Nevada," 1890.

Shows general layout of the town and the Truckee River, looking southwest. Business blocks are all south of the railroad depot (center left), with dispersed housing to the north (lower right).

railroad was not just a theoretical ideal, it was an edict of the Chief Engineers, such as Union Pacific's Grenville Dodge, who noted in the manuscript "Plan for the Organization of the U.P.R.R. Town Lot Department":

> Our Road at not distant future will open a country susceptible of sustaining almost every known branch of trade and traffic, situated as we are midway between two great commercial centers. Towns on our Road can command supplies from the East or the West; with Mining yet in its infancy, with a stock trade that is growing in such proportions as very soon to cover the prairies with herds of cattle and sheep, with a much larger per cent of our land fit for agricultural purposes than is generally supposed, all of which will build up with it the towns on our lines, it seems to me it is our duty to at once place the Department upon a healthy, reliable, basis for all time. . . . It will bring income to them who have so often risked and pledged their all to the enterprise. (Dodge 1866, 6; quoted in Hudson 1984, 13)

As geographer James E. Vance, Jr., points out (1961, 1995), the western railroad was a developmental enterprise. It was a railroad — a first road into a wilderness — instead of a railway, which in the European (and especially British) model added one more transport mode to an existing economy. The foremost historian of urban form in the United States, Cornell's John Reps, has recognized the railroad town as a phase of western development:

> Such places as Laramie and Benton, Wyoming; Reno, Nevada...; and North Platte, Nebraska — to name but a few of the examples on the nation's first transcontinental line — were creatures of the railroad. Its surveyors and engineers established these towns well in advance of agricultural settlement, and they served successively as advance posts at the edge of the frontier, as a base for persons seeking farmsteads in the vicinity, and finally as stable communities well behind the zone of rapidly advancing settlement. (Reps 1981, 81)

Historical geographer John Hudson has written about the railroads' central role in settling the Plains and much of the West. They carefully established communities to improve life for the railroaders and, more importantly, to profit from existing and arriving settlers. This economic focus directed the town's design:

> Their [the railroad towns'] reason for being was commerce, which superordinated all other aspects of town life. Streets were invariably arranged in a grid pattern, and each town had clearly defined limits that were marked by a sharp break in building density. Towns were spaced interdependently so as to organize the trade of the hinterlands most efficiently. (Hudson 1984, 6).

Towns set along the railroad lines were railroad creations, built on a choice of five or six standard plans that railroad surveyors brought with them and unfurled depending upon the needs of the railroad and the particular local site and situation. Some were symmetric (with the railroad through the center of town, as in Reno), others orthogonal (with the railroad running on a north-south or other axis), and still others placed the railroad at one side or another of the urban grid (Hudson 1982; reproduced in Hudson 1984, 88). In the symmetric plan, the highest valued and most intricately subdivided blocks generally were in the city core, facing one another across the railroad tracks. "Peak value intersections," where rents were at the highest level, were usually right across from the depot.

In many ways, these railroad towns fit the model of the speculator's city, imposed by force of will on the environment to make money for its founder. The classic speculator's town was based on the gridiron street system of William Penn's Philadelphia. The street grid was neatly platted, surveyed, and filed before any of the lots were occupied. This matched the concept of the Northwest Ordinance of 1785 and subsequent land-claim legislation that land should be surveyed before it was settled, to make it more easily taken up. The intention was clear: to act as midwife for the birth of an urban place.

The railroad hoped and expected, though, that its town sites would evolve quickly into another model for the city. Jay Vance created the term "mercantile city" to describe a city rooted in trade, its location its essence (Vance, 1970). It must capture a prime site and garner the trade

that passes through the area. Ideally, the mercantile city is founded on a previously existing trade site, and can capture a preexisting pattern of exchange, but the railroad planned townsites to create and stimulate new trade patterns. The railroad intentionally established and prepared towns at intervals, reflecting both its technical needs and its economic ambitions for potential mercantile centers.

In Nevada, locations like Elko and Wells, Winnemucca and Lovelock, became livestock and crop shipping points to let farmers and ranchers market their products. Sometimes, the transcontinental line took up ore shipments brought in by freight wagon or narrow gauge line from points farther away (NHS Photo WA2288 1917). Geographer John Hudson has noted that the requirements of freight hauling (Lösch's "range of a good" — Hudson 1984, 29) were primary determinants of town site location (Hudson 1984).

B. The Central Pacific's Creation

Reno's oldest citizen is the Central Pacific Railroad — it arrived in 1868, and nothing in human-constructed urban Reno is older than the railroad tracks (NHS Photo WA2277 *c.*1868). The Central Pacific literally established the street grid that downtown Reno lives with to this day. The street names, the block alignments, the alleyways, the centrality of the railroad depot, the town's location north of the Truckee River, owed everything to the Central Pacific's purchase of a tract of about 160 acres of land from Myron C. Lake in 1868 (Map of combined 1867-1868 Peavine Mining District and Haskell Map). The railroad surveyors immediately took this acreage, slicing and gridding an urban imprint onto the sagebrush and bank willows along the Truckee River (Townley 1983, 67).



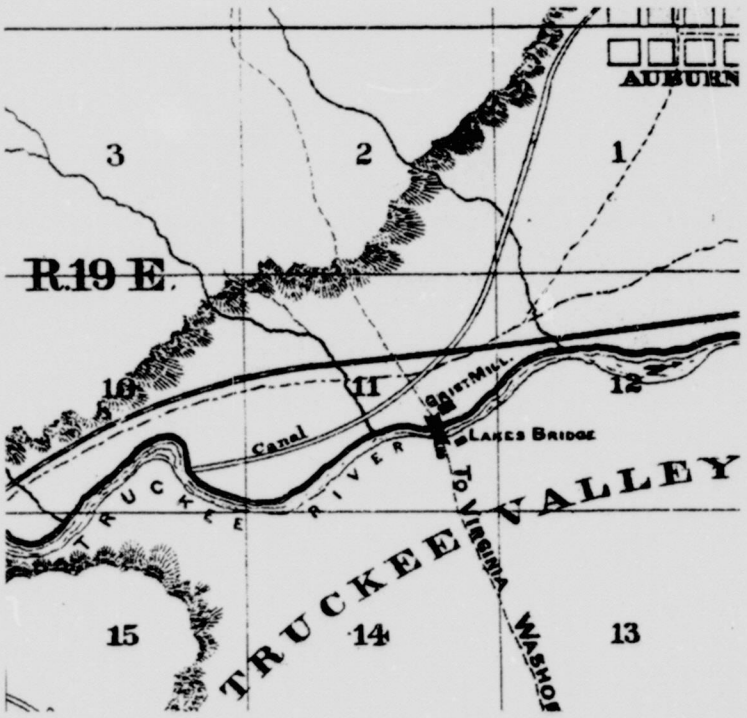
Reno Mercantile Co., Sierra and Commercial Row, c. 1917. (WA 2288; courtesy of the Nevada Historical Society)

While mining towns like Goldfield, Rawhide, and Bullfrog rose and fell, it was the mercantile activities of Reno that kept the city going. In 1917, this crossing at Sierra and Commercial was the main grade crossing in downtown Reno. Virginia, Center, Chestnut (Arlington), and Lake Streets ended at the tracks until some years later.

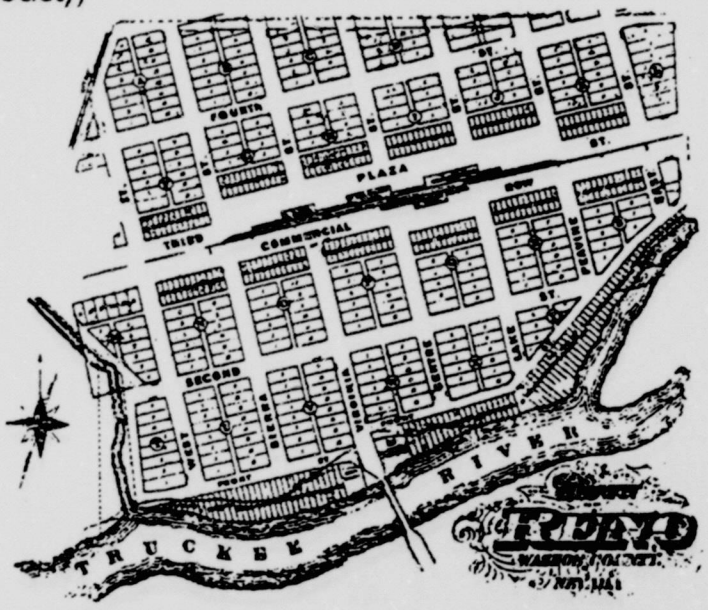


Reno, c. 1868. (WA 2277; courtesy of the Nevada Historical Society)

In Reno's first year, the railroad established its place. The plat surveyed by the Central Pacific Railroad placed the railroad as the pivot of city life.



Two views of downtown Reno, exactly one year apart — above, 1867, below 1868, immediately after the platting of the town by Central Pacific surveyors. (Source: NV Hist Society)



By most available accounts, it was Charles Crocker himself, superintendent of construction for the Central Pacific Railroad, who at the last possible minute in 1868 closed the deal for the Truckee riverside acreage (Townley 1983, 67). The importance of a Truckee Meadow depot and townsite was not to be gainsaid — at the same time, it may have been by fluke of nature that Reno came to be the chosen location. Glendale to the east was an established community, and in many ways offered a better route than slicing farther north and west by the hardscrabble milling operation at "Lake's Crossing."

Nature made the choice for CPRR in the Truckee Meadows in 1868. In the unusually high spring runoff of April 1868, the Glendale Hotel lapped chest deep in floodwater as the railroad survey crews mapped out potential routes. Waters backing up from Vista to fill the eastern third of the Truckee Meadows made transit difficult at best:

> ...water was four feet high in the barroom of the Glendale Hotel and houses were swimming all over the valley. ...It was that flood that ruined Glendale's chances of having the railroad depot and town located there, which was every prospect before that of her having. (*Nevada State Journal*, 26 August 1882, 3; quoted in Townley 1983, 59)

Attracting the railroad to one site or another was always a busy game in western communities, and one the railroad played to its advantage. Charles Crocker was contacted by Myron Lake, who is alleged to have offered his acreage along the Truckee River as a depot site (Land and Land 1995, 15). So the drier mid-valley ground, safely above most floods, gained favor, even over more westerly locations like Huffaker's Station and other communities-in-the-making that dotted the river banks, extending west toward Verdi, offering fords or bridges across the Truckee River (Map of Peavine Copper Mines 1867). While some Reno chroniclers have slightly different accounts (Land and Land 1995), the significant details are not in dispute.

Still another highly significant reason to locate a town on a certain spot on the railroad was to meet the railroad's own internal needs, and the Reno site served those purposes. It would be the last major stop before trains tackled the east side of the Sierra Nevada over Donner Summit, which offered the only successfully completed route over the Sierra for a 300-mile north-south distance.

The CPRR carefully planned Reno's origins, a care reflected in early photographs and the community's orderly plat map. Reno got one of the more complex railroad townsite plans, originally a grid eight blocks east-west by six north-south, later elaborated (Map detail by Stewart of Reno 1906). The Truckee River required small accommodations, but nothing too major; the line of Front (later First) Street was still straight and direct. Along the riverfront was Reno's Chinatown — in existence largely because workers who came west with the Central Pacific found their jobs all but ended in Reno, and there was work to be had in the Comstock and other Nevada mines of the 1860s and 1870s. Estimates are that as many as 12,000 Chinese came to Nevada from 1867 to 1869, when the transcontinental railroad was completed (Chung 1987, 44). Chinatown took up the slack in the grid; the riverside blocks were irregular, but, then, Chinatown flooded at intervals, and eventually burned in what was probably an arson fire in 1878. In 1908, as nearly the first act of Reno's newly-formed city government, Chinatown along Riverside Drive was razed and burned by the Health Department, leaving its residents homeless (Earl 1972a, 3; Earl 1972b, 4).

The town was known as "Argenta" for a week or two before leveller heads took over and chose, in that time-honored railroad custom, to subject the town to the mispronounced name of yet one more remaining Civil War general. By early May 1868, area newspapers were advertising lots on the Central Pacific plat to be sold at auction — prices of up to $1,000 for sites facing the



Map excerpt from "Map of Reno and Sparks, Washoe County," 1906, which was "compiled from Official and Private Surveys by T.K. Stewart."

This focuses on details of layout around the Southern Pacific depot. Note Chinatown, shown along the northern side of the Truckee River. The blocks are as platted, not as used, so a considerable part of the downtown north of the tracks is unoccupied.

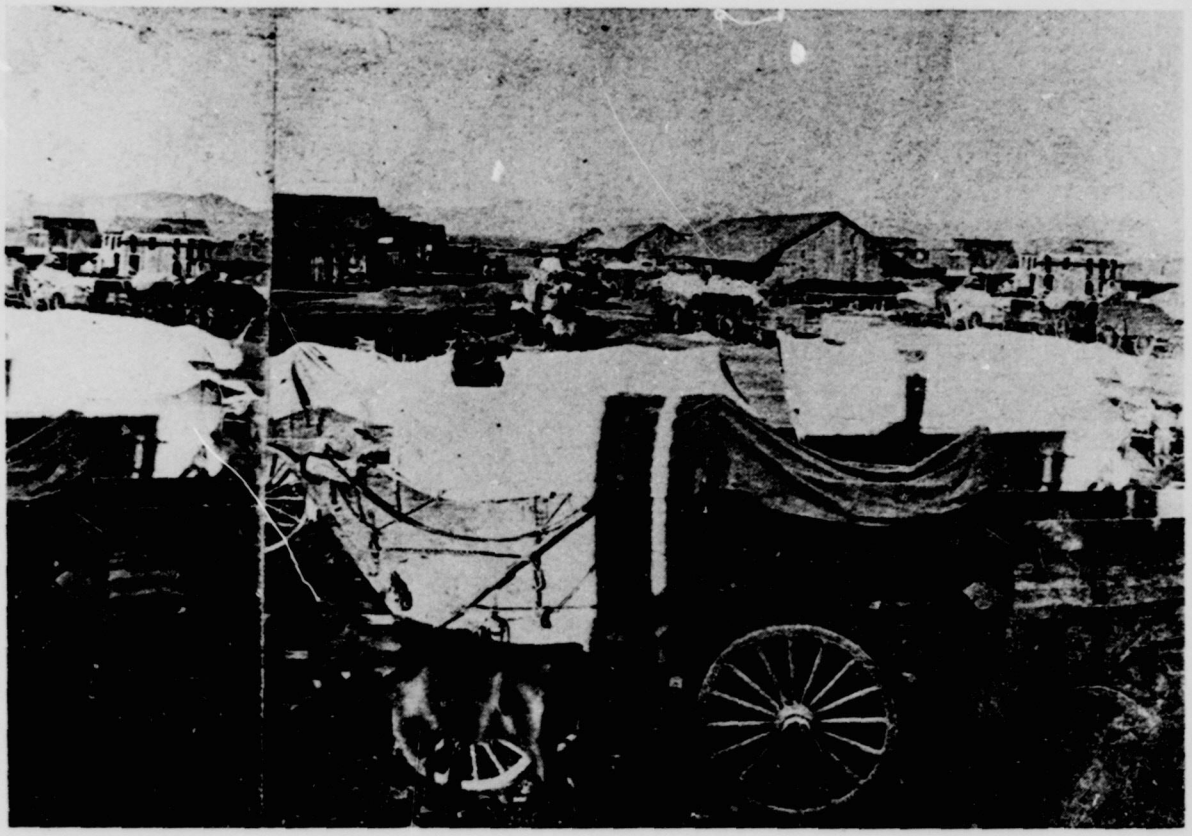
tracks on Commercial Row were supposedly bid, though whether the deals were actually consummated at those prices is another matter (Townley 1983, 70). The first train chuffed east from Sacramento into Reno on June 19th, almost immediately wiping out a trans-Sierra Comstock freight business that had been centered in Carson City (Townley 1983, 70–71) (NHS Photo WA1274 *c.*1870).

The Central Pacific sold Reno's lots at auction in 1868 and 1869, but by no means all the lots were sold. Photographs of Reno a decade after the city was founded show plenty of gaps in the blocks, and detailed historic maps show still more holes (Computer enhancement of Sanborn Fire Insurance Maps 1879; NHS Photo WA2259 *c.*1879).

Reno followed a typical settlement model for a railroad town. The multiple tracks running east to west through the Commercial Row corridor were central for the town and its citizens (NHS Photo WA2278 *c.*1906). Hotels, eateries, lodging houses, bars and theaters were concentrated near the tracks, while livery stables, laundries, and a few non-service industries like assay companies and dry-goods stores dotted the blocks away from the tracks:

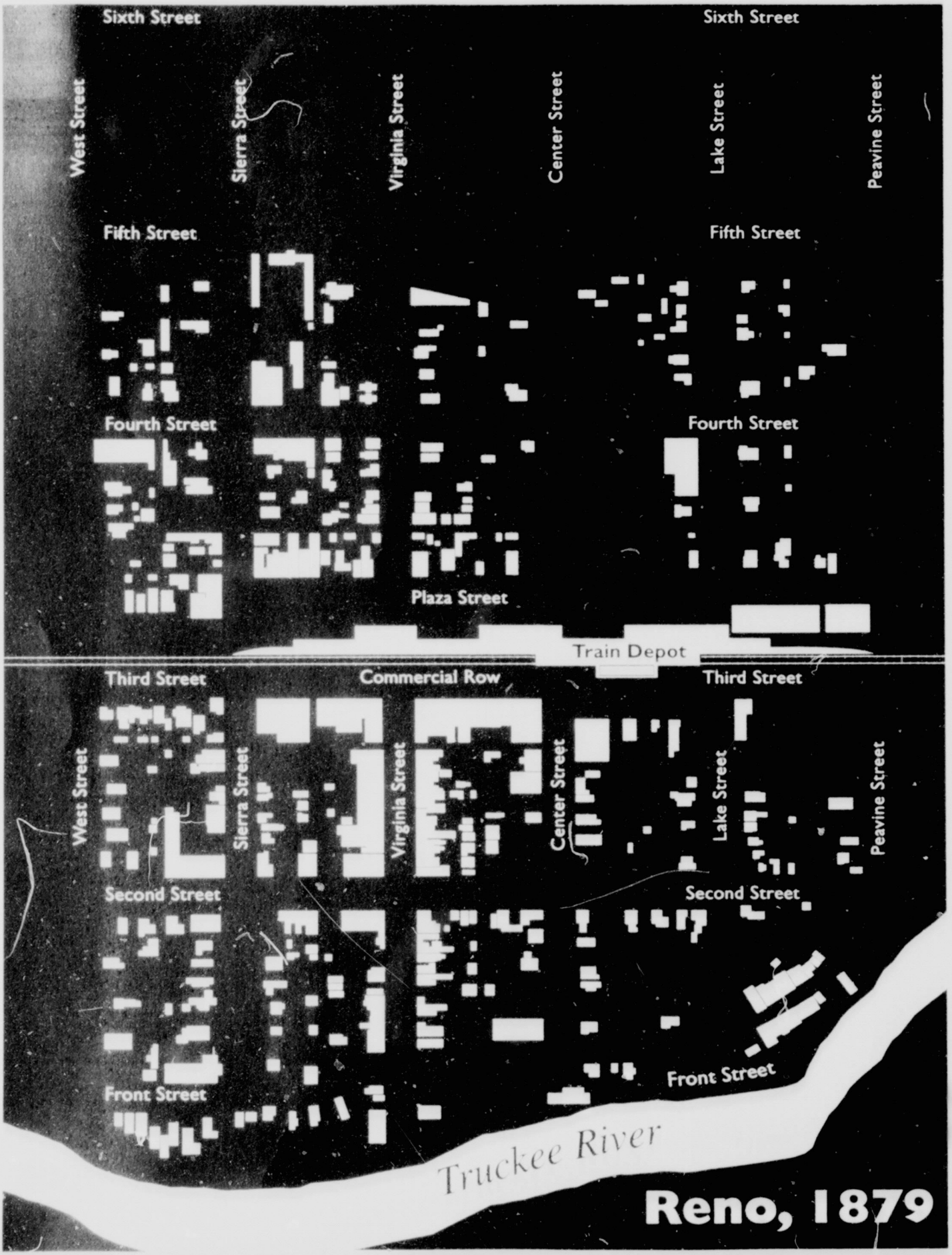
> Downtown, a two-block wide portion of Commercial Row between Sierra and Center first held most retail businesses. Taking a distinct second place was Virginia Street, lined erratically with tiny store fronts and vacant lots until Myron Lake built brick structures for rental customers. ...Between 2nd and the river, a shabby collection of derelict shacks, interspersed with sagebrush, housed Chinese gambling layouts or dives. Not until the 1870s, when the Odd Fellows erected their hall at 2nd, did leading businessmen begin to move from Commercial to Virginia. Gradually, after the 1879 fire, mansonry, multi-story business blocks rose to fill Virginia, although the closer to the river, the less substantial the structures. ...Until 1900, Reno's city core began and ended just two blocks wide. (Townley 1983, 236)

In the 1890s, agricultural prosperity made Reno a classic railroad town in yet another way — a shipping center of significance, with a trade and transportation economy that reflected the value



Freight depot, Reno, *c.* 1870, stereo photo. (WA 1274; courtesy of the Nevada Historical Society)

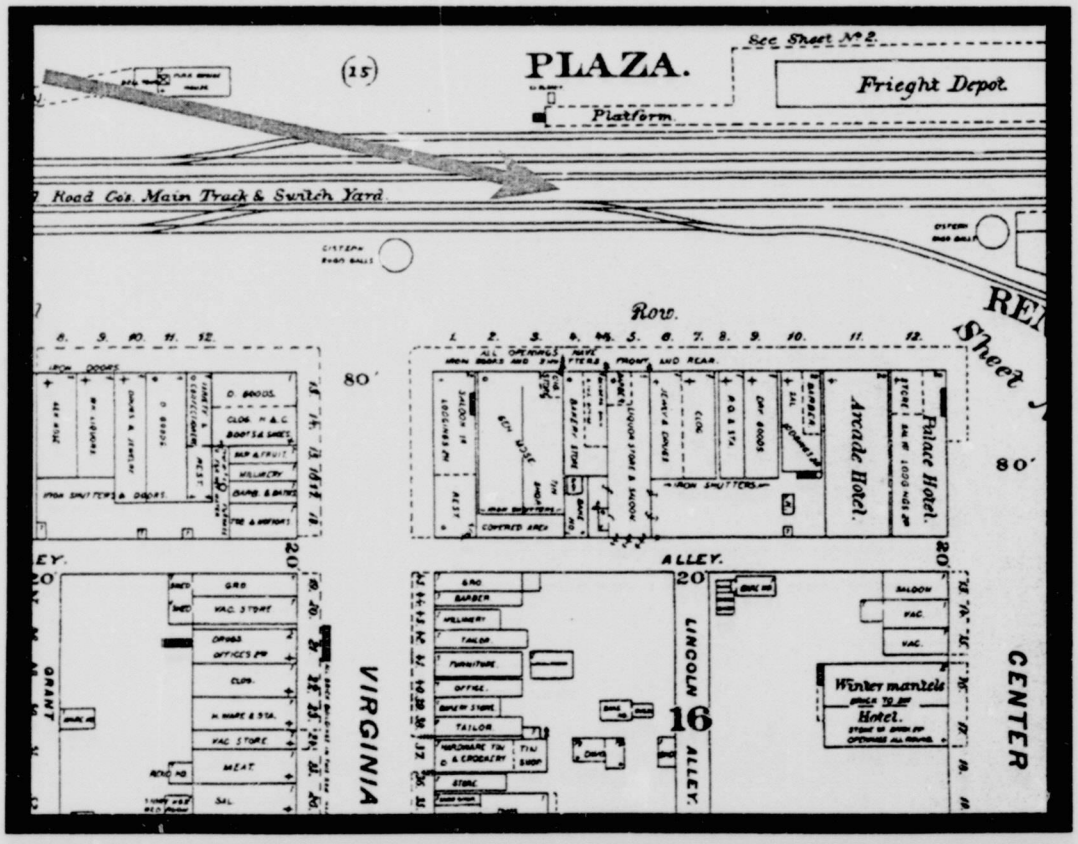
This scene of apparent chaos was probably a reasonably accurate reflection of the Reno freight yards through the nineteenth century.


Sixth Street
Sixth Street
West Street
Sierra Street
Virginia Street
Center Street
Lake Street
Peavine Street
Fifth Street
Fifth Street
Fourth Street
Fourth Street
Plaza Street
Train Depot
Third Street
Commercial Row
Third Street
West Street
Sierra Street
Virginia Street
Center Street
Lake Street
Peavine Street
Second Street
Second Street
Front Street
Front Street
Truckee River

Reno, 1879



Commericial Row in 1879, looking toward the east and the Southern Pacific's passenger station (south of tracks) and freight house (north of tracks). This photograph illustrates the intermittent development that is also reflected on the Sanborn maps (seen in the segment from 1879 Sanborn map below). The approximate viewing path of the photo is indicated by the gray arrow, added to the map. (Photo NHS WA2259 c. 1879)





Reno Mercantile Co. Warehouse, c 1906. (WA 2278; courtesy of the Nevada Historical Society)

The Southern Pacific's Reno facilities were anything but modest. Looking northeast toward warehouses from station area.

STB FD 32760 10-16-97 K 2/2

of being on the railroad mainline. As John Townley wrote,

> Most important of railroad advantages proved winter feeding of range animals brought to the Meadow's ranches from central and eastern Nevada, then sold west to California butchers when fed to prime condition. This custom, which fitfully grew with the years, turned valley hay into cash and became the Meadow's economic base — giving businesses to merchants and opportunity to labor. Harken this process, gentle reader; without a transcontinental railroad, Reno, by 1900, would have been another Genoa and its only product, alfalfa, a glut on the market. Maybe a thousand residents would have shared the valley as it found economic equilibrium at doldrum level after the Comstock went belly up. (Townley 1983, 266-267)

"Nature must take credit," was Townley's conclusion to *Tough Little Town on the Truckee* (Townley 1983, 272). The same can be said for many western towns. They owe their existence to a beneficial site, their form to railroad surveyors, and their continuation and thriving to adaptability and the availability of transportation. Historian William Rowley has noted:

> The Comstock still commanded the region, but many said that the transcontinental railroad would outlast the riches of the mines. In the end those communities that did cast their lots with the railroad survived beyond the glory of the mining metropolis. ...Reno...took root in the more stable ground of transportation and commerce, not in the spectacular but ephemeral wealth of the precious-metals industry. (Rowley 1984, 19)

C. The Biggest Little City in the World Takes Root

If Reno began much like many a western railroad town, by the turn of the century, it was charting a unique and quixotic course. Reno became a place to do what other towns considered questionable: Reno became famous as a place where betting could take place, divorces were easy, and other vices could be indulged.

From early on, Reno's citizenry placed a high value on individuality and independence, and correspondingly little faith or interest in government controls, creating an environment tolerant

of unconventional behavior. Reno was a hotbed of antigovernment sentiment with little interest in co-opting the liberties of aggressively private-minded citizens (Rowley 1984, 51). Nevada, especially the northern half of the state, had — and retains — great skepticism about public works projects:

> The concepts of Andrew Carnegie or a public conscience failed to make an impression on the Meadows' entrepreneurs. Reno was an arena and its capitalists, gladiators. There was no loyalty to the town, it simply had trading advantages. When one's personal goals had been met, then it was off for San Francisco and its amenities. Such attitudes meant few public improvements; Reno had no parks, museums or libraries. But what could you expect from a state whose governors chose to be buried in California as often as not. (Townley 1983, 268)

More than three decades after the CPRR platted the town and first sold town lots, Reno still was not an incorporated city. The idea of creating a town government was always rejected as too expensive and unnecessary. John Townley has put it, "Washoe's electorate firmly believed its best government was the least government. Reno deferred town rule decade after decade, relying on a county commission to enact ordinances infrequently on demand" (Townley 1983, 269).

With the emphasis on individual liberty and an aversion to government, Reno embraced atypical activities. Gambling has been part of Reno's image since before 1900. In contrast to many other western towns where gambling was part of a permissive underground economy, Reno appeared to embrace and promote it:

> In general, as western small towns grew, gambling went underground and prostitutes were deported. Communities of the "frontier" class, mining towns or cattle camps, might tolerate or even welcome gambling and prostitution, but "right thinking" towns on the make either cleaned house or informally created restricted districts. Reno took neither course; it openly offered vice in all its forms. ...[A]s Reno developed, its Tenderloin expanded at least in proportion with population and perhaps more, without public outcry or hindrance. (Townley 1983, 270)

Prize fights became a Reno event after the legislature legalized "glove contests" in 1897 (Rowley 1984, 37).

Early in the twentieth century, the Progressive movement, which championed the causes of suffrage, temperance, suppression of prostitution, and anti-gambling laws, made inroads in Reno. "In a sense Reno became torn between the attraction to reform on the one hand and its own profitable image as a fun-loving and vice-tolerant divorce center of the West on the other" (Rowley 1984, 38). Forces of reform had been mustering in Reno for a few years, and in the 1909 legislature, one of the strictest anti-gambling laws in the nation was passed. Since it did not take effect until October of 1910, boxing fans enjoyed one more year of fights and betting before it was made illegal until 1932 (Rowley 1984, 38). In 1913, reform groups pushed the Legislature to lengthen the required residency for divorce to one year.

The Progressive reforms did not last as long as intended, however:

> Lawyers complained and hotel keepers and merchants lost business. The commercial community demanded repeal. Reno, they argued, could afford the hostile remarks about rampant and easy divorce: the city would just have to foster the idea of a Reno divorce as a service to society, not as a threat to family and community life. Reno should be seen as a harbinger of a new age in which difficult marital problems could be humanely terminated through what was becoming known as "the cure" in Reno. (Rowley 1983, 38)

The 1915 Nevada legislature administered its own cure, restoring the six-month residency requirement for a Reno divorce. The same legislature also relaxed the strict laws against gambling to permit games of skill, like poker, as opposed to games of pure chance. This opened the way for card and poker parlors in the back streets and alleys (Rowley 1984, 38–39).

In the 1920s, as the Progressive movement finally achieved widespread national and state legislative victories, Reno continued its struggle to balance reform and the lucrative trade in

activities prohibited or restricted elsewhere:

> Prohibition had come to a town that had long been known as a wide-open meeting place for cowboys, sheepherders, ranchers, and miners. While prostitution had come under attack from reformers, it still retained its downtown red-light district after the war which successive presidents of the University of Nevada deplored. Another industry remained untouched and thriving following the Progressive reform era and the war. Divorce, Reno style, continued to capture the national spotlight as thousands each year made their way to Reno to seek "the cure." Despite restrictive legislation against gambling and drink, Reno was still Reno. (Rowley 1984, 47)

This conflict came to a head with the competition between the visions of two city leaders, entrepreneur George Wingfield and the late Senator Newlands:

> It was between these two points of view that Reno would choose in 1923. The Newlands tradition represented community regulation, repression of vice, and open democratic politics; the Wingfield tradition sought freedom from restraints, no enforced public morality, and closed machine politics. (Rowley 1984, 51)

Reno made its choice in the 1923 mayoral elections. Three men ran for the office. Roberts, a divorce lawyer, and two reformers, the incumbent mayor Stewart (whose slogan was "Reno Beautiful Not Reno Notorious") and Byington (Rowley 1984, 51-52). Roberts forcefully expressed his views during the campaign, stating,

> "I don't believe in prohibition or any kind of reform that takes from any man or woman their right to find happiness in their own way. I would repeal all blue laws, I would make Reno the playground of the world." (Rowley 1984, 51)

He won by a decisive margin: 2,928 votes for Roberts, 970 for Byington, and 737 for Stewart. "Reno had opted for an 'unreformed' city, the frontier ethics of Roberts, and the grab-the-profits attitude of Wingfield. Voters had rejected the planned, regulated society of the Newlands tradition" (Rowley 1984, 52).

With support from powerful figures like George Wingfield, Roberts was reelected in 1927 and again in 1931 (Rowley 1984, 52-53). He became one of Reno's most famous mayors, largely because he did not hide his views:

> Roberts made no secret of his contempt for Prohibition and winked at its lax enforcement in Reno. When he ran for his third term in 1931, the minister of the First Methodist Church invited him to speak from the pulpit. In that famous speech he advocated placing open barrels of whiskey on every street corner with ladies for all. (Rowley 1984, 53)

To combat the Depression, Nevada relied on its unique reputation as a place to escape a confining marriage. By 1927, residency requirements for divorce had been reduced from six months to three, and then, in 1931, from three months to six weeks. "Nevada had been threatened with competition from other states like Arkansas and Idaho. None, however, dared to match Nevada's scandalous six-week law" (Rowley 1984, 53). That same year Nevada relegalized gambling (Rowley 1984, 57). The move failed to have the effect on Reno that legislators had hoped:

> The new legal gambling had little impact on the Depression-struck economy. Flashy gambling palaces did not all of a sudden spring up along Virginia Street after legalization. Gambling houses still retained a secretive air, preferring to remain in the back alleys -- especially Douglas Alley, where the Bank Club, the Rex Club, and the Wine House Club did business. Inside these clubs, the atmosphere was dark and dingy. ...Legalized gambling continued to assume a low profile which reflected the fear that if it drew too much attention to itself, the anti-gambling forces would once again outlaw gambling. (Rowley 1984, 57–59)

During the New Deal, Reno, like many cities, experienced improvement and relief from New Deal programs. However, Nevada did not run the gamut of state-initiated plans like the rest of the country (Rowley 1984, 59-61). Instead, Reno "enjoyed gambling license fees and tax revenues which at the time went almost exclusively to county and city governments. Although few would

admit it, Reno had already made its choice for profits and legalized vices. It seemed fairly self-satisfied even in the grip of the Depression" (Rowley 1984, 61).

Reno remained a railroad town through the end of the nineteenth century, and for a considerable time into the twentieth. As a railroad and trading center, its primary interest was expediting the transportation of goods into and out of the city. Fourth Street, the main road into Reno, even before the creation of the Lincoln Highway in 1912, gave freighters ready access to Plaza Street and to the Southern Pacific Depot itself. Major change arose with the legalization (or at least, formal legalization) of gambling. By the 1930s, the stage was set for the transformation of Reno into the Biggest Little City in the World, bringing a new character and form to downtown Reno.

II. Gambling and Downtown Reno

The growing casinos brought something new to Reno: a central business district built not upon commerce moving into and out of the city, but instead, upon the capture and movement of tourists within Reno. The object was to bring people to the casinos and keep them there — initially within a relatively small area bounded by the Riverside Hotel south of the Truckee River and the gambling halls east of Virginia Street and south of the railroad tracks. A formal "red line" was drawn by the City Council around that area, to keep gambling within those margins:

> inside that line, new casinos could be developed, and existing casinos could be expanded. But anyone proposing the construction of a new casino *outside* the red line would have to get special permission — and there were clear signs that any such request would be speedily rejected. (Land and Land 1995, 101)

And so it was that the red line was bent until it broke, and with it collapsed the efforts to circumscribe the gaming district.

The evolution of Reno's Central Business District follows movement away from a trade-based economy to one dependent upon games of chance. The migration of Reno's Central Business District is a remarkable barometer of this change.

A. Central Business Districts

"Central Business District" is a term of convenience for the central core area that constitutes the heart of the American city. The Central Business District is a city's center, and the location of a variety of business, commercial and, sometimes, civic functions. Other terms have sometimes been applied — the Central Traffic District, the Central Commercial District, the Downtown Business District, or even simply Downtown — but over the last forty years, it is the name Central Business District (or CBD, as it is almost universally known) that has stuck.

Raymond Murphy and Jay Vance have described the CBD as the location of the greatest concentration of retail stores and offices; the city's highest land values and taxes; its tallest buildings; the chief focus of pedestrian and automobile traffic; and a target, since "by way of the transportation net the remainder of the city and an area of decreasing intensity extending far beyond the city's corporate limit are oriented toward the CBD" (Murphy and Vance 1954a, 189). The Central Business District is the focus of a city's urban-ness.

The CBD is fixed and definable at a specific date — but the boundaries also undergo shifts over time, and there is a kind of rolling variation in CBD identity that alters with the fashions and functions of a city center. When another section within the city core becomes more profitable — or more fashionable — the center of the CBD will shift. Changes in transportation routes, information circulation, or building size can influence these shifts. The CBD is not, then, anything set in concrete, but changes over time:

> ...the CBD, itself, is highly mobile, in spite of the great investment in land and buildings that it represents. The picture of the CBD, however sharp and accurate it may be, is no more than a glimpse of the moment. As such it reflects the past in the original site conditions and in changes through time; it reflects the present in its response to current economic conditions; and it carries a forecast of the future. (Murphy, Vance, and Epstein 1956, 42)

Through minor shifts and movements, the CBD remains the functioning and commercially viable center of the downtown, defined by high land and rent values, a relatively high occupancy rate, and a constant circulation of workers and visitors.

Land values, especially rental values, are the CBD's most important statistic. Most CBD studies exclude public spaces like parks, churches, and government buildings. The CBD is space devoted to profit and market, twin motives that are certainly as important in the 1990s, in terms of defining the urban core, as in CBD studies begun in the 1930s and 1940s (Murphy and Vance 1954a, 201; Murphy and Vance 1954b). And as several authors have noted, the CBD is anything but two dimensional; it also extends up, and in measuring the intensity of land use, we must take into account the development of space well above ground level, and not just street-level retail functions. The peak land value intersection, the intersection at the highest rental value, are "nowhere more than a few hundred feet from the geographic or areal center of the CBD" (Murphy, Vance, and Epstein 1956, 25).

Generally, a CBD expands if the city is growing, and contracts if it is not. Along with this sequence of expansion or shrinkage, there are "zones of assimilation" and "zones of discard," in the words of Murphy, Vance, and Epstein (1956, 42). The zone of discard, in nine CBDs studied in the 1950s, demonstrated a relatively consistent pattern: in two-thirds of the cities, the less affluent and chic area was near the railroad and its relatively rude spaces.

> In the rear, on the other hand, in the zone of discard, one finds pawn shops, family clothing stores, bars, low-grade restaurants, bus stations, cheap movies; and credit jewelry, clothing and furniture stores. These low-grade establishments depend in part upon the tendency toward clustering mentioned earlier, since they appeal to a similar economic level. And in the whole picture the factor of prestige enters. The ...zone of discard lacks prestige and fosters commercial types that make no pretense to more than a place to sell goods and services. (Murphy, Vance, and Epstein 1956, 42)

In the 1950s the railroad was never at the core of the Central Business District — that was a pattern of the nineteenth and early twentieth century. To the contrary, the railroad was assumed to be separate from the CBD. In one standard formulation of CBD governing principles by Raymond Murphy, the final rule is that:

> 5. Blocks located beyond the railroad tracks or beyond a freeway are not considered contiguous to the main body of CBD blocks unless the tracks and freeway are so completely underground (or overhead) as to allow free access to the main mass of CBD blocks. (Murphy 1972, 35)

Most American cities dealt with the presence of the railroad through town by changing the level of the right of way or by relocating the Central Business District through gradual movement away from the tracks.

B. The Migration of Reno's CBD

Reno began as virtually a type-specimen of the symmetric railroad town, with a street grid spreading north and south from the tracks. In the nineteenth century, its peak value blocks and city center lay on an east-west axis along Commercial Row, facing the railroad tracks and the depot. Beyond the tracks to the north lay residential areas and, further east, the freight house and warehouse district. Virginia Street was becoming the main north-south artery through town. The Reno railroad facilities were literally the bull's-eye for trade and development in the region (Map

of Burke's Addition 1908). The Burke's Addition Map shows that the high value properties in downtown Reno in 1908 focused on the Southern Pacific station.

As happened in most other American cities, Reno's CBD gradually grew away from its rail-centered focus (Computer enhancement of Sanborn Fire Insurance Maps 1918). By 1918, the highest-value property was located along Virginia Street between the train station and the Truckee River, leaving the railroad behind as its northern boundary, a pattern that remained for decades. The Riverside Hotel opened near the turn of the century on the edge of the River.

As the legalized gaming industry began to flourish, its new emporia appeared south of the tracks. Raymond Smith opened Harolds Club in 1936, and Bill Harrah opened his bingo parlor in 1937 (Land and Land 1995, 85-99). In particular, the growth and expansion of Harolds Club in the 1940s "chang[ed] the image of Reno gambling from a low-life pursuit to an exciting, normal everyday leisure activity" (Rowley 1984, 62). This growth and expansion was largely unthreatened by movements of reform. During WWII, the neighboring Reno Army Air Force Base and Fallon Naval Air Station supplied many customers for Reno's offerings: "All of the attractions of Reno made it a favorite liberty town for military personnel in Nevada and northern California" (Rowley 1984, 64). Gambling dominated the downtown Reno area during the 1940s, even though prostitution and the red-light district died (Rowley 1984, 64).

After the war, Reno continued to expand gambling activity in the downtown area south of the Southern Pacific tracks.

> With the apparent success of the Reno economy even in the stress of wartime, the Mapes family, which had long been associated with Reno and the promotion of the rodeo, announced in 1947 plans for a new multi-story high-rise hotel in Reno to be built on the sight of the old post office building. ...Others followed the Mapes' lead including some gamblers from the crime underworld of the East, who saw opportunity



Map excerpt from Charles A. Burke, "Reno, The Metropolis of Nevada," 1908.

Burke's Addition is at the lower right, in a map that shows circles of concentric distance, focusing upon the Southern Pacific Railroad Depot. [Circles are on the original map.] Original map in the Nevada Historical Society.

Sixth Street
Sixth Street
West Street
Sierra Street
Virginia Street
Center Street
Lake Street
Peavine Street
Fifth Street
Fifth Street
Fourth Street
Fourth Street
Plaza Street
Train Depot
Third Street
Commercial Row
Third Street
West Street
Sierra Street
Virginia Street
Center Street
Lake Street
Peavine Street
Second Street
Second Street
Front Street
Front Street
Truckee River

Reno, 1918

> for legalized gambling businesses in Nevada. Lincoln Fitzgerald [who had old-time Detroit connections] became a co-owner of the Nevada Club. (Rowley 1984, 64-66).

In 1947, the same year that it adopted the city-manager form of government, the City of Reno moved formally to enshrine the new gambling district and to restrict it from spreading to other parts of the city:

> In January of 1947 the City Council adopted a master plan for the city that restricted casino gambling to a commercial district along Virginia Street in the downtown. Eventually a "red line" was drawn around this district and the restriction was referred to for many years as Reno's Red Line Ordinance. It blocked the haphazard spread of casinos throughout the city. (Rowley 1984, 66)

Surprisingly, though, as the end of the twentieth century approaches, Reno's CBD has migrated to the north, to and even beyond the railroad tracks. A former political leader described this migration succinctly:

> See, the center of town [in the 1950s and 1960s] was down on Second and Virginia. See, and then the Eldorado was built, and it was the only one north of the tracks at the time. So there was no rail dividing the gaming section like there is now. The railroad is really dividing it now. You've got these things like the Silver Legacy and the Eldorado on that side of the tracks, and you've got Harrah's and everything else on this side. The center of town now is the railroad track! But the center of town when we were working on this thing [on developing a depressed railroad right of way] was Second and Virginia because the Mapes and Riverside were still open, and those other things hadn't been built yet. (Swobe Oral Interview, emphasis added)

As evidenced by Reno's skyline, the driving force behind the northward migration of Reno's downtown core was the gaming business, which the City of Reno was unable to control. That was the conclusion of the "Reno Railroad Study, 1978-80, 4" (Appendix H to this report):

> Recent rapid expansion of the tourist industry has caused development in downtown Reno to jump to the north across the tracks to accommodate demand for new hotels and casinos.

This expansion began with the breaking of the Red Line.

C. "The Center of Town Now Is the Railroad Track"

The Red Line went largely unchallenged until the 1950s, when Ernie Primm and others started to bend it. Several legends surround Primm's accomplishment. What differs in these stories is how it was done — aggressively and openly challenging, sly back-alley maneuvers, or the favorite motif of entrepreneur fooling less than sharp city officials. Some of the more sparkling accounts of the dismantling of the Red Line hail from contemporary newspaper stories, but there are also careful historical views, including those of University of Nevada journalism professor Myrick Land and his wife, Barbara:

> One legend in Reno is that Primm achieved his aim by fooling a rather dim-witted City Council. According to this story, he first obtained a permit to build a luxury restaurant just across the street from the Primadonna. Then he quietly installed a couple of slot machines, explaining to those who raised questions that these were being put there just to keep customers amused while they were waiting for a table. When no one at the City Council objected to that, he removed a couple more of his restaurant tables and brought in a half a dozen more slots and a craps table. After three or four more late nights of quiet alterations, he left just enough non-gambling room for a single table for anyone who wandered into his "cafe" with the idea of having a hamburger.
>
> Those who tell that story are convinced that it is true, and because owners of some Reno gambling establishments often proceed by stealth, it sounds plausible. But the printed record seems to indicate that Primm was a little more open in his campaign, although he did achieve the same objective by a series of slightly devious actions. (Land and Land 1995, 102-3)

First Primm requested a permit for a bar on the west side of Virginia Street in 1951, just over the Red Line. The City Council turned him down. Then he proposed to expand the existing casino on the east side of Virginia Street, just inside the Red Line, with the intention of pushing it

just over the line to the west. Again, he was turned down (Land and Land 1995, 103–104). Primm sued the city, lost in a lower court, and took his appeal to the state Supreme Court. "That court surprised him by issuing a sweeping decision, observing that the city had an absolute right to deny *anybody* the right to open a new casino *anywhere* within the city limits" (Land and Land 1995, 104, emphasis in original). But Primm still did not give up. In 1954, he made clear his plans to build a new hotel on the west side of Virginia "in which gaming would be incidental" (Land and Land 1995, 104). The Chamber of Commerce seemed to change sides when it agreed that this kind of hotel was necessary in downtown Reno. Soon after Primm's hotel opened, "a few modest additions" were made that incrementally increased the presence of gambling (Land and Land 1995, 105).

In 1961, the expansion of the Red Line area was a hot topic. Primm again found himself in the center of the controversy. In January, he announced his plans to expand the Primadonna Club. By May, the first gambling on North Sierra Street was being considered. While the Planning Commission favored it, the Mayor fought it. Eventually, both the City Council and the Mayor came out against the gambling extension (Land and Land 1995, 105). In November of the same year, a petition circulated to call for a special election on the issue of Sierra St. gambling. Once again, Primm seems to have been heavily involved.

> [Primm] sent out fifty workers, and in a matter of days they had collected six thousand signatures on a petition to open up the entire western area of downtown Reno to casinos. When the City Council heard that nearly two-thirds of the voters of Reno had signed Mr. Primm's petition, it caved in.
>
> ...At first, the [*Reno Evening Gazette*] reported, a vote to allow gambling to move farther west had divided the Council by three to three, with the Mayor also voting against the change. But after the Council members heard about the petitions, the vote changed dramatically. Suddenly five members of the Council were in favor of Mr. Primm's proposal, and only one of them opposed it. (Land and Land 1995, 105)

During the rest of the decade, the Red Line continued to stretch and bend. Early in 1962, Harrah's expanded, as did many other casinos, first into hotels and then increased gambling. In June 1963, Harrah's opened a new restaurant, and the New Golden Hotel/Casino (after rebuilding from a fire) opened. Harolds Club opened a new addition in 1965. Even though attempts were made to continue to restrict the expansion of the gambling district throughout this time, by March of 1967 efforts were being made to do away with the Red Line entirely.

At the same time, the state government was encouraging the migration of corporate gambling to Nevada:

> On the state level during the late 1960s, Governor Paul Laxalt moved to change state gambling laws to permit out-of-state corporations to enter the Nevada gambling business. At the time it was widely acknowledged that these moves were designed to accommodate Howard Hughes and bring "respectable" Hughes money into Nevada gambling. New corporate gaming laws passed the legislature in 1967 and 1969. (Rowley 1984, 75-76)

This had a most profound effect on the gambling districts of Reno.

> Reno's City Council in May of 1970 cautiously removed the old Red Line Ordinance to permit the spread of gaming establishments outside the designated district in the downtown. It took effect January 2, 1971. Now unlimited gaming licenses would be issued only in accordance with the 100 or more hotel rooms required with each large casino and with the general discretion of the council. (Rowley 1984, 76)

The decade of the 1970s marked an amazing increase in casinos in Reno, largely from the new emphasis on corporate gambling and its ability to build large hotel/casinos. These new hotel/casinos included the Sundowner, Holiday Inn, Circus-Circus, Howard Johnson's in Sparks, The Reef Resort, Kings Inn, the Eldorado Hotel, and Del Webb's Sahara Reno (now the Reno Flamingo Hilton). Of these, the MGM, opened in summer of 1978, stretched the new limitless gaming district the farthest from downtown (Rowley 1984, 76–77).

Within the downtown area, the new casinos and hotels charged across the railroad tracks. The construction of Interstate 80 along a Seventh Street alignment, instead of along Third Street adjacent to the tracks, surely encouraged this movement, creating an opportunity for new casinos to intercept tourists before they could reach older gambling emporiums. Then, too, the area between the tracks and the freeway was affordable and available for growth. With these inducements, Reno added thousands of hotel rooms north of the railroad in its downtown area after 1970, as the following list shows:

Eldorado	1970-75	248 rooms
Sundowner	1970-75	300 rooms
Gold Dust Hotel/Casino	1978	101 rooms
Circus Circus	1978	102 rooms
Sands (addition)	1979	163 rooms
Eldorado (addition)	1979	283 rooms
Sundowner (addition)	1980	293 rooms
Gold Dust Hotel/Casino	1980	19 rooms
Circus Circus (addition)	1981	986 rooms
Gold Dust Hotel/Casino	1982	120 rooms
Sands (addition)	1983	282 rooms
Circus Circus (addition)	1985	986 rooms
Eldorado (addition)	1989	366 rooms
Silver Legacy	1995	1,720 rooms

Total: 5,969 rooms

Source: *Reno Gazette-Journal,* 1996; Silver Legacy total corrected

From the perspective of the geographer or urban planner, this migration of Reno's CBD across the tracks is an exceptional development, violating Murphy's rule that the territory beyond the tracks is the "zone of discard." Although a few cities have rejuvenated historic districts near a railroad line, it is difficult, if not impossible, to think of another American city that has relocated its most valuable business district so that it straddles a working mainline railroad at ground level.

It is even more surprising when the main business is tourist-oriented. How that happened is worthy of study.

III. Conflict and Stalemate

Many other cities, often with less at stake, have found ways to adjust to the railroads in their midst. The most subtle accommodation is a gradual movement of the Central Business District away from the rail line. Other cities have used structural solutions. Reno's Nevada competitor, Las Vegas, invested heavily in underpasses and overpasses and closed several crossings. In northern Nevada, Elko saw its tracks relocated out of town. Closer to home, neighboring Sparks virtually eliminated street-level crossings. Reno chose none of these solutions.

Reno has certainly considered a solution: a depressed trainway through the center of downtown. That possibility has been studied more than half a dozen times, but nothing has come of the effort. To this day, a lack of concensus and commitment prevents action on this project, as on so many other improvements that would make downtown Reno more appealing.

A. Reno's Railroad Problem

In the beginning, the railroad and Reno had a peaceful and cooperative relationship, as this quote from the *Reno Crescent* indicates (July 4, 1868, p. 2; quoted in Townley 1983, 190): "Let trouble fly away, let care be gone. ...and three cheers for the Star Spangled Banner, Reno and the Railroad." Or consider this tribute to the railroad's effect on Reno:

> Outside of Gold Hill and Virginia City it is the most stirring town in this state. The railroad has done wonders for the neighborhood — for what was nothing but a barren open plain just three months ago, is

> now a real, wide-awake, flourishing little town of at least 2,000 inhabitants, with stores, saloons, restaurants, workshops, hay-yards, and immense warehouses, filled with goods and merchandise, and long trains of cars passing and repassing through the place almost hourly. Bully for Reno. (*Gold Hill News,* July 22, 1868, p. 2; quoted in Townley 1983, 71)

This euphoric relationship soon turned sour. The early Southern Pacific Railroad in Nevada was at times a harsh, even draconian, neighbor, cavalier in its rate-setting and inattentive in community relations. Skepticism about giants in capital and land was hardly an exclusive Nevada trait; comparable complaints were launched from the Midwest to the Pacific Slope, and the overall tenor prompted California to consider confiscatory regulation of the Southern Pacific and Frank Norris to pen *The Octopus.* Without any doubt, it was Norris who had the greater success.

Conflict with the railroad in Nevada surfaced almost from the beginning of Reno's city life. In 1871, the *Territorial Enterprise,* in an impassioned essay, claimed that organization of a city government for Reno was blocked by pressure from the Central Pacific, which wished to maintain its control over downtown (24 January 1871). The story, whether true or not, is familiar enough across the American West that no one should be surprised. Two years later the same paper reported a meeting of taxpayers who hoped to raise tax assessments of the Central Pacific and Virginia & Truckee Railroads (7 October 1873). During this period, Central Pacific for two years battled Myron Lake over the location of the local courthouse. Lake won.

The Central Pacific's extensive Reno facilities were a dominant feature of downtown, and the city soon wanted them out of the way. It preferred to extend streets across the railroad tracks (NHS Photo WA2253 c. 1910).

> This [Central Pacific] complex spread east and west along Commercial Row. Its passenger depot, first part of the Depot Hotel, then a frame building erected after fires at the hotel in 1877 and 1879, stood just



Commercial Row and Southern Pacific Railroad Station, c. 1910. (WA 2253; courtesy of the Nevada Historical Society)

The broad esplanade of Commercial Row was a characteristic feature of many railroad towns. It offered a storage area and undisputed railroad territory in downtown. Railroad buildings and tracks blocked the north-south passage of automobile and pedestrian traffic, except at the Sierra Street grade crossing.

> south of the tracks, between Center & Lake, on the site of today's station. Just west was a tiny plaza containing a fountain that occasionally belched spray over two underlying iron cupids. North of the tracks, between Sierra & Lake, sat large frame express and freight warehouses blocking Virginia and Center streets, which ended at Commercial Row and commenced again north of corrals and sidings at Third Street. Tracks and switches filled the space between Commercial Row and Plaza Street, from Virginia east. Livestock corrals lined the right-of-way east of East Street for several blocks. After 1879's Great Fire, those corrals moved further east and a round house shop building rose on the spot, while pedestrians crossed the yards at Sierra by an elevated footwalk. Virginia was closed through the yard until late in the 1880s, despite protests from town luminaries. The CP told Reno "the line of Virginia Street, if opened, would cross over five tracks and directly in the line of two switches, as so materially interfere with our station service that we cannot favorably consider your request." (Townley 1983, 198; quote from the *Nevada State Journal*, 06 April 1880, 3)

The debate over the hot topic of Reno's rail crossings started in the 1880s. By the early 1900s, the arrival of the auto era created traffic problems in the downtown. As shown in contemporary Sanborn maps, Virginia, Center, and Lake streets all came to a dead end at the railroad tracks. A cartoon from the *Reno Evening Gazette* of June 3, 1910, dwelt on all the problems of a growing downtown — cars racing at far above the 10 mph speed limit; pedestrians being run down by automobiles; and a sheriff whose attempts to control the downtown traffic were clearly the object of the public derision. Opening rail crossings in the downtown area was considered to be part of the solution.

On January 27, 1913, the banner headline of the *Reno Evening Gazette* proclaimed, "**CITY TO FORCE RAILWAY TO OPEN VIRGINIA STREET.**" A sub-headline announced that the city had appropriated a very substantial sum for those times, $10,000, to fund litigation against Southern Pacific. This followed unsuccessful discussions with Southern Pacific, which opposed the crossing. A letter from SP's General Superintendent, J.M. Davis, showed interesting foresight, in view of recent events:

> The opening of Virginia street across the tracks would not give us sufficient length for our long passenger trains without blocking the street when trains are standing at the depot. While this may not be a matter of supreme importance at the present time, we find that as towns grow in population and importance, the blocking of streets, while trains are loading and unloading passengers, baggage and express, is seriously objected to by the people desiring to cross the tracks. (*Reno Evening Gazette,* 11 January 1913)

Under pressure from the city, however, Southern Pacific yielded and the crossing was opened in 1913. Southern Pacific moved its principal freight facilities to Sparks.

Discussions about opening Center Street started in 1907, with city officials calling for the removal of the Southern Pacific sheds that blocked the way. In 1924 a petition to move these sheds and open the crossing was circulated, but failed. The Center Street crossing issue was raised again in 1926 and 1928, and the street was finally opened to cars and trucks in September 1931. A series of historic photographs shows the concentration of commerce along lower Center Street, ceasing at the tracks, and the opening of the crossing during the Depression (NHS Photos WA 2227 *c.* 1905; WA2240 *c.* 1910; WA2238 *c.* 1920s; WA 2223 *c.* 1939).

Pressure also grew for a crossing at Chestnut Street (later renamed Arlington). In September 1917, Reno city officials rejected creation of a crossing, but ten years later were still looking at that as a possible solution. In February 1934, this crossing was proposed yet again, and the crossing was opened in late 1939 (Appendix G, this report). By 1946, Reno had pushed through the downtown crossings that exist today (NHS Photo WA1987 *c.* 1946).

Having penetrated the railroad with new street crossings, Reno almost immediately began looking for a better alternative. The City's interest in lowering the Southern Pacific tracks through downtown dates back at least six decades to the Depression, when the United States Bureau of Public Roads proposed that the railroad be elevated. The City Engineer promptly



Looking north along Center Street in 1905 and 1910 from the commercial side of the railroad tracks. The 1910 photograph shows a rare Reno streetcar. (WA 2227 and WA 2240; courtesy of the Nevada Historical Society.)





Center Street in the early 1920s and 1939. By the end of the Depression, Reno had opened a grade crossing at Center Street. (WA 2238 and WA 2223; courtesy of the Nevada Historical Society.)





Reno, c. 1946 (WA 1987; courtesy of the Nevada Historical Society)

By the 1940s, the dimensions of Reno's grade crossing situation were well known. All downtown north-south streets were pushed through across the tracks. Traffic in automobiles was substantial, as seen in this view of Commercial Row-Plaza Street, with a parking lot carved along the railroad right of way.

recommended that the tracks be depressed instead, to avoid creating a barrier through the city (*Reno Evening Gazette*, 08 June 1938). By 1942, the Chamber of Commerce endorsed the depressed trainway project as "A No. 1 civic improvement for the readjustment period after the war" (*Reno Evening Gazette*, 11 March 1942).

The 1978 Nevada State Rail Plan, in its "Summary and Recommendations" volume (page VII-10; Appendix F to this report), summarized the continuing attraction of the depressed trainway project to Reno:

> A 1942 report evaluated a variety of alternatives for relocation of the Southern Pacific tracks. The report stated that the tracks should: 1) remain in their current location and, 2) be lowered to maintain street and other topographic grade so as not to despoil or disrupt the downtown character.

The Plan noted the continuing interest in the proposal after that:

> Since 1936 the City of Reno, in cooperation with various state and Federal agencies has studied various alternatives to eliminate the existing conflict of the railroad in the downtown area between West to 2nd and Wells Avenue. ...Subsequent reports in 1944, 1968, 1972 and 1976 [and after this State Rail Plan was written, again in 1980] have served to update the original costs to relocate or adjust the existing railroad alignment.

We can only look back in envy, from the 1997 vantage, at Engineer Robert Allen's estimate in his report published in 1942 that placing the railroad tracks below street level would cost $1.4 million (*Nevada State Journal*, 25 April 1976, 3). These studies described the benefits of the depressed railroad. For example, a 1972 Nevada Department of Highways report prepared for the Reno City Council estimated that the project would reduce motor vehicle pollution by about 137 tons per year and reduce costs to motorists by almost $328,000 per year (RRGSP 1972–1973, 25, 27). The "Reno Railroad Study, 1978-80" predicted that [lowering of the tracks] "creates the

greatest potential for appropriate land development, including parking and increased tax revenues" (Reno Railroad Study 1978–80, 2; Appendix H to this report). The City Manager endorsed the plan, and Southern Pacific Railroad agreed to pay $2.55 million, 5 percent of the cost of over $52 million (Reno Railroad Study 1978–80, 16–18).

Not until the 1970s, with hotel and casino development moving north across the tracks, did Reno mount a serious drive toward creating a trainway. An "Ad Hoc Railroad Committee" was formed in 1973, based upon work begun by a strongly interested corps of community members in 1968 (Swobe Oral History). One of its active members, Reno attorney and political leader Coe Swobe, described how the railroad blocked the march northward:

> [We] had this problem — well, we always had this problem which I called the "Iron Wall"...the railroad tracks go through the middle of town. ...It divided the town because for a long time First and Virginia Street was the center of town. Then it moved up north. That was the thing that hindered the movement to the north the most — the railroad. The train is dirty, it's noisy, it's essential, it's very important, and it was here first. (Swobe Oral History)

Reno Mayor Sam Dibitonto pushed hard for a depressed right of way during his 1970–1975 tenure: "I pursued it at length, and it's a really sad thing because of what happened to me during the time I was in office was a series of circumstances that will never, ever, come together again" (Dibitonto Oral History).

Public surveys were taken; city funds were appropriated to sample sentiment; and studies by the Nevada Department of Transportation and the Nevada Highway Department supported the desirability of lowering the railroad tracks through town. The City Council unanimously endorsed lowering the tracks in January 1979; the Assembly Government Affairs Committee approved a bill to aid in financing the project; and City Manager Henry Etchemendy endorsed it. In a January 27, 1979 editorial, the *Reno Evening Gazette* supported the project, urging voters to "support plans to solve the downtown tracks problem."

But in 1980, a butchered initiative, which according to contemporary newspaper accounts few if any citizens understood, failed in a primary referendum. The bond issue proved an almost complete debacle. Newspaper articles reported significant problems, including deficiencies in the presentation, wording, advertising, and timing of the initiative. The voters' pamphlet never mentioned lowering the railroad tracks and the word "railroad" did not even appear in the language of the bond issue. Also the timing was terrible. In 1980, rampant antitax sentiment culminated nationally in Ronald Reagan's election as President. Several other tax issues were on the ballot, and they failed as well. Moreover, between January and June of that year, it was discovered that several counties and tax districts in Nevada had not been reassessed since the early 1970s. The resulting reassessment reinforced local citizens' instinctive wariness toward government.

Longstanding depressed right-of-way supporters like Swobe were nothing less than furious with what they perceived as massive mismanagement of the bond issue. The *Nevada State Journal* of May 13, 1980 described his reaction:

> The words "railroad tracks" are not mentioned once in a May 27 ballot measure asking Reno voters to approve a $40.5 million bond issue for lowering the railroad tracks through downtown Reno.
>
> The discovery of the missing words boondoggle by attorney Coe Swobe, chairman of the city's railroad bond committee, sent embarrassed Reno officials scrambling Monday.
>
> The Reno City Council called an emergency meeting for Friday to pass a "strong resolution" saying the $40.5 million bond issue would not be used for any projects other than the lowering of the railroad tracks.
>
> "The wording completely misleads the public," an angry Swobe told the council. "You could spend that money on just about any overpass or underpass."

The "Reno Railroad Study, 1978-80" reaches a different conclusion:

> While this failure may have partially resulted from improper timing, the margin of defeat indicates that community support was not sufficient for passage. (Reno Railroad Study 1978–1980, iii)

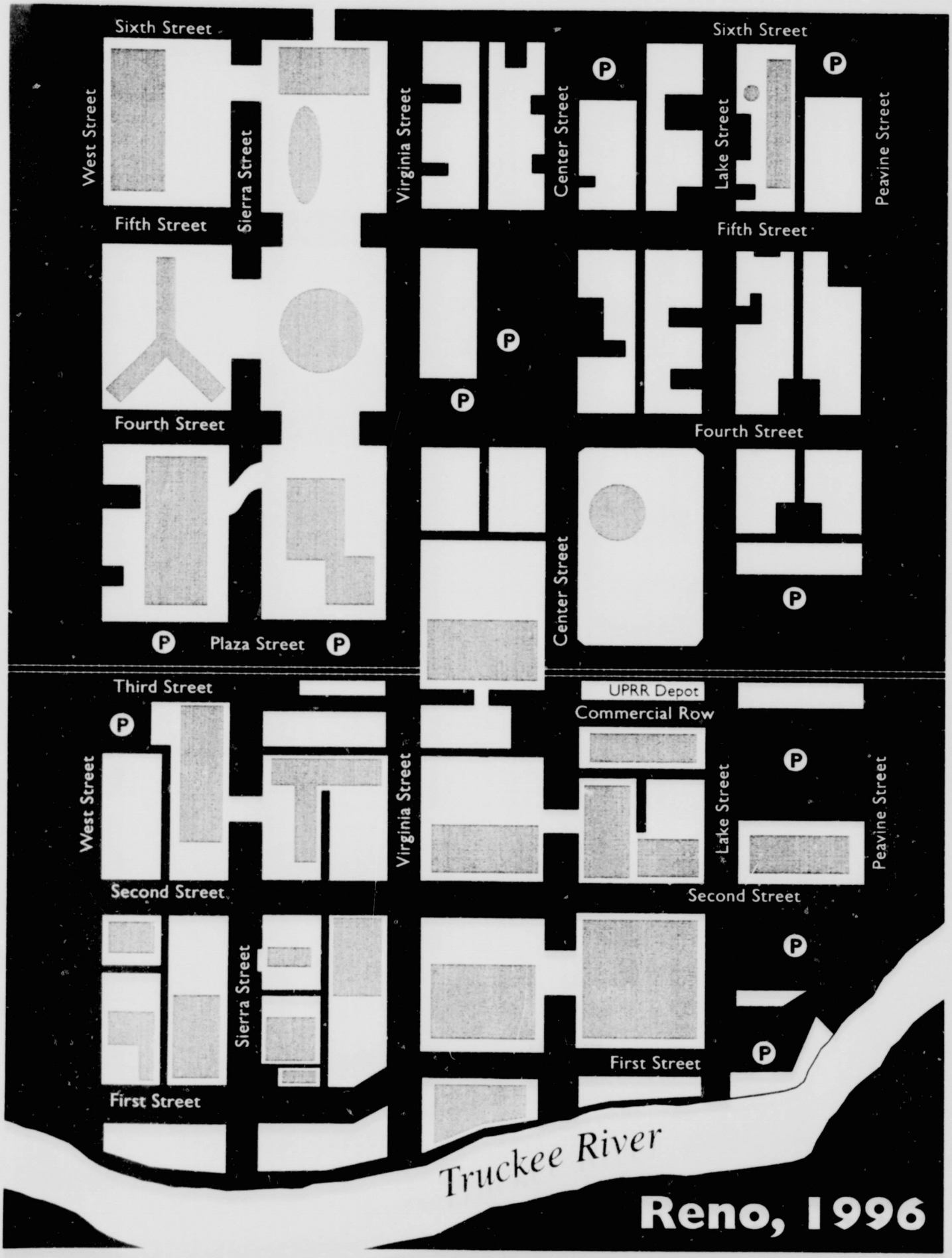
Looking back, however, Swobe blames earlier lack of support from local officials for the failure to pursue federal funds:

> We got to a point where what had happened is that Congress had appropriated money for pilot projects around the country. One was in El Paso, I remember. One was in the midwest someplace — where they depressed the railroad tracks, or went around the city. We were going to try to get in on that, because that paid 80 percent of the money. But we had a problem. Our city council, particularly our mayor. I had worked with the congressional delegation in Washington. We were going along fairly well. However, contrary to Elko, our mayor, Mrs. Bennett was against the project. She was not interested in depressing the railroad tracks. And, in my opinion, did everything she could to discourage it, except to come out publicly. We could have had that money. (Coe Swobe Oral Interview)

Former Mayor Sam Dibitonto agrees that the project was within Reno's grasp.

> The city of Reno could have had those tracks sunk. I could have done it. It was a 16 million dollar project, give or take a few — I have all the numbers here. But because of the things that came together — if you take that 16 million dollars and you start peeling off — which you will see here — all the construction things had to be done, I had them taken care of. The city of Reno probably would have, out of pocket, been out maybe a million to two at the outside. (Sam Dibitonto Oral Interview)

In August 1982, the Ad Hoc Committee was abolished. From the 1980s onward, as Reno's population expanded and the casinos pushed northward, Reno paid little attention to the tracks. The migration to the north continued even though, as the "Reno Railroad Study, 1978-80" reported, "at least 24 long freight trains pass through the City each day" and "volumes are expected to continue at present levels and perhaps to increase slightly, as the railroad remains a vital transportation link across America" (Reno Railroad Study 1978–1980, 4; Computer enhance-


Sixth Street
West Street
Sierra Street
Virginia Street
Center Street
Lake Street
Peavine Street
Fifth Street
Fourth Street
Plaza Street
Third Street
UPRR Depot
Commercial Row
Second Street
First Street
Truckee River
Reno, 1996

ment of Sanborn Fire Insurance Map 1996).

B. "The Reno That Might Have Been"

The depressed trainway bond issue may have failed for reasons deeper than a temporary taxpayer revolt or lack of mayoral support. Its failure may speak instead of a rift between the needs and interests of a downtown devoted primarily to gaming and a rapidly growing community with different interests and concerns. For many years, the city has searched for ways to make its downtown more appealing to visitors. The impetus for change came from reports such as the 1981 disclosure that of 300 travel agents who came to Reno for a convention, 90 percent had negative reactions to downtown (*Reno Evening Gazette*, 12 Jan., 1981). The President of the Chamber of Commerce and local newspapers called for action. Plans were made. Consultants were hired. But as then-reporter Richard Moreno explained in an article titled "The Reno That Might Have Been," most of the proposals languished and died:

> Reno...seems to have attracted more than its share of dreams and schemes. Looking at the list of projects that surfaced and sank in just the last 10 years, it's clear the Biggest Little City in the World could have become a very different place. (*Reno Evening Gazette*, 21 February 1982)

The suggestion to mall several blocks of Virginia Street has been made numerous times. The first was in 1968, as part of a larger plan to renovate downtown that included the demolition of several city blocks (Land and Land 1995, 120). A pedestrian mall was seriously considered again in 1980, 1982, 1983 (in the form of a reduction to one lane of traffic), 1984, 1987-1988, 1989, 1991 and 1994 (Appendix E). Sometimes these incarnations of the pedestrian mall were merely suggested; other times formal proposals, and even budgets and plans, were approved, but the pedestrian mall never materialized.

The 1980s were marked by ambitious plans for downtown Reno that never came to fruition. Monorails, aquariums, theme parks, laser shows, and other facelifts were proposed. Richard Moreno describes an unusual proposal from a Boston consultant:

> So their proposal was to build a series of plexiglass arches. ...Each strip of arch would be made of Plexiglass of different colors, so there would be this rainbow of arches down Virginia Street for a block or two blocks. Then they were going to have a round prism in the middle of these big arches that would go over the street. And they wanted to build what we called "the alamo," but they wanted to build a big stucco thing right in front of the Riverside Hotel that would have a laser projector on top of it. Then it would shoot the laser beam down the middle of Virginia Street that would go through the prisms, and would sparkle all over the buildings downtown. It was kind of a cruder version of what they've done with the Fremont Street experience [in Las Vegas]. Interestingly enough. With all their lasers and everything. But this was twelve years ago. Of course it disintegrated. (Richard Moreno Oral Interview)

Reno ended up in 1987 with a new arch (Land and Land 1995, 119-122), and sidewalks (1986-1987), but the City Council had to defend these new sidewalks for almost a year afterwards (*Reno Gazette Journal*, 7 July 1987).

During the 1990s, many plans have been proposed to renovate downtown Reno, but few have met with success:

> In the early 1990s, inventive planners announced big ideas for renovating downtown Reno. There was talk of enclosing several city blocks under a dome, creating a downtown Disneyland of family entertainment with Hollywood special effects. The Reno City Council considered this idea, along with proposals for an aquarium, a downtown shopping mall, a bowling center, a special events plaza and variations on earlier scenarios proposed over the years. (Land and Land 1995, 124)

With the exception of the National Bowling Stadium and the completion of the Raymond I. Smith Truckee River Walk (Land and Land 1995, 122-124), the proposed plans to renovate downtown Reno never reached the construction stage. Still, an overall malaise is sufficiently

well-recognized that two top candidates in mid-May 1997 for the President-CEO position of the Reno-Sparks Convention and Visitor's authority each offered the almost universally accepted view that Reno's image has aged badly:

> Both candidates for RSCVA's president-CEO job suggested that Reno's image as "The Biggest Little City in the World" is tired. Keene said it's not an image he would carry into the 21st century....The image Reno portrays is "positive but sort of outdated." (*Reno Gazette Journal*, 15 May 1997)

Part of the problem lies in the lack of public support for downtown projects, and that in turn reflects a lack of connection between most Reno residents and the gambling-centered downtown. Gambling gives Reno's downtown its special identity. In urban planning theory, the part of a city that does this has been called an "epitome district." Grady Clay, who is primarily response for popularizing this term states:

> Special places in cities carry huge layers of symbols that have the capacity to pack up emotions, energy, or history into a small space. I call them epitome districts.
>
> ...A city's epitome districts are crammed with clues that trigger our awareness to the larger scene — things around the corner, processes out of sight, history all but covered up. They stand for other things; they generate metaphors; they are the sort of places that, ideally, help us get it all together. (Clay 1973, 38)

The most successful epitome districts, Clay notes, are those where historic events in the city's life are highlighted and dramatized, as with Mardi Gras in New Orleans. A city can build to those events, which are taken to be characteristic and prized by a large portion of the residents. The epitome district is ideally, then, supposed to be a consensus activity, supported by the population at large and not just economic interests.

When an epitome district that defines a city's character is designed to appeal primarily to outsiders, it becomes more remote to the local population. And when the activity of the epitome district is directed strongly toward bringing in tourists — as with gaming — and few of the casinos are locally owned any longer, the concensus erodes and local residents may lose interest.

Reno's epitome district — its downtown — is thoroughly colored by gambling. It still has local support, and a few local families are still involved and appreciated. But three of the hotel casinos associated with the names of past gaming giants like Charlie Mapes, Bill Harrah, Raymond Smith, Benny Binloii, or the more complex ownership of the Riverside are closed and may yet be torn town. The fourth is essentially corporate and thriving, but much of the personality that tied Reno's downtown gaming to its community is gone.

For many Reno residents, downtown has a dual identity. At times, the downtown area is seen as an epitome district, or the essence of Reno, and something to be proud of. At other times, the downtown is, as one newly-arrived resident put it, "a scab on the face of the desert" and an area to be avoided at all costs. Most Reno residents fall somewhere between these two views: downtown is a place to get a good, cheap meal; to take visiting relatives; to occasionally attend a concert or wedding. For these residents, the tourist view of Reno does not match their own:

> After all, there were people who lived in Reno all their lives without gambling or getting divorced. A typical lifetime resident might have been born at St. Mary's Hospital, played in Wingfield and Idlewild Parks, gone to school at Billinghurst and Reno High, earned a degree from the University of Nevada and married in the First Methodist Church.
>
> There were teachers who acted in Reno Little Theater productions, doctors who supported the Reno Philharmonic and Chamber Orchestras, car salesmen who sang in the chorus with the Nevada Opera. Some people worked in supermarkets, offices and shopping malls and attended classes at Truckee Meadows Community College in their spare time. (Land and Land 1995, 121)

These are the residents that realize the gaming industry is an important part of this economy, but they also realize that it is not the only important part of the Reno economy.

Proposals for redevelopment in downtown that are met with resistance by Reno residents usually touch the heart of this torn downtown identity. The redevelopment of the downtown is necessary, but its problems are not always considered as "Reno" problems, especially when funding and tax money is at stake (Land and Land 1995, 121). Many of Reno's residents see gaming as separate from their concerns and quite able to meet its own financial needs:

> And of course, there's always a division in the city of Reno between the downtown groups and there's a very vocal and large minority of people in the city that feel that their welfare isn't dependent upon the welfare of the business community. I don't think it's true, but a lot of people say it's a gambler's problem, they should solve it, we shouldn't have to pay for it, and we shouldn't have our taxes going to it, and the only people that benefit are the downtown people, so let the downtown gaming places pay for it. (Coe Swobe Oral Interview)

This attitude can be seen again and again in reactions to proposals for renovating and redeveloping downtown and affects current attempts to deal with the railroad going through downtown.

Most Reno residents, while recognizing that gaming is an important source of money, rarely go downtown for social or entertainment reasons and fewer work in downtown business not involved with gambling. There is, in general, a dissolution of older bonds between the downtown and Reno residents. It is ever easier not to have to "deal" with travel downtown; the McCarran ring road, now complete, is an efficient bypass even of the freeway, and the U.S. 395 and Interstate 80 limited access roads add north-south and east-west transit for those in a hurry. In Reno it is possible to get almost anywhere in the city in about 15 minutes. This is the norm in many other cities, as Grady Clay notes:

> But the traffic streams no longer all point downtown, but rather in every direction, and one encounters queueing, stacking, tightening,

> and galloping — those phenomena of rush hour traffic — far out on the urban fronts and no longer exclusively on the old radial, spoke-of-the-wheel routes. "Trips related to the old city center now comprise only a small part of daily travel in metropolitan areas," reports the President's Task Force on Suburban Problems in 1968. (Clay 1973, 118)

All this means is that the city core is changing, but it does bear considering what is being lost in ceding the downtown, the CBD, to tourist visitors from outside the state. Gone is the connection of residents to the river, citizens to the entertainment district, natives to the natural breaks and circulation of the downtown. The downtown economy, the "epitome district" of Reno, is increasingly someone else's. Historically, Reno seemed able to muster a different kind of civic pride, evident in some of the older photographs of the city (NHS Photo WA1790 c. 1920).

The alienation of the populace from its downtown may have been accentuated by rapid population growth and immigration. In Nevada as a whole, 87 percent of the state's residents, according to the 1990 Census of Population, were born somewhere other than Nevada. The Reno area, like Nevada, has grown at third-world rates in recent years, comparable to those of Egypt and Rwanda. Washoe County as a whole had a population of 50,205 residents in 1950, and in 1996 was almost six times that number, at 297,794 (USDC 1996, BBER 1997; see Appendix A). (To put that into perspective, if the U.S. as a whole had been growing as fast as the Reno area since 1950, the nation's population would today exceed 900 million.) With annual growth rates above two percent, Reno and Washoe County are growing at three times the U.S. average and will double their populations in slightly over 30 years.Nevada as a whole has been the fastest growing state for the last three census periods, and the Reno area is matching that pace.



This is the Trend of Prosperity and Business Activity in Reno That We do Not Wish Disturbed

(WA 1790; courtesy of the Nevada Historical Society)

Virginia Street in the 1920s, from a room in the Riverside Hotel, and after the Virginia Street railroad grade crossing had been opened. Virginia Street at the Truckee River was the heart of a vibrant downtown, which local citizens obviously enjoyed, but did "not wish disturbed." This area is now in decline, although redevelopment proposals are under consideration.

Population of Reno & Washoe County

1870		3,091
1880	1,000	5,664
1890	3,500	6,437
1900	4,500	9,141
1910	10,867	17,434
1920		18,627
1930		27,158
1940	21,317	32,476
1950	32,497	50,205
1960	51,470	84,743
1970	72,863	121,068
1980	100,756	193,623
1990	133,397	254,667
1996	158,740	297,794

(Rowley 1984, 22, 32, 66, 79; City of Reno data; USDC 1996, BBER 1997; see Appendix A).

This rapid influx of new residents, many of them escaping crowding and urban problems in California, created a population predisposed against expensive public projects to bring in more visitors and generated an anti-growth movement. Mayor Barbara Bennett rose to prominence on the strength of her no-growth philosophy, and that platform continues to embody an important part of many residents' concerns. This no-growth emphasis was not an easy one for Reno officials to maintain. City officials were constantly caught between developers and Reno residents, between encouraging economic growth and discouraging development, between casino moratoria and attempting to encourage new jobs in downtown. Soon, factions developed between city agencies. City Council members often disagreed with the decisions of the Planning Commission, and with each other, especially about which new projects got approved and which did not. It also became difficult to be consistent in project approval decisions, and, predictably, several projects that were turned down were appealed. The City Council lost several battles on this front (Traveler's Hotel/Casino in 1984, Aloha in 1984-5, K-Mart in 1993; see Appendix E). Through-

out the 1980s, city officials bounced between a policy of no new growth in the downtown area and approving multi-million dollar projects and large additions to existing casinos.

Over the last 15 years, Reno residents have continually supported candidates for city and county offices who stress slow growth and the careful evaluation of large projects that will significantly change the face of downtown. It seems, as well, that the only time Reno residents effectively organize and unite is when they are trying to stop some project from being approved or changes in zoning. Examples of this can be found in the early 1980s master plan approval process, the initial public hearings on the Virginia and Peckham Hotel/Casino in 1985, and in the public hearings about the approval of 'Project C' (now the Silver Legacy) in 1993.

This desire to preserve a simpler lifestyle limits citizen commitment to downtown. Reno is continually struggling with comparisons to Las Vegas (*Reno Gazette Journal*, 20 December 1993; 7 November 1995), wanting the prosperity but not wanting the rest:

> Well I think people here generally like the quality of life they have. They don't want to be Las Vegas, that's real clear. They don't mind the casinos, the benefits, the inexpensive meals, the entertainment, etcetera that you get, but they like it being controlled. It's downtown. You know, it's somewhere where I can go, but it's not in my backyard. It's a quality of life issue, I think. I don't know why Vegas... maybe because it doesn't have the roots Reno has. Reno is a much older place. (Richard Moreno Oral Interview)

Finally, Reno residents retain a healthy suspicion and mistrust for government and plans of any kind. Reno residents look on redevelopment plans with skepticism at best. Projects that have been successfully completed (like the River Walk and the Bowling Center) have failed to impress residents or encouraged them to consider downtown. Some redevelopment efforts are seen, rightly or wrongly, as having run amok: A six million dollar River Walk that few traveled, more resented, and which was almost dismantled by flood waters in January 1997 is a clear case in

point. When added to questions of improper handling of funds by Reno officials, misunderstandings over eminent domain, annexation, and condemnation policies and the piecemeal approach to new developments, local public reaction against redevelopment efforts designed to spruce up the downtown is often vocal and distressed (Appendix E, for example, *Reno Gazette Journal*, 5/1985, 3/1995, 3/1996).

Final Remarks...

The word irresolute would not be right for Reno. The city has formed a number of notable plans and, even today, seems always in the midst of scoping studies or sampling commissioned reports. Going from discussion to action, and action to completion, is where the problem lies. That is why, almost 130 years after the Central Pacific laid out a plat for Reno with a railroad through its center, trains still run through the tourism heart of the Biggest Little City in the World.

Bibliographic Citations

BBER [Bureau of Business and Economic Research, University of Nevada]. 1997. Population Data for Nevada Counties, 1996. (Reno: University of Nevada) (see Appendix A).

Chung, S.F. 1987. "The Chinese Experience in Nevada: Success Despite Discrimination," *Nevada Public Affairs Review* 2: 43–51.

Clay, G. 1973. *Close Up: How to Read the American City* (Chicago: University of Chicago Press).

Dodge, G. 1866. "Plan for the Organization of the U.P.R.R. Town Lot Department," manuscript in Grenville Dodge Papers, Iowa Historical Society, Des Moines, Iowa, Box 170.

Earl, P. 1972a. "Chinatown Panic: Reno Wrote a Sad Page in History," *The Nevadan.* Sunday Supplement to the *Las Vegas Review Journal;* in Chinatown files of the Nevada Historical Society, August 6, p. 3.

Earl, P. 1972b. "Reno Put a Torch to Chinatown," *The Nevadan*; Sunday Supplement to the *Las Vegas Review Journal;* in Chinatown files of the Nevada Historical Society, September 24, p. 4.

Earl, P. 1978. "Meanderings Along the Line of the Central Pacific Railroad, 1868," *Nevada Historical Society Quarterly*, Winter: 279-285.

Hudson, John C. 1982. "Towns of the Western Railroads," *Great Plains Quarterly* 2 (1): 41–54.

Hudson, John C. 1984. *Plains Country Towns* (Minneapolis: University of Minnesota Press).

Hulse, J. W. 1986. *Forty Years in the Wilderness: Impressions of Nevada, 1940-1980* (Reno, Nevada: University of Nevada Press).

Hulse, J. W. 1991. *The Silver State: Nevada; Heritage Reinterpreted* (Reno, Nevada: University of Nevada Press).

Land, B., and M. Land. 1995. *A Short History of Reno* (Reno: University of Nevada Press).

Murphy, R. E. and J.E. Vance, Jr. 1954a. "Delimiting the CBD," *Economic Geography* 30: 189-222.

Murphy, R. E. and J.E. Vance, Jr. 1954b. "A Comparative Study of Nine Central Business Districts," *Economic Geography* 30: 301–336.

Murphy, R. E., J.E. Vance, Jr., and B.J. Epstein. 1955. "The Internal Structure of the CBD,"

Economic Geography 31: 21–46.

Murphy, R. E. 1972. *The Central Business District* (Chicago: Aldine-Atherton).

Nevada State Rail Plan. 1978. "Urban Conflicts, State of Nevada," [Chapter VII]; Nevada State Highway Department and Nevada Public Service Commission. (Carson City: State of Nevada) (see Appendix F, this report).

Peavine Copper Mines Map. 1867. Cartography by Andrew J. Hatch (San Francisco: Warren Holt). In the Nevada Historical Society, Reno, Nevada.

Reno Railroad Study. 1978–1980. 1980. SEA Inc. Engineers/Planners; Consultant's Report. SEA Associates, Sparks, Nevada; v + 28 pages. (see Appendix H).

Reps, J. W. 1969. *Town Planning in Frontier America* (Princeton, N.J.: Princeton University Press).

Reps, J. W. 1979. *Cities of the American West: a History of Frontier Urban Planning* (Princeton, N.J.: Princeton University Press).

Reps, J. W. 1981. *The Forgotten Frontier: Urban Planning in the American West Before 1890* (Columbia: University of Missouri Press).

Rowley, W. 1984. *Reno: Hub of the Washoe Country, an Illustrated History* (Woodland Hills, California: Windsor Publications).

RRGSP [Reno Railroad Grade Separation Project]. 1972–1973. Prepared by Grant Bastian, State Highway Engineer, and State of Nevada Department of Highways. Carson City, Nevada. 29 pages.

Townley, J. M. 1983. *Tough Little Town on the Truckee: Reno, 1868-1900* History of Reno Series, Vol. 1. (Reno: Great Basin Studies Center).

USDC [United States Department of Commerce]. 1996. Census of Population, United States Population Summary Tables.

Vance, J. E., Jr. 1961. "The Oregon Trail and Union Pacific Railroad: A Contrast in Purpose," *Annals of the Association of American Geographers* 54: 357-379.

Vance, J.E., Jr. 1970. *The Merchant's World: The Geography of Wholesaling* (Englewood Cliffs, NJ: Prentice-Hall).

Vance, J. E., Jr. 1986. *Capturing the Horizon: The Historical Geography of Transportation Since the 16th Century Transportation Revolution* (Baltimore, MD: The Johns Hopkins University Press).

Vance, J. E., Jr. 1995. *The North American Railroad* (Baltimore, MD: The Johns Hopkins

University Press).

Newspapers

Gold Hill News
Nevada Territorial Enterprise
Nevada State Journal
Reno Evening Gazette
Reno Journal
Reno Gazette-Journal

Photographs

All photographs are courtesy of the Nevada Historical Society, 1650 N. Virginia Street, Reno, Nevada, 89503. All are derived from the Washoe County photographic files. All maps except for the reproduction of the Sanborn Fire Insurance maps are also from photocopies provided by the Nevada Historical Society. Reproduced by permission.